

**ACCESS TO INFORMATION AND MEDIA CONTROL IN
THE PEOPLE'S REPUBLIC OF CHINA**

HEARING

BEFORE THE

U.S.-CHINA ECONOMIC AND SECURITY
REVIEW COMMISSION

ONE HUNDRED TENTH CONGRESS

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The Commission's full charter is available at www.uscc.gov.

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July 28, 2008

The Honorable ROBERT C. BYRD

President Pro Tempore of the Senate, Washington, D.C. 20510

The Honorable NANCY PELOSI

Speaker of the House of Representatives, Washington, D.C. 20515

DEAR SENATOR BYRD AND SPEAKER PELOSI:

We are pleased to transmit the record of our June 18, 2008 public hearing on “*Access to Information and Media Control in the People’s Republic of China.*” The Floyd D. Spence National Defense Authorization Act (amended by Pub. L. No. 109-108, section 635(a)) provides the basis for this hearing, stating that the Commission shall examine “...the implications of restrictions on speech and access to information in the People's Republic of China for its relations with the United States in the areas of economic and security policy.”

The first panel of the day explored the ways in which the lead-up to the Olympics has affected media control in China over the past year, and considered whether or not the Chinese government is honoring pledges of greater media freedom made while it lobbied for the 2008 Olympics to be held in Beijing. The panel featured two witnesses: Dr. Randolph Kluver, Director of the Institute for Pacific-Asia and Professor in the Department of Communication at Texas A&M University; and Ms. Lucie Morillon, the Washington, D.C. representative for Reporters Without Borders. Both offered qualified opinions that certain aspects of press freedom in China had improved over the past 18 months, with greater latitude for reporting on social issues that do not challenge the autocratic political authority of the ruling Chinese Communist Party (CCP). Both also noted that access to the internet by more Chinese people had increased the availability of information in China despite continuing state efforts to regulate and control internet content. However, there also were significant points of divergence between the two witnesses. Dr. Kluver made a qualified defense of some aspects of Chinese government information control on the grounds that popular Chinese attitudes support some varieties of government censorship. Ms. Morillon cited increased repression directed against both journalists and dissidents as well as continuing efforts to control information on all topics deemed “sensitive” by the CCP.

The second panel considered the ways in which Chinese government-imposed restrictions on information related to ethnic unrest and infectious disease could impact other countries. This panel included Mr. Dan Southerland, a journalist with many years of experience in Asia who currently works for Radio Free Asia; and Colonel Susan Puska (U.S. Army – Retired) of Defense Group, Inc., a former Military Attache in China. Mr. Southerland described severe Chinese government repression directed at China’s Tibetan and Uighur ethnic minorities, as well as vigorous efforts to restrict unofficial information from either entering or leaving the areas in which they live. Such efforts include the jamming of outside sources of information such as Voice of America and Radio Free Asia broadcasts, and strict censorship of any internet content linked to ethnic unrest. Mr. Southerland also provided a critical account of the Chinese government’s efforts to deflect attention away from the repression of ethnic minorities by whipping up nationalistic sentiment among the Han Chinese ethnic majority that rules the country. Colonel Puska’s testimony focused on the issue of infectious disease, touching upon the Severe Acute Respiratory Syndrome (SARS) outbreak of 2003-2004 as well as more recent outbreaks of disease such as avian influenza and the continuing AIDS crisis in many regions of China. She opined that the Chinese government’s reflexive censorship of information related to the SARS outbreak had “placed Party control of information above public health” and served

inadvertently to facilitate the spread of the disease both within China itself and beyond China's borders. She also noted that the censorship of information related to infectious diseases leaves an information vacuum that becomes filled by inaccurate rumors and ineffective folk remedies, further complicating efforts to contain disease outbreaks.

A third panel examined the state of internet control in China, and the role played in China's government internet censorship by U.S. companies. This panel included Mr. Xiao Qiang, Director of the Chinese Internet Project at the University of California, Berkeley; and Dr. Ron Deibert, Director of the Citizen Lab at the University of Toronto, who was also speaking on behalf of the Open Net Initiative, a non-governmental organization dedicated to fighting efforts by states around the world to censor the internet. Mr. Xiao's testimony described intensive Chinese government efforts to regulate and censor publicly-available internet content, to include issuing constant directives on "sensitive" or "prohibited" content to the operators of internet portals, as well as making businesses and other institutions "self-censoring" by holding them responsible for content that appears on their websites. However, Mr. Xiao also called the Chinese internet a "contested space" in which the increasing number of internet users and rapidly proliferating number of websites complicate attempts to censor it. He also noted the phenomenon of "information cascade," in which news reports, commentary, or video can be rapidly passed throughout cyberspace by individual users, thereby making centralized censorship more difficult to sustain. Dr. Deibert provided a technical analysis of the various means used by internet censors to block or derail attempts to search for internet content, as well as a description of the efforts of the Citizen Lab to proliferate free software intended to penetrate government-imposed internet censorship firewalls. He also described the Citizen Lab's research into the extent of cooperation by U.S. companies with China's internet censorship efforts. He presented the Lab's resulting conclusions that Google, Microsoft, and Yahoo! extensively censor content on their Chinese-language search engines, and that over the past two years at least two of the three firms have become less transparent with regard to their internet filtering practices in China.

The next panel focused on the phenomenon of militant Chinese nationalism and its linkages to nationalist propaganda in the state media and educational systems. The two witnesses for this panel were Dr. Peter Gries, Professor of Political Science at the University of Oklahoma; and

Dr. Perry Link, Professor of Chinese Literature at Princeton University. Both men agreed that the angry Chinese nationalism recently on display surrounding the Olympic Torch relay is not entirely a creation of government propaganda but is, rather, a spontaneously-occurring phenomenon that has been fostered and inflamed by pervasive government propaganda. Both witnesses also agreed that the CCP intensified nationalist themes in education and the media starting in the 1990-1991 timeframe in order to provide an ideological buttress for the Party's tattered legitimacy in the wake of the Tiananmen Square massacre. Dr. Gries also emphasized that popular Chinese nationalism could be slipping beyond the control of the CCP propaganda apparatus, and that nationalism easily could become a double-edged sword for the government: on the one hand, it allows the CCP to harness nationalist sentiment in support of the government, but on the other, it can lead to xenophobic unrest that may run contrary to the government's own desire for social stability and international engagement. In response to the potential challenges posed by Chinese nationalism, Dr. Link recommended continued dialogue – restrained and dignified – with the Chinese government and public.

The hearing's final panel considered the question of whether certain forms of government-imposed information control could represent a violation of China's commitments as a member of the World Trade Organization (WTO). The witness for this panel was Mr. Gilbert Kaplan, an

attorney with the law firm of King & Spalding LLP, speaking on behalf of the California First Amendment Coalition (CFAC). CFAC has petitioned the U.S. Trade Representative to bring a case against China on the grounds that some aspects of government censorship violate China's signatory commitments under the General Agreements on Tariffs and Trade, and the General Agreement on Trade and Services. Mr. Kaplan supported these assertions, stating that the Chinese government's restrictions on trade in financial services sector information – which force Western firms such as Reuters, Dow Jones, and Bloomberg to work through a subsidiary of the state news agency Xinhua – prevent the dissemination of objective financial services information, and in effect require foreign firms to conduct all business through a domestic Chinese competitor. He further maintained that state-imposed restrictions on public access to the internet-based goods and services offered by foreign firms also represent an unfair trade practice that violates China's WTO commitments. Because a competing viewpoint was not presented at the hearing, the Commission plans to conduct further research on this issue among others prior to publication of its annual report.

The prepared statements of the hearing witnesses can be found on the Commission's website at www.uscc.gov, and the complete hearing transcript also will be made available on the website. Members of the Commission are available to provide more detailed briefings. We hope the information from this hearing will be helpful as the Congress continues its assessment of U.S.-China relations. The Commission will examine these issues in greater depth, together with the other issues enumerated in its statutory mandate, in its 2008 Annual Report that will be submitted to Congress in November 2008.

Sincerely yours,



Larry M. Wortzel
Chairman



Carolyn Bartholomew
Vice Chairman

cc: Members of Congress and Congressional Staff

ACCESS TO INFORMATION AND MEDIA CONTROL IN THE PEOPLE'S REPUBLIC OF CHINA

WEDNESDAY, JUNE 18, 2008

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Washington, D.C.

The Commission met in Room 418, Russell Senate Office Building, Washington, D.C. at 9:00 a.m., Chairman Larry M. Wortzel and Commissioners Jeffrey L. Fiedler (Hearing Cochairs), presiding.

OPENING STATEMENT OF CHAIRMAN LARRY M. WORTZEL HEARING COCHAIR

CHAIRMAN WORTZEL: Good morning. Welcome to today's hearing on "Access to Information and Media Control in the People's Republic of China." This is the sixth of nine public hearings that the Commission will hold this year in pursuit of its statutory responsibilities.

My name is Larry Wortzel, and I am the chairman of the U.S.-China Economic and Security Review Commission for this 2008 reporting year. Along with Commissioner Jeffrey Fiedler, I'm also one of the cochairs of today's hearing. As we begin, I want to extend a special note of thanks to Chairman Akaka and members of the staff of the Senate Veterans Affairs Committee for letting us use this room. It's a very nice room and I'm a veteran and so is Jeff. So we like using it.

Congress has given our Commission the statutory responsibility to examine the potential effects that restrictions on information in China could have on relations between China and the United States, and this is with a particular eye toward the ways in which these restrictions could impact economic and security policy.

Recent events have really shown us dramatically how restricted

access to information affects issues such as public health, product safety, information on goods and services, and, as French tourism learned recently, the nationalist fervor in China can affect diplomatic relations and business relations.

To explore many of these issues, we are joined today by a number of esteemed representatives of academia and nongovernmental organizations and we hope that this will help illuminate the public debate on these issues. It will also assist us as commissioners in providing a clearer picture of these issues for Congress and the American public.

Each of the panelists will get seven minutes, and we have a timer here to keep track. But we'll warn you. Seven minutes for an oral statement. We'll take a written statement that will go on our Web site and get published in the hearing transcript which will be provided to members of Congress and used for our annual report as well.

I thank you for being here, all of you, and I'd like to turn the floor over to my colleague and cochair, Jeff Fiedler.

**OPENING STATEMENT OF COMMISSIONER JEFFREY L.
FIEDLER, HEARING COCHAIR**

HEARING COCHAIR FIEDLER: Thank you, Mr. Chairman. I'd like to second the chairman's welcome to you. Recent developments in China raise serious concern about the government's continuing efforts to control information available to its citizens. In the lead-up to this year's Olympics, the Chinese government has made repeated promises of greater press and Internet freedom, but there are many discouraging signs that these promises are not being fulfilled.

The Chinese government also continues to impede the efforts of U.S-sponsored news agencies, such as those acting under the sponsorship of the Broadcasting Board of Governors, to bring more open and objective sources of information to the Chinese public.

Further, the displays of angry defensive Chinese nationalism on display in the wake of international criticism of the government's policies in Tibet serve to reveal the negative effects produced by the Chinese government's pervasive nationalist propaganda directed at its own people. Denied broader sources of information from which to form these more objective views, Chinese citizens may develop a distorted view of the world that feeds hostility towards the United States and other countries.

In order to keep its own people insulated from news that it does not like, the government has erected a pervasive information control system which goes far beyond the traditional print and broadcast media.

Chinese government censorship has kept pace with rapidly changing modern technology, and the government has established an elaborate Internet control regime intended to filter out information on sensitive topics as well as to inhibit the use of the Internet as a tool for developing institutions of civil society.

American companies have played a prominent role in facilitating the government's construction of this Internet control regime. We hope that our discussions here today will contribute to the public debate as to whether or not further U.S. government action is required to regulate the participation of these U.S. companies in the censorship regimes of not just China but other foreign governments as well.

Our first panel will examine the ways in which preparations for the Olympics have affected Chinese media controls and evaluate whether Chinese government pledges of greater media freedom for Olympic coverage are being honored.

Our first speaker, Dr. Randolph Kluver, is the Director of the Institute for Pacific Asia and a Research Professor in the Department of Communication at Texas A&M University.

Dr. Kluver earned an undergraduate degree from the California State University in Los Angeles and a doctorate from the Annenberg School for Communication at the University of Southern California.

Our second witness, Ms. Lucie Morillon, works in the Washington, D.C. office of Reporters Without Borders. Transferred to Washington in July of 2004, she opened a representative office in the American capital where she supervises Reporters Without Borders USA participation with its New York office.

Thanks for being here today and we'll start with Dr. Kluver. You have seven minutes and then we have five minute rounds for questions. We will have testimony from both of you before we start asking questions. Thank you.

Dr. Kluver.

PANEL I: INFORMATION CONTROL AND MEDIA INFLUENCE ASSOCIATED WITH THE OLYMPICS

STATEMENT OF DR. RANDOLPH KLUVER DIRECTOR, INSTITUTE FOR PACIFIC ASIA, TEXAS A&M UNIVERSITY, COLLEGE STATION, TEXAS

DR. KLUVER: Mr. Chairman, Mr. Vice Chairman, I am honored to testify before you on the question before this panel: the extent to which the government of the People's Republic of China has honored its pledges for increased media openness and information

transparency as well as the related issue of how the government has attempted to control the image of China in the international media in preparations for the Olympic games.

My preparation for this session today has included in-depth discussions in the People's Republic of China and Hong Kong with journalists and with media and journalism educators from some of China's top universities, as well as others who follow these developments around the world.

In addition, I've been in several conversations with the Beijing Organizing Committee for the Olympic Games (BOCOG), so I believe I understand the concerns and goals of that organization. My remarks are meant to be analytical rather than polemical and so hopefully will provide some insight as you consider recommendations to U.S. policy.

As you know, the Olympics has had a significant impact on daily life in the host venues. In the last two months, I've been in four of the six host venues, and I think that it's true to say that in every one of those cities, there is a tremendous enthusiasm and excitement about the Olympics.

China is certainly not only trying to promote its image through the Olympics, it's attempting to define itself through the Olympics, and so it's an appropriate venue for us to look at this.

In 2007, China's State Council enacted a new policy which allowed access to international reporters covering the Olympics to interview anybody, travel anywhere, and cover any issue. These new regulations came into force on 1 January 2007, and they will expire two months after the Olympic Games conclude, or in October of this year.

These rules allow foreign journalists to travel anywhere in the country without prior permission from local authorities. Now, this rule has some built-in qualifications. Number one, it does not apply to Chinese journalists, and it does not guarantee access to any particular official.

The one rule, the one stipulation that remains, is that a journalist must get prior permission from any officials that they want to interview.

Given these qualifications, how has China responded to these new rules, and has it in fact honored the promises it made earlier?

I think the answer is mixed. Certainly the removal of travel restrictions that occurred in January of 2007 has had a dramatic impact on how foreign journalists do their job.

The earlier restriction that remains is that a journalist must obtain prior permission from interviewees, and there are numerous ways to make sure that doesn't happen. But a number of journalists that I spoke to say that it has made their lives and their jobs

dramatically easier.

Of course, it's still not as easy to report in China as it is in Hong Kong, but it is much easier than it was ten, five or even two years ago. This, of course, must be qualified, as at least in the case of the region of Tibet, China still does not allow foreign journalists into "any place in the country," unless it is in highly controlled circumstances.

In conversations with Western journalists who are trying to cover the Olympics, I heard a variety of stories. For a number of journalists, their experiences were very negative. Government officials, including those from BOCOG, seemed to be doing all they can to guarantee that the coverage that emerges from China is positive and is limited solely to the Olympic Games coverage.

The regulations governing reporting are opaque when they exist at all, and officials give little or no interpretation of regulations or interpret them so vaguely that journalists feel that they have no idea what is allowable and what is not.

But for many journalists, there are far fewer problems. Although the government knows that they are working as journalists in China and that they are attempting to look deep beneath the contours of Chinese society, they told to me that they felt no pressure, obfuscation or other problems from the Chinese government.

They spoke of complete freedom to travel where they wanted, with the exception of Tibet, when they wanted, of being able to hire whoever they wanted as assistants, of being able to cover the issues that highlighted the costs of China's development, including the economic and social costs, of covering corrupt officials, and so on.

I asked some journalists to explain the discrepancy between the two types of experiences, and I heard a variety of interpretations. Some of them suggested that journalists from UK or U.S.-based news organizations are held to greater scrutiny. Others suggested that television journalists are subjected to greater restrictions because it has such a strong visual impact and it tends to drive other kinds of coverage.

At least one journalist suggested to me that the attitude of the journalist is largely responsible for the ability to get at information. Whatever the reasons, many foreign journalists in China do believe that China is honoring their commitments for openness.

There have been two recent studies, one conducted by the Foreign Correspondents Club of China in Beijing, which basically told the same story, that there is a much greater openness on the part of the central government to allow information, but there are still many instances of harassment.

The International Federation of Journalists in December of last

year also sent a delegation to China where they cooperated with the All China Journalists Association, and the stories that they told were similar, that there is continuing episodes, apparently at local levels among local officials who refuse to grant interviews or to grant information, but generally speaking, it's a much improved climate for foreign journalists.

Let me briefly talk about the question of China's government's attempts to manage its image also. China has done a number of things to try to get better press coverage, but it continues to be frustrated with the kind of coverage they get.

One story--I don't know if it's true or not, but the Chinese media personnel that I spoke to certainly believe it--on the recent trip into Tibet after the riots in which the government took a number of journalists in there, they felt that it was a very risky move for them to take to expose journalists to that environment. They allowed the Tibetan monks to have their say. And they felt that every story that came out of that was a highly negative story.

Now, the back story that they tell is that two Japanese journalists actually came out, wrote positive stories about the government's handling of the incident, but the editor refused to run the story because the editor said "I will only print what my audience will believe." And so whether that story is true or not, that is certainly the perception of many in the Chinese media.

Since I have 13 seconds left, let me just finish with my recommendations for U.S. policy. First, the U.S. must continue to hold discussions with China's government on these issues. They're relevant to our national security as well as economic issues. But we also need to understand the perspective of the Chinese government. Their understanding is that no matter what they can do, they cannot get positive press, and that there is a collusion between Western media and Western government to keep China from progressing in its economic reforms.

Thank you very much.

[The statement follows:]

**Prepared Statement of Dr. Randolph Kluver
Director, Institute for Pacific Asia, Texas A&M University, College
Station, Texas**

I am honored to testify before you on the question before this panel, namely, the extent to which the government of the Peoples Republic of China has honored its pledges for increased media openness and information transparency, as well as attempted to control the image of China in the international media, in the preparations for the Olympic games.

Before I begin, I would like to offer some sense of the context of my remarks, and the approach I take to these important questions. I am an academic, who primarily studies communication, information technologies and media, and their impact on Asian societies. What I hope to offer in my remarks here is an informed contextual understanding of where Chinese media has come from, is today, and is going, within the larger context of China's development.

There are two specific questions before us today, namely; How have preparations for the Olympics affected the efforts of the PRC government to control domestic and international perceptions of China's domestic situation and foreign engagements? And is the PRC government honoring its previous pledges of media freedom made in association with its bid to host the Olympics?

My preparation for this session today has included in-depth discussions in the Peoples Republic of China and Hong Kong, with journalists and with media and journalism educators from some of China's top universities, as well as others who follow these developments around the world. In addition, I have been in several conversations with contacts within the Beijing Organizing Committee for the Olympic Games, so I understand the concerns and goals of that organization, also. Therefore, my remarks are meant to be analytical, rather than polemic, and will hopefully provide some insight as you consider recommendations to US policy.

Without a doubt, Chinese society is rapidly changing, and most, if not all, of the social and political institutions within it. Change doesn't necessarily imply speed, nor does it necessarily imply a positive direction, but this is what I believe is happening in China's media sector. The hosting of the Olympic Games has become what I would define as the most important issue in China right now, as every governmental body, every company and organization, and virtually every citizen is trying to find a way to carve out a space within the larger narrative of the Beijing Olympics.

The Olympics has had a significant impact on daily life in the host venues, including cities other than Beijing. In the past two months, I have travelled to four of the six host cities, and without exception, I found that each of them has become festooned with Olympics slogans, billboards, commercials, and exhortations. Massive effort has been ongoing for several years now, and probably in excess of 20 billion dollars has been spent on infrastructure upgrades, the construction of Olympics facilities, and so on. In many ways, I think it would be fair to say that China is not only trying to promote its image through the Olympics, it is attempting to define itself through the Olympics. This is true not just for foreign audiences, but for domestic ones as well.

So, what has been the effect of all this investment and all of this energy devoted to the Olympics on the issues of relevance to us today, the practices of information openness and transparency? I think that for many of us, the changes have not been as dramatic, nor as clear, as we would have liked. There is evidence that the increased international attention is having an impact on how individual citizens conduct their lives, and increased attention from the government such as the quality of life, the quality and trustworthiness of public technologies, governmental offices, and the availability of foreign media. But the evidence is less evident of a wholesale transformation of the way in which the media operates in the Peoples Republic.

In 2007, China's government (parliament) promised to allow access to international reporters covering the Olympics to interview anybody and cover any issue. The new regulations will come into force on 1 January 2007 and expire two months after the Olympic Games in 2008. Entitled "Regulations on reporting activities in China by foreign journalists during the Beijing Olympic Games and the preparatory period" the rules allow foreign journalists to travel anywhere in the country without prior permission from local authorities.

These rules specifically do not apply to Chinese journalists, and as a number of people pointed out at the time, it didn't guarantee that interviewees would agree to requests, leaving open the possibility that the

government could still control information by forbidding Chinese employees to give interview. They also said that the rules covered reporting on the “Olympic Games and related matters,” which obviously is open to interpretation, in terms of what “related matters” would be.

Given these qualifications, how has China responded to these new rules, and has it, in fact, honored the promises it made earlier? The answer is mixed.

Certainly the removal of travel restrictions that occurred in January 2007 has had a dramatic effect on how foreign journalists do their job. The primary restriction that remains is that a journalist must obtain prior to permission from interviewees, and of course, there are numerous ways to make sure that that doesn't happen. But a number of journalists that I spoke to say that this has made their lives dramatically easier. Of course, it still is not as easy to report in China as it is in Hong Kong, but it is much easier than it was ten, five, or even two years ago. This, of course, must be qualified, as at least in the case of Tibet, China still does not allow foreign journalists into “anyplace in the country,” unless it is in highly controlled circumstances. Obviously, the Chinese leadership did not anticipate the events of this past spring in Tibet when it offered the new rules, but two months after the events, the nation is still off limits to foreigners.

In conversations with Western journalists who are trying to cover the Olympics, I heard a variety of stories. For a number of journalists, their experiences were highly negative. Government officials, including those from BOCOG, seem to be doing all they can to guarantee that coverage that emerges from China is positive, and limited solely to Olympics games coverage. Regulations are opaque, when they exist at all, and officials give little or no interpretation of regulations, or interpret them so vaguely that journalists feel that they have no idea what is allowable and what is no. These journalists believe that covering China right now is like a “living hell.”

But, for other journalists, there are few, if any problems. Although it was clear that the government knows they are working, and looking deep beneath the contours of Chinese society, and even asking them about their work, they felt no pressure, obfuscation, or other problems from the Chinese government. They spoke of complete freedom to travel where they wanted, when they wanted; of being able to hire whoever they wanted as assistants; of being able to cover issues that highlighted the costs of China's development, both social and financial; of covering corrupt officials, and so on. These journalists were unable to travel to Tibet immediately after the riots, but they were able to go into Western Sichuan, which is predominantly Tibetan, and believed that they were able to accurately report on what was happening in the area.

I asked some journalists to explain the discrepancy, and there were a number of factors that were mentioned. European journalists told me that media representing the US or the UK were regarded with particular suspicion. Television media also tend to face greater scrutiny, or barriers, than print media, because television has a uniquely intrusive nature, and tends to drive the storyline for other types of media. At least one journalist suggested to me that the attitude of the journalist is largely responsible for their ability to get at information. Whatever the reasons, many foreign journalists in China do believe that China is completely honoring their commitments for openness.

I do believe that within the West, we have tended to interpret the rules of openness a bit more broadly than have those in China. We often assume, for example, that the rules apply to Chinese journalists, or to the publication of content in Chinese media, when they clearly do not. We also tend to assume that that means completely free access to government officials, who will respond to questions on any topic, when it does not.

There have indeed been improvements to access to information that are in my mind, significant. The actions of the government of the May 12 Earthquake is a good example. For this event, the government allowed relatively open freedom to Chinese press to cover the extent of the earthquake, the responses of

individuals, societies, and the government to meet the huge needs precipitated by the quake, and for a brief period of time, criticism of the processes of construction and regulation that allowed so much devastation to occur. This kind of reporting has not gone away completely, but the government has stepped in to limit the amount of reporting that could ultimately reflect back negatively on the government's performance of its duties. As one media expert in China told me, you can criticize the actions of people in the past, you can speculate about the competence of performance in the future, but it is difficult, and dangerous, to criticize those currently in power, or things that are happening right now, without being very indirect.

On the question of the Chinese government's attempts to "manage its image" internationally in the past 18 months or so, there is a more encouraging trend. In spite of a concerted effort on the part of the government that began several years ago to enhance its international image, China has been clearly stung in the past year by several key events, including the negative publicity emerging from tainted food, medicine, and toys in 2007, the Tibet riots of this spring, china's relationship with Sudan, ongoing criticism of its human rights record, and the Olympic Torch run. In each of these cases, China has attempted to respond in some fashion in order to blunt negative criticism, but its responses have either been inadequate or ignored in international press. In many cases, Chinese officials believe that the global media is deliberately distorting information in order to help China's critics.

For example, China executed the head of the bureau which oversees the safety of medicine for corrupt practices that led to the distribution unsafe drugs, and although this was reported globally, it was usually interpreted as yet another brutal response to embarrassment, rather than as an attempt to redress a significant regulatory problem. Likewise, the government organized a tour of journalists to Tibet immediately after the spring riots. From the Chinese perspective, this was a risky move to allow journalists to get the "real sense" of the reality in Tibet, and they were dismayed when almost every published piece to emerge from the trip was highly critical of the Chinese government. A story circulating among media circles in China is that two Japanese journalists actually wrote highly positive pieces, but that the stories were killed by their editor, because he wanted to "publish what the audience believed." Whether this story is true or not, it is largely believed among many, and reinforces the belief that international media don't really want the "truth" about China, but rather pre-established narratives that demonstrate Western superiority.

In addition, China has been actively promoting an image of itself as a willing and committed partner to global geo-political concerns in areas such as the conflict in Sudan and the North Korean nuclear standoff. CNPC, which is a major shareowner in Sudan's state-owned oil companies, sent a high level delegate to tour refugee camps in Darfur to show that China was not blind to the human rights travesty there. But China's own needs for oil mean that it is highly unlikely for the nation to walk away from the significant investments they have there in order to pressure the Sudanese government beyond what it already has. Likewise, China avoids controversial policies that might feed a perception of being overly close to the North Korean government, including in areas such as investment and education.

China has also engaged in a high profile "soft power" campaign to enhance its image. I am most familiar with the "Confucius Institute" project, because I work closely with the Ministry of Education in this project, and this effort is clearly modeled after several similar models from the West, including the British Council, the Alliance Francais, and the Goethe Institute. The Beijing Olympics are another example, where the image that China is constructing around the Olympic games have little to do with authoritarian state power. The five mascots of the Olympics, the "Fuwa," have names that when read together, say, "Beijing welcomes you!" the facilities reflect some of the most interesting designs in contemporary architecture, the city has attempted (but largely failed) to ban smoking in public places, and so on. But, again, these attempts are largely met in the West with numerous stories about the impact of the pollution on the Olympic games.

In many ways, China's attempts to shape the international perception of the Olympics illustrates the

difficulty the nation has in controlling its international image, and to many Chinese, demonstrates a conspiracy on the part of Western governments and media to “keep China down.” Many Chinese believe that because an emerging China represents an economic and political challenge to Western hegemony, the West must undercut china’s attempts to achieve a global influence appropriate to its role, while still maintaining that there is in fact no such attempt at undermining China.

This, in fact, is really one of the key issues that I believe this committee must understand. Because of China’s reading of, and one might say obsession with, history, and particular the Western dominance over China, I think it is safe to say that most Chinese do in fact regard international criticism of the nation and its policies as an attempt to keep China subservient. Shifting standards, constant criticism, and an inexplicable ability to ignore some events while highlighting others, are the evidence they cite to demonstrate this belief. While we in the west believe that our comments serve to highlight international standards and expectations, and help the Chinese achieve them, the Chinese interpret them very differently. It has been my experience that very few Westerners understand why Chinese react as they do to our comments, as we typically do not understand the historical context in which they are placed by Chinese. Likewise, very few Chinese believe our professed goals of our criticisms, and do not believe our professed ignorance of the historical dominance of the West over China.

As evidence of this, let me quote from a recent post on a Chinese blog: “The westerners have harbored prejudices against the Chinese people. We often hear them say: The Chinese have been brainwashed because they can no longer tell the truth about something. In their view, all Chinese are ignorant, undeveloped and close-minded. They have no idea that many Chinese people know as much as they do and in fact visited a lot more websites than they have. The westerner stoops down condescendingly to stretch out a helping hand to the wretched little yellow men so as to educate and instruct them. They are totally oblivious to the possibility that they are dealing with live human beings who are thoughtful and sentient.” These sentiments, of course, are widely shared on the Chinese internet, but even that ultra-nationalistic medium is not exceptional in this. These views are widely believed across China.

China believes that it has very few tools available to it to influence global media coverage, and so is actively trying to improve its ability to use the few it does have, as well as develop new ones. For example, Tsinghua University has been training government officials for about five years now on how to be an effective spokesman, teaching them how the media works and the expectations of media personnel, and trying to help them overcome the bureaucratic and non-reponsive attitude that characterized them in the past. Although many have gone through this training, it hasn’t yet translated into a critical mass of government spokespersons who understand the expectations and values of Western journalists. Thus, government briefings tend to rely on static phrases, slogans, and warnings, and to be primarily defensive in nature.

Further, China regards its international image as a “propaganda war,” and this defensive mindset then leads them to be less responsive to international perspectives. It has even been suggested that the fact that Chinese tend to not be able to write well in English is a major reason that their perspective isn’t accepted, so some outlets have taken to hiring native English speakers to produce essays that demonstrate subtlety of thought and fluency of expression to counter negative images of China.

I understand the implications for US foreign policy of Chinese culture as following. First, this is an important issue for the US, and it rightfully ought to be. I have had a number of Chinese citizens tell me that the US has no inherent right to make demands of China’s media system, and particularly to force China to adopt a more open media system. Many of these believe that China’s media is opening up in significant ways, and that that is rightfully so, but ultimately the character and logic of China’s media is for the benefit of Chinese citizens. There is some truth to this, but I think that there a number of reasons that it is wrong.

First, US economic, political, and security issues demand that we have accurate information about the nations with whom we have close ties. I believe very strongly in closer relations between our two countries, and that these should not be characterized by mistrust. A greater openness on the part of China's government would better serve both nations, not just the US. Thus, I would encourage the US to continue to raise this issue in relevant contexts, and to seek more ways to encourage media and information openness. We have seen similar trends in other issues, such as intellectual property. Although China has a great distance to go to fully protect the intellectual property of other nations, the government's vigilance over the Olympics symbols and logos goes to show just how much they can develop new practices, when they see it as in their interest.

Second, the US approach to China must be sensitive to the ways in which China's citizens perceive the criticisms that come from abroad. This is more than just a canard tossed about by China's leaders to deflect criticism. Ordinary Chinese take great offense at slights at their nation, and grow increasingly defensive when this is all they hear from foreign media and governments. Our complaints and criticisms are often self-defeating, because they only serve to create defensiveness on the part of the Chinese people, even when we believe that our intent is sincere.

Our approach to China should be that of a sincere friend who remonstrates a friend for moral purposes, rather than that of a constant critic. Last week, China for the first time in decades officially recognized the holiday honoring Qu Yuan, a patriotic poet who publicly remonstrated the emperor, and committed suicide when the kingdom was invaded. There is in Chinese culture a basis for friendship that holds us to higher standards, and we should not neglect that basis in US relations with the Chinese.

Thank you very much for the opportunity to provide this statement to you today.

CHAIRMAN WORTZEL: Ms. Morillon.

**STATEMENT OF MS. LUCIE MORILLON
WASHINGTON DIRECTOR, REPORTERS WITHOUT BORDERS
WASHINGTON, D.C.**

MS. MORILLON: Thank you. I'd like to thank the Commission for giving me this opportunity to present this testimony.

The Olympic Games have focused the world's and the media's attention on China. They have forced the Chinese authorities to communicate more and to be more media conscious. They have created the conditions for more journalists to become interested in China. As a result, more information is being out there, but this mainly holds true for the foreign media and their audience, not so much for the Chinese media and the audience.

In order to be awarded the Games in 2001, the Chinese authorities promised to improve the situation of human rights and to grant complete freedom of the press during the Games.

The only concrete positive development since these promises were made has been the relaxed rules for foreign journalists. Dr. Kluver, you talked about it so I won't be getting into details. That's

definitely a positive development, but at least 180 cases of obstructions were recorded by the Foreign Correspondents Club of China in 2007.

Access to Web sites such as YouTube and Wikipedia have also been unblocked these past months due to international pressure, and for once due to the positive achievements of the IOC who has generally speaking failed to implement the Olympic Charter.

The Chinese authorities probably realize that blocking those Web sites was not worth the trouble knowing that they had a limited audience in China. For instance, the BBC News Web site in English was recently unblocked, but the BBC Chinese News Web site was not.

The willingness of the Chinese authorities to stage perfect Games has prompted a strong reaction against their critics as several Chinese dissidents who dared to call for improvement of human rights before the Games ended up in jail. We call them the "Olympic prisoners." Among them is the famous blogger and activist Hu Jia.

Live coverage from Tiananmen Square and the Forbidden City will very likely be restricted, which is in contradiction with what China told the IOC two months ago.

The Propaganda Department has been filing details about the almost 30,000 foreign reporters who are going to attend the Games. This is worrisome knowing that the State Security Department is in charge of creating files on reporters and activists who could disrupt the Games, and we believe this could open the door to many abuses.

The government has also tightened visa rules in the past few months. Journalists have now to submit precise information about coverage plans in China to obtain a visa to arrive before August 8, before the start of the Games.

So promises made by the Chinese authorities have been blatantly violated with regard to the work of Chinese reporters who are still subjected to very strict censorship. I mentioned the Olympic prisoners. Another thing is the Propaganda Department has ordered the senior managers of China's leading media to avoid negative reports on air pollution or health issues linked to the Games.

The control over Chinese "fixers" has been tightening. They now have to register with the authorities which increases the government's oversight. The authorities also stepped up their control of online content before the Olympics. Only Web sites that are licensed by two different State agencies are able to post videos and audio files online. The files attacking national sovereignty will not be tolerated.

China's Technology Minister made recently during a press conference some statements admitting that some Web sites won't be accessible during the Games, which means that we expect Web freedom

not to be guaranteed during the Games which would be a violation of the contract Beijing signed with the IOC.

If they weren't in violation of the promises made in 2001, all these restrictions would not be surprising as they come from the country that is the world's biggest prison for journalists with 30 reporters and 48 cyber dissidents behind bars. There are twice the number of journalists in jail now than there were in 2001 when we were promised complete freedom of the press.

The Olympic Games present the perfect opportunity for China to showcase its modernity, its economic success. It's China's coming out party as a major superpower. And as China has been trying to project a more positive image to the world and to the Communist Party, this means aggressive media control.

When confronted by external critics of its human rights record, for instance, the Chinese authorities have reacted by shifting the blame on to foreigners. During the crisis in Tibet, the government closed the area to the press. Many foreign correspondents of Western media received threats, death threats, after their personal information was posted online and after the Western media was accused by the authorities of being biased.

The Chinese media, generally speaking, tend to give favorable coverage to China's allies and to take a negative stance on those considered as its enemies or competitors. If we take a look at the State news agency, Xinhua, it implicitly challenges the positions defended by the U.N. and the U.S. in dealing with emerging powers.

For instance, the Iranian nuclear power is perceived as a conflict between already existing Western nuclear powers and the new legitimate claimant to the ultimate weapon.

The Darfur issue is, for the most part, seen as an issue of international diplomacy and harmonious cooperation between Beijing and Khartoum. China's action in resolving the conflict has been the subject of media overkill, and the magnitude of the humanitarian disaster has been largely minimized.

The incomplete and biased reporting of major international issues has resulted in masses of Chinese population being unaware of the major demonstration by monks in Burma last September.

Overall, the amount of information that Chinese citizens can access has been increasing in the past few years, especially due to the growth of the Internet and to the liberal media, but this is being matched by heavier restriction from the government.

Preparation of the Games are not the main reason for this controlled opening of the Chinese media. It is a result of the commercialization of the media markets. The liberal media in order to sell to a broader audience have to provide their public with

information that will interest them. You just can't only publish propaganda. They have been pushing the limit of censorship, taking some risks.

