

PROLIFERATION: CHINESE CASE STUDIES

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
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CONTENTS

Opening statements:	Page
Senator Cochran	1

WITNESSES

THURSDAY, APRIL 10, 1997

Robert J. Einhorn, Deputy Assistant Secretary of State for Nonproliferation, Bureau of Political-Military Affairs, Department of State	2
James R. Lilley, Director, Institute for Global Chinese Affairs, University of Maryland	23
Gary Milhollin, Professor, University of Wisconsin Law School, and Director, Wisconsin Law School, and Director, Wisconsin Project on Nuclear Arms Control	29

ALPHABETICAL LIST OF WITNESSES

Einhorn, Robert J.:	
Testimony	2
Prepared statement	5
Lilley, James R.:	
Testimony	23
Prepared statement	27
Milhollin, Gary:	
Testimony	29
Prepared statement	33

APPENDIX

Chinese Proliferation Cases and the U.S. Assessment and Responses	43
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PROLIFERATION: CHINESE CASE STUDIES

THURSDAY, APRIL 10, 1997

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:15 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Thad Cochran, Chairman of the Subcommittee, presiding.

Present: Senators Cochran, Stevens, Cleland, Levin, and Durbin.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. The Subcommittee will please come to order.

Today, we welcome you all to our hearing of this Subcommittee on International Security, Proliferation, and Federal Services. The topic of our hearing today is "Proliferation: Chinese Case Studies."

On November 14, 1994, President Clinton issued Executive Order 12938, entitled the Emergency Regarding Weapons of Mass Destruction, declaring, in part, that the proliferation of weapons of mass destruction and the means of delivering them constitutes "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and that he had, therefore, decided to "declare a national emergency to deal with that threat." The President reaffirmed this Executive Order on November 15, 1995, and again on November 11, 1996. It is deeply troubling to me that there has been no visibly effective action taken by this administration in response to this emergency.

At our last hearing, Dr. Keith Payne testified that the key lesson of the 1991 Gulf War "for rogue military and political leaders is that U.S. conventional power must be trumped by the capability to deter and coerce the United States with weapons of mass destruction and the ability to deliver those weapons reliably."

Nations have three options for obtaining these kinds of weapons and delivery systems. They can develop them on their own, obtain entire systems from external sources, or produce some components internally while acquiring other components externally. All too often, the People's Republic of China is available as a convenient source of external assistance. While some of the specific Chinese activities are classified, many of the details are available in the open press and it is upon these open sources that we have relied exclusively in preparing for today's hearing.

China appears to be at the center of a worldwide proliferation web. It is clear that China has sold weapons technology to rogue

nations despite the laws passed by Congress and despite the discussions State Department officials have had with the Chinese government aimed at persuading Beijing to halt such sales.

At today's hearing, we will explore how our government has approached this problem as well as how it may be better attacked. Other questions will also be explored. Is new legislation required? Has the administration adhered to and implemented the laws currently in place? And, since the administration's efforts have failed to moderate China's behavior, is a new approach in order?

Our witnesses today are ideally suited to address these issues. Robert Einhorn, Deputy Assistant Secretary of State for Nonproliferation, will testify first about the administration's approach to this problem. He will be followed by Ambassador James Lilley, formerly the U.S. Ambassador to China and now the Director of the Institute for Global Chinese Affairs at the University of Maryland, and Mr. Gary Milhollin, Director of the Wisconsin Project on Nuclear Arms Control.

Mr. Einhorn, we welcome you and thank you for your assistance and your presence here today. We have a copy of your testimony, which we will place in the record and have it printed in its entirety and we encourage you to proceed to make any comments or summary statements that you think are appropriate.

Before you proceed, let me recognize my distinguished colleague from Alaska, Senator Stevens, for any comments he might have.

Senator STEVENS. I do not have an opening statement. I congratulate you, Senator, for proceeding with these hearings. You are following the greatest traditions of this Subcommittee of the Governmental Affairs Committee.

Senator COCHRAN. Thank you very much, Senator.

Mr. Einhorn, you may proceed.

TESTIMONY OF ROBERT J. EINHORN, DEPUTY ASSISTANT SECRETARY OF STATE FOR NONPROLIFERATION, BUREAU OF POLITICAL-MILITARY AFFAIRS, DEPARTMENT OF STATE

Mr. EINHORN. Thank you very much, Mr. Chairman, and thank you for giving me the opportunity to appear before the Subcommittee to testify on the subject of China and U.S. administration efforts to engage China on nonproliferation. Thank you for inserting my prepared remarks in the record. I will just proceed with a much shorter version.

As you know, Mr. Chairman, the administration is trying to build a constructive, stable, and mutually beneficial relationship with China, one that is based on a shared respect for international norms. One of these norms is nonproliferation, and the administration places a critical importance in our discussions with China on that nonproliferation norm.

We raise nonproliferation at all levels, including when President Clinton has met with President Jiang Zemin, most recently last November in Manila. We press our case with the Chinese vigorously and frankly. We make clear that failure to resolve problems that have arisen will inevitably impede the improvement in bilateral relations and failure to deal with these problems effectively could also have consequences under U.S. sanctions laws.

However, I do not wish to imply that the U.S.-China non-proliferation agenda is monopolized by disagreements. China has come a long way since the 1960s, when its declaratory policy was supportive of nuclear proliferation as a way, to use its term, as a way of breaking the hegemony of the superpowers.

Increasingly, China has recognized that its own security interests are not served by the spread of sensitive technologies and that acceptance of international norms is one of the responsibilities of a great power. This evolving attitude can be seen in a succession of Chinese actions during the 1990s.

In 1992, China joined the Nonproliferation Treaty. In 1993, it signed the Chemical Weapon Convention, which its National People's Congress approved last December. In 1994, it pledged not to export ground-to-ground missiles controlled by the Missile Technology Control Regime. That same year, it played a constructive role in promoting the agreed framework under which the North Koreans agreed to eliminate their nuclear weapons program. In 1995, it supported the successful effort to make the NPT permanent. In 1996, it stopped testing nuclear weapons and signed the Comprehensive Test Ban Treaty.

All of these steps were welcome and we hope that China will build on these positive steps. For example, we would like China to play a more active and committed role in promoting full implementation of the U.S.-DPRK framework agreement, in avoiding a nuclear and missile race in South Asia, as well as in supporting the U.S. Special Commission's efforts in Iraq.

So there is a positive nonproliferation agenda with China where our interests are largely convergent, where China has already taken important steps, and where important benefits would result if China assumed greater responsibility for promoting progress.

At the same time, we have had serious difficulties with China on nonproliferation. These difficulties have largely involved Chinese exports of arms and sensitive technologies. It is noteworthy, Mr. Chairman, that these exports have been confined primarily to two recipient states, Iran and Pakistan, but the situation is troublesome nonetheless.

China's problematic record on exports can largely be attributed to conscious decisions by Chinese leaders to pursue policies deemed to be in China's national interest. Examples of such conscious policies are conventional arms sales to Iran and support for Pakistan's missile program. But there is an additional explanation, namely that China still does not have an effective national export control system. Even when Beijing is willing to exercise restraint, its ability to do so may be inadequate.

China's current ability to control exports appears to vary with the type of commodity exported. Exports of arms and of specialized nuclear and missile equipment seem to be subject to centralized governmental approval procedures. However, dual-use items, that is, items that have legitimate civil applications as well as sensitive applications, are not necessarily controlled by centralized or senior-level approval mechanisms.

We must work with the Chinese on both problems, the need for greater restraint in their policies and the need for stronger export controls to implement policies of restraint effectively.

We have made progress in the nuclear area. As part of the resolution of the ring magnet controversy, China pledged last May 11 not to provide assistance to unsafeguarded nuclear facilities. In practice, this means no longer assisting Pakistan's unsafeguarded nuclear program. Beijing appears so far to be taking the May 11 commitment seriously. While we have raised concerns about certain activities, we have no basis to conclude that China has acted inconsistently with its May 11 undertaking.

We are also strongly urging China not to engage in nuclear cooperation with Iran. Even though Chinese cooperation with Iran is under IAEA safeguards, we believe Iran will misuse any assistance to advance its nuclear weapons ambitions.

China has suspended its sale of two nuclear power reactors to Iran, probably because of siting and financial difficulties. Whatever the reason, it was a positive step. We will continue to urge China to curtail its nuclear cooperation with Iran.

In another positive move, China told us it was developing nuclear export control regulations that, for the first time, would control both nuclear and nuclear-related dual-use items on a nationwide basis.

In the area of chemical-related exports, we are pleased that China's National People's Congress approved the Chemical Weapon Convention late last year and we hope China will deposit its instrument of ratification by April 29 in order to become an original party.

However, we are deeply concerned by the disconnect we see between China's Chemical Weapon Convention commitment and information available to us that various Chinese entities have transferred chemical precursors, chemical production equipment, and production technology to Iran and we expect Iran will use these items in its CW program.

At a minimum, these dual-use transfers indicate that China's chemical export controls are not operating effectively enough to ensure compliance with China's prospective CWC obligation. We have raised our concerns frankly with the Chinese and called on them to take steps to restrain Chinese entities from assisting Iran's CW program. We have made clear to the Chinese that no responsible party to the CWC can afford to take a "see no evil, hear no evil" approach to export controls.

Our concerns in the missile area apply mainly to Chinese cooperation with Pakistan and Iran. Twice, we imposed sanctions on China for transferring to Pakistan equipment and technology for the M-11 missile system. In October 1994, we lifted sanctions when China agreed to reaffirm its commitment to abide by the Missile Technology Control Regime guidelines and parameters and to ban the export of ground-to-ground missiles controlled by the MTCR. Since then, we have no reason to believe China has violated its pledge not to export such missiles.

However, concerns about transfers of missile components and missile technology persist, raising serious questions about the nature of China's commitment to abide by the MTCR guidelines. We regard this as a very important matter. We will press the Chinese to live up to their 1994 commitment, to interpret that commitment

meaningfully, and to put in place the controls that would enable them to implement it conscientiously.

We will also continue to raise the question of China's sale of conventional arms to Iran. We are particularly concerned about the transfer of C-802 anti-ship cruise missiles. Such missiles increase China's maritime advantage over other Gulf States, they put commercial shipping at risk, and they pose a new threat to U.S. forces operating in the region.

We have concluded that C-802 transfers so far have not triggered sanctions under the Iran-Iraq Arms Nonproliferation Act, but we remain concerned about such transfers and will monitor the situation carefully for any additional transfers that might cross the threshold of sanctionability.

Mr. Chairman, the period ahead will be an active one for U.S.-Chinese diplomacy. As we pursue our policy of engagement, we will remind the Chinese that a key ingredient of a good bilateral relationship is a shared respect for international nonproliferation norms. We will explain that if we can resolve the relatively few proliferation problems that exist, we can give a significant boost to U.S.-China relations, but if we fail to resolve these problems, they will inevitably come back to haunt us and impede the improved bilateral relationship that we believe that both sides seek.

Mr. Chairman, that concludes my introductory remarks. I would be happy to respond to your questions. However, as you are aware, classification rules will not make it possible for me to be fully responsive in an open session to concerns you may have, especially concerns about particular transactions. That is why we requested that this hearing be held in closed session.

We fully understand why the Subcommittee decided that it would be impractical to close the session and we agreed to participate nonetheless. But I respectfully request that the Subcommittee be sensitive to our requirement to protect classified information, and I would like to offer to testify at a closed session at a later date, or alternatively, to hold informal but classified briefings for you or for other members of the Subcommittee at your convenience.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Einhorn follows:]

PREPARED STATEMENT OF MR. EINHORN

Mr. Chairman, Thank you for giving me the opportunity to testify before the Subcommittee on the Administration's efforts to engage China on the question of the proliferation of weapons of mass destruction and related technologies, missile delivery systems, and advanced conventional weapons.

In the 21st Century, the stability and economic well-being of the Asia-Pacific region, and indeed of the world at large, will depend significantly on the kind of relationship that China and the United States manage to build. The Clinton Administration has therefore given a high priority to engaging the Chinese Government in an effort to build a relationship that is constructive, stable, and mutually beneficial and is based on a shared respect for international norms. One of the norms that is critical to the United States—and a central focus of our engagement with China—is nonproliferation.

We need to engage China on nonproliferation both because of that issue's fundamental importance to U.S. national security and because of China's increasingly indispensable role in international efforts to curb proliferation. China's standing as a Permanent Member of the United Nations Security Council, a nuclear weapons state, an influential player on the world stage, and a producer of a wide range of arms and sensitive technologies means that its willingness to play a positive role

may often make the crucial difference between success and failure—whether in negotiating international arms control and nonproliferation agreements, dealing with difficult regional proliferation challenges, or constraining the transfer of potentially destabilizing goods and technologies.

That is why we regard nonproliferation as one of a handful of core issues in the U.S.-China bilateral agenda. It has been a key item in every meeting between Presidents Clinton and Jiang Zemin, most recently in Manila last November. It was discussed during Vice President Gore's meetings with Chinese leaders last month. And it figured prominently in Secretary Albright's February visit to Beijing, and will again when she meets with Vice Premier Qian Qichen in Washington later this spring.

We engage with the Chinese on nonproliferation frequently and at various levels. The Chinese have agreed to a regular dialogue at the vice-ministerial level to discuss nonproliferation and a broad range of other security matters. The first such "global security dialogue" was held last November between Undersecretary of State Lynn Davis and Vice-Minister of Foreign Affairs Li Zhaoxing. Periodic meetings on arms control have been held between Vice Minister Li and ACDA Director John Holm. At the experts level, U.S. interagency teams have met as often as three or four times a year with their Chinese counterparts for detailed discussions on such subjects as nonproliferation, export controls, and peaceful nuclear cooperation.

At every level, including at the very top, we stress the importance we place on nonproliferation and urge that China accept and abide by international nonproliferation agreements and norms. Where we disagree, we express our concerns frankly. We make clear that it is not just the Executive Branch but the Congress, too, that has such concerns. We point out that failure to resolve problems that have arisen, especially with respect to Chinese exports, will inevitably impede the improvement of bilateral relations that both sides seek—and could also have negative consequences under U.S. nonproliferation sanctions laws.

I do not wish to imply, however, that the U.S.-China nonproliferation agenda is monopolized by disagreements. Indeed, both countries recognize a shared interest in preventing the proliferation of weapons of mass destruction and related technologies, and this is reflected in common approaches to many issues. China has come a long way from the 1960s, when its declaratory policy supported nuclear proliferation as a means of "breaking the hegemony of the superpowers." Since then, as China has gained stature and influence in world affairs and become a leading participant in such international forums as the U.N. Security Council and the Geneva Conference on Disarmament, it has increasingly come to appreciate that Chinese national security interests are not served by the spread of dangerous military capabilities, especially to areas close to China, and that acceptance of international norms is one of the attributes and responsibilities of great power status.

