

2002 Annual Report Recommendations

Chapter 1 – China’s Perceptions of the United States and Strategic Thinking

- The Library of Congress China collection today is nearly unusable and is a disgrace, despite two major studies advocating a more robust and sophisticated collection. The Commission recommends, therefore, on an urgent basis that the Congress fund the appropriate implementation of the detailed recommendations already submitted by these two previous investigations.
- The Commission recommends that Congress expand the U.S. Government’s capacities for collection, translation and analysis of open source Chinese language materials, including expanding the scope of Chinese materials translated by the Foreign Broadcast Information Service (FBIS) and enhancing the Library of Congress’s collection. The Central Intelligence Agency, the Defense Intelligence Agency, and other appropriate Executive Branch agencies should report annually to the Congress on their resources and progress in this area.
- The Commission recommends that Congress request that the Foreign Broadcast Information Service restore and maintain a national research data bank which identifies Chinese authors and publications and determines their relative authority. Such a data bank would help policy makers and scholars determine the significance of the publications and their relative influence on Chinese policymaking.
- The Commission recommends that Congress provide federal funding and other incentives to strengthen Chinese language and area studies programs in U.S. universities, similar to the program that was developed with regard to the Soviet Union and Eastern Europe in the National Defense Education Act of 1958. In conjunction, there should also be incentives given to post-secondary graduates in this field to provide government service.
- The Commission recommends that Congress request that the President designate an Executive Branch agency to develop a database of all government-to-government and government-funded cooperative programs between the U.S. and China. The database should include a full description of each program, including its history, origin, activities, and statutory basis (if any), and a status report on its achievements to date, and should be in both unclassified and classified form, as appropriate. Congress should receive an annual report on official U.S.-China bilateral programs, based on the database, and the agreements should be submitted to Congress pursuant to the Case Act (PL 92-403).
- The Commission recommends that Congress encourage the Department of Defense to make renewed attempts to develop military-to-military confidence building measures, within the context of a strategic dialogue with China and strictly based on the principles of reciprocity, transparency, consistency and mutual benefit.

Chapter 2 – Trade and Investment

- The Commission recommends the Congress request the U.S. Government review the statistical discrepancy between the National Institute of Science and Technology (NIST) and the Census Bureau trade figures that are based on different methodologies and definitions, in order to remove the complications and discrepancies that have plagued analysis of U.S. China trade and investment analysis.

- The Commission recommends the Congress request the Commerce and Defense Departments to increase the level of detail of the Harmonized Standard (HS) code and Military Critical Technologies List (MCTL) so they may be cross-referenced to track any developing U.S. dependency on China. To further enhance the U.S. Government's ability to track dependencies, Congress should also direct the Department of Defense to require its contractors and subcontractors to identify components and sourcing using the HS codes.
- The Commission recommends the Congress support efforts of various government agencies to increase contracts and exports of U.S. goods to China but should monitor and evaluate these efforts to ensure that they are enhancing U.S. job creation and are not increasing capacity in industries that already have excess world capacity.
- The Commission recommends the Congress establish and fund a federally mandated corporate reporting system to gather sufficient data to provide a comprehensive understanding of the trade and investment relationship with China. Within such a system, companies should be required to report their initial investments in China; any technology transfer, offset, or R&D cooperation agreed to as part of the investment; the shift of production capacity and job relocations resulting from the investment, both from within the United States to overseas and from one overseas location to another; and contracting relationships with Chinese firms. In addition, Congress should require the Commerce Department to maintain an authoritative account of U.S. firms' investment in R&D centers in China and a comprehensive assessment of their activities.
- The Commission recommends the Congress request the Treasury Department to conduct employment impact studies of International Financial Institutions' (IFI) projects. U.S. representatives to the IFIs should be instructed to use their voice and vote to support programs that promote U.S. interests and do not negatively effect U.S. employment or fund industries, such as steel, with global over-capacity.
- The Commission recommends the Congress should closely monitor the implementation of the "Enhanced Border Security and Visa Reform Act of 2002". The U.S. government has a poor record of implementing any effective mechanism to track and assess the activities of the very large number of Chinese students, scholars, and researchers present in the U.S. academic and industrial establishment. Careful implementation of the new legislation is required, if the U.S. is to address this serious matter.

Chapter 3 – China and the World Trade Organization

- The Commission recommends that the U.S. Government clearly and publicly articulate, in both multilateral and bilateral settings, the importance of China's compliance with its WTO commitments and provide technical assistance to this end. Current technical assistance programs would benefit from greater resources and coordination. Due to the restrictions placed on USAID's involvement in China, the Commission recommends that Congress appropriate and authorize funds directly to technical assistance programs such as the Commerce Department's Commercial Law Development Program (CLDP).
- The Commission recommends that Congress require that the Department of Commerce obtain Congressional approval before implementing any determination that a non-market economy (NME) has achieved market economy status.
- The Commerce Department currently interprets the countervailing duty (CVD) law to be

inapplicable to NMEs. The Commission recommends that Congress amend the CVD law to specifically state that it applies to NMEs and thereby can be used to protect U.S. industries from unfair competition from the imports of these economies.

- The Commission recommends that the U.S. Government encourage the use of existing U.S.-China state government-to-provincial government and city-to-city bilateral mechanisms to help promote and monitor WTO compliance.
 - Congress currently charges the Commerce Department to submit annually a report on U.S. trade promotion activities in the form of the Trade Promotion Coordination Committee (TPCC) report. In addition, the Secretary of Commerce is charged to testify to Congress on that report. During Secretary Evans' recent testimony on that report he discussed the importance of China complying with its WTO obligations and noted that a senior Commerce official would travel to China once a month to evaluate China's compliance efforts. The Commission recommends that Congress request that each annual TPCC report assess China's WTO compliance progress and recommend any additional resources or other initiatives to facilitate compliance, and that this report include a survey of the market access attained by key U.S. industry sectors in China, including agriculture. The report should compare actual market access results with the initial estimates made by the Executive Branch in support of granting China Permanent Normal Trade Relations status and compare U.S. market access in those key sectors with that gained by the European Union and Japan.
 - China's WTO accession agreement includes three important China-specific safeguards: the ability of WTO members to use a non-market economy methodology in anti-dumping cases, a product specific safeguard that allows WTO members to restrain Chinese imports that disrupt their domestic markets, and a textile safeguard. Inclusion of these safeguards was a key component of U.S. support for China's accession as they provide important tools to combat unfair trade practices or import surges. The Commission recommends that USTR and the Commerce Department make aggressive use of these safeguards during the limited time period for which they will be available.
 - With regard to the WTO China-specific textile safeguard, the Commission recommends that Congress request the Commerce Department to prepare an annual report on the U.S. textile industry addressing whether "market disruption" is occurring with regard to any products in this industry as a result of imports from China. A determination of "market disruption" would trigger the textile safeguard mechanism.
 - The Commission recommends that Congress encourage USTR to request consultations at the WTO on China's noncompliance with its obligations under the TRIPs Agreement, in particular the lack of adequate enforcement to reduce and deter counterfeiting and piracy of U.S. motion pictures and other video products. If China's noncompliance in this area is not adequately resolved through such consultations, Congress should encourage USTR to request that a WTO dispute settlement panel be convened on this matter.
 - Congress mandated the Commission to evaluate and make specific recommendations for the U.S. Government to invoke Article XXI of the GATT (relating to security exceptions) as a result of any adverse impact on U.S. national security interests. Current trends indicate that China's rapid growth as a steel producer may have an adverse impact on the U.S. steel industry. The Commission believes that the steel industry is a likely candidate for using Article XXI, as demonstrated by the Bush Administration's decision to impose temporary safeguard measures on key steel products and President Bush's statements on the importance of the U.S. steel industry to our national security. The Commission therefore