The Internet has proven to be a challenge for repressive regimes, but the Chinese government has managed to expand it for business purposes while also controlling very closely its political content. Of course, the government cannot control everything on the Internet. There are some options for tech savvy users to get around censorship, but most Internet users will not make the effort of doing it.

So Chinese society has been evolving along the economic boom. With people becoming wealthier and the emergence of the middle class, information on environment and social issues have been more accessible. However, the political control is still very tight. It is impossible to criticize Party leaders or to mention, for instance, the Tiananmen Square massacre.

I'm just going to finish with the relation between China and the U.S. If we want the relations between the countries to improve, better mutual understanding is needed which requires a free press able to provide an independent assessment of the situation, and China's censorship of the media and its propaganda are not conducive to a peaceful and fruitful dialogue.

Regarding the policy recommendations, you can read them in my written testimony. I would just make a few points. We are asking President Bush to make attendance of the Games' opening ceremony contingent upon concrete human rights improvement, and we believe Congress should pass legislation supporting this stance as soon as possible.

Regarding general recommendations we are calling on the U.S. government to raise issues with the Chinese authorities and the international community actually should also call upon the Chinese government:

To release all journalists and Internet users in China; to make the new rules for foreign reporters permanent and to extend them to the Chinese journalists; to disband the Publicity Department which exercises daily control and censorship; to end the jamming of foreign radio stations, the online censorship and the blacklisting of journalists and human rights activists; and lift the ban on Chinese media using foreign news agency video footage and news reports without permission.

For the future, we would also like Congress to hold a hearing on the future of the Olympic Games, looking into the option of calling upon the International Olympic Committee to add human rights and free speech requirements to the conditions for the awarding of the Games.

Thank you. I'm sorry I've been a bit longer.
[The statement follows:]

**Prepared Statement of Ms. Lucie Morillon
Washington Director, Reporters Without Borders
Washington, D.C.**

1 - What is your assessment of the effect that preparations for the Olympics have had on press freedom and access to information in the PRC?

The Olympic Games have focused the world's and the media's, attention on China. They have forced Chinese authorities to communicate more and to be more media-conscious. They are becoming more responsive to news events, and quicker to put their spin on what the media reports.

In the run-up to the Olympic Games, more journalists are becoming interested in China, and they have more resources at their disposal to cover the situation in the country. As a result, more information is being released. But this mainly holds true for the foreign media and their public, not so much the Chinese public. For example, Xinhua, the state news agency, is releasing an increasing number of stories only in English about previously taboo topics, such as peasants riots, in a clear attempt to show the rest of the world that China is opening up, while keeping this information out of reach of most Chinese citizens.

Accelerating the process of opening up China to information was one of the arguments used for awarding the Games to Beijing. But preparations for the Games are not the main reason for this controlled opening: it is the result of the liberalization of the media market. Thanks to China's new market-oriented economy, journalists and media outlets can now earn incomes independent of Party control. Recent years have seen the flourishing of more media outlets whose aim is to secure their own commercial support, and to make profits. In order to sell to a broader audience, they have to provide their public with information that will interest them. Some of these liberal media—such as Nanfang Zhoumo, Nanfang Dushi Bao or Beijing News—have been pushing the limits of censorship in covering sensitive topics, thereby gaining some degree of freedom from the government's censors. Some of their journalists have been paying for that with their freedom—a clear signal sent by authorities to those bold reporters.

However, The Chinese government has not, for all that, become much more transparent. There is more information, but the message is more controlled. For example, Chinese authorities hold more press conferences than ever before, but it allows them to more closely regulate journalists' access to officials.

Preparations for the Games have also provoked a strong reaction from Chinese authorities against their critics. Several Chinese dissidents who dared to call for improvement of human rights in the run-up to the Games have ended up in jail. Among them are blogger Hu Jia and Yang Chunlin. We call them the "Olympic prisoners."

2 - Has the Chinese government honored pledges of media freedom made earlier, when Beijing was under consideration as a candidate Olympic venue? What such pledges, if any, has it failed to honor?

In order to be awarded the Games in 2001, the Chinese authorities pledged to improve the human rights situation. Wang Wei, Vice President of the Beijing Organizing Committee, had then promised that the media would have "complete freedom to report" during the Games.

The only positive development since these promises were made has been the new regulations that took effect in January 2007 granting more freedom to foreign journalists working in China. But this step forward has been compromised by China with many incidences of backtracking on the promises regarding foreign reporters.

Numerous violations have been recorded in the past few months. According to the Foreign Correspondents Club of China, at least 180 cases of obstruction (arrests, deportations, threats, blocked access, etc.) occurred in 2007. They usually happen whenever foreign reporters try to cover Tibet or riots in remote areas. A news blackout has been in effect in Tibet since mid-March.

Some TV executives have been complaining that Chinese authorities are trying to stifle TV coverage of the Games in their efforts to control the Games and prevent protests. Live coverage from Tiananmen Square will very likely be restricted. This is a change in policy from two months ago when the International Olympic Committee (IOC) officials in Beijing said China had agreed to allow live coverage. Broadcasters also have been told that there is unlikely to be any live coverage from the Forbidden City.

The Propaganda Department and the General Administration for Press and Publications (GAPP) has been filing details about the almost 30,000 foreign journalists accredited to cover the Olympic Games. Officially, its task was to identify “bogus journalists” and to help Chinese officials respond effectively during interviews. But the government did not specify what type of information it would collect. The State Security Department has been placed in charge of creating files on reporters and activists who could “disrupt” the Olympics.

The government has also tightened visa rules in the last few months. A directive issued by the BOCOG media center’s visa division asks journalists to submit precise information about coverage plans in China, including the places they want to visit, and the people they want to interview, in order to obtain a J-2 visa, which is required for media personnel who want to arrive before the Games start on August 8. The Committee also requires a letter from an employer, which virtually eliminates freelancers.

The promises made by Chinese authorities have been blatantly violated with regard to the work of Chinese reporters, who are still subject to very strict censorship.

In November 2007, the Propaganda Department ordered the senior managers of China’s leading media to avoid negative reports on air pollution, relations with Taiwan or the Olympic torch issue, and public health problems linked to preparations for the Olympic Games.

The control over Chinese “fixers” has been tightening. Chinese citizens working for foreign news media must now comply with new rules designed to get them to register with the authorities. The Foreign Correspondents Club of China told Reporters Without Borders that “hiring and registering assistants through government service agencies potentially increases bureaucracy, expense and oversight by the authorities.” The FCCC hopes the foreign media will eventually be able to hire Chinese as journalists, photographers or cameramen, but for the time being that is not allowed.

The authorities also stepped up their control of online content before the Olympics. The Ministry of Information Industry (MII) and the State Administration of Radio, Film and Television (SARFT) jointly issued new regulations in January under which only websites that are licenced by both the MII and SARFT are able to post videos and audio files online.. Videos and audio files “attacking national sovereignty” will not tolerated. Content that refers to ethnicity, pornography, gambling or terrorism, incites violence, violates privacy or attacks Chinese traditions and culture is also deemed unacceptable. “Those who provide Internet audio and video services must serve socialist ideals and the Chinese people,” said the government last January. Preventing people from sharing video and audio files denies them the ability to show and describe their lives. Any online censorship can now be portrayed as a legal measure. The government also

announced in June the launch of a campaign against « stolen images » from the Games, a campaign that could lead to more restrictions on the free flow of information.

China's Technology Minister Wan Gang told journalists in a news conference last month: "China has always been very cautious when it comes to the Internet." He added he didn't know yet which websites would be shut down or screened to protect Chinese youth from "some unhealthy websites." With China's record as the world champion of Internet censorship, we are concerned that Web freedom won't be guaranteed during the Games—which would be a violation of the terms of Olympics contract.

If they weren't in violation of the promises made in 2001, all these restrictions would not be surprising as they come from the country that is the world's biggest prison for journalists, with 30 reporters and 48 cyberdissidents behind bars. There are twice the number of journalists in jail now than there were in 2001, the time when we were promised "complete press freedom."

The IOC, whose mission is to implement the Olympic charter and respect the spirit of the Olympics, has not been holding China accountable for violating the promises it made seven years ago. The IOC has failed reporters, human rights activists and, when all is said and done, has let down the Chinese people.

3 - Have there been any improvements to information access in certain areas? If so, in what areas have these improvements taken place?

The only positive development has been the new regulations that took effect in January 2007 that granted greater freedom to foreign journalists working in China. They no longer need a pre-authorization before leaving the city where they are based to cover local stories.

Since January 2007, foreign reporters can move about more freely, and interview people in the streets more easily. They have more flexibility to do their jobs now that they are rid of the incessant monitoring that they had to deal with before. They still encounter overzealous local officials who pretend to be unfamiliar with the new rules or interpret them as applying only to the coverage of the Games. Activist Hu Jia's arrest and three-year jail sentence was a warning to dissidents not to talk too much to the foreign media and can have a chilling effect on reporters who don't want to endanger their local contacts.

Access to websites such as YouTube, Blogspot, and Wikipedia have been unblocked these past months due to international pressure and for once, thanks to the IOC involvement. The Chinese authorities probably realized it made them look bad on the international scene and those websites have a limited audience in China, so blocking them was not worth the trouble. The BBC news website in English was recently unblocked, but the BBC Chinese news website was not.

China allowed the foreign media an unprecedented level of freedom during the first few days of the earthquake in Sichuan, but another crackdown has begun, and the Chinese media were not allowed to cover the protests of the parents who lost their children in the collapsing schools.

It is easier now to report on social issues, but the politically sensitive stories remain off-limits.

4 - In the lead-up to the Olympics, in what ways has the Chinese government sought to control both domestic & international perceptions of China's domestic situation?

The Olympic Games present the perfect opportunity for China to showcase its modernity, its economic success. It is China's "coming-out party" as a major superpower. This makes the government very sensitive to the country's international image, very concerned that something could go wrong, and very intolerant towards anyone who refuses to toe the Communist Party line.

Each sensitive topic is examined on a case-by-case basis by the Chinese authorities, who then decide what kind of coverage they will—or will not—permit, and what level of control shall be applied.

China has been trying to project a more positive image to the world. It wants to show the world that China is progressing in many areas, and prove to the Chinese people that the West has accepted China as an emerging and positive power, in order to boost support among Chinese people.

When confronted by external critics of its human rights record for instance, Chinese authorities have reacted by shifting the blame onto foreigners, whom they accuse, at best, of being unable to grasp the country's reality, and at worst, of being anti-Chinese and racists.

During the crisis in Tibet, the government closed the area to the press. There was strong criticism of how the Western media reported the events in the Chinese official media. It was spread via blogs, forums and social networking websites. Several foreign news media—especially those with websites enabling visitors to post comments—were flooded with messages repeating the government propaganda word-for-word. Many foreign correspondents of such Western media such as CNN, BBC, and USA Today received death threats after their personal information was posted online. The website antiCNN.com was also launched. "Some media deliberately misrepresent the facts and wrongly portray a hateful crime as a peaceful demonstration," Tibetan communist leader Raidi stated.

5 - In the lead-up to the Olympics, in what ways has the Chinese government sought to control both domestic & international perceptions of China's foreign engagements? (Of particular note would be those foreign relations associated with China's overseas energy acquisitions, and with states with problematic human rights records.)

During the torch relay, the message from the Chinese government was to constantly claim that everything was fine in China and to criticize foreigners for staging protests along the torch route. They would never admit that these demonstrations were popular movements, but would describe them as "disruptions by small groups of activists." Their strategy was to manipulate public opinion. Dissent was not tolerated. This approach is shaping the Chinese people's perception of world affairs.

The Chinese media tend to give favorable coverage to China's allies and to take a negative stance against those considered its enemies or competitors.

Let's consider the coverage of the state news agency Xinhua. No information can be reported in the Chinese media without first being approved by this all-powerful news agency, whose main purpose is to maintain the Chinese Communist Party's monopoly on news circulating inside the country, as well as news disseminated from China to foreign countries, and vice-versa.

Although it does not flagrantly manipulate news, most of its stories originate from official press conferences, ministerial press releases, and international meetings. International news is usually handled at a diplomatic level, and is therefore likely to be limited to a repetition of official statements and speeches.

Without actually falsifying information, *Xinhua* applies a kind of "sliding filter" to international news. The predominance of the tendency to record dialog and negotiations gives the impression that there is almost no conflict of interest going on anywhere in the world, and that anything can be settled through discussions. Is that a way of claiming that no direct criticism can be aimed at China, since even the latter does not allow itself to take issue with another country?

As for China's strategic competitors, *Xinhua* implicitly challenges the positions defended by the United

Nations and the United States in dealing with emerging powers. "The Iranian nuclear problem," which has been assigned special topic status on the news agency's website, is thus perceived as a conflict between already-existing Western nuclear powers and a new (legitimate) claimant to the ultimate weapon. China appears to be excluded from this "dispute" over issues that are nonetheless international in scope, and which rekindle the debate over nuclear proliferation.

"The Darfur issue" is for the most part seen as an issue of international diplomacy and "harmonious cooperation" between Beijing and Khartoum. China's action in resolving the conflict has been the subject of media overkill. The magnitude of the humanitarian disaster has been minimized and no count of victims of the massacre has yet been made. The few criticisms aimed at China and reported by *Xinhua* are not sustained by any argument and are being directly demolished by innumerable statements of Chinese officials. All the rest is nothing but "diplomatic verbiage."

The incomplete and biased reporting of major international issues has resulted in most of the Chinese population being purely and simply uninformed of the major demonstrations by monks in September 2007, and of the crackdown that followed in Myanmar—a country that nonetheless shares its border with China.

6 - Does press & information freedom in the PRC appear to be improving, or has the government proven successful in controlling publicly available information? What do you see as the likely future course for information access in the PRC?

Overall, the amount of information that Chinese citizens can access has been increasing in the past few years, especially due to the growth of the Internet. Even in the mainstream media, thanks to the liberal media and their bold editors, topics that were taboo five or ten years ago (such as mine incidents or natural disasters) can now be addressed, even if restrictions apply.

The Chinese society has been evolving along with the economic boom. With people becoming wealthier, and the emergence of a middle class, information on the environment, social issues and consumer rights have been more accessible. However, political control is still very tight. It is virtually impossible to criticize Party leaders, to defend the Dalai Lama or the Falungong supporters or to mention the Tiananmen Square massacre.

The Internet has proven to be a challenge for repressive regimes, but the Chinese government understood very quickly that it could be used by dissidents and has been aggressively trying to shut down this "open window" to the world. They have managed to expand the Internet for business purposes while also controlling its political content. Beijing has spent tens of millions of dollars on the most sophisticated Internet filtering and surveillance equipment. The system is based on a constantly updated website blacklist and on banned keywords. The regime can also almost instantly censor online discussion forums. Beijing has even convinced the world's major search-engine companies to abide by its rules and remove all material offensive to the regime from their Chinese versions, which makes it easier for the Chinese government to control the flow of information online.

Of course, the government cannot control everything on the Internet. Tech-savvy users can use proxies to access banned information or websites, but the vast majority of Internet users will not, or cannot, make the effort to try to get around censorship and will therefore still only have access to a one-sided reality.

Internet users are resourceful in ferreting out new technologies, or gimmicks such as using a nickname to describe a banned keyword. But the Chinese cyberpolice usually catch up with them. The future of the Internet—and thus of information control in China—will depend on just how efficient the players of this cat-and-mouse game will turn out to be.

There has been a steady increase in the flow of information in China. It would seem to be hard to control in the long term, but authorities have proven resourceful. Some progress is possible thanks to technology, but much will depend on the mobilization of freedom activists inside and outside of China, and on the crucial issue of the development of Chinese civil society.

7 - How would you assess the impact of information control on U.S.-China relations?

Some U.S. media outlets, such as the New York Times, the Washington Post, ABC News and CNN—just to mention a few—have been doing a great job of covering China, which has enabled the U.S. public to better understand what is going on in the country. The contrary is not true: the treatment of U.S. reality by the Chinese media is distorted because it must comply with the official propaganda.

Consequently, each country can be led to believe the other is hostile. The U.S. tends to see China as a dangerous competitor, while China describes the U.S. as jealous of China's power and as trying to block its expansion.

Some media that prefer to take a nationalist approach can accelerate the antagonism between the two countries, whereas independent media would rather show that the relations between the U.S. and China reflect a combination of competition and collaboration on a wide range of topics. The unpopular Bush administration has been widely criticized, not only in China but worldwide, and has become an easy target. It is possible that a new U.S. administration, viewed more favorably abroad, would receive a better treatment in the Chinese media.

In order for relations between the countries to improve, a better mutual understanding is needed, which requires a free press able to provide an independent assessment of the situation. China's censorship of the media, and its propaganda, are not conducive to a peaceful and fruitful dialog.

8 - Do you have any policy recommendations for the U.S. government in regards to these issues?

President Bush should make his attendance of the Games' opening ceremony contingent upon concrete human rights improvements, as other heads of state have done. Congress should pass legislation supporting this stance as soon as possible.

The U.S. government should step up its pressure on Chinese authorities both before and after the Olympics to ensure that they agree to:

- Release all journalists and Internet users detained in China for exercising their right to information.
- Permanently abolish the restrictive articles in the Foreign Correspondents Guide that limit the media's freedom of movement and work.
- Disband the Publicity Department (the former Propaganda Department), which exercises daily censorship over content in the Chinese press.
- End the jamming of foreign radio stations.
- Stop the blocking of thousands of news and information websites based abroad.
- Suspend the "11 Commandments of the Internet," which lead to content censorship and self-censorship on websites.
- End the blacklisting of journalists and human rights activists, which prevents them from visiting China.

- Lift the ban on Chinese media using foreign news agency video footage and news reports without permission. This is a violation of the WTO agreements.
- Legalize independent journalist and human rights activist organizations.

Congress should hold a hearing on the future of the Olympic Games, looking into the option of calling upon the International Olympic Committee to add human rights and free speech requirements to the conditions for the awarding of the Games.

The next administration should keep the issue of human rights and free speech the focus of discussions with China, despite the wide array of topics being raised. The State department should develop and maintain a single list of journalists, Internet users and political dissidents who should be released to facilitate senior U.S. officials bringing up these cases in meetings with Chinese counterparts in China or in the U.S.

Congress should pass as soon as possible the Global Online Freedom Act (GOFA), introduced by Christopher Smith (R-NJ), which would prevent American IT companies from being forced to collaborate with Chinese censors.

The U.S. government should once again raise with the World Trade Organization the issue of media restrictions, which are a complete violation of WTO principles, and will jeopardize the liberalization and development of the Chinese media. The General Administration of Press and Publications (GAPP) has stepped up its censorship of "illegal foreign publications," and frozen the granting of publishing licences to joint ventures in the media sector.

Panel I: Discussion, Questions and Answers

HEARING COCHAIR FIEDLER: Thank you very much.
Chairman Wortzel will have the first question.

CHAIRMAN WORTZEL: I want to thank both of you for your testimony and for the policy recommendations. I thought they were very good, and they're the kinds of things that we can get some meat out of as we frame our annual report to Congress.

Dr. Kluver, as a group, we got to Beijing around March 29 on one of our trips this year--the only trip the Chinese government gives us every year, which we are thankful for, and they are very helpful. But on the airplane, we had the March 28 edition of Beijing Qingnian Bao that had this wonderful interview with a pair of German tourists who were caught up in what was essentially an anti-foreign race riot in Tibet.

They had a young girl with them, I guess a woman. The mother had the daughter on the back of the bike, and they were riding around Lhasa and they just described people taking out stones and throwing them at any foreigner and then attacking all the Han businesses and Han taxi drivers. It was really great imagery in what I think is one of the better newspapers around China.

But what struck me is you never saw that. The Propaganda Department, or Publicity Department, the central government organs,

never took that story that gave a reasonable picture of what may have happened and let it get out, nor did any foreign reporter seem to pick up on it and translate it and use it.

It just seemed to me that if they had any idea what the hell they were doing, they would have made sure that the foreign press got the people like those two Germans, I think they were, it could have been, and let them tell that story which at least gave a different picture of what was a race riot.

So I'll let you respond to that. Then for Ms. Morillon, we had a pretty embarrassing incident here in Washington when an accredited reporter with White House credentials turned herself into a political activist. So when is it reasonable to begin to exercise some judgment on whose credentialed?

Dr. Kluver.

DR. KLUVER: Thank you for that question. I think you raise a really interesting point and it basically comes down to the Chinese government is incredibly unskilled and unsophisticated when it comes to managing foreign impressions. Much of that has to do with a culture that embodies a relationship between the government and the media that was developed actually 60, 70 years ago, and from a Chinese governmental perspective, the system still works.

It guarantees a certain amount of social stability. It makes sure that people respond to the government. What it doesn't do is engender confidence among Westerners who are used to a much more open and free exchange, and so what happens is when there are questions about what's happening in China, the Chinese government goes into an automatic self-defense mode, locks down information rather than opening up information.

There have been attempts to change that culture. Tsinghua University has run for about five years now a program to train governmental officials in understanding responses, understanding the expectations, and what foreign journalists are getting at, but to my thinking, it's still an ineffective training. It doesn't really do that. And so, yes, I think the situation in Tibet, as are many of these highly contentious situations, are much more ambiguous than the story that we often get.

China has taken some steps to address that. They are trying to hire native English speakers to do writing, for example, reporting on Chinese news sites so that they begin to demonstrate a more subtlety of thought, a more nuanced understanding of what's going on, but they don't have the capacity at this point to do that.

This does lead to one recommendation that I was unable to talk about earlier, but one of the journalism educators that I talked to said the biggest contribution the United States could make would be focus

on capacity building, to really help build capacity in the Chinese journalism programs and media programs for understanding how to understand the Western press, how to understand why we ask the kinds of questions we do, and they said that would actually be the biggest contribution the United States could make.

CHAIRMAN WORTZEL: Ms. Morillon.

MS. MORILLON: I just would like to follow up on this point. I think that capacity building is a very important issue, and when we meet with Chinese journalists, there's a real curiosity. They really wonder how Western reporters do work. I mean how we can check sources, have access to government sources, and so on?

So about your question, it's totally legitimate for government and countries to want to check who's going to come into their countries and who's going to be a journalist, who's not a journalist.

The problem with some restrictive countries, some repressive countries, such as China, is that it's being used as a way to control real journalists, those who have been giving critical coverage of China.

Obviously, the authorities are getting very, very nervous as the Games approach. We've seen recently some broadcasters meeting with the IOC and the Beijing Organizing Committee, and being very frustrated about the conditions they have to meet. For instance, the Chinese authorities want to know exactly where the satellite trucks of the different TV stations are going to be installed everyday in advance.

That's something that shows how little they know about genuine journalism and how TV reporters do their work. Again, this campaign of filing information about reporters was launched after the Chinese authorities said they wanted to actually go after bogus journalists. We've seen, indeed, especially in some provinces, some people posing as journalists who try to blackmail the owner of the mine where a disaster just happened.

This happens, but this is also something limited and this should not be used as a way to control independent and critical journalists who usually do not give the Chinese authorities the coverage they would like to see.

HEARING COCHAIR FIEDLER: Thank you very much.
Commissioner Reinsch.

COMMISSIONER REINSCH: Thank you.

Let me pick up where that last exchange with Dr. Kluver left off. I was struck by your comments there and some parts of your testimony that you didn't have time to deliver about reaction of the Chinese people, that it almost sounds as though the gap between the Western media's view of what its task is and the Chinese government's view of what the media's obligations are is so wide as to be unbridgeable, which I think is a source of concern.

You've laid out some prospects for narrowing the gap which are wise. I'd like to have you comment a little bit more on a couple elements of that.

One is the extent to which the Chinese attitude is a product of Chinese culture and history that goes back much longer than 80 years, or the extent to which it's a product of the current government and the government's attitude about the use of media to reinforce the policies of the State. In other words, whether this is a uniquely Chinese CCP kind of thing or if this is a deeper problem?

The second thing I'd like you to comment on is some things in your testimony about the attitude of the Chinese people about Western journalists or Western stories that they regard as negative about China.

I think there's a tendency here, which I'm sort of testing as a hypothesis, to assume that the Chinese people feel repressed and feel that the government is manipulating the media and that everything is controlled. They're not getting the truth and they're upset about that.

Some of your comments suggest that the Chinese people don't really care about that and that they're much more exercised about Western media statements that they regard as attacks on their country, and that the nationalist response, if you will, that you've alluded to is perhaps more genuine than we might think it is, and less inspired by the Chinese government?

Can you comment on both those issues?

DR. KLUVER: Certainly. You mentioned the idea of an unbridgeable gap. I think that there is a big gap. There's a huge gap between the expectations of a media system and China and the United States, not as unbridgeable as it might appear, but there are definitely significant differences in attitudes. Let me address one of them.

Ms. Morillon talked, for example, about Internet censorship. A researcher at the Chinese Academy of Social Sciences every year conducts a survey on Internet use and attitudes towards the Internet among Chinese population, and one of the conclusions that is consistent every year is the answer to the question "should the Internet be controlled? Should it be monitored? Should it be in some way censored?" 80 percent of Chinese Internet users, not the general population, but 80 percent of Internet users say "yes, the Internet should be controlled."

85 percent of those 80 percent then go on to say that the government is the appropriate body to do that. Commercialization and the other ways in which the Chinese media sphere are changing is having a profound displacement effect, and one of the things that happens there is there is a pushing of the boundaries and then a pull back.

Let me give you an example. In the Sichuan earthquake on

May 12, you might have remembered the story of the tremendous openness. The government, in a sense, threw open the gates and said, "Cover this. We need you to cover it; let people know what's going on." Well, a magazine, I believe it was Southern Travel Weekly went down, got scantily dressed women in bikinis who then draped themselves over the rubble as an attempt to cover the earthquake while still appealing to their--

HEARING COCHAIR FIEDLER: Prurient.

DR. KLUVER: --I guess whoever they wanted to appeal to. Well, it was an outrage. People got incredibly upset. So what did the government do? Well, the government, in a sense, was forced to, by public opinion, then remove the license to publish of that publication. Of course, the editor was fired.

And so in some ways what we see is very much Chinese culture. You asked, "is this the Chinese government or is it Chinese culture?" I'm not sure you can distinguish between the two.

There is a system that as I mentioned has developed over many, many decades, and from a Chinese perspective, it works relatively well. But one of the things they don't really care a whole lot about is how that plays in the West. They're much more concerned with social stability.

The issue, the other issue that you're alluding to, is the fact that from a Chinese perspective, China has finally begun to move forward after decades of poverty and being behind the rest of the world. They've finally begun to move to a point where their economic progress is unrivaled. Their geopolitical clout in some ways is unrivaled in the last 500 years.

The Chinese are very, very proud of that, and what they see then, for example, with CNN, you might be familiar with the whole anti-CNN movement that arose in the last two to three months. All of that really is generated from a perception that the West does not want China to rise, the West does not want China to have any say in global affairs, and so does whatever it can to minimize their clout.

Again, whether this is true or not, it is a very common perception in China, and it's shared by many of China's top media people, and so there's this very defensive reaction to negative stories that come out when they feel like every story that comes out is negative.

For example, if you were to do a survey of all the news items that appeared in the New York Times in the last year about the Beijing Olympics, probably 30 to 40 percent of them would be about the pollution problems or the displacement of people out of their homes, and so on and so forth, and China feels that their side of the story is never told.

COMMISSIONER REINSCH: Thank you.

HEARING COCHAIR FIEDLER: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Thank you, Dr. Kluver and Ms. Morillon for being here.

Last night I was reading Dr. Kluver's testimony, and I came across this on page six.

“I have had a number of Chinese citizens tell me that the U.S. has no inherent right to make demands of China's media system, and particularly to force China to adopt a more open media system.”

I normally focus on financial and trade issues. Sometimes Chinese officials will make that same kind of statement with regard to exchange rates, and I'll say no, you have a WTO obligation and an IMF obligation that covers that.

Later today we're going to get into financial information, and there may be a WTO obligation on that in that area. We're going to hear about that.

Are there any international legal obligations, either under the U.N. Charter, U.N. Declaration on Human Rights, that is legally binding, or other things that we can tell China that you're violating by not having a more open media? What is our legal case to be going after them on these issues? I'd like to hear both of you talk about that.

MS. MORILLON: Obviously, freedom of the press is not only something that belongs to Western democracies. It is a universal right. You were mentioning the U.N. Article 19 which actually mentions freedom of the press is essential to, it's one of the basic rights everyone should have access to.

COMMISSIONER MULLOY: Article 19 of?

MS. MORILLON: Of the U.N. Declaration of Human Rights.

COMMISSIONER MULLOY: Under the U.N. Declaration of Human Rights.

MS. MORILLON: And China also signed the Covenant on Civil and Political Rights actually just two months before placing its bid for the Olympic Games. So it's kind of interesting timing, but it hasn't been ratified by the authorities.

The thing is the Chinese Constitution also mentions the respect for freedom of the press, but it's not being applied. So there are tons of international instruments and documents that we can, you know, use as references of how China should be respecting freedom of the press, but it's not something that is specifically reserved for Western media and Western populations.

Do you want to add something?

DR. KLUVER: I think what I would add to that is that although there are, in fact, a number of agreements like the U.N.

Declaration of Human Rights, you know, there's the social and economic rights, and there's the political and civil rights, the Chinese will always tell you economic rights trump political rights; the necessity we have of guaranteeing social stability is more important than we do of the abstract notion of press freedom.

So the actual interpretation of what that means, like we mentioned earlier, this State Council policy that was enacted in January of 2007, the intent can be interpreted in a variety of ways. So I do think that there is a sense in which we think the Chinese have agreed to things that they don't think that they've agreed to.

Where do we go from there? If you read the next sentence that you referenced in my testimony, these same people argue that, in fact, China's media should progress, China's media should open up, China's media should reform, but that their obligation is to the Chinese citizens, not the West. And so that in many of these issues that come about--intellectual property rights is a good example--China didn't really seem to care a whole lot about intellectual property until they developed their own software industry.

COMMISSIONER MULLOY: No, but they have a legal obligation which I'm trying to understand.

DR. KLUVER: Yes, they do.

COMMISSIONER MULLOY: What I'm trying to understand is where do we get the legal, or moral right to complain? You're telling me it's the U.N. Declaration on Human Rights, which is a General Assembly resolution, which may or may not be legally binding.

Where do we get the legal basis to be pushing China in this area? Legal or moral or whatever? That's what I'm trying to understand because I think it's important. I understand it on WTO, IMF and other things. I don't quite understand it in this area.

HEARING COCHAIR FIEDLER: All right.

DR. KLUVER: Sorry. I don't have a better answer for you, but that's a good question.

COMMISSIONER MULLOY: Thank you.

HEARING COCHAIR FIEDLER: Commissioner Brookes is next.

COMMISSIONER BROOKES: I have a couple questions, but hopefully we'll get to a second round. I open this up to the panel. What are the reasons behind the differences in coverage between what happened in Tibet and what happened in Sichuan with the earthquake because obviously I think there was a pretty big contrast?

The second question I would like to ask is that Olympic Games can be transforming events throughout history in many different ways beyond the athletes competing. If you were to look at your crystal ball, would you say that press freedoms will be better in China after

the Olympics, worse or the same?

Thank you.

MS. MORILLON: First, about the difference in the coverage in Sichuan and Tibet. As far as I know, there has been a lot of debate within the Publicity, or former Propaganda, Department about the coverage in Tibet, and a lot of people have actually privately acknowledged that it was a mistake that in the first few days, the Chinese media didn't really communicate on this, and that the only coverage was coming from foreign media.

I think when the catastrophe in Sichuan happened, they learned the lessons, and they realized "we need to be out there, we need to be spinning the media as soon as possible, so this is our message which is out there before or at the same time as the foreign media message."

Obviously, the earthquake in Sichuan was a huge catastrophe. It would have been difficult for the Chinese authorities to control everything. They had something else in mind than right away media control.

But I think they knew also that it was something they could use for internal purposes because they would be able to stage how the Chinese Army, the Chinese authorities, were actually rescuing people in Sichuan and how great a job they were doing, and this is exactly what happened. They were preventing Chinese media to cover protests by parents of children who were killed in the collapsing schools.

The foreign reporters could do that, but the Chinese reporters were prevented from covering this. They were all doing the stories about how great this was, and actually the Chinese State Media recently have been making the parallel between this, how efficient the Chinese Army has been in dealing with the earthquake in Sichuan and how this administration, the U.S. administration, has failed in dealing with Katrina.

I think they also probably learned the lesson of what happened in Burma, and they saw how the lack of access to the media created this backlash everywhere in the world, and I think they probably decided it was something they should not follow.

For the future, I don't have a crystal ball with me, but we all hope freedom of the press is going to get better in China. We've seen how every time there was a step forward, there was also a step backward because the Chinese authorities are very good at catching up with any sort of opening.

At the same time, when you see these new rules for foreign journalists, I don't know how we can after the Olympics come back to the former system. They say that in October 2008, as you mentioned, the rules are going to be expiring, the new rules. So there should probably be a middle way here, a compromise between how journalists, foreign reporters, used to cover the situation and how they will in the

future.

For the Chinese journalists, it's another issue. The restriction has been increasing before the Olympic Games. They may come back to what they were before the Olympic Games. It's hard to tell. I mean the liberal media is the best hope we have with the Internet. It's always a game of cat and mouse between the Internet users who know how to use these proxies and tools to get around censorship and authorities who have been investing millions of dollars to try to control the political content.

My guess is that in the near future, we're going to see more and more social issues being addressed, but that the political content is going to take a really long time to actually be more open and more transparent.

DR. KLUVER: I think I have a little different take than Ms. Morillon on the Tibetan riots versus the Sichuan earthquake. Number one, Tibet and the perceptions of Tibet have been set for decades. It's been a very contentious issue for decades between China and the West, and this last spring it hasn't gotten any better.

Last year, the Dalai Lama received a Congressional gold medal.

All of that served to indicate to the Chinese that this was an area that is going to continue to be contentious, and so I think naturally they shut down when the earthquake occurred. Again, it's that self-defense reflex.

Sichuan was something different. When that earthquake happened, we would be deluding ourselves if we would impose any idea that the Chinese could in any way control that. They weren't prepared for it. They weren't prepared for what would happen. They had no idea that those kinds of things would happen.

And so what happened, I think, is this: the Chinese government sees itself as the protector of the people, but when they can't step in, they allow others to fill the gaps. So, for example, in providing an immediate emergency relief, the Chinese military obviously couldn't meet those needs.

So they allowed non-governmental organizations that they would never before allow an opportunity to go in there to meet some of the immediate needs.

Likewise, they could not meet the information needs. Any government, to function properly has to have good information, and they obviously didn't have the capacity to provide the information over the affected provinces, not just Sichuan, but the neighboring provinces. And so from a governmental perspective, they needed better information.

And so they allow somebody to step in and fill the gap until they feel like now we've got it under control, and at that point, they

want to resume control. A lot of this has to do with their legitimacy.

But the idea that the central government really was strategic here I think is probably not right. I would agree with Ms. Morillon that the Myanmar example was a very good example of what not to do, and they had probably been following those lessons and learning from that.

Since that time, the government has been limiting the ability of outside journalists and so on to report on that, and a lot of that again has to do with the fear that it's going to undermine the legitimacy of the Party because what they're afraid will be uncovered are instances of corruption, instances of some sort of conspiracy that contributed to the disaster that happened.

Let me give you one example. You've heard of the school that collapsed, killed 900 children. The actual story, and a Chinese media outlet did actually uncover it, was that the original design was probably competent, but then somebody added another floor because they had more students than the design was for.

Then they had to cut back because the government had not allocated enough money, and so there was a series of sequential steps along the way that led to a bad design, and each one of those steps was gray in and of itself, but that kind of ambiguous story doesn't play well with journalism.

And so there's an attempt to control that information until they can get the story right. You also asked "what's the future? What will happen after this?" I do believe that China has made dramatic changes, and I think that the media sector is one in which those changes are most pronounced. The commercialization of the media, the relative openness, and in spite of the fact that, in fact, China does continue to block the Internet, which is my area of expertise, most Chinese netizens don't care. They really don't.

They have no problem with that. And so, there is an increasing openness. The journalists that I spoke to most recently this weekend in Hong Kong, all of them actually came down and said it really depends on what happens.

If China feels like they open up and they get some good stories, they'll probably continue to feel a little more confident in that. The Foreign Correspondents Club report said that central government support for this policy is fragile and it really depends on what comes out of the story.

If the result they get is just negative, then they'll probably feel no real confidence in maintaining that policy. But if they feel like they're getting a fair hearing in the world press, my own sense as well as the journalists I talk to is that the policy will probably be continued in some form and possibly extended to Chinese journalists.

COMMISSIONER BROOKES: Thank you.

HEARING COCHAIR FIEDLER: Thank you.

Commissioner Videnieks.

COMMISSIONER VIDENIEKS: Good morning, everybody. A couple of questions. Ms. Morillon, the Council on Foreign Relations refers to your organization as ranking China fifth from the bottom as far as freedom of the press is concerned.

MS. MORILLON: Yes.

COMMISSIONER VIDENIEKS: Who ranks below China and maybe some countries that we know or recognize like Russia maybe and Venezuela, whoever, where do they rank?

