U.S.-CHINA TRADE RELATIONS AND RENEWAL OF CHINA'S MOST-FAVORED-NATION STATUS

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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HEARING ON U.S.-CHINA TRADE RELATIONS AND RENEWAL OF CHINA'S MOST-FAVORED-NATION STATUS

TUESDAY, MAY 23, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (chairman of the subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
May 2, 1995
No. TR-9

CONTACT: (202) 225-1721

CRANE ANNOUNCES HEARING ON U.S.-CHINA TRADE RELATIONS AND RENEWAL OF CHINA'S MOST-FAVORED NATION STATUS

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on U.S.-China trade relations, including the question of renewing China's most-favored nation (MFN) status. **The hearing will take place on Tuesday, May 23, 1995, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.**

Oral testimony at this hearing will be heard from both invited and public witnesses. Also, any individual or organization may submit a written statement for consideration by the Committee or for inclusion in the printed record of the hearing.

BACKGROUND:

Non-discriminatory MFN trade status was first granted to the People's Republic of China on February 1, 1980, and has been extended annually since that time. Annual extensions are granted based upon a Presidential determination and report to Congress that such an extension will substantially promote the freedom of emigration objectives in Title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment. Subsections 402 (a) and (b) of the Trade Act set forth criteria which must be met, or waived by the President, in order for the President to grant MFN status to non-market economies such as China.

The annual Presidential waiver authority under the Trade Act expires on July 3 of each year. The renewal procedure requires the President to submit to Congress a recommendation for a 12-month extension by no later than 30 days prior to the waiver's expiration (i.e. by not later than June 3). The waiver authority continues in effect unless disapproved by Congress within 60 calendar days after the expiration of the existing waiver. Disapproval, should it occur, would take the form of a joint resolution disapproving the President's determination to waive the Jackson-Vanik freedom of emigration requirements for China.

FOCUS OF THE HEARING:

The focus of the hearing will be to evaluate overall U.S. trade relations with the People's Republic of China, and to consider the extension of MFN status for China for an additional year on the basis of that country's emigration performance. The Subcommittee will be interested in hearing testimony on China's emigration policies and practices; on the nature and extent of U.S. trade and investment ties with China and related issues; and on the potential impact on China, Hong Kong, and the United States of a termination of China's MFN status.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225-1721 no later than the close of business, Thursday, May 11, 1995. The telephone request should be followed by a formal written request to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff at (202) 225-6649.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. **THE FIVE MINUTE RULE WILL BE STRICTLY ENFORCED.** The full written statement of each witness will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements for review by Members prior to the hearing. Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than 1:00 p.m., Friday, May 19, 1995.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement by the close of business, Friday, June 2, 1995, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

*****

Chairman CRANE. Good morning. Today's hearing of the Trade Subcommittee concerns the question of renewing China's MFN (most-favored nation) trade status and, thereby, preserving U.S.-China trade relations.

I want to welcome the witnesses and thank them for taking time to address this issue which the Trade Subcommittee must consider on an annual basis. Under the Jackson-Vanik amendment, Congress will receive a recommendation from President Clinton before June 3 regarding the renewal of China's MFN status. Although the Jackson-Vanik statute speaks specifically to immigration practices, the congressional debate over China's MFN status always covers the many difficult issues in U.S.-China relations, including human rights.

Last year, in a decision I strongly supported, President Clinton announced his intention to separate the pursuit of human rights objectives from the annual extension of MFN. As my colleagues know, I have long held the view that increased trade with China will strengthen U.S. influence in the region and lead to the advancement of human rights.

A policy of engagement, as frustrating as it can be, is the only effective way to encourage political reform in China. The subcommittee met on March 9 to hear from Ambassador Kantor regarding the U.S.-China agreement on intellectual property rights, and China's proposed accession to the WTO (World Trade Organization) which this subcommittee is monitoring closely.

Today's hearing will continue that discussion and give representatives from the private sector a chance to give their views on the complex issue of U.S.-China trade relations.

Again, I want to welcome the witnesses and apologize that we only have about 3 hours for today's hearing, so if you would be so kind as to summarize your comments, within 5-minute timeframes, and elaborate for the hearing record, if you wish.

Now, I would like to ask for comments from our first witness, our distinguished colleague from New York, Mr. Solomon.

STATEMENT OF HON. GERALD B. SOLOMON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SOLOMON. Well, Mr. Chairman, and members of the subcommittee, I appreciate very much the opportunity of joining with these good colleagues in appearing before the subcommittee today to discuss with you the subject of renewing for another year the MFN status of the People's Republic of China. With your permission I will present a somewhat abbreviated version of my prepared statement.

Mr. Chairman, there can be no doubt as to where the President's recommendation on renewing MFN for China, this next year, will be. Having abandoned last year any pretense of maintaining a human rights component in the U.S.-China dialog and being willing, evidently, to countenance the decline of U.S. military power and political influence in the Far East, the President can be expected to recommend business as usual for another year.

Rumor has it that he will announce his recommendations at some point during the week of May 29 when Congress is out of session. Accordingly, Mr. Chairman, and Members, I will introduce a

resolution of disapproval as soon as Congress returns to Washington during the week of June 5.

Mr. Chairman, 1 year ago this month, President Clinton severed the link between human rights and the annual renewal of China's MFN status. The Chinese Communist regime responded by issuing an official statement, through its foreign ministry that called upon the United States to show—and I would like you to listen up to this, Mr. Chairman—called on the United States to show "sincerity" and to take "concrete action" toward improving U.S.-China relations."

Think about that for 1 minute. Can you imagine? We hand them a $29 billion trade surplus in 1994, alone, and soft-pedal our own other concerns and still the dictators in Beijing call on us to demonstrate sincerity, and to take concrete action?

That is what they said and here is what I said at the time. On August 9, 1994, when the House considered my resolution of disapproval, I listed a litany of abuses that have taken place in China in the context of 14 straight years of MFN treatment, 14 years. I concluded by saying, "No, Mr. Speaker, appeasing China does not earn us their respect and their cooperation; it earns us their contempt," and it does.

Now, listen to these words: "Frankly, on the human rights front the situation has deteriorated." Now, who said that? It was not Jerry Solomon. That was Assistant Secretary of State Winston Lord, last January 11, some 7 months after human rights considerations were delinked from MFN. What a shocker.

"On the human rights front the situation has deteriorated," but then Mr. Lord went on to say, "China is a somewhat difficult partner these days." Well, hello, gentlemen and ladies. Few things in life are more unsettling than the sight of a crestfallen U.S. diplomat expressing his disappointment at the intransigent behavior of a Communist regime.

My only question is, partner in what? It is precisely this kind of muddled thinking that a recent editorial in the San Francisco Examiner had in mind when it noted that the "Clinton administration proves that once you get rolled, it is easier to get rolled again. The Chinese have little reason to think that the United States will make good on any threat," and that seems to be what our foreign policy is all about these days.

The Examiner editorial concluded, "Instead of calling the shots, the United States is treated by the Chinese as a bothersome supplicant." Mr. Chairman, "Such a back of the hand treatment should not come as a surprise. For years the United States has seen how China treats its own citizens * * *."

Mr. Chairman, and Members, I actually do fear that we have entered into a kind of partnership with China, but certainly not the kind of partnership that Winston Lord had in mind. It is a partnership that reveals that some elements in the American business community—and this is coming from this probusiness conservative Republican—it reveals that some elements in the American business community are so anxious to make a quick buck in China and their supporters in government are so anxious to curry favor with the dictators in Beijing, that there is no policy or practice carried out by the Chinese Communist regime that we are not prepared to

tolerate in the interests of preserving business as usual. I resent that.

U.S. exports to China, which were already low to start with because China does not give MFN treatment to the United States, rose by 60 percent in the 5 years between 1989 and 1994. During the same period, since the Tiananmen Square massacre, Chinese exports to the United States rose by how much?—223 percent. Our trade deficit with China has gone up by a staggering 377 percent to a level of $29.5 billion in 1994, alone.

In 1989 about 23 percent of China's total exports came to the United States, 23 percent, that was a lot, right? By 1994 that figure had risen to nearly 37 percent. Almost one-half of China's exports come to the United States of America.

Mr. Chairman, the trade deficit we are running with China will approach $40 billion this year, and within 2 years, it will be larger than the one we have with Japan. What are we doing here?

What do we have to show for all this? Or more specifically, what progress could be pointed to by those who advocate trade or "commercial engagement,"—to use the administration's term—as the means for getting the Chinese regime to modify and reform its course? The answer is already in, Mr. Chairman, as far as human rights are concerned. Things have gone from horrible to even worse, if that were even possible.

One effort after another to try to get China to open up has failed. That is not me saying it. That was the State Department saying it, Mr. Chairman.

Mr. Chairman, my colleagues here with me on the panel can supply chapter and verse information on human rights abuses in China. I would just note that the use of forced labor in the manufacture of export products is so pervasive today and is now so generally acknowledged, that only the most serious allegations even get investigated any more. That is how far we have deteriorated in this country in supporting human rights in China.

Mr. Chairman, and Members, before concluding my testimony I want to discuss a vitally important issue that is only now starting to get the international attention that it deserves. It is so very serious to the future of this world of ours.

China's defiance of the nuclear nonproliferation regime is well known by all of us. So also is the fact that China is the only country on Earth that does not observe the moratorium on nuclear testing, and you all saw what happened in the past 3 weeks. But only now is notice being given of the rapid and unwarranted buildup of military power that China has been pursuing since 1989.

You ought to listen to these facts and these are facts. As long ago as 1980, China successfully test-fired an ICBM capable of delivering a nuclear warhead to a target up to 8,000 miles away. But until 1989, most credible outside observers regarded the Chinese Armed Forces as being a rather cumbersome, bloated, politicized, and somewhat antiquated operation that might prove to be more of a hinderance to China's superpower ambitions than anything else.

Well, Mr. Chairman, all of that has changed since 1989. The gradual decline in military spending that had been since the late seventies was reversed decisively in the aftermath of Tiananmen Square. In 1994, alone, military spending in China rose by 22 per-

cent—that is just this past year—rose by 22 percent over the previous year which, itself, had seen a 13-percent increase over the year before that. That is almost a 50-percent increase in 2 years.

All told, Chinese military spending has more than doubled since 1989. These figures that I have cited represent only the tip of the iceberg. They are the figures which the Chinese regime publishes officially. The true cost of research and development, procurement, and subsidies to the defense industry are spread and hidden throughout China's national budget. That is not the part that they even admit to.

Mr. Chairman, along with this dramatic acceleration in military spending, China has totally revised its military doctrine since 1989. The historic reliance on a huge land-based army has been replaced by new emphasis on the building of an expanded and survivable nuclear strike capability. This is what the rest of the world better wake up to, Mr. Chairman, the development of a modern navy.

Listen to this, since the late eighties, and aside from the rapid expansion in its fleet of surface ships, China has launched 11 submarines, each to be armed with 12 short-to-intermediate range missiles capable of delivering a nuclear warhead to a target up to 3,500 miles away. Think about that. What are they doing with those 11 submarines with those kinds of weapons?

Mr. Chairman, in preparing this testimony I was absolutely astonished to learn that the authoritative Jane's Information Group, based in London, has estimated that if present economic trends in China continue, and if military spending continues to grow at its present rate, just by the year 2000, right around the corner, China will have the second-largest defense budget in the world and it could total well over $100 billion.

Mr. Chairman and Members, all of this is taking place at a time when virtually every other country on Earth is reducing its military spending, including us. The irony is that through our trade deficits we, Americans, are paying for it. We are financing this dangerous military buildup in China.

Mr. Chairman and Members, I have made an unusually long statement today because of my rock-solid conviction that the United States policy toward China is wrong-headed, and I think it is leading us toward disaster. I believed this under President Bush, and I believe it under President Clinton. When are we going to see the Chinese regime for what it really is? It is a remorseless, ambitious, amoral, cocky, Communist dictatorship that is bent on spreading its Communist tentacles throughout the entire Far East and, God knows, where else when you look at that kind of military buildup.

Mr. Chairman, I would just say this in closing. While granting MFN to China, over the last 14 years, while at the same time denying it to the Soviet Union, we saw communism crumble in Eastern and Central Europe. We did not give them MFN. We treated them for what they were, "An evil empire," to quote my hero, Ronald Reagan. But we saw communism flourish in China where a deadly atheistic philosophy continues to persecute hundreds of millions of innocent people.

Just look at today's Washington Post Reuters story that reports, "A new wave of suppression unfolding on a large scale." My friend, Mr. Wolf, will elaborate on that I am sure when his turn comes.

Mr. Chairman, it is time we stopped aiding and abetting this kind of inhumane treatment of decent human beings. It is time we once again became respected leaders of the world in standing up for the basic human rights of all people. We were noted for that. What happened to this great country of ours?

Mr. Chairman, one single vote to temporarily interrupt this most-favored-nation status will send shock waves through the old Communist leaders in Beijing, and I guarantee you it will get results. It is hitting them up side the head with a 2 by 4, Charlie. You know what that does? It wakes them up. You know what, they will come around.

I urge you to give favorable report to my resolution disapproving this approval when it comes before your panel. Let me just assure you on a light note of one thing. When it comes before the Rules Committee, I guarantee you it will get favorable treatment. [Laughter.]

Thank you, very much.

[The prepared statement follows:]

STATEMENT
BY
REPRESENTATIVE GERALD B. SOLOMON
TO
THE SUBCOMMITTEE ON TRADE

May 23, 1995

Mr. Chairman and Members of the Subcommittee,

I appreciate very much the opportunity of joining with these good colleagues in appearing before the Subcommittee today to discuss with you the subject of renewing for another year the most-favored-nation trade status of the People's Republic of China.

The President is, as Members know, required by law to submit to Congress by June 3 his recommendation on whether or not MFN status for China should be renewed. And rumor has it that the President will indeed submit his recommendation this year at some point during the week of May 29, when Congress is out of session.

There can be no doubt as to what his recommendation will be. Having abandoned last year any pretense of maintaining a human rights component in the U.S./China dialogue, and being willing evidently to countenance the decline of U.S. military power and political influence in the Far East, the President can be expected to recommend business-as-usual for another year.

Accordingly, Mr. Chairman and Members, **I will be introducing a resolution of disapproval** as soon as Congress returns to Washington during the week of June 5.

***

One year ago this month, when President Clinton severed the link between human rights and the annual renewal of China's MFN status, the Chinese communist regime responded by issuing an official statement through its Foreign Ministry:

"The current situation offers a historic opportunity for the enhancement of Sino-American relations. We hope that the U.S. government, on its part, will take a realistic and forward-looking stand in the overall interests of Sino-American relations and take concrete action to show its sincerity for enhancing relations."

Can you imagine that? We hand them a $29 billion trade surplus in 1994 alone and softpedal our other concerns, and still the dictators in Beijing call on us to demonstrate "sincerity" and to take "concrete action."

That is what they said. Here is what I said. On August 9, 1994, when the House considered my resolution of disapproval, I listed all of the abuses that have taken place in China "in the context of 14 straight years of MFN treatment." And I concluded, **"No, Mr. Speaker, appeasing China does not earn us their respect and their cooperation. It earns us their contempt."**

Now listen to these words: "Frankly, on the human rights front, the situation has deteriorated." That was Assistant Secretary of State Winston Lord last January 11 -- some seven months after human rights considerations were delinked from MFN. What a shocker! "On the human rights front, the situation has deteriorated."

But then Lord went on to say, "China is a somewhat difficult partner these days." Well, hello? Few things in life are more unsettling than the sight of a crestfallen U.S. diplomat expressing his disappointment at the intransigent behavior of a communist regime. My only question is: Partner in what?

It is precisely this kind of muddled thinking that a recent editorial in *The San Francisco Examiner* had in mind when it noted that the Clinton Administration proves that "once you get rolled, it's easier to get rolled again. The Chinese /have/ little reason to think that the United States will make good on any threat."

The *Examiner* editorial concluded: "Instead of calling the shots, the United States is treated by the Chinese as a bothersome supplicant. Such back-of-the-hand treatment shouldn't come as a surprise. For years, the United States has seen how China treats its own citizens..."

***

Mr. Chairman and Members, I actually do fear that we have entered into a kind of partnership with China, but certainly not the kind of partnership that Winston Lord had in mind.

It is a partnership that reveals some elements in the American business community are so anxious to make a quick buck in China, and their supporters in government are so anxious to curry favor with the dictators in Beijing, that there is no policy or practice carried out by the Chinese Communist regime that we are not prepared to tolerate in the interest of preserving business-as-usual.

U.S. exports to China --- which were already low to start with because China does *not* give MFN treatment to us --- rose by 60% in the five years between 1989 and 1994.

During that same period, since the Tiananmen Square massacre, Chinese exports to the United States rose by 223%. And our trade deficit with China has gone up by a staggering 377% --- to a level of $29.5 billion in 1994 alone. In 1989, about 23% of China's total exports came to the United States. By 1994, that figure had risen to nearly 37%.

The trade deficit we are running with China will approach $40 billion this year and, within two years, it will be larger than the one we have with Japan.

And what do we have to show for all this? More specifically, what progress can be pointed to by those who advocate trade or "commercial engagement" --- to use the Administration's term --- as the means for getting the Chinese regime to modify and reform its course? Open up the avenues of commerce, they say, and the good things will start to flow.

The answer is already in as far as human rights are concerned. Things have gone from horrible to worse, if that was even possible. The State Department's own report for 1994 acknowledges that the Administration's efforts to get China to permit the International Committee of the Red Cross to visit Chinese prisons have failed.

The Administration's efforts to get China to quit jamming Voice of America broadcasts have failed. That isn't me saying it --- the State Department is saying it. Yes, China loves our money. China loves its access to American markets. It's our ideas that have made America so successful a democracy that China cannot stand.

My colleagues here with me on the panel can supply chapter and verse information on human rights abuses in China. I would just note that the use of forced labor in the manufacture of export products is so pervasive and is now so generally acknowledged that only the most serious allegations get investigated any more.

And in my testimony before this Subcommittee last year, I cited China's new eugenics law. I said at that time that "not since the days of Nazi Germany has a government openly expressed its desire to 'avoid new births of inferior quality.' This is social engineering of a hideous nature on a potentially monstrous scale."

We have learned since then that the eugenics law has been amended so as to prohibit marriages between people who are deemed to be "medically inappropriate for bearing children, unless the parents agree to be sterilized or to take long-term contraceptive measures." The definition of "medically inappropriate" was conveniently left out of the legislation itself --- that will be decided when the law itself is enforced.

Mr. Chairman and Members, before concluding my testimony, I want to discuss a vitally important issue that is only now starting to get the international attention it deserves.

China's defiance of the nuclear nonproliferation regime is well known. So also is the fact that China is the only country on earth that does not observe the moratorium on nuclear testing. But only now is notice being taken of the rapid and unwarranted buildup of military power that China has been pursuing since 1989.

As long ago as 1980, China successfully test-fired an ICBM capable of delivering a nuclear warhead to a target up to 8,000 miles away. But until 1989, most credible outside observers regarded the Chinese armed forces as being a rather cumbersome, bloated, politicized, and somewhat antiquated operation that might prove to be more of a hindrance to China's superpower ambitions than anything else.

All of that has changed since 1989. The gradual decline in military spending that had been seen since the late-1970's was reversed decisively in the aftermath of Tiananmen Square. In 1994 alone, military spending in China rose by 22% over the previous year, which itself had seen a 13% increase over the year before that. All told, military spending has more than doubled since 1989.

And these figures I have cited represent only the tip of the iceberg --- they are the figures which the Chinese regime publishes officially. The true costs of research and development, procurement, and subsidies to the defense industry are evidently spread (and hidden) throughout China's national budget.

Along with this dramatic acceleration in military spending, China has totally revised its military doctrine since 1989. The historic reliance on a huge, land-based army has been replaced by new emphases on the building of an expanded and survivable nuclear strike capability and the development of a modern navy.

Since the late 1980's, and aside from the rapid expansion in its fleet of surface ships, China has launched 11 submarines, each to be armed with 12 short-to-intermediate range missiles capable of delivering a nuclear warhead to a target up to 3,500 miles away.

In preparing this testimony, I was astonished to learn that the authoritative Jane's Information Group, based in London, has estimated that if present economic trends in China continue, and if military spending continues to grow at its present rate, by the year 2000 China will have the second largest defense budget in the world --- and it could total well over $100 billion a year.

Mr. Chairman and Members, all of this is taking place at a time when virtually every other country on earth is reducing its military spending. Moreover, it is coming at a time when China's borders have been more secure than at any time in at least the last 150 years and the overall security environment in the Far East has been more peaceful and stable than at any time this century.

I sadly fear that the current sabre-rattling in the Spratley Islands, which are 900 miles from China and well within the territorial waters of the Philippines, is only a small taste of what it is to come.

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Mr. Chairman and Members, I have made an unusually long statement today --- and I have helped to force this whole MFN issue before Congress each year since 1990 --- not because I enjoy doing it just for the fun of it or because I want unnecessarily to take up the time and attention of Members. I do it because of my rock-solid conviction that U.S. policy toward China is wrongheaded and is leading us to disaster.

I believed this under President Bush and I believe it under President Clinton. When are we going to see the Chinese regime for what it truly is? A remorseless, ambitious, amoral, self-confident, even cocky, communist dictatorship that is bent on achieving regional hegemony throughout the Far East --- that's what it is. And the Far East isn't where China's ambitions stop. Believe me, a China which is not at peace with its own people will not be at peace with America.

During the Cold War, there were Members of Congress who criticized --- and rightly so, in certain instances --- some of the unsavory characters and regimes with which our government was pursuing a relationship in the interest of containing communism.

But what is our excuse now? Now that the Soviet Union has collapsed, what is the urgency of maintaining business-as-usual with the likes of Beijing? From 1945 on, we were faced with the *reality* of Soviet power and ambition. It was there --- we had no choice but to try to contain it.

But in the 1990's, we seem bound and determined to do what ever we can to help *give* the Chinese communist regime the means to realize its national ambitions. Not that the people of China will benefit. They will suffer the consequences of this folly just as surely as we will.

That is why, Mr. Chairman and Members, I pursue this fight as I do --- and I will continue to pursue it. Thank you for your attention here today.

Chairman CRANE. Thank you. Let me reiterate again that if you could be so kind to just try and confine your opening statement to 5 minutes. Anything further you have will be submitted for the record.

With that, I recognize Mr. Wolf.

STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE OF CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. I will submit my whole statement and just let me summarize. One, when this bill came up before and the argument was about delinking, in all honesty while I strongly opposed it, you could have argued that delinking could have brought about favorable human rights. We know delinking has been a total immoral failure. It just has not worked.

Look at all the cases. Slave labor is increasing and goods coming into this country made by slave labor are increasing. The MOU (Memorandum of Understanding) has totally failed. So we know that. We also know that persecution of human rights has increased. It has gone up. So that delinking has had no impact whatsoever.

We know with regard to the nuclear testing that it has not worked. We know that they are selling weapons to terrorists in the Middle East. We know that is taking place so it has not worked.

We also know, with regard to religious persecution, it has increased. On Monday or Thursday, 140 Christians were in a church and they were raided, taken away, and many of them have not been found. So we know there has been no improvement.

On Easter Monday, the day after Easter, they came and took a Catholic Priest away, and yet, this government says absolutely nothing, and we are not even sure where they are. We know that human rights and religious persecution has increased. The Dalai Lama and Buddhists in Tibet are being plundered. We know that. There have been no concrete improvements whatsoever.

But these are issues that were around before and when the Congress, I think wrongly, voted, but I think understandably, to delink because we want trade, we had this information to go on. But there are two additional things we now have, and the subcommittee, frankly, has to focus.

I will give you data on it and documentation which we do not have the time for now, but I will let you see a video and I hope all of you will see it. We know now that since we gave them MFN, they are killing up to 10,000 young men a year, taking them out of prison, putting a bayonet in their back where they stiffen up, shooting, firing until they drop to the ground. They take them away. They cut them open and they sell their kidneys for $30,000 apiece.

We have Americans from this country going to China for kidney transplants. We also know and have proof that in some cases if you really want a fresh kidney, they will get a 24- or 25 year-old young man and cut him open while he is alive and take out both kidneys and transplant them. Because the sooner the transplantation takes effect, the better the opportunity is. We know it. The BBC has this on film. I am sure many of you have seen it, but I am going to make it available to the chairman to make sure every Member, before you vote on this, make sure you see this film.

Then, the other week, a person came in my office, just back from China, and brought in pictures which I did not want to bring because of the graphic nature. To show that what they are now doing in Chinese Government hospitals is they are selling aborted fetuses, aborted babies for human consumption, to eat, to eat!

We have the documentation. We have people looking at it. I have been down to the White House. We have asked them to investigate it. Sandy Berger has told me that he will investigate it, but we have pictures.

So I will just tell the subcommittee last year I think your vote probably made sense in the sense that if this was going to improve, then maybe to delink would have been appropriate. I did not agree with it, but I did not think you were really that far wrong, because who could say?

But now, we have tried it for 1 year. We have delinked and I will summarize, because the red light is on. We have seen increased persecution of the Christian faith. There are priests that—and Chris Smith had a hearing the other day where a nun, a Buddhist priest, and a Catholic pastor testified together. The Buddhist priest, they got him and they hung him upside down and they sprayed water on him in the winter so he literally froze. The story is unbelievable. Thirty some years in these prisons. So we know that that has not changed.

We also know that slave labor is increasing and the goods are coming into this country. We also know that. They are even mad because we are trying to get a Memorandum of Understanding which does not even work.

But now, we also know that they are killing 24- and 25-year-old young men, up to 10,000 a year, picking them out—almost like you do at a restaurant or something when you pick a side of beef or you pick a lobster out that you want—they are picking these young people out and they are shooting them, killing them, and then taking their kidneys for $30,000 and more, and selling them.

Now we know that they are taking human fetuses and selling them. This is parallel—strong statement coming—this is parallel to what the Nazis in Germany did. It is unacceptable and this Congress, in a bipartisan way, ought to stand up and reaffirm the fundamental rights that we believe in.

If you are not going to change the delinking, and I hope you do, you have got to fashion some other policy. It is inappropriate—and I will say—it is inappropriate—I was going to say something else—to continue where we are. We just cannot.

Because future generations, when we are all 10, 15, and 20 years from now sitting on our rocking chairs, and thinking about it and our grandkids and kids come up and say, dad or mom, were you in Congress back in the midnineties, when they came up with the data about eating human fetuses? We call them fetuses. Can we call them babies, because they are babies in many cases. They are babies and were you around when we had the documentation that they actually are shooting young men, my age, mom or dad, or grandpop or grandmom, for kidney transplantation?

You were in Congress. Did you do anything about it? You are going to want to say, yes, I did something about it. I strongly urge this subcommittee to do something about it. I thank you for having these hearings, and I will just submit my statement for the record.

[The prepared statement follows:]

Testimony of Rep. Frank R. Wolf (R-VA)

House Ways and Means Subcommittee on Trade
Most-Favored-Nation (MFN) Status for China
May 23, 1995

Thank you, Mr. Chairman for the opportunity to testify before the Subcommittee today. As you know, this issue has been close to my heart for several years and I am a strong opponent of the current policy of extending Most-Favored-Nation status to China.

Last year, the argument used during the MFN debate was that trade and openness was the best way to improve human rights in China. Engagement is the way to go, some argued. If we keep trading with the Chinese, our Western values of human rights and democracy will eventually rub off on the Chinese government.

But, Mr. Chairman, a year has passed and the human rights situation has not improved. The State Department's 1994 Country Report on Human Rights admitted it. Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck admitted it. Assistant Secretary of State for Asian Affairs Winston Lord admitted it. Dissidents are still being arrested. In the past few days, seven prominent dissidents have been rounded up and thrown in jail as the Chinese government tries to quell dissent before the six-year anniversary of the Tiananmen massacre. Four more dissidents have disappeared. Many of the detained or missing were signatories to the petition submitted to the Communist government last week demanding the release of all those still jailed for their part in the Tiananmen protest. Christians are still harassed and detained. Repression in Tibet has worsened. Our engagement policy is clearly not working. It's time to re-link Most-Favored-Nation status and human rights. It's time to revoke China's MFN.

Believe me, I wish I could sit before this subcommittee and tell you that things were getting better in China. But sadly, they have not. Religious persecution against Christians has worsened. Earlier this month, 140 Christian evangelists from Henan province were arrested as they fanned out across the country to spread the Christian message. On Easter Monday, a Roman Catholic priest was arrested after he rebuffed the Public Security Bureau's demands to cancel an Easter Mass for 600 people gathered outside his home. The same weekend, 30 to 40 Catholic leaders from the underground Roman Catholic church were arrested by the security bureau in Jiangxi Province. On April 13, a Protestant House church was raided in Shanxi Province and six pastors were arrested. A new story about the arrest of leaders or worshippers in China's burgeoning underground church emerges almost every month.

Buddhist monks in Tibet have seen an especially harsh year. The Chinese government has imposed a series of orders aimed at halting the spread and influence of Tibetan Buddhism. These actions include restrictions on the age that Tibetans can join monasteries, limits on funds monasteries can receive and expulsion of monks from monasteries deemed too large. Tibetan monks continue to be thrown

in prison, and more and more monks are being driven into exile in India where they are cut off from their families and their homeland.

But, Mr. Chairman, it gets worse. Over the past several years, a credible body of evidence has emerged that the Chinese government not only violates human rights, but it also violates human beings for profit. We now have credible evidence that internal organs such as kidneys and corneas are taken from executed prisoners and sold for around $30,000 a piece to wealthy patients from abroad needing a transplant. The BBC ran a provocative story in October of last year showing footage shot during a BBC correspondent's undercover trip to China with Harry Wu, a 19-year veteran of a Chinese gulag who has committed his life to exposing the inhumanity of China's gulag system. An April 30 article in the *Sunday Morning Post*, a prominent Hong Kong newspaper, reported that 20 kidney patients had gone to the military hospital in Guanzhou to await transplants just prior to the May 1 national holiday -- a day on which a large number of executions traditionally take place in China. The patients had been told by doctors that their kidneys would come from executed prisoners, would be sent to the hospital immediately after the execution and would cost up to $200,000.

The Chinese government has admitted to the practice of using prisoners' organs, but says it only uses organs from executed prisoners if the prisoner or the prisoner's family gives consent or if the corpse is uncollected.

According to testimony heard earlier this month at a Senate Foreign Relations Committee hearing on this subject, this is not true. Gao Pei Qi, a former official in China's Public Security Bureau who oversaw dozens of executions, said that the consent of the donor is rarely sought before the execution takes place. In fact, he said, the family is held in house arrest during the execution. Harry Wu testified at the same hearing that once a person is convicted of a political crime and sentenced to death, the family typically denounces the prisoner and refuses to pick up the body.

Political dissent is a crime punishable by death in China and the Chinese judicial system falls far short of internationally accepted standards. There is no telling how many executed prisoners are put to death wrongly. Mr. Wu, when asked whether executions were accelerated in order to obtain the appropriately matched organs for transplant, told the Foreign Relations Committee that before an execution takes place, death row prisoners undergo medical testing. Mr. Gao testified that in Shenzhen province where he was employed with the Public Security Bureua, 20-30 death row prisoners are held in reserve prior to each execution. We can only assume that prisoners are selected for execution according to medical needs. But the U.S. remains silent.

Human organs are not the only kind of human flesh being sold for profit in the People's Republic of China. In early April, a reputable English-language newspaper in Hong Kong, the *Eastern Express*, ran a front-page story alleging that human fetuses are being sold as health food in government-run hospitals and private

clinics. The allegations were based on a one-month investigation by reporters from *Eastern Express* newspaper and its sister publication *Eastweek* magazine. I have asked a number of private groups and the administration to look into these allegations.

Selling human fetuses for internal consumption -- which most would call cannibalism -- is beyond the pale in my opinion. We should be concerned about this practice because of China's repressive one-child policy, which continues to result in reports of forced abortion and sterilization in various regions of China.

In the area of slave labor, the policy of engagement has not resulted in greater compliance with the Memorandum of Understanding between the U.S. and the People's Republic of China governing the export of goods manufactured with slave labor. Last fall, Harry Wu revealed evidence that artificial flowers and green tea manufactured in China's gulags with slave labor is still being sold in the United States. The Chinese government has been slow to arrange those prison visits requested by the U.S. government in compliance with the MOU and places many restrictions on U.S. officials during the visits.

For example, U.S. teams are not allowed to take photos or remove (or pay for) samples of the good being produced. When government officials are allowed official visits, they usually find nothing because the prison has been sanitized. Last year, when a U.S. consulate official made an undercover visit to prison #1 in Yunaun province a day after an official visit, she collected enough information to prove in a U.S. federal court that the diesel engines manufactured at the prison had been exported to the United States. The Chinese government is not complying with the MOU and our policy of engagement is not helping them do so.

China's democrats are preparing and re-energizing for transition in the Post-Deng era. What we do this year could have a profound impact on the direction of the transition. In an essay printed in the *New York Times* on Monday, William Safire put it this way, "Too many of us fall for subtle interpretations of maneuvering inside the Forbidden City as if it were comparable for jockeying for leadership within our Republican Party. Forget that inside Ping-Pong, because the stakes are of a different magnitude: The after-Deng convulsion will determine whether a billion-plus people will progress toward democratic stability - or regress to rigid totalitarianism that would lead to civil war within a nuclear power. That's why we should be more actively on the side of the dissident scholars and students." The current U.S. policy is not on their side.

Wang Dan, a man in his early twenties who has already been in jail numerous times for his leadership in democracy activities, was imprisoned this weekend. After threatening to starve himself, Mr. Wang said "I am willing to exchange my life for the Chinese government promising to carry our democracy and reforms." The weak United States policy must be demoralizing to this brave activist.

I have presented some examples of how the U.S. policy of

engagement has been a failure when it comes to improving human rights in China. You will hear many more examples before the end of this hearing. History has shown us that when the U.S. gets tough, the Chinese government listens. This was illustrated in February when U.S. Trade Representative Mickey Kantor threated to impose $1 billion in sanctions unless an agreement on intellectual property could be reached. The MFN threat works the same way. We must get tough in order to promote those values which the United States holds dear -- life, liberty and the pursuit of happiness. Revoking MFN is the only way to improve human rights in China. It must be tried.

Chairman CRANE. Thank you, Mr. Wolf.
Mr. Kolbe.

STATEMENT OF HON. JIM KOLBE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. KOLBE. Thank you, Mr. Chairman. I will keep my remarks brief and I appreciate the subcommittee holding these hearings. I think it is very important.

Let me just say to my colleagues who are with me at this table, their commitment to human rights and to freedom and democracy around the world, I think, are well known and I salute them for this strong commitment. Certainly, both Mr. Solomon and Mr. Wolf have been a voice of conscience for all of us here in the Congress.

Our economic stake in maintaining trade with China is well known so I am just going to limit my testimony to the question of linking of human rights in China to the renewal of the MFN, most-favored-nation trade status.

It is no secret to this subcommittee or to the people that are here that I believe that President Clinton and, before him, President Bush, made the right decision—certainly President Clinton, last year, when he decided to delink the issues, to extend China's MFN status without the conditionality.

Does this mean that I do not care about the kinds of things we have heard here this morning about human rights in China? No. Absolutely nothing could be further from the truth. The issue is not whether we support basic human rights for people in China and elsewhere around the world. All of us that are here today support those goals. The issue is how we can best promote those human rights. The issue is not one of the statistics we heard, but rather it is one about the policy that we should use. None of us would disagree with many of the descriptive and horrible things that we have heard from Mr. Wolf that are going on in China. The question is, what can we do about it?

I think that it has been shown over and over again, that we can best advance human rights, not only in China but in other countries, by conducting trade with them. In this case, that means by extension of the MFN status.

That is not a contradiction of terms or of policy, because the best foreign policy tools available to us to encourage political reform abroad are those that promote capitalism, market reform, and free trade. They are all powerful levers for political change. I can point to country after country where this has taken place.

Precisely, they are powerful tools because they are powerful mechanisms for economic change. Our foreign policy toward China should embrace these tools. We do not condition them. They are precisely the tools we can use to promote the evolution of Chinese society so that its people will be able to press for political reform from within.

They are the tools that we need to stimulate Chinese society to adopt a more pluralistic and democratic political process. That, in turn, will inevitably lead to greater respect for human rights and personal liberty. All of us understand that sometimes it does not happen on the timetable that we would like.

But I think it is clear, as we look around the world, there is example after example where we have supported the proposition of economic freedom and market reform which ultimately has led to political reform.

Now, some will argue that this diminishes the commitment that the United States has to human rights. Nothing, I think, could be further from the truth.

We must not abandon our promotion of human rights or democratic principles around the world. But to revoke or limit trade with China would actually retard the cause of human rights in China. It means we leave the playingfield.

U.S. economic sanctions harm the emerging Chinese private sector, particularly the dynamic market-oriented provinces in Southern China—all of which depend tremendously on trade. This would weaken the very forces in China that are pressing the hardest for economic and political reform.

The question of revoking MFN or conditioning trade with China has never been whether or not we condone political repression or human rights abuses in China, because none of us do. The fundamental question is this, what actions will further democratic reforms in China?

My own firm belief is that we can ill-afford to undermine reform-minded Chinese who have come to depend upon economic opportunity as a means of ultimately achieving political freedom in that country.

So, again, I would just suggest that it is not the goals that we seek that is at issue here, but it is the means by which we achieve those goals. I am convinced that history bears out my argument because it has been borne out in country after country that economic involvement, that trading with countries, does bring about political freedom in countries around the world.

Thank you, Mr. Chairman.

[The prepared statement follows:]

The Honorable Jim Kolbe
Testimony before the Ways and Means Subcommittee on Trade
May 23, 1995

Thank you very much for the opportunity to testify today. I commend the Subcommittee for holding hearings on the important issues related to U.S.-China trade. As the United States' economic stake in maintaining strong trade ties with China is well known, I will limit my testimony to the question of linking the issue of human rights to renewal of China's Most Favored Nation (MFN) trade status.

I feel strongly that President Clinton made the right decision last year when he made the decision to extend China's MFN status without conditions on human rights. Does this mean I don't care about human rights in China? No, absolutely nothing could be further from the truth. The issue here is not whether we support basic human rights for people in China, and elsewhere around the world; we all support those goals. The issue is how we can best promote human rights.

I believe that we can best advance human rights in China by granting China unconditional extension of MFN. That is not a contradiction of terms or policy. The best foreign policy tools available to us to encourage political reform abroad are policies that promote capitalism, market reform, and free trade. All three are powerful levers for political change, precisely because they are powerful mechanisms for economic change.

Our foreign policy towards China should embrace these tools, not condition them. These are precisely the tools we can use to promote the evolution of Chinese society so that its people will be able to press for political reform from within. They are the tools to stimulate Chinese society to adopt a more pluralistic and democratic political process. That, in turn, will inevitably lead to a greater respect for human rights and personal liberty. Currently, there are many examples around the world which support the proposition that economic freedom and market reform ultimately results in social and political reform.

Some will argue that this principle diminishes the U.S. commitment to human rights. Nothing could be further from the truth. The U.S. must never abandon its promotion of human rights and democratic principles around the world.

Revocation or limitation of trade with China would actually retard, rather than promote, the cause of human rights in China. U.S. economic sanctions would harm the emerging Chinese private sector and the dynamic market-oriented provinces in Southern China, which depend on trade. This would weaken the very forces in Chinese society pressing hardest for economic and political reform.

The question of revoking MFN or conditioning trade with China has never been whether or not we condone political repression and human rights abuses in China, because none of us do. Rather, the fundamental question is this: What actions will further democratic reforms in China? My own firm belief is that we can ill afford to undermine reform-minded Chinese who now have come to depend on economic opportunity as a means of ultimately achieving political freedom in China.

Thank you again for the opportunity to testify today.

Chairman CRANE. Thank you, Mr. Kolbe.
Ms. Pelosi.

STATEMENT BY HON. NANCY PELOSI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. PELOSI. Thank you, Mr. Chairman, for having this hearing today. I am pleased to be here with the members of the subcommittee, the ranking member, Mr. Rangel, and your other colleagues on the subcommittee.

Chairman Crane, I was pleased to cosign your recent letter to President Clinton urging President Lee of Taiwan to be allowed to visit his alma mater of Cornell University. I concur with the views you expressed in the letter and hope that the newspaper reports that the President may be granting a visa to President Lee are correct, and I thank you for your leadership on that issue.

Well, it is that time of the year again. Here we are, the usual suspects, gathered around the table to talk about China MFN and whether the situation, in terms of using trade as a lever for improvement in human rights in China, is effective or not.

Just within hours of this hearing, over the past weekend, Mr. Chairman, and probably as we speak it continues in China by all reports, the Chinese Government is rounding up leading dissidents. People in this case are being defined as dissidents for signing a letter asking for reform and for the end of corruption in China.

Over the past several months, as I am sure you and our colleagues are aware, there have been a number of petitions put together by leading intellectuals and scientists in China to the leadership of that country. The most recent petition has seen some of its organizers rounded up.

This is all in addition to the fact that Wei Jingsheng is still in prison. As you may recall, he was released briefly when the Chinese were trying to get the Olympics and after that effort failed and after his meeting with Secretary Shattuck, Wei Jingsheng, the leading dissident in China, the leading advocate for prodemocratic reform, was once again incarcerated. His whereabouts are unknown.

This administration's own State Department's human rights report for 1994 notes that the human rights situation in China is deteriorating. Last year, when President Clinton delinked trade and human rights, he said he was doing so because he thought that was the way to improve human rights in China.

Clearly, that has not worked. My written statement will document some of the abuses and much can also be seen in the State Department's own report. What I would like to put on the record here is the question, why is there a double standard for China?

My colleagues and Mr. Chairman, there are three areas of concern in the Congress about our relationship with China. Human rights is one of them, trade and proliferation are the other two.

On the issue of trade, it is projected that our trade deficit with China will be $38 to $40 billion this year. Before Tiananmen Square, it was under $5 billion. It has increased 750 percent since the tanks rolled into Tiananmen Square, since over 200,000 troops came into the square to slaughter a few hundred or a couple of thousand students in the square.

One example of the double standard I mentioned—why the big fuss about Japan when we practically brush aside the lack of market access into China? I think the administration deserves credit for the work it has done on intellectual property. I wish it would use its leverage for issues other than just trade.

I hope that this time we get the horse that we have now bought three times on intellectual property—the Bush administration once, the Clinton administration twice—but hopefully this time the Chinese will abide by the agreement on intellectual property. But apart from that, the situation is such that because of lack of market access, our trade deficit will grow.

In addition to that, I see the time is growing short so I am going to move on and leave for the record some other concerns, the use of prison labor for export which can be well documented but which this administration ignores.

On the issue of proliferation, you know that this administration has chosen to ignore some of the proliferation of weapons to Pakistan. There is a big fuss about the sale of technology from Russia to Iran, while there is soft-pedaling on the same actions on the part of the Chinese to Iran. This is a very serious matter endangering the Middle East.

Again, in terms of human rights, this policy has not worked. When the President made his announcement, he said he was going to announce a statement of principles for businesses doing work in China. We have not seen it yet. He said he was going to provide funding for NGO's (nongovernmental organizations) in China who are fighting for prodemocratic reform. Indeed, this is even outlawed in China. There was supposed to be funding for radio communication into China, Radio Free Asia, for example. This has not happened. So many of the actions announced in that pronouncement 1 year ago have not taken place on the part of the administration.

Indeed, what has taken place is more growth in our trade deficit, which is unfair to American workers. I might add, the percentage between what we sell and buy from Japan is more favorable to us than what is happening in China, even though our trade deficit with China is not as high as the Japanese trade deficit.

But it will be. Next year, the year after, we will be sitting here—you may still be chairman, I do not know whether you will still be chairman. You may have gone on to higher things. But I will tell you one thing, the trade deficit will, by then, surpass the Japanese trade deficit, and we make little mention of that.

I strenuously object to the double standard when it comes to human rights, trade, and proliferation. If we are going to have any moral authority about speaking out for human rights and prodemocratic reform throughout the world, we cannot ignore what is happening in China, just because certain businesses succeed in having their exports accepted there while most products made in America are barred from the Chinese market.

With that, Mr. Chairman, I once again commend you for holding these hearings and I would be pleased to answer any questions you may have. I ask permission to have my full statement entered for the record.

[The prepared statement follows:]

Statement of Representative Nancy Pelosi
Ways and Means Subcommittee on Trade
Hearing on China MFN

May 23, 1995

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today. Chairman Crane, I was pleased to cosign your recent letter to President Clinton urging that President Lee of Taiwan be allowed to visit his alma mater, Cornell University. I concur with the views you expressed in that letter that, "it is frankly astonishing to us that we should so obsequiously allow Beijing to dictate who can or cannot visit the U.S. -- especially in light of its own general disregard for the principles of liberty and human rights for its citizens.", and I am pleased about recent news reports indicating that the Administration will allow the visit.

By June 3rd, President Clinton must once again send to Congress the Jackson-Vanik waiver for China to continue receiving Most Favored Nation trade status. At the same time, the world will be marking the sixth anniversary of the Tiananmen Square massacre.

As you know, concerns in Congress about the U.S.-China relationship have focused on three areas: human rights, trade and proliferation. In each of these areas, there continues to be growing cause for concern and, in each of them, the Administration has unfortunately exhibited an alarming double standard. A comprehensive assessment of any one of these three topics would require days worth of hearings, I will highlight only a few major points in each category.

As we sit here today, the Chinese government is detaining and arresting pro-democratic reformers and intellectuals who are daring to speak out in criticism of their government's policies. The newest round of arrests started last Friday and they continue. Over 12 petitioners have been arrested, detained or harassed.

In addition to these activities, China has thumbed its nose at proliferation concerns. Less than 48 hours after the successful conclusion of the NPT, China conducted a nuclear test at its Lop Nor site. Estimates of the size of the explosion range from 40 - 150 kilotons.

HUMAN RIGHTS

It has now been one year since President Clinton's decision to delink human rights and trade and to grant China unconditional MFN. Since that decision, which signed away our leverage with the Chinese government, the human rights situation in China and Tibet has markedly deteriorated. The State Department's own annual country reports on human rights for 1994 notes the deterioration, stating among its extensive findings that "there continued to be widespread and well-documented human rights abuses in China, in violation of internationally accepted norms...including arbitrary and lengthy incommunicado detention, torture, and mistreatment of prisoners," and that Beijing "continued severe restrictions on freedoms of speech, press, assembly and association, and tightened controls on the exercise of these rights during 1994." Further, "hundreds, perhaps thousands, of prisoners of conscience remain imprisoned or detained."

The marked deterioration in China's human rights started immediately after the President's announcement of his decision, when Chinese Premier Li Peng implemented new state security regulations which broadened the basis for restricting peaceful dissent and imposed further restrictions on freedom of expression and freedom of association. China also outlawed outside assistance to fledgling human rights groups in China. (You may recall that one of the pieces of the President's new China policy was supposed to be financial support for human rights groups in China.)

Controls are being tightened further as concerns about succession increase. Chinese authorities talk regularly about "maintaining social stability," a euphemism for clamping down on dissent. Over the past few months, a group of prominent Chinese dissidents and intellectuals, at great personal risk, has sent a

series of petitions to China's National People's Congress in support of pro-democratic reform. With each petition, their numbers grow. Over a dozen prominent dissidents, have been arrested over the last week alone, as they prepared to petition the Chinese government to commemorate the "souls of those who died wrongful deaths" in Tiananmen Square six years ago. Despite these arrests, the petition was distributed. Human rights activists expect that the round-up of dissidents and intellectuals will pick up momentum both because of succession concerns and in anticipation of the Fourth World Conference in Beijing this September.

Other examples of the Chinese government's crackdown on human rights since President Clinton's decision to delink include:

* In December, the Chinese government handed down some of the harshest sentences since the prosecutions following the post-Tiananmen crackdown. Nine dissidents, first arrested in 1992 for pro-democratic and labor rights organizing, were given jail terms of up to 20 years. Chinese officials twice postponed these trials, (a term I use loosely, since legal representation is minimal; people are generally denied right to counsel; and often do not know the charges brought against them until the time of trial) until after the President's MFN decision.
* Criminal charges are being used against political dissidents. By using such charges, the authorities can conceal the true number of political prisoners in China.
* Releases of Chinese political prisoners have come to a virtual halt. At the same time, arrests and trials continue.

Prior to the President's MFN decision, international pressure was instrumental in obtaining the release of some of China's most prominent political prisoners. In some cases, the release was life-saving. Since the decision, all leverage has disappeared and the status of some of China's best-known pro-democratic activists is unknown or their future is in doubt.

For example, Wei Jingsheng, China's most prominent dissident and a nominee for the 1995 Nobel Peace Prize, has not been seen or heard from since his re-arrest on April 1, 1994.

Tong Yi, Wei Jingsheng's assistant, was badly beaten in a Chinese prison labor camp. Ms. Tong is serving a sentence for "re-education through labor," imposed without trial, for being an "accessory" to Mr. Wei.

Bao Tong, a high-ranking political reformer in the Communist Party, detained in 1989 for his support for easing repression and now serving a seven year prison term, is seriously ill. His family's efforts to obtain a "medical parole" for him have been unsuccessful. They have not even been allowed access to his medical records.

Talks between the Chinese government and the International Committee of the Red Cross (ICRC) have been in limbo for the past year. The ICRC has been trying to negotiate an agreement to obtain confidential access to Chinese prisoners, in order to deliver the same kind of humanitarian services which they provide in other countries around the world. These negotiations constituted one of the provisions in President Clinton's May 1993 Executive Order linking continued MFN status to progress in human rights.

Absence of the rule of law

The lack of an independent judiciary and absence of the rule of law has adverse impacts for American businesses in China. Recent stories about problems faced by McDonalds, Lehman Brothers, and other companies illustrate that commercial contracts are not being honored. In addition, foreign business people are being subjected to arbitrary arrest and detention.

Crackdown on religious freedom

Catholics and Protestants who try to exercise their faith and those who refuse to comply with Chinese government religious registration requirements are subject to detention, harassment and fines.

For example, in August 1994, Chinese Public Security officials broke up an Assumption Day prayer celebration, stationing several thousand soldiers, police and hired men around

a mountain which 2,000 Roman Catholic worshippers were attempting to climb. At least 100 people were reported injured when the police, using sticks and electric batons, ended the service. At least 10 Roman Catholic church leaders detained at this time are believed to remain in custody. In November 1994, authorities in Henan province surrounded an unregistered house-church which was holding a Bible training seminar and arrested 169 local Chinese Christians. This kind of activity occurs regularly.

Repression of workers

Organizations in China seeking to defend the rights of urban or rural workers have been subject to intense repression in the past year. Despite adoption of a new labor law that took effect on January 1, 1995, worker unrest remains widespread, fueled by inflation, corruption and poor working conditions. Official Chinese Labor Ministry officials admit that at least 15,000 labor disputes took place in 1994 alone.

Unless and until China's workers are free to organize, working conditions there will not improve. Until that happens, American workers do not stand a chance. How, for example, can an American textile worker compete against someone earning 35 cents an hour, working 14 hours a day, six days a week? China's totalitarian government is particularly concerned about the potential effects of an organized labor movement and continues to take harsh steps against those individuals trying to organize.

Human rights abuses in China over the past year have been serious and legion. President Clinton's MFN decision last May gave the Chinese government a free hand to crack down on its citizens. When the President announced his decision, he unveiled a "new" policy of engagement with China, saying that the new policy would improve human rights and that "This is not about forgetting about human rights, this is about which is the better way to pursue the human rights agenda." One year later, it is clear that the Administration has not applied itself to implementing its new human rights policy and that this new policy has been a complete failure in improving human rights.

A cornerstone of the Administration's "new human rights strategy" was to be a "Statement of Business Principles," "regarding the activities of American business firms to advance human rights in China." It is now one year later. No Statement of Business Principles has yet been formally released. The Statement being circulated for comment is so vague as to be useless, and it contains no reporting procedure or enforcement mechanism. In order not to offend the Chinese dictators, the Statement being circulated is not even China-specific; instead it is amorphous and global.

A second piece of the "new strategy" was to be increased international broadcasting. Here, too, the Administration has come up short. Obtaining Congressional support for Radio Free Asia funding has not been an Administration priority; the rescissions bill passed by the House and Senate would reduce from $10 million (already an insufficient amount) to $5 million the funding for Radio Free Asia. It is also my understanding that the Administration has yet to submit its nominations for members for the Board of International Broadcasting, the body to oversee this broadcasting.

The third piece of the Administration's new human rights strategy was to be "expanded multilateral agenda." This is the only part of the strategy in which the Administration has made any effort. By all reports, the Administration's efforts to pass a resolution condemning China's human rights record at the U.N. Human Rights Commission are to be commended. Although the resolution did not ultimately pass, U.S. efforts were instrumental in overcoming China's procedural maneuverings and in defeating thé motion to table the resolution. I am pleased at this activity on the part of the Administration and wish that such an effort would also be expended in other multilateral fora, including placing China's human rights practices on the agenda for the G-7 meeting and promoting Chinese workers' rights at the World Bank.

The final piece of the human rights strategy announced by President Clinton last year when he delinked trade and human rights was support for NGOs in China. To the best of my knowledge, this support has not been forthcoming and, in fact, as

noted earlier, China outlawed such foreign assistance for pro-democracy groups shortly after President Clinton's announcement.

It is clear that there has been no progress made in improving human rights in China with this new policy. It is also clear that human rights practices in China have gotten worse since President Clinton walked away from his Executive Order and abandoned the leverage which MFN provided in pressuring the Chinese dictators to accord their citizenry the basic human rights embodied in the Chinese Constitution and in the Universal Declaration of Human Rights, to which the Chinese are signatories.

TRADE

I commend the Administration for its successful negotiations on intellectual property rights, but note with sadness that while it is willing to take talks on rights relating to objects to the brink, it is not willing to expend anything on rights relating to people. This is an unfortunate double standard.

While progress was made on this aspect of the trade front, the overall trade picture remains the object of serious concern. Our trade deficit with China, fueled in great measure by Chinese barriers to U.S. products and Chinese unfair trade practices, was approximately $29 billion in 1994. According to the Congressional Research Service, if the rate of growth continues as expected, the U.S. trade deficit with China will be $38 billion this year.

Prior to the Tiananmen Square massacre in 1989, the deficit was only $5 billion. That means in six years, the U.S. trade deficit with China has increased by 750%. We are on the brink of a trade war with Japan because it has refused to open its markets to U.S. products. At the same time, we are turning a blind eye to many of China's practices which contribute to the soaring trade imbalance. We in Congress could act, and could have acted, to address these practices. Yet, we have not, for fear of getting China mad at us. Appeasement in trade relations may help a few industries -- overall, however, it is hurting American workers, it is hurting our economy, and it is hurting us all.

