AMENDMENT TO RULES COMMITTEE PRINT 116–57

OFFERED BY MR. GALLAGHER OF WISCONSIN

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

SEC. __. IMPOSITION OF SANCTIONS WITH RESPECT TO ECONOMIC OR INDUSTRIAL ESPIONAGE BY FOREIGN TELECOMMUNICATIONS COMPANIES.

(a) IN GENERAL.—On and after the date that is 30 days after the date of the enactment of this Act, the President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all significant transactions in property and interests in property of a foreign person described in subsection (b) 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) FOREIGN PERSONS DESCRIBED.—A foreign person is described in this subsection if the President deter-
mines that the person, on or after the date of the enactment of this Act—

(1) produces fifth or future generation telecommunications technology; and

(2) engages in—

(A) economic or industrial espionage with respect to trade secrets or proprietary information owned by United States persons; or

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

c) EXCEPTIONS.—

(1) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—Sanctions under this section shall not apply to any activity 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) EXCEPTION RELATING TO IMPORTATION OF GOODS.—

(A) IN GENERAL.—The authorities and requirements to impose sanctions authorized under this section shall not include the authority or 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.

(d) Waiver.—The President may waive the application of sanctions under this section with respect to a foreign person for renewable periods of not more than 90 days each if the President determines and reports to Congress that such a waiver is vital to the national security interests of the United States.

(e) Implementation; Penalties.—

(1) Implementation.—The President may exercise the authorities provided to the President under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to the extent necessary to carry out this section.

(2) Penalties.—A person that violates, attempts to violate, conspires to violate, or causes a violation of subsection (a) or any regulation, license, or order issued to carry out that subsection 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.

(f) **Definitions.**—

(1) **In general.**—In this section:

(A) **Economic or industrial espionage.**—The term “economic or industrial espionage” means—

(i) stealing a trade secret or proprietary information or appropriating, taking, carrying 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;

(ii) 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

(iii) 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.

(B) FIFTH OR FUTURE GENERATION TELECOMMUNICATIONS TECHNOLOGY.—The term “fifth or future generation telecommunications technology” means telecommunications technology that conforms to the technical standards followed by the telecommunications industry for telecommunications technology that is commonly known in the industry as fifth generation or future generation technology.

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

(D) 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.

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

(F) PROPRIETARY INFORMATION.—The term “proprietary information” has the meaning given that term in section 1637(d) of the Carl Levin and Howard P. “Buck” McKeon

(G) THIRD AND FOURTH GENERATION TELECOMMUNICATIONS NETWORKS.—The term “third and fourth generation telecommunications networks” means telecommunications networks that conform to the technical standards followed by the telecommunications industry for telecommunications networks that are commonly known in the industry as third or fourth generation networks.

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

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

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

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

(2) DETERMINATION OF SIGNIFICANCE.—For the purposes of this section, in determining if trans-
actions are significant, the President may consider
the totality of the facts and circumstances, including
factors similar to the factors set forth in section
561.404 of title 31, Code of Federal Regulations (or
any corresponding similar regulation or ruling).

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