This evolving attitude toward nonproliferation norms can be seen in Chinese actions in the 1990s.

- In 1992, China acceded to the Nonproliferation Treaty (NPT), the cornerstone of the nuclear nonproliferation regime and a measure the Chinese originally condemned.
- In 1993, China signed the Chemical Weapon Convention, which its National People's Congress approved last December.
- In 1994, China stated that it would abide by the guidelines and parameters of the Missile Technology Control Regime (MTCR) and would not export MTCR-controlled ground-to-ground missiles.
- That same year, Beijing played a constructive role with North Korea in promoting the October 1994 Agreed Framework, under which the DPRK agreed to eliminate its nuclear weapons program.
- Also in 1994, China joined with the U.S. in calling for the negotiation of a multilateral agreement banning the production of fissile material for nuclear weapons and other nuclear explosive devices.
- In 1995, China supported the successful effort to make the NPT permanent.
- In 1996, China stopped testing nuclear weapons and signed the Comprehensive Test Ban Treaty, perhaps the most difficult and noteworthy decision taken to date, considering that China had conducted far fewer nuclear tests than the United States and Russia.
- This year, China joined with other members of the IAEA in negotiating and then recommending that the IAEA Board of Governors adopt a new safeguards arrangement that will strengthen the IAEA's ability to detect

undeclared nuclear activities in states with comprehensive safeguards agreements.

All of these steps were welcome indications of China's growing support for non-proliferation. We need to build on such areas of common ground. It is important in the future that China assume significantly greater responsibility for helping to overcome pressing regional and global proliferation challenges.

- While China's support in achieving the Agreed Framework with North Korea was important, we will need Beijing's active help more than ever over the next several years in ensuring the effective implementation of the Agreed Framework and bringing North Korea into full compliance with its NPT and IAEA safeguards obligations.
- China should play a more active and committed role in helping to avert a destabilizing nuclear and missile competition in South Asia, both by addressing India's concerns about threats to its security and by ensuring that its traditional cooperation with Pakistan does not include assistance inconsistent with international nonproliferation norms.
- As a Security Council member, a supplier of arms and technology, and an oil importer, China should be more aware of the responsibility it bears for stability in the Gulf region—in terms of curbing exports to Iran and of giving the U.N. Special Commission and the International Atomic Energy Agency full support in enforcing Security Council resolutions on Iraq's proscribed weapons activities.
- On the global level, we urge China to work with us and other supporters of the Fissile Material Cutoff Treaty to break the current impasse on the Treaty and to get negotiations on track.
- As historically a major producer, user, and exporter of anti-personnel landmines, China should play a more active role in efforts to achieve a global ban on such weapons.

So there is a positive nonproliferation agenda with China where our interests largely converge, where China has already taken important steps, and where Chinese acceptance of greater responsibilities would yield substantial benefits.

At the same time, we have had serious difficulties with China on nonproliferation, and these difficulties have arisen largely over Chinese exports of arms as well as sensitive goods and technologies, primarily to Iran and Pakistan. It is noteworthy that these problems have been confined primarily to two recipient states. But they are nonetheless troublesome because those two states are located in regions of tension and instability and both have active programs in the area of weapons of mass destruction and missile delivery systems—and, in the case of Iran, because the recipient pursues a range of policies threatening to its neighbors and inconsistent with international norms.

China's problematic record of exports can be attributed largely to conscious decisions by Chinese leaders to pursue policies deemed to be in China's national interest. In the case of Pakistan, this has involved decisions to bolster the defense capabilities of a close and long-standing friend against the perceived threat from India. In the case of Iran, there has probably been more of a mixture of foreign policy and commercial motivations. China has apparently wished to establish good relations with a country it judged to be an important factor in the future of the Gulf region and one with potential influence over Islamic minorities in China's western provinces. But it also wanted to earn hard currency for its exports and perhaps also help ensure a source of oil for its growing energy needs. Conscious governmental decisions in support of such policies probably explain China's sale of conventional arms to Iran, its support for Pakistan's missile programs, and its support, at least in the 1980s and even beyond, to Pakistan's nuclear weapons development program.

But there is an additional factor that explains the lack of sufficient Chinese export restraint. China still does not have an effective national system to control exports of sensitive goods and technologies. Even when Beijing is *willing* to exercise restraint, its *ability* to do so in a substantial number of cases may be inadequate.

China's current ability to control exports appears to vary with the type of commodity exported. Exports of specialized nuclear equipment and technology, conventional weapons systems and technology, and missile systems and specialized missile components and technology all seem to be subject to centralized governmental approval procedures. However, dual-use items in the nuclear, chemical, biological, and missile areas—items that have both legitimate, civil applications as well as more sensitive applications—are not necessarily controlled by centralized or senior-level

review and approval mechanisms. Indeed, we have considerable evidence that decisions to export potentially sensitive dual-use nuclear, chemical, and missile items are often taken by Chinese manufacturing or exporting entities—even government-owned or government-operated entities—without referral to central or high-level authorities. This problem of inadequate control is compounded by the rapid growth and decentralization of certain Chinese industries (especially the chemical industry) and their incentives to make a profit.

What this suggests is that efforts to discourage questionable Chinese exports should proceed on two tracks. We must seek to persuade China that a more restrained policy toward certain exports of arms and dual-use goods and technologies would serve China's security interests by promoting regional and international stability and would bring China's policies more into line with global norms. At the same time, we should seek to cooperate with China in the strengthening of its national export control mechanisms and procedures so that Beijing will have more effective means of ensuring that exports by Chinese entities fully conform to China's own national policies and international commitments.

The issue of Chinese transfers of arms, equipment, and technology has been pursued persistently with Chinese officials at all levels. We have raised questions in the nuclear, chemical, missile, and conventional arms areas.

In the nuclear area, we have long had concerns about China's assistance to Pakistan's efforts to produce unsafeguarded fissile materials and to Pakistan's program to develop nuclear explosives. These concerns were especially acute in the 1980s but have continued even after China acceded to the NPT in 1992. During 1995 we received compelling information that a Chinese entity transferred a large number of custom-built ring magnets to the entity in Pakistan responsible for that country's unsafeguarded gas-centrifuge uranium enrichment program. The information touched off intensive diplomatic activity with China in early 1996 during which the U.S. sought information about the circumstances surrounding the transfer and assurances about future Chinese nuclear export policies. We concluded, on the basis of senior-level Chinese statements as well as other information available to us, that there was an insufficient basis to determine that central Chinese governmental authorities knew in advance of the transfer or approved it. We also received an important commitment for the future—a statement on May 11, 1996 that China will not provide assistance to unsafeguarded nuclear facilities.

Since then, we have held several discussions with the Chinese aimed at building on the May 11 understanding and ensuring that the two sides have a common understanding of it. We have also watched China's nuclear-related cooperation and export activities very carefully. What we can say so far is that Beijing appears to be taking the May 11 commitment seriously. While we have raised concerns with Beijing about certain activities and incidents, we have no basis to conclude that China has acted inconsistently with its May commitment. Chinese nuclear authorities already seem to have tightened up their own review procedures. More importantly, China has notified us that it is developing nuclear export control regulations that, for the first time, would control both nuclear and nuclear-related dual-use items on a nationwide basis. In addition, at U.S. urging, China is now considering joining the Zangger NPT Exporters Committee, which would facilitate China's familiarization with and adoption of international nuclear export control norms and practices. We are encouraging Beijing both to adopt its nuclear export control regulations as well as to join the Zangger Committee as soon as possible in 1997.

We are also urging China not to engage in nuclear cooperation with Iran. We recognize that Chinese cooperation with Iran is carried out under IAEA safeguards and is consistent with Beijing's international obligations. Nonetheless, we tell the Chinese what we tell all other nuclear suppliers—that Iran has a clandestine nuclear weapons program and that any nuclear cooperation with Tehran risks being misused to advance that program. In 1995, China suspended the sale of two nuclear power reactors to Iran, probably as a result of siting and financing difficulties. Whatever the reason, it was a positive step, and we will continue to call on China to curtail its nuclear cooperation with Iran.

Our intensive engagement with the Chinese over the last few years on nuclear export issues has begun to yield some concrete results. We have seen a greater willingness by the Chinese to scrutinize and restrain their nuclear exports and cooperative activities, to strengthen their national export controls, and to address more promptly and seriously the concerns we have raised. More work needs to be done, however, to ensure that the two countries have a common understanding of their nuclear export control responsibilities. If we continue to make progress, we would hope to be in a position before long for President Clinton to make the legislatively-required certifications to Congress that would enable the long-dormant 1985 U.S.-China Agreement for Nuclear Cooperation to be implemented, which would bring

major benefits to both countries. Our laws require the President to certify, in effect, that China is not assisting any non-nuclear weapons state in the acquisition of nuclear explosive capabilities.

In the area of chemical-related exports, we are pleased that the National People's Congress approved the Chemical Weapons Convention (CWC) late last year, and we hope that China—and the United States, too—will be able to deposit its instrument of ratification before April 29 in order to become an original party. We also welcome China's adoption in December 1995 of its chemical export control regulation and the supplement to that regulation issued in March of this year. We are deeply concerned, however, by the discrepancy between these positive steps and substantial information available to us that various Chinese entities have transferred chemical precursors, chemical production equipment, and production technology to Iran, which we expect will use them in its chemical weapons program, one of the most active in the world today.

These dual-use chemical-related transfers to Iran indicate that, at a minimum, China's chemical export controls are not operating effectively enough to ensure compliance with China's prospective CWC obligation not to assist anyone in any way to acquire chemical weapons. We have raised our concerns frankly with Chinese officials and urged that they take vigorous steps to restrain the activities of Chinese entities from assisting Iran's CW program and to strengthen China's chemical export control system. No responsible party to the CWC can afford to take a "see no evil, hear no evil" approach to export controls. We have also told the Chinese that we are actively examining the questionable transactions of which we are aware with a view to determining whether they meet the requirements of our sanctions law.

Concerns about Chinese missile-related exports have applied mainly to PRC cooperation with Pakistan and Iran. In 1991 and again in 1993, we imposed sanctions on Chinese entities for transferring to Pakistan equipment and technology for the M-11 missile system. In October 1994, we lifted then-existing sanctions when China agreed to reaffirm its commitment to abide by the MTCR guidelines and parameters and to ban the export worldwide of MTCR-controlled ground-to-ground missiles. Since that 1994 agreement, we have had no reason to believe that China has violated its pledge not to export such missiles. However, concerns about transfers of missile-related components, technology, and production technology persist, raising serious questions about the nature of China's commitment to abide by the MTCR guidelines.

At a minimum, the Chinese do not appear to interpret their responsibilities under the guidelines as restrictively as we do, or as other MTCR members do. (Although China states that it abides by the MTCR guidelines, it is not a member of the multilateral regime.) Moreover, as we have learned more about current Chinese procedures for controlling missile-related goods and services, we have become more skeptical about the ability of Beijing's control system to implement missile restraints effectively. We will continue to urge the Chinese to live up to their October 1994 commitment, to interpret that commitment meaningfully, and to put in place the control regulations and procedures that would enable them to fulfill it conscientiously. In addition, we will need to review the applicability of relevant provisions of U.S. law.

Another concern we have often raised with Beijing is China's sale of conventional arms to Iran. In the last few years, China has become the leading source of arms for Tehran, now that the 33 members of the new Wassenaar Arrangement have agreed to end their sales. We have urged China to join those 33 suppliers in not trading in arms and sensitive technologies with Iran.

We are particularly concerned by the transfer of C-802 anti-ship cruise missiles. Such missiles, whether installed on land or on patrol boats also supplied by China, will add to the maritime advantage that Iran already enjoys over other Gulf states and will put commercial shipping in the Gulf at risk. Especially troubling to us is that these cruise missiles pose new, direct threats to deployed U.S. forces.

The Iran-Iraq Arms Nonproliferation Act provides for sanctions against those whose defense cooperation with Iran enables it to acquire "destabilizing numbers and types" of conventional weapons. We have concluded that the C-802 transfers that have occurred so far are not of a destabilizing number and type. However, we are very concerned about these transfers, and will continue to monitor Chinese and Iranian activity for any additional transfers that might cross the threshold of sanctionable activity.

Mr. Chairman, in reviewing areas of U.S. concern about Chinese exports, I may have provided the impression that the U.S.-Chinese nonproliferation agenda is mainly and inevitably a contentious one. When the two sides sit down together, usually under severe time constraints, it is perhaps natural that discussions tend to focus on particularly pressing concerns. But as I indicated earlier, the United States and China share a fundamental interest in preventing the spread of destabilizing

arms and technologies, and this shared interest has already been reflected in a range of common or at least similar policies on a wide range of global and regional issues. Indeed, even on the difficult issue of exports to third parties, we have found that persistent, frank engagement has begun to produce concrete progress, especially in the nuclear area. The sooner we can resolve these outstanding problems, the sooner the U.S. and China can devote more of their energies to working together cooperatively to address the world's critical proliferation challenges.

The period ahead will be a very active one for U.S.-Chinese diplomacy. We will seek in the course of the many upcoming high-level meetings, including the exchange of state visits, to put the bilateral relationship on a steady, promising course that can take us well into the 21st century. But as we pursue our policy of engagement, we will continue to remind the Chinese that a key ingredient of a sound, closer relationship is a shared respect for international nonproliferation norms. If we can work together effectively to overcome the relatively few proliferation disagreements that exist, we can give a significant boost to U.S.-China relations. But if we fail to solve outstanding problems, they will come back to haunt us and they will impede the improved relationship both sides seek.

Senator COCHRAN. Thank you very much for your statement and for your assistance that you are providing to our Committee's effort to understand better what our administration's policies are in this area and what your recommendations are for dealing more effectively with the problem.

We certainly are aware of the rules regarding classification. We do not intend to breach those rules. I made a comment about that in my opening statement, as well.

The fact is, however, we legislate in a public arena and there are statutes on the books relating to the authorities and, even under some circumstances, the obligations of the Executive Branch in dealing with acts of proliferation.

One specific example is the Gore-McCain Iran-Iraq Nonproliferation Act of 1992. You mentioned China's transfer of chemical weapons components to Iran. Why did the administration decide that the sale you described did not fall within the terms of that legislation requiring the imposition of sanctions on China for that sale?

Mr. EINHORN. Mr. Chairman, the Congress has enacted legislation that provides that a variety of criteria must be met for sanctions to be imposed. They are quite specific.

You alluded to the chemical weapons situation. If you look at the chemical-biological weapons sanctions law, there are a variety of specific requirements that must be met. You have to have a known exporting person or organization. The transaction must make a material contribution to a chemical weapons program. The contribution that it makes must be a knowing contribution. That is to say, the sanctioned entity must knowingly contribute to that program. The identity of the recipient must, in this particular piece of legislation, be a terrorist list country, and, of course, Iran is in this particular case.

