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REVIEWING PRESIDENT XI'S STATE VISIT

HEARING

BEFORE THE

SUBCOMMITTEE ON ASIA AND THE PACIFIC

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

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REVIEWING PRESIDENT XI'S STATE VISIT

WEDNESDAY, OCTOBER 7, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:15 p.m., in room 2200 Rayburn House Office Building, Hon. Matt Salmon (chairman of the subcommittee) presiding.

Mr. SALMON. The subcommittee will come to order.

Two weeks ago President Obama welcomed China's Xi Jinping to the United States for his first state visit as President. It was an opportunity for the administration to make inroads with Mr. Xi on areas of mutual interest, as well as to address areas of serious concern.

I, joined by the ranking member, members of the Foreign Affairs Committee, and the House at large, wrote President Obama a letter urging direct communication on a few especially troubling issues. As we review the state visit with our distinguished panel, I hope to learn more about how receptive the administration was to these concerns, and what challenges outside of these major obstacles remain.

Since President Xi's ascension, China's new-found assertiveness has generated some distressing policy developments. For instance, over the years, China's cyber economic espionage has become a significant irritant in U.S.-China relations. It was clear that progress on cyber security relations was a priority for our administration, and we are supportive, that neither country's government will conduct or knowingly support cyber-enabled theft of intellectual property to benefit their economies.

This agreement is a positive and necessary step, but it is not sufficient. China still refuses to acknowledge its role in these attacks, despite evidence that clearly points to the contrary. It is my hope that our administration holds guilty actors accountable through punitive actions such as cyber sanctions, takes steps to deter future incidents of malicious cyber espionage, and improves our own cyber defense against these kinds of threats. Congress, too, will be watching this very closely.

In the months leading up to the visit, the business community expressed serious concerns about China's growing protectionism. China's national security reforms, some of which have already been codified into law, could force U.S. businesses and institutions out of China's market through forced technology transfers while other

provisions would block both trade associations and humanitarian NGOs on national security grounds.

President Xi has promised to use the review only for bona fide security reasons, but China defines "national security" much more broadly than the U.S. does. And the process itself is fundamentally opaque, creating serious risk for abuse and few avenues to appeal harmful actions by the Chinese Government.

Increased state intervention in the recent stock market troubles, and currency exchange rates also breaches China's commitments to let market forces play a decisive role in its economy.

China's aggression in the South China Sea has been a longstanding concern for this subcommittee, one which is shared throughout the government and civil society. I appreciate that the administration continues to raise the issue with their Chinese counterparts, but President Xi's position on China's illegal maritime claims did not budge during the visit. President Xi mentioned that China does not intend to pursue militarization, and I know we will hold him accountable for this.

There was no noticeable progress on worsening human rights conditions in China. President Xi noted that countries have different historical processes and realities to justify its poor record on human rights. That is not an excuse, and I will work to ensure that human rights play a larger role in foreign policy decisions.

I understand what China is doing here. China, benefitting from decades of central planning geared toward economic growth, is slowing down. Laden with increasing demands from a new middle class, the country is at risk of political, economic, and even military unrest. China is trying to divert crises through assertive domestic and foreign policies, but often the actions that we see are not reflective of a responsible international player, if that is what China wants to be.

The visit also yielded pledges that the U.S. and China would boost cooperation on various multilateral issues including nuclear security, wildlife trafficking and conservation, which are welcome developments. I am concerned about the climate deal, however, which signs U.S. businesses up to strictly adhere to environmental standards while China is not obligated to implement any reforms at all until 2030.

Encouraging the use of responsible and clean energy technology is understandable and laudable, but I remain concerned and frustrated that the Obama administration continues to use climate politics to put U.S. businesses at a competitive disadvantage and impose burdensome costs on U.S. families all in the hopes that 15 years from now China will live up to a non-binding agreement they make today.

I hope to hear from our distinguished panel about their impressions of the visit and what it portends for the future on our bilateral relationship. I support China's integration with the international community. China has a lot to offer, and their leadership on a number of quarrelsome issues facing the global community, like an unstable and belligerent North Korea, is welcome. I hope that our Government continues to engage China, but also holds it accountable to being the responsible actor it portrays itself to be.

Members present will be permitted to submit written statements to be included in the official hearing record. And, without objection, the hearing record will remain open for 5 calendar days to allow statements, questions, and extraneous materials for the record, subject to the length of limitation in the rules.

And I now yield to Ms. Meng, the ranking member here today, for her opening statement.

Ms. MENG. Thank you, Chairman Salmon, and thank you to our distinguished panel of witnesses for being here today.

President Xi's recent visit came at an important yet tense time for our two countries. U.S.-China ties have long been complex. But as the world's two most powerful economies, it is essential that our countries work together and cooperate in areas on which we agree.

While there were very few areas of new cooperation, the administration was able to expand and highlight existing cooperation and climate change, reining in North Korea's nuclear programs and military confidence building. However, foremost in our minds is the new promise of cooperation in cyber security and on intellectual property.

I know that my colleagues and I are interested to see if these new developments will lead to positive changes, and I look forward to hearing your thoughts today.

Thank you, and I yield back.

Mr. SALMON. Thank you.

Mr. Perry, did you have an opening statement?

Mr. PERRY. No.

Mr. SALMON. I will introduce the panel. First of all, Mr. Chen Guangcheng, known to many as the Barefoot Lawyer, is the founder of the Chen Guangcheng Foundation and a visiting fellow at Catholic University. Welcome, Mr. Chen.

Dr. Jessica Chen Weiss is a professor of government at Cornell University. Welcome.

Mr. Richard Bejtlich is chief security strategist at FireEye and previously was chief security officer at Mandiant.

And Dr. Scott Kennedy joins us from CSIS where he is deputy director of the Freedom Chair in China Studies and director of the Project on Chinese Business and Political Economy.

And I am going to start with you, Mr. Chen, and we are just thrilled that you could be here today.

STATEMENT OF MR. CHEN GUANGCHENG, FOUNDER, THE CHEN GUANGCHENG FOUNDATION

[The following statement and answers were delivered through an interpreter.]

Mr. CHEN. Dear Mr. Chairman and Members of Congress and all friends and people who care for human rights, I must say thank you. Human rights matter to everybody and should, therefore, be a core issue in U.S.-China relations.

And during Mr. Xi Jinping's visit here, everybody showed concern about the human rights issues on the agenda during his meeting with Mr. President Obama, the ongoing crackdown on human rights defenders, human rights lawyers, and democracy activists and religious freedom activists, and it is getting worse. And victims of such a crackdown since July 9 has amounted to 300.

And such brutal things as forced abortion, forced demolition, and land grabbing, threatening and harassment on those human rights activists, and those who speak their mind is still going on. And a tragedy happened that is during the petition some petitioners were killed. And it was just last month that happened to a landowner burned alive in his own home during the forced abortion by the local government in Pingyin County, Shandong Province.

United States is the globe leader in human rights defenders and democracy model and icon of freedom. Defending universal human rights should be a very important part of the international responsibility for the United States. We are still not sure how much that President Obama has talked about human rights during his meeting with Mr. Xi Jinping.

Did the President talk about human rights issues as an individual person who really care about human rights or it is just a part of his job? But what we saw actually during Mr. Xi Jinping's visit to the White House that the President used a kind of white curtain to block the view of those protesting outside the House.

It is sad to see there are so many countries who, you know, just care about the money that—from the Communist regime who doesn't really care about the living standards of its own people for the short term, and they just ignore the deteriorating human rights conditions in China. So, for that, I would recommend the following.

And, therefore, the United States' President, Congresspeople, and all those who should talk human rights issues openly and through media coverage and to let people know what exactly the human rights conditions are, and also, therefore, to let the world know that the United States really cares about human rights.

We demand the Communist regime to release those prisoners of conscience like Mr. Gao Zhisheng, Xu Zhiyong, Mr. Liu Ping, and Ms. Li Heping, and Madam Gao Yu, who are still in custody, and under housing arrest is definitely not allowed.

