

118TH CONGRESS
2D SESSION

H. R. 8361

To impose sanctions with respect to economic or industrial espionage by foreign adversarial companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2024

Mr. MCCORMICK introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose sanctions with respect to economic or industrial espionage by foreign adversarial companies, 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 “Economic Espionage
5 Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) On March 14, 2024, the Department of
2 State notified Congress of the following:

3 (A) People’s Republic of China exports of
4 semiconductors to Russia have increased sub-
5 stantially since Russia’s full-scale invasion of
6 Ukraine.

7 (B) In the second half of 2023, China ex-
8 ported between \$25,000,000 and \$50,000,000
9 in additional semiconductors to Russia every
10 month relative to pre-invasion levels.

11 (C) During the same period, China also ex-
12 ported between \$50,000,000 and \$100,000,000
13 in additional exports to Russia every month to
14 known transshipment hubs.

15 (D) These exports include both Chinese
16 and United States-branded semiconductors (in-
17 tegrated circuits), according to analysis of com-
18 mercially available trade data by the Bureau of
19 Industry and Security of the Department of
20 Commerce, and are almost certainly supporting
21 Russia’s military capabilities based on Ukrain-
22 ian analysis of recovered Russian weapons.

23 (E) Because of the prevalence of United
24 States manufacturing equipment in global semi-
25 conductor supply chains, nearly all chips pro-

1 duced worldwide, including in the People’s Re-
2 public of China, are subject to United States
3 export controls if destined for Russia or
4 Belarus.

5 (F) All advanced semiconductors described
6 on the Commerce Control List have been sub-
7 ject to a license requirement if destined to an
8 entity in Russia since its further invasion of
9 Ukraine.

10 (2) On April 3, 2024, Deputy Secretary of
11 State, Kurt Campbell, said “I think we have as-
12 sessed, over the course of the last couple of months
13 that Russia has almost completely reconstituted
14 militarily. And after the initial setbacks on the bat-
15 tlefield delivered to them by a brave and hearty
16 group in Ukraine, with the support of China in par-
17 ticular, dual use capabilities and a variety of other
18 efforts, industrial and commercial, Russia has re-
19 tooled and now poses a threat to Ukraine. . .But not
20 just to Ukraine, its new found capabilities pose a
21 longer term challenge to stability in Europe and
22 threatens NATO allies.”.

23 **SEC. 3. REPORT.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date of the enactment of this Act, the Secretary of State,

1 in coordination with the heads of relevant Federal depart-
2 ments and agencies, as appropriate, shall submit to the
3 appropriate congressional committees, a written report
4 that contains the following:

5 (1) An analysis and description of the extent to
6 which any foreign person who is a citizen of the Peo-
7 ple's Republic of China or an entity organized under
8 the laws of the People's Republic of China, or any
9 foreign person or entity controlled by or operating at
10 the direction of the Government of the People's Re-
11 public of China—

12 (A) is knowingly a material source of crit-
13 ical components necessary for the manufacture
14 of weapons, vehicles, and other military equip-
15 ment by the defense industrial base of the Rus-
16 sian Federation;

17 (B) has knowingly delivered critical compo-
18 nents to or entered into any agreement relating
19 to the sale or delivery of critical components
20 with any entity operating in the defense or in-
21 telligence sectors of the Government of the Rus-
22 sian Federation;

23 (C) has knowingly delivered critical compo-
24 nents to or entered into any agreement relating
25 to the sale or delivery of critical components

1 with any country or entity with which the de-
2 fense or intelligence sectors of the Government
3 of Russian Federation are cooperating in sup-
4 port of Russia's war against Ukraine; or

5 (D) has knowingly delivered critical compo-
6 nents to or entered into any agreement relating
7 to the sale or delivery of critical components
8 with a foreign person that knowingly and di-
9 rectly provides these components to the defense
10 or intelligence sectors of the Government of the
11 Russian Federation.

12 (2) The extent to which—

13 (A) any foreign person that is a citizen of
14 the People's Republic of China or an entity or-
15 ganized under the laws of the People's Republic
16 of China has knowingly engaged, on or after the
17 date of the enactment of this Act, in trans-
18 actions with a person that is part of, or oper-
19 ates on behalf of, the defense or intelligence
20 sectors of the Government of the Russian Fed-
21 eration;

22 (B) any foreign person identified pursuant
23 to subparagraph (A) has engaged in trans-
24 actions which would constitute a significant
25 transaction with persons that have been sanc-

1 tioned for being part of, or operating on behalf
2 of, the defense or intelligence sectors of the
3 Government of the Russian Federation; or

4 (C) any foreign person identified pursuant
5 to subparagraph (A) has been subjected to
6 sanctions imposed pursuant to sections 231 and
7 235 of the Countering America’s Adversaries
8 Through Sanctions Act (22 U.S.C. 9525 and
9 9529).

