Case Number: 2010-1024-F

FOIA MARKER

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Folder Title: China WTO (June 1998): Audio-Visual [2]				
Staff Office-Individual: National Economic Council-Lee, Malcolm				
Original OA/ID Number: CF 1176				
Row: 23	Section: 5	Shelf: 5	Position: 3	Stack: V

ROBERT B. CASSIDY

ASSISTANT U.S. TRADE REPRESENTATIVE
FOR CHINA, HONK KONG, AND TAIWAN
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

600 17th Street NW
Washington, DC 20508
tel 202.395.3900
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To: **Jeff Bader**
Malcom Lee

Fax #: 456-9250
456-9290

Date: 5/23/98

Pages (including this cover sheet): 3

Notes:

MOTION PICTURE MARKET ACCESS IN CHINA

Issue: You are scheduled to meet with Jack Valenti who will ask you to raise market access for motion pictures with President Jiang during your trip to China. Valenti, during his trip to China to launch the showing of the "Titanic," was discouraged at his reception in China and his inability to make progress on key market access issues such as unofficial quotas and lack of direct access to the distribution system.

Suggested Talking Points

- I understand that your last trip to Beijing was frustrating and that China is still reacting negatively to the release of three recent films: KUNDUN, SEVEN YEARS IN TIBET and RED CORNER. on China/Tibet

- I too am concerned about the lack of market access for audio and visual works. Ambassador Barshefsky is focusing on resolving the market access issue such as unofficial quotas and distribution through WTO accession.

- I hope that negotiations on WTO accession will be successful by the time of my trip to Beijing. However, I understand that China is being just as obstinate with our negotiators as they have been with you.

- Please be assured that your issues will be raised during my trip to Beijing. [Note: Avoids any direct reference to the President raising the issue.]

Discussion

A number of *de facto* barriers to U.S. motion pictures. Under the terms of our 1995 bilateral IPR agreement, there were to be no formal quotas for any media. Yet, informal numerical limits remain on revenue sharing deals for theatrical releases (only 16 were allowed last year) and the industry tells us that evidence exists of unofficial quotas for videos (300 titles per year) and TV broadcasts (25% foreign content quota). These unofficial quotas are often implemented through China's censorship board.

In addition, current regulations ban the direct distribution of foreign audiovisual goods by foreign firms. Any distribution of U.S. or foreign films, home videos, television programs or sound recordings currently has to be done through a Chinese wholesaler and retailer. Government monopolies under the Ministry of Culture dictate the terms under which films can be produced and distributed. Foreign firms generally are not allowed to engage in the production of audiovisual products. Motion picture companies can only do co-production on a contractual basis with a Chinese company.

In WTO negotiations, we have emphasized to the Chinese the importance of commitments to open early distribution of audio visual works. However, getting commitments from China in the theatrical and broadcasting areas will be difficult. Playing against us is the fact that fewer than

15 WTO members actually made commitments in these areas during the Uruguay Round. Our WTO requests also clarifies that *de facto* quotas are prohibited and that censorship will be handled expeditiously. We are concerned that the paper that Valenti gave to the Chinese is less demanding and more generous in transitions than what our negotiators are requesting and that the Chinese will negotiate down from the Valenti requests.

THE WHITE HOUSE

WASHINGTON

May 23, 1998

ACTION

MEMORANDUM FOR SAMUEL BERGER
GENE SPERLING

FROM: MALCOLM LEE

SUBJECT: MPAA President Valenti Meeting with the President

We were notified Friday evening that the President is scheduled to meet with Jack Valenti, President of the Motion Picture Association of America, at 10:30 AM Tuesday, May 19. Attached is a briefing memorandum to the President for your approval.

Concurrence by: Jeff Bader

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Tab A Letter to Sandy Berger from Jack Valenti

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
GENE SPERLING

SUBJECT: Meeting with Jack Valenti, President, Motion Picture Association of America

Jack Valenti would like you to urge President Jiang during your summit to further open China's motion picture market. During a trip to China to premier "Titanic", he was unable to persuade authorities to ease quotas and distribution restrictions on foreign films. In addition, the Chinese refused to meet with a studio executive whose film on Tibet they found offensive.

