

117TH CONGRESS  
1ST SESSION

# S. 1854

To require reviews of United States investment in foreign countries that may threaten national critical capabilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 2021

Mr. CASEY (for himself, Mr. CORNYN, Ms. STABENOW, Mr. KAINE, Mr. RUBIO, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require reviews of United States investment in foreign countries that may threaten national critical capabilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Critical Capa-  
5 bilities Defense Act of 2021”.

6 **SEC. 2. NATIONAL CRITICAL CAPABILITIES REVIEWS.**

7 (a) IN GENERAL.—The Trade Act of 1974 (19  
8 U.S.C. 2101 et seq.) is amended by adding at the end  
9 the following:

1 **“TITLE X—NATIONAL CRITICAL**  
2 **CAPABILITIES REVIEWS**

3 **“SEC. 1001. DEFINITIONS.**

4 “In this title:

5 “(1) APPROPRIATE CONGRESSIONAL COMMIT-  
6 TEES.—The term ‘appropriate congressional com-  
7 mittees’ means—

8 “(A) the Committee on Finance, the Com-  
9 mittee on Armed Services, the Committee on  
10 Banking, Housing, and Urban Affairs, the  
11 Committee on Commerce, Science, and Trans-  
12 portation, the Committee on Health, Education,  
13 Labor, and Pensions, and the Committee on  
14 Homeland Security and Governmental Affairs  
15 of the Senate; and

16 “(B) the Committee on Ways and Means,  
17 the Committee on Armed Services, the Com-  
18 mittee on Education and Labor, the Committee  
19 on Financial Services, the Committee on Home-  
20 land Security, and the Committee on Transpor-  
21 tation and Infrastructure of the House of Rep-  
22 resentatives.

23 “(2) COMMITTEE.—The term ‘Committee’  
24 means the Committee on National Critical Capabili-  
25 ties established under section 1002.

1           “(3) CONTROL.—The term ‘control’ means the  
2 power, direct or indirect, whether exercised or not  
3 exercised, to determine, direct, or decide important  
4 matters affecting an entity, subject to regulations  
5 prescribed by the Committee.

6           “(4) COUNTRY OF CONCERN.—The term ‘country of concern’—

7  
8           “(A) has the meaning given the term ‘foreign adversary’ in section 8(c)(2) of the Secure  
9 and Trusted Communications Networks Act of  
10 2019 (47 U.S.C. 1607(c)(2)); and

11  
12           “(B) may include a nonmarket economy  
13 country (as defined in section 771(18) of the  
14 Tariff Act of 1930 (19 U.S.C. 1677(18))) identified by the Committee for purposes of this  
15 paragraph by regulation.

16  
17           “(5) COVERED TRANSACTION.—

18           “(A) IN GENERAL.—Except as otherwise  
19 provided, the term ‘covered transaction’ means  
20 any of the following transactions, proposed or  
21 pending on or after the date of the enactment  
22 of this title:

23           “(i) Any transaction by a United  
24 States business that—

1           “(I) shifts or relocates to a coun-  
2           try of concern, or transfers to an enti-  
3           ty of concern, the design, develop-  
4           ment, production, manufacture, fab-  
5           rication, supply, servicing, testing,  
6           management, operation, investment,  
7           ownership, or any other essential ele-  
8           ments involving one or more national  
9           critical capabilities identified under  
10          subparagraph (B)(ii); or

11           “(II) could result in an unaccept-  
12          able risk to a national critical capa-  
13          bility.

14          “(ii) Any other transaction, transfer,  
15          agreement, or arrangement, the structure  
16          of which is designed or intended to evade  
17          or circumvent the application of this title,  
18          subject to regulations prescribed by the  
19          Committee.

20          “(B) REGULATIONS.—

21           “(i) IN GENERAL.—The Committee  
22           shall prescribe regulations further defining  
23           the term ‘covered transaction’ in accord-  
24           ance with subchapter II of chapter 5, and  
25           chapter 7, of title 5, United States Code

1 (commonly known as the ‘Administrative  
2 Procedure Act’).