And, third, there should be a special law to deny the entries of those Chinese officials who are violators of human rights, and also fortify their personal wealth in the United States.

And, number four, that a system to develop the cyber software to break down the burning—cyber burning wall in order to build a democratic alliance and international community.

Thank you very much.

[The prepared statement of Mr. Guangcheng follows:]

Reviewing President Xi's State Visit
Subcommittee on Asia and the Pacific
House Committee on Foreign Affairs
Wednesday, October 07, 2015, 12:15 p.m.
Statement of Mr. Chen Guangcheng

Greetings to the Chair, Congresspeople, and all friends who take and interest in human rights.

Human rights are intricately connected with us all, and should be a central point in the relationship between China and the United States. Recently Xi Jinping visited the United States. Given China's atrocious human rights situation, people who pay attention to these things would expect that human rights would have a place in the discussions between Obama and Xi. Not only has persecution of so many people - including human rights defenders, human rights lawyers, democracy activists, religious believers, and petitioners - continued unabated at the hands of the Chinese Communist Party; it has actually increased in intensity. From July 9th of this year to today, over 300 have been victimized in the recent government crackdown. The violent family planning policy continues. Destruction of homes, confiscation of land, threats and harassment; the capture and detention of those who dare to speak out: all these continue to occur. It is even the case that in the process of petitioning, petitioners are blatantly killed. Just this September, a homeowner by the name of Zhang Jimin from Pingyi County in Shandong Province, was burned alive in his own home by the government in an attempt to force an eviction.

America is a global leader in human rights, a model for democracy and a symbol of freedom. As such, defending universal values should be an important responsibility for the United States, globally speaking. Of course, in Xi's recent visit to the United States, we don't know what Obama raised in terms of practical human rights issues, and we can't know whether such questions were raised in genuine concern for human rights or just simply as part of the job. But we did see that when Xi was hosted at the White House, Obama put up a screen of white cloth to keep Xi from seeing protestors.

In light of the fact that in recent years so many nations seem pleased at China's lack of concern for the wellbeing of its own people all the while showering money across the globe; and that so many nations focus on short-term interests while ignoring the horrendous human rights situation in China, I recommend the following:

1. The American president as well as congressional representatives need to pay close attention to human rights. They need to speak out openly to discuss human rights, and to speak with the media in detail about human rights issues. The American people need to understand the reality of the human rights situation in China, and by speaking openly and often about human rights US leaders will influence people's understanding. This will also affect the way Chinese leaders understand the US government's commitment to human rights.

2. Demand that China release all prisoners of conscience. The detention of people like Gao Zhisheng, Xu Zhiyong, Liu Ping, Li Heping, and Gao Yu is unacceptable.

3. Enact policy to prevent officials who are guilty of human rights violations from entering the United States, and freeze their financial assets located in the US.

4. Support the development of technology to get past the Great Firewall of China, and work to build democracy worldwide.

Mr. SALMON. Thank you very much, Mr. Chen.

Dr. Weiss.

STATEMENT OF JESSICA CHEN WEISS, PH.D., ASSOCIATE PROFESSOR OF GOVERNMENT, CORNELL UNIVERSITY

Ms. WEISS. Chairman Salmon and distinguished members of the subcommittee, it is a pleasure and a privilege to share with you today my thoughts on Xi Jinping's recent visit and my assessment of U.S.-China relations going forward.

In my view, President Xi's visit produced modest but measurable progress in managing the growing frictions in our relationship with China. The large number of business and industry leaders who participated underscores the continued importance of our economic relationship.

President Xi's speeches reflected his recognition of American concerns, particularly among the business community. The joint agreement to refrain from cyber theft marked an important step forward. It remains to be seen whether words will be followed by actions, as President Obama put it, but the pledge means that Chinese agencies can be held to account, for President Xi's international credibility here is on the line.

President Xi also used the weight of his words to reiterate China's commitment to a market-based exchange rate and to curb greenhouse gases through a cap and trade system. No doubt, implementing these priorities will be fraught with challenges, but the direction underscores China's desire to address international concerns in line with continued domestic reforms.

The visit also produced progress in the area of the relationship that could lead to unwanted military escalation. The annex on air-to-air encounters adds an important component to the memorandum of understanding on the rules of military engagement.

The Chinese Government recognizes that an incident in the air could derail the relationship, given the strong patriotism and mutual suspicion on both sides. A repeat of the 2001 collision between a Chinese fighter jet and U.S. EP–3 reconnaissance plane could easily escalate and take on outsized significance in the public imagination.

In 2001, the Chinese Government managed to mourn the Chinese pilot while repressing anti-American street demonstration. But today China, under Xi Jinping, may not be willing or able to show similar restraint, given the dramatic improvement in Chinese capabilities and the exponential growth of the internet and social media in China.

The Chinese Government may have the ability to shut down conversation online, but it is increasingly costly for the government to do so, particularly when it is patriotism that the government is repressing.

During his visit, President Xi also stated for the first time that China does not intend to militarize or pursue militarization of reclaimed islands and features in the South China Sea and committed to upholding and respecting the freedom of navigation. As with his commitment to fight cyber crime, President Xi's remarks provide welcome reassurances, and we should continue to engage China to define what constitutes militarization.

Over the past 3 years, China has kept a lid on many of the domestic pressures that might provoke or complicate a potential crisis. China has streamlined its maritime patrols under a consolidated and more professionalized coast guard, and under President Xi China has also largely restrained nationalist mobilization, preventing grassroots protests against Prime Minister Abe's visit to Yasukuni Shrine in 2013, as well as his efforts to revise and reinterpret the Japanese constitution.

Chinese authorities also stymied protests against Vietnam after Vietnamese anger spilled over into riots that killed Chinese workers. At the same time, Chinese activities have effectively changed the status quo in the East and South China Seas, ending Japan's exclusive control of islands in the East China Sea and outpacing rival efforts to reclaim land and build infrastructure in the South China Sea.

In response, some today are calling for a more muscular American approach. While not intended to ignite conflict, we must recognize that such measures are intrinsically risky, particularly if these operations involve highly public denials of Chinese claims. As such, we must determine in advance how far we are willing to go, or we might otherwise find ourselves in a contest where our actions are driven more by concern for American credibility than our underlying interests.

Chinese restraint and adherence to international legal principles will be critical to lowering the temperature in the region, and we should link progress on this front to corresponding and conditional U.S. assurances. Threats to impose costs on China for undesirable behavior must, at the same time, be coupled with credible reassurances that the United States welcomes China's contribution to global governance and multilateral leadership.

As noted in the joint statements, the United States welcomes China's playing a more active role in taking on due responsibility for the international financial architecture.

In conclusion, how we talk about China matters as much as how we act toward China. Whether or not China is the intended audience, Chinese observers are listening to the tone as well as to the words we speak. Some campaign statements may be taken with a hefty dose of salt, but others will be regarded as credible indicators of future policy.

U.S. pressure on China can be effective if it strengthens the hand of those inside China who are trying to push policy in the same direction for their own domestic reasons. But any U.S. policy or strategy based solely on beating China or a peaceful evolution is bound to be guarded with suspicion at best and hostility at worst.

Thinly veiled or outright opposition to a stable and prosperous China will harm the ability of those inside China who advocate for international cooperation. If the United States abandons engagement, nationalists and conservatives in China will be vindicated in their belief that the United States seeks to keep China weak and divided.

In sum, the future is not written, and acting as if conflict is preordained will only create a self-fulfilling prophecy. To manage our differences and build upon the modest but measurable progress we have already made requires the hard work of tough, sustained en-

gagement rather than the fiery posturing that it is all too easy for voices on both sides to indulge.

Thank you.

