

## **U.S. Policy on Economic Espionage**

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One source of tension in the relationship with China revolves around economic espionage, and one difficult aspect is the question of whether the United States engages in economic espionage, which in this case means government agencies illicitly acquiring business information or technology and sharing it with American corporations.

This is something that the US does not do. There are legal, operational and resource obstacles to the practice of economic espionage. US law prohibits favoring one corporation over another. There is a belief that US technology is so advanced that stealing from others is not worthwhile. In the list of intelligence priorities, economic espionage does not rank at all. Foreign observers, based on their own practice and expectations, do not accept US denials, but they are wrong.

Enquiries by the European Union in relation to charges about the alleged Echelon signals intelligence system found that the US did not illicitly acquiring business information or technology. The US does collect information on foreign companies in two specific areas: bribery and nonproliferation. This information is not shared with US companies but with the involved governments as part of a diplomatic exchange to prevent such activities. There is some discussion of whether the US needs to change its policy on illicitly acquiring technology or business information, but there is currently no serious effort to change existing law to allow this.

US law, specifically the Economic Espionage Act, penalizes these activities. The Economic Espionage Act was written in the 1990s specifically to give the Justice Department greater authority to prosecute these activities as a crime. It applies to both U.S. citizens (wherever they are located) and to foreign persons acting in the United States. The US accepts that many countries will engage in economic espionage, but seek to manage and restraint these activities. The question is when this espionage reaches intolerable levels. Three incidents demonstrate the US reaction.

- In the mid-1990s, the then-DCI went to a European country and suggested that they reduce their collection activities or face reprisals. They did so.
- In the early 1990s, the then-Secretary of State gave a similar message to a Middle Eastern country and took initial steps to penalize them. They also reduced their activities.
- In the 1980s, the US and the UK discovered a massive economic espionage program by the Soviet Union and took a number of dramatic steps including a tightening of trade relations, the expulsion of many Soviet diplomats, and other less public measures.

In each case, bilateral relations were damaged for many years afterwards. US expectations are shaped not only by its own practice, which is to not engage in illicitly acquiring business information or technology, but also by the practice of other nations and their willingness to heed warnings. The recent NCIX report is an indicator of the growing importance of this issue and of the potential for increased tension and potentially serious damage in the bilateral relationship.