

Testimony before the U.S.-China Economic and Security Review Commission: Hearing on China's Relations with U.S. Allies and Partners in Europe and the Asia-Pacific

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Thank you for the opportunity to present my testimony here today on such an important subject. It is an honor and a privilege to appear before the committee again. The efforts of the Chinese Communist Party to shape the world beyond China's borders pose a challenge to U.S. interests at home and to the country's relationships abroad. Maintaining a competitive strategy with China requires the integrity of the U.S. Government's policymaking processes and those of its allies.

China's Objectives and Methods in Australia and New Zealand

The CCP's objectives in Australia and New Zealand as well as the broader Oceania region can be described under the following broad headings:

- (1) Preserving the security of the CCP party-state;
- (2) Coopting foreigners to support the party's foreign policy;
- (3) Reinforcing the legitimacy of the party.

Preserving the security of the CCP party-state is achieved through shaping the context of how China is perceived and neutralizing potential threats before they emerge. This approach to security is grounded in the party's Leninist heritage and its definition of security described in the National Security Law promulgated in 2015. Articles Two and Three of the law describe security in a nearly unlimited way that encompasses dangerous ideas as much as traditional security threats:

“National security refers to the relative absence of international or domestic threats to the state's power to govern, sovereignty, unity and territorial integrity, the welfare of the people, sustainable economic and social development, and other major national interests, and the ability to ensure a continued state of security. National security efforts shall adhere to a comprehensive understanding of national security, make the security of the People their goal, political security their basis and economic security their foundation; make military, cultural and social security their safeguard...”

In this definition, security is the absence of threats, not the party-state's ability to manage them. This unlimited view pushes the CCP toward pre-empting threats and preventing their emergence. One of the party's ways to do this is united front work. Co-opting foreigners who can influence their governments' decisionmakers and building the party's legitimacy in their eyes is strongest

Relatedly, monitoring and controlling the Chinese diaspora is an outgrowth of protecting the party's security. These are the individuals best equipped culturally and linguistically to challenge the CCP on Chinese values and organize most effectively in ways that undermine the party's attempts to control social and political life in the public sphere.

The tools for achieving these objectives are unified at the highest levels of the CCP government in the Politburo and its standing committee as well as the Secretariat of the Central Committee. The fourth-ranking member of the Politburo Standing Committee heads the united front system and the Chinese People's Political Consultative Conference. Below him, the heads of the United Front Work Department (UFWD) and the Propaganda Department execute policy while sitting on the Politburo and serving on the Secretariat, which makes day-to-day decisions. This team is supplemented by the Politburo Standing Committee member who takes the lead on ideology and by Xi Jinping, who has taken a direct hand in expanding united front work.

The significance of such direct involvement is that the CCP effort to influence and interfere abroad occurs as a normal part of the policy process. This is a day-to-day, routine activity, not one granted on the basis of special authorities, like a presidential finding. Moreover, these are activities overseen by the party center. They are not rogue or accidental.

The CCP's efforts in Australia have generated a number of useful effects. First, the efforts to co-opt Australians into supporting the Australia-China relationship have been successful at the political level and the institutional level. Several former high-ranking officials have taken on positions from which they speak positively about China and Australia's ultimate dependence on China for economic growth. Universities have bought into this as well, dramatically expanding the research cooperation in China. In some cases, Australian university are cooperating with Chinese military researchers on projects with dual-use applications or that are marked for the People's Liberation Army (PLA).

Second, the CCP has narrowed the public discussion within the Australian-Chinese community by taking over community organizations and buying out Chinese-language media. Today, only a few independent groups remain, usually associated with organizations with an anti-CCP character like those of the Falungong or Taiwanese. The CCP also has been assisted by Australian government-sponsored broadcasters rebroadcasting CCTV and China Radio International content as a substitute for generating their own content. Chinese censorship also has extended through WeChat, which is one of the most popular messaging apps used with Chinese language both in China and overseas. Exchanges on WeChat between two Australians are as censored as conversations between two people inside China.

Third, the first two effects mean Australians rebroadcast CCP messages into China carried by an Australian. The intended result of this kind of messaging is to tell the Chinese people that Australians stand with the CCP and recognize the party as China's legitimate government. This is

one of the ways apart from economic growth and nationalism that the party builds and maintains its legitimacy.

The political results of the CCP's efforts in New Zealand have given Beijing access to the political core of the country. Important, insider MPs from both parties boosted their careers raising money out of New Zealand's Chinese communities, particularly organizations that were close to the CCP and the United Front Work Department. How this has affected New Zealand's policies, however, is a subjective matter, and it is better to focus on CCP actions.

