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TO: PRESIDENT

FROM: LAKE

DOC DATE: 24 MAY 93
SOURCE REF:

KEYWORDS: CHINA P R

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PERSONS:

SUBJECT: CHINA MFN

ACTION: NOTED BY PRES

DUE DATE: 27 MAY 93 STATUS: C

STAFF OFFICER: LAKE

LOGREF:

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CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

KRISTOFF
NSC CHRON
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DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By KDE NARA, Date 10/11/16

2014-1031-F

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

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DOC 1 OF 1

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RECORD ID: 9303736

ACTION DATA SUMMARY REPORT

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 PRESIDENT
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Z 93052420 FOR INFORMATION
X 93052715 NOTED BY PRES

DISPATCH DATA SUMMARY REPORT

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VICE PRESIDENT
WH CHIEF OF STAFF

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**National Security Council
The White House**

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Staff Director	_____	_____	_____
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APNSA	<u>1</u>	_____	_____
Situation Room	_____	_____	_____
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NSC Secretariat	_____	_____	_____
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A = Action	I = Information	D = Dispatch	R = Retain	N = No Further Action
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cc: VP McLarty Other _____

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COMMENTS:

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3736
THE PRESIDENT HAS SEEN
5-25-94

THE WHITE HOUSE

WASHINGTON

May 24, 1993

93 MAY 24 P8:43

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: China MFN

DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By KDE NARA, Date 10/11/16
2014-1037-F

As we discussed this morning, Win Lord and Wendy Sherman (Assistant Secretary of State for Legislative Affairs) met early this afternoon with Senator Mitchell and Congresswoman Pelosi to consult on the proposed executive order (Tab 1).

Mitchell and Pelosi agree with the proposition of executive conditions as opposed to legislative ones. They also accept the idea, reflected in the executive order, of breaking-out trade and non-proliferation, which would be dealt with through other statutory and administrative remedies, and making China MFN conditional only on human rights progress.

Both Mitchell and Pelosi, however, do have problems with the proposed executive order as currently drafted. In addition to some relatively insignificant wording changes, they focused on two concerns:

(1) Jackson/Vanik language on prospective effects. As noted in the earlier memorandum, the proposed executive order asks the Secretary of State to make a recommendation to you next year based upon whether China has made "overall, significant progress" on seven human rights conditions. In essence, this is a look backward, from the perspective of June 1994, on the preceding year.

In addition, we also included language at the end of section 1, which is in current Jackson/Vanik legislation, asking the Secretary also to consider "whether an extension of most favored nation trading status will substantially promote the objectives of this order." This would enable you also to evaluate the future effect on human rights of revocation of MFN, as well as past behavior.

Mitchell and especially Pelosi strongly feel that this provision substantially weakens, if not vitiates, the conditionality of MFN, since it leaves you with substantial discretion to continue MFN even if China has not met the conditions. Mitchell believes that it also significantly undermines the clarity of the decision and would be seen as a retreat from your campaign positions.

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AND WRITING

cc: Vice President
Chief of Staff

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The other side of the argument is that if China has not made significant progress on these conditions over the next year, without some "wiggle room" you will be in the position of being compelled to revoke MFN even if, in your judgement, such a revocation would endanger human rights progress. In response to this point, Mitchell and Pelosi suggest that, in extreme circumstances, you could consult with Congress and revoke the executive order.

Mitchell and Pelosi are important allies for proceeding by executive order. They have led the effort to condition MFN in the Senate and House, respectively. There also are strong voices within the party against conditionality for China MFN (e.g. Hamilton, Rostenkowski, Matsui, Baucus); they could be used as a counterweight if you choose to continue negotiating with Pelosi and Mitchell; they probably would not strenuously oppose you if you accept Mitchell and Pelosi's position.

In short, if you agree to delete the Jackson/Vanik "prospective" language we should be able to gain Mitchell and Pelosi's non-grudging support; you will be most consistent with the tone of your campaign statements; and you will send the strongest message to China. On the other hand, you will greatly constrain your options for next year. If the aging Chinese leadership, for whatever reason, chooses not to cooperate, it would be extremely difficult not to revoke MFN. This act would have enormous strategic and economic consequences, substantially cutting off trade with a country that is expected to be the second largest economy in the world by the end of the decade.

(2) "Overall, significant progress." Mitchell and Pelosi want to make five of the seven human rights conditions "must do" requirements, i.e., the Secretary could recommend continuation of MFN only if he found that China had met each of these five conditions. This obviously raises the bar considerably higher in terms of next year's determination. Win and Wendy believe that if we drop the Jackson/Vanik provision described above, we should be able to persuade Mitchell and Pelosi to narrow the "must do" list to only two: (1) ensuring freedom to emigrate and travel abroad (already a condition under Jackson/Vanik) and (2) complying with the terms of the 1992 agreement on prison labor. If the "must do" list is confined to these two conditions, it probably does not present too much of a problem.

Your guidance on this tomorrow will enable Win to complete consultations, with a view toward an announcement before Congress recesses.

Attachment

Tab I Proposed Executive Order

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DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By KDE NARA, Date 10/11/16
2014-1037-F

DESIGNATION OF CONDITIONS FOR RENEWAL OF
MOST-FAVORED-NATION STATUS FOR THE
PEOPLE'S REPUBLIC OF CHINA IN 1994

WHEREAS, the Congress and the American people have expressed deep concern about the appropriateness of unconditional most-favored-nation trading status for the People's Republic of China;

WHEREAS, I share the concerns of the Congress and the American people regarding this important issue, particularly with respect to China's record on human rights, non-proliferation, and trade;

WHEREAS, I have carefully weighed the advisability of conditioning China's most-favored-nation status as a means of achieving progress in these areas;

WHEREAS, I have concluded that the public interest would be served by a continuation of the waiver of the application of sections 402 (a) and (b) of the Trade Act of 1974 (the Act) on China's most-favored-nation status for an additional twelve months with renewal thereafter subject to the conditions below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and laws of the United States of America, I hereby order as follows:

Section 1. I direct that the Secretary of State (hereinafter the "Secretary") shall make a recommendation to me next year whether or not to extend China's most-favored-nation status for the twelve-month period beginning June 3, 1994. In making this recommendation the Secretary shall determine whether China has made overall, significant progress with respect to the following areas:

- Respecting fundamental human rights, as recognized in the Universal Declaration of Human Rights.
- Ensuring freedom to emigrate and travel abroad.
- Releasing Chinese citizens imprisoned or detained for the non-violent expression of their political beliefs, including Democracy Wall and Tiananmen activists.
- Ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian organizations.
- Protecting Tibet's distinctive religious and cultural heritage.
- Permitting international radio and television broadcasts into China.
- Complying with the terms of China's 1992 bilateral agreement with the U.S. on prison labor.

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In making his recommendation, the Secretary shall also consider whether an extension of most-favored-nation trading status will substantially promote the objectives of this order.

Section 2. The Secretary shall submit his recommendation to me before June 3, 1994, whereupon, after consultation with the Congress, I shall make the determination under section 402 (d) of the Trade Act of 1974.

Section 3. I hereby direct the Secretary, and other appropriate officials of the U.S. government to pursue resolutely all legislative and executive actions to assure that China abides by the Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and its other non-proliferation commitments, as well as fair and non-discriminatory trade practices toward American business.

Section 4. This Order is not intended to create any right or benefit, substantive or procedural, enforceable by any person or entity against the United States, its agencies, officers, or employees.

WILLIAM J. CLINTON

THE WHITE HOUSE

_____, 1993

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