

107TH CONGRESS
1ST SESSION

S. 1307

To bar access to United States capital markets to enterprises owned or controlled by the People’s Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2001

Mr. HELMS (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To bar access to United States capital markets to enterprises owned or controlled by the People’s Republic of China, 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 “China Free Enterprise
5 Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress find that—

8 (1) an increased number of privatized enter-
9 prises and start-up private enterprises in the Peo-

1 ple’s Republic of China will serve the interests and
2 quality of life of the people of the People’s Republic
3 of China, given the greater economic growth poten-
4 tial of market-oriented development;

5 (2) a limitation on access to United States cap-
6 ital markets by Chinese state-owned enterprises will
7 indicate a United States preference for economic
8 transactions with and investment in privatized enter-
9 prises, rather than state-owned enterprises, and
10 therefore establish an incentive for the Government
11 of the People’s Republic of China to accelerate pri-
12 vatization efforts;

13 (3) resources given to state-owned enterprises
14 effectively empower the repressive apparatus of an
15 autocratic government in the People’s Republic of
16 China to perpetuate human and labor rights abuses,
17 the subjugation of Tibet, the despoiling of the envi-
18 ronment, and suppression of religious freedoms;

19 (4) investments made available to state-owned
20 enterprises affiliated with the complex of military
21 and technology industries in the People’s Republic of
22 China would be particularly inimical to United
23 States interests, given China’s military buildup di-
24 rected against the United States, Chinese military
25 policies in the Taiwan Strait and South China Sea,

1 and arms proliferation efforts destabilizing to the
2 democracies of the Asia-Pacific region and the al-
3 ready volatile Persian Gulf region;

4 (5) state-owned enterprises of the People's Re-
5 public of China which have raised funds in the
6 United States capital markets have failed to engage
7 in adequate disclosure to United States investors
8 concerning where these enterprises (as well as their
9 subsidiaries, parent companies, or other affiliates)
10 are doing business in the world, and with whom;

11 (6) the state-owned Petrochina energy enter-
12 prise in the People's Republic of China has offered
13 its securities in the United States without disclosing
14 that investors' funds would be directly or indirectly
15 subsidizing operations in Sudan on the part of its
16 parent company, China National Petroleum Com-
17 pany, effectively underwriting the systematic reli-
18 gious persecution and heinous human rights abuses
19 of the Government of Sudan;

20 (7) a second state-owned enterprise of the Peo-
21 ple's Republic of China, China Petroleum and Chem-
22 ical Company or "Sinopec", has offered securities in
23 the United States without disclosing its recent, and
24 possibly ongoing, investment activity in Sudan or its
25 negotiations to conclude contracts in Iran's energy

1 sector, in violation of the Iran-Libya Sanctions Act
2 of 1993;

3 (8) a limitation on access to United States cap-
4 ital markets by Chinese state-owned enterprises will
5 not have a deleterious effect on United States busi-
6 nesses, consumers, or workers as trade sanctions
7 may have;

8 (9) a limitation on access to United States cap-
9 ital markets by Chinese state-owned enterprises will
10 do no appreciable harm to United States investors or
11 the free flow of capital into and out of the United
12 States;

13 (10) a limitation on access to United States
14 capital markets by Chinese state-owned enterprises
15 will do no appreciable harm to the people of the Peo-
16 ple's Republic of China, whose welfare and indi-
17 vidual liberties it should be the United States policy
18 to enhance; and

19 (11) a limitation on access to United States
20 capital markets by Chinese state-owned enterprises
21 does not violate the terms of permanent normal
22 trade relations status granted by the United States
23 to the People's Republic of China, nor the General
24 Agreement on Tariffs and Trade.

1 **SEC. 3. BAN ON SECURITIES MARKET ACCESS.**

2 Notwithstanding any provision of the securities laws
3 or any other provision of law, no security issued by, or
4 other interest or participation in, a state-owned enterprise
5 may be—

6 (1) listed, or authorized for listing, on the New
7 York Stock Exchange or the American Stock Ex-
8 change, or listed, or authorized for listing, on the
9 National Market System of the Nasdaq Stock Mar-
10 ket (or any successor to such entities); or

11 (2) otherwise listed, or authorized for listing, on
12 a national securities exchange (or tier or segment
13 thereof) or by a registered securities association.

14 **SEC. 4. DEFINITIONS.**

15 As used in this Act—

16 (1) the term “registered securities association”
17 means a securities association registered under sec-
18 tion 15A of the Securities Exchange Act of 1934 (15
19 U.S.C. 78o-3);

20 (2) the terms “securities laws” and “security”
21 have the same meanings as in section 3(a) of the Se-
22 curities Exchange Act of 1934 (15 U.S.C. 78c(a));
23 and

24 (3) the term “state-owned enterprise” means
25 any entity, not less than 50 percent of the assets of
26 which are owned by any agency or instrumentality of

1 the Government of the People's Republic of China
2 (including any agency or instrumentality thereof), ei-
3 ther directly or through a subsidiary, parent com-
4 pany, or other affiliate, including those located in
5 Hong Kong or elsewhere.

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