Opening China's market to American audio and visual works is a high U.S. priority in ongoing WTO accession talks. For example, effectively China limits theatrical foreign movie (16 allowed last year) and video (300 titles allowed) releases and limits to 25 percent foreign-content TV broadcasts. Chinese regulations ban the direct distribution of foreign audiovisual goods by foreign firms, while monopolies under the Ministry of Culture dictate the terms under which films can be produced and distributed.

In WTO and bilateral negotiations, we have stressed the importance of opening the Chinese audiovisual market. Securing commitments will be difficult, because fewer than 15 WTO members made commitments in this area during the Uruguay Round. For his part, Valenti proposed to the Chinese incremental gains over time rather than a full solution (e.g. 17 imported films by 1999, 25 by 2000, and increasing from one to two the number of Chinese companies involved in distribution of U.S. films). USTR continues to seek the total elimination of quantitative restrictions following a transition period while Valenti is willing to settle for a more limited package as a first step.

We are putting together a broader WTO package for your trip and are seeking to obtain commercially viable commitments in the areas of services, tariffs and non-tariff measures. It appears

cc: Vice President
Chief of Staff

unlikely we will have a complete market access package by June, but we should be able to point to progress in several areas.

Also of interest to Valenti, China continues to improve on protection of intellectual property and we are beginning to see legitimate licensing of film and music production. Exports of illegal compact discs are down from $260 million in 1995 to $10 million in 1997. Some sixty compact disc production lines have been shut down and about 800 individuals imprisoned. While this is good progress, greater enforcement is needed to address illegal imports into China of compact discs and videos, retail piracy and illegal reproduction of software.

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- Understand Chinese Government continues to resist further opening of market to U.S. motion pictures. Also aware of negative reaction to films on Tibet and China by some officials.

- On up side, achieved some progress in closing down pirate CD and video disc plants. Nonetheless, remain concerned about restricted access for American audio and visual works.

- Opening China's markets to American films and music is a high U.S. priority. Ambassador Barshefsky highlighting in ongoing WTO accession talks.

- Market access issues will be raised during my trip to China in June.

3363

MOTION PICTURE ASSOCIATION
Audiovisual Entertainment
For Global Audiences

PLEASE STAFF
5/5/98

JACK VALENTI
CHAIRMAN
AND
CHIEF EXECUTIVE OFFICER

May 5, 1998

1600 EYE STREET, NW
WASHINGTON, DC. 20006
TELEPHONE: 202/293-1966
TELECOPIER: 202/452-9823

Dear Sandy

I send you a copy of a memo which I sent to the heads of the movie studios in Hollywood and an attachment which I left with the Chinese. Copies were also sent to Madeleine Albright and Charlene Barshefsky. It embraces my trip to China, and my continuing efforts to gain for the movie industry market access to China, now severely restricted.

The Chinese are panting in exultant anticipation for the President's visit. Therefore, it is indispensable to our future that President Clinton bring our issue to his agenda so that President Jiang Zemin understands that our President cares very much about our plight in China.

Your recommendations will count much with President Clinton. Help us, please.

Warmly

Jack

The Honorable Samuel R. Berger
Assistant to the President for
National Security Affairs
The White House
1st Floor, West Wing
Washington, DC 20500

MOTION PICTURE ASSOCIATION
OF AMERICA, INC.
1600 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
(202) 293-1966
FAX: (202) 452-9823

JACK VALENTI
PRESIDENT
AND
CHIEF EXECUTIVE OFFICER

A JOURNEY TO BEIJING, CHINA
April 28-30, 1998

My visit to China, my second in four months, was another in the continuing saga of trying to gain market access to and lessen piracy in the largest nation on the planet.

How to summarize it? I believe we made some tiny progress, though I cannot accurately forecast what the Chinese reaction may be to the paper I left with them (attached). This time, my strategic aim was to search for incremental gains, not the full solution that so many of us want to achieve. I wanted to make it easier for China to ease the barriers. It is my intent to return once more, in the fall, and continue this slow build-up of relationships and persuasions.

It was originally planned to have several international executives from the member companies be with me at the meetings. But when we were told that one of our companies would not be invited to the dinners in the evening, it was decided that we could not submit to this kind of exclusion and therefore no company executive would be involved, that I would go alone.