[The prepared statement of Ms. Weiss follows:]

Reviewing President Xi's State Visit

Testimony before the House Committee on Foreign Affairs
Subcommittee on Asia and the Pacific

Jessica Chen Weiss
Associate Professor
Department of Government
Cornell University

October 7, 2015

Chairman Salmon, Ranking Member Sherman, and distinguished members of the Subcommittee on Asia and the Pacific, it is a privilege to share with you today my thoughts on President Xi Jinping's recent state visit and assessment of US-China relations going forward.

President Xi's visit produced modest but measurable progress in managing the growing frictions in our relationship with China. The large number of business and industry leaders who participated in the state visit underscores the continued importance of our economic relationship with China. President Xi's speeches reflected his recognition of American concerns, particularly among the US business community. The joint agreement to refrain from knowingly supporting or conducting cyber theft of intellectual property or trade secrets marked an important step toward establishing new rules-of-the-road in cyberspace. It remains to be seen whether words will be followed by actions, as President Obama put it. But the pledge means that Chinese agencies can be held to account, for President Xi's international credibility is on the line.

President Xi also used the weight of his words to reiterate China's commitment to a market-based exchange rate and to curb greenhouse gases through a cap-and-trade system. Implementing these policy priorities will undoubtedly be fraught with challenges. But the direction underscores China's desire to address international concerns in line with continued domestic reforms.

The visit also produced progress in the area of the relationship that could lead to unwanted military escalation. The annex on air-to-air encounters adds an important component to the memorandum of understanding on the rules of military engagement between the US and China. Managing the risk involved in such encounters is in our mutual interest, particularly as US and Chinese planes increasingly fly in close proximity to one another.

The Chinese leadership recognizes that an incident in the air could derail the relationship. Given the strong patriotism and mutual suspicion on both sides, a repeat of the 2001 collision between a Chinese fighter jet and a US EP-3 reconnaissance plane could easily escalate and take on outsized significance in the public imagination. In the event of a Chinese fatality, the Chinese government would be strongly tempted to permit popular protests against the United States, lest Chinese Communist Party itself become the target of popular wrath. In 2001, the Chinese government managed to mourn the Chinese pilot while repressing street demonstrations. Then, China's leadership under Jiang Zemin was focused on navigating a diplomatic resolution to the standoff and reassuring the Bush administration of China's benign intentions.

Today, China under Xi Jinping may not be able or willing to show similar restraint, given the dramatic improvement in Chinese material capabilities and the exponential growth of the Internet and social media in China. In 2001, China had 34 million Internet users. Today, that number exceeds 700 million.[1] The Chinese government may have the ability to shut down conversation online, but it is increasingly costly for the government to do so, both in manpower and in the eyes of the Chinese public, particularly when it is popular expressions of patriotism that the government is repressing.

During his visit to Washington, President Xi also stated for the first time that China "does not intend to pursue militarization"[2] of reclaimed islands and features in the South China Sea and committed to respecting and upholding the freedom of navigation. Whether this is cheap talk will depend on how militarization is defined. But as with his commitment to fight cyber crime, President Xi's remarks provide welcome reassurances, and we should continue to engage China to define what constitutes militarization. Chinese restraint and adherence to international legal principles will be critical to lowering the temperature in the region, and we should link progress on this front to corresponding and conditional US assurances.

Looking ahead at all the challenges we face in managing US-China relations, most worrisome is the possibility of a direct conflict over maritime disputes in Asia. Even though the United States does not take a position on the sovereignty issues per se, our alliances, reconnaissance patrols, and commitment to the freedom of navigation put us center stage in the region.

Over the past three years, China has kept a lid on many of the domestic pressures that might provoke or complicate a potential crisis. China has streamlined its maritime patrols under a consolidated and more professionalized coast guard, reducing interagency competition and coordination problems. Under President Xi, China has also largely restrained grassroots nationalist mobilization. Despite the celebration of three new national holidays commemorating the War of Resistance against Japan, as World War II is known in China, the government prevented anti-Japanese protests over Prime Minister Abe's visit to Yasukuni Shrine in 2013 and his subsequent efforts to revise and reinterpret the Japanese constitution. Chinese authorities also stymied protests against Vietnam after Vietnamese anger at Chinese activities in the Paracels spilled over into riots that killed several Chinese workers.

At the same time, China's activities have effectively changed the status quo in the East

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[1] http://www.internetlivestats.com/internet-users/china/, last accessed October 5, 2015.
[2] https://www.whitehouse.gov/the-press-office/2015/09/25/remarks-president-obama-and-president-xi-peoples-republic-china-joint.

and South China Seas, ending Japan's exclusive control of the Senkaku/Diaoyu Islands and outpacing rival efforts to reclaim land and build infrastructure in the South China Sea. China has shored up its sovereignty claims and expanded its presence in disputed areas while also trying to minimize the resulting fallout. President Xi's commitment not to pursue militarization is consistent with this pattern of tempered assertiveness in the East and South China Seas.

In response, some have called for a more muscular American approach. While not intended to ignite conflict, we must recognize that such measures will raise the risk of war, particularly if these operations involve highly publicized denials of Chinese claims. Given these intrinsic risks, we must determine in advance how much we have at stake and how far we are willing to go. Otherwise, we might easily find ourselves in an eyeball-to-eyeball contest where our actions are driven more by concern for American credibility than our underlying interests.

Threats to impose costs on China for undesirable behavior must also be coupled with credible reassurances that the United States welcomes China's contribution to global governance and multilateral leadership. As noted in the joint statements produced during President Xi's visit, the United States "welcomes China playing a more active role in and taking on due responsibility for the international financial architecture, as well as expanded bilateral cooperation to address global economic challenges."[3]

On the domestic front, many Chinese policies have also aroused American concerns, from allegations of currency manipulation to the crackdown on rights lawyers. Here it is important to note that such criticism can only be effective when couched in hopes for a more prosperous and stable China. Any US policy or strategy based solely on American interests in "beating China" or "peaceful evolution" is bound to be regarded in China with suspicion at best and hostility at worst. While Chinese leaders have reason to be nervous about social and political instability, the relaxation of control and openness to the world and market forces have brought enormous benefits to the Chinese economy as a whole and to Chinese citizens individually. When China proposes new legislation that will impose barriers on international exchange, it is China's own citizens, scholars, and entrepreneurs that will be hurt as much as foreign organizations. And while the repression of dissent in China is antithetical to American values, more importantly it hurts the Chinese government's legitimacy in the eyes of its own people and handicaps its ability to respond to popular grievances.

In conclusion, how we talk about China matters as much as how we act toward China.

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[3] https://www.whitehouse.gov/the-press-office/2015/09/25/fact-sheet-us-china-economic-relations.

Whether or not China is the intended audience, Chinese observers are listening to the tone as well as the words we speak. Some campaign statements may be taken with a hefty dose of salt, but others are regarded as credible indicators of future policy. US pressure can be effective if it strengthens the hand of those in China who are trying to push policy in the same direction for their own domestic reasons. But thinly veiled or outright opposition to a stable and prosperous China will harm the ability of those in China who advocate for international cooperation. If the United States abandons engagement, nationalists and conservatives in China will be vindicated in their belief that the US seeks to keep China weak and divided.

A spiral of intensifying security competition may not precipitate conflict in the short-term. Chinese leaders are tough but pragmatic, picking and choosing their opportunities and battles, and knowing when to wait for another day. But every month and year that goes by with the United States and China at odds means that both sides continue to invest in beating the other rather than solving joint problems. While some conflicts of interest are inevitable, outright war is not. The future is not written, and acting as if conflict is preordained will only create a self-fulfilling prophecy. To manage our differences and build upon the modest but measurable progress we have already made requires the hard work of tough, sustained engagement rather than the fiery posturing that is all too easy for voices on both sides to indulge.

Thank you.

Mr. SALMON. Thank you.
Mr. Bejtlich.