3 “(ii) IDENTIFICATION OF NATIONAL  
4 CRITICAL CAPABILITIES.—For purposes of  
5 subparagraph (A)(I), the regulations pre-  
6 scribed by the Committee under clause (i)  
7 shall—

8 “(I) identify the national critical  
9 capabilities subject to that subpara-  
10 graph based on criteria intended to  
11 limit application of that subparagraph  
12 to the subset of national critical capa-  
13 bilities that is likely to pose an unac-  
14 ceptable risk to the national security  
15 and crisis preparedness of the United  
16 States; and

17 “(II) enumerate, quantify,  
18 prioritize, and set forth sufficient al-  
19 lowances of, specific types and exam-  
20 ples of such capabilities.

21 “(6) CRISIS PREPAREDNESS.—The term ‘crisis  
22 preparedness’ means preparedness for—

23 “(A) a public health emergency declared  
24 under section 319 of the Public Health Service  
25 Act (42 U.S.C. 247d); or

1           “(B) a major disaster declared under sec-  
2           tion 401 of the Robert T. Stafford Disaster Re-  
3           lief and Emergency Assistance Act (42 U.S.C.  
4           5170).

5           “(7) CRITICAL INFRASTRUCTURE.—The term  
6           ‘critical infrastructure’ means systems and assets,  
7           whether physical or virtual, so vital to the United  
8           States that the incapacity or destruction of such sys-  
9           tems and assets would have a debilitating impact on  
10          national security, national economic security, na-  
11          tional public health or safety, or any combination of  
12          those matters.

13          “(8) ENTITY OF CONCERN.—The term ‘entity  
14          of concern’ means an entity—

15                 “(A) the ultimate parent entity of which is  
16                 domiciled in a country of concern; or

17                 “(B) that is directly or indirectly controlled  
18                 by, owned by, or subject to the influence of a  
19                 foreign person that has a substantial nexus  
20                 with a country of concern.

21          “(9) FOREIGN ENTITY.—

22                 “(A) IN GENERAL.—Except as provided by  
23                 subparagraph (B), the term ‘foreign entity’  
24                 means any branch, partnership, group or sub-  
25                 group, association, estate, trust, corporation or

1 division of a corporation, or organization orga-  
2 nized under the laws of a foreign country if—

3 “(i) its principal place of business is  
4 outside the United States; or

5 “(ii) its equity securities are primarily  
6 traded on one or more foreign exchanges.

7 “(B) EXCEPTION.—The term ‘foreign enti-  
8 ty’ does not include any entity described in sub-  
9 paragraph (A) that can demonstrate that a ma-  
10 jority of the equity interest in such entity is ul-  
11 timately owned by nationals of the United  
12 States.

13 “(10) FOREIGN PERSON.—The term ‘foreign  
14 person’ means—

15 “(A) any foreign national, foreign govern-  
16 ment, or foreign entity;

17 “(B) any entity over which control is exer-  
18 cised or exercisable by a foreign national, for-  
19 eign government, or foreign entity; or

20 “(C) any entity over which control is exer-  
21 cised or exercisable by a person described in  
22 subparagraph (A) or (B).

23 “(11) NATIONAL CRITICAL CAPABILITIES.—The  
24 term ‘national critical capabilities’, subject to regula-  
25 tions prescribed by the Committee—

1           “(A) means systems and assets, whether  
2 physical or virtual, so vital to the United States  
3 that the inability to develop such systems and  
4 assets or the incapacity or destruction of such  
5 systems or assets would have a debilitating im-  
6 pact on national security or crisis preparedness;  
7 and

8           “(B) includes the following:

9           “(i) The production, in sufficient  
10 quantities, of any of the following articles:

11           “(I) Medical supplies, medicines,  
12 and personal protective equipment.

