

114TH CONGRESS
1ST SESSION

H. R. 3039

To impose penalties on state-sponsors of cyberattacks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2015

Mr. BROOKS of Alabama introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, Financial Services, and Oversight and Government Reform, 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 impose penalties on state-sponsors of cyberattacks, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Providing Retaliation
5 Options against Those Engaging in Cyberattacks Tar-
6 geting the United States Act” or “PROTECT US Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

(1) Article XXI of the GATT 1994 (as such term is defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which such member considers necessary for the protection of such member's essential security interests.

(2) Protecting the United States from malicious cyber-enabled activities is essential to the security interests of the United States.

**SEC. 3. IMPOSITION OF PENALTIES ON STATE-SPONSORS
OF CYBERATTACKS.**

(a) IN GENERAL.—The President is authorized to impose penalties described in subsection (c) with respect to each country on the list required by subsection (b).

(b) LIST OF STATE-SPONSORS OF CYBERATTACKS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a list of countries designated as state-sponsors of cyberattacks pursuant to paragraph (2).

(2) COUNTRIES DESIGNATED.—If the President, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Attorney General, and the Chairman of the United States

1 International Trade Commission, determines that
2 the United States or a United States person has
3 been targeted in a malicious cyber-enabled activity
4 originating from, or directed by a person located, in
5 whole or in substantial part, in a foreign country,
6 and such activity is reasonably likely to result in, or
7 have materially contributed to, a threat to the na-
8 tional security or foreign policy of the United States,
9 or harmed the economic health or financial stability
10 of the United States or a United States person, or
11 has the purpose or effect of—

12 (A) harming or otherwise significantly
13 compromising the provision of services by a
14 computer or network of computers that support
15 the United States or a United States person in
16 a critical infrastructure sector,

17 (B) significantly compromising the provi-
18 sion of services by the United States or a
19 United States person in a critical infrastructure
20 sector,

21 (C) causing significant disruption to the
22 availability of a computer or network of com-
23 puters owned or operated by the United States
24 or a United States person, or

1 (D) causing a significant misappropriation
2 of funds or economic resources, trade secrets,
3 personally identifiable information, or financial
4 information of the United States or a United
5 States person,
6 the President shall designate such country as a
7 state-sponsor of cyberattacks.

8 (3) UPDATES OF LIST.—The President shall
9 submit to Congress an updated list under paragraph
10 (1) as new information becomes available.

11 (c) PENALTIES.—

12 (1) TRADE-RELATED PENALTY.—The President
13 may impose a duty, in addition to any other duty
14 imposed, on any article or service imported directly
15 or indirectly into the United States that is produced
16 in whole or in part in a country that is included on
17 the list of state-sponsors of cyberattacks required by
18 subsection (b).

19 (2) OTHER ACTIONS.—The President may take
20 any of the following actions with respect to a coun-
21 try that is included on the list of state-sponsors of
22 cyberattacks required by subsection (b):

23 (A) A private demarche.

24 (B) An official public demarche.

25 (C) A public condemnation.

1 (D) A public condemnation within one or
2 more multilateral fora.

3 (E) The delay or cancellation of one or
4 more scientific exchanges.

5 (F) The delay or cancellation of one or
6 more cultural exchanges.

7 (G) The denial of one or more working, of-
8 ficial, or state visits.

9 (H) The delay or cancellation of one or
10 more working, official, or state visits.

11 (I) The withdrawal, limitation, or suspen-
12 sion of United States development assistance
13 under chapter 1 of part I of the Foreign Assist-
14 ance Act of 1961.

15 (J) Directing the Export-Import Bank of
16 the United States, the Overseas Private Invest-
17 ment Corporation, or the Trade and Develop-
18 ment Agency to not approve the issuance of any
19 (or a specified number of) guarantees, insur-
20 ance, extensions of credit, or participations in
21 extensions of credit.

22 (K) The withdrawal, limitation, or suspen-
23 sion of United States security assistance under
24 part II of the Foreign Assistance Act of 1961.

1 (L) Consistent with section 701 of the
2 International Financial Institutions Act, direct-
3 ing the United States Executive Directors at
4 international financial institutions to oppose
5 and vote against loans primarily benefitting the
6 country.

7 (M) Ordering the heads of the appropriate
8 United States agencies to not issue any (or a
9 specified number of) specific licenses, and to
10 not grant any other specific authority (or a
11 specified number of authorities), to export any
12 goods or technology to such country under—

13 (i) the Export Administration Act of
14 1979 (as continued in effect pursuant the
15 International Emergency Economic Powers
16 Act);

17 (ii) the Arms Export Control Act;

18 (iii) the Atomic Energy Act of 1954;

19 or

20 (iv) any other statute that requires
21 the prior review and approval of the
22 United States Government as a condition
23 for the export or re-export of goods or
24 services.

1 (N) Prohibiting any United States finan-
2 cial institution from making loans or providing
3 credits.

4 (O) Prohibiting the United States Govern-
5 ment from procuring, or entering into any con-
6 tract for the procurement of, any goods or serv-
7 ices.

8 (P) Suspension or withdrawal of extension
9 of nondiscriminatory treatment to the products
10 of the country pursuant to section 404 of the
11 Trade Act of 1974.

12 (Q) Ordering a trade embargo.

13 (R) Ordering a cyber counterattack.

14 (d) REMOVAL FROM LIST.—

15 (1) IN GENERAL.—A country may be removed
16 from the list of state-sponsors of cyberattacks re-
17 quired by subsection (b) if—

18 (A) the President determines that the
19 country no longer meets the requirements for
20 designation as a state-sponsor of cyberattacks
21 under subsection (b)(2); or

22 (B) Congress enacts a law that provides
23 for such removal.

24 (2) MORATORIUM.—

1 (A) IN GENERAL.—A country that has
2 been removed from the list pursuant to para-
3 graph (1)(B) may not be added back to the list
4 by the President until at least the date that is
5 one year after the date of such removal.

6 (B) RULE OF CONSTRUCTION.—Nothing in
7 this paragraph shall be construed as prohibiting
8 Congress from adding a country that has been
9 removed from the list pursuant to paragraph
10 (1)(B) back to the list by a date that is earlier
11 than the date described in subparagraph (A).

12 (e) DEFINITIONS.—In this section:

13 (1) CRITICAL INFRASTRUCTURE SECTOR.—The
14 term “critical infrastructure sector” means any of
15 the designated critical infrastructure sectors identi-
16 fied in Presidential Policy Directive 21.

17 (2) ENTITY.—The term “entity” means a part-
18 nership, association, trust, joint venture, corpora-
19 tion, group, subgroup, government, or other organi-
20 zation.

21 (3) LIST.—The term “list” means the list of
22 state-sponsors of cyberattacks.

23 (4) MISAPPROPRIATION.—The term “misappro-
24 priation” means any taking or obtaining by im-

1 proper means, without permission or consent, or
2 under false pretenses.

3 (5) PERSON.—The term “person” means a nat-
4 ural person or an entity.

5 (6) UNITED STATES PERSON.—The term
6 “United States person” shall be broadly construed
7 to include but not be limited to any United States
8 citizen, permanent resident alien, entity organized
9 under the laws of the United States or any jurisdic-
10 tion within the United States (including foreign
11 branches), any governmental or quasi-governmental
12 entity existing in the United States, or any other
13 person in the United States.

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