STATEMENT OF MR. RICHARD BEJTLICH, CHIEF SECURITY STRATEGIST, FIREEYE

Mr. BEJTLICH. Chairman Salmon, Congresswoman Meng, distinguished members of the subcommittee, thank you for the opportunity to testify. I am Richard Bejtlich, chief security strategist at FireEye. I am also pursuing a Ph.D. in war studies from King's College London. And I began my security career as a military intelligence officer in 1997 at the Air Force Information Warfare Center.

Has President Obama secured relief from Chinese hacking? On balance, the agreement is a step in the right direction. At best, I would expect it to result in a decrease in the digital intrusion pressure applied by Chinese military and intelligence forces against American companies.

The Chinese would likely continue pursuing their strategic goals by changing tactics at the human level and operations at the merger and acquisition level. At worst, I expect the agreement to have no effect whatsoever.

Let me briefly offer five issues for your consideration. First, consider President Xi's posture prior to the December 25 press conference. In written answers to questions posed by The Wall Street Journal, President Xi claimed,

> "The Chinese Government does not engage in theft of commercial secrets in any form, nor does it encourage or support Chinese companies to engage in such practices in any way."

Combining this statement with his later declarations, it is possible that President Xi is saying that the Chinese Government does not hack, because he doesn't consider the People's Liberation Army, the Ministry of State Security, or other organizations conducting hacking operations to be part of his definition of Chinese Government. Therefore, PLA units, such as 61398, revealed by my Mandiant colleagues in 2013, will continue to raid American companies because President Xi does not count them as government forces.

A second interpretation could be congruent with both U.S. and Chinese interests. The U.S. targets Chinese organizations, as well as others worldwide, to conduct economic espionage. Such economic espionage is designed to better understand foreign financial conditions and uncover bribery and corruption that harms American businesses.

The U.S. has a longstanding policy of not passing what it learns from these spying missions to American companies for competitive gain. It is possible the U.S. administration believes its Chinese counterpart will now act in a reciprocal manner. American companies will still be targeted by Chinese hacking teams, but the Chinese Government will claim that it is working to collect economic data and uncover bribery and corruption. Whether the Chinese Government passes what it learns to Chinese companies for economic advantage remains an open question.

A third interpretation can signal a tactical shift in Chinese commercial data acquisition. China has never been a one-trick pony when it comes to stealing business information. The Chinese conduct extensive and aggressive cyber operations, but they also employ equally comprehensive human campaigns as well. The Chinese may have decided to simply shift resources toward the physical collection of commercial data and wind down their cyber operations.

A fourth interpretation could signal an operational shift in Chinese commercial data acquisition. President Xi's words, combined with his meeting with American business leaders in Seattle, could mean that he wants to conduct more merger and acquisition activity, and he expects the Obama administration to permit it.

Currently, sensitive technology deals, such as the rumored $23 billion bid by China's Tsinghua UniGroup, Ltd, for chipmaker Micron, are likely to be blocked by the Committee on Foreign Investment in the United States, or CFIUS. While some deals, such as the 2014 acquisition of IBM's low-end server business, have cleared CFIUS approval, others remain problematic.

Xi's mention of many of his government's strategic emerging industries when talking to President Obama indicates to me that these remain a strategic priority. As shown by Baidu's investment in, and joint venture with, American content delivery network company CloudFlare, China will use traditional business methods to acquire intellectual property, market share, and service know-how in order to advance its strategic goals.

A final consideration for this agreement is who left out. The focus on U.S. and Chinese companies ignores many other targets. These include civil society organizations, as well documented in the recent report by the University of Toronto's Citizen Lab titled Communities at Risk. These civil society organizations include dissident groups inside and outside China, universities, think-tanks, media organizations, lawyers like Mr. Chen, and human rights watchers.

Companies in other parts of the world are not covered by the U.S.-China agreement. And, honestly, I am surprised we haven't seen the Brits or Germans going to China and saying, "Hey, we want the same agreement to cover us as well."

Those organizations continue to be held at risk. So, in conclusion, the Xi visit produced more positive statements than I expected, but now we must see if words are followed by decreased malicious activity in cyber space.

I look forward to your questions.

[The prepared statement of Mr. Bejtlich follows:]

Statement for the Record

Richard Bejtlich

Chief Security Strategist

FireEye, Inc.

Before the

U.S. House of Representatives

Committee on Foreign Affairs

Subcommittee on Asia and the Pacific

Reviewing President Xi's State Visit

October 7, 2015

Chairman Salmon, Ranking Member Sherman, distinguished members of the Subcommittee, thank you for the opportunity to testify. I am Richard Bejtlich, Chief Security Strategist at FireEye. I am also pursuing a PhD in war studies from King's College London. I began my security career as a military intelligence officer in 1997 at the Air Force Information Warfare Center.

My employer, FireEye, provides software to stop digital intruders, with 3,400 customers in 67 countries, including 250 of the Fortune 500. Our Mandiant consulting service, known for its 2013 report on Chinese PLA Unit 61398, helps companies identify and recover from intrusions. In 2014, we conducted hundreds of investigations in 13 countries.

Has President Barack Obama secured relief from Chinese hacking? That is the question on the minds of many following the announcement by the US leader and his counterpart, Chinese President Xi Jinping, on September 25, 2015. On balance, the agreement is a step in the right direction. At best I would expect it to result in a decrease in the digital intrusion pressure applied by Chinese military and intelligence forces against American companies. The Chinese would likely continue pursuing their strategic goals by changing tactics at the human level and operations and the merger and acquisition level. At worst I expect the agreement to have no effect whatsoever.

To understand the agreement, one must review the words spoken and written by the two leaders. After looking at the words, I offer four interpretations, and then provide concluding remarks.

The fact sheet released by the White House offers four main points with respect to cybersecurity: investigations, conduct, norms, and dialogue. To assess whether both sides interpret the agreement in the same manner, and what the agreement means, it is important to start with the statements offered by both presidents.

In a joint press conference, each leader summarized the fact sheet in his own words. President Obama stated the following:

"I raised once again our very serious concerns about growing cyber-threats to American companies and American citizens. I indicated that it has to stop. The United States government does not engage in

cyber economic espionage for commercial gain. And today, I can announce that our two countries have reached a common understanding on the way forward. We've agreed that neither the U.S. or [sic] the Chinese government will conduct or knowingly support cyber-enabled theft of intellectual property, including trade secrets or other confidential business information for commercial advantage. In addition, we'll work together, and with other nations, to promote international rules of the road for appropriate conduct in cyberspace."

President Xi, as translated and published by the White House, offered his interpretation:

"During my visit, competent authorities of both countries have reached important consensus on joint fight against cyber-crimes. Both sides agree to step up crime cases, investigation assistance and information-sharing. And both government will not be engaged in or knowingly support online theft of intellectual properties. And we will explore the formulation of appropriate state, behavior and norms of the cyberspace. And we will establish a high-level joint dialogue mechanism on the fight against cyber-crimes and related issues, and to establish hotline links."

Statements about investigations, norms, and dialogue are less contentious than those concerning conduct in cyberspace. The relevant excerpt from the White House fact sheet states the following:

"The United States and China agree that neither country's government will conduct or knowingly support cyber-enabled theft of intellectual property, including trade secrets or other confidential business information, with the intent of providing competitive advantages to companies or commercial sectors."

What does this mean for victims of Chinese hacking? First, consider President Xi's posture prior to the September 25th press conference. In written answers to questions posed by the Wall Street Journal, President Xi claimed "The Chinese government does not engage in theft of commercial secrets in any form, nor does it encourage or support Chinese companies to engage in such practices in any way."[1] Combining this statement with his later declarations, it is possible President Xi is professing that the Chinese government does not hack, because he does not consider the People's Liberation Army,

[1] http://www.wsj.com/articles/full-transcript-interview-with-chinese-president-xi-jinping-1442894700

Ministry of State Security, or other organizations conducting hacking operations to be part of his definition of "Chinese government." Therefore, PLA units such as 61398, revealed by Mandiant in 2013, will continue to raid American companies, because Xi does not count them as government forces.

