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KEYWORDS: CHINA P R

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SUBJECT: CHINA MFN RPT TO CONGRESS

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DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By YDE NARA, Date 01/11/16

2014-1037-F

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White House Guidelines,
September 11, 2006

By KDE NARA, Date 10/11/16
2014-1087-F

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United States Department of State

Washington, D.C. 20520

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May 25, 1993

MEMORANDUM FOR ANTHONY LAKE
THE WHITE HOUSE

SUBJECT: China MFN -- Report to Congress

Attached is a revised version of the President's Report to Congress concerning his decision on renewal of China's MFN status. The report updates the draft transmitted to you on May 20 to reflect recent developments. There have been no changes in the Transmittal Letter and Presidential Determination, which were also transmitted on May 20 and are attached here for your reference.

for Marc Grossman
Executive Secretary

Attachments:

- Tab 1. Report to Congress
- Tab 2. Transmittal Letter
- Tab 3. Presidential Determination

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DECLASSIFIED E.O. 13526
Department of State Guidelines,
September 11, 2006

By KDE NARA, Date 01/11/14

2014-1037-F

REPORT TO CONGRESS CONCERNING EXTENSION OF WAIVER
AUTHORITY FOR THE PEOPLE'S REPUBLIC OF CHINA

Pursuant to subsection 402(d)(1) of the Trade Act of 1974 (hereinafter "the Act"), having determined that further extension of the waiver authority granted by subsection 402(c) of the Act for the twelve-month period beginning June 3, 1993 will substantially promote the objectives of section 402, I have today determined that continuation of the waiver currently applicable to China will also substantially promote the objectives of section 402 of the Act.

Freedom of Emigration Determination

In FY 1992, 26,711 U.S. immigrant visas were issued in China. The U.S. numerical limitation for immigrants from China was fully met. The principal restraint on increased emigration continues to be the capacity and willingness of other nations to absorb Chinese immigrants, not Chinese policy. After considering all the relevant information, I have concluded that continuing the MFN waiver will preserve the gains already achieved on freedom of emigration and encourage further progress. There, thus, continues to be progress in freedom of emigration from China; we will continue to urge more progress.

Chinese Foreign Travel Policies

In FY 1992, 75,758 U.S. visas were issued worldwide to tourists and business visitors from China, a 35 percent increase over FY 1991 and a 76 percent increase over FY 1988. Foreign travel by Chinese-government sponsored businessmen alone increased by 48 percent in FY 1992, reflecting Deng Xiaoping's policies of accelerating China's opening to the outside world.

In FY 1992, 18,908 student visas (including exchange students) were issued, a decline from FY 1991 of 14 percent but still 8 percent greater than FY 1988. The decline was probably the result in part of a recent new directive requiring Chinese college graduates educated at state expense to work for five years before applying for privately-funded overseas study. A drop in funding from recession-strapped U.S. schools and relatives may also have played a role.

Chinese students continue to return from overseas for visits without any apparent problem. With the exception of student activist Shen Tong, we are not aware of any case in which Chinese living in the U.S. who returned to China for

visits after June 1989 were prevented from leaving again. Shen was detained in September 1992 and then expelled from China two months later for trying to establish a Beijing chapter of his Fund for Chinese Democracy.

Human Rights Issues

As detailed in the Department's annual human rights report, China's human rights practices remain repressive and fall far short of internationally-accepted norms. Freedoms of speech, assembly, association, and religion are sharply restricted.

China understands that the Clinton Administration has made human rights a cornerstone of our foreign policy. We have already repeatedly raised our concerns with the Chinese authorities and we intend to press at every opportunity for observance of internationally accepted standards of human rights practice.

We have made numerous requests for information on specific human rights cases. China has provided answers on some of these cases but further and more complete responses are necessary. The Chinese recently released, prior to completion of their sentences, several prominent dissidents whom we had identified on lists provided to them. These included not only Tiananmen-era demonstrators but also Democracy Wall (circa 1979) activists. We hope this is the first step toward a broad and general amnesty for all prisoners of conscience.