One unfair Chinese trade practice of particular concern is the use of slave labor for products for export. It is against U.S. law to import into this country products made by slave labor, but, the China continues the practice.

Under President Bush, the U.S. government signed a Memorandum of Understanding (MOU) with the Chinese regarding access to prisons suspected of producing slave labor goods for export. This MOU, weak as it was, has still not been effectively implemented three years later and the Chinese government stonewalls at every opportunity. Only last month at the APEC meeting in Bali, Secretary of Treasury Rubin complained about the lack of access to re-education through labor camps in China. It is past time for this MOU to be rescinded and to be replaced with a meaningful agreement to stop this abhorrent and illegal practice.

Here as in other issues, the Administration has a double standard, tolerating practices and inaction by the Chinese government which it would not accept from others.

PROLIFERATION

While the double standard in human rights and in trade is obvious, in matters relating to the proliferation of weapons of mass destruction, it is blatant and dangerous. Most recently, the Administration has resoundingly condemned the Russians for their plans to transfer nuclear technology to Iran, a rogue state. At the same time, there has been next to no comment about the fact that the Chinese are also providing nuclear technology to Iran. The Administration has not acted as strongly toward the Chinese transfer of M-11 missile technology to Pakistan, in violation of the Missile Technology Control Regime (MTCR) as it should have, by law. And, our response to Chinese expansionist activity in the Spratley Islands has been less than forceful. China's military build-up; its nuclear test within days of the conclusion of the NPT; and its territorial expansion activities continue to raise security concerns in the Asian-Pacific region.

One common thread throughout these three main areas -- human rights, trade, and proliferation, is the Chinese government's

pattern of saying one thing and doing another; signing something and then ignoring it. China's dictators want to be a part of the global partnership, but they want to do it on their own terms. President Clinton's decision last year, after extreme lobbying pressure from the business community, to grant unconditional MFN to China, despite the fact that they had not met the conditions of the 1993 MFN Executive Order only helped to convince the Chinese leaders that they can have it all and have it on their terms. This lesson will come back to haunt us repeatedly, including in WTO accession discussions.

China's communist dictators have always believed that to capitalists, money is all that matters and that values mean nothing. Unfortunately, last year's MFN decision only proved to them what they already believed we believed. The decision demonstrated that freedom and democracy are unimportant if short-term profit is on the line. I would hope that this year's MFN decision would send a different kind of message -- but I have no such expectation.

Thank you, Mr. Chairman and the Members of the Subcommittee for this chance to appear before you today.

Chairman CRANE. Without objection it is so ordered. Thank you for your testimony and I am trembling looking heavenward, without going higher.

May I yield now to our distinguished ranking minority member, Mr. Rangel?

Mr. RANGEL. Mr. Chairman, I ask unanimous consent to have my opening statement placed in the record.

Chairman CRANE. Without objection, so ordered.

[The prepared statement follows:]

OPENING STATEMENT OF
CONGRESSMAN CHARLES B. RANGEL
HEARING OF THE SUBCOMMITTEE ON TRADE ON
U.S.-CHINA TRADE RELATIONS
MAY 23, 1995

Mr. Chairman, thank you for calling this hearing to review U.S.-China trade relations and the question of renewing China's most-favored nation trade status. This hearing is indeed timely because the Congress will receive in the next few days the President's recommendation on whether to continue to extend most-favored-nation treatment for China under the Jackson-Vanik provisions of U.S. trade law.

China continues to be a major trade policy challenge for the United States. In 1994, our second largest bilateral trade deficit (after Japan) was with China, at $29.5 billion. While China was our fourth largest source of imports at $38.8 billion, China was only our fourteenth largest export market at $9.3 billion. Clearly, this large trade imbalance is unsustainable and further steps must be taken to open the Chinese market.

I recognize that we have negotiated several trade agreements since 1992 with China in areas covering intellectual property, textiles, and access to the Chinese market, and these agreements have been worthwhile and well received by the private sector in this country. At the same time, China continues to impose significant barriers to U.S. exports. It seems to me that more needs to be done to remove these barriers and I look forward to reviewing our options with Ambassador Barshefsky and our other witnesses in this regard. In particular, I look forward to hearing about the status of negotiations on China's accession to the World Trade Organization. This negotiation is crucial to our long-term ability to sell in the Chinese market.

I also look forward to hearing from our witnesses this morning on the results of President Clinton's decision last year to delink his recommendation on MFN renewal from human rights issues and to pursue a new human rights strategy. We have learned from a variety of sources, including the Administration's own annual report on human rights issued in February, that progress on human rights in China since the President's delinkage decision last year has been disappointing. While Jackson-Vanik was designed to deal statutorily only with freedom of emigration, and not broader human rights matters, I recognize that a number of Members of Congress continue to believe that human rights should be taken into account in making MFN decisions under Jackson-Vanik. I welcome the testimony this morning of Mr. Solomon, Mr. Wolf, and Mrs. Pelosi in this regard.

Mr. Chairman, as I said at the outset, China poses a major public policy challenge for the United States. It has the world's largest population, it has an economy growing at over 10 percent per year, it is rapidly becoming one of our top trading partners, and there is tremendous potential in China for U.S. economic interests. At the same time, many in this country continue to have legitimate concerns about the direction China is headed in areas such as human rights, nonproliferation, and the political and social evolution of Chinese society. As the committee of jurisdiction with respect to our trading relationship with China, we have a special obligation to keep well informed on developments in China. Again, I look forward to hearing from today's witnesses on this important subject.

Thank you, Mr. Chairman.

Mr. RANGEL. I just would like to add that our colleagues have raised some very serious questions here and, at the same time, we have to recognize that we are dealing with the nation with the largest population in the world, and certainly our potential biggest trade market.

Having said that, the starkness in which the presentation has been made this morning, I think I would dictate to this subcommittee that we have an obligation to the American people to look into these types of violations of human rights. I would hope that those that have testified, that you might give us as much supportive information as you have, because I am certain that the Chair and other members of his subcommittee feel some sense of obligation to make certain that our country is not appearing to be so interested in trade that we would accept any type of behavior with our trading partners.

Mr. Kolbe, I just want to ask you before I move on, have you taken a position as relates to the trade embargo against Cuba?

Mr. KOLBE. No. But I do believe the time has come for us to reexamine that issue.

Mr. RANGEL. Because I do hope that the President might be able to find some type of standard so that we can all start reading from the same page in that there would be no question concerning our decision as relates to what is in the national interest and that we could remove politics from it, so that the whole world would know that our country has a moral level as well as an interest in increasing trade.

I have never heard these type of allegations that I have heard this morning with all of the faults and things that have to be corrected as relates to human rights in Cuba, but certainly the dramatic testimony I have heard here should make any civilized person want to, at least, take another look at the people that we are dealing with.

So, I am glad to see that Chairman Solomon, my friend, has an open mind on this issue. I look forward to—either privately or preferably publicly—sharing with this subcommittee, because the chairman has a very sensitive position on this. I would like to join with him in exploring it from a very bipartisan point of view.

Ms. PELOSI. Would the gentleman yield on that point?

Mr. RANGEL. Yes.

Ms. PELOSI. Mr. Rangel, I think it is important to note that this is another category in which there is a double standard as far as China is concerned. We hear everyone say it is very important for us to have most-favored-nation status, and we are not talking about an embargo or talking about not allowing China to have trade with the United States, we are just talking about most-favored-nation status.

It is very interesting to hear the administration and others of our colleagues contend that the very important way to change a society and to democratize is just through trade, while that same administration and many of those same colleagues support the embargo on Cuba.

It is hard to understand how they could justify that.

Mr. KOLBE. Mr. Chairman, if I might, since you asked the question of me, let me just say that I think one does have to examine

each case individually. There is no question that the Chinese economy is vastly different from the Cuban economy.

I think that the role that we can play in terms of trying to change China by denying our economic involvement is quite different than it is in the situation in Cuba, where you have a much different political and economic situation.

Our current policy there is much more effective from an economic standpoint. I do not think there are too many—even those up here—would argue——

Mr. RANGEL. You are saying that the embargo has, in your opinion, been effective?

Mr. KOLBE. It certainly has a much greater impact than withdrawing economic activity from China would have on that country.

Mr. RANGEL. You believe that the——

Mr. KOLBE. I believe that, yes.

Mr. RANGEL. The 40-year embargo against Cuba has had economic and political impact?

Mr. KOLBE. Yes. I definitely think it is having a political impact. Whether or not we are at a stage where it is the right thing to do to take a look at changing that is something that I think should be examined.

But I think even those that are up here at this dias, who from a very strong—and Mr. Wolf, from a very strong—moral standpoint would argue we should not be engaged in giving the same status of trade to China that we give to other countries; would probably not argue—well, maybe would—but I do not think you can argue very effectively that it will ultimately change the Chinese political system by doing that, by making any changes there, if there are too many opportunities for them to substitute others.

Mr. RANGEL. If you are taking a moral position, I do not think it makes any difference whether it changes or not.

Mr. KOLBE. OK.

Mr. SOLOMON. If I may comment, though? I do not agree because it was my amendment that took away MFN from Ceausescu and it helped bring Ceausescu down. It was one of the best things. I remember the Reagan administration, as anti-Communist as they were, continued to give MFN to Ceausescu because of business dealings. Finally the Congress hiked up its moral courage and took it away. Then we saw the barbaric things that they did to children in the orphanages, and exposure helped bring the government down.

Frankly, most of the Romanian people said, "Take it away because it is our chance for freedom." I think most of the Chinese people would be better off, in some respects, if this government left and by denying MFN, I think it would have a great impact on them.

Last, before I leave, I will send all the members of the subcommittee a copy of the video, the BBC video that documented conclusively the organ things. I will also send you the graphic pictures on the eating of, the selling of the human fetuses.

Mr. Chairman, if I might, because I have to leave to go to the Rules Committee, but as you know, I made the point earlier in my testimony, that in the past 14 years we have given the People's Re-

public of China most-favored-nation treatment, while, at the same time, denying it to the former Soviet Union.

Let me tell you, those issues did more to bring the Soviet Union to its knees than anything else. We are not talking about interrupting trade with China. I am wearing a shirt right here. It is made in upstate New York. If you remove most-favored-nation treatment from China, they are still going to be able to import shirts into this country in competition to the maker of this shirt and it will still be much cheaper.

We are still going to do business. But let me tell you something about the $40 billion in trade surpluses coming into China. You do not think that that denying MFN is going to make a difference? You interrupt that and you will see an upheaval in China because it means jobs. That is exactly what happened to the Soviet Union. So do not think that hitting them up side the head with a 2 by 4 is not going to wake up those old men in Beijing. It will.

All they are doing is pushing us to a point, and if you hold them responsible, they will come around and you know it.

Chairman CRANE. Thank you, for your responses. Mr. Lantos has just arrived. If you would like to make an opening statement, then we would ask if you could confine opening statements to 5 minutes, and any other information you have will be submitted for the record.

STATEMENT OF HON. TOM LANTOS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LANTOS. I am grateful, Mr. Chairman, and I will try to be very concise.

Let me say at the outset that there is a history of our government underrating the intelligence of the Chinese Government and overrating their influence. I want to give you two examples which were, in many ways, much more dramatic than the issue that we are talking about now.

The Chinese put on a full-court press to get the Olympics in the year 2000. One of the reasons they did not get it was the resolution we passed in this body and in the Senate saying that China should not be honored by being the host to the Olympics, a game of brotherhood and sisterhood, as long as they pursue the appalling human rights policies that they do.

Our publicly stating that they are not fit to hold the Olympics was a matter of global record and nothing happened to our relationship with China. A few weeks ago I introduced in the International Relations Committee a resolution demanding that the President of Taiwan, a distinguished scholar with a Ph.D. from Cornell, be allowed to accept an honorary doctorate from Cornell.

The administration was dead set against the proposal. The House passed my resolution unanimously. The Senate passed the identical resolution 97-to-1 and today the front page of the New York Times indicates that the administration has agreed to let the President of Taiwan come here and accept his honorary doctorate from Cornell. Nothing will happen to our relationship with China because it is far too important for the Chinese to disturb that relationship.

Now, the Olympics was important. Keeping the President of Taiwan out of this country is important but a $40 billion trade surplus is a great deal more important. China has one of the worst human rights records in the world. I will not outline it, you have heard about it.

This human rights record deteriorated after President Clinton renewed MFN for China last May. It was a horrendous mistake and had we not renewed it, China would have dramatically improved its human rights record and we would be in a position to continue trade with them.

The overall U.S.-China relationship has not improved since this administration renewed MFN. As a matter of fact, China is currently in the process of selling nuclear equipment to Iran, one of the most dangerous developments on the face of this planet. China is flaunting its international obligations under the Nuclear Nonproliferation Treaty, and the Missile Technology Control Regime.

I think, Mr. Chairman, the loss of U.S. markets would be irreplaceable for China.

There is no other place they can sell their 40 billion dollars' worth of tennis shoes and toys. The notion that they will find other markets is a figment of someone's immagination. They are selling every dollars' worth of Chinese products everywhere.

Moreover, many of the factories, as you well know, Mr. Chairman, that produce products for the American market are owned by the Chinese military and the dollars they earn serve to modernize Chinese military capability.

It is absolutely counterproductive for a nation with our leverage to close its eyes to the human rights violations and the sale of nuclear technology to Iran, when principled action would bring the right results and would allow us to continue to be viewed as a country that deserves to be respected because it stands up for its principles of human rights and democracy.

Chairman CRANE. Thank you, Mr. Lantos.

Ms. Dunn.

Ms. DUNN. Thank you, very much, Mr. Chairman.

I ask unanimous consent to have my opening statement placed in the record.

[The prepared statement follows:]

STATEMENT OF REP. JENNIFER DUNN

Thank you, Chairman Crane, for the opportunity to offer a brief opening statement with regard to renewing Most Favored Nation trading status to the People's Republic of China. Today we are likely to hear the argument that the policy of delinking human rights to trade has been a failure. Perhaps some of the testimony we will hear will include accounts of individual human rights violations. We all agree that there are vast improvements to be made in China on this front. We are challenged with determining a policy that carries out the most effective method of bringing about change in China.

The infringement of human rights anywhere in the world is not something the United States should *ever* overlook. While these considerations are important, we must consider practical solutions that meanwhile have a positive affect on the lives of ordinary Chinese citizens. I remain unconvinced that it is in *anyone's* interests to cut off opportunities for the Chinese economy to grow -- growth that has a direct impact on the standard of living in Chinese society.

Society in general has been positively affected by increased trade with China. Along with increased business opportunities, Chinese men and women are beginning to have alternatives to working for state enterprises. The living standard is rising as China finds itself exposed to western philosophy, literature, concepts of freedom, travel, and the enjoyment of leisure time. The affordability of western products is improving, especially with regard to agricultural products.

Two weeks ago, the US ambassador to China told a Washington state trade delegation in China that today, 100 million people in China are able to afford imported goods. Three years from now, that number will rise to 300 million. While that may not be significant compared to China's total population, it's important to stress the point: Ten years ago, only 1 million Chinese had access to imported goods. That trend tells it all. A **100-fold improvement** over the last few years -- and today's statistics will triple by the 1998. We are making progress in the lives of every Chinese citizen.

Ms. DUNN. I had an interesting session yesterday morning with a group of businesses from my home state, back in my district, major exporters, many of whom do business with China.

Their advice to me was to consider that the best way for us to assist foreign nations and to have a good influence on them is through policies of engagement, through trade. I, too, believe that.

I look forward to hearing the rest of the people who are going to be on panels today who will have that point of view, because I think that is vitally important as we put into effect, in other nations, our standards on the environment, on labor, on human rights principles. I think that is, as Mr. Kolbe says, a very effective tool for influence.

I guess the question I would like to ask, as we see the President providing waivers from Jackson-Vanik to China, I would like to know, Mr. Kolbe from you, is MFN, does it continue to be an effective policy for trade, an effective tool?

Jackson-Vanik, has it worn out its usefulness?

Mr. KOLBE. I think my personal view is, yes, I think it has. It is a very blunt instrument to use. Remember, we have embargoes with a number of countries, but Iran, actually has MFN status. Libya has MFN status. We have embargoes with those countries, but they actually have MFN status.

It is just a very, very blunt instrument to use, and I think a very ineffective one. I think you put your finger on what I think is the key point and that is engagement versus disengagement. Do we engage countries or do we disengage? Around this place if we are in disagreement with each other, it does not mean that we walk away. We try and engage through a debate process. We try and change it. I think that is exactly what we are finding is it does work in a country like China, where American business is operating, establishing standards within their companies operating there.

For example, one company that I am familiar with, IBM, has established a home mortgage program for its employees actually creating the idea of private ownership of property. I think it is having an impact.

It takes time and it does not change the government overnight, but I think it does have an impact and I think we have seen that in country after country around the world today.

Mr. LANTOS. If I may comment on your question. I think the issue of engagement or disengagement is a phony dichotomy. Nobody is arguing for disengagement. We are talking about engagement which is spineless or engagement which is principled. We have been engaged with them for the last year. That was the assumption on which this administration extended MFN: that we engage, we remove human rights from the table and human rights will improve.

The exact opposite occurred. Human rights deteriorated. They told us to go fly a kite with respect to the sale of nuclear technology to Iran. We all want engagement but some of us favor engagement which is principled, which tells them that if they want a $40 billion trade surplus with us, they had better shape up.

Ms. PELOSI. If I may comment, as well, Mr. Chairman?

Chairman CRANE. Please.

Ms. PELOSI. I associate myself with Mr. Lantos' remarks but I wanted to say a couple of things about your question. First of all, we are not talking about our principles only. These are universal principles declared in the Universal Declaration of Human Rights at the United Nations.

All of what we are talking about with the Chinese is contained in their own constitution. That is why it is so unfortunate that, as we are sitting here I just got a Reuters report that today, Tuesday, more dissidents were rounded up before the sixth anniversary of the June 4, 1989, Tiananmen Square massacre.

The kinds of people who are signing these proclamations include an 88-year-old preeminent scientist in China who is the creator of the atomic bomb in China, former Secretary——

[The following was subsequently received:]

Chinese Police Harass Dissidents As June 4 Nears

BEIJING—Chinese police have stepped up efforts to disrupt the activities of political dissidents again this spring as the anniversary of the June 4, 1989, government crackdown on democracy demonstrators in Tiananmen Square draws nearer.

Spurred by an annual bout of nerves over possible trouble on the infamous date, police have detained six prominent dissidents in recent days, while four others have been reported missing, Chinese sources said.

"A new wave of suppression is unfolding on a large scale. . . . The detention of people in large numbers is continuing," the New York-based Human Rights in China declared.

The latest dissidents detained were Wang Dan, who had been jailed for four years as a leader of the 1989 student-led demonstrations; a student colleague named Yang Kuanxing; and longtime labor activist Liu Nianchun.

Wang, 25, was one of 45 people—including the cream of China's academic community—who signed a public appeal last week to Communist Party leader Jiang Zemin demanding release of all those still in prison for their part in the 1989 demonstrations.

Human Rights in China identified the four missing dissidents as poet Liao Yiwu, former college lecturer Chen Xiaoping and democracy advocates Deng Huanwu and Liu Yong. Many dissidents say that as the June 4 anniversary approached in recent years they were taken out of Beijing and kept in hotels before being freed days or weeks after the date had past.

REUTERS

Ms. DUNN. Excuse me, Ms. Pelosi, you are claiming my time, Mr. Chairman, while I have a couple of minutes left.

What we are addressing here is whether we should be separating two policies, one of human rights, and I think we all agree, as Mr. Kolbe has said, with everybody on this panel with regard to human rights, that it should be treated with great sensitivity. We all care about it.

But whether we should combine that with trade policy with our ability to trade with a neighbor who is very important, certainly to the folks in my State of Washington, or whether we should shoot ourselves in the foot on behalf of human rights, that is the question.

Thank you, Mr. Chairman.

Ms. PELOSI. If I may, Mr. Chairman, forgive me, Ms. Dunn, I should have asked the chairman to put this in the record in a separate question instead of using your time. But I think two points probably separate us on this. First of all, you and I both come from great trading areas that do a great deal of trade with Asia because of our population and our geographic location.

But most products made in America do not have access to the Chinese market. So we should not have our policy, I believe, driven only by those who export, but be driven by all potential exports into that market.

Certainly, engagement is important, but we have to recognize where our successes and our failures are. That is one of the ironies of the Taiwan situation. Taiwan is a country that has democratized, where free markets have led to more democratic reform. It has taken Mr. Crane's enthusiastic leadership and Mr. Lantos' resolution and all of Congress to get even the President of Taiwan to be allowed into the United States.

I think we have to have some consistency. Certainly trade can create change. We have to insist that trade benefit the American worker as well because we will have a $40 billion deficit this year and that means we are buying 48 or 50 billion dollars' worth of products from the Chinese. That should give us some leverage, I believe.

Thank you.

Chairman CRANE. Thank you.

Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman.

I would like to thank you for holding these hearings as well. I might, first of all, thank all three of the witnesses, and Mr. Wolf, and Mr. Solomon who had to leave, for their very fine testimony. They are, obviously, all very helpful.

I would like to make one observation, probably just for the record although some may disagree. I believe it was Mr. Wolf who made the statement that Ceausescu was overthrown mainly because of the issue of MFN. We did not have much trade with Romania at the time that MFN was eliminated in 1988.

I think that there was something called the fall of the Berlin Wall that might have had more to do with the overthrow of the, then, leader of Romania. But let me just make an observation and ask both Representative Pelosi and Mr. Lantos a question.

Do you favor the immediate cutoff of trade with China or do you favor a conditionality? In other words, add conditions and then cut trade off in June 1996. If you could keep your answers reasonably brief, that would be helpful because I may want to follow up.

Mr. LANTOS. No one, Mr. Matsui, in his right mind would recommend an instantaneous and abrupt termination of all trade with China. We are talking about conditionality and we are suggesting, in response to Ms. Dunn's query, that unless human rights is linked to trade, we will not have the leverage we need to have China's human rights improve.

Mr. MATSUI. May I follow up on that then, Mr. Lantos?

Words are leverage. Words are strong leverage.

Mr. LANTOS. Leverage is a $40 billion trade deficit that we have with China. They will sell this year $40 billion more to us than they will buy from us. That is about as powerful a leverage as you can find.

Mr. MATSUI. A gentleman from the State Department testified last year to that effect. He indicated that the trade surplus was our leverage, that is, China's trade surplus, our trade deficit.

The problem with that is that presupposes that any country that has a trade surplus with the United States we would be better off not trading with that country.

Mr. LANTOS. Not at all, not at all.

Mr. MATSUI. Well, it appears to be that is where your leverage is so——

Mr. LANTOS. Not at all.

Mr. MATSUI. But hold on. With Japan, what we should do, since they have a $66 billion trade surplus with us, is just cut off trade with them, two-way trade, because——

Mr. LANTOS. Nobody is——

Mr. MATSUI. Then how is the $40 billion deficit totally toward our advantage where we have so much leverage?

Mr. LANTOS. Well, no one is recommending that a trade surplus, ipso facto, gives us leverage. First of all, Mr. Matsui, you know as well as I do, you need to distinguish between critical imports and noncritical imports.

Petroleum happens to be a critical import. Toys are not a critical import. It is very easy to substitute other suppliers of toys, it is not so easy to substitute other suppliers of petroleum.

We should work to open up their markets so they buy from us, but I do not believe that eliminating human rights from the equation helps us economically and it certainly undermines us as the international champion of expanding human rights globally.

Mr. MATSUI. Well, let me just make—so you are saying that a surplus may or may not be a benefit or give us leverage, is that correct?

Ms. PELOSI. If I may——

Mr. LANTOS. I am differentiating between imports which are desperately needed for the functioning of this economy and cannot be replaced from other sources.

Mr. MATSUI. What would those items be?

Mr. LANTOS. Petroleum, for instance, would be an item which is essential and toys are items that are No. 1, nonessential; No. 2, are easily substitutable from a dozen other countries.

Mr. MATSUI. So we should allow the Chinese to import into this country petroleum but not toys, is that what you are saying?

Mr. LANTOS. They are not a petroleum-exporting nation. They have very little leverage. Saudi Arabia has a great deal of leverage because they have oil.

Ms. PELOSI. Mr. Matsui, if I may respond to your question?

I think it is very clear that there has not been a person coming before this panel who has ever suggested that we should be cutting off trade with China. I do not want there to be any impression that that is the case.

Mr. MATSUI. No. That is what the Solomon proposal would do.

Ms. PELOSI. He is talking about removing MFN. He is not talking about cutting off trade. You know that there is a distinct difference. In addition to which——

Mr. MATSUI. Not really. I do not think so in that situation.

Ms. PELOSI. Well, I disagree with you.

Mr. MATSUI. Seriously, I think we should not—if we cut off MFN, we are basically going to cut off trade with China. I do not think there is any question about that.

Ms. PELOSI. Well, but let me tell you why I do not think that is the case.

First of all, the cost of making products in China is so much less than it is in the United States that they will still be able to sell their products in the United States at an advantage. But there is another distinction with China from other countries and that is to a certain extent it is still a centralized economy.

Beijing authorities benefit greatly from the hard currency that they receive from the U.S. trade. Theirs is not an open economy where this money is flooding into an open market.

There is a huge dependence by the authorities in Beijing on this hard currency that they get. This year it will be $38 to $40 billion in hard currency which consolidates their power, enables them to build up their military, to invest in the development of weapons for proliferation, to increase their trade in that regard, as well, and to enhance further their own position by bringing in more hard currency and more money to bolster the regime.

They are not going to walk away casually from that. The point is, if they know that we are serious about using leverage, they are not going to walk away from a $40 billion profit. But if they do not think we are serious, then they will not address our concerns.

It is still ironic to me that a country can say to Japan, we are going to put a 100-percent increase in tariff on certain luxury cars coming into this country, but we would not even lift MFN from products made by the People's Liberation Army, including weapons that are coming into the United States.

I think that that is a double standard.

Mr. MATSUI. If I could just say this: Last February, we were very serious about cutting off MFN status with the Chinese. Before the President made his decision in May 1995, the Secretary of State, a number of Assistant Secretaries of State, and a number of others went to China. It did not appear that the Chinese leadership was thinking about those things that you said, Representative Pelosi, because, if you recall, arrests occurred at that time of many of the dissidents, many of those that were involved in Tiananmen. So it

is somewhat inconsistent that one would suggest that the Chinese felt we had so much leverage that they were so frightened of us, because——

Mr. PELOSI. You used exactly the right word, if I may, Mr. Kolbe, because it is addressing what I said. You used exactly the right word "inconsistent." The reason the Chinese responded the way they did is because they got a completely mixed message from the Clinton administration. They had the Secretary of Commerce and other Cabinet officers traveling to China telling them there is no way that we are going to lift MFN conditionally on certain products, it is not going to happen. That was the main concern.

If the administration had put forth a bold face, as they did, by the way, with the intellectual property negotiations—when the Chinese know that we are serious, then they will be serious. But when they know that we are not, then do not expect them to make any changes. I think the main reason we find ourselves where we are today is because we did not soon enough send a signal of consistency and seriousness about our willingness to use leverage to improve human rights.

The whole point is that in this period of the succession, we want to send signals to those who are reformers within the government that the United States really does care something about democratization or political reform, improvement in human rights in China, and that our concern is just completely based on some select group of exporters continuing to have access to the markets where, by and large, the American workers' products are excluded from the Chinese market.

Mr. MATSUI. I have to believe that we were serious last year. I think the testimony from the Assistant Secretary of State was very clear about the fact that we would cut off MFN status with China if they did not comply with those seven or eight terms in that condition.

Mr. LANTOS. The administration sounded a very uncertain trumpet, Mr. Matsui, and anybody with any degree of sophistication knew which way that decision would come down. The administration undermined its own position, abetted by significant segments of the business community.

Mr. MATSUI. Tom, is that not just the problem? There is no consensus in the United States for cutting off trade with China, as there was with South Africa, as there was with Iran, as there was with Iraq.

Mr. LANTOS. Nobody is advocating cutting it off.

Mr. MATSUI. You cannot wish and make it happen. It just does not work. You are not going to get that kind of consensus.

Mr. KOLBE. Mr. Matsui, could I just respond?

Mr. MATSUI. That is why there is no leverage. That is the problem with this issue.

Mr. KOLBE. Mr. Matsui, thank you. If I might just respond, I just want to clarify one thing and just make one comment, and that is certainly I do not think anybody in this body or in this room should be under any illusions that cutting off MFN status does as you suggested, cuts off trade. When you are talking about returning to Smoot-Hawley levels of 100 percent tariffs, it means a virtual total cutoff of trade. Countries that do not have MFN, there is virtually

no trade, so it does mean absolutely cutting off, totally cutting off trade with that country.

The other point I would make is that the correct place to be talking about the issue of market access is in the forum where we are talking about China's accession to the WTO. There is where we should be talking about the market access issue, and not here with the MFN issue.

Chairman CRANE. Mr. Coyne.

Mr. COYNE. No questions, Mr. Chairman.

Chairman CRANE. I thank our panelists for their testimony today. I appreciate your willingness to give your time and make your presentations.

We will now ask for panel number two, the Honorable Charlene Barshefsky and the Honorable Kent Wiedemann.

Ms. Barshefsky, if you would be so kind as to make your presentation first. Again, I would ask that you try and confine your opening remarks to 5 minutes, and any additional material you may have will be submitted for the record.

STATEMENT OF HON. CHARLENE BARSHEFSKY, DEPUTY U.S. TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Ms. BARSHEFSKY. Thank you, Mr. Chairman, Mr. Rangel, members of the subcommittee. It is a pleasure to appear before you again to testify on the administration's policy toward China.

My colleague Mr. Wiedemann from the State Department will discuss our policies with respect to human rights and nonproliferation, and most of my remarks will focus on the trade relationship.

Last year, when the President made his decision to renew most-favored-nation trade status for China, he chose explicitly not to link trade with human rights or other bilateral issues. This decision set the long-term foundation for a more productive bilateral relationship with China. At the same time, the administration has pursued and will continue to pursue vigorously U.S. objectives in all areas of our policy toward China, including human rights and nonproliferation.

Broadly speaking, the administration's goals with respect to the areas of policy we will address today are to instill in China respect for the rule of law and adherence to international norms. Overall, the administration's approaches in each policy area, human rights, nonproliferation, and trade, reflect these goals. In trade, we seek adherence to a rules based regime, using as our touchstone the WTO and other international conventions.

In human rights, we seek respect for the rule of law and the rights of individuals based on internationally accepted standards such as the Universal Declaration of Human Rights. In proliferation, we continue to urge China to become a full partner in internationally accepted nonproliferation regimes such as the Nonproliferation Treaty and the missile technology control regime. Respect for law, adherence to international norms, and the development of a civil society are the over-arching goals of this administration's policies toward China.

The road is not smooth. As my colleague Mr. Wiedemann will testify, the human rights situation in China remains a matter of

grave concern. Basic rights to freedom of speech, association, and religion are generally denied.

In recent days, China has arrested a number of prominent intellectuals for expressing their interest in obtaining these basic freedoms. It is clear that extrajudicial arrests and detention remain common practices. But at the same time, Mr. Chairman, greater engagement on all fronts, not only by government and NGO's, but also by U.S. corporations operating in China, will encourage the emergence of a more open society.

We have witnessed throughout Asia a tendency for greater individual freedom to follow economic liberalization. This is a logical extension of our current policy.

As in other areas of our relationship with China, the administration bases its trade initiatives on international rules and disciplines. Despite the trade agreements that we have achieved with China in market access, textiles, and intellectual property rights, major problems remain in our trade relationship. It is disturbing that China still has not made the fundamental decision to join the mainstream of world trading nations. It is disturbing that China appears to want to set the rules of trade with its trading partners, as opposed to following international norms.

Recent developments have only strengthened our view in this regard. China only selectively upholds its trade agreements. It is reluctant to accept obligations in other areas such as the recognition of arbitral awards or the sanctity of contracts. China continues to resist creation of a fair and equitable investment climate. It discriminates against foreign companies in its pricing of goods and services, and it maintains a range of overlapping barriers to trade in goods and services.

As a result, we have a large trade deficit with China. We are attempting to attack that fact. We intend, therefore, to continue an active and aggressive bilateral and multilateral strategy.

Mr. Chairman, I see that my time is up. My testimony details the initiatives that we have undertaken with respect to market access, intellectual property rights, trade in services, and China's GATT accession. I will be pleased to answer questions on those.

Thank you, sir.

[The prepared statement follows:]

TESTIMONY OF THE

HONORABLE CHARLENE BARSHEFSKY

DEPUTY U.S. TRADE REPRESENTATIVE

BEFORE THE

HOUSE WAYS AND MEANS COMMITTEE

SUBCOMMITTEE ON TRADE

MAY 23, 1995

Last year, when the President made his decision on May 26, 1994 to renew Most Favored Nation (MFN) trade status for China, he chose explicitly not to link trade with human rights or other bilateral issues. This decision set the foundation for a more productive bilateral relationship with China over the long term. At the same time, the Administration has -- and will continue -- to pursue vigorously U.S. objectives in all areas of our policy toward China, especially human rights, non-proliferation, and trade.

The President and the Administration recognize that China's economic and strategic importance to the United States require us to engage the Chinese on specific issues across a broad array of policy concerns. On trade, as in other areas, the Administration is prepared to make full use of the legal instruments available to us to pursue and gain our objectives. This is vital if we are to bring China into the international community and take advantage of the opportunities this will provide.

Complementarity of Administration Policies

Overall, the Administration's approaches in each policy area toward China are complementary. The Administration's goal is to instill in China respect for the rule of law and international norms in all areas -- including human rights, non-proliferation, and trade.

- In trade, for example, we seek adherence to a rules-based trade regime such as the World Trade Organization, or other international conventions.

- In human rights, we seek respect for the rule of law and the rights of individuals based on commonly-accepted principles, such as the Universal Declaration of Human Rights.

- In proliferation, we continue to urge China to become a full partner in internationally-accepted nonproliferation regimes such as the Non-Proliferation Treaty (NPT) and the Missile Technology Control Regime (MTCR).

My colleague from the State Department will speak on our human rights and non-proliferation policies. I would simply observe that, over the long-term, we expect to see in China respect for law and international norms, and development of a civil society.

The Administration recognizes that the human rights situation in China remains deplorable in some instances, and basic rights to freedom of speech, association and religion are generally denied. Extrajudicial arrest and detention remain common practices. That said, it is clear that greater engagement on all fronts -- including by U.S. corporations in China -- will help encourage the emergence of a more open society. We have witnessed throughout Asia a tendency for greater individual freedom to follow economic liberalization -- a logical extension of our current trade policy. Such evolutionary processes seem also to be at work in China. Finally, China can no longer keep

out Western ideas and values as it accepts and absorbs Western economic practices. The growth of modern communications and technology has already assisted the process of opening.

Trade Policy

As in other areas of our relationship with China, the Administration bases its trade initiatives on international rules and disciplines, for example, the WTO and other international conventions. The market access, intellectual property rights laws and enforcement, and textiles Agreements all have been thoroughly grounded in the GATT and now WTO. Clearly, the ongoing negotiations over accession to the WTO for China are part of our overall approach of creating an effective framework for our trade relationship.

Here, too, trade cannot be separated from the broader considerations of creation of a more open, rules-based society. Reforms of China's legal system, institution of new laws and regulations, notions of due process and transparency all build a better trade relationship. Our immediate focus in trade negotiations is on achieving particular goals. Nonetheless, as was the case in the IPR enforcement negotiations, we worked together with China's negotiators to create an enforcement regime that strengthened the legal system and the rule of law in general, including greater transparency, and the importance of observing due process.

Building on the IPR enforcement Agreement and Ambassador Kantor's visit to China, we now have an excellent opportunity to move China in a more positive direction on trade. We should seize the opportunity to improve the bilateral trade relationship, pursue multilateral WTO accession negotiations on a sound commercial basis, and take advantage of the growing commercial opportunities in China.

Despite our market access agreement, the IPR enforcement agreement and other bilateral agreements such as textiles, major problems remain in our trade relationship, however. It is disturbing that China still has not made the fundamental decision to join the mainstream of world trading nations. China appears to want to set the rules of trade with its trading partners, as opposed to following international norms. Recent developments have only strengthened our view in that regard. China only selectively upholds its trade agreements with the United States, and it is reluctant to accept its obligations in other areas, such as recognizing and enforcing international arbitration judgments, or the sanctity of contracts. China continues to resist creation of a fair and equitable investment climate, discriminates against foreign companies in its pricing of goods and services, and maintains a myriad of overlapping barriers to trade in goods and services.

The rapid growth of China's trade regime -- bilateral U.S.-China two-way trade has risen from roughly $2 billion in 1979 to $40 billion in 1994 -- and the growing importance of China's global role demand that we worked actively and aggressively to bring China's trade practices into line with international norms. We must actively engage the Chinese on trade issues, and open Chinese markets to U.S. goods and services.

Our trade relationship is badly out of balance. China exports vast quantities of goods to the United States, but still buys relatively little from us. In 1994, we had a trade deficit with China of close to $30 billion. No other major trading partner has a deficit in goods of that size with China -- and no other major trading partner's markets are as open to Chinese goods as are those of the United States.

Services trade is also of concern. The United States is the

largest exporter of services in the world and U.S. companies in banking, insurance, financial services, travel, advertising and other services are the best or equal to the best in the world. In the communications and information services sectors, U.S. companies are leading a global information revolution and transforming the way that business is conducted around the globe. Nonetheless, China's market for services is still largely closed. If China is to reform and modernize its economy, it cannot do so without the creation of a sophisticated services sector. And, clearly, it cannot develop an articulated services industry without opening its services market.

For its part, it is in China's interest to take these steps. As much as the United States and other trading partners will gain, the benefits to China in further trade liberalization and market opening are much, much greater. China must take serious steps to enhance significantly market access.

Themes for 1995

As a result of the clear opportunities that we now have to improve our trade relationship, and the clear inequities that continue to exist, we intend to continue an active, aggressive bilateral and multilateral strategy. This means:

(1) Full use of U.S. trade laws to enforce existing trade agreements and to open markets for U.S. companies and workers;

(2) Vigorous market opening initiatives, both through USTR negotiations and Department of Commerce trade promotion and development initiatives.

(3) Complementary and mutually reinforcing bilateral and multilateral initiatives -- a vigorous bilateral trade agenda and intensive use of the APEC process and China's WTO accession negotiations.

(4) Complementarity of the U.S. trade agenda and the broader U.S.-China policy.

Trade Initiatives

The Administration is currently engaged in negotiations and consultations on market access for goods, based on the 1992 market access Agreement, market access for services, and intellectual property rights protection. We are also addressing China's bid for accession to the World Trade Organization. Successful conclusion of the all of these initiatives and the faithful implementation by China of the existing Agreements, will improve not only the United States-China trade relationship, but also the prospects for China's own economic reforms.

IPR

Protection of intellectual property rights (IPR) is an area of major concern for the United States. Failure to protect IPR harms China's legitimate research and business interests, as it does those of foreign countries.

As it has in other areas of trade, the Clinton Administration acted decisively to protect the intellectual property rights of U.S. companies. The Administration initiated a Special 301 investigation into China's IPR enforcement practices on June 30, 1994 and published a proposed retaliation list when 20 months of negotiations failed to yield meaningful results.

Nonetheless, on February 26, U.S. negotiators reached a landmark agreement on the protection of intellectual property in China, particularly in the areas of copyrighted works and trademarks. The Chinese established a 9 month 'special

enforcement period,' formed enforcement task forces in more than 22 cities, closed 7 CD and LD factories that were producing pirated products, and pledged by July 1, 1995 to clean up remaining CD piracy.

We cannot take implementation of the IPR agreement for granted. Initial indications suggest, however, that China has taken implementation of the Agreement seriously. For our part, USTR has set up an IPR Secretariat to oversee implementation of the Agreement, under which are interagency task forces to monitor developments nationally and in each locality where IPR enforcement has been a serious problem. At the same time, in cooperation with the Department of Justice, the U.S. Customs Service, the Patent and Trademark Office, and the Federal Bureau of Investigation, USTR's Secretariat is coordinating training and technical assistance programs for the Chinese. These programs are designed to ensure that China has the ability to carry out the enforcement actions -- and the restructuring of their IPR enforcement regime -- that are mandated by the Agreement. In June, U.S. negotiators will return to China to hold the first in a series of quarterly consultations on implementation of the Agreement.

Market Access

In October 1992, the United States and China signed a market access Agreement that committed China to make sweeping changes in its import regime. To date, China's implementation of some parts of the 1992 market access Agreement has been commendable, although some important exceptions remain. In the Agreement itself, China committed over a five year period elimination of 90 percent of all non-tariff barriers -- such as import licensing requirements and quotas, increased transparency, elimination of the use of import substitution as a policy or practice, and an end to the use of sanitary and phytosanitary standards as barriers to U.S. agricultural exports.

China has taken important strides toward making its trade regime more transparent. China has published a large number of trade rules and regulations in the past year, so many that it has become difficult to keep track of them all. China nonetheless has a long way to go before its trade regime, and it trade institutions, are truly transparent. We are particularly concerned that China's provinces apply Beijing's trade laws and regulations uniformly and that the provinces' trade regimes are transparent.

China has made a major commitment to eliminate non-tariff barriers, and since the end of 1993, has reduced to roughly 150 from the several thousand that existed the number of GATT-inconsistent barriers. By reducing these barriers, China will open markets for computers, medical equipment, heavy machinery, textiles, steel products, chemicals, pharmaceuticals, and other products. However, the remaining non-tariff barriers are of serious concern and the Chinese have yet to provide schedules for their elimination.

China has not fully implemented the market access agreement in other respects. It has yet to live up to its obligations to publish quotas, uniformly apply its laws and regulations, or fully eliminate import substitution as a practice. As a result of Ambassador Kantor's visit to China in March, China lifted its brief "suspension" of the market access Agreement, and has committed to elimination of further non-tariff barriers on computers, textiles, heavy machinery and other key U.S. products.

Of considerable importance, China has not yet resolved our concerns about the use of sanitary and phytosanitary standards as barriers to imports of agricultural and live animal products. China continues to use unscientific standards to block exports of citrus fruit, stone fruit, wheat, apples, and leaf tobacco --

products that the United States exports to Japan and other nations throughout East Asia. Through consultations in Washington in March and San Francisco in April, we have established a time table for the closure of these issues -- although resolution of concerns over wheat from the U.S. northwest and other areas where TCK infestation exists remains problematic. We expect China to move expeditiously to resolve these issues, in accord with the Agreement.

Services

Market access for services is another, integral, part of the U.S. bilateral trade agenda with China. China's services markets today are still largely closed. While limited experiments are underway, and a variety of extra-legal services ventures have started, legitimate access for U.S. companies in most instances is not available. On a bilateral basis, China has agreed to hold bilateral negotiations on insurance and value-added telecommunications, to complement discussions that have been underway for many months on services issues -- both bilaterally and in the context of China's bid for WTO accession.

We have asked that China commit to substantial liberalization of its insurance, value-added telecommunications distribution, advertising, travel, communications, audiovisual and other services. As I noted earlier, these liberalizations are in China's own interest. We expect, for example, that China will license more foreign insurance companies to operate in China on a national treatment basis, will open its enhanced telecommunications sector and its distribution system to U.S. companies, and will liberalize access to its audiovisual markets. American companies have much to contribute to China's economic development and prosperity. China cannot make the leap from a labor intensive economy to one with a higher technology base without considerable participation by foreign firms in its services sectors.

An additional vital component of our services agenda with China is improvement in its domestic business climate. Consistent with the obligations that China will assume under the WTO, China must create a non-discriminatory environment within which both foreign and Chinese firms compete on an equal footing. Adherence to basic investment principles, such as the right of establishment and national treatment, along with rights to conduct associated activities, would go a long way toward that end.

Similarly, China discriminates against foreign traders in its pricing practices, often charging foreigners prices that are several times those charged Chinese businessmen. China has indicated that it may take steps to eliminate this discrimination, and we await concrete actions to make these intentions reality.

WTO Accession

Last, negotiations on possible accession for China to the WTO are ongoing -- with a round of bilateral discussions in Geneva having concluded just last week. The United States supports China's accession, but has made it clear that accession can only occur on a commercially-meaningful basis. Although we have taken a practical, and pragmatic position toward the negotiations, we are not prepared to support China's accession with anything less.

If China accedes to the WTO, and makes and implements firm commitments to bring its trade regime into compliance with WTO rules and disciplines within a set time period -- including market access -- we will all have taken a significant step forward in achieving our trade policy goals in China. At this time, the ball is in China's court. We await improved offers on market access and rules-based disciplines that will provide a

sound basis for the negotiation of an acceptable protocol package.

Over these past many months, the United States -- as well as other contracting parties -- have clearly outlined the areas in which China must make commitments to basic WTO obligations and to secure transparent market access opportunities. These basic areas include: uniform application of national laws and regulations in the provinces; national treatment for imported goods, firms, and traders; elimination of non-tariff measures as required by the WTO; granting foreign firms trading rights and expanding the right to trade generally; and assuring that its foreign exchange regime is not used as a trade barrier. China must make commitments to open its market to services, submit a reasonable schedule on agriculture supports and subsidies, and provide secure and amplified opportunities for market access in goods commensurate with its status as a world-class exporting country.

Conclusion

While much work remains, in trade, we have taken some initial, significant steps forward toward improving our bilateral relationship, and in helping to establish the primacy of the rule of law and international norms. Despite the problems that exist, we have a good opportunity now to move forward to broaden our trade relationship and help U.S. companies to take advantage of China's enormous commercial potential. At the same time, we must also continue to pursue serious initiatives on human rights and non-proliferation. We must act now -- if we are to see China develop a rules-based regime. We expect over the coming year, in accord with the President's pledge, to pursue these mutually compatible goals vigorously and forcefully.

Chairman CRANE. Mr. Wiedemann.

STATEMENT OF HON. KENT WIEDEMANN, DEPUTY ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. WIEDEMANN. Thank you, Mr. Chairman, Mr. Rangel, and other distinguished members of the subcommittee.

I, too, will read a very brief summary of my statement and would request that the full statement be entered in the record.

Last year, the President decided that extending MFN for China would strengthen broad engagement between the United States and China and over the long term permit us to promote the full range of American interests with China, including our human rights, strategic, economic, and commercial concerns. We continue to believe this is the right course.

China is the most important emerging power in the world for the United States. It is a nuclear power, a fact of which we were reminded recently when they exploded yet another underground nuclear test.

One out of every five people on the planet, as Congressman Kolbe has pointed out, is Chinese. China is one of the five permanent members of the United Nations Security Council. As we head into the 21st century, China is the single most important factor shaping events in Asia and, indeed, having great and increasing influence on the shape of the world of the future.

The situation within China is in a period of extreme flux. Deng Xiaoping no longer plays the central stabilization role he once did, and the leadership is gradually coming to terms with their new power and responsibilities. They have become more conservative and cautious, focusing inward more than outward, concentrating on domestic stability and control during this period of uncertain transition.

The economic situation adds to the transitional uncertainties, as Chinese economic leaders try to deal with the consequences of rapid growth, inflation of over 20 percent, overheated production, new tools and concepts, macroeconomic concepts, many of which they are learning from us and others in the West.

China's concerns over its domestic situation have led to a general tightening within China which has regarded our efforts on the human rights front. We are also approaching the sixth anniversary of the Tiananmen incident. The Chinese authorities reportedly have recently detained several activists associated with the original demonstrations, a pattern that we have seen in past years as we approached the Tiananmen anniversary date.

We are continuing our bilateral human rights dialog with China. Assistant Secretary of State Shattuck went to China in January to press our concerns on prisoner releases, treatment of prisoners, and freedom of religion. We also continue to pursue initiatives in exchange of legal experts, such as Supreme Court Justice Kennedy who visited China in February.

Multilaterally, we have also continued our efforts to work for improvements in the human rights situation in Chain. We joined with the European Union and a number of other countries to introduce

and pass a China resolution at the U.S. Human Rights Commission in Geneva.

In spite of intense Chinese lobbying, we and the cosponsors were able to defeat China's procedural motion to block that resolution. For the first time in 5 years of trying, the resolution came to the floor. Although it was defeated by only a single vote, the resolution sent a strong signal that China's human rights practices are of global, not just bilateral concern.

In enforcing our statutes on the prohibition against prison labor goods entering the United States, we have initiated an investigation in over 50 cases, and visited six suspected facilities this year already. We have 20 detention orders outstanding against products alleged to have forced labor content. In the past 2 weeks, we have received reports of visits to another suspected prison labor facility.

We have made counternarcotics cooperation an element of our ongoing dialog with the People's Republic of China and have received high-level assurances from the Chinese authorities that they desire greater cooperation in this area.

On our own initiative, we have conducted training programs for Chinese drug enforcement officials, and the DEA conducted an enforcement training course in Ziamen just this year.

China is a major player in the international arms world. Chinese observance of the multilateral proliferation regimes is necessary to halt the spread of weapons of mass destruction and missiles. Proliferation is a high-level concern, indeed a top priority concern in our dealings with Beijing, and comprehensive engagement has helped us to move ahead on several fronts with the Chinese in this very important area of U.S. national interest.

The United States is concerned with China's nuclear cooperation with Iran. While China's cooperation does not involve nuclear weapons, usable material, equipment, or technology and is subject to safeguards, we still oppose such cooperation, because we are convinced that Iran is using its civilian nuclear program and its NPT (Nonproliferation Treaty) status as covers for nuclear weapons development.

The Chinese have agreed to a global ban on exports of missile technology control regime class ground-to-ground missiles. This exceeds the strong presumption of denial requirements of the MTCR (Missile Technology Control Regime) guidelines. In addition, China has accepted the principle of inherent capability in defining MTCR-class missiles.

I see, Mr. Chairman, that my time too has expired. I would be happy to continue with discussion of the important issue of nonproliferation efforts, as well as human rights and any other issues of interest to the subcommittee.

Thank you very much.

[The prepared statement follows:]

TESTIMONY OF
KENT WIEDEMANN
DEPUTY ASSISTANT SECRETARY OF STATE
EAST ASIAN AND PACIFIC AFFAIRS
BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON TRADE
May 23, 1995

Mr. Chairman, I very much appreciate the opportunity to come before this committee to discuss with you the renewal of Most Favored Nation (MFN) status for China. You have just heard from my colleague, Ambassador Barshefsky, the many avenues in which we are pursuing the interests of the United States in trade with China and the importance of MFN to maintaining our trade relationship and providing jobs and export opportunities for America. I want to add a few words to put the MFN issue into the overall context of American foreign policy toward China.

This Administration believes the U.S. national interest is served by developing and maintaining friendly relations with a China which is strong, stable, prosperous, and open. Last year the President decided to renew China's most favored nation trade status because he concluded that strengthening broad engagement between the U.S. and China offers the best way, over the long term, to promote the full range of U.S. interests with China, including our human rights, strategic, economic and commercial concerns.

The President's MFN decision recognized that engagement with China has enabled us to make progress and to reduce differences on a wide range of issues. High-level engagement provides valuable opportunities to remind China of the need to adopt and fulfill international norms. Pursuing the interests of the United States is, of course, the fundamental premise of our China policy. In trade and other areas, we must apply this yardstick as we address the entire constellation of bilateral, regional and global concerns in which our countries' interests intersect.

Comprehensive Engagement

It is in this context that the President approved in September 1993, a strategy of "comprehensive engagement" with China. The purpose of this strategy can be simply stated:

- to pursue all of our interests at the levels and intensity required to achieve results;
- to seek to build mutual confidence and agreement in areas where our interests converge; and
- through dialogue, to reduce the areas in which we have differences.

We believe our engagement strategy has succeeded not only in helping to move the U.S. China relationship forward but also in encouraging China's continued integration into the international community.

Following high-level consultations with us last October, China re-affirmed its commitment to the Missile Control Technology Regime (MCTR). China agreed that it would not export ground-to-ground missiles subject to the MCTR.

China has continued to be a quiet but helpful partner in regional affairs of great concern to us, most notably on the Korean peninsula.

China has also joined us in continuing efforts to support the transition to a democratically elected government in Cambodia.

China continues to integrate itself into the greater East Asian community by participation in regional fora such as APEC and the Asean Regional Forum.

China is moving ahead with development of its Agenda 21 program for protecting the environment into the twenty-first century. The Vice President has agreed to become personally involved in working on a U.S. - China sustainable development initiative.

You have heard from my USTR colleagues about the status of our efforts to negotiate China's accession to the World Trading Organization. We also continue to address a number of trade issues bilaterally, most recently through the successful conclusion of negotiations on the protection of intellectual property rights.

Through our comprehensive engagement strategy we have played an active role in some of the above examples and provided positive encouragement in others.

Our foreign policy toward China continues to focus on three baskets of core concerns: human rights, non-proliferation and economic issues. Let me review where we stand on each.

Human Rights

The United States has very serious concerns about human rights abuses in China. In considering whether to renew China's MFN status last year, the key question was how the United States could best advance human rights and other vital interests in China. The President decided that extending MFN would promote broad engagement between the U.S. and China, not only through economic relations but through cultural, educational and other contacts. These contacts, combined with vigorous efforts to promote human rights, are more likely to encourage constructive change in China.

Frankly, we have not seen the kind of progress we would like on human rights in China over the past year. The recent detention of five dissidents is just the latest example of Beijing's continued defiance of internationally-recognized norms in this area. At the same time, however, we have made some progress on the four human rights related initiatives announced by President Clinton in May 1994.

We have continued our bilateral human rights dialogue with the Chinese. The seventh round took place in Beijing January 13-15, 1995. We again raised our core issues of concern--freedom of speech, association and religion and the treatment of prisoners and persons detained by the government in these dialogues, but also sought to broaden and make more substantive our engagement with the Chinese on rule of law issues and legal exchanges.

We have also continued our efforts to work for improvements in the human rights situation in China in multilateral fora. We joined with the E.U. and a number of other countries to introduce and pass a China resolution at the UNHRC in Geneva. In spite of intense Chinese lobbying, we and the co-sponsors were able to defeat China's procedural motion to block the resolution. For the first time in five years, the resolution came to the floor. Although it was defeated -- by only a single vote -- the resolution sent a strong signal that China's human rights practices are of global, not just bilateral, concern. Furthermore the vote laid down a marker that no country can avoid scrutiny of its human rights practices by the international community.