recommends that Congress consider using Article XXI to ensure the survival of the U.S. steel industry, if the Administration's current safeguard measures prove ineffective.

- The Commission recommends that Congress renew the Super 301 provision of U.S. trade law to address unfair trade practices that have the greatest impact on U.S. export market opportunities in China and elsewhere.
- The Commission recommends that Congress examine the tools available to the U.S. Government to address market access-limiting practices by China not covered by its WTO obligations, and direct U.S. trade officials to make full use of these tools to protect U.S. export opportunities.

Chapter 4 – Political and Civil Freedoms

- Enforcement against the import of prison labor goods from China should be improved by shifting the burden of proof from the U.S. Government to companies that import such goods into the United States. Such companies would be required to certify, based on good faith efforts, that the products they are importing are not made by forced or prison labor. The Commission made recommendations to Congress on this issue in a May 2002 letter. (See the appendix for the letter to Congress and the accompanying recommendations.)
- The Commission recommends that Congress establish a corporate code of conduct for U.S. businesses operating in China. Aside from addressing traditional human rights and labor issues, the code should also mandate corporate responsibility in categories of special concern, such as the suppression of personal freedoms. Companies that fail to comply with the code of conduct should be afforded less favorable terms on Ex-Im Bank or OPIC-supported transactions or on other U.S. Government financial assistance.
- The Commission recommends that Congress request Voice of America, Radio Free Asia and other relevant government entities to seek ways to help Chinese Internet users access banned information sources.
- The Commission recommends that Congress request that the President direct the Department of Commerce and other relevant agencies to conduct a review of export administration regulations to determine whether to control the export of U.S. technologies that permit the Chinese government to surveil its own people or censor free speech.

Chapter 5– China's Growth as a Regional Economic Power

- The Commission recommends that the Congress should encourage the Administration to initiate consultations with other Asian countries to assess and make recommendations on the impact of the "hollowing-out" phenomenon with respect to China on regional economies and on U.S. economic relations with the region.

Chapter 6 – China's Presence in U.S. Capital Markets

- The Commission recommends that Congress codify in legislation the disclosure guidelines outlined by the SEC in its May 8, 2001 correspondence to Representative Frank Wolf. These guidelines require the SEC to solicit from foreign registrants and disclose to investors information regarding a foreign registrant's material business operations in a country, or with an entity, subject to U.S. economic sanctions administered by the Treasury Department's Office of Foreign Assets Control. These

guidelines recognize that a foreign registrant's material business operations in terrorist-sponsoring and other U.S.-sanctioned countries or with sanctioned entities – countries and entities with which U.S. companies cannot do business – pose a material risk to investors.¹

- The Commission recommends that Congress request the Treasury Department, in coordination with the Executive Branch agencies tasked with identifying and monitoring Chinese and other foreign entities associated with the proliferation of weapons of mass destruction or ballistic missile delivery systems, to assess whether any such entities are accessing, or seeking to access, the U.S. capital markets. If the Treasury Department determines that any such entities are accessing, or seeking to access, the U.S. capital markets, this information should be provided to the SEC and made available to investors including state public pension systems and other institutional investors.
- The Commission recommends that Congress prohibit debt or equity securities offerings in the U.S. capital markets by any Chinese or other foreign entity where the State Department has imposed sanctions on that entity for engaging in the proliferation of weapons of mass destruction or ballistic missile delivery systems.
- The Commission recommends that Congress enhance reporting requirements for Level I ADRs and Rule 144A and Regulation S offerings. None of these types of offerings is now subject to full SEC reporting and registration requirements. As a result, foreign entities can trade their securities in the U.S. markets without the need to disclose detailed aspects of their business operations, including overseas activities that may be harmful to U.S. security interests and pose a material risk to investors.
- Consistent with recommendations in Chapter 1, the Commission recommends that Congress provide additional resources to strengthen the U.S. intelligence community's collection and analysis concerning the national security dimensions of Chinese and other foreign fundraising in the U.S. capital markets, as well as of Chinese and other foreign entities selling their securities to American investors from exchanges overseas.
- The Commission urges the Treasury Department to follow-up on the recommendation made by the Deutch Commission that the Department lead an interagency review of current and potential mechanisms for exercising financial/economic leverage to combat proliferation, including denying proliferators access to the U.S. capital markets.

Chapter 7– Proliferation and Chinese Relations with Terrorist-Sponsoring States

- The Commission recommends that Congress should create new authorization to broaden and harmonize proliferation sanctions. The new legislation would amend all current statutes that pertain to proliferation² to include a new section authorizing the President to

¹ The Commission made this recommendation in a letter dated March 15, 2002 to the Chairman and Ranking Members of the Senate Banking, Housing and Urban Affairs Committee and House Financial Services Committee, with copies to the Senate and House leadership. The text of this correspondence can be obtained on the Commission's website <<http://www.uscc.gov/>>.

² The primary statutes include:

Prohibition on assistance to countries that provide military equipment to terrorist states (PL 104-132) of the Foreign Assistance Act 1961),
Prohibition on assistance to countries that aid terrorist states (PL 104-132),
Chemical Weapons Convention Implementation Act of 1998 (PL 105-277),
Sanctions against the use of CBWs (22 USC 5605, enacted by PL 102-182),
Sanctions against certain foreign persons for CBW proliferation (PL 102-182),
Nuclear Proliferation Prevention Act of 1994 (PL 103-236),

invoke economic sanctions against foreign nations that proliferate WMD and technologies associated with weapons of mass destruction and their delivery systems. This would authorize the President to invoke and implement economic sanctions including import and export limitations, restrictions on access of foreign entities to American capital markets, restrictions on direct foreign investments into an offending country, restrictions on transfers by the U.S. Government of economic resources, and restrictions on science and technology cooperation or transfers. The new authority should require the President to report to the Congress the rationale and proposed duration of the sanctions within 72 hours of imposing them. They should remain in place for as long as is necessary to ensure non-proliferation goals are met.

