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FROM: PRESIDENT

DOC DATE: 02 JUN 94
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CONGRESSIONAL
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PERSONS:

SUBJECT: PD 94-26 RE CONTINUATION OF WAIVER AUTHORITY APPLICABLE TO CHINA OF
JACKSON - VANIK AMENDMENT

ACTION: PRESIDENT SGD PD 94-26

DUE DATE: 31 MAY 94 STATUS: C

STAFF OFFICER: SUETTINGER

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ACTION DATA SUMMARY REPORT

RECORD ID: 9404246

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X 94060220 PRESIDENT SGD PD 94-26

DISPATCH DATA SUMMARY REPORT

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003 940602 GORE, A
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VICE PRESIDENT
WH CHIEF OF STAFF

GROSSMAN, M
WILLIAMS, A
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SUBJECT: PD 94-26 RE CONTINUATION OF WAIVER AUTHORITY APPLICABLE TO CHINA OF
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PAGE 01 OF 01 PAGES

**National Security Council
The White House**

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En Sec's Office has dispatched

THE WHITE HOUSE

WASHINGTON

June 2, 1994

Presidential Determination
No. 94-26

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Section 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, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter "the Act"), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 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.

You are authorized and directed to publish this determination in the Federal Register.

William S. Clinton

THE WHITE HOUSE

WASHINGTON

June 2, 1994

Dear Mr. Speaker:

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 affect for the People's Republic of China will substantially promote the objectives of section 402.

Sincerely,

William S. Clinton

The Honorable Thomas S. Foley
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

June 2, 1994

Dear 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 affect for the People's Republic of China will substantially promote the objectives of section 402.

Sincerely,

A handwritten signature in black ink, reading "William Clinton". The signature is written in a cursive, flowing style with a large initial 'W' and a long, sweeping underline.

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

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

Pursuant to section 402(d)(1) of the Trade Act Of 1974 (hereinafter "the Act"), having determined that further extension of the waiver authority granted by section 402(c) of the Act for the 12-month period beginning July 3, 1994, will substantially promote the objectives of section 402, I have determined that continuation of the waiver currently applicable to China will also substantially promote the objectives of section 402 of the Act. My determination is attached and is incorporated herein.

Freedom of Emigration Determination

In FY 1993, 25,602 U.S. immigrant visas were issued to Chinese nationals worldwide. Visas were made available to Chinese immigrants up to the numerical limitation under U.S. immigration law. The principal restraint on increased emigration continues to be the capacity and willingness of other nations to absorb Chinese immigrants and undocumented Chinese migrants. After considering all the relevant information, I have concluded that continuing the most-favored-nation (MFN) waiver will preserve the gains already achieved on freedom of emigration and encourage further progress. The Chinese have resolved all pending emigration ("blocked passport") cases the United States has pressed upon them this year. Thus, there was significant progress in this area. The United States is prepared to present U.S. views officially to the Chinese should the United States Government become aware of unreasonable restraints on the internationally recognized right to leave one's country.

Chinese Foreign Travel Policies

In FY 1993, 131,261 U.S. visas were issued worldwide to tourists and business visitors from China, an approximate 90 percent increase over FY 1992. The number of nonimmigrant business visas issued to Chinese nationals increased by more than 100 percent in FY 1993 (to 107,033), reflecting official policies of accelerating China's opening to the outside world. In fact, the Chinese government has sponsored a large number of Chinese business delegations to the United States. An April 1993 U.S.-China consular agreement provides for a (6-month) multiple entry visa for business visitors.

In FY 1993, 19,973 student visas (including exchange student visas) were issued, up from the FY 1992 total of 18,908.

Chinese students continue to return from overseas for visits without any apparent problem. With the exception of Shen Tong, whose case I noted in last year's report, the United States Government is not aware of any case in which Chinese living in the United States who returned to China for visits after June 1989 were prevented from leaving again.