Thanks to their already high standards for international business practices, American businesses have become the employer of choice in China. Through their everyday operations, they are quietly contributing to the transformation of Chinese society. We have been consulting with U.S. businesses, human rights NGOs, Congress, and labor organizations on the development of a set of voluntary business principles for use in China and elsewhere in the world. These principles were informally released March 27 at the White House; consultations continue to further develop the principles and the plan for their implementation.

The Voice of America has increased its programming in China by one hour with a program called DATELINE, which consists of news reports, analysis and live correspondent interactive. A second weekly hour-long radio/TV simulcast program has also been added. Called CHINA FORUM, it addresses a wide variety of issues through news features, guest interviews, and comprehensive discussion organized around a weekly topic.

We are increasing our support for American NGOs that are working to promote a stronger civil society in China.

In enforcing our statutes on the prohibition against prison labor goods entering the United States, we have initiated investigations in over fifty cases and visited six suspected facilities this year already. We have twenty detention orders outstanding against products alleged to have forced labor content. In the past two weeks we have received reports of visits to two more suspected prison labor facilities. We have prosecuted where we thought we were justified and the Chinese have punished factory managers where we have found trade in forced labor products.

Through difficult, but successful negotiations, we are developing a workable system for investigating allegations of trade in forced labor products. We are constantly in touch with the relevant authorities in China and are establishing a relationship based on mutual trust and confidence.

Since the signing of the Statement of Cooperation on Implementation of the Prison Labor MOU in March of 1994, the Chinese have been cooperative in fulfilling their obligations under both the SOC and MOU. Although cooperation slowed down somewhat since January 1995 due to personnel changes in the Chinese Ministry of Justice (MOJ), the Embassy has recently had meetings with the MOJ and reports that the process is moving ahead again.

There is some concern that the Chinese, while allowing inspections of the "Reform through Labor" camps (Laogai), will not allow the inspection of "Reeducation through Labor" camps (Laojiao). Since both types of camps use forced labor, it is critical to proper enforcement of U.S. trade law that we be allowed to inspect both types of camps.

We continue to press the Chinese for access to those facilities and recently at least one responsible official has indicated that our concerns are being viewed positively.

We have made counternarcotics cooperation an element of our ongoing dialogue with the PRC and have received high level assurances from the Chinese authorities that they desire greater cooperation in this area. On our own initiative we have conducted training programs for Chinese drug enforcement officials. The DEA conducted an enforcement training course in Xiamen, Fujian last year. A group of Chinese customs officials were trained at the U.S. Customs detector dog school in 1994. More training by DEA is scheduled this year.

In addition, we have consistently encouraged China to urge Burma to take more initiative to control the production and trafficking of opium and heroin. The Chinese authorities have shown that they are willing to send a strong message to trafficking groups in Burma. In 1994, the Chinese tried and executed Yang Maoxian, the brother of the leader of a principal trafficking group, the Kokang. This was a clear signal to trafficking groups in Burma that China will act vigorously to stem the regional trade in heroin.

Economics and Trade

We have deep concerns over the current imbalance in our trade relationship with China. Last year our bilateral trade deficit was nearly $30 billion, second only to our trade deficit with Japan. You have heard from my USTR colleagues how we are vigorously promoting our trade agenda both bilaterally and multilaterally.

As in other areas of our China relationship, we base all of our trade initiatives on international rules and disciplines -- of the WTO and other international conventions.

-- Ongoing negotiations over accession to the WTO for China are part of our overall strategy of creating valid frameworks for our trade relations.

Through trade, U.S. concepts filter into the consciousness of all Chinese. Opening markets for America's idea industries -- movies, CDs, interactive software, television -- and for products that make communicating easier -- such as fax machines and copiers -- spread U.S. values and ideals.

We also continue to expand our export promotion efforts - one of the central responsibilities of what Secretary Christopher refers to as our "America Desk" - and cooperative programs in scientific and technical fields. For example, during Secretary O'Leary's visit to China in March, we not only witnessed the signing of commercial agreements that will facilitate billions of dollars in new U.S. exports, but also established the framework for scientific, technical and economic cooperation in developing China's sustainable energy development program.

Secretary Brown's visit to China last August was equally successful in helping to build long-term economic and business ties between China and the United States. Secretary Brown will return to China in July for the next session of the Joint Commission on Commerce and Trade (JCCT). Besides promoting American business opportunities and trying to resolve some of the problems American firms face in doing business in China, this year's JCCT will focus on a significant new training initiative which will help to further develop the infrastructure China needs to sustain its economic growth and transition to a rules based society.

Non-Proliferation

China is a significant producer of nuclear, chemical and missile-related equipment, materials and technology.

Since China is a major player in the international arms world, Chinese observance of the multilateral proliferation regimes is necessary to halt the spread of weapons of mass destruction and missiles. Proliferation is a high-level concern in our dealings with Beijing, and comprehensive engagement has helped us to move ahead on several fronts with the Chinese in this very important area of U.S. national interest.

We continue to work with the Chinese to bring their policies into line with prevailing world standards on the full range of nuclear and conventional weapons proliferation issues. As is the case in most issues with China, we are making varying degrees of progress in these endeavors.

The U.S. is concerned over China's nuclear cooperation with Iran. While China's cooperation does not involve nuclear weapons usable material, equipment, or technology, and is subject to safeguards, we oppose such cooperation because we are convinced that Iran is using its civilian nuclear program and its NPT status as covers for nuclear weapons development.

In October, 1994, the U.S. and China agreed to work together toward the earliest possible achievement of a multilateral, non-discriminatory, and effectively verifiable convention banning the production of fissile materials for nuclear weapons or explosive devices.

Such a convention will help prevent the proliferation of nuclear weapons, as it provides a vehicle for halting the production of nuclear weapons fissile materials in key threshold states.

Another major breakthrough in our proliferation dialogue with the Chinese is represented by the October, 1994 Joint Statement on Missile Non-proliferation.

The Chinese have agreed to a global ban on exports of MTCR-class ground-to-ground missiles. This exceeds the "strong presumption of denial" requirements of the MTCR guidelines. In addition, China has accepted the principle of "inherent capability" in defining an MTCR-class missile.

Both the U.S. and China affirmed their respective commitments to the Regime's original guidelines and parameters. We intend to engage the Chinese further with the goal of bringing their commitments fully into line with those of the Regime's members and adherents.

As a prelude to the Chinese commitments in the agreement, the U.S. lifted sanctions imposed against China in August, 1993 for transfers to Pakistan.

We are currently engaged in exchanges with China on missile proliferation, nuclear cooperation and nuclear proliferation, and export controls. China has agreed to a series of meetings with U.S. experts over the next few months to discuss these issues.

China supported indefinite and unconditional extension of the NPT and voted with the United States at the NPT extension conference earlier this month in New York.

We regret China's continued nuclear testing and have called on Beijing to stop its testing program immediately. In this regard we welcome China's statements that they will join the CTBT and cease nuclear testing. We will continue to engage the Chinese on these and other non-proliferation issues.

In the security area, we are moving ahead with military to military contacts. We believe these contacts, especially at high levels, serve to reassure both sides as to each other's intentions. Defense Secretary Perry visited China last year in October and we are continuing our ongoing program of exchanges of high-level military officers.

In sum, the Administration is committed to a policy of comprehensive engagement with China as the best means to advance U.S. national interests across a wide range of issues. That concludes my opening remarks, I would be happy to answer any questions you may have.

Chairman CRANE. Thank you, Mr. Wiedemann.

Ms. Barshefsky, has the President's decision to pursue human rights issues without linking them to MFN renewal enhanced your ability to negotiate with the Chinese?

Ms. BARSHEFSKY. I believe, Mr. Chairman, that the President's decision was the correct decision. As he stated last year, our linkage of trade and human rights had run its course in China. There was not only no leverage provided by that linkage at this juncture last year, but indeed the leverage was, to the extent there was activity, counterproductive.

We have found on trade issues this year, by and large, the Chinese to be more receptive with respect to U.S. concerns. Our negotiation of a very strong intellectual property rights enforcement agreement is one example. But most recently, just 3 weeks ago, we achieved breakthroughs on agricultural exports to China. China has now agreed to allow exports of U.S. cherries, as well as exports of U.S. apples, from a number of States. We also have negotiated a framework agreement and timeframe within which exports of U.S. citrus products will be considered for the Chinese market. These are important issues.

In addition, we have a market access Memorandum of Understanding with the Chinese. While the Chinese have not implemented it fully, and that is of concern, they have implemented many of the major aspects. This includes sharp tariff reductions, as well as the elimination of several thousand nontariff measures against U.S. and other foreign imports into China.

Chairman CRANE. Taiwan has been a long staunch ally of the United States and a good democratic friend, and they have essentially been blocked from joining the World Trade Organization or GATT because of the demands of the mainland government that they be granted access first.

I have had legislation in, as I think you are aware, for free trade agreements with Pacific rim countries, including Taiwan, which strikes me as a very highly eligible Pacific rim country to negotiate with. Do you think there are ways of expanding our trade relations with Taiwan without triggering some kind of backlash from the mainland government?

Maybe a free trade agreement is going too far. I do not know. I have talked to representatives from Taiwan, and certainly they are intrigued. I said even if we did not have it officially defined as an FTA (free trade agreement), if we just met the conditions and terms of trade, that it would be mutually beneficial. What are your thoughts?

Ms. BARSHEFSKY. Mr. Chairman, we have a very strong and healthy trade relationship with Taiwan. Taiwan is one of our major trading partners. We have had concerns from time to time with respect to market access barriers in Taiwan. The Taiwanese Government generally has been receptive, although we note one disturbing trend. U.S. companies are tending to lose out on recent infrastructure contracts in Taiwan, and this is an area we have brought to the Taiwanese attention.

May I say, sir, that it is really not accurate to say that Taiwan has been blocked from WTO accession in any way at this point. There are two elements to any country's WTO accession. One is the

negotiation of bilateral market access agreements with all of the country's significant trading partners. The other is a multilateral negotiation on the basic rules that would apply with respect to accession.

In the case of Taiwan, it is in bilateral negotiations with over 20 countries on market access. It has not yet closed out these discussions with either the United States, Japan, the European Union, or any one of a number of other major trading partners. In addition, with respect to the rules of the road, which is negotiated multilaterally, that negotiation has not yet occurred. The chairman of the WTO working party has recently asked for contributions to a protocol draft, and we will be active in that.

While we have made very significant progress bilaterally on the Taiwanese accession, neither the close out of that accession from our point of view bilaterally, nor the multilateral closeout has yet occurred.

Chairman CRANE. Thank you.

Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Madam Secretary, have you heard or read the allegations made by Congressman Wolf as relates to the selling of human organs of prisoners and the eating of fetuses, the transfer of kidneys and corneas from executed prisoners, and slave labor and these atrocious allegations?

Ms. BARSHEFSKY. Mr. Rangel, I have no personal knowledge of these incidents. I am as appalled, as I am sure every member of this subcommittee is, to the extent any of these might be true.

Mr. RANGEL. I really would hope that none of us would have personal knowledge of them, but it would appear to me that when these types of allegations are made, that somebody would have investigated it and would have a report related to whether there is any substance at all to these.

Mr. WIEDEMANN. Congressman Rangel, please allow me to comment. These atrocious allegations that we heard of this morning from Congressman Wolf have been of great concern to us ever since they came to light from various sources. With respect to the fetuses question that turned up in a Hong Kong journal recently, we are actively investigating that, as well as the other allegations with respect to trade in human organs.

Thus far, I can say that we have found no corroborating evidence for any of these allegations. There is a film to which Congressman Wolf referred that was produced by the BBC, and which Congressman Wolf will supply. The evidence we believe is not conclusive. The producer of the tape acknowledges that the film depicts open-heart surgery, not organ removal or transplants implied by the films narrative. Others would argue that it indeed details an operation that concerns the removal of an organ that would be consequently sold on the market.

All I can say at this point is we continue to look into the allegations of these heinous——

Mr. RANGEL. Let me try this again. When last have you had any written report showing an investigation to any of these types of allegations?

Mr. WIEDEMANN. In the past week, we are certainly quite pleased to turn over to you the results of our own reporting up to now. Our missions, both in Hong Kong and Beijing, as well as other missions around China——

Mr. RANGEL. Do they relate to these types of allegations?

Mr. WIEDEMANN. Yes, they have been sending in reports to us, the State Department and other elements of government here on what we have been finding out in the field as we have gone around and spoken to medical doctors, both Western medical doctors who are in China familiar with the——

Mr. RANGEL. What I am asking is that these specific types of allegations have been investigated and you found no credible evidence to support that, and that is in some type of an official report?

Mr. WIEDEMANN. We have made statements on the public record to that effect, but we do not have that to my knowledge in a report that we have distributed to this subcommittee or any other.

Mr. RANGEL. But such disgusting types of allegations, I would think that just to protect the reputation of the United States of America, that someone would look into it and say what the facts are. It is not just Members of Congress. This has been in the press.

Mr. WIEDEMANN. If I may, these are such sensational allegations——

Mr. RANGEL. Yes.

Mr. WIEDEMANN [continuing]. That I think we would not be responsible, if we were not to keep investigating until we were absolutely positive concerning the truth of the allegations. Up to this point, we have not found any evidence to corroborate these charges.

Mr. RANGEL. It is obvious that murders are being committed and you are saying that you will not give any type of report until you are absolutely certain. All we are asking is to look into it, check with our ambassador, get a report from him. What are we talking about?

Mr. WIEDEMANN. We have done that, sir. There is no evidence yet uncovered that shows murders have occurred in this context.

Mr. RANGEL. Well, are the reports to him so secret that you cannot share it? That is a report as far as I am concerned. Just say these allegations are made, Members of Congress are concerned and they would have us believe we are dealing with a heathen government.

Mr. WIEDEMANN. As I said earlier, we are quite pleased to share with you the results of the reports from our ambassador in China, of our consul general in Hong Kong——

Mr. RANGEL. Whatever you have done.

Mr. WIEDEMANN [continuing]. Any of our other missions which have developed information on these allegations.

Mr. RANGEL. I would appreciate that. Have you heard of these type of allegations occurring in Cuba?

Mr. WIEDEMANN. Sir, I have not. I am not familiar with any such allegations with respect to Cuba.

Mr. RANGEL. Do you find any consistency at all with our embargo against Cuba and our failure to investigate these allegations and recommendations for most-favored-nation treatment for the People's Republic of China? I see that as a real inconsistency in terms of our trading policy. How do you look at this, as a professional?

Mr. WIEDEMANN. Is your question, sir, similar to that which you posed to Congressman Kolbe earlier, that is to say whether there is a double standard in terms of the way we approach Cuba as compared with China?

Mr. RANGEL. Exactly.

Mr. WIEDEMANN. At least in terms of our human rights concerns, with respect to both countries?

Mr. RANGEL. You have got it.

Mr. WIEDEMANN. We address our concerns with any country in the world, whether in human rights or any other area, in ways appropriate to the situation at hand.

Mr. RANGEL. There is no question about that, different countries, different designs.

Mr. WIEDEMANN. Exactly. Clearly, the case with Cuba, with a relatively small economy and population, we believe very strongly and have found that the trade embargo does indeed have effect on Castro's regime.

Mr. RANGEL. How many years has the embargo been in effect?

Mr. WIEDEMANN. He took over from Batista in 1959.

Mr. RANGEL. You say that has had a real impact on the——

Mr. WIEDEMANN. I am no expert, sir, on Cuba, but——

Mr. RANGEL. I am just talking about policy generally and human rights and that it has to be tailored specifically to the country, and I just cannot vision where human rights would be more important as relates to Cubans or Chinese. Human rights are human rights.

Mr. WIEDEMANN. No question. We are every bit as concerned about human rights in Cuba. The embargo there, I think, demonstrably has caused the regime, Castro personally and his regime, to alter some elements of their policy. In China, with a large economy, as diverse as it is, and with as many diverse trading partners as it has, given that it is now increasingly involved in a market-based international trading system, an embargo or MFN withdrawal would not have intended effects.

Mr. RANGEL. But basically, as a professional diplomat, you do not see any inconsistency with our trading policy as relates to human rights, as relates to Cuba and the——

Mr. WIEDEMANN. I see no inconsistency in our concern with respect to human rights in Cuba and in China. There is clearly a difference in the way we approach the two, but I would not characterize that as an inconsistency.

Mr. RANGEL. You think it is an evenhanded approach?

Mr. WIEDEMANN. Yes, sir.

Mr. RANGEL. Thank you, Mr. Chairman.

Chairman CRANE. Thank you.

Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

I am having a difficult time separating some of these issues. We have heard some very lurid stories about atrocities. There have been statements that since MFN was approved, 10,000 people were killed, Catholic priests were taken away, there has been particular pressure on the Dalai Lama, and eating of the fetuses and things like this.

Obviously, those are repulsive to most of us to hear about. It is hard to know what to do. We have heard the same stories about

Rwanda and Burundi and other countries like that. But I find it difficult to get the link between MFN and things like this.

So let me ask you specifically. I have figured here with the information I have just gotten from the subcommittee staff that if we denied MFN status to China, the tariffs would go up between two and three times. Now, with the backdrop of all these atrocities and the things we do not like, not only in the human rights field, but also in terms of the peddling of nuclear weapons, is that withholding of the MFN going to affect these other things? It may or it may not. I would be interested in your reactions to this. Are we dealing with a reasonable tool, if we do not like what we see?

Ms. BARSHEFSKY. If I may respond, it was the judgment of this administration last year that withholding MFN would not demonstrably alter Chinese policy in the respects that you are indicating now. This was the view of the administration after looking at——

Mr. HOUGHTON. Are you going to break that down a little bit?

Ms. BARSHEFSKY. Pardon me, sir?

Mr. HOUGHTON. Break it down just a little bit. That is a general statement. Now why is that?

Ms. BARSHEFSKY. The concerns last year were with respect to extrajudicial detentions, arrests, most particularly those areas. The allegations that have since surfaced were obviously not under consideration last year, inasmuch as those allegations just recently came to light. As Mr. Wiedemann said, the State Department is investigating those.

But as of 1 year ago, concerning the question of detentions, arrests, release of prisoners who were ill, and so on and so forth, the Chinese did not appear to be moved in any respect with the threat that MFN would be withheld. Indeed, to some extent, the situation worsened during the course of the year.

Mr. HOUGHTON. Can I interrupt 1 minute. In other words, if you felt that the Chinese would be moved, you would suggest that MFN status not be given?

Ms. BARSHEFSKY. No. The administration believes that it has certainly in the case of trade and in the case of nonproliferation, where our statutes also provide for particular remedies, had ample other authority to deal with Chinese trade problems in those areas.

With respect to human rights, the situation, as the President said last year, is somewhat more complicated. These are difficult issues, and they are long-term issues. They are issues difficult to measure in terms of progress on a month-to-month basis or on a year-to-year basis. One instead must look over the longer term.

The question the President raised last year was what would the most effective policy be over the longer term, and he determined at that point that comprehensive engagement on all fronts, including specific engagement on issues pertaining to human rights, would do best to advance overall the human rights agenda, as would——

Mr. HOUGHTON. Let me put the words in your mouth then, if I can.

Ms. BARSHEFSKY. Yes.

Mr. HOUGHTON. In other words, you are saying if we withdraw most-favored-nation status and go back to Smoot-Hawley type tar-

iffs, that it would go counter to what we want to have China do as a responsible nation in this world?

Ms. BARSHEFSKY. Yes.

Mr. HOUGHTON. How do you feel, Mr. Wiedemann?

Mr. WIEDEMANN. I agree entirely with my colleague Ms. Barshefsky. I think the administration's approach really is, if you will, based upon two essential premises which I believe very strongly in. One, as Ms. Barshefsky has indicated, it is through the strategy of comprehensive engagement facilitated by the trading relationship and MFN we have that allows us to engage with China on all the issues of profound importance to this country, whether it be human rights, proliferation, or indeed the trade issues that we discussed.

At another level, second, but perhaps in the long run even more profoundly important, MFN and the trade between our two countries creates an environment for China to keep its door open and for it to become increasingly integrated with the global system, whether it is the economic, the trade system, the financial system, or indeed increasingly systems that we and other responsible nations have developed with respect to the control of weapons of mass destruction.

Mr. HOUGHTON. May I ask one more question, Mr. Chairman?

Chairman CRANE. Certainly.

Mr. HOUGHTON. I am sorry to interrupt you and to take over my time. I want to project a little bit, and this is all conjecture, that we export to China $9 billion roughly a year. We import from China $39 billion a year. Let us say in the next 10 years we export maybe $15 billion or let us double it to $18 billion, and China then brings in about $80 billion. Would you still feel the same way you do about most-favored-nation status?

Mr. WIEDEMANN. I would, sir, yes.

Mr. HOUGHTON. Thank you.

Chairman CRANE. Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman.

Ambassador Barshefsky, to what do you attribute the escalating trade deficit that we have with China, particularly since Tiananmen Square until now?

Ms. BARSHEFSKY. I think there are many causes to the trade deficit with China, part of which relates to our consumption patterns, our pattern of growth, part of which relates to the very substantial movement of manufacturing facilities from Taiwan and Hong Kong to the mainland, reducing our bilateral deficits with Taiwan and Hong Kong, and increasing those deficits with the mainland. The kinds of productive capacity that has in fact moved relate to textiles and to toys, the items of chief export from China.

With respect to the composition overall of the deficit with China, we look a little better than the trade numbers themselves would indicate. That is to say we tend to export to China aircraft and parts, very sophisticated machinery, power generation equipment and computers. They tend to export to the United States textiles, toys, footwear, and some electrical componentry.

So while the trade numbers are not good, they are very, very bad, they are not quite as bad as they appear because of some shift of the trade numbers from Taiwan and Hong Kong to the main-

land. The composition of trade is somewhat more favorable to the United States.

The question for the administration has been how to attack this deficit, which should not be allowed to persist to the extent that the deficit is due to trade barriers. We have been extremely aggressive with respect to market access on goods, market access on services, with respect to intellectual property rights protection, and very aggressive with respect to China's bid to join the WTO, in helping to ensure that those markets become more open and more receptive to U.S. goods, services, and agriculture.

Mr. COYNE. Is it the goal of the administration to have a reduced trade deficit with China? How do you think we can accomplish that?

Ms. BARSHEFSKY. Let me answer you in two ways. First, the goal of this administration is to have reciprocal access in foreign countries. If they can sell their goods here, if they can sell their services here, if they can sell their agricultural and other products here, we should have the same degree of access in those markets. That has been the premise for administration trade policy these past 2 years, not only with China, not only with Japan, but also with Europe and with Latin America, as well as the emerging Soviet Republics. So I cannot give you a number that we are looking for, but what we are looking for is a wholesale change in practice.

Second, the administration is sufficiently concerned about the issue of trade deficits, particularly deficits with Asia. The total U.S. trade deficit, about 70 or 80 percent is Asia, and most of that is Japan and China. The administration will shortly issue an Executive order setting out a commission to look at the causes of these trade deficits, particularly with Asia, and to make recommendations with respect to their elimination.

Mr. COYNE. Thank you very much.

Mr. HOUGHTON [presiding]. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

Ambassador Barshefsky, you mentioned that some of these difficult issues, the human rights issues, for example, that we are having to consider these days are long-term issues and will take a long time to work out.

That brings to my mind a concern that I have been bothered by as we go through this debate annually on MFN. Has the President considered asking for MFN for China for a period of years, 5 years, for example, so that we are not constantly washed one way and the other by the emotional involvements that come into this issue?

Ms. BARSHEFSKY. Ms. Dunn, I am not in a position to say at this juncture the precise contours of the President's announcement with respect to MFN in China. That is obviously for him to do. But administration policy has been thus far generally to look at the issue on an annual basis.

Ms. DUNN. Thank you, Mr. Chairman.

Chairman CRANE [presiding]. Thank you.

Mr. Payne.

Mr. PAYNE. Thank you very much, Mr. Chairman.

Ambassador Barshefsky, related to WTO accession and China's potential accession to the WTO, I understand talks have occurred earlier this month on that subject. Specifically, China had asked

that they be considered a developing nation, as opposed to a developed nation. Would you comment on the status of those talks, and specifically the USTR's (U.S. Trade Representative's) position concerning the flexibility that China might have to declare itself a developing nation?

Ms. BARSHEFSKY. Let me respond to your questions as you have laid them out. We did have discussions with China last week in Geneva, both bilaterally, as well as in the multilateral WTO working party group. While the tone was much improved in those discussions with the Chinese, the Chinese showed no real new flexibility.

As I have previously informed this subcommittee, when we left this issue last December, China had put on the table market access offers with respect to goods, agriculture, and services. All of those offers were wholly inadequate and rejected outright, not only by the United States, but by every one of China's major trading partners.

While China has returned to Geneva with an improved tone, with improved rhetoric, we have not seen any demonstrable change in the positions they have laid out from this past December. That indicates to us one of two things: Either China has not yet completed an internal review with respect to where it might have greater flexibility, or China has not come to grips yet with the seriousness of WTO accession and the fact that it would have to make major concessions in order to be admitted into that organization. By major concessions, I mean concessions of a commercially meaningful nature to the United States, Europe, and its other major trading partners.

We have told the Chinese we will continue to work with them. We are always prepared to negotiate for greater market access, but it is market access that China is going to have to provide, as well as adherence to a rules-based regime on transparency, subsidies, government procurement, and on national treatment for goods to which all GATT members adhere.

With respect to whether China is a developing country or a developed country, we have told the Chinese that we will not engage in a debate on labels. The question is not what they will be called, but what their obligations will be. The question is how much market access will China provide. Those are the questions that we will turn our attention to, not the question of what shall China call itself.

Mr. PAYNE. So the issue of developing a developing nation status really primarily has to do with market access?

Ms. BARSHEFSKY. It has to do not only with market access, but it has to do with many rules. For example, developing countries have a lengthy transition period under the international property rights agreement in the WTO. Obviously, that is a transition period wholly inappropriate to China. There are many other such examples.

A key point from the U.S. perspective is that whether they are a developing country in some respects or a developed country in other respects is a red herring. That is not what the debate will be on in the WTO. From the United States point of view, what the debate on WTO accession will be is, is China willing and committed to play by international trading rules, first of all, and, second of all,

is China willing to provide commercially meaningful market access with respect to goods, services, investment, and agriculture.

Mr. PAYNE. I appreciate the job that USTR has done in terms of holding down textile exports from China to the $6 billion level, which is almost exactly what it was 1 year ago.

By the same token, we were only able to ship to China about 50 million dollars' worth of goods, and so the disparity there is 120 times more goods coming into our country than we were able to export to them. Our textile and apparel people in this country feel that that is a market that they can compete in and be successful in, and I really urge all efforts that might be made to continue to allow greater market access to China for that segment of our economy, as well as many others that you are negotiating on behalf of.

Thank you.

Ms. BARSHEFSKY. Thank you.

Chairman CRANE. Mr. Zimmer.

Mr. ZIMMER. No questions.

Chairman CRANE. If there are no further questions, I want to thank Ms. Barshefsky and Mr. Wiedemann for their testimony.

We will now ask for the next panel, Donald Lang, Willard Workman, William Manteria, and John Palafoutas.

Gentlemen, as I indicated before, if you can, please confine your opening statements to 5 minutes or less, and then if you have any further material, it will be submitted in the record.

Before we commence, I want to express my deep appreciation to you, Mr. Lang, for preparation of this business coalition trade letter that was submitted to the President. I just roughly counted the number of businesses or associations in that letter, and I think the number is approaching 500.

Mr. LANG. Nearly 700.

Chairman CRANE. Seven hundred. Congratulations to you.

We will begin by having you submit your testimony to us.

STATEMENT OF DONALD H. LANG, PRESIDENT, PRATT & WHITNEY OF CHINA, UNITED TECHNOLOGIES CORP., ON BEHALF OF THE EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. LANG. Mr. Chairman and members of the subcommittee, thank you for allowing me to speak today. I am Don Lang, president of Pratt & Whitney China, and I am representing the 60 members of ECAT (Emergency Committee for American Trade), Pratt & Whitney Aircraft, and my parent corporation, United Technologies.

My statement and the documents that I will leave you really will express our unequivocal strong support for unconditional renewal of MFN and continuation of a policy of engagement and open discussion with China.

The first document that I am leaving you for the record is my full formal statement, which I will summarize and add some anecdotal statements and statistics. The other is the letter that you just identified.

I think a key quote from the letter from the U.S.-China trade coalition highlights our thinking when it says, "We are convinced

that American trade and investment with China advances long-term U.S. economic and strategic interests and American values."

My perspective may be a little unique for the hearing. As Ms. Dunn aptly described the strategy or the approach of engagement, you would have to consider me as one of those who is engaged. I spend 2 weeks a month plus in China. I am responsible for developing and implementing Pratt & Whitney's long-term strategy in China, and that includes a fundamental foundation of deepening engagement and discussion.

It includes sale of our engines to China's 25 airlines who operate large aircraft. The support of that equipment once it is in country involves joint ventures on overhaul and repair activities, joint ventures in equity positions in Chinese engine companies, as well as large-scale training of Chinese employees to be able to operate the high-technology equipment they are taking into the country.

We have been doing business in China as a company since 1972, shortly after President Nixon visited with Air Force One. We have since sold about 1.5 billion dollars' worth of aircraft engines in China. Our engines power one-half of China's commercial airline fleet that is in service today.

Within our industry, we are considered to be a leader in the whole strategy of engagement, and probably most notably engagement in creating win-win situations and relationships within China.

Everyone asks how important is the aerospace industry within China to the United States, and, in a few simple words, it is very important. China has already shown a very strong preference for buying Western aircraft in lieu of buying Russian equipment, as they had in the past. They have purchased virtually every existing type of modern Western commercial aircraft and have them in service.

Roughly 70 percent of those aircraft have come from the United States, and, in total, the U.S. aerospace industry last year enjoyed a trade surplus of about $1.9 billion, which is equivalent to about 35,000 jobs. That, frankly, is only the beginning. In the next 15 years, China will add another 600 to 800 new commercial aircraft to their existing 300 aircraft fleet. Those aircraft purchases will be worth $45 billion, again 70 percent of which will come from U.S. aerospace companies and their suppliers, $30 billion fundamentally in U.S. sales, which on an annualized basis is the equivalent of about 40,000 jobs per year.

Finally, what I would like to comment on is how our business relationships today are helping shape U.S.-China relations for the decades ahead, and the key word is engagement. China is a country that is in transition. They are developing the rules for this new economic system or political economic system they call "the socialist free market" system, and that development includes establishing the rules of engagement for international trade and business for the decades ahead.

We as American companies are in a very enviable position. The Chinese like us. They see us being in the lead in helping develop the rules. They tend to view American companies as in for the long haul, not having a "gold rush" mentality that is so common in that part of Asia. They see us as companies that are very open and hon-

est, and they see American companies as setting new standards for integrity. Frankly, I see us in the same way.

We have a very enviable position in the Chinese system. We have been able to help the Chinese truly understand Western business practices and we have caused them to adopt and implement rules which are favorable to Western companies. We have covered a wide range of diverse topics with them which I would view as the fundamental fabric of Western business principles and practices.

Just to name a few, we have talked with them about varying approaches to establishing equity positions with them, how to establish realistic property valuation, cost accounting standards and systems, how they can transition their state-owned industries into becoming private sector enterprises, how to get listed on stock exchanges, how to adopt U.S. environmental standards to our joint ventures—which we have insisted upon—how to impose U.S. worker standards, safety standards to our joint ventures, what contract law provisions are at work in the Western world, what should the living standards be for your employees and how to upgrade them, how to establish the supplier base systems which are foreign to their system today, and, fundamentally, in our industry, how to establish an industrial base that is essential to safely operate your airline fleet.

I could really go on, but the message is simple, that the business relationships we have are really an avenue or a conduit to setting favorable rules for the future and introducing Western values into the Chinese system. The Chinese will constantly remind a newcomer—in fact, many of us say, even after we have been there for a long time, that "everything in China starts with friendship," and that is the fundamental driver of their system. When you have the friendship, when you have the relationships, fundamentally anything is possible. You can discuss any issue you want openly and candidly with them.

In our minds, withholding MFN status would injure those relationships that we have developed and it would injure those friendships, and the forced disengagement that we think would likely follow would create a void which would be very quickly filled by foreign companies who today are quite envious of the positions that we as U.S. companies are filling and the role we are playing. I think with that forced disengagement, when we are finally able to reengage, at some time in the future, we are going to find ourselves playing on a very uneven playingfield and playing by someone else's rules.

I would just like to encourage you to support the unconditional renewal of MFN status for China. It is important to us to promote and protect our U.S. interests in this massive emerging country.

Thank you.

[The prepared statement follows:]

STATEMENT OF DONALD H. LANG
PRESIDENT, PRATT & WHITNEY OF CHINA
UNITED TECHNOLOGIES CORP.
ON BEHALF OF THE EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. Chairman and members of the Subcommittee. I am pleased to testify on behalf of the Emergency Committee for American Trade (ECAT) in support of extension of Most-Favored-Nation (MFN) trade status for China.

The approximately 60 members of ECAT are large U.S. firms with substantial international business operations. They are among the country's largest exporters and employers. Worldwide annual sales of ECAT members are nearly $1 trillion, and ECAT members employ about 5 million workers.

ECAT members are all interested in expanding trade ties with China and believe that failure to extend China's MFN trading status would undermine the U.S.-China commercial relationship. Their exports to China would plummet and tens of thousands of U.S. jobs would be lost.

For ECAT and other U.S. companies to remain competitive into the twenty-first century, they will require access to the major overseas markets, such as China's, in which there will be major growth in demand for all types of goods and services. Were the U.S. to terminate China's MFN status, U.S. companies would find their place in China's market taken by European and Japanese companies whose governments do provide China with MFN status.

Just yesterday, we and other members of the Business Coalition for U.S.-China Trade, an organization of U.S. companies, trade associations, farm organizations, and consumer groups that support continued expansion of U.S.-China trade, wrote President Bill Clinton to express our strong support for unconditional renewal of MFN tariff treatment with China. I would like to ask that the letter be made a part of the hearing record.

As President, Pratt & Whitney of China, I represent the Pratt & Whitney unit of United Technologies Corporation (UTC) for its operations in China. Other well known companies within UTC are Sikorsky Aircraft, Otis Elevator, Carrier Corporation, Hamilton Standard and UT Automotive. United Technologies is one of the top exporting companies in the U.S. As the fastest growing market for U.S. exports, China is therefore a vital concern to our present and future business interests. United Technologies' divisions export products to China that total $165.8 million annually, supporting 2500-3000 jobs in the U.S. There are additional jobs for U.S. suppliers to UTC divisions which add a multiplier factor to this figure. In China, our UTC companies have 14 active commercial joint ventures and are currently negotiating others in the aerospace and building systems business sectors. In 1994, existing joint ventures and exports to China resulted in $500 million in sales within China.

China is the world's largest and fastest growing market. Access to that market by U.S. companies depends on the extension of MFN trading status. MFN constitutes the foundation of U.S.-China business relations and is critical to many thousands of U.S. jobs.

What is so pivotal about granting MFN approval in 1995? Simply stated, China is now forming the rules of its all new "socialist free market" system. Part of that system includes establishing the business rules of engagement which it will employ globally. Today in China, American businesses enjoy a relatively favored position. The Chinese openly state a preference for American firms because they are honest, in for the "long haul", and do not have an exploitive "gold rush" mentality so often seen in China. As a result, American firms have been very influential in the rule making process with China adopting rules favorable to American business. Denying MFN status would mean disengaging from the business relationships and influences that have been formed, thus placing U.S. companies

at a disadvantage for decades. Companies from other nations that today look with envy at what U.S. firms are accomplishing would instantly move into the void.

Some people say "China is awakening" - more correctly it is fully awake. China is in transition and going through a fundamental restructuring. The pace of change is accelerating, the structure is changing, the people are changing, the political system is changing, and the economic system is changing. I spend half of my time in China and find that every day is filled with new experiences. One needs to see and be engaged in China to appreciate the magnitude and scope of change taking place. Visually, the construction crane seems to be China's national symbol. The country is building at an unprecedented rate. New roads, high rise buildings, airports, mass transit systems, western class 5 star hotels, factories - all happening very rapidly, done by large numbers of motivated and hardworking people and massive amounts of foreign investment. Importantly, the United States is one of the largest investors.

China is an enormously important market for aerospace manufacturers now and well into the future. Aerospace trade from the U.S. enjoyed a $1.9 billion surplus in 1994 while overall U.S. trade with China reflected a deficit of $29.5 billion. The aerospace industry is important in keeping the U.S. competitive in the increasingly global marketplace. For example, China represented more than 10% of Boeing's total sales in 1994.

China is the world's fastest growing market for commercial aircraft. The 1993 rate of growth for passenger and cargo air traffic in China was 17 and 21 percent, respectively. Figures for 1994 increased 19 and 18 percent. The next five years are anticipated to average 14-18 percent growth annually. The market for aircraft in China is large, projected at $45 billion through the year 2010. Corresponding engine sales are estimated at $9 billion. In fact, on a country basis only the U.S. and Japan are projected to post sales which will exceed China's figures.

United Technologies' relationship with China has been enduring, long-lasting and deep -- we are viewed as leaders in establishing economic ties with China. We think it is the right thing to do. Our CEO, George David, set the tone for our dealings in an industry speech, in which he said, "Business relationships and ventures are the vehicle for technology transfer, for industrial development in these wounded economies, and for persuasion of their politicians and peoples that western, democratic and market economy principles are the right means of organizing human endeavor."

Pratt & Whitney (P&W) has a long history with the Chinese in the aviation industry. The first Pratt & Whitney powered aircraft was used to launch China's commercial airline industry in 1929, flying between Shanghai and Wuhan. In 1972, President Nixon opened China, arriving on Air Force One, which was a Boeing 707 powered by Pratt & Whitney JT3D engines. The Chinese were very impressed by this first exposure to a modern Western aircraft, immediately inviting Boeing and Pratt & Whitney to China. China bought 10 707s powered by our engines. They are still flying today. The modernization of China's airlines continued in 1979, when the Civil Aviation Administration of China (CAAC) bought Pratt engines to power new Boeing 747s. They have since purchased nearly every modern commercial aircraft model that is powered by Pratt & Whitney engines.

Today, our customers are China's airlines. Once there was one (CAAC), then 6, all centrally controlled. Now there are 40 registered airlines in China with varying degrees of central control, 25 of which are jet powered. P&W has a strong market position in China, powering half the commercial aircraft, including those of premier customers such as Air China, China Eastern Airlines, China Northern Airlines, China Northwest Airlines and Shanghai Airlines. We have technical representative offices in Beijing, Shenyang, Shanghai, Xian, Xiamen and Hong Kong. Pratt & Whitney has sold roughly $1.5 billion worth of engines and parts to China. Our engine and spare parts sales to China's airlines for the 1992-1994 time frame totaled $500 million, all paid for in convertible hard currency. We expect the Chinese airlines will triple the size of their fleets, buying 600 to 800 new aircraft over the next 15 years. Suffice it to say we will continue to aggressively sell and support our engines. The China market could be 10 percent of our sales.

Regionally they will be even higher if you consider, as we do, PRC, Hong Kong, Macau and Taiwan as an economic unit.

Today, fifty percent of China's modern aircraft are powered by Pratt & Whitney engines. But we face stiff competition from our European competitor. A serious disruption in commercial activities, such as the repeal of MFN status, would provide an opportunity for our European competitor to gain market share. Thousands of jobs would be lost in Connecticut, Georgia, Maine and elsewhere in the U.S.

Pratt & Whitney's business interests in China, besides the obvious engine sales, also include after market service, maintenance training, overhaul and repair joint ventures, manufacturing, industrial joint ventures, advanced technology R&D ventures, and engine development partnerships. In addition, P&W is pursuing training support activities targeted at strengthening China's aerospace infrastructure.

Pratt & Whitney joint venture negotiations are in progress with the Aircraft Maintenance and Engineering Corporation (AMECO) to establish an equity position in the aircraft engine overhaul shop. This is an important first step in establishing the long term commitments we think essential to prosper in China. If MFN goes, so will this venture.

During the past ten years, the Chengdu Engine Co. in Sichuan province has provided Pratt & Whitney with quality engine parts under a supplier manufacturing program. We want to carry this to the next stage, and have proposed to buy a majority share. The preliminary joint venture agreement was signed on September 23, 1994. The joint venture company will be 52% owned by P&W and 48% by CEC -- itself a major negotiating breakthrough in light of the Chinese government policy that foreign companies cannot have a majority share of joint ventures in strategic industries. Our exception was achieved only because of the close working relationships Pratt & Whitney has established over time: Without MFN, it would not have been possible. Sales targets are for $21 million per year, producing a wide range of machined and sheet metal parts. A new 8000 square meter factory building will be built adjacent to the current CEC facilities, employing 200 Chinese employees plus a small number of U.S. expatriates. We are also working on a similar program with the Xian Aero-Engine Company.

The Chinese have been looking for Asian and Western partners to participate in a 100-passenger aircraft project. This aircraft would mainly serve the Chinese and Asia/Pacific region. Many Western aerospace companies including Pratt & Whitney have expressed interest in participating in this project to maintain their access to this very promising market. Pratt & Whitney has offered to work with the Chinese in the development of the engine for this aircraft.

As has been noted in this testimony, Pratt & Whitney has participated and will continue to participate in the emergence of China's airline and aerospace industries. We are participating by example, by persuasion, by partnering, by investing, by training -- we are applying our corporation's standards successfully at all levels of the Chinese society in which we operate, and we are demonstrating that western, democratic, market economy principles work. In doing so, we know for certain we have had an important positive effect on the Chinese rule making process.

We have had some interesting experiences in the environmental area. Early in our internal company planning we established that U.S. environmental and worker safety standards would apply to any P&W joint venture in China. We intend to set a positive example for China, and to create a healthy, safe environment for our Chinese and expatriate associates who will be working within the joint ventures we are establishing. Many Chinese have visited our U.S. factories and have seen first hand what a well laid out, well lit, clean factory really looks like. We have found that our environmental policies distinguish us from our many foreign companies that have generally disregarded environmental considerations. Here, U.S. industry is in the lead.

Pratt & Whitney has historically provided substantial product specific training to Chinese airlines both in China and our U.S. Customer Training Center. In addition, we have had

discussions with the Chinese regarding the establishment of ongoing training programs in China. The types of training discussed include technical training as well as management training, all essential to the operation of today's modern Western equipment.

These are still formative years in China's commercial aviation industry. Airline and industrial relationships currently being formed will have a significant effect on future business. Disengagement at this critical time would be costly to the U.S. aircraft industry with near and long term consequences. China would adopt future business "rules of the road" without input from U.S. companies, rules and practices favorable to other countries. Once U.S. firms disengage, the competitive playing field will favor foreign participants.

Pratt & Whitney's vision for China is based on prolonged strong growth. We project an annual Chinese GDP growth rate of 10 to 12 percent. China is on its way to becoming one of the largest economies in the world. China is fast emerging on the global market. Pratt & Whitney, United Technologies, and other American businesses must be free to participate in this enormous opportunity to maintain U.S. competitiveness on a global scale.

Today's very competitive China marketplace is sensitive to a variety of issues. The Chinese want to work with companies that respect the Chinese people and are willing to put the time and energy into helping to develop China. The annual MFN guessing game hurts American business by portraying us as an unreliable supplier. Please be assured our foreign competitors use that argument to their advantage. We have seen it during engine competitions and joint venture negotiations. The terminology used by the Chinese is to state that, "U.S. companies are at risk by ex post facto rules set by the U.S. government. MFN must be unconditionally renewed to ensure the continued development of U. S. business interests in China and thereby gain the long term benefits for the American economy.

Trade has helped to liberalize China with U.S. business activity a springboard for Western ideas since the 1970's. U.S. business people have exposed many Chinese for the first time to Western business practices, American lifestyles and American values. The loss of U.S. presence would mean the loss of exposure to American ideals. The economic and cultural void would be quickly filled by other countries, other values, other standards. The U.S. would effectively be reduced from being a major player to sitting on the sidelines and watching the game as a spectator. And an uninformed spectator at that. We can't understand or influence China unless we are actively involved in the process during this critical time.

Chairman CRANE. Thank you, Mr. Lang.
Mr. Workman.

STATEMENT OF WILLARD A. WORKMAN, VICE PRESIDENT, INTERNATIONAL DIVISION, U.S. CHAMBER OF COMMERCE

Mr. WORKMAN. Thank you, Mr. Chairman.

I am Willard Workman. I am vice president, International Division, for the U.S. Chamber of Commerce. I am pleased to be here today. You have my statement and I will just briefly summarize it.

I would like to make basically five points. Why is American business interested in China? The statistics say it all, but I would like to bring the subcommittee's attention to an event that occurred at the chamber last November. We had a conference on China infrastructure development, and in 2 days American companies signed 2 billion dollars' worth of contracts with the Chinese. Depending on how you want to count it, that is between 36,000 and 40,000 new jobs that were created in 2 days.

The second point I would like to make is about China accession to the WTO. I would like to associate my views and the chamber's views with that of Ambassador Barshefsky. We fully support the administration's approach in dealing with the Chinese on this question, and we are very pleased with the actions that they have taken to date in trying to get China to join the WTO as a full-fledged member with all the duties and responsibilities that entails.

The third point I would like to make is about China MFN. I think it goes without saying this is the normal way we do business with most of the countries in the world. The United States trades with 263 countries. All of them have MFN. It is not a special arrangement. It is the normal course of doing business in the international economy.

The fourth point I would like to make has to do with intellectual property protection. I think the agreement that was hammered out this past February and March is a good agreement. As I stated earlier in testimony before the Senate Finance Committee, I think we have to monitor the implementation of that agreement by the Chinese very closely. You had a unique situation where practically all sectors of American business supported the administration's approach. We all understand in the new information age how vital the protection of intellectual property rights is to all segments of American industry.

The last point I would like to make is about the so-called code of conduct, voluntary code of conduct which has been run up the flag pole or trial ballooned over the past several weeks. We are opposed to even the administration floating out a voluntary code of conduct. We have been down this road before with the Sullivan principles vis-a-vis South Africa. Initially they were voluntary, then they became mandatory, then sanctions were associated with them.

We are not interested in going down that road again. We think that it proceeds from a fundamentally flawed premise, and that is that business is the problem in China. We think of it as being the solution. My colleague earlier stated much more eloquently than I how American business can be a positive force, a force for positive change in China and elsewhere.

I would also bring to the subcommittee's attention that we did a survey of all 72 American Chambers of Commerce around the world that are located in 65 countries, and we raised this issue of a voluntary code of conduct with them. By a 4-to-1 margin, they were opposed to any kind of voluntary code one-size-fits-all approach to doing this. The 20 percent who did not take as strong a stand said if we have to have a voluntary code of conduct, there has to be some kind of safeguard in there that says that it will not be mandatory some day down the road. So these are organizations that represent American companies in the field, and I just bring it to the subcommittee's attention.

I thank you for the time.

[The prepared statement follows:]

STATEMENT
on
U.S.-CHINA TRADE RELATIONS AND
RENEWAL OF CHINA'S MOST-FAVORED NATION STATUS
before the
SUBCOMMITTEE ON TRADE
of the
HOUSE COMMITTEE
ON WAYS AND MEANS
by
Willard A. Workman
May 23, 1995

Thank you, Mr. Chairman, for allowing me to testify before this Subcommittee on Trade. I am Willard Workman, Vice President, International, of the U.S. Chamber of Commerce. I appreciate this opportunity to present the U.S. Chamber's views on U.S. trade relations with China and renewal of China's most-favored nation status. The U.S. Chamber of Commerce represents 215,000 business members, 3,000 local and state Chambers of Commerce, 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad.

Business Interest in China

At the outset, Mr. Chairman, let me state that U.S. Chamber members are very interested in China's market. The economy of China has enjoyed explosive growth in recent years, and the future potential is staggering. Estimates of China's infrastructure requirements and the potential of a huge domestic market helped to make China the top international priority for many U.S. companies during the 1980s and early 1990s. Companies fear that they will miss the train if they fail to establish some sort of presence in the Chinese market, particularly given similar efforts by our European and other Asian competitors.

The U.S. Chamber has encouraged U.S. efforts to secure a fair share of that market through bilateral initiatives to improve market access. And we have worked to facilitate business development at the business-to-business level. Last November, the U.S. Chamber sponsored a large conference on business opportunities in China's infrastructure sector. The conference brought together several hundred U.S. and Chinese business leaders to talk about real commercial opportunities in development of telecommunications, energy, roads and ports.

At that conference, many companies reported disenchantment with the business climate in China: difficulty finding an appropriate Chinese business partner; the privileged position of Chinese companies with special relationships to powerful government entities; abrupt changes in policy and general lack of transparency; deficiencies in the legal structure; difficulties in enforcing contracts; difficulties in importing and exporting goods from China; and growing concern about graft among Chinese officials. Import restrictions and licensing requirements have remained significant barriers to the growth of U.S. exports. And protection of intellectual property remains a significant problem, particularly in the area of copyright protection.

For these reasons, the U.S. Chamber actively supports efforts to create and sustain a commercial environment in China that will make it possible for U.S. firms to compete and prosper. This is a big challenge that requires action on every possible level. At the multilateral level, U.S. Chamber members have strongly supported the Administration's firm

and judicious position on the terms of China's accession to the World Trade Organization (WTO). Those negotiations represent our most important opportunity to secure strong multilateral discipline in one of the world's fastest-growing trading nations.

At the bilateral level, we have supported and will continue to support the efforts of our government to improve transparency, Intellectual Property Rights (IPR) protection and market access. U.S. business leaders seek opportunities for dialogue directly with policymakers in China through organizations such as the American Chambers of Commerce in Beijing, Shanghai, Hong Kong, and in fora such as our business conference in November.

U.S. policy should be based on a clear-headed awareness of China's future role in global markets. Recent growth has been fueled by an explosive surge in exports, especially to the U.S. market. Our bilateral trade deficit has been growing at a rate of 25% per year, to a total of over $30 billion in 1994. Nevertheless, despite the overall deficit, American policy toward China must continue to rest on a clear view of our long-term interests. We should recognize that expansion of our commercial ties with China is important to America's future.

China's Accession Into the World Trade Organization

Let me now turn my attention to China's efforts to join the WTO and, in so doing, obtain access to its dispute resolution procedures and other benefits. China's bid to join the WTO represents an important opportunity to secure strong multilateral discipline on one of the world's fastest-growing trading nations. The commitments made by China in the WTO accession negotiations will demonstrate how far China is willing to go to open its markets to foreign goods and services. If China makes good on commitments to build a modern trade regime that would qualify it for WTO membership, it will gain the respect of the international business community.

Mr. Chairman, we also believe that the integrity of the WTO system is also at stake in China's WTO negotiations. Final accession terms will doubtless be used as a benchmark for accession negotiations for Russia, Vietnam and other economies that are still in the early stages of a difficult transition from a centrally planned to a market economy. Each of these countries, including China, will be tempted to reverse market reforms in the face of political or economic uncertainties that are virtually certain to occur in the process of market transition. As a consequence, we believe that the terms of WTO accession should be defined carefully to ensure that reforms in international trade policies are secure from threats to the reform process.

The U.S. Chamber understands that one of China's top trade priorities is to become a founding member of the WTO. And the U.S. Chamber fully supports China's accession to the WTO **but only** under a protocol consistent with its status as a major trading power and adherence to the market principles assumed of all WTO signatories.

China's huge trade surplus with the United States is second only to that of Japan and is growing at a faster rate. As mentioned above, U.S. products face formidable market barriers in China. The present commercial environment in China makes it difficult for U.S. companies to compete and prosper. China must take concrete measures to open its markets to foreign goods and services. At the same time, China needs to make additional progress on providing intellectual property protection and trading rights for American goods and services. China must also demonstrate that it will not use the WTO to reverse market reforms.

The U.S. Chamber is encouraged by the recently signed IPR accord, the eight-point general agreement on China's entry into the WTO and the satellite-launch accord committing the Chinese to apply market rules and fair competition. These bilateral accords, signed by Ambassador Kantor and his counterpart, Chinese Foreign Trade Minister Wu Yi, are aimed at giving U.S. exporters more access to China's market and should be viewed as steps in the right direction. But they alone will not make it possible for U.S. companies to compete and prosper. In our view, there remain a number of critically important

commitments China must make before the U.S. Chamber can support China's accession into the WTO. These include China's commitment to:

- bring its trade regime into conformance with WTO Agreements and Disciplines;
- extend national treatment on all goods and services to foreign companies that want to invest in China;
- extend MFN trade status to all WTO signatories who extend such treatment to China;
- sign the WTO Government Procurement Code;
- provide market access for textiles and agricultural products (where China uses standards and certification requirements as barriers to trade);
- reduce export subsidies;
- ensure protection and market access for U.S. intellectual property goods and services;
- liberalize access to its foreign exchange system for foreign exporters and investors;
- apply the provisions of the WTO uniformly throughout China; and
- eliminate restrictions on who may import or export products or services from China.

We recognize that one of the principal issues between China and the United States, in terms of WTO membership, is over whether China should be admitted as a developing or developed nation. Before considering China's accession as a developed or developing country (even on an issue-by-issue basis), we believe that United States Trade Representative (USTR) must insist that China adhere to basic WTO obligations, take "significant" steps forward on market access for goods, services, and agriculture, and agree to apply international trade rules and disciplines. And we are concerned that China has shown a reluctance to engage in serious negotiations on fundamental issues such as transparency of its regime, uniform application of trade rules and trading rights. We strongly believe that until the Chinese make concrete commitments, USTR should not show any flexibility over the status of China's membership.

Mr. Chairman, in the remainder of my testimony, I would like to address several bilateral trade issues. First, I would like to address why the U.S. Chamber believes that MFN should be extended unconditionally to China. Second, I would like to share briefly with you our concerns that China follow through on the recently signed bilateral accord on IPR protection and market access. Finally, I would like to make clear our objection to proposals by this Administration or others to require American companies doing business abroad to adhere to what are commonly referred to as "model business principles" or "codes of conduct."

Renewal of Most-Favored Nation Status for China

Last year, President Clinton renewed MFN for China without conditions. In taking this action, the President appropriately recognized that the United States should pursue a policy of "engagement" with China that advances long-term U.S. commercial, strategic, and national security interests.

The U.S. Chamber strongly supports renewing unconditionally China's MFN status and continuing this policy of comprehensive engagement with China. We believe that trade

with China is important to America's future. Last year, the United States exported over $9 billion in goods and services to China. These exports supported approximately 180,000 high-wage American jobs. As China continues to develop and embark on a massive infrastructure program, it will spend billions of dollars in sectors in which U.S. firms are very competitive. Over the next decade, China will be an important market for members of the U.S. Chamber that export high-technology equipment, aerospace, telecommunications, petroleum technology and consumer goods.