I met with the key Ministers who oversee culture, film, radio and television. Though final decisions will obviously be made at the highest levels, these Ministers will make recommendations. It is fascinating to report that in each of my meetings, the ministers all began with a similar (almost rehearsed) opening statement in which they pledged to be "honest and candid." Three films distributed by our companies "have offended the Chinese people, and insulted the truth." They wanted to make it clear that the abrasions of these movies still infect the mood in Beijing. KUNDUN, SEVEN YEARS IN TIBET and RED CORNER are still bones in their throat.

My response was to briefly instruct them in how our system works. "Ours is a society of free expression," I said. "Each year films are made I don't like, the President doesn't like, the Congress doesn't like, but no one has the power to deny entrance of that film into the marketplace. Frankly, I cannot guarantee that next month or next year there won't be other new films whose content which will not please the government of China." My mantra was: 'let us put behind us the films you don't like. You still command the entry gates to your marketplace, and those films which offend you will not be exhibited. We understand that. So let us find ways to be valuable to each other and not let a tiny handful of movies corrode our relationship.'

The paper left with them was more specific than we have been in our previous meetings. We will soon know if it will ignite some favorable response. I will report my views on this visit to the White House, the State Department and the United States Trade Representative.

A Specific Two-Year Plan for China/US Cinema Cooperation: June, 1998 to June, 2000.

1. Gradually increase number of films from the seven major U.S. film companies over the next two years. From June, 1998 to June, 1999, a total of 17 films to be imported into China. From June, 1999 to June, 2000, a total of 25 films. In June, 2000, China and the U.S. film industries to analyze the marketplace, to prepare for the next two years.

2. Increase the number of Chinese distribution companies involved in the distribution of U.S. major company films to at least two distribution entities, more if possible. By enlarging the number of distributors, China's film industry benefits from expanded performance and knowledge of how exhibition and marketing work.

3. China and the U.S. industry should discuss how to reduce the high taxation on American films in China.

4. U.S. companies will assist the Chinese film industry in training in production, marketing and distribution, if China finds this useful. This training would include interns working with American companies to learn the latest techniques in marketing and distribution. The U.S. industry will advise China on how to help young Chinese film-makers enroll in and study at the best film schools. U.S. companies will assist the Chinese film industry in training in the new technology, digital, the Internet, satellite delivery and cable.

5. China and the U.S. industries plan together as to how best to involve each other in the co-production of films.

6. The American industry to showcase Chinese films through film festivals in 1998 and 1999 in the United States.

SOME FACTS ABOUT Chinese/American film industries: In the last four years, the seven major U.S. companies have been allowed to exhibit a total of 28 films in China. The total box-office for these films was $115 million. Note: TITANIC is still in exhibition so that total box-office number will rise. Due to taxes and expenses, the U.S. companies have been able to retrieve only 12-15% in revenues from these films.

In the US. more than 90% of all theaters are owned by independent businessmen with no connections to the major studios. Theater owners exhibit films they believe will attract paying audiences to their theater. That is their sole objective. New opportunities are opening up for exhibition of Chinese (and other non-English language films) on American cable systems and on satellite-to-home delivery of entertainment product.

Making and distributing movies is a very risky business. Of every ten movies released theatrically by the American companies, only four actually make a profit.

MPA
MOTION PICTURE ASSOCIATION
Audiovisual Entertainment
For Global Audiences

JACK VALENTI
CHAIRMAN
AND
CHIEF EXECUTIVE OFFICER

April 17, 1998

1600 EYE STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE: 202/293-1966
TELECOPIER: 202/452-9823

Dear Gene

If the Administration decides that negotiation of a "New Transatlantic Marketplace Agreement" with the EU is in the interest of the United States, I hope I can count on you to ensure that audiovisual issues are not excluded from the negotiation, despite the demands of some in Europe.

The idea of excluding one of America's most successful export industries from a trade agreement with our most important trading partner is too painful to contemplate. Half our companies' revenues are earned outside the United States – and Europe represents more than half of those foreign markets.

That said, we are not seeking to re-fight old battles left over from the Uruguay Round. The filmed entertainment industry can agree that the US would not seek to liberalize TV quotas and subsidies in the first round of NTMA discussions – as long as liberalization of these issues is not permanently off the table or outside this agreement. We would suggest that you start parallel discussions with Europe on how best to move forward on these old issues in the WTO/GATS negotiations that begin in the year 2000.