Presidential Executive Order No. 12850 (May 28, 1993)

On May 28, 1993, I issued Executive Order No. 12850, "Conditions for Renewal of Most Favored Nation Status for the People's Republic of China in 1994." That order mandated that the Secretary of State not recommend MFN extension unless he determined (i) that such extension will substantially promote the freedom of emigration objectives of Jackson-Vanik; and (ii) that China "is complying with the 1992 bilateral agreement . . . concerning prison labor." It further specified that the Secretary of State should, in making his recommendation, "also determine whether China has made overall, significant progress with respect to" five areas of human rights concerns:

- taking steps to begin adhering to the Universal Declaration of Human Rights;
- releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the non-violent expression of their political and religious beliefs;
- ensuring humane treatment of prisoners;
- protecting Tibet's distinctive religious and cultural heritage;
- permitting international radio and television broadcasts into China.

The Executive order also provided that the President, and other appropriate U.S. officials, "shall pursue resolutely all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with U.S. businesses, and adheres to the Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime (MTCR) guidelines and parameters, and other nonproliferation commitments."

In my MFN waiver extension Report to Congress (also dated May 28, 1993), I also identified a number of specific types of possible Chinese actions that "we will take into account" in considering MFN waiver extension this year.

This report will address pertinent developments in each of those areas.

Executive Order Section 1(a): Mandatory Conditions

o Freedom of Emigration

Keeping a promise made by Foreign Minister Qian Qichen to Secretary of State Christopher, the Chinese have resolved all pending emigration ("blocked passport") cases the United States Government pressed upon them this year. These individuals include close relatives of prominent dissidents, some of whom held government jobs and had access to politically sensitive information. They also include Yu Haocheng, whose case the Chinese claimed would be especially difficult to resolve because of issues arising from Professor Yu's access to classified materials through his past affiliation with a research institute under the Ministry of Public Security.

The principal barrier to departure of ordinary Chinese is inability to obtain a visa. Record numbers of Chinese businessmen, students, and tourists travelled to the United States last year according to our visa statistics. In FY 1993, 131,261 U.S. visas were issued worldwide to tourists and business visitors from China, an approximate 90 percent increase over FY 1992. In FY 1993, 19,973 student visas (including exchange student visas) were issued, up from the FY 1992 total of 18,908.

Chinese students continue to return from overseas for visits without any apparent problem. The United States Government is not aware of any case over the past year in which Chinese students living in the United States who returned to China for visits were prevented from leaving again.

In sum, the Chinese met the United States' specific freedom of emigration goals. It is therefore my judgment that the Jackson-Vanik criteria and the Executive order's requirement in this area have been met, and that further cooperation of freedom of emigration issues would be promoted by extension of MFN.

o Prison Labor Agreement

Section 307 of the (Smoot-Hawley) Tariff Act of 1930 prohibits the importation into the United States of "all goods, wares, articles and merchandise mined, produced or manufactured wholly or in part in any foreign country

by convict labor or/and forced labor or/and indentured labor under penal conditions." Regulations issued by the U.S. Customs Service pursuant to this section establish procedures for detaining, investigating, and excluding goods believed to violate its provisions. In addition, the Federal Criminal Code provides that anyone who "transports in interstate commerce or from any foreign country into the United States any goods, wares or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners," shall be subject to fine, imprisonment, or both.

On August 7, 1992, the United States and China signed the "Memorandum of Understanding Between the United States of America and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products" ("the MOU"). The MOU makes no reference to specific U.S. laws respecting prison labor, but is predicated expressly on the need to reach mutual "understanding on the question of prohibiting import and export trade between the two countries that violates the relevant laws and regulations of either ... concerning products produced by prison or penal labor."

The MOU establishes certain obligations for each party to cooperate with the other upon request in investigating and resolving suspected violations. It does not obligate either party to ensure that there is no violation of the other's laws. Its specific provisions: (1) require that the parties "promptly" investigate and "immediately" report in response to requests made by the other party "based upon specific information;" (2) obligate responsible officials of the parties to meet and exchange relevant information regarding compliance, etc., upon request; (3) require the parties, upon request, to exchange information regarding suspected violations; and (4) obligate the parties, upon request, to "promptly arrange and facilitate" visits by responsible officials of the other party to help resolve specific cases.