13           “(II) Articles essential to the op-  
14 eration, manufacture, supply, service,  
15 or maintenance of critical infrastruc-  
16 ture.

17           “(III) Articles critical to infra-  
18 structure construction after a natural  
19 or manmade disaster.

20           “(IV) Articles that are compo-  
21 nents of systems critical to the oper-  
22 ation of weapons systems, intelligence  
23 collection systems, or items critical to  
24 the conduct of military or intelligence  
25 operations.



1                   “(V) Any other articles identified  
2                   in regulations prescribed under sec-  
3                   tion 1007.

4                   “(ii) Supply chains for the production  
5                   of articles described in clause (i).

6                   “(iii) Essential supply chains for the  
7                   Department of Defense.

8                   “(iv) Any other supply chains identi-  
9                   fied in regulations prescribed under section  
10                  1007.

11                  “(v) Services critical to the production  
12                  of articles described in clause (i) or a sup-  
13                  ply chain described in clause (ii), (iii), or  
14                  (iv).

15                  “(vi) Medical services.

16                  “(vii) Services critical to the mainte-  
17                  nance of critical infrastructure.

18                  “(viii) Services critical to infrastruc-  
19                  ture construction after a natural or man-  
20                  made disaster.

21                  “(ix) Any other services identified in  
22                  regulations prescribed under section 1007.

23                  “(12) NATIONAL SECURITY.—The term ‘na-  
24                  tional security’ includes—

1           “(A) national security, as defined in sec-  
2           tion 721(a) of the Defense Production Act of  
3           1950 (50 U.S.C. 4565(a));

4           “(B) national defense, as defined in section  
5           702 of that Act (50 U.S.C. 4552); and

6           “(C) agricultural security and natural re-  
7           sources security.

8           “(13) PARTY.—The term ‘party’, with respect  
9           to a transaction, has the meaning given that term in  
10          regulations prescribed by the Committee.

11          “(14) UNITED STATES.—The term ‘United  
12          States’ means the several States, the District of Co-  
13          lumbia, and any territory or possession of the  
14          United States.

15          “(15) UNITED STATES BUSINESS.—The term  
16          ‘United States business’ means a person engaged in  
17          interstate commerce in the United States.

18       **“SEC. 1002. COMMITTEE ON NATIONAL CRITICAL CAPABILI-**  
19                               **TIES.**

20          “(a) IN GENERAL.—There is established a com-  
21          mittee, to be known as the ‘Committee on National Crit-  
22          ical Capabilities’, which shall carry out this title and such  
23          other assignments as the President may designate.

24          “(b) MEMBERSHIP.—

1           “(1) IN GENERAL.—The Committee shall be  
2           comprised of the head, or a designee of the head, of  
3           each of the following:

4                   “(A) The Office of the United States  
5           Trade Representative.

6                   “(B) The Department of Commerce.

7                   “(C) The Office of Science and Technology  
8           Policy.

9                   “(D) The Department of the Treasury.

10                   “(E) The Department of Homeland Secu-  
11           rity.

12                   “(F) The Department of Defense.

13                   “(G) The Department of State.

14                   “(H) The Department of Justice.

15                   “(I) The Department of Energy.

16                   “(J) The Department of Health and  
17           Human Services.

18                   “(K) The Department of Agriculture.

19                   “(L) The Department of Labor.

20                   “(M) Any other Federal agency the Presi-  
21           dent determines appropriate, generally or on a  
22           case-by-case basis.

23           “(2) EX OFFICIO MEMBERS.—

24                   “(A) IN GENERAL.—In addition to the  
25           members of the Committee specified in para-

1 graph (1), the following shall, except as pro-  
2 vided in subparagraph (B), be nonvoting, ex  
3 officio members of the Committee:

4 “(i) The Director of National Intel-  
5 ligence.

6 “(ii) The Administrator of the Fed-  
7 eral Emergency Management Agency.

8 “(iii) The Director of the National In-  
9 stitute of Standards and Technology.

