

113TH CONGRESS
2D SESSION

H. R. 5103

To impose sanctions on Chinese state-owned enterprises and any person who is a member of the board of directors, an executive officer, or a senior official of a Chinese state-owned enterprise for benefitting from cyber and economic espionage against the United States.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2014

Mr. ROHRBACHER (for himself and Mr. RYAN of Ohio) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary and Financial Services, 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 sanctions on Chinese state-owned enterprises and any person who is a member of the board of directors, an executive officer, or a senior official of a Chinese state-owned enterprise for benefitting from cyber and economic espionage against the United States.

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 “Chinese Communist
5 Economic Espionage Sanctions Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Chinese Communist Party (CCP) has
4 made it its policy to engage in economic warfare
5 against the United States.

6 (2) The CCP uses the resources of the People's
7 Liberation Army (PLA) and the Chinese State to
8 drain the United States of economic might, includ-
9 ing by means of economic espionage and cyber espio-
10 nage, unfair trade practices, unfair labor practices,
11 and currency manipulation.

12 (3) Chinese state-owned enterprises (SOE) and
13 the PLA are the main beneficiary of the CCP's cam-
14 paign of theft against the United States.

15 (4) Although many SOEs are listed on stock ex-
16 changes or officially privatized, the Chinese govern-
17 ment retains at least one-half of equity in those
18 companies.

19 (5) SOEs come under the control of the min-
20 isterial-level State-owned Assets Supervision and Ad-
21 ministration Commission.

22 (6) Members of the boards of directors and sen-
23 ior management of SOEs are appointed by the
24 State-owned Assets Supervision and Administration
25 Commission in consultation with the Communist
26 Party's Department of Organization.

1 (7) More than two-thirds of board members and
2 three-quarters of senior executives of SOEs are ei-
3 ther Communist Party members or officials.

4 (8) Corruption within the CCP is widespread
5 and endemic.

6 (9) CCP officials use their positions of control
7 and influence within and over SOE's to enrich them-
8 selves and their families.

9 (10) The vast majority of the Chinese people do
10 not benefit from the corruption of the CCP.

11 (11) On May 19, 2014, the United States De-
12 partment of Justice announced charges against five
13 members of the PLA, accusing them of stealing
14 trade secrets from United States companies and
15 marking the first time the United States has
16 charged foreign government employees with eco-
17 nomic espionage.

18 (12) The indictment charged that members of
19 the PLA worked to "steal information" from United
20 States companies "that would be useful to their
21 competitors in China, including state-owned enter-
22 prises".

23 (13) Chinese SOEs are reported to have bene-
24 fitted directly from their actions, including the State
25 Nuclear Power Technology Corporation, the Baosteel

1 Group, and the Aluminum Corporation of China
2 (Chinalco).

3 (14) The chairman of the board and the major-
4 ity of the boards for the State Nuclear Power Tech-
5 nology Corporation, the Baosteel Group, and the
6 Aluminum Corporation of China (Chinalco) are
7 members of the CCP.

8 (15) On May 21, 2014, Assistant Attorney
9 General John Carlin said that criminal charges can
10 justify economic sanctions.

11 (16) The indictment named members of Unit
12 61398 which is publicly identified as a Shanghai-
13 based cyber unit of the PLA also known as APT1.

14 (17) Unit 61398 is part of the 2nd Bureau of
15 the PLA, 3rd Department of the General Staff.

16 (18) Unit 61398 was first publically identified
17 in 2013 as APT1 by Mandiant, a United States
18 cyber security firm and leader in cyber incident re-
19 sponse industry.

20 (19) Mandiant exposed a timeline of Unit
21 61398's economic espionage conducted since 2006
22 against 141 victims across multiple industries.

23 (20) Mandiant's conclusions have been sup-
24 ported by CrowdStrike, another cyber security com-
25 pany, which publicly revealed the existence of Unit

1 61486, a related PLA unit dedicated to cyber espionage.
2

3 (21) George Kurts, the co-founder of
4 CrowdStrike, stated that “If you look at all the
5 groups that we track in China, the indictments are
6 just the very tip of the iceberg.”.

7 (22) Units 61398 and 61486 are only two of at
8 least 20 cyber threat groups in Communist China
9 and are considered by multiple experts to have stolen
10 vast amounts of valuable information from the
11 United States.