- The Commission recommends that Congress maintain the Tiananmen sanctions that restrict U.S. export licenses for satellite launches in China until such time as the PRC effectively implements its commitment under the November 2000 agreement to put into place an appropriate export control system and the publication of a comprehensive missile-related export control list and regulations.
- Consistent with the recommendations in Chapter 6, the Congress should consider use of financial sanctions that include denial of access to U.S. capital markets to Chinese and other foreign firms found to be involved in proliferation. Unlike trade sanctions, financial restrictions would minimize “collateral damage” to U.S. exports and U.S. jobs.
- The Commission recommends that the United States work through the United Nations Security Council to formulate an effective framework enforced by sanctions to counter the proliferation of weapons of mass destruction and their delivery systems.

Chapter 8 – Cross-Strait Security Issues

- The Commission recommends that Congress work with the Department of Defense to continue its current policies of substantive military dialogue with Taiwan and conduct exchanges covering issues ranging from threat analysis, to doctrine to force planning.
- The Commission recommends that the U.S. along with its allies should continue to call upon China to renounce the threat of or the use of force against Taiwan and continue to caution Taiwan about declaring independence.
- The Commission strongly recommends those provisions in the FYs 2001 and 2002 Foreign Operations Appropriations Acts, providing for briefings to the Congress by the Executive Branch on the ongoing discussion between any Executive Branch agency and the government of Taiwan on U.S. arms sales and that the defense relationship be included as a permanent requirement.

Chapter 9 – The Defense Budget and the Military Economy

- The Commission recommends that the Congress direct the Congressional Budget Office and the Congressional Research Service to enhance monitoring of PRC central

Transfers of missile equipment or technology by Foreign persons (PL101-510 et al),
Iran Nonproliferation Act of 2000 (PL 106-178),
Foreign Relations Authorization Act of 1990-91 (PL 101-246).

government's fiscal and financial activities. Particular emphasis should be placed on China's military budget.

- The Commission recommends that the Congress request the Intelligence Community to conduct an annual "output analysis" of China's defense budget to assess its impact on and relation to China's military capabilities.

Chapter 10 – Technology Transfers and Military Acquisition Policy

- The Commission recommends that the Congress require an annual joint DoD/FBI classified assessment of Chinese targeting of sensitive U.S. weapons-related technologies and what actions were taken, or need to be taken, to prevent or deny that acquisition. The report should also provide the Congress with information detailing trends of China's acquisition targeting attempts.
- The Commission recommends that the Congress require that both pre-license and end user checks be conducted on sensitive exports to China.
- The Commission finds the S&T report submitted to the Congress and this Commission this year a useful tool for monitoring U.S.-PRC government-to-government S&T programs. The Commission recommends the Congress request that such a report be conducted biannually beginning in 2004. The Commission also recommends that the Executive Branch establish an effective coordinating group that should set standards for S&T transfers, monitor the programs and coordinate with the intelligence community.

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Chapter 1 - China's Industrial, Investment, and Exchange Rate Policies

Currency Manipulation

- The 1988 Omnibus Trade and Competitiveness Act requires the Treasury Department to examine whether countries are manipulating their exchange rates for purposes of gaining international competitive advantage. The Treasury is to arrive at its finding in consultation with the IMF, which defines manipulation as "protracted large-scale intervention in one direction in the exchange market." The Treasury has repeatedly evaded reporting on this test. The Commission recommends that Congress require the Treasury to explicitly address this test in its required report to Congress. Furthermore, a condition for taking action against a country that manipulates its currency is that an offending country be running a material global current account surplus in addition to a bilateral surplus. The Commission recommends that Congress amend this provision so that a material global current account surplus is not a required condition.
- The administration should use all appropriate and available tools at its disposal to address and correct the problem of currency manipulation by China and other East Asian countries. With regard to China, this means bringing about a substantial upward revaluation of the yuan against the dollar. Thereafter, the yuan should be pegged to a trade-weighted basket of currencies, and provisions should be established to guide future adjustments if needed. As part of this process, the Treasury Department should engage in meaningful bilateral

negotiation with the Chinese government, and it should also engage in meaningful bilateral negotiations with Japan, Taiwan, and South Korea regarding ending their long-standing exchange rate manipulation. The administration should concurrently encourage our trading partners with similar interests to join in this effort. The Commission recommends that Congress pursue legislative measures that direct the administration to take action—through the WTO or otherwise—to combat China’s exchange rate practices in the event that no concrete progress is forthcoming.

Mercantilist Industrial and FDI Policies

- The Commission recommends that Congress direct the United States Trade Representative (USTR) and the Department of Commerce to undertake immediately a comprehensive investigation of China’s system of government subsidies for manufacturing, including tax incentives, preferential access to credit and capital from state-owned financial institutions, subsidized utilities, and investment conditions requiring technology transfers. The investigation should also examine discriminatory consumption credits that shift demand toward Chinese goods, Chinese state-owned banks’ practice of noncommercial-based policy lending to state-owned and other enterprises, and China’s dual pricing system for coal and other energy sources. USTR and Commerce should provide the results of this investigation in a report to Congress that assesses whether any of these practices may be actionable subsidies under the WTO and lays out specific steps the U.S. government can take to address these practices.
- The Commission recommends that Congress direct the administration to undertake a comprehensive review and reformation of the government’s trade enforcement infrastructure in light of the limited efforts that have been directed at enforcing our trade laws. Such a review should include consideration of a proposal by Senator Ernest Hollings (D-SC) to establish an assistant attorney general for international trade enforcement in the Department of Justice to enhance our capacity to enforce our trade laws. Moreover, the U.S. government needs to place an emphasis on enforcement of international labor standards and appropriate environmental standards.
- The Commission recommends that Congress direct the administration to work with other interested WTO members to convene an emergency session of the WTO governing body to extend the MFA at least through 2008 to provide additional time for impacted industries to adjust to surges in imports from China.