Withdrawing MFN would put American trade and jobs at risk. If China were to lose MFN status, China would certainly retaliate against U.S exports, putting at risk billions of dollars of U.S. sales and thousands of American jobs. Even limited sanctions linked to improvement on human rights would endanger economic ties between the two countries. This would place U.S. companies at a competitive disadvantage, since none of China's other major trading partners imposes such conditions on trade.

We further believe that our growing economic cooperation with China has fostered dramatic economic reforms and strengthened voices in China calling for political reforms. U.S. Chamber members help to promote fundamental rights wherever they operate by establishing benchmarks for corporate practice in such critical areas as personnel management, corporate citizenship, fairness and equal opportunity. Many U.S. Chamber members have also made their commitments explicit through a corporate statement of principles. U.S. Chamber members have been, and will continue to be, forces for positive change in China.

The U.S. Chamber supports the fundamental principles of human rights in China and throughout the rest of the world. Removing MFN, however, will not lead to progress on human rights. It would erode our economic relationship, harm those forces in China which are most sympathetic to political reform, and put more power into the hands of hard-liners who favor stronger government control. The best way for the United States to see a prosperous, free China is for U.S. companies to stay commercially engaged.

Recent Intellectual Property Rights Agreement

As I stated in testimony on protection of IPR in China before the Subcommittee on East Asian and Pacific Affairs of the Senate Committee on Foreign Relations on March 8, 1995, the U.S. Chamber welcomes the recent bilateral accord on IPR protection and market access. These were negotiations of fundamental significance for U.S. business. U.S. firms are global leaders in the broad range of products that depend upon inventiveness and creativity, whether in the design and function of the product itself or in patented production processes that allow companies to manufacture more profitably.

In the bilateral accord, China made substantial commitments regarding immediate steps and long-term enforcement. These will require radical and sustained changes in enforcement and fundamental business practice, and it will be challenging to monitor compliance. The U.S. Chamber supports governmental efforts to monitor compliance, but we believe that business will also play an important role in watching out for enforcement problems and in continuing to reinforce efforts to improve the business practices of Chinese firms.

Model Business Principles

Last May, when the President renewed China's MFN status, he made an unfortunate pledge to devise a specific set of principles for companies doing business in China. We understand that the Administration will soon announce its "model business principles," which do not mention China specifically, for U.S. companies operating in foreign markets.

Over the past two years, there have been a variety of proposals made by members of Congress which would require American companies doing business in China to adhere to "codes of conduct." An example of this is H.R. 5269, introduced by Representatives Lantos and others in the 103d Congress. That bill would prohibit U.S. government export assistance to U.S. companies not adhering to the principles. Similarly, early this year

Representative Evans introduced by H.R. 910, which would require U.S. companies to adhere to "socially responsible business practices" regarding the environment, labor and agriculture. Under this bill, the Secretary of State would promulgate regulations to govern the conduct of U.S. companies. As with the Lantos bill, if enacted, it would deny export assistance to U.S. companies not adhering to the regulations.

Mr. Chairman, the U.S. Chamber strongly opposes promulgation of the Administration's business principles and all other proposals to regulate the overseas activities of U.S. companies.

Beyond compliance with the laws of each host country in which they do business, and except for conduct that directly threatens U.S. national security interests, the principles and standards which best support an enterprise are fundamentally matters to be determined by that enterprise and are not an appropriate subject of a directive from any government. Moreover, U.S. companies are recognized worldwide leaders in promoting business ethics. Most operate under self-imposed principles which, in many cases, go beyond the laws of the host country. U.S. companies operating overseas already play an important role as a catalyst for positive social and economic change, just as they do in the United States. In their overseas operations, U.S. companies are helping to improve health care and training, donating to charitable causes such as schools and universities, and promoting sound environmental practices and workplace safety.

Even if the Administration's business principles are nonbinding, the U.S. Chamber is concerned that the principles will set a dangerous precedent for future mandatory action. They will also provide a pretext for foreign host governments to favor non-U.S. companies whose own governments do not suggest such internal intervention. In the absence of multilateral standards, this approach would only disadvantage U.S. companies, workers and products competing against other countries for overseas sales.

Conclusion

The U.S. Chamber supports continuing a U.S. policy that delinks trade and human rights and recognizes that a vibrant U.S.-China trade relationship promotes democracy, human rights, and high-wage jobs. We are encouraged by U.S. efforts to improve market access in China through bilateral initiatives. But much remains to be done. A great deal hangs on the multilateral negotiations with China. China is the largest country in the world and the terms of China's accession must expand market access for U.S. companies; strengthen the protection of IPR; and reflect a commitment to apply market rules and fair competition in accordance with the WTO and its economic stature.

Mr. Chairman, this concludes my formal presentation. Thank you, and I would be happy to respond to any questions you might have.

Chairman CRANE. Thank you, Mr. Workman.
Mr. Manteria.

STATEMENT OF WILLIAM MANTERIA, ASSISTANT VICE PRESIDENT FOR GOVERNMENT AFFAIRS, WOOLWORTH CORP., NEW YORK, N.Y., AND DIRECTOR, AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

Mr. MANTERIA. Thank you, Mr. Chairman.

My name is Bill Manteria. I am an assistant vice president with Woolworth Corp., a multinational retail company that operates stores under more than 30 names, including Woolworth, Kinney, Champs Sports, Afterthoughts, Footlocker, Ladies Locker, and Northern Reflections.

I am also a director of the American Association of Exporters and Importers, known as AAEI, on whose behalf I am appearing today. AAEI is a trade association representing approximately 1,200 U.S. member companies who are engaged in all aspects of U.S.-China trade, including exportation, importation, distribution, and manufacture of a broad range of products. Many of our retail members import as much as 40 percent of their imports from China.

AAEI strongly supports renewal of China's MFN status. Renewal would ensure that American companies have access to the enormous economic opportunities which are being created as China opens its markets to foreign goods and services.

AAEI strongly supports the President's 1994 decision to delink human rights concerns from MFN renewal. We support the human rights objectives of the President and of Members of Congress. But as we testified last year, we believe that a unilateral threat to China's MFN status is neither an appropriate nor an effective tool for addressing those concerns and could in fact be counterproductive. We urge the members of the subcommittee to continue to delink trade and human rights concerns.

Our written testimony discusses many reasons to renew China's MFN status. My oral remarks will note only a few that are most important to AAEI's members.

The imposition of non-MFN import duties, which could range in some cases to 100 percent or more, would present both short-range and long-range financial problems for both U.S. importers and for consumers of imported products. Importers place noncancellable orders for goods many months in advance. Often the import payment obligations are guaranteed through irrevocable letters of credit.

The imposition of vastly higher duties on merchandise which is already in the pipeline would cause the price of that merchandise to rise, if the market will bear such a price rise, or it will cause extreme financial losses for importers if the products they import have no price elasticity.

Some importers, particularly smaller importers, might have to close their doors. It is American companies and American consumers, not Chinese exporters, who will suffer. In the longer run, importers will have to find alternative higher price sources for Chinese made products.

Some products are not reasonably available in the United States and are not reasonably available outside of China. Prices of those products will skyrocket and some of that merchandise may become

unavailable in the United States. In either event, the United States consumer will pay the price, either in higher costs or reduced choice.

Often the affected merchandise is low and basic necessity merchandise. The added cost of that merchandise will fall disproportionately on low-income consumers who can least afford this additional price. Higher import duties, in effect, are a regressive tax on American consumers.

Termination of China's MFN status would devastate American exporters. China would most likely retaliate against American imports. The $9 billion in United States sales to China and 150,000 American jobs at 1994 levels would be endangered. The promise of much larger export growth and related employment growth which would accompany China's eventual entry into the WTO would also be lost for the foreseeable future.

The unilateral revocation of China's MFN status is a lose-lose situation. American importers and consumers will lose the most cost-efficient source of many products. American exporters and their employees will lose market share in China to European and to Asian suppliers. Most ironically, human rights advocates will lose tools which could be enormously helpful in reaching those human rights goals. That is the liberalizing effect of prosperity and of American influence in China.

On behalf of the American Association of Exporters and Importers, I wish to thank the chairman and the Trade Subcommittee for this opportunity to present our membership's views on this subject, which is of vital importance to us.

[The prepared statement follows:]

TESTIMONY OF WILLIAM MANTERIA
AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

Good morning, Chairman Crane and members of the Trade Subcommittee. My name is William Manteria, and I am Asst. Vice President of Government Affairs, for Woolworth Corp. I am also a Director of the American Association of Exporters and Importers (AAEI).

AAEI is a national organization comprised of approximately 1,200 U.S. company-members who export, import, distribute and manufacture a complete spectrum of products, including chemicals, electronics, machinery, footwear, food, toys, specialty items, textiles and apparel. Members also include many firms and companies which serve the international trade community, such as customs brokers, freight forwarders, banks, attorneys, insurance firms and carriers.

U.S. businesses in these areas of international trade will benefit, either directly or indirectly, from a decision to extend Most-Favored-Nation (MFN) status for China beyond July of 1995. A substantial number of AAEI exporters and importers are currently engaged in direct trade with China, with many AAEI retailer members sourcing as much as 30% - 40% of imports from China. Overall, more than one-half of AAEI's membership is involved in trade with China in some capacity. Considering the importance of continued China MFN for U.S. industry, including AAEI's members, we urge the Administration and Congress to revamp U.S. policy in an effort to avoid the annual MFN debate. To this end, AAEI supports President Clinton's 1994 decision to de-link human rights concerns from MFN consideration and urges serious exploration of long-term or permanent renewal of China's MFN status.

U.S.-China trade has grown tremendously in volume and complexity since the U.S. first provided China with MFN status. Total trade has more than tripled since 1981 and nearly doubled since 1990. Total cumulative U.S. investment in China is now over $6 billion, and China is one of our fastest growing export markets, purchasing an estimated $9 billion in U.S. goods and services last year.

MFN status is the cornerstone of normal commercial trading relationships with countries worldwide, including China, and is a key aspect of the bilateral trade agreement with China negotiated in 1979. The term "most-favored-nation" is something of a misnomer, suggesting some sort of privileged trading relationship. In fact, we grant most of the world's nations MFN status, which merely entitles a U.S. trading partner to the standard tariff rates available to other trading partners in good standing. The U.S., like most other countries, maintains two complete tariff schedules -- one set of standard rates for MFN countries, and a second set of often prohibitive rates for non-MFN countries. The tariff differential between these rate schedules generally ranges from 10% to 50%, and can be as high as 100% or more for some products, so that the loss of MFN status can effectively price a country's exports to the U.S. out of the market. The additional cost associated with denying MFN status is paid for by U.S. companies and consumers.

AAEI Supports Unconditional MFN Renewal

AAEI strongly supports the President's 1994 decision to de-link human rights issues from the annual renewal of China's MFN status. As we testified last year, we believe that the threat of terminating China's MFN status is neither an appropriate nor effective tool for addressing human rights concerns. We urge the members of the Trade Subcommittee to take a strong stand in ensuring that human rights issues are kept separate from U.S. trade relations with China, as is the case with almost all of our other trading partners.

The Chinese market is already the world's third largest, according to an International Monetary Fund (IMF) study, and has continued to grow at an annual rate of more than 10%. This market is simply too important to our future international competitiveness and to the battle against inflation in the U.S. to ignore or to jeopardize through an unstable trading relationship. As President Clinton has

recognized, MFN is the essential cornerstone for a long-term, stable bilateral relationship with China in both the economic and foreign policy realms.

AAEI members agree that human rights issues warrant our attention and further bilateral negotiations between the U.S. and China. However, the Association does not believe that the threat of terminating MFN is an appropriate or constructive tool for pursuing this important U.S. foreign policy objective. History suggests that despite China's strong interest in trade with the U.S., efforts to impose our will on the Chinese government through a series of public demands will prove to be counterproductive. MFN is the foundation on which the U.S. bilateral relationship with China rests.

Terminating MFN for China would not simply result in higher tariff rates for some imported goods; it would sever the basic economic -- and, consequently, geopolitical -- relationship between the two countries. It would also strenghten those in China who desire to see the People's Republic turn inward again, away from ideologically threatening capitalist influences, and would weaken those liberalizing forces that we seek to encourage.

China's Post-June MFN Status Should Be Renewed

AAEI supports the President's human rights objectives. For reasons noted above, we do not believe that the unilateral threat to eliminate MFN -- and the uncertainty associated with annual MFN debates -- furthers either U.S. foreign policy or trade objectives. As an association of companies engaged in trade with China, the balance of our comments will focus on the trade and economic aspects of the debate. This, however, should not in any way be construed to suggest any lesser interest in the successful resolution of U.S. human rights concerns in China.

Over the last several years, the benefits of a more stable relationship with China based on extension of MFN status have become increasingly clear. In particular, China has made significant good faith efforts to respond to U.S. market-opening initiatives and concerns about the protection of U.S. intellectual property rights, having entered Memorandums of Understanding with the United States on both. Among other important developments, China has agreed to remove high tariffs on hundreds of U.S. imports and to increase transparency with regard to its trade operations.

There are a number of other reasons for supporting the continuation of MFN treatment for China. Trade with China must be kept open to maintain benefits to U.S. industry of a bilateral economic relationship with China. Failure to renew MFN would threaten the jobs of thousands of U.S. workers producing goods for export to China and would harm American businesses relying on Chinese imports for their livelihood. Tariffs, which are at an average 4% - 5%, would skyrocket to as high as 110% in some cases, increasing costs to American consumers by billions of dollars. In many cases, this increased cost would fall most heavily on those Americans least able to bear the burden.

An MFN Cut-Off Would Harm U.S. Importers

The loss of China's MFN status would also have both immediate and long-term consequences for AAEI members involved in importing from China. In the short-term, they would incur significant losses on merchandise already contracted for sale at a specific price, but not

yet delivered. Payment for these orders are often guaranteed by irrevocable letters of credit. If duty rates increased from Column 1 to Column 2 levels before Customs clearance, these companies would be required to absorb the increases or pass them on to American consumers. American companies and American consumers, not Chinese, are harmed by increasing duty rates for merchandise which was previously ordered.

Over the longer term, the cost of delays, lost time, and unavailability of alternative supply could be even more damaging to businesses than duty increases. Many consumer products imported from China are not available in the U.S., and alternative sources of supply overseas would likely be much more costly than Chinese goods, of lesser quality, or unavailable altogether. With the long lead times necessary for orders in many industries, some companies could easily lose a whole season, or even a whole year. This could cause major economic hardship. Companies would be forced to raise prices on goods, with consumers bearing the ultimate burden. In most cases, U.S. producers would not benefit from a cut in supply of Chinese goods because of their inability to produce competitively-priced products. Yet, a reduction in supply of these basic consumer items would cause considerable hardship for Americans with limited incomes who purchase basic-necessity consumer goods imported into the U.S. from China.

Termination of China's MFN status could also make it difficult for U.S. companies to obtain products which are not easily accessible from other countries. In the case of textiles and apparel, U.S. quotas limit the amount of merchandise which can be imported from each foreign country. Thus, many countries which have the ability to provide a competitive supply of a particular product may be unable to do so because they have filled their "quota" for the year. Furthermore, when quota is in short supply, as it most certainly would be if China MFN status were terminated, U.S. importers would pay a premium for quota itself.

An MFN Cut-Off Would Also Harm U.S. Exporters

Failure to renew China's MFN status would harm U.S. exporters as well as importers. China represents a significant, and very promising, market for U.S. exports, with approximately $9 billion worth of American goods purchased by the Chinese last year. The Department of Commerce estimates the value of U.S.-China trade and investments will be $600 billion in the next five to seven years. Historically, China has been quick to retaliate against foreign countries perceived as interfering with domestic issues. It would not be surprising for China to withdraw MFN for American goods and services and to limit U.S. investment and government procurement opportunities in response to elimination of MFN for Chinese goods. In fact, in 1987 during negotiation of a bilateral textile agreement with the U.S., China threatened to find another supplier for the nearly $500 million worth of annual U.S. agricultural exports to China.

Unilateral U.S. action against China would cause a severe blow to U.S. exports to China. In addition to a possible loss of $9 billion in U.S. exports, loss of the Chinese market would have a significant impact on some of our most competitive industries -- agriculture, aircraft and chemicals. And, with our Western allies keeping the door open for many of their goods to China, the hard-won U.S. market share could disappear overnight, resulting in lost jobs in the export sector of the U.S. economy and an increase in the trade deficit. It would be truly ironic if the net result of the last few year's hard-won Chinese market opening commitments expanded business for European and Japanese competitors because U.S. companies are effectively excluded from the market by a U.S.-China breakdown.

Beyond the immediate loss of business in China and Hong Kong, an MFN cut-off would significantly jeopardize long-term U.S. commercial interests in the region. A Sino-American trade war would deprive U.S. companies of important business relationships and opportunities at a critical time in the growth of the Chinese economy.

China's economy has grown rapidly in recent years, at an average annual rate approaching 10%, and is poised for major expansion over the next decade. According to an IMF study, China's economy is now the world's third largest. Some predict it will be the largest economy in the world by the year 2010, or the year 2020 at the latest. U.S. companies have established a major presence in China, providing an ideal foundation for future expansion. A trade breach would threaten this foundation. It would also provide U.S. competitors in Asia and Europe with a major advantage.

MFN Trade Sanctions Would Be Counterproductive

Unilateral Trade sanctions imposed for foreign policy purposes have a poor history of effectiveness. They serve mainly as symbolic gestures, often at great expense to U.S. economic interests, U.S. exports and foreign market share, and consumer prices.

Elimination of China MFN, and the resulting withdrawal of U.S. business from China, would limit Chinese exposure to Western values and free market ideas which have clearly played a part in China's move toward trade liberalization and a market economy. Liberalized, market-oriented sectors, such as those in South China, would be the first to be injured or even shut down if MFN were withdrawn, and Chinese authorities would direct business back to state-owned enterprises. Terminating MFN would merely enable Chinese authorities to blame the U.S. government for their current domestic economic problems, further strengthening hard-line, anti-Western elements in the government.

Furthermore, sanctions run counter to other U.S. foreign policy interests, including the stability of the Hong Kong economy and the future of the Hong Kong people. Hong Kong accounts for two-thirds of all foreign investment in China and one-third of China's foreign exchange, and is the port of entry and exit for much of the world's trade with China, especially that of the United States. Because of the unique combination of communications, financial and technical support, established and reliable legal system, and common language available in Hong Kong, more than 900 American companies have established a significant presence there, and of these, 200 have chosen Hong Kong as their base for business operations throughout the region.

The damage to Hong Kong resulting from an MFN cut-off -- which has been estimated at more than $21 billion in trade alone, a figure double the estimated impact on China itself -- would seriously jeopardize Hong Kong's continued ability to serve this important role for American companies as entrepot and investment "gateway" for China and the region. Damage to Hong Kong would also have counterproductive effects on political and economic reform in China. Hong Kong is South China's most important source of external investment, with Hong Kong companies providing employment to three million people in Guongdong Province alone. The impact of MFN removal would be felt disproportionately there, weakening the very forces of liberalization key to future economic and political progress in China, and Hong Kong's security and well-being.

Finally, the U.S. should not unilaterally act without the support of our major trading partners. Unless multilaterally imposed, sanctions are certain to be unsuccessful and the U.S. could run the risk of alienating its allies.

Conclusion

AAEI strongly supports renewal of MFN for China for another year. As stated, AAEI supports the President's 1994 decision to de-link human rights issues from the annual renewal of China's MFN status. Although we recognize the importance of focusing attention on human rights concerns in China, we do not believe that terminating China's MFN status will contribute to this worthy objective. We urge members of the Subcommittee to take a strong stand to ensure that human rights issues are kept separate from U.S. trade relations with China, as is the case with almost all of our other trading partners.

AAEI supports initiatives by the Administration and Congress to grant China MFN status on a permanent basis and urges serious consideration of a revision of the Jackson-Vanik Amendment toward this aim. A revision of Jackson-Vanik does not require a revision of U.S. human rights objectives in China. AAEI supports those human rights objectives and believes that President Clinton correctly determined that those objectives should not be limited to trade issues between the United States and China. The U.S. human rights objectives can, and should, be attained without terminating China's most MFN status. Terminating China's MFN status could only harm U.S. trade and foreign policy interests, and ultimately, the progressive forces in China on which future progress will depend.

On behalf of the American Association of Exporters and Importers, I wish to thank Chairman Crane and the Trade Subcommittee for this opportunity to present the views of our membership on this important issue.

Chairman CRANE. Thank you, Mr. Manteria.
Mr. Palafoutas.

STATEMENT OF JOHN P. PALAFOUTAS, DIRECTOR OF FEDERAL RELATIONS, AMP, INC., HARRISBURG, PA., ON BEHALF OF ELECTRONIC INDUSTRIES ASSOCIATION

Mr. PALAFOUTAS. Thank you, Mr. Chairman.

My name is John Palafoutas, and I am the director of Federal Relations for AMP, Inc. I am here today on behalf of the Electronic Industries Association.

AMP, Inc., is the world's largest producer of electronic interconnection devices and systems. We are headquartered in Harrisburg, Pa., where AMP employs nearly 30,000 people in 185 facilities in 36 nations, including China. With over $4 billion in sales, AMP ranks number 12 among electronic equipment manufacturers on the Fortune 500 list. AMP employs over 19,000 people in the United States, and of these U.S. employees, over 7,000 are directly related to export trade. AMP currently has about 200 employees in China.

The growing demand for quality electronics is especially visible in the highly competitive markets of Asia, and most importantly China. Our industry has succeeded in establishing itself in China and through investments is fast positioning itself to become a major international player there. We are a positive force in opening up China because we employ Chinese nationals and provide a venue for China's positive economic reforms.

U.S. companies operating in China contribute substantially to the well-being and human rights of their employees. U.S. companies set positive examples of worker treatment and discourage human rights abuses. These companies pay higher wages and provide many of the same employee benefits U.S. workers enjoy, including training, educational benefits, and specialized employee assistance. U.S. companies operating in China also expose workers to the social, economic, and political aspects of U.S. companies and individuals.

Overseas markets, in China in particular, are becoming increasingly important as sources of sales of U.S. electronics companies. U.S. electronics exports to China have increased 131 percent from 1991 to 1994. Today, the U.S. exports $1.3 billion in electronics to China each year. These exports translate into over 26,000 jobs in the United States. If MFN were to be revoked, large and small U.S. manufacturers would suffer. U.S. jobs would be lost and foreign competitors in Asia and Europe would fill the void.

Trade constitutes some 40 percent of China's economy and economic growth. Unlike many of the economies of the industrialized world, China is experiencing exponential growth which is expected to continue for years. These impressive figures point to great potential for continued expansion of electronics sales in China, sales that U.S. manufacturers cannot ignore.

Since China was first accorded MFN trading status in 1980, U.S. electronics manufacturers have devoted considerable resources to gain a foothold in this important market. It is only through an ongoing physical presence that companies can be viable competitors in position to supply their products in the long term.

Let me give you an example. During the fifties, about 1957, AMP, Inc., was one of the few American companies to enter the Japanese market and establish a presence. Over the many years that my company has spent in Japan, significant and lasting commercial relationships were developed. AMP established itself as a major manufacturing company and is now regarded by Japanese manufacturers, such as Toyota, Mitsubishi, and Honda, to be a reliable and trusted supplier.

Our success throughout Asia has led to the creation of over 2,500 U.S. jobs that export high-quality value-added products to this important region. To date, AMP is the largest domestic supplier of consumer electronic connectors to Japanese companies. We are proud of our success there and hope it serves to illustrate the importance of giving U.S. companies the opportunity to establish commercial relationships in China. MFN revocation for China could serve as a permanent disincentive for U.S. companies to establish a presence there.

We believe that China remains an important market for AMP and the U.S. electronics industry, and that it will become even more significant in the future. Renewal of unconditional MFN status for China is good for consumers, increases U.S. exports, and creates jobs in the United States. It helps U.S. companies and the U.S. Government to remain engaged in China, and it demonstrates the benefits of a free market society.

For these reasons, I urge you to renew unconditional MFN status for China.

Thank you.

[The prepared statement and attachment follow:]

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STATEMENT OF JOHN P. PALAFOUTAS
DIRECTOR OF FEDERAL RELATIONS FOR AMP INC.
ON BEHALF OF THE
ELECTRONIC INDUSTRIES ASSOCIATION
ON CHINA'S MFN STATUS,
BEFORE THE HOUSE
WAYS AND MEANS SUBCOMMITTEE ON TRADE

TUESDAY, MAY 23, 1995

INTRODUCTION:

Thank you Mr. Chairman for the opportunity to testify today. My name is John Palafoutas and I am the Director of Federal Relations for AMP Inc. I am here today on behalf of the Electronic Industries Association (EIA). I would like to take the next few minutes to discuss the benefits of a strong U.S. business presence in China, to highlight the value of the Chinese market to the electronics industry, and to urge the Congress to renew unconditional Most Favored Nation status for China.

To begin, I congratulate the Office of the U.S. Trade Representative on the successful Intellectual Property Rights negotiations with China in late February. Recent improvements in the U.S.-China relationship are important for both countries and for EIA member companies like mine which are doing business in this exciting and growing market.

AMP Incorporated is the world's largest producer of electronic interconnection devices and systems. Headquartered in Harrisburg, PA, AMP employs nearly 30,000 people in 185 facilities in 36 nations, including China. With over $4 billion in sales, AMP ranks number 12 among electronic equipment manufacturers on the Fortune 500. AMP employs over 19,000 people in the United States. Of these U.S. employees, over 7000 are directly related to export trade. AMP currently has about 200 employees working in China.

For more than 70 years the Electronic Industries Association has been the national trade organization representing U.S. electronics manufacturers. Committed to the competitiveness of the American producer, EIA represents the entire spectrum of companies involved in the design and manufacture of electronic components, parts, systems and equipment for communications, industrial, government and consumer uses.

BACKGROUND -- The Electronics Industry and China:

The electronics industry has been a leader in the U.S. and abroad in developing high performance, high quality products. Our industry employs highly skilled and motivated people. In fact, many of our companies have been recognized for their success by winning the Malcolm Baldrige Award For Excellence. Moreover, the growing computerization of the world's economy means that electronics products will continue to be in great demand well into the next century.

The growing demand for quality electronics is especially visible in the highly competitive markets of Asia, and, most importantly China. Our industry has succeeded in establishing itself in China and, through investments, is fast positioning itself to become a major international player there. We are a positive force in opening up China because we employ Chinese nationals and provide a venue for China's positive economic reforms.

U.S. companies operating in China contribute substantially to the well-being and human rights of their employees. U.S. companies set positive examples of worker treatment

and discourage human rights abuses. Importantly, these companies pay higher wages and provide many of the same employee benefits U.S. workers enjoy, including training, educational benefits, and specialized employee assistance. U.S. companies operating in China also expose workers to the social, economic and political aspects of U.S. companies and individuals.

THE CHINESE MARKET:

Overseas markets, and China, in particular, are becoming increasingly important as sources of sales for U.S. electronics companies. As the attached chart indicates, U.S. electronics exports to China have increased 131%. Today, the U.S. exports $1.3 billion of electronics to China each year. These exports translate into over 20,000 jobs in the United States. If MFN were to be revoked, large and small U.S. manufacturers would suffer, U.S. jobs would be lost, and foreign competitors in Asia and Europe would most certainly fill the void.

High growth rates in China make it an attractive market. The U.S. Department of Commerce estimates that China's Gross National Product will increase by nine percent annually through the end of this decade. Today, trade constitutes some 40% of China's economy and economic growth. Unlike many of the economies of the industrialized world, China is experiencing exponential growth which is expected to continue for many years. These impressive figures point to great potential for continued expansion of electronics sales in China -- sales that U.S. manufacturers cannot ignore.

As China's economy modernizes and grows, the demand for information technology will be extraordinary. If U.S. information technology companies are prevented from investing and competing in China, market share and future growth will be lost to competitors from Japan and Europe.

Since China was first accorded MFN trading status in 1980, U.S. electronics manufacturers have devoted considerable resources to gain a foothold in this important market. EIA's members know that there is no substitute for a domestic presence in many of these markets. It is only through an ongoing physical presence that companies can be viable competitors and positioned to supply their products for the long term.

AMP'S EXPERIENCE:

During the mid-1950's, AMP Incorporated was one of the few American companies to enter the Japanese market and establish a presence. Over the many years that my company has spent in Japan, significant and lasting commercial relationships were developed. AMP established itself as a major manufacturing company and is now regarded by Japanese manufacturers such as Toyota, Mitsubishi and Honda to be a reliable and trusted supplier. Our success throughout Asia has led to the creation of over 2500 U.S. jobs that export high quality, value added products to this important region.

Today, AMP is the largest domestic supplier of consumer electronic connectors to Japanese companies. We are proud of our success there and hope it serves to illustrate the importance of giving U.S. companies the opportunity to establish commercial relationships in China. We believe that China (as well as Japan) is a promising market for our high quality products. The threat of MFN revocation for China could serve as a permanent disincentive for U.S. companies to establish a presence there.

CHINA'S MFN STATUS:

It is important to note that U.S. electronics manufacturers have benefitted from recent tariff reduction efforts by the Chinese Government. This has helped many EIA member companies achieve greater market access for their products. The immediate effect of a removal of Most Favored Nation trading status would likely be a reversal of these positive

developments. Such an action would jeopardize many of the investments of U.S. electronics firms, reduce our export trade with China and put us at a competitive disadvantage vis-a-vis our European and Asian competitors. Furthermore, many U.S. manufacturing jobs are dependent on imports of Chinese electronic components. Lastly, increased tariffs on Chinese goods would ultimately hurt U.S. consumers who would face higher prices for many of the everyday electronics products they enjoy.

Perhaps most important, the unconditional application of MFN to China promotes jobs here in the United States. U.S. companies doing business in China employ Chinese nationals, but more importantly, our industry creates many high paying jobs in the U.S. The creation of thousands of additional jobs in the U.S. to support AMP's foreign projects is only one example; there are many similar companies who have created domestic jobs to support exporting and foreign investment.

CONCLUSION:

In conclusion, we believe that China remains an important market for AMP and the U.S. electronics industry and that it will become even more significant in the future. Renewal of unconditional MFN status for China is good for consumers, increases U.S. exports and creates jobs in the U.S. It helps U.S. companies and the U.S. government to remain engaged in China, and it demonstrates the benefits of a free-market society. For these reasons, I urge you to renew unconditional MFN status for China. Thank you.

U.S. ELECTRONICS EXPORTS TO CHINA

Product	1991	1992	1993	1994	Percentage Change, 1991-1994
Electron Tubes	2.8	1.5	4.1	9.3	232%
Passive Components	36.8	40.7	35.3	44.6	21%
Solid State Products	8.3	9.7	15.9	31.1	275%
Total Components	*47.9*	*51.9*	*55.3*	*85.0*	*77%*
Consumer Electronics	4.8	6.3	18.1	12.9	169%
Telecommunications	119.9	304.0	607.5	639.1	433%
Defense Communications	25.3	64.1	44.6	37.9	50%
Computers & Peripherals	133.5	172.0	225.9	231.9	74%
Industrial Electronics	155.1	199.8	247.2	204.8	32%
Electromedical Equipment	67.8	87.3	89.6	66.4	-2%
Total - China	***554.3***	***885.4***	***1288.2***	***1278.0***	***131%***

Information compliled from EIA's *1994 Electronic Market Data Book* and EIA's *1994 U.S. Electronics Foreign Trade Summary.*

Chairman CRANE. Thank you, Mr. Palafoutas.

A question to all of you, and that is are there ways in which U.S. companies operating in China can ensure that subcontractors are not violating human rights laws or employing forced labor? Is there any oversight that you exercise in that category?

Mr. LANG. Let me start with that one. First, in China in our industry, you do not find the subcontractor base in place as you would see it here in the United States. These very large state-owned industries which are in the aerospace business have been both vertically and horizontally integrated and they darn near start by digging the ore and making the iron and making it into parts.

But one of the aspects that we are introducing to them as we work with them to transition from state-owned enterprises to private enterprises is to describe to them what it takes to develop that supplier base and, therefore, we are in turn bringing in our subcontractors and suppliers to help them to do that. There is oversight through the engagement process.

Chairman CRANE. Anyone else have any comment on that subject?

What in your experience is the central government of China able to guarantee? I know they are making their transition to free trade, but is that something that they can oversee with regard to provincial governments? In other words, as big as that country is, are we getting full cooperation from all the provincial governments and adherence to what may be policy of the National Government, but which the National Government may not effectively totally oversee?

Mr. WORKMAN. I think the reality is that they are not only going through an economic transition, they are going through a political transition that started some 16 years ago. The reach of the central government appears to expand and contract. In years past, there has been some difficulty at the county level and at the provincial level where they have gone their own way.

Increasingly, as the financing for some of these large, for example, infrastructure projects comes from the provincial coffers and not the central government coffers, they have more and more autonomy. You see periodic crackdowns from the central government, particularly on corruption, that occurs almost annually now, and I think that is an effort by the central government to maintain some of the control. But increasingly, as they make economic progress, there are some political transitions that are going on. That is why we have a lot of problems with corruption at the county level and the central government does not condone it and are trying to tackle that. So I think it is kind of a mixed record right now.

Chairman CRANE. I think you were probably here when our colleagues testified earlier and related some horror stories that I had never heard about, cannibalism, fetuses, and stabbing prisoners to death and selling their kidneys. Have any of you had any input whatsoever from your personal contacts over there on these kinds of horror stories?

Mr. LANG. The only time that I have ever heard them is when I come back home here and hear about them.

Chairman CRANE. Anybody else?

[No response.]

Charlie.

Mr. RANGEL. Thank you very much, Mr. Chairman.

All of you heard the testimony of Congressman Wolf, I assume. How do you handle those types of accusations, people that you have on the ground in China? Do you investigate? Do you report back with your membership, especially the Chamber of Commerce?

Mr. WORKMAN. We have soon to be three American chambers, one in Beijing, one in Shanghai, and the new one will be in Guangzhou, and we maintain pretty close communications relationship with those chambers. I have to tell you, these stories have not come up and they would be the first to let us know if those allegations surfaced, because it is in their interest to.

Mr. RANGEL. These things are in the papers in the United States, so it is not just a figment of the Congressman's imagination. I do not know the truth of these things. We all would like to believe that it does not happen. But certainly when the country and U.S. businesspeople are accused of working with these type of people, it would seem to me that it would come up. The allegations have to come up.

Mr. WORKMAN. It is a basic tenet of business to know your customer or know your supplier and try to bring them up to standards that you want all your suppliers to have. So I would agree with you, Congressman, that——

Mr. RANGEL. Mr. Workman, I am not talking about low wages and human treatment. I am talking about prisoners being executed and having kidney transfers, I am talking about fetuses being taken out of the mother's womb and being eaten, I am talking about things that are so disgusting, and I am not talking about raising the standard. Those are the normal complaints that we hear. I am talking about these accusations that affect us as human beings in the country. It would seem to me that Americans should have said I looked into this, Mr. Workman, and I want you to know that this to my knowledge is not occurring. You are saying it does not come up. I read it and you read it, and we read it, and if we are going to——

Mr. WORKMAN. Let me be precise about what I said. We have not had any communication from the American chambers, the three American chambers in mainland China.

Mr. RANGEL. I heard what you said and I think you ought to be ashamed of yourself for not encouraging at least some communication and hopefully it would reject these types of allegations. It takes away from the dignity and the standards that the United States have here and abroad. If they know about these things and no one sees fit even to talk about it, then something is dramatically wrong.

Let me ask this: Do any of your organizations take any public position as relates to the embargo on China, Mr. Workman?

Mr. WORKMAN. Embargo on China?

Mr. RANGEL. Strike that. On Cuba.

Mr. WORKMAN. Yes, we have a position. We oppose unilateral trade embargoes and the chamber has had that position since 1922.

Mr. RANGEL. Specifically as relates to Cuba?

Mr. WORKMAN. Specifically as it relates to Cuba. We opposed the Cuban Democracy Act of 1992, the Helms-Burton bill that is before—I presume it will come before this subcommittee, we are opposed to that bill, although I understand a new version is to be introduced tomorrow. So we are looking forward to see what that has to say.

Mr. RANGEL. Mr. Workman, send me your resolutions on that. I assume all of your committees have taken public positions against unilateral embargoes specifically as related to Cuba.

[The following was subsequently received:]

REPORT TO THE BOARD OF DIRECTORS No.____ page ____

Date Mailed to Board Members: Oct. 20, 1993 Date of Board Meeting: Nov. 10, 1993

Report of: International Policy Committee

On: Unilateral Economic Sanctions

The Board is requested to reaffirm the Chamber's opposition to unilateral economic sanctions as a matter of general principle.

Background:

On August 27, 1993, in response to certain missile technology transfers to Pakistan, the Clinton Administration announced the imposition of economic sanctions against certain entities in China. These sanctions have not been duplicated by other major trading partners. In addition, the United States continues to maintain, and in some cases actually strengthen, various unilateral restrictions on trade and investment with other countries, such as Cuba and Vietnam, with whom most of our major industrialized competitors trade and invest without comparable inhibition.

Results have included: (1) in the case of Cuba, protests, such as "blocking statutes" enacted by other countries which prohibit foreign subsidiaries of U.S. firms from complying with strengthened U.S. sanctions enacted last year, (2) continued investment by non-U.S. firms in the Vietnam market while U.S. firms simply look on, and (3) the very real possibility that European and Asian competitors will simply pick up where U.S. firms were forced to leave off in China.

The U.S. has long ceased to enjoy the clout needed to unilaterally impose sanctions and make them stick. Whether it is export controls or investment restrictions, the absence of multilateral compliance simply results in our competitors becoming more able to penetrate a market and reap commercial benefits that U.S. law denies U.S. companies -- without materially changing the behavior of the targeted country. The principal beneficiaries in such situations are our foreign competitors, with the major losers being U.S. business.

Applicable Policy:

"Foreign Trade and Investment Principles and Objectives," Policy Declarations, pp. 132-133.

Action Requested:

That the Board interpret policy as an adequate basis to reaffirm the Chamber's opposition to unilateral economic sanctions as a matter of general principle.

John Howard
Committee Executive
International Policy Committee

James K. Baker
Chairman
International Policy Committee

Other Board Members:

Ronald W. Allen
Albert C. Bersticker
James A.D. Geier
William C. Lowe
Toby Malichi
Peter F. McCloskey
Herbert A. Sklenar
Michael Starnes
David S. Tappan, Jr.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

WILLARD A. WORKMAN
VICE PRESIDENT, INTERNATIONAL

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August 11, 1992

The Honorable Sam M. Gibbons, Chairman
Subcommittee on Trade
House Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am very pleased to share the following views of the United States Chamber of Commerce regarding H.R. 5323, the Cuban Democracy Act of 1992, on which your subcommittee held a hearing August 10.

The United States Chamber of Commerce, representing over 200,000 member companies and individuals, as well as 65 American Chambers of Commerce (AmChams) around the globe, advocates change through economic interaction, not isolation. We favor the lifting of unnecessary and unenforceable export controls, particularly when they are applied unilaterally and not supported by our allies and leading trading partners. Such controls do not achieve policy objectives and generally result only in harming the international competitiveness of American business.

While we agree with the intent of H.R. 5323 to help the Cuban people in their struggle for freedom, we strongly oppose sanctions proposed in section 6, which would strengthen the U.S. embargo against Cuba. The governments of Latin American countries and Canada, who will be most affected by these sanctions, will simply not accept the unwarranted extraterritorial reach of the U.S. government. Canada has already implemented legislation making it illegal for Canadian firms to adhere to the U.S. sanctions. Argentina has made it clear that it will take similar action if this legislation is enacted. Passage of this legislation will inevitably invite other retaliation against American business interests in these countries and will result only in further loss of competitiveness by American exporters. Not only would these sanctions be ineffective, but they would also engender sympathy for the Cuban government elsewhere in the Americas and further undermine the stated pro-democracy objectives of this legislation.

The issue of extraterritoriality is also a factor in the bill's provision on vessels docking at Cuban ports. In our opinion, the proposed 180 day period between leaving a Cuban port and docking in the U.S. is another unworkable attempt to legislate the trading patterns of

our allies. Furthermore, one would be hard pressed to identify any significant effect this legislation would have on Castro's economy. However, it would hinder American business access to numerous foreign markets that trade with Cuba.

The United States can no longer afford to formulate policy that is principally symbolic, without regard to the real-world consequences for U.S. commerce. Global competitiveness has forced American business to work harder and be more innovative than ever before. This legislation ignores that reality, and instead relies on the demonstrably flawed premise that unilateral U.S. sanctions will throw a foreign economy into turmoil and hasten a return to democracy. We do not believe that H.R. 5323 will achieve its laudable objective; instead, it would be counterproductive to overall American economic and foreign policy interests.

Sincerely,

Willard A. Workman

Mr. RANGEL. Mr. Manteria.

Mr. MANTERIA. We have not looked at the issue. Since we are not involved at this time in Cuba, although we once had stores there that were confiscated by the Castro regime. We just have not looked at the issue. We are in favor of free trade and——

Mr. RANGEL. Mr. Lang.

Mr. LANG. We are strongly in support of free trade relative to Cuba, and so forth. Clearly, we do not do any business with them.

Mr. RANGEL. Mr. Palafoutas.

Mr. PALAFOUTAS. We are opposed to using trade sanctions as a tool of U.S. foreign policy, especially unilaterally, so in that case we are opposed in China, we would be opposed in other places around the world.

Mr. RANGEL. I would appreciate what statements you have in support of this. Mr. Manteria, you may not be doing business in Cuba, but we have got to have one standard one way or the other, and I appreciate your association taking a look at this for continuity.

Thank you so much, Mr. Chairman.

Chairman CRANE. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

I am very concerned about our discussion of an issue like MFN, if we are actually moving toward a choice that would put the United States at a strategic disadvantage in our trade with China, and I believe that if we do the coupling with human rights and MFN, that is exactly what we would be doing to ourselves.

I am wondering if any of you gentlemen have had experience or information about what other nations like France or Germany or Japan are doing with regard to the issue of human rights and trade with China.

Mr. WORKMAN. In general, the Europeans take a much more pragmatic approach to trade in general and they have a fundamental difference in how they view trade. Trade to them is a right. Here in the United States, we look at trade as a privilege, and a lot of our laws are based on that premise. For example, the export licensing laws are premised on the fact that all exports from the United States require government approval.

The Europeans do not look at it that way. So they take a very pragmatic approach to trade with China. I think they share our values about human rights. They are all signatories to the various conventions on human rights, and they pursue that through parallel diplomatic channels, but they never do the linkage. They are a little more creative about how they use various levers available to them, either the security lever, the diplomatic lever, aircraft landing rights lever, rather than use a fundamental trading relationship lever.

Ms. DUNN. Are there any nations so far as any of you know that actually do link human rights with trade in their dealings with China?

Mr. LANG. I have never seen any of that done in all my travels through China.

Ms. DUNN. It begins to seem almost naive to me. I would like to ask you another question. I have some concerns, too, if we were to initiate this policy of withholding MFN from China, whether that

would not result in all kinds of retaliation to industries that are important to us in the United States, particularly to me in Washington State, for example, the aircraft industry, the timber industry, and so forth. What do you think the results of that sort of policy would be?

Mr. LANG. In my opinion, the MFN debate, that has gone on historically when it is put in the Chinese context, is put in the context that we as American companies are subjected to what they consider to be ex post facto rulemaking by the U.S. Government. So they look at this annual debate as putting us as at a disadvantage from the get-go. When you talk to your Chinese friends and say what happens if MFN is withheld, I think it is a mixed story.

I think what their response would be would be to target a few strategic industries to try to deliver the message to us, because I think, as it was said earlier, that their trade with us is as important to them as it is to us. But I do believe that we, for example, in the aircraft industry, which is to them one of their 50 identified strategic industries, would be targeted. I would think, for example, in the case of Boeing, you would probably see a shift to Airbus for a period of time. So, there would be some retaliation.

Ms. DUNN. The gentleman from the electronics industry, is that your sense?

Mr. PALAFOUTAS. I do not think there would be any question about it. One of the things that we in the United States do not take as seriously as perhaps Asians do is the saving of face. It is not that a big a thing for us. We can pretty well insult each other with impunity around here.

But in Asia, I think the Chinese would take offense at this and take retaliation very strongly. With the United States electronics industry, the opportunity to have that presence there would be seriously impaired and affect us competitively for decades to come.

Ms. DUNN. Thank you, Mr. Chairman.

Chairman CRANE. Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman.

Mr. Lang, in response to Chairman Crane's question, had you heard of any of the atrocities that were cited by some of the former panelists? You said the only time you heard them was when you came to the United States and not in China. Does that surprise you?

Mr. LANG. In a way it does, because I travel throughout China and I have been through many, many of their industrial establishments admittedly limited to the aerospace sector. I have people based all over China, from the extreme north to extreme south, as far west as Chengdu and along the coastline, and I have very bright people who are well educated, who speak the language and blend in with the local economy, and I believe that if they ever heard of this sort of thing or saw it in the local community in which they were dealing, that they would report it to me. In fact, we have talked about it, just in our circle, so to speak, we have just not seen it.

Mr. COYNE. Well, would it not surprise you to know that the Chinese people would not want to make this generally known if they were doing it? That does not surprise you, does it?

Mr. LANG. No, absolutely it does not.

Mr. COYNE. Thank you.

Chairman CRANE. Gentlemen, I want to thank you for your testimony this morning.

I will adjourn this panel and would like to convene the next one with Jeffrey Fiedler, Mike Jendrzejczyk, Charles Brown, and Rachel Lostumbo.

Mr. Fiedler, would you commence first.

STATEMENT OF JEFFREY L. FIEDLER, SECRETARY-TREASURER, FOOD AND ALLIED SERVICE TRADES DEPARTMENT, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, AND DIRECTOR, LAOGAI RESEARCH FOUNDATION

Mr. FIEDLER. Thank you, Mr. Chairman.

I would ask permission, sir, that I enter my full statement in the record, and I am going to depart somewhat from my prepared text, in light of the government's testimony this morning.

Chairman CRANE. Without objection, so ordered. I might for the benefit of any who were not here earlier ask you to please try and keep your remarks under 5 minutes, and any additional information that you may have will be made a part of the record.

Mr. FIEDLER. Mr. Chairman, my name is Jeff Fiedler. I am secretary-treasurer, the Food and Allied Service Trade Department of the AFL–CIO (American Federation of Labor and Congress of Industrial Organizations), and I serve also as a director of the Laogai Research Foundation, which looks into forced labor in China and in China's gulag.

I was struck this morning not by Mr. Wiedemann's verbal testimony, but by his written testimony on forced labor, which unfortunately I can only characterize generously as misleading and less generously as disingenuous.

Mr. Wiedemann makes it appear by saying such things as "we," meaning the government, have initiated over 50 cases of forced labor investigations. That is a large number, and you can conclude from listening or reading his statement that something happened in those 50 cases. Whereas, the truth is in many of those cases, if not most, the Chinese gave one sentence responses months later, months after the government made the request.

They also talk about punishment of factory managers. We are not talking about factories here. We are talking about prisons. We are not talking about punishing factory managers. We are talking about prison wardens. It is a mischaracterization.

The MOU was originally conceived in the Bush administration as a means of putting the forced labor issue to bed, taking it away, saying that something had been accomplished. The Clinton administration for its part, when the Chinese did not comply with the MOU, negotiated a statement of cooperation just prior to MFN's renewal last year, where they then said—and the Secretary of State certified, and I would also characterize his certification as less than straightforward—that the Chinese had complied merely because they signed an agreement agreeing to comply with something they had never complied with, and then the administration called that compliance again.

If your position is strong on its merits, then one ought to articulate their position on its merits and not mislead the Congress or the American people.

One other sort of gentle mistake in Mr. Wiedemann's testimony, he states that the administration consulted with labor, NGO's, and human rights groups on a code of conduct. Yes, they consulted for a matter of a couple of hours months and months and months ago, but he never mentions what anybody said. We, for instance, said that they ought to forget it, that they ought not announce a code of conduct. They said, well, the President had promised that he would, and we pointed out that the President had made a lot of promises he had not kept.

We ought to forget about it. We are coming up on 1 year later. They have leaked but not announced a code of conduct because they have not gotten enough companies to sign on, and we in the labor community and others in the human rights and the NGO community have not looked upon the President's code of conduct as anything more than an interesting personal statement.

The AFL–CIO does not support renewal of MFN and will not support the renewal of MFN for China until a number of things are done.

One, that free trade unions exist in China—they do not today—that China recognize the Universal Declaration of Human Rights in fact and not in word, and that China abolish its forced labor system. Until then, we cannot in good conscience create a single American job based upon most-favored-nation status with China.

Thank you, sir.

[The prepared statement follows:]

TESTIMONY OF JEFFREY L. FIEDLER
SECRETARY-TREASURER, FOOD AND ALLIED SERVICE TRADES DEPT., AFL-CIO
AND DIRECTOR, LAOGAI RESEARCH FOUNDATION

BEFORE THE
SUBCOMMITTEE ON TRADE WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

ON THE RENEWAL OF MOST FAVORED NATION STATUS FOR CHINA

Mr. Chairman, my name is Jeffrey Fiedler and I serve as the Secretary-Treasurer of the Food and Allied Service Trades Department of the AFL-CIO and as a Director of the Laogai Research Foundation. The Foundation is devoted to exposing human rights violations in China's gulag, known as the Laogai.

Since the President, last year, delinked human rights concerns from consideration when deciding to renew Most Favored Nation status for China, and since the Congress voted to go along with him by rejecting a targeted sanctions bill, the human rights situation in China has deteriorated significantly.

Others today will detail this situation. I will confine my remarks to the repression of independent worker activists, the continued export of forced labor products to the United States, and the trade deficit.

The only trade unions allowed to exist in China are controlled by the communist party. These unions exist in all state enterprises, and many joint ventures and wholly owned foreign companies. We find it perversely ironic that American companies, seemingly without any qualms, cooperate with communist unions inside their plants. Perhaps the American companies have gained a high level of comfort because these so-called unions exist primarily to exhort their members to ever higher levels of productivity, instead of representing their interests as workers.

Free and independent unions do not exist in China. They have been declared illegal. Over the past year dozens of independent workers activists have been arrested and condemned to the Laogai for doing little more than talking to each other and circulating their thoughts on paper. They join hundreds of other, most of whom are unknown to the outside world, who have been jailed since 1989.

The Chinese government's fear of worker leaders has been made evident by its continued refusal to allow Han Dongfang, a founder of the Beijing Workers Autonomous Federation, to return to China. Han, who spent two years in China following the repression in 1989, is a Chinese citizen. His exile, and the forcible return of Lu Jing-Hua, a young Chinese worker activist, now working for the International Ladies Garment Workers, when she flew to Beijing in an effort to visit her mother and daughter, are eloquent testimony about the Communist party's fear of legitimate labor leaders.

Last year, the Secretary of State certified that the Chinese had complied with the 1992 Memorandum of Understanding on Prison Labor. One can dance around the nuances of diplomatic language and twist within the vagaries of diplomatic con games, but the fact is that the Secretary of State was less than truthful. The Chinese have continued to ship forced labor products into the United States every day since they signed the MOU in August of 1992.

They must have seriously questioned American resolve to end this illegal practice when our government negotiated a "statement of cooperation on the implementation" of the MOU. What the Secretary of State did, and the Congress accepted without question, was to permit the Chinese to sign another diplomatic document promising to do what they have failed to do all along. As of today, they still have failed to comply.

The Laogai Research Foundation is nearly finished with its latest investigation which will demonstrate that American companies are still importing products from the Laogai. This information will be added to the stack of documentation gathered over the past four years about artificial flowers, handtools, chain hoists, tea, diesel engines, steel pipe, shoes, Christmas lights, medical gloves, rubber boots, and dozens of other forced labor products which are being sent into the United States by Chinese state-owned trading companies.

While the U.S. Customs Service had devoted some effort toward stopping these goods, current law, a lack of resources, and the Chinese practice of mixing the shipments with legitimate products as well as changing the trading companies who send the products to the U.S., make the seizure of these goods difficult, if not impossible.

We refer to the MOU as "The Meaning of Useless". If the same level of compliance allowed the Chinese was accepted by the United Nations in its relations with Sadam Hussein, Iraqi oil would be flowing through American refineries.

Last year, the business community argued vociferously in favor of renewing MFN for China. They argued that capitalism would bring greater democracy to China. They argued that renewing MFN would cause the Chinese to open their markets wider to American companies. They argued that rising U.S. exports would cut the trade deficit. Little evidence exists to substantiate these claims nearly a year later. The trade deficit increased nearly 25% in 1994, the business community is whining about the failure of the Chinese to establish acceptable laws for the normal conduct of business, and corruption continues to plague business at all levels.

Few new jobs have been created by our exports. Many are being lost as American companies announce the opening of join ventures in China to produce products there which previously had been exported, or would have been if the Chinese allowed the imports.

MFN has continued to benefit Chinese military and defense industrial companies whose exports to the U.S. have grown even as they continue to supply dangerous weapons to Iran and Pakistan. Allowing Chinese military companies to benefit from MFN is a conscious decision by the President and the Congress to have U.S. consumers directly subsidize the Chinese military. That this is being allowed, and that the Congress has not debated the issue, is in our view, a serious failure. But, it is understandable within the context of a China policy which has given the dollar primacy over decency and democracy, a policy which has been pushed by two Presidents and approved by members from both parties in the House and Senate.

Mr. Chairman, until China allows free and independent unions, abolishes the Laogai, respects the Universal Declaration of Human Rights, and is free from the oppression of its communist party, the AFL-CIO will not support the granting of Most Favored Nation status to China.

Thank you.

Chairman CRANE. Thank you, Mr. Fiedler.
Mr. Jendrzejczyk.

STATEMENT OF MIKE JENDRZEJCZYK, WASHINGTON DIRECTOR, HUMAN RIGHTS WATCH/ASIA

Mr. JENDRZEJCZYK. Thank you, Mr. Chairman. My name is Mike Jendrzejczyk. I am the Washington director of Human Rights Watch/Asia, formerly known as Asia Watch.

I want to first of all thank you for inviting us to appear this morning and ask that our written statement be included in the record.

Chairman CRANE. Without objection, so ordered.

Mr. JENDRZEJCZYK. Last July we testified before this subcommittee following the President's decision to renew MFN for China and to delink human rights and MFN. We then noted the serious consequences for human rights in China, and unfortunately the situation since then has only deteriorated further.