12 (23) The 2011 annual report to Congress from
13 the Office of the Secretary of Defense, titled “Military and Security Developments Involving the People’s Republic of China”, states, “The PRC also utilizes a large, well-organized network of enterprises, defense factories, affiliated research institutes, and computer network operations to facilitate the collection of sensitive information and export-controlled technology, as well as basic research and science that supports U.S. defense system modernization.”.

22 (24) A 2011 report by the Office of the National Counterintelligence Executive found that
23 “Chinese actors are the world’s most active and persistent perpetrators of economic espionage.”.
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1 (25) The 2012 annual report to Congress from
2 the Office of the Secretary of Defense, titled “Mili-
3 tary and Security Developments Involving the Peo-
4 ple’s Republic of China”, found that “Chinese at-
5 tempts to collect U.S. technological and economic in-
6 formation will continue at a high level and will rep-
7 resent a growing and persistent threat to U.S. eco-
8 nomic security.”.

9 (26) James Clapper, the Director of National
10 Intelligence, stated, “Among significant foreign
11 threats . . . China remain[s] the most capable and
12 persistent intelligence threats and are aggressive
13 practitioners of economic espionage against the
14 United States.”.

15 (27) Retired General Michael Hayden, former
16 Director of the Central Intelligence Agency and Di-
17 rector of the National Security Agency, stated, “The
18 intensity of Chinese espionage is certainly greater
19 than that what we saw between the U.S. and the So-
20 viets during the Cold War. The problem is China’s
21 view is that industrial espionage by the state against
22 relatively vulnerable private enterprise is a com-
23 monly accepted state practice,”.

24 (28) The annual report by the congressional
25 United States–China Economic and Security Review

1 Commission stated in 2013, “strong evidence
2 emerged that the Chinese government is directing
3 and executing a large-scale cyber espionage cam-
4 paign against the United States”.

5 (29) Retired Lieutenant General Ronald Bur-
6 gess, Jr., former Director of the Defense Intelligence
7 Agency, stated, “China has used its intelligence
8 services to gather information via a significant net-
9 work of agents and contacts using a variety of meth-
10 ods . . . In recent years, multiple cases of economic
11 espionage and theft of dual-use and military tech-
12 nology have uncovered pervasive Chinese collection
13 efforts,”.

14 (30) Congressman Mike Rogers, Chairman of
15 the Permanent Select Committee on Intelligence of
16 the House of Representatives, stated, “China’s eco-
17 nomic espionage has reached an intolerable level and
18 I believe that the United States and our allies in Eu-
19 rope and Asia have an obligation to confront Beijing
20 and demand that they put a stop to this piracy. Bei-
21 jing is waging a massive trade war on us all, and we
22 should band together to pressure them to stop. Com-
23 bined, the United States and our allies in Europe
24 and Asia have significant diplomatic and economic

1 leverage over China, and we should use this to our
2 advantage to put an end to this scourge,”.

3 (31) The threat of Chinese espionage is so large
4 that Senator Sheldon Whitehouse, D–Rhode Island,
5 who chaired the Cyber Task Force of the Select
6 Committee on Intelligence, proclaimed it to be part
7 of “the biggest transfer of wealth through theft and
8 piracy in the history of mankind”.

9 (32) Massive cyber and economic espionage or-
10 ganized, directed, and carried out by the CCP and
11 the PLA has contributed to creating a
12 \$318,000,000,000 United States trade deficit with
13 Communist China in 2013, which equals 1.89 per-
14 cent of total United States gross domestic product
15 (GDP).

16 **SEC. 3. SENSE OF CONGRESS.**

17 It is the sense of Congress that the Chinese Com-
18 munist Party and the Government of the People’s Repub-
19 lic of China should be condemned for sponsoring, plan-
20 ning, ordering, conducting, and benefitting from cyber and
21 economic espionage against the United States.

22 **SEC. 4. FINANCIAL MEASURES.**

23 (a) FREEZING OF ASSETS.—The President shall ex-
24 ercise all powers granted by the International Emergency
25 Economic Powers Act (50 U.S.C. 1701 et seq.) (except

1 that the requirements of section 202 of such Act (50
2 U.S.C. 1701) shall not apply) to the extent necessary to
3 block and prohibit all transactions in all property and in-
4 terests in property of a covered Chinese state-owned enter-
5 prise or a person who is a member of the board of direc-
6 tors, an executive officer, or a senior official of a covered
7 Chinese state-owned enterprise if such property and inter-
8 ests in property are in the United States, come within the
9 United States, or are or come within the possession or
10 control of a United States person.