The Chinese promised then Secretary Baker in 1991 that all Chinese citizens, regardless of their political views, have the right to travel abroad. The only exceptions are citizens who are imprisoned, have criminal proceedings pending against them, or have received court notices concerning civil cases. A number of prominent dissidents, despite long delays, have been able to leave China. Some others have not. Those who have been able to obtain exit permits in the past year include labor leader Han Dongfang, writers Wang Ruowang and Bai Hua, scientist Wen Yuankai, journalists Wang Ruoshui, Zhang Weiguo, and Zhu Xingqing, and scholar Liu Qing. Others, like Hou Xiaotian, Yu Haocheng, and Li Honglin, continue to face difficulties in obtaining exit permission, although the Chinese have informed us Hou Xiaotian will soon receive an exit visa. We continue to raise these and other cases with the Chinese.

Our goal is the release of all those held solely for the peaceful expression of their political and religious views. In November 1991, the Chinese confirmed to Secretary Baker the release of 133 prisoners on a list presented them earlier in June of that year. Since then, the Chinese have released additional political prisoners, including Han Dongfang, Wang Youcai, Luo Haixing, Xiong Yan, Yang Wei, Wang Zhixin, Zhang

Weiguo, Wang Dan, Wang Xizhe, Gao Shan, Bao Zunxin, and a number of Catholic clergy and lesser known activists. The Chinese government has recently informed us that Democracy Wall activist Xu Wenli will shortly be released. We continue to press for a general amnesty and for permission for international humanitarian organizations to have access to Chinese prisons. We have also pressed for improvement in the conditions of those in Chinese prisons.

In November 1991 China published a "white paper" on human rights, publicly acknowledging for the first time that its domestic human rights policies were a legitimate topic for international discussion. China has hosted human rights delegations from France, Australia, the U.K., and Germany. China sent several delegations to the U.S. and Europe, as well as Southeast Asia, to study foreign human rights practices. The "white paper" maintained that basic human rights are observed in China and argued that a country's human rights record should be viewed in light of its own history and culture. We reject this limited definition of human rights but believe it is a step forward that China is willing to debate human rights issues with its international critics.

The U.S. continually raises with the Chinese government the need for protection of Tibet's distinctive religion and culture. We are concerned about China's heavy-handed suppression of political demonstrations in the Tibetan Autonomous Region. Demonstrations continue to result in instances of brutal beatings and long detentions. China has admitted some foreign observers to Tibet and to the main Lhasa prison. Diplomatic reports state that the Chinese government is providing funds for rebuilding monasteries and that monks are now provided more leeway in their religious practices. In recent years, an increasing number of non-Tibetan (Han) Chinese have moved to the Tibetan Autonomous Region in search of economic opportunity. We will continue to monitor closely reports that the PRC is encouraging involuntary emigration by non-Tibetan Chinese to areas traditionally settled by Tibetans. So far, we have found no evidence of a Chinese government policy to this effect. This is, however, an area of considerable concern given the relatively small Tibetan population. We join many others in urging the Chinese government to establish conditions under which the unique Tibetan culture and religion will be protected.

Non-Proliferation Issues

China's support for global nonproliferation initiatives has increased substantially since the beginning of 1992. In March 1992, China acceded to the Nuclear Non-Proliferation Treaty (NPT) and adhered to the Missile Technology Control Regime (MTCR) guidelines and parameters. In January 1993, Beijing

became an original signatory to the Chemical Weapons Convention (CWC). China now is a party to all of the leading nonproliferation agreements. These commitments have influenced Chinese behavior: Beijing has refrained from selling certain sensitive items because of proliferation concerns, and nonproliferation as an issue appears to receive more senior consideration in Chinese policy-making circles.