In addition to the points mentioned in our testimony, I would also like to highlight two others: No. 1, the detention of foreign businessmen who are increasingly also the victims of arbitrary arrests, detention, and imprisonment under a system which does not allow or respect the rule of law.

No. 2, Mr. Rangel this morning asked about Mr. Wolf's testimony on transplantation of organs from executed prisoners, and I would just note that last August we published a very extensive report with documentation on this procedure which we believe is widespread in China, and I would be happy to provide that documentation both to Mr. Rangel and to the subcommittee.

We believe that it is crucial that the administration develop a tough and credible human rights policy on China, which it promised to do, yet has failed to do since last May. We think that it is essential that China, as an emerging economic and political superpower, be held to its obligations to respect international human rights norms as well as norms regarding trade and proliferation.

I would like to focus the remainder of my brief remarks on our recommendations for current U.S. policy.

We do believe there is a double standard now in the administration's approach toward China. The administration is willing to exert major political and economic pressure on China to press Beijing to abide by global trading rules. But when it comes to moving China to respect international human rights norms, the administration has yet to develop a credible strategy.

We supported the administration's efforts at the U.N. Human Rights Commission this past March, which was an extremely important undertaking. But much, much more needs to be done throughout the year.

We would also note that while the President has delinked trade and human rights, the Chinese have not. During their fierce lobbying to prevent the adoption of this resolution by the Human Rights Commission, Beijing explicitly warned the Europeans that their support for the resolution might, in fact, jeopardize their prospects for enhanced economic cooperation.

As I mentioned, we believe we need a credible human rights policy, and we have laid out in our testimony a few recommendations for both bilateral and multilateral components for such a policy.

No. 1, we believe China should be a key item on the agenda when the G–7 meet in Halifax, Nova Scotia, next month. We proposed this to the administration several weeks ago. We believe this is the opportunity to get all China's key trade and aiding partners onboard with a long-term multilateral strategy to bring about compliance with international human rights norms.

No. 2, it is time to abandon the policy of secret diplomacy when it comes to China. We briefed the staff of Energy Secretary O'Leary when she led a huge delegation to Beijing last February. We are disappointed that though she raised human rights when she met with Premier Li Peng, she said nothing about human rights publicly during her time in China.

Similarly, Vice President Gore met with Li Peng in March in Copenhagen at a U.N. conference and again said not a word about human rights publicly. Once again, we think that policy should end.

No. 3, we think the administration should be urged by the Congress to use our leverage, voice, and vote at the World Bank. China now gets more loans from the World Bank in terms of dollar value than any other country in the world.

Last year the Foreign Aid Bill contained a provision saying we should use our voice and vote at the World Bank to promote worker rights. That is something we should do in China.

No. 4, we believe the President should politely but firmly decline the invitation to visit China this year until there is substantial and dramatic progress in improvement on human rights.

Finally, on the question of the Memorandum of Understanding on prison labor, I would agree with Mr. Fiedler that what you received this morning was a very sanitized picture. We know that the Customs Service has, in fact, been denied access to reeducation through labor facilities on the grounds and that these are not covered by the MOU. In the face of this kind of stonewalling, we think the administration should get tough, should rescind the MOU, and renegotiate it. That is the only way the Chinese are going to take us seriously, as they have on the issue of intellectual copyrights.

Thank you very much, Mr. Chairman.

[The prepared statement follows:]

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HUMAN RIGHTS WATCH

Statement by Mike Jendrzejczyk, Washington Director
Human Rights Watch/Asia
before the Subcommittee on Trade,
Committee on Ways and Means
U.S. House of Representatives

May 23, 1995

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Thank you, Mr. Chairman, for inviting us to testify on renewal of China's Most Favored Nation (MFN) trade status. My name is Mike Jendrzejczyk and I am the Washington Director of Human Rights Watch/Asia (formerly known as Asia Watch.) Since 1985, we have carried out independent monitoring of human rights in Asia, conducting investigations, publishing reports, engaging in dialogue with governments, and wherever possible, collaborating with and actively supporting the work of local human rights monitors. Human Rights Watch has consultative status at the United Nations.

Last July, we testified before this Subcommittee, approximately two months following the decision by President Clinton to renew MFN for China and to "de-link" human rights and MFN. We noted the serious consequences of this decision on the human rights situation in China, and here I quote from our written statement of July 28, 1994:

"Since the MFN decision, the Chinese government has begun long-delayed trials of human rights and labor activists. It has ignored its own criminal procedure laws by holding major dissidents in prolonged incommunicado detention...the government has just issued a new set of state security regulations that further restrict the ability of activists to meet, speak, and organize...To summarize, China has steadily tightened the noose on all forms of dissident activity. The authorities in Beijing have apparently calculated that there is no price to be paid for continued political repression in the name of guaranteeing "social stability" at a time when major economic reforms are underway."

Mr. Chairman, unfortunately, the deterioration of human rights conditions in China and Tibet we described last summer has continued, and in some areas, intensified. In addition, despite the President's announcement on May 26, 1994 that the Administration would launch an "aggressive" new, human rights policy, the White House has yet to develop a credible, effective strategy for exerting serious pressure on China to abide by its international human rights obligations.

We believe that it is essential that China, as an emerging economic and political superpower, be held accountable for its obligations to comply with international norms of behavior -- whether in the area of trade, or human rights. This is especially crucial as the post-Deng Xiaoping transition period approaches, and as China vigorously pursues its entry into the World Trade Organization.

KENNETH ROTH, Executive Director • CYNTHIA BROWN, Program Director • HOLLY J. BURKHALTER, Advocacy Director
GARA LAMARCHE, Associate Director • JUAN E. MÉNDEZ, General Counsel • SUSAN OSNOS, Communications Director
DERRICK WONG, Finance & Administration Director • ROBERT L. BERNSTEIN, Chair • ADRIAN W. DeWIND, Vice Chair
Human Rights Watch is a not-for-profit corporation monitoring and promoting human rights in Africa, the Americas, Asia, the Middle East, and among the signatories of the Helsinki accords.

In our testimony today, we would like to briefly summarize recent human rights developments in China, and offer recommendations for U.S. policy.

HUMAN RIGHTS DEVELOPMENTS

Over the past year, we have documented the decline in human rights in China and Tibet since President Clinton's MFN decision last May . The worsening human rights conditions are well described in the State Department's own human rights country report for 1994 issued February 1, 1995. As Deng Xiaoping's death approaches, Chinese authorities have voiced increasing concern about maintaining "social stability."

-- In March 1995, as the National People's Congress convened in Beijing, dozens of intellectuals filed four separate petitions calling for basic human rights, an independent judiciary, abolition of China's "re-education through labor" detention system, and other reforms. While in Beijing on March 1, Assistant Secretary of State for East Asia and the Pacific, Winston Lord, called on China to refrain from rounding up "people who are expressing their views peacefully." Though some involved in issuing the appeals were detained briefly by the police and interrogated, arrests did not immediately occur. However, in recent days, a number of dissidents involved in drafting or circulating these petitions have been detained.

We are also concerned about a possible crackdown in the wake of the appeal issued on May 15, 1995 by forty-four leading scientists and intellectuals calling for the lifting of the "counterrevolutionary" verdict from those involved in the 1989 pro-democracy movement. They include Liu Xiaobo, one of four men who started a second hunger strike in Tiananmen Square on June 2, 1989 and successfully negotiated for the June 4 student withdrawal from the Square. He was detained on May 17. Also, Zhang Ling, the wife of the famous Democracy Wall poet Huang Xiang, was detained on May 18 at 4:30 A.M. Her husband had signed the May 15 petition; she had signed an earlier one.

We believe it is crucial that the international community speak up firmly in support of the internationally-guaranteed rights of China's citizens, especially at this critical time.

-- Wei Jingsheng, China's most prominent pro-democracy activist, has remained in detention since April 1, 1994. The authorities say he has "violated the rules governing his parole" and "committed new crimes," unspecified, since being released last September after spending 14 and one-half years in prison. His exact whereabouts are unknown. On January 27, 1995, the Chinese justice ministry denied Wei was being held in a prison under its control, but that may just be obfuscation: the public security ministry also maintains detention facilities. Last month, his sister, Wei Shanshan, who lives in Germany, went to China to try to locate him. She was refused permission to see him and was given no information about his whereabouts or current condition.

-- Tong Yi, Wei's assistant, sentenced to two-and-one half years in a "re-education through labor" camp in Wuhan, smuggled out letters to her mother in January 1995 to complain of beatings by "cell bosses" when she refused to work more than eight hours per day (the maximum provided by government regulations.) Her face and body were covered with bruises and scars. On March 2, it was revealed that her father and sister have been harassed by police and threatened with loss of their jobs if they did not stop protesting the young woman's mistreatment.

-- Last December, China handed down some of its harshest sentences since the prosecutions following the post-Tiananmen crackdown. Nine dissidents were given jail terms of up to 20 years. They were first arrested in 1992 for organizing pro-democracy and labor rights organizations. Their trials, which took place in July, were twice postponed until after the President's MFN decision last May.

-- Political prisoners continue to experience serious health problems, and no major releases on grounds of "medical parole" have taken place since last May. For example, Bao

Tong, sixty-two years old, sentenced to seven years for leaking state secrets, has experienced worsening health problems, including possible cancer; his family is even being denied access to his medical records. Gao Yu, a journalist arrested in October 1993 as she was about to leave for the U.S. to take up a fellowship at the Colombia School of Journalism, is serving a six year prison term. She was transferred to Yanqing Prison on January 6, 1995 -- an institution holding mostly mentally ill people -- but the authorities there initially refused to accept her because they did not want to take responsibility for a prisoner in such ill health. Gao Yu has a history of heart problems.

-- Criminal charges are being used against political dissidents. For example, a Shanghai human rights activist, Dai Xuezhong, was sentenced on December 22, 1994 to three years in prison on charges of tax evasion. Another dissident, Bi Yimin, was accused of embezzling money from a research institute he directed in the last 1980's, established by the well-known democracy activists Wang Juntao and Chen Ziming. Bi Yimin was sent to jail for three years last month. Using such charges seems part of a pattern by the authorities aimed at concealing the true number of political prisoners in China.

-- In Tibet, repression remains harsh. Since the beginning of 1995, there have been at least five confirmed pro-independence protests in Lhasa. Police have raided monasteries arresting Buddhist monks, nuns have been arrested for shouting pro-democracy slogans, according to unofficial sources, or for putting up pro-independence posters. On January 8, two monks were reportedly beaten severely until they could not stand up, at Gutsa Detention Center and were threatened with further punishment if they reported the beatings. When the U.N. Special Rapporteur on Religious Intolerance visited Tibet, from November 25-27, 1994, security forces were deployed to intimidate those who wanted to contact him.

U.S. POLICY

There is a clear double-standard in U.S. policy towards China. The Administration is willing to exert major political and economic pressure on China to press Beijing to abide by global trading rules. But when it comes to moving China to respect its international human rights obligations, the Administration has yet to develop a credible strategy, analogous to its stance on intellectual property rights and the use of the threat of sanctions to obtain results. The tactic of setting very concrete goals and then adopting a no-holds-barred approach to achieving them has been noticeably absent from administration policy, save for its work in Geneva at the U.N. Human Rights Commission in March 1995.

We strongly supported the Administration's efforts to pass a resolution criticizing China's human rights record at the U.N. Human Rights Commission. Though we were disappointed that the resolution was narrowly defeated, the fact that the measure was debated and attracted broad support -- including from governments in Eastern Europe, Latin America and Africa -- was a definite step forward, and we applaud the Administration's active campaign for several months leading up to the Commission meeting.

We would also note that while President Clinton has delinked trade and human rights, the Chinese government has not: during its fierce lobbying to prevent the U.N. resolution from being adopted, Beijing warned the Europeans that their support for the resolution might jeopardize prospects for financial cooperation.

The effort at the annual U.N. Human Rights Commission meeting, important as it was, must be complemented by a strong, outspoken human rights policy throughout the year, with bilateral and multilateral components. We would recommend the following:

1) Put China on the agenda for the G-7 summit meeting in Nova Scotia on June 15-17. As the post-Deng Xiaoping era approaches, it is crucial that China's key aid and trading partners develop a common strategy to encourage China to respect human rights. First, the G-7 should agree to a common human rights agenda they will promote, using a combination of bilateral and multilateral political and economic tools. Secondly, they should issue a formal statement --

modelled roughly on the U.N. Geneva resolution -- calling on China to take substantive steps to improve human rights, and calling for Wei Jingsheng's immediate and unconditional release.

2) Abandon the policy of "secret diplomacy" on human rights when Cabinet level officials visit China or during meetings with high-ranking officials. "Constructive engagement" should not mean limiting criticism of human rights practices to U.N. fora and closed door meetings. When Energy Secretary Hazel O'Leary visited China with a huge trade delegation in February 1995, and met with Premier Li Peng, she may have discussed human rights privately but she did not say a word about it publicly. Vice-President Gore held a lengthy meeting in March in Copenhagen with Premier Li Peng. But once again, any discussion of human rights took place only in private.

3) Congress could help by calling upon the Administration to use its "voice and vote" at the World Bank to promote internationally recognized worker rights in China. Generic language on worker rights, pertaining to the U.S. directors at all of the international financial institutions, was contained in the FY 1995 foreign aid legislation. But we are unaware of any plans by the Administration to implement this law, in the case of China at the World Bank. (By the Chinese government's own admission, there were over 15,000 labor disputes in 1994 alone.) In addition, Congress should indicate that any decision to reinstate the Overseas Private Investment Corporation's program in China -- suspended since 1989 -- can only take place if there is significant progress in respecting worker rights in China.

4) Congress could send a clear signal to the White House that President Clinton should politely but firmly decline President Jiang Zemin's invitation that he visit China this year until and unless there is dramatic, overall progress on human rights. Signs of such progress would include: releases of hundreds of political and religious prisoners; enactment of major legal reforms such as revocation of the 1993 state security law and end to all restrictions on freedom of religion; an agreement with the International Committee of the Red Cross, and so on.

5) Adoption of a meaningful "code of conduct" for U.S. businesses in China. It is one year since the President's announcement last May that he would develop "with American business leaders...a voluntary set of principles for business activity in China." But nothing has yet been officially forthcoming. A "model code" was unofficially circulated by the White House several weeks ago, but it does not even mention China. The Administration has backed away from its original commitment to such a code as part of the Administration's "new human rights program" for China, and has instead drafted a generic code for U.S. businesses worldwide. The language developed thus far is far too vague and broadly worded to have a significant impact on the specific human rights and worker rights violations in China. We welcome some positive elements in the draft code, such as recognition of the importance of the rights of association and collective bargaining in the workplace, and the right of free expression. But absent any details on how these principles will be promoted in China, where these rights are routinely denied, it is not clear what impact the "model code" will have. For example, we would like to see specific provisions on prison labor, suggesting language in all contracts with subcontractors prohibiting the use of forced labor and calling for unannounced inspections of supplier sites. If the Administration fails to develop a meaningful, China-specific code with clear transparency and reporting mechanisms, we would support Congress taking the lead.

6) Providing a human rights mandate for the new U.S. ambassador to China. In a recent speech in Beijing, the current U.S. ambassador, Stapleton Roy, urged China to establish the rule of law "as the most effective way of maintaining stability and social order without resort to repression." The American envoy in Beijing should be consistently outspoken on these issues. When a new ambassador is named and confirmed for Beijing, we would suggest that Congress adopt a concurrent resolution laying out a concrete human rights mandate for the U.S. envoy. The ambassador, for example, should be urged to press for diplomatic access to trials and trial documents in the cases of political, religious and labor dissidents; to provide guidance and suggestions of key human rights issues that visiting Congressional and business delegations should raise with Chinese officials; to place specific rule of law and governance questions high on the agenda of bilateral discussions with senior Chinese government officials; when

appropriate and useful, to meet with Chinese dissidents and their families to provide moral support.

7) If China continues to stonewall on compliance with the 1992 Memorandum of Understanding (MOU) on prison labor, the Administration should immediately rescind and renegotiate the MOU. The Customs Service has been denied access to re-education through labor camps on the grounds that inmates (including political detainees) sentenced administratively without trial are not technically "convicts," thus do not fall under the MOU. The Administration should adamantly refuse to accept this interpretation, and adopt the kind of tough posture it successfully applied when Chinese compliance with intellectual copyright agreements were at stake.

Thank you, Mr. Chairman, for the opportunity to appear before the Subcommittee.

Chairman CRANE. Thank you, Mr. Jendrzejczyk.
Mr. Brown.

STATEMENT OF CHARLES J. BROWN, CONSULTANT, ON BEHALF OF PUEBLA INSTITUTE

Mr. BROWN. Thank you, Mr. Chairman.

I am here on behalf of the Puebla Institute, which is an organization that works to monitor religious freedom around the world. I would also like to ask that my written statement be included in the record.

China has made impressive free market reforms, so that its citizens are freer in choosing jobs, housing, and diet. In the area of economic rights, progress has been made. But civil and political rights, what we Americans know as our Constitutional Bill of Rights, continue to be denied.

Freedom House's 1994–95 Comparative Survey of Freedom names China as among "the most repressive places on Earth." China remains a one-party state committed to suppressing political dissent and other perceived threats to its monopoly on power.

Dissidents and independent Christians are frequently rounded up and held without charge, trial, the rights to defense, appeal, or any kind of public record. In the Chinese laogai, or "reform-through-labor camps," dissidents are forced to work without pay as slaves in over 1,000 factories, mines, or on farms.

Roman Catholic priest Father Vincent Qin was forced to labor at No. 4 Brick Factory in the Chinese city of Xining as a "worker detainee" for 13 years after he had already completed a 13-year sentence as a prisoner at the same brick factory. Father Qin, age 60, was sentenced last month to 2 more years of hard labor for his apostolic work.

Beijing argues that there is no religious persecution today in China; that clergy are sometimes imprisoned for violating the law, not for religious reasons.

This is simply false. Religious repression in China is part of a political climate in which human rights and democratic freedoms are routinely abused. "I think; therefore I am guilty" remains the prevailing maxim.

Since China's Communist government failed to eliminate religion, it is now trying to control it. Under the new communism, the ruling party still views Christianity as a destabilizing force. "Patriotic associations," that are ultimately controlled by the Central Committee of the Communist Party, oversee all "legal" Christian activity.

In China, Roman Catholicism is by definition illicit, and thus banned. Clergy who maintain contact with the Vatican are often sentenced to labor camps. Of the hundreds of persecuted religious, 21 Roman Catholic bishops are under house arrest, administrative detention, or restricted to internal exile.

Protestants who worship in private homes not registered with the official church, or who evangelize without permission, also are persecuted. It is so bad in China that an 83-year-old mother is under house arrest simply because her son, a house-church Protestant, was arrested last year for "involvement with overseas Christian organizations." This at a time when China goes to great

lengths to attract involvement with overseas business organizations.

A country's respect for religious freedom offers a good barometer of its respect for human rights and democratic freedoms in general. A regime that fails to respect freedom of conscience, the starting point of all human freedoms, is unlikely to respect freedom of expression or association. A country unwilling to respect the rule of law is unlikely to respect the sanctity of the contract.

Mr. Chairman, last May the American business community argued that American commercial engagement would translate into greater political freedom in China. This has not happened.

U.S. companies have been implicated in gross ethical misconduct, usually through the actions of local partners and suppliers.

In my written testimony, we discuss the cases of both Chrysler and McDonnell-Douglas. I will not go into them in detail due to time. But I would suggest that you take a look at our suggestions in my testimony.

I would also like to suggest a few positive steps companies can take to promote democratic values. They could make their company premises available after hours for study sessions or religious meetings. They could provide a well-stocked library for mid-level management. They could use business contacts in the Chinese Government to appeal for the release of specific prisoners of conscience, a strategy that American businessman John Kamm has pioneered with notable success in China.

In sum, Mr. Chairman, commercial engagement will help expand civil and political rights only if American corporations themselves make a conscious effort to promote such values.

[The prepared statement follows:]

Statement of Charles J. Brown, representing
The PUEBLA INSTITUTE
Before the Subcommittee on Trade of the Committee
on Ways and Means of the U.S. House of Representatives
May 23, 1995

Thank you, Mr. Chairman. The Puebla Institute is honored to be invited to testify today.

Investment in China is very problematic for business leaders who take ethical standards seriously. Whether articulated in Judaism, Christianity, or secular humanism, the central ethical principle is the inherent dignity of the individual -- the individual who has inalienable rights.

On the one hand, China's new markets offer fabulous opportunities. The benefits of trade are not limited to profits and the opportunity to build on the extraordinary energy of Asian peoples. Trade also holds the possibility of opening up these countries, which for over 40 years have been tyrannized by the brutal and pervasive policies of Communism. The growth of the private sector and the expansion of individual financial independence make it more difficult for the Party and the government to dominate people's lives to the extent they did in the past.

But on the other hand, China dispenses with the rule of law, systematically tramples individual rights, and countenances rampant corruption both inside and outside of government. Those who do business in this environment run a great risk of complicity in unethical conduct.

Five basic misconceptions about human rights, fostered mainly by China itself but also sometimes by those in the business community, obscure the ethical conflicts posed by doing business there. I wish to address these misconceptions briefly. They are:

1. Since trade has opened with China, human rights have improved;

2. There is no religious persecution in China today. Religious leaders in jail are there for breaking the law, not religious reasons;

3. It is the companies of other countries that violate human rights, not American businesses;

4. American companies should not be in the business of promoting human rights; and

5. Human rights are Western values, not compatible with Asian cultures. Another way this is sometimes phrased is that Asians don't care about politics, they only want to make money.

I. First misconception: Human rights have improved in China with commercial engagement with the West.

China has made impressive free market reforms -- permitting its citizens to start and own businesses, to enter into joint ventures, and to own property, to name a few. This means that Chinese citizens are freer in choosing their jobs, their housing, and their diet. Their standard of living is higher. The government's totalitarian control over every aspect of daily life is eroding. In the area of economic rights, progress has been made.

But in China, civil and political rights -- what we Americans know as our Constitutional Bill of Rights -- continue to be denied, according to the most recent U.S. State Department reports. Freedom House's 1994-95 Comparative Survey of Freedom names China among "the most repressive places on earth." China remains a one-party state committed to suppressing political dissent and other perceived threats to its monopoly on power by means

of arrest, detention and internal exile. With political and police powers exclusively in the hands of the Communist Party, the government continues to ban or restrict independent religious expression, speech, press, association, and union organizing. China does not enjoy the rule of law. There exists no effective system of checks and balances. The judiciary, legislature and local governments all remain subordinate to the Communist Party.

Freedom of Expression: China employs a wide range of controls that suppress free expression and interfere with independent media. An extensive censorship bureaucracy licenses all media outlets and publishing houses and must approve all books, including the Bible, before publication.

In June 1994 a new blow was dealt to freedom of expression in China when Premier Li Peng signed the "Detailed Implementation Regulations" for the State Security Law. These Regulations criminalize peaceful acts of dissent (including working with foreign human rights organizations) as well as the use of religion, information or speech to endanger "state security." Chinese journalists, editors and publishers are expected to conform to Chinese Communist Party Propaganda Department guidelines. For example, news coverage is required to be 80 percent positive and 20 percent negative. Sanctions for infringement include firing and imprisoning those responsible and closing the offending publication. Foreign correspondents are not immune from censorship pressure. During 1994, correspondents from *The Wall Street Journal, The Washington Post, Newsweek*, UPI, CBS, NBC and others were detained and interrogated by police.

Among the estimated thousands now imprisoned in China for dissent, the most famous is Wei Jingsheng who has been detained incommunicado and without charge at an unknown location for a year. Mr. Wei was released in September 1993 after fourteen-and-one-half years in prison for writing about democracy. During his six months of liberty (between September 1993 and March 1994), Wei published articles on democracy outside of China and met with foreign government officials and journalists, acts for which the government has again jailed him.

Freedom of Association: China restricts the rights of association and assembly in law and practice. People wishing to gather in a group are required to apply for a permit, which local authorities can deny arbitrarily. With few exceptions, the government prohibits the establishment of private, independent organizations, insisting that individuals work within established, party-controlled ones. Chinese citizens cannot establish independent political parties, religious organizations, labor unions, or women's organizations. In practice, only organizations that are approved by the authorities are permitted to exist, and any organization that is not registered is considered illegal.

In December 1994, China sentenced nine dissidents and labor activists to up to 20 years. The harshest terms were given to those charged with forming non-governmental organizations.

Due Process and Political Prisoners: In China there are no reliable figures on the number of political detainees being held since the government often does not publicize arrests and frequently conducts secret trials and sentencing. The judicial system is not independent, and the judicial process lacks transparency. Prisoners of conscience can be detained in prison indefinitely while awaiting trial; kept in prison for years after their sentences have expired; or tried in kangaroo courts with a conviction rate of over 99 percent. In China the slogan "verdict first, trial second" is used to describe the judicial system. This absence of the rule of law has resulted in thousands -- a number of foreign businessmen -- being held without trial in China.

Using the tactic of administrative detention, authorities fail to afford even the pretext of due process. Dissidents and independent Christians are rounded up and held without charges, trial, the right to defend themselves, the right to an appeal or any kind of public record. They can be held indefinitely and without being allowed any contact with family or friends. In some cases, such as that of the dissident Wei Jingsheng, the prisoner simply

"disappears" into the detention system for years at a time. "Is Top Dissident Even Alive?" read the headline run by *The New York Times* on March 31st. Prisoners in administrative detention are especially vulnerable to abuse because they are often held incommunicado.

In China, independent Christians and dissidents once arrested are often administratively detained in the laogai, or "reform through labor camps," where they are forced to work without pay -- as slaves -- in factories, mines or on farms. Harry Wu, who spent 19 years in the laogai, estimates there are over 1,000 of these camps and their work product is sold, sometimes to foreign companies and for foreign export. In other cases, administrative detention can take the form of "shelter and investigation" in which police indefinitely detain suspects without any due process. Amnesty International reports that, according to Chinese government sources, the number of persons sent to "reeducation through labor" camps is 100,000, while the number "sheltered" each year is around one million.

Those charged with "counter-revolutionary" crimes -- a category that includes some religious leaders -- are not assured any greater due process. Political trials are not open to the public, and in some cases are held in secret, without even the defendant present. The court does not assume defendants' innocence but instead pressures them to "repent" of their errors and confess. The U.S. State Department concludes that "the emphasis on obtaining confessions as a basis for conviction" places prisoners awaiting trial at grave risk of torture. The Communist legal system gives defendants little opportunity to prepare an adequate defense, and some verdicts have been prepared in advance by the government. Defendants who maintain their innocence tend to receive harsher verdicts. Though allowed a right to appeal, in practice an original guilty verdict is rarely reversed.

Although Chinese law prohibits torture, it continues to be employed to intimidate, extract confessions and punish. Chinese torture techniques include electric shocks, pain inflicted with stun guns, dousing with boiling water, repeated stabbing, beatings and hangings by the ankles or wrists.

In China prisoners face brutal conditions, and food and health-care are often denied as a punishment. Political prisoners who at the end of their sentences are deemed unrepentant by prison officials can be kept indefinitely as "worker detainees" at the same labor camp where they served their sentences. Roman Catholic priest Fr. Vincent Qin was forced to labor at Number 4 Brick Factory in the city of Xining as a "worker detainee" for 13 years after he had already completed a 13 year sentence as a prisoner at the same brick factory. Qin, aged 60, was rearrested in November 1994 and sentenced in April 1995 to two more years of hard labor for his apostolic work. Others are released but denied all rights, including work and housing permits.

There has been no actual progress in human rights observance since the U.S. de-linked human rights from MFN a year ago.

II. Second misconception: There is no religious persecution today in China. Some clergy are imprisoned for breaking the law, not for religious reasons.

Religious repression in China is part of a political climate in which human rights and democratic freedoms are routinely abused. "I think, therefore, I am guilty," remains the prevailing maxim.

In the early days of China's Communist government, religion was considered a reactionary force to be eliminated. Clergy were labeled "counter-revolutionaries working under the cloak of religion," "imperialist lackeys," and "spies in religious garb." When the complete eradication of religion proved impossible -- in spite of mass arrests, "re-education," and torture of clergy and believers -- the government sought to bring it under total state control. Under the new Communism, ideological fervor has dissipated somewhat, but today the ruling party in China still views Christianity as a threat to its power -- a de-stabilizing force that must be strictly controlled. An internal Chinese Party document from earlier this

year that was leaked to the foreign Christian community named the Christian churches as one of the most dangerous sectors in the society.

As China has stepped up economic reforms over the last few years, it also has intensified repression of believers. Early in 1989 -- before the Tiananmen Square massacre -- Beijing renewed its campaign against Christians worshipping outside government-run "churches," In China religious repression does not show signs of abating. Today, Puebla has documented the cases of some 200 Chinese Christian clergy and lay leaders who are deprived of liberties because of their religious beliefs. Given China's closed press and tightly guarded penal system, these documented cases are certain to represent only a fraction of those now persecuted for their religious beliefs.

Regulations issued by China in 1994 reaffirm that registration with the government's religious associations is the government's main mechanism of control over the clergy and congregations. In China, state-run "churches" -- the Catholic Patriotic Association, which repudiates the authority of the Pope, and the (Protestant) Three-Self Patriotic Movement -- oversee all "legal" Christian activity. These Patriotic Associations are controlled by the Office of Religious Affairs, which is controlled by the Department for a United Front, which in turn is controlled by the Central Committee of the Communist Party.

Registration of church organizations with the government in China is based on the "three-fix" policy, requiring an applicant congregation to have a state-approved religious leader, a fixed meeting point and activities confined to a specific area. Those clergy who do not adopt the party line will not be able to register.

Because in China Roman Catholicism is by definition illicit, and thus banned, clergy who maintain contact with the Vatican, ordain priests, or conduct unauthorized religious education classes may be charged with treason, counter-revolutionary acts, or other crimes against the state and can be sentenced to re-education through labor. Among China's religious prisoners are 21 Roman Catholic bishops who are under house arrest, administrative detention, or restricted to internal exile in their home villages. One is 73-year-old Bishop Joseph Fan Zhongliang, the Roman Catholic bishop of Shanghai. He was arrested on June 10, 1991, reportedly in response to the Vatican's elevating Ignatius Kung to Cardinal. On August 19, 1991, he was transferred to a form of house arrest in Shanghai and is kept under close police surveillance. Police have not returned church and personal property seized from him at the time of his arrest. He was previously imprisoned for his faith for 25 years, between 1957 and 1982. Cardinal Kung himself spent 30 years behind bars, between 1955 and 1985.

Another is 76-year-old Bishop Peter Li Hongye, ill with stomach cancer, who was arrested on July 25, 1994, after offering Mass and is being held against his will and without due process at a Public Security Bureau "guest house" in Luoyang. Dozens of Roman Catholic priests are being held in administrative detention, or imprisoned in the *laogai* or "reeducation through labor" camps, where they are forced to work in factory jobs without pay; if they fail to meet state production quotas their food rations are reduced. Among the recent detainees is Rev. Gu Zheng of Urumqui, who was arrested on October 6, 1994 while teaching at a Roman Catholic seminary that refused to register with the government. He continues to be detained and the seminary was shut down at that time.

The three-fix policy of registration, of course, bars all processions. On the feast of the Assumption, last August 15, in Jiangxi province, several thousand soldiers, police and hired men, wielding sticks and electric batons, attacked a Catholic procession, injuring over 100 worshipers and ending the event. At least ten Roman Catholic church leaders are believed to remain in custody since their arrest at the procession. A similar mass arrest occurred during the Easter time in China last month at which over 30 Roman Catholics including two women, were arrested after they held an open-air Mass in Jiangxi Province. The women were so badly beaten that they could not feed themselves.

Re-education through labor is also the sentence given to Protestants who worship in private homes or "house churches" not registered with the official church, or who evangelize

without permission. Zheng Yunsu, the leader of a Protestant religious community called the Jesus Family, was arrested in June 1992, for holding illegal religious meetings and disturbing the social order. He is now serving a 12-year prison sentence. His four sons were sentenced up to nine years of hard labor in a coal mine after they made inquiries into his case with authorities in Beijing.

Puebla's documentation names 55 Protestant preachers and lay leaders persecuted at this time for religious reasons. Among the 25 women Evangelical leaders on our list is Dai Guillang, who is in prison serving a three-year sentence for "propagating the Book of Genesis." Another is Li Haochen, a female house-church preacher from Mengcheng county, northern Anhui province who was arrested in September 1993 and reportedly sentenced to three years' reform through labor for organizing a "healing crusade."

Others are imprisoned for "disturbing public order" through religious activities. A recent case against a Protestant house church leader occurred on April 1, 1995, in Zhejiang Province. The detained cleric, in his mid-50s, was arrested by Public Security Bureau officers in his home. Sources said local officials have accused the man of conducting illegal itinerant religious activities and inviting foreign Christians to Wenzhou without permission.

The abuse of the rule of law is given full meaning in the case of Xu Birui, the 83-year-old mother of an imprisoned house-church Protestant. Since her son's arrest in early 1994, she has reportedly been under house arrest and interrogated daily about religious activities simply because she is related to the prisoner, who himself is being held in the Zhangzhou Detention Center for "involvement with overseas Christian organizations." This, at a time when the Chinese government is going to great lengths to attract involvement with overseas business organizations.

It is the very heart of religious freedom -- the right to worship and follow the dictate of one's conscience -- that is criminalized in China. Roman Catholic priests are arrested for celebrating Mass, and administering the sacraments without state authorization. Protestant preachers are rounded up and tortured for holding prayer meetings and distributing the Bible without state approval. The Puebla Institute documented four torture deaths of Protestants in 1994.

Chinese laws restricting worship violate natural law and international human rights law, just as apartheid, which was codified, did in South Africa. Chinese regulations on religion, for example, criminalize the distribution of Bibles from abroad, meeting with co-religionists from abroad in prayer meetings or worship services, and holding outdoor processions or services.

Why does the Communist party of China, which has forsaken ideology in so many other respects, still repress independent worship? There exist major doctrinal differences between the independent churches and the Communist party of China. For example, the Roman Catholic Church opposes China's one-child family policy. China's population control program, reasserted by authorities early this year, aims at achieving zero population growth by 2040. In part it is designed to correct the national population growth campaign of Party Chairman Mao Zedong in the fifties and sixties. It is the latest in a long list of Chinese Communist Party campaigns that included the Great Leap Forward and the Cultural Revolution, in which millions of Chinese citizens were killed. This national population control campaign is being ruthlessly enforced through forced abortions, sterilizations, the destruction of homes, fines, denial of housing and education privileges and other draconian measures.

The international press has documented numerous acts of deliberate cruelty and mayhem by officials as they carry out the government's population control goals. For example, since March 1994, authorities have laid siege to two tiny villages in a Catholic enclave in Hebei Province 180 miles southwest of Beijing, in a sustained attempt to force the 2,000 inhabitants to follow China's birth control policy. In this area of the country, Roman Catholicism is at its strongest and it is not unusual for couples, especially farmers, to have three to five children. Using the slogan, "It is better to have more graves than more than one

child," local authorities repeatedly raid the Catholics' homes, confiscate their property and indiscriminately beat those unable to run and hide in the surrounding fields. Many have been tortured by being hanged upside down or burned in the mouth with electric batons. Over the past year, a popular tribunal has been set up to try those accused of violating the birth policy and a prison built to hold the guilty. In Beijing, officials who run the state's Catholic Patriotic Church have consistently refused to comment on the villagers' plight. So far, their only comment on the siege has been a single, terse pronouncement: "Catholics should follow the policies of the government."

A country's respect for religious freedom offers a good barometer of its respect for human rights and democratic freedoms in general. A regime that fails to respect freedom of conscience, the starting point of all human freedoms, is unlikely to respect freedom of expression or association.

III. Third misconception: American companies are not the problem.

The American Chinese Chamber of Commerce in Hong Kong recently published a set of "Business Principles," in which it proclaimed that "American companies already set the highest standards." No doubt American companies are boy scouts when compared to some businesses from other countries. But with all due respect to AmCham this isn't saying much. In April, for example, one South Korean manager was forced to apologize after ordering more than 100 Chinese factory workers to kneel down before her in homage.

U.S. companies have not been exempt from gross ethical misconduct, usually through the actions of local partners and suppliers who either are part of the government itself or who operate in de facto complicity with the Communist party's tyrannical policies. It is vital to have good information on one's partners, suppliers and subcontractors.

For example, a number of American companies are taking advantage of slave labor practices inside the Communist prisons. Harry Wu has amassed evidence documenting the existence of 1,168 such prison labor camps, where inmates are forced to work against their will in hazardous and inhuman conditions for unlimited numbers of hours each week without pay.

In December, a U.S. federal court ruled that 50 diesel engines could not be imported by the San Diego company China Diesel Imports because they were manufactured with slave labor. This was the second major court case involving slave labor-made goods. In 1992, the U.S. Customs Service imposed a fine of $75,000 on E.W. Bliss Company in Hastings, Michigan, for importing stamping presses made with Chinese prison labor; the company pleaded guilty.

The Washington Post reported on April 9, 1995, that a U.S. glove manufacturer that wanted some boxes last year called a middle-man offering the best price, no questions asked. A million boxes -- at a cost of less than a penny apiece -- were made at a prison and shipped to the U.S., according to the middle-man.

The press has also drawn attention to the Chrysler Corporation. Last summer, the Hong Kong daily, *Eastern Express*, linked Chrysler's joint venture partner in Beijing, Beijing Autoworks Industrial Corporation with sweatshops that use prison slave labor despite Chrysler's pledge not to use parts supplied by such sources. Reportedly Beijing Autoworks buys parts from Yaan Automobile Parts Factory and Shayang Automobile Manufacturing Factory -- both known to use parts made by prison camp labor. Associates of Harry Wu posed as buyers last November and were told by the managers at both plants that Yaan and Shayang supplied parts to Beijing Jeep, Chrysler's joint venture.

In a second media report, Chrysler's Beijing Jeep was found to be acting as a supplier rather than a buyer. According to the International Affairs Department of the AFL-CIO, from 1984 until the early 1990s, the Shayang forced labor plant bought chassis directly from Beijing Jeep for the production of criminal reconnaissance cars, legal propaganda vehicles,

convict transport trucks and police dog cars. In the early 1990s, Beijing Autoworks established a special chassis plant, which has since acted as the prison's direct supplier. Chrysler denied the allegations of a link to forced labor, but promised to investigate.

Harry Wu's Laogai Institute demonstrated in May 1994 that the publicly-traded Waxman Industries of Ohio was importing steel pipe from a labor camp in Shandong Province. Laogai also broke the story that the Ben Franklin Stores, headquartered in Illinois, and Universal Sun Ray of Missouri, were receiving artificial flowers made by Chinese prison labor camp. A former inmate of the labor camp, Chen Po Kung, smuggled the companies' labels out of the prison last fall.

At the heart of most of the human rights abuse taking place in American work-places in China is the fact that American firms fail to exert direct personnel management control. Many delegate the hiring, firing, promoting, rewarding and disciplining of workers to unsupervised and unethical middle-men and local partners, the government's labor bureau or other third parties. Such as the All-China Federation of Trade Unions, the country's only recognized trade union. In other cases, the regime-supplied partners may be representatives of executive branch ministries, townships, municipalities and even the army. These remnants of the Communist political structure must not, as corporate America's intermediaries with the work force, must not be charged with the important task of fostering democratic values.

Nor should American companies allow regime apparatchiks and their agents to conduct compulsory political indoctrination sessions on company premises. During past Chinese campaigns to combat "bourgeois liberalism," such mandatory sessions were led by the Communist Party or the Communist-controlled labor organizations.

When a U.S. hotel operator in Shanghai wanted to hire people, it ran the names by the local Public Security Bureau. On at least one occasion the bureau reported back to the hotel that an applicant had a criminal record. In China this can mean anything from theft to criticizing the regime, but the hotel personnel manager did not bother to ask which it was. The job application was turned down, according to *The Washington Post* on April 9, 1995.

At the Shanghai plant where McDonnell Douglas Corporation planes are assembled by more than 5,000 workers, company representatives told the press they do not get involved in work-place issues unless they directly affect the assembly of the planes. The workers are all employed by a company controlled by the Ministry of Aviation. The Chinese Communist Party has an office at the work-place upstairs from the McDonnell Douglas managers to monitor political activities and keep people hewed to the party line.

Chrysler's joint venture, Beijing Jeep, was also reported by the press to have fired a man for being jailed after he prayed without state authorization. Gao Feng missed work for a month last summer at Beijing Jeep. When he returned, the factory worker told his managers he had been arrested by Chinese authorities during a fifth-anniversary, private Christian memorial service for Tiananmen Square victims, and detained for four weeks without due process. After police failed to provide proof of his whereabouts during his absence, Beijing Jeep suspended Gao and told him to resign or be fired, according to reports in the Associated Press. The worker told reporters that he had refused to quit and was eventually reinstated by the company in part due to public pressure from international human rights groups. According to Tony Cervone, Chrysler's manager of international public relations, Gao was never suspended or dismissed but only thought his job was gone because he saw it posted, which is routinely done after two weeks of unexcused absence. Chrysler's mistake in this case was to conduct business as usual and not take Chinese repression seriously.

These companies present stark examples of the difficulty in dealing with a government that thinks nothing of trampling on rights considered basic in the U.S. -- including individual freedoms and contract obligations.

IV. **Fourth misconception: American companies should not be involved in promoting human rights.**

Some business people maintain that human rights and democracy building are the exclusive concerns of the Department of State. Business responsibility is demanded by our Judeo-Christian ethic. It will also boost morale in the work-force, and will ensure greater security for business in the society.

I wish to briefly add that in China, where no rule of law exists, it is in the interests of every business to adopt a policy of enlightened self-interest. Last year, the Chinese government broke a 20-year lease with McDonald's and evicted it from its site on Tiananmen Square to make way for commercial development. Lehman Brothers is suing two state-controlled Chinese trading firms for allegedly failing to repay loans of almost $100 million dollars. About 31 foreign banks are pressing Chinese authorities to help them recover $600 million in loans paid to Chinese state industries.

Commercial activity flourishes in the United States because laws are uniformly enforced and judicial decisions are respected. These principles -- respect for the rule of law and an independent judiciary -- are the very notions that also safeguards our individual freedoms. In China, neither exists. And without them, commercial transactions, like individual freedoms, will continue to be violated arbitrarily at the whim of the ruling elites.

While large companies have been hurt by breach of contract, worse treatment has befallen the operators of small businesses. According to a March report from the Government of Hong Kong, 14 businessmen with links to Hong Kong who were embroiled in commercial disputes had disappeared or been detained without charge in China, some for several years; only one had actually been tried and sentenced. Several were American.

It was the persistence of American businessman John Kamm that helped secure the release of Chong Kwee-sung, an American resident in Hong Kong, who was held in Henan province for 30 months without charge. Another U.S. citizen, Philip Cheng, was detained in China without charge between August 1993 and March 1994. His Chinese partner, Liu Xianyou, general manager of an export firm, had invested $165,000 in Cheng's factory but wanted the money back. Cheng was captured by Liu's friends in the judiciary and imprisoned by Liu's brother-in-law, who ran a detention center, according to the *Far Eastern Economic Review*.

Another case involving a U.S. businessman from Miami occurred in mid-March 1995. While being held captive in a hotel room Troy McBride reported by telephone to the press in mid-March 1995 that a local court in China's central Anhui province had seized his passport and he and his partner were barred from leaving their hotel by unidentified persons who had surrounded the hotel exit for the previous several days.

The foreign investor who created the first joint venture listed in China, Australian businessman James Peng, has now been imprisoned in China for a year and a half. His apparent offence was that he had won an action in the Supreme Court of Hong Kong against a former employee who had unlawfully transferred stock shares into her own company and who happened to be the niece of Chinese leader Deng Xiaoping. Peng's wife is afraid to visit him. The Chinese authorities are not above detaining the relatives of foreign businessmen where there is a business dispute. We know of several cases like this. As the *FEER* has noted, such detentions, many more of which probably have not been reported to Hong Kong authorities, are becoming ever more frequent with China's arbitrary and opaque law enforcement.

The U.S. State Department will not be of much help in defending human rights in China since the U.S. has largely forfeited its influence over human rights. In pressing for reform, U.S. Assistant Secretary for Human Rights John Shattuck is continually undercut by Commerce officials and government trade representatives. The Administration also did irreparable damage to its own credibility when it first passed an Executive Order in 1993

linking China's human rights performance with trade privileges, and then revoked it last May while publicly admitting that human rights had not improved. In announcing the MFN decision last May the Administration unveiled a new strategy towards China that would "implement a vigorous, multi-faceted human rights policy." The steps of this policy were to inaugurate Radio Free Asia, insist on a resolution condemning China in the United Nations Human Rights Commission and promote a business code of ethics. To date there is little to show; this then marks the second straight year of failed and forgotten promises to get tough with China on human rights.

With Beijing desperate for economic stimulus and the rules for business being quickly reinvented from region to region in these countries, American business can wield tremendous leverage at this time. There are a number of positive steps companies can take to promote democratic values, namely:

- Make available company premises after hours for religious or study meetings for employees.

  Provide a well-stocked library for mid-level management.

- Give donations or rewards of fax machines and video cameras to employees, local human rights activists, underground church leaders and other unofficial civic leaders.

- Make contributions to strengthen civic society by making charitable donations to promote the arts, culture or other private civic endeavors.

- Use business contacts in the government to make appeals for the release of specific prisoners of conscience -- a strategy that American businessman John Kamm has pioneered with notable success.

Ultimately, American commercial engagement will translate into greater democracy in China only if the American corporations themselves make a conscious effort to promote democratic values and be willing to implement them in their foreign business dealings.

V. Exporting democracy and human rights is cultural imperialism.

At the World Conference on Human Rights in Vienna in 1993, China was one of the many dictatorships from several continents, who argued that human rights were Western values, not applicable to their cultures. It was revealing that some 200 Asian non-governmental organizations, including some led by Chinese citizens, responded to this assertion by joining together in a statement to reaffirm the universality of human rights. The NGO statement exposed the governments' position as a self-serving justification for repressive measures needed to shore up fundamentally illegitimate regimes.

In the ten years since its founding, the Puebla Institute has never encountered a victim of abuse that felt being tortured, arbitrarily detained or prevented from following one's conscience in the search for truth was acceptable. Democracy and the ideology of human rights are Western in the same sense that communism and capitalism are Western -- they were first articulated and practiced in the West. There is no cultural reason why they could not take root in China.

Christianity in China traces its roots back 700 years to when Blessed John of Monte Corvino, a missionary from Italy and later the Archbishop of Beijing, introduced Catholicism. In China, Catholics and Protestants together are estimated by independent sources to number as many as 40 million, accounting for up to three percent of the population. The Christian churches are among China's oldest continual civic institutions. Even persecuted they are thriving. Their appeal stems in part to precisely their emphasis on the dignity of the individual.

Responsible business leaders can play a pivotal role in encouraging democratic rights and religious freedoms in China. There is a range of actions enterprises can take to help, and each company should select the measures most appropriate to its business. Beyond that the choices are unavoidable. If businesses fail to include human rights concerns as a small part of their overall corporate strategy, there is a very substantial risk that American investors will find themselves partners, unwitting or not, to the violation of the most fundamental of human rights.

* * *

What pressure can America exert to improve human rights and foster democracy in China? The Puebla Institute recommends the following:

1. The U.S. Congress should not grant trade privileges to those sectors of the Chinese economy that are producing and using slave labor;

2. Congress should legislate a detailed code of conduct for American companies doing business in China;

3. Congress should amend the Immigration and Nationality Act to guarantee asylum to anyone fleeing coercive birth-control policies, such as the "one-child" policy in China;

4. Congress should cease all U.S. funding of the United Nations Population Fund which supports China's coercive family planning program;

5. The Administration should renegotiate the terms and application of the Memorandum of Understanding with China so that U.S. Customs and State Department officials can be more effective in preventing the export to the U.S. of prison-slave-made goods.

6. The Administration should ensure that all U.S. government representatives raise human rights concerns in their discussions with China and on China so that Administration human rights representatives are not undercut by those in other offices of the Executive branch;

7. The Administration should take whatever measures are necessary, including appointing a board of directors, to inaugurate Radio Free Asia, whose funds have already been appropriated by Congress;

8. The Administration should raise China's human rights repression formally at the Fourth World Conference on Women in Beijing later this year; and

9. American businesses should inform themselves about the human rights practices in the region(s) in China where they operate, prevent the use of slave-made goods in their businesses, and select a range of positive steps, including those listed in this testimony, to expand human rights and democracy in China.

Chairman CRANE. Thank you, Mr. Brown.
Ms. Lostumbo.

STATEMENT OF RACHEL LOSTUMBO, DIRECTOR OF GOVERNMENT RELATIONS, INTERNATIONAL CAMPAIGN FOR TIBET

Ms. LOSTUMBO. Thank you, Mr. Chairman, for providing me this opportunity to testify before you today regarding the current situation in Tibet.

My name is Rachel Lostumbo, and I am director of Government Relations at the International Campaign for Tibet, a nongovernmental organization dedicated to promoting human rights and democratic freedoms for the Tibetan people. I ask that my written statement be included in the record.

Chairman CRANE. Without objection, so ordered.

Ms. LOSTUMBO. Thank you.

When the President extended China's MFN status last May, he acknowledged, "Serious human rights abuses continue in China, including the repression of Tibet's religious and cultural traditions."

However, he justified his actions by stating that extending MFN would "lay the basis for long-term sustainable progress in human rights."

I regretfully must tell you today that not only has there been no progress in China's policies toward Tibet over the past year, but the situation in Tibet has, in fact, deteriorated.

Over the past year, there has been a heightened campaign by the Chinese Government to repress the spread and practice of Buddhism in Tibet. This was first apparent last fall when the Chinese confiscated all photographs of the Dalai Lama on display in city markets and issued a ban on these photos in public places.

At the same time, the Chinese called back Tibetan children studying in India, stating that if they did not return they would lose their rights to residence permits in Tibet.

Most recently, the harsh reaction to the Dalai Lama's announcement last week that a new Panchen Lama had been identified brought criticism from the State Department, which acknowledged that the Chinese response "might raise additional doubts about the Chinese Government's commitment to respecting the religious beliefs and practices of Tibetan Buddhists."

Interference by the Chinese Government in the selection of this high-level religious figure is a clear example of interference in the practice of Tibetan Buddhism.

As of April 26, there were already more political arrests in Tibet in 1995 than there were in all of 1994. At least 106 people were arrested during demonstrations in February and March alone. This is compared to a total of 110 known arrests in 1994.

Reports of torture of Tibetan political prisoners continue. In fact, there was a report in December of Tibetan prisoners being tortured after they refused to clap for a visiting Chinese delegation.

In recent months, two nuns and a monk have died as a result of mistreatment while they were in prison.

The greatest concern of the Tibetan people continues to be the tremendous influx of Chinese settlers into Tibet. The number and

influence of Chinese now in Tibet is marginalizing the Tibetan people politically, economically, and culturally.

His Holiness, the Dalai Lama, has stated that the only way to bring about a peaceful resolution to the situation in Tibet is through a mutually acceptable negotiated settlement between the Chinese and Tibetan people. To this end, he has issued several forward-looking proposals in which he has agreed to not raise the issue of independence during negotiations. However, the Chinese have refused to respond positively to his proposals.

Mr. Chairman, the administration's policy of constructive engagement is not bringing any relief to the Tibetan people. While there were indications in 1993 and 1994 that the pressure created by the President's MFN Executive order could lead to some improvements in the Chinese Government's policies in Tibet, all such hope was lost when it became apparent that the President was likely to extend MFN, whether or not the conditions in his Executive order had been met.

Today the administration has yet to develop and maintain a policy that can pressure the Chinese to improve their human rights record. We remain convinced, however, that the United States is the only country that can have a real impact on China. A strong showing of support for human rights and the rule of law right now will help strengthen the hands of the more liberal elements of the leadership and can play a critical role in assisting a peaceful transition to a more democratic China.

If the Chinese Government is made to understand it cannot have the relationship it wants with the United States until there is a clear improvement in its human rights policies, we are convinced that China will take the necessary steps.

While we praise the administration for their efforts over the past 2 years to urge the Chinese to agree to begin substantive negotiations with the Dalai Lama or his representatives, the administration has not done so publicly or forcefully.

I would note that an example of this is in today's testimony by the administration where Tibet was not even raised once. When there was the Executive order in force, it was raised every time.

We urge the administration to raise its concerns about Tibet at every opportunity with the Chinese leadership and to work with the international community at such forums as the United Nations Commission on Human Rights to bring global pressure on China to change its repressive policies in Tibet.

The administration should strongly protest Chinese attempts to exclude Tibetan participation at the Fourth World Conference on Women to be held in Beijing this September and insist that organizations such as mine, the International Campaign for Tibet, be permitted to attend this important conference.

We also urge the President to refrain from visiting China until concrete steps have been taken to improve conditions in Tibet.

We also urge the President to meet openly and publicly with the Dalai Lama when he next visits Washington, D.C.

I would also like to call to your subcommittee's attention the legislation that is currently before the House to establish a special envoy on Tibet. The establishment of a special envoy on Tibet will send a very strong message to China that the United States re-

mains solidly committed to supporting peaceful change in China, and in Tibet.

Thank you, Mr. Chairman, for this opportunity to testify before you today.

[The prepared statement follows:]

INTERNATIONAL CAMPAIGN FOR TIBET

Testimony of

Rachel Lostumbo, Director of Government Relations
International Campaign for Tibet

before the
Subcommittee on Trade,
Committee on Ways and Means,
U.S. House of Representatives

May 23, 1995

Thank you, Mr. Chairman and distinguished members of this Committee, for providing me with the opportunity to testify before you today regarding the current situation in Tibet. My name is Rachel Lostumbo and I am Director of Government Relations at the International Campaign for Tibet, an American non-governmental organization dedicated to the promotion of human rights and democratic freedoms for the Tibetan people.

We have always been appreciative of the leadership of the U.S. Congress on the issue of Tibet. The numerous resolutions passed by you and your colleagues condemning human rights violations in Tibet and providing financial and other assistance to Tibetan refugees, have given great encouragement to the Tibetan people.

Mr. Chairman, last May the President made the decision to reverse his policy towards the People's Republic of China and to extend to them Most-Favored-Nation trading status (MFN), despite the Chinese government's clear lack of compliance with the conditions outlined in President Clinton's 1993 Executive Order. This Executive Order conditioned future renewal of China's MFN status on an improvement in human rights, including a specific condition calling on the Chinese to take significant steps to protect Tibet's distinct religious and cultural heritage.