To date, Australia is the only country to take clear action against the CCP's effort to undermine the country's sovereignty. New Zealand's last and current prime minister, respectively, Bill English and Jacinda Ardern, avoided the question and, in some cases, explicitly denied that the CCP did anything differently from other power or posed a different kind of challenge. By contrast, Australia has introduced far-reaching legislation that addresses counterespionage, the organization of intelligence, political financing, and foreign agent registration. Knowledge of CCP activities has become widespread and popularized. The government launched a major investigation into united front activities in 2016 that led to a limited public presentation, but nevertheless boosted knowledge across the government bureaucracies. A broad body of news reporting going back a decade culminated in a powerful documentary primarily about how Beijing works through two ethnically-Chinese billionaires broadcast last June, and the Australian media continued to deliver news about CCP activities.

The debate in Australia, however, does not lead to a certain and positive outcome. Pushback against the government's legislation began as soon as it was announced. Well-meaning scholars submitted a group letter to parliament, but chose to frame their discussion as one between alarmists and non-alarmists as well as implying racism and ignorance on the part of those they labeled alarmists. Clive Hamilton's well-researched book called *Silent Invasion* is as controversial as it is informative, because of the author's, at times, sloppy characterizations of Chinese-Australians. The debate is largely split, and Australia is in the middle of a vigorous discussion.

How Well Do Australia and New Zealand Understand the Challenge

Australia and New Zealand, of all countries worldwide with the exception of Taiwan, probably are the best equipped to understand the challenge posed by CCP interference. The community of experts on this subject worldwide is quite small and the number of journalists who understand what is taking place is larger if still small. Most of these individuals, however, are based in those two countries or are closely tied to the academics, analysts, and policymakers there.

Australia possesses the most comprehensive and integrated understanding of the CCP's influence and interference in the country's affairs outside of Taiwan. As he made clear in a press conference and a parliamentary speech in early December, Prime Minister Malcolm Turnbull understands how

Australia's law have been exploited and how CCP money affected Australia's principal political parties. The government bureaucracy continues to debate what needs doing and how to do it, but, by all accounts, the discussion is wide-ranging, encompassing Australia's political values and CCP actions. Outside government, roughly a dozen academics, policy analysts, and journalists have gotten ahold of the issue pushing out high-quality news articles and analysis of the issue.

New Zealand's challenge is that the CCP has made it inside the political core. To address or even investigate the concerns about key parliamentarians in both major political parties, the prime minister must provide their approval. Something that at least last year did not occur for the challenging case of an MP who also is a former Chinese military intelligence officer and lied on his immigration paperwork. Moreover, professional burglaries at the home and office of New Zealand scholar Anne-Marie Brady to steal or examine her research on CCP interference appears to be an attempt at intimidation. Although the professional job may have prevented the police from finding useful leads, no consequence apart from publicity has been levied despite strong circumstantial evidence pointing toward Beijing.

The key issue is political will. Knowledge may be present and a number of individuals or bureaucracies may be building their understanding. Creating the tools for countering CCP interference are one thing; using them effectively is something completely different.

Framing CCP Interference

Addressing the problems of CCP interference is not an easy task. The issues are politically sensitive. The last time Western governments addressed this kind of challenge, governments fell and political purges fractured bureaucracies and society. The costs of ill-considered or overzealous actions have consequences. The political climate of the McCarthy era made it harder for the FBI to root out Soviet agents, not easier. And the excesses left societal wounds that have not entirely healed. How we discuss the problems and the solutions matters a great deal.

First, addressing CCP interference is a requirement for sustaining strategic competition with China. What the CCP does in united front work, intelligence, and external propaganda is not soft power, relying on the attractiveness of Chinese cultural products and for what the party-state stands. The mobilization of overseas Chinese as political props, the party's effort to monopolize Chinese-language media, and investments in foreign political parties and leaders are the exercise of power. Countering such efforts is necessarily competitive and is included properly in the U.S. National Security Strategy and National Defense Strategy.

Second, the purpose of challenging CCP interference is to guarantee U.S. and allies' citizens and residents their rights and choices. Americans and those protected by U.S. laws have had their freedoms of speech and association threatened. CCP intimidation sometimes crosses the line into criminal actions, such as conspiracy against rights. The quiet acquisition of or pressure on

independent Chinese-language media allows Beijing to narrow the discussion so the party's voice is privileged both at home and abroad. In many respects, finding ways to shield the CCP's targets from its interference is about providing equal protection under the law or interposing the U.S. government between the two.