And also, the evidence we receive and evaluate has to be at a very high level of certainty. It is one thing to make a policy judgment or even an intelligence judgment on the basis of a kind of preponderance of information, but we feel that the evidence standard required to invoke legal sanctions has to be very high, indeed, so that is a requirement, as well.

So are we concerned about Chinese entities' transfers of chemical precursors or chemical-related dual-use items, equipment, technology to Iran? Yes, we are, and we have evaluated all of those transactions against these various specific criteria. To this point,

we have not made a determination that all of those criteria have been met, but we are actively engaged in looking at specifically a number of cases that we could discuss in closed session, and it may well be possible that these various criteria would be satisfied.

Senator COCHRAN. Which criteria were not satisfied in the chemical weapons component sale to Iran?

Mr. EINHORN. Let me tell you, I cannot be too specific about it, but what I can say is one of the hardest things to demonstrate is that the exporting entity knowingly contributed to a CW program. Why is it so difficult? It is because many recipients use front organizations or they file false end-user certificates. That is what proliferators usually do. Also, many of these transactions involve several intermediaries, so you do not know with whom you are dealing.

So you get some information that there is a particular exporter. He makes a transaction. Did he knowingly contribute to that CW program when he may be dealing with a cut-out or a front organization and so forth. That is the kind of criterion that may be difficult to meet to invoke the sanctions law.

But let me just make a distinction between invoking the sanctions law and taking policy steps in response to this transaction. Even if we are not in a position to invoke the sanctions law, we are in a position to react to transactions that trouble us and we have seen a variety of transactions that are of concern and we have taken very vigorous actions in a number of diplomatic and other respects.

Senator COCHRAN. In the experience that you have had in using the authorities, and in some cases, the directives contained in the statutes on this subject, do you have an opinion as to whether or not there are more effective ways to modify behavior of proliferators, and specifically as to China, than in imposing sanctions? Are sanctions a less desirable or less effective way of trying to modify behavior or of getting cooperation in nonproliferation efforts from China?

Mr. EINHORN. I think the administration has engaged China very assertively and, I think, successfully across the board—in the nuclear area, in particular, but in other areas, as well. It has been a very high priority. I think we have had more engagement with China on the proliferation issue than any previous administration, and we have used a variety of tools and sanctions is one of them.

As I mentioned in my statement, we have invoked missile sanctions twice with China. Recently, in the ring magnet controversy, the threat of sanctions hung over the situation, the threat of imposing Export-Import Bank sanctions, and I think that contributed to a solution of the problem. Indeed, for a 3-month period, the United States consciously acted as if sanctions were in effect and did not approve any Export-Import Bank loans to China. We are now in the process of considering various chemical sanctions cases.

So we recognize the utility of sanctions but they are a complementary tool. Sanctions are not synonymous with nonproliferation policy. There are many other instruments of policy we use that are effective. Sanctions do have an appropriate role. They have played a useful role in our dialogue with China and with several other countries, but it is important not to rely on them too much.

Senator COCHRAN. Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman.

Mr. Einhorn, I have not read a lot on this, but I have gone over the papers that were presented by the Chairman and by you and I have looked at Ambassador Lilley's statement. I have had a long relationship with China and served there in World War II. I do not see any reason to be hasty in imposing sanctions. On the other hand, it seems to me that our relationships will deteriorate if we are not very strong in expressing our opinions and fulfilling our commitments to one another.

What bothers me is it appears that based upon Chinese assurances they were unaware of the transactions with regard to the ring magnets, and our relationship just moved on to another level. We accepted that. It is my understanding you accepted the Chinese assurances that they did not know of the transfer. Knowing China, I do not know how that could have occurred. In any event, Beijing then pledged not to assist unsafeguarded nuclear facilities and yet they had already demonstrated that that was their policy. Yet you said that was a step forward.

I think, somehow, as I see this continuum, that we are constantly stepping back and saying, well, they tell us they are doing nothing wrong and, therefore, we are not going to react to what they are telling us, as compared to what we know has happened.

Am I wrong that you are willing to ignore their actions and their refusal to admit what we know is true and move on to the next level and then, once again, let them tell us that they are doing things right, although we know it is not true? Are we going from just one level to another level of accepting their assurance that they are living up to their commitments rather than following what we know to be the case?

Mr. EINHORN. Senator, we are aware of a number of Chinese actions in the past that clearly violated international nonproliferation norms. We have been frank about that with the Chinese. Before China joined the NPT in 1992, we believe that there was very strong evidence that they had engaged in assistance to a non-nuclear weapons state's unsafeguarded nuclear program.

Similarly, in some of the other areas, for example, in the missile area, where we sanctioned them twice, clearly, they had engaged in actions inconsistent with international norms.

But we have achieved a number of commitments and we have monitored those commitments very carefully. I alluded to the May 11 commitment not to provide assistance to unsafeguarded facilities. Before May 11, have they provided such assistance? Yes. We are clear about that. They provided such assistance. But we really do believe, and we have watched this very carefully, that they have not acted inconsistently with that commitment. We believe—

Senator STEVENS. Did you really believe that they did not have knowledge of the ring magnet?

Mr. EINHORN. The statute, it was—

Senator STEVENS. I did not ask you that. You are involved in this. Did you believe what they said, that they were unaware of that transfer?

Mr. EINHORN. We believe it is credible that central, senior-level Chinese authorities did not know of in advance and did not ap-

prove of that transaction, and the reason why we believe that is not just because senior Chinese officials told us that. It is because of our understanding of the Chinese system and how it operates.

This transaction was probably less than \$70,000. Ring magnets are very unsophisticated kinds of devices. They were treated under their export control system as general commercial goods and it is very plausible, in our view, that this transaction would have been treated as a routine kind of transaction. And the more we learn about the rudimentary State of Chinese export controls on dual-use items, the more plausible it becomes that this particular transaction would have been made without high-level governmental knowledge, and because of that, it did not trigger Section 825 of the Nuclear Nonproliferation Act.

Senator STEVENS. I have other responsibilities in the Defense area and it does seem to me that if we look at the threats to the world today, they are in the area of the ability of a rogue nation to transport chemical and biological warfare systems to another place in the world. Certainly, North Korea and China are two countries that have indicated a willingness to trade with rogue nations.

I do not like to see charts like the one we're looking at that indicate that we have had a series of instances and we have had no sanctions, no sanctions, no sanctions, no sanctions. Then you had sanctions and you lifted them within 9 months. What does that say to China?

Mr. EINHORN. I think the Chinese—

Senator STEVENS. It says that our laws are immaterial, really, in terms of our relationships.

Mr. EINHORN. I do not think the Chinese, Senator, would draw that conclusion, because what they see is a U.S. administration that challenges them regularly and very forcefully on any questionable actions in the proliferation area, any questionable exports. They see that they have been sanctioned by the U.S. They do not like it. They are a proud country.

But what we see is they are taking concrete steps to improve their behavior and we see that most significantly in the nuclear field. We believe we have concrete evidence of that, less in the chemical and in the missile area, but in the chemical area, their willingness to join the Chemical Weapon Convention is at least a good sign and we will continue to press them to bring their declared policy into line, or to put it the other way, to bring their behavior into line with the declared policy, but they need a better export control system in order to do that.

Senator STEVENS. Mr. Chairman, I respect the witness and what he is saying. I would hope that we would take up the offer, though, that we have a little discussion in terms of the classified aspects of some of these matters. I regret that, because I think the public ought to know more about what is going on and what we are and are not doing about the nations of the world that are really trafficking in these weapons of mass destruction.

Maybe we can combine your Subcommittee and our Defense Subcommittee and go into this in depth, because we have some processes of retaliation that are short of sanctions. I do not see them here, either. I hope that we would be a little bit more firm with

China and find some ways to deter this trend of dealing with rogue states and Iran, in particular.

Thank you, Mr. Chairman.

Senator COCHRAN. Thank you very much, Senator, for your excellent contribution to this discussion.

Senator Cleland.

Senator CLELAND. I would just like to pick up on the last few comments there of Senator Stevens. One of the things that troubles me is the sale of weapons and material to Iran. Is it true that China sold cruise missiles to Iran without any sanctions from our Government?

Mr. EINHORN. That is correct, Senator. The sanctions law that is most directly applicable is the Iraq-Iran Arms Nonproliferation Act of 1992, and that provides for imposing sanctions when a foreign person or country transfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq to acquire destabilizing numbers and types of certain advanced conventional weapons.

Now, the question of whether China transferred the C-802 anti-ship cruise missiles to Iran is not in doubt. They tested them. We know about it. The issue is whether transfers to date meet this test of destabilizing numbers and types, and we looked at this very seriously within the Government, including our military officials who obviously had the greatest stake because their forces would be at risk, and we concluded that, at least so far, the transfers of the C-802 cruise missiles do not meet the test of being destabilizing numbers and types.

But as I say, we are concerned by these transfers. We continue to watch to see if the continued transactions will cross the threshold of sanctionability.

Senator CLELAND. Not to probe into secret matters or issues of secrecy, but is there any expectation on your part that such transfers of technology, particularly in terms of cruise missiles to Iran, might occur in the future?

Mr. EINHORN. Senator Cleland, it is hard to predict the future, but China has become the largest seller of conventional arms to Iran. Russia had that distinction up until a few years ago. The U.S. persuaded Russia to join the so-called Wassenaar Arrangement under which Russia agreed not to enter into new contracts for arms sales to Iran.

Because of that, China now exceeds Russia as a salesman to Iran and we have public information about discussions in the last half-year or so between Chinese and Iranian officials about conventional arms transactions. So we would expect to see more. We have registered our strong concern about that at the highest levels, but so far, we have not seen a curtailment in Chinese sales.

Senator CLELAND. With China becoming the largest supplier of conventional weapons to Iran, a rogue state that does not have our interests at heart. Does that, then, give us pause in transferring some sensitive technology to China ourselves?

Mr. EINHORN. Whenever we consider engaging in any kind of technology transfer with China, we have to consider the prospect of retransfer, and so in some cases, we may consider the risk too great. In other cases, we would try to ensure that the risks of any

retransfer or diversion would be minimal and we would insist upon appropriate assurances to try to ensure that there would be no retransfer of U.S. technology.

Senator CLELAND. If you were to conclude, or if the military in consultation with you were to conclude that such Chinese support for Iran's build-up militarily posed an increased threat to U.S. forces in the region, what kind of sanctions would you recommend?

Mr. EINHORN. If a build-up of Chinese forces constituted a threat?

Senator CLELAND. No. If increased or continued Chinese sales to Iran were to occur and the military or the State Department or both concluded ultimately that this did pose a threat to U.S. forces in the region, that it was destabilizing, what sanctions do you have at your disposal or would you recommend?

Mr. EINHORN. If the Chinese-Iran transfer relationship crossed that threshold of sanctionability, we would be obliged to implement the law, and the Iraq-Iran Arms Nonproliferation Act of 1992 does provide for a substantial list of action. I think I have them here, Senator.

If it is a foreign government involved as opposed to a foreign person, it provides for no U.S. Government assistance, including under the Foreign Assistance Act and the Arms Export Control Act. Any assistance under those Acts would be cut off. Ex-Im financing, voting against the foreign government's loans in multilateral development banks, and the list goes on and on. The penalties for violating this Iraq-Iran Act are quite severe.

Senator CLELAND. You have been very patient with the questions. Just one more point. Is this an executive decision that the threshold or the thin red line has been crossed? Is it a Presidential decision? Does it become a recommendation, say, of the Secretary of Defense, the Secretary of State? Does the President have to make a judgment? Or is the Congress involved in some way?

Mr. EINHORN. What the law does is charges the Executive Branch with making this determination. That determination actually has been delegated to the Under Secretary of State for International Security Affairs. But all of these issues are discussed with other government agencies. The Under Secretary will consult with her, in this case, or his colleagues throughout the Government, and also, there is a substantial amount of consultation with members of Congress and staff, because in situations like this or in private briefings where we can discuss classified information, we get your input, your evaluation of the evidence.

So it is a very difficult judgment because, as I indicated, the penalties can be quite severe. It is an important decision and we want to get the best input we can.

Senator CLELAND. One final question. I gather that that determination has not been made as of yet, that the law has been violated?

Mr. EINHORN. That is correct. We have come to a conclusion based on the transaction so far that this threshold has not been crossed, but we continue to evaluate as we collect more information.

Senator CLELAND. Thank you very much.
Thank you very much, Mr. Chairman.

Senator COCHRAN. Thank you.

Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman.

Mr. Einhorn, I am sorry I was late. I had another meeting, but I have reviewed your testimony and I just wanted to ask a few questions.

Several years ago, I had my first chance to visit China and it came at an opportune moment when we had felt that we had detected shipment of objectionable material between China to Pakistan. It involved the shipment on an ocean-going vessel that was monitored by satellite tracking and the rest. The Chinese invited us to inspect the ship all we wanted after it arrived. To my knowledge, there was nothing found on board. I do not know if you recall that particular incident. Do you?

Mr. EINHORN. Very well.

Senator DURBIN. Can you explain what happened there?

Mr. EINHORN. The incident, we referred to it as the Yin He incident. That was the name of the vessel. And actually, Senator, it was destined to Iran rather than to Pakistan.

Senator DURBIN. I am sorry.

Mr. EINHORN. We had information that certain goods were intended to be loaded on board that ship and so we assumed that they were and we vigorously demarched the Chinese government at the time and at several ports of call and in the Persian Gulf, there was somewhat of a standoff, actually, among U.S. and Chinese vessels there in the Gulf. But finally, we worked out diplomatically a procedure whereby the vessel would go to shore and be inspected, and that is, in fact, what happened.

As it turned out, you are right, Senator, the goods were not on board that ship. If we were in executive session, I could give you our explanation for that. But we think our initial information was correct, that the goods were intended to be on board that ship. As it turned out, they were not, and I think the Chinese scored what turned out to be a big propaganda victory on this after the inspection.

But we think our intelligence community had done a good job in that case and it is one of these cases where the Chinese lucked out. But it shows, I think, that the U.S. is prepared to take very vigorous steps to interdict supplies of sensitive goods and to try to enforce as best as we can these international norms.

Senator DURBIN. Can I assume that, in other instances, we have verified the shipment of such materials to Iran or Pakistan?

Mr. EINHORN. Yes, Senator. We have verified a variety of transactions, whether it is in the nuclear area, the chemical area, or the missile area. We are convinced that these transactions took place.

But going back to the Chairman's initial remarks, there is a distinction between knowing that certain goods were shipped, transactions did take place, and meeting all the various specific requirements of the sanctions law, because they require such factors as the exporter knowing the destination was going to be a chemical weapons program or a missile program or something like that. But the fact that we knew that these transactions were taking place enabled us to react, to take strong action in a number of cases, and to take either diplomatic or other kinds of steps, which we do.