Chapter 2 - China in the World Trade Organization: Compliance, Monitoring, and Enforcement

- The Commission recommends that Congress press the administration to make more use of the WTO dispute settlement mechanism and/or U.S. trade laws to redress unfair Chinese trade practices. In particular, the administration should act promptly to address China’s exchange rate manipulation, denial of trading and distribution rights, lack of IPR protection, objectionable labor standards, and subsidies to export industries. In pursuing these cases, Congress should encourage USTR to consult with trading partners who have mutual interests at the outset of each new trade dispute with China.
- The Commission recommends that Congress press the administration to make better use of the China-specific section 421 and textile safeguards negotiated as part of China’s WTO accession agreement to give relief to U.S. industries especially hard hit by surges in imports from China.
- Notwithstanding China’s commitments at the April 2004 JCCT meeting, the Commission recommends that Congress press the administration to file a WTO dispute on the matter of

China's failure to protect intellectual property rights. China's WTO obligation to protect intellectual property rights demands not only that China promulgate appropriate legislation and regulations, including enacting credible criminal penalties, but also that these rules be enforced. China has repeatedly promised, over many years, to take significant action. Follow-through and action have been limited and, therefore, the Commission believes that immediate U.S. action is warranted.

- The Commission recommends that Congress urge the Department of Commerce to make countervailing duty laws applicable to nonmarket economies. If Commerce does not do so, Congress should pass legislation to achieve the same effect. U.S. policy currently prevents application of countervailing duty laws to nonmarket economy countries such as China. This limits the ability of the United States to combat China's extensive use of subsidies that give Chinese companies an unfair competitive advantage.
- The Commission recommends that Congress encourage the administration to make a priority of obtaining and ensuring China's compliance with its WTO commitments to refrain from forced technology transfers that are used as a condition of doing business. The transfer of technology by U.S. investors in China as a direct or indirect government-imposed condition of doing business with Chinese partners remains an enduring U.S. security concern as well as a violation of China's WTO agreement. A WTO complaint should be filed when instances occur.
- The Commission recommends that Congress encourage USTR and other appropriate U.S. government officials to take action to ensure that the WTO's Transitional Review Mechanism process is a meaningful multilateral review that measures China's compliance with its WTO commitments. If China continues to frustrate the TRM process, the U.S. government should initiate a parallel process that includes a specific and comprehensive measurement system. The United States should work with the European Union, Japan, and other major trading partners to produce a separate, unified annual report that measures and reports on China's progress toward compliance and coordinates a plan of action to address shortcomings. This report should be provided to Congress. In addition, independent assessments of China's WTO compliance conducted by the U.S. government, such as USTR's annual report, should be used as inputs in the multilateral forum evaluating China's compliance, whether that forum is a reinvigorated and effective TRM or a new process.
- The Commission recommends that Congress consider options to assist small—and medium-sized business in pursuing trade remedies under U.S. law, such as through section 421 cases.

Chapter 3 – China's Presence in the Global Capital Markets

- The Commission recommends that Congress reinstate the reporting provision of the 2003 Intelligence Authorization Act [P.L. 107-306, Sec 827] directing the director of Central Intelligence (DCI) to prepare an annual report identifying Chinese or other foreign companies determined to be engaged or involved in the proliferation of weapons of mass destruction or their delivery systems that have raised, or attempted to raise, funds in the U.S. capital markets. The Commission further recommends that Congress expand this provision to require the DCI to undertake a broader review of the security-related concerns of Chinese firms accessing, or seeking to access, the U.S. capital markets. This should include the establishment of a new interagency process of consultations and coordination among the National Security Council, the Treasury Department, the State Department, the SEC, the Federal Bureau of Investigation (FBI), and the intelligence community regarding Chinese companies listing or seeking to list in the U.S. capital markets. The aim of such an interagency process should be to improve collection management and assign a higher

priority to assessing any linkages between proliferation and other security-related concerns and Chinese companies, including their parents and subsidiaries, with a presence in the U.S. capital markets.

- The Commission recommends that Congress require mutual funds to more fully disclose the specific risks of investments in China. This should include disclosure to investors of the identities of any local firms subcontracted by funds to perform due diligence on Chinese firms held in their portfolios. Subcontractors' principal researchers, location, experience, and potential conflicts of interest should all be disclosed.
- The Commission recommends that Congress direct the Commerce Department and USTR to evaluate whether Chinese state-owned banks' practice of noncommercial-based policy lending to state-owned and other enterprises constitutes an actionable WTO-inconsistent government subsidy and include this evaluation in the report on subsidies recommended in Chapter 1.
- In its 2002 Report, the Commission recommended that Congress prohibit debt or equity offerings in U.S. capital markets by any Chinese or foreign entity upon which the State Department has imposed sanctions for engaging in the proliferation of weapons of mass destruction (WMD) or ballistic missile delivery systems. The Commission further believes that Congress should bar U.S. institutional or private investors from making debt or equity investments, directly or indirectly, in firms identified and sanctioned by the U.S. government for weapons proliferation-related activities, whether they are listed and traded in the United States or in the Chinese or other international capital markets. For example, NORINCO, a company sanctioned by the U.S. government, is currently available for purchase on the Chinese A share market. U.S.-based qualified foreign institutional investors that have rights to trade on this exchange should not be permitted to invest in NORINCO or any other firm officially determined to have engaged in the proliferation of WMD or ballistic missiles.

Chapter 4 – China's Regional Economic and Security Impacts and the Challenges of Hong Kong and Taiwan

Regional Engagement

- The Commission recommends that Congress revitalize U.S. engagement with China's Asian neighbors by encouraging U.S. diplomatic efforts to identify and pursue initiatives to demonstrate the United States' firm commitment to facilitating the economic and security needs of the region. These initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives. The United States should consider further avenues of cooperation by associating with regional forums of which it is not a member.

Hong Kong

- The Commission recommends that Congress consult with the administration to assess jointly whether the PRC's recent interventions impacting Hong Kong's autonomy constitute grounds for invoking the terms of the U.S.-Hong Kong Policy Act with regard to Hong Kong's separate treatment. This includes U.S. bilateral relations with Hong Kong in areas such as air services, customs treatment, immigration quotas, visa issuance, and export controls. In this context, Congress should assess the implications of the National People's Congress Standing Committee's intrusive interventions with regard to matters of universal suffrage and direct elections. Congress and the administration should continue to keep Hong Kong issues on the U.S.-PRC bilateral agenda and work closely with the United Kingdom on Hong Kong issues.