A second interpretation could be congruent with both US and Chinese interests. The US targets Chinese organizations, as well as others worldwide, in order to conduct economic espionage. Such economic espionage is designed to better understand foreign financial conditions and uncover bribery and corruption that harms American commercial interests. The US has a long-standing policy of not passing what it learns from these economic spying missions to American companies for competitive gain. It's possible the US administration believes its Chinese counterpart will now act in a reciprocal manner. American companies will still be targeted by Chinese hacking teams, but the Chinese government will claim that it is working to collect economic data and uncover bribery and corruption. Whether the Chinese government passes what it learns to Chinese companies, for economic advantage, remains an open question.

A third interpretation could signal a tactical shift in Chinese commercial data acquisition. China has never been a "one trick pony" when it comes to stealing business information from foreign targets. The Chinese conduct extensive and aggressive cyber operations, but they also employ equally comprehensive human campaigns as well. To educate American businesses, the Federal Bureau of Information produced two independent movies, *Game of Pawns* and *The Company Man,* both available on YouTube.[2] The first tells the true story of Glenn Duffie Shriver, an American student in China recruited by the Chinese Ministry of State Security to infiltrate US government agencies. Shriver was arrested while fleeing to South Korea and spent nearly four years in Federal prison. The second tells another true story while obscuring the identity of the victim company. In *The Company Man*, viewers learn of a plot to steal technical documents from an American company, with Chinese agents falling for a sting operation enacted through a patriotic employee.[3] The February 2013 "Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets" documents many other cases, and more have been prosecuted since its publication. In brief, the Chinese may have decided to simply shift resources toward the physical collection of commercial data, and wind down their cyber operations. This change in tactics

[2] https://www.youtube.com/watch?v=R8xIUNK4JHQ and https://www.youtube.com/watch?v=Gy_6HwujAtU
[3] The surveillance video of the sting operation is posted online at https://www.youtube.com/watch?v=alzKI2U5UV8.

would still support Chinese strategic goals. This transition from virtual to physical would still be a win for US companies, because it is easier to identify, counter, and apprehend human threats.

A fourth interpretation could signal an operational shift in Chinese commercial data acquisition. Early in his translated remarks, President Xi said the following:

"We have agreed to vigorously push forward the bilateral investment treaty negotiation, speed up the pace of the work so as to achieve a high standard and balanced agreement.

We will expand mutually beneficial cooperation in energy, environmental protection, science and technology, aviation, infrastructure, agriculture, health and other areas. The two governments and relevant agencies have signed many cooperation agreements, and our businesses have signed a series of commercial contact."

These words, combined with President Xi's meeting with American business leaders in Seattle, could mean that he intends to conduct more merger and acquisition activity, and that he expects the Obama administration to permit it. Currently sensitive technology deals, such as the rumored $23 billion bid by China's Tsinghua Unigroup Ltd for chipmaker Micron Technology, are likely to be blocked by the Committee on Foreign Investment in the United States (CFIUS) process.[4] While some deals, such as the 2014 acquisition of IBM's low-end server business by China's Lenovo Group Ltd., have cleared CFIUS approval, others remain problematic. Xi's mention of many of his government's strategic emerging industries indicates these remain a strategic priority.[5] As shown by Baidu's investment in, and joint venture with, American content delivery network company CloudFlare, China will use traditional business methods to acquire intellectual property, market share, and service know-how in order to advance its strategic goals.[6]

A final consideration for this agreement requires considering who is left out. The focus on US and Chinese companies ignores many other targets. These include so-called civil society organizations (CSOs), as well-documented in the recent report by the University of Toronto's Citizen Lab titled

[4] http://www.reuters.com/article/2015/07/21/us-micron-m-a-tsinghua-exclusive-idUSKCN0PU1X120150721
[5] http://www.swissnexchinanews.org/innovation/2013/10/27/chinas-7-strategic-emerging-industries
[6] I have concerns about the CloudFlare-Baidu deal, as noted in "Dark Cloud: Why CloudFlare's Deal with Baidu Could Haunt US Tech Companies": http://motherboard.vice.com/read/cloudflare-baidu-partnership-yunjiasu-china

Communities @ Risk.[7] These CSOs include dissident groups inside and outside China, universities, think tanks, media organizations, lawyers, and human rights watchers. Companies in Europe, Asia, Africa, and elsewhere are not covered by the US-China agreement. Furthermore, the agreement mentioned the UN Group of Governmental Experts in the Field of Information and Telecommunications in the Context of International security, also known as the UN GGE, but it did not agree to implement its findings concerning critical infrastructure. Therefore, those systems continue to be held at risk, as will the government, military, intelligence, and law enforcement organizations of each country.

I also expect US private sector security companies to bear the brunt of the public verification process. They will be subjected to repeated questions such as "are the Chinese still hacking," while the US administration is likely to remain fairly quiet. Furthermore, I do not expect the US administration to impose sanctions on Chinese entities for the remainder of the President's tenure, consistent with his general foreign policy preferences.

The Xi visit produced more positive statements than I expected. Now we must see if words are followed by decreased malicious activity in cyber space.

I look forward to your questions.

[7] https://targetedthreats.net/

Mr. SALMON. Thank you.
Dr. Kennedy.

STATEMENT OF SCOTT KENNEDY, PH.D., DIRECTOR, PROJECT ON CHINESE BUSINESS AND POLITICAL ECONOMY, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. KENNEDY. Chairman Salmon, members of the committee, I am honored by the opportunity to testify before you today and present my thoughts on the Chinese economy and U.S.-China commercial relations in the context of the recent state visit.

The main point I want to convey today is one of caution. In broad historical terms, China's economy is much more market-oriented than it was 30, 20, or even 10 years ago. And the United States—business and consumers and workers—have largely benefitted from the commercial relationship and China's growing role in the global economy.

However, over the past few years, the pace of liberalization in China has slowed, and in some ways the state is expanding its intervention in the economy in ways that parallel developments in human rights and the internet that have already been discussed.

At the same time, China's economy is slowing. It is becoming much more volatile. As a result, doing business with China is more challenging, and the slowdown in volatility we see in China are creating new challenges and risks for foreign businesses and other economies.

Ongoing efforts to engage China bilaterally and multilaterally, as well as adoption of the Trans-Pacific Partnership, are addressing many of these problems, but we should expect continued commercial frictions in the coming years.

You have my full written statement. Let me briefly elaborate on this conclusion. There is broad consensus that the Chinese economy is slowing dramatically. There is no consensus as to exactly how much, why, or what the future trajectory of growth is. My own view is that growth is somewhere below the official figure of around 7 percent, but that China is not in a recession.

Continued growth in services, consumption, and wages distinguish the current period from 2008 and '09 when China did fall into a recession. The current slowdown is in part the product of a government-induced contraction brought about by much tighter credit conditions and a vast anti-corruption campaign that has made officials throughout the system far more hesitant to approve projects.

Now, Xi Jinping came into power promising a much more aggressive reform agenda than his predecessor, Hu Jintao. And over the past 2 to 3 years there have been a series of individual reform policies announced and implemented, but they have not all been—they have been all-embracing or comprehensive. And within the last 18 months, the trend has decidedly been in a statist direction.

The government has chosen monetary and fiscal stimulus over liberalization in an effort to get the economy moving. It pushed up the stock market in 2014, and this past summer famously and unsuccessfully intervened to keep this bubble it created from bursting.

The reform package for state-owned enterprises announced several weeks ago is anything but reformist. And China's forthcoming 5-year plan—yes, China still has 5-year plans—looks like it will include only incremental reforms to the economy and the country's governance institutions.

It is no surprise, then, that U.S.-China economic ties are under some significant stress. Commercial relations over the past 36 years have broadly benefitted the American economy, our businesses, consumers, and even, on balance, workers. But American companies that do business in China and with China are understandably worried about the slowing pace of liberalization, the continued use of industrial policies to promote domestic firms, and the opacity of China's policy process.