Senator DURBIN. Is there any indication that the number of shipments is on the increase or the decline?

Mr. EINHORN. I think one has to look from area to area. As I mentioned in my statement, we have seen progress in the nuclear area. We believe the Chinese are adopting nuclear nonproliferation norms, policies, practices. We are concerned by transactions of chemical-related items to Iran. We do not see many transactions, by the way, elsewhere. Iran seems to be the main recipient.

I remember a comment the Chairman made earlier about China being at the center of a worldwide proliferation web. I do not want to defend the Chinese case here, but I think one has to realize that the number of recipients of these sensitive technologies is relatively few, and in the chemical area, what we are concerned about is Iran, and we have seen those activities and it really is very troublesome to us, and in the missile area, as well. The missile technology recipients of the Chinese are really Pakistan and Iran.

Senator DURBIN. In another unrelated area but dealing with Chinese relations, we have seen a virtual disregard or at least a callous attitude by the Chinese when it comes to intellectual property rights and those who export from the United States, making sales into China. You explain here that you think the source of the problem is either a conscious decision by the Chinese based on their own national policies or a virtually unregulated area of export, where the Chinese government does not step in.

Is this a situation of salutary neglect, where they basically step aside knowing full well the outcome of their lack of regulation, as they must when it comes to intellectual property?

Mr. EINHORN. The failure to implement effective export controls over a long period of time would actually become a conscious act of neglect, if you understand what I am trying to get at. That is why I mentioned before that no responsible exporter can take a "see no evil, hear no evil" approach to this problem and that is why we have pressed the Chinese so hard.

It is one thing if we see a number of transactions occurring, dual-use commodities, maybe items that would go way below the threshold of senior-level approval, and if we bring it to their attention, these transactions, enough and they still do not take effective corrective action, then that is almost a conscious policy of not-so-benign neglect and that is what we continue to press them on.

Now they will soon, hopefully, become parties to the Chemical Weapon Convention, and that will give us a stronger basis to ask them to make sure that they are living up to their obligations under the Chemical Weapon Convention not to assist anyone in any way to acquire chemical weapons capability, and that is what we will have to press them on.

Senator DURBIN. Thank you, Mr. Einhorn. Each year or so, Congress has a responsibility of issuing a report card on China, a vote on MFN, and there are many, many areas of concern, human rights, trade relations. This is one that means a lot to me. Your testimony suggests that though we have made some progress, there is still a great deal to be accomplished before China has joined us in a mutual effort to reduce the proliferation of damaging weapons around the world. Thank you for your testimony.

Mr. EINHORN. Thank you, Senator.

Senator DURBIN. Thank you, Mr. Chairman.

Senator COCHRAN. Thank you, Senator, for your contribution to this hearing.

Mr. Secretary, you talked about the fact that in this case of the sale of ring magnets to Pakistan by China, that this was something that the central government might not have even known about, that individuals who were involved in that transaction might not have been known or might not have had any official position in the Chinese government.

Do you know whether or not China has ever prosecuted any individuals or disciplined them if they violated the Chinese laws or regulations you've referred to today? Did they do so in this instance, for example?

Mr. EINHORN. We are told by the Chinese that they have disciplined their nationals in a number of these cases. In this particular case, we were told that the official responsible for that entity that made the transaction was removed from his position and penalized. We are not sure what the penalties were, but we are told that he was removed from his position.

Senator COCHRAN. What additional legislative tools or authority would be helpful to the administration in dealing with these proliferation issues, specifically with respect to China? Do you have any recommendations to make to the Congress on that subject?

Mr. EINHORN. Mr. Chairman, I am not prepared today with any specific recommendations, only I would like to tell you that we welcome the opportunity to consult with you and Subcommittee staff on our nonproliferation legislation.

As I mentioned before, the legislation can be helpful. We have seen the legislation as helpful tools. However, there are certain aspects of the legislation that, in our view, are insufficiently flexible. They do not, for example, always match penalties with infractions or do not give the Executive Branch and our diplomats enough flexibility to use the law as a diplomatic tool. We have some ideas about that and would like to consult you further on it.

Senator COCHRAN. You mentioned that we have imposed sanctions against China on a couple of occasions, particularly with the sale of missile technology or equipment by China, is that right? Did I understand you correctly?

Mr. EINHORN. That is correct, once in 1991 and once in 1993 for China's sale of M-11-related equipment and technology to Pakistan.

Senator COCHRAN. Yes. Were there any sanctions imposed in connection with the Chinese sale of the missiles that you described, the cruise missiles, to Iran?

Mr. EINHORN. No. As I indicated, though, we are continuing to monitor the situation. Currently, the transactions we have seen to date do not cross the threshold of sanctionability.

Senator COCHRAN. What is your evaluation of the effectiveness of sanctions as a means of trying to influence behavior by China in this area? Have the sanctions been effective or have they not been effective? What is your view?

Mr. EINHORN. I think the results are mixed, Mr. Chairman. Often, what happens is the threat of sanctions, especially if implicit, will be more effective a means of inducing modified behavior

than the actual imposition of a sanction. We see that in a number of cases, not just in China. But once you pull the trigger, then you do not provide continuing incentives, whereas if the threat of sanctions hangs over the situation and the parties are aware of that situation, this can have a restraining effect, and we have seen that in this case and in other cases, as well.

Senator COCHRAN. I think Senator Stevens has made an excellent suggestion, and that is that we should have a classified hearing, which you also suggested when you heard that we were planning to have this hearing. We will endeavor to work that out and have that scheduled in the near future. We would appreciate your continued cooperation with us as we look at this issue in a lot more depth.

Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman. I have just a few questions.

First, on the M-11 sale, has the administration concluded that there was a sale? Is this something that you are able to, say publicly, yes or no?

Mr. EINHORN. We are confident that in November 1992, there was a transaction, an M-11-related transaction between China and Pakistan, and for that transaction, we imposed sanctions in August 1993, because we knew that, at a minimum, M-11-related equipment and technology were transferred. And there are those in the government that have their own judgments of varying levels of certainty about whether full missiles themselves were transferred in November 1992.

Senator LEVIN. Has the administration concluded whether or not, and can they publicly say whether or not full missiles or what amount to full missiles—there may have been a few more screws to be tightened or a few more little pieces to be added on, but what amounts to full missiles, have you concluded whether or not full missiles, in effect, were transferred?

Mr. EINHORN. We have not reached a conclusion based on the high standard of evidence that we require that complete missiles were transferred. Earlier, I pointed out that—

Senator LEVIN. Have you concluded that full missiles were not transferred?

Mr. EINHORN. No, we have not.

Senator LEVIN. You have not concluded one way or the other?

Mr. EINHORN. That is correct.

Senator LEVIN. I am not asking you what the conclusion is, but are you saying here that you have not concluded one way or the other?

Mr. EINHORN. That is correct. We have not concluded one way or another because our level of confidence is not sufficient to take a decision that has very far-reaching consequences.

Senator LEVIN. And on the, was it the ring magnets where the Chinese official was allegedly removed and disciplined?

Mr. EINHORN. That is correct.

Senator LEVIN. Was the reason that he was removed and disciplined because that transfer violated Chinese domestic law or it violated international agreement?

Mr. EINHORN. I think he was removed because China was embarrassed by a transaction that caused a lot of publicity and that demonstrated that Chinese controls in the nuclear export area needed a lot of improvement.

Senator LEVIN. Have we concluded whether that transfer violated our law?

Mr. EINHORN. We concluded that it did not violate Section 825 of the Nuclear Nonproliferation Act because it did not constitute a willful aiding or abetting of Pakistan's unsafeguarded nuclear program by the government of China.

Senator LEVIN. So we actually concluded that it did not constitute a violation, or are we unable to conclude whether or not it constituted a willful violation?

Mr. EINHORN. I stand corrected. We were not able to reach the determination that the central Chinese government willfully aided or abetted.

Senator LEVIN. So it is not that we concluded that it was not willful. We have been unable to conclude whether or not it was willful.

Mr. EINHORN. That is correct, Senator.

Senator LEVIN. And on the cruise missile technology, does not the transfer of that, which I think the Chairman was just asking about, to Iran, does that violate American domestic law if it was destabilizing, in effect?

Mr. EINHORN. If it involved destabilizing numbers and types of advanced cruise missiles, it would violate the Iraq-Iran Arms Nonproliferation Act of 1992, but as I mentioned—you may not have arrived—we analyzed this carefully and concluded that the transactions so far did not cross the threshold of sanctionability.

Senator LEVIN. So in that case, we have reached a conclusion that it did not cross that threshold. It is not that we are unable to determine in this case of the missiles going to Iran, it is that we have reached a conclusion that it has not crossed that destabilizing threshold, is that correct?

Mr. EINHORN. That is correct.

Senator LEVIN. Thank you, Mr. Chairman.

Senator COCHRAN. Thank you.

Senator Stevens.

Senator STEVENS. I did not want to go into this, but I am going to leave and I am interested in some of the statements of the witnesses that come after you. Have you seen them?

Mr. EINHORN. Not yet, Senator. I plan to read them later on.

Senator STEVENS. Mr. Milhollin, I hope you will not mind if I steal your thunder here a little bit, but he is going to tell us that when he spoke to U.S. officials last week and asked whether there was any change in China's export behavior on poison gas, they said that poison gas sales had continued to the present time unabated. Is that correct?

Mr. EINHORN. Senator, when you say poison gas sales, that implies that China is shipping nerve agent, chemical weapons.

Senator STEVENS. That is right.

Mr. EINHORN. We do not have any evidence of that. What we do have evidence of are sales by Chinese entities of dual-use precursors, dual-use equipment, production technology. These are sub-

stances and equipment that have legitimate civil applications but also can be diverted as ingredients in chemical weapon programs. That is what we see happening and we are examining whether these dual-use transactions meet the various tests of sanctionability and we are investigating that on a very active basis at the moment. But to say that China's exports of poison gas continue unabated, that would be simply incorrect.

Senator STEVENS. I am coming to the conclusion that maybe the administration is so narrowly interpreting our laws that we could have the situation where if a country moved a missile or a poison gas or bacterial warfare system piece by piece, grain by grain, you could not do anything about it until all the grains were there and then it would be a fait accompli. Am I wrong? You are very narrowly interpreting what we thought was very specific legislation.

Mr. EINHORN. I am sorry, Senator. We believe that a country can commit sanctionable acts by selling precursors, dual-use equipment and technology, if—and it would be sanctionable if it made a material contribution and it was a knowing contribution, the exporter knew that the destination was a chemical weapons program.

So what we are saying is it does not have to be the complete chemical weapon or the completed nerve agent for it to be sanctionable. Dual-use goods—

Senator STEVENS. Four hundred tons of chemicals that are used in making nerve agents, would that be sanctionable?

Mr. EINHORN. I am sorry, Senator?

Senator STEVENS. Four hundred tons of chemicals useful for making nerve agents, would that be sanctionable?

Mr. EINHORN. Again, if the exporter knew that these chemical precursors were going to a chemical weapon end use in a terrorist-list country, because that would be the requirement of the law, then it would be sanctionable.

Senator STEVENS. I think the Chinese officials must have rather large blinders on their eyes, then, because the reports are that the material is getting to Iran and we are doing nothing about it.

Mr. EINHORN. Well, yes, materials are getting to Iran, but no, we are doing something about it. We over the last 2 years have made the case very forcefully with Chinese authorities and we are going to continue to hold them to their commitment under the Chemical Weapon Convention that they soon will be bound by not to assist anyone in any way, and in any way means not to ship dual-use equipment or anything else that can contribute to a chemical weapon capability and we are going to hold them to that commitment.

Senator STEVENS. Ambassador Lilley is going to tell us that the former Commander of the Fifth Fleet held news conferences, three of them, to complain about the sales of the missiles to Iran and that former Director of the CIA, John Deutch, also complained about the sales. Did they complain to you?

Mr. EINHORN. I have spoken to some of those individuals and I have read what they have written about it, and we are concerned, too, about these transactions for reasons that I mentioned before. These C-802 cruise missiles increase Iran's maritime advantage over other Gulf States. They pose a threat to commercial shipping. And they also propose a threat to our forces.

Senator STEVENS. Well, they were anti-Aegis ship missiles. They were missiles designed to destroy our capability to protect our fleet. Did they not convey that to you?

Mr. EINHORN. Sure. We have assessed very carefully the capabilities of the C-802 anti-ship cruise missile.

Senator STEVENS. Thank you very much. I do look forward to further discussions.

Senator COCHRAN. Senator Levin.

Senator LEVIN. One additional question, and that has to do with these precursor chemicals. Are you saying that even though we are unable to determine whether or not the sale of those chemicals to Iran violated our law, because we cannot determine the end use, that if the CWC is ratified by Chinese, that the sale of those chemicals would be prohibited by the CWC? Did I understand you correctly?

Mr. EINHORN. Senator, Article I of the CWC says a party cannot assist anyone in any way to have a chemical weapon capability and we would regard a knowing sale of dual-use chemicals or equipment to a chemical weapon program as a violation of the CWC Article I commitment.

Senator LEVIN. But does that not also violate our existing domestic law, a knowing sale of a precursor chemical to a chemical weapons program? Does that not violate our current law?

Mr. EINHORN. That is right, and as I indicated earlier—

Senator LEVIN. But I thought you suggested the CWC was broader in some way than our current law, in terms of its coverage.

Mr. EINHORN. What I indicated before was that there are four or five requirements that have to be fulfilled for our domestic law, four or five requirements that must be fulfilled for our domestic law to be triggered, including that the exporter, the foreign person or institution, must have knowledge that this sale is contributing to the program. Now—

Senator LEVIN. That is exactly what you just said is going to be true under the CWC. Is it a different standard under the CWC than under current domestic law?

Mr. EINHORN. I would have to kind of look at the difference between a nation's CWC obligation and the penalties that might apply to an individual exporter or an individual person to see whether there was any difference. But, in essence, the commitment is not to contribute to chemical weapons programs. In the sanctions law, we are only talking about the recipient being a terrorist-list country, so—

Senator LEVIN. I understand that the countries are narrower. That is not the question. Is the standard different in terms of knowledge, intent? Are those any different under CWC than they are under current domestic law? That is my question.

Mr. EINHORN. The CWC may even be broader because Article I is a very sweeping commitment not to assist anyone in any way.

Senator LEVIN. But that is the implication in your testimony, that somehow or other, it is broader. Now, you are saying it may or may not be broader, you are not sure. It is OK if you are not sure. You can just say that. I just want to know, do you know whether or not the CWC is broader than the current domestic law relative to the sale of precursor chemicals to Iran?