Cross-Strait Issues

- The Commission recommends that Congress enhance its oversight role in the implementation of the Taiwan Relations Act. Executive branch officials should be invited to consult on intentions and report on actions taken to implement the TRA through the regular committee hearing process of the Congress, thereby allowing for appropriate public debate on these important matters. This should include, at a minimum, an annual report on Taiwan's request for any military equipment and technology and a review of U.S.-Taiwan policy in light of the growing importance of this issue in U.S.-China relations.
- The Commission recommends that the Congress and the administration conduct a fresh assessment of the one China policy, given the changing realities in China and Taiwan. This should include a review of:
 - The policy's successes, failures, and continued viability;
 - Whether changes may be needed in the way the U.S. government coordinates its defense assistance to Taiwan, including the need for an enhanced operating relationship between U.S. and Taiwan defense officials and the establishment of a U.S.-Taiwan hotline for dealing with crisis situations;
 - How U.S. policy can better support Taiwan's breaking out of the international economic isolation that the PRC seeks to impose on it and whether this issue should be higher on the agenda in U.S.-China relations. Economic and trade policy measures that could help ameliorate Taiwan's marginalization in the Asian regional economy should also be reviewed. These should include enhanced U.S.-Taiwan bilateral trade arrangements that would include protections for labor rights, the environment, and other important U.S. interests.
- To support this policy review, the Commission recommends that the appropriate committees of Congress request that the executive branch make available to them a comprehensive catalogue and copies of all the principal formal understandings and other communications between the United States and both China and Taiwan as well as other key historical documents clarifying U.S. policy toward Taiwan.
- The Commission recommends that Congress consult with the administration on developing appropriate ways for the United States to facilitate actively cross-Strait dialogue that could promote the long-term, peaceful resolution of differences between the two sides and could lead to direct trade and transport links and/or other cross-Strait confidence-building measures. The administration should be directed to report to Congress on the status of cross-Strait dialogue, the current obstacles to such dialogue, and, if appropriate, efforts that the United States could undertake to promote such a dialogue.

Chapter 5 – China's Proliferation Practices and the Challenge of North Korea

- Should the current stalemate in the Six Party Talks continue, the Commission recommends that Congress press the administration to work with its regional partners, intensify its diplomacy, and ascertain North Korean and Chinese intentions with a detailed and staged proposal beginning with a freeze of all North Korea's nuclear weapons programs, followed by a verifiable and irreversible dismantlement of those programs. Further work in this respect needs to be done to determine whether a true consensus on goals and process can be achieved with China. If this fails, the United States must confer with its regional partners to develop new options to resolve expeditiously the standoff with North Korea,

particularly in light of public assessments that the likely North Korean uranium enrichment program might reach a stage of producing weapons by 2007.

- The Commission recommends that Congress press the administration to renew efforts to secure China's agreement to curtail North Korea's commercial export of ballistic missiles and to encourage China to provide alternative economic incentives for the North Koreans to substitute for the foreign exchange that would be forgone as a result of that curtailment.
- As recommended in the Commission's 2002 Report, and now similarly proposed by President Bush and the U.N. Secretary General, the Commission reiterates that Congress should support U.S. efforts to work with the U.N. Security Council to create a new U.N. framework for monitoring the proliferation of weapons of mass destruction and their delivery systems in conformance with member nations' obligations under the Nuclear Non-Proliferation Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. This new monitoring body would be delegated authority to apply sanctions to countries violating these treaties in a timely manner or, alternatively, would be required to report all violations in a timely manner to the Security Council for discussion and sanctions.³
- As recommended in the Commission's 2002 Report, the Commission reiterates that Congress should act to broaden and harmonize proliferation sanctions by amending all current statutes that pertain to proliferation to include a new section authorizing the president to invoke economic sanctions against foreign nations that proliferate WMD and technologies associated with WMD and their delivery systems. These economic sanctions would include import and export limitations, restrictions on access to U.S. capital markets, restrictions on foreign direct investment into an offending country, restrictions on transfers by the U.S. government of economic resources, and restrictions on science and technology cooperation or transfers. The new authority should require the president to report to Congress the rationale and proposed duration of the sanctions within seventy-two hours of imposing them. Although the president now has the authority to select from the full range of economic and security-related sanctions, these sanctions are case specific and relate to designated activities within a narrow set of options available on a case-by-case basis.⁴

Chapter 6 – China's Energy Needs and Strategies

- The Commission recommends that Congress direct the secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby the PRC

³ Recognizing deficiencies and loopholes in the current nuclear nonproliferation regime, President Bush has made several new proposals. First, that the Nuclear Suppliers Group nations (forty members) "refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment and reprocessing plants." Second, an "Additional Protocol" has been submitted to the Senate for ratification. This protocol requires members of the NSG to declare a wide range of nuclear activities and facilities and for these to be open to IAEA inspectors. Only those countries that agree to the protocol would be allowed to import equipment for civilian nuclear programs. And third, the president proposed a new IAEA committee to focus on safeguards and verification and that IAEA members would be precluded from serving on the board of governors or the special committee if they are under investigation for violations of the NPT.

⁴ Under the International Economic Emergency Powers Act (IEEPA), the president does have the authority to select from the range of sanctions, but this implementation is an unlikely remedy as the IEEPA is to be invoked only in the event of a national economic emergency.

would be obligated to develop a meaningful strategic reserve, and coordinate release of stocks in supply disruption crises or speculator-driven price spikes.⁵

- The Commission recommends that Congress encourage work that increases bilateral cooperation in improving China's energy efficiency and environmental performance, such as further cooperation in Clean Coal Technology and waste-to-liquid-fuels programs, subject to any overriding concerns regarding technology transfers. Further, the Commission recommends that Congress direct the State and Energy departments, and the intelligence community, to conduct an annual review of China's international energy relationships and its energy practices during times of global energy crises to determine whether such U.S. assistance continues to be justified.
- The Commission recommends that the Commerce Department and USTR investigate whether China's dual pricing system for coal and any other energy sources constitutes a prohibited subsidy under the WTO and include this assessment in the Commerce/USTR report on subsidies recommended in Chapter 1.

Chapter 7 – China's High-Technology Development and U.S.-China Science and Technology Cooperation

- The U.S. government must develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to the maintenance of our scientific and technological leadership. America's economic competitiveness, standard of living, and national security are dependent on such leadership. The Commission therefore recommends that Congress charge the administration to develop and publish such a strategy in the same way it is presently required to develop and publish a national security strategy that deals with our military and political challenges around the world. In developing this strategy, the administration should utilize data presently compiled by the Department of Commerce to track our nation's technological competitiveness in comparison with other countries.
- The Commission recommends that Congress revise the law governing the CFIUS process (Title VII of the Defense Production Act) – which gives the president authority to investigate mergers, acquisitions, or takeovers of U.S. firms by foreign persons if such activities pose a threat to national security – to expand the definition of national security to include the potential impact on national economic security as a criterion to be reviewed. In this regard, the term national economic security should be defined broadly without limitation to particular industries.
- The Commission recommends that Congress direct the administration to transfer chairmanship of CFIUS from the Secretary of the Treasury to the Secretary of Commerce.