Where we do want to make real progress in the NTMA is on the "new" technologies. The NTMA negotiations on free trade in services must include new audiovisual services carried on digital satellite, cable, and electronic networks. It is important these nascent services are not saddled with the baggage of heavy government regulation – a point of view that is currently broadly accepted in Europe. Useful progress should be possible bilaterally in these areas.

We have tried to keep a low profile on this to give the U.S. and the EU negotiators the space they need to find some common ground. But, you should not read our silence as a lack of interest. These new technologies are our future, and Europe is our major market. If you proceed with these negotiations, we can't afford to be left behind.

Jack

Mr. Gene B. Sperling
Director
National Economic Council
West Wing – The White House

May 23, 1998

<u>ACTION</u>

MEMORANDUM FOR SAMUEL BERGER
GENE SPERLING

FROM: MALCOLM LEE

SUBJECT: Jack Valenti Meeting with the President

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Concurrence by: Jeff Bader

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POINTS TO BE MADE FOR MEETING WITH JACK VALENTI OF MOTION PICTURE ASSOCIATION OF AMERICA

- Understand you premiered Titanic in your recent trip to China. How is it doing?

- Understand Chinese Government continues to resist further opening of its market to U.S. motion pictures and, during your recent trip, reacted negatively to several recent films on China and Tibet.

- While we have achieved some progress in closing down pirating CD and video disc plants, I remain concerned about the continuing lack of market access for American audio and visual works.

- Opening China's markets to American films and audio works is a high U.S. priority in our ongoing WTO accession talks led by Ambassador Barshefsky.

- These market access issues will be raised during my trip to China in June.

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
GENE SPERLING

SUBJECT: Meeting with Jack Valenti, President, Motion Picture Association of America

Summary

- Jack Valenti would like you to urge President Jiang to further open China's motion picture market during your trip in June.

- Valenti, during his recent trip to China to premier "Titanic", was unable to persuade Chinese authorities to ease quotas and distribution restrictions on foreign films. In addition, the Chinese refused to meet with a studio executive whose film on Tibet the Chinese found offensive.

- You can inform Valenti that opening China's market to American audio and visual works is a high U.S. priority in ongoing WTO accession talks led by Ambassador Barshefsky, and that audio-visual market access issues will be raised during your trip. ~~[Leaves flexible which Administration official will raise.]~~

Background

China limits theatrical American ~~foreign~~ movie (16 allowed last year) and video (300 titles allowed) releases and limits to 25% foreign content TV broadcasts. Current Chinese regulations also ban the direct distribution of foreign audiovisual goods by foreign firms, requiring ~~requiring~~ use of Chinese wholesalers and retailers. Government monopolies under the Ministry of Culture dictate the terms under which films can be produced and distributed.

In WTO and bilateral negotiations, we have emphasized to the Chinese the importance of opening its audiovisual market. Securing commitments will be difficult, because fewer than 15 WTO members made commitments in this area during the Uruguay

cc: Vice President
Chief of Staff

Round. Valenti has therefore proposed to the Chinese incremental gains over time rather than a full solution (e.g., increase to 17 imported films by 1999, to 25 films by 2000, and increase from one to two the number of Chinese companies involved in distribution of U.S. films). ~~While~~ USTR, meanwhile, continues ~~to~~ seek in negotiations the total elimination of quantitative restrictions following a transition period. ~~feels this approach undercuts their negotiations,~~ MPAA is willing to settle for a more limited package as a fist step.~~t is more likely to be achieved.~~

Progress in putting together a broader WTO package for your trip has been halting and erratic. We continue to work hard to obtain commercially viable commitments in the areas of services, tariffs and non-tariff measures. It appears unlikely we will have a complete market access package by June, but we may be able to point to progress in several areas.

KEVIN: FOLLOWING PARAGRAPH NEW FOR INSERTION: Also of interest to the Motion Picture Association of America, China continues to make progress on protection of intellectual property. We are beginning to see legitimate licensing of film and music production. Illegal Chinese exports of compact discs are down from $260 million in 1995 to $10 million in 1997, and China has shut down 64 CD production lines, imprisoning over 800 individuals. Greater enforcement is still needed to address illegal imports of CDs and video discs into China, retail piracy and illegal reproduction of software.