On March 14, 1994, during Secretary Christopher's trip to Beijing, the Chinese signed a "Statement of Cooperation on the Implementation of the Memorandum of Understanding Between the United States of America and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products" ("Joint Statement") committing them to prompt compliance with the MOU and authorizing visits to all facilities, including labor camps. The Joint Statement also requires the Chinese to provide written reports of investigations within 60 days following presentation of

evidence by the United States and to arrange facility visits within 60 days of receiving written requests by the United States.

Prior to this March, technical compliance with the MOU had been slow and problematic, owing to unresolved questions over the precise meaning of language and of respective obligations. Signature of the Joint Statement satisfactorily clarified these issues. Since the signing of the Joint Statement, compliance has proceeded well. Two additional prison visits have been scheduled. The United States Government has begun to receive responses to information requests in a more timely and detailed fashion. This compliance is sufficient to permit a judgment that the Executive order's criteria have been met.

Nevertheless, the United States Government is reviewing allegations that Chinese prison labor exports are continuing to come into the United States, such as those made May 18 by former political prisoner Harry Wu. Although the Chinese government has formally declared these allegations to be unfounded, the U.S. Customs Service is examining these and all other credible allegations. U.S. Customs will take appropriate enforcement actions should such be warranted.

In sum, I am prepared to certify that China is complying with the terms of the MOU, as called for by Executive Order No. 12850. I further judge that extension of China's MFN status will serve to ensure that the improved compliance effort we have witnessed since last March continues.

Executive Order Section 1(b): Overall, Significant Progress Conditions

o Universal Declaration of Human Rights

On April 6, Foreign Minister Qian responded to an earlier formal request by Secretary Christopher by making a public statement affirming China's adherence to the Universal Declaration of Human Rights (UDHR).

During the course of the past year the Chinese government has taken a number of actions inconsistent with the Universal Declaration, however. Harassment and detention of political dissidents and the crackdown on independent churches in some areas are examples of the abridgement of

freedoms of speech, association, and religion. The Chinese government's refusal to allow labor activist Han Dongfang to return to China, and its arbitrary cancellation of his passport, rendered him a stateless person in violation of the UDHR's provision on the right to return.

o Prisoner Releases/Accounting

The Chinese maintain rigorous secrecy regarding many if not most arrests and releases in a vast prison system. United States Government information on arrests and releases is therefore incomplete and often unconfirmed. According to almost all observers, however, the Chinese have detained far more political or religious dissidents than they have released over the past 12 months. Prominent dissidents in custody as of May 28, 1993, and free as of May 16, 1994, include Wang Juntao and Chen Ziming (after serving 5 years of 13 year sentences) and Tibetans Gendun Rinchen (detained in Lhasa in early May 1993 and released January 1994) and Lobsang Yonten (also released in January 1994). Prominent dissidents detained since May 28, 1993, and still in custody as of May 16 include Wei Jingsheng (released after 14 years in prison in September 1993 and detained again in April), Fu Shenqi (June 1993), Zhang Xianliang (June 1993), Qin Yongmin (November 1993), Li Guiren (February), Zhou Guoqiang (March), and Yuan Hongbing (March). Dozens of individuals arrested and sentenced for activities during the Tiananmen era (1989) such as Liu Gang, Ren Wandong, and Bao Tong remain in prison.