10 “(iv) The Director of the Centers for  
11 Disease Control and Prevention.

12 “(v) The Director of the National In-  
13 stitute of Allergy and Infectious Diseases.

14 “(vi) The Chairperson of the Federal  
15 Communications Commission.

16 “(vii) The Chairperson of the Securi-  
17 ties and Exchange Commission.

18 “(viii) The Chairperson of the Com-  
19 modity Futures Trading Commission.

20 “(ix) The Administrator of the Fed-  
21 eral Aviation Administration.

22 “(B) DESIGNATION AS VOTING MEM-  
23 BERS.—The chairperson of the Committee may  
24 designate any of the officials specified in

1 clauses (ii) through (ix) of subparagraph (A) as  
2 voting members of the Committee.

3 “(c) CHAIRPERSON.—

4 “(1) IN GENERAL.—The United States Trade  
5 Representative shall serve as the chairperson of the  
6 Committee.

7 “(2) CONSULTATIONS WITH SECRETARIES OF  
8 DEFENSE AND COMMERCE.—In carrying out the du-  
9 ties of the chairperson of the Committee, the United  
10 States Trade Representative shall consult with the  
11 Secretary of Defense and the Secretary of Com-  
12 merce.

13 “(d) DESIGNATION OF OFFICIALS TO CARRY OUT  
14 DUTIES RELATED TO COMMITTEE.—The head of each  
15 agency represented on the Committee shall designate an  
16 official, at or equivalent to the level of Assistant Secretary  
17 in the Department of the Treasury, who is appointed by  
18 the President, by and with the advice and consent of the  
19 Senate, to carry out such duties related to the Committee  
20 as the head of the agency may assign.

21 **“SEC. 1003. REVIEW OF COVERED TRANSACTIONS.**

22 “(a) MANDATORY NOTIFICATION.—A United States  
23 business that engages in a covered transaction shall sub-  
24 mit a written notification of the transaction to the Com-  
25 mittee.

1 “(b) REVIEW.—

2 “(1) IN GENERAL.—Not later than 60 days  
3 after receiving written notification under subsection  
4 (a) of a covered transaction, the Committee may—

5 “(A) review the transaction to determine if  
6 the transaction is likely to result in an unac-  
7 ceptable risk to one or more national critical ca-  
8 pabilities, including by considering factors spec-  
9 ified in section 1005; and

10 “(B) if the Committee determines under  
11 subparagraph (A) that the transaction poses a  
12 risk described in that subparagraph, make rec-  
13 ommendations—

14 “(i) to the President for appropriate  
15 action that may be taken under this title  
16 or under other existing authorities to ad-  
17 dress or mitigate that risk; and

18 “(ii) to Congress for the establish-  
19 ment or expansion of Federal programs to  
20 support the production or supply of articles  
21 and services described in section  
22 1001(a)(11)(B) in the United States.

23 “(2) UNILATERAL INITIATION OF REVIEW.—  
24 The Committee may initiate a review under para-

1 graph (1) of a covered transaction for which written  
2 notification is not submitted under subsection (a).

3 “(3) INITIATION OF REVIEW BY REQUEST FROM  
4 CONGRESS.—The Committee shall initiate a review  
5 under paragraph (1) of a covered transaction if the  
6 chairperson and the ranking member of one of the  
7 appropriate congressional committees jointly request  
8 the Committee to review the transaction.

9 “(c) TREATMENT OF BUSINESS CONFIDENTIAL IN-  
10 FORMATION.—A United States business shall submit each  
11 notification required by subsection (a) to the Committee—

12 “(1) in a form that includes business confiden-  
13 tial information; and

14 “(2) in a form that omits business confidential  
15 information and is appropriate for disclosure to the  
16 public.