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Tab I Letter to Sandy Berger from Jack Valenti

MPA
MOTION PICTURE ASSOCIATION
Audiovisual Entertainment
For Global Audiences

JACK VALENTI
CHAIRMAN
AND
CHIEF EXECUTIVE OFFICER

May 5, 1998

1600 EYE STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE: 202/293-1966
TELECOPIER: 202/452-9823

Dear Madeleine

My visit to China was another journey wherein my patience and stamina were being tested. I was there for four days, departing on April 30, indeed the very day I saw you fleetingly at breakfast at the hotel.

What is now essential, indispensable, is for the President to bring to the agenda the plight of the movie industry in China. I told the Chinese I would report to the President what I learned on this visit. So if the President does NOT bring up our issues, it will tell the Chinese, all too starkly, that my protestations have made no impression on President Clinton, that at the highest levels of the U.S. government our lack of market access to China is a matter of small import.

I am attaching a brief commentary which I sent to the movie studio chieftains, as well as a one-pager which I left with the Chinese. It sets forth in capsule fashion what we hope to achieve in rapport with China.

So I pray you will convey to the White House how necessary it is for President Clinton to lift this issue to center stage when he talks to President Jiang Zemin. We are not asking for a huge transformation, but only the beginnings of the opening of the Chinese marketplace. I need your help.

With great affection

Jack

The Honorable Madeleine Albright
Secretary of State
2201 C Street, N.W.
Washington, DC 20520

THE WHITE HOUSE

WASHINGTON

May 23, 1998

ACTION

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GENE SPERLING

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- Opening China's markets to American films and music is a high U.S. priority. Ambassador Barshefsky highlighting in ongoing WTO accession talks.

- Market access issues will be raised during my trip to China in June.

3363

MOTION PICTURE ASSOCIATION
Audiovisual Entertainment
For Global Audiences

PLEASE STAFF
5/5/98

JACK VALENTI
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May 5, 1998

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WASHINGTON, D.C. 20006
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The White House
1st Floor, West Wing
Washington, DC 20500

MAY 8 1998

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A Specific Two-Year Plan for China/US Cinema Cooperation: June, 1998 to June, 2000.

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To: **Jeff Bader**
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Suggested Talking Points

- I understand that your last trip to Beijing was frustrating and that China is still reacting negatively to the release of three recent films: KUNDUN, SEVEN YEARS IN TIBET and RED CORNER. on China[illegible]

- I too am concerned about the lack of market access for audio and visual works. Ambassador Barshefsky is focusing on resolving the market access issue such as unofficial quotas and distribution through WTO accession.

- I hope that negotiations on WTO accession will be successful by the time of my trip to Beijing. However, I understand that China is being just as obstinate with our negotiators as they have been with you.

- Please be assured that your issues will be raised during my trip to Beijing. [Note: Avoids any direct reference to the President raising the issue.]

Discussion

A number of *de facto* barriers to U.S. motion pictures. Under the terms of our 1995 bilateral IPR agreement, there were to be no formal quotas for any media. Yet, informal numerical limits remain on revenue sharing deals for theatrical releases (only 16 were allowed last year) and the industry tells us that evidence exists of unofficial quotas for videos (300 titles per year) and TV broadcasts (25% foreign content quota). These unofficial quotas are often implemented through China's censorship board.

In addition, current regulations ban the direct distribution of foreign audiovisual goods by foreign firms. Any distribution of U.S. or foreign films, home videos, television programs or sound recordings currently has to be done through a Chinese wholesaler and retailer. Government monopolies under the Ministry of Culture dictate the terms under which films can be produced and distributed. Foreign firms generally are not allowed to engage in the production of audiovisual products. Motion picture companies can only do co-production on a contractual basis with a Chinese company.

In WTO negotiations, we have emphasized to the Chinese the importance of commitments to open early distribution of audio visual works. However, getting commitments from China in the theatrical and broadcasting areas will be difficult. Playing against us is the fact that fewer than

15 WTO members actually made commitments in these areas during the Uruguay Round. Our WTO requests also clarifies that *de facto* quotas are prohibited and that censorship will be handled expeditiously. We are concerned that the paper that Valenti gave to the Chinese is less demanding and more generous in transitions than what our negotiators are requesting and that the Chinese will negotiate down from the Valenti requests.

