To combat cyber espionage of intellectual property of United States persons,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2013

Mr. ROGERS of Michigan (for himself and Mr. RYAN of Ohio) introduced the
following bill; which was referred to the Committee on Foreign Affairs,
and in addition to the Committees on the Judiciary and Financial Serv-
ices, 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 combat cyber espionage of intellectual property of United
States persons, and for other purposes.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Cyber Economic Espio-

nage Accountability Act”.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.
(a) FINDINGS.—Congress finds the following:
(1) The United States faces persistent cyber espionage of intellectual property from foreign governments that threatens United States economic and national security interests, results in an unfair competitive advantage for foreign companies, and is a major contributor to the loss of manufacturing jobs in the United States.

(2) Cyber espionage of intellectual property by foreign actors is one of the most pressing issues facing innovators and entrepreneurs in the United States today.

(3) The National Counterintelligence Executive stated in its October 2011 biennial economic espionage report that “Chinese actors are the world’s most active and persistent perpetrators of economic espionage” and that “United States private sector firms and cybersecurity specialists have reported an onslaught of computer network intrusions that have originated in China”.

(4) The National Counterintelligence Executive also stated that “Russia’s intelligence services are conducting a range of activities to collect economic information and technology from U.S. targets”.

(5) The People’s Republic of China, the Russian Federation, and other countries threaten the
privacy of United States citizens by accessing and
exploiting personally identifiable information
through cyber economic espionage.

(6) The People’s Republic of China, the Rus-
sian Federation, and other countries responsible for
such cyber economic espionage are members of the
World Trade Organization (WTO) and have agreed
to comply with the global system of rules and obliga-
tions governing the international commerce and
trade among member states.

(7) The United States has recognized the mem-
bership of the People’s Republic of China, the Rus-
sian Federation, and other countries into the WTO
by granting them Permanent Normal Trade Rela-
tions (PNTR) status under United States law.

(8) Cyber economic espionage undermines the
cooperative relationships between the United States
and countries tolerating or encouraging such activi-
ties.

(b) SENSE OF CONGRESS.—It is the sense of Con-
gress that—

(1) cyber economic espionage should be a pri-
ority issue in all economic and diplomatic discussions
with the People’s Republic of China, including dur-
ing all meetings of the U.S.-China Strategic and
Economic Dialogue, and with the Russian Federation and other countries determined to encourage, tolerate, or conduct such cyber economic espionage at appropriate bilateral meetings;

(2) the United States should intensify diplomatic efforts in appropriate international fora such as the United Nations, the Organisation for Economic Cooperation and Development (OECD), and summits such as the G–8 and G–20 summits, to address the harm to the international economic order by cyber economic espionage; and

(3) the Department of Justice should increase its efforts to bring economic espionage criminal cases against offending foreign actors, with penalties to include both fines and imprisonment, as well as encourage further cooperation among countries to address cyber economic espionage through criminal prosecutions.

SEC. 3. IDENTIFICATION OF PERSONS RESPONSIBLE FOR CYBER ESPIONAGE OF INTELLECTUAL PROPERTY OF UNITED STATES PERSONS.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of persons who are officials of a foreign government or per-
sons acting on behalf of a foreign government that the
President determines, based on credible information—

(1) are responsible for cyber espionage of intel-
lectual property of United States persons; or

(2) acted as an agent of or on behalf of a per-
son in a matter relating to an activity described in
paragraph (1).

(b) UPDATES.—The President shall submit to the ap-
propriate congressional committees an update of the list
required by subsection (a) as new information becomes
available.

(c) FORM.—

(1) IN GENERAL.—The list required by sub-
section (a) shall be submitted in unclassified form.

(2) EXCEPTION.—The name of a person to be
included in the list required by subsection (a) may
be submitted in a classified annex only if the Presi-
dent—

(A) determines that it is vital for the na-
tional security interests of the United States to
do so;

(B) uses the annex in such a manner con-
sistent with congressional intent and the pur-
poses of this Act; and
(C) 15 days prior to submitting the name in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including or continuing to include each person in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in paragraph (1) or (2) of subsection (a).

(3) **Public Availability.**—The unclassified portion of the list required by subsection (a) shall be made available to the public and published in the Federal Register.