Chapter 8 – China's Military Modernization and the Cross-Strait Balance

- The annual report to Congress recommended in Chapter 4 on Taiwan's requests for military equipment and technology should include an assessment of the new military systems required by Taiwan to defend against advanced PRC offensive capabilities.
- As recommended in Chapter 4, Congress and the administration should review the need for a direct communications hotline between the United States and Taiwan for dealing with

⁵ The IEA is an autonomous body within the OECD. OECD membership is limited to countries that can demonstrate its attachment to the basic values shared by all OECD members: an open market economy, democratic pluralism, and respect for human rights.

crisis situations. This is important in light of the short time frame of potential military scenarios in the Strait, together with Chinese strategic doctrine emphasizing surprise and deception.

- The Commission recommends that Congress urge the president and the secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.
- The Commission recommends that Congress direct the administration to restrict foreign defense contractors who sell sensitive military-use technology or weapons systems to China from participating in U.S. defense-related cooperative research, development, and production programs. This restriction can be targeted to cover only those technology areas involved in the transfer to China.
- The Commission recommends that Congress request the Department of Defense to provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly from Russia and Israel.

Chapter 9 – Media and Information Control in China

- On June 30, 2003, the Commission recommended that Congress direct the Broadcasting Board of Governors to target funds for efforts aimed at circumventing China's Internet firewall through the development of anticensorship technologies and methods. Congress approved such funding as part of the 2004 Omnibus Appropriations Act. The Commission recommends that Congress continue this program with enhanced resources, pending successful results for the current fiscal year.
- As recommended in the Commission's 2002 Report, the Commission reiterates that Congress should direct the Department of Commerce and other relevant agencies to conduct a review of export administration regulations to determine whether specific measures should be put in place to restrict the export of U.S. equipment, software, and technologies that permit the Chinese government to surveil its own people or censor free speech.
- The Commission recommends that Congress approve legislation to establish an Office of Global Internet Freedom within the executive branch, tasked with implementing a comprehensive global strategy to combat state-sponsored blocking of the Internet and persecution of users. The strategy should include the development of anticensorship technologies.
- The Commission recommends that Congress encourage the administration to press China to freely admit U.S. government-sponsored journalists, such as those representing the Voice of America and Radio Free Asia. China frequently denies visas for such journalists, despite the fact that China's state-sponsored journalists are freely admitted in the United States. Options should be considered for linking Chinese cooperation to concrete consequences, including the possible use of U.S. visas for Chinese government journalists as leverage to gain admission of more U.S. government-supported journalists to China.

Field Hearing Report Recommendations: U.S.-China Trade and Investment: Impact on Key Manufacturing and Industrial Sectors, Akron, Ohio, September 23, 2004

- The U.S. government should immediately pursue a WTO action against China regarding the undervaluation of its currency. Months of bilateral discussions have failed thus far to yield positive results. We believe that the Treasury Department and the United States Trade Representative (USTR) should immediately file a WTO complaint, and if such action is not forthcoming, Congress should move to enact pending legislative measures to force such action.
- Many areas of China's WTO accession agreement impose dramatically unequal tariffs on Chinese and U.S. goods. For example, U.S. auto exports to China face far higher tariffs than do exports to the United States from China (e.g., Chinese tariffs on autos range from 30-50 percent, while U.S. tariffs average around 2.5 percent). China has developed at a pace far faster than was envisaged at signing of the WTO accession agreement and these unequal tariff settings now heavily disadvantage U.S. exporters, risk import markets here and are no longer supportable. The U.S. government should expeditiously examine the potential for rectifying this situation as part of the Doha Round negotiations.
- China's restrictions on the export of coke drive up costs for U.S. steel manufacturers while suppressing costs for their Chinese competitors. USTR should immediately consult with our trading partners with the goal of filing a WTO complaint regarding this violation of China's WTO commitments on export restraints.
- The U.S. government should more fully and effectively make use of all available enforcement tools, especially the Section 421 China-specific safeguards negotiated as part of China's WTO accession. Congress should consider undertaking measures to make the imposition of such safeguards mandatory in circumstances where import growth in particular goods exceeds a threshold level. In addition, the Department of Commerce should implement a procedure to make financial assistance available to small businesses to pursue safeguard cases where prima facie evidence exists of injury or a sufficient surge in imports to merit immediate attention. Safeguard cases can be highly costly and out of financial reach for many impacted businesses.
- The Congress should fund information sessions and a public awareness campaign to inform laid-off workers about existing and newly established programs such as Trade Adjustment Assistance (TAA). Petitions for TAA eligibility should be processed expeditiously. Further, many workers adversely affected by trade are still excluded from TAA. Eligibility for TAA should be expanded in a comprehensive manner to cover the broad array of workers adversely affected by trade with China, including those in the service sector and others who have not traditionally been covered.
- Congress should reexamine the statutory advisory process by which USTR receives input on pending trade negotiations from interested stakeholders to ensure that adequate attention and input is afforded to the representatives of organized labor.

Symposia Report Recommendations: Transatlantic Perspectives on Economic and Security Relations with China, Brussels, Belgium, November 30, 2004, and Prague, Czech Republic, December 2, 2004

- European governments share U.S. concerns about continuing large-scale IPR violations in China. Brussels and Washington should integrate their strategies on improving Chinese IPR compliance, particularly through joint action in the WTO.
- U.S. and EU officials should work together within the International Monetary Fund (IMF), the WTO, and other appropriate forums to move China toward a meaningful revaluation of the Chinese yuan that is more reflective of current economic realities.
- The WTO's TRM was intended as a means for initiating collective pressure on China to identify and address key WTO compliance problems. As recommended in the Commission's 2004 Report, U.S. and EU officials should work to enhance the effectiveness of the TRM within the WTO and consider undertaking an annual joint assessment of China's compliance record (if possible, in conjunction with China's other major trade partners) that could serve as an alternative mechanism for measuring and improving China's compliance shortfalls.
- The granting of market economy status to China has significant ramifications for the application of trade remedy laws to Chinese trade practices. China's WTO accession protocol provided for a lengthy review period to evaluate China's actions and steps to open and reform its market before it earned market economy status. U.S. and EU officials should engage with each other to evaluate China's progress toward meeting U.S. and EU criteria with the goal of arriving at a consistent analysis that ensures that China had taken concrete and irreversible steps to earn market economy status.
- As the Commission recommended in its 2004 Report to Congress, the President and Secretaries of State and Defense should press their European counterparts to maintain the EU arms embargo. U.S. officials must emphasize in the starkest terms that removal of the embargo is not merited on human rights grounds. Moreover, they should emphasize that there are important strategic considerations that warrant review and reinforce the need to maintain the embargo.
- Congress should consider adopting a resolution urging the Administration to maintain pressure on the Europeans to ensure the embargo remains in place, commending the actions of the European Parliament and the German and Dutch legislatures in opposing the removal of the embargo, and encouraging other European parliaments to take action.
- Given ongoing European discussions over strengthening the EU Code of Conduct for Arms Exports, U.S. officials should urgently engage with their European interlocutors on appropriate enhancements to the EU's arms export control system. Strengthened controls should include, at a minimum, the following components:
 - The provisions of the Code of Conduct should be made into a legally binding and enforceable agreement for all EU member states.