Third, there is no solution to CCP interference that does not involve the overseas Chinese communities in the United States and elsewhere. In Australia, many of the important voices pushing back against the party are ethnically Chinese or, like academic John Fitzgerald who authored a history of Chinese in Australia, have long-standing ties in these communities. Their cooperation and goodwill are essential. Historical racism and the willingness of the U.S. and other governments to look the other way when Chinese communities suffered, in turn, the depredations of organized crime, the Kuomintang, and now the CCP has not built the kind of trust we need. Those responsible within the U.S. Government for protecting our citizens and the integrity of policymaking must engage and be present. Forcing Chinese communities to make a choice will not work. Democracies cannot compete with the CCP in terms of applied coercion.

Every time investigators and prosecutors fail to make their case in an espionage or tech transfer investigation, they reinforce the suspicions of the Chinese-American and broader Asian-American community. The worst examples almost always involve what looks like a rush to judgment — e.g. Wen Ho Lee, Xi Xiaoxing, Sherry Chen, etc. — and, in some cases, involve the violation of the accused's civil rights. FBI Director Christopher Wray called the CCP's approach a "whole-of-society effort", and he was right to do so. But he also needed to say more. The CCP may try to mobilize Chinese society to support its goals, but, before we cast such a wide net that casts suspicion on many innocents, the U.S. Government should focus on limiting the party's influence over Chinese people living, studying, and working in the United States. The CCP incentivizes cooperation, punishes resistance, and uses law to force compliance. The appropriate response has less to do with what the party does and more to do with being better Americans.

Recommendations

My policy recommendations will be divided into three areas: general issues in which Congress plays a role; resolving unenforced laws; and recommendations for new initiatives. These are not complete, and the challenge is far greater than the measures suggested here.

Before addressing these general issues, I think Congressional members can play an important role in international dialogue and coordination for dealing with the CCP challenge. Elected officials can speak to each other as peers and equals in a way that others cannot. They have experience handling the fine details and the levers of power in politics. They can appreciate the ways in which political influence is built and levied in a way that analysts and scholars cannot because of the latter's distance from the practice of politics.

General Issues: Addressing the challenge of CCP influence operations requires thinking broadly about the problem and how to approach it. Overzealous, generalized responses risk alienating the Chinese-Americans most directly affected on a daily basis. They are the most knowledgeable about what the CCP is doing on American streets. The CCP does focus a large portion of its efforts on Chinese emigres, but that effort does not necessarily lead to cooperation or complicity. Chinese-Americans are our citizens and permanent residents, deserving of equal protection under the law. To tackle the CCP's influence operations, the U.S. Government needs their help, and they need the U.S. Government's.

- Keep the focus on the CCP: We are concerned with the Chinese Communist Party, not the Chinese people. The CCP claims to represent all Chinese people, regardless of citizenship, anywhere, all the time. This is not true. Chinese people living outside of the PRC have chosen lives as American, Australian, Canadian, Malaysian, German, and many other non-PRC citizens and residents. When Chinese people make the choice not to be PRC citizens or made that decision generations ago, then both the party and the U.S. Government should respect that choice.
- Encourage Public Discussion: Congress has incredible powers to convene, to drive the public conversation. The capabilities of the executive branch almost certainly will focus on the illegal, because of the way government functions.. Much of the CCP's influence operations occur in a grey area that is not always illegal. For example, there is nothing illegal about Confucius Institutes or endowing a university chair. What is appropriate and acceptable in dealing with the CCP or its proxies can be discussed, and the rules of engagement only can be sorted out through conversation.
- Raising Costs for CCP Interference: Right now, Beijing faces few if any consequences for its interference inside the United States. Forcing the CCP to introduce additional cutouts and layers of complexity may be temporary fixes, but they do require additional resources and make the party's activities inefficient. When Education officials at the PRC embassy and consulates show up at universities to threaten students or turn them out for a rally, the U.S. Government can revoke their diplomatic status. Travel restrictions can be placed on such officials.

Stepping Up Enforcement: The U.S. Government has many tools for investigating and countering CCP interference in American society. In some cases, pushing back against CCP activities means enforcing the laws already on the books. Using legal tools, however, requires the Department of Justice to play an active role. The department needs lawyers who are fighting to say "yes" to pursuing cases rather than looking for reasons to say "no."

