

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MR. GALLAGHER OF WISCONSIN

At the end of subtitle G of title XII, add the following:

1 **SEC. __. IMPOSITION OF SANCTIONS WITH RESPECT TO**
2 **ECONOMIC OR INDUSTRIAL ESPIONAGE BY**
3 **FOREIGN TELECOMMUNICATIONS COMPA-**
4 **NIES.**

5 (a) **IN GENERAL.**—On and after the date that is 30
6 days after the date of the enactment of this Act, the Presi-
7 dent shall exercise all of the powers granted to the Presi-
8 dent under the International Emergency Economic Powers
9 Act (50 U.S.C. 1701 et seq.) to the extent necessary to
10 block and prohibit all significant transactions in property
11 and interests in property of a foreign person described in
12 subsection (b) if such property and interests in property
13 are in the United States, come within the United States,
14 or are or come within the possession or control of a United
15 States person.

16 (b) **FOREIGN PERSONS DESCRIBED.**—A foreign per-
17 son is described in this subsection if the President deter-

1 mines that the person, on or after the date of the enact-
2 ment of this Act—

3 (1) produces fifth or future generation tele-
4 communications technology; and

5 (2) engages in—

6 (A) economic or industrial espionage with
7 respect to trade secrets or proprietary informa-
8 tion owned by United States persons; or

9 (B) other related illicit activities, including
10 violations of sanctions imposed by the United
11 States.

12 (c) 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 RELATING TO IMPORTATION OF
20 GOODS.—

21 (A) IN GENERAL.—The authorities and re-
22 quirements to impose sanctions authorized
23 under this section shall not include the author-
24 ity or requirement to impose sanctions on the
25 importation of goods.

1 (B) GOOD DEFINED.—In this paragraph,
2 the term “good” means any article, natural or
3 manmade substance, material, supply or manu-
4 factured product, including inspection and test
5 equipment, and excluding technical data.

6 (d) WAIVER.—The President may waive the applica-
7 tion of sanctions under this section with respect to a for-
8 eign person for renewable periods of not more than 90
9 days each if the President determines and reports to Con-
10 gress that such a waiver is vital to the national security
11 interests of the United States.

12 (e) IMPLEMENTATION; PENALTIES.—

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

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

4 (1) IN GENERAL.—In this section:

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

8 (i) stealing a trade secret or proprietary
9 information or appropriating, taking,
10 carrying away, or concealing, or by fraud,
11 artifice, or deception obtaining, a trade secret
12 or proprietary information without the
13 authorization of the owner of the trade secret
14 or proprietary information;

15 (ii) copying, duplicating, downloading,
16 uploading, destroying, transmitting, delivering,
17 sending, communicating, or conveying a trade secret
18 or proprietary information without the authorization of the
19 owner of the trade secret or proprietary information;
20 or

21 (iii) knowingly receiving, buying, or
22 possessing a trade secret or proprietary information
23 that has been stolen or appropriated, obtained, or converted
24 without the
25

1 authorization of the owner of the trade se-
2 cret or proprietary information.

3 (B) FIFTH OR FUTURE GENERATION
4 TELECOMMUNICATIONS TECHNOLOGY.—The
5 term “fifth or future generation telecommuni-
6 cations technology” means telecommunications
7 technology that conforms to the technical stand-
8 ards followed by the telecommunications indus-
9 try for telecommunications technology that is
10 commonly known in the industry as fifth gen-
11 eration or future generation technology.

12 (C) FOREIGN PERSON.—The term “foreign
13 person” means any person that is not a United
14 States person.

15 (D) KNOWINGLY.—The term “knowingly”,
16 with respect to conduct, a circumstance, or a
17 result, means that a person has actual knowl-
18 edge, or should have known, of the conduct, the
19 circumstance, or the result.

20 (E) PERSON.—The term “person” means
21 an individual or entity.

22 (F) PROPRIETARY INFORMATION.—The
23 term “proprietary information” has the mean-
24 ing given that term in section 1637(d) of the
25 Carl Levin and Howard P. “Buck” McKeon

1 National Defense Authorization Act for Fiscal
2 Year 2015 (50 U.S.C. 1708(d)).

3 (G) THIRD AND FOURTH GENERATION
4 TELECOMMUNICATIONS NETWORKS.—The term
5 “third and fourth generation telecommuni-
6 cations networks” means telecommunications
7 networks that conform to the technical stand-
8 ards followed by the telecommunications indus-
9 try for telecommunications networks that are
10 commonly known in the industry as third or
11 fourth generation networks.

12 (H) TRADE SECRET.—The term “trade se-
13 cret” has the meaning given that term in sec-
14 tion 1839 of title 18, United States Code.

15 (I) UNITED STATES PERSON.—The term
16 “United States person” means—

17 (i) a United States citizen or an alien
18 lawfully admitted for permanent residence
19 to the United States; or

20 (ii) an entity organized under the laws
21 of the United States or any jurisdiction
22 within the United States, including a for-
23 eign branch of such an entity.

24 (2) DETERMINATION OF SIGNIFICANCE.—For
25 the purposes of this section, in determining if trans-

1 actions are significant, the President may consider
2 the totality of the facts and circumstances, including
3 factors similar to the factors set forth in section
4 561.404 of title 31, Code of Federal Regulations (or
5 any corresponding similar regulation or ruling).

6 (3) RULE OF CONSTRUCTION.—For purposes of
7 this section, a transaction shall not be construed to
8 include a transaction involving the routine mainte-
9 nance and security of existing legacy third or fourth
10 generation telecommunications networks.