- A mandated list of criteria for assessing European arms exports should retain the existing criteria from the Code of Conduct requiring that member states weigh arms exports against the “risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim,” “the need not to affect adversely regional stability in any significant way,” and the “risk of reverse engineering or unintended technology transfer.”
- The arms export control regime should require more intra-EU transparency. Establishing shared principles and standards on arms export approvals and denials between EU arms exporting countries is critical to the effective enforcement of the Code.
- The Commission reiterates the recommendation from its 2004 Report that Congress should consider imposing restrictions on U.S. defense cooperation – both government and private sector – with foreign firms that sell sensitive military technology to China. Enactment of such legislation would signal Congress’ concern towards any loosening of European restrictions on sensitive arms transfers.
- The U.S. government should urgently coordinate with the EU to develop a strategy for obtaining near-term progress on promoting cross-Strait dialogue. A collective effort by the United States and the EU on this vital issue could help to jump-start this stalled process. As an initial matter, the United States and EU should issue a joint statement urging China to refrain from formally adopting a pending anti-secession law aimed at Taiwan and calling on both sides to make renewed overtures for dialogue. This is a particularly opportune time to engage Europe on this as U.S. concerns over lifting the embargo revolve in large measure around the cross-Strait implications.
- European governments and organizations remain significantly concerned about China’s human rights record and the United States should build on this common concern to increase joint cooperation in this area. Specifically, the U.S. and EU governments should increase cooperation on capacity building programs in such areas as rule of law, journalist rights, and labor standards. Moreover, the U.S. and the EU should establish a joint public benchmark system to gauge China’s progress on human rights.

Field Hearing Report Recommendations: U.S.-China Trade and Investment: Impact on Pacific Northwest Industries, Seattle, Washington, January 13, 2005

- Congress should establish and fund a federally mandated corporate reporting system to gather sufficient data to provide a comprehensive understanding of the trade and investment relationship with China. Within such a system, companies should be required to report to the Commerce Department their initial investments in China and the shift of production capacity and job relocations resulting from these investments, both from within the United States to overseas and from one overseas location to another, and their contracting relationships with Chinese firms.⁶

⁶ Commissioners Reinsch and Wortzel dissent from this recommendation.

- As part of any mandated corporate reporting system, Congress should require the Commerce Department to maintain an authoritative account of U.S. firms' investment in R&D centers in China and a comprehensive assessment of their activities, including any technology transfer, offset, or R&D cooperation agreed to as part of the investment.⁷
- Congress should amend and tighten the legislation governing the H-1B and L-1 visa programs. These programs were intended to make available foreign workers to fill only those jobs for which there is a shortage of appropriately qualified American workers. Under this program, foreign workers are supposed to be paid the prevailing wage. In practice, companies have filled low-wage generic positions with over-qualified foreign workers who then are assigned high-level tasks. Companies should be required to show evidence of having first attempted to fill positions with American workers, and the prevailing wage for each position should be set by reference to the qualifications of each worker who holds the position.⁸
- Congress should encourage the Administration to engage in a dialogue and raise strong objections with the Chinese government concerning its new government software procurement rules. These rules require Chinese government entities to purchase domestic software or "qualifying foreign software." The criteria for qualifying foreign software have yet to be defined. The absence of such criteria has inhibited U.S. manufacturers from entering into government business and appears intended to shut U.S. firms out of this lucrative market.
- Congress should consider new measures to strengthen research and development conducted in the U.S. in industries such as aerospace and other high-technology sectors crucial to America's future economic growth. These measures should aim to discourage the transfer of R&D facilities outside the United States.
- Congress should direct the Commerce Department to investigate ways to diminish the transfer of technology to China that is vital to U.S. national security and economic competitiveness by way of production transfers required to facilitate sales ("offsets"), particularly in the aerospace field. The investigation should identify the extent to which such transfers are required by Chinese government rules or regulations for commercial sales and therefore are potentially WTO inconsistent.
- Congress should direct the Department of Homeland Security to give greater priority to threats posed by waterborne shipping. As part of this effort, specific attention must be paid to the need for enhancing inspection of container seals and ensuring that appropriate paperwork accompanies these containers. Import and export containers must be refused entry without proper documentation. Proper attention must be given to ensuring that bonded agents and other personnel are able to appropriately and adequately inspect all containers. Technological approaches to inspecting containers and ships must supplement, not replace, human inspections.
- Congress should direct the United States Trade Representative (USTR) to investigate an alleged \$2 billion in subsidies from the Chinese Government to radically expand China's paper products industry, including creating fast-growing tree plantations. USTR should also investigate China's practice of eliminating tariffs on raw logs and high grade paper machines while maintaining or increasing tariffs on imports of finished wood products,

⁷ Commissioners Reinsch and Wortzel dissent from this recommendation.

⁸ Commissioner Reinsch dissents from this recommendation.

thereby supporting expansion of China's wood products manufacturing industry at the expense of its trading partners' industries.

Hearing Report Recommendations: China and the WTO: Assessing and Enforcing Compliance, Washington, D.C., February 3-4, 2005

- The Commission recommends that Congress pursue a three-track policy to move China toward a significant near-term upward revaluation of the yuan by at least 25 percent..
 - Congress should press the Administration to file a WTO dispute regarding China's exchange rate practices. China's exchange rate practices violate a number of its WTO and IMF membership obligations, including the WTO prohibition on export subsidies and the IMF proscription of currency manipulation. Congress should press the Administration to respond to China's violation of its international obligations by working with U.S. trading partners to bring to bear on China the mechanisms of all relevant international institutions.
 - Congress should consider imposing an immediate, across-the-board tariff on Chinese imports unless China significantly strengthens the value of its currency against the dollar or against a basket of currencies. The tariff should be set at a level approximating the impact of the undervalued yuan. The United States can justify such an action under WTO Article XXI, which allows members to take necessary actions to protect their national security. China's undervalued currency has contributed to a loss of U.S. manufacturing, which is a national security concern for the United States.⁹
 - Congress should reduce the ability of the Treasury Department to use technical definitions to avoid classifying China as a currency manipulator by amending the 1988 Omnibus Trade Act to (i) include a clear definition of currency manipulation, and (ii) eliminate the requirement that a country must be running a material global trade surplus in order for the Secretary of the Treasury to determine that the country is manipulating its currency to gain a trade advantage.
- The Commission recommends that Congress urge USTR to immediately file one or more WTO disputes pertaining to China's violation of IPR obligations, particularly China's failure to meet the requisite standards of effective enforcement, including criminal enforcement, explicitly imposed by the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Moreover, USTR should be pressed to move China from the status of Section 306 monitoring to that of a Priority Foreign Country in reflection of its lack of good-faith negotiations or progress in confronting IPR violations.
- The Commission recommends that Congress repeal the "new shipper bonding privilege" that has allowed many importers of Chinese goods to avoid payment of anti-dumping duties. Importers of goods subject to anti-dumping or countervailing duties should be required to deposit in cash the amount of any estimated applicable duty.
- The Commission recommends that Congress require that the Department of Commerce obtain Congressional approval before implementing any determination that a nonmarket economy has achieved market economy status. Congress should ensure that China