That's one question. And the second question would be when we talk about media, we have print media, we have TV/radio, we have the Internet which is partially communication, partially media. And also we have broad regions within China, the vast interior, the affluent coastal zones, and maybe minority regions.

How does access to media differ among regions? Please define the general proportion of categories of media nationwide. By percentages maybe? The second one is to both of you. The first one to you, ma'am.

MS. MORILLON: Okay.

COMMISSIONER VIDENIEKS: The ranking.

MS. MORILLON: The ranking. Yes. The Reporters Without Borders publishes a Press Freedom Index which ranks countries according to the situation of press freedom. We've been doing it, it's been five years now, and the next one is going to come up in October, end of October, and easily China is not very well ranked in this index.

The worst country that we put forward last year was actually Eritrea, and then we have Cuba and North Korea, Burma and Turkmenistan. That's basically the ones that are worse than China.

COMMISSIONER VIDENIEKS: That's the bottom. Where does Russia rank in this vast 168?

MS. MORILLON: I won't be able to give you like absolutely precise information, but as far as I remember, Russia should be ranking around 140, something like this, out of 168 countries that are being ranked. So it's still a situation that is absolutely not favorable.

But when we actually draft this index, we have a series of 50 questions that deal with the state of the media, journalists, if they have been put in jail, if they have been killed, if there's any impunity, what about the state of the Internet, severance of the Internet, censorship and so on, and how do journalist organizations work in the country?

We do submit it to experts, different experts, in every country, and this is how we ranked it. Obviously, if you have a journalist killed or a media censored, it's not going to cost you that much rank in

the index, but I'll be happy to send you some more information about it if you want to.

COMMISSIONER VIDENIEKS: Sure. Thank you.

The second question was the breakdown of media nationwide, country-wide, and then maybe by broad region.

DR. KLUVER: I can't give you regional data in terms of--

COMMISSIONER VIDENIEKS: The vast interior and--

DR. KLUVER: Yes. I think that you're right. China has always had a policy of discrimination in terms of who gets what media, who gets what information. Even during the days of Mao, there were unedited, uncensored news reports that were circulated among high officials because they needed that information, and that principle of information discrimination that you get the information you need for your purposes is still in place today.

Certainly in a city like Shanghai or a city like Beijing, there is much greater information access because you have commercial centers, you have businesses that need data. There are Chinese outlets that produce relatively free uncensored news information like, for example, Caijing, which is a very prominent economic journal. There's the Nanfang Zhoumo, Southern Weekend, which produces also very hard-hitting kind of journalistic stuff. That again is concentrated in the prosperous east.

COMMISSIONER VIDENIEKS: But how would you break down, if you could, okay, percentage-wise how important--I realize Internet usage is growing. How does the government influence the populace, let's say, in the interior versus on the coast? More by maybe TV and radio?

DR. KLUVER: The system of, it's an interesting question. I'm not sure that there's a very good answer to it. I think that what you can say is that the more rural, the lesser developed, obviously you have much less rich media, whereas in the cities, you have competitive media.

So the government does rely heavily upon, for example, CCTV to reinforce the government line, and then CCTV has each of its provincial bureaus, and, as Ms. Morillon mentioned, Xinhua is supposed to provide the lead on all of these things. But the idea that there's an absolute control over information I think is inaccurate because the principle that applies is if you need it, we'll find a way to have access to it.

And the so-called "Great Firewall" has a tremendous number of holes that nobody seems to be in a big hurry to close, and so because it has to do with that principle of information discrimination.

COMMISSIONER VIDENIEKS: Thank you.

MS. MORILLON: Can I add just a couple of things on this

issue? Yes, I agree with what Dr. Kluver said. For instance, for foreign reporters, it's much easier to work in Beijing or Shanghai than to go to some remote place in China. We've seen some journalists telling us that with the new rules, they can work freely in Beijing. They can go to Shanghai. They can travel.

But when they're going to be on the site of a riot, some local authorities are not very familiar with the new rules, or they would tell them, oh, okay, this applies only to the Olympics like you're not covering Olympics right now. So it's not really clear.

It also depends a lot on--obviously the big, the Chinese leading media, CCTV, Xinhua, Beijing News, and so on, are directly submitted to the authority of the central government, but when you go in the provinces, at the local level, the local papers are going to be under the control of the local Communist Party cell or Propaganda Bureau branch.

One of the things that the Chinese media have been trying to do, the local media, to try to get the better coverage, especially the liberal media, is when you report in your city on something that will bother the local officials, you run risks. You may be sidelined, sent to jail.

So what they have been doing is a lot of cross-territorial reporting. They would be going to the province near by, do a story about corruption, then come back to their own province, and they would not be bothered by the local authorities because they are not under their supervision.

But these past months, there has been more collaboration between the different local officials and this is putting more pressure and preventing some of the reporters to use this as a way to get some interesting stories out.

COMMISSIONER VIDENIEKS: Thank you very much.

HEARING COCHAIR FIEDLER: Thank you very much. We'll catch you in the second round.

COMMISSIONER VIDENIEKS: Yes.

HEARING COCHAIR FIEDLER: Commissioner Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you very much. Thank you to both of our witnesses. I regret that I was a little bit late and missed your official testimony, but I look forward to catching up with it.

Ms. Morillon, I want to really commend you and the work of Reporters Without Borders. Your organization does extremely important work in protecting journalists and free speech around the world.

MS. MORILLON: Thank you.

VICE CHAIRMAN BARTHOLOMEW: It's not always a

glamorous thing to do, but I think it's really important. So thank you both for the work that you do.

MS. MORILLON: Thank you.

VICE CHAIRMAN BARTHOLOMEW: For both of you, but particularly for Dr. Kluver, I want to talk about the issue of sometimes what I hear is this sense of a sliding scale of freedom of information or freedom of the press, that some restrictions are okay, and maybe they're doing okay because they're only restricting bad news, and I'm really uncomfortable. To me, freedom of the press is freedom of journalists, people able to go out and cover stories.

For example, on the school issue, I understand it a little bit differently than you do. I don't think it's just one school. I think the problem has become that people in communities throughout the earthquake-affected area see that the schools have sustained far more damage than any other thing. People lost their children, and they can see why it happened and where it happened. My sense of interpretation of what has happened was that the Chinese government was fairly open on allowing access for media and coverage of the earthquake as long as they could turn it into a good news story and people pitching in to help other people.

But as soon as it started becoming a focus on the schools and the loss and what kind of corruption allowed those schools to be built, things started cracking down. So I'd just want some sense from you of how open do you think this really is, and is it open if people allow stories to be covered only if the government feels like it's getting a fair hearing?

DR. KLUVER: That's an interesting question, and I think it's pretty clear that it's not fully open. What I do believe is that it's getting more open, and more and more things are coming up, more and more things are allowed to be talked about.

Ms. Morillon mentioned the idea that different reporters have different ways of covering things. So, for example, go cover the corruption in the next province, and you're fine. I've had Chinese journalism educators tell me the same thing. You make your political comments by talking about what happened in the past or by speculating what will happen in the future, but you don't accuse this guy who controls the province in a direct way.

So there's clearly not the kind of openness that we would like to see, but the scope of things is definitely increasing the kinds of questions that can be raised. I'm not sure if that answers your question in a sense of where is it; is that truly open? Well, obviously not. It's becoming more open.

The circle of things that the Chinese journalists can talk about is definitely increasing, and the penalties for journalists are generally

far less severe than they were in the past, and so there's a positive trend. It's not where we want it to be, but it is a positive trend.

VICE CHAIRMAN BARTHOLOMEW: But don't you think that journalists have to spend a fair amount of time self-censoring then, which is taking a risk every time they write a story that they think that is out there or potentially out there on the edge? So, if you can talk about the past, and you can metaphorically talk about the future, but you can't talk about the present, you're going to spend a whole lot of time and energy trying to figure out what you can and can't write, and that's energy and time that could go into reporting?

DR. KLUVER: That is the time that is spent reporting, right, but, no, I spent the weekend with a bunch of journalists who have been since reassigned to study leave because of something that they had written. So obviously there are restrictions and there are limitations.

What I am trying to say, though, is that those limitations and restrictions are gradually opening. There is an openness. There's an opening trend. It's not going as fast as I think people would like, but for example, one of the journalists I talked with this week said they would rather be a journalist in China than anywhere else because there are so many stories to tell.

China's society is changing so rapidly that it's such a dramatic story that they don't want to be anywhere else. They want to tell China's story right now, and these are people who have been sanctioned, penalized or even punished for the stories they've written.

VICE CHAIRMAN BARTHOLOMEW: Ms. Morillon.

MS. MORILLON: Yes, I would like to pick up on the issue of self-censorship. I think it's a very important one. Indeed, when the Chinese authorities are sending to jail one reporter, it's also a way of sending a clear signal to their colleagues of, look at what can happen to you if you go in this direction, especially for the liberal media, Nanfang Dushi Bao--when they send three of the editors in jail, it was clearly to also warn the other publications that there were risks if you decide to cover sensitive stories.

On the issue of the self-censorship, one other thing we have to keep in mind is also the way journalists are being paid in China, and the fact that they usually have quite low income, and they make more money every time an article is actually published. So they have this regular pay plus bonuses according to how many stories make it in the newspapers.

So it's, if you cannot afford losing some income, you're going to make sure your stories are not going to be censored by the Propaganda Department. So you're going to be making sure that you are not covering any sensitive issue or going against the Party's line.

HEARING COCHAIR FIEDLER: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Thank you.

HEARING COCHAIR FIEDLER: Commissioner Shea.

COMMISSIONER SHEA: I just want to follow up on a line of inquiry that Commissioner Reinsch brought up, and that's the nationalism. I'd like to read just a couple of sentences from Dr. Kluver's testimony and ask you to comment on it.

You say here in your written testimony: "Because of China's reading of, and one might say obsession with history, and particularly the Western dominance over China, I think it is safe to say that most Chinese do, in fact, regard international criticism of the nation and its policies as an attempt to keep China subservient. Shifting standards, constant criticism and an inexplicable ability to ignore some events while highlighting others are the evidence they"--I assume the average Chinese--"cite to demonstrate this belief. While we in the West believe that our comments serve to highlight international standards and help the Chinese achieve them, the Chinese interpret them very differently."

That's a pretty sophisticated way of discerning international press reports. I'm a U.S. citizen, I'm an American. I don't sit around and analyze what the foreign press is saying about the United States. You talk about the average Chinese, sensing shifting standards, constant criticism, and ability of the foreign press to ignore some events while highlighting others.

Could you tell me how the Chinese government--I assume you're saying the Chinese government serves this up to the Chinese population in some way. Could you explain, either of you, how that occurs, the extent of it, and the quality of it, and does the Chinese government by appealing to an ingrained sense of nationalism among the Chinese people. Are they concerned that they might be overdoing it at times?

DR. KLUVER: You will have testimony this afternoon on Chinese nationalism. My own take on it is that the Chinese government tries to stir this up a lot less than it tries to tamp it down.

The Chinese government is very concerned particularly about the online environment which is hyper-nationalistic. The Chinese government really, to my thinking, doesn't spend nearly as much time trying to get people angry at the West as it is just this is the way many Chinese see it.

When I say "many Chinese," realize I'm speaking about my personal acquaintances, which tend to be highly educated, maybe even elites, but it is important to remember that successive Chinese governments have fallen because they weren't seen as having stood up to the West enough.

The Chinese government walks a very thin line of trying to

both capitalize on anti-foreign sentiment, but not allow it to get out of hand.

The image we have in the West is that the Chinese government is very powerful. The image you get in China is that it's not so powerful, that local officials ignore it all the time. The Chinese government has a very hard time enforcing its own rules and laws. In some ways, the Chinese government is hanging on by their fingernails to try to stay on top of this nationalism.

So the nationalism that we're most concerned about; I don't really think is served up by the government as much as it is by Chinese press outlets and by the Chinese Internet.

COMMISSIONER SHEA: Ms. Morillon.

MS. MORILLON: Yes, when the Chinese government started denouncing this bias from the Western media, there was a lot of coverage in the State media about how the foreign journalists were not giving a fair treatment to China, but this also spread through the Internet. It was also regular Chinese bloggers that would pick up the issue and started commenting on this, and it actually took a proportion that Chinese authorities are worried about.

They play on the nationalism a little bit, but they also know how it can get out of hand, and anything organized out of the Party is actually making them extremely nervous.

I would just like to give the example of Tibet. When the riots occurred, the Chinese authorities tried to depict the Tibetans as a bunch of thugs, rioters, anti-Chinese.

On the Internet, you could find a lot of comments, racism comments, and a lot of condemnation of these riots, and we know how the Chinese government can control the Internet, can clean the Internet when it wants to, and a lot of these racist remarks were still online when all the pro-Tibetan stuff was actually removed. So it's a complicated issue, but if they had wanted to actually control more, there might have been another option.

The reason why so many Chinese people are getting into nationalism is the Olympics are going to be a great party for China. They'll be very proud of their country, and they want it to be a success, and they have access to one side of the reality. So when they're being told that Western media does not give them a fair treatment, their reaction is to basically get into this kind of behavior. There is some incentive from the government, but I think it got much bigger than they had expected.

HEARING COCHAIR FIEDLER: Thank you.

Commissioner Esper.

COMMISSIONER ESPER: Thank you. I have two questions. First of all, as we proceed into the Olympics and more importantly in

the months thereafter, what should we look for in terms of indicators of either increasing openness, no change or decreasing openness over the next three, six, nine months?

And secondly, a much broader question. Dr. Kluver, you said China continues to expand its press freedoms. What are the limits of those press freedoms and how are they linked to political freedom?

It seems to me that the two are inextricably related, that you can't have political reform unless you have greater press freedom and vice versa. So what are the limits to increasing freedom of the press in China if there aren't concomitant reforms on the political side as well?

HEARING COCHAIR FIEDLER: Briefly, too.

DR. KLUVER: What do we look for as indicators? There are a couple of things. On July 5, China is supposed to implement a policy of visa-free travel for journalists. Will they do that?

Another thing, Ms. Morillon already mentioned, will they allow reporting from sensitive locations like Tiananmen Square? Will they allow satellite broadcasts from wherever people happen to find themselves? How tightly are they going to actually try to control that?

I think those are some of the things we look for for the particular Olympics. In terms of the longer term, I think that we look at the same kinds of things: how harassed are the foreign media and is that continuing? The decision that is made in October over this policy will be a very significant indicator.

In terms of the limits to press freedoms, again, there are just some things you don't say directly. I had a dean of journalism who told me you can report on anything in China as long as you know how to say it. And so there are some things you just don't do directly. You don't attack the legitimacy of the Communist Party directly.

You don't undermine the current leadership. But within that, you can say a number of things. You can say "is the Party ready to deal with this? Is the government ready to deal with this?" And so you can raise a lot of issues, but there is certainly a degree of circumspectness that is still required and caution that makes it difficult to directly address the issues that you want to address.

The Chinese journalists that I spoke with, though, really to a person explained to me that most Chinese journalists can say what they want to say.

MS. MORILLON: Yes. If you know how to phrase some of your critics, you can actually make sure-- some critics are going to be out there--you have to be very careful how you phrase the issues.

The issue is from time to time, you can have a very random repression like they're going to let you say a lot of things, and then the Chinese authorities will randomly choose this guy to be dismissed or

this one to be sent to jail, just to make sure that the journalists keep in mind that they are watching.

HEARING COCHAIR FIEDLER: Thank you.

I have one quick question and then will have a closing comment. There are 30,000 journalists supposed to arrive in Beijing to cover the Olympics. Does anyone in their right mind believe that 30,000 journalists can be controlled? I can't imagine--30,000 people is one thing if they're all in one place. 30,000 journalists, independent streaks, I find it very difficult to believe that the Chinese, as much respect as I have for their security services--are going to succeed. So they should be prepared for some form of international public relations disasters to occur. Do you agree or disagree with me on that?

DR. KLUVER: I can tell you for sure that the Beijing Organizing Committee does not think that they can control them. What they are attempting to do is to put an infrastructure in place that will at least give people fewer things to complain about, and they're concerned not just with the accredited journalists; they're concerned with the unaccredited and the nonaccredited journalists. So there are three different categories.

I think the fact that they're sports journalists makes it even more likely that things will get out of hand, but, no, the Beijing Organizing Committee does not think they're going to be able to control their message.

MS. MORILLON: I agree with your statement. Nobody in their right mind would believe this is possible. We're going to have 30,000 reporters used to freely report, I mean most of them, plus thousands of local fixers and so on. I've been talking with a lot of journalists who are going to cover the Games, and they're telling us, of course, they are going to cover the Games, the results and so on, but they also want to do stories about the civil society, about the environment, pollution, possibly the dissidents if they don't put them in too much danger.

So, sure, it's going to be something very new. I think also that they are very worried about the unaccredited journalists and that we should expect some problems. The Chinese authorities are getting really paranoid about that. That's the reason why they were asking for the location of the satellite trucks. This is going to be impossible when the Games start, to know exactly where they're going to be.

They just don't get it on this issue of how journalists can work and how reactive they need to be. So, this should hopefully open up the situation there.

HEARING COCHAIR FIEDLER: Thank you very much, and Vice Chair Bartholomew, for her remarks.

VICE CHAIRMAN BARTHOLOMEW: Thank you. I want to

thank both of our witnesses for setting us off on a very interesting hearing today.

Since you mentioned the sports journalists, I also wanted to commend the sports columnists whom I think had some of the most interesting writing and thinking going on during the crackdown in Tibet. They raised a lot of serious questions about whether Beijing should have gotten the Olympics and what is going on and what the Olympics mean nowadays.

I was very impressed with the sports columnists, not exactly a section of the newspaper that I read all the time. I also want to just take a point of personal privilege and commend Dr. Esper who yesterday, I understand, completed his Ph.D. So we just wanted to commend Commissioner Esper and acknowledge him on that accomplishment.

And thank our witnesses again.

HEARING COCHAIR FIEDLER: And with that, we will break until 10:30. We will try to get everyone back in ten minutes. Thank you very much.

MS. MORILLON: Thank you.

[Whereupon, a short recess was taken.]

PANEL II: INFORMATION CONTROL AND MEDIA INFLUENCE ASSOCIATED WITH CHINA'S ETHNIC UNREST AND OUTBREAKS OF INFECTIOUS DISEASE

CHAIRMAN WORTZEL: Good morning. This panel is on Information Control and Media Influence Associated with Ethnic Unrest and Outbreaks of Infectious Disease, two problems with which the Chinese Communist Party propaganda apparatus has had to wrestle and continues really to wrestle with.

Our first speaker today is going to be Mr. Dan Southerland of Radio Free Asia, and he knows Asia. Dan spent 18 years as a foreign correspondent in that part of the world. I was fortunate enough to be able to associate with him when he was the Washington Post Bureau Chief in Beijing from 1985 to 1990, and it's the only time I ever trusted what the Washington Post published. You did a great job. He covered economic reforms, political developments, human rights.

HEARING COCHAIR FIEDLER: Is that an admission of being a source?

CHAIRMAN WORTZEL: And the 1989 Tiananmen Square uprising. He'd been in Asia 13 years before that with the Christian Science Monitor, which I think is another great newspaper, Saigon, Hong Kong and Washington, and he's a noted war correspondent.

The second panelist is Colonel Susan Puska. She's a retired Army colonel, an ordnance officer, and also a Foreign Area Officer that specialized in China.

She's a logistician that has served in Germany, Korea, Guantanamo Bay, Cuba, and around the U.S. She was Assistant Army Attaché in Beijing from 1992 to 1994 at the Embassy; Army Attaché from 2001 to 2003; served on the Department of the Army staff on the Asia Regional Desk as a strategist; and at the Army War College as the Asian Studies Director; and also for the Under Secretary of the Army.

So we have two great panelists. In the order in which I introduced you, Dan, you're first.

**STATEMENT OF MR. DAN SOUTHERLAND
VICE PRESIDENT OF PROGRAMMING AND EXECUTIVE
EDITOR, RADIO FREE ASIA, WASHINGTON, D.C.**

MR. SOUTHERLAND: Let me start by saying a word about the earthquake coverage. I want to say that when I criticize the Chinese media and what they're doing, I do want to recognize that the Chinese media did quite a good job in the initial stages of the earthquake that tragically hit Sichuan Province March 12.

They had more open coverage; they're moving around. They're more aggressive than in any past disaster that I've been able to study, at least in the initial stages. But it did show that Chinese reporters can perform well when given a chance, and I do agree that many of them are trying very hard. But I have to remind you that some of them are in jail, that some of them get roughed up by gangsters when they go to the provinces, and this is not an easy thing to do, particularly when it comes to investigative reporting, which is what we need to see more of in China.

The stories about these bean curd construction schools, mostly schools, that collapsed are not getting good investigative reporting in the aftermath of the earthquake.

I've been asked to talk about ethnic unrest. I know a little bit about it because I actually have been expelled from Tibet before myself, and I covered some nasty events in 1987, '88 and '89, and I'll mention that again later.

The openness is not existing at all in Tibet and Xinjiang. American newspaper access is limited so you're not going to read much about what's going on, what we report on at the radio everyday. There are still sporadic protests, still arrests going on, still a crackdown going on in both regions.

You're not going to see much going on because the Chinese government imposes a much heavier censorship, albeit it more

sophisticated than before, on both Tibet and Xinjiang than in other parts of China.

The latest news coming out, for example: Today there's almost an armed police lockdown in the cities of Urumqi, Kashgar, and, of course, Lhasa, lots of tension. They're telling people in Kashgar to just watch the torch relay on TV, don't show up. They're so nervous about this; it's incredible.

I really am discouraged. I mentioned 1987, the late '80s, and seeing what looks like history repeating itself--kind of a bad movie. First, you get a pattern--I'm talking here about Tibet--of peaceful demonstrations led by monks, followed by the arrest of monks, beatings of monks, violent reaction by Tibetans, and now we have the cycle being repeated on a larger scale than anything I think that has happened since 1959.

I can't emphasize enough the size of these protests. You see a lot of references to riots or violence in Tibet, but most of these protests and demonstrations have been peaceful.

There's a parallel between Tibet and Xinjiang although the cultures are quite different. The list of grievances in both regions, at the top of the list is the centrality of religion, restrictions on religion, control over imams or control over the top leadership in monasteries. Education--increasing a position or a necessity to have Chinese. Joblessness is something that would interest Commissioner Fiedler. That's a big issue. I think that was part of the reason for the violence.

The Chinese leadership, on the other hand, seems to look at this problem as an engineering problem: put in a railroad, raise standards of living. I don't think they can understand the emotions that go into some of these protests. We just interviewed--well, I'm sorry--back in March--I just got the translation of this--we interviewed a man--what's the time?

CHAIRMAN WORTZEL: About three minutes left.

MR. SOUTHERLAND: Three minutes left. Okay. Thanks. I know I went eight last time and Chairman Bartholomew pointed that out. So I'm watching her, watching whether she blinks or goes--this guy is somebody who called into one of our Tibetan call-in shows. I think it's quite amazing that we still have call-in shows and people have the guts to call us. But he called in March when people were really talking and said--and I think this kind of expresses some of the emotion that you can't get much from the reporting--we don't think we can overthrow the Chinese by protesting. We're trying to show that we have no interest in being under China and to show that there are no human rights, no freedom of religion, and that millions of Tibetans are separated from each other. I guess he's talking about the exiles. And we do this to show the international community. Obviously, the

Olympics was their moment to do this.

Soldiers are shooting, and this guy describes some shooting, but he didn't pretend to know. He didn't say I saw "x" number of bodies, and this is the kind of thing we can't always get, you know, precise numbers. But he said when soldiers are killing, we do feel that if we all rise up, they can't kill us all.

Then the guy begins crying at some point. They're dealing with some really inflammatory stuff. And my fear is, and looking to the future--and my last 30 seconds--that there is a potential for more resentment now with these patriotic education campaigns that are going on relentlessly in both Tibet and Xinjiang, and more violence down the line, and then you mix in nationalism, you get a Chinese reaction. We see stuff on Web sites from the Chinese side, bloggers saying "Just kill all the Uyghurs."

I'm not saying that's representative of all Chinese. We get wonderful Chinese callers who are actually pretty sophisticated and say we know we're not being told the truth, but I'm just trying to give you a little of the background that I didn't quite emphasize enough in my testimony.

Thanks.

[The statement follows:]

**Prepared Statement of Mr. Dan Southerland
Vice President of Programming and Executive Editor
Radio Free Asia, Washington, D.C.**

Mr. Chairman and Members of the Commission:

Restrictions on information

The Chinese government has heavily restricted information about ethnic unrest occurring in both Tibet and Xinjiang over the past year. It is also likely to maintain extremely tight media control in the coming weeks leading up to and following the opening of the Olympic Games in Beijing. Reacting to a major uprising in Tibet in early March, the government imposed an information blackout on Tibet that remains in force today, more than three months later. In Xinjiang, the government security forces have reacted with overwhelming force against all but the mildest forms of dissent. The government has taken a few selected foreign reporters on guided tours of Tibet and Xinjiang. But reporters trying to enter Tibet are likely to be stopped at police roadblocks. Reporters who strike out on their own in Xinjiang are frequently tailed by state security police. In both of these vast regions, the domestic state-run Chinese media adhere strictly to what Chinese officials call the "main melody" (*Zhu Xuanlu*) line laid down by the Communist Party's propaganda department.

Methods of censorship

The Chinese government has imposed more direct and heavy-handed censorship on Tibet and Xinjiang than on most other parts of China. And its jamming of international broadcasts, including both Radio Free Asia and the Voice of America, is intense. Jamming is particularly strong in the Tibetan capital, Lhasa, and

in Urumqi, the capital city of the Xinjiang Uyghur Autonomous Region (XUAR). Listeners are aware that they can face penalties, such as jail or fines, if they are caught listening to RFA broadcasts. And RFA has documented a few instances in which Tibetan and Uyghur listeners were jailed and tortured. Journalists working for the domestic media in both regions are well aware that they face lines that they cannot cross. And under the more sophisticated censorship now in place in China, those lines are kept deliberately vague. This gives the Party and government great flexibility in maintaining control. Self-censorship by the domestic media is now a deeply ingrained part of how the system works. As a result, some major stories simply go unreported by the media inside China. Recent examples have included peaceful demonstrations, the strict control of religious observance in both regions, a crisis among Uyghur youths involving high rates of drug usage and HIV infections, forced or unpaid labor still used by Chinese authorities in parts of Xinjiang, and the transfer of young women belonging to the Muslim minority to coastal Chinese provinces for factory labor. Environmental pollution is also a major problem that goes largely unreported in both regions.

Over the long term, in both Tibet and Xinjiang, the biggest issues are likely to involve increasing numbers of Han Chinese migrant workers in both regions and restrictions on religion and education. In Xinjiang, a government-driven “bilingual” education policy has been gradually eliminating the use of the Uyghur language from universities down to the kindergarten level. In the Tibet Autonomous Region (TAR), teaching occurs in Chinese in secondary schools and most university departments. Religion and language are the core components of Tibetan and Uyghur national identity, but reporting on them is restricted.

Last July, the *Sunday Times* of London described RFA as “about the only source of regular news” on Xinjiang. InterMedia Survey Institute, an independent contractor for the Broadcasting Board of Governors (BBG) which oversees both RFA and VOA, concluded from research done from late 2006 to early 2008 that many Uyghurs are so fearful of punishment that they are unwilling to admit that they listen to international broadcasters, including RFA. But the research shows that nonetheless, RFA does have listeners, particularly in the rural areas of the XUAR.

When it comes to Uyghur-language broadcasting, RFA is the only broadcaster that attempts to provide accurate, objective, and well-balanced news. Saudi Arabia does some broadcasting in the Uyghur language, but only on religious matters. Central Asian broadcasts in Uyghur are edited so as to avoid offending the Chinese government.

The Web has been gaining popularity among Tibetan and Uyghur students and intellectuals. But the Chinese government carefully monitors Web sites and message boards. A Uyghur Web editor in exile who tried last year to post on a Web site available in Xinjiang a mention of Rebiya Kadeer, the exiled president of the World Uyghur Congress, observed that his posting was taken down within minutes. Chinese authorities also recently closed a Beijing-based Web site aimed at promoting understanding between Han Chinese and ethnic Uyghurs following allegations that the site was linked to foreign “extremists.” But an examination of the content of the Web site, called Uyghur Online, before its closure revealed it could easily be described as moderate rather than extremist. The site’s owner had apparently done nothing illegal under Chinese law but had posted discussions that touched on sensitive issues.

Both Tibetans and Uyghurs have discovered innovative ways of republishing RFA audio and text by simply dropping the RFA logo and a few problematic words while saving the essence of the reports. A few social sites in Tibet and Xinjiang have become adept at sharing the information. In both Tibet and Xinjiang, word of mouth also has a huge amplification effect. In line with traditions of both cultures, respected persons listen to RFA and VOA, digest the news, and tell others what they have heard. A 2007 InterMedia Survey Institute survey of more than 1,900 refugees found that 86 percent named word-of-mouth sources as their top source of news.

Looking to the future

With VOA and RFA heavily jammed, the BBG several years ago recognized the need to find new ways in addition to regular radio broadcasts to reach target audiences in China. In addition to using email and proxy methods, the BBG's experts have been experimenting with, among other things, SMS to send short messages with proxy information, a peer-to-peer system to distribute content, and Instant Messaging (IM) exchanges, which are less subject to filtering than is email or text messaging on cell phones.

This is an ongoing battle, because the Chinese authorities continually attempt to upgrade their Web monitoring and censorship tools. But we have succeeded in disseminating news in text, in audio, in video format and in conversations among bloggers. We also continuously send email updates to subscribers who reproduce, share, and comment on the news.

The SMS initiative is at an early and experimental stage, and huge challenges remain. One of those is to make certain that we do not compromise the safety of users who could be subject to Chinese government surveillance, given China's tight state control over telecommunications.

Chinese government approach to ethnic unrest

As Human Rights Watch (HRW) and others have documented for several years now, China has sought to use the events of September 11, 2001, and the subsequent "war on terror" as a pretext for targeting Uyghurs who speak out against Chinese repression. The government asserts that it faces an Islamic-inspired separatist movement with links to international terrorist groups. According to HRW's research, an official manual regulating religion in Xinjiang allows the authorities to deny religious freedom under virtually any pretext, such as using religion "to carry out other activities that are harmful to the good order of society."

Apparently to justify strict security measures, including arbitrary arrests—as well as to deflect attention from any form of unrest, no matter how peaceful—the Chinese government has repeatedly warned that terrorists might attempt to sabotage the upcoming Olympic Games. In January, state media reported that the Chinese police attacked an alleged terrorist gang in Urumqi, killed two terrorists, and arrested 15 others. The government said the group was plotting an attack on the Olympics but provided few details to back up that allegation. In March, state media reported an alleged failed attempt to crash a Chinese passenger jet, but again details were sketchy.

Also in March, the Chinese government, using its official Xinhua news agency Web site, blamed a radical Islamic group called Hizb ut-Tahrir al-Islami for instigating "illegal" demonstrations in March this year in Hotan, a city in the southern part of Xinjiang. Hizb ut-Tahrir advocates a worldwide Islamic state but also claims to shun violence. The Xinhua Web site allegations came after RFA broke the story of a peaceful demonstration by an estimated 600 Uyghur women on March 23. The women were demanding that the authorities lift a ban on headscarves, stop torturing Uyghurs held in prisons, and release political prisoners. The demonstration followed tensions in Hotan that arose after a respected and wealthy Uyghur jade trader and philanthropist was arrested. He had been aiding the families of political prisoners before his arrest. The trader, 38, died in police custody. The police said that he had suffered a heart attack, but the demonstrators believed that he had died under police torture. An accurate account of these events might never have reached the public inside China or in the outside world had RFA not broken the story.

In Tibet, the Chinese authorities have labeled the India-based Tibetan Youth Congress (TYC) as a terrorist group and seem to be moving toward using the terrorist label, as in Xinjiang, to justify the continuing widespread police crackdown that followed this spring's protests.

Deflecting attention from the causes of ethnic unrest

China's state-controlled media have focused on the alleged role of the Dalai Lama in instigating demonstrations led by Buddhist monks that began in Lhasa on March 10 and the violence that followed on March 14. According to official Chinese accounts, Tibetans killed 22 persons in Lhasa, all but one of them Han Chinese.

Tibetan casualties that resulted from Chinese police actions have been almost totally ignored, although they are likely to have been many times higher than Chinese losses. The domestic media, following official guidance, have simplified the story so that it has become "the rioting in Lhasa," whereas most of the demonstrations that occurred in March and April and have continued sporadically until today have been peaceful. And many of those events have taken place in Tibetan-populated areas far from Lhasa. But the state media have taken no account of the widespread nature of the demonstrations and protests. Instead, they have helped to stoke nationalistic fervor by portraying Western coverage of the events as "anti-Chinese."

This has served to divert attention from the main causes of the unrest and plays naturally into a Chinese tendency to recall humiliation suffered at the hands of European colonial powers from the late 19th well into the 20th century. As David Shambaugh of George Washington University wrote recently, Chinese textbooks play this up and keep it alive. Americans had a chance to witness this virulent form of nationalism when it spilled over onto American university campuses this spring. Angry over the repeated disruptions of Olympic torch relays and criticism of Chinese actions in Tibet by Tibetans in exile, Chinese students launched counter-demonstrations.

The recent uprising in Tibet has been the largest to occur in nearly 50 years. But the average Chinese newspaper reader or viewer of television would have no idea of this. Everything is subsumed under the headings of "the rioting," or "beating, smashing, looting, and burning" or "the March 14 incident" (3.14 *Shijian*). The media fails to report that the Lhasa protests began with peaceful demonstrations by Buddhist monks on March 10. Violence erupted on March 14 after the police began arresting and beating the monks.

Thanks to funding from the Congress, RFA and VOA have been able to report fully and objectively about developments in Tibet and Xinjiang. Tibetan listeners who call in to our Tibetan call-in shows often say that RFA has been a lifeline for them. But we face immense challenges in getting at the truth and then transmitting it effectively despite the jamming.

Experience shows that international broadcasting is most effective when it is accurate, balanced, and fair, untainted by any hidden agenda, and in line with Article 19 of the Universal Declaration of Human Rights. Article 19 states that everyone has the freedom to hold opinions without interference and to "seek, receive and impart information and ideas through any media and regardless of frontiers."

Unfortunately, China heavily jams RFA and VOA broadcasts and blocks our Web sites. Every month, the Federal Communications Commission (FCC) files a "harmful interference report" regarding the jamming on behalf of the Broadcasting Board of Governors (BBG). China has consistently responded that it has not "willfully caused harmful interference." Chinese officials suggest that the problem is caused by overly congested broadcast bands.

Perhaps one indication of RFA and VOA's effectiveness has been recent attacks by Party-run media against our coverage of the recent uprising in Tibet. In early April, a publication of the official China Radio International said VOA was secretly transmitting coded instructions from the Dalai Lama to create disturbances inside Tibet. VOA was accused, for example, of using the word "skirt" as a code word for the Snow Lion flag, which expresses Tibetan nationalistic aspirations and appeared widely during the recent

demonstrations in Tibet. VOA checked and could not find the word “skirt” in its scripts. In late May, the official *China Daily* claimed that RFA had become “a mouthpiece for the Dalai Clique,” “stirring up” Tibetans, and spreading plans for an uprising. The newspaper gave no credible evidence or context for the allegations or direct quotes from actual RFA broadcasts.

These charges are disturbing because they fit a pattern of blaming “foreign hostile forces” for inciting unrest in Tibet and Xinjiang. If Party leaders and the state media persist in accusing the Dalai Lama, foreign forces, and “terrorists” for the unrest in Tibet and Xinjiang, it’s hard to imagine anyone in the leadership trying to reform the policies that are mainly responsible for the unrest.

Those policies include attempts to control the religious leadership in both regions, restrictions on the use of the Tibetan and Uyghur languages, and state support for an influx of Han Chinese migrant workers. Other issues include a “settlement of nomads” policy in Tibet, land seizures for mining and other purposes, joblessness, an unequal distribution of wealth, and political, social, and economic discrimination. It appears that the recent crackdown on dissent or simply suspected dissent, “patriotic education” campaigns, and the torture of political prisoners in Tibet and Xinjiang are creating increased resentment. Finally, the overarching issue has long been a severe lack of freedom of expression in both regions.

Recommendations:

- *Support for legal and journalistic training for Tibetans and Uyghurs.* Courageous Chinese lawyers and journalists have set a good example of what can be accomplished within existing Chinese laws. Although some of those lawyers and journalists have been beaten by thugs, harassed, and jailed, some have also achieved small victories in protecting the less privileged in Chinese society, including workers and farmers. But the number of Tibetan and Uyghur lawyers who can act as rights lawyers is relatively small. And awareness of Chinese law in Tibet and Xinjiang is relatively low. China has failed to implement autonomy laws that now theoretically protect the Tibetans’ and Uyghurs’ languages, cultures, and religions.
- *Backing for fellowships and scholarships supporting people-to-people exchanges among Chinese, Tibetan, and Uyghur scholars.* This could help to clear up the misunderstandings on all sides that are now all too common. A Harvard Law School program that facilitates exchanges between Chinese and Tibetan participants has had productive meetings over the past six years, according to all accounts.
- *U.S. government study of Chinese nationalism.* Popular nationalism in China has become a powerful force. Due partly to one-sided Chinese media accounts of the recent uprising in Tibet, large numbers of Chinese supported the current crackdown in Tibet and turned angrily against “foreign interference.” Similarly, Chinese media coverage has fed a distorted view of unrest in Xinjiang. The U.S. government needs to carry out a careful study of Chinese nationalism both to formulate its own policies and to facilitate a rational dialogue with Chinese officials concerning the issues.