Mr. EINHORN. It seems to be broader. If you would like me to get a legal analysis, I will do that and supply it.

Senator LEVIN. All right. I thank you, Mr. Chairman. I want to commend you for holding these hearings, as well. These are really important hearings. They get to an area where I think we have not lived up fully to our own domestic requirements in terms of the imposition of sanctions where evidence is plenty clear, or clear enough for me, at least, and I am glad that there is going to be a classified session. I think that may be helpful. But in any event, it is a very, very important subject you are on. Thank you.

Senator COCHRAN. Thank you. Thank you very much, Senator, for your comments and for your participation in the hearing.

Let me say that I am serious about the suggestion that we have the classified hearing. Getting into the details of these issues in a classified forum will be helpful to our understanding of what the options are to do a better job of dealing with these issues.

But let me thank you again sincerely for your participation in our hearing today and your assistance in the way that you have provided your testimony and answered the questions that our Committee members have put to you, and we will have more for the record. So thank you very much.

Mr. EINHORN. Thank you, Mr. Chairman.

Senator COCHRAN. Our next witnesses are Ambassador James R. Lilley and Professor Gary Milhollin. Ambassador Lilley was Ambassador to China, as we stated earlier. Gary Milhollin is Professor at the University of Wisconsin Law School and is Director of the Wisconsin Project on Nuclear Arms Control.

We would invite both of you to come forward and take your places at the witness table. We would remind you that we do have your statements that you have prepared for our use. We appreciate that very much. We are going to print them in the record in their entirety. We would encourage you to make whatever summary comments or statements you think would be helpful to our understanding of this issue and then we will have an opportunity to ask each of you some questions.

Ambassador Lilley, you may proceed. Welcome.

TESTIMONY OF JAMES R. LILLEY, DIRECTOR, INSTITUTE FOR GLOBAL CHINESE AFFAIRS, UNIVERSITY OF MARYLAND

Mr. LILLEY. Thank you, Mr. Chairman.

First, I want to second in my own feeble way your desire for a classified briefing. You have to get to the bottom of this. It is deadly serious and I have suggested in my testimony that the first issue you should focus on is Russia-China exchange of weapons of mass destruction.

I have put into my testimony some questionable areas where we see some possibilities of transfer, backfire bombers, SS-18s, upper-stage rockets. I cannot say that these exchanges are definitively true, but CIA and others have to get to the bottom of this because it tells you about intentions, it tells you about strategy, it tells you about capabilities. So I would say, by all means, do it.

The intelligence community has a major problem here because the proliferation of Chinese companies makes them hard to track. If you are looking for work for a CIA case officer who is currently

on other targets, I would say, put him right on this. Find out what those myriad companies are and what is happening. Get through this facade of deception that is being thrown up and find out what is really happening.

Third, I would like to make the point that recently in China, the Chinese stressed to us, not to me but to others, a clear strategy of pressing forward towards the sea and while solidifying their land borders. This is a strategy they have devised in reaching out towards the Taiwan Strait, East China Sea, South China Sea, and solidifying their borders with Russia and various other island countries. This is a strategy that could involve, perhaps, arming Iran. This is justified as part of a long-range strategy.

This is basically a flawed strategy which plays to our strength, our comparative advantage on the ocean, and goes against the long-tested Chinese strategy of going for the opposition's weak points. Also supporting Moslem countries with weapons which are the same countries engaged in hostile activities in Northwest China involving the Chinese-Moslem minorities does not make sense. It does not seem to me it is in China's national interest to support countries who, in turn, support dissident elements in one's own country.

I stress these two points. The Russia-China weapons of mass destruction, get to the bottom of this. Gary Milhollin will deal with the other aspects of weapons of mass destruction.

First, I want to focus today on what I believe is a clear and present danger to the United States fleet. I am talking about the Chinese advanced conventional cruise missile sales to Iran.

These slides tell you about the C-802, what its capabilities are. I would add to this that it can be put into action in 25 minutes, whereas the Silkworm, which was sold earlier, is a question of hours.

Second, there is this solid evidence of a Chinese ship taking Hudong class missile boats with C-802s to Iran. This tells you a couple of things. One, the evidence of the transfer is there. Two, the central knows about it. What else does it tell you? This significantly helps Iran deal with the American Fifth Fleet, 15,000 officers and men of the Fifth Fleet. Admiral Scott Redd has laid this out to us three times. "My men are in greater danger by these missiles." Director Deutch also complained about it. It clearly violates our law, the McCain-Gore law, written by then-Senator Gore and John McCain.

This is the lesson of the Gulf War. Do you remember the trouble we had finding those launchers for scuds on land? We did not really find many at all. What they have here is this TEL, transport erector launching capability, and we have a photo here by the Office of Naval Intelligence that transport erector launching capability is in Iran. These TEL's with missiles can be moved very quickly, and the missiles can be hidden in caves.

There are anywhere from 60 to 100 of those missiles there now, and the numbers are going up. Our ships are in the Gulf. I call that a danger, aimed right at us.

The other disturbing factor is we see in the pipeline another missile, and this is something we have to follow closely, the C-301. It has a much larger payload, it has a longer range, it has four solid

rocket boosters on it and ramjet engines. That is one heck of a weapon, and it seems to me we have to pin down very carefully whether Iran is going to get that weapon in addition to this one, already on their small missile boats. We can sink the boats quickly. But new what they can do is to put them in caves with TELs, and you cannot locate them.

That is what I believe concerned Admiral Scott Redd and Director Deutch. If one says that 60 or 100 of these missiles do not threaten the United States Fifth Fleet, then tell that to the officers and men of the Fifth Fleet. I would not like to be in that position.

There is no question that sale of these missiles is under central control and it violates our law. Is it destabilizing? But even stabilizing missiles can kill. They are in the hands of the Iranian Revolutionary Guard navy. It is not a comforting thought.

As you know, the U.S.S. Stark was hit in 1987 by Iraqi missiles, Exocets, on which these are based. Thirty-seven Americans died.

Let us move on. Were sanctions invented by this administration? I do not think so. In 1989, we imposed strict sanctions on China, and also in 1991. In 1989 the Bush administration had a whole list of sanctions on China, including military exchanges, World Bank loans, transfer of military equipment. All the military programs were suspended. Our first well-tailored sanctions in 1991 were designed to deal with sales to Pakistan of the M-11 because it was at that time that our administration thought through carefully exactly what the Chinese key vulnerabilities were. We then applied sanctions. Sales were stopped not for long, about 11 months, until November 1992, when we were in no position, having just been defeated in the election, to renew after these sanctions. We used Hughes satellites and the super Cray computers. These were areas of special interest to China and sanctions were tailored to deprive China of there. This would give the message to China that selling M-11s was not in its interests.

As for our law, the Chinese, of course, make the explanation that Gore-McCain is passed by the United States without consulting with China. It imposes severe penalties on China but with no international standards involved. The Chinese say the United States cannot draft laws to change China's behavior. It has to be internationalized. This is their argument.

The second argument China makes is that the United States, in fact, sell weapons to Taiwan, weapons that threaten China. The United States says, no, they are only defensive and in response to what China does. The Chinese make the linkage and make it constantly. We have never accepted that linkage. The Chinese insist that some kind of a tradeoff exists between what they do in the Persian Gulf and what we do in the Taiwan Strait.

In addition, the kinds of legal entities we use to get at the Chinese, are not well tailored to deal with proliferation infrastructure. Ex-Im Bank loans worth \$10 or \$20 billion are used on a \$50,000 transaction. It does not make sense in terms of our commitment to China trade, investment, commerce. The sanction is not tailored to the infraction. Satellites, super Crays, were. Ex-Im loans are not. That is one of the legislative problems we have.

But, we have to deal with this strategically with China. We have to get on the same wavelength with them in terms of the problems

in the Moslem areas in the Middle East, and this serves both our interests. We did this in Afghanistan against the Russians and we had a successful operation in war. The peace was not so good, but the war actually worked, the Saudis, Paks, ourselves, and Chinese cooperated. We had common interests in blocking Soviet expansion and the Soviets were defeated, probably leading to the fall of the Soviet empire.

We now have to find similar strategic causes with China in the Middle East. One is, of course, oil and other related areas where we have common interests in free flow of oil. Checking Moslem radical states could then also be a common interest.

The Chinese have acquired the Sovremeny class destroyer with the Sunburn missiles which is designed to blow up our Aegis class frigates. The missile comes in low, goes up and then drops right on the ship. We do not have any real protection against that yet.

The Sun-tau strategy calls for looking for the enemy's weak points. But despite the Sovremeny destroyers, this is not in the oceans. It is not new and it will not be for the foreseeable future. Russian Kilo class submarines are not the answer in dealing with us, perhaps in dealing with Indonesia or with other Southeast Asian countries, but not in dealing with us. Neither are the surface-to-air SA-10 missiles or the other acquisitions.

What does concern us is the weapons of mass destruction, of these links between Russia and China. As I again say, the outlines come through the fog of obfuscation. It is for instance important to know if that man from Russia, the best MIRV expert they have, did actually go to China for 18 months. Is that true or not? I cannot say at this point.

So I would suggest that we move ahead on this. We have certain good cards to play in East Asia. We are in a strong position and we have the critical North Korean problem that we have to work with China on. This is important to their security and our security. The North Koreans and their weapons of mass destruction are a terrible problem. As you remember, sir, it was Ronald Reagan and George Bush that opened up this issue. We were the ones that got the first inspection teams in there. We were the ones that got the inventories of their weapons of their nuclear facilities.

I commend the administration for its follow-on activities. I think there were certain flaws in this agreed framework, namely we needed challenge inspections and North-South dialogue. But this North Korean problem is so serious—I am sorry Senator Stevens is not here because he was just up there and saw it for himself.

Senator COCHRAN. Yes. I went with him.

Mr. LILLEY. Well, you then know. I am preaching to the choir.

Senator COCHRAN. We were together. There were five of us who were a part of that delegation, and Senator Stevens was our leader and he is the one who decided that we ought to go.

Mr. LILLEY. You know how high the stakes are and you know how tough these people in North Korea are, we believe they have hidden nuclear weapons and missiles away in the hills. They have tested their Nodong and Taepodong missiles. There are recent threats that their military—I believe you may have heard this while you were there, that the North Korean military would be very disappointed if food did not come and it might be difficult to

control them. I am paraphrasing what was said, but it was rather ominous. It is a form of blackmail.

The Chinese are the key to some sort of resolution of this dangerous problem. We need to tie it into other areas where we have common interests with China and there are some important ones such as entry into the World Trade Organization, access to high technology, all critical to China. This would include Ex-Im loans, World Bank loans, Japanese loan packages.

Economics is becoming the name of the game, so we cannot allow the hard line military to push the envelope, change the rules while working with people like the Iranians.

[The prepared statement of Mr. Lilley follows:]

PREPARED STATEMENT OF MR. LILLEY

*"The United States and China's neighbors would welcome greater transparency in China's defense programs, strategy and doctrine."*¹

*"When capable, feign incapacity; when active, inactivity."*²

Former Secretary of State Warren Christopher apparently says and believes in a strategy of "integration through engagement, and that China should take its place as a world leader as a secure, open and successful nation."³ Sun-tau, the ancient as well as the greatest Chinese philosopher of the art of war, saw it differently. There is some evidence he still has considerable influence over Chinese strategic thinking. He certainly did over the late Chairman Mao, another architect of Chinese strategy. There is, in short, a perception gap of some size.

In addition, in dealing with proliferation and China, there are two basic problems. The first is the flow of hardware, technology, and personnel into China, principally from Russia, and the second problem is the flow outward of hardware and technology from China, principally to the nations of South Asia and the Middle East.

In the case of inflows from Russia, we have some hard data on conventional hardware flown but much less on Weapons of Mass Destruction (WMD). The latter would have to be the subject of a classified briefing. There was some evidence when I was at DOD in 1992 but that was almost five years ago. This must be the highest priority target, in my view, for our intelligence community, and I presume that it is. Dr. Stephen J. Blank of the Army War College has written an important essay on this based on open data. He concludes that China's hunger for weapons imports matches Russia's needs and creates a perfect fit between both sides. The Russian arms industry, he points out, is "out of control and is not animated by any sense of strategic imperatives other than making money for defense producers. . . . We see only the tip of the iceberg when we look at these arms sales to China."⁴

Russia has concluded that the starved Russian defense industry—GNP has fallen 40 percent since 1991—needs arms sales to take the road to revival of Russian power and prestige—that production lines must be kept hot. A heavy veil of secrecy, however, falls on the area of WMD. The rationale is: Chinese and Russian strategic interests coalesce to resist U.S. hegemony, but greed, corruption and desire for monopolizing exports drive the sales making them vulnerable to penetration.

What we know has been sold to China by Russia are SU-27, state-of-the-art aircraft, plus the technology to build them in China. The total number could be over 200. Modern Kilo class submarines using the most advanced muffling technology and 2 Sovremenny class destroyers along with SS-N-22 Sunburn anti-ship missiles. The Sunburn is designed to counter U.S. Aegis equipped ships. Overall sales may have been as high as \$5.2 billion in 1995. More ominous are unconfirmed reports than Russia may be selling SS-18 technology to China; this is an intermediate range ballistic missile. The sale in 1995 of upper stage rocket engines to China, Russian military technicians recruited for long-term service including the best Russian man on MIRVs, and Russian close cooperation in development of new more powerful

¹*United States Security Strategy for the East-Asia Pacific Region*. DOD/ISA, February, 1995.

²Sun-tau, *The Art of War*. Translated by Samuel Griffith.

³*Preparing for China's Future After Deng*. Testimony by Robert Kagan before the Senate Foreign Relations Subcommittee on East Asian Affairs, 18 March 1997.

⁴Stephen J. Blank *The Dynamics of Russian Arms Sales to China*. U.S. Army War College. March 1997.

and better targeted cruise missiles are all issues that require more information. Also, there is some information on Chinese acquisition of Russian 4000 km range Backfire bombers.

Russian strategists talk of dealing with the eastern expansion of NATO by strengthening ties to China and therefore supporting China's outward push towards the sea where it faces its greatest challenge, the U.S. Chinese strategists say much the same thing: solidify and stabilize our land borders so we can look east and south—Taiwan, the Diao Yu islands off Japan, Hong Kong and the South China Sea. Chinese purchases from Russia reflect this orientation—building projection of sea and naval power. These purchases will also enable China to develop an integrated land/sea/air defense system.

As for China's exports, "since 1988, the United States has repeatedly claimed that Chinese exports of missiles and missile components posed a challenge to MTCR provisions"⁵ whose parameters China has said it will adhere to since 1991. China has been identified as involved in the nuclear weapons program in Pakistan with the latest sale of 5000 ring magnets in the fall of 1995, even though it signed the NPT in 1992.