⁹ Commissioner Reinsch dissents from this subrecommendation.

continues to be treated as a nonmarket economy in the application of antidumping and countervailing duties through 2016, as is explicitly permitted by China's WTO accession agreement, unless China clearly meets the statutory requirements for market economy status.

- The Commission recommends that Congress establish a review body of distinguished, retired U.S. jurists and legal experts to evaluate the dispute resolution mechanism at the WTO. The review body would consider all decisions made by a WTO dispute settlement panel or appellate body that are contrary to the U.S. position taken in the case. In each instance, a finding would be made as to whether the WTO ruling exceeded the WTO's authority by placing new international obligations on the United States that it did not assent to in joining the WTO. This information would be very helpful to Congress and other public officials in ongoing evaluations of the benefits of U.S. membership in the WTO. If three affirmative findings were made in five years, Congress would be prompted to reconsider the relationship between the United States and the WTO.¹⁰
- The Commission recommends that Congress authorize compensation to petitioners in the Section 421 safeguard process for legal fees incurred in cases where the ITC finds that market disruption has occurred but the President has denied relief. Congress should also consider eliminating presidential discretion in the application of relief through Section 421 petitions or limiting discretion to the consideration of non-economic national security factors.
- The Commission recommends that Congress maintain the Continued Dumping and Subsidies Offset Act of 2000 (CDSOA), notwithstanding the WTO determination that it is inconsistent with the WTO Agreement. Congress should press the Administration to seek explicit recognition of the existing right of WTO Members to distribute monies collected from antidumping and countervailing duties during the Doha Round negotiations and the review of the WTO's dispute resolution mechanism.
- The Commission recommends that Congress clarify without delay the authority of the Committee on the Implementation of Textile Agreements (CITA) to consider threat-based petitions.
- The Commission recommends that Congress direct the Department of Commerce to make countervailing duties applicable to nonmarket economies.
- The Commission recommends that Congress direct USTR and Commerce to investigate China's system of government subsidies for manufacturing, including tax incentives, preferential access to credit and capital from financial institutions owned or influenced by the state, subsidized utilities, and investment conditions requiring technology transfers. The investigation should also examine discriminatory consumption credits that shift demand toward Chinese goods, particularly as a tactic of import substitution for steel, Chinese state-owned banks' practice of noncommercial-based policy lending to state-owned and other enterprises, and China's dual pricing system for coal and other energy resources. USTR and Commerce should provide the results of this investigation in a report to Congress that assesses whether any of these practices may be actionable subsidies under the WTO and lays out specific steps the U.S. Government can take to address these practices.

¹⁰ Commissioner Reinsch dissents from this recommendation.

Hearing Report Recommendations: China's Proliferation Practices and Role in the North Korea Crisis, Washington, D.C., March 10, 2005

- Current sanctions against Chinese entities that proliferate technology related to WMD and their delivery systems should be broadened and harmonized for increased effectiveness. We recommend that Congress pass legislation that increases the penalties for parent companies of subsidiaries that engage in proliferation activities. The access of the parent firms, and the access of all entities under their control, to U.S. markets (including capital markets), technology transfers, and U.S. grants and loans should be linked to the proliferation records of their subsidiaries.¹¹
- In cases where diplomatic efforts are unsuccessful in spurring the government of a country such as China to take effective actions to halt proliferating activity, the U.S. should use its economic leverage to make it costly for those in positions of control to continue to permit proliferation activities. In connection with the recommendation above that Congress broaden and harmonize proliferation sanctions, and in consonance with recommendations contained in our 2002 and 2004 Annual Reports, we recommend that Congress amend all current statutes pertaining to proliferation to—
 - increase the array of sanctions the president is authorized to invoke against foreign governments that directly proliferate WMD, their delivery systems, and associated technologies to include import and export limitations; restrictions on access to U.S. capital markets; restrictions on U.S. direct investment; U.S. opposition to loans from international financial institutions; prohibition of loans from U.S. banks; reduction or elimination of foreign assistance; prohibition of arms sales and military financing; elimination of U.S. government credit or credit guarantees; prohibition of U.S. government procurement from any entity based in the offending country; and restrictions on science and technology cooperation with or transfers to the offending country. The new authority should require the president to report to Congress the rationale for and proposed duration of the sanctions within seventy-two hours of imposing them and, in any case where the president waives imposition of such a sanction, the authority should require the president to notify Congress of the justification for that waiver.
 - authorize the president to impose the same sanctions listed above against a country or the government of a country where commercial entities are persistently engaged in proliferation of WMD, their delivery systems, and associated technologies and where the government does not take effective steps to curtail those activities.¹²
- In an attempt to better monitor the financial and fundraising activities of proliferating companies in this country, we recommend that Congress reenact Section 827 of the FY 2003 Intelligence Authorization Act which required an annual report to Congress by the Director of Central Intelligence on foreign companies that raise money in U.S. capital markets while also proliferating technology related to WMD and their delivery systems.
- Congress should call on the Administration to continue to press China forcefully to use its leverage to get North Korea to halt its nuclear activities and return to the Six-Party Talks without preconditions. China also should be encouraged to offer its own proposal to resolve the Korean nuclear crisis in the context of the Six-Party Talks.

¹¹ Commissioner Reinsch dissents from this recommendation.

¹² Commissioner Reinsch dissents from this recommendation.

- If positive action is not forthcoming in the near future, Congress should encourage the Administration to devise and pursue alternative methods to address this problem, including working with our allies to increase pressure on China and North Korea. Congress also should encourage and support the Administration to propose a United Nations Security Council resolution which at least condemns North Korea's February 10 statement and calls on it to return to the Six-Party Talks. Placing such a resolution before China's U.N. delegation will reveal Beijing's sincerity in pressuring Pyongyang.