17 **“SEC. 1004. ACTION BY THE PRESIDENT.**

18 “(a) IN GENERAL.—Subject to subsection (d), the  
19 President may take such action for such time as the Presi-  
20 dent considers appropriate to address or mitigate any un-  
21 acceptable risk posed by a covered transaction to one or  
22 more national critical capabilities, including suspending or  
23 prohibiting the covered transaction.

24 “(b) ANNOUNCEMENT BY THE PRESIDENT.—The  
25 President shall announce the decision on whether or not

1 to take action pursuant to subsection (a) with respect to  
2 a covered transaction not later than 15 days after the date  
3 on which the review of the transaction under section 1003  
4 is completed.

5 “(c) ENFORCEMENT.—The President may direct the  
6 Attorney General of the United States to seek appropriate  
7 relief, including divestment relief, in the district courts of  
8 the United States, in order to implement and enforce this  
9 section.

10 “(d) FINDINGS OF THE PRESIDENT.—The President  
11 may exercise the authority conferred by subsection (a) to  
12 suspend or prohibit a covered transaction only if the Presi-  
13 dent finds that—

14 “(1) there is credible evidence that leads the  
15 President to believe that the transaction poses an  
16 unacceptable risk to one or more national critical ca-  
17 pabilities; and

18 “(2) provisions of law (other than this section)  
19 do not, in the judgment of the President, provide  
20 adequate and appropriate authority for the Presi-  
21 dent to protect such capabilities.

22 “(e) FACTORS TO BE CONSIDERED.—For purposes  
23 of determining whether to take action under subsection  
24 (a), the President shall consider, among other factors,



1 each of the factors described in section 1005, as appro-  
2 priate.

3 **“SEC. 1005. FACTORS TO BE CONSIDERED.**

4 “The Committee, in reviewing and making a deter-  
5 mination with respect to a covered transaction under sec-  
6 tion 1003, and the President, in determining whether to  
7 take action under section 1004 with respect to a covered  
8 transaction, shall consider any factors relating to national  
9 critical capabilities that the Committee or the President  
10 considers relevant, including—

11 “(1) the long-term strategic economic, national  
12 security, and crisis preparedness interests of the  
13 United States;

14 “(2) the history of distortive or predatory trade  
15 practices in each country in which a foreign person  
16 that is a party to the transaction is domiciled;

17 “(3) control and beneficial ownership (as deter-  
18 mined in accordance with section 847 of the Na-  
19 tional Defense Authorization Act for Fiscal Year  
20 2020 (Public Law 116–92; 10 U.S.C. 2509 note)) of  
21 each foreign person that is a party to the trans-  
22 action; and

23 “(4) impact on the domestic industry and re-  
24 sulting resiliency, including the domestic skills base,

1 taking into consideration any pattern of foreign in-  
2 vestment in the domestic industry.

3 **“SEC. 1006. SUPPLY CHAIN SENSITIVITIES.**

4 “The Committee shall determine the sensitivities and  
5 risks for sourcing of articles described in section  
6 1001(a)(11)(B)(i), in accordance with the following:

7 “(1) The sourcing of least concern shall be arti-  
8 cles the supply chains for which are housed in whole  
9 within countries that are allies of the United States.

10 “(2) The sourcing of greater concern shall be  
11 articles the supply chains for which are housed in  
12 part within countries of concern or from an entity  
13 of concern but for which substitute production is  
14 available from elsewhere at required scale.

15 “(3) The sourcing of greatest concern shall be  
16 articles the supply chains for which are housed whol-  
17 ly or in part in countries of concern or from an enti-  
18 ty of concern and for which substitute production is  
19 unavailable elsewhere at required scale.

20 **“SEC. 1007. IDENTIFICATION OF ADDITIONAL NATIONAL**  
21 **CRITICAL CAPABILITIES.**

22 “(a) IN GENERAL.—The Committee should prescribe  
23 regulations to identify additional articles, supply chains,  
24 and services to recommend for inclusion in the definition

1 of ‘national critical capabilities’ under section  
2 1001(a)(11).

