

rying away, or concealing, or by fraud, artifice, or deception obtaining, a trade secret or proprietary information without the authorization of the owner of the trade secret or proprietary information;

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

(C) knowingly receiving, buying, or possessing a trade secret or proprietary information that has been stolen or appropriated, obtained, or converted without the authorization of the owner of the trade secret or proprietary information.

(4) Knowingly

The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(5) Own

The term “own”, with respect to a trade secret or proprietary information, means to hold rightful legal or equitable title to, or license in, the trade secret or proprietary information.

(6) Person

The term “person” means an individual or entity.

(7) Proprietary information

The term “proprietary information” means competitive bid preparations, negotiating strategies, executive emails, internal financial data, strategic business plans, technical designs, manufacturing processes, source code, data derived from research and development investments, and other commercially valuable information that a person has developed or obtained if—

(A) the person has taken reasonable measures to keep the information confidential; and

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

(8) Technology

The term “technology” has the meaning given that term in section 16¹ of the Export Administration Act of 1979 (50 U.S.C. 4618) (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(9) Trade secret

The term “trade secret” has the meaning given that term in section 1839 of title 18.

(10) United States person

The term “United States person” means—

(A) an individual who is a citizen or resident of the United States;

(B) an entity organized under the laws of the United States or any jurisdiction within the United States; or

(C) a person located in the United States. (Pub. L. 113–291, div. A, title XVI, §1637, Dec. 19, 2014, 128 Stat. 3644.)

Editorial Notes

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (b)(1) and (d)(8), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

Section 16 of the Export Administration Act of 1979 (50 U.S.C. 4618), referred to subsec. (d)(8), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

CODIFICATION

Section was enacted as part of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, and not as part of the International Emergency Economic Powers Act which comprises this chapter.

§ 1709. Imposition of sanctions with respect to theft of trade secrets of United States persons

(a) Report required

(1) In general

Not later than 180 days after January 5, 2023, and not less frequently than annually thereafter, the President shall submit to the appropriate congressional committees a report—

(A) identifying any foreign person the President determines, during the period specified in paragraph (2)—

(i) has knowingly engaged in, or benefitted from, significant theft of trade secrets of United States persons, if the theft of such trade secrets occurred on or after January 5, 2023, and is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States;

(ii) has provided significant financial, material, or technological support for, or goods or services in support of or to benefit significantly from, such theft;

(iii) is an entity that is owned or controlled by, or that has acted or purported to act for or on behalf of, directly or indirectly, any foreign person identified under clause (i) or (ii); or

(iv) is a chief executive officer or member of the board of directors of any foreign entity identified under clause (i) or (ii);

(B) describing the nature, objective, and outcome of the theft of trade secrets each foreign person described in subparagraph (A)(i) engaged in or benefitted from; and

(C) assessing whether any chief executive officer or member of the board of directors described in clause (iv) of subparagraph (A) engaged in, or benefitted from, activity described in clause (i) or (ii) of that subparagraph.

(2) Period specified

The period specified in this paragraph is—

¹ See References in Text note below.

(A) in the case of the first report required by paragraph (1), the period beginning on January 5, 2023, and ending on the date on which the report is required to be submitted; and

(B) in the case of each subsequent report required by paragraph (1), the one-year period preceding the date on which the report is required to be submitted.

(3) Form of report

Each report required by paragraph (1) shall be submitted in unclassified form but may include a classified annex.

(b) Authority to impose sanctions

(1) Sanctions applicable to entities

In the case of a foreign entity identified under subparagraph (A) of subsection (a)(1) in the most recent report submitted under that subsection, the President shall impose 5 or more of the following:

(A) Blocking of property

The President may, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the entity 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.

(B) Inclusion on entity list

The President may include the entity on the entity list maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, for activities contrary to the national security or foreign policy interests of the United States.

(C) Export-Import bank assistance for exports to sanctioned persons

The President may direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to the entity.

(D) Loans from United States financial institutions

The President may prohibit any United States financial institution from making loans or providing credits to the entity totaling more than \$10,000,000 in any 12-month period unless the person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

(E) Loans from international financial institutions

The President may direct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose any loan from the international financial institution that would benefit the entity.

(F) Prohibitions on financial institutions

The following prohibitions may be imposed against the entity if the entity is a financial institution:

(i) Prohibition on designation as primary dealer

Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the financial institution as a primary dealer in United States Government debt instruments.

(ii) Prohibition on service as a repository of government funds

The financial institution may not serve as agent of the United States Government or serve as repository for United States Government funds.

The imposition of either sanction under clause (i) or (ii) shall be treated as one sanction for purposes of this paragraph, and the imposition of both such sanctions shall be treated as 2 sanctions for purposes of this paragraph.

(G) Procurement sanction

The United States Government may not procure, or enter into any contract for the procurement of, any goods or services from the entity.

(H) Foreign exchange

The President may, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the entity has any interest.

(I) Banking transactions

The President may, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the entity.

(J) Ban on investment in equity or debt of sanctioned person

The President may, pursuant to such regulations or guidelines as the President may prescribe, prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of the entity.

(K) Exclusion of corporate officers

The President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United States, any alien that the President determines is a corporate officer or principal of, or a shareholder with a controlling interest in, the entity.

(L) Sanctions on principal executive officers

The President may impose on the principal executive officer or officers of the entity, or

on individuals performing similar functions and with similar authorities as such officer or officers, any of the sanctions under this paragraph.

