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Testimony Before the U.S.-China Economic & Security Review Commission

“China’s Proliferation Practices”

May 20, 2008

Co-Chairmen Reinsch and Brookes, Members of the Commission, I am honored to appear again before you to discuss China’s proliferation practices. When I last appeared here in 2005 I spoke on behalf of the Bush Administration; today I will speak on behalf of only myself. While my remarks today will be less authoritative, I will try to make them more interesting.

It has been two years since I was regularly reading the current intelligence on China’s proliferation practices, so I must defer to others on the latest developments and trends in that regard. I think what I can most usefully present to the Commission is a description of what it was like as a U.S. diplomat to talk regularly to the Chinese government about arms control and nonproliferation matters from 2002 to 2006, and some of the principal conclusions I draw from that experience.

America’s Nonproliferation Dialogue with China

As a U.S. diplomat, my engagement with China on these issues was—with one major exception that I will describe in a moment—with diplomats from the Chinese foreign ministry. Formal bilateral consultations on arms control and nonproliferation issues took place roughly twice a year, more frequently in Beijing than in Washington, but sometimes here as well. My Chinese counterparts were hard-working, earnest, and knew how to speak the language of nonproliferation.

In these consultations, the U.S. side would often present the basic facts of proliferation cases involving specific Chinese companies, and ask the Chinese side to investigate and stop the proliferation activity. Our Chinese counterparts would always appear to take the information seriously and promise to get back to us with their findings. In a number of cases, when they got back to us they said that they had confirmed our information and acted against the company in question. Usually this did not mean that someone had been prosecuted, but it did appear to mean that the company had been told to stop proliferating, and so far as I am aware, usually they did.

There was, however, a class of cases—what we came to refer to as the “serial proliferators”—where no progress was ever made during my time at the State Department. Typically with regard to this class of cases, our Chinese counterparts would report back that they had been unable to confirm our information, that they were still investigating, and could we help them by

providing more detailed information to substantiate our allegations? Often in these cases we would impose sanctions pursuant to the Iran Nonproliferation Act or similar legal authorities, which would lead the Chinese to complain that we were acting imperiously and without regard for Chinese sovereignty or goodwill. There was often the implicit threat that they might begin to withhold nonproliferation cooperation in other areas if we continued to act unilaterally against Chinese companies.

I may be reading something into these discussions that was not really there, but I often got the sense from body language and other nonverbal cues that our foreign ministry counterparts were uncomfortable talking to us about these cases. They conveyed a sense of pride and accomplishment when they could report to us that they had made progress on other cases. That same sense was always lacking in any discussion of the serial proliferators, for obvious reasons.

I never knew for sure what to make of the serial proliferator problem. I ultimately came to the conclusion that the companies in question probably enjoyed some sort of “protection” within the Chinese political system. Either they were owned or controlled by the People’s Liberation Army, were closely connected to the Communist Party, or had some powerful patron somewhere within the government. Whatever the reason, it appeared to me that stopping the proliferation activities of these companies was beyond the bureaucratic power of our counterparts in the Foreign Ministry. In other words, by the time I left the State Department I had come to the conclusion that the problem with the serial proliferators was not that our nonproliferation counterparts within the Chinese government were uninterested in reining in these companies, but rather that they were unable to do so.

While this was frustrating, it nevertheless was, to my mind, a sign of progress. When I first began following these issues as a congressional staffer in the 1990s, I would not have said that there was anyone in the Chinese government who genuinely saw proliferation as a problem or cared to do anything about it. By the time I left the State Department I thought this had changed.

I would offer the same general characterization of China’s cooperation with the U.S. Government in other proliferation-related areas during my time at the State Department. As you know, China has not been very helpful at the U.N. Security Council in ratcheting up pressure on Iran to comply with previous Security Council demands that Iran suspend uranium enrichment. Nevertheless, China has, at various times, provided unexpected help to the International Atomic Energy Agency in uncovering the history of Iran’s nuclear activities.

With regard to the interdiction of proliferation-related shipments, China has rejected repeated U.S. requests that it join the Proliferation Security Initiative. On the other hand, there were times when, in response, to U.S. requests, China cooperated in particular interdiction efforts. There were also many times when China declined to cooperate. But the fact that China cooperated at all—and was willing to sustain the inevitable damage to its bilateral relations with the countries against which it was cooperating—was, to my mind, a promising sign.

## What to Do?

While I believe we have made progress with China on nonproliferation issues, there obviously remains much room for improvement. We have no alternative, however, but to continue working with China in these matters. As we have seen with regard to proliferation activity by Chinese entities, it is possible to make progress through firm and patient efforts. With regard to these entities, I see two ways to make additional progress. One is to figure out how to empower those within the Chinese government who are prepared to work with us to stop proliferation. The other is to directly change the risk/reward calculus of the Chinese entities in question.