In March, the Chinese provided limited information on the status of some of the 235 prisoners from a list presented by Assistant Secretary of State John Shattuck last October. In May, similar information was provided for 107 Tibetan prisoners from a list presented in March. The quality of this information is similar to that provided to then Secretary of State James Baker in response to a similar request in 1991. The highly general Chinese reply, while providing some information, did not address the United States Government's request for dates of arrest, charges, location of detention, convictions, and length of sentence imposed.

o Humane Treatment and Access to Prisoners

The Chinese have held two rounds of formal talks with the International Committee of the Red Cross (ICRC), most recently in April, concerning ICRC access to prisoners in

Chinese prisons and labor camps. These talks are expected to continue but no visits have occurred or been scheduled. The ICRC has its own standards for prison visits, applied consistently worldwide, which are in conflict with Chinese law proscribing any contact with prisoners by foreigners unless they are relatives or consular officers fulfilling official responsibilities. The United States would welcome a political decision by the Chinese government to overcome these legal obstacles and reach an agreement on access. There continue to be credible reports of torture and other abuse of prisoners. The Chinese acknowledge that some such abuses occur, adding that this is contrary to national law and policy and pointing to instances of investigation and punishment of offenders.

The Chinese have permitted only extremely limited and tightly controlled access for foreigners to Chinese prisons. For example, Assistant Secretary Shattuck visited a prison in Lhasa in October 1993 and was allowed to talk briefly under highly controlled conditions with a Tibetan inmate detained on political charges. Under such conditions it is impossible to provide an accurate assessment of the treatment of prisoners.

o Tibet

The Chinese government acknowledged publicly in April that talks have been held in the past with representatives of the Dalai Lama (most recently during the summer of 1993). The Chinese have made a renewal of these talks conditional upon the Dalai Lama renouncing Tibetan independence claims and ceasing "his activities to split China." The Chinese say the lines of communication with the Dalai Lama remain open, but there seems little chance, at this point, of any movement on holding talks in the near future. The Dalai Lama has met the only Chinese precondition stated in the past for conducting talks with him or his representatives -- as recently as April 27 in New York he has made it clear he is willing to talk to the Chinese without independence being on the agenda. Beijing, however, has not responded positively.

The Chinese continue to subsidize the Tibetan economy, rebuild monasteries destroyed during the Cultural Revolution, and expand instruction in the Tibetan language in schools. However, the unchecked influx of migrants from other parts of China into Tibet's cities spurred by economic reform policies and loosening of internal travel restrictions has the potential to undermine traditional

Tibetan society and culture. Tight government controls on the number and the activities of monks and monasteries continue, as does physical abuse of imprisoned Tibetans.

o International Radio and Television Access: Voice of America (VOA)

Following Secretary Christopher's March talks in Beijing, the Chinese received technical information on continuing but intermittent and locality-specific jamming of VOA broadcasts. After reviewing the technical data, the Chinese held talks starting May 20 with a team of U.S. experts on this issue.

The Chinese contention that VOA broadcasts -- in English, Mandarin and Tibetan -- can be heard throughout China is accurate. There is no interference with English-language broadcasts, while the continued intermittent jamming of Mandarin and Chinese language broadcasts seems to be keyed to particularly sensitive subjects, moments, and areas.

Generally, foreign radio broadcasts are heard without difficulty; foreign newspapers and magazines are widely available in major urban areas; telephones, faxes, and even computer modems are increasingly in evidence; satellite dishes dot the urban landscape, and increasingly the rural as well, despite new regulations -- thus far unenforced -- proscribing unlicensed receivers; and Hong Kong and Taiwan Chinese language TV broadcasts are received via satellite throughout China.

Other Human Rights Areas Specified in May 28, 1993, Report to Congress

In addition, there were developments in other areas not contained in Executive Order No. 12850, but specified in the accompanying Report to Congress.

POW/MIA Matters: Over the past year, Chinese cooperation with the United States on POW/MIA matters has been very good. Responding positively to U.S. requests, China allowed U.S. military POW/MIA expert teams to conduct surveys at four Vietnam-era crash sites in southern China and to repatriate the remains of U.S. servicemen from a World War II crash site in Tibet. The four Vietnam-era cases involve eight airmen, all of whom are listed as "killed in action, body not recovered." These eight individuals, whose aircraft were shot down by Chinese forces when they strayed over Chinese territory, represent the only unresolved cases of U.S. servicemen missing in action in Chinese territory from the

Vietnam War. The Chinese went to great efforts to recover remains and evidence discovered by local hunters at a remote, mountainous site in Tibet. The World War II-era wreckage had only recently been uncovered because of melting glacial ice.

