

**Suspend the Rules and Pass the Bill, H. R. 8361, With an
Amendment**

**(The amendment strikes all after the enacting clause and inserts a
complete new text)**

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”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

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

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

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

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

25 (E) Because of the prevalence of United
26 States manufacturing equipment in global semi-

1 conductor supply chains, nearly all chips pro-
2 duced worldwide, including in the People's Re-
3 public of China, are subject to United States
4 export controls if destined for Russia or
5 Belarus.

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

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

1 **SEC. 3. REPORT.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 date of the enactment of this Act, the Secretary of State,
4 in coordination with the heads of relevant Federal depart-
5 ments and agencies, as appropriate, shall submit to the
6 appropriate congressional committees, a written report
7 that contains the following:

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

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

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

1 (C) has knowingly delivered critical compo-
2 nents to or entered into any agreement relating
3 to the sale or delivery of critical components
4 with any country or entity with which the de-
5 fense or intelligence sectors of the Government
6 of Russian Federation are cooperating in sup-
7 port of Russia's war against Ukraine; or

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

15 (2) The extent to which—

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

1 (B) any foreign person identified pursuant
2 to subparagraph (A) has engaged in trans-
3 actions which would constitute a significant
4 transaction with persons that have been sanc-
5 tioned for being part of, or operating on behalf
6 of, the defense or intelligence sectors of the
7 Government of the Russian Federation; or

8 (C) any foreign person identified pursuant
9 to subparagraph (A) has been subjected to
10 sanctions imposed pursuant to sections 231 and
11 235 of the Countering America's Adversaries
12 Through Sanctions Act (22 U.S.C. 9525 and
13 9529).

14 (b) FORM AND AVAILABILITY.—

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

18 (2) AVAILABILITY.—The unclassified portion of
19 the report required by subsection (a) may also be
20 made available to the public.

21 **SEC. 4. IMPOSITION OF SANCTIONS WITH RESPECT TO ECO-**
22 **NOMIC OR INDUSTRIAL ESPIONAGE BY FOR-**
23 **EIGN ADVERSARY ENTITIES.**

24 (a) IN GENERAL.—On and after the date that is 30
25 days after the date of the enactment of this Act, the Presi-

1 dent (a) may impose the sanctions described in subsection
2 (c) against any of the foreign persons described in sub-
3 section (b).

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

9 (1) economic or industrial espionage with re-
10 spect to trade secrets or proprietary information
11 owned by United States persons;

12 (2) the provision of material support or services
13 to a foreign adversaries' military, intelligence, or
14 other national security entities; or

15 (3) the violation of United States export control
16 laws.

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

20 (1) PROPERTY BLOCKING.—The exercise of all
21 powers granted to the President by the International
22 Emergency Economic Powers Act (50 U.S.C. 1701
23 et seq.) to the extent necessary to block and prohibit
24 all transactions in property and interests in property
25 of the foreign person if such property and interests

1 in property are in the United States, come within
2 the United States, or are or come within the posses-
3 sion or control of a United States person.

4 (2) INELIGIBILITY FOR VISAS, ADMISSION, OR
5 PAROLE.—

6 (A) VISAS, ADMISSION, OR PAROLE.—An
7 alien described in subsection (b) is—

8 (i) inadmissible to the United States;

9 (ii) ineligible to receive a visa or other
10 documentation to enter the United States;
11 and

12 (iii) otherwise ineligible to be admitted
13 or paroled into the United States or to re-
14 ceive any other benefit under the Immigra-
15 tion and Nationality Act (8 U.S.C. 1101 et
16 seq.).

17 (B) CURRENT VISAS REVOKED.—

18 (i) IN GENERAL.—An alien described
19 in subsection (b) is subject to revocation of
20 any visa or other entry documentation re-
21 gardless of when the visa or other entry
22 documentation is or was issued.

23 (ii) IMMEDIATE EFFECT.—A revoca-
24 tion under clause (i) shall take effect im-
25 mediately and automatically cancel any

1 other valid visa or entry documentation
2 that is in the alien's possession.

3 (d) EXCEPTIONS.—

4 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
5 TIES.—Sanctions under this section shall not apply
6 to any activity subject to the reporting requirements
7 under title V of the National Security Act of 1947
8 (50 U.S.C. 3091 et seq.) or any authorized intel-
9 ligence activities of the United States.

10 (2) EXCEPTION TO COMPLY WITH INTER-
11 NATIONAL OBLIGATIONS.—Sanctions under sub-
12 section (c)(2) shall not apply with respect to the ad-
13 mission of an alien if admitting or paroling the alien
14 into the United States is necessary to permit the
15 United States to comply with—

16 (A) the Agreement regarding the Head-
17 quarters of the United Nations, signed at Lake
18 Success June 26, 1947, and entered into force
19 November 21, 1947, between the United Na-
20 tions and the United States; or

21 (B) other applicable international obliga-
22 tions.