3 “(b) REVIEW OF INDUSTRIES.—

4 “(1) IN GENERAL.—In identifying under sub-  
5 section (a) additional articles, supply chains, and  
6 services to recommend for inclusion in the definition  
7 of ‘national critical capabilities’ under section  
8 1001(a)(11), the Committee should conduct a review  
9 of industries identified by Federal Emergency Man-  
10 agement Agency as carrying out emergency support  
11 functions, including the following industries:

12 “(A) Energy.

13 “(B) Medical.

14 “(C) Communications, including electronic  
15 and communications components.

16 “(D) Defense.

17 “(E) Transportation.

18 “(F) Aerospace, including space launch.

19 “(G) Robotics.

20 “(H) Artificial intelligence.

21 “(I) Semiconductors.

22 “(J) Shipbuilding.

23 “(K) Water, including water purification.

24 “(2) QUANTIFICATION.—In conducting a review  
25 of industries under paragraph (1), the Committee

1 should specify the quantity of articles, supply chains,  
2 and services, and specific types and examples of  
3 transactions, from each industry sufficient to main-  
4 tain national critical capabilities.

5 **“SEC. 1008. REPORTING REQUIREMENTS.**

6 “(a) ANNUAL REPORT TO CONGRESS.—

7 “(1) IN GENERAL.—Not later than 90 days  
8 after the date of the enactment of the National Crit-  
9 ical Capabilities Defense Act of 2021, and annually  
10 thereafter, the Committee shall submit to the appro-  
11 priate congressional committees a report—

12 “(A) on the determination under section  
13 1006 with respect to sensitivities and risks for  
14 sourcing of articles described in section  
15 1001(a)(11)(B)(i);

16 “(B) assessing whether identification of  
17 additional national critical capabilities under  
18 section 1007 is necessary; and

19 “(C) describing, for the year preceding  
20 submission of the report—

21 “(i) the notifications received under  
22 subsection (a) of section 1003 and reviews  
23 conducted pursuant to such notifications;

1                   “(ii) reviews initiated under para-  
2                   graph (2) or (3) of subsection (b) of that  
3                   section;

4                   “(iii) actions recommended by the  
5                   Committee under subsection (b)(1)(B) of  
6                   that section as a result of such reviews;  
7                   and

8                   “(iv) reviews during which the Com-  
9                   mittee determined no action was required;  
10                  and

11                  “(D) assessing the overall impact of such  
12                  reviews on national critical capabilities.

13                  “(2) FORM OF REPORT.—The report required  
14                  by paragraph (1) shall be submitted in unclassified  
15                  form but may include a classified annex.

16                  “(b) USE OF DEFENSE PRODUCTION ACT OF 1950  
17                  AUTHORITIES.—Not later than 180 days after the date  
18                  of the enactment of the National Critical Capabilities De-  
19                  fense Act of 2021, the Committee shall submit to Congress  
20                  a report that includes recommendations relating to use the  
21                  authorities under title III of the Defense Production Act  
22                  of 1950 (50 U.S.C. 4531 et seq.) to make investments  
23                  to enhance national critical capabilities and reduce de-  
24                  pendency on materials and services imported from foreign  
25                  countries.

1 **“SEC. 1009. REQUIREMENT FOR REGULATIONS.**

2 “(a) IN GENERAL.—The Committee shall prescribe  
3 regulations to carry out this title.

4 “(b) ELEMENTS.—Regulations prescribed to carry  
5 out this title shall—

6 “(1) provide for the imposition of civil penalties  
7 for any violation of this title, including any mitiga-  
8 tion agreement entered into, conditions imposed, or  
9 order issued pursuant to this title; and

10 “(2) include specific examples of the types of—

11 “(A) the transactions that will be consid-  
12 ered to be covered transactions; and

13 “(B) the articles, supply chains, and serv-  
14 ices that will be considered to be national crit-  
15 ical capabilities.