- Improving Counterespionage Capabilities: The executive branch has failed to prosecute or botched investigations into Chinese espionage here. This may seem a far cry from the CCP's influence operations. The same parts of the Intelligence Community and the Department of Justice that perform counterespionage, however, are the same parts that will take the lead on countering CCP interference. If they have difficulty prosecuting (relatively-speaking) straightforward Chinese espionage cases, then countering CCP influence is likely to be too

complicated. Successful espionage prosecutions, in a sense, are the analytical, investigative, and legal training ground for the capabilities the U.S. Government needs to deploy. The failure to do this well alienates the Chinese-American community, which has reasonable concerns about racism, and lets those breaking the law in support of CCP interests know that the risks are low. Below are just a few examples from recent years of problems, and I have been assured by several knowledgeable officials that many worse examples are not public:

- Chen Yanping: Dr. Chen is president of the University of Management and Technology (UMT), and the Department of Justice declined to prosecute her on variety of charges after failed plea negotiations. Chen helped found UMT, an online, for-profit university focused on recruiting students in the U.S. military. She is or was a Chinese military officer and CCP member. Much of UMT's student information reportedly was stored on servers in Beijing. The school created a whistle-blower after Chen directed one of the staff to focus on recruiting students from Wright-Patterson Air Force Base, which is an important Air Force intelligence facility.
- Helen Gao: Helen Gao was a contract translator for the U.S. Department of State between 2010 and 2014, who confessed to providing information on her colleagues and their activities. A person who she believed to be an intelligence officer approached her in China in 2007, asking her to provide information on her social contacts in the United States. She was given a one-time payment of \$6,000 at the time and claimed she was wired \$5,000 in January 2010. She later lived "briefly for free" with an architect who possessed a top secret clearance for his work designing U.S. embassy facilities for the State Department. That employee admitted to discussing his work on U.S. facilities and his State Department colleagues by name. During her background check for her State Department contract and her U.S. naturalization paperwork, Ms. Gao concealed her relationship with the Chinese intelligence officer. For unknown reasons, U.S. authorities declined to prosecute the case either on charges related to being an unregistered agent or related to lying on immigration and security paperwork.
- Charges were withdrawn in 2015 against National Weather Service hydrologist Sherry Chen and Temple University physics professor Xi Xiaoxing. Both scientists, separately, had contact with Chinese government officials or scientists. Poorly-run investigations led to a rush to judgment and then ultimately a failure to generate any workable charge. Regardless whether it was a failed or misguided prosecution, cases such as these burn the goodwill of the Chinese-American community that has plenty of reasons to doubt impartial enforcement of U.S. law.
- Enforcing the Foreign Agent Registration Act (FARA): The gaping holes in FARA notwithstanding, the law effectively can be wielded to shine a public light on CCP influence operations. The National Security Strategy and the National Defense Strategy provide an explicit statement from the executive branch that U.S. policy toward China has changed. Further clarification and wide promulgation of these changes coming from the White House

would close some of the FARA loopholes for those acting on behalf of the CCP who can no longer justify their actions as supporting U.S. engagement of China consistent with policy.

- Leveraging Civil Rights Legislation: “Conspiracy Against Rights” (U.S. Code, Title 18, Section 241) could be used against united front and undercover CCP agents, such as intelligence and security officials, who threaten, coerce, or intimidate Chinese people (or others) in the United States. The provision makes it unlawful for two or more persons to conspire to “injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same.” Other related civil rights legislation also could be used if efforts to counter CCP interference qualified as federally-protected activities.

Additional Policy Recommendations: In countering the CCP’s influence operations, the U.S. Government needs both forcing events and clear prioritization from the top. Clarity of mission needs to come from the White House and the Department of Justice. Justice, the FBI, and the Intelligence Community all need greater and more distributed understanding of the challenges. Priority and knowledge, however, are two things that cannot be legislated.

- Annual Report to Congress on the CCP’s Influence and Propaganda Activities: In the Reagan years, the U.S. Government published an annual report on Soviet active measures. The report forced government agencies to come together to discuss the problem and make decisions about what information needed to be released for public consumption. A similar report on the CCP’s activities would have the beneficial effect of raising awareness and convening disparate parts of the U.S. Government that may not often speak with each other. A classified annex could be produced for internal government consumption.
- Boosting FBI Intelligence Collection: The FBI needs additional resources to counter Chinese influence and intelligence operations. Apart from the bureau’s administrative problems, its toolkit does not allow agents to operate effectively as intelligence gatherers rather than law enforcement officers. FBI agents need stronger Chinese-language capabilities. Too few agents speak Mandarin, much less any of the common dialects, like Cantonese or Shanghainese, among American Chinatowns. Without language skills, FBI agents cannot collect intelligence effectively or follow leads to map the CCP presence. Analysts and translators perform different tasks and cannot substitute. At least for the FBI’s China squads, agents need better cover options. FBI agents and supervisors currently have a choice between using the badge or long-term undercover operations. They need the ability to use other U.S. Government cover or business covers to work the streets.
- Improving FARA and Counterespionage Statutes: Tightening up these statutes to cover “agents of influence” and add teeth to FARA’s focus on voluntary compliance would expand the toolkit for law enforcement to crack down. Although one can argue that existing statutes are sufficient, the caution with which they have been enforced suggests a need to tailor the legal language more directly to the problems the United States currently faces.