Perhaps the most disturbing sale for the U.S. is the C-802 cruise missiles, the Eagle strike, to Iran for installation in the 10 Hudong class missile boats delivered earlier. This violates our legislation—the Gore-McCain Act, sections 1604 and 1605, which prohibits companies and foreign governments from transferring advanced conventional weapons to Iran or Iraq. This law specifically refers to cruise missiles. Admiral Redd, former commander of the 5th Fleet, held three news conferences in 1996 to complain about these sales which endangered his men and ships by the Iranian Revolutionary Guard Navy. Former CIA Director John Deutch also complained about these sales. The Administration, however, has concluded that the known transfers are not of a destabilizing number and type. Tell that to our sailors and airmen in the Persian Gulf who are aware the Iranians now have facing our ships launch vehicles for mobility and numerous caves for shelter and concealment along the coast.

This points up the central dilemma in dealing with China on these specific issues without any workable strategic understanding on common objectives. Although the Chinese have in fact formally supported the nuclear non-proliferation treaty, are a signatory of the Chemical Weapons Convention, and an adherent to the Missile Technology Control Regime, they do not support The Australia Group, the Wassenaar Agreement or the Nuclear Supplies Group. China has asserted three basic principles in its arms transfer policy:

1. Transfers should be conducive to the strengthening of the legitimate defense capabilities of the receiving countries.
2. Transfers should be without harm to regional peace and stability.
3. Transfers should not be used to interfere in the internal affairs of sovereign states.

When dealing with the Chinese rhetoric and reality on proliferation, keep in mind that Chinese policy for decades, even centuries, has been based first on high sanctimonious rhetoric, at a second level on Realpolitik, and a third, on victimization. When China sells controversial weapons to what we, though they do not, consider rogue states like Iran, this has multiple advantages for China. First, it makes money for a military establishment on the go which needs all the money it can get; secondly, it appeals to a Moslem state on a governmental basis and this state might then be less inclined to support troublesome Moslem radicals in China's northwest; third it reminds the U.S. that China is a player in the international scene and that it can make the U.S. uncomfortable by claiming it is only retaliating for U.S. arms sales to Taiwan, which China considers part of China. China also says any action by us based on Gore-McCain would be unilateral, it has no international support—China did not participate in any way in a piece of U.S. domestic legislation which impacts severely on China. China reminds us of the fallout from Helms-Burton on Cuba and also of our legislation on nuclear proliferation trying to use export/import loans as leverage on nuclear-related weapons sales. This is unrealistic, i.e., \$50,000 of ring magnets causing the withdrawal of \$10–20 billion in EX/IM loans. Given the current economic growth in China and American business desire to be involved and competitive, the proposition is unworkable.

What then can be done?

The most important problem is to engage other key countries when there is an infraction of international standards of organizations to which China belongs, or to

⁵ *Engging China in the International Export Control Process*. RAND 1997. Prepared for DOD.

which it adheres. China has been excluded from the rulemaking process and tends at times to view international organizations and their universal norms as fronts for other powers. They often participate to avoid losing face and influence. China sees complaints about China's violations of international norms to be part of an integrated Western strategy, led by Washington, to prevent it from becoming a great power, to contain China. This often causes us to vociferously deny we are containing China—so China says we should demonstrate our denial by weakening the U.S.-Japan security alliance which the Chinese say is aimed at them, by cutting arms sales to Taiwan, which they say is their sovereign territory, and by refusing to deploy theater missile defense which the Chinese consider an anathema, an instrument of first strike. Perhaps Chinese concerns in these three areas telegraph their vulnerabilities.

The U.S. needs to have consistency and cohesion with our close allies and friends on enforcement of export control measures, especially when there is solid evidence of an infraction. The U.S. failure to discover chemical precursors on the Chinese ship *Milky Way* in 1993, when we claimed there were, discredited our proliferation efforts world-wide. This error cannot be repeated.

We need to reach some common conclusions with China on the real down-side for both of us in selling modern weapons to certain states in the Middle East and South Asia. This would involve reviewing our respective positions on Pakistan, Iran, Syria, Iraq, Libya, and the Sudan, to name just a few, and to establish some joint objectives. We were able to reach solid consensus with China during the Afghan war and the result was the defeat of the Soviet Union, a benefit to both of us.

In addition, we have to establish some discipline and control over our intelligence and export control apparatus. One now reads secret intelligence reports in the Washington media describing in some detail intelligence findings on Chinese proliferation attempts. This undercuts our leverage, undermines our policy, and dilutes our effectiveness.

We cannot afford posturing and domestically-motivated legislation. Our ineffectiveness on human rights was clearly demonstrated when after much bluster and showmanship in 1993, the Administration reversed course one year later and delinked MFN from human rights. This phenomenon was repeated when the Chinese out-maneuvered the U.S. on the Gore-McCain bill and sold cruise missiles to Iran without retaliation. This compounds the Chinese view that we are not serious.

We must determine through skillful handling and operational probing the extent of Chinese proliferation activities—the most important being the full measure of Chinese acquisitions from Russia. We should have some leverage with Russia on this, and it would give a clearer indication of Chinese intentions. By careful probing we were able to establish Chinese vulnerabilities in 1991–92 on proliferation of missiles to Pakistan and could thus tailor specific retaliation to the infractions. This did achieve temporary results. This success could not be repeated because the Chinese acquired other sources for commodities previously supplied by the U.S.

Our negotiators are faced by an increasing sense of nationalism in China, and by a more confrontational approach. This should not obscure the leverage we have.

We also need to engage the Chinese military more closely because it is a powerful force in proliferation policy in China. Harvard University is bringing Chinese military officers to the U.S. to understand better our system and our strategy. This is a modest beginning. Officially we can also do more with China. We need to gain greater reciprocity and to try to establish some common goals, starting with North Korea, a dangerous WMD problem for both of us.

Senator COCHRAN. Thank you very much, Ambassador Lilley, for your excellent statement and the perspective that you bring to this discussion. We appreciate your being here.

Professor Milhollin, welcome. Thank you for being here, as well.

TESTIMONY OF GARY MILHOLLIN, PROFESSOR, UNIVERSITY OF WISCONSIN LAW SCHOOL, AND DIRECTOR, WISCONSIN PROJECT ON NUCLEAR ARMS CONTROL

Mr. MILHOLLIN. Thank you very much, Senator. Since my statement will be put into the record in its entirety, I will just summarize it, and some of it has already come out previously.

I think that the Committee has asked me to answer two very important questions. One is whether our engagement policy is working with respect to China, and second, whether the Executive

Branch is really implementing the U.S. law concerning sanctions in good faith.

I think the answer to both of those questions is fairly clear. At this time, our engagement policy is basically out of gas. It is no longer achieving anything significant. Since 1994, our ambassadors have been going to China, holding out the engagement ring, and the Chinese have been closing the door in their faces. This happened most recently to Mr. Einhorn last month. His trip produced essentially nothing.

The Chinese are now refusing even to talk to us about their chemical and missile exports. Mr. Einhorn basically admitted that during his testimony. There is no longer any dialogue, so our engagement policy is not working on those two subjects. It is working a little bit on nuclear, but we are not sure how much it is working.

The second question is, is the administration complying with the sanctions law? I am told that last fall, the Executive Branch finished a number of studies on China's missile and chemical exports to both Iran and Pakistan. The studies contained the legal and factual analysis necessary to apply sanctions, but the studies have lain dormant since then. The State Department is now, in effect, choosing not to complete the administrative process. So the result is that the sanctions law is not achieving either deterrence or punishment as Congress intended.

Before I go into the details of those things, I would like to make just a few comments in perspective about China's proliferation behavior in the past. Since 1980, China has supplied billions of dollars worth of nuclear and missile technology to South Asia, South Africa, South America, and the Middle East. To my testimony, I have attached a table at the end showing the pattern of Chinese exports since 1980. The table only shows Islamic countries. I have not shown South Africa, Brazil, Argentina, and India. All of those countries got significant secret Chinese exports during the 1980s and even the 1990s—I am sorry, during the 1980s.

Also, by way of perspective, I think it is important to realize that we sanctioned China twice for exporting M-11 missile components to Pakistan, and each time we lifted the sanctions early, and each time, it was a mistake, because each time the Chinese exports continued. The most recent promise the Chinese made was in October of 1994. The Chinese promised us once again that they would comply with the Missile Technology Control Regime. That is an international agreement to restrict missile sales.

Since 1994, the Chinese have not complied with the Regime. The State Department, in effect, is admitting that fact when it says in its testimony, as it just did, that there is no evidence that China is breaking its promise. The problem is with the promise. The promise was an illusory promise and if the State Department is asked now, and I hope you will ask them, whether the current Chinese behavior complies with the MTCR, the honest answer is that it does not.

What we now realize is that when we were promised in 1992 and 1994 that China would clean up its act, the Chinese in their minds were making such a narrow promise that it is essentially meaningless. So the fact is that today, Chinese missile exports to Pakistan are violating the MTCR and the State Department knows it, the

case is well documented, the legal analysis has been done, and sanctions should be applied.

The latest venture in this sad process is a missile plant in Pakistan to produce M-11 missiles domestically. China is supplying the plant. I am told that the plant is proceeding very rapidly and that it could start producing finished M-11 missiles in a year. If that happens, it will be basically a diplomatic and a national security disaster which has been, in my opinion, facilitated by the refusal of the United States to intervene. That is, we have ignored this export behavior to the point where it is going to produce a new missile factory and unless we do something about it, the result will have been that we, in effect, gave it a green light.

The second thing I would like to talk about is poison gas. In 1995, I discovered and wrote in the New York Times that we, the United States, had caught China exporting poison gas to Iran, poison gas ingredients, I should say, and that is what my testimony says, is poison gas ingredients to Iran, and that the sales had been going on for at least 3 years. Since then, as members of the Subcommittee have pointed out, the exports have continued and so the result is that by 1997, China has been outfitting Iran with poison gas precursors, ingredients, equipment, and so forth, and technology for at least 5 years. These shipments have been going on unabated.

I called the intelligence officials in our government last week and they say that there has been no change up until the present moment. So what we are looking at is a 5-year history of equipping Iran with the means to make poison gas, which has not been affected by anything we have done.

The current situation is that we are not even talking about it. So I guess I would have to say that there is very strong evidence that our engagement policy simply has not worked and is not working.

Finally, nuclear weapons. We have already discussed the sale of ring magnets by China to Pakistan. These are specialized items. We are not talking about dual-use equipment. We are talking about magnets that are made specifically to go into centrifuges that make enriched uranium for bombs. Those were sold by an arm of the China National Nuclear Corporation, which is an arm of the Chinese government. This was a sale by a Chinese government organization directly to a secret nuclear weapon-making facility in Pakistan of items that were specifically designed to help make nuclear weapon material.

In my opinion, it violated China's pledge under the Nuclear Non-proliferation Treaty, which China signed in 1992. The treaty says that if you export something like that, you have to export it with international inspection. China did not. So far as I know, the State Department has never said that that sale did not violate the treaty, and I think you should pin the State Department down on that. In my opinion, it did violate the treaty.

The next candidate for China's nuclear help is Iran. China has two very dangerous deals hanging over our heads with respect to Iran. The first one is a small, not so small, actually, about a 25- to 30-megawatt nuclear reactor which will make one or two bombs' worth of plutonium a year.

The second deal is a plant to make uranium hexafluoride, which is essential to enriched uranium for use in nuclear weapons. There is no peaceful use for this uranium hexafluoride plant in Iran, so that China is really willing to put nuclear weapon-making capability in the hands of what we consider to be a terrorist nation with really no plausible excuse.

What China seems to be telling us is that unless we start cooperating more with China in the nuclear area, that is, to resuscitate our dormant nuclear cooperation agreement with China, then these two deals will go forward. This seems to me to be pretty close to nuclear blackmail. So the result is that we are watching exports go out and we do not really have much prospect of stopping them and the Chinese are telling us that unless we stop complaining, the exports could increase.

I think that our strategy of delinkage, that is, delinking China's export behavior with U.S. relations, and our strategy of engagement is not working and we should replace it with a new strategy of what I call linkage. If China wants to have good, normal relations with us, then we have to expect China to operate according to the rules of the international game. If China wants to become a responsible member of the world community, then we can have normal relationships with China. Otherwise, we will not.

The specific question of sanctions, I have already talked about. I have said that these studies have been completed. I think the State Department, in effect, is admitting that there is enough evidence to apply sanctions. The State Department is no longer saying it does not have enough evidence. It is just saying it has not made a determination.

I think the State Department just continues to raise the level over which you have to jump higher and higher as the evidence comes in so that sanctions will never have to be applied and the engagement policy can simply be continued. The effect is to really nullify the act of Congress that imposes sanctions, because unless the State Department is willing to go forward in good faith and complete the administrative process, then the law cannot have any effect.

To conclude, I think what we are doing with respect to China is making the same mistake we made with respect to Iraq before the Gulf War. I testified before the Senate just before the invasion of Kuwait and I was calling for sanctions against Iraq because of its violation of the Nonproliferation Treaty and I was warning that the Iraqis were buying all sorts of very dangerous nuclear dual-use equipment and the State Department was saying that it would be a mistake to try to isolate Saddam, that what we should do is engage him, bring him into the mainstream, and make him a member of the international community by continuing trade.

The policy that we followed with respect to Saddam would have produced an Iraqi bomb had Saddam not been foolish enough to invade Kuwait. As it was, when the Gulf War started, one of our main missions was to destroy the factories full of equipment that the West had provided. We lost pilots doing that. So I think the lesson is that you should not make a rogue stronger while he is still a rogue and you do not stop a rogue from being a rogue by treating him like a non-rogue.

The Chinese understand the message we are giving them very well. They know that, despite what we say, they can supply the means to make weapons of mass destruction around the world without facing any penalties. I think this goes in the face of history. As Mr. Einhorn has said and, I think, as Jim has said, sanctions do get the attention of the Chinese. When we show them that we are serious, they react.

It seems to me that one of the most interesting recent demonstrations of that was on intellectual property. We threatened to impose 100 percent tariffs on about \$1 billion worth of Chinese imports if they did not stop looting our inventions, and they backed down. We did not get everything we wanted, but we got a lot.

I think we have to take the spread of weapons of mass destruction as seriously as we take protection of Hollywood videos. The day when we start showing China we are serious, I think we will get somewhere, but I do not think that day has come.

I have some recommendations at the end of my testimony which I will not repeat, but I urge the Committee to consider them carefully. In particular, I think the Committee should exercise oversight concerning our licensing behavior now with respect to China. The Committee already has the legislative power to do that and I think the Committee should do it. Thank you very much.