**STATEMENT OF COL. SUSAN M. PUSKA
SENIOR INTELLIGENCE ANALYST, DEFENSE GROUP, INC.
CENTER FOR INTELLIGENCE RESEARCH AND ANALYSIS
WASHINGTON, D.C.**

COLONEL PUSKA: Good morning. I would like to thank the Commission for inviting me to address the issue of information control during outbreaks of infectious disease in China, which I believe poses

a significant threat to public health within the country as well as elsewhere including the United States.

Infectious disease does not recognize the boundaries of national sovereignty. It is not simply an internal domestic matter that can be handled quietly within the confines of a state, as the 2002-2003 SARS case demonstrated when the disease spread beyond Guangdong Province and eventually internationally.

New disease strains called Emerging Infectious Diseases, or EIDs, for which humans have no natural resistance or vaccine, are increasingly rising in an environmentally shrinking world that puts wildlife and people in closer proximity.

At the same time, societies around the world are more closely connected by daily air travel and other means of transportation that can serve as vectors for new diseases.

Failure to share information on EIDs undermines the ability to identify and monitor threats at the early stages to prevent the spread of the disease that could lead to the development of a pandemic threat to societies around the world.

Today, the global spread of avian influenza is an historic example of the potential damage disease can inflict globally on wildlife and potentially on humans if it develops unchecked.

This epidemic is caused by the influenza Z virus, H5N1, which originated in Guangdong Province and continues to infect populations of poultry and wild birds worldwide.

The disease has spread from Asia to Europe, the Middle East and Africa, and the number of cases of humans subtype H5N1 infection has also continued to rise, threatening to develop into a deadly human pandemic that could reach across the globe.

China is a key country for promoting global health and security because much of its southern and eastern regions form one of the densest hotspots in the world for emerging infectious disease.

Despite improvements in China's efforts to monitor and manage domestic disease, as well as to collaborate with international organizations, the tendency is to control information, especially during times of crisis including epidemics.

As information is assessed and shaped to promote a political message that reinforces social stability and the leading authority of the Communist Party, valuable time can be lost to prevent the spread of disease.

In the 2002-2003 Severe Acute Respiratory Syndrome, or SARS, epidemic, information control at all levels of the Chinese government and Communist Party contributed to the spread of SARS internationally. Although this incident did not evolve into a deadly global pandemic, the case nonetheless provides an important lesson of

the negative effects of China's information control.

I base my assessment primarily on a case study I previously prepared on the 2002-2003 SARS outbreak, which has been submitted to the committee and includes a detailed timeline of the SARS crisis. I am not a medical expert, and I ask the indulgence of health care professionals for any medical shortcomings in my report.

My case study primarily focuses on how governmental, Party, and military institutions and leaders responded to the SARS epidemic as an information problem, and how their attempts to control information actually led to the spread of the disease internationally.

I will briefly summarize the key findings of my study here. In the SARS case, I found that China's ability to detect and respond to the epidemic was significantly hampered by defensive and self-protective information management that placed Party control of information above public health, to promote Party authority and public stability by providing disinformation of the nature and scope of the crisis.

In the SARS case, politics trumped health security, and the leadership did not shift to greater openness and mobilize to fight the disease until April 2003, almost five months after the first outbreak of the disease in Guangdong Province.

China's leadership responded to the SARS only after inside information that they were concealing the actual numbers of cases in Beijing had leaked to the international press, foreigners began evacuating from China, international events were cancelled, and the World Health Organization issued an advisory. By that time, the disease had spread to Canada and other locations.

Did the Chinese learn that excessive control of information is counterproductive when seeking to monitor and prevent the spread of emerging infectious diseases such as SARS? I would say yes and no. It is true, as I said above, they are more closely working with international health organizations such as WHO to identify and monitor infectious disease.

There are also some indications that the Chinese government and Communist Party's propensity to seek to control all information that could embarrass or damage their authority may be loosening, as the relatively open reporting immediately following the May 12 earthquake indicated, at least for a time.

But old habits die hard and the Chinese leadership's concern for maintaining stability still can disrupt the flow of what they perceive as unpleasant and embarrassing information.

Implications for the United States: China is not the only hot spot in the world where the threat of emerging infectious disease can arise. India is another major hot spot, but there are also smaller areas throughout Southeast Asia as well as Africa, Latin America, Europe

and North America.

The United States consequently should balance its medical security efforts and international collaboration across the globe with extra attention to the developing world which includes parts of China where medical care is weak and the ability to detect and monitor the outbreak of infectious disease is particularly low.

The American writer Edgar Allan Poe once wrote a short story of the spread of a deadly plague. In "The Masque of the Red Death," Poe described how the elite of the day sequestered themselves behind the protective walls of an abbey while the plague raged outside. But in the end, the plague came in "like a thief in the night" reaching even the rich and powerful.

I would suggest that Poe's story provides a parable for all that no one can hide from a global pandemic. Our best chance for detecting and deterring it lies in working together. Further, the promotion of public health security against emerging infectious diseases that threaten global health should fall beyond the arena of domestic and international politics. And to promote collaboration and enhance security, information of emerging infectious diseases cannot be hidden or distorted, but must be freely shared.

Thank you for your attention and I welcome you questions.
[The statement follows:]

**Prepared Statement of Col. Susan M. Puska
Senior Intelligence Analyst, Defense Group, Inc.
Center for Intelligence Research And Analysis
Washington, D.C.**

Good morning. I would like to thank the Commission for inviting me to address the issue of information control during outbreaks of infectious disease in China, which I believe poses a significant threat to public health within the country and elsewhere.

Emerging Infectious Disease (EID)

Infectious disease does not recognize the boundaries of national sovereignty. It is not simply an internal domestic matter that can be handled quietly within the confines of a state, as the 2002-2003 SARS case demonstrated when the disease spread beyond Guangdong Province and eventually internationally. New disease strains called Emerging Infectious Disease (EID), for which humans have no natural resistance or vaccine, are increasingly arising in an environmentally shrinking world that puts wildlife and people in closer proximity. At the same time, societies around the world are more closely connected by daily air travel and other means of transportation that can serve as vectors for new diseases.

Failure to share information on EIDS undermines the ability to identify and monitor threats at the earliest stages to prevent the spread of disease that could lead to the development of a pandemic threat to societies around the world.

Today, the global spread of avian influenza is an historic example of the potential damage disease can inflict globally on wildlife and potentially on humans, if it develops unchecked. This epidemic is caused by the influenza A virus (H5N1), which originated in Guangdong Province and continues to infect populations of poultry and wild birds worldwide. The disease has spread from Asia to Europe, the Middle East, and Africa. The number of cases of human subtype H5N1 infection has also continued to rise, threatening to develop into a deadly human pandemic that could reach across the globe.

China's Role

China is a key country for promoting global health and security because much of its southern and eastern regions form one of the densest hot spots in the world for Emerging Infectious Disease. Despite improvements in China's efforts to monitor and manage domestic disease, as well as to collaborate with international organizations, the tendency is to control information, especially during times of crisis, including epidemics.

As information is assessed and shaped to promote a political message that reinforces social stability and the leading authority of the Communist Party, valuable time can be lost to prevent the spread of disease.

2002-2003 SARS Case

In the 2002-2003 Severe Acute Respiratory Syndrome (SARS) epidemic, information control at all levels of the Chinese government and Communist Party; contributed to the spread of SARS internationally. Although this incident did not evolve into a deadly global pandemic, the case, nonetheless, provides an important lesson of the negative effects of China's information control.

I base my assessment primarily on a case study I previously prepared on the 2002-2003 SARS outbreak, which has been submitted to the Committee, and includes a detailed timeline of the SARS crisis. I am not a medical expert, and I ask the indulgence of healthcare professionals for any medical shortcomings in my report. My case study primarily focuses on how governmental, Party, and military institutions and leaders responded to the SARS epidemic as an information problem, and how their attempts to control information actually led to the spread of the disease international. I will briefly summarize the key findings of my study.

Information control pattern

In the SARS case, I found that China's ability to detect and respond to the epidemic was significantly hampered by defensive and self-protective information management that placed Party control of information above public health, to promote Party authority and public stability by providing disinformation of the nature and scope of the crisis. In the SARS case, politics trumped health security and the leadership did not shift to greater openness and mobilize to fight the disease until April 2003 almost five months after the first outbreak of the disease in Guangdong Province. China's leadership responded to SARS only after inside information that they were concealing the actual number of cases in Beijing had leaked to the international press, foreigners began evacuating from China, international events were cancelled, and the World Health Organization issued an advisory. By that time, the disease had spread to Canada and other locations.

Did the Chinese learn that excessive control of information is counterproductive when seeking to monitor and prevent the spread of emerging infectious diseases such as SARS? I would say yes and no. It is true, as I said above, that they are more closely working with international health organizations, such as WHO, to identify and monitor infectious disease. There are also some indications that the Chinese government's and Communist Party's propensity to seek to control all information that could embarrass or damage their

authority may be loosening, as the relatively open reporting following the May 12th earthquake indicated, at least for a time, but old habits die hard and the Chinese leadership's concern for maintaining stability still can disrupt the flow of what they perceive as unpleasant and embarrassing information.

Implications for the United States

China is not the only hot spot in the world where the threat of emerging infectious diseases can arise. India is another major hotspot, but there are also smaller areas throughout Southeast Asia, as well as in Africa, Latin America, Europe and North America. The United States, consequently, should balance its medical security efforts and international collaboration across the globe, with extra attention to the developing world, which includes parts of China, where medical care is weak and the ability to detect and monitor the outbreak of infectious disease is particularly low.

The American writer, Edgar Allan Poe, once wrote a short story of the spread of a deadly plague. In "The Masque of The Red Death," Poe described how the elite of the day sequestered themselves behind the protective walls of an abbey while the plague raged outside. But in the end the plague came in "like a thief in the night" reaching even the rich and the powerful.

I would suggest that Poe's story provides a parable for all that no one can hide from a global pandemic. Our best chance for both detecting and deterring it lies in working together. Further, the promotion of public health security against emerging infectious diseases that threaten global health should fall beyond the arena of domestic and international politics. And to promote collaboration and enhance security, information of emerging infectious diseases cannot be hidden or distorted but must be freely shared.

Thank you for your attention and I welcome your questions.

PANEL II: Discussion, Questions and Answers

CHAIRMAN WORTZEL: You must have timed that. That was perfect. I want to thank both of you for your testimony. We'll go around with questions. You might be interested to know, Dan, that the original first reporting cable on the Tiananmen massacre by Jim Huskey from the Embassy has been declassified now by the State Department, and it's available.

For those of you in the audience who have any doubts about the brutality of the Communist Party and the People's Liberation Army, you've got Jim's description of people being shot right on Tiananmen Square and armored personnel carriers running over people and crushing them on Tiananmen Square. So it was a brave thing he did to hang out there and have guys shot right around him, but not many eyewitnesses are around that can deny the Chinese propaganda.

The first set of questions comes from Commissioner Fiedler.

HEARING COCHAIR FIEDLER: I have a couple of questions. The SARS issue is one thing, and extremely important, but on a day-to-day basis, the HIV/AIDS epidemic and the squelching, the continued squelching of reporters and the actual jailing of some

activists who are trying to spread public information to curb the spread of the disease is a constant problem.

Do we see any improvement in that? I don't. I'm looking for indicators of improvement.

COLONEL PUSKA: It depends on how long a perspective you take on this. When AIDS first appeared in China, the reporting or the reaction to it was it was a foreigners' disease. It was not a Chinese disease, and they have come a long way in that regard.

Hu Jintao and the leadership has made an effort to show that these AIDS victims are human beings, but I think there's a tendency culturally as well as a fear of the disease that inhibits an ability to talk about methods to prevent the disease, and curb the spread of the disease. I think people are still sequestered. There's been very little change about whether or not they're a pariah in society, but it's a relative improvement if you look over a period of years.

MR. SOUTHERLAND: Yes, it's correct that it has a more high level profile, and there's an AIDS Day when it gets more attention in the Chinese media. But there's also a continuing cover-up, I believe, of the blood scandal.

HEARING COCHAIR FIEDLER: Blood transfusions.

MR. SOUTHERLAND: As in selling blood and then becoming infected from needles and so forth. This has been covered up, partly by collusion, I think, between the police and the local Henan Province authorities, and when activists try to talk about this, it's very difficult.

But I think it has received a higher profile. But the blood problem continues in other parts of the country now. So I haven't really been following that lately, but that's my impression.

COLONEL PUSKA: If I could just add one point. At the national level, they can always take a more positive stance on something, a more progressive stance, but there are always these variations that go down to the provincial and county level that can completely undermine and undo the best of intentions. I think that's what's happening in a number of cases like this.

HEARING COCHAIR FIEDLER: Thank you. I have a separate question on Xinjiang. The issue of Tibet gets covered more widely in the Western press than does the issue of Xinjiang and the Uyghurs.

I don't know that anybody can make a comparison whether they're shutting down Tibet more than Xinjiang or vice versa. Do we know whether Western journalists actually don't try to get to Xinjiang as often as they try to get, say, to Tibet? I don't have any expectation that Chinese domestic journalists will cover one or the other anymore.

The question really for us is whether or not Western journalists are allowed into Xinjiang on a more regular basis because we just don't hear that reporting? We don't see it.

MR. SOUTHERLAND: I think some Western journalists have managed to sort of try to break away from the official handlers. There are targeted trips where somebody wants to deliver a message and you meet the Party secretary or somebody, usually not him but somebody else. And then they try to break away at night and they get tailed by State Security, and that's become really serious now.

But there are examples I could show you -- we broke a story about a demonstration by 600 women in Hotan in southern Xinjiang where the Uyghurs are still in the majority, and they were protesting a ban on head scarves, torture of political prisoners and the death of a sort of wealthy Uyghur philanthropist who was helping political prisoners. Quite an amazing story. Peaceful protest. All these women.

We broke that story--it was March 23 this occurred. A couple of days later, we finally pieced it together. We got a police official to admit something happened. And we talked to people in hotels who were told to not let Uyghur women stay at their hotels if they were fleeing the police.

We pieced it together and a guy from another newspaper I just discovered, got in there a few days later and thank goodness he confirmed all the essentials of our story by talking with some Uyghurs. So I think Western journalists should get some credit for trying. The big basic problem with Xinjiang versus Tibet is they don't have a Dalai Lama; you know they have Rebiya Kadeer who is an extremely forceful person. I'm sure you've probably met her, and she highlights some of the abuses, a lot of the abuses, but it's simply in some ways something we're less familiar with, we have less background on.

I keep seeing mistakes in the Western media about history, both in Tibet and Xinjiang, and it drives me nuts, you know, because people don't seem to really give it that intensity they might give other parts of China, but I wouldn't blame Western journalists.

I think Nick Kristof made a couple of trips which were pretty interesting where monks were raging against the regime. I thought that his travel pretty extraordinary, but it's very controlled now, and you're going to have people on your tail, which it's amazing, sometimes you can shake them off.

HEARING COCHAIR FIEDLER: Thank you very much.

CHAIRMAN WORTZEL: Commissioner Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you. Thank you both for testifying. Dan, it's always wonderful to have you here.

MR. SOUTHERLAND: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Colonel Puska, welcome.

I'd like to get your thoughts the dilemma about the fact that for

public health, education is a critically important piece of a successful public health campaign. Commissioner Fiedler mentioned HIV/AIDS. If you're going to have a successful campaign against HIV/AIDS, you need to have a public information/public education aspect of it.

But if there is a crackdown on public information about the disease, about how the disease is transmitted or different aspects of the population that have it, how is there a balance there and how can NGOs be working there to try to address the HIV/AIDS epidemic?

MR. SOUTHERLAND: I would leave that to you.

COLONEL PUSKA: I think there's an inherent contradiction between the reality and what they're trying to do. There's a gap in the ability to provide health care throughout China. Their universal health care system, if you will, has broken down. It's devolved into a very vicious, capitalistic, pay-as-you-go kind of system which has excluded large segments of the population from any health care at all.

These are the populations who are most ignorant, most vulnerable to the spread of disease and the least likely to get that assistance. One of the things that I think NGOs, the United States, can do is to help build that capacity. This would not only improve the medical care throughout China, but also to help monitor disease. But there is a lack of capacity.

In the provinces when you don't understand something, you go down to the lowest level (i.e., non-scientific and counterproductive folk remedies). During the SARS crisis, when I was in Beijing, there were a lot of crazy things going on. People were wearing cotton masks. There was no way they could stop the virus. They were using solvents and vinegar to clean things and this was filling an information gap. This was before April.

This was filling a gap in, okay, let's do something; people knew something was going wrong. They said, well, let's clean things, and this continued even after April because I don't think they knew what else to do--well, part of the common sense response to SARS was your best defenses was just basic cleanliness and doing things that would not normally be done in China, like there were campaigns against spitting because this could spread the disease.

So people will fill in with effective or ineffective folk remedies and disinformation when the government is not there to provide any informed-guidance. That certainly happened with SARS.

VICE CHAIRMAN BARTHOLOMEW: Again, the issue of public education for prevention of HIV/AIDs, it's a critical component of it, but I'm having trouble understanding how one can structure a public education campaign when the government might have an interest in not allowing public information available, and the press is not involved in this.

MR. SOUTHERLAND: I think one of the problems is that the AIDS activists who become very prominent and who are good at explaining the greatest danger are actually in danger themselves.

VICE CHAIRMAN BARTHOLOMEW: Right.

MR. SOUTHERLAND: This guy Hu Jia who is in prison now has often been described as an AIDS activist but is also an activist in terms of communicating with dissidents and all sorts of other things.

That kind of person makes them very nervous. When somebody really stands up to the system and just brings out the worst case things, they can't take it.

There's also the case of Dr. Gao in Henan who couldn't go to get her Magsaysay Award because they just didn't want her to get too much attention, and so she's constantly monitored. I met her once. They're tapping her phone all the time and trying to just get her to shut up.

So the people who really might be best at explaining this in the NGO community may be the most silenced. On the other hand, I think there is some, much more in the way of education, but I can't document it because it's not something that I focus on.

I do think the trend has been generally toward more openness, keeping in mind that if anybody looks like they have any following or wide resonance on the worst part of this problem, they might be hammered.

VICE CHAIRMAN BARTHOLOMEW: Okay. Thank you.

CHAIRMAN WORTZEL: Commissioner Videnieks.

COMMISSIONER VIDENIEKS: Good morning. A question primarily to Mr. Southerland. How does Radio Free Asia compare to Radio Free Europe? And a follow-up question would be: is the line of reporting given by Radio Free Asia kind of like the official view or a reflection of U.S. policy? That's one.

The second is could you expand on your statement that apparently this blood transfusion problem as it relates to HIV/AIDS is taking place as we speak in other parts of the country.

MR. SOUTHERLAND: Let me take the easy part first. Because I'm not an expert on the AIDS and I think I'm getting too deep into this. My understanding is farther south in China, there are more cases, as our reporters have reported, but frankly that's not something I--if I knew this was coming, I would have gone back and gotten some translations. So I can't really speak with authority on that.

It's just amazing to me that it's not just Henan Province. It's actually popped up elsewhere. This is a way for peasants or farmers who are in trouble financially to make quick money, and so they fall into this trap again.

On the RFA, RFE/RL, they are like brother/sisters, but it's not

the Cold War model. There's not some hidden agenda where we're getting the official line from the government saying we ought to work behind the scenes to overthrow some government or something. We're not that arrogant; we're not that pretentious. We're trying to do good journalism.

I think it has a great benefit just to tell the truth and also to tell the truth about our own government and our own debates.

COMMISSIONER VIDENIEKS: Who is your audience over there?

MR. SOUTHERLAND: Let me just finish this part because this is kind of important. The Voice of America does a good job of explaining U.S. policy and debates about U.S. policy. We're focused on what's happening inside these closed countries, and we do stories that people can't ordinarily get from the domestic media, which is a wonderful assignment, especially when it comes to North Korea, let's say.

It's a very difficult mission because as I hinted earlier, just to get one of these Tibet stories or the Xinjiang story I mentioned, you have to keep making phone calls. We do have people who go into these regions as freelancers for reality checks, so we're not totally doing everything by telephone.

We had a video cameraman who went into Tibet and did a ten-part video series. He got into monasteries right after the crackdown started. He got in just under the radar. I don't know how he did it, but we've got the film. So we do have reality checks, but I'm straying a little bit from your main point. This is not the Cold War. We think the best thing we can do is get these stories out.

Some of the stories, as I say in my written testimony, that we have broken may never even reach the outside world, much less other Tibetans, because as you know Tibet is a huge region, and there's been a revolution in cell phones so one monastery can talk to another about their narrow issue or their upcoming demonstration, but what we're giving people is a chance to know what happened hundreds of miles from their village and so forth.

So it's a very noble mission. I don't know of many other governments that would do this without interference. We don't, I don't get calls from the State Department telling me what to do.

COMMISSIONER VIDENIEKS: But you are a government agency?

MR. SOUTHERLAND: No. We're set up as an NGO. We're a nonprofit. I'm glad you brought that up because I'm not speaking for the administration. I'm speaking just for the radio.

Now this has been the pattern with RFE/RL also. They were set up so that they could--and it's nice because if we make some

terrible mistake, the government can say we didn't. My great nightmare is that we would somehow incite unrest somewhere by our reporting, and I'm constantly preaching that is not our job; just report what the hell is happening. That's hard enough.

COMMISSIONER VIDENIEKS: Colonel, you want to add anything?

COLONEL PUSKA: I haven't looked closely at AIDS spreading through tainted blood, but I did look at it some time ago. You may know how this happened, that they sold peasants' blood--that is peasants were invited or coerced to sell blood, and then it was put into a big pot. After they took out the platelets, and then blood was returned to them. So it very quickly spread through Anhui Province and other places. It's been a serious problem.

I don't know that that the tainted blood problem has been adequately addressed. The military was also involved with this problem. Local governments were involved. So the corruption involved in that whole process was pretty severe.

COMMISSIONER VIDENIEKS: Thank you.

MR. SOUTHERLAND: Another problem is that the head of what I call the Propaganda Department--I think they still call it that in Chinese--but for foreigners, it's the Publicity Department now--Li Changchun, whom I have met twice when I was in China, when he was the Party Secretary in a province. He was in Henan Province when this blood scandal started coming out into the open, and I think part of the problem is that he controls a lot of information, and so he's got a vested interest in not having his own role exposed and his complicity in how this happened.

As I understand it, he has very close ties with public security. So that's quite a combination: propaganda plus public security. I'm sure there's a lot we don't know, in other words.

CHAIRMAN WORTZEL: Commissioner Brookes.

COMMISSIONER BROOKES: Thank you. Thank you both for your testimony today.

Mr. Southerland, Dan, I wanted to ask you a couple of questions about your recommendations, if that's okay. In your prepared testimony, you talk about support for legal and journalistic training work for Tibetans and Uyghurs. I was wondering how you thought that might be accomplished?

I was also wondering if you could expand a little bit on your suggestion that the U.S. government study Chinese nationalism and what the objective would be of that other, perhaps, more specifically than formulating policies and starting up a dialogue?

MR. SOUTHERLAND: The legal and journalistic training thought has occurred to me over the years because we've had to take

Tibetans who are school teachers and school superintendents and music teachers and very good people, but had no journalistic training. I realize you can't find many journalistically-trained Tibetans or Uyghurs. So the same was the case when we started up Uyghur broadcasting, which is very controversial and a difficult thing to do.

So the other thing I noticed was that there aren't many Tibetan lawyers. There's a handful that can deal with the existing Chinese law which has some pretty good stuff in it if they actually would adhere to their laws and you had lawyers who could keep highlighting this is in the Chinese law, you've got to give us this kind of autonomy you're talking about. It would help a lot, and then have a dialogue.

I also mentioned get them talking with Chinese. There are some things going on where specialists from both sides at mid-levels are actually talking on and off. I think the Chinese participants are a bit frightened at the moment to engage so that will take awhile until after the Olympics are over and we have a "safe Olympics," as they say.

But I think it would really be, there are resisting journalistic programs out there. InterNews is one that does this through AID, and I did a piece once for a think tank when I was on leave from the Washington Post on journalistic training and journalists in Asia and Central Asia and so forth, and discovered, you know, where are the Uyghurs, where are the Tibetans? They have real big issues, and it would be good if they could articulate these issues in ways that Chinese can understand and everybody can sort of agree on what the law is, because I think there's not a high awareness of what's actually in some of these laws.

COMMISSIONER BROOKES: Yes. I don't contest the idea. I was curious how do you do something like that?

MR. SOUTHERLAND: I think the programs are already out there, but it takes funding.

COMMISSIONER BROOKES: Do the Chinese allow participation?

MR. SOUTHERLAND: You'd have to do it outside.

COMMISSIONER BROOKES: And would they be allowed back in? That's the issue, I think; right?

MR. SOUTHERLAND: That's always an issue, but I think also having people who have that training on the outside would help because there is contact back and forth.

On the other issue--nationalism, we have distinguished people here, and I haven't read their testimony yet--Perry Link and Peter Gries. So my feeling is that we need to know more about what it's all about because there is this pride in the Olympics, which could be a very positive force, nationalistic force, and there's also this incredible

almost xenophobic reaction to things foreign and dwelling on the past inequities and humiliations of the late 19th century well into the 20th century. They're still talking about the Opium War a lot in their textbooks.

I understand this is a real issue, this almost atavistic feeling about Westerners interfering and so forth. But I'm not sure we are keeping up with it. It takes twists and turns, and I'm sure that the two distinguished professors will help you out on that so I don't want to go too deep into it. But I just think I wanted to end on that because I think it could end up tying the hands of both the Americans and the Chinese when it comes to dialogue if the emotions reach a very high level.

It might just be convenient to not do certain positive things because you don't want to be seen as weak vis-à-vis the United States or, vice versa, to be affected emotionally on this side.

Look at the way this stuff has spilled into the college campuses in the United States with the famous, infamous Duke case where one Chinese student decided maybe we ought to listen to the Tibetan students on campus, and suddenly her name was on an e-mail list and her family's home was trashed and the family had to flee, quite a brave young woman. I've read some of her stuff. It's very reasonable.

She's not for Tibetan independence, but I mean the whole idea of even listening to the Tibetans was considered like you're a traitor to your country; that was one of the things they wrote over a picture of her.

I think we need to be concerned about nationalism when it starts kind of coming into our country, when you see a mob descend on some Falun Gong guy in Flushing, New York. I have a witness to this.

He's just distributing his leaflets and suddenly there's a very nasty kind of mob pointing fingers at him. They didn't hit him fortunately, but you see what I'm saying. We've got to worry also about our campuses. How much is the Chinese government helping to pay for some of these counter demonstrations? I don't have a lot of documentation on that, but some of them are awfully well organized.

So I think the more we know, the better off we are. We don't want to be blind, and I wish we had even more experts like Perry Link and Peter Gries on this issue. I'm sorry about the length of my answer.

CHAIRMAN WORTZEL: Commissioner Shea.

COMMISSIONER SHEA: Yes. Thank you both for testifying today.

I just have a quick question for Mr. Southerland. Last year when you testified, you indicated, as you do in your written testimony this year, that RFA is heavily jammed trying to get into China. If I recall properly, you recommended last year that the U.S.

administration should raise the fact of this jamming at a high level with Chinese authorities, and if I recall again properly, your sense was that it had not been raised at a sufficiently high level to have any impact, and I was wondering if anything has transpired in the year since you testified in that area?

MR. SOUTHERLAND: As I said last year--I think it was Bill Baum from Voice of America actually who talked about this at some length, but I also contributed--our Board has made attempts to raise this on a regular basis with the State Council in China, with Chinese officials.

I'm not aware of any high level raising of the issue, but I'm not the expert on that. I think I would have to go back and get you an answer on what's happened there from the Board because that's not my job, but I do think it gets regularly mentioned every month in reports from the FCC to China, to the, I think it's the Chinese Ministry of Foreign Affairs.

The answer always comes back that, gosh, the airwaves are just over-congested. We've got, you know we're not intentionally causing any harm." I think that's in my testimony, but it's a very difficult issue. Can I have one more minute?

COMMISSIONER SHEA: Sure.

MR. SOUTHERLAND: I'm a little sensitive about that eight minutes.

COMMISSIONER SHEA: You've got three minutes and 13 seconds.

VICE CHAIRMAN BARTHOLOMEW: You're way too sensitive about it.

MR. SOUTHERLAND: I'm supposed to be an editor. I'm supposed to keep it tight. I pulled out a quote and I was waiting. You just gave me the perfect opportunity.

COMMISSIONER SHEA: Great.

MR. SOUTHERLAND: It has to do with how in Xinjiang and Tibet--I want to bring it back to that--how people despite the jamming are able to get the news and then disseminate it, so to speak, through respected people who will listen, be the listener for the village, because some people say, you know, this is all too sophisticated for me; I don't quite understand what this story is about."

So the elderly person who is respected will listen on a regular basis and then digest the information and tell 50 other people--we've actually done a survey of Tibetans. I think I said 1,600 people were surveyed, refugees, and there was a huge number who point to this information sharing that goes on, and, by the way, this is also the culture to a certain extent in Xinjiang, and I had this little quote here, which I like. Somebody just gave it to me.

This is from a Tibetan saying that, "It is true that the Chinese are jamming your programs in Tibet, particularly in the cities. It is somewhat hard to hear over the jamming. However, your programs reach your audience either directly or indirectly. Tibetans share what they hear from RFA and VOA. Sometimes it may not be clear, but that becomes clear later."

So there's an appreciation of the things we're up against. We even have stories, as I mentioned last year, of Tibetans who will leave Lhasa, which is jammed like crazy. I'm sure right now they've turned up the electricity with the torch. They're nervous about that. Will go outside the city, listen to us where it's clearer, come back and tell other people.

There's also a direct satellite, you know, our radio signal will go through satellite, and we have some nomads who have reported if you turn it the right way and you don't let the local Chinese guys know or you pay a bribe or something, you can get it off satellite. And then there's all the things we're trying to do with the Web, which is slowly catching on where people will take our stories, drop our logo, change a couple of key words that trigger the filtering system, and all of a sudden we're seeing our product come on some Uyghur social network Web, you know, coming back to us, and, hey, wait a minute, where's our logo?

Well, so what? They don't distort the story so--

COMMISSIONER SHEA: Thank you.

MR. SOUTHERLAND: --it's kind of a fun game, in a way, a cat and mouse game.

CHAIRMAN WORTZEL: I'll take a minute, if I may, and ask a couple of questions. During my second tour at the Embassy, we were actually able to document in Xinjiang incidents where Uyghurs had stopped jeeps with People's Liberation Army officers or their families and murdered them, beheaded them, staked the heads up on the side of the road.

So there was kind of an active resistance, almost a guerilla war going on in the far western parts of Xinjiang. But I haven't heard of any such things since the '60s in Tibet. And what struck me as I read through our own questions to you as panelists is, in a sense, the Chinese government hurts itself by withholding the information when there may be a real resistance movement that does terrorist like things because then when they crack down, nobody believes that they may have had reason to do it.

Colonel Puska, you followed me by two years or so, by '98. I was unable to monitor what went on out in that direction. I don't know if you found similar things going on, but that's the thrust of my question.

First of all, is there a difference between the way some Uyghurs are approaching the Han Chinese and the way the Tibetan population is? And if so, do these information controls really hurt the Chinese government in a sense when they might need to control a problem?

MR. SOUTHERLAND: Yes, because the incidents that they've talked about in the pre-Olympic period which are meant to show that there is a terrorist threat and so forth often, almost with maybe one exception, there's been very little convincing information. You'd think in the video age, you'd have a picture of these Uyghur terrorists and their weapons or something or captured Uyghurs.

This story about a gang right in the middle of Urumqi planning to sabotage the Olympics or something, and we called people in the apartment complex where they were picked up, and yes, there was some kind of a police raid. You know we were able to piece together the fact there was an incident, but it's not made believable.

I think they would benefit more from really bringing it out. My impression, and I'm no expert on this stuff--it's a very tough subject--is that whatever armed resistance there is in Xinjiang is very fragmented. The group that's talked about most is ETIM and this other group that I mention in my testimony.

They'd like to sort of link dissidents to these groups, but they're very shadowy groups, and I don't think personally that they're very large. I'm actually kind of amazed there isn't more resistance. You know a lot of Uyghurs have really been beaten down and are not about to cross the line over into that kind of militancy, and their form of Islam, I'm pretty convinced, is one of the more moderate. You know I'm getting really deep into dangerous territory here. Some Middle East expert can shoot me down. But the whole tradition has been more moderate, more tolerant.

In Tibet, in both places there are people who just kind of go crazy and kill a Chinese official. I mean I think we had an incident recently where someone did that because daughters were being taken out of a village and sent to factories on the east coast without--it was all arranged by local officials with factory people in China. I'm not saying it's--it's hard to believe it doesn't have State central guidance behind it. It's meant to give work to people, to improve the economy, but it's very much resented, and the Uyghurs ask why is it always young women?

I think there was one killing where somebody just shot a Chinese official and said, but I don't see large-scale movements in that direction. I think the worrisome thing is that the Dalai Lama who is counseling non-violence in Tibet, it's an open secret he doesn't control the Tibet Youth Congress.

It's ridiculous, as the government does, to try to link him to all these groups. I mean we talk to young Tibetans who say "Look, we've had seven rounds of talks or six rounds of talks with the Chinese. It produced nothing. It's getting us nowhere." And there's a kind of desperate--I tried to capture that in that quote I gave you earlier--a kind of desperate air to these marching to the Tibetan order in India and standing up. It's almost as though every monastery in Tibet feels like, or nunnery in Tibet feels, we've got to make a statement now. This is our chance.

And they walk out there. We're starting to get stories that some of them are wearing padded clothing. They know they'll be beaten up. I'm still trying to confirm that, but I keep hearing it.

The desperation can lead to more violence, and I think the Dalai Lama keeps saying that, and every time he says that I fear more violence, the Chinese turn around and say, you see, he's inciting people to violence. I mean they can't take yes for an answer. He says, "Yes, I agree just to autonomy." So that's another subject.

CHAIRMAN WORTZEL: Susan, do you have anything to add?

COLONEL PUSKA: I really feel that everybody's missed the stories in Tibet and Xinjiang several years ago, that is the Sinification in both places. There may be good news to report, but the Sinification of both areas has been quite severe. I visited Xinjiang several times between my first visit in 1989, and my last visit in 2003, so I looked at that province over a period of a decade, and the transformation is just incredible. Kashgar used to be a unique city; now it's a Chinese city.

And they were working all around the Tarim Basin to establish Han presence—basically , basically Sinifying each of the population areas around Xinjiang Basin.

In Tibet, it was the same story. I visited there I guess in the mid-'90s and then around 2002-2003, and the density of the Han population within Lhasa and then outside of Lhasa--I went all the way down into Nepal--it was mind-boggling. It was no longer the dominant Tibetan culture. As far as Lhasa was concerned, it was no longer really a Tibetan city. So how can you spin good news out of that?

I think they have been pursuing a plan for the sake of stability, and there may be some elements that you can report that are positive in Tibet and Xinjiang, but I think generally the pattern has been toward forced integration. Now it's aided by economic incentives, which have been more successful actually.

There's money to be made, and the local populations are being increasingly marginalized or they have to join. They don't really have a valid alternative. For people, integration is their only option. I think they feel a sense of desperation that has erupted in violence.

I remember talking to a family in Hetian on the southern border

of the Taklimakan Desert. It used to be a small town, but it was becoming a large Chinese city. The father of the family had saved up enough money to go on the Hajj, and when he came back, his wife went under the veil, and he pulled their kids out of school. That's also very threatening to the Chinese who are trying to maintain stability, so there are also two sides to this story that makes it very difficult for the Chinese to deal with these minority groups.

CHAIRMAN WORTZEL: I appreciate that. You both told the story of real policy failure, and it struck me for all of its problems, the Bumiputra policy in Malaysia if applied regionally in China might be an answer for them, but they're not going that way.

Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Thank you both for being here. It's been very helpful.

I want to come back to an issue I talked about earlier that I'm trying to understand. Mr. Southerland, when you pointed out that if the Chinese are interfering with what's going on on American campuses, we immediately say we don't want the Chinese intervening in America's internal affairs.

It's understood in international law that the basic principle is you don't intervene in the other countries internal affairs unless there's some kind of convention that he's signed that permits you to do that.