Family Planning: The United States Government conducted a dialogue with the Chinese that shed light on family planning policy and answered concerns that had arisen internationally about the intent and implementation of a new Chinese eugenics law. Credible reports persisted of serious abuses by provincial or local Chinese government officials in implementing central policy restricting family size, but senior central authorities maintained that national policy emphasizes education and forbids physical coercion (whether by abortion or sterilization). When the United States Government brought to Chinese attention specific concerns based on reports of proposed eugenics legislation, Foreign Minister Qian expressed appreciation for our role in ensuring that misunderstanding of China's policy did not occur. He explained that the law had been modelled on foreign legislation to provide for the health and welfare of mother and infant, but, following the adverse international reaction, had been sent back to committee for study and redrafting to assure that the final language left no room for doubt. The United States Government will continue to monitor this issue.

Fair, Nondiscriminatory Trade Practices

Section 3 of Executive Order No. 12850 directed that appropriate officials of the United States pursue resolutely all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with U.S. businesses.

China is the most important emerging market in the world for American exports. American exports to the world in 1993 grew at 4 percent, those for Asia at 6 percent, while American exports to China grew at 17 percent. American firms over the next 2 months will compete for, and hopefully win, over \$1 billion worth of industrial and infrastructure contracts in China. Market projections out to the turn of the century are conservatively estimated at around \$70 billion for Chinese infrastructure projects. The United States Government has an important stake in preserving and opening the Chinese market and is using a wide range of administrative and legislative tools to do so.

The United States Government's policy of high-level engagement with China has afforded us several opportunities to further American economic, commercial, and trade interests. The Joint Economic Commission, chaired by Treasury Secretary Bentsen during his visit to China in January, helped to strengthen Chinese resolve to unify their currency system and push for more reforms in the Chinese financial sector, which will benefit American banks and American business. Secretary Bentsen also furthered our goal of improving implementation of the Prison Labor Memorandum of Understanding. The Joint Commission on Commerce and Trade, chaired by Commerce Secretary Brown in April, strengthened commercial ties between American firms and their Chinese counterparts. It also established several working groups that will continue to bring to the attention of Chinese authorities the concerns of the American business community. The Joint Commission on Science and Technology, chaired by the President's science advisor, Dr. John Gibbons, in April gave another boost to the United States science and technology relationship with China. The meeting approved continued cooperation between various Chinese and American agencies in various technical fields that could have important implications for American research and development in many fields.

Although the United States Government is not reluctant to use legislatively mandated trade actions when necessary, it seeks to resolve trade differences through consultation, not confrontation, whenever possible. The United States Government is now in the early stages of discussions on trade in services with the Chinese. The Administration is examining possible market-opening measures China might take in the telecommunication, distribution, and insurance markets as well as discussing possible improvements in treatment of American businesses establishing offices in China.

The United States is devoting a great deal of effort to China's application to enter the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). The United States, along with most other trading nations, is anxious that China become a full member of the world trading community as soon as possible. The United States is working with China to be sure that China's entrance into GATT and the WTO will be on sound economic and commercial principles.

There are some issues where the United States has not been able to use consultation alone to protect American economic and trade interests. From the last half of 1993 until the present, the United States Government has been vigorously pursuing Chinese implementation of the October 10, 1992, Market Access Agreement. U.S. determination to use the retaliatory authority available under section 301 of the Trade Act was a factor in

obtaining Chinese compliance with the Market Access Agreement. At the end of December the United States did use its authority to set new bilateral textile quotas at significantly lower levels to put the Chinese on notice that continued textile quota evasion would not be tolerated. The United States subsequently signed an agreement that not only contained stiffer language on textile transshipment, but also, for the first time, brought silk garments under the agreement. During early 1994 negotiating teams continued talks on enforcement of the December 1992 agreement on protection of intellectual property rights (IPR). China could be named a priority foreign country under the special 301 provisions of the Trade Act if it does not, by early July, take significant actions to strengthen its IPR enforcement practices and halt the estimated \$800 million per year in IPR piracy losses to American firms.