I am not sufficiently expert on the internal dynamics of the Chinese government to make recommendations on how to strengthen one bureaucratic faction at the expense of others. As far as changing the calculus of Chinese entities, however, the record is clear that vigorous enforcement of U.S. sanctions laws and policies can make a big difference. U.S. sanctions may not make a big difference to individuals and to small enterprises that do not worry about their reputation and their ability to conduct business internationally, but sanctions can make a big difference to larger Chinese companies. Most of the serial proliferators from my time at State—companies such as China North Industries Corp. (NORINCO), Zibo Chemet Equipment Co., China National Precision Machinery Import/Export Corp. (CPMIEC), China Great Wall Industries Corp. (CGWIC), and Xinshidai—fall into the latter category.

The efficacy of U.S. sanctions is underscored by the State Department's testimony today that two of these companies—NORINCO and CGWIC—have in the past year begun a dialogue with the U.S. Government about how to avoid conduct that could result in their being sanctioned in the future. This is precisely the kind of result that U.S. nonproliferation sanctions laws are designed to achieve. The objective of these laws is not to punish foreign entities for proliferating, but rather to change the behavior of such entities so they do not proliferate in the first place. In this sense, the imposition of sanctions reflects a failure of these laws rather than a success. The Executive branch should continue to apply U.S. sanctions laws vigorously so as to encourage additional Chinese companies to follow the example of these two.

In this connection, I would also note that, in my opinion, we have only begun to explore the potential for financial sanctions to affect the behavior of proliferating entities. Two new tools were introduced during my time at the State Department that immediately got the attention of the Chinese. These were the issuance of Executive Order 13382 on proliferation financing on June 29, 2005, and the designation of Banco Delta Asia as a "primary money laundering concern" under section 311 of the USA Patriot Act on September 15, 2005. The Chinese government did not know what to make of these actions, but it found them alarming.

This was underscored to me in November 2005, when we had another round of nonproliferation consultations with the Chinese. For the first time ever, our foreign ministry counterparts were joined in these meetings by representatives of the China Banking Regulatory Commission and

the People's Bank of China (i.e., the central bank of China). These banking officials were clearly eager to learn more about what we had done, what it meant for the ability of Chinese banks to do business in the future with entities that have been sanctioned by the United States for proliferation, and how great the risk was that Chinese banks themselves might be sanctioned by the United States.

With the assistance of the Department of the Treasury, we explained to these Chinese banking officials how the new U.S. tools worked and tried to answer their questions. They were surprised to learn, for example, that the freezing of assets under Executive Order 13382 extends to all financial transfers by designated entities, not just transfers that the U.S. Government can demonstrate were related to proliferation activity. They seemed especially worried about the broad authority available under section 311 of the USA Patriot Act, having seen how the application of this authority to Banco Delta Asia had had devastating consequences for that Macau-based financial institution.

Congress subsequently amended section 311 to make it more readily available for use against banks that conduct proliferation-related transactions. This was done in section 501 of the Iran Freedom Support Act, which was signed into law in September 2006. To my knowledge, this expanded authority has never been employed, but the prospect that it might be used would certainly get the attention of all foreign banks that service customers involved in proliferation. This in turn could compromise the ability of proliferating entities to conduct business through normal banking channels.

#### China's Diplomatic and Economic Role

In addition to doing more to restrain proliferation by Chinese entities, the Chinese government needs to do more diplomatically to help confront the hard cases in proliferation. I have been particularly disappointed by the level of cooperation China has provided with respect to North Korea and Iran. I do not share the Administration's optimistic assessment of Chinese cooperation in these two cases, and I do not expect us to be able to achieve acceptable diplomatic resolutions in either case until China agrees to do more.

With regard to North Korea, I will observe only that China has far more leverage over that country than anyone else, and it has consistently declined to bring that leverage fully to bear. The diplomatic course that we are on today with North Korea has as its premise—borne of nearly two decades of frustration—that China is simply unwilling to use all the influence at its disposal to require more responsible behavior by Pyongyang.

With regard to Iran, ideally the U.N. Security Council would continue tightening sanctions until the Iranian regime agrees to comply with the Council's demand that it suspend uranium enrichment activities. Russia has been the principal obstacle at the Council to the imposition of tougher sanctions on Iran, but China generally has backed Russia's position. Perhaps even more damaging, China has recently become much more aggressive in seeking to advance its economic

interests in Iran. This has provided many U.S. allies in Europe and elsewhere with a new reason not to join in efforts to apply multilateral economic pressure on Iran outside of the context of Security Council-imposed sanctions. Why deny ourselves the benefits of trade with and investment in Iran, they ask, if the Chinese are going to simply step in and pick up the contracts that we walk away from? This concern on the part of our allies is not illogical, and is proving highly damaging to our efforts to build multilateral pressure on Iran.

China's aggressive pursuit of economic advantage in Iran is part of a larger pattern that we are witnessing in Sudan, Zimbabwe, Burma, and elsewhere. We can all appreciate the resource requirements of China's growing economy, but we are entitled to expect China to act more responsibly in all these cases.

Thank you.