When the President extended China's MFN status last May, he acknowledged that "serious human rights abuses continue in China, including... the repression of Tibet's religious and cultural traditions." However, he justified his action by stating that extending MFN would "lay the basis for long-term sustainable progress in human rights."

I regretfully must tell you today that not only has there been no progress in China's policies towards Tibet over the past year, but the situation in Tibet has in fact deteriorated.

Restrictions on Religious Practice

Over the past year there has been a heightened campaign by the Chinese Government to repress the spread and practice of Buddhism in Tibet.

This was first apparent in the fall when the Chinese confiscated all photographs of His Holiness the Dalai Lama on display in city markets and issued a ban on these photos in public places. At the same time the Chinese called back Tibetan children studying in India, stating that if they did not return they would lose their right to residence permits in Tibet. Chinese officials then declared their intention to stop the growth of Buddhism in Tibet by fixing the number of monks and nuns as well as the construction of new monasteries at their current number.

Most recently, the harsh reaction by the Chinese Government to the Dalai Lama's announcement last week that a new Panchen Lama had been identified, brought criticism from the State Department, which acknowledged that the Chinese response "might raise additional doubts about the Chinese Government's commitment to respecting the religious beliefs and practices of Tibetan Buddhists." Interference by the Chinese government in the selection of this Panchen Lama is a clear example of interference in the practice of Tibetan Buddhism.
The Panchen Lama, a high-level religious figure, stayed behind in Tibet after the March 1959 uprising was suppressed by the People's Liberation Army of China.

Political Prisoners
As of April 26, there were already more political arrests and demonstrations in Tibet in 1995 then there were in all of 1994. At least 106 people were arrested during demonstrations in February and March alone. This is compared to a total of 110 known arrests in 1994.

In addition in recent months 90 monks including senior monastic officials and religious teachers, were expelled from their monasteries, because the Chinese suspected their involvement in demonstrations against the Chinese government.

Torture
Several former prisoners have died over the past year as a result of mistreatment while in prison, including a 24 year old nun, Gyaltsen Kelsang, who died on February 20; another nun, Phuntsok Yangki, who died in prison over the summer; and a monk, Lobsang Yonten who died this October. He was the monk who was arrested with Gendun Rinchen, a well known dissident, for attempting to pass on human rights information to a visiting delegation of foreigners in 1993.

A new method of torture in Drapchi prison has also been reported, where Tibetan nuns are treated as "soldiers" and are given special "physical training" sessions which involve brutal beatings. There was also a report in December of Tibetan prisoners being tortured after they refused to clap for a visiting Chinese delegation.

Population Transfer
The greatest concern of the Tibetan people continues to be the tremendous influx of Chinese settlers. The number and influence of Chinese now in Tibet is marginalizing the Tibetan people politically, economically, and culturally.

This influx is likely to increase as a result of China's Third Work Forum on Tibet held last August which announced 62 new development projects in Tibet and the announcement this summer that the Chinese plan to build a railroad to Tibet. Many development projects in Tibet have been documented by the International Campaign for Tibet and other monitoring organizations to primarily benefit Chinese settlers, not the Tibetan people.

Negotiations
His Holiness the Dalai Lama has stated that the only way to bring about a peaceful resolution to the situation in Tibet is through a mutually-acceptable negotiated settlement between the Chinese and Tibetan people. To this end he has issued several forward-looking proposals in which he has agreed to not raise the issue of independence during negotiations. However, the Chinese have refused to respond positively to his proposals.

Conclusion

Mr. Chairman, the Administration's policy of constructive engagement is not bringing any relief to the Tibetan people. While there were indications in 1993 and 1994 that the pressure created by the President's MFN Executive Order could lead to some improvements in the Chinese government's policies on Tibet, all such hope was lost when it became apparent that the President was likely to extend MFN, whether or not the conditions in his Executive Order had been met.

Today, the Administration has yet to develop and maintain a policy that can pressure the Chinese to improve their human rights record. We remain convinced, however, that the United States is the country that can have the greatest impact on China. A strong showing of support for human rights and the rule of law right now will help strengthen the hands of the more liberal elements of the leadership and could play a critical role in assisting a peaceful transition to a more democratic China. If the Chinese Government is made to understand that it cannot have the relationship it wants with the United States until there is a clear improvement in its human rights policies, we are convinced that it will take the necessary steps.

We praise the Administration for their efforts over the past two years to urge the Chinese to agree to begin substantive negotiations with the Dalai Lama or his representatives. However, in order to bring about concrete results, these efforts must be made publicly and forcefully.

We urge the Administration to raise its concerns about Tibet at every opportunity with the Chinese leadership, and to work with the international community at such forums as the United Nations Commission on Human Rights to bring global pressure on the Chinese to change its repressive policies in Tibet. The Administration should strongly protest Chinese attempts to exclude Tibetan participation at the Fourth World Conference on Women to be held in Beijing this September, and insist that organizations such as the International Campaign for Tibet be permitted to attend this important conference. We also urge the President to refrain from visiting China until concrete steps have been taken to improve conditions in Tibet.

We also call to the Committee's attention legislation currently before the House to establish a Special Envoy on Tibet. The establishment of a Special Envoy on Tibet will send a very strong message to China that the United States remains solidly committed to supporting peaceful change in China and Tibet.

Thank you, Mr. Chairman for this opportunity to testify before you today.

Chairman CRANE. Thank you, Ms. Lostumbo.

Mr. Rangel, do you have any questions for the panel?

Mr. RANGEL. Let me thank all of you for your testimony. I regret that a domestic matter back home prevented me from reading your testimony, but I have listened to you, and I will be reading your testimony and getting back to you if I have any questions.

Thank you, Mr. Chairman.

Chairman CRANE. I thank you all for your presentations today. With that, we will adjourn this panel and convene our final panel with Robert Kapp; our former colleague, Beau Boulter; Robert Aronson, Joel Simon, and Martin Duggan.

Before we commence, I want to express my apologies, Mr. Aronson, to you from our distinguished colleague who represents your area, Clay Shaw. Clay had an unfortunate conflict and was not able to be here today, and he had a personal introduction of you, and so I would ask unanimous consent that it be made a part of the record.

[The following was subsequently received:]

It is my pleasure to introduce Robert Aronson to the committee today. Mr. Aronson is the President of Ross Engineering Corporation in Fort Lauderdale, Florida. Ross Engineering Corporation is a management services company in the import/export field with a concentration on China and Korea. Mr. Aronson founded Electric Fuel Propulsion Corporation (EFP) in 1966 and has spent his career in the development of electric vehicles and propulsion system components, especially high performance, fast charge batteries and chargers, and electric vehicle control systems. He has been issued 31 patents on batteries, electric vehicle systems and electric vehicles all of which were assigned to EFP. Under his leadership, EFP built over 100 highway electric vehicles which were sold primarily to electric utility companies. We look forward to your testimony.

Chairman CRANE. With that, we will start with Mr. Kapp first and work in order on the schedule.

STATEMENT OF ROBERT A. KAPP, PRESIDENT, U.S.-CHINA BUSINESS COUNCIL

Mr. KAPP. Thank you, Mr. Chairman. I am delighted to be here today and hope that you will permit me to submit my written testimony for the record.

I am Bob Kapp, president, U.S.-China Business Council, a private association of 300 major U.S. companies doing business with the People's Republic. We have about a 20-year history of dealing with China, and we are honored by the support of most of the major business organizations that are active with China.

I think since we are so late in the day, that rather than recapitulate my testimony, I would like to just make a couple of points that have come to mind in the course of the morning.

The first is that we are in the throes of the annual June 4 exercise which represents the unfortunate coincidence of the anniversary of Tiananmen and the required anniversary of the renewal of MFN.

There is a June 4 industry now, in which we are all participants—the press, the people in the public sector, and people in the business sector. It is predictable that in the weeks leading up to the combination of the Tiananmen anniversary and the MFN decisions, the atmosphere of discussions surrounding U.S. relations with China achieves a level of tension and flamboyance that is, I think, highly regrettable.

The second point that we would like to argue is that contrary to some people's views, the American business engagement with China is compatible with deeply held American values and, in fact, represents the cutting edge of the progressive engagement that the United States is able to maintain and develop with China.

The point is elaborated more fully in my written testimony. Suffice it to say that American business is engaged with China because of a decision that the Chinese made in 1978. That twofold decision was to move in the direction of a much greater role for the market economy, toward much greater engagement with the world—in business, science, and ideas. The progressive changes that few would deny in today's China as compared to the Maoist and the Stalinist era before 1978 are inseparable from the presence of foreign business in the Chinese economy, and especially from the presence of American business there.

The third thing I would like to say is that this annual resume of the issues as it relates to MFN is profoundly discordant with the timing and the shape of the growing American economic engagement and business engagement with China.

I point out in my written remarks that American companies now are taking China very, very seriously. They are engaged in the most serious wide-ranging thinking and planning for business relations with China that will extend 5, 10, 20, and 50 years out.

I find it regrettable—that perhaps is the best word—that every year, in the face of those engagements, the possibility of the utter disruption of U.S.-China economic and commercial relationships arises. It puts American businesses, as they think their long-term

thoughts, in a very difficult position and potentially at a very great disadvantage vis-a-vis their third-country competitors.

The American business community, I believe, is the strongest single constituency in the United States supporting stable and predictable relations with the People's Republic. It is not an easy relationship. It is and will be marked by repeated tensions and repeated disputes in both the commercial and noncommercial areas.

In the face of all those forces and all the submerged rocks just below the surface of the water that can and often do tend to disrupt the U.S.-China relationship, American business, for its own needs—and, I believe, in the recognition of the needs of the country as a whole—hopes to make the case as strongly as possible that stability and predictability in U.S.-China relations are absolutely vital.

Finally, let me just make one comment on the most striking of the testimonies this morning and the issues involved, and that is the issue of "outrages."

I am a Chinese historian. In fact, Congressman Crane, you and I are fellow historians. I look forward to chatting with you on that some day.

The United States and many Western countries have found cause for outrage with China many times over the 150 years. It used to be foot-binding, or the criminal justice system. There were lots and lots of things to be outraged about with China. There is a tradition of Western outrage with China.

If you look back to a book by Graham Peck called "Two Kinds of Time," which was published in 1950 and recounted Mr. Peck's experiences in China during World War II, have a look at his description over four or five pages of the anatomy of a Chinese famine and the point at which the sale of children and cannibalism begins.

We face a tradition in the United States of sometimes finding, in what we see in China, issues of enormous social distress and even in some cases horror.

The question before us now is whether or not the destruction of U.S.-China economic relations is any way to approach those offenses against our sensibilities—if, in fact, those offenses are proved truly to exist. That is a question on which I believe the answer is no. I would hope that all Members of Congress, as they approach the disapproval resolution this year, would answer in the same way.

Thanks very much.

[The prepared statement and attachments follow:]

Testimony of Robert A. Kapp, President, US-China Business Council
1818 N Street, NW, Suite 500, Washington, DC 20036
Before the Subcommittee on Trade of the Committee on Ways and Means,
U.S. House of Representatives, May 23, 1995.

Mr. Chairman, Members of the Subcommittee:

Thank you for the opportunity to offer testimony today with regard to the current and future condition of U.S. trade relations with China.

I am Robert Kapp, president of the U.S.-China Business Council. Founded in 1973, our Council--a private, nonpartisan, member-supported organization--is the principal organization of U.S. businesses engaged in trade and investment relations with the People's Republic of China. Our membership of nearly three hundred companies includes many of America's best-respected and best-established corporations, as well as smaller companies and services firms. Nearly all of our members have amassed significant experience in China and are heavily engaged in significant business activities with the PRC.

I hope the members of this Subcommittee will find useful the statistical and factual materials relating to recent U.S.-China trade developments that accompany this testimony. The US-China Business Council has long worked closely with this Committee, and with other key committees and Members of Congress, to provide reliable, factual information about U.S.-China trade and economic affairs, and we look forward to continuing cooperation with you in the future.

I am pleased to discuss with members of the Subcommittee any aspects of the U.S.-China trade scene, and specifically of the implications of MFN renewal today. In my prepared remarks for the record, however, I have chosen to limit myself to a set of broad observations that, I believe, represent the perspectives of the membership of my Council on basic points.

The first point, which I and others emphasized in the discussions of U.S. trade policy toward China last spring and in the months since then, is that **the broad and expanding engagement of U.S. business with China is profoundly consistent with deeply-held American values**.

China, in 1978, took the perilous decision to "open to the outside world," setting out to become a serious factor in world economic affairs and to engage fully with the developed market-economy nations of the globe including the United States. The results of that engagement have been economically striking, culturally unsettling, and politically complicated. The need to engage with American business, at least in part on American business' terms (even as we struggle to engage with China on its terms), has already helped to engender changes in China's economic and social environment that virtually all Americans would consider progressive, however much we might regret or deplore the persistence of some domestic practices. The United States should not declare itself on a national crusade to remake China; we have done that on and off for more than a century, and history has proved the idea to be both futile and self-deluding. But the United States--primarily because of the immense and growing interaction of our businesses with the Chinese economy and society--is unavoidably a part of the gigantic transformation now occurring in China. The transformation of China is uneven, sometimes chaotic, and certainly not tidy; policies shift, bureaucratic structures come and go, laws and regulations emerge and recede. But none of us can deny that in comparison to the Stalinist or fanatical Maoist society of the pre-1978 period, China has come a long, long way. China's "opening to the outside world" is central to that transformation, and the significance of the intensifying U.S.-China economic and commercial interaction in this context must be acknowledged.

As you might expect, **the Council has over the years made the strongest possible case for the maintenance of stable, predictable, and (whenever possible) cooperative relations between the United States and China. American success in business with China needs a stable and continuous U.S.-China relationship.**

In a small and shrinking world, where the United States and China simply cannot avoid constant interaction, it would appear self-evident that a bilateral relationship of regular communication, concerted efforts at mutual understanding, and ever-increasing peaceful contact in trade, academic life, and the many arenas of global cooperation is in the deepest interest of the United States. This is certainly the case with regard to the establishment and development of long-term economic relations between the United States and the People's Republic of China, and it becomes increasingly salient as China's own efforts produce unprecedented levels of national economic strength in the PRC.

Fifteen years after the first major flowering of U.S.-China trade opportunities, the U.S.-China business scene today presents a broad and varied picture -- of large and increasing U.S. exports, of large and increasing imports from China, of major U.S. investment projects in the People's Republic, of the laborious perfection of effective and profitable business ventures, of the improvement of many business conditions in China and the persistence of serious obstacles to business development, and of the resolution of some bitter trade conflicts at the government-to-government level and the persistence of other trade issues.

Fifteen years after the establishment of normal diplomatic relations between our two countries, the bilateral relationship as a whole similarly presents a picture of periodic difficulties and periods of rapprochement.

Through the years--and especially in recent years, when the size and the time span of U.S. business calculations regarding China both have increased so markedly--**our members remain convinced that stable, predictable relations with China--freed as much as possible from the roller coaster-like peaks and valleys of each country's alternating enchantments and disenchantments with the other--are crucial not only to U.S. firms contemplating long-term business commitments in China but to U.S. international interests and policies more generally.**

The US-China Business Council, on behalf of its members, thus warmly supports the unconditional continuation of normal trade relations with China--so-called "MFN Treatment"--this spring and in the future. If and when Congress has an opportunity to support the continuation of MFN-based normal trade relations with China, we warmly urge all Members to do so.

The members of my Council know full well that the development of enduring and profitable business relations with China is a long-term project. The slow, often painstaking, process of establishing one's business presence in that huge nation, whose domestic economic and social conditions are so fluid and so constantly changing, does not lend itself to the annual timetable of MFN renewal set by U.S. law. The process of training staff in China to perform effectively in U.S.-invested businesses--and to develop the new habits of thought that are the hallmark of progressive U.S. business influence in an alien cultural and political environment--is a long and difficult process of acculturation. In the PRC, the government is faced with the task of creating the huge mass of legislation in order to bring Chinese business and economic practices into line with U.S. and global practices. This, too, is the work of decades, in a society whose own entrenched traditions date back millennia.

These are the realities of our commercial and economic engagement with China today.

That China is economically advancing, rapidly growing, and already achieving historically unprecedented global economic stature is not in doubt; nor is it ours to guarantee or prevent. What is ours to grasp or to ignore is the opportunity that China's self-generated economic transformation offers to the United States and to American business.

Increasingly, from our Council's vantage point, we see the best-run and the most capable American companies embracing the inescapable conclusion that China must be a part of their futures; that major resources must be devoted to pursuing and realizing opportunities there; and that a broad and demanding engagement with the realities of China's history, its society, its governance, and its economic policies is vital to their interests.

Maintenance of normal trade relations with China year in and year out, then, is an obvious, prime prerequisite for the expansion of U.S. business interests with China.

But it is important to point out that the mere fact that normal trade relations with China are placed on the chopping block every spring in and of itself has a deleterious influence on the development of advantageous economic relations with the PRC. While the President and the Congress in turn made enormously important decisions in the spring of 1994 by re-establishing the tradition of unconditional MFN and by decisively turning back the effort to reverse the President's decision, the fact remains that each spring the future of U.S.-China trade and economic relations is placed in jeopardy by the MFN renewal ritual. **The future of U.S.-China economic relations, whose expansion should be measured in decades, is every single year rendered vulnerable to fundamental disruption.**

Thus, Mr. Chairman, I urge the members of this vital Trade Subcommittee to take the long view of the development of U.S.-China trade and economic relations. Recognize that the annual MFN exercise--which has never, in the case of China, really revolved around the freedom of emigration issues with which the original Jackson-Vanik legislation was primarily concerned--is both an enduring irritant to U.S.-China trade relations and a minefield in which U.S. commercial and foreign policy interests can every year be imperilled.

We urge this Committee to recognize that, however hard the bargaining over the specifics of China's admission to the World Trade Organization must be if China is to gain admission on the required commercially acceptable terms, the Chinese understandably wonder aloud why they should make the concessions we demand of them, when the United States under present law is not authorized to accord China the permanent unconditional MFN status that is the principal definition of GATT/WTO membership.

In short, while maintenance of MFN relations in 1995 is vital in the immediate term, it remains only a momentary treatment for a longer-term aberration in U.S.-China relations that ultimately prevents the fuller realization of the benefits of closer engagement between these two nations.

We at the U.S.-China Business Council thus hope and believe that Congress, the Administration, and the private sector can work together to achieve a more stable and enduring bilateral economic relationship than we have enjoyed thus far in the modern U.S.-China encounter. Will trade disputes continue to arise between us? Certainly, and they should be vigorously prosecuted, when necessary, through appropriate dispute-resolution mechanisms. Will China and the United States continue to differ widely on certain basic issues of human and political values? Very probably. Our societies stem from different historical traditions, and our material circumstances are widely disparate. Will China become a political issue in U.S. domestic politics again, as it has repeatedly (and with lamentable effects) over the past century? It could, if we're not all careful. Will a strong, honest, and yet respectful relationship be restored between the United States and China? It could be, and it should be. Maintaining normal trade treatment for China this year is a prerequisite to this, but the larger challenge lies ahead of all of us.

Thank you.

China Economic Statistics

	Full-Year 1994	% Change Over 1993
Gross Domestic Product	4,380 billion RMB	+ 11.8%
Gross Value of Industrial Output (GVIO)	4,257.3 billion RMB	+ 21.4%
GVIO Private and Foreign-Invested Enterprises	738.7 billion RMB	+ 42.2%
GVIO Collective Enterprises	1,655.7 billion RMB	+ 29.4%
GVIO State-owned Enterprises	1,862.9 billion RMB	+ 6.52%
Overall Inflation*	+ 24.2%	
Per Capita Income	$373	+ 13.4%
Money Supply		
M2 Supply	4,693.3 billion RMB	+ 34.4%
M1 Supply	2,055.6 billion RMB	+ 26.8%
Retail Sales	1,605.3 billion RMB	+ 31.2%
Total Foreign Direct Investment		
Number of Projects	47,490	- 43.1%
Amount Contracted	$81.406 billion	- 26.9%
Amount Utilized	$33.8 billion	+ 31.2%
US Direct Investment**		
Number of Contracts	4,027	- 40.3%
Amount Contracted	4.7 billion	- 31.1%
Amount Utilized	1.9 billion	- 8.2%
Foreign Trade	$236.7 billion	+ 21.0%
Global Exports	$121.0 billion	+ 31.8%
Global Imports	$115.7 billion	+ 11.4%
Balance of Trade	$5.3 billion	- $12.1 billion in 1993
US-China Trade***	$48.1 billion	+ 19.4%
US Exports	$9.3 billion	+ 6.0%
US Imports	$38.8 billion	+ 23.2%
Balance of Trade	- $29.5 billion	- $22.8 billion in 1993
Total Trade of Foreign-Invested Enterprises (FIEs)	$87.6 billion	+ 30.7%
FIE Exports	$34.7 billion	+ 37.6%
FIE Imports	$52.9 billion	+ 22.6%
Total Foreign Exchange Reserves Minus Gold	$52.9 billion	+ 136%

Sources: US-China Business Council, State Statistical Bureau, MOFTEC, World Bank, IMF, FBIS, US Dept. Of Commerce, China Economic News

** Represented by the consumer price index. Inflation statistics are, in effect, moving averages of price increases and understate true price increases during periods of accelerating inflation.*

***Straight line projection from January-October data*

**** US Dept. of Commerce official figures.*

US-China Business Council, April '95

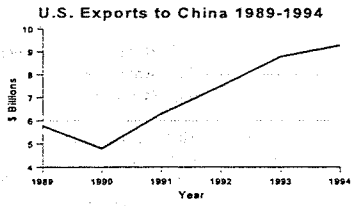
The United States-China Business Council

1818 N Street, NW, Suite 500, Washington, DC 20036 Telephone: (202) 429-0340 Telefax: (202) 775-2476

U.S. COMMERCIAL INTERESTS IN CHINA

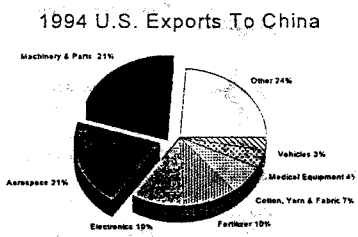
China is the United States' Fastest Growing Major Export Market

- America exported $9.3 billion worth of goods to China in 1994, an increase of 5.9 percent from 1993. Exports are expected to continue to grow in 1995.
- The annual rate of growth in U.S. exports was 20.4 percent in 1992, and 17.4 percent in 1993.

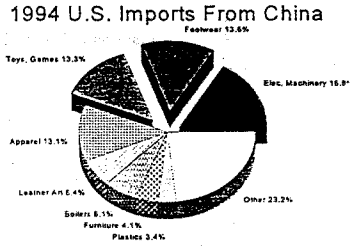


Trade with China Creates American Jobs and Benefits American Consumers

- American exports to China in 1994 supported approximately 187,000 U.S. jobs, many of which are in high-wage, high-technology fields.



- Leading U.S. imports from China are generally low-tech, low value-added consumer goods. These products do not displace U.S. production, but rather compete with products from other low-wage economies in East Asia.



formerly The National Council for U.S.-China Trade

Opportunities for U.S. Businesses

- In 1994, China's real GNP grew 11.8 percent. Between 1978 and 1994, China's annual real GNP growth averaged roughly 9 percent. By most calculations, this was the fastest growth of any country in the world during this period.
- The IMF now ranks China as the world's third largest economy behind the United States and Japan. According to many widely-respected projections, China will become the world's largest economy early in the next century.
- In 1994, China ranked second only to the United States in volume of incoming foreign investment. China ranks first among developing countries in attracting foreign direct investment. Since 1979, U.S. companies have signed roughly 16,000 investment contracts worth roughly $20 billion.
- In 1994 the U.S. Department of Commerce identified 10 emerging markets as those which hold the most promise for U.S. firms. China ranked #1 among these big emerging markets (BEMs).
- Many opportunities exist for increased U.S. trade and investment in China. According to estimates by private firms, the U.S. Foreign Commercial Service, and leading trade groups, the amount of potential investment in the Chinese market includes:

Power generation equipment: $90 billion over the next 7 years.

Commercial Jets: $65 billion over the next 18 years.

Telecommunications: $40 billion over the next 5 years.

Oil field and gas machinery: $18.2 billion over the next 3 years.

Computers: $4.3 billion over the next 3 years.

Sources: U.S. Department of Commerce and MOFTEC

Chairman CRANE. Thank you, Mr. Kapp.

Now our distinguished good friend and former colleague, Beau Boulter.

STATEMENT OF HON. BEAU BOULTER, ESQ., ARLINGTON, VA., FORMER MEMBER OF CONGRESS

Mr. BOULTER. Mr. Chairman, I do want to thank you for allowing me to testify before your subcommittee today, and I would like to submit my written testimony for the record, please.

Mr. Chairman, you know me a little bit better than Congressman Rangel does. But I listened to the testimony of my colleagues, former colleagues, this morning and especially Frank Wolf's, and I am going to actually visit with Frank about this, I think this coming Friday.

You know that in my heart I am from—I am a Republican, and I am from sort of what some people call the right wing of our party. I generally have been identified with the religious right, although I am not particularly happy with that identification.

But I certainly—I agree with so much of the concerns that Frank has. I stay in touch with people in China, with the missionary movement, the House Church movement. Last winter, I took a young Chinese Government official into a Sunday morning worship service. It was against the law. It was announced from the pulpit, as they had to do under the law, that no Chinese nationals were allowed in the service; nonetheless he was there.

So I am very concerned about all of these things that I heard Frank talk about. I am also involved in a very—I think, a very exciting prodemocracy project in China.

My point is, however, I just totally disagree with Frank's solution. I think if relinking MFN status to human rights considerations would promote human rights in China, I would certainly be for it. I have no commercial clients over there.

But it just will not work in my view. I base my view on the fact that I know so many individual people involved in the dissident movement or in the prodemocracy movement, many of whom were at Tiananmen Square. Not all of them, but most of them, as individuals want normal trade relations with China. They think that is the very oxygen for the very political reforms, democratic reforms, and market reforms that they all yearn for so much. That is why I support renewal of MFN on an unconditional basis.

To relink it with human rights considerations, especially during the succession period—things appear to be stable, but still it is a very dangerous situation, and we all know that.

I think that human rights does, in China more than most places, depend upon political stability. Relinking MFN to human rights right now, I think, would undermine political stability.

The other point I would want to make that I have not heard really talked about is that I think China is on the verge of financial collapse. It always teeters on that brink.

I met recently with the Vice Governor of the People's Bank of China, and he would never say that, but my impression was that there are so many loans that have been made by these specialized banks—now they are trying to convert them into regular commercial banks, but I do not know that they will succeed—there are so

many loans to the State on industries that are delinquent, a third of them or so.

Ten percent of those loans are just totally bad at least, and it is the export industry in China that keeps those banks going. It is the export sector of their economy that is lessening the dependence of the State on industries. If they do—if that financial house of cards were to collapse, then I think the People's Liberation Army might very well take over everything in China. What would that do to the balance of power in the region? What would that do to human rights?

So I strongly support normal trading relationships, even to the point of allowing China into the WTO once they agree to a schedule to reduce their tariffs.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. BEAU BOULTER, ESQ.
ARLINGTON, VA.

It is a privilege for me to testify before this subcommittee on the subject of U.S.-China trade relations, including China's MFN status and related issues.

MOST FAVORED NATION STATUS

The advocates of economic sanctions to spread democracy and human rights say that America's self-interest must give way to our belief in democracy and freedom. In their view, the US must have little or no economic activity with those nations they consider to be human rights abusers. They argue that the principle of nonintervention applies only to legitimate states and that nondemocratic regimes are illegitimate, and therefore harassment of all sort, short of actual invasion, including blockades, are appropriate. These "democratists" believe that such a policy of internationalism is in the interest of global security because, they say, democratic states do not fight each other.

The other view, to which I ascribe, is clearly articulated by Henry Kissinger, who contends that the United States cannot base its foreign policy on the hope of transforming other societies. Instead, U.S. foreign policy must aim for peace with nations whose systems are totally different from ours.

As a general rule, trade sanctions and embargoes do not help spread democracy or human rights. They only hurt the very people they are designed to help.

I believe that America's interests, goals and ideas will be better advanced if MFN is not only kept separate from human rights considerations, but if MFN is granted to China without Jackson-Vanick annual conditionality. The interests, goals and ideas which I have in mind specifically include maintaining a balance of power in East Asia, the nonproliferation of weapons of mass destruction, a vibrant trade relationship with China and the promotion of a more open society and human rights in China.

Originally, President Bill Clinton's policy toward China was to pursue security arrangements, economic growth, and human rights in a balanced manner. Before long, however, possibly due to the pressure of constituent human rights groups in the Democratic Party, the Administration began giving priority to the promotion of human rights, to the exclusion of the other two policy goals.[1] The weapon he chose to promote democracy and human rights was trade sanctions, and he pulled from that arsenal the most blunt weapon of all, MFN.

In the course of nearly a year, the Clinton Administration gradually learned that neither China, our allies nor American business would tolerate the Clinton tactics of trade sanctions to enlarge democracy and promote human rights in China.

Moreover, the Administration failed to distinguish between a country like North Korea, which maintains a totalitarian political system and has virtually no economic or cultural contacts with the rest of the world, and a country like China, whose political system was a much looser authoritarianism and whose economic and cultural ties with the West were developing rapidly.

After President George Bush announced renewal of MFN for China following the Tiananmen Square crackdown on June 4, 1989, candidate Bill Clinton campaigned against Bush's policy of "coddling the tyrants in Beijing". On May 28, 1993, President Bill Clinton issued his executive order extending MFN to China to July 3, 1994, conditioned on "significant progress" in the area of human rights.

In the President's statement, he said Americans were outraged by the killing of pro-democracy demonstrators at Tiananmen Square in June 1989 but that when Congress expressed that outrage by placing conditions on most-favored-nation trade status with

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[1] For an excellent discussion of the devolution of Clinton foreign policy toward China, see Harding, Harry, "Asia Policy to the Brink", Foreign Policy, No. 96, Fall, 1994.

China, President Bush had twice vetoed such legislation. Mr. Clinton then discussed the evidence of Chinese missile sales to Pakistan, then turned to a discussion of the growing U.S. trade deficit with China, and concluded that in order to promote democracy in China and open China's markets, the Administration would adopt a new policy toward China:

> The core of this policy will be a resolute insistence upon significant progress on human rights in China by extending most-favored-nation status for China for 12 months, but, whether I extend MFN next year, however, will depend upon whether China makes significant progress in improving its human rights record.[2]

With that statement, President Clinton adopted the congressional policy twice vetoed by President Bush and extended MFN to China conditionally, making MFN renewable on July 3, 1994 for 12 months, provided that China has made "overall significant progress" in the area of human rights. The order further committed the US government to make China abide by its commitment to fair trade practices and to adhere to the Nuclear Non-Proliferation Treaty and the Missile Technology Control Regime (MTCR).[3]

Winston Lord, Assistant Secretary for East Asian and Pacific Affairs, testified before the Subcommittee on Trade of the House Ways and Means Committee on June 18, 1993, that:

> We are hopeful the Chinese Government will take significant steps in the human rights area which will permit the President next year to renew the P.R.C's MFN status in a positive fashion. But the President is prepared to revoke that status if satisfactory progress does not occur.[4]

Clearly, China did not make, nor has it made, any substantive changes in its human rights policy. Yet, on May 26, 1994, President Clinton totally reversed his policy and unconditionally renewed MFN for China by his executive order of July 3, 1994, thereby separating human rights from the issue of normal trade relations with China.

Thus did the President's foreign policy lurch from his idealistic, activist, moralistic, democratist position to a very pragmatic and mercantilist position. It swung from one designed to spread democracy and human rights, using trade as a weapon, to one designed to create jobs at home through expanding international trade and promoting U.S. investment in China. Contrast the statements by the President and Assistant Secretary of State above with subsequent pronouncements, such as:

> I will avoid political concerns altogether and carry out what is economically good for us and China and will not be diverted by political issues. The Bank's mission is to help American private sector companies to create jobs in America. This

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[2]Statement released by the White House, Office of the Press Secretary, Washington, DC, May 28, 1993, US Department of State Dispatch, June 14, 1993, Vol.4, No.24.

[3]Executive Order-Conditions for Renewal of Most-Favored-Nation Status for the People's Republic of China in 1994, released by the White House, Office of the Press Secretary, Washington, DC, May 28, 1993, US Department of State Dispatch, June 14, 1993, Vol.4, No.24.

[4]US Department of State Dispatch, June 14, 1993, Vol.4, No.24.

> means avoiding political controversy.[5]

And:

> I don't want a level playing field, I want a tilted playing field, tilted toward us.
>
> The United States government is now playing an activist role on your behalf, and we plant to turn up the heat.
>
> We are not ideological or philosophical about this. We are relentlessly pragmatic. Bottom-line oriented.
>
> We intend to compete in this environment and win.[6]

And from the President, himself:

> We do not seek to impose our vision of the world on others... Indeed, we continue to struggle with our own inequities and our own shortcomings. We recognize that in a world and in a region of such diverse and disparate cultures, where nations are at different stages of development, no single model for organizing society is possible, or even desirable.
>
> I will say again, even though we will continue to promote human rights with conviction and without apology, we reject that notion that increasing economic ties in trade and partnerships undermines our human rights agenda. We believe thy advance together and they must.[7]

Right though he was to totally change his position, this kind of wild fluctuation in American foreign policy has convinced world leaders that U.S. foreign policy cannot be taken seriously and that the President of the United States cannot be trusted.

Senator Bob Dole recently made that point in the following language:

> Leadership is ... saying what you mean, meaning what you say, and sticking to it....To state that North Korea "cannot be allowed to develop a nuclear bomb; and then one year later to sign an agreement that ignores the issue of the existing arsenal is confusing to the American people and to our allies. The threat to withdraw most-favored-nation trading status from China because of human rights violations and then to extend such status months later -- despite no change in Chinese human rights practices -- makes the world wonder whey the linkage was made in the first place.[8]

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[5]Press conference by U.S. Export-Import Bank Chairman Kenneth Broady in October 1994 attended by the author at the National Press Club, Washington, DC, just prior to Mr Broady's departure for China in his official capacity.

[6]Statements made by the Secretary of Commerce, Ron Brown, during his August 1994 trip to China as reported by Steve Mufson, Washington Post Foreign Service, Washington Post, p. A-1, August 30, 1994.

[7]Quotes attributed to Mr. Clinton at the APEC summit in Indonesia as taken from an article by Thomas W. Lippman, Staff Writer, Washington Post, p. A-36, November 17, 1994.

[8]Dole, Senator Bob, "Shaping America's Global Future," Foreign Policy, No. 98, Spring, 1995, p. 36.

Regardless of the President's motives for doing so, and precisely for the sake of human rights in China, I believe that he was correct to reverse his policy and separate China's trade status from human rights policy. My opinion is based on working with the Chinese dissident and pro-democracy community, both on mainland China and here in the U.S. All of the oppressed people of China want more freedom, and nearly all of them I have encountered also want permanent MFN status for China. They believe that normal trade is the very oxygen of the pro-democracy movement and a more open Chinese society. The flow of capital, goods and services, including U.S. intellectual property, will guarantee a loosening of the control both the Party and the State have over the people.

It would be a tragedy for this Republican Congress to revert back to the Democrat congressional leadership position as it was from June 1989 until May, 1993 when President Clinton adopted that congressional policy.

To the end of helping China into the world community of economic partners, the U.S. should grant China unconditional and "permanent" Most Favored Nation status. Originally aimed at the Soviet Union to force it to permit free emigration of Jews, Jackson-Vanick simply states that normal trade relations will be granted a Communist country conditioned upon free emigration rights. On technical grounds alone, it can be argued that Jackson-Vanick arguably should not apply to China because the vast majority of its citizens do not work for the government or for a State Owned Enterprise, and State Owned Enterprises make up only 50% of the country's GDP.

Furthermore, China received MFN status on February 1, 1980 without any controversy, and China's MFN status has never been challenged on the basis of the sole statutory condition, i.e., emigration.

Congress should not reestablish linkage. Linkage was a bad idea to begin with. It would be worse now, after China has come this far in its economic reforms and after it has opened up to the rest of the world to the extent it has. It would be especially disastrous to link MFN to human rights progress during the succession period. The appearance of stability notwithstanding, the succession period will be difficult and dangerous, and the fact is that re-linking MFN to progress in human rights would seriously undermine political stability and thus cause harm to the Chinese people themselves.

Chinese exports to the United States total about $32 billion per annum. About 95% of U.S. imports from China would be affected by higher tariffs. Tariffs on these exports would go up from about 3% to about 40% if MFN is not renewed. To the U.S. consumer, the price of losing MFN is estimated to be about $10 billion per year.

In effect, the U.S. market would be lost to China and it would take several years for the P.R.C. to replace that market. It would have a disastrous effect on China itself, especially the coastal areas. It would adversely affect Hong Kong, where so many overseas Chinese have investments in the coastal provinces and which also functions as a transit point for about 70% of China's exports to the United States. To a lesser extent, Taiwan would be adversely affected.

There would of course be swift and complete retaliation by China, which would mean that America's $10 billion export business to China would all but disappear.

The only thing that is preventing financial collapse in China right now is the rapid growth of the private sector which is heavily dependent on exports, over one third of which are to the United States. It is China's export industry which so dramatically reduces the country's dependence on the State Owned Enterprises (SOEs). All of the banks, including the four formerly known as "specialized banks" (and specifically including the People's Bank of China) have so many "loans" to the SOEs, that one-third of the loans are probably delinquent and at least 10% are hopeless, which makes China's banking crisis anywhere from three to 10 times as severe, proportionately, as the U.S. S&L crisis.

Only the rapidly expanding private sector, fuelled by exports to the U.S., keeps the banks going and prevents a financial collapse.

Today, the specialized banks (which are supposed to become regular commercial banks with the newly created policy banks taking over the SOEs) account for three fourths of China's assets, but fully two thirds of the Bank of China's lending has been policy loans. The reform plan, passed by this year's People's Congress by a relatively close margin calls for "policy banks" to take over these loans, but the Finance Ministry has not budgeted the money for the new policy banks and so they are issuing bonds to the old specialized banks at low rates and otherwise borrowing money from the specialized banks, so that in reality it is still the specialized banks, including the People's Bank of China, which are still rolling over the bad debts of the SOEs. Meanwhile, the new policy banks are trying to build their own empires and so they are loaning money to good infrastructure projects, power projects, and other finance projects.

This financial house of cards will simply collapse if MFN is denied. This would certainly result in the People's Liberation Army taking over the country, and who knows what all that would mean in terms of the balance of power in East Asia and beyond.

WORLD TRADE ORGANIZATION

As a part of our leadership role in the world, the United States should be building those international institutions that make for world peace and prosperity, such as the WTO. Concurrently, we should be assisting countries such as Russian and China to enter in and participate in the WTO.

We have been right to resist allowing China to enter the WTO during 1994 without further reforms, but now is the time for us to really work at getting China into the WTO by inducing it and assisting it to make the necessary trade reforms.

The principle dispute between China and the U.S., in terms of WTO membership, has been over the status of China's membership. China maintains that it should be admitted as a developing nation, a status that would give it greater leeway than a developed country such as the United States to subsidize its export industries and protect its basic and infant industries. The U.S. maintains that China should be admitted to WTO on essentially the same terms as a highly industrialized nation.

It is true, as the U.S. argues, that China has become a major force in the world economy. It is one of the top 11 exporting nations, fourth largest exporter to the U.S. after Japan, Canada and Mexico, and the world's third largest economy, by some measurements, after the U.S. and Japan. Also, there was a $23 billion trade deficit with China for 1993, and it is expected to be as high as $29.5 billion for 1994.

China may be an "export powerhouse", but with a per capita income of about $38.00 per year, it is a poverty stricken, developing nation. Therefore, China should be admitted as a lesser developed country. To do so would be in accord with the GATT philosophy that freer trade helps all economies grow, thus minimizing the specter of economic depression, and, worse yet, war itself. Implicit in the original idea behind GATT in 1947 was the belief that the new international economic order would allow the U.S. to increase its own wealth and power and thus to carry its values to every corner of the globe. In light of the Special 301 settlement of the IPR case, which will result in U.S. information penetrating China, it seems more true than ever that world wide economic stability and peace will be promoted by China's inclusion into the global trade community.

China's leaders know that continued progress in China's economic reforms and continued economic growth depend on increasing trade liberalization. As China's open door policy has progressed, the role of international trade has increased in China's economy. Whereas prior to the reforms, China's international trade system was extremely centralized and controlled by secret decisions of government officials, the economic

reforms have resulted in a progressive restructuring of China's foreign trade system.

Since the economic reforms were initiated in 1979, exports have increased 900 percent and imports 700 percent. In the process, China has become a relatively open economy, with merchandise trade constituting well over 30 percent of gross domestic product (GDP), making China's economy actually more open that of the United States, according to the World Bank.[9] Import penetration is extremely high in some sectors of the economy, such as machinery and transport equipment. The United States is the second largest exporter to China after Japan.

The central government still exercises too much control over imports, but these controls are definitely relaxing as China decentralizes its economy and continues with its macro and micro economic reforms.[10] As far as exports are concerned, the central government has by and large stopped direct subsidization.

China still has too many tariffs, and theirs is a very complicated tariff system. Ours is also. We now have 8,750 different rates in order to protect our domestic industries. The PRC cut rates on 225 separate items effective January 1, 1992, again lowered rates on 3,371 items in late 1992, and reduced rates on an additional 2,818 products at the end of 1993.[11]

Most of China's high tariffs are for the purpose of penalizing nonessential consumption and to protect its ever important textile industry, as well as others that are considered vital. Our tariffs seem to have no social policy whatsoever, except to also protect the textile and other industries. Mostly, our tariff system seems to simply reflect the lobbying efforts of American business. For example, the whole purpose of the multi-fiber arrangements (MFA) was to allow the U.S. to create a GATT- exempt non-tariff barrier to imported textiles and apparel in order to protect the U.S. textile industry.

It can actually be argued that American trade negotiators spend more effort, overall, in restricting U.S. markets rather than in opening them. They have negotiated 170 bilateral trade agreements since 1980 restricting exports to the United States. One authority has said, "U.S. trade law has turned incompetence into an entitlement, as any lagging American company has a right to seek relief from foreign competition. Foreign nations are increasingly denounced as unfair unless they take 'affirmativeaction' to force their businesses to buy more American products."[12]

As for non-tariff barriers (NTBs), Chinese authorities have recently announced the abolition of import substitution lists and phased elimination of import controls. There is still a heavy dose of NTB protection, mostly in the form of import licenses, for raw materials and products where domestic production is sufficient to meet the country's needs, such as iron, steel and textiles. Quotas are relied on to protect autos, electronics and some machinery. Import licenses, a highly opaque NTB, are being phased out in a timely manner consistent with the October 1992 Section 301 market access trade action, and this will accelerate now in the wake of the Special 301 IPR settlement.

China's position is that as much as it wants to be in the WTO, it must not risk a wave of unemployment now and needs time to phase out these tariffs and NTBs as it continues to restructure its economy and state owned enterprises.

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[9]China: Foreign Trade Reform, The World Bank (Washington, D.C., Feb. 1994.

[10]Ironically, decentralization may actually delay implementation of the 1992 MOU as the central government loses control over provincial and local governments. For example, there is less transparency at the provincial and local level than in the central government.

[11]China: Foreign Trade Reform, The World Bank (Washington, D.C., Feb. 1994.

[12]Bovard, James, The Fair Trade Fraud, (New York, St. Martin's Press, 1991).

Essentially, the United States has taken the same position in the past as China now takes concerning the textile industry. In fact, the American textile industry fears a surge of imports if China comes into the WTO and wants some protection from that anticipated surge. The subject of textiles will definitely be a contentious round of trade negotiations in the near future.

In an effort to satisfy the WTO negotiators and get its application for membership past the U.S., the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) has published in a central document hundreds of trade documents previously unavailable. China has agreed that only those rules, regulations, law, etc that are readily available to other governments are to be enforced.

China has even made important moves toward a convertible currency and stabilization of the currency exchange rate, though this is a very complicated issue.[13]

Successful economic reform must proceed step by step by step. This requires political stability. China has engaged in gradual, careful, sequenced reform, not all at once, start and stop. This approach has already resulted in about 80% of the employed population working outside the State-owned enterprise system, which now accounts for only about 50% of the economy.[14] Thus, China has been able to avoid, for the most part, the serious problems of economic, social and political chaos that, for example, Russia constantly faces.

Under Deng's economic reforms, China has become a major trading nation in rapid order -- number 10, 11, or 12, in the world, depending on who you want to believe. If China' reforms are to succeed, and if China is to find its role in the international community of nations, it will have to recognize the legitimate concerns of its trading partners and respond to them. That is what China in fact did on February 26, 1995 in the historic settlement of the Special 301 Intellectual Property Rights case. It just shows how important full and original membership in WTO is to China.

Just as now is the perfect time, economically and politically, for China to press on towards genuine trade liberalization, and just as China must intensify even further its resolve to abide by the basic GATT philosophy of free consumer decision, free markets and freer trade, so also is now the time for the U.S. to abide by its commitment in the October 1992 Market Access MOU and truly support China in its efforts to achieve WTO membership. Part of that process is allowing China a degree of the flexibility it asks for in its tariff reduction schedule.

After the Special 301 IPR settlement was announced on February 26, U.S. Assistant Secretary of State Winston Lord met on March 1 with Foreign Minister Qian Qichen and said that U.S. was ready to resume talks on China's application for membership. On March 12, in Beijing, U.S. Trade Representative Mickey Kantor announced at a joint press conference with Wu Yi, China's foreign trade minister, that, "As previously stated, the U.S. will support China's accession to the WtO as a founding member." Thus, the US agreed to resume its talks on WTO accession and appeared to drop its objections to China coming in as a lesser developed nation. In return, China

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[13]Traditionally, all exporters have been required to turn over all of their foreign exchange receipts to a specialized bank, the Bank of China, in exchange for domestic currency, thus depriving the exporter of all foreign exchange to finance imports. Instead, they were allocated foreign exchange quotas, just like all other importers. Thus, there has been virtually no ability of the People Bank (the closest thing China has to a Central Bank) to intervene in the foreign exchange market to stabilize the exchange rate. This system is a carry-over from the pre-Deng days and requires major reforms in the State-owned enterprises, the banking system, and the exchange regime itself. The process is under way, and the government's goal is to unify the exchange rates and make the renminby a fully convertible currency.

[14]The State Economic and Trade Commission just announced that the rate of non-profitable SOEs in China decreased from 45% to about 33%, so even in this area where there has been very little real reform, efficiency is improving.

agreed to resume implementation of the 1992 pact to lift almost 3,000 quotas, licensing requirements and other barriers to U.S. goods, and also to hold talks to further open insurance and telecommunications markets. In addition, China signed an agreement to allow more imports of U.S. agricultural products.

China should be admitted retroactively as a founding member once it agrees to a schedule for bringing down trade barriers over a period of one to 10 years. As Secretary of State Warren Christopher recently observed:

> [China is] "a permanent member of the United Nations Security Council, a nuclear power, and a growing military and economic force. If China is fully integrated into the international community, it could make a powerful contribution to regional and global stability and prosperity. If China chooses another path it has the potential to destabilize the region and harm America's interests. The choice is China's, but American engagement can help encourage it to enjoy the benefits - and accept the obligations - that come with membership in international institutions and adherence to international norms."

Thus, Christopher concluded, "We will continue to encourage China's participation in the global economy, including its accession to the WTO, if it undertakes the necessary obligations." [15]

CONCLUSION

The succession of Deng will undoubtedly be a severe test on the reform movement, as Jiang Zemin and his potential rivals feel the need to keep the lid on political dissent and not lose any face to the United States. Until the succession question is resolved with a degree of certainty, it would be very unwise for this country to take any action, either on the trade or human rights front, which would precipitate a hardening of position on the part of the Chinese leaders.

GATT and the WTO rely on the western neo-classic model of economics and geopolitics arising out of the Great Depression and two world wars as expressed at Bretton Woods. GATT/WTO assumes the MFN principle, and further assumes that free markets, free trade, and private ownership constitute the most productive economic system and will promote world peace.

President Clinton is not wrong to insist that China abide by free trading rules, and it appears that the IPR Special 301 initiative turned out well. Nonetheless, the administration should recognize that it is too much to expect China to immediately conform to the same set of rules the U.S. agrees to for WTO membership. The U.S. should accede to China's demand for flexibility and agree to phase in the rules over the next few years.

Having put economics, and hopefully security arrangements, rather than human rights, at the center of America's foreign policy toward China, the U.S. must recognize its challenge to invigorate the spirit of private enterprise and entrepreneurship in China. Such economic changes will continue to produce political changes toward a freer and more open society.

The New World Order will be built on economics and trade, rather than traditional foreign policy. It will be built on capitalism. In this new economic order, East Asia in general, and China in particular, are on the rise. This fact accentuates the need for good

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[15]Christopher, Warren, "America's Leadership, America's Opportunity", Foreign Policy, Spring 1995, p. 12.

U.S.-Sino relations and also the need for a genuine regional security framework, which certainly does not yet exist in East Asia, especially Northeast Asia.

China's rise will be tumultuous at times. The United States needs to be a partner in the process. It is in our interests economically and militarily. The best way to be a good partner is through economic cooperation and engagement, not confrontation. We should not view China as an enemy (though this is not to say that the P.R.C. should be viewed as an ally, either.)

Normal trading status, including unconditional MFN, and charter membership in WTO (even though granted retroactively) are important for China. These are important not just for the government, but for the people as well. They are especially important to the very people who are fighting for, and depending on, both economic and political reform. Their future depends almost as much on United States' trade policy toward China as it does on their own government's economic and trade policy. America's own well-being is inextricably linked to the furtherance of China's reforms. These two truths demand sober reflection and must serve as guideposts in our future dealing with the People's Republic of China.

Chairman CRANE. Thank you.
Mr. Aronson.

STATEMENT OF ROBERT R. ARONSON, PRESIDENT, ROSS ENGINEERING CORP., AND REVPOWER LIMITED, FORT LAUDERDALE, FLA.

Mr. ARONSON. Good afternoon, Mr. Chairman and members of the subcommittee. My name is Robert Aronson, and I am president, Ross Engineering Corp., Fort Lauderdale, Fla., and Revpower Limited, an industrial battery business.

I want to thank you for inviting me here and giving me the opportunity to tell you about a major problem that I am having in China and one that the United States is having in China. My special thanks to you, Mr. Chairman, and Congressman Shaw for the assistance you have already given me.

I have submitted a detailed written statement and therefore will only touch on the highlights of my written testimony.

The bottom line is this. Revpower has suffered substantial financial damages at the hands of two parties in China—one, a state-owned branch of the Ministry of Aviation called Shanghai Far East Aerotechnology Import/Export Corp., and I will just call that Shanghai Far East, and the other, the State of China itself.

We have been damaged because the dispute resolution mechanism agreed to between Revpower and Shanghai Far East—that is, international arbitration—has been unilaterally abrogated by the Chinese Government, and as a result, all foreign companies doing business in China are at risk. Our losses to date exceed $8.4 million.

Here is a very brief history of our experience. In June 1985, I was invited to a meeting at McDonnell-Douglas Aircraft in Long Beach with Shanghai Aviation Industrial Corp., which is a branch of the Ministry of Aviation. Shanghai Aviation asked me to build a battery plant in China.

In June 1988, 3 years later, a formal agreement was signed with Shanghai Far East. Revpower was to provide machinery, equipment, raw materials, engineering knowhow for the battery plant, and was to buy the entire production of the battery plant. Shanghai Far East was to operate the plant.

The agreement called for fixed battery prices for a 3-year period and a performance guarantee by the Bank of China which would protect Revpower's investment. Revpower then brought in the machinery, equipment, raw materials, engineers; got the plant running; and after a successful production run, Revpower issued its first purchase order for batteries and opened an irrevocable letter of credit.

At this point, our problems began. At this point, everything was going great. We had done everything we were supposed to do. We had got the plant running. Now all of a sudden Shanghai Far East informed me that battery prices, which were supposed to have been fixed, would now have to be substantially increased, and the bank guarantee which we were supposed to get would no longer be available.

When Revpower protested this, Shanghai Far East closed the plant. Revpower then canceled the agreement and entered into an

18-month period of extended negotiations in an effort to get the program back on track.

The negotiations were unsuccessful. Shanghai Far East had, thus in effect, confiscated our battery plant.

Revpower then filed a complaint with the Arbitration Institute of the Stockholm Chamber of Commerce. After a 2-year battle, the Institute granted Revpower a $6.6 million arbitral award, plus interest. That amount today stands at about $8.4 million.

Now since this award was covered by the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards, to which China is a signatory, and since Shanghai Far East and the Ministry of Aviation had ample assets with which to pay the award, I thought that collection would be a routine matter. This is when I learned that we had a second problem.

The Government of China and its courts have absolutely refused to recognize or accept the award, and it has come to our attention that Shanghai Far East has transferred all of its assets to the Ministry of Aviation and to others.

The position of the Chinese Government seems to be as follows: There will be no adverse consequences to China for failure to pay the award or to comply with the 1958 New York Convention. So why bother?

This means that all American companies with investments in China are sitting on a time bomb. Virtually all U.S.-China agreements covering those investments contain arbitration clauses. As China and its courts will not enforce arbitral awards in favor of American companies, the relationship between American and Chinese companies is grossly one sided in favor of the Chinese.

Something should be done to make arbitral awards enforceable outside of China, since they are not enforceable inside of China. This is one of the five legislative recommendations that I have made in my written statement.

As far as MFN is concerned, simple fairness requires the subcommittee to consider the total lack of protection afforded to American companies in China as it decides whether to extend the benefits of U.S. laws to Chinese interests in this country. I believe that until the Chinese agree to live up to their obligations under the 1958 New York Convention, that MFN should be withheld.

There are several other recommendations in my written statement.

So I thank you very much for this opportunity to appear before you, and I would be happy to answer any questions.

[The prepared statement follows:]

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Statement of Robert R. Aronson
President
Ross Engineering Corporation
and
Revpower Limited
Fort Lauderdale, Florida

Before the Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C.
May 23, 1995

On the Subject of U.S. Trade Relations with China and the Enforcement of International Arbitral Awards

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Mr. Chairman and members of the Subcommittee, my name is Robert Aronson. I am the President both of Ross Engineering Corporation of Fort Lauderdale, Florida, and Revpower Limited, an American-owned Hong Kong manufacturing company. I appreciate the Subcommittee's courtesy in inviting me to appear before you, and applaud your initiative in holding this timely hearing on China's most favored nation (MFN) status. I also want to thank you, Mr. Chairman, and Mr. Shaw at the outset of my remarks for your help to date and continuing interest in justice for American investors in China.