[The prepared statement of Mr. Milhollin follows:]

PREPARED STATEMENT OF MR. MILHOLLIN

I am pleased to appear today before this distinguished Subcommittee, which has asked me to discuss China's role in the spread of weapons of mass destruction. I have been asked to respond to two questions: First, how effective is our present "engagement" policy toward China; second, is the executive branch implementing the U.S. law concerning sanctions?

I think that the evidence is now clear on both questions. The administration's engagement policy has run out of gas—it is no longer achieving anything significant. The process is essentially dead. Since 1994, our ambassadors have gone to China, they have held out engagement rings, and the Chinese have shut the door in their faces. This happened most recently to Mr. Einhorn last month, whose trip produced nothing. The Chinese are now refusing even to talk to us seriously about the impact of their missile and chemical exports. There is no longer any dialogue on these points. The State Department has a policy of engaging the Chinese, but the Chinese do not have a policy of engaging the State Department.

Nor is the administration complying with the sanctions law. Last fall, the executive branch finished a number of studies on China's missile and chemical exports to Iran and Pakistan. The studies contained the legal and factual analysis necessary to apply sanctions, but they have lain dormant since then. The State Department has chosen not to complete the administrative process because if it did, it would have to apply sanctions and give up its engagement policy. The sanctions law is not achieving either deterrence or punishment, as Congress intended.

Today, China's exports are the most serious proliferation threat in the world, and China has held that title for the past decade and a half. Since 1980, China has supplied billions of dollars' worth of nuclear and missile technology to South Asia, South Africa, South America and the Middle East. It has done so in the teeth of U.S. protests, and despite repeated promises to stop. The exports are still going on, and while they do, they make it impossible for the United States and the West to halt the spread of weapons of mass destruction—a trend that endangers everyone.

Missiles

Chinese companies were caught selling Pakistan M-11 missile components in 1991. The M-11 is an accurate, solid-fuel missile that can carry a nuclear warhead about 309 kilometers. In June 1991, the Bush administration sanctioned the two offending Chinese sellers and Pakistan's space agency, SUPARCO. The sanctions were supposed to last for at least two years, but they were waived less than a year later,

in March 1992, when China promised to abide by the guidelines of the Missile Technology Control Regime, a multinational agreement to restrict missile sales.

But by December 1992, China had shipped roughly two dozen M-11 missiles to Pakistan. It had been a mistake to waive the sanctions.

In August 1993, the Clinton administration applied sanctions again for two years, after determining that the Chinese had violated the U.S. missile sanctions law a second time. But in October 1994, the United States lifted the sanctions early again, when China pledged once more to stop its missile sales and comply with the Missile Technology Control Regime.

But since 1994, the stream of missile exports has continued. U.S. satellites and human intelligence have watched missile technicians travel back and forth between Beijing and Islamabad and have watched steady transfers of missile-related equipment. When I queried U.S. officials last week, they said that China's missile exports have continued up until the present moment, unabated.

In fact, our officials have learned that they were duped in 1992 and 1994. What we thought China was promising is not what China was really promising. Our officials now realize that China interprets its promises in 1992 and 1994 so narrowly as to make them practically meaningless. That is how the Chinese have justified their continuing missile exports. Because of this interpretation, China should no longer be considered as complying with the Missile Technology Control Regime.

In addition to its sales to Pakistan, China has also sold Saudi Arabia medium-range, nuclear-capable missiles, sold Syria components needed to improve Syria's missile arsenal, sold Iran missile guidance components, and sold Pakistan complete M-11 missiles.

I have attached a table to my testimony that shows China's mass destruction exports since 1980.

In its latest venture, China is helping Pakistan build a plant to produce M-11 missiles in Pakistan. U.S. officials said last week that activity at the plant is "very high." If the Chinese continue to help at their present rate, the plant could be ready for missile production within a year.

This activity, combined with the State Department's refusal to apply sanctions, means that the State Department is now giving a green light to one of the most dangerous missile plants in the world.

Poison gas

In addition to missiles, China has been selling the means to make poison gas. In 1995 I discovered, and wrote in the New York Times, that the United States had caught China exporting poison gas ingredients to Iran, and that the sales had been going on for at least three years. The State Department sanctioned the front companies that handled the paperwork, but did nothing to the Chinese sellers for fear of hurting U.S. trade relations.

China's poison gas shipments have only become worse since then. In 1996, the press reported that China was sending entire factories for making poison gas to Iran, including special glass-lined vessels for mixing precursor chemicals. The shipments also included 400 tons of chemicals useful for making nerve agents.

The result is that by now, in 1997, China has been outfitting Iran with ingredients and equipment to make poison gas for at least five years. When I spoke to U.S. officials last week, I asked them whether there was any change in China's export behavior on poison gas. They said that the poison gas sales had continued to the present time, unabated.

There is no reason to think that this pattern will change as long as the United States follows its current policy. If anything, China's position seems to be hardening. China is now saying, explicitly, that it will not even talk to us about missile and chemical proliferation unless we are willing, at the same time, to discuss restraints on our arms sales to Taiwan. The arms sales, of course, are caused by China's threat to Taiwan. And to make matters worse, the Chinese are beginning to complain about our policy of providing theater missile defenses to countries like Japan that might be vulnerable to Chinese missile attacks. The Chinese say that this is another form of missile proliferation.

Nuclear weapons

China has also been the leading proliferator of nuclear weapons in the world. China gave Pakistan nearly everything it needed to make its first atomic bomb. In the early 1980s, China gave Pakistan a tested nuclear weapon design and enough high-enriched uranium to fuel it. This has to be one of the most egregious acts of nuclear proliferation in history. Then, China helped Pakistan produce high-enriched uranium with gas centrifuges. Now, it is helping Pakistan build a reactor to produce

plutonium and tritium for nuclear weapons, and helping Pakistan increase the number of its centrifuges so it can boost its production of high-enriched uranium.

In January of 1984, Chinese Premier Zhao Ziyang made his famous White House toast saying, "we do not engage in nuclear proliferation ourselves, nor do we help other countries to develop nuclear weapons." The United States relied on that promise in making its agreement for nuclear cooperation with China in 1985. But we caught the Chinese breaking the promise immediately afterward, so the agreement never came into effect. China's habit of making and breaking promises is not new.

China's most recent export was of specialized ring magnets, which are used in the suspension bearings of gas centrifuge rotors. The sale was revealed in early 1996. The magnets were shipped directly to a secret nuclear weapon production site in Pakistan, and were sent without requiring international inspection. The seller was a subsidiary of the China National Nuclear Corporation, an arm of the Chinese government. In my opinion, this export violated China's pledge under the Nuclear Non-proliferation Treaty, which it joined in 1992. Article III of the Treaty forbids the sale of such items without requiring international inspection. The sale also violated China's pledge under the Article I of the Treaty not to help other countries make nuclear weapons. Yet, the State Department has not sanctioned China for this sale, or even complained about it publicly.

Iran is the next candidate for China's nuclear help. China has agreed to sell Iran a 25 to 30 megawatt nuclear reactor, which is an ideal size for making a few nuclear weapons per year. And China has also agreed to sell Iran a plant to produce uranium hexafluoride from uranium concentrate.

The hexafluoride plant is essential to enrich uranium for use in atomic bombs. Bombs fueled by enriched uranium have become the holy grail of developing countries trying to join the nuclear club. Such bombs are easier to make than those fueled by plutonium because uranium is easier to work with, less toxic, and easier to detonate with confidence that a substantial nuclear yield will result. Iraq was close to making a uranium bomb when the Gulf War began. The first bomb ever dropped was a uranium bomb. The United States released it over Hiroshima without having to test it.

There is no peaceful use for enriched uranium in Iran. Enriched uranium is used to fuel reactors, but the only reactors in Iran that could use such fuel are being supplied by Russia, which is also supplying their fuel. The conclusion has to be that Iran wants to use this plant to make atomic bombs. The fact that China is even considering this deal shows that China is quite ready to put nuclear weapon-making capability into the hands of what the United States regards as a terrorist nation.

These two sales have not been finalized. In effect, they are being held over our heads like swords. If we don't start cooperating more with China in the nuclear area, then China can simply complete these two dangerous export deals with Iran. This is fairly close to nuclear blackmail.

To sum up, I think the conclusion has to be that our engagement policy has failed and has been failing for some years. The policy is not producing any change in China's behavior, and is not even producing engagement. The negotiation process is effectively dead. The Chinese are not even talking to us about their exports. We are just watching the shipments go out, without any hope of stopping them. All our present policy has produced is a new missile factory in Pakistan, an upgraded nuclear weapon factory in Pakistan, new chemical weapon plants in Iran, and possibly a nuclear weapon factory in Iran.

When you are losing the game, it is time for a new strategy. We need to replace our current strategy with a strategy based on linkage. We should link our cooperation with China to its export behavior. We will cooperate with China if and when China becomes a responsible member of the world community.

Sanctions

The Subcommittee has asked me specifically to discuss sanctions. It is clear that the administration is not implementing the present U.S. sanctions law. The missile sanctions law does not require evidence that an entire missile or missile components have been shipped. The law says that sanctions are to be applied whenever a foreign company "conspires or attempts to engage in" the export of missile technology to a country like Pakistan.

As I have said, the executive branch has done a legal study to determine what this language means. That study has been completed for more than a year. There has also been a factual documentation of the conspiracy. The factual study has been completed for at least six months. These studies covered China's missile exports to both Iran and Pakistan. Thus, there is no longer any legal or factual basis for not applying missile sanctions to China as Congress intended.

The State Department has admitted this fact by implication. The State Department is no longer saying that there is “not enough evidence” to apply sanctions to China. It is now saying that it has “not yet made a determination” to apply sanctions, which is quite different. In effect, the State Department is saying that it has not applied sanctions because it has chosen not to complete the administrative process.

The sanctions law does not allow this kind of discretion. The executive branch has an obligation to weigh the evidence and apply the law in good faith. Otherwise, the law is meaningless. As things stand now, the State Department has nullified the sanctions law by refusing to carry out the administrative process that allows the law to take effect.

The status of chemical sanctions against China is similar to the status of missile sanctions. Chemical sanctions apply to any foreign person who knowingly and materially contributes to the development of a chemical weapon in a country like Iran. The evidence of China’s poison gas-related exports to Iran during the past five years is overwhelming, and the sales are still going on. The case is clear. All the analysis and documentation has been finished. The State Department is limply standing in the courthouse door, preventing justice from being done, in the same way it is doing for missile sanctions.

For nuclear-related transfers, the law is more complex. Under Section 821 of the Nuclear Proliferation Prevention Act of 1994, if the seller knowingly and materially helps a country like Pakistan obtain enriched uranium, then the seller cannot sell anything to the United States Government. In addition, under the Export-Import Bank Act, if the seller is a country, the country is not eligible for U.S. Export-Import Bank financing.

The transfer of the ring magnets to Pakistan was done by an arm of the Chinese government, and thus with the knowledge of Chinese government officials. The administration said that it did not impose sanctions because it was unclear whether high Chinese officials knew about the sale. But at least mid-level Chinese officials knew, so it is difficult to see why the Chinese government was not held responsible. Governments are routinely held liable for the actions of their agencies and employees. Indeed, governments, like corporations, can only act through their employees. This seems to be another case where the State Department was unwilling to implement the law.

Conclusion

We are following essentially the same policy toward China now that we followed toward Iraq before the Gulf War. When Iraq was caught smuggling nuclear weapon triggers out of the United States before the Gulf War, that act violated Iraq’s pledge under the Nuclear Nonproliferation Treaty not to try to make nuclear weapons. But the United States was silent. Rather than apply sanctions, or even complain publicly about Iraq’s violation, the State Department chose “constructive engagement.” It would be better to maintain our influence with Saddam Hussein through trade, the State Department said. By selling Saddam what he wanted, and by not complaining about his behavior, we would bring him into the mainstream of nations. Sanctions would only isolate Saddam, hurt American exporters and allow the Europeans and the Japanese to get all the petrodollars.

We now know what that policy produced. If Saddam had not been foolish enough to invade Kuwait, we would be facing a nuclear-armed Iraq today. And the Iraqi bomb would have been built with exports from America and its allies. To stop Saddam’s bomb, American pilots had to risk their lives to destroy factories full of equipment that the West had provided.

The lesson is that you should not make a rogue stronger while he is still a rogue. And, you don’t stop a rogue from being a rogue by treating him like a non-rogue. The message we gave Saddam Hussein was that nothing bad would happen to him as long as he bought our products. We followed a policy of “constructive engagement” and of “de-linkage.” We are giving China the same message now.

The numerous high-level visits to China by U.S. officials over the past year have produced nothing. In recognition of that, we are not even making nonproliferation a big issue in our high-level meetings. The Chinese understand this message very well. They know that even if they supply weapons of mass destruction around the world, they won’t face any penalty from us. We are acting like a paper tiger, and being treated like one. Until we put some teeth into our sanctions policy, we will just rub our gums together.

History shows that sanctions work. The only time we have managed to get any progress on proliferation out of China is when we either applied sanctions or threatened to apply them. In the face of sanctions the Chinese have an incentive to talk to us. An example is intellectual property rights. In 1994, when we threatened to

impose 100 percent tariffs on more than a billion dollars' worth of Chinese imports if China didn't stop looting our inventions, the Chinese backed down. So far, the Clinton administration has done more to protect Hollywood videos than to stop the spread of weapons of mass destruction.

When we get serious about proliferation, the Chinese will get serious. Now, there is nothing to talk about because the Chinese don't see any risks. If we really want to engage the Chinese, we have to show that we are willing to punish them when they break the rules. So far, we haven't done that.

Recommendations

1. The Subcommittee should require the State Department to provide all the legal and factual analysis that has been done by the executive branch on the sanctions issue concerning China. The Subcommittee should also require the State Department to explain why it has chosen not to complete the administrative process on sanctions.

2. The Subcommittee should consider strengthening existing sanctions laws to accomplish the following:

a. Prohibit the export of U.S. commodities controlled for non-proliferation reasons for one year to all Chinese government-controlled companies if any Chinese government-controlled company contributes to proliferation through its exports. If the Chinese government is willing to proliferate, China should not be able to import American technology that could contribute to proliferation. Except for sales to Iran and Iraq, present law is confined to punishing only the company making the export, which is not a sufficient deterrent.

b. Prohibit the import into the United States of any product produced by a foreign entity whose exports contribute to nuclear arms proliferation. This would bring the nuclear sanctions law up to the level of the chemical/biological and missile sanction laws.

3. The Subcommittee should obtain and review the U.S. export licenses approved for China by the Departments of Commerce and State during the past five years. The Subcommittee would discover that both the Commerce and State Departments have allowed sensitive U.S. technology to go to the very Chinese companies that are making mass destruction exports to Pakistan. Some of the munitions exports to these companies were authorized by express Presidential waivers. Congressional oversight of our exports to China is long overdue.