So one of our witnesses on the nationalism panel, Mr. Gries, says that his testimony, you know, Americans believe that their First Amendment rights, freedom of the press, speech, are very, very important, and it's in our DNA, and we value it immensely.

He says many Chinese do not share these American views. From what I can understand at least what he's saying, is that's not true in China. The average Chinese don't have this in their DNA.

MR. SOUTHERLAND: Right.

COMMISSIONER MULLOY: Okay. So then you get into the issue is how do we feel that we can be pushing these issues in China and intervening in their internal affairs? Now we may think it's good; I may think it's good. Maybe they don't. So it can cause a conflict.

In your testimony, you cite Article 19 of the Universal Declaration on Human Rights as a basis for doing what you're doing in your foreign broadcasting, et cetera. Then there's the debate on whether the Universal Declaration on Human Rights is international law or not or just hortatory.

What is the legal basis? If someone said give me a legal basis to justify our really pushing this freedom of the press and that sort of thing in China, what do I tell them?

MR. SOUTHERLAND: It's not just Article 19. It's also the whole U.N. system does have some fundamental principles that the

Chinese have signed up for. COMMISSIONER MULLOY: Do you have those and can you give us those in writing? That would be very helpful.

MR. SOUTHERLAND: Sure. Actually I was just talking with one of my colleagues the other day at how we really ought to compile some of this so that would be a good exercise for us to do that because I think, you know, that this is part of China's coming out, is that they have made certain deals with the rest of the world.

On the issue of "many Chinese," I swore to myself when I became a reporter over there not to use that term because there are so many Chinese and so many who are not in the cities who are usually the ones we have contact with, that I would disavow that, although I think Dr. Gries knows what he's talking about certainly.

But I was amazed when Tiananmen occurred. I had no idea what some of the Chinese, who were my acquaintances, were really thinking until Tiananmen occurred, and there was this brief period before the tanks moved in when people started speaking their mind, and it was a lot different, a lot of sympathy for these students who were calling for freedom of speech, one of the main issues, and transparency about corruption and more transparency.

The Chinese newspapers for a couple of days, and television, reported this stuff. These were journalists doing this. So there are always things below the surface in China that frankly I don't think we're great at detecting.

COMMISSIONER MULLOY: Yes.

MR. SOUTHERLAND: My radio happens to attract a lot of callers who do talk about these things and say please keep speaking up.

I think it's good to establish a record, I think it's partly the style in which you do it. You don't impugn the motives of all the people who are listening. You don't accuse them of having a certain attitude. You simply try to get at the truth. It's a kind of cleansing thing I believe. I'm kind of passionate about this.

But I take your question. I think we could do our homework better. In fact, it might be good to do a program about what China has committed to.

I don't frankly, we do find Chinese who do appreciate the fact that we bring these things to light, and even Chinese who appreciate the fact that we talk about Tibet and the real position of, let's say, the Dalai Lama.

COMMISSIONER MULLOY: Thank you. That would be enormously helpful.

MR. SOUTHERLAND: Okay. That would be helpful to us too because I should have done this a long time ago.

COMMISSIONER MULLOY: Thank you.

COLONEL PUSKA: I'd like to add something. I don't think it's true really to say that it's in our DNA and it's not in China's DNA. I think that a lot of Chinese people believe in freedom of speech and assembly. They may not use the same terms, but if you listen to them and their stories and their concerns, that's exactly what they're talking about.

They believe in those things. It's also in their constitution, so the government at some level, even though they have the Four Cardinal Principles which negates the rest of the constitution, they nonetheless have put down freedom of speech as a fundamental right that they aspire to.

So I think there are ways to communicate with them through our shared interests, but we have to get past the Four Cardinal Principles, which is the Communist Party's security blanket. It's a very insecure party. It's not as powerful as people would think. It's been around for 60 years, almost 60 years, leading China, which is long for one-party rule, but it's short if you're thinking in dynastic terms, and I think they're always thinking about whether or not the party is losing its power.

So that makes them unpredictable. They can be very pragmatic, but they can be very nervous and unpredictable and take offense easily on even something they believe in or at least they say they believe in.

COMMISSIONER MULLOY: Yes. Thank you.

MR. SOUTHERLAND: Commissioner, may I just add one brief word? I think we constantly have to look at the map of China and think about the people who are most articulately attacking, accusing foreigners of interfering. Many of these people are not farmers, they're not workers who are having trouble, the kind of people that our broadcaster, contract broadcaster Han Dongfang talks about with workers everyday on the phone.

They tell us they appreciate having their grievances come to light, and our job is not to sit there and tell them what to do or what to think about it, but just to say this is happening. So the majority of people in China are still farmers. Many of them have turned into migrant workers.

We tend to forget that. I mean your average tourist hits Shanghai, Xi'an, Beijing, a couple cities and comes back and tells me how open it is. And, you know, we can talk about anything. But there are lines, and I think it's important that these people's voices come out. There are a lot of voiceless people who are not attacking us for this. Try to keep that geography in mind.

COMMISSIONER MULLOY: Thank you both.

CHAIRMAN WORTZEL: Commissioner Fiedler.

HEARING COCHAIR FIEDLER: A couple of things we haven't talked about are the phenomenon of land seizure coverage and pollution, both of which arguably are products of economic development. You're plowing buildings under or taking people's buildings in order to build factories or new housing developments, and pollution certainly is a byproduct of economic development.

So it seems to me a problem that is not going away. Land seizures may diminish. Pollution certainly will not. So the coverage of pollution demonstrations, even the tactic, and the actually enviable tactic of walking the neighborhood as opposed to demonstrating in large numbers has not been covered.

Now pollution coverage is gaining, but civil society activity related to pollution is still largely uncovered in the Chinese media. Am I fair to say that?

MR. SOUTHERLAND: I think that is fair. Some very brave Chinese investigative reporters have done work. I can think of a couple who are in jail now for that. Their work has stood up very well. I don't want to make a sweeping statement about the coverage, but I think there have been a few small victories which are really worth watching. One is this incident in Xiamen where the citizens reacted against I think it was a chemical factory marched, but also using short messages and cell phones, they kind of outfoxed the police, and it became such a big deal that my recollection is the government had to back off on the project.

There was another incident in Shanghai where people similarly were using very quick messages, changing phone numbers and changing cell phones and so forth. Obviously, the government does try to seize cell phones in some of these cases, but this is one reason I bring up the lawyers because some of these people in these outlying areas, not just Shanghai, are getting some pretty good advice from very savvy Chinese, gutsy Chinese lawyers, one of whom just got roughed up the other day by State Security police, I guess it was, because he just simply wanted to go to Tiananmen Square on June 4 and pay his respects.

And he said, well, can I just drive around the square? And they said no, you're staying in your apartment. So I really have to tip my hat to these guys and they also work on the pollution issues. They're amazing Chinese most of us have never heard of.

HEARING COCHAIR FIEDLER: No, I wasn't trying to imply that individuals were not brave and that were pushing the envelope. What was I was trying to say is that the government is not accepting the pushing of the envelope in any systematic way. Even in the areas that are arguably in their interest to do.

MR. SOUTHERLAND: It's always been puzzling to me that,

and kind of this debate I have with myself, as to why they can't do more to control some of these really outrageous things that happen locally far from Beijing. I mean I mentioned the gangsters before. If journalists try to go in there, they can be really roughed up badly.

Pollution issues. You mentioned land seizures. That's a huge story for us because it's happening in so many different places, and the citizens will tell us the local media isn't going to cover this, so you're right about that. The land seizure problem is huge and not covered well.

HEARING COCHAIR FIEDLER: Thank you.

CHAIRMAN WORTZEL: As long as we're in a second round, let me ask a very short and direct question to you, Mr. Southerland. You talk about jamming of RFA. Have you experienced any cyber penetrations and cyber attacks against your network?

MR. SOUTHERLAND: I'd love to talk with you about this after this meeting.

CHAIRMAN WORTZEL: All right. We will.

MR. SOUTHERLAND: I don't particularly want to publicize anything for people who live to get publicity by doing this kind of stuff.

CHAIRMAN WORTZEL: Commissioner Brookes.

MR. SOUTHERLAND: I'm sorry to do that, but I'm really--

CHAIRMAN WORTZEL: It's fine.

MR. SOUTHERLAND: I knew something was coming from you. I was trying to dodge.

COMMISSIONER BROOKES: I open this up to the panel. Who else is broadcasting news about China into China besides RFA? Other countries? I know you mentioned in your testimony that Saudi Arabia was doing some broadcasting into Xinjiang, but on religious matters.

MR. SOUTHERLAND: Right.

COMMISSIONER BROOKES: But just in general. It doesn't have to be Tibet and Xinjiang, but just similar to what RFA is doing, broadcasting news about news on China into China.

MR. SOUTHERLAND: VOA does this to a certain extent. The BBC, although I think maybe they're cutting back on their shortwave broadcasting, which I think is regrettable because people still do have shortwave radios, and it's one way of reaching people.

The French, the Australians, everybody has some kind of China program. Nobody, very few do the kind of intense let's look at what you're not getting from the Chinese media everyday. That's kind of unusual in our case.

But VOA also does some of that and they also do, as I said earlier, they do the international stuff and the American foreign

policy. The Russians do some, but I'm very sure under the current Russian regime you're not going to hear much about land seizures, pollution, beating up of Tibetan monks, you know.

So people do Chinese broadcasting just because you've got to be a player. But what we do is pretty highly specialized, I would say, and yet broadly relevant.

COMMISSIONER BROOKES: Anybody else in particular have Tibetan or Uyghur services?

MR. SOUTHERLAND: The Voice of America has Tibetan. I think they do less than we do on the domestic and more on the other things, but it's pretty rare. I'm trying to think of who else--

VICE CHAIRMAN BARTHOLOMEW: The Norwegian. There's a private Norwegian--

MR. SOUTHERLAND: Yes, the Voice of Tibet. The Voice of Tibet. That's right. And to be honest with you, I don't know a lot about them, but they do break some stories because we get very annoyed when they get ahead of us on something.

COLONEL PUSKA: Do the Germans?

MR. SOUTHERLAND: The Germans, they do some Chinese broadcasting, but I do not think they do Tibetan. And Uyghur, I mean I think we're the only show frankly, which sometimes makes me very nervous because it's like a huge responsibility. I'd love to have a little competition.

VICE CHAIRMAN BARTHOLOMEW: Thank you and thanks again. It's always interesting to listen to you. I guess one comment and then a wrap-up question on my end. With all of the focus on the Olympics, I find myself quite concerned about what's going to happen after the Olympics, that any restraint that the Chinese government might be feeling on its crackdown in Tibet, and I'm not sure they're feeling any, but any potential restraint is gone after the Olympics and what can be done to make sure that people have access to information about what is going on?

I can envision a scenario where the Chinese go in and clean up everybody that they hadn't cleaned up prior to this because they knew that the world was watching. But the more general question actually for both of you is also to get to the issue of the impact here in the United States of these information controls.

Colonel Puska, your evocation of Poe I think is really important. These diseases don't have borders, and if the Chinese government is not allowing access to information about disease outbreaks, avian flu, anything like that, or if they delay access to information on that, we've also looked at product safety. What are the implications for the safety of products that people here in the United States are using if the Chinese government doesn't allow access to

journalists to see what's going on.

I'd like to hear any final observations that either of you might have. I think it's important for the American people to understand that freedom of information in someplace far away is not just something that has an impact on the people who are living there, but can have a very real impact on our lives, too.

MR. SOUTHERLAND: Just briefly on Tibet, I don't think the signs are too good because if you look at the one area where the Chinese have made a concession recently, agreeing to meet representatives of the Dalai Lama and then postponing it, saying they're too busy with the earthquake. China is a big country. They have a big Foreign Ministry. They have two guys who meet with these two Tibetan guys. I mean it's not going to take much to put together a meeting.

It's very insulting to say we'll meet and postpone it. This all seems to me to be an attempt to offset criticism on Tibet and to give a certain cover to those leaders who want to show up at the Olympic opening ceremonies, and I could be wrong. I hope I'm wrong because I think their best hope probably, and speaking for myself here--this is not an RFA editorial position--but I have spent a lot of time working on Tibet and studying it--the best hope is to get some kind of dialogue going with a Tibetan who is as moderate as the Dalai Lama is.

But he's constantly vilified at the same time they're offering these talks, and you look at the Tibetan Autonomous Region Web site, and you've got language still there that sounds like it comes from the Cultural Revolution, you know, the extreme, when they describe the Dalai Lama as "a jackal in monk's robes," and so forth.

That doesn't bode too well for talks. So I'm a little concerned that this is charade and that once the Olympics are over they'll probably talk some more but drag it out, and wait him out, you know. That seems to be their policy, wait till he passes away. But, I could be contradicted. I'm no Tibet expert.

But I see many of the same trends continuing in terms of control of information. It's just that they're extremely nervous now. Perhaps if they have a, quote, "safe Olympics," perhaps they can relax a bit more. But they're already rolling up Tibet. I mean the People's Armed Police, as Larry knows, built up a great deal after Tiananmen, and they have enough police to take care of any counterforce in Tibet. They have the guns. So I think we're going to see more of the same music being played after the Olympics.

COLONEL PUSKA: On the issue of information sharing, I think that this is a very difficult problem. I'm not very optimistic frankly, but I think that we just have to be persistent. I know this doesn't sound very sexy, you know, engagement is not sexy; diplomacy

is not very, you know, it's not very macho to be diplomatic.

But I do think you just have to be tenaciously persistent with the Chinese and continue to work with them and work with them and work with them and call them on things. They do demand respect, which complicates things. There is room for frank speaking, but there's always this issue of respect. So I'm not really sure how to work through that except it requires a much more nuanced approach than just carrots and sticks and preaching to them that you should do it this way, you should be like us.

I just think that's a nonstarter with the Chinese, and as they become more confident, which I think they will after the Olympics, I think that will be a threshold for them, a watershed moment, if you will, where they will feel like they have arrived, and they've arrived as a great power, but a great power has responsibility.

So I think that there are opportunities to appeal to their sense of responsibility and leadership. Whether or not the United States wants China to be a leader, I think they will be and we have to make room for them. We have to make them part of the solution rather than just always looking at them as the next problem.

CHAIRMAN WORTZEL: We all thank both of you for sharing your time and your thoughts and wisdom with us.

We'll close this panel out. We're going to break here until 12:30, when we open the next panel with Xiao Qiang and Ron Deibert.

Thanks again.

MR. SOUTHERLAND: Thanks.

CHAIRMAN WORTZEL: I appreciate it.

[Whereupon, at 11:45 a.m., the hearing recessed, to reconvene at 12:31 p.m., this same day.]

A F T E R N O O N S E S S I O N

PANEL III: ACCESS TO THE INTERNET AND THE PARTICIPATION OF U.S. AND WESTERN FIRMS IN CHINESE INTERNET CONTROLS

CHAIRMAN WORTZEL: Mr. Cochair.

HEARING COCHAIR FIEDLER: We will start roughly on time out of respect for our panelists and those in the audience who arrived on time.

Our next panel will discuss the means by which the Chinese State controls publicly-available content on the Internet and the role that U.S. firms may play in facilitating that control.

Mr. Xiao Qiang is a professional observer and commentator on

Chinese Internet, media and politics. He is the founder and editor-in-chief of the China Digital Times, an independent China news portal. He also directs the Berkeley China Internet Project.

Xiao studied physics in China and the U.S. and is a long-time human rights activist. He was the 2001 Recipient of the MacArthur Fellowship and is profiled in the book *Sole Purpose: 40 People Who Are Changing the World for the Better*.

I just want to know who thought there were 40?

Our second speaker, Ron Deibert, is Associate Professor of Political Science and Director of the Citizen Lab at the Munk Centre for International Studies at the University of Toronto.

The Citizen Lab is an interdisciplinary research and development hot house--somebody on our staff has accepted the Internet language--working at the intersection of the Internet and human rights. He is a cofounder and principal investigator of the Open Net Initiative, a research and advocacy project that examines Internet censorship and surveillance worldwide, and the Director of the Psiphon-- Censorship Circumvention Software Project.

I look forward to hearing from you both. Xiao Qiang, would you like to start?

**STATEMENT OF MR. XIAO QIANG, DIRECTOR, CHINA
INTERNET PROJECT, UNIVERSITY OF CALIFORNIA,
BERKELEY, CALIFORNIA**

MR. XIAO: Yes. Thank you, Mr. Chairman, and thank you for having me back again on this issue. This issue is not going away so I will keep on coming back. The Internet censorship, true, it's not going away in China, but it actually has been constantly developing, meaning that both the growth of Internet in China now--last year when I was here, China was second-largest Internet user in the world--now is the first, has surpassed United States this spring if you count Internet users technically defined by using, being online more than ten hours per week.

China now has more that number than the United States, plus the United States doesn't have much room to grow. Everybody is already online. And China still has a large room, 80 percent, to grow.

If we count in the cell phone usage, which China has more than 485 million cell phones, which went way beyond the urban areas, and more and more of those cell phones are connected to the Internet and sending text messages, so it's really an increasingly wired country, and its social and political impact cannot be underestimated.

In that context, the Internet censorship has also grown in a

more not only technologically sophisticated, but more political and regulatory regimes are more and more refined, more and more resourced to it.

So in today's testimony, I hope I can update some of those situations. In order to understand how the Chinese government controls the Internet, simply understanding the blocking part, the preventing information, that may not be the full picture. We have more and more knowledge about what Web sites they're blocking. We have more and more concrete information about what specific words, phrases they are filtering both domestically and internationally.

But we also need more and more understanding of essentially how and why they're controlling the Internet. They have often been misinterpreted as the Chinese government only cares about Tiananmen massacre, Taiwan independence or Tibet independence, which is true. These are the absolutely forbidden topics on the Chinese Internet.

But far beyond that, the scope of the contents the government is trying to control the Internet. For example, all the high leaders' names and their families'/relatives' names, are the key words, sensitive words on the Internet. If you search the brother-in-law of some Politburo official, you wouldn't get anything that you would think that the Internet would have any more information. No.

There's, of course, what we call the sudden incidents or collective actions, protests, that type of event, like violence on campus or the protesters, migrant workers demanding their salary back, unpaid salary and causing incidents. This type of information is still very tightly controlled on the Internet.

The savvy people will hear about it, and they will find somewhere, but the Internet police's job is to prevent that type of information propagating, becoming massively distributed.

Not only in the central level of the Propaganda Department and Internet monitoring agencies issue directives and interact with every level of the Web sites, decide what to block, what to prevent on a daily basis. On average, the Internet, one of the largest Chinese Internet portal executives once told me that on average, several times a day, three or four times a day, through cell phone or e-mail or text messages, instant messages telling them what to update, how to act on it.

But it's also--it's not only from the central above--every level of the government, you have a Propaganda Department. You have propaganda officials. Their job is particularly watching the Internet. If there is anything, negative information about their own Party Committee or their own leader or their own local government, something they want to prevent. So that gives out a far more larger monitoring, filtering human system.

I think now we're not talking about police who is more implementing those. We're talking about the Propaganda Department of every level of the Chinese Communist Party, which means the cities, the small cities, the large cities, the provinces, the districts, all the way to the townships. Yes, they care what's being said about them online, and they will report, they will reflect and they will coordinate. Therefore, it drives Chinese Internet companies crazy like how many directions they get that tell them to take this down and take that down and the system is still a very perplexed one.

I'm giving this general context to say to operate an Internet business in China, you're operating not only within a legally defined environment, there's regulators, this political censorship of every level that might come here to get you, to tell you what to not publish. That is a general environment that you're dealing with.

Therefore, for all the Internet companies operating in China, whether you're Chinese nationals or international corporations, the level of what they call the political sensitivity or government relations defense is quite high. They not only have to learn to play the game, to follow the rules, to do everything they need to do in order just to survive there, they also have to compete with each other for more markets, for more audience, for more Internet users, to attract more clients.

In order to do that, every once in awhile shutting down your server is not an answer. And that's how the Internet police deal with them. They'll give them warnings and they'll come to visit them very often after several times of warnings, sometimes very limited warnings. They simply just unplug, literally unplug your server until you clean up your information, the undesirable information from them.

So that's the general business environment they're operating, and there are Chinese domestic companies who play that game very well to have a lot of government trust, and to essentially proactively self-censorship far more than even the government wants them to do. That's the strategy. They don't care about the users complaining. While they care, it's political safety and the security. That's their business strategy to strive, therefore, put the other companies who do less so under the pressure, also have to catch up. And that is a very tricky and vicious political environment and censorship in China operating.

In my written testimony, I sort of lay out a few structures of it or different government agencies and Party organs. They all are playing a different function monitoring the Internet. I also mentioned the different sort of techniques or strategies being used. Intimidation is one.

Now you go to, I mentioned this in the last couple of years, but

now it's really become pervasive on the Chinese Internet, particularly the chat rooms, and the image of the virtual police are everywhere.

Virtually, there's two cartoon figures. They have different names from different regions, but essentially they're called Internet police, that shows up on your screen and just explicitly reminds you that Internet police is watching.

HEARING COCHAIR FIEDLER: I am going to have to be the Commission police for the moment and have you wrap up so we can get to the next witness.

MR. XIAO: Okay.

HEARING COCHAIR FIEDLER: Because we want to go into it in more depth with you in the questions.

MR. XIAO: Sure. So the direct intimidation, which is constantly reminding all the Internet users that the government is watching, is not an empty threat. It is an overall environment in the Chinese Internet.

Let me just conclude here.

**STATEMENT OF DR. RONALD J. DEIBERT
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DR. DEIBERT: Thank you. Mr. Chairman, distinguished members of the Commission, thank you very much for having me here.

My name is Ron Deibert. I'm the Director of the Citizen Lab at the University of Toronto, and I'm one of the founders and principal investigators of the Open Net Initiative, which is a collaborative project among the Citizen Lab and the universities of Harvard, Cambridge, Oxford, as well as numerous non-governmental organization partners worldwide.

The aim of the ONI is to document patterns of Internet censorship and surveillance across the globe. Since 2003 when the ONI started, we have produced 11 major country reports including two on China, produced the world's first truly global comparative study of Internet content filtering, and we are presently testing in over 70 countries.

For the last several months, our researchers within and outside China have been carefully investigating Internet content filtering, and we intend to issue a detailed report later this year.

In addition to being one of the core partners of the ONI, the Citizen Lab has also developed one of the world's leading software tools to help people get around Internet censorship called "psiphon."

A freely available and open source tool, psiphon has been used extensively to help citizens evade content filters and exercise their human rights of access to information and freedom of speech.

We are presently working on an enterprise version level of psiphon that will cater to the requirements of large organizations such as global media, thus facilitating access to information for journalists who will be covering the Olympic Games in Beijing later this year.

Like most countries that engage in Internet content filtering that the ONI has studied, China's censorship practices lack transparency and public accountability. Official acknowledgement of these practices has been inconsistent at best, deceitful at worst.

Our 2005 report described China as operating the most extensive, technologically sophisticated and broad-reaching system of Internet filtering in the world, and I believe that conclusion remains the same today. China employs a combination of technical, legal and social measures that are applied at a variety of access points and overseen by thousands of private and public personnel which together filter content sent through a range of communication methods.

Together, these measures create a matrix of soft and hard controls and induce a widespread climate of self-censorship.

Technical filtering mechanisms can be found at all levels of the Internet in China from the backbone to PCs located in Internet cafes. Although ISPs, Internet cafes and search engines can and do operate their own filtering technologies, all network traffic is subject to uniform system of filtering at three major international gateways located in Beijing, Shanghai and Guangzhou.

Our research has uncovered three forms of filtering at these international gateways: DNS tampering, keyword filtering, and IP blocking. In each case, users making requests for banned information receive an error message on their Web browser making it appear as if the information is not available or there is something wrong with their Internet connection.

In other words, users in China trying access banned content do not receive a blocked page as is customary in some other countries that censor the Internet.

Although the filtering system appears consistent and stable across time, the Chinese government has also demonstrated a propensity to use what we have called "just-in-time" blocking in response to special situations as they emerge.

For example, during demonstrations in Tibet, you've heard how China implemented blocks against YouTube and then lifted them subsequently. The Tibetan protests point to another newly sophisticated form of blocking: the use of distributed denial of service attacks. There have been charges that DDOS attacks against servers in

the West have their origins in mainland China.

These more offensive methods of denying access to information by effectively targeting and disabling the sources of information themselves are especially concerning because it is difficult to pinpoint the source of the attacks. Distinguishing the involvement of government officials from vigilantes is very difficult as the methods involved are dispersed and allow for a degree of plausible deniability.

Technical means of filtering are complemented by an extensive set of social and legal and regulatory measures. These tend to be vague and, generally written, offering wide scope for application and enforcement and uncertainty among users.

A few words on censorship circumvention. Given the matrix of controls and the climate of self-censorship it engenders, it is difficult to determine how effective the system of censorship is in preventing people from accessing and posting information. Generally speaking, citizens are very reluctant to openly challenge a system or discuss circumvention methods.

There are nonetheless a wide variety of tools and methods that citizens can and do use to evade content filters ranging from the very simple to the complex.

For example, there are numerous proxy services that are employed, but these can be technically challenging, insecure, slow, and unreliable. It is very common for proxy computers to be set up outside China and the connection information broadcast to citizens in some manner.

However, many of these services are unencrypted and so easily monitored and are set up by providers who are not personally known or trusted by the users, leaving them vulnerable to security forces. Additionally, they tend to be put on block lists, making them frustrating to use.

Our circumvention software, psiphon, is employed within private social networks of trust. Citizens outside of censored jurisdictions set up psiphon nodes on their home or office computers and then give the connection information privately to a few trusted friends or colleagues or family members. Since the connections between psiphon nodes and users are private and encrypted, and each psiphon node is separate from another, it is very difficult for authorities to track down and block.

The psiphon team has begun work on a new version of the service that is entirely Web-based meaning psiphon node operators need not download any software in order to set up a node for their own private social networks. The psiphon service takes care of that for them.

Even citizens within censored countries like China can then

potentially set up their own nodes through this new Web-based service.

Let me turn to corporate issues. With now the world's largest number of Internet users, there is an enormous market opportunity for Internet services and equipment in China and corporations from around the world have sought to gain a toehold. Doing so requires many difficult compromises, as authorities seek to control their services, to make sure they're consistent with government filtering policy or even seek to enlist their help to maintain and extend it.

Compliance with local government policies can generate intense public criticism at home. Among other things, choosing not to comply can involve a whole host of other difficult measures.

My colleague at the Citizen Lab, Nart Villeneuve, has just today, in fact, released a very exhaustive survey that looks at the search engine, the filtering practices of major U.S. search engines, and in that analysis, he shows definitively that these search engines actually remove search requests of their own accord.

In other words, it appears that they're not given a list by the Chinese government, and they're not very transparent about it. They don't notify users about this except in rare circumstances and, in fact, their transparency has declined over the last couple of years.

Can I quickly get in my recommendations; would that be okay?

HEARING COCHAIR FIEDLER: Yes.

DR. DEIBERT: Recommendations for the U.S. government:

First, encourage and support the multi-stakeholder initiative to protect and promote privacy and free expression worldwide. A number of my colleagues are involved in this initiative and I support it. I believe it's the most effective measure the U.S. government can take.

At the same time, industry self-regulation can only be successful if significant changes occur and corporate practices evolve towards desirable ends. And after looking at the research of my colleague, I'm not so sure that is the case.

Second, I think it's very important to support independent monitoring efforts like those of the Open Net Initiative. The monitoring of the Open Net Initiative is essential in order to provide an unbiased and empirically grounded picture of State censorship surveillance and information warfare practices around the world.

It's also very important to ensure that corporations are not backsliding in the pledges that they make.

Third, I think it's very important to support continued research and development in areas that empower users. There have been many software tools developed to evade government censors over the years, but these tend to lack financial and other support, and many of them become obsolete and insecure.

I think it's very important that the U.S. government find a way,

along with others, to support these initiatives to ensure that technologies are developed that protect and support human rights rather than detract from them.

Finally, I would suggest and recommend that the United States initiate a global multilateral effort to address Internet censorship concerns and protect the net. And all of these concerns point to the importance of being consistent in U.S. policy, both domestically and internationally.

For example, far too often attention is paid to violators of human rights that happen to be adversaries of the United States while other countries with similar policies escape censure.

Likewise, criticism of China's vast censorship surveillance and infowar practices ring hollow in light of revelations of extralegal surveillance occurring here in the United States or information warfare practices that propose to take and fight the War on Terror to the Internet.

I'll conclude there. Thank you very much.
[The statement follows:]¹

**Prepared Statement of Dr. Ronald J. Deibert
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PANEL III: Discussion, Questions and Answers

HEARING COCHAIR FIEDLER: Thank you very much. Let me ask the first question. Let's divide this between hardware, software and search engine companies. To what extent is Chinese Internet censorship enabled by U.S. hardware, i.e., would it not be as possible without our hardware? Would it not be as possible without our software? And I think it's a separate issue of the self-censorship and the filtering process of search engines.

Let's just deal with the first two parts, the hardware/software U.S. company involvement. Because there's a lot of rhetoric about it and not a lot of factual information. What's your judgment and whatever facts you have to offer? Xiao Qiang first or--

MR. XIAO: Well, early '90s, mid-'90s, when China is starting to build up the initiative called Golden Shield Project, which essentially is the Golden Shield Project, is basically conducted by the Ministry of Public Security for their so-called information security projects.

¹ [Click here to read the prepared statement of Dr. Ronald J. Deibert](#)

The Great Firewall is part of that project. In the '90s, the hardware and software, what they did is they contracted to Chinese companies, of course, because these are the national secret security projects, but these Chinese companies who all basically have utilized or imported the technologies, software and hardware, from the United States.

At the same time, the Chinese government has designated enormous research budget to several leading Chinese universities to develop the technologies on the censorship, monitoring surveillances.

One of those leading universities was Harbin, used to be called Harbin Industrial University, which is one of China's leading research institutes for national defense. Their computer department, information department, the head of it, who led this whole research project in the '90s, apparently made a great push to develop hardware and software. But now in 2008, I would say China has capacity in terms of developing in those areas. The hardware and the software probably do not even need the U.S. technologies.

HEARING COCHAIR FIEDLER: Dr. Deibert.

DR. DEIBERT: You asked about factual information. Part of the problem here is that factual information is hard to come by because the companies themselves have been less than forthcoming about all of this.

It's well known that Cisco supplies the routers for the backbone. Cisco has taken the position in front of hearings that they're not morally responsible for how the technologies they sell are employed by the Chinese government. So you can make of that what you will.

However, there was recently, and I mentioned this in my testimony, a leaked Cisco presentation that showed I think quite convincingly that they saw the political filtering that was going on as a market opportunity.

But you raise an important question. That's are there other companies that can be providing these services? Is there a domestic Chinese market for these services? Of course there is. I think it's obvious that this market is open to a variety of different companies, and there is a very vibrant domestic telecommunication sector in China.

The search engines, the software, that's another question, as you say.

HEARING COCHAIR FIEDLER: Yes. I want to leave that question to somebody else. Or a second round. The real question is are we responsible, we meaning American companies, responsible in any way for the Great Firewall on a continuing basis, and is it necessary to have us?

I'm hearing from you, Xiao Qiang, that the answer is no probably today. Yet, the backbone system on the routers may be. In other words, our routers are the best routers built.

MR. XIAO: I don't have a definite knowledge to say completely no. I know China made a lot of progress and effort to develop its own hardware and software. I don't have complete knowledge to say they can be entirely independent to develop, to do this.

HEARING COCHAIR FIEDLER: Okay.

DR. DEIBERT: I would agree with that.

HEARING COCHAIR FIEDLER: So they still need us. I've run out of time.

VICE CHAIRMAN BARTHOLOMEW: Thanks. I'll pick up on that line of questioning, but I want to start out first by thanking both of you, not only for appearing today but for the work that you do.

You give us hope that the promise of the Internet, the promise of free access to information is something that the community of creators of this technology have not forgotten.

DR. DEIBERT: Thank you.

VICE CHAIRMAN BARTHOLOMEW: And that's a really, really important thing. So thank you very much.

DR. DEIBERT: Thank you.

VICE CHAIRMAN BARTHOLOMEW: And then personally I also want to congratulate Xiao who just told me that his baby daughter was born two-and-a-half months ago. So congratulations. Unfortunately, he didn't bring any pictures.

Let me ask a follow up on what Commissioner Fiedler was asking by asking it in a slightly different way. Would the Chinese government be as successful in its actions to censor the Internet without access to U.S. technology, equipment and services?

MR. XIAO: Let me just reiterate this. The Internet technology, surveillance or censorship and filtering, it's a constantly developing area. Nobody can stay entirely isolated to develop this. Even China now has much more technological capacity, they have to be constantly in open field to interact with the development of the field; therefore, their technology can be actually useful.

So from that light, I would say the Chinese government cannot be self-sufficient to control the Internet because they have to rely and learn from and interact with how the technology in general developed outside. So just from that standpoint alone, I would say that U.S. technology companies will play always a role in that area.

VICE CHAIRMAN BARTHOLOMEW: Dr. Deibert.

DR. DEIBERT: The way I would answer that is by saying that you could look at Cisco's own advertisements. They're the world's

leading manufacturing of network routers and so to answer that question, well, probably not. They probably couldn't do it as well because they're using the very best technology. That doesn't mean that they couldn't develop or are not developing their own technology.

I'm sure that that's going on. We know it's going on in terms of filtering software. There are many U.S.-based filtering software products that are used all over the world by regimes that violate human rights. They actually get much less attention.

As far as I know they're not used in China, but I do know of Chinese filtering and software products that have been developed in China that are used in Internet cafes and in hotels and so forth.

VICE CHAIRMAN BARTHOLOMEW: Okay. And then the second question that I have is are you seeing increased activity? I'm just wondering how the Chinese government is going to handle the Olympics and the tens of thousands of people coming into Beijing who are used to being able to access the Internet easily, freely, and how they're planning on filtering or dealing with all of this influx of people and the flow of information?

Are you seeing evidence of actions being undertaken?

MR. XIAO: The increasing of technological filtering is true. We have to understand this in the sort of political purpose of controlling the Internet. Here is an example. When the Tibet just happened, uprising emerged, for the first week, it's clear the Internet filtering technically was increasing because much more sensitive words that will trigger, either close down your browser or even monitoring your e-mails.

China's Internet servers become obviously slower and easy to trigger those reactions in the first week of the Tibet, which means at a Great Firewall level, and then probably on every different network server's level, they add a lot more sensitive key words and add a lot of filtering computing power to it.

But later on, after a week, they actually took that, made that less, because they realized the rising nationalistic response to the outside critics actually helps the government. They led the Chinese Internet users to use Internet, organize and to respond to the Internet international criticism. So politically the government felt that let this go. The Tibet as a word, no more a sensitive word. They selectively, strategically left an opening.

So what I'm saying is it depends on the political purpose of it. They sometimes have more; sometimes they have less of this control. But they pay a price if they really want to add the detailed controls. But the technological capacity is there and it's demonstrated. Yes.

DR. DEIBERT: I think someone earlier mentioned that Beijing is contractually obliged to the IOC to provide free Internet access for

journalists who will be there, and there are somewhere around 30,000 that are accredited. So there's a great deal of speculation as to whether or how this will be implemented.

As far as I can tell, most people expect that there will be a rolling back of filters to English language content and a maintenance or even an increase of filtering to Chinese language equivalents. So you can see some of that happening already with the BBC English language news being unfiltered--while the Chinese language is still filtered.

Other people have talked about assigning a block of IP addresses to journalists that the filters would ignore. That's technically feasible, but at the same time I can't understand practically how that would work, especially if journalists are traveling throughout the country. So we've been working at the Citizen Lab with a number of media organizations quietly setting them up with psiphon accounts so that they'll be able to access and post freely while they're traveling within China.

After the Olympics, my guess is that things will return to the status quo ante. That's a guess.

HEARING COCHAIR FIEDLER: Chairman Wortzel.

CHAIRMAN WORTZEL: Gentlemen, thank you for being here and for your testimony.

First of all, if you could do it quickly, Dr. Deibert—, I would like to hear from you what you mean when you talk about information warfare because it's kind of a term of art for folks in the military.

DR. DEIBERT: Right.

CHAIRMAN WORTZEL: But what do you mean by it? And if you can discuss the formal government supported and directed practices of information warfare that you see coming out of China?

And then for both of you, if you're able to comment on it, Dan Southerland in his written testimony talks about the distribution of the current main line what may or may not be discussed by the Propaganda Department. Both of you have talked about some form of distribution of what has to be filtered at various levels.

So hotels get it obviously. Some businesses get it. Newspapers get it. Internet cafes get it. Who's doing it? Who's controlling and making up this list? And technically, is this the third department of the People's Liberation Army? Is this some agency of the Ministry of State Security? Is it part of the Public Security Bureau with the Propaganda Department? Just how much do we know about that stuff?

DR. DEIBERT: To answer the first question on information warfare, this is a broad term that covers a wide range of practices from psychological operations to computer network attacks, and here I'm

talking specifically about computer network attacks, and as I mention in my testimony, there have been a lot of charges of attacks coming from mainland China to servers in the United States, government servers, media servers, servers of human rights organizations.