At the same time, certain sensitive Chinese exports raise questions about PRC compliance with these commitments. At present, the greatest concern involves reports that China in November 1992 transferred MTCR-class M-11 missiles or related equipment to Pakistan. Such a transfer would violate China's MTCR commitment and trigger powerful sanctions under U.S. missile proliferation law. There also are reports that China is exercising inadequate control over sensitive nuclear, chemical, and missile technology exports to countries of proliferation concern. Even if these sales do not violate PRC obligations, they raise questions about China's appreciation of the importance of preventing the proliferation of weapons of mass destruction and their ballistic missile delivery systems.

We are also concerned that China has withdrawn from the Middle East arms control (ACME) talks. The U.S. holds that, as a permanent member of the UN Security Council, China has a special responsibility to continue in these talks.

Seeking full Chinese compliance with multilateral obligations and support for international nonproliferation goals is a top Administration priority. The U.S. is prepared to employ the resources under U.S. law and executive determinations -- including the imposition of sanctions -- if the PRC engages in transfers that violate its commitments.

Trade Issues, Including Prison Labor

Reciprocal granting of MFN tariff status was a key element cementing the normalization of Sino-U.S. relations by providing a framework for major expansion of our economic and trade relations. In 1992, bilateral trade topped \$33 billion, with Chinese exports of \$25.8 billion and U.S. exports of \$7.5 billion. China was our fastest growing export market in Asia in 1992 as U.S. exports to China rose by 19 percent. In turn, the United States remains China's largest export market, absorbing about 30 percent of China's total exports.

China maintains multiple, overlapping barriers to imports in an effort to protect non-competitive, state-owned industries. China also has recognized that its development goals cannot be achieved without gradually reducing protection and opening its domestic market to the stimulus for change brought by import competition.

Our market access agreement, signed October 10, 1992, if implemented by the PRC, will increase opportunities for U.S. exports by phasing-out 70 to 80 percent of China's non-tariff trade barriers over the next four years. The regular consultation process required by this agreement allows us to monitor implementation and take appropriate action should China violate its commitments. Progress has been made in opening the market to U.S. products but we still need to resolve several issues regarding implementation.

Recently, the Chinese have indicated an interest in doing more business with U.S. companies. As U.S. corporate executives are arriving in droves to explore new commercial opportunities in Beijing, at least eight Chinese delegations have been or will soon be dispatched to the U.S. with orders to "buy American". These missions have the potential to generate billions of dollars of exports of aircraft, autos, satellites, oil drilling equipment, aviation electronics, wheat, fertilizer, and other U.S. products.

Still, the large and growing U.S.-China trade deficit is unacceptable. The over \$40 billion trade surplus China has accumulated with the United States since June 1989 has been very destructive to American industries, particularly the textile and footwear sectors, resulting in the loss of American jobs. It is therefore essential that the PRC implement the market access agreement we have negotiated, which would produce a much greater equilibrium and fairness in Sino-American trade. Regarding the 1992 IPR agreement, the Chinese government has carried out the great bulk of its commitments, although there are some problems that have arisen in implementation.

Prison Labor

China officially banned the export of products produced by prison labor in October 1991. In August 1992, we signed a Memorandum of Understanding under which the Chinese agreed to investigate cases we presented and to allow U.S. officials access to suspect facilities in China.

The U.S. has presented the Chinese government information on 16 cases of alleged use of prison labor. The Chinese have reported back on all 16 cases, admitting that four of the facilities involved have used prison labor for export production in the past. The Chinese maintain that the factories either have ceased exporting or have removed prisoners from the production line. U.S. officials have visited three prisons and have standing requests to visit five others, including a revisit to one facility.

In the past two years, U.S. Customs has aggressively

expanded its enforcement of U.S. laws banning the import of prison labor products. Customs has issued twenty detention orders banning suspected Chinese goods from entering the U.S., achieved one court conviction of a U.S. company for importing prison made machine tools and detained suspected equipment in another case. We are actively looking into recent allegations of violations of the prison labor MOU. Talks with China will continue on the full enforcement of the provisions of the prison labor MOU.