ROBERT B. CASSIDY
ASSISTANT U.S. TRADE REPRESENTATIVE
FOR CHINA, HONK KONG, AND TAIWAN
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
600 17th Street NW
Washington, DC 20508
tel 202.395.3900
fax 202.395.3512

To: **Jeff Bader**
Malcom Lee

Fax #: 456-9250
456-9290

Date: 5/23/98

Pages (including this cover sheet): 3

Notes:

MOTION PICTURE MARKET ACCESS IN CHINA

Issue: You are scheduled to meet with Jack Valenti who will ask you to raise market access for motion pictures with President Jiang during your trip to China. Valenti, during his trip to China to launch the showing of the "Titanic," was discouraged at his reception in China and his inability to make progress on key market access issues such as unofficial quotas and lack of direct access to the distribution system.

Suggested Talking Points

- I understand that your last trip to Beijing was frustrating and that China is still reacting negatively to the release of three recent films: KUNDUN, SEVEN YEARS IN TIBET and RED CORNER. [illegible]

- I too am concerned about the lack of market access for audio and visual works. Ambassador Barshefsky is focusing on resolving the market access issue such as unofficial quotas and distribution through WTO accession.

- I hope that negotiations on WTO accession will be successful by the time of my trip to Beijing. However, I understand that China is being just as obstinate with our negotiators as they have been with you.

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NATIONAL SECURITY COUNCIL/NATIONAL ECONOMIC COUNCIL

INTERNATIONAL ECONOMIC AFFAIRS

F A X   C O V E R   S H E E T

Date 5/23

Number of pages to follow 6

FROM: Malcolm Lee

TEL: 202-456-9299

FAX: 202-456-9290

TO	PHONE NUMBER	FAX NUMBER
Gene Sperling	313	662-5660
Jeff Bader	(202)	686-4867

MESSAGE/SPECIAL INSTRUCTIONS:

Please call me with clearance, changes as soon as possible. Thanks

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
GENE SPERLING

SUBJECT: Meeting with Jack Valenti, President, Motion Picture Association of America

Summary

- Jack Valenti would like you to urge President Jiang to further open China's motion picture market during your trip in June.

- Valenti, during his recent trip to China to premier "Titanic", was unable to persuade Chinese authorities to ease quotas and distribution restrictions on foreign films. In addition, the Chinese refused to meet with a studio executive whose film the Chinese found offensive.

- You can inform Valenti that opening China's market to American audio and visual works is a high U.S. priority in ongoing WTO accession talks led by Ambassador Barshefsky, and that audio-visual market access issues will be raised during your trip. [Leaves flexible which Administration official will raise.]

Background

China limits theatrical foreign movie (16 allowed last year) and video (300 titles allowed) releases and limits to 25% foreign content TV broadcasts. Current Chinese regulations also ban the direct distribution of foreign audiovisual goods by foreign firms, requiring use of Chinese wholesalers and retailers. Government monopolies under the Ministry of Culture dictate the terms under which films can be produced and distributed.

In WTO and bilateral negotiations, we have emphasized to the Chinese the importance of opening its audiovisual market. Securing commitments will be difficult, because fewer than 15 WTO members made commitments in this area during the Uruguay Round. Valenti has therefore proposed to the Chinese

cc: Vice President
Chief of Staff

incremental gains over time rather than a full solution (e.g., increase to 17 imported films by 1999, to 25 films by 2000, and increase from one to two the number of Chinese companies involved in distribution of U.S. films). While USTR feels this approach undercuts their negotiations, it is more likely to be achieved.

Progress in putting together a broader WTO package for your trip has been halting and erratic. We continue to work hard to obtain commercially viable commitments in the areas of services, tariffs and non-tariff measures. It appears unlikely we will have a complete market access package by June, but we may be able to point to progress in several areas.

Attachment
Tab I Letter to Sandy Berger from Jack Valenti

INFORMATION

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Tab I Letter to Sandy Berger from Jack Valenti

MOTION PICTURE ASSOCIATION
OF AMERICA, INC.
1600 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
(202) 293-1966
FAX: (202) 452-9823

JACK VALENTI
PRESIDENT
AND
CHIEF EXECUTIVE OFFICER

A JOURNEY TO BEIJING, CHINA
April 28-30, 1998

My visit to China, my second in four months, was another in the continuing saga of trying to gain market access to and lessen piracy in the largest nation on the planet.