10 (b) FORM AND AVAILABILITY.—

11 (1) FORM.—The report required by subsection
12 (a) shall be submitted in unclassified form, but may
13 include a classified annex.

14 (2) AVAILABILITY.—The unclassified portion of
15 the report required by subsection (a) may also be
16 made available to the public.

17 **SEC. 4. IMPOSITION OF SANCTIONS WITH RESPECT TO ECO-**
18 **NOMIC OR INDUSTRIAL ESPIONAGE BY FOR-**
19 **EIGN ADVERSARY ENTITIES.**

20 (a) IN GENERAL.—On and after the date that is 30
21 days after the date of the enactment of this Act, the Presi-
22 dent (a) may impose the sanctions described in subsection
23 (c) against any of the foreign persons described in sub-
24 section (b).

1 (b) FOREIGN PERSONS DESCRIBED.—A foreign per-
2 son is described in this subsection if the President deter-
3 mines on or after the date of the enactment of this Act
4 that the person is a foreign adversary entity that know-
5 ingly engages in—

6 (1) economic or industrial espionage with re-
7 spect to trade secrets or proprietary information
8 owned by United States persons;

9 (2) the provision of material support or services
10 to a foreign adversaries' military, intelligence, or
11 other national security entities; or

12 (3) the violation of United States export control
13 laws.

14 (c) SANCTIONS DESCRIBED.—The sanctions that
15 may be imposed with respect to a foreign person under
16 subsection (b) are the following:

17 (1) PROPERTY BLOCKING.—The exercise of all
18 powers granted to the President by the International
19 Emergency Economic Powers Act (50 U.S.C. 1701
20 et seq.) to the extent necessary to block and prohibit
21 all transactions in property and interests in property
22 of the foreign person if such property and interests
23 in property are in the United States, come within
24 the United States, or are or come within the posses-
25 sion or control of a United States person.

1 (2) VISA REVOCATION.—

2 (A) IN GENERAL.—An alien described in
3 subsection (b) is subject to revocation of any
4 visa or other entry documentation regardless of
5 when the visa or other entry documentation is
6 or was issued.

7 (B) IMMEDIATE EFFECT.—A revocation
8 under subparagraph (A) shall take effect imme-
9 diately; and automatically cancel any other
10 valid visa or entry documentation that is in the
11 alien's possession.

12 (d) EXCEPTIONS.—

13 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
14 TIES.—Sanctions under this section shall not apply
15 to any activity subject to the reporting requirements
16 under title V of the National Security Act of 1947
17 (50 U.S.C. 3091 et seq.) or any authorized intel-
18 ligence activities of the United States.

19 (2) EXCEPTION TO COMPLY WITH INTER-
20 NATIONAL OBLIGATIONS.—Sanctions under sub-
21 section (c)(2) shall not apply with respect to the ad-
22 mission of an alien if admitting or paroling the alien
23 into the United States is necessary to permit the
24 United States to comply with—

1 (A) the Agreement regarding the Head-
2 quarters of the United Nations, signed at Lake
3 Success June 26, 1947, and entered into force
4 November 21, 1947, between the United Na-
5 tions and the United States; or

6 (B) other applicable international obliga-
7 tions.

8 (3) EXCEPTION TO CARRY OUT OR ASSIST LAW
9 ENFORCEMENT ACTIVITIES.—Sanctions under sub-
10 section (c)(2) shall not apply with respect to an alien
11 if admitting or paroling the alien into the United
12 States is necessary to carry out or assist law en-
13 forcement activity in the United States.

14 (e) WAIVER.—The President may waive the applica-
15 tion of sanctions under this section with respect to a for-
16 eign person for renewable periods of not more than 180
17 days each if the President determines and submits to the
18 appropriate congressional committees a report that con-
19 tains a determination of the President that such a waiver
20 is in the national security interests of the United States.

21 (f) IMPLEMENTATION; PENALTIES.—

22 (1) IMPLEMENTATION.—The President may ex-
23 ercise the authorities provided to the President
24 under sections 203 and 205 of the International
25 Emergency Economic Powers Act (50 U.S.C. 1702

1 and 1704) to the extent necessary to carry out this
2 section.