Today I propose to address four issues: First, I wish to bring to your attention Revpower's recent business experiences in China and its current efforts to enforce an international arbitral award against the Shanghai Far East Aero-Technology Import & Export Corporation ("SFAIC"), a branch of SAIC and the Chinese Ministry of Aviation and former subcontractor of Revpower. Unfortunately, Revpower's name must be added to that growing number of U.S. investors in China to have been victimized by the willful refusal of the Chinese government and judiciary to adhere to the rule of law.

Second, I describe the assistance given to Revpower by the U.S. Government in support of our effort to enforce our arbitral award. While much has been done by the administration and Congress -- and we are deeply grateful for that assistance -- it has proven insufficient to induce China to modify its behavior. More will have to be done.

Third, I discuss the broader policy significance of the Revpower case and seek to warn of the new threat posed to U.S. and other foreign investors in China because of the actions taken by the Chinese government in this matter. Currently, the international investor community relies overwhelmingly on international arbitration as a mechanism by which to settle disputes in China. It does so because it feels it can rely on the integrity of China's commitment to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"), to which China became a signatory in 1987. We can now see this reliance is clearly illusory: by its actions in the Revpower case, China signals that it does not and will not honor its international treaty obligations under the Convention.

And fourth, I recommend a series of measures -- including sanctions -- for adoption by Congress and the administration designed to respond to the economic injury to Revpower and the threat to all other U.S. investors in China as a result of the Chinese government's de facto abrogation of the New York Convention. These recommendations are also informed by the conclusion that the Chinese government is becoming less, rather than more, observant of the rule of law. No one is served -- not the United States, not the international community, and not even China -- by permitting what is now chronic lawless behavior by China to be rewarded by tolerance. The United States should implement a series of measures designed to sanction swiftly and effectively Chinese behavior that, as with Revpower, unlawfully causes harm to U.S. economic interests.

I. Revpower's Problems in China

On June 4, 1988, after 36 months of negotiations, Revpower entered into a Compensation Trade Agreement (the "Agreement") with SFAIC under which SFAIC was to manufacture industrial batteries for Revpower to Revpower's specifications with machinery, equipment, raw materials and engineering expertise supplied by Revpower. Two key provisions of the Agreement provided as follows: the prices to be charged by SFAIC for the batteries were to remain fixed for a period of three years from the date of the Agreement, and SFAIC would obtain a performance guarantee in Revpower's favor from the Bank of China to protect Revpower's investment.

The subcontract arrangement proceeded relatively well for the first 18 months of the relationship. The machinery and equipment supplied by Revpower were installed in SFAIC's Shanghai factory and a trial production run was successfully conducted, with the batteries produced testing out to Revpower's specifications. Thus it was that, in the latter part of 1989, Revpower placed an initial order and opened an irrevocable letter of credit in favor of SFAIC to pay for the order.

Revpower's problems with SFAIC began in December 1989 when SFAIC informed Revpower that the battery prices would have to be increased substantially and the Bank of China could not issue the required performance guarantee -- each notification constituting a material breach of the Agreement. Following a number of meetings and exchanges of correspondence that did not serve to change SFAIC's position, Revpower gave SFAIC notice of breach in accordance with the provisions of the Agreement and cancelled the Agreement effective January 1990. Revpower then engaged in almost 18 months of what the Chinese refer to as "friendly negotiations" to change SFAIC's position by offering a number of concessions, including price concessions, without success.

Having exhausted all efforts to amicably resolve the dispute, on July 2, 1991, Revpower filed an arbitration claim against SFAIC with the Arbitration Institute of the Stockholm Chamber of Commerce as provided by the terms of the Agreement. The parties and the Institute selected an illustrious three-person panel to preside over the arbitration: Jeremy A. Cohen, an internationally recognized U.S. expert in field of Chinese law (who was appointed by SFAIC); the late Dr. J. Gillis Wetter, considered one of the world's leading experts in international arbitration; and Lars Rahm, a distinguished Swedish attorney. SFAIC's initial response in the arbitration was an objection to the proceedings on jurisdictional grounds, an argument that was rejected unanimously by the tribunal in July 1992. Subsequently, on December 11, 1992, SFAIC filed a Statement of Defense and a Counterclaim in the amount of $3.9 million, to which Revpower responded on March 1, 1993. The tribunal scheduled the final hearing for June 14, 1993.

Notwithstanding these pending arbitration proceedings and a clause in the Agreement stipulating the use of arbitration to settle all disputes, SFAIC improperly filed a lawsuit against Revpower through Chinese counsel in the Shanghai Intermediate People's Court on March 25, 1993. SFAIC's claim in the lawsuit was based on the same Agreement and the same issues that were the subjects of the arbitration. Revpower immediately objected to the suit and filed a motion to dismiss. This motion remains pending today -- more than two years later -- despite the requirements of Chinese judicial procedure, under section 135 of the PRC's Code of Civil Procedure (the "Code"), that the court respond within 180 days to any such motion.

On April 21, 1993, SFAIC notified Revpower that it had decided to withdraw from the arbitration proceedings without explanation. The arbitral panel, having earlier decided that it had jurisdiction to consider Revpower's arbitral claim and determining that it had a sufficient evidentiary record, proceeded with the arbitration. On July 13, 1993, following four days of hearings in June, a unanimous arbitral panel granted Revpower an arbitral award in the amount of US $6.6 million against SFAIC, plus interest from the date the case was submitted in 1991. (With interest, the award now totals more than $8 million.)

SFAIC refused Revpower's demand to abide by the results of the arbitration and pay the award. Thus, Revpower was confronted with the need to seek the assistance of the Chinese courts in order to obtain an enforcement of the award. Such enforcement actions are permitted under Chinese law, which conforms to the provisions of the New York Convention requiring signatory nations to enforce collection of arbitral awards unless the defendant can assert one of a few specified defenses to the enforcement action. (None of these defenses would be available to SFAIC.)

Revpower attempted to file its enforcement action on December 6, 1993, well within the six-month filing deadline under Chinese rules (Section 219 of the Code), in the Shanghai Intermediate People's Court, the same court that had failed to dismiss SFAIC's prior illegal law suit. Under Section 112 of the Code, the court was required to acknowledge Revpower's request for enforcement of the award within seven days of filing. However, court officials refused -- without explanation or apparent justification -- to accept the filing fee proffered by Revpower to satisfy the requirement that filing fees be paid in advance. This triggered the immediate suspicion that, as so many other foreign litigants in China have had the misfortune to find in similar circumstances, the doors of the Shanghai Intermediate People's Court were closed shut to any attempt by Revpower to obtain justice against the local defendant, SFAIC.

So it proved. Despite the efforts of the U.S. State Department through the U.S. Consul General in Shanghai, letters to the Chinese Ambassador to the United States by several Members of Congress, and personal contacts by U.S. Embassy officials in Beijing with officials of the China International Economic and Trade Arbitration Commission, the China Council for the Promotion of International Trade (CCPIT), and the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), all during the first three months of 1994, the Shanghai court refused to adjudicate Revpower's enforcement action or even acknowledge that the suit had been filed. Indeed, repeated calls from the U.S. Consul General to the chief judge went unanswered and repeated additional efforts by Revpower officials to file the enforcement action failed to result in any judicial action. Soon thereafter, Revpower received reports that SFAIC, safe behind the shield unlawfully erected by the Shanghai court, was in the process of secreting or divesting assets by way of obtaining further protection against any collection action by Revpower.

II. Revpower's Efforts since March 1994 to Enforce its Award against SFAIC

Having exhausted all available avenues in China, we turned to the Congress and the administration for help in bringing this matter to the attention of Chinese officials who could right this clear wrong. In April 1994, our predicament was raised by the U.S. delegation in a meeting of the U.S.-China Joint Commission on Commerce and Trade in Washington. In June, Undersecretary of Commerce Jeffrey E. Garten wrote to MOFTEC Minister Gu Yongjiang transmitting a White Paper in which he made specific reference to Revpower's claim to illustrate complaints of U.S. firms with the enforcement of China's treaty obligations and its own laws. Mr. Garten also raised the Revpower matter among other outstanding business issues directly with Chinese trade officials while in China in July 1994. We further understand that Secretary of Commerce Ron Brown raised the dispute with MOFTEC Minister Wu Yi during his trip to China shortly thereafter to impress on Madame Wu our government's expectation that the case would be resolved satisfactorily in the near future. This, too, was unsuccessful.

In November 1994, I retained Washington counsel, Alberto Mora and Stephen Powell of Holland & Knight, to provide further advice and assistance. Since then, we have been in contact with and received excellent cooperation from many departments of the Administration including State, Commerce, and Treasury. This assistance, however, has been thus far limited to expressions of concern addressed to Chinese authorities. There is as yet no coordinated plan of action that has been adopted by the agencies to achieve the desired result, although we have been informed recently that the Office of the United States Trade Representative (USTR) has agreed to assume the inter-agency lead and Mickey Kantor has personally instructed his staff to devise a plan to respond to China's Revpower challenge to the extent permitted by USTR's authority. We await with interest the result of that effort and look forward to working more closely with USTR.

Beginning in January of this year, we also renewed our efforts through the Congress and have generated correspondence from a number of Senators and Members of Congress to the Chinese Ambassador. Curiously, of the almost three dozen letters from Members and our counsel to the Chinese Ambassador and other embassy officials since January 1994, we are aware of only three that ever received a response: on January 13, 1994, He Chengjun, First Secretary (Commercial), responded with identical letters to Congressman William F. Goodling's and Congresswoman Barbara F. Vucanovich's letters of January 6, and to Congressman Michael R. McNulty's letter of January 7 (all directed to Chinese Ambassador Li Daoyu), stating that the case had been accepted by the Shanghai Intermediate People's Court and "shall only be resolved through amicable negotiations or legal means."

Notwithstanding this representation, we received no word from anyone on the Chinese side until the afternoon of April 4, 1995, in the form of an invitation from Baoliang Sheng, a Third Secretary (Commercial) at the Chinese Embassy in Washington, to our attorneys to meet with him at the Embassy the following day. It seems too coincidental that this call came only hours after USTR Mickey Kantor testified before the Trade Subcommittee of the Senate Finance Committee, in response to a question on China's compliance with international arbitral commitments, that:

> . . . the Chinese have an obligation under the conventions, of course, to honor [international arbitral] awards . . . [w]e believe the Chinese must honor their obligations and frankly, as we re-engage our discussions in Geneva over China's accession to the WTO, the Chinese have to under stand, if they are going to join a world trading system,

> their opportunities also become responsibilities as well. That was part of the major discussion over protection of intellectual property rights. It's a discussion in this question of course . . . in hearings of these conventions and honoring arbitration agreements, and we will make sure, as we proceed, that they are made well aware . . . that we are committed to this and expect them to fulfill their obligations.

We would also call to your attention the testimony of Deputy USTR Charlene Barshefsky before a joint hearing of the Subcommittees on Asia and the Pacific and International Economic Policy and Trade of the House Committee on International Relations (February 2, 1995) and her several references to the failure of China to adhere to international norms and the rule of law in the context of international trade and China's practice of "selectively" upholding its trade agreements with the United States "including accepting international arbitration judgments."

Unfortunately, two meetings with Mr. Sheng have resulted in nothing we can describe as progress. The Chinese still maintain that there has been no violation of the New York Convention and that the Revpower dispute is a matter for the Chinese courts to decide. It was not until April 24, 1995, that Revpower received any word from the court relative to the case; and even that was indirect in the form of a telephone call from the Foreign Affairs Office of the Shanghai Municipal Government to the U.S. Consul General in Shanghai that the court was preparing to take up the case "in the near future." Of course, any action that the Chinese court might take at this point has been rendered moot by the passage of time. (Because of the fate of Revpower's initial enforcement action, there is no conceivable judicial action in China that can advance Revpower's interests.) In any event, the only effective remedy now would be for the Chinese government to acknowledge its obligations under the New York Convention and pay the award on behalf of its instrumentality, SFAIC.

III. The Significance of China's Abrogation of the New York Convention

Mr. Chairman, I realize that our claim is small in the overall scheme of things. Nonetheless, it is very important to us. As well, our experience is illustrative of the difficulties U.S. businesses face and the risks they run in doing business in China, risks which have now been expanded by the conscious decisions of the Chinese government in response to the Revpower case.

The critical significance of this case lies in the overwhelming reliance placed on international arbitration by U.S. and other foreign investors in China. Because of the complete unreliability of the Chinese judiciary (which the Revpower case also demonstrates), most foreign investors have inserted international arbitration clauses in the joint venture agreements with their Chinese partners. Reliance on such clauses, however, is dependent on China's observance of its obligations under the New York Convention. By its actions in this case, China signals that it is no longer bound by the terms of the Convention and, consequently, that there is no longer any impartial dispute resolution mechanism protecting foreign investors in China. This conclusion is warranted because once the Chinese government was warned, at the highest levels, of the miscarriage of justice occurring in the Shanghai court, it had an obligation to correct the injustice under both domestic and international law; its failure to do so when first notified two years ago or assume direct responsibility for SFAIC's debt makes it a knowing and willing accomplice in the injustice.

If these alternative dispute resolution mechanisms, and arbitration specifically, cannot be counted on to ensure a means

of working out disputes that arise from time to time in the course of ordinary business transactions, no foreign business will be able to operate with confidence in China and, at least with respect to U.S. companies, the United States Government has the obligation to set China straight or sound the alarm, or both.

Until the Revpower dispute is resolved -- which now can only occur if the Government of China directly satisfies the Revpower award -- and China reestablishes its commitment to honor the terms of the Convention, every U.S. investor in China runs a greater risk of loss from arbitrary government action. For companies such as mine, some impartial dispute resolution system must be adopted by China if we are to continue doing business there and to help develop the many opportunities that exist for the mutual benefit of the people of our two countries and the rest of the world.

IV. Recommendations

Mr. Chairman, simple fairness not only permits, but requires, the Subcommittee to weigh in the balance the degree of legal protection afforded -- or not afforded -- to American investors in China as it considers whether to extend the rights and benefits conferred by U.S. laws to Chinese interests in this country. China should not expect, nor should the United States confer, greater benefits in our trade and commercial relationship than China is willing to extend to us. Against this yardstick, Revpower's experiences suggest that China merits no entitlement to privileged treatment by Congress, and certainly no entitlement to a renewal of MFN status.

I recommend that the Subcommittee carefully consider the following actions to induce China to resolve the Revpower dispute and reconfirm its obligation to honor the New York Convention. I am aware that some of these measures may not fall within the jurisdiction of the Committee, but it is my opinion that a series of coordinated measures will have to be adopted by both Congress and the administration if the desired results are to be achieved.

1) Withhold China's MFN extension until China demonstrates its commitment to honor the New York Convention.

In our view, extension of MFN while China continues to cause injury to Revpower and raises the risk to other U.S. companies in China through its continuing abrogation of the New York Convention would be inappropriate. At a minimum, a delay in such extension until China clarifies its intentions vis-a-vis the Convention is called for.

2) Evaluate and adopt the proposed Mack legislation linking U.S. support for China's accession to the World Trade Organization to China's observance of the New York Convention.

Senator Connie Mack has drafted, but not yet introduced, legislation amending section 1106 of the Omnibus Trade and Competitiveness Act of 1988 to condition U.S. support for China's accession to the World Trade Organization to a Presidential certification that China is in conformity with the terms of the New York Convention. This draft legislation (which is attached) sanctions China in a particularly appropriate way: it espouses the principle that China should not be permitted to undertake any new international obligation until it demonstrates the willingness and ability to comply with its existing obligations and, specifically, those dealing with international arbitration. The Mack legislation merits the Subcommittee's endorsement and adoption.

3) Amend the Foreign Sovereign Immunities Act (FSIA) to permit law suits and the collection of judgments against foreign governments -- such as China -- whose abrogation of the New York

Convention deprive U.S. claimants of legal remedies for government-sanctioned economic injury.

When conjoined with the Chinese judiciary's failure to adjudicate Revpower's enforcement action, the Chinese government's point-blank refusal to honor its obligations under the New York Convention effectively stripped Revpower of any remedy to recover compensation for its economic losses against the assets of the arbitral defendant or from any other source. There is no equitable reason why a foreign government that fails to extend the protection of its law to a U.S. citizen should enjoy sovereign immunity protection against an action brought by the injured citizen in the United States against the government whose unlawful actions caused the injury. If the foreign government caused the injury, it should pay the cost. In such cases, the FSIA should not serve as a shield to protect the foreign government here from the consequences of its improper acts there.

Were the FSIA to be amended in this fashion, Revpower would be able to bring a lawsuit against, for example, the Chinese Ministry of Aviation (SFAIC's parent entity) and any of its non-diplomatic assets located in the United States, such as aircraft, to satisfy the arbitral award.

4) Adopt immigration and travel restrictions upon foreign officials whose actions -- such as in the Revpower case -- constitute the effective confiscation of U.S.-owned property.

Increasing Congressional attention has been focused recently on the anomaly of permitting foreign officials whose confiscatory actions abroad in violation of domestic or international law are the cause of economic injury to U.S. citizens to travel to the United States. Section 301 of the Cuban Liberty and Democratic Solidarity Act of 1995 (S. 381), a bill introduced by Senator Jesse Helms, addresses this problem by amending section 212(a)(9) of the Immigration and Nationality Act by classifying such behavior as an additional grounds for exclusion from the United States. In the Revpower case, the adoption of such legislation could be effective in excluding from the United States those officials whose actions in violation of Chinese law and China's obligations under the New York Convention are the proximate cause of Revpower's economic loss.

5) Encourage the administration to establish an interagency committee to adopt and pursue a coordinated U.S. Government strategy to address the Revpower case and related rule of law issues in China.

Although several U.S. agencies have registered their concerns with Chinese authorities regarding China's actions in the Revpower case, China's unwillingness to recognize its obligations under the New York Convention suggests that a more vigorous U.S. Government response -- including sanctions -- will be required to overcome China's intransigence. To get to this next level of response, and to coordinate this effort with other governmental initiatives seeking to encourage the development of the rule of law in China, the establishment of a coordinated inter-agency task force will be needed.

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Mr. Chairman, that concludes my remarks. I look forward to working with you and the Subcommittee to resolve our claim without further undue delay and to otherwise improve the business prospects for U.S. companies in China. I would be pleased to answer any questions you may have and pleased to submit for the record any documents or correspondence the Subcommittee requests.

SEC. ___. ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WTO.

Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(1) by redesignating subsection (e) as subsection (f),

(2) by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENTS FOR THE PEOPLE'S REPUBLIC OF CHINA.—

"(1) IN GENERAL.—In addition to the requirements described in subsection (a), before the United States agrees to the accession of the People's Republic of China to the WTO Agreement, the President shall determine whether the People's Republic of China is fulfilling its obligations under the Convention on Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958.

"(2) EFFECTS OF NEGATIVE DETERMINATION.—If the President determines that the People's Republic of China is not fulfilling its obligations under the Convention on Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958—

"(A) the President shall reserve the right of the United States to withhold extension of

the application of the WTO Agreement, between the United States and the People's Republic of China, and

"(B) the WTO Agreement shall not apply between the United States and the People's Republic of China until—

"(i) the President certifies to the Congress that the People's Republic of China is fulfilling its obligations under the Convention on Recognition and Enforcement of Foreign Arbitral Awards, or

"(ii) a bill submitted under subsection (c) which approves of the extension of the application of the WTO Agreement, between the United States and the People's Republic of China is enacted into law.", and

(3) in subsection (d), by striking "subsection (a)" and inserting "subsections (a) and (e)".

Chairman CRANE. Thank you, Mr. Aronson.
Mr. Simon.

STATEMENT OF JOEL K. SIMON, COUNSEL, FASHION ACCESSORIES SHIPPERS ASSOCIATION, AND RUSS BERRIE & CO., INC., OAKLAND, N.J.

Mr. SIMON. Thank you, Mr. Chairman, for giving us the opportunity to appear before you today, and I ask that our written testimony be added to the record.

I am Joel Simon, Customs and Trade counsel to FASA (the Fashion Accessories Shippers Association) and Russ Berrie & Co., Inc., of Oakland, N.J.

FASA is a trade association located in New York City and is comprised of 100-member companies located throughout the United States. Our members import handbags, luggage, small leather goods, umbrellas, gloves, belts, and other accessories from all over the world. China is by far the largest source of product.

Most of our member companies are small, privately owned companies who employ less than 500 workers each. Total employment for our members in the association is over 10,000 men and women in the United States.

Russ Berrie & Co. is an importer of giftware, toys, stuffed animals, and ceramic ware. The company is publicly held, and its shares are traded on the New York Stock Exchange. Russ Berrie employs more than 1,500 people in the United States and is unique in that it can say that it employs at least one person in each of the 50 States of the United States.

More than one-half of all products imported by FASA members and Russ Berrie are currently made in China.

FASA members and Russ Berrie are extremely concerned about the loss of most-favored-nation status for Chinese products. While we have tried to move production to other countries, it is just not possible to relocate the amount of production currently being done in China.

With regard to FASA and its members, many of the products imported are subject to quota limitations, and there is not enough quota for handbags and luggage available in other countries to allow for similar levels of production and sale in this market.

Once again, questions are being raised about human rights for the Chinese people, freedom of immigration, prison and labor abuses, and there are the horrific reports which we have heard this morning from Congressman Wolf about other alleged atrocities in China.

These are extremely difficult matters for us, as businessmen, to answer with any degree of certainty. However, we are certain that since the advent of U.S.-China trade relations in the late seventies, the life of the average Chinese worker, especially in South China, has increased dramatically.

As usual, there are many reports on human rights violations in China. We would hope that this subcommittee would find enough merit in maintaining most-favored-nation status for China, to dispel any doubt you might have with regard to China's treatment of its citizens, and to delink human rights from most-favored-nation status.

Millions of people in China are threatened with the loss of their economic livelihood should most-favored-nation status be withdrawn. Hundreds of thousands of American jobs also are in jeopardy with the absolute real prospect of losing their jobs should trade with China be destroyed.

While there are hundreds of thousands of export jobs in the United States involved in producing product for China, there may be many times that amount of jobs in this country for people working on the import side, dealing with products that come from China. These workers are designers, product planners, merchandisers, warehouse people, salespeople, secretaries, executives, and businessowners and investors.

They work for importers, retailers, transportation companies, and other businesses. Many of these people will lose their jobs should most-favored-nation status be lost. Russ Berrie and Co. alone estimates that up to one-third of their 1,500 employees may lose their jobs if trade with China ceases.

There is no question that the aim of improved human rights for the people of China is a laudable goal. But we do not believe that trade is the vehicle for forming that change.

We hope that the subcommittee will recommend continued MFN for China. The loss of MFN status, we believe, would create a worsening of human rights abuses in China. There are many in China who would like nothing more than to turn the clock 20 or 30 years when China was a closed society and did not have to deal with the interference of the U.S. Government. Four thousand years of Chinese history have given us ample evidence of the fact that some in the Chinese Government would have no difficulty in dropping the Bamboo Curtain and continuing to do business in China as they see fit.

We therefore hope that the members of this subcommittee will favor the continuation of MFN status for China.

Thank you very much.

[The prepared statement follows:]

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TESTIMONY OF RUSS BERRIE AND COMPANY, INC.
ON U.S. - CHINA TRADE RELATIONS
BEFORE THE SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
SUBMITTED BY: JOEL K. SIMON, ESQ., COUNSEL TO RUSS BERRIE AND COMPANY, INC.

MAY 23, 1995

Russ Berrie and Company, Inc. (Russ Berrie), of Oakland, N.J., is a public company whose stock is traded on the New York Stock Exchange. The company employs approximately 2000 men and women worldwide of which 1450 were in the United States. In addition to New Jersey, it has facilities in California, West Virginia, Pennsylvania and Ohio. The company employs a sales force in each of the fifty states. Last year its total net sales were $278,000,000.

The company develops and markets a vast selection of impulse gift products to retail stores in the United States, Canada, England and most of the countries in the world. Russ Berrie sells more than 11,000 different products, most of which are produced in the Far East.

We thank the Committee for affording us the opportunity to appear and offer this testimony today to express Russ Berrie's concern regarding the continued "Most Favored Nation" (MFN) status for the People's Republic of China in 1995-1996.

On June 8, 1993 the company offered testimony before this Subcommittee which supported the goals put forth by the President for future renewal of MFN status for China, while at the same time we stated our very strong concerns about the negative impact that would occur if MFN status was removed.

At this time, Russ Berrie has not changed its opinion, and continues to believe that in the long run, the maintenance of MFN for China will result in the achievement of the human rights goals that President Clinton has sought to achieve.

On January 20, 1994 then Treasury Secretary Lloyd Bentsen spoke before the Chinese Academy of Social Sciences, in Beijing. In his speech he stated that China has made "progress on human rights." But also cautioned that "much remains to be done".

In discussing the exporting of goods made from prison labor Secretary Bentsen stated:

> "I'm pleased to announce today that we've made some progress on the prison labor front. Our governments have agreed on measures to ensure more effective prevention of the export of goods made with prison labor. China has also agreed to permit inspections of five prisons alleged to be producing goods for export."

On February 9, 1994 the Journal of Commerce reported that Representative Robert Matsui, a member of this Subcommittee, had formed a bipartisan group of members of the House of Representatives, in an effort to promote a plan to drop human rights conditions from the decision to extend MFN treatment. We strongly support Congressman Matsui in his efforts.

In the Senate, Senator Max Baucus, has argued that "MFN is an outdated Tool". Speaking before the U. S. - China Business Council, on January 27, 1994 Senator Baucus also urged that we

cease threatening the removal of MFN for China, if China fails to make significant improvements in the area of human rights. Instead, he urged that the United States use all other means available to press for improvements in the human rights of the Chinese people. He correctly recognized that, "Perpetually threatening the economic equivalent of nuclear war is not sound policy."

There have been numerous reports in the press of China's actions in which it has sought to comply with the conditions set forth by the President for the next renewal of MFN. It is difficult for us to gauge how these efforts are viewed by the administration, but we would hope that the recent reports of Administration and Congressional support for a de-linkage indicates that there has been some recognition of an attempt to meet the conditions that were set forth by the President.

In addition, in August of 1993, the then members of the Subcommittee on Trade, travelled to China on a fact finding mission and to discuss a range of Trade related issues, including human rights and market access.

According to the Subcommittee report of that mission, dated January 26, 1994, the members of the delegation expressed their concerns about human rights in China and stressed the need for China to meet the conditions set down for obtaining a renewal of MFN in 1994.

As to the conditions set out by the President, two conditions, the cessation of exports of goods made by prison labor, and the freedom of emigration for Chinese citizens were "must meet" conditions. With regard to prison labor issues, as stated by Treasury Secretary Bentsen, significant progress has been made in this area, and we believe that this issue will be ended before June of this year. From our experience, we know of no toy or gift items that were made with prison labor, nor reported to be made by prison labor.

The question of freedom of emigration is one that we find extremely difficult to answer, since there does not appear to be any country willing to accept the millions of Chinese who might potentially wish to leave China. For the United States to demand freedom of emigration from China would mean that we would encourage people to leave China only to be faced with the specter of living in refugee camps, as there is no place for them to go. This would certainly be a cruel hoax to perpetrate upon the Chinese people.

We agree that the efforts to improve the human rights should continue, and hope that the Chinese government recognizes how important this issue is to the American people and its government. We also hope that the Administration and Congress takes into account the sensitive nature of this issue and recognizes the steps taken by China.

There is a great concern in the business community that action may be taken by Congress or the Administration, no matter their intentions, which will cause great hardship for many American workers and their families, as well as the workers and families in China.

While Russ Berrie has products manufactured in Korea, Taiwan, Hong Kong, Thailand, Indonesia, The Philippines, Mexico, and the United States, China is its single most important source of product at this time. It is estimated that Russ Berrie imported more than eighty million dollars worth of products from China during 1992. The possibility of the loss of MFN duty treatment for these products would be disastrous for the company and for the toy and gift industry as a whole if this legislation is passed.

Russ Berrie imports stuffed animals from China which currently enter the United States with duty at 6.8%. If MFN status were revoked the duty on these products would rise to 70%. This cost increase would have to be passed on to the ultimate consumer, usually families with small children and the grandparents of small children, people who we are certain would be unable to pay this huge cost increase. Russ Berrie would therefore have no choice but to cancel their orders and reduce their imports and sales.

There is no alternative source of supply presently available anywhere in the world that could fill the demand that would be created due to the loss of imports from China. The loss of imports from China would cause the company to lose a substantial amount of its sales. We estimate that some three to four hundred Russ Berrie employees would either temporarily or permanently lose their jobs. We do not believe that the story would be any different for others in this our industry, and we could easily foresee thousands of people unemployed in the toy and giftware industry alone.

Moreover, should MFN status be lost, Russ Berrie and other importers would be forced to look to other countries to make up for the lost production and sales in China. Due to the nature of the gift and toy industry, it is doubtful that any of this production would return to the United States. Since toys and impulse gift items are not necessities, price is always a consideration. Therefore, production will shift to those countries which can provide a large, inexpensive, but skilled workforce.

Once new facilities are established, we cannot foresee a return of production to China. The loss of the American market to Chinese goods would surely result in a loss of the Chinese market to American goods. Such an event would not be temporary, as once new facilities are established it would be unlikely that they would be shut down or moved. Moreover, the uncertainty of future action against MFN status for China would make a return to China unlikely once MFN status was lost.

Russ Berrie does not want the Congress or the Administration to think that it is unsympathetic to the human rights of the Chinese people, but we believe that the loss of China's MFN trade status in 1995 would be extremely damaging to the Chinese people and their fight for democracy. We estimate that the company's imports from China presently employ some 10,000 workers. If MFN is lost, Russ Berrie would have to cancel all of its outstanding orders and look for alternative sources of supply. We believe that all of the workers who make Russ products would lose their jobs. Add in all the other Chinese who are currently producing products for the United States market and we believe that well over a million workers would lose their jobs should China lose its MFN status.

These workers are our friends. They work with us and have learned about America and Democracy from the continuous contact that they have with Americans. Cutting business ties and putting the workers out of work could easily undo all the positive gains, economic, social and political, that China has made in the last ten years. It would give the leaders in Beijing ammunition to use against the United States by creating economic unrest within China. Russ Berrie is fearful that the workers in China, who are more concerned with feeding and caring for their families than they are with politics, would be the "victims" of the loss of MFN. We at Russ Berrie would be perceived as abandoning them after the promise of improved living standards that we have been giving them for the past ten years.

The people at Russ Berrie are not diplomats nor are they politicians. They cannot offer you alternative solutions that would force the Chinese leaders in Beijing to continue on the path towards democracy in China. But, as businessmen, their experiences in China over the years has shown them that as we expanded our economic contacts with the Chinese people, so have their lives improved. There has been more food, better living conditions and an easing of the political situation to the point where people found the courage to stand up to repression. Russ Berrie believes that the continuation of economic contacts with China and its people will, in the long run, aid in the growth of democratic ideals and bring about a peaceful democratic revolution as we see happening in Eastern Europe.

On behalf of Russ Berrie and Company, Inc. I would like to thank you for your consideration of its concerns and urge that you support the renewal of MFN, and not impose any additional requirements on the extension of MFN for China in 1994.

Chairman CRANE. Thank you, Mr. Simon.
Mr. Duggan.

STATEMENT OF E. MARTIN DUGGAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, SMALL BUSINESS EXPORTERS ASSOCIATION

Mr. DUGGAN. Mr. Chairman and members of the subcommittee, I want to thank you for holding the hearing and allowing the Small Business Exporters Association to testify on this most important question of continuing MFN status for China.

I am here today to express the concerns of my members, who are dedicated exporters and who strive each day to meet the extraordinary demands of marketing and selling products in different parts of the world.

The Small Business Exporters Association is an advocacy organization trying to represent the interests across the board of small and mid-sized exporters.

In the case of China, they are met with difficulties which should not exist between two countries which are economically strong and who should be self-confident enough to open trading partnerships. Some of these small and mid-sized exporters have made the following comments:

Most businesses are too closely tied to their government or are controlled by the government. The Chinese always want to talk about joint ventures, but a joint venture to them means long-term negotiations to establish a relationship and then very long-term financing which is seldom possible for a small business to offer.

Another, China does not understand small business. Their first question is always, How big?

A member from Illinois states: My customers are suspicious that U.S. companies will not be reliable as suppliers, and therefore manufacturers lose credibility. I think in this instance he is referring to the revolving question of MFN from year to year and his reliability under those circumstances as a supplier.

Another member was forced to sponsor a buying trip for several Chinese businessmen. It cost him $30,000 out of which he got the contract and hopefully had enough fat in the product he was selling to make up the difference. But they still owe him $27,000. The product has been paid for.

A South Carolina manufacturer reports: I will be participating in a trade show in China this September. My Hong Kong distributor warned me to be careful when I hire an interpreter. They are, in fact, Government-sponsored industrial spies.

Now maybe somebody who has got a little better insight into China than I do can refute that.

A Chinese-American member from New Jersey feels that China should at least allow U.S. companies to export its own brand name products in China without having to go through Chinese state-owned trading companies.

The experiences of those Americans show that the political and cultural climate in China has improved little in spite of years of most-favored-nation status. We give China preferential treatment on duty-free or greatly reduced tariffs for their goods entering the

United States, and it seems that all we receive in return is the right to continue treading water.

I am talking about small companies and their problems, not the multinationals who have the ability to confront just about any situation that seems to confront them.

In the May 17 issue of "Chemical Week," Minister Gu Xiulian restated that growth rates of 8 to 9 percent are established under the Ninth Five-Year Plan, with priority being given for such specific industries as electronics, automobiles, construction equipment, machinery, and agricultural chemicals, in particular. The Chinese seem to know where they are going.

With our trade deficit expanding from $1 billion in 1986 to more than $28 billion in 1994, we need a policy that addresses the shortcomings in our trade relationship with China now. In 10 years, it could be too late.

Why do we continue a relationship in which the rule of law, intellectual property rights, technology transfer, extortion, and bribery are more the norm than the exception?

Chiefly because Presidents Bush and Clinton have embraced the constructive engagement theory, and they are probably correct in believing that the only way to negotiate is to keep talking. We have this huge economic carrot being dangled in front of our faces, representing potential sales to China if we are patient. But clearly patience alone will not do the trick.

At the current rate, our deficit with China will surpass our deficit with Japan.

Mr. Chairman and members of the Trade Subcommittee, I am not here today to oppose most-favored-nation status for China, but rather to urge additional and stronger measures when dealing with this intransigent regime. We must overcome Chinese indifference to fair business practices and instill in them a desire to be respected in the global economy.

We have already demonstrated our patience and willingness to defer to a much different business culture, but soon we must begin to tighten the screw. We cannot allow them to grow strong if it means we grow weaker.

At this time, I would like to introduce a recent study authored by Greg Mastel for the Economic Strategy Institute, titled "China and the WTO." I think a good many of the questions that are being addressed here today are covered in this particular paper. It is titled "China and WTO: An Economy at the Crossroad," and it contains information pertinent to today's discussion as well as to the WTO.

The Small Business Exporters Association pledges its support of any diplomatic and economic changes which can continue constructive engagement but will demonstrate that trade concessions cannot be one sided indefinitely.

If doing business with friends is China's criteria, the United States should long ago have proved its willingness. How long is it going to take?

Thank you for allowing me to testify on this important issue, and I will be happy to take any questions.

[The prepared statement follows. The Mastel report referred to is retained in committee files.]

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SMALL BUSINESS EXPORTERS ASSOCIATION

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Mr. Chairman and members of the Trade Subcommittee, I am not here today to oppose Most Favored Nation status for China but rather to urge additional and stronger measures when dealing with this intransigent regime. We must overcome Chinese indifference to fair business practices and instill in them a desire to be respected in the global economy. We have already demonstrated our patience and willingness to defer to a much different business culture, but soon we must begin to tighten the screw.

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The Small Business Exporters Association pledges its support of any diplomatic and economic changes which can continue Constructive Engagement but will demonstrate that trade concessions cannot be one-sided indefinitely. If doing business with friends is China's criteria, the U.S. should long ago have proved its willingness. How long is it going to take?

Thank you for allowing us to testify on this most important issue. We wish you well in finding a solution to this most perplexing of problems.

Chairman CRANE. Thank you, Mr. Duggan.

One quick question, Mr. Aronson. Has our embassy in China not been able to help you?

Mr. ARONSON. Yes, they have tried to help. Ambassador Stapleton Roy spoke to Minister Wui Yi about this problem, and Minister Wui Yi, as I recall, said that China would not pay the award.

The American Counsel General in Shanghai contacted the court in Shanghai where we attempted to lodge the arbitral award, and the court on several occasions said they knew nothing about it, and on other occasions they just would not return his calls at all.

So although the embassy and the consulate have tried, they have been frustrated at every turn.

Chairman CRANE. Well, I cosigned Clay's letter——

Mr. ARONSON. Yes.

Chairman CRANE [continuing]. To Mickey Kantor asking him to raise this issue with them.

Do you know of any other American businesses that have taken hits comparable to yours?

Mr. ARONSON. Yes. There is one in San Francisco that has had the same sort of a problem. Then there are a number of others. I have an article covering literally hundreds of U.S. firms who have gotten arbitration awards and have been unable to collect them through the courts.

The courts favor the local constituents in their cities, and American companies with arbitration awards just do not have a chance at all.

Chairman CRANE. Well, it would seem to me, at least, that with them seeking to become a member of the World Trade Organization, that they should be bending over backward to learn how to comply in normal business relationships. That kind of theft is incredible.

Mr. ARONSON. Yes. It is just deplorable, and it just really—it amounts to confiscation really.

Chairman CRANE. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Dr. Kapp, in your written statement, I do not know whether you said it, but that the council only supports the unconditional continuation of a normal trade relationship with China, the MFN. Is that your position, that there be no conditions attached to it at all?

Mr. KAPP. Certainly we support the unconditional renewal of—the renewal of unconditional MFN.

Mr. RANGEL. When it comes to human rights, I think that, at last rhetorically, Congressman Wolf took it to a much higher octane when he indicated that he had evidence that internal organs, kidneys and corneas, were taken from executed prisoners and sold for $30,000. Then he goes on to say that during the national holiday on May 1 that patients just go into the hospitals, and that prisoners' executions are delayed until the patients for the transplants are locked into place. Then he went on to selling human fetuses for internal consumption and slave labor and those types of things.

If I understand your testimony correctly, you were saying that these things did not happen. But even if they did, as a historian, there is a long historic record for it.

Mr. KAPP. Sir, I did not say they did not happen, because I do not know whether they did or not. I have read the report from the "Eastern Express" that Congressman Wolf mentioned and the followup statement by the "Eastern Express" a couple of days later.

What I did say was that America has kind of a love/hate relationship with China that long precedes the arrival of the Communists and that for 100 years and more, Americans have alternated between extremes of love and admiration for the people of China and their civilization and extremes of loathing and horror at the social and human conditions that they have encountered there.

What I am saying is that the MFN decision before us is rooted in an amendment to the 1974 Trade Act, which deals with very specific points, and that on the basis of that law, we feel that China should continue to receive normal trade treatment.

We all know that MFN is not preferential and is not special treatment; it is normal treatment.

So the question becomes whether or not this Nation should invoke—as other witnesses have suggested—the very broad-brush threat of the destruction of a massive trade relationship when it encounters domestic conditions within another country which it finds really opprobrious or unacceptable. My reaction is that the revocation of MFN would, in fact, have little, if any, effect on those conditions; it would instead be counterproductive.

Mr. RANGEL. Well, I misunderstood you. As a historian and somebody who has studied China, what is your position on the allegations about prisoners being executed for their organs to be sold to patients and about the human fetuses being extracted for human consumption?

Mr. KAPP. Well, Congressman, I am a former historian. You are a Member of Congress. I think we both have the same reaction, which is independent of our occupations.

In any country, our own included or anywhere else, where the abuse of the human body and the human person by another human, especially if it is for profit, is encountered, I think you and I would both agree we would personally deplore that and be disgusted by it. You do not have to be a historian to have that view.

Mr. RANGEL. But that would not detract from your statement that unconditionally that should not have any influence on whether we have a normal trade relationship?

Mr. KAPP. I am sorry to say, Congressman Rangel, that I do not think it should. The revocation of trade relations between these two countries, part of a massive global relationship from which, as I say in my paper, we cannot escape, is not and could not be the answer to the elimination of abuses like that.

Mr. RANGEL. Does everyone agree with Dr. Kapp, basically?

I assume all of you oppose the embargo that we have on Cuba. Is there anyone that supports the embargo on Cuba?

Mr. BOULTER. I have to say I do not know. I do think there are some differences, but I——

Mr. RANGEL. You support it, or you do not know whether——

Mr. BOULTER. I do not know if I currently do or do not.

Mr. RANGEL. You may be able to support a unilateral embargo against Cuba, but——

Mr. BOULTER. I have supported it. I am not——

Mr. RANGEL. But you do not have any problem if these facts here are accurate in saying that it should not restrict our relationship with China.

Mr. BOULTER. I think some of these allegations are true. Most of them are exaggerated. But I do not think revoking MFN or linking it to human rights would improve the situation at all; in fact, it would make it worse.

Mr. RANGEL. But you think that it is possible that our embargo against Cuba may be in our national interest?

Mr. BOULTER. I do not—I generally do not believe that embargoes, unilateral embargoes, work. So, I am sort of ambivalent, Congressman.

Mr. RANGEL. These are apples and oranges, two different things?

Mr. BOULTER. I think there are differences. But I generally do not like unilateral embargoes.

Mr. RANGEL. No. No one likes them.

Mr. BOULTER. I do not think they do any good. I think they hurt the people they are designed to help.

Mr. RANGEL. Well, in South Africa, obviously—you do not believe——

Mr. BOULTER. I am sorry. What is your question?

Mr. RANGEL. I said, in South Africa, obviously it did some good. At least the present administration thought so. You do not think it did good there either?

Mr. BOULTER. Are you saying a unilateral embargo did good?

Mr. RANGEL. Against South Africa. It was not multinational, but——

Mr. BOULTER. Well, I think the world community's opinion was brought to bear in South Africa in such a way that it did do good.

Mr. RANGEL. Well, world public opinion is brought to bear in Cuba, too, but it does not stop us.

Mr. BOULTER. You have different people in Cuba than you had in South Africa.

Mr. RANGEL. That is an observation I have to take another look at. Thank you.

Chairman CRANE. I thank you all for your patience, your endurance, and your testimony. With that, the subcommittee stands adjourned.

[Whereupon, at 1:31 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

The American Chamber of Commerce in Hong Kong

A Framework for U.S.-China Relations

Introduction

The People's Republic of China is the world's fastest growing economy, averaging 9% GDP growth since 1978. China's foreign trade has ballooned by an average of 25% for each of the last five years, and today China is the world's 11th largest trading economy. According to the World Bank, China's economy is the world's third largest if calculated on the basis of purchasing power parity.

Rapid economic development has transformed China into a catalyst for regional economic growth, as well as a major political, economic and military power in the international arena. One of the key challenges facing the United States is how to facilitate China's emergence as a stable and responsible world power.

China has begun a leadership succession process, during which the attitudes and outlooks of the next generation of Chinese leaders – a younger, better educated, and well travelled group – are now being shaped. This transitional era offers a window of opportunity for the U.S. to engage with the emerging leadership in directions beneficial to American interests. Aggressive confrontation, as opposed to constructive engagement, may result in a backlash against U.S. interests.

The goal of U.S. policy towards China should be to promote systemic change that is positive to U.S. interests – to create an open, prosperous, strong, and stable China which is integrated into the world economic system. This requires a long-term policy framework which emphasizes dialogue over sanctions. This policy should be flexible enough to recognize while our interests will diverge on certain issues, the U.S. can still move forward with China on many areas of mutual concern.

Trade Relations and Policy

Commercial relations are a cornerstone in the U.S.-China relationship. In 1978, annual trade volume between the U.S. and China totalled only US$2.3 billion. But by 1994 that figure had grown to over US$48 billion. The United States is the third largest investor in China after Hong Kong and Taiwan, with an estimated US$19 billion committed to about 16,000 projects.[2] While the growing trade and investment links have been a positive development in the relationship, some difficulties have inevitably arisen, necessitating the establishment of a forum whereby both nations can address problems in their commercial relationship.

The past several years have seen important agreements reached between the U.S. and China,

notably the intellectual property rights and market access MOUs of 1992 and the intellectual property rights accord signed in February 1995. Problems remain, particularly over market access and the trade deficit. While the U.S. should pursue economic interests with China through multilateral organizations wherever possible, it should also maintain an ongoing bilateral dialogue with China over issues in our trade relationship.

The Joint Commission for Commerce and Trade (JCCT) was originally formed in 1983 to act as a forum for high-level discussions on bilateral trade and investment issues. The Commission has four main goals: achieving greater market access for U.S. companies, expanding cooperative programs and projects in China's key growth sectors, assisting in the development of commercial law in China, and dismantling barriers to trade. The Commission was suspended after Tiananmen Square and revived during April 1994. A study group to investigate the differences in two-way trade accounting methods was recently formed and is making progress in clarifying legitimate and complex issues of methodology including the impact of changes in the U.S. country of origin definitions. The JCCT plays a productive role in facilitating greater U.S. business involvement in China and should be a principal forum for bilateral trade and investment discussions.

China and the World Trade Organization

It is essential that the U.S. facilitate China's entry into the international economic order through an appropriate and effective protocol agreement, enhancing her adherence to the new international trade order.

Over the past 17 years China has undergone unprecedented change in its economic system having instituted wide-ranging reforms. China has made significant progress in expanding market access to foreign companies, reducing and eliminating tariffs, improving intellectual property rights protection, and making its trade regime more transparent. There are still areas in which China must make further progress to comply with WTO standards; most notably further reductions of tariffs, market access for financial and agricultural sectors and national treatment for foreign companies.

Taiwan and China

A peaceful settlement of the China-Taiwan reunification issue is vital to the continued stability and prosperity for Greater China and the Asia-Pacific region. The past several years have witnessed considerable improvement in relations across the Taiwan Straits. Last year bilateral trade reached US$16.5 billion, and Taiwanese businesses are the second largest investors in China, with an estimated US$20 billion invested in approximately 20,000 projects.[1] Taiwan and China have begun a semi-official dialogue to address issues in their relationship, and progress in this effort was evident in 1995.

The U.S. can play a constructive role by quietly encouraging continued trade, investment, and travel flows between Taiwan and China, as well as applauding efforts to develop their relationship in a peaceful manner.

The U.S. should maintain a neutral position on the China-Taiwan reunification issue. Our relations with Taiwan over the past 17 years have been governed by the 1972 Shanghai Communique and the 1979 Taiwan Relations Act, in which the U.S. pledged to adhere to a "one-China" policy. While Taiwan's economic influence and close trade relations with the U.S. necessitate continued dialogue and cooperation with Taiwan on a number of bilateral and regional issues, the U.S. must be mindful that contentious attempts to upgrade relations will be interpreted by China as a violation of the precedent that has governed our relations with Taiwan for almost 25 years. A U.S. retreat from our "one-China" pledge would not only cripple our relations with China, but could result in dire consequences for the people of Taiwan.

U.S. Business Assistance Sanctions

After the Tiananmen Square incident almost six years ago, the U.S. imposed a wide range of sanctions on China to punish the leadership in Beijing. Many of these sanctions have since been lifted, but two prominent sanctions remain in place. These prohibit the Overseas Private Investment Corporation (OPIC) and Trade Development Agency (TDA) from operating in China. OPIC and TDA provide financing and other vital assistance to U.S. companies competing for contracts and operating in China. These sanctions do nothing to improve the human rights situation in China and damage the competitiveness of U.S. businesses.

The U.S.-Asia Environmental Partnership (US-AEP) assists U.S. companies specializing in environmental protection technology in the Asia-Pacific region; however, current policy prevents it from operating in China. China is facing serious environmental degradation, affecting not only China itself but its neighbors. U.S. companies are competitive in this sector and can provide technology and know-how to help China remedy its environmental problems.

China's Growing Military Strength

China's growing economic strength will translate into enhanced military strength. Given the leadership succession, weapons sales to unstable regions, and potential flashpoints in Korea, the Taiwan Straits, and the South China Sea, the U.S. should move to improve Sino-U.S. military ties and encourage China to play a more active and stabilizing role in regional security.

China wants increased military-to-military contacts with the U.S., and the good progress over the past two years should be continued. Contacts with the Chinese military function as a channel for military leaders from both sides to discuss pressing security issues and the important roles both nations can play in maintaining both regional and global peace and stability.

Exchanges covering areas such as training, doctrine, and technology should also be expanded. Such confidence-building measures help break down the barriers of suspicion and uncertainty by enhancing the transparency of both sides' military forces. The U.S. should encourage the Chinese to begin such exchanges with its neighbors as well, to assuage the suspicion among Asian nations about China's military capabilities and intentions.

China should be encouraged to enter regional security discussions, including efforts focused on the tension surrounding islands in the South China Sea. China is reluctant to engage in regional security fora, preferring quiet bilateral discussions. [3] The U.S. should continue efforts to persuade China to play a stabilizing role in the region, while at the same time encouraging the development of security fora such as the ASEAN Regional Forum.

Human Rights in China

The American Chamber of Commerce in Hong Kong applauds President Clinton's decision in May 1994 to delink human rights concerns from Most-Favored Nation (MFN) status extension. While human rights is a factor in Sino-U.S. relations, the U.S. should continue to promote human rights in China through bilateral discussion, multilateral organizations, and by expanding business, legal, cultural, and scientific ties.

The livelihood of the Chinese people has improved dramatically over the past 17 years. Once under the iron grip of the "work-unit" system, Chinese citizens today have considerably more freedom and control over their lives, with a widening spectrum of choice over issues such as employment, travel, housing, spending, family, and expression of ideas. These developments have been brought about by China's economic and administrative reforms and opening to the outside world and the influences and opportunities both have brought.

It is important to note the role played by foreign, particularly American, businesses in this process. Foreign investment can help to promote human rights. Foreign trade and investment have exposed the Chinese people and government officials to new ideas and ways of thinking. Employment opportunities with foreign companies have allowed millions of Chinese to break away from the work-unit system, to be trained in western management and business skills, and to receive significantly higher levels of remuneration, which provide the means to assert more control over their own lives.

American companies are leaders and role-models of standards in environmental protection, safety, worker training, ethical practices, respect for law, and upholding the dignity of workers. The American Chamber of Commerce in Hong Kong has taken the lead in approving a set of business principles that encourages all U.S. companies to adopt on a voluntary basis. AmCham believes it is counterproductive to legislate codes of conduct on U.S. businesses since most major U.S. companies already have their own corporate codes of conduct. Dialogue and education are also fostered by AmCham committee programs in business ethics, industrial safety, environmental issues and women in business.

The United States should expand educational, legal and cultural exchanges with China, continue its bilateral human rights dialogue, argue for International Red Cross inspection of prisons, express concern about political prisoners, and pursue multilateral human rights dialogue within the United Nations.

Hong Kong's Reversion to Chinese Sovereignty

In less than 800 days, Hong Kong will revert to China's sovereignty. It is in the interest of the people of Hong Kong and China that the stability and prosperity of the territory is maintained after 1997.

Apart from significant economic and investment interests, the smooth management of Hong Kong's transition is a prerequisite for China's success in advancing the process of reunification with Taiwan - a major national priority.

Hong Kong's tremendous success and prosperity has been founded on various unique characteristics, including: a strong and independent legal system, freedom of passage for people and goods, non-discriminatory government policies, freely convertible currency, the free flow of ideas and information, minimal levels of corruption and coercion, and a world-class infrastructure. The Sino-British Joint Declaration of 1984 and the Basic Law of 1990 provide that Hong Kong will enjoy a high degree of autonomy after 1997, and that its capitalist system will remain unchanged for at least 50 years following the transition.

There are several unresolved issues involved in the transition including: adaptation and localization of laws, establishment of a Court of Final Appeals, construction of new container terminals, financing for Hong Kong's new airport, nationality issues, and civil service morale. The U.S. must not become embroiled in the Sino-British dispute over democratic reforms, but should continue to encourage both sides to quickly resolve these issues, which are essential to maintaining business confidence in the territory.

The U.S. should also recognize the territory's importance as our 13th largest trading partner, and continue to promote the preservation of Hong Kong's social and economic systems in order to maintain the territory's prosperity and stability, the livelihood of the Hong Kong people, and the viability of American commercial and economic interests in Hong Kong.

April 1995
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Footnotes

1 Asian Business, April 1995, p. 26
2 MOFTEC, US-China Business Council
3 Sino-American Military Relations: Mutual Responsibilities in the Post-Cold War Era, National Committee on United States-China Relations, China Policy Series, No. 9, November 1994, p. 14

STATEMENT OF
THE AMERICAN FOREST & PAPER ASSOCIATION (AF&PA)

SUBCOMMITTEE ON TRADE
WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

U.S.-CHINA TRADE RELATIONS AND
RENEWAL OF CHINA'S MOST-FAVORED NATION STATUS

June 2, 1995

The American Forest & Paper Association (AF&PA) appreciates the opportunity to advise the Subcommittee of our views on U.S.-China trade relations and the renewal of Most Favored Nation (MFN) status for China, in particular.

AF&PA is the national trade association of the forest, pulp, paper, paperboard, and wood products industry. AF&PA represents over 400 member companies and related trade associations (whose memberships are in the thousands) which grow, harvest and process wood and wood fiber; manufacture pulp, paper and paperboard products from both virgin and recovered fiber; and produce engineered and traditional wood products.

The vital national industry which AF&PA represents accounts for over seven percent of total United States manufacturing output. Employing approximately 1.6 million people, the forest and paper industry ranks among the top 10 manufacturing employers in 46 states, with an annual payroll of approximately $49 billion. Total sales of U.S. forest and paper products exceed $200 billion annually.

The U.S. is the world's largest producer of pulp and paper and paperboard. It provides 35 percent of the world's pulp, and satisfies 30 percent of global paper and paperboard demand.

In 1994, U.S. forest products exports totalled $18.4 billion. Using the yardstick adopted by the Department of Commerce, these sales support more than 360,000 direct and indirect jobs here in the United States.

THE CHINA MARKET

The PRC represents a significant current export market for the U.S. forest products industry, but the potential for future sales is even greater.