CHINA'S DANGEROUS EXPORTS

	TO PAKISTAN	TO ALGERIA	TO SAUDI ARABIA
1980–1984	Supplies A-bomb design and its fuel Helps build Hatf missiles	Secretly agrees to supply a nuclear research reactor	
1985–1989	Helps with gas centrifuges to enrich uranium Agrees to sell tritium gas to boost the yield of fission bombs Ships equipment for M-11 nuclear-capable missiles Starts building a 300 MW nuclear reactor in spite of de facto international supply embargo Supplies guidance units usable in M-11 missiles	Trains Algerian scientists and technicians; starts building reactor	Sells CSS-2 medium-range, nuclear-capable missiles
1989–1996	Plans to supply a second nuclear reactor Secretly delivers M-11 missile components Supplies ring magnets used in gas centrifuges to enrich uranium Sells a high-tech furnace and diagnostic equipment with military applications Ships rocket fuel seized en route to Hong Kong	Completes reactor and supplies heavy water and uranium fuel	

CHINA'S DANGEROUS EXPORTS

	TO IRAQ	TO SYRIA	TO IRAN
1980–1984	Nuclear bomb design supplied to Pakistan makes its way to Iraq		
1985–1989	Helps make magnets for high-speed centrifuges to enrich uranium	Contracts to sell M-9 nuclear-capable missiles	Trains Iranian nuclear technicians in China Sells Silkworm anti-ship missiles Supplies a miniature reactor, a subcritical facility, and tributylphosphate useful in plutonium extraction
1989–1996	Supplied rocket fuel ingredients intercepted by U.S. en route to Iraq	Sells ingredients for missile fuel Agrees to supply Syria's first nuclear reactor and its fuel; will train Syrian nuclear technicians Reportedly ships guidance equipment for M-11 missiles	Supplies a calutron and a copper-vapor laser that could be used for uranium enrichment research Contracts to sell 25–30 MW research reactor Contracts to sell nuclear reactor and isotope separator Delivers poison gas ingredients Delivers components for missile guidance system and ingredients for rocket propellant Supplies 400 tons of poison gas ingredients

Senator COCHRAN. Thank you, Professor Milhollin.

I noticed that you have tables and recommendations attached to your statement and some of those recommendations are to strengthen sanctions and to impose sanctions. Mr. Einhorn suggested the administration should have more flexibility regarding the imposition of sanctions under existing laws, but you are arguing just the opposite, that we put more mandates and not just suggestions in the statute books.

Mr. MILHOLLIN. It seems to me that the administration has ample power now to impose sanctions. The problem is that they are using the flexibility that does exist not to impose them.

Senator COCHRAN. You seem to put a great deal of stock in the imposition of sanctions as modifying behavior and having the capacity to do that. Is there any evidence to support that?

Mr. MILHOLLIN. As I said, I think that when we did threaten sanctions and when we did impose sanctions, the Chinese reacted, and in particular, as Jim has said, the Chinese need high technology from us. That is an indispensable ingredient in their plan for the future. I think that that is a tremendous lever that we have.

The second lever we have is our market. They have to have that, too, and if you look at it from their point of view, they are getting, essentially, nickels and dimes out of these dangerous sales compared to the value of our market, what they are exporting to us, and compared to the value to their infrastructure of U.S. products they are importing.

Senator COCHRAN. So they are not motivated just by the profit potential of these weapons sales. That is not it.

Mr. MILHOLLIN. If they can make a little money for free, they will make a little money. But if it costs them a lot of money to make a little money, they will not make that little money. They will say to themselves, the U.S. market is a lot more important to us than the small amount of money we are making from weapon of mass destruction sales.

You know, we told the Argentines and the Brazilians that unless they were willing to join our side in this struggle and become part of the solution rather than part of the problem, they were never going to be able to get the computers and other things they needed from us, and they both turned around and went the other direction.

I think, although in South Africa there were other special circumstances, the sanctions on South Africa that we imposed and the message we gave South Africa, which was, look, if you want to join up and be a member of the world community, you have to get rid of all this stuff, they got that message and they did it. So there are three cases where—I think there are three success stories where we were tough over a long period of time and we got the result we wanted.

Senator COCHRAN. Ambassador Lilley, is it too late now to undo the super Cray computers and the satellites? You mentioned both of those as technologies that China now has access to from the United States.

Mr. LILLEY. Yes, I think it is. They can get the satellites elsewhere and the computers elsewhere. We, at that time, had a virtual monopoly on the satellites. They could not get them elsewhere then.

But let me mention one thing, Mr. Chairman, that I think we should think about carefully that usually gets China's attention: Theater Missile Defense (TMD). When you talk about theater high-altitude missile defense, you get their attention quickly. They consider it a first strike, and they have turned tremendous pressure on Japan, Korea, other places not to deploy theater missile defense.

As you know, we have our own debate on that. I happen to think it is rather important, especially mobile theater missile defense mounted on Aegis class frigates and destroyers. I notice that the Chinese have just bought a couple of Soviet destroyers to deal with Aegis class vessels that could carry theater high-altitude defense. So they are thinking about this, too.

It is an area that we should look at closely which might give us considerable leverage. It is not that you have to rush into it; but it should be there to use.

Senator COCHRAN. Are there other sanctions besides economic sanctions that you think we should consider authorizing or directing the administration impose on China?

Mr. LILLEY. This gets into what sort of the strategic leverage do you have. There are certain areas that they are very sensitive to but you have got to handle these carefully. One is, as I have said, theater missile defense, and another is the development and strong training of the Japanese-U.S. security treaty. They are sensitive to that and have launched a full-scale attack on it. What happened between President Clinton and Prime Minister Hashimoto 1 month after the Taiwan missile diplomacy exercise on March 1996, where we broadened the agreement. They have been working against this ever since, to undermine it.

Certainly, Japan would have to be a partner with us if you wanted to limit technology sales, and Europe would, too. It is a harder to bring them now. They certainly were helpful after Tiananmen. We had about 1 year where they were cooperative, and then it broke up. Now, of course, the trade competition looms large.

There may be areas where you can get cooperation, when there is a clear infraction of international law, the Chemical Weapon Convention, Nuclear Nonproliferation Treaty, Missile Technology Control Regime. We also have to try to encourage China to join into these other regimes, the Nuclear Suppliers Group, the Wassenaar Convention—

Senator COCHRAN. Has China given any indication that it is willing to participate in any of these successors to COCOM?

Mr. LILLEY. Originally, when we proposed it and the Chinese eventually signed onto the Missile Technology Control Regime and the Nuclear Nonproliferation Treaty, the State Department had said, the Chinese will never do it as. It is a matter of sovereignty. They were wrong. It happened because it was in their own interest to do it.

Senator COCHRAN. You suggested that World Trade Organization membership is something that you think China should have.

Mr. LILLEY. Under the right conditions, and I think you are fortunate in having had a first-class negotiator, Lee Sands of USTR, handling this for us, who has mapped out a program of careful negotiation, compromised, mutual concessions on a whole series of issues that deal with World Trade Organization. This separates the negotiations from the Chinese complaint that we are trying to contain China, or trying to subvert China.

We say we want China in. Now, let us talk about what you do with hidden subsidies, non-tariff barriers, monopoly of import corporations, national treatment, a step by step approach, and we find this is moving ahead quite well. If we tend to get tough and deal with it on a realistic basis, results come.

Senator COCHRAN. Professor Milhollin, do you have any problem with that?

Mr. MILHOLLIN. Again, I think my point was that if China is willing to be a good world citizen, then it should be treated as one, but I think, given its behavior in the past, that maybe a probationary period would be prudent, especially with respect to nuclear cooperation. The administration has been lobbied very hard by our industry to enter into, or to, I guess, put into effect our nuclear cooperation agreement with China, which has been languishing since 1985 because we could not certify that China was not doing bad things.

I think that if we do get to the point where we regularize our nuclear arrangements with China, we ought to have a probationary period, more than just, say, a year, to make sure that China really has changed its ways.

I noticed in Mr. Einhorn's testimony that he said that there have been incidents—I have forgotten his words—incidents and things that have happened in the nuclear area since China's promise to clean up its act. He did not say what those were. I urge you very strongly that if you go into this on a classified basis, that you should get from the State Department a clear description of just what the Chinese think is OK to do after they promise not to help unsafeguarded nuclear programs.

Senator COCHRAN. Do you think their behavior has improved insofar as nuclear weapons proliferation is concerned?

Mr. MILHOLLIN. I think we do not know. Nothing big has hit the papers, but that does not mean it has not happened and it does not mean that other small things, when added up, have not been enough to be a big thing if they were all put together. There is a suggestion that they might be, but the answer is, I do not know, but I think you should find out.

Senator COCHRAN. Let me say how much I appreciate your participation in our hearing today. This has been a very illuminating and frightening, at the same time, look at the situation and what is going on with respect to China's behavior on proliferation. I think we have learned a lot and we have also learned that we need to work harder to deal with this in a more effective way.

It is clear to me, and troubling at the same time, that the administration's efforts have been ineffective. I think the evidence is pretty clear that the exports of weapons components, design technology, and a wide assortment of other items that has enabled states like Iran and Pakistan and probably others, although we did not get into all the details today and we could not because of classification, to acquire technology that can put American lives and interests at risk. China's actions have made this a more dangerous world for us, particularly, and is a threat to the security of the United States. So we need to get together with the administration and work harder to do a better job of trying to make a bigger impact and be a greater influence to modify this type of behavior by the Chinese government.

We are going to continue these hearings and we will have a classified hearing, as we said.

We thank you both very much for being here and for your excellent contribution to our effort.

The hearing is adjourned.

[Whereupon, at 4:11 pm., the Subcommittee was adjourned.]

A P P E N D I X

CHINESE PROLIFERATION CASES

- November 1996—IRAN:
Gyroscopes, accelerometers, and test equipment for missiles.
- November 1996—IRAN:
Chemicals used to produce nerve agents
- October 1996—PAKISTAN:
Industrial furnace and high-tech diagnostic equipment to nuclear facility
- August 1996—PAKISTAN:
Blueprints and equipment to manufacture M-11 missiles
- September 1994-June 1996—PAKISTAN:
M-11 missiles and/or components
- March 1996—IRAN:
Chemical weapons equipment and technology
- February 1996—PAKISTAN:
Ring-magnets for uranium enrichment
- January 1996—IRAN:
C-802 anti-ship cruise missiles
- June 1995—IRAN:
Missile guidance systems and computerized machine tools
- December 1992—PAKISTAN:
M-11 missiles and/or components

Dates Refer to Date of Press Report

Chinese Proliferation Cases and the U.S. Assessment and Response

Allegation	Relevant Law Options	Administration Assessment	Sanctions?
November 1996— IRAN: Gyroscopes, accelerometers, and test equip- ment for mis- siles	* Arms Export Control Act * Export Administration Act * Iran-Iraq Arms Non- proliferation Act	NO FORMAL DETERMINA- TION MADE “[W]e will continue to be very vigilant on this subject and to raise with the Chinese . . . every report we receive that we believe is credible of such arms transfers”—G. Davies, 11/21/96	NONE

Chinese Proliferation Cases and the U.S. Assessment and Response—
Continued

Allegation	Relevant Law Options	Administration Assessment	Sanctions?
November 1996— IRAN: Chemicals used to produce nerve agents	* Arms Export Control Act * Export Administration Act * Executive Order 12938 * Iran-Iraq Arms Non- proliferation Act		NONE
October 1996— PAKISTAN: Industrial fur- nace and high- tech diagnostic equipment to nuclear facility	* Arms Export Control Act * Export Administration Act * Nuclear Proliferation Prevention Act	NO FORMAL DETERMINA- TION MADE “We do not conclude that China has violated the commitments it made in its May 11th State- ment.”—N. Burns, 10/9/96	NONE
August 1996— PAKISTAN: Blueprints and equipment to manufacture M-11 missiles	* Arms Export Control Act * Export Administration Act	NO FORMAL DETERMINA- TION MADE “We take it [the allegation] seri- ously, and we are looking into it.”—G. Davies, 8/26/96	NONE
September 1994- June 1996— PAKISTAN: M-11 missiles and/or compo- nents	* Arms Export Control Act * Export Administration Act	NO FORMAL DETERMINA- TION MADE SINCE 8/25/93 * “[T]his is an issue that’s been under continuous review and still is. It is something we’re very concerned about.”—J. Holum, 8/7/96 * “The United States will con- tinue to monitor and evaluate reports of missile transfers . . . We take reports of alleged proliferation very seriously.”— N. Burns, 6/11/96	NONE
March 1996— IRAN: Chemical weap- ons equipment and technology	* Arms Export Control Act * Export Administration Act * Executive Order 12938 * Iran-Iraq Arms Non- proliferation Act	NO FORMAL DETERMINA- TION MADE “[W]e take very seriously all re- ports of possible transfers to Iran of technology related to [WMD] . . . We’re going to continue to look at the fact.”— N. Burns, 3/8/96	NONE
February 1996— PAKISTAN: Ring-magnets for uranium en- richment	* Arms Export Control Act * Nuclear Proliferation Prevention Act * Export Import Bank Act	DETERMINATION MADE NOT TO SANCTION “[T]he policy makers in China at a senior level have assured us that they were unaware of the transfer of ring-magnets.”—N. Burns, 5/10/96	NONE
January 1996— IRAN: C-802 anti-ship cruise missiles	* Iran-Iraq Arms Non- proliferation Act	DETERMINATION MADE NOT TO SANCTION “[T]here’s no question that there has been a transfer of anti- ship cruise missiles to Iran.”—N. Burns, 3/8/96 Later concluded missile sales were not destabilizing	NONE

Chinese Proliferation Cases and the U.S. Assessment and Response—
Continued

Allegation	Relevant Law Options	Administration Assessment	Sanctions?
June 1995— IRAN: Missile guidance systems and computerized machine tools	* Arms Export Control Act * Export Administration Act * Iran-Iraq Arms Non- proliferation Act	NO FORMAL DETERMINA- TION MADE “What we need to have is a se- ries of discussions with [the Chinese], and we also have to continue to look at the prob- lem ourselves.”—N. Burns, 6/ 22/95	NONE
December 1992— PAKISTAN: M-11 missiles and/or compo- nents	* Arms Export Control Act * Export Administration Act	DETERMINATION MADE TO IMPOSE CATEGORY II SANCTIONS “We do not have conclusive evi- dence that they [Pakistan] have an M-11 missile. We have conclusive evidence that they have received from the Chinese, from China items re- lated to an M-11 missile.”—L. Davis, 8/25/93 Sanctions lifted November 1, 1994 following China-U.S. Joint Statement	Imposed Sanctions Aug. 25, 1993 WAIVED Nov. 1, 1994

Dates Refer to Date of Press Report