Nonproliferation Issues

Section 3 of Executive Order No. 12850 also specified that appropriate officials of the United States pursue resolutely all legislative and executive actions to ensure that China adheres to the Nuclear Non-Proliferation Treaty, the MTCR guidelines and parameters, and other nonproliferation commitments. In keeping with this guidance, my Administration has aggressively engaged China on key nonproliferation issues and, where necessary, has imposed sanctions as required under U.S. law.

China has the technology to produce all types of weapons of mass destruction and the ballistic missiles to deliver them. China is also a major emerging commercial power that has had limited experience with modern export controls. China's full support for the global nonproliferation rules of the road is essential to the success of U.S. efforts to halt the spread of weapons of mass destruction (WMD) globally.

The United States has engaged China in a comprehensive dialogue on nonproliferation. Nonproliferation has figured prominently in every senior-level bilateral exchange. Secretary Christopher and I have raised it in our meetings with Chinese counterparts. Under Secretary of State for International Security Affairs Lynn E. Davis has co-chaired two comprehensive bilateral exchanges on nonproliferation. In part to ensure that the U.S. message reaches the People's Liberation Army (PLA), a central player in this area, the United States has initiated appropriate military-to-military contact with China. At the experts level, the United States has sent specialists on missile controls to China, and we have hosted a senior Chinese trade official responsible for export regulation.

There are hopeful signs that China is improving its behavior with respect to the export of sensitive technologies and the negotiation of regimes to control them. On nuclear weapons proliferation, China supports the conclusion by 1996 of a Comprehensive Test Ban Treaty (CTBT), and it is participating in the negotiation of the treaty. China is considering the U.S. proposal for a convention on the cut-off of fissile material production. Most importantly, Beijing has been a useful partner in seeking to convince North Korea to abandon its nuclear weapons program. China and the United States share a strong commitment to preventing the nuclearization of the Korean peninsula, and China's continuing support is pivotal.

With regard to chemical weapons, China has upgraded its export controls and is working toward ratification of the Chemical Weapons Convention, to which it became an original signatory last year. Demonstrating the importance of Chinese cooperation in halting chemical weapons proliferation, China in September joined Saudi Arabia, with U.S. technical assistance, in the inspection of a Chinese-flag freighter believed to be carrying chemical weapons-precursors to Iran. The thorough inspection of the ship's cargo revealed that there were no such chemicals aboard.

In the area of missile proliferation, it does not appear that China has engaged in further transfers of MTCR Annex items that would trigger new sanctions. With regard to regional nonproliferation, China has agreed to participate in a U.S. initiative to halt the proliferation of nuclear weapons and ballistic missiles in South Asia.

Despite these positive developments, the United States Government continues to have serious concerns about Chinese behavior in key areas. In the most important development, last August the United States imposed sanctions on China for its November 1992 transfer of M-11 missile-related equipment to Pakistan. This demonstrated my Administration's commitment to satisfy legal obligations in response to improper Chinese behavior. Beijing subsequently indicated that these sanctions had forced it to reconsider its commitment to the MTCR. As China has not notified the United States that it has abandoned the commitment, however, the United States continues to regard Beijing as fully bound by the terms of its 1992 agreement to adhere to the MTCR guidelines and parameters. Meanwhile, the United States has tabled a draft agreement under which China would upgrade its missile commitments sufficiently to permit us to lift the sanctions. The United States and China have held detailed exchanges on the draft and will continue these in the months ahead.

Chinese companies continue to sell materials and equipment with chemical weapons applications to countries of concern, particularly Iran. In the area of nuclear technology, the United States regrets China's willingness to sell nuclear reactors and related equipment to Iran and Pakistan, even when such safeguarded sales comply with international law. The United States has also opposed China's continued nuclear testing, which the Administration has urged Beijing to halt immediately. As for missiles, China continues to sell certain missile-related items to countries of proliferation concern, although the United States has not determined that these are destined for MTCR I systems or missiles intended to carry WMD.