3 (2) PENALTIES.—A person that violates, at-
4 tempts to violate, conspires to violate, or causes a
5 violation of subsection (a) or any regulation, license,
6 or order issued to carry out that subsection shall be
7 subject to the penalties set forth in subsections (b)
8 and (c) of section 206 of the International Emer-
9 gency Economic Powers Act (50 U.S.C. 1705) to the
10 same extent as a person that commits an unlawful
11 act described in subsection (a) of that section.

12 (3) PROCEDURES AND GUIDELINES FOR SANC-
13 TIONS.—The President shall establish procedures
14 and guidelines for the implementation and enforce-
15 ment of sanctions imposed under this section.

16 (4) ANNUAL REPORT.—

17 (A) Unless the exception in subparagraph
18 (B) applies, not later than one year after the
19 date of the enactment of this Act, and for each
20 of the 5 years thereafter, the President shall
21 submit to the appropriate congressional com-
22 mittees a report on any notable developments
23 regarding economic or industrial espionage ac-
24 tivities by foreign persons.

1 (B) The President shall not be required to
2 submit the annual report described by subpara-
3 graph (A) if the President has imposed sanc-
4 tions as authorized under this section within
5 the previous calendar year.

6 (g) RULE OF CONSTRUCTION.—For purposes of this
7 section, a transaction shall not be construed to include
8 participation in an international standards-setting body or
9 the activities of such a body.

10 **SEC. 5. CLARIFYING AMENDMENTS.**

11 Section 203 of the International Emergency Eco-
12 nomic Powers Act (50 U.S.C. 1702) is amended—

13 (1) in subsection (b)—

14 (A) in the matter preceding paragraph (1),
15 by striking “, directly or indirectly”;

16 (B) in paragraph (3)—

17 (i) by striking “including but not lim-
18 ited to” and all that follows through “news
19 wire feeds.” and inserting “except to the
20 extent that the President determines that
21 such imports and exports would seriously
22 impair his ability to deal with any national
23 emergency declared under section 202.”;
24 and

1 (ii) by striking “under section 5 of the
2 Export Administration Act of 1979, or
3 under section 6 of such Act” and inserting
4 “under other statutory or regulatory ex-
5 port control authorities”; and

6 (C) in paragraph (4), by inserting “, ex-
7 cept to the extent that the President determines
8 that such imports and exports would seriously
9 impair the ability to deal with any national
10 emergency declared under section 202” before
11 the period at the end; and

12 (2) by adding at the end the following:

13 “(d) RULES OF CONSTRUCTION RELATING TO SEN-
14 SITIVE AND PERSONAL DATA.—The communication, the
15 importation to a country, or the exportation from a coun-
16 try, directly or indirectly, whether commercial or other-
17 wise, of bulk sensitive personal data or of source code used
18 in a connected software application may not be construed
19 to constitute—

20 “(1) a ‘postal, telegraphic, telephonic, or other
21 personal communication’, for purposes of subsection
22 (b)(1); or

23 “(2) an importation from a country, or an ex-
24 portation to a country, of ‘information or informa-
25 tional materials’, for purposes of subsection (b)(3).”.

1 **SEC. 6. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
4 **TEES.**—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Affairs of
7 the House of Representatives; and

8 (B) the Committee on Foreign Relations of
9 the Senate.

10 (2) **ECONOMIC OR INDUSTRIAL ESPIONAGE.**—
11 The term “economic or industrial espionage” has
12 the meaning given that term in section 1637(d) of
13 the Carl Levin and Howard P. “Buck” McKeon Na-
14 tional Defense Authorization Act for Fiscal Year
15 2015.

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

19 (4) **KNOWINGLY.**—The term “knowingly”, with
20 respect to conduct, a circumstance, or a result,
21 means that a person has actual knowledge, or should
22 have known, of the conduct, the circumstance, or the
23 result.

24 (5) **OWN, PROPRIETARY INFORMATION, AND**
25 **TRADE SECRET.**—The terms “own”, “proprietary in-
26 formation”, and “trade secret” have the meanings

1 given those terms in section 1637(d) of the Carl
2 Levin and Howard P. “Buck” McKeon National De-
3 fense Authorization Act for Fiscal Year 2015 (50
4 U.S.C. 1708(d)).

5 (6) PERSON.—The term “person” means an in-
6 dividual or entity.

7 (7) UNITED STATES PERSON.—The term
8 “United States person” means—

9 (A) a United States citizen or an alien law-
10 fully admitted for permanent residence to the
11 United States; or

12 (B) an entity organized under the laws of
13 the United States or any jurisdiction within the
14 United States, including a foreign branch of
15 such an entity.

16 (8) FOREIGN ADVERSARY.—The term “foreign
17 adversary” means the countries listed in section 7.4
18 of title 15, Code of Federal Regulations.

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