(d) **Removal From List.**—A person may be removed from the list required by subsection (a) if the President determines and reports to the appropriate congressional committees not less than 15 days prior to the removal of the person from the list that credible information exists that the person did not engage in the activity for which the person was added to the list.

(e) **Requests by Chairperson and Ranking Member of Appropriate Congressional Committees.**—

(1) **In General.**—Not later than 120 days after receiving a written request from the chair-
person and ranking member of one of the appropriate congressional committees with respect to whether a person meets the criteria for being added to the list required by subsection (a), the President shall submit a response to the chairperson and ranking member of the committee which made the request with respect to the status of the person.

(2) FORM.—The President may submit a response required by paragraph (1) in classified form if the President determines that it is necessary for the national security interests of the United States to do so.

(3) REMOVAL.—If the President removes from the list required by subsection (a) a person who has been placed on the list at the request of the chairperson and ranking member of one of the appropriate congressional committees, the President shall provide the chairperson and ranking member with any information that contributed to the removal decision. The President may submit such information in classified form if the President determines that such is necessary for the national security interests of the United States.

(f) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The
President shall publish the list required by subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

SEC. 4. INADMISSIBILITY OF CERTAIN AliENS.

(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 3(a).

(b) CURRENT VISAS REVOKED.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a) of this section.

(c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if—

(A) the Secretary determines that such a waiver—
(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or

(ii) is in the national security interests of the United States; and

(B) prior to granting such a waiver, the Secretary provides to the appropriate congressional committees notice of, and a justification for, the waiver.

(2) Timing for Certain Waivers.—Notification under subparagraph (B) of paragraph (1) shall be made not later than 15 days prior to granting a waiver under such paragraph if the Secretary grants such waiver in the national security interests of the United States in accordance with subparagraph (A)(ii) of such paragraph.

(d) Regulatory Authority.—The Secretary of State shall prescribe such regulations as are necessary to carry out this section.
SEC. 5. FINANCIAL MEASURES.

(a) FREEZING OF ASSETS.—

(1) IN GENERAL.—The President shall exercise all powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person who is on the list required by section 3(a) of this Act if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(2) EXCEPTION.—Paragraph (1) shall not apply to persons included on the classified annex under section 3(c)(2) if the President determines that such an exception is vital for the national security interests of the United States.

(b) WAIVER FOR NATIONAL SECURITY INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States. Not less than 15 days prior to granting such a waiver, the Secretary shall provide to the appropriate con-
gressional committees notice of, and a justification for, the waiver.

(c) Enforcement.—

(1) Penalties.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

(2) Requirements for financial institutions.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe or amend regulations as needed to require each financial institution that is a United States person and has within its possession or control assets that are property or interests in property of a person who is on the list required by section 3(a) if such property and interests in property are in the United States to certify to the Secretary that, to the best of the knowledge of the financial institution, the financial institution has frozen all assets within the possession or control of the
financial institution that are required to be frozen pursuant to subsection (a).

(d) Specially Designated Nationals List.—The Secretary of the Treasury shall include on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury each person who is on the list required by section 3(a) of this Act.

(e) Regulatory Authority.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

SEC. 6. REPORT TO CONGRESS.

Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

(1) the actions taken to carry out this Act, including—

(A) the number of persons added to or removed from the list required by section 3(a) during the year preceding the report, the dates on which such persons have been added or removed, and the reasons for adding or removing them; and
(B) if few or no such persons have been
added to that list during that year, the reasons
for not adding more such persons to the list;
and
(2) efforts by the executive branch to encourage
the governments of other countries to impose sanc-
tions that are similar to the sanctions imposed under
this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) ADMITTED; ALIEN.—The terms “admitted”
and “alien” have the meanings given those terms in
section 101 of the Immigration and Nationality Act

(2) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Armed Services, the
Committee on Financial Services, the Com-
mittee on Foreign Affairs, the Committee on
Homeland Security, the Committee on the Judi-
ciary, and the Permanent Select Committee on
Intelligence of the House of Representatives;
and
(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

(3) **FINANCIAL INSTITUTION.**—The term “financial institution” has the meaning given that term in section 5312 of title 31, United States Code.

(4) **UNITED STATES PERSON.**—The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

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