How to summarize it? I believe we made some tiny progress, though I cannot accurately forecast what the Chinese reaction may be to the paper I left with them (attached). This time, my strategic aim was to search for incremental gains, not the full solution that so many of us want to achieve. I wanted to make it easier for China to ease the barriers. It is my intent to return once more, in the fall, and continue this slow build-up of relationships and persuasions.

It was originally planned to have several international executives from the member companies be with me at the meetings. But when we were told that one of our companies would not be invited to the dinners in the evening, it was decided that we could not submit to this kind of exclusion and therefore no company executive would be involved, that I would go alone.

I met with the key Ministers who oversee culture, film, radio and television. Though final decisions will obviously be made at the highest levels, these Ministers will make recommendations. It is fascinating to report that in each of my meetings, the ministers all began with a similar (almost rehearsed) opening statement in which they pledged to be "honest and candid." Three films distributed by our companies "have offended the Chinese people, and insulted the truth." They wanted to make it clear that the abrasions of these movies still infect the mood in Beijing. KUNDUN, SEVEN YEARS IN TIBET and RED CORNER are still bones in their throat.

My response was to briefly instruct them in how our system works. "Ours is a society of free expression," I said. "Each year films are made I don't like, the President doesn't like, the Congress doesn't like, but no one has the power to deny entrance of that film into the marketplace. Frankly, I cannot guarantee that next month or next year there won't be other new films whose content which will not please the government of China." My mantra was: 'let us put behind us the films you don't like. You still command the entry gates to your marketplace, and those films which offend you will not be exhibited. We understand that. So let us find ways to be valuable to each other and not let a tiny handful of movies corrode our relationship.'

The paper left with them was more specific than we have been in our previous meetings. We will soon know if it will ignite some favorable response. I will report my views on this visit to the White House, the State Department and the United States Trade Representative.

A Specific Two-Year Plan for China/US Cinema Cooperation: June, 1998 to June, 2000.

1. Gradually increase number of films from the seven major U.S. film companies over the next two years. From June, 1998 to June, 1999, a total of 17 films to be imported into China. From June, 1999 to June, 2000, a total of 25 films. In June, 2000, China and the U.S. film industries to analyze the marketplace, to prepare for the next two years.

2. Increase the number of Chinese distribution companies involved in the distribution of U.S. major company films to at least two distribution entities, more if possible. By enlarging the number of distributors, China's film industry benefits from expanded performance and knowledge of how exhibition and marketing work.

3. China and the U.S. industry should discuss how to reduce the high taxation on American films in China.

4. U.S. companies will assist the Chinese film industry in training in production, marketing and distribution, if China finds this useful. This training would include interns working with American companies to learn the latest techniques in marketing and distribution. The U.S. industry will advise China on how to help young Chinese film-makers enroll in and study at the best film schools. U.S. companies will assist the Chinese film industry in training in the new technology, digital, the Internet, satellite delivery and cable.

5. China and the U.S. industries plan together as to how best to involve each other in the co-production of films.

6. The American industry to showcase Chinese films through film festivals in 1998 and 1999 in the United States.

SOME FACTS ABOUT Chinese/American film industries: In the last four years, the seven major U.S. companies have been allowed to exhibit a total of 28 films in China. The total box-office for these films was $115 million. Note: TITANIC is still in exhibition so that total box-office number will rise. Due to taxes and expenses, the U.S. companies have been able to retrieve only 12-15% in revenues from these films.

In the US. more than 90% of all theaters are owned by independent businessmen with no connections to the major studios. Theater owners exhibit films they believe will attract paying audiences to their theater. That is their sole objective. New opportunities are opening up for exhibition of Chinese (and other non-English language films) on American cable systems and on satellite-to-home delivery of entertainment product.

Making and distributing movies is a very risky business. Of every ten movies released theatrically by the American companies, only four actually make a profit.

United States Department of State

Washington, D.C. 20520

FAX COVER SHEET

OFFICE OF CHINESE AND MONGOLIAN AFFAIRS

BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS

Date: May 23, 1998

To: Malcolm Lee

From: **Michael Honnold**
Economic Officer

Tel: **(202) 6476798**
Fax: **(202) 6476820**

Number of pages including cover sheet: 8

Remarks:

Malcolm,

Per request, attached is action memo sent to Secretary Albright containing letter to Valenti for her to sign. Believe there may have been minor changes to the letter before it went out. Also attached are Valenti incoming letter with report on his China visit and proposal he gave to Chinese.