The problem with these type of attacks is that they're very difficult to determine where they originate and who is responsible for them because of the methods that are used to implement them, taking over distributed computers and using them to launch attacks.

For example, in Estonia, recently you may have heard that when a government statue was moved, there was a major electronic assault on the Estonian infrastructure. To this day, researchers, and I'm one of them, who have studied that, talked to people, looked at the evidence, are not certain from where this attack comes. Is it the Russian government? Is it patriotic hackers in Russia or some combination?

There's a lot of evidence to point to all different sorts of conclusions, and I think the same could be said with respect to China, but I think it's very important for us to focus on this because this is a very serious emerging problem that I think is going to become more prominent in the future, and I think this is one area where the U.S. government could actually take the lead and begin thinking about what I would call arms control in cyberspace.

How do you begin to restrain governments from either supporting or using these methods? And that will require, I think, some self-examination as well because frankly the United States leads the pack when it comes to developing these sorts of practices and techniques and tools.

Qiang.

MR. XIAO: Let me turn to answer the question of the distribution, who's controlling it, you know the Internet becoming this sort of alternative media space in China. The advantage of it, we all know and are excited about it, was because the entrance level is so level. Anybody can just publish something sometimes without your own identity and names with very little political risk in that sense as long as you're online.

Another reason is for distribution, meaning it's not just a single publishing platform. It's actually an overlapping, very redundant network structure that the same kind of information can be distributed from various different channels.

If you block here, they can go through there. If this information is being deleted, but it's already been copied and distributed in other parts. So that kind of network technology structure makes the absolute control of information on the Internet very hard.

One of the consequences is it's in China, is that politically for all level of the officials, China doesn't have election, so the officials entirely--they're only being held accountable to their bosses to above. But reputation to them counts. If there is anything negative to their work and their territory, whether they're political enemy or whether they're a real disaster or real corruption, and it affects their positions.

Therefore, they care a great deal about what's being said about them on the Internet, whether on the cell phones or on the Internet. So it turned out that people who cared the most about online contents are the different levels of officials; therefore, they designated that to their publicity department, their propaganda departments. They are the most energetic and sort of self-starters to watching what's on the Internet.

CHAIRMAN WORTZEL: And you mean the Central Party?

MR. XIAO: No, I mean every level. I mean from the--

CHAIRMAN WORTZEL: Oh, the whole host of Propaganda Department--

MR. XIAO: --system. That's right.

CHAIRMAN WORTZEL: --throughout the government and the Party.

MR. XIAO: Right. Yes, but with their own interests. Right, yes. Watching their particular issues and names. So it's very vast and overlapping and disturbing.

CHAIRMAN WORTZEL: Can I follow that up a second?

HEARING COCHAIR FIEDLER: Sure.

CHAIRMAN WORTZEL: Just to follow this because maybe some people in the audience that may read this don't quite understand that. But let's just take a city. Each of the hotels is going to have a propaganda section or department. The universities and the colleges are going to have their departments and within that system, there's a line of communication is what you're saying?

MR. XIAO: Well, take a city. A city has a propaganda department which--English name is called Information Department these days--it's all the same. The Chinese name is still Propaganda Department. Their job is the image of the city. So they couldn't care less about whether somebody says Tibet independence or not on the Internet. That's some other Internet police will catch it.

But they care who attacked the city Party officials, who said if the city, let's say, has a chemical factory leak or something. They care a great deal about how that event is being reported and reflected online because it directly affects them.

So they will, they can use the local Internet services trying to filter those words, but they usually don't have a capacity to do the national ban. They have to report to above.

HEARING COCHAIR FIEDLER: Thank you.

We have Commissioner Brookes.

COMMISSIONER BROOKES: Thank you very much and thank you for your testimony today.

I was curious, Dr. Deibert, about your psiphon program. When you gave a brief description of it, you talked about encryption and nodes and things along that line. I need to understand a little bit more about how it works, but it jumped out at me that if the Chinese were monitoring the Internet and they saw encrypted traffic that it might raise interest in that traffic.

Also on this issue, would this sort of software be available to anyone? In other words, my concern might be law enforcement issues or national security issues as well regarding the United States, certainly outside of China.

Thank you.

DR. DEIBERT: Thank you.

First of all, there are two different versions of psiphon that exist. The one that most people refer to is the one that's a free and open source version that's been out there for about a year and a half now. That software system works by having someone in an uncensored country like say Canada or the United States download psiphon on their home computer and then they give the connection information to that node to a few trusted friends or family members, and the connection information consists of the IP address of that node and the unique user name and password.

Instead of trying to access banned information directly, they connect to the psiphon-enabled computer which goes out and retrieves it for them and sends it back. And all of that happens over an encrypted connection, as you point out.

Now, the question of whether this raises alarm bells is a good one. However, in a country like China, especially, there is so much encrypted traffic on a daily basis, from the perspective of anyone monitoring, all they would be able to see is that an IP address in Shanghai is connecting to an IP address in Toronto or in Washington, D.C., which presumably happens a lot.

Without really restricting the activities of foreign corporations, news and so on in such a wholesale manner, there's very little that the Chinese government can do to restrict that type of https connection. It would be very costly for economic reasons.

The new service which we're working on now which is in the development stage, I would say, although we're working with a lot of organizations and would deploy this worldwide--it's been used within China, Burma, elsewhere to help get information out--in this new version, the psiphon service controls the nodes itself and assigns them to organizations who manage it through a Web-based interface,

meaning there is no software to download for anyone. We take care of that for them.

It's also more sophisticated in terms of accessing content that's Web 2.0, so for example, you can look at YouTube videos and access g-mail in ways that you couldn't with the other type of service.

I should point out that there are many other technologies like psiphon that some are better, some are perhaps less effective, they do different things. I feel very strongly that this is an area that should be encouraged because there are a lot of smart people around the world who come up with ingenious ways to get around this type of problem, and most of these are small grass-roots organizations.

I don't think there has ever been an effort at a high professional level to mount something like this, and that's what we're trying to do with psiphon is raise the bar on this type of technological development, take it to the next level, and really put forth a challenge to systems like the Great Firewall.

HEARING COCHAIR FIEDLER: Thank you.

Commissioner Brookes, are you done?

COMMISSIONER BROOKES: Yes.

HEARING COCHAIR FIEDLER: Okay. Commissioner Reinsch.

COMMISSIONER REINSCH: Thank you.

Dr. Deibert, I'd like to pursue a little bit the multi-stakeholder initiative that you mentioned in your testimony. Could you tell us a bit more about what it is addressing, to the extent you feel you can comment, the state of the discussions that are going on right now including if and when you think there might be a conclusion, and I believe you said in your oral statement that probably the most useful thing the government can do is encourage the completion of this project, if I understood you correctly.

So I want you to tell me if I'm right about what you said, and then perhaps say a few words about how the government might best encourage that to happen.

DR. DEIBERT: Thank you. Well, I should point out, first of all, that the multi-stakeholder initiative is a process that the Open Net Initiative is involved in, and mostly my partners at the Berkman Center for Internet and Society at Harvard Law School have been shepherding that process.

COMMISSIONER REINSCH: Right. But you're here and they're not.

DR. DEIBERT: I'm here and they're not. I'm not directly involved in the process though. I want to make that clear. So I don't have any inside knowledge that I can give to you.

From what I understand, the purpose of this process is to have

U.S. and other corporations come together with academics, with human rights organizations, with stakeholders, to discuss the challenges that I talked about in my testimony and that are well known when it comes to operating in restrictive environments like China.

What are the different considerations companies should take into account when they are asked to turn over data such as what happened with Yahoo leading to the arrest and sentencing to ten years of a Chinese journalist? How can that be prevented? What type of things can we suggest?

And from what I understand, the process is supposed to come forth with some kind of report near the end of this year. That's all I know about it. I know that there have been some problems with some companies not being involved in the process, Cisco, in particular, I think, and so it would be important to encourage companies to get involved.

I think this is a way to have everyone, even competitors, speak openly about the challenges that are going on. But like I said in my testimony--I guess you sense maybe I'm a bit ambivalent about it--I don't think it should go on forever, especially if there's backsliding. And our research has shown that there is actually a lot of backsliding going on among the very corporations who are involved in this process.

And that also points to the importance of having independent monitoring. If we are going to go the route of corporate self-regulation, there needs to be an independent monitoring effort to verify that they're doing what they say they are doing. Otherwise, maybe legislative measures are the way to go.

COMMISSIONER REINSCH: It was my understanding that that was one of the issues that's under discussion, independent monitoring or what kind of monitoring is appropriate.

DR. DEIBERT: Right.

COMMISSIONER REINSCH: Okay. I think I'll stop there this time. Thank you.

HEARING COCHAIR FIEDLER: Commissioner Videnieks.

COMMISSIONER VIDENIEKS: A couple of questions for both of you. We had a panelist earlier in the day say that PRC ranks the top five or bottom five, whatever way you look at it, as far as freedom of the press is concerned, negatively. Are there similar numbers out with respect to Internet freedom? That's one question.

Another question is does mere monitoring and internal surveillance--information warfare was mentioned--constitute an act of war? Those are my questions.

DR. DEIBERT: That's a very good question, and it's one that we take very seriously obviously as an organization that has probably

close to 100 researchers testing in close to I think over 70 countries right now as we speak. A lot of these countries don't take kindly to the idea of people running the type of software tools that we run in these countries, which involve a series of network interrogation techniques that surely could be construed as espionage.

So we are very careful in terms of protecting the security of the researchers who work for us, and you know in places where the law is arbitrarily applied, certainly this could be interpreted that way, and we have to be very careful about the research that we do.

In terms of ranking, we always get asked this question. In our last report, we had test results from 40 countries. We found evidence of content filtering in 26 of them. I expect that number will be much higher once we finish all our testing later this year, but ranking is very difficult because you're comparing apples and oranges.

You have countries who target mostly pornography, other countries target political opposition movements. Some countries target a lot of content in one content area but nothing else, while other countries try to be very comprehensive.

What we did is we developed a criteria that puts countries in terms of pervasive, substantial, selective and so on, and certainly China falls within the pervasive category, and there are probably about six countries that I would include in that category.

COMMISSIONER VIDENIEKS: Well, as far as whether monitoring or surveillance of domestic activity, that could be by some to be considered as having international applications.

DR. DEIBERT: The surveillance they do has--

COMMISSIONER VIDENIEKS: Yes, domestic surveillance.

DR. DEIBERT: Yes, could have international--

COMMISSIONER VIDENIEKS: Interpretation by surrounding states or affected states?

DR. DEIBERT: If I understand the question correctly, there is a big issue around whether Chinese technology will be exported or Chinese practices will affect neighboring countries, and one of the things that we've been trying to document is what we call upstream filtering, and the same could apply to the surveillance obviously where countries that get their connectivity through China could be affected by the Chinese filtering system.

So throughout central Asia, we tested for that, and the last realm of testing, we could find no evidence of that, but it's certainly a possibility in the future that these regional telecommunication providers could act as a service provider, if you will, for the filtering practices of states down the line. And that gives those states down the line a bit of plausible deniability too. Oh, it's not us, you know, it's where we're buying our connectivity from.

COMMISSIONER VIDENIEKS: Sir, do you have a comment?

MR. XIAO: Yes. On this issue of upstream filtering, actually there are cases happening before in Hong Kong where sometimes the Internet information goes through China and connect, in Thailand, even in--there was a case in the Sri Lanka--which these are all the test cases when I was running human rights in China, the organizational site being blocked.

Interestingly enough, it's now being accessed by those places through a suiter [?] network, not all the networks, because they all route their information to go through China to some point. So that case exists. I just don't know how large a scale it is in those systematic examples, but I know that phenomenon exists.

COMMISSIONER VIDENIEKS: Thank you. Thank you, both.

HEARING COCHAIR FIEDLER: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Thank you both for being here.

I want to pick up in the area that Commissioner Videnieks was just talking about, which is focused mainly on page ten of your testimony, Dr. Deibert.

I read that book *The China Fantasy* by Jim Mann. Is that part of the argument to get China into the WTO was that we were going to help human rights and Internet freedom and all kinds of things in China. And then they developed the capacity to kind of filter the Internet, and now the idea is, okay, well, then we better stop our companies from selling them the equipment.

But it seems to me that's a fantasy as well because when the companies are investing so much in China and building their indigenous capacity for high tech, which is going on in a very fast rate, and our universities are educating the top Chinese students who are increasingly going home, they don't leave this knowledge behind when they go home, so they're learning. So all that is being built by us in China.

And if they want to control the Internet, they're going to do it whether we sell them the stuff or not. Believe me, I think that's where we're all headed.

So it seems to me the issue that you raise on page ten is that we ought to be pushing an international effort here. You say it's urgent that we initiate a global multilateral, multi-stakeholder effort to address freedom of speech, access to information, privacy online, protect the net.

Is there any evidence that anyone in the U.S. government is thinking of that as a major strong international effort that we ought to pursue?

DR. DEIBERT: That's a good question. There are various

organizations, and you've heard from some of them, whether you include them as part of the U.S. government or not--Radio Free Asia, Voice of America and others-- actively encourage and support access to information, freedom of speech.

The U.S. government has, of course, been involved in processes around Internet governance at the World Summit of the Information Society. My problem with that forum is it has been mostly narrowly focused on issues around governance at almost a technical level having to do with domain names and so forth, whereas what I see is something much more comprehensive, and that's taking the lead and laying out why it is so important for citizens in this country and in my country, Canada and all around the world, in light of all of the problems that we face together on this planet to have a shared medium of communication through which we can all communicate freely as a baseline.

I haven't heard any government frankly take the lead in this area, but like I said in my testimony, if a government is going to take the lead, it has to be consistent then, and I think the problem for those of us who are observers of the United States--I'm not a citizen of this country--is that we see criticism directed at certain countries, not others, and we see the same type of things going on in this country that are being criticized elsewhere.

So if the United States is going to take the lead, I think, it needs to be consistent and take the moral high ground.

COMMISSIONER MULLOY: Mr. Xiao, do you think that what he's advocating has merit, such a multilateral effort?

MR. XIAO: I certainly hope that it will happen, but right now I see the trend is going the other direction, which is China has increasingly influence on the Internet governance and those issues. Therefore, what's being practiced in China on information censorship, as I mentioned before, that increasingly becomes certain pattern that exports to other states, both technically and also the political, legal ways to control it. So in this case, I see a more divided, yes, Internet.

DR. DEIBERT: If I could just quickly respond to that as well. I completely agree the trend is in the other direction right now. There are many more countries than China that filter Internet. When we started our research in 2003, there were only a handful of countries we were looking at.

As I mentioned, now we're testing in 71 countries. I expect the number will be around 40 or so that engage in some sort of Internet filtering. That's government directed filtering of content. You also have private corporations now that are involved and intervene in the Internet, throttling traffic for all sorts of reasons.

So the paradigm of the Internet is changing before our eyes, and I think this is why it's an urgent matter, not just with respect to

China, but worldwide.

COMMISSIONER MULLOY: Thank you very much.

HEARING COCHAIR FIEDLER: Vice Chairman Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you very much, and thank you again for bringing these important points forth.

Perhaps because I worked for Ms. Pelosi for 16 years and was privileged to be associated with northern California and everything that was going on there with the development of the Internet and freedom of information, it just really stands out as something that needs to be done.

I have three questions. First, in terms of these multi-stakeholder talks, Xiao, when was the first time that you testified in front of us, this Commission?

MR. XIAO: 2005.

VICE CHAIRMAN BARTHOLOMEW: So for at least the last three years, we've been talking about these multi-stakeholder talks, and as the talks go on, the situation on the ground continues or moves on. So I would really just like to emphasize the importance of there being some sort of successful conclusion to these talks.

They can't, as you said, Dr. Deibert, go on indefinitely. Otherwise, they essentially become meaningless, and I think that there are many people in Congress who have expressed their interest in moving forward with legislation. So it would behoove the participants to conclude them successfully.

I have a technical question, and that is, Dr. Deibert, if I understand you correctly, you said there are essentially three routers. All of the information that goes into China goes in through three routers. I actually always thought that it was three--is it three routers?

DR. DEIBERT: Three gateways.

VICE CHAIRMAN BARTHOLOMEW: Three gateways. When we talk about the information that's going to other countries, is it going through those gateways?

DR. DEIBERT: Yes.

VICE CHAIRMAN BARTHOLOMEW: And do we know which countries? Burma, I presume, is one of them?

DR. DEIBERT: These are gateways through which any international traffic passes. A large Internet exchange point. So physically speaking, we're talking about very large facilities with lots of routers.

VICE CHAIRMAN BARTHOLOMEW: Right.

DR. DEIBERT: Traffic within China may not pass through those routers, but any international traffic from any point within China at some point in its routing has to pass through one of these three

international gateways to the outside world.

VICE CHAIRMAN BARTHOLOMEW: So it is possible within China for people to communicate without their message, with each other, without their messages going through one of those gateways?

DR. DEIBERT: Potentially.

VICE CHAIRMAN BARTHOLOMEW: Okay. But then when you talk about downstream censorship, you're talking about messages are going into Sri Lanka or places like that. Are they going through those Gateways?

MR. XIAO: Sometimes.

VICE CHAIRMAN BARTHOLOMEW: But they don't have to?

MR. XIAO: No, they don't have to. It depends how they are routed or being sent. They use the Internet is like from one router to another. And sometimes the routers tell them, say go to the next closest one, and sometimes, like in the Hong Kong case or Thailand case, in certain networks, the next stop goes into China for that reason. And once it goes into China, it goes through one of those gateways, and then you go out of China again, goes through one of those gateways.

VICE CHAIRMAN BARTHOLOMEW: But if you are a repressive regime outside of China can you set your country's communication, the Internet system, to go through one of those routers so that you're getting an initial level of filtering that you don't even have to do with information that comes into your own country?

MR. XIAO: Technically you can, but usually I cannot imagine who wants to do that. Why the Vietnam government wants to filter all the Chinese words. Yes, it's affected by it, but technically that's-- because they have their own need. The needs will be vastly different.

VICE CHAIRMAN BARTHOLOMEW: Okay.

DR. DEIBERT: I think one can paint a scenario certainly where there is a market for filtering services provided by large upstream providers. It's certainly not out of the question I should say. I can certainly imagine that because there may be some countries who want to hide the fact that they're doing this and contract out to others who are going to do it.

But probably it's more effective to do it locally, and certainly one of these countries that are neighboring filter all sorts of content and they don't seem to be seeking those services right now.

VICE CHAIRMAN BARTHOLOMEW: Okay. And then finally, Dr. Deibert, you made a mention of the commitment that the Chinese government made for its Olympic bid on providing Internet access and free flow of information from foreign journalists, but I wonder if there's any recourse if it doesn't happen?

The IOC has proven to be quite toothless so far. The Chinese

government has proven over the years that it's more than willing to make commitments but doesn't always live up to them.

DR. DEIBERT: Yes.

VICE CHAIRMAN BARTHOLOMEW: What happens if the journalists go there and find that these promises are not going to be kept?

MR. XIAO: Yes. In my observation, those promises are more a public relations move rather than anything substantial. For example, let the foreign journalists to visit anywhere in China, which is, appears quite impressive, stunning promise, but the truth is, first, that's only half the story. The other half is that every level of the Chinese Propaganda Department in the country gets instructions secretly how to handle those foreign journalists.

Yes, you handle them locally. Don't let them report the things you don't want them to report. If you know how the different levels of the Chinese government function, you know they're the expert often. They can handle all the Chinese journalists from different provinces trying to dig out the dirt from their department. They will use methods from bribery to trapping the people, any method you can think of to cover themselves.

Much easier for them to fence off the foreign journalists. So it's not causing a real issue for that.

The second is that's not entirely true they let the journalists go anywhere. When the crisis really happened such as Tibet, Lhasa riots, no, they didn't do that. They don't live up to that promise. Yes. So that's very selective. So far that's been proven.

DR. DEIBERT: Just to answer directly your question. Of course, there's nothing that can be done directly about that as far as I know. But the interesting thing is that with the Olympics and with so much attention on China's Internet censorship regime, I think this is, I hope this will shed a light on what's going on in that country with respect to Internet censorship.

And so, we've been involved working with journalists and media organizations to educate them about the type of filtering that they might encounter and what they can do to get around it. I think we'll see many more stories about China's Internet censorship regime and circumvention technologies during the Olympics than we would had the Olympics not taken place.

VICE CHAIRMAN BARTHOLOMEW: Thank you. Thank you.

HEARING COCHAIR FIEDLER: Commissioner Reinsch.

COMMISSIONER REINSCH: First of all, going back one step quickly on the multi-stakeholder thing, I understand that we've been arguing about this for a number of years, but I think the actual discussions to produce some kind of code have been going on for

considerably less than that. I agree with you that they're dragging on and need to be brought to conclusion, and I think they will be, but I wouldn't say that it's been interminable so far.

I wanted to ask you, though, about something that Commissioner Mulloy mentioned that struck just a note in my memory about the idea of pursuing some of these things multilaterally.

I guess the first question is, are there countries that don't use any filtering at all? Whose governments don't filter the Internet at all in any form?

DR. DEIBERT: Yes, certainly.

COMMISSIONER REINSCH: Who?

DR. DEIBERT: Well, many--

COMMISSIONER REINSCH: Pornography--also they don't filter for that either?

DR. DEIBERT: Increasingly, many Internet service providers in Western democratic countries are either of their own initiative or through some form of regulation having to ban access to material related to the sexual exploitation of children, but other than that, many, many, many Western countries don't filter the Internet at a public level, at a state level.

In this country, for example, there's a requirement in public schools and libraries to have some mechanism of filtering in place, but otherwise there is no government-mandated filtering in this country.

COMMISSIONER REINSCH: And in Europe?

DR. DEIBERT: In Europe, it varies. You have some countries where there is filtering of hate speech or regulations that ISPs must filter for hate speech or pornography.

COMMISSIONER REINSCH: Thank you. That's helpful. I was heading in this direction because I think both of you mentioned in response to a different question, that the trend, if anything, globally might be in the wrong direction from the point of view that we're discussing. It does seem to me and perhaps you can both comment on this, that if we try to proceed down a multilateral road in trying to get a common approach to this problem globally, we may end up with something that--

DR. DEIBERT: We don't want.

COMMISSIONER REINSCH: --I expect a tighter degree of regulation than either of our countries or--meaning Canada and the United States in this case--undertakes.

MR. XIAO: For one thing, the human rights must be introduced into this discussion meaning that not only technically the details how to filter technology, but what type of contents; right. If there's political speeches and pornography, you cannot discriminate and say these are all just information bytes. There's certain countries

the technology being applied for preventing children pornography which is I think a very legitimate.

But in other cases, the technologies are being used against a simple political reporting, and that is a violation of human rights. So if there is such a multinational mechanism being set up, how to distinguish such practice is one of the--

COMMISSIONER REINSCH: Exactly. I think there's probably widespread agreement on child pornography, but I recall when I was in the government and we were working on the cyber crime convention, the hate speech issue came up very clearly, and also we've had more recent episodes in Europe about, for example, on eBay or whatever, Nazi paraphernalia for sale, which has gotten them in trouble with the German government, which has laws about that sort of thing.

That creates complicated questions. It's fine to sit here and say there are human rights issues, but how do you define a political statement or how do you define hate speech? A banned political statement in China would probably include a much broader universe of statements than in other countries, but you've got other countries, including the ones I mentioned in Europe, who have defined certain kinds of political statements as also prohibited for historical reasons.

I think one of the dilemmas we have here is if you support the First Amendment, as I certainly do, the First Amendment doesn't apply only when people are saying nice things. The First Amendment applies in nasty, difficult, unpleasant cases like these, and I'm not sure that heading down a multilateral road is likely to produce an agreement that ratifies the American vision of the First Amendment.

DR. DEIBERT: If I may just make one point. Even if we agree that certain types of communication is offensive and should be illegal, hate speech, child pornography, there's a whole separate question of the process that should be used to deal with that type of content, and a lot of countries, the knee-jerk response is to put in place crude filtering technologies that are, in my mind, really a Band-aid solution to a very serious problem.

They're easy to get around, they cause all sorts of collateral filtering problems, as we see in China.

COMMISSIONER REINSCH: So you would favor most sophisticated blocking techniques?

DR. DEIBERT: Not sophisticated blocking techniques, but maybe aiding law enforcement so that they can track down the people who are posting this information and bring them to justice rather than thinking that simply putting a filtering software is going to prevent this problem.

COMMISSIONER REINSCH: Well, that opens up another whole can of worms.

DR. DEIBERT: Yes.

COMMISSIONER REINSCH: I think I'll defer to Commissioner Fiedler to handle that one.

HEARING COCHAIR FIEDLER: Or for another day.

VICE CHAIRMAN BARTHOLOMEW: Yes.

HEARING COCHAIR FIEDLER: I want to thank you both. It's been a very interesting panel.

DR. DEIBERT: Thank you.

HEARING COCHAIR FIEDLER: We will take a break until two o'clock or a little after. Thank you very much, gentlemen.

DR. DEIBERT: Thank you.

[Whereupon, a short recess was taken.]

PANEL IV: POPULAR CHINESE NATIONALISM AND ITS RELATIONSHIP TO CHINESE STATE MEDIA

CHAIRMAN WORTZEL: This panel is going to examine Chinese nationalism, its impact on U.S.-China relations and the ways the Chinese government seeks to stir up nationalist sentiment to serve its domestic political aims.

I'd off-the-cuff modify that because I think it would be interesting also to hear your views on the ways in which the Chinese government becomes the victim of nationalist sentiment, or the object of it where it has to change its own policies because it didn't expect it or it stirs up and they have to react to it because I think that happens, too.

The first speaker today will be Dr. Peter Gries, who is the author of *China's New Nationalism* and co-edited *State and Society in 21st Century China*. He's got more than 20 other academic journal articles and book chapters written. He focuses on nationalism, the political psychology of international affairs, and China's domestic politics and foreign policy.

He's the Director of the Sino-American Security Dialogue which seeks interaction among young Chinese and American security experts.

Dr. Perry Link is Professor of Chinese Language and Literature at Princeton University. He specializes in 20th century Chinese literature and he's written widely on Chinese literature and culture.

He co-edited the *Tiananmen Papers*, which really showed I think a great inside account of the leadership deliberations over how the Communist Party was going to respond to the Tiananmen democracy protests in '89.

He teaches at Princeton. He serves on the Board of Advisors of

Beijing Spring, a monthly Chinese-language magazine that's devoted to human rights, democracy and social justice in China, and I bet doesn't get a lot of visas to go back there. But I'm on the same list you are, Perry.

Dr. Gries, you can go first.

**STATEMENT OF DR. PETER HAYS GRIES
HAROLD J. & RUTH NEWMAN CHAIR IN US-CHINA ISSUES
DIRECTOR & ASSOCIATE PROFESSOR, INSTITUTE FOR US-
CHINA ISSUES, UNIVERSITY OF OKLAHOMA
NORMAN, OKLAHOMA**

DR. GRIES: Thank you. I'd like to thank all the commissioners, not just those who remain, but all of them, for their service. The work of this body is extremely important.

Rather than read from my written statement, which has already been submitted, I'd like to try to engage in a little bit of dialogue based on some of the conversation that has already occurred today, and I wanted to start with Commissioner Mulloy's I thought very thoughtful question this morning about the issue of ethics and on what ethical basis we confront issues such as freedom of the press.

That made me think immediately about an important distinction between seeking an understanding of something going on somewhere else or another's perspective on an issue, and actually necessarily agreeing with it or having an ethical position that is at odds with that understanding.

The reason why I think that that's extremely important is because there is a tremendous lack of basic understanding in U.S.-China relations. That is in many ways the core of many of the problems in the bilateral relationship.

Many Chinese like to argue that it is Americans who lack understanding of China, while the Chinese actually understand a great deal about America. I'm not sure I agree with that. In fact, I think that there are very many fundamental ways in which Chinese misunderstand Americans, and this is actually related to Commissioner Shea this morning who had a very interesting comment on Dr. Kluver's point about Chinese understandings of American press coverage of the Tibet issue and I think also the Olympic torch relay issue.

I think Commissioner Shea's point was a healthy skepticism that actually Chinese were such sophisticated readers of Western opinion, and I guess when I heard that, I was interested to think, to hear that he thought that the Chinese were reading this Western

opinion in a sophisticated manner because actually my view is probably the opposite, that it's actually probably very simplistic reading, that what is going on is that Chinese lack basic information about American political culture, and what they do is they fill in the blanks with preconceived notions that have a lot to do with their own national identity.

I very much agreed with Dr. Kluver's discussion of the importance of historical memory, the century of humiliation, in impacting the ways that Chinese understand much of the world. So in the absence of information about how things work in the United States, it's actually very simplistic and easy for Chinese to just fill in the gaps by saying, well, the reason why they're doing X, Y and Z is because they want to obstruct China's rise, for example.

To me, that's a classic case of simple misunderstanding. It's taking preconceived notions about how the world works based on self-understandings, one's own national narratives, and foisting it on to the other side.

I think it's very important that we are careful of the same issues when we examine China. We also lack sufficient good information about China, which is why the work of a Commission like this one is so very important, to gather basic information, because in the lack of information, it's very easy for us to simply fill in the blanks with our own preconceived notions.

For example, on this morning's issue of the freedom of the press, I wanted to clarify a little bit. I didn't mean to imply in my written statements that the Chinese do not have a free press DNA or freedom of the speech DNA. I didn't use that language, and I think the metaphor of DNA would be far too strong of a metaphor.

I think there are plenty of Chinese that value free speech and freedom of the press. My point was simply to say that they don't value it in the same ways that Americans do because for Americans, the First Amendment rights are very central to the very meaning of who we are as a people.

For Chinese, I think it's one value among many competing values, and therefore for us to mistakenly foist our own views of the freedom of the press on-to Chinese would be mistaken. Instead, the question should be an empirical one: what are Chinese views of the freedom of the press?

Indeed we had some testimony earlier today about some reporting from Chinese sources about popular Chinese netizens' attitudes towards the regulation of the Internet, and whether we buy that source of information or not, it's a useful one. It says that I think it was 80 percent of the Chinese netizens surveyed apparently felt that the Internet should be regulated in one form or another.

Anyway, the core point here is that I think that seeking understanding based on the terms of the other rather than simply foisting our own views onto the other is a very key project, but it needs to be distinguished from the ethical questions of whether or not one agrees with those views. So that's why I wanted to respond to Commissioner Mulloy.

Two simple points that I want to make that are also made in the written statement. The two key points are that I really believe that it's very important that we avoid a kind of reductionist view of Chinese nationalism as simply state nationalism.

I argued in my book *China's New Nationalism* several years ago, and I think that the evidence today is only stronger, that there really is an autonomous nationalism, a popular nationalism in China that plays an independent role. Even when much of its anti-foreign and anti-Western and anti-Japanese substance is congruent with state nationalism, it is increasingly playing a role that can check the power of the state, and I think that's something that analysts need to be attuned to.

Second and finally, this popular nationalism is not just autonomous, but because of its impact on state legitimacy, it is increasingly impacting CCP policies. Whether this is a good thing or a bad thing, it's very important that we be aware of it. I think it's very difficult to be aware of it because coming from a Western perspective, it's hard to see how popular opinion would matter in a country that is not a democracy, that does not have voting at the highest levels.

But the argument I would like to make to you is to suggest that perhaps it's because there is no voting, there is no procedural legitimacy accorded to China's rulers, that the Chinese leadership is perhaps even more dependent on its nationalist credentials to maintain its legitimacy.

So it becomes very sensitive to popular opinion and is very attuned to the attitudes of its citizenry on certain issues, and in foreign policy, we are increasingly seeing a Chinese leadership reactive to nationalist opinion, and this is something that we should be monitoring very carefully, and so I would like to echo Dan Southerland's recommendation that we do need to support more research in this area because we do lack sufficient information not just on the evolution of Chinese nationalism but its impacts on Chinese foreign policies.

Thank you.

[The statement follows:]²

² [Click here to read the prepared statement of Dr. Peter Hays Gries](#)

CHAIRMAN WORTZEL: Thank you very much.
Dr. Link.

**STATEMENT OF DR. PERRY LINK
PROFESSOR OF EAST ASIAN STUDIES
PRINCETON UNIVERSITY, PRINCETON, NEW JERSEY**

DR. LINK: I would like to join Professor Gries in congratulating the Commission on its work and wishing you the best of luck and influence in the future. I have only seven minutes and won't therefore try to say everything that I put into my written statement, but reduce it to five points.

One is that the roots of Chinese nationalism both now and in the past, as I see them, are fundamentally ethnic. That is to say both the Republic of China and the People's Republic of China have not been successful in creating a supranational identity. So that in ordinary Chinese language, for example, China still means Han especially.

I've also noted in my written statement that Han interestingly carries a certain male connotation. I think that's relevant in the recent nationalism we've seen, and especially a young male nationalism. The Chinese term "fen qing," angry youth, to my ear has a little bit of a male connotation and young connotation.

My second main point is that pride in China in an important sense is a personal kind of pride. That is we think of nationalism as some kind of a love of a group, but I think it's psychologically speaking closer to love of the feeling of pride and adequacy that one gets from being a member of a group.

I hasten to say that this is not a Chinese characteristic. All nationalisms probably show this, even, as I note in my statement, being a Mets fan shows this. It's important to realize that it's especially important to overseas Chinese, I think, where the nationalism of being Chinese rubs shoulder to shoulder with other nationalities.

My third main point in the statement was about the causes of the recent surge in nationalism, where I point fundamentally to two. One is the education of the Department of Publicity in China since 1990 after the Tiananmen massacre--I should say the Beijing massacre. When the socialist ideology as the basis for legitimacy of the Communist Party disappeared, the Party was left pretty naked, and nationalism was what the leadership--Deng Xiaoping in particular--turned to to fill that gap.

Since the early 1990s, we've seen across the board, in

textbooks, museums, speeches, newspaper editorials, television programming and elsewhere, the messages that China is 5,000 years old and has a glorious history. Japan, Europe and the United States in recent times have humiliated China. Western critics of China to this day are secretly trying to keep Great China down, and so on. Especially among the younger generation this has gotten quite a lot of traction.

The main other cause that I've pointed to, though, is what I call the rivalry with the outside world, especially the West, and I prefer the word "rivalry" here to "hatred," that sometimes is used. I don't think that it's really hatred. My favorite example of this was after the bombing of the Belgrade Embassy of China in 1999, in May of 1999, when students in Beijing who went to the U.S. Embassy to throw rocks and eggs were the same students who were diligently studying in order to apply to graduate schools in the United States, and I think it's important that we recognize that both of those sentiments are entirely authentic--the anger at one level and the underlying respect at another level.

I point out in my statement that this is not just young students, but the Chinese leaders themselves can be viewed this way. Deng Xiaoping and Jiang Zemin both have grandchildren who are citizens of the United States. Hu Jintao's daughter studies in the United States.

These are the same people who in other contexts in their formal language are ready to denounce Western hegemonism. So I think those two levels are very important for us to bear in mind.

My fourth main point was about how the Party has tried to manipulate nationalism for political advantage. This has the big advantage of distracting attention from daily-life complaints that are generated among Chinese people over issues such as corruption and the growing gap between rich and poor and land grabs and pollution and so on.

I study Chinese literature and popular culture. I could go on for hours just explaining those kinds of complaints which really are pervasive in popular concerns among the Chinese people.

When nationalism comes along, someone who may not have thought of the Dalai Lama or the splitist Chen Shui-bian in Taiwan or something like that can have attention distracted in those directions, and that serves the interest of the ruling group in China.

It also helps the Party to seem to be a hero to the Chinese people. Here, for example, the Olympic bids, both the one that failed in 1993 and the one that succeeded in 2001, were win/win bets from the point of view of the Party in terms of garnering public support among the Chinese people because if the bid fails, as it did in '93, then the Party can turn to the people and say, look, it's foreigners not

respecting Great China that has caused this to happen.

And then when it succeeds, of course, then the glory of staging the games can redound to the Party, and they've done quite a lot to identify themselves with the nationalism that naturally rises over the Olympic event.

I suspect, as well, that advertising problems like the riots in Lhasa or meetings of the Dalai Lama with George Bush or Angela Merkel also are motivated in part by an attempt to identify the Party with the popular nationalism that can arise by stimulating those issues.

I think even in the earthquake relief that we've seen recently--in fact I'm quite sure of this--the Party has done its best to identify itself with the eleemosynary side of the events. Here we are caring, bringing relief, and so on. Other groups--NGOs, including Chinese NGOs--that have wanted to contribute independently have been frustrated in that effort.

Our chairman has just asked if nationalism can cut both ways. I'm ten seconds over time so I can't go into detail here, but, yes, I think the Party naturally has to balance the stimulating of nationalism with the possible consequences of its actually coming into full bloom.

In the earthquake relief, for example, we've seen the issue of whether the authorities are really looking into the question of the shoddy construction of primary schools. This is tied to the nationalist outpouring of sympathy for victims, and there the government has to stand back and be careful.