23 (3) EXCEPTION TO CARRY OUT OR ASSIST LAW
24 ENFORCEMENT ACTIVITIES.—Sanctions under sub-
25 section (c)(2) shall not apply with respect to an alien

1 if admitting or paroling the alien into the United
2 States is necessary to carry out or assist law en-
3 forcement activity in the United States.

4 (e) WAIVER.—The President may waive the applica-
5 tion of sanctions under this section with respect to a for-
6 eign person for renewable periods of not more than 180
7 days each if the President determines and submits to the
8 appropriate congressional committees a report that con-
9 tains a determination of the President that such a waiver
10 is in the national security interests of the United States.

11 (f) IMPLEMENTATION; PENALTIES.—

12 (1) IMPLEMENTATION.—The President may ex-
13 ercise the authorities provided to the President
14 under sections 203 and 205 of the International
15 Emergency Economic Powers Act (50 U.S.C. 1702
16 and 1704) to the extent necessary to carry out this
17 section.

18 (2) PENALTIES.—A person that violates, at-
19 tempts to violate, conspires to violate, or causes a
20 violation of subsection (a) or any regulation, license,
21 or order issued to carry out that subsection shall be
22 subject to the penalties set forth in subsections (b)
23 and (c) of section 206 of the International Emer-
24 gency Economic Powers Act (50 U.S.C. 1705) to the

1 same extent as a person that commits an unlawful
2 act described in subsection (a) of that section.

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

7 (4) ANNUAL REPORT.—

8 (A) Unless the exception in subparagraph
9 (B) applies, not later than one year after the
10 date of the enactment of this Act, and for each
11 of the 5 years thereafter, the President shall
12 submit to the appropriate congressional com-
13 mittees a report on any notable developments
14 regarding economic or industrial espionage ac-
15 tivities by foreign persons.

16 (B) The President shall not be required to
17 submit the annual report described by subpara-
18 graph (A) if the President has imposed sanc-
19 tions as authorized under this section within
20 the previous calendar year.

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

1 **SEC. 5. CLARIFYING AMENDMENTS.**

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

4 (1) in subsection (b)—

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

7 (B) in paragraph (3)—

8 (i) by striking “including but not lim-
9 ited to” and all that follows through “news
10 wire feeds.” and inserting “except to the
11 extent that the President determines that
12 such imports and exports would seriously
13 impair his ability to deal with any national
14 emergency declared under section 202.”;
15 and

16 (ii) by striking “under section 5 of the
17 Export Administration Act of 1979, or
18 under section 6 of such Act” and inserting
19 “under other statutory or regulatory ex-
20 port control authorities”; and

21 (C) in paragraph (4), by inserting “, ex-
22 cept to the extent that the President determines
23 that such imports and exports would seriously
24 impair the ability to deal with any national
25 emergency declared under section 202” before
26 the period at the end; and

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

2 “(d) RULES OF CONSTRUCTION RELATING TO SEN-
3 SITIVE AND PERSONAL DATA.—The communication, the
4 importation to a country, or the exportation from a coun-
5 try, directly or indirectly, whether commercial or other-
6 wise, of bulk sensitive personal data or of source code used
7 in a connected software application may not be construed
8 to constitute—

9 “(1) a ‘postal, telegraphic, telephonic, or other
10 personal communication’, for purposes of subsection
11 (b)(1); or

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

15 **SEC. 6. DEFINITIONS.**

16 In this Act:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Foreign Affairs of
21 the House of Representatives; and

22 (B) the Committee on Foreign Relations of
23 the Senate.

24 (2) ECONOMIC OR INDUSTRIAL ESPIONAGE.—

25 The term “economic or industrial espionage” has

1 the meaning given that term in section 1637(d) of
2 the Carl Levin and Howard P. “Buck” McKeon Na-
3 tional Defense Authorization Act for Fiscal Year
4 2015.

5 (3) FOREIGN PERSON.—The term “foreign per-
6 son” means any person that is not a United States
7 person.

8 (4) KNOWINGLY.—The term “knowingly”, with
9 respect to conduct, a circumstance, or a result,
10 means that a person has actual knowledge, or should
11 have known, of the conduct, the circumstance, or the
12 result.

13 (5) OWN, PROPRIETARY INFORMATION, AND
14 TRADE SECRET.—The terms “own”, “proprietary in-
15 formation”, and “trade secret” have the meanings
16 given those terms in section 1637(d) of the Carl
17 Levin and Howard P. “Buck” McKeon National De-
18 fense Authorization Act for Fiscal Year 2015 (50
19 U.S.C. 1708(d)).

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

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

1 (A) a United States citizen or an alien law-
2 fully admitted for permanent residence to the
3 United States; or

4 (B) an entity organized under the laws of
5 the United States or any jurisdiction within the
6 United States, including a foreign branch of
7 such an entity.

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