My Administration will not flag in its efforts to secure full Chinese compliance with international nonproliferation standards. The United States will continue to urge Beijing to upgrade its commitments in this area and where necessary, my Administration will not hesitate to impose new sanctions.

THE WHITE HOUSE

WASHINGTON

June 2, 1994

Presidential Determination
No. 94-26

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Section 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, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter "the Act"), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 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.

You are authorized and directed to publish this determination in the Federal Register.

William S. Clinton

THE WHITE HOUSE

WASHINGTON

June 1, 1994

94 JUN 1 A8:33

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK *J*

FROM: ANTHONY LAKE *AK*
ROBERT RUBIN *smat*

SUBJECT: Report to Congress on China

Purpose

To forward the annual Report to the Congress on China due June 3, 1994.

Background

Every year since Tiananmen Square in 1989, the annual review of China's compliance with the Jackson-Vanik amendment to the Trade Act of 1974 has elicited a major outpouring of criticism of China's human rights policies.

Last year, you accompanied your waiver extension with Executive Order 12850, dated May 28, 1993, which conditioned the extension of Most-Favored-Nation trade status for China in 1994 on its meeting seven human rights-related conditions. Two of those conditions were mandatory: Jackson-Vanik emigration requirements, and compliance with the 1992 U.S.-China Memorandum of Understanding on prohibiting prison labor exports. On the other five criteria, "overall, significant progress" was required to qualify for MFN extension.

On May 26, the Secretary of State reported to you that China had satisfactorily met the two mandatory conditions, but had not achieved "overall, significant progress" on the other conditions. He nonetheless recommended, and you announced publicly on May 27, that MFN for China would be renewed regardless, and would not publicly be linked to human rights criteria again.

Your report is a summary of the Secretary of State's conclusions on the Executive Order conditions. It also reviews in detail China's policies on four other areas of interest to the Congress: Cooperation in POW/MIA issues, family planning policy, fair trade practices and nonproliferation matters.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you sign the letter to Congress transmitting the extension of waiver authority for the People's Republic of China.

Attachment

Tab A	Letter to President of the Senate
Tab B	Letter to Speaker of the House

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

May 31, 1994

ACTIONMEMORANDUM FOR ANTHONY LAKE
ROBERT RUBINTHROUGH: STANLEY O. ROTH *SRH*FROM: ROBERT L. SUETTINGER *SRF*

SUBJECT: Report to Congress on China

On May 26, the Secretary of State informed the President that he had determined that China was in full compliance with the freedom of emigration criteria set forth in Sections 402 (the Jackson-Vanik amendment) and 409 (concerning the freedom to emigrate to join a close relative in the U.S.) of Title IV of the Trade Act of 1974.

Also on May 26, the Secretary of State reported on implementation of the two mandatory and five other criteria of Executive Order 12850 (May 28, 1993), "Conditions for Renewal of Most Favored Nation Trade Status for the People's Republic of China." The Secretary reported that China had satisfactorily met the two mandatory criteria (Jackson-Vanik and implementation of the Memorandum of Understanding on preventing the export of prison labor products to the United States). He also reported that the Chinese had not achieved "overall, significant progress" in five specific human rights-related criteria in the Executive Order. On May 27, the President decided to extend MFN to China without further conditions.

In accordance with Section 402 of Title IV, the State Department has submitted a draft Presidential Report to Congress on continued Chinese compliance with the requirements of the Jackson-Vanik amendment. The draft report also reviews the Secretary's findings on Executive Order 12850 of May 28, 1993, concerning China's progress in specific human rights-related areas.

The report is due by June 3, 1994.

Concurrences by: Alan Kreczko, *AK* Jeremy Rosner, *JR* Robert Kyle, *RK*
Michael Punke, *MP* Eric Schwartz, *ES*

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I Memorandum for the President

Tab A Letter to Congress with Attached Report on China