(2) Sanctions applicable to individuals

In the case of an alien identified under subparagraph (A) of subsection (a)(1) in the most recent report submitted under that subsection, the following shall apply:

(A) Blocking of property

The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the alien 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.

(B) Ineligibility for visas, admission, or parole

(i) Visas, admission, or parole

An alien described in subparagraph (A) of subsection (a)(1) is—

(I) inadmissible to the United States;

(II) ineligible to receive a visa or other documentation to enter the United States; and

(III) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(ii) Current visas revoked

(I) In general

An alien described in subparagraph (A) of subsection (a)(1) is subject to revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(II) Immediate effect

A revocation under subclause (I) shall—

(aa) take effect pursuant to section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)); and

(bb) cancel any other valid visa or entry documentation that is in the alien's possession.

(c) National interest waiver

The President may waive the imposition of sanctions under subsection (b) with respect to a person if the President—

(1) determines that such a waiver is in the national interests of the United States; and

(2) not more than 15 days after issuing the waiver, submits to the appropriate congressional committees a notification of the waiver and the reasons for the waiver.

(d) Implementation; penalties

(1) Implementation

The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers

Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) 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 that section.

(e) Exceptions

(1) Intelligence activities

This section shall not apply with respect to activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

(2) Law enforcement activities

Sanctions under this section shall not apply with respect to any authorized law enforcement activities of the United States.

(3) Exception to comply with international agreements

Sanctions under this section shall not apply with respect to the admission of an alien to the United States if such admission is necessary to comply with the obligations of the United States under the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or other international obligations.

(4) Exception relating to importation of goods

(A) In general

The authority or a requirement to impose sanctions under this section shall not include the authority or a requirement to impose sanctions on the importation of goods.

(B) Good defined

In this paragraph, the term “good” means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

(f) Sunset

This section shall terminate on the date that is 7 years after January 5, 2023.

(g) Definitions

In this section:

(1) Admission; admitted; alien; lawfully admitted for permanent residence

The terms “admission”, “admitted”, “alien”, and “lawfully admitted for permanent residence” have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) Appropriate congressional committees

The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives.

(3) Entity

The term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

(4) Export Administration Regulations

The term “Export Administration Regulations” has the meaning given that term in section 4801 of this title.

(5) Foreign entity

The term “foreign entity” means an entity that is not a United States person.

(6) Foreign person

The term “foreign person” means any person that is not a United States person.

(7) Knowingly

The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(8) Person

The term “person” means an individual or entity.

(9) Trade secret

The term “trade secret” has the meaning given that term in section 1839 of title 18.

(10) 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;

(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; or

(C) any person in the United States.

(Pub. L. 117-336, § 2, Jan. 5, 2023, 136 Stat. 6147.)

Editorial Notes

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b)(1)(A), (2)(A), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Immigration and Nationality Act, referred to in subsec. (b)(2)(B)(i)(III), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The National Security Act of 1947, referred to in subsec. (e)(1), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Protecting American Intellectual Property Act of 2022, and not as part of the International Emergency Economic Powers Act which comprises this chapter.

Executive Documents

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER THE PROTECTING AMERICAN INTELLECTUAL PROPERTY ACT OF 2022

Memorandum of President of the United States, July 19, 2024, 89 F.R. 64345, provided:

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

SECTION 1. (a) I hereby delegate to the Secretary of State, with input from the Director of National Intelligence, the Attorney General, the Secretary of Commerce, and the heads of other relevant executive departments and agencies (agencies), as appropriate, the functions and authorities vested in the President by section 2(a) of the Protecting American Intellectual Property Act of 2022 (Public Law 117-336; 50 U.S.C. 1709) (the “Act”). To support the Secretary of State’s preparation of the report required under section 2(a) of the Act, the Director of National Intelligence, the Attorney General, the Secretary of Commerce, and, as appropriate, the heads of other relevant agencies, shall provide pertinent information to the Secretary of State at least 90 days before the deadline for submission of the annual report to the appropriate congressional committees.

(b) I hereby delegate to the Secretary of State, in consultation with the heads of other relevant agencies, as appropriate, the authority to select the types of sanctions to be imposed under section 2(b)(1) of the Act. Once applicable sanctions are selected pursuant to section 2(b)(1) of the Act, I hereby delegate to the heads of other relevant agencies the authority to implement such sanctions, commensurate with their respective areas of responsibility.

(c) I hereby delegate to the Secretary of the Treasury the functions and authorities vested in the President by section 2(b)(2)(A) and section 2(d) of the Act.

(d) I hereby delegate to the Secretary of State the functions and authorities vested in the President by section 2(c) of the Act.

SEC. 2. The delegations in this memorandum shall apply to any provisions of any future public laws that are the same or substantially the same as the provisions referenced in this memorandum. Any reference in this memorandum to the Act shall be deemed to be a reference to such Act as amended from time to time.

SEC. 3. The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§ 1710. Confronting asymmetric and malicious cyber activities**(a) In general**

On and after the date that is 180 days after April 24, 2024, the President may impose the sanctions described in subsection (b) with respect to any foreign person that the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State determine, on or after April 24, 2024—

(1) is responsible for or complicit in, or has engaged knowingly in, significant cyber-enabled activities originating from, or directed by persons located, in whole or in substantial