I'm over time so I'll stop. I did want to read you my concluding paragraphs about U.S. policy and how I think our government is too timid about stating in a dignified, firm way principles of belief that I think tie to that second level in Chinese consciousness that I'm talking about, the type that really does respect the West. There's a lot of good that can be done by that approach, but I'm sorry for going over time.

CHAIRMAN WORTZEL: Go ahead and read it, Perry.

DR. LINK: The last two paragraphs. All right, with your permission.

The United States government continues to play a much weaker hand than it could in supporting the Chinese people in their quest for an opener, fairer, more transparent and more law-governed society. U.S. officials as well as some of their advisors in academe consistently use the word "China" as if it referred only to policies and attitudes of the country's rulers. The cost of ignoring the more complex realities of the country--not only other voices in society but other levels in the thinking and values of even the leaders themselves--are huge costs. China's problem is its political system, not its people. But U.S. policymakers have trouble getting past the one in order to reach the

other.

Some of the more grievous errors in U.S. policy arise from a misunderstanding of the concept of "face" in Chinese culture. U.S. officials appear to believe that their cultural sensitivity to the Chinese idea of "face" can be expressed only by showing that they know how to "save face" for the other side; hence, much more often than necessary, they handle "sensitive"--quote-unquote--questions by opting for quiet diplomacy on the grounds that, quote, "the Chinese do not respond well" to public embarrassment.

But this is naive and, in fact, reveals an ignorance of Chinese culture. In Chinese life, "face" is well known to cut both ways. You give it when you want, and you specifically withhold when you want. Others can do that to you as well. The Chinese government certainly does both of these. When it calls Jimmy Carter "a friend of China," it is doing one thing. When it calls the Dalai Lama "a wolf in monk's robes," it's doing the other.

Both are uses of "face." The United States, which is widely viewed in China as the world's strongest democracy, could do much more good than it is now doing by using dignified, clear and strong public statements.

Thank you.

[The statement follows:]³

PANEL IV: Discussion, Questions and Answers

CHAIRMAN WORTZEL: Thank you very much.

I'm going to ask the first question. I think about a decade ago John Garver had a foreign policy book out, and he's got a full chapter in that book that if I remember right entitled "The Myth of a Century of National Humiliation."

So it's the myth of national humiliation in China, and the point John is getting to is that the educational system in China, elementary school, middle school and high school, obviously has these national myths somehow built in and it's kind of centrally directed again by the Party and government.

What are they saying in Chinese textbooks about things like the Boxer Rebellion or the eight foreign armies invasion? What are they saying in these textbooks about something like the Taiping Rebellion which can be used to justify an awful lot of anti-religious propaganda?

Chinese educators spend a great deal of time analyzing Japanese middle school and high school textbooks. Is anybody in the U.S. or in Japan doing the same sort of work on Chinese textbooks?

³ [Click here to read the prepared statement of Dr. Perry Link](#)

Can you address the roots of these nationalist feelings or myths? This is for either of you or both of you?

DR. LINK: Go ahead.

DR. GRIES: I'm not an expert on textbooks, but I do know a few things, one of which was during the Maoist period, the historiography of this earlier history was one that was predictably in a Marxist discourse of class struggle, the heroic role of the Chinese Communist Party in leading the oppressed lower classes against the corrupt higher feudal classes. So it was very much a kind of socioeconomic narrative.

Now, after the massacre near Tiananmen in 1989.

CHAIRMAN WORTZEL: It was on Tiananmen too.

DR. GRIES: Okay. I do not have the information on that. I believe people died all over Beijing, and I called it a massacre intentionally.

But after that occurred, as you all know, China was diplomatically isolated, and one of the responses to this was the 1991 Patriotic Education Movement, which did involve some rewriting of history textbooks, and instead of a Marxist narrative of class struggle, there was a new emphasis on an anti-imperialist narrative of the Chinese Communist Party leading the Chinese people in their struggle against Western and Japanese imperialism.

There is no question that the education apparatus in China plays a very important background role in understanding the emergence of popular Chinese nationalism in China today.

So when I made the point earlier that we shouldn't reduce popular Chinese nationalism to state nationalism, I meant to argue for an autonomous role for this popular nationalism. But I did not mean to argue that the state has not played a role in creating the conditions for its emergence.

DR. LINK: I think we need to realize that the myth of humiliation isn't entirely a myth. It wasn't invented by the Communist Party in China. In the early part of the 20th century, as I say in my statement, the myth of the "No Chinese or dogs allowed" sign, which wasn't a sign quite like that, but the problem of feeling humiliated and then feeling exaggeration coming out of those feelings of humiliations is deeper in China than the manipulation by the Communist Party in recent times.

Still, your question about the education system is excellent. The Boxers, I think always have been and still are--that whole event--is presented as the West just flat-out picking on China. The Taipings, too, used to be favored by Mao Zedong. Of course, they were peasant hero types. I'm not sure how they appear in recent textbooks.

You asked if somebody has studied this. The Chinese

economist He Qinglian actually with the AFT was writing a book about textbooks, trying to look at the question squarely. I remember my friend Pu Zhiqiang, who is a lawyer in Beijing, wrote an op-ed piece about the Japanese textbook problems that Larry correctly refers to here as something to compare.

In the spring of 2005 when Chinese students were up in arms about the textbook issue and the Yasukuni Shrine issue and were on the streets of Beijing and Shanghai about it, Pu Zhiqiang was visiting at Yale, and he wrote an op-ed for the New York Times that I translated that said, yes, the Japanese did do a massacre at Nanjing in 1937, and this and that, and we should look at that squarely, but first we have to look squarely at ourselves, and what about the Great Leap Forward famine. You talk about textbooks ignoring history, that that famine is amazing. Somewhere between 20 million and 40 million people died unnatural deaths, and to this day, that isn't squarely looked at in the textbooks, in the museums or anywhere. I'm getting riled up now. Pu Zhiqiang's essay, by the way, did get into the New York Times, but his hosts at Yale, the night before it appeared, called me and said please leave our name out of it, which we did at their request.

I don't mean to pick on Yale.

CHAIRMAN WORTZEL: It doesn't bother me. I'm a University of Hawaii guy.

Commissioner Fiedler.

HEARING COCHAIR FIEDLER: Let me try to put this in a political or diplomatic context. And stop me and correct me if I'm wrong or if I'm oversimplifying.

So the communist system sort of disappears in the sense that nobody believes in communism anymore. So there's no belief structure ideologically left in the country.

So nationalism is looked to as a replacement, but most ideological systems have structure and predictability to them at least as interpreted by the ruling power.

Nationalism is much more situational. Right? And therefore more unstable. And yet the Chinese government wants, quote-unquote, "social stability," which can also be read as stability for themselves as a Party. The Communist Party wants social stability so it remains in power. China is a greater actor on the world stage; therefore, things that happened in their country have a greater effect elsewhere and with agreements they have reached, say, with the Japanese, with the Indians, with the United States.

So nationalism as articulated by popular nationalism becomes dangerous for the government. Yet, their ability to form a unitary view of nationalism among the populace is limited.

Sounds to me like a recipe for constant hiccups at a minimum both domestically and internationally as we go forward, absent some other political reform that people can believe in. Is that a whacked-out analysis of what's going on here?

DR. LINK: No. I think that's a good analysis. Hiccups is perhaps not strong enough a metaphor for it.

HEARING COCHAIR FIEDLER: I was trying to be conservative in deference to people who think I'm a lunatic.

VICE CHAIRMAN BARTHOLOMEW: Who would think that?

HEARING COCHAIR FIEDLER: Peter.

DR. GRIES: I would comment just on a couple of parts of what you talked about. I agree very strongly with your opening point that communism no longer performs a legitimating function for the Chinese Communist Party, and I think we are all better off thinking about the Chinese political system as a system of one-Party rule and trying to banish the word or even the idea of communism from our minds when we think about China because I think it leads us astray, and it brings us into a Cold War discourse that really is not very relevant for understanding the system of one-Party governance in China today.

In terms of the notion that with the disappearance of communism there's no longer a belief structure and nationalism becomes a replacement, I have a slight disagreement with that in the sense that I think nationalism has always been a central part of the Chinese Communist Party's legitimating story.

Again, it may be because it calls itself "communist" that we take at its face value the notion that it came to rule based on this communist narrative of leading the oppressed classes against the feudal rulers, but in fact, what Mao is famous for saying in 1949 on the rostrum in Tiananmen is "China has stood up."

That doesn't come from Marxism; that comes from nationalism.

And the nationalist claim to having led China to victory against the Japanese was a big part of why the Communists beat the Nationalist Party in the civil war of the late 1940s, and nationalism remained absolutely central to Chinese Communist legitimating strategies even in the '50s, '60s and '70s.

It's no surprise really that popular nationalists start dangling Mao Zedong icons on their taxicab rear view mirrors. Mao is seen as a nationalist. So nationalism has always been there. It may have appeared to come more to the fore with the disappearance of communism, but--

HEARING COCHAIR FIEDLER: It was insufficient as a control mechanism.

DR. GRIES: Was nationalism efficient as a--

HEARING COCHAIR FIEDLER: Insufficient as a control

mechanism. Mao's nationalism was insufficient as a control mechanism. Nobody controls anybody else through, quote-unquote, "nationalism." They control them through much more sophisticated ideological structures and repressive machinery.

That's all. I mean the point, so what, Mao was a nationalist? That wasn't the point. The point is absent communism and everything that went along with it, how is it that they now control people ideologically or influence them? Forget control. Nationalism is just sort of a dangerous way of doing that is all my point was, and I think you're not contradicting that, but you're just getting into the historical. I'm more interested in what's going on today than I am in Mao's--

DR. LINK: Peter is right that the nationalism has always been there, but I think it's also true that it is stimulated when the leaders want it and left alone when not. Mao Zedong did say China has stood up. By the way, my friend Michael Schoenhals reminds me that he didn't say that at Tiananmen. What he said there was "Zhonghua renmin gongheguo chengli," and he said "zhongguo renmin zhan qilai le" four or five days before at a different speech, but that doesn't matter.

But Mao didn't in the 1950s stress nationalism. He was into his various campaigns, his "sanfan wufan", his anti-rightist campaign, his Great Leap Forward. Not once did he go to Nanjing to ask about the victims of the massacre. Not once did he address that issue.

In fact, to the end of his days, he didn't really revisit that issue. That issue came up later in the '80s and '90s when, as Jeffrey suggests here, the Party felt that it needed something to claim legitimacy.

You're right; it's always been there. But I think it certainly is pulled and pushed and ignored and so on. In the '50s, Mao was more worried about keeping good relations with Japan. And then later Deng Xiaoping wanted investment from Japan and stuff. So these things were soft-pedaled.

HEARING COCHAIR FIEDLER: Thank you.

CHAIRMAN WORTZEL: Thank you very much.

Vice Chairman Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you, gentlemen. Very interesting testimony from both of you.

I'd like to take this in a slightly different direction. Dr. Gries, one of the things I found myself reacting to or against in what you said was this concept of foisting our ideas on the Chinese. I think it's important always in the context of the human rights discussion and also access to information and all of those things, that it is not our ideas that we are trying to foist on the Chinese government, it is rights that are enshrined in the Chinese constitution. It is commitments that

the Chinese government made along with its agreeing to the Universal Declaration of Human Rights.

One issue that we heard this morning was the commitment that the Chinese government made to the International Olympics Committee. So this is not us trying to say that China should be a Jeffersonian democracy. I think if the Chinese government simply abided by the rights that the Chinese people are supposed to have and also abided by the many commitments that the Chinese government has made on trade, proliferation and human rights, we wouldn't be where we are today.

How do you respond to that? I know that you have a program where you're encouraging interaction between young people, though I wonder in the security field in China how young are those young people that you're working with, the next generation of 60-year-olds or--

DR. GRIES: Mostly 30, 40 somethings like myself. But let me try to clarify. I don't think I expressed that initial point as clearly as I should have, and I'm not sure I'll be able to do any better now, but let me give it a try.

The reason I started by citing Commissioner Mulloy's thoughtful question this morning about the role of ethics was precisely because I think we should have our own ethical position. So in many ways, my thoughts were in line with Perry's concluding comments on how the United States needs to think about, more clearly about what sort of position it wants to state and to feel free to state it publicly when appropriate.

Because we should be thinking about those ethical issues, as an American, I feel extremely strongly about the First Amendment and that guides much of my behavior. It guides much of my life frankly, and I get very upset when I hear about the suppression of individual liberties. I know that about myself and I don't think there's anything right or wrong about that.

That said, if I want to understand, for example, how Chinese people feel about the freedom of the press, I can let my preexisting attitudes about that lead me to conclude that either they love it too or they hate it. I mean those preexisting beliefs and passions that I have can distort my understanding of China basically and how Chinese think about some of those similar issues.

My only point is to separate these two issues. One is trying to understand their position in a way from the bottom up without letting my own preexisting beliefs influence that too much, but then not to give in to relativism and say, well, they believe this other thing and therefore that's okay, but then to stop and do what Commissioner Mulloy did this morning and start asking about what are our ethical

duties.

VICE CHAIRMAN BARTHOLOMEW: The question that comes along there is first, whenever we evoke the Chinese people--I mean frankly whenever we invoke the American people, we're talking about a large group of people, and they don't stand or believe in one thing. But in this case, this is particularly complicated by the fact that the Chinese people are not free to express what their views might be even on something like freedom of the press.

So maybe they don't care. Maybe they do care. But they don't have the kind of freedom to be able to express an opinion on that. How do you tease out what you think or believe they believe in a context where there isn't freedom of speech?

DR. GRIES: That's an excellent question, and it is indeed very difficult. One has to look at a wide variety of data in order to come to some kind of cautious conclusion. Perhaps it is because my research has focused quite a bit on popular Chinese nationalism that I see other kinds of goals as very important for many Chinese such as national strengthening, fighting corruption, and good governance.

These are other values that seem to drive many of the Chinese that I interact with and whose work I read in a way much more so than some of other issues like First Amendment issues, which may also be important to them, but strike me from my perspective as perhaps secondary to what we would consider to be more primary kinds of goals.

That's just my own personal reading of the data.

VICE CHAIRMAN BARTHOLOMEW: I'll have a second round, but my comment again, is I think that the Chinese people have learned how to survive significantly more kinds of things than we have had to survive here in the United States. So it is not a surprise to me that people are not giving voice to desire for certain freedoms, but that we should not read the fact that they are not giving voice to it as that they don't matter or they are secondary. It is simply perhaps that they don't have the freedom to be able to give voice.

CHAIRMAN WORTZEL: Commissioner Videnieks.

COMMISSIONER VIDENIEKS: Good afternoon. This follows up a little on Commissioner Fiedler's question about nationalism. One of our mandates is to advise Congress on is what would happen (PRC government reaction) if a crisis were to develop within the country for whatever reason--unemployment, nationalism, minority nationalism. Would you say there is a possibility of externalization of this crisis by means of employing the nationalism tool or not? Can both of you speak to that?

DR. LINK: Externalization?

COMMISSIONER VIDENIEKS: Externalization of the crisis,

which I understand has frequently happened in history. You have an internal crisis, you have to deflect public opinion. So how could nationalism be used to externalize the crisis by the central government like Taiwan?

DR. LINK: Yes, I think so. That's really what I meant to say. I didn't get in detail.

If I do a Gedanken experiment and think of a farmer in Gansu Province who wakes up in the morning and what does he or she care about? It's going to be my children, my medical care, my old age retirement. It's not going to be Taiwan independence. It's not going to be whether the Dalai Lama is telling the truth or about what's going on in Dharamsala.

So when the government comes along and raises these issues in the media and stirs up feelings about it, of course, my initial reaction is "do I want to be proud of being Chinese or not?" Yes, I do. So, of course, I'm on the side of the government.

If that's what you mean--

COMMISSIONER VIDENIEKS: So how would one go beyond the inland empire? Is there a possibility of externalizing these internal crises?

DR. LINK: I still guess I don't know what you mean by internalize, externalize the internal crisis.

COMMISSIONER VIDENIEKS: Going beyond borders? Starting a war.

DR. LINK: Uh-huh.

COMMISSIONER VIDENIEKS: Either one of you could comment on that.

DR. GRIES: I think diversionary war is theoretically a real possibility. And that's one of the reasons why we need to better understand the dynamics of Chinese nationalism is precisely because there are targets like Japan and possibly Taiwan that can mobilize a large sector of the attentive public in China so the temptation may well be there in a time of domestic crisis to raise those issues, and so that's the kind of situation we want to avoid.

COMMISSIONER VIDENIEKS: I just wanted to bring that up as being related to your question. Thank you.

CHAIRMAN WORTZEL: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Thank you both for being here and your very helpful testimony.

We're not a human rights commission. There is another commission that looks into human rights and labor in China.

Our obligation is to look at the implications of restrictions on speech and access to information in the People's Republic of China for its relations with the United States in the areas of economic and

security policy.

If China has human rights in its own constitution, God bless them. I don't think it's our business to enforce their constitution in China, just as we wouldn't want them coming into here and trying to enforce our constitution in the United States.

I go back to President Kennedy's idea in his American University speech almost this time in June of 1963, where he talked about we want a world of freedom of diversity. In other words, what we resented about the Soviet Union was them trying to come over and tell us what kind of economic and political system we had to have. We resented that. We didn't want it.

I don't think we have a right to go over and tell somebody else what kind of economic and political system they have to have. That's up to them to develop, and as long as they don't impinge on us.

So that's what I thought you were saying, that they may have a different perception of these issues. If there's an international obligation, if there's some treaty they've entered into, yes, then they should live up to it. That's where I am on their WTO, IMF and trade obligations. They're gaining tremendous benefits from us and we're not enforcing our treaty rights there.

On human rights, it's a little more nebulous. If they've entered into something, yes, push them on it. Or if we want to say we really do believe you'd be better off doing these things, fine, but for us to be pushing and sanctioning them, it could be counterproductive.

One of our other witnesses, Mr. Kluver, said on page six of his testimony I think it is safe that most Chinese do, in fact, regard international criticism of the nation and its policies an attempt to keep China subservient.

In other words, he's saying overdoing this will get a counter reaction. I think that's what he's saying. So I just want to put that out there. Do you want to comment on that? Am I crazy or is this a sensible way to be thinking about these issues on human rights and our policy on China?

DR. LINK: I would say one reason for caring about human rights in China for its implications for United States security would be part of the answer to this question that I'm sorry I misunderstood a moment ago. A country that does have human rights and does have a government that is responsive to the human rights of its own citizens I think would be much less likely to whip up a nationalist cause and externalize it and cause a war and stuff.

That's a narrower reason for supporting human rights than I personally like. I have no problem with the idea whether it's part of this Commission's mandate or not in saying that I as a citizen of the world can care about other citizens of the world.

You have a good point when you worry about preaching and the possible counterproductive effect of preaching. My policy in working with Chinese people on human rights is to--and this echoes what Peter said a moment ago--listen to them. If they want--and by "they" I don't mean the government here. I mean lawyers, journalists, ordinary people that are activists on AIDS and so on. If that kind of Chinese person is trying to do something, I personally have no problem, and I would hope our government would have no problem with supporting them, partly just because it's a good thing to do and partly, I think, because it probably would make the world a safer place if ordinary people have more voice.

DR. GRIES: This in a way gets back to the distinction I've been trying to draw between understanding and necessarily agreeing on principle. Just to take the example of human rights,. we may seek to understand a Chinese view that prioritizes economic over political rights, but that doesn't mean we necessarily have to agree with that view, and we can take an ethical position that says political rights are primary.

That's a conversation that we should be having as Americans and we are having as Americans about the role of those political values in our foreign policy. I think we'll see that as part of this upcoming election cycle. This issue of whether preaching can be counterproductive is a very difficult one because it does tie in with this issue of speaking on principle.

Should one compromise one's principles in order to avoid offending another person? This is a very, very difficult issue, but I think the starting point at a minimum is simply to be aware of how your language will be understood. And based on that understanding, we can then make decisions, will we voice ourselves in that way anyway or not? And we can be strategic in the way that Perry discussed about under what kinds of circumstances do we want to use what kinds of language to express ourselves?

Your questions were very good and I'm not sure if Perry and I got very far in answering them.

COMMISSIONER MULLOY: I've gone over my time and I thank you very much.

CHAIRMAN WORTZEL: Commissioner Fiedler.

HEARING COCHAIR FIEDLER: Let me take us less off the philosophical and back to the subject of the hearing and ask you to comment on how the Chinese media control system, in your view, manipulates nationalist sentiment? Does it do it well? Is it ham-handed? Is it unsophisticated? Is it crude? Is it effective or is it ineffective? Certainly I think everyone understands they believe, like the rest of us, that it's a dangerous enterprise. Can you talk about

that?

DR. LINK: I think it's ham-handed *and* effective. I think young people who go to school and read a textbook that says Tibet has always been part of the sacred motherland for 3,000 years, that's grossly oversimplified from a serious historical point of view. But the young people believe it. Even very bright young people who come to Princeton University and take my course in literature: they've read the Old Man and the Sea, they're very smart, they're bilingual. But they think that Taiwan has been part of China since the Yuan Dynasty.

As a rough generalization, the problem with media control over the last 20 years, in my view, has shifted from one of repressing expression to one of nurturing nationalism and other kinds of not so healthy ideas. So it's still a Party trying to control what people think, but instead of pushing back against what they don't want to hear, they're nurturing things that they do want to hear, and it's working a little too much.

I'm not terribly pessimistic though. I think with the Internet that in the long run Chinese people are going to figure out these things and then there's hope that they'll get around it. But is it ham-handed?

Yes. Is it successful? At least in the short-term, yes, I think it is.

HEARING COCHAIR FIEDLER: Dr. Gries.

DR. GRIES: Yes, this is an excellent question, and it's a very difficult one, and it points to the reason why we need more research in this area. It's a well-worn metaphor, but it is apt, that nationalism in China is a double-edged sword.

The State does seek to utilize nationalism to reinforce its legitimacy, but when it does so, it empowers popular nationalists to take up those issues, and the State in a way loses its control over nationalist discourse. The more it uses nationalism, the more it empowers popular nationalists to go ahead and use nationalism themselves.

So you have a danger of a situation where the Chinese government often appears to be a little bit short-sighted. Every time there is some sort of nationalist crisis, it is able to leap out in front of the issue. You often see this in the form of statements from the Ministry of Foreign Affairs and getting out in front of an issue like criticizing Sharon Stone, and it works in the short run. But in the longer run, it creates a nationalist constituency which can then turn around and shackle the leverage, not the leverage, but the leeway that the Ministry of Foreign Affairs has in making its own foreign policy.

So we've already seen the Ministry of Foreign Affairs back itself into a corner in its Japan policy during the end of the Koizumi administration in part because it had to get out in front of popular anti-Japanese sentiment in cyberspace and in Chinese streets, and so it

turns around and bites the regime.

HEARING COCHAIR FIEDLER: The earthquake whips up justifiable nationalism/pride, Yet when parents protest and start getting into what could be the corruption that caused large numbers of children to die, by the way, it is not a huge leap to start to say corruption is undermining the nation. It's like about as far as I said away from happening except that they can effectively repress that sentiment.

I see this as a very volatile unstable dynamic that is fraught with difficulty for U.S. policy.

Thank you.

CHAIRMAN WORTZEL: Commissioner Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you very much. Thank you gentlemen.

I want to start by differentiating my own views from Commissioner Mulloy. I think that it's actually quite dangerous to say that what other countries, what other governments do within their own borders is not our business. That would be a justification for allowing Hitler to have done what he was doing as long as he hadn't gone outside of Germany and a justification for the continuing genocide in Sudan. So I just want to be clear that that isn't a viewpoint that I ascribe to.

But on the other topic, I'd like to go back to this issue of humiliation as a piece of the nationalist story, because in the 20 years that I've been working on U.S.-China policy, I have seen the Chinese government use the concept of humiliation or trying to avoid their own humiliation as a fairly successful negotiating tactic.

For many years, the U.S. government has seemed to be reluctant to pressure the Chinese government on any number of things, treating the Chinese like eggshells, like we can't put any pressure on them because if we do, they'll break. We're so concerned about helping them save face, and we don't want to encourage the humiliation.

So I wonder what chance there is of the Chinese government moving beyond humiliation as one of the defining characteristics when it's an effective tactic?

DR. LINK: There certainly is a dilemma, not just with the Chinese government but with any Chinese person who knows this story of humiliation. On the one hand one needs to give respect, and on the other hand, to criticize or to raise problems.

My own tactic in that is, and I have no trouble doing this at all, is to go to the resources of Chinese culture: wonderful poetry, wonderful history, wonderful philosophy, wonderful painting, wonderful food, smart modern engineers. There are all kinds of ways

to flatter the pride of Chinese people, accurately, at the same time that you implicitly say "you could be doing better."

I think inside, they know that, even though on the surface it might be face losing. If you come and say, "Don't you want a society where people really can say what they want? Don't you want a society where they can go to the churches they want to go?" and so on, inside, they know that. I just think that if you can call upon their own best interests, you're calling upon human interests that you and they share, and that will work.

DR. GRIES: I think that the discourse of humiliation is a tactic in the sense that it is used as a bargaining chip in diplomatic and business contexts, especially with the Japanese. If you've grown frustrated with it, I'm sure if you've talked with Japanese colleagues, you would hear even more of that.

But I also think it is much more than just a tactic. I think that this narrative of victimization is one that has a resonance with the Chinese people that very much touches upon very core issues of what it means to be Chinese. It's really not so different from our Revolutionary War and the importance of our narrative of having fought against the British to achieve our independence.

Chinese are very proud of their millennia of civilization and yet they have this experience of humiliation, a real one. Now it has been constructed into a story with a particular story line, but events like the Nanjing massacre did occur, and they are undeniable events that were actually largely ignored under Mao's reign, which is one of the reasons why the story is all the more powerful and shocking for many Chinese to reacquaint themselves or to learn about this traumatic event after so many decades.

So I do think while it is sometimes used as a tactic, it is something much deeper as well that we need to be aware of when we think about formulating our China policies.

VICE CHAIRMAN BARTHOLOMEW: Thank you.

CHAIRMAN WORTZEL: I want to take us back to an issue that was raised in an earlier panel. It's a little off-track from pure nationalism, but with two people of your expertise and research background, I think it's appropriate, and then we'll turn it back to nationalism.

In one of the earlier panels, two of the panelists talked about the way, in China, one can get away with using history or allegory as a means of criticizing personal government policy.

Obviously that has been done, and it's got a lot of people in jail when it began to take on nationalist sentiment. You know Pung Duhuai got in a little bit of trouble for that, and that was sort of a nationalist humanist expression. Wang Meng, again, began to criticize

parts of the government in allegory. I'd be very interested in your ideas on how the government or the Party is able to use its own ability to lock people up literally and suppress them, to moderate this nationalist sentiment, if it's indirect criticism.

DR. LINK: There were those essays at the beginning of the Cultural Revolution by Deng Tuo and others that drew upon the Ming history and were not so thinly veiled allegories that got those people in trouble. In Chinese literature, this is a huge tradition of writing unofficial histories of earlier dynasties and using the stories that happened in the Tang and the Yuan and the Song in order to make comments on what's going on these days.

That was more prevalent though under Mao when the pressure was even greater against speaking what you think. I think by now things are loose enough that people don't have to go to this indirection of using history in order to make their points. But that's not to say that it hasn't happened at all.

DR. GRIES: I think this is a good example of misunderstanding in the way that Americans, for example, have understood Chinese politics. To use this example of Wu Han at the beginning of the Cultural Revolution, many Western scholars complained he's just a historian commenting on historical topics from the Ming dynasty. Every Chinese understood that he was operating within a political culture in which this use of historical allegory was clearly political in nature.

And yet from a Western perspective, ironically, even though we're a much more individual-oriented society, coming out of a kind of public sphere or civil society notion of how you undertake political criticism, this individual Wu Han, he was seen as a Communist Party member, he was acting alone. This cannot have any real political importance.

So our assumptions about how politics works misled us into misunderstanding what was actually happening in China. In a way, this is getting back to the original point I was making about trying to understand Chinese political culture, Chinese politics in its own terms without putting our own assumptions into it, and then stepping back and saying now that I think I understand what is going on here, what is my position on this? Where should I stand ethically?

DR. LINK: As long as we're talking about literature and viewing China's problems from China's own point of view, I'm reminded of the great modern writer Lu Xun, who in several of his stories and essays made the point that the trouble with his own countrymen--he was very acerbic about analyzing the national character, as he called it, of China--is that when we look at foreigners we either look up at them or we Chinese look down at them, and we

can't look straight across at them. There's a lot of truth in this.

I think the nationalist mood that we have seen recently is the "looking down" side of that. "We've got to figure out a way that we can look down on Japan or the West" or something. But this bespeaks an inner insecurity that at another level is looking up, and this is why I think if you do it right, you can draw upon that "looking up" side by making dignified statements saying "we're all human and can't we do better?"--without stimulating the "looking down" side.

CHAIRMAN WORTZEL: Thank you very much.

Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman.

After World War II and the slaughter of millions and millions of people, our world leaders created the U.N. Charter. Article 4 of that charter says you don't intervene in other people's internal affairs.

There's a way to get around that. It's when the Security Council decides that something is a threat to international peace and security like they have done in Darfur and other human rights situations, which they authorize within the rule of law to go in and correct the situation.

I didn't mean to imply that I'm not sympathetic to human rights, but I always like to do things within the rule of law because I think once you get outside the rule of law, you create problems. That's why I was so interested in understanding what are the rule of law obligations on the Chinese to deal with human rights in China?

If there are rules of law, then we ought to be after them, particularly if we have treaties with them or they entered in. But if they haven't, I think it's a little more difficult, and I think we have to be very careful about the counter reaction that we might be producing in China. That's all. That was my main point, not to get into saying that I don't care about the human rights because I do.

CHAIRMAN WORTZEL: Commissioner Fiedler will have the last question.

HEARING COCHAIR FIEDLER: Thank you.

I just want to catch up on your last statement. Let's just use the word "inferiority" and "sense of inferiority" because I've had enough contact and enough of a relationship to sense that there is an unjustified sense of inferiority among many in China in policy positions that exacerbates the relationship, our relationship. And this is related to humiliation. This is related to— what you called it ethnic nationalism. I would invoke a little stronger term of racial nationalism.

And the unjustified, in my view, sense of inferiority is a very significant factor in complicating relationships with the rest of the world, in my limited view. Am I off base here or is this a real problem or just my imagination?

DR. GRIES: I think it's a real problem. I think you're absolutely right. I think that feelings of humiliation from this narrative of Western imperialist aggression against China creates a kind of psychological chip on the shoulder that many Chinese take into their dealings with Westerners and Japanese, and this is something that needs to be worked through.

I very much hope that the successful conduct of the Olympics, China's continuing economic reform, celebration of China's cultural accomplishments can become things that overcome those feelings of inferiority as a result of those historical narratives, but I do agree with you that as of the current moment, it is a serious issue, and it does complicate China's conduct of its foreign policy.

DR. LINK: I agree as well, entirely. It suddenly pops to mind to compare India, though. India was indeed a full-out colony, was humiliated at least as badly, and yet the narrative of "weren't we so humiliated!" isn't nearly as strong in India.

HEARING COCHAIR FIEDLER: Well, they also won.

DR. LINK: Right. They had Gandhi.

HEARING COCHAIR FIEDLER: Thank you very much.

CHAIRMAN WORTZEL: Gentlemen, thank you very much for an excellent panel. We appreciate your time and the fact that you thought enough of the work that we do that you would take your time to come down here, and we'll make sure it gets out and publicized as we do with all our panels.

DR. LINK: Thank you.

CHAIRMAN WORTZEL: We'll take a 15 minute break.

[Whereupon, a short recess was taken.]

PANEL V: INFORMATION CONTROLS AS A POTENTIAL WTO VIOLATION

HEARING COCHAIR FIEDLER: Our final panelist will explore whether information controls by the Chinese government, particularly for information on the financial services sector, could be considered a WTO violation.

We're pleased to welcome Mr. Gilbert Kaplan, a partner at King & Spalding, and a part of the international trade group there. His practice focuses on international trade cases, trade policy issues, and intellectual property issues. He has represented clients in a wide variety of cases on antidumping, price discrimination, countervailing duties, subsidies, Section 337 on intellectual property infringement, and other trade matters.

Mr. Kaplan also represents clients in connection with

legislative and trade matters, trade policy matters. He has represented the petitioner in the first two countervailing duty cases against China in which the United States government made a finding of subsidization. Mr. Kaplan is speaking on behalf of the California First Amendment Coalition.

There was supposed to be another panelist who had to pull out at the last moment, and I presume he would have given a slightly more opposing view of this. But knowing that you're an attorney, Mr. Kaplan, you can probably also argue against yourself.

MR. KAPLAN: I'll move over to that seat.

HEARING COCHAIR FIEDLER: If we ask what are the counter arguments to your position, I hope you wouldn't be offended because I think we need to air what the views are, and therefore I would like to get started.

Thank you.

**STATEMENT OF MR. GILBERT KAPLAN
PARTNER, KING & SPALDING LLP, WASHINGTON, D.C.
SPEAKING ON BEHALF OF THE CALIFORNIA FIRST
AMENDMENT COALITION**

MR. KAPLAN: Thank you, Commissioner Fiedler, and thank you, members of the Commission for inviting me here to speak today. I really appreciate the opportunity to make certain points regarding the Internet in China and restrictions and blockage that U.S. companies face because I think it's a very important issue.

As you noted, my name is Gilbert Kaplan and I'm a partner in the Washington, D.C. office of King & Spalding. I am here today on behalf of the California First Amendment Coalition, CFAC, a nonprofit public interest organization dedicated to advancing free speech and open government rights.

CFAC recently petitioned the United States Trade Representative to bring a case against China under the General Agreement on Tariff and Trade, the GATT, and the General Agreement on Trade and Services, the GATS, of the WTO.

CFAC's position is that China's systematic censorship of the Internet is a violation of these agreements. Quite apart from the important human rights issues raised by China's policies, its censorship of the Internet operates as an unlawful barrier to trade over the Internet, placing American information technology and Internet companies at an unfair disadvantage compared to their competitors.

The Chinese Internet market is now the biggest in the world, having surpassed the U.S. during the first half of 2008 according to

various estimates. Companies that do not have full access to China do not have the volume to be able to grow with the full rate necessary to remain competitive on a worldwide basis.

The Internet was supposed to tear down walls, not build them. As recently as five years ago, the conventional wisdom was that the Internet because of its decentralized design, the millions of computers that comprise the network, the ability of any one person connected to it to communicate with all others and vice versa, was simply beyond the power of any government to control.

But the conventional wisdom was wrong. Using the most advanced technology and sparing no expense in personnel and resources, China has built a massive, highly sophisticated and remarkably effective system of Internet censorship. The Great Firewall employs a combination of sophisticated hardware and advanced software and human resources to prevent U.S. Internet companies and Web sites from doing business in China.

Some Web sites subject to blocking are blocked permanently. Others are blocked sporadically with blocking applied and removed without any explanation to the affected companies or organizations.

On several occasions, the Great Firewall has not only been applied to block access to Web sites of major U.S. companies, but it has actually redirected the site's blocked traffic to a domestic Chinese competitor.

As recently as October 2007, U.S. Web sites YouTube and Yahoo were blocked in this way. Their customers in China upon requesting YouTube and Yahoo on their computers received an error message and were redirected to Baidu, China's leading search engine.

Some of the more notable Web sites that have experienced blocking in recent months are YouTube, BBC News, Wikipedia, LiveJournal, and Tripod.

The Chinese government has enacted a wide range of laws and regulations that result in de jure or de facto prohibition on the delivery of certain electronic goods and services into China, and/or result in discriminatory treatment of U.S. Internet companies.

Many of the measures that prevent U.S. Internet companies from doing business in China are not even publicly available. As a result, U.S. Internet companies that are determined to reach Chinese consumers must engage in self-censorship, guessing at the terms, phrases and topics that will trigger blocking or filtering by the Great Firewall.

This system is efficient from the standpoint of China's censors. When companies have to guess what content to remove, they will censor more content.

A key feature of the Great Firewall is that it degrades the

performance of Web sites based outside the firewall as experienced by users in China. While Web sites inside China load normally and quickly, in the same way that properly functioning U.S. Web sites are experienced by U.S. users, the Great Firewall adds crucial time to the use of U.S.-based Web sites in China.

Google, for example, has stated that one of the most important considerations driving its decision to relocate its Chinese language search engine and the servers supporting it from the U.S. to China was the need to overcome the performance deficit caused by the firewall.

China is violating its WTO obligations under numerous provisions in the General Agreement on Tariffs and Trade, 1994, the GATT, and the General Agreement on Trade and Services, GATS, and the China Protocol of Accession to the WTO.

For example, China is violating GATT Article III:4. This is the so-called "national treatment provision," which is one of the cornerstones of the entire WTO system. Certain governmental measures treat the products supplied from outside China less favorably than like products originating from its own domestic suppliers.

In many cases, the measures only apply to non-Chinese products or to their suppliers and, thus, give like products originating in China a competitive advantage.