Even in services, which are much less politically sensitive than high technology, the Chinese are not embracing liberalization despite the fact that there would be immediate benefits to economic growth and to the broader public if they opened up services in health care, education, and elsewhere.

The most important emerging issue is the potential negative effect that China's economic volatility and slowdown can have on the global economy. China's economy is now so large, and financial flows so substantial, that develops in its economy ripple throughout the rest of the world very quickly. And as China's capital markets open, the ripple effect could become a tidal wave traveling at the speed of light. We saw this occur in July in the wake of China's intervention in the stock market, and in August following the revision of how the Renminbi's rate is set.

Now, there was some progress on these issues during the recent state visit. President Xi did repeatedly reaffirm the importance of continued economic reform and keeping the country's doors open to foreign businesses, and he reaffirmed the importance of the Bretton Woods institutions and pledged collaboration between the Asian Infrastructure Investment Bank, which China helped create, and The World Bank and other multilateral development institutions.

But despite these commitments, it is appropriate to remain cautious about whether American companies will achieve greater access to the Chinese market or be treated more fairly going forward. In addition, I wasn't convinced that President Xi fully appreciates the need to provide greater transparency about the economy and their economic policies.

At the press conference that he had with President Obama on Friday, the 25th, President Xi did try to reassure markets by saying there is no reason for the Renminbi to depreciate over the long run. I think there is a good debate to be had on that statement. But even given that, this leaves unresolved whether the government may permit a devaluation of the Renminbi in the short term to support growth or stem capital outflows.

The U.S. and China announced that their negotiators have made incremental progress on a bilateral investment treaty, but I don't expect a U.S.-China BIT to be submitted to Congress any time soon. China is focused on its anti-corruption campaign and avoiding economic instability, while the number one economic policy priority toward the region for the United States is passage of TPP. It

seems highly unlikely the U.S. will seek to conclude a BIT, let alone submit to Congress prior to passage and adoption of TPP.

Finally, let me say something more about TPP. As you know, China is not a negotiating party, though it has expressed interest in potentially joining. It is possible China will react to Monday's announcement by expanding its own regional arrangements, but being outside TPP would put Chinese companies at a competitive disadvantage in those sectors it needs to move into to have sustainable growth over the long term, including high technologies and advanced services.

The U.S. would be wise to use TPP not as a tool just to compete with China, but as a lever to help induce greater economic reforms in China, which would not only be in China's self-interest but would also benefit American companies, workers, and consumers, and likely contribute to reducing China's carbon emissions and cleaning up its environment.

Thank you.

[The prepared statement of Mr. Kennedy follows:]

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Statement before the
House Committee on Foreign Affairs,
Subcommittee on Asia and the Pacific

"REVIEWING PRESIDENT XI'S STATE VISIT"

A Testimony by:

Scott Kennedy
Deputy Director, Freeman Chair in China Studies
Director, Project on Chinese Business and Political Economy
Center for Strategic and International Studies (CSIS)

October 7, 2015
Rayburn HOB 2200

1616 RHODE ISLAND AVENUE NW
WASHINGTON, DC 20036
TEL. (202) 887.0200
FAX (202) 775.3199

I am honored by the opportunity to testify before the committee to present my thoughts on the Chinese economy and US-China commercial relations. The main point I want to convey today is one of caution. In broad historical terms, China's economy is much more market-oriented than it was 30, 20, or even 10 years ago, and the United States -- business and consumers -- have largely benefited from the commercial relationship and China's growing role in the global economy. However, over the past few years the pace of liberalization has slowed, and in some ways the state is expanding its intervention in the economy. At the same time, China's economy is slowing and is becoming more volatile. As a result, doing business with China is more challenging, and the slowdown and volatility we see in China is creating new challenges and risks for foreign businesses and other economies. Ongoing efforts to engage China bilaterally and multilaterally, as well as the adoption of the Trans-Pacific Partnership (of which China is not a member), are addressing many of these problems, but we should expect continued commercial frictions in the coming years.

Let me briefly elaborate on this conclusion by providing my views about the state of the Chinese economy, progress (or lack thereof) on economic reforms, the state of US-China commercial relations, the results of President Xi's state visit, and the potential implications of the Trans-Pacific Partnership (TPP) for all of the above.

The State of China's Economy

There is broad consensus that China's economy has slowed dramatically. There is no consensus as to exactly how much, why or what the future trajectory of growth is. Officially, growth is still somewhere near 7 percent, while the most skeptical argue that growth has fallen under 4 percent or that the country is in a recession. I'd place myself in between these two poles. Manufacturing has slowed substantially, as has use of electricity, steel, and other inputs into infrastructure. However, services and consumption are still growing, as are wages, which suggests to me that the economy is still far from a recession. Although China has built up a substantial amount of debt, primarily corporate loans and bonds, the current slowdown is not just the product of economic gravity (growing too fast on easy money), but is also the product of a government-induced slowdown brought about by tighter credit conditions and a vast anti-corruption campaign that has made officials throughout the system far more hesitant to approve projects. This has not only slowed investment in areas with overcapacity, but also limited expansion in areas with under-investment, including in high tech and services.

Retreat on Economic Reforms

Xi Jinping came into power promising a much more aggressive reform agenda than his predecessor, Hu Jintao. The 60-point "Decision on Major Issues Concerning Deepening Reform," issued in November 2013, put forth a full reformist agenda to raise overall productivity and transition from an investment-led to consumption- and services-led economy. Over the past two years, there have been a series of individual reform policies announced and implemented, but they have not been all-embracing and comprehensive. And more recently, within the last 18 months, the trend has decidedly been in a statist direction. The government has chosen monetary and fiscal stimulus over liberalization in an effort to get economic growth moving. It pushed up the stock market in 2014, and this past summer famously and unsuccessfully intervened to keep

the bubble (it created) from bursting. The reform package for state-owned enterprises (SOEs), announced in mid-September, is anything but reformist, as it encourages strengthening the Party's role in SOEs, promoting mergers and acquisitions across a range of sectors even if not commercially appropriate, and limiting opening markets where SOEs predominate to competition from domestic private and foreign companies. China is in midst of designing its 13th Five-Year Plan to guide overall economic policy for 2016-2020, and early signs are that this document, which will be released in full in early March 2016, will include only incremental reforms to the economy and the country's governance institutions.

US-China Commercial Relations

Commercial ties between the two countries have expanded dramatically since diplomatic ties were restored in 1979. Two-way trade reached almost $600 billion in 2014; US companies are heavily invested in China, and Chinese are increasingly investing in the United States. Although the US trade deficit has grown consistently since the late 1980s, broadly speaking American industry and consumers have benefited immensely from these ties. The picture is more mixed with US labor, as lower-wage manufacturing has moved off-shore, but higher-end manufacturing and services jobs have been created. And US unemployment has dropped and wages are rising (albeit very gradually) even as the deficit increases.

Despite the overall benefits, there are a wide range of challenges created by China's continuing intervention in its economy, its slowdown, and growing volatility. Based on data from the American Chamber of Commerce in China, most American firms are still profitable in China, but they are increasingly worried about the slowing pace of liberalization, the continued use of industrial policies to promote domestic firms, and the opacity of China's policy process. The worries are highest in information and communication technology (ICT) firms, as China is using the goals of acquiring "secure and controllable" technologies to promote domestic firms at the expense of foreign competitors. Even in less sensitive services -- such as healthcare and education -- the Chinese are not embracing liberalization even though there would be immediate benefits to economic growth and to the broader public.

In addition to the concerns the US has had for a long time about market access and fairness of the relationship, the most important emerging issue is about the potentially negative effect that China's economic volatility and slowdown can have on the global economy. China's economy is now so large and financial flows so substantial that developments in its economy ripple throughout the rest of the world very quickly. As we saw this summer, the linkages between China and elsewhere are instantaneous in the financial sector, as the volatility in its stock market and the Renminbi caused markets to react everywhere. As China's capital markets open further, that connection will become only tighter. This will put a high premium on the Chinese government doing a much better job of explaining its economic conditions and policies in a way that markets and governments understand and find convincing.