In 1994, U.S. exports of pulp, paper and paperboard products to China exceeded $197 million. In addition, shipments of recovered paper for recycling by China's paper and paperboard mills amounted to almost $35 million. According to a U.S. Department of Commerce report, in 1993, direct U.S. exports of pulp, paper and paperboard products to China represented approximately 21 percent of China's import market, the highest share of any foreign supplier. Just behind the U.S. was Hong Kong, which held a 19 percent share; a sizeable amount of Hong Kong's paper exports to China, though, are actually U.S. goods transhipped through Hong Kong.

For specific paper products, such as wood pulp and kraft linerboard, China is already an important market. In the case of kraft linerboard, used in the manufacture of corrugated shipping containers, China is the largest export market for U.S. producers. In 1994, direct exports of U.S. kraft linerboard to China were valued at almost $86 million. In addition, a major portion of U.S. kraft linerboard exports to Hong Kong -- more than $122 million -- is reshipped to China.

In 1994, direct U.S. exports of wood products to China totaled $63.5 million, including more than $55 million of softwood logs. The majority of U.S. wood products that eventually

reach China are transhipped through Hong Kong, Taiwan, or Canada. For instance, in 1993, between 60 and 80 percent of total U.S. hardwood products reached China after first going through Hong Kong.

Looking ahead, the China market for paper and wood products is expected to grow rapidly. Chinese consumption of paper and paperboard products posted double digit growth rates in 1992 and 1993, placing it third in terms of consumption of paper and paperboard products behind the U.S. and Japan. Even after this rapid growth, the Chinese market has not come close to exhausting its potential. By the end of 1993, China's per capita paper consumption was still only 17.2 kilograms (kg), much lower than the world average of 46 kg. The Chinese government has forecast that per capita consumption will almost double by the year 2010, rising to 32 kg. The government also plans to improve the quality of domestically produced paper by raising the proportion of wood pulp in the paper making furnish. These changes are expected to provide U.S. pulp and paper suppliers increased sales opportunities in the Chinese market.

On the wood products side, China's demand for panel products -- used in furniture and flooring -- has been increasing rapidly. As China has developed its economy, it has also developed a new, upwardly mobile middle class. These consumers are eager to purchase value-added wood products, such as flooring and furniture, because they are symbols of prestige. China's production of flooring and panel products is limited, however, and though China is focusing on building up its panel production, the efforts are not expected to satisfy the growth in demand. According to a U.S. Department of Agriculture (USDA) report, in 1993, the value of plywood imports was more than $700 million, accounting for over half the value of total wood imports. Meanwhile, imports of other panel products, while less significant, are growing rapidly.

The ability of the U.S. forest products industry to participate in the future development of the China market on a competitive basis will require a carefully calibrated U.S. trade policy which has as its objective the full integration of China into the global trading system -- with its attendant benefits and responsibilities. For this reason, AF&PA recommends an approach which, on the one hand, accords China full Most Favored Nation (MFN) access to U.S. markets and, on the other, applies an appropriately rigorous standard to the conditions for China's accession to the WTO.

EXTENSION OF MFN TRADE STATUS

AF&PA strongly supports the extension of MFN trade status for China.

Undeniably, there are commercial considerations behind this position. In the short term, we can anticipate that a denial of MFN status would inevitably lead to steps by Chinese buyers to reduce purchases from U.S. suppliers, including our forest products companies. It is also to be expected that our international competitors would act quickly to use a failure of the United States to renew China's MFN status at this critical period to improve their position in this developing market, putting us at a long-term disadvantage, even assuming more normal relations were restored at some point in the future.

But our position is equally based on a firm belief in the market as the ultimate instrument of global democratization. The recent history of political change around the globe has made the point that the spread of the global marketplace is the single most powerful liberalizing force operating in the world today. To the extent that the U.S. has invested heavily in the expansion of the global free trade system, it has paid handsome dividends in terms of the realization of our larger foreign policy objectives.

To encumber China's full participation in the world's most open, most robustly competitive market -- as the denial of MFN status would do -- would insulate China from the very forces of liberalization that we wish to foster. This is the underlying fallacy behind the use of market

sanctions as a means for changing illiberal behavior and the reason why the withdrawal of MFN status would not only fail to improve China's human rights record, but could actually have the contrary result.

AF&PA was strongly supportive of the President's decision to renew China's MFN status last year. We urge him to further extend MFN again this year.

GATT/WTO MEMBERSHIP

At the same time, AF&PA believes that China's participation in the GATT/WTO system must be based on an appropriately rigorous assessment of China's economic strength and its potential role in shaping the global trading system of tomorrow. China must not be permitted to enter the WTO on any basis other than substantial compliance with the full obligations of membership.

In terms of the market access problems confronting the U.S. forest products industry, this would mean that China would:

- agree to be bound immediately by all provisions of the GATT/WTO Agreement, including specifically those relating to national treatment and transparency,
- institutionalize changes ensuring significant permanent reduction of state control over the market and commit to strict adherence to internationally-recognized commercial practices,
- immediately reduce to, and bind at, 10 percent or less and, upon joining the WTO, agree to eliminate within five years, all tariffs on wood, pulp and paper products, and
- adopt significant market liberalization policies and phase out all non-tariff barriers to imports.

(A more complete explanation of specific Chinese trade barriers which adversely affect the sale of U.S. forest products and which must be addressed in the GATT/WTO accession negotiations is contained in the attached submission to the Office of the U.S. Trade Representative.)

AF&PA believes these conditions *must* be a prerequisite to China's membership in the GATT/WTO. If they are not, the world trading system will have effectively sanctioned China's mercantilistic trade policies as GATT consistent and squandered any leverage it otherwise would have to secure permanent, structural change in the Chinese system. Market access obstacles will become permanently embedded in China's trade regime and China will be allowed to escape many of the responsibilities inherent in participation in an open trading system.

AF&PA has been working closely with the Office of the U.S. Trade Representative and strongly supports the tough, principled and, we believe, realistic stand the U.S. has taken on this issue. As negotiations go forward, we urge the Administration to adhere to the solid foundation which the U.S. has laid to date and to ensure that China fully adheres to the very reasonable conditions which the U.S. has articulated before it is permitted entry to the WTO.

Thank you for your consideration of our views.

Attachment

PRC-MFN.95

ACCESSION BY THE PEOPLE'S REPUBLIC OF CHINA (PRC) TO THE GATT/WTO

The American Forest and Paper Association (AF&PA) would support accession by the People's Republic of China (PRC) to the GATT/WTO, subject to China's meeting several conditions. China must:

- agree to be bound immediately by all provisions of the GATT/WTO Agreement, including specifically those relating to national treatment and transparency,
- institutionalize changes ensuring significant permanent reduction of state control over the market and commit to strict adherence to internationally-recognized commercial practices,
- immediately reduce to, and bind at, 10 percent or less and, upon joining the WTO, agree to eliminate within five years, all tariffs on wood, pulp and paper products, and
- adopt significant market liberalization policies and phase-out all non-tariff barriers to imports.

These conditions *must* be a prerequisite to China's membership in the GATT/WTO. If they are not, the world trading system will have effectively sanctioned China's mercantilistic trade policies as GATT consistent and eliminated any leverage it otherwise would have to secure permanent, structural change in the Chinese system. Market access obstacles likely will become permanently embedded in China's trade regime and China will be allowed to escape many of the responsibilities inherent in participation in an open trading system.

Market Potential

The removal of tariff and non-tariff barriers to China's market through the GATT/WTO accession process can lead to significantly enhanced export opportunities for U.S. producers of wood, pulp and paper products. Because China is deficient in forest resources, with limited potential for expanding its own fiber supply, its need for imported wood, pulp and paper products is expected to increase substantially as it pursues its commitment to economic and industrial expansion.

Already, the PRC represents the largest national export market for U.S. kraft linerboard. In 1994, kraft linerboard exports to China exceeded 253,000 metric tons and were valued at almost $86 million. In addition, a major portion of U.S. kraft linerboard exports to Hong Kong -- which exceeded 333,000 metric tons and had a value of more than $122 million -- was reshipped to China.

In 1994, U.S. exports to China of wood products totalled $63.5 million. Also for 1994, exports of pulp, paper and paperboard products exceeded 434,000 metric tons and had a value of over $197 million. The U.S. also exported more than 291,000 metric tons of recovered paper, with a value of more than $35 million, for recycling by China's paper and paperboard mills.

The lack of transparent trade practices, predictability and consistency in China's market makes it impossible to learn or understand *current* market conditions, or to obtain useful inventory and consumption information. As a result, our members not only forego many existing opportunities to capitalize on China's market potential, they are unable to predict or plan with any level of certainty what *future* market conditions will be. This situation will not change until the Chinese government relaxes control over the market and adopts a more transparent trading system.

The enormous market potential for wood products has been well-documented in the literature.

Tariffs

Pulp and Paper Products. China's tariffs on pulp and paper products are among the highest in the world. In 1994, applied tariff rates ranged from a low of 2 percent for pulp and recovered paper and 20 percent for newsprint and kraft linerboard, to anywhere from 55-65 percent for most converted products. (Although some tariff reductions entered into force in 1994, China's tariffs remain much higher than those of other U.S. trading partners.) According to the U.S. Embassy in Beijing, as of January 1995, tariffs for three product categories were reduced: wood pulp reduced from 2 percent to 1 percent, newsprint reduced from 20 percent to 7 percent, and paper of cellulose fibers reduced from 20-30 percent to 10 percent.

Wood Products. Although wood tariffs were to have been reduced under the 1992 Market Access Agreement with China, there is no indication this occurred. According to the 1994 tariff schedule, tariffs on wood products generally range from 2 to 70 percent. For example, tariffs for hardwood lumber fall between 6 to 20 percent; builders' joinery, 40 percent; moulding, 35 percent; plywood, 20 percent; and 70 percent tariffs exist on wooden frames, tableware, and statuettes and other ornaments of wood. Tariffs on veneer range from 9 to 20 percent. (See the attached chart for 1994 tariffs on specific product categories of pulp, paper, and wood products.)

As a signal of its desire to be a full participant in the world trading system, and its commitment to a market-driven economy, China should immediately and substantially reduce its tariffs on paper and paperboard products to no more than 10 percent and bind them at these new levels (tariffs on pulp should be bound at the current 1 percent rate). Following admission to the GATT/WTO, all tariffs on wood, pulp, paper and paperboard should be eliminated in five years, through annual reductions of at least 20 percent.

In the interim, China's central government must commit to assuring that when preferential tariffs are extended they are made equally available throughout the country and to all importers. For example, we have received reports that tariffs on newsprint in particular can vary from province to province and that it is possible to petition the government in "special cases" to get the duty waived. Also, there may be no duty if newsprint is imported via the central government, i.e., through the China National Paper Material Corporation (CNPMC).

Non-Tariff Barriers to Trade

Several non-tariffs barriers also limit access by U.S. producers to China's wood, pulp and paper markets. Many of these practices are not unique to the forest products industry. They generally derive from China's long history as a non-market economy and will not be eliminated until China's government relaxes controls over the market and adopts more consistent and transparent trade policies. These developments also will enable exporters to better understand and anticipate future market conditions.

Import Quotas and Licensing Requirements. Import licensing requirements faced by U.S. exporters are onerous and those faced by wood products exporters are illustrative. They were detailed in our 1994 National Trade Estimate submission, and can be summarized as follows:

The Planning Commission strictly enforces a policy against the importation of all value-added wood products except in limited cases (e.g., remanufacturing for export, or political/economic opportunism). This policy is implemented through a quota system which allows only raw material imports. Under it, quotas are translated by the trade ministry into import licensing requirements, which are in turn implemented by the Ministry of Materials. The import regime also establishes quotas by country (country allocation), species, and product. (Because quotas are not established for processed or value-added wood products, the absence of administrative procedures makes importation impossible.) When evaluating requests for import licenses, the Ministry of Materials applies criteria including the requesting agency's access to foreign exchange and the availability of

country, product (i.e., logs, chips, pulp) and species quotas. If quotas are not available, the import license is not issued.

Besides being onerous, cumbersome and susceptible to discriminatory practices, import policies and requirements vary from one province, economic zone, or government entity to the next. They also distance the sellers from the end-user, making it difficult to meet the ultimate customers' needs. In addition, although China agreed under the 1992 Market Access Agreement to eliminate import license requirements and quotas on imported wood and paper products, import licenses and quotas remain.

Permits. U.S. exporters of paper products report that duty free importation is usually associated with a specific economic free zone and a permit is required to import into these zones. There are apparently two avenues for obtaining these permits. The first is through the central government and requirements, which are affected by both economic and political considerations, change every year. The second is through the economic free zones. Procedures for obtaining permits directly through the zones are inconsistent and the process is complicated because locally-obtained permits can be bartered or sold.

Another troublesome aspect of duty free importation is that access to duty free ports is inconsistent and unpredictable. As a result, sellers frequently must scramble at the last minute to rearrange shipping plans and local transportation for their products.

State Control of the Marketplace. A very large proportion of imported wood, pulp and paper products is centrally purchased by state-owned enterprises. This makes most of the market immune to typical supply and demand forces and makes it very difficult to obtain credible information about existing inventories and market conditions. Under these circumstances, planning and other market development activities are virtually impossible.

Additionally, government agencies importing paper products into China frequently do not pay duties and are able to obtain a preferential exchange rate.

Product Substitution Policies. Wood Product Substitution Requirement: Under the MOU, China "confirms that policies related to conservation of domestic wood products do not apply to imported wood products." To date, however, there has been no published confirmation that the "Regulations for Economical and Rational Applications of Wood and Wood Substitutes," of January 15, 1983 have been amended or abolished to allow for the use of imported wood in domestic building projects. This measure requires the use of steel, cement, plastic, or other materials in place of wood in most construction applications. In a January 1994 MOFTEC publication, wood products are included in "The Interim Method of Quota management for Imports of General Products," indicating continued Government of China's intransigence on liberalizing its wood products market.

Shipping. We have received complaints that access to certain duty free ports is frequently limited to smaller shipping vessels, forcing importers to incur the cost of transferring goods from larger ships at another port, such as Hong Kong. Additionally, many of the shipping vessels provided by the PRC for paper shipments are substandard by today's standards. They frequently require more time to load and almost always require "benching" or the installation of wood reinforcements to prevent paper from shifting and being damaged during shipment. The use of multi-product vessels increases loading costs and the potential for product damage.

Unless port demurrage fees are paid, vessels can sit in port for several days. Payment of the fee tends to guarantee discharge in a shorter period of time.

Fees and Taxes. Value-added taxes (VAT) are imposed on imported products on a discriminatory basis. The tax, which is in addition to the applicable duty (and may be as high as 17 percent), is not applied to locally-produced goods. The VAT rate is now set at 17 percent for all goods,

although some agricultural commodities may be assessed 13 percent or less. Forest products taxes are not all assessed in a uniform manner.

Financial Considerations. Inconsistent and widely-fluctuating monetary exchange practices and limitations on the exchange of currency also make business transactions very difficult. Further, our members report that returns on transactions with China are below the average realized in other markets. This may be due, in part, to centralized and non-transparent purchasing practices and required payments of commissions or similar charges to distributors.

Subsidies. Government subsidies to the domestic pulp, paper and paperboard industry provide an unfair competitive advantage for exports of an otherwise non-competitive industry.

In conclusion, AF&PA believes that China must be required to meet fully the responsibilities of participation in the international trading system before it is allowed entry into the GATT/WTO. Any failure in this regard could create a dangerous precedent for negotiations leading to the accession of other new members to the GATT/WTO.

American Forest & Paper Association
International Department
June 1995

PRC-MFN.95

PEOPLE'S REPUBLIC OF CHINA (PRC)

Tariffs for Key U.S. Pulp and Paper and Wood Exports

Harmonized Code	Description	1994 Tariff Rate
	PULP AND PAPER EXPORTS	
47	Wood Pulp	2
47	Recovered Paper	2
4801	Newsprint	20
4802.51 4802.52 4802.53	Uncoated Free Sheet	20
4802.60	Uncoated Groundwood	20
4804.11	Kraft Linerboard	20
4804.21 4804.31 4804.41	Kraft Paper	20
4804.42 4804.52	Uncoated Bleached Kraft Paperboard	20
4810.11 4810.12	Coated Free Sheet	28
4810.21 4810.29	Coated Groundwood	28
4810.32	Clay Coated Bleached Kraft Paperboard	28
4810.39	Clay Coated Unbleached Kraft Paperboard	28
4811.31	Plastic Coated Milk Carton Stock	30
4813	Cigarette Paper	75
4823.59	Cut-to-Size	55
Misc.	Converted Paper/Paperboard	generally 55-65
	WOOD EXPORTS	
4407.10	Softwood Lumber	6
4407.21	Hardwood Lumber	6-20
4408.20	Hardwood Veneer	9-20
4409	Flooring and Moulding	35
4410	Particleboard	25
4412	Plywood	20
4418	Builders' Joinery	40

STATEMENT OF AMERICAN TEXTILE MANUFACTURERS INSTITUTE

This statement is submitted by the American Textile Manufacturers Institute (ATMI), the national association of the textile mill products industry. ATMI's member companies are engaged in every facet of textile manufacturing and marketing. They range in size from small, family-owned enterprises with one producing facility and a few score employees to publicly-owned billion dollar corporations with several thousand workers. Collectively they account for over eighty percent of total textile mill activity in the United States.

Last year these companies suffered from the influx of 17 billion square meters' worth of imports of textile and apparel products. China is the single largest source of these imports, accounting for over two billion square meters or 12 percent of the world total officially and, according to U.S. government estimates, more than an additional one billion square meters in illegal shipments. Therefore, the United States' policy regarding trade with China is of keen importance to ATMI's members and some 700,000 U.S. textile workers. As the Subcommittee is aware, a key element of that policy, in fact, the single most important element, is the granting of most-favored-nation (MFN) status to China, the subject of this hearing.

ATMI believes that MFN status for China should not be renewed beyond its scheduled expiration on July 3 of this year and that there are compelling reasons for it not to be renewed.

Most of the debate surrounding China's MFN status and most of the testimony the Subcommittee will receive is concerned with China's human rights policies, nuclear proliferation and weapons sales. These are vitally important issues that should be considered, but they are not the only ones. From ATMI's perspective, a decision whether or not to continue China's MFN status should also be conditioned on China's conduct as a trading partner. In this regard, the record is clear: it is an understatement to say that China's conduct has been deplorable. To say that it has been resolutely criminal would be more to the point and in accordance with the facts.

Whether through false declarations to the Customs Service for the purpose of evading tariffs or through mislabeling of merchandise or transshipping through third countries in order to evade bilateral quota agreements, China has engaged in practically every type of Customs fraud repeatedly during the past several years. Of the many infractions that have been committed, the type that has received the most notoriety is transshipment -- falsely declaring goods to be the product of another country in order to avoid having them counted against the quotas which the United States maintains on textile and apparel imports from China -- even though these quotas are extremely generous by any measure. On not less than nine occasions the interagency Committee for the Implementation of Textile Agreements (CITA) has published notices in the *Federal Register* relating to charges against China's quotas for goods found to have been illegally transshipped. There have been indictments, trials, and convictions on both our East and West Coasts of firms and individuals controlled by the Chinese government for every kind of import fraud imaginable, not merely transshipment. In its trade relations with the United States, China has made a mockery of our laws and of international and bilateral agreements to which it is a signatory.

These transgressions alone are sufficient grounds for the revocation of China's MFN status, but the wrongdoing does not stop there. While evading tariffs and quotas on a scale that can only be described as colossal, China is at the same time one of the worst intellectual property pirates in the world. ATMI's members have been damaged by this behavior as well. Our member companies have had their copyrighted patterns and designs, creative works that are the result of much effort and considerable expenditure of money, stolen by Chinese textile mills, reproduced without their permission or knowledge and sold all over the world in competition with our members' legitimate merchandise. This theft costs American textile firms untold millions of dollars worth of lost sales every year.

There are other types of intellectual property piracy extant in China and the resulting economic harm to all American firms is undoubtedly even greater than it is to the textile industry. Who knows how many pirated and counterfeit sound recordings, books, video cassettes and computer software programs are produced in China each year? Suffice it to say that one can today buy copies of pirated American computer software on the streets of Beijing. All U.S. companies undoubtedly hope that the U.S./PRC agreement on intellectual property will help to remedy this.

Finally, to add insult to injury, while shipping to the United States $7 billion worth of textile and apparel products annually (and transshipping billions of dollars more), while flouting our laws and stealing our intellectual property, China keeps its market closed tight as a clam. China does not believe in bilateral trade, at least not in the area of textiles and apparel. It has failed to implement its own 1994 agreement to provide market access for U.S. textile and apparel products. In this sector, trade for China is a one-way street. Through a combination of high tariffs, import licensing schemes and a bewildering array of regulations which it refuses to disclose publicly, the Government of China keeps out of its market almost all textiles and apparel except those goods which it must import to produce goods for export. The U.S. sold China $44 million of textiles and apparel in 1994, while China exported $7 billion legally and another $2-3 billion illegally. If that illegal trade were curbed and half of those goods were produced here, over 100,000 job opportunities would be created in this country. If U.S. textile mills were allowed to export to the growing Chinese market, additional U.S. jobs would be created.

Last year while breaking our laws, stealing our ideas, flaunting our textile trade agreement and slamming their door in our face, China managed to run up a $29 billion trade surplus with the United States. Should China be given a $29 billion reward for its truly egregious behavior? As the Subcommittee and the House of Representatives consider the question of China's MFN status, it is essential to keep one important fact in mind: MFN status is not a right which is automatically granted to each and every country seeking it. It is a privilege granted by the United States, a privilege which must be earned. Simply put, China has not earned it; therefore, it should be withdrawn. ATMI earnestly recommends to the Subcommittee, the Committee on Ways and Means and the House of Representatives, that China's MFN status not be renewed and that it be withheld until China demonstrates conclusively, not through promises or "understandings", that it has achieved the reforms necessary to be treated as a co-equal trading partner.

China-America Trade Society
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May 17, 1995

Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Moseley:

The China-America Trade Society ("Society") is an organization of corporate representatives and individuals all of whom are interested in doing business in the Peoples Republic of China. All companies involved actively do business in China. All companies and individuals involved are residents of Western Pennsylvania. The number of Western Pennsylvania residents employed by these companies number in the thousands; gross dollar volume of the total businesses involved is in the millions.

The Society has directed that the Chairman of Board of Directors and I bring to your attention the desire of its members that there be a renewal of China's most favored nation (MFN) status.

I note, however, the concern of the membership with the imbalance of trade with China. Presently, China sells more to the United States than it buys and currently is making no effort to correct the disparity. Interestingly, China buys more from Taiwan than it sells. The correction of this imbalance of trade and/or a concentrated effort leading to a correction, we suggest, should be a condition of the MFN renewal.

China-America Trade Society
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Our members believe that the best method of causing change in the business practices of the Chinese is by way of a continuance of contact between Chinese and American business people. We urge your consideration of our support for the renewal of the MFN status subject to specific effort to correct the trade imbalance.

Yours truly,

CHINA-AMERICA TRADE SOCIETY

By: Robert X. Medonis,
President

By: Robert P. Littlefield,
Chairman, Board of Directors

RXM:tag
Encls.

THE FERTILIZER INSTITUTE
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GARY D. MYERS
President

May 25, 1995

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
Committee on Ways and Means
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

On behalf of The Fertilizer Institute, I respectfully request that this letter be included in the printed record of the hearing on U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status held on May 23, 1995 before the Subcommittee on Trade of the Committee on Ways and Means.

The Fertilizer Institute is a voluntary, non-profit association representing approximately 95 percent of the domestic fertilizer production in the United States. The Institute's membership includes producers, manufacturers, traders, retail dealers and distributors of fertilizer materials. Its members are a vital link in the Nation's agricultural system.

The Fertilizer Institute supports retaining unconditional most-favored-nation (MFN) trade status for the People's Republic of China. Revocation of MFN status for China will harm U.S. interests and will not achieve its intended goals.

China is a major purchaser of U.S. phosphate, potash, and nitrogen fertilizers. 1994 fertilizer sales to China totaled $944 million representing 6.3 million material tons. Of the $944 million in total fertilizer sales to China, 95%, valued at an estimated $900 million, was for phosphate fertilizer materials.

China typically buys anywhere from half to nearly all of their phosphate fertilizer imports from U.S. phosphate producers. China purchases its remaining needs from Morocco, Jordan, and Europe. The total U. S. market (domestic plus export) for phosphate fertilizers exceeded 11.1 million tons in 1994. Of this total, fully 60 percent was accounted for by exports. China purchased 42% of these exports and accounted for nearly 25% of the total U. S. domestic plus export market.

May 25, 1995

Over 80% of U. S. phosphate fertilizer material production is in the State of Florida, and most of the U. S. phosphate rock extraction is in Florida. If MFN trade status is not extended to China, China would inevitably retaliate and stop buying U.S. phosphate fertilizer. U.S. phosphate fertilizer exports would be cut nearly in half, and Florida would suffer the brunt of the resulting negative impact.

According to the latest information available from the U. S. Census Bureau, 10,200 people nationwide were directly employed in the phosphate industry in 1992. Over 8,000 of these people were directly employed in the Florida phosphate industry, providing Florida with a payroll of over $379 million. If the China export market is lost, nearly 4,000 Florida jobs would be in jeopardy. Also, phosphate fertilizer represents 67% of the freight tonnage out of the Port of Tampa. Port and transportation jobs would also be threatened.

China is also a major purchaser of U.S. potash, another primary agricultural nutrient. Revocation of MFN trade status would put this large amount of economic activity at risk, and could result in a substantial loss to the U.S. balance of trade.

Since phosphate and potash are major nutrients essential for growing crops, the interruption of this trade is tantamount to using food production as a tool of foreign policy. Recent U.S. history is filled with examples of instances where the government has failed when it attempted to achieve foreign policy objectives using food as a weapon. The United States implemented a grain embargo in 1980 which inflicted lasting damage on U. S. agriculture while failing to alter foreign behavior. The clear lesson from history is that singling out China will only hurt U.S. industry. China will easily find other sources of needed materials and feel no foreign policy pressure.

The Fertilizer Institute urges the Administration and Congress to recognize that the presence of U. S. companies in China promotes democracy and human rights, as well as American exports and jobs. Revocation of MFN status will only harm U.S. interests without helping the people of China.

Sincerely,

Gary D. Myers

Copy to: Members of the Trade Subcommittee
Committee on Ways and Means
U. S. House of Representatives

Before the
Subcommittee on Trade
Ways and Means Committee
U. S. House of Representatives
May 23, 1995

RENEWAL OF CHINA'S MOST-FAVORED NATION STATUS

TESTIMONY OF JAY MAZUR, PRESIDENT,
INTERNATIONAL LADIES' GARMENT WORKERS' UNION

Thank you, once again, Mr. Chairman, for the opportunity to testify before this Committee on U. S.-China Trade Relations and on extending most-favored nation treatment for China. This status, first granted in 1980, has been renewed each year since then.

The International Ladies' Garment Workers' Union has a deep interest in our nation's trade relations with China. Our membership includes many thousands of Chinese workers and, therefore, is one of the largest of the many ethnic and racial groups that constitute the mosaic of our Union. In addition, the People's Republic of China continues to be the major exporter of apparel to the U. S.

Our specific concerns over U. S. trade relations with China have been voiced before this Committee on a number of prior occasions. There is no indication that conditions in China have changed. The regime in power continues to as brutal as ever and there is no reason to believe that it will change its policies in the foreseeable future.

Permit me to summarize our continuing concerns:

* Chinese workers continue to be denied basic freedoms, among them the right to join unions of their own choosing.

* Many Chinese workers who sought to create a free labor movement remain in jail.

* Garments and other products continue to be produced and exported to the U. S. and elsewhere by inmates of China's prison system.

* Apparel imports from China, produced by abysmally low wage workers, continue to flood the U. S. market, both legally and through transshipments, causing the loss of thousands of jobs in the United States.

* If the U. S. once again grants MFN status to the PRC, our nation will be condoning such practices as those cited above and will be saying that we are unconcerned about how China treats its citizens.

* The suggestion that we must renew the grant of MFN to China for another year because if we don't companies from other nations will benefit from the China trade belies our professed concern for human rights.

* Trade with China has been one-sided. Our trade deficit with that country, apart from transshipments, is second only to our trade deficit with Japan and is rapidly approaching the same level. We can expect that Administration and congressional leaders will soon be seeking some way of dealing with this growing trade deficit. We should face up to it now.

* Recent reports indicate that China expects to continue nuclear testing, a position that flies in the face of our nation's proclaimed policy. In addition, China's assistance to nations seeking to develop nuclear bomb capacity is in

direct contradiction to our nation's efforts to stem nuclear proliferation.

There is no reason to believe that China's policies are any less antithetical to our nation's beliefs in the year that has passed since the last one-year renewal of MFN status. The Jackson-Vanik criteria have not been met. There is no reason to waive once again that law's conditions relating to non-market economies.

In short, Mr. Chairman, we strongly believe that our nation should not once again grant MFN status to China because of its violation of some of the most basic principles of democracy and its huge increases in exports to the U. S. Our nation's primary obligation is not to help the Chinese autocrats move their economy into the twenty first century, regardless of the policies they pursue.

Oppression of any form of opposition and efforts to introduce democracy continue to be brutally suppressed. Critics of the regime are imprisoned or threatened with long jail terms if they dare to seek democratic solutions. Prison labor is widely used in making products that are exported to the United States under preferential MFN tariffs. The democratic aspirations of the Chinese people are submerged by a brutal dictatorship.

China has repeatedly violated its bilateral apparel and textile agreement with the United States and is the number one transshipper of these products. According to U. S. Customs, the PRC transships through more than forty countries as part of its effort to increase its share of the U. S. market and earn hard currency.

Despite an agreement with the U. S. on transshipments, the Chinese government admittedly has little or no control of what goes on its provinces. There is reason to believe that, despite the agreement with the U. S., transshipments will continue on a massive scale.

One of the anomalies in our trade relations with China is that the granting and renewal of MFN status gives the PRC all of the trading benefits it would have if it were a member of the World Trade Organization without having to live up to the requirements for WTO membership. Renewal of MFN status would continue this situation.

As asserted earlier -- and it bears repetition -- next to Japan, China has the largest unfavorable trade balance with the United States. It continues to grow year by year and can be expected in short order to equal or surpass that of Japan. China's wage levels make a mockery of the assertion that it has agreed to reciprocal market opening. We cannot anticipate that the average Chinese will shortly begin to purchase masses of U. S. consumer goods.

Loss of MFN status would show that our nation holds the Chinese government responsible for its inhuman, undemocratic and anti-worker behavior.

Presidents Bush and Clinton renewed China's MFN status annually, supposedly in the hope that offering a carrot wold lead to significant improvements in that nation's human rights practices. However, the record speaks otherwise. The U. S. State Department's annual human rights report notes that China still falls far short of internationally recognized norms.

Our nation's leaders seem to be suggesting that we look the other way and ignore China's continued violation of human rights. Trade, they say, should be decoupled from human rights. Profits from trade should replace concerns about the human condition.

I urge this Committee to take a forthright stand against China's anti-democratic, anti-human rights, anti-worker policies. The Congress must urge the President to deny continued MFN status for China until the PRC changes its policies. Congress must not allow private profit to come before human rights.

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

STATEMENT OF BARRY BRESLOW,
SENIOR VICE PRESIDENT,
KINETIC PARTS MANUFACTURING
HARBOR CITY, CALIFORNIA

JUNE 2, 1995

MR. CHAIRMAN AND MEMBERS OF THE WAYS AND MEANS COMMITTEE SUBCOMMITTEE ON TRADE

My name is Barry Breslow and I am senior vice president of Kinetic Parts Manufacturing Company (KMP) in Harbor, City California. KPM is a United States manufacturer of brake rotors for the automotive replacement market. We wish to relate to you our experiences with competing with the Chinese and why Most Favored Nation (MFN) Treatment should not be renewed.

Our company which employs 110 workers, producing brake rotors for sale to the automotive aftermarket. However, it is been practically impossible to compete with the products being imported from China that are sold at absurdly low prices. Our analysis of the Chinese pricing is that their U.S. prices are below our costs and must be below their costs. In fact they are engaged in unfair trading practices of the most egregious nature. While we realize that there are other trade laws that address these problems, we find it unthinkable that our country should be renewing a tariff preference to the Chinese when they are already underselling U.S. producers by large margins due to various unfair practices. In fact, our company KPM is probably one of the lowest cost U.S. producers and other companies in the industry must be hurt even more by the Chinese.

We know that the Congress may act in the form of a joint resolution to disapprove the continuation of MFN benefits for China and we urge you to do so. In the notice that was issued announcing this hearing(TR-9-May 2, 1995) the committee noted that it will "evaluate overall U.S. trade relations with the People's Republic of China . . . and the potential impact on China, Hong Kong and the Untied States of a termination of China's MFN status." We believe that it is quite relevant to all of these factors that the Chinese are able to compete quite well in the United States without MFN benefits. Although there has been some privatization of industry, many sectors such as the one we compete with, do not operate on a cost and profit system comparable to the United States. It is indeed frustrating when companies like ours, operate as efficiently as possible and still cannot meet the prices of the Chinese, even though they must ship heavy brake rotors thousand of miles further than we do. This indicates that their system is not one where the recovery of costs or earning a profit is the motivation for exporting. While we may not be able to change the system, there is no reason to reward them by giving them trade preferences.

It is not our intent to discuss all of the unfair trade, intellectual property and human rights violations that have occurred involving China. This committee has received testimony about this from others at the hearings on May 23, 1995. In addition, the committee is no doubt aware of the

recent investigation by the Office of the U.S. Trade Representative of Chinese intellectual property rights violations. There was extensive testimony presented to you about human rights violations in a region of China known as Laogai, sometimes referred to as the Chinese "gulog." There was testimony concerning the use of forced labor to produce many products exported to the United states. This year there are added issues concerning Chinese policy toward Tibet and to the freedom of religious practices there. Testimony was also presented about the failure of China to honor international arbitral awards and to treat U.S. investors in a fair and equitable manner.

We hope that you will add the Chinese practices in regard to brake parts to your list of various activities that justify the termination of MFN treatment for China.

Thank you.

WASHINGTON/7356.01

STATEMENT OF THE SEMICONDUCTOR INDUSTRY ASSOCIATION

U.S. semiconductor firms are making substantial commitments to expand their market presence in the Peoples' Republic of China. At the same time, China is seeking to foster its own electronics industry, with a particular emphasis on microelectronics, and is rapidly moving to integrate its economy more fully into the world trading system. As part of this process Chinese government and electronics industry are inviting closer contacts with the U.S. semiconductor industry, and significant opportunities and challenges have already become evident. Under these circumstances, the Board of Directors of the Semiconductor Industry Association (SIA) determined that an initial examination was needed of the issues confronting the U.S. semiconductor industry as a result of its growing presence in China and China's emergence as a major trading power with a rapidly emerging electronics sector.

The following is a summary of an SIA study on China released in February of this year. The study is intended to be a contribution to the information base necessary to support a constructive dialogue on issues of mutual interest and concern as commercial and technological ties grow between the U.S. and Chinese industries.

Introduction

In 1978, the People's Republic of China embarked on a long range program of economic reform. Since then China has experienced what is possibly the most explosive sustained economic growth of any nation in modern history. As China's industries have developed and its people have become more prosperous, the country's leaders have struggled to create and refine the institutional, legal and commercial structures required by a modern economy, and to integrate China more fully into the international trading system.

As would be expected given the magnitude of the effort, economic reform has been a disorderly process. Growth and entrepreneurial initiative have frequently run ahead of the establishment of institutional mechanisms needed to provide a regulatory framework for such activity.

Misappropriation of intellectual property, imposition of ad hoc taxes and charges, corruption, smuggling, frequent sweeping changes in laws and regulations, and the blurring of lines of authority among various national, regional and local power centers are among the challenges Chinese policy makers are attempting to address. There is little predictability or certainty for foreign enterprises doing business in China. This fluid environment -- dominated by the continuing rapid expansion of the economy itself -- holds out major opportunities for U.S. semiconductor firms, but also poses significant short and long term risks.

The SIA China study is intended to provide an overview of the main issues facing the U.S. industry, as well as the policy mechanisms which can be employed to address problems once they are identified. Significantly, Chinese officials and industry leaders are proving open to discussion of these issues of concern.

Market

While statistical data on Chinese semiconductor demand and output are inadequate, the market currently is estimated to be between $2 and $3 billion, and is growing at a rapid rate; year-over growth rates are estimated at between 10 and 20 percent. A number of observers believe that in light of China's growing domestic demand for electronics products, China will become the world's largest semiconductor market in 10-15 years.

Presently local production can only supply about 20 percent of China's semiconductor needs, and these represent primarily low-end devices used in consumer electronics products like refrigerators, washing machines, radios, and televisions. Virtually all sophisticated semiconductors needed by Chinese electronics firms must be

imported, a pattern that will not change significantly over the short run. This continuing shortfall creates a major commercial opportunity for U.S. producers.

The U.S. - China Relationship

As U.S. businesses enter China, the U.S. government is seeking to persuade China to adopt the laws, regulations, and administrative procedures that are necessary to promote a healthy bilateral trade relationship. The United States is engaged in an ongoing series of parallel negotiations and discussions with China which cover virtually all aspects of the Chinese system of interest to U.S. semiconductor producers:

- The United States and China signed a bilateral trade agreement in 1979. Since 1980, the United States has given China conditional most-favored-nation status, subject to annual extensions pursuant to the Jackson-Vanik Amendment to the Trade Act of 1974, which allows Communist or non-market economy countries to receive MFN status only if the president certifies that the country permits free and unrestricted emigration. The president is permitted to waive this requirement for successive 12-month periods if he determines that the waiver substantially promotes freedom of emigration.

- In 1992, the United States and China concluded bilateral Memoranda of Understanding on Market Access and Intellectual Property ("1992 MOUs"), which committed China to reforms in areas such as the reduction of import barriers and the provision of adequate protection for intellectual property rights.

- Earlier this year, the United States and China concluded a new agreement regarding enforcement of China's intellectual property laws. This agreement averted possible sanctions under Special 301.

- A bilateral forum, the U.S.-China Joint Commission on Commerce and Trade (JCCT), has been jointly established by the U.S. Department of Commerce and the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) to discuss bilateral trade and investment issues and to promote commercial relations.

China is currently negotiating to become a member of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). GATT/WTO accession will require China to modify a number of current practices in order to conform to GATT/WTO rules. However, the precise terms of China's accession have not yet been determined and are proving controversial. Perhaps the most contentious issue is whether China will join GATT/WTO as a "developing country," which would permit substantial delays in conforming its economic system to GATT/WTO disciplines, or as a developed country. The U.S. government has insisted that China enter GATT/WTO as a developed country.

The various U.S.-China bilateral agreements and ongoing discussions, and the multilateral negotiations over the terms of China's accession to the GATT/WTO, are the mechanisms through which China may be encouraged to modify policies or practices which may be problematic for U.S. semiconductor producers.

Semiconductor Specific Issues

The SIA study concentrates on three sector-specific issues of primary interest to the semiconductor industry: (1) Chinese targeting of semiconductors, including government pressure to transfer advanced technology to local producers; (2) intellectual property protection for semiconductor technology, and (3) semiconductor-specific trade concerns.

1. Targeting of the semiconductor industry may restrict U.S. market opportunities. The Chinese government has designated electronics as one of four "pillar" industries essential to the nation's long run economic future. Within electronics it has singled out microelectronics as the area of principal focus. Promotional measures are typical of those previously undertaken by many countries:

- Creation of several large national champions through consolidation of enterprises and the channeling of funds on a preferential basis to the favored entities.

- Acquisition of advanced technology from foreign companies, most commonly through joint ventures.

- Establishment of numerous Chinese versions of "Silicon Valley," encouraging clusters of high technology development within designated zones through a combination of tax preferences, trading and other commercial privileges, soft loans, and infrastructural assistance.

- Mobilization of the nation's research institutes toward specific commercially-oriented tasks designated by the microelectronics enterprises themselves.

China seeks to draw on the technology, capital, and international market channels of leading foreign semiconductor firms to foster the growth of its own industry. The Ministry of Electronics is developing an Electronics Plan which is likely to proscribe foreign majority ownership of semiconductor firms, establish export performance requirements for Sino-foreign joint ventures, pressure foreign firms to transfer advanced technology, and provide the basis for eventual displacement of foreign semiconductors in the Chinese market by domestically-made devices. Over the long run, such policies could curtail or eliminate U.S. market opportunities in China, and would prove counterproductive for China because they would discourage the foreign investment necessary to promote China's technological, economic and market development.

The 1992 U.S.-China Memorandum of Understanding on Market Access provides that China will eliminate the use of import substitution policies and measures. However, a number of elements of the forthcoming Electronics Plan are arguably inconsistent with this commitment. GATT/WTO rules may also limit China's ability to establish local content requirements (although the GATT did not prevent the European Union from implementing sweeping de facto local content requirements).

2. Intellectual property protection is inadequate. China has enacted patent, copyright, and trademark laws patterned on western models, but enforcement needs to be strengthened. Unauthorized use of U.S. intellectual property has been widespread and in some cases extremely harmful. Compulsory licensing is authorized under Chinese patent law when "necessitated by the public interest." China needs legislation extending copyright protection to semiconductor designs, although a chip protection law is reportedly being drafted. While some formal legal protection may be available under existing trademark, patent and copyright laws, at present the only real constraint on misappropriation of U.S. semiconductor designs is China's lagging technological level, which the Chinese are making major efforts to transform.

China confronts pressure to improve its intellectual property regime on several fronts:

- Bilaterally, the 1992 MOU and the 1995 Special 301 agreement commit China to improvements in its existing intellectual property laws and enforcement mechanisms.

- China's accession to GATT/WTO will require that it comply with the Code on Trade-Related Aspects of Intellectual Property Rights (TRIPs). The code prohibits compulsory licensing of semiconductor technology

(except in limited circumstances) and requires all signatories to adopt a semiconductor maskwork law compatible with the code. However, the code allows "developing countries" 10 years in which to implement its provisions. China is seeking entry as a developing country, and the United States opposes this position.

3. China's trade regime needs restructuring and does not currently conform to GATT/WTO requirements. China's foreign trade regime is a complex system with many anomalies which hamper the operations of U.S. firms in China.

- Tariffs are high (20-30 percent) on low-end type semiconductors which the Chinese can make domestically, and lower (6-11 percent) on complex devices which must be imported. The tariff system is characterized by lower "preferential" tariffs (6 percent for most complex devices) for firms based in Special Economic Zones or which negotiate special arrangements with the Chinese government.

- "Trading rights," (e.g., the ability to import and export from China), are limited to designated enterprises, and U.S. firms doing business in China, lacking such rights, must conduct their business through firms that hold such privileges.

- Quotas and licensing requirements restrict imports of many electronics products, although semiconductors are not currently subject to quotas.

- Most semiconductors are imported through Hong Kong by Hong Kong-based trading companies using a variety of complex and circuitous channels. Smuggling is a major problem for Chinese authorities.

- Transparency is inadequate. Rules and procedures are frequently not published, and are subject to "interpretation" by individual officials. The Chinese government is struggling to eliminate corruption.

The 1992 U.S.-China Market Access MOU commits China to improving the transparency of its trade regime, phasing out licensing requirements, quotas, and other restrictions by 1997, and significantly lowering tariffs. Accession to the GATT/WTO will require China to accept bindings on its tariffs, and to eliminate preferential tariff policies (including the differential tariffs in the Special Economic Zones) that are inconsistent with the Most-Favored Nation principles of GATT Article I. China's desire to enter GATT/WTO as a "developing country" reflects, in substantial part, its desire to use high tariffs to protect its targeted industries, notably electronics, automobiles, machinery, chemicals and aviation.

General Issues

A number of aspects of doing business in China affect all U.S. industries, but have been cited as areas of concern by U.S. semiconductor executives. These issues are surveyed in the SIA study with an emphasis on those factors most likely to affect U.S. semiconductor firms.

- Decentralization and economic reform have produced a great deal of confusion over where ultimate authority resides within the Chinese system. Manifestations of decentralization include (a) increased autonomy by regional and local authorities, (b) the creation of a broad array of designated economic zones where special benefits and privileges are available, and (c) an apparent increase in corruption, although not yet to a degree which jeopardizes the reform program.

- Foreign investment is subject to rules which prescribe the forms which investment can take and which significantly limit the establishment of wholly-foreign-owned enterprises.

- The tax system has undergone a complete overhaul, which has created uncertainty among foreign firms and raised concerns that their tax burden will increase relative to that of Chinese enterprises. Blurred lines of authority between the central government and the localities leave foreign enterprises unclear as to their precise tax liabilities and benefits, and subject to imposition of ad hoc local taxes, fees, and charges.

- Foreign exchange is subject to restrictions which constitute a major impediment to business operations for many U.S. firms. Reforms have been implemented in 1994 but it is unclear whether they will result in a significant improvement.

- Technology import contracts in China are regulated not only by U.S. export control restrictions (which have been relaxed) but by Chinese regulations which limit the restrictions which sellers can place on technology licensed to Chinese entities.

Conclusion

The Chinese semiconductor market represents a major opportunity for the U.S. industry, but there are significant risks and hurdles to be addressed as well. In microelectronics, China could become one of the world's leading producers, and, as such, it warrants continued monitoring. Ongoing bilateral and multilateral negotiations with China over the terms of its full integration into the world trading system can be utilized to address those aspects of the Chinese system which are problematic from the perspective of the U.S. semiconductor industry. The U.S. government is actively pursuing resolution of U.S. industry issues of concern in the negotiations concerning China's WTO accession and SIA strongly supports U.S. government efforts in this regard. Meanwhile, the Chinese government and industry are also demonstrating receptivity to these U.S. industry issues of concern, and it is evident that the potential exists for a productive joint effort to address them.

FORTNEY PETE STARK
THIRTEENTH DISTRICT, CALIFORNIA

COMMITTEES:
WAYS AND MEANS
DISTRICT OF COLUMBIA

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Statement of Congressman Pete Stark
Tuesday, May 23, 1995
Ways and Means Subcommittee on Trade
Hearing Concerning Extension of Most Favored Nation Trading Status for China

Mr. Chairman, Members of the Committee, I believe it is very important that we grant most-favored-nation trading status only to countries that cooperate with nuclear non-proliferation. Though the Cold War era is over, nuclear weapons stockpiles still exist, posing a great threat to international security.

One of the greatest dangers the world currently faces is the export of nuclear reactors and technology from the nuclear weapons states to countries with harmful intentions. There is strong and convincing evidence that China, a nuclear weapons state and a signatory of the Nuclear Non-Proliferation Treaty (NPT) since 1992, has aided Pakistan in developing nuclear weapons. Pakistan has not signed the NPT and is one of three countries believed to have undeclared nuclear arsenals.

Just as troubling as China's assistance to Pakistan is the proposed sale of nuclear reactors to Iran. On April 17, Secretary of State Christopher raised U.S. concerns over a proposed Chinese sale of nuclear reactors to Iran in discussions with Foreign Minister Qian Qichen in New York. Christopher said: "Iran is simply too dangerous with its intentions and its motives and its designs to justify nuclear cooperation of an allegedly peaceful character."

As a signatory of the recently extended Nuclear Non-Proliferation Treaty, it is China's responsibility to work to prevent the further spread of nuclear weapons. However, by exporting nuclear technology and reactors to Iran and helping Pakistan develop its undeclared nuclear arsenal, China is creating a dangerous situation in politically volatile Southeast Asia.

We should not reward China for its hazardous actions by granting them preferential trade status. Any country that is designated as a most-favored-nation trading partner should demonstrate that it is committed to peace and nuclear non-proliferation.

Statement of

Toy Manufacturers of America, Inc.

In Favor of the Renewal of
China's Most-Favored-Nation Status

June 2, 1995

Summary

America's toy industry and American toy consumers have a big stake in maintaining mutually beneficial economic relations between the United States and China. U.S. toy companies have helped China become the world's leading supplier of high quality, low cost, mass produced toys. This benefits both China *and* the United States. American trade and investment with China advances long-term U.S. economic and strategic interests vis-à-vis China and promotes American values. The alternative to a policy of "engagement" with China -- trying to isolate China with trade sanctions and handicapping American business in China -- is bound to fail and hurt the U.S. as well as China. *Engagement is the right policy.*

The Toy Manufacturers of America, Inc. (TMA) is the association that represents more than 260 U.S. manufacturers and importers of toys, games, dolls and festive articles that account for approximately 85% of total toy sales in the United States. These companies employ 42,000 American workers, approximately 70 percent in production jobs. Toys are a $50 billion global industry at the wholesale level and United States toy companies are the leaders in inventing, designing, producing, marketing, and selling toys around the world.

TMA strongly supports the unconditional renewal of MFN for China.

We urge Congress to support the policy of comprehensive engagement embraced by President Clinton last year. Efforts to punish and isolate China by denying China MFN treatment or imposing selective sanctions may assuage our indignation over China's human rights failings and other shortcomings but over the long term, the welfare of the Chinese people, the cause of building a civil, democratic society in China, and America's own economic and foreign policy interests will best be served by constructively engaging China. American firms, through their presence in China, have an important role to play in that effort.

TMA companies, and through them millions of American consumers, have an significant stake in the maintenance of mutually beneficial economic relations between the United States and China. In 1994 approximately 40 percent of all toys purchased in the United States, some $4.5 billion worth, were imported from China.

Over the past 12 years U.S. toy companies -- through wholly-owned direct investments in China, joint ventures with Chinese partners, and production contracts with Chinese firms -- have helped China build the world's most competitive toy manufacturing industry. As a result, China has become the world's leading supplier of high quality, low cost, mass produced toys.

U.S. consumers benefit greatly from access to China's high quality, low cost toy products. China benefits from the jobs that exports to the United States generate as well as from the ability to earn foreign exchange. American producers of aircraft, chemicals, agricultural products, power generation equipment, and other products benefit too because China has the foreign exchange with which to buy their products. U.S.-China toy trade is thus a "win-win-win" proposition.

Mutually beneficial economic relations between the United States and China are at risk because of misguided attempts to hold trade hostage to human rights and other political objectives. These efforts may be well-intentioned but they are mistaken. The United States should persevere in its policy of "engagement" with China and not try to isolate or punish China -- at the expense of American companies and American consumers.

- **MFN.** Most Favored Nation (MFN) trade treatment is the foundation of U.S. commercial relations with China and the foundation of the policy of engagement embraced by both the Clinton and Bush Administrations. Congress should support the renewal of unconditional MFN treatment. Congress should reject any resolution of disapproval that would revoke MFN for China and defeat legislation that would impose selective sanctions on trade with China.

- **Codes of Conduct.** U.S. firms, America's toy companies prominently among them, are world-wide leaders in business ethics. America's toy companies operating in China treat their employees with respect, comply with all local laws, and exercise due diligence to ensure that no convict, forced, or underage labor is used to produce toys. American investment in China exposes Chinese workers, suppliers, and customers to American capitalism and values, improves the living standards of Chinese people, increases their economic freedom, and expands their access to information and ideas. American investment and trade supports the entrepreneurial private sector in China that is driving the reform process.

  We strongly oppose legislation that would impose regulations governing the overseas activities of American firms. A "one size fits all" code of conduct would be a costly unfunded mandate for American business, could force U.S. firms to violate local laws, and could seriously disadvantage U.S. firms vis-à-vis competitors from Europe and Japan. We also harbor strong misgivings about even "voluntary" government "business principles." They could be the first step down a "slippery slope" leading to lost opportunities for U.S. business abroad and lost jobs at home.

- **Strategic Issues and Foreign Policy Concerns.** The United States has a broad and complex relationship with China and our interests will sometimes collide. When they do, it will be important for Congress to realize that trade constitutes weak leverage with which to try to modify China's behavior and America may pay as high or even a higher a price than China for trade sanctions. U.S. strategic objectives and concerns should be separated from trade policy. Trade sanctions should not be used for non-trade objectives.

Denying China MFN status would of course hurt China but it would also hurt American consumers, America's toy companies, and U.S. exporters to China.

Toys imported into the United States currently enter duty free for countries, such as China, that enjoy MFN status. If China were to lose MFN status, the majority of toys imported from China would be assessed "column two" (or "Smoot-Hawley") duty rates of 70 percent. Even for China with its low production costs duties that high would be prohibitive. Denying China MFN status would force

many American firms, including America's toy companies, to withdraw from China and establish production bases in other developing countries. Literally tens of thousands of Chinese workers whose livelihoods depend upon American demand for Chinese-produced toys would be devastated. How that could advance the cause of human rights and democracy or improve the welfare of the Chinese people is difficult for us to comprehend.

Since 40 percent of all toys consumed in the United States come from China, the effective embargo of Chinese toys from the U.S. market would be quickly felt by American consumers. Consumers would see their range of product choice severely constrained. The price of toys would rapidly escalate. The burden of sanctions would be felt most acutely by families with lower disposable incomes who would be faced with paying prices higher than they could afford or would be forced out of the toy market entirely. Toys may be, in the words of one Member of Congress who testified in opposition to renewing MFN before the subcommittee at its May 23rd hearing, "non-essential" but we wonder how that Member would explain the concept to a child on his or her birthday or on Christmas morning and to the child's parents.

In time, of course, the industry would adjust to the exclusion of toy imports from China as production shifted to other developing countries. That, of course, could not happen overnight. It is not likely that China would cooperate in the moving of expensive and sophisticated production facilities out of the country. In the meantime, supply would be severely disrupted and sales would plummet. The adjustment costs to the industry of replacing the huge investment it has made in China would be enormous. The jobs of many Americans in U.S. toy companies -- principally in Massachusetts, New Jersey, New York, Rhode Island, California, Oregon, and Washington -- would be placed in jeopardy. The preeminent global position of America's toy companies would also be put at risk.

In the aftermath of a denial of MFN, China's appetite for purchasing products from the United States would quite understandably diminish. Even it China wanted to buy American products, however, its ability to do so would be severely constrained without the $4.5 billion China now earns from its toy sales to the United States.

Denying China MFN treatment makes no sense. It would do enormous damage to China, to the United States, and to our relations with a country that is an increasingly important actor in global affairs. There is also no reason to believe that it would advance the cause of human rights or U.S. foreign policy objectives. There is every reason to believe that it would hurt most the people whose lives we all want to better. The policy of comprehensive engagement cannot promise instant results but it does hold the promise of achieving the results we want to see, the emergence of a civil, democratic society in China.

Engagement is the right policy.

MFN is the foundation for engagement.

Congress should support President Clinton's decision to renew MFN.