16 “(c) COORDINATION.—In prescribing regulations to  
17 carry out this title, the Committee shall coordinate with  
18 the United States Trade Representative, the Under Sec-  
19 retary of Commerce for Industry and Security, and the  
20 Committee on Foreign Investment in the United States  
21 to avoid duplication of effort.

22 **“SEC. 1010. REQUIREMENTS RELATED TO GOVERNMENT**  
23 **PROCUREMENT.**

24 “(a) IN GENERAL.—Not later than 90 days after the  
25 date of the enactment of the National Critical Capabilities  
26 Defense Act of 2021, the Federal Acquisition Regulation

1 shall be revised to require each person that is a prospective  
2 contractor for an executive agency to disclose the supply  
3 chains the person would use to carry out the contract and  
4 the extent to which the person would depend on articles  
5 and services imported from foreign countries, including  
6 the percentage of such materials and services imported  
7 from countries of concern.

8       “(b) MATERIALITY.—The head of an executive agen-  
9 cy shall consider the failure of a person to make the dislo-  
10 sures required by subsection (a) to be material deter-  
11 minants in awarding a contract to that person.

12       “(c) APPLICABILITY.—The revisions to the Federal  
13 Acquisition Regulation required under subsection (a) shall  
14 apply with respect to contracts for which solicitations are  
15 issued on or after the date that is 90 days after the date  
16 of the enactment of the National Critical Capabilities De-  
17 fense Act of 2021.

18       “(d) DEFINITIONS.—In this section:

19               “(1) EXECUTIVE AGENCY.—The term ‘executive  
20 agency’ has the meaning given that term in section  
21 133 of title 41, United States Code.

22               “(2) FEDERAL ACQUISITION REGULATION.—  
23 The term ‘Federal Acquisition Regulation’ means  
24 the regulation issued pursuant to section 1303(a)(1)  
25 of title 41, United States Code.

1 **“SEC. 1011. MULTILATERAL ENGAGEMENT AND COORDINA-**  
2 **TION.**

3 “The United States Trade Representative—

4 “(1) should, in coordination and consultation  
5 with relevant Federal agencies, conduct multilateral  
6 engagement with the governments of countries that  
7 are allies of the United States to secure coordination  
8 of protocols and procedures with respect to covered  
9 transactions with countries of concern; and

10 “(2) upon adoption of protocols and procedures  
11 described in paragraph (1), shall work with those  
12 governments to establish information sharing re-  
13 gimes.

14 **“SEC. 1012. AUTHORIZATION OF APPROPRIATIONS.**

15 “There are authorized to be appropriated such sums  
16 as may be necessary to carry out this title, including to  
17 provide outreach to industry and persons affected by this  
18 title.

19 **“SEC. 1013. RULE OF CONSTRUCTION WITH RESPECT TO**  
20 **FREE AND FAIR COMMERCE.**

21 “Nothing in this title may be construed as prohibiting  
22 or limiting the free and fair flow of commerce outside of  
23 the United States that does not pose an unacceptable risk  
24 to a national critical capability.”.



1           (b) CLERICAL AMENDMENT.—The table of contents  
2 for the Trade Act of 1974 is amended by adding at the  
3 end the following:

“TITLE X—NATIONAL CRITICAL CAPABILITIES REVIEWS

- “Sec. 1001. Definitions.
- “Sec. 1002. Committee on National Critical Capabilities.
- “Sec. 1003. Review of covered transactions.
- “Sec. 1004. Action by the President.
- “Sec. 1005. Factors to be considered.
- “Sec. 1006. Supply chain sensitivities.
- “Sec. 1007. Identification of additional national critical capabilities.
- “Sec. 1008. Reporting requirements.
- “Sec. 1009. Requirement for regulations.
- “Sec. 1010. Requirements related to government procurement.
- “Sec. 1011. Multilateral engagement and coordination.
- “Sec. 1012. Authorization of appropriations.
- “Sec. 1013. Rule of construction with respect to free and fair commerce.”.

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