The most immediate area where clarity and transparency are needed concern the RMB. If growth does not pick up soon, the government will not only need to step up monetary and fiscal stimulus even further, it may also decide to depreciate the Renminbi (RMB), in part to support exports, but primarily to limit capital outflow. In my opinion, the RMB is currently over-valued, so

depreciation is likely warranted; but given concerns over currency manipulation and China's poor communication of its economic conditions and policies, any further deprecation will likely generate extensive criticism from others, including in the US Congress. I would expect that this issue may get wrapped up in the ongoing conversation about whether the RMB should be included in the International Monetary Fund's "Special Drawing Rights" basket of currencies, scheduled to be determined by early in 2016.

The Summit

The Chinese President's visit to the United States was an opportunity to address many of these issues. There was some progress. Xi Jinping repeatedly affirmed the importance of continuing economic reform and keeping the country's doors open to foreign businesses. He specifically said he would not use national security as an excuse to block foreign investment and exports to China. He also reaffirmed the importance of the Bretton Woods institutions and pledged collaboration between the Asian Infrastructure Investment Bank (AIIB) and the World Bank and other multilateral development institutions. At the same time, it remains to be seen whether these general promises of market access will translate into fairer treatment for American companies or how strongly Xi Jinping is committed to economic reforms more broadly. And although there may have been private conversations about the recent economic volatility and related policy responses, there was little public discussion of this problem. At the press conference President Xi did try to reassure markets by saying there is no reason for the RMB to depreciate over the long-term. But this still leaves unresolved a better explanation for recent policies or how the RMB's value may move in the short-term.

Just prior to the summit the US and China exchanged the second versions of their "negative lists" that are part of negotiations over a bilateral investment treaty (BIT). Those offers were improvements on the initial ones made in the spring, but the offers from both sides were reportedly far short of satisfying the other side's bottom line. Although there is interest in the leadership of both countries to reach a BIT, it appears both sides have higher priorities. China is focused on its anticorruption campaign and avoiding economic instability, while the number-one US economic policy toward the region is passage of the Trans-Pacific Partnership (TPP). It seems highly unlikely the US will seek to conclude a BIT, let alone submit it to Congress, prior to the passage and adoption of TPP.

TPP: A Potential Game Changer

Although the Chinese economy and economic policies are muddling along, the conclusion of TPP negotiations among the twelve member countries and the movement toward review by the members' governments presents both a challenge and an opportunity. It is possible China will react by expanding its own regional arrangements, including agreements with neighbors in Southeast and Northeast Asia, and ramping up more quickly investments as part of the its "Belt & Road" strategy of building maritime and land infrastructure and communications links between itself and the rest of Asia westward to Europe and Africa. But expanding those ties in basic trade and investment will not address all of China's international economic challenges. Being outside of TPP would put Chinese companies at a competitive disadvantage in those sectors it needs to move into to have sustainable growth over the long-term, including high

technologies and advanced services. The United States would do to better to use TPP not as a tool to compete with China but as a lever to help induce greater economic reforms in China. China has expressed some interest in joining TPP, but has not made a commitment yet to do so. Current TPP members account for 40% of the world's economy, but it will not achieve its full potential unless China and India are eventually included. Whether this is through an expanded TPP itself, a Free Trade Area of the Asia-Pacific (FTAAP), or under a more comprehensive multilateral umbrella, such as WTO is less important than making the goal one of expansion and inclusion and not exclusion. The latter approach would likely generate intensified conflict between the United States and China and likely hurt the US economy in the long run.

Mr. SALMON. Thank you. I will begin with questions, and then, Mr. Rohrabacher, I will turn to you, and maybe we can have a couple of rounds of questions. Does that sound good to you?

Mr. Chen, I would like to start with you. Back in the '90s when we were debating whether or not to grant China permanent normal trade relations and end the Jackson-Vanik debate every year, I believed at that time that by more constructively engaging economically with China and having a stronger U.S. presence in China that some day some of the things that vexed us the most would change, namely human rights, that they would get better, and that things like intellectual property rights would, if they were accepted into the WTO, would get better.

I have been wrong. In fact, most of those things have never materialized. In fact, the human rights situation, it appears to me, while there have been times when I thought it was getting better, it seems to me that under this current President China has taken a big step backward.

I believe Deng Xiaoping had a vision of economic openness, but I think that maybe even he believed that it would yield more personal freedoms as well. It doesn't seem to be happening.

First, can you tell me, what are the most egregious affronts to human rights that are happening in China right now? And what can we do to be more of a positive influence to get changes in those areas?

Also, would you agree that with President Xi Jinping, this President, that the human rights situation has actually gotten worse?

Mr. CHEN. During those days of debate, the people believed that economic integration or opening to China will help improve eventually the human rights conditions there. But, actually, we see the fact that during those years that American doing business in China, and those business—and they learn bad things from the Communist regime there actually.

When I saw the game change is when we have a kind of software that could break down China's—the cyber wall, the firewall, and then there are some cases of human rights violations in China has been exposed to the outside walls.

Mr. SALMON. Dr. Kennedy, I would like to talk to you just a little bit about China's economy, the stock market. You addressed a lot of the issues in your opening statement. On August 24, 2015, the Shanghai Stock Market Index fell 8.49 percent, followed by 7 percent on the following day.

At that time, the Chinese Government took really controversial measures to try to minimize the damage. During his visit, President Xi defended his response to the stock market crash as needed to prevent mass panic. Some analysts predict additional China stock market falls in the future.

Is their economy slowing faster than analysts predicted? I know that you said in your opening statement that 7 percent is probably robust, probably a little optimistic. But is it slowing faster than analysts predicted? And do you think that China will continue to manipulate their stock market, and do you think that is a good idea for China's economy? Does it really stop panic, or does it actually stop future investment? And then, finally, what cost does the market manipulation impose on U.S. and global markets?

Mr. KENNEDY. That is a terrific question. I think that growth has slowed more than people expected it would, because they didn't realize how significant the anti-corruption campaign would have on growth. That is the biggest contractionary policy in China today, and it is more important than just simply having less credit into the system. Actually, this is much more important overall. And, in fact, if they announced an end to the anti-corruption campaign today, investment would pick up tomorrow.

So it is not the weight of debt; it is really this politically induced contraction, because they feel that is the way to restructure their economy. So besides that, you know, because they cracked down on investment in real estate, all that money flooded into the stock market.

So the problem with the intervention isn't July; it is June 2014 and since. What we saw was just the most obvious, because it was about stemming the collapse and the popping of the bubble.

When President Xi was here, and in his statement in The Wall Street Journal and elsewhere, talked about the systemic risk, it is the first time they ever mentioned systemic risk as a justification for intervention. China's stock market only accounts for about 5 percent of total financing in China. You know, the Chinese stock market could disappear, and China would still have the same financial system essentially.

So I think that is really a post hoc justification for an addiction to intervention that—because state-owned companies were losing money, and people were worried about—the Chinese Government was worried about their reputational hit that they would take by so many folks losing money, even though all they lost was the run-up in the year before.

The intervention that they had was poorly timed, executed, and has resulted in a loss of confidence from investors, domestic Chinese inventors and foreign investors. Combined with the bungled adjustment of the Renminbi's setting and the depreciation, there is great concerns going forward.

When you are managing an economy that is primarily a real economy where you have got investments made over months and years, investors will move much more slowly. But now that you are talking about securities markets and a somewhat open capital account, this loss of confidence actually can change the direction of the economy in seconds just simply by us pushing a button, by selling Renminbi or whatever, and that volatility will affect us more and more.