11 (b) ENFORCEMENT.—

12 (1) PENALTIES.—A covered Chinese state-
13 owned enterprise or a person who is a member of
14 the board of directors, an executive officer, or a sen-
15 ior official of a covered Chinese state-owned enter-
16 prise shall be subject to the penalties set forth in
17 subsections (b) and (c) of section 206 of the Inter-
18 national Emergency Economic Powers Act (50
19 U.S.C. 1705) to the same extent as a person that
20 commits an unlawful act described in subsection (a)
21 of such section.

22 (2) REQUIREMENTS FOR FINANCIAL INSTITU-
23 TIONS.—Not later than 120 days after the date of
24 the enactment of this Act, the Secretary of the
25 Treasury shall prescribe or amend regulations as

1 needed to require each financial institution that is a
2 United States person and has within its possession
3 or control assets that are property or interests in
4 property of a covered Chinese state-owned enterprise
5 or a person who is a member of the board of direc-
6 tors, an executive officer, or a senior official of a
7 covered Chinese state-owned enterprise if such prop-
8 erty and interests in property are in the United
9 States to certify to the Secretary that, to the best
10 of the knowledge of the financial institution, the fi-
11 nancial institution has frozen all assets within the
12 possession or control of the financial institution that
13 are required to be frozen pursuant to subsection (a).

14 (c) REGULATORY AUTHORITY.—The Secretary of the
15 Treasury shall issue such regulations, licenses, and orders
16 as are necessary to carry out this section.

17 (d) DEFINITIONS.—In this section:

18 (1) COVERED CHINESE STATE-OWNED ENTER-
19 PRISE.—The term “covered Chinese state-owned en-
20 terprise” means an enterprise that—

21 (A) is organized under the laws of the Peo-
22 ple’s Republic of China, including a foreign
23 branch of such enterprise; and

1 (B) is owned or controlled by the Govern-
2 ment of the People’s Republic of China or the
3 Chinese Communist Party.

4 (2) UNITED STATES PERSON.—The term
5 “United States person” means—

6 (A) a United States citizen or an alien law-
7 fully admitted for permanent residence to the
8 United States; or

9 (B) an entity organized under the laws of
10 the United States or any jurisdiction within the
11 United States, including a foreign branch of
12 such an entity.

13 **SEC. 5. INADMISSIBILITY OF CERTAIN ALIENS.**

14 (a) INELIGIBILITY FOR VISAS.—An alien is ineligible
15 to receive a visa to enter the United States and ineligible
16 to be admitted to the United States if the alien is a person
17 who is a member of the board of directors, an executive
18 officer, or a senior official of a covered Chinese state-
19 owned enterprise.

20 (b) CURRENT VISAS REVOKED.—The Secretary of
21 State shall revoke, in accordance with section 221(i) of
22 the Immigration and Nationality Act (8 U.S.C. 1201(i)),
23 the visa or other documentation of any alien who would
24 be ineligible to receive such a visa or documentation under
25 subsection (a) of this section.

1 (c) REGULATORY AUTHORITY.—The Secretary of
2 State shall prescribe such regulations as are necessary to
3 carry out this section.

4 **SEC. 6. REPORT TO CONGRESS.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of the enactment of this Act, and annually thereafter,
7 the Secretary of State and the Secretary of the Treasury
8 shall submit to the appropriate congressional committees
9 a report on—

10 (1) the actions taken to carry out this Act, in-
11 cluding the number of covered Chinese state-owned
12 enterprises and persons who are members of the
13 board of directors, executive officers, or senior offi-
14 cials of covered Chinese state-owned enterprises
15 sanctioned during the year preceding the report; and

16 (2) efforts by the executive branch to encourage
17 the governments of other countries to impose sanc-
18 tions that are similar to the sanctions imposed under
19 this Act.

20 (b) FORM.—The report required by subsection (a)
21 shall be submitted in unclassified form, but may contain
22 a classified annex.

23 (c) DEFINITION.—In this section, the term “appro-
24 priate congressional committees” means—

1 (1) the Committee on Foreign Affairs, the Per-
2 manent Select Committee on Intelligence, and the
3 Committee on Ways and Means of the House of
4 Representatives; and

5 (2) the Committee on Foreign Relations, the
6 Select Committee on Intelligence, the Committee on
7 Finance, and the Committee on Banking, Housing,
8 and Urban Affairs of the Senate.

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