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To require the President to develop a watch list and a priority watch list of foreign countries that engage in economic or industrial espionage in cyberspace with respect to United States trade secrets or proprietary information, to provide for the imposition of sanctions with respect to foreign persons that knowingly benefit from such espionage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2014

Mr. LEVIN (for himself, Mr. MCCAIN, Mr. ROCKEFELLER, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the President to develop a watch list and a priority watch list of foreign countries that engage in economic or industrial espionage in cyberspace with respect to United States trade secrets or proprietary information, to provide for the imposition of sanctions with respect to foreign persons that knowingly benefit from such espionage, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Deter Cyber Theft Act
3 of 2014”.

4 **SEC. 2. ACTIONS TO ADDRESS ECONOMIC OR INDUSTRIAL**
5 **ESPIONAGE IN CYBERSPACE.**

6 (a) REPORT REQUIRED.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of the enactment of this Act, and an-
9 nually thereafter, the President shall submit to the
10 appropriate congressional committees a report on
11 foreign economic and industrial espionage in cyber-
12 space during the 12-month period preceding the sub-
13 mission of the report that—

14 (A) identifies—

15 (i) foreign countries that engage in
16 economic or industrial espionage in cyber-
17 space with respect to trade secrets or pro-
18 prietary information owned by United
19 States persons;

20 (ii) foreign countries identified under
21 clause (i) that the President determines
22 engage in the most egregious economic or
23 industrial espionage in cyberspace with re-
24 spect to such trade secrets or proprietary
25 information (in this section referred to as
26 “priority foreign countries”);

(iii) technologies or proprietary information developed by United States persons that—

(I) are targeted for economic or industrial espionage in cyberspace; and

(II) to the extent practicable, have been appropriated through such espionage;

(iv) articles manufactured or otherwise produced using technologies or proprietary information described in clause (iii)(II); and

(v) to the extent practicable, services provided using such technologies or proprietary information;

(B) describes the economic or industrial espionage engaged in by the foreign countries identified under clauses (i) and (ii) of subparagraph (A); and

(C) describes—

(i) actions taken by the President to decrease the prevalence of economic or industrial espionage in cyberspace; and

1 (ii) the progress made in decreasing
2 the prevalence of such espionage.

3 (2) DETERMINATION OF FOREIGN COUNTRIES
4 ENGAGING IN ECONOMIC OR INDUSTRIAL ESPIONAGE
5 IN CYBERSPACE.—For purposes of clauses (i) and
6 (ii) of paragraph (1)(A), the President shall identify
7 a foreign country as a foreign country that engages
8 in economic or industrial espionage in cyberspace
9 with respect to trade secrets or proprietary informa-
10 tion owned by United States persons if the govern-
11 ment of the foreign country—

12 (A) engages in economic or industrial espi-
13 onage in cyberspace with respect to trade se-
14 crets or proprietary information owned by
15 United States persons; or

16 (B) facilitates, supports, fails to prosecute,
17 or otherwise permits such espionage by—

18 (i) individuals who are citizens or resi-
19 dents of the foreign country; or

20 (ii) entities that are organized under
21 the laws of the foreign country or are oth-
22 erwise subject to the jurisdiction of the
23 government of the foreign country.

1 (3) FORM OF REPORT.—Each report required
2 by paragraph (1) shall be submitted in unclassified
3 form but may contain a classified annex.

4 (b) IMPOSITION OF SANCTIONS.—

5 (1) IN GENERAL.—The President may, pursu-
6 ant to the International Emergency Economic Pow-
7 ers Act (50 U.S.C. 1701 et seq.), block and prohibit
8 all transactions in all property and interests in prop-
9 erty of each person described in paragraph (2), if
10 such property and interests in property are in the
11 United States, come within the United States, or are
12 or come within the possession or control of a United
13 States person.

14 (2) PERSONS DESCRIBED.—A person described
15 in this paragraph is a foreign person the President
16 determines knowingly requests, engages in, supports,
17 facilitates, or benefits from the significant appro-
18 priation, through economic or industrial espionage in
19 cyberspace, of technologies or proprietary informa-
20 tion developed by United States persons.

21 (3) EXCEPTION.—The authority to impose
22 sanctions under paragraph (1) shall not include the
23 authority to impose sanctions on the importation of
24 goods.

25 (c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Homeland Security, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) CYBERSPACE.—The term “cyberspace”—

(A) means the interdependent network of information technology infrastructures; and

(B) includes the Internet, telecommunications networks, computer systems, and embedded processors and controllers.

(3) ECONOMIC OR INDUSTRIAL ESPIONAGE.—The term “economic or industrial espionage” means—

1 (A) stealing a trade secret or proprietary
2 information or appropriating, taking, carrying
3 away, or concealing, or by fraud, artifice, or de-
4 ception obtaining, a trade secret or proprietary
5 information without the authorization of the
6 owner of the trade secret or proprietary infor-
7 mation;

8 (B) copying, duplicating, downloading,
9 uploading, destroying, transmitting, delivering,
10 sending, communicating, or conveying a trade
11 secret or proprietary information without the
12 authorization of the owner of the trade secret
13 or proprietary information; or

14 (C) knowingly receiving, buying, or pos-
15 sessing a trade secret or proprietary informa-
16 tion that has been stolen or appropriated, ob-
17 tained, or converted without the authorization
18 of the owner of the trade secret or proprietary
19 information.

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

1 (5) OWN.—The term “own”, with respect to a
2 trade secret or proprietary information, means to
3 hold rightful legal or equitable title to, or license in,
4 the trade secret or proprietary information.

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

7 (7) PROPRIETARY INFORMATION.—The term
8 “proprietary information” means competitive bid
9 preparations, negotiating strategies, executive
10 emails, internal financial data, strategic business
11 plans, technical designs, manufacturing processes,
12 source code, data derived from research and develop-
13 ment investments, and other commercially valuable
14 information that a person has developed or obtained
15 if—

16 (A) the person has taken reasonable meas-
17 ures to keep the information confidential; and

18 (B) the information is not generally known
19 or readily ascertainable through proper means
20 by the public.

21 (8) TECHNOLOGY.—The term “technology” has
22 the meaning given that term in section 16 of the Ex-
23 port Administration Act of 1979 (50 U.S.C. App.
24 2415) (as in effect pursuant to the International

1 Emergency Economic Powers Act (50 U.S.C. 1701
2 et seq.)).

3 (9) TRADE SECRET.—The term “trade secret”
4 has the meaning given that term in section 1839 of
5 title 18, United States Code.

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

8 (A) an individual who is a citizen or resi-
9 dent of the United States; or

10 (B) an entity organized under the laws of
11 the United States or any jurisdiction within the
12 United States.

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