So I was—the most disappointment I had from his visit, maybe the President talked about this with President Obama privately, is they didn't explain really what that systemic risk supposedly was and why the way they decided to intervene was the best way. And they didn't restore confidence among the investment community also. I still think they are in a much worse position than they were several months ago.

Mr. SALMON. Thanks.

Mr. Rohrabacher.

Mr. ROHRABACHER. A couple of points. Sometimes impacts of these type of visits are not measurable in terms of the economy or in terms of events that happen within a small short framework

after the visit. I would suggest that if we say this visit maybe at best had—at worst had no impact. No. The worst is having it seem to have no impact but having it demoralize the people in China who are trying to build a better China.

And I would say having a President of China visit the United States and be treated with such respect and not being confronted, even—I am not sure privately or publicly with some of the many what I consider to be evil things that are going on, would have a dramatic impact in the long run, in that good people will be demoralized and then not move to make China a better place. So there can be a negative impact without anybody even seeing it.

I was very honored to have led the floor fight, with Congressman Chris Cox at the time, opposing Most Favored Nation status for China. I remember the only reason they made that permanent was when I think it was Bill Clinton over a holiday decided to declare it a permanent state where they didn't have to come back every year and put Most Favored Nation status before us, because when they had to come every year, at least there was some pressure that was on them through that year to correct their behavior, to correct bad behavior.

We eliminated that, and we eliminated that with the promise that if we liberalized our—and I say "liberalization." It is not just economics, but that is what we were saying. A liberalized economic relationship with China would lead to a much freer and a much—and it would lead to progress in many other areas.

That was about 25 years ago now, and maybe let me ask the panel as a whole, has there been—we were promised we would have things like an independent court system would emerge. Is there an independent court system that is a fair court system that has emerged now in China in the last 25 years? Has that happened? No. No. No. Is there anyone saying yes so that? Okay. No one is saying yes to that.

We were told there would be opposition parties that would be permitted. Are there opposition parties now functioning in China to take the place of the ruling Communist Party? Anybody on the panel know about—no. Okay. What about we were told that there would be greater freedom of press and freedom of speech if we just had greater economic relationships. Is there greater freedom of speech and press now in China as compared to before Tiananmen Square?

Mr. KENNEDY. Can I answer that?

Mr. ROHRABACHER. Yes.

Mr. KENNEDY. There I think the answer is much more mixed.

Mr. ROHRABACHER. Okay.

Mr. KENNEDY. There is not a fully independent media that has the rights to ask any question on any issue and write about it without fear. But there is a more active media, particularly on economic issues and economic issues that touch upon civil society questions, that is more active.

And the boundaries on which they can report has expanded some, and the growth of social media—Chinese versions of Twitter—you see much more discussion. But it is still highly constrained, and it is——

Mr. ROHRABACHER. Mr. Chen testified to several incidences of people who are losing their property and corrupt officials, not necessarily these corrupt officials are being brought to justice, but that they are doing these corrupt acts. Are those corrupt acts—can they be printed in the paper when a government official, not being arrested but just a newsman thinking that there is corruption there and we should investigate it? Is that possible, for a newspaper to publish that in China? Mr. Chen?

Mr. CHEN. I must say this, that as long as the common regime remains in power there will be no such a kind of thing as an independent judicial system or independent court. As Mr. Wang Qishan, the Chinese Communist Party Chief of Commission—Disciplinary Inspection Commission of the Communist Party told the visiting Stanford scholar, Francis Fukuyama, that no such a thing is possible as independent court in China. Never. Anything that we talk about China is on the fact that authoritarian regime is, by itself, by its nature, against freedom and democracy.

As for the economy that we talk about, the Chinese GDP numbers, as everybody knows, it is fabricated. And even my village chief would know that for the next year GDP growth objective would be something at one number above the one that we have this year. It is nothing to do with the real economy.

Well, as you can see, the Chinese economy collapse is inevitable as is the regime, because this group of people who supervise or regulate the stock market are themselves investors and brokers with those power brokers in a state-owned business. How could that prevent collapse of the Chinese economy?

Mr. ROHRABACHER. Okay. One last question. I have got to jump in here. And that is that the Chinese President promised or indicated when he was here that it wasn't government that is doing this hacking and spying into our system. Does any one of our witnesses believe that? No.

Let me suggest that when we are dealing with such a regime that we shouldn't be playing these games. And if we have to deal with it because it is in our national security interest, or whatever, as we did during the Cold War, maybe we should just be up front about it.

But it will—but if we aren't, it will demoralize the people in trying to think—they think that—the people who will reform that system in China are greatest allies of the Chinese people. And if we demoralize them by them thinking that we believe this garbage, we have done a great disservice to future Chinese and future Americans as well.

Thank you very much, Mr. Chairman.

Mr. SALMON. Thank you.

Mr. Sherman.

Mr. SHERMAN. Thank you. For the record, I would like to claim that I am not 1 hour late for this hearing. I am 1 hour early. That is to say, we were scheduled at 2 o'clock p.m. This is not the fault of our esteemed chairman by any means. You had to reschedule rather suddenly because of an important Republican conference, and, Mr. Chair, it is my understanding that you won't be in a position to control the timing of the Republican conference until you are elected Speaker, which we eagerly await.

I yield to the gentleman.

Mr. SALMON. Don't hold your breath on that one.

Mr. SHERMAN. It could happen. I am running, too.

Mr. Chen, thanks for being with us. Your story is inspirational.

This has been a big week for Asia, a big week for U.S.-China relations, and a huge week of victories for the Chinese Government. The most notable part is something they didn't have to lift a finger to do, and that was this trade agreement. You say, "Well, how is China affected?" It is affected by the rules of origin provisions, so that goods that are made perhaps 65 percent in China, 35 percent in Vietnam, have free access to the U.S. market.

Now, we don't know what the percentage is for various types of goods. We know for auto parts but nothing else. The legislators of the government of Brunei, they know. Chinese intelligence knows. We don't know. We look forward to being treated with at least as much dignity as the legislators in Brunei or Vietnam. But until then, we can only look at prior agreements where we would expect that goods would only have to be 35 percent made in one of the 12 contracting parties, so they could be 65 percent made in China. But that is de jure. Then, there is de facto.

By the way, this is kind of my opening statement and I am going to ask questions. So I will go a little bit long. I was told I could make an opening statement, but I want to throw in a question.

I will ask our witnesses, would China—the Chinese Government cooperate in making sure that goods that were 85 percent made in China, and 65 percent made in Vietnam, are not mislabeled to be 35 percent made in Vietnam and only 65 percent made in China? Should we expect any cooperation from the Chinese Government in enforcing the rules of origin provisions?

Dr. Kennedy? I think this is a one-word answer.

Mr. KENNEDY. Actually, yes.

Mr. SHERMAN. You are saying the Chinese Government would rat out a Chinese-based company because goods were 80 percent made in China and 20 percent made in Vietnam, but they labeled—they claimed to U.S. authorities that it wasn't just 20 percent made in Vietnam, it was 35 percent made in Vietnam. You are saying the Chinese Government would rat out that company.

Mr. KENNEDY. I think it would be hard for them to, over a long period of time, maintain that fiction, since the Vietnamese Government is going to have a different interest with them and other——

Mr. SHERMAN. Oh, no. The Vietnamese Government will say, "Here is an opportunity to export goods to the United States, a highly competitive market, in the most efficient way possible." And if the goods can be produced most efficiently at the highest quality—85 percent made in China, 15 percent made in Vietnam—why would Vietnam want to crush that export or that company, that product, in order to see goods made in Mexico take their place on American shelves?

So in any case, I will ask any of our witnesses, are you aware of any occasion where the Chinese Government has come forward and disclosed to American authorities that a Chinese company, not run by a dissident, was in violation of U.S. law? Got a lot of knowledge about China here. Can anybody come up with an example? I don't see Dr. Kennedy raising his hand. I don't see the next witness

raising—Mr. Bejtlich raising his hand, not Dr. Weiss, and not Mr. Chen.