United States Department of State

Washington, D. C. 20520

9808610

ACTION MEMORANDUM

MAY 15 1998

UNCLASSIFIED

TO: The Secretary

FROM: EB/TPP - David Marchick DM

SUBJECT: Proposed Response to Letter from Jack Valenti President of the Motion Picture Association on Market Access and Piracy in China

ISSUE FOR DECISION

Whether to sign the attached letter to Jack Valenti, Chairman of the Motion Picture Association regarding market access and copyright piracy in China.

ESSENTIAL FACTORS

Jack Valenti wrote to you on May 5th asking that the President raise with the Chinese the related issues of market access for U.S. motion pictures and intellectual property piracy of U.S. copyrighted works (including motion pictures). The trade agenda for the President's visit is not yet decided, but you should inform Mr. Valenti of our efforts to obtain greater market access for U.S. motion pictures in the context of the ongoing services negotiations for China's accession to the World Trade Organization (WTO). We are also holding bilateral IPR consultations with China in early June which will include discussions on reducing piracy.

RECOMMENDATION

That you sign the proposed responses at Tab 1.

Approve ________ Disapprove ________

Attachments:
Tab 1 - Proposed letter to Jack Valenti
Tab 2 - Incoming Letter from Jack Valenti

THE SECRETARY OF STATE

WASHINGTON

Dear Mr. Valenti:

Thank you for keeping me informed on the results of your meetings in China. I am heartened by the news that you have made some progress in opening the Chinese market to U.S. motion pictures. Your proposal for a modest increase in the number of U.S. films to be distributed in China in exchange for a package of cooperative initiatives appears to be both realistic and beneficial for all parties.

I will convey to the White House your request regarding placement of market access for motion pictures on the agenda for the proposed Presidential visit to China. Motion pictures are among our leading exports, and this Administration has engaged the Chinese government on this issue both bilaterally at the highest levels and through the multilateral context of the services negotiations for China's accession to the World Trade Organization (WTO).

Last month, USTR Barshefsky included market access for motion pictures among the topics discussed indepth during her meetings with State Counselor Wu Yi and Minister of Foreign Trade Shi. We are also working to reduce the copyright piracy of U.S. motion pictures through frequent and intensive intellectual property consultations with the Chinese government. The next round of discussions is scheduled for early June.

Mr. Jack Valenti,
Chairman,
Motion Picture Association of America
1600 Eye Street, N.W.
Washington, D.C. 20006

Please keep me informed as to how your proposal for increasing market access is progressing. I would also like to add a brief note of congratulations - I understand that "Titanic" has broken all box office records in China. I am confident that as long as the U.S. film industry continues to produce popular movies like "Titanic," the demands and expectations of the global movie viewing public will provide the best possible argument for open and transparent market access.

Sincerely,

Madeleine K. Albright

Staff NTS study

MPA
MOTION PICTURE ASSOCIATION
Audiovisual Entertainment
For Global Audiences

JACK VALENTI
CHAIRMAN
AND
CHIEF EXECUTIVE OFFICER

May 5, 1998

1600 EYE STREET, NW
WASHINGTON, DC 20006
TELEPHONE: 202/293-1966
TELECOPIER: 202/452-9823

Dear Madeleine

My visit to China was another journey wherein my patience and stamina were being tested. I was there for four days, departing on April 30, indeed the very day I saw you fleetingly at breakfast at the hotel.

What is now essential, indispensable, is for the President to bring to the agenda the plight of the movie industry in China. I told the Chinese I would report to the President what I learned on this visit. So if the President does NOT bring up our issues, it will tell the Chinese, all too starkly, that my protestations have made no impression on President Clinton, that at the highest levels of the U.S. government our lack of market access to China is a matter of small import.

I am attaching a brief commentary which I sent to the movie studio chieftains, as well as a one-pager which I left with the Chinese. It sets forth in capsule fashion what we hope to achieve in rapport with China.

So I pray you will convey to the White House how necessary it is for President Clinton to lift this issue to center stage when he talks to President Jiang Zemin. We are not asking for a huge transformation, but only the beginnings of the opening of the Chinese marketplace. I need your help.

With great affection

Jack

The Honorable Madeleine Albright
Secretary of State
2201 C Street, N.W.
Washington, DC 20520