Conditions for Renewal in 1994

China has made progress in recent years in the areas of human rights, nonproliferation, and trade. Nevertheless, I believe more progress is necessary and possible in each of these three areas. In considering the optimal method of encouraging further progress on these issues, I have decided to issue the attached Executive Order which outlines the areas in the field of human rights with respect to which China, in order to receive positive consideration for a renewal of MFN in 1994, will have to make overall, significant progress in the next twelve months.

In considering extension of MFN, we will take into account whether there has been progress by China with respect to the following:

- Respecting the fundamental human rights recognized in the Universal Declaration of Human Rights.
- Complying with China's commitment to allow its citizens, regardless of their political views, freedom to emigrate and travel abroad (excepting those who are imprisoned, have criminal proceedings pending against them, or have received court notices concerning civil cases).
- Providing an acceptable accounting for and release of Chinese citizens imprisoned or detained for the peaceful expression of their political views, including Democracy Wall and Tiananmen activists.
- Taking effective steps to ensure that forced abortion and sterilization are not used to implement China's family planning policies.
- Ceasing religious persecution, particularly by releasing leaders and members of religious groups detained or imprisoned for expression of their religious beliefs.
- Taking effective actions to ensure that prisoners are not being mistreated and are receiving necessary medical treatment, such as by granting access to Chinese prisons by

international humanitarian organizations.

- Seeking to resume dialogue with the Dalai Lama or his representatives, and taking measures to protect Tibet's distinctive religious and cultural heritage.
- Ceasing the jamming of Voice of America broadcasts.

The Administration will also use tools under existing legislation and executive determinations to encourage further progress in human rights.

In addition, I wish to make clear my continuing and strong determination to pursue objectives in the areas of nonproliferation and trade, utilizing other instruments available, including appropriate legislation and executive determinations. For example, various provisions of U.S. law contain strong measures against irresponsible proliferation of weapons of mass destruction and nuclear weapons technology. These include missile proliferation sanctions under the National Defense Authorization Act. Using these tools as necessary, we will continue to urge China to implement its commitments to abide by international standards and agreements in the non-proliferation area.

In the area of trade, the Clinton Administration will continue to press for full and faithful implementation of bilateral agreements with China on market access, intellectual property rights, and prison labor. Section 301 of the 1974 Trade Act is a powerful instrument to ensure our interests are protected and advanced in the areas of market access and intellectual property rights. The Administration will also continue to implement vigorously the provisions of the Tariff Act of 1930 to prevent importation of goods made by forced labor.

Mr. Speaker/Mr. President:

Pursuant to subsection 402(d)(1) of the Trade Act of 1974, as amended, 19 U.S.C. 2432(d)(1) ("the Act"), I hereby submit the attached report concerning the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to the People's Republic of China. The report explains my reasons for having determined that continuation of the waiver currently in effect for the People's Republic of China will substantially promote the objectives of section 402. In addition, I am also transmitting herewith for your further information a copy of an Executive Order which enumerates the specific conditions which I have established with respect to a further extension of the waiver next year for the period beginning June 3, 1994.

William J. Clinton

The White House
Washington, 1993
Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Subsection 402(d)(1) of the
Trade Act of 1974, as amended -- Continuation of
Waiver Authority

Pursuant to the authority vested in me under the Trade Act of 1974 (Public Law 93-618), (88 Stat. 1978), (hereinafter "the Act"), I determine, pursuant to subsection 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by subsection 402(c) of the Act will substantially promote the objectives of section 402 of the Act. I further determine that the continuation of the waiver applicable to the People's Republic of China will substantially promote the objectives of section 402 of the Act.

This determination shall be published in the Federal Register.

William Clinton