China is also violating certain provisions of the GATS, which is the General Agreement on Trade and Services. GATS Article III:1 calls for transparency in the application of any barriers on the entry of services into a member country.

But the blocking and filtering measures of general application in China have not been published and cannot be challenged in any tribunal.

Finally, China is violating certain provisions of its own Protocol of Accession. Other specific WTO violations are described in my written testimony.

I would like to make one final point. Many people say that it is not a problem that much of our manufacturing sector is moving offshore, particularly to China, because the higher value-added products and services will always remain here.

I have heard that argument many times. Whatever the merits of that argument, and it is certainly questionable, it is particularly ironic when one of the highest value-added services we have, one in fact which we invented, is the Internet, and Internet access by U.S. companies is being blocked by China.

I'd be happy to answer any questions you have and appreciate your taking my statement.

[The statement follows:]

**Prepared Statement of Mr. Gilbert Kaplan
Partner, King & Spalding LLP, Washington, D.C.
Speaking on Behalf of The California First Amendment Coalition**

“Access to Information and Media Control in the People’s Republic of China”

Good afternoon, my name is Gilbert Kaplan, and I am a Partner in the Washington, DC office of King & Spalding LLP. I am here today on behalf of the California First Amendment Coalition (“CFAC”). CFAC is a nonprofit public interest organization dedicated to advancing free speech and open-government rights. CFAC recently petitioned the U.S. Trade Representative to bring a case against China under the General Agreement on Tariffs and Trade (the “GATT”) and the General Agreement on Trade in Services (the “GATS”). I will be talking about that later, but first I would like to address some of the questions posed by the Commission.

I. China - Measures Affecting Financial Information Services and Foreign Financial Information Suppliers (WT/DS373)

I was asked whether certain restrictions imposed by the Chinese Government on the dissemination of financial information to Chinese customers are consistent with China’s commitments under the World Trade Organization (the “WTO”) agreements.

On September 10, 2006, Xinhua, the Government of China’s (the “GOC”) official news agency, released the “Measures for Administering the Release of News and Information in China by Foreign News Agencies” (the “Measures”). These Measures regulate the transfer of financial information from foreign firms like Dow Jones, Reuters, and Bloomberg to Chinese customers. Specifically, the Measures prohibit foreign news organizations from distributing financial information directly to Chinese customers. In addition, the Measures require the submission of any financial information to Xinhua or its affiliates for review prior to its release. Xinhua and its affiliates have the authority under the Measures to alter or delete any material they deemed offensive.

It is important to understand that these Measures are fully consistent with the GOC’s monopoly on the dissemination of information in China. Although Article 35 of the Chinese Constitution guarantees freedom of speech and press, the reality is far different. The Chinese Government maintains strict control of the media, and heavily censors the content of newspapers and other publications, radio and television broadcasts, and Internet websites.

The GOC views foreign firms like Dow Jones, Reuters, and Bloomberg as a threat. These companies operate independently of the Government. They deliver financial information that is not censored. And they have a direct relationship with some of the most wealthy and powerful individuals in China.

Moreover, these companies have become powerful in their own right. Dow Jones, Reuters, and Bloomberg dominate the market for financial information in China. Each of them have developed highly profitable networks by selling up-to-the-minute stock quotes and news to thousands of Chinese customers.

Through the Measures, China is seeking to extend its monopoly over the dissemination of information, and make Dow Jones, Reuters, and Bloomberg dependent on its goodwill for their operations in China. Unfortunately for China, the Measures are plainly inconsistent with their commitments under the WTO agreements.

As a member of the WTO, China is generally barred from restricting trade in financial information. Moreover, China undertook specific commitments during its accession negotiations to provide non-discriminatory treatment to foreign individuals and enterprises, irrespective of whether or not they had invested or registered in China. The Measures seem to discriminate against foreign firms like Dow Jones, Reuters, and Bloomberg in favor of domestic enterprises, in particular Xinhua.

China also agreed to separate the regulatory authorities for financial information services from the service suppliers they regulated. But China never established an independent regulator. Instead, Xinhua serves as both a major market competitor and a regulator of foreign financial information suppliers.

Finally, China's accession agreement also contained certain "horizontal" commitments, which apply to all sectors listed as services, including those that involve acquired rights. Under the acquired rights commitment, China agreed that the conditions upon a foreign company's activities would not be made more restrictive than they were on the date of China's accession to the WTO. In other words, a foreign company could expect the continuation or expansion of its rights, but not the contraction or elimination of its rights. The Measures breached this commitment by imposing new restrictions on the dissemination of financial information by foreign firms.

II. Barriers to Trade in Internet Goods and Services with China

Now I would like to address the GOC's barriers to trade in Internet goods and services. The GOC is actively preventing U.S. Internet companies from doing business in China while at the same time promoting Chinese Internet companies engaged in the same or similar activities. It is thereby denying market access to U.S. Internet companies, discriminating against U.S. Internet companies in favor of their Chinese competitors, preventing growth in a critical economic sector and region for the U.S. technology and services industries, and violating its WTO commitments.

The GOC uses a combination of sophisticated hardware and advanced software to prevent U.S. Internet companies and websites from doing business in China. The GOC maintains exclusive control of the information technology ("IT") infrastructure that connects different computer networks within China and connects China's computer networks to the outside world. The GOC has configured this hardware to block thousands of U.S. websites and to restrict the delivery of Internet goods and services into China. The GOC also employs advanced software at the router level to prevent persons within China from accessing certain U.S. websites or receiving certain Internet goods and services.

The GOC requires Internet Services Providers ("ISPs") and other companies operating in China to support this effort. For example, ISPs and Internet cafes are required to use software filtering programs to deny access to certain U.S. websites and to prevent the delivery of certain electronic goods and services. Similarly, U.S. Internet companies providing Internet search services within China are required to distort their search results so as to block certain U.S. websites and to restrict access to certain electronic goods and services.

As a result of the GOC's measures, the following U.S. and foreign websites, among others, have been blocked by the GOC in the past few months: YouTube (www.youtube.com), BBC News (news.bbc.co.uk), Wikipedia (www.wikipedia.com), LiveJournal (www.livejournal.com), Tripod (www.tripod.lycos.com), Technorati (www.technorati.com), WordPress (www.wordpress.com), Xanga (www.xanga.com), and Blogeasy (www.blogeasy.com).

The GOC has enacted a wide range of laws and regulations that result in *de jure* or *de facto* prohibition on the delivery of certain electronic goods and services into China and/or result in discriminatory treatment of U.S. Internet companies. Many of these measures require U.S. Internet companies to register at the provincial or local level, or to submit their content to various government agencies for approval. Obviously, it is impossible for persons based in the United States to comply with these regulations.

Many of the measures that prevent U.S. Internet companies from doing business in China are not publicly available. For example, the GOC maintains a list of Internet Protocol ("IP"), Domain Name Service ("DNS"), and Universal Resource Locator ("URL") addresses that it blocks on a regular basis or during special events. Separately, the GOC maintains a list of prohibited terms and phrases that are used by advanced software at the router level to determine whether U.S. websites may be accessed by persons within China and whether electronic goods and services may be delivered into China. The GOC has not published either of these lists. As a result, U.S. Internet companies remain subject to an invisible web of measures that prevent them from doing business in China.

Through these measures, China is violating its WTO obligations under numerous provisions of the General Agreement on Tariffs and Trade 1994 ("GATT"), the General Agreement on Trade in Services ("GATS"), and China's Protocol of Accession. For example, China is violating the following provisions of the GATT:

- GATT Article III:4 -- Certain measures treat the products supplied from outside China less favorably than like products originating from domestic suppliers. In many cases, the measures only apply to non-Chinese products or to their suppliers and thus give like products originating in China a competitive advantage.
- GATT Article XI:1 -- Certain measures are applied exclusively to foreign origin products and amount to a *de jure* or *de facto* import prohibition.
- GATT Article X:1 -- The blocking and filtering measures constitute “administrative rulings of general application” that operate as a *de facto* ruling on which products are permissible to import and distribute to Chinese customers. They operate as an import prohibition or restriction or otherwise affect the sale, distribution, or other use of the products, and the GOC has failed to publish these measures.
- GATT Articles X:3(a) and (b) -- The GOC does not administer the blocking and filtering measures in a uniform, impartial, and reasonable manner, because they are unpublished and are applied in different ways to different suppliers and to different products. In addition, the GOC does not maintain any judicial or arbitral system to review the administration of these measures.

China is also violating the following provisions of the GATS:

- GATS Article I:1 -- The relevant measures affect trade in services in sectors for which the GOC has made specific commitments, including value-added telecommunications services. Such services are being provided in the cross-border, commercial presence, and arguably consumption abroad modes of supply.
- GATS Article III:1 -- The blocking and filtering measures are of general application and have not been published.
- GATS Article VI -- Certain measures are not administered in a reasonable, objective, and impartial manner, and tribunals and/or procedures are not available for the prompt review and remedy of administrative decisions.
- GATS Article XVI -- Certain measures impose significant limitations or prohibitions (*i.e.*, *de facto* zero quotas) on the number of U.S. service suppliers and service operations.
- GATS Article XVII -- Certain measures explicitly or implicitly treat U.S. suppliers differently and modify the conditions of competition in favor of Chinese suppliers.

Finally, China is violating the following provisions of its Protocol of Accession.

- Paragraph 1.2 (incorporating the commitments in paragraphs 19 and 22 of the Working Party Report) -- Certain measures discriminate against foreign suppliers of products over the Internet by blocking foreign goods and services at the border, particularly where like products offered domestically via the Internet are not blocked.
- Paragraph 1.2 (incorporating the commitments in paragraph 122 of the Working Party Report) -- China agreed not to introduce or apply any non-tariff measures not identified in Annex 3 to the Protocol. The GOC, however, has blocked a number of imported products without explanation or justification.
- Paragraph 2.C.1 and paragraph 1.2 (incorporating the commitments in paragraphs 331, 332, and 334 of the Working Party Report) -- The GOC has failed to publish or make readily available any measures that identify the keywords and IP, DNS, and URL addresses that are blocked at the border. The GOC is also enforcing these measures to block the delivery of goods and services.
- Paragraph 2.D and paragraph 1.2 (incorporating the commitments in paragraphs 78 and 79 of the Working Party Report) -- The GOC has failed to establish tribunals, contact points, and procedures by which Internet-based suppliers can appeal the blocking of imported publications and content.

I would be happy to answer any questions you might have about these issues. Thank you very much for giving me the opportunity to speak here today.

PANEL V: Discussion, Questions and Answers

HEARING COCHAIR FIEDLER: Thank you very much.

Chairman Wortzel, first round.

CHAIRMAN WORTZEL: Mr. Kaplan, I appreciate the testimony. I'm very familiar with the Dow Jones, Reuters, Bloomberg and financial information.

MR. KAPLAN: Yes.

CHAIRMAN WORTZEL: I'd call it financial services.

MR. KAPLAN: Right, right.

CHAIRMAN WORTZEL: And I understand clearly that those financial service providers are losing both income and having their content sometimes changed.

MR. KAPLAN: Right.

CHAIRMAN WORTZEL: By requiring them to go through Xinhua and that affects the value of investments; it affects the value of their services. So I sympathize and I think you're right.

Now, I'm about to demonstrate my deep ignorance.

MR. KAPLAN: Okay.

CHAIRMAN WORTZEL: You're going to have to explain to me because I don't understand why getting access to some idiot place like YouTube amounts to a financial service. Now, let me follow this up. Or why it's a value added? I don't understand--

VICE CHAIRMAN BARTHOLOMEW: You're showing your age.

CHAIRMAN WORTZEL: I'm showing my ignorance. I don't understand the commercial value--

HEARING COCHAIR FIEDLER: As well as his age.

CHAIRMAN WORTZEL: --the commercial value of access to some, maybe it's Facebook, maybe it's YouTube. I don't understand the commercial--so educate me. Is it that the sponsor of YouTube because-- I don't pay anything to use YouTube and Facebook--so the commercial value is the fact that if the owner of that thing can report a certain number of hits, it gets paid by somebody, an advertiser?

MR. KAPLAN: First, let me just clarify one thing. There are two different issues, one of which we discussed a minute ago, which is just general Internet blockage, and then there are the financial services issues which have been raised already by USTR in a request for consultations.

But to go to your question, most Web sites now are free; more

and more of them are free. People tried to charge for Web sites over time and that generally has not worked terribly well. The way all these Web sites work, and if you look at Google, which owns YouTube, is based on advertising on the Web site, and when you do a search, certain advertising pop-ups may occur. If you look at the right of the screen, there's certain advertising and that's really the model for many of these Internet Web sites.

They are really kind of like siphoning information to you in the form of advertising. That's how they make their money. But they cannot exist without an audience. If you can't get into China, which is now the largest Internet market in the world, you are losing an enormous amount of potential revenue and enormous amount of growth potential, an enormous amount of technology experience. So they are losing an enormous amount of commercial benefit.

CHAIRMAN WORTZEL: So then your argument, as I understand this explanation, would be that because these advertisers are not able to get their advertising into China, that that is the GATT violation?

MR. KAPLAN: Well, not exclusively for the advertisers. Also for the companies that are running these Web sites, like Google and YouTube and Facebook and Tripod. All of these companies now have advertising on their Web sites or provide other roads to other parts of the Web and the like, and they are paid for that.

So if they are denied customers and denied access, they're going to be paid less and ultimately they're going to be competing with people who have a larger ability to get revenue.

CHAIRMAN WORTZEL: Well, when I pay my \$70 for my pop-up blocker software, am I violating their trade rights?

MR. KAPLAN: No, I don't think you're violating it. A lot of these are not pop-ups. That's another question, but the ads over on the right are not pop-ups. They're just opportunities you have to click on them.

HEARING COCHAIR FIEDLER: Commissioner Bartholomew.

VICE CHAIRMAN BARTHOLOMEW: Thank you very much. Thank you, Mr. Kaplan.

I think in the interest of full disclosure I have to note that Mr. Kaplan and I, me in my day job in my other capacity, share an employee, Cris Revaz, who is in the audience here. He works for Mr. Kaplan one day a week and for me four days a week on things that are unrelated to these matters, but I wanted to welcome Cris and to thank you for sharing him with me.

I also would like to acknowledge the California First Amendment Coalition. I'd love to know more about who makes up the Coalition. I think that some people in this audience have heard me say

this, but because I was associated with Ms. Pelosi for almost 16 years, I recognize the particular responsibility that Californians, and particularly northern Californians, have to ensure that the promise of the Internet, the access to information, free access to information, is met, and I'm very pleased to see your organization is working on those issues.

MR. KAPLAN: Thank you.

VICE CHAIRMAN BARTHOLOMEW: I'd like to ask a little bit more about the financial information because obviously as there is more and more cross-investment, access to accurate information in real time is really important for investors.

Do you have reason to believe that the Chinese government's control over the outlets that provide financial reporting are going to or could be skewing the information, delaying the timing of the release of information, and/or doing things that otherwise might benefit some companies or some industries over others?

MR. KAPLAN: I have not heard references to that actually. That they're, for example, changing stock prices or something like that. I have not heard that they actually are doing that. What I've heard more complaints about from the companies that are before USTR and the like is that they simply cannot do their business in China, they're not allowed free access to China. They have to use partners within China and that this prevents them from accessing a major market where there are incredible financial rewards for financial companies.

It wouldn't surprise me if there were instances where data could somehow be manipulated, but I can't say that I actually have heard that.

VICE CHAIRMAN BARTHOLOMEW: You're saying it is, Larry?

CHAIRMAN WORTZEL: Yes, I've had people from the companies document instances of manipulation when some part of the Chinese government wasn't happy with the way some of the market statistics were reported.

MR. KAPLAN: It doesn't surprise me at all, and certainly the other Internet areas where I've worked more extensively on news and information and the like, there certainly has been clear instances of manipulation. The most prominent--this may have been mentioned earlier because it's happened so often--is in China if you put in "Tiananmen Square" in some of the Web search engines, you get pictures of children with flowers and things like that. It's obviously a very different picture from what you get if you put it in in the United States in a similar Web site.

VICE CHAIRMAN BARTHOLOMEW: Okay. Another question

is are there things that the U.S. government could or should be doing in order to assist you and similar organizations to bring these kinds of cases?

MR. KAPLAN: I would just urge them to be as aggressive as possible. They have brought two cases on distribution rights and on copyright which are similar to the one we're asking about, though somewhat different, and they have raised for consultations the issue of financial services.

So I think they have been taking aggressive steps, and another point you mentioned, they've been working on subsidies as it relates to China. But on this case, we have been speaking with them now since November, I believe, of 2007. We provided a lot of information, but we would certainly welcome their actual calling for consultations on this issue.

I think there's a basis to do that, and I think there is a clear indication of WTO violations. So we would encourage them at this point--we've given them a lot of information--to go forward and start a case.

VICE CHAIRMAN BARTHOLOMEW: All right.

CHAIRMAN WORTZEL: May I make a comment?

HEARING COCHAIR FIEDLER: Surely.

CHAIRMAN WORTZEL: A related point is that while Dow Jones and these companies are providing financial services, Xinhua in this instance isn't just a news agency.

MR. KAPLAN: Right.

CHAIRMAN WORTZEL: It started Xinhua Finance so it's an investment management firm and they begin by manipulating or taking and controlling the data to become the preferred manager of a large number of investments from China that could flow--and it's government controlled--that could flow to U.S. companies. So I agree with you again.

MR. KAPLAN: Yes, that's exactly the complaint I've heard.

HEARING COCHAIR FIEDLER: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Mr. Kaplan, thank you very much for bringing your expertise here. We appreciate it very much.

I read your testimony, and I know that we and the EU, at least my understanding is, we and the EU earlier this year--March, was it--

MR. KAPLAN: Yes.

COMMISSIONER MULLOY: --filed a WTO case on the control of the financial information.

MR. KAPLAN: Well, we requested consultations.

COMMISSIONER MULLOY: That's the first step--

MR. KAPLAN: That's the first step, yes.

COMMISSIONER MULLOY: --in dispute settlement?

MR. KAPLAN: Yes, exactly.

COMMISSIONER MULLOY: Okay. Now, my understanding further is that USTR is the gatekeeper of bringing cases to the WTO.

MR. KAPLAN: That's correct.

COMMISSIONER MULLOY: So you don't bring them? You can't go out and file a case. You got to get USTR to do it?

MR. KAPLAN: That's correct.

COMMISSIONER MULLOY: Okay. So the first part of your testimony on pages one and two and three is being now considered in the WTO.

MR. KAPLAN: Right.

COMMISSIONER MULLOY: Okay. And so your point then is barriers to trade and Internet goods and services, what you contend and lay out here, is a violation of China's WTO obligation.

MR. KAPLAN: That's correct.

COMMISSIONER MULLOY: And what's the problem? It looks pretty interesting to me, national treatment. What is the problem in USTR in not taking this case to WTO? What are they telling you?

MR. KAPLAN: Well, I don't want to speak for USTR.

COMMISSIONER MULLOY: Okay.

MR. KAPLAN: They've been quite responsive. We've met with them a number of times. They've been very interested in this case. I think looking at it as they look at cases, they want to be 100 percent sure that it's a good case, that all the i's are dotted and the t's are crossed, and they do put people who have potential cases through a lot of legwork and document requests and information requests and back-up requests before they start these cases, and I think we are in that process now.

I've been through that with a number of WTO cases with USTR and for better or worse, they do put people through that process.

COMMISSIONER MULLOY: USTR is a pretty small organization so they rely on a lot of the other agencies to staff them.

MR. KAPLAN: Right.

COMMISSIONER MULLOY: In evaluating these things. What other agencies are involved in making the judgment on whether to bring this case?

MR. KAPLAN: This case, you know, I think conceivably the Department of Commerce would look at it because they do a lot of these sorts of trade issues, particularly as they relate to Internet and technology. Conceivably the FCC might look at it.

COMMISSIONER MULLOY: FCC.

MR. KAPLAN: Because it does involve telecommunications and access to telecommunications. Those would be the two main ones

I would think.

COMMISSIONER MULLOY: Have you had meetings with USTR?

MR. KAPLAN: Yes, we have.

COMMISSIONER MULLOY: Do they bring these other agencies into these meetings?

MR. KAPLAN: No, no, they haven't. They may have discussed it with them, but I was not in any of those meetings.

COMMISSIONER MULLOY: Now, I note in the other case, it looks like the European Union joined in the case dealing with financial services information.

MR. KAPLAN: That's correct. They have filed a statement in support of that and request consultations.

COMMISSIONER MULLOY: Is there any other nation that's involved in bringing this second part of this case on the Internet itself in which you're representing this coalition?

MR. KAPLAN: Not as of yet. I think we're very close actually to reaching out to some other national governments on this, and the Commission, the EU Commission, I think we have considered raising this with them, and I think if we get an indication that USTR is about to go forward, we would do that.

COMMISSIONER MULLOY: Okay.

MR. KAPLAN: Possibly with Japan also.

COMMISSIONER MULLOY: That's very helpful. Thank you.

MR. KAPLAN: Thank you.

HEARING COCHAIR FIEDLER: Thank you.

Commissioner Videnieks, you have a question?

COMMISSIONER VIDENIEKS: Brief question kind of following up on Chairman Wortzel's. Can you please summarize the PRC case? Do they cite any WTO provisions like national security No. 11, etc..

MR. KAPLAN: Right.

COMMISSIONER VIDENIEKS: --to buttress their case or to build their case upon?

MR. KAPLAN: Well, we haven't raised it with the PRC as of yet.

COMMISSIONER VIDENIEKS: Okay.

MR. KAPLAN: Probably this is the most public presentation so maybe they will say something once they hear what I have to say, but we haven't raised it yet. I think they could raise some of these objections, national security, the right to control public morals and other things which are in the WTO.

I don't think those claims have merit actually. I don't think there is any national security basis to object to this case. I think that

would really have to stretch some of the other exceptions to apply it to this case.

COMMISSIONER VIDENIEKS: In other words, at this point, you can only speculate as to what they would say?

MR. KAPLAN: Yes.

COMMISSIONER VIDENIEKS: You don't know?

MR. KAPLAN: I don't know.

COMMISSIONER VIDENIEKS: Thank you.

HEARING COCHAIR FIEDLER: Let me take you back to your earlier oral testimony where you were mentioning that when someone enters a search and it may involve a U.S. company, would the result be that it gets redirected to a Chinese company or it gets redirected to Baidu itself?

MR. KAPLAN: Right.

HEARING COCHAIR FIEDLER: Can you talk a little more about that, give us some examples?

MR. KAPLAN: As I mentioned, I think it was both YouTube and Yahoo who through anecdotal information we heard that this happened to. I've heard of some other examples, and what it really says is that there's quite a conscious effort to create a commercial advantage for the Chinese Internet companies, particularly Baidu, which is a very large and very successful company, because there is no way that that could happen inadvertently, and there is no way that could happen through some technological just blockage. There has to be some conscious effort to try to get people to use Chinese-based Web sites.

HEARING COCHAIR FIEDLER: The issue of Baidu is interesting to me on a number of levels. One, Baidu is an American depository receipt company. It's traded on one of the exchanges. I'm not sure if it's the New York or the NASDAQ exchange. I may be slightly dated on this.

I believe Baidu is 17 percent owned or some large number by the private investment vehicle of Rob Walton, the chairman of Wal-Mart. It's called Madrone Capital and that his son-in-law is on the board of Baidu. So you have Americans involved on the board of Baidu. You have Americans raising capital for Baidu.

Have you ever looked into securities laws in the United States as they apply to Chinese companies who are raising capital here, whether or not you have grounds on any of the U.S. securities laws to go after these Chinese companies individually forgetting the WTO? I mean where you would have a private right of action in the United States court system?

MR. KAPLAN: I have not looked at that. That's a very interesting possibility. If they are in some way failing to fully

disclose actions they're taking or in some way hurting other U.S. companies, there may be some basis to do that, but I have not looked into that.

HEARING COCHAIR FIEDLER: Let me also slightly get off of your case for a second into another thought, which is in the United States, if I am a company and I want to invest in somebody else, I have all sorts of information available to me to make my decision, not just via the Internet.

Okay. We have an uncensored press. Now it may not be covered because it's a small company or something. In China, the availability of information about companies, about their relationships with the government, with the Party, with so-and-so, with what and what, is censored.

MR. KAPLAN: Yes.

HEARING COCHAIR FIEDLER: Forgetting the Internet. Is there any case there in terms of general censorship, not simply the Internet? You've selected one vehicle for dissemination of information, the Internet, as the violation.

Well, there are other distributive mechanisms to get information out--newspapers. Okay. So if information is not available, are we at a disadvantage and is it actionable under any of the WTO provisions or any of the provisions you cited?

MR. KAPLAN: I think it is actionable under the GATS potentially. The financial services case is not related solely to the Internet. It's more generally a complaint about the efforts in China to limit access to financial information from the United States. So I think there are broader claims under the GATS that don't relate specifically to the Internet if we can't get information that is financial service information in China and that if we can't provide information or provide information that would allow investment coming out of China into the United States.

HEARING COCHAIR FIEDLER: Let me just follow up on that a second. There's all sorts of statistical and economic information that financial services companies want to publish.

MR. KAPLAN: Uh-huh.

HEARING COCHAIR FIEDLER: Well, clearly that information certainly it is not as available in China as it is available in the EU, the United States, Canada.

MR. KAPLAN: Absolutely.

HEARING COCHAIR FIEDLER: Or many other countries.

MR. KAPLAN: Correct.

HEARING COCHAIR FIEDLER: Are you saying that the unavailability of information that is commonly purveyed by financial services companies, the inability to gather it in China is an actionable

matter?

MR. KAPLAN: I think it's potentially actionable under the GATS as a service which the United States citizens and United States companies do not have access to, and that is part of the theory of the financial services consultations which have been requested. Those are not limited solely to the Internet. It has to do with free flow of information going both ways.

HEARING COCHAIR FIEDLER: Yes. There's no question this is going to be an interesting case because it has enormous implications beyond the narrow appearing business interests.

MR. KAPLAN: Well, this is exactly what Secretary Paulson has been talking about. I guess the SED is still going on, but certainly in the last few days, just a more open financial services market, which permits one of our very strong services sectors to flourish, and without openness, you're not going to be able to have major banks and major investment services in China be ultimately successful.

HEARING COCHAIR FIEDLER: He doesn't quite articulate it as clearly though.

MR. KAPLAN: Well, I don't know.

HEARING COCHAIR FIEDLER: Yes. Carolyn.

VICE CHAIRMAN BARTHOLOMEW: Thank you. Thanks again.

Mr. Kaplan, this is actually a really interesting approach that you all are taking, and I suppose it doesn't really matter if the primary intention is to break open Chinese censorship or the primary intention is to provide opportunities for American companies who--U.S. Internet companies.

But one of the problems that we've noted over the years is that many companies are afraid to stand up, U.S. companies are afraid to stand up and assert their rights because if they do it publicly, there's backlash against them by the Chinese government.

So they'll come tous frequently behind the scenes and express concern about intellectual property rights violations, but then when the USTR has been trying to round up people who are willing to go on the record, all of a sudden they become missing in action.

Are the U.S. companies like the Yahoos, I'm going to even include Cisco in here, Google, on board with what you're doing here?

MR. KAPLAN: I'd say you'd have to talk to them, but there's generally been a lot of support for what we're doing. Some of the computer associations have expressed support. Some of the companies have expressed support. I think there is a lot of support, but I can't say that there isn't also concern about what you're saying because it's kind of part and parcel of the problem we're talking about.

If you're trying to access what is in some ways still a very

controlled and even totalitarian society, you're trying to make money there, you want to get in, but by speaking up and trying to get in, you can suffer some repercussions.

So you got to kind of proceed step by step and maybe sometimes by small steps to break all that open.

VICE CHAIRMAN BARTHOLOMEW: So there's a potential free rider benefit for them in the sense that if you all are successful, they will be the beneficiaries of it, but they don't have to bear the costs if you aren't or even if you are?

MR. KAPLAN: I don't know if it's so much a free rider. I think hopefully we'll get increasing support and increasing willingness to step up and raise these issues because I think ultimately we're going to have to have a pretty good both political and rhetorical and legal effort to make progress.

VICE CHAIRMAN BARTHOLOMEW: Yes. I'm sorry that Commissioner Reinsch couldn't be here now because of his National Foreign Trade Council represents a number of different organizations, and earlier today we were even talking about some of the multi-stakeholder discussions that are going on trying to deal with the censorship issues. I hope that you are also somehow talking with people on the Hill as they are looking for--is it Global Internet Freedom Act or what is that the U.S. Congress, the U.S. government can do to promote openness and to stop the complicity of U.S. companies in censorship?

You have a very interesting mechanism here that you're trying to do. So I would hope that you're talking to people who can help you build some other support for it.

MR. KAPLAN: Yes, we definitely are. We've talked to quite a number of Senate and House offices and I'm glad to have the opportunity to speak with this Commission.

VICE CHAIRMAN BARTHOLOMEW: Thank you.

HEARING COCHAIR FIEDLER: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Mr. Chairman. Again, I want to thank you for being here. This is really good testimony.

MR. KAPLAN: Thank you.

COMMISSIONER MULLOY: You're speaking on behalf of the California First Amendment Coalition.

MR. KAPLAN: That's correct.

COMMISSIONER MULLOY: Is it publicly available, who are members of the Coalition?

MR. KAPLAN: Yes. Well, the members of the board and the members of the--

COMMISSIONER MULLOY: We have that available for the

record or can we have that?

MR. KAPLAN: You can look on the Internet. It's not censored.

COMMISSIONER MULLOY: We'll put it in the record.

MR. KAPLAN: But I have a list of the members of the board right here.

COMMISSIONER MULLOY: Are Google and Cisco and people like that part of your coalition?

MR. KAPLAN: It's a nonprofit organization. So members of the board are members for themselves, but there is someone from Yahoo that is on the board and someone from Google that's on the board--

COMMISSIONER MULLOY: Okay.

MR. KAPLAN: Someone from Knight Ridder that's on the board.

COMMISSIONER MULLOY: And are they funding, helping to fund this organization?

MR. KAPLAN: Yes, to my knowledge. I don't know the background of funding, but having been on a number of boards, that's usually part and parcel of being on the board.

COMMISSIONER MULLOY: Yes. We mentioned the Strategic Economic Dialogue which is finishing up today.

MR. KAPLAN: Yes.

COMMISSIONER MULLOY: Is this an agenda item for the SED?

MR. KAPLAN: You know it's not, but we were just talking over the last few days. I don't know if there will be another meeting of that group before the end of the administration, but I think I would like to raise that with Secretary Paulson and his people if there is another meeting because I think unless USTR starts this case right away, I think that might be a mechanism, and it really ties in very closely with the kinds of things they're looking at.

COMMISSIONER MULLOY: I guess you're kind of lead counsel for this group.

MR. KAPLAN: Yes.

COMMISSIONER MULLOY: Have you talked with the Chinese government or the Chinese Embassy about this problem?

MR. KAPLAN: No, we haven't, and the reason, at least I haven't, is in my dealings with foreign governments, it's much better if the U.S. government approaches them than a private citizen. So I think it would be much more helpful if I can get USTR or another government entity to raise it rather than doing it myself.

COMMISSIONER MULLOY: Now, there's another place for dialogue on these kinds of issues, the Joint Committee on Commerce

and Trade.

MR. KAPLAN: Exactly.

COMMISSIONER MULLOY: The JCCT.

MR. KAPLAN: Exactly.

COMMISSIONER MULLOY: Which is run by Commerce and USTR.

MR. KAPLAN: Right.

COMMISSIONER MULLOY: I think they have a meeting upcoming. Have you, have they--this might be more appropriate for the JCCT--

MR. KAPLAN: Right, it's possible.

COMMISSIONER MULLOY: --than the Paulson group.

MR. KAPLAN: That's right.

COMMISSIONER MULLOY: Have you taken it to them and asked to get them to take it? This looks like a place kind of made for that type of discussion.

MR. KAPLAN: No, we haven't, but I think that's a good idea. But having said that, I have brought other issues to the JCCT.

COMMISSIONER MULLOY: Who's the gatekeeper on that? Commerce or USTR?

MR. KAPLAN: I think it's mainly Commerce. And some of the issues on the JCCT agenda have been on that agenda for many meetings over many years, not to criticize them, but that's why I like the idea of a WTO case. Because despite its drawbacks, it's fast, it gets you a result, and if you've got a good case, you have a good chance of changing something. So I still hope that I can get USTR to take this action.

COMMISSIONER MULLOY: Okay. There's nothing inconsistent with having it there and discussing it, not getting anything, and then going to the WTO.

MR. KAPLAN: Right. Absolutely not.

COMMISSIONER MULLOY: Thank you. That's very helpful.

VICE CHAIRMAN BARTHOLOMEW: May I?

HEARING COCHAIR FIEDLER: Yes, sir.

VICE CHAIRMAN BARTHOLOMEW: Another question. Have there been any other cases like this brought before the WTO, cases that sort of have this freedom of information component?

MR. KAPLAN: Not so much freedom of information. There have been other services cases, and we are focusing again on the services and commercial implications because for better, for worse, the WTO is not an international human rights treaty.

VICE CHAIRMAN BARTHOLOMEW: Right, right, right.

MR. KAPLAN: It's a commercial treaty. So there are other cases which I think are precedents on the commercial services sort of

issue, but not really on the human rights or the censorship issue that this does implicate.

VICE CHAIRMAN BARTHOLOMEW: Yes. No, I mean if you succeed at this, it really sets the stage for some very interesting things in other countries also.

MR. KAPLAN: I think so. There are other countries that block the Internet too, as we know.

VICE CHAIRMAN BARTHOLOMEW: Yes. Yes.

MR. KAPLAN: But the China one is the one we're concerned about most prominently for commercial reasons.

VICE CHAIRMAN BARTHOLOMEW: Right. Is there anything else you think we need to know?

MR. KAPLAN: I've set it out pretty thoroughly both in the written testimony and what I just said. I think you know there's been problems for all these companies. I think the more momentum we can build up here on Capitol Hill, the better off we're going to be in solving these.

HEARING COCHAIR FIEDLER: So you have actually triggered, actually the exchange that you two just had triggered a technical legal question in my mind.

MR. KAPLAN: Okay.

HEARING COCHAIR FIEDLER: So let me just set the background first. So throughout the early and mid-'90s while we were debating China's MFN status or its WTO accession, whenever things were not going right in the Chinese view, they might have threatened Boeing--okay--which I never viewed as particularly fulsome threat, but they threatened the cutoff of Boeing business. We'll stop buying their aircraft.

Carolyn refers to businesspeople being afraid to talk because they're worried about retaliation. Now that retaliation in my view is definitionally political retaliation--right. They're saying something. They're voicing an opinion or describing a reality, and they're afraid to do that publicly because the Chinese government may not issue them a license, may not do this, that or the other thing.

The issue of retaliation for expressing opinions or observations, is that actionable under any of the same provisions you are using to attack censorship and access?

MR. KAPLAN: Yes, I think it is. I think if you were, strangely under the WTO, the reason you were retaliated against would probably not be as important as the actual--

HEARING COCHAIR FIEDLER: Retaliation.

MR. KAPLAN: --commercial retaliation. You cannot deny a company access or deny them a commercial right in this example in China for any reason except reasons permissible under the WTO. It's a

little like the Constitution. You can deny someone a job, but you can't deny them a job for a number of reasons which are unconstitutional.

You cannot deny people access under the theory of the WTO to a market except for certain specific reasons like if you set a tariff which is agreed to and the like. So if they are cutting a company out, I think there would be a WTO violation, and I think the WTO would react quite strongly to that.

HEARING COCHAIR FIEDLER: To go one step further, first of all on a practical basis, you're not going to find anybody who will martyr themselves for the concept.

MR. KAPLAN: Right.

HEARING COCHAIR FIEDLER: But the thing that comes to mind most quickly is IPR violations where people have actually taken action on their intellectual property and might have suffered from practical retaliation.

By the way, this now becomes an issue whereby those people have no private right of action but the U.S. government does. So they're then put in the position of saying to the Chinese hey, I mean we didn't bring a case; the U.S. government didn't like the fact that you denied me the market.

MR. KAPLAN: Right.

HEARING COCHAIR FIEDLER: So that there's some political cover protection to this. It would be very interesting to find somebody who would be--I remember someone telling me in the State Department during one occasion that there were no heroes in the business community. So I'm not thinking that we'll find one readily, but this notion of retaliation, i.e., somebody who was driven out of business and now is incentivized to do it is intriguing.

MR. KAPLAN: I think there are some heroes. There are some people who have stood up in other areas related to trade with China. And I think it's possible, I would say even likely, given the great number of people affected, that some people will or could stand up.

HEARING COCHAIR FIEDLER: I want to thank you very much and we appreciated it. This hearing is now adjourned, and we will convene another hearing on the MOU on Prison Labor tomorrow morning at 8:45.

MR. KAPLAN: Thank you.

HEARING COCHAIR FIEDLER: Thank you, Mr. Kaplan, very much.

[Whereupon, at 4:15 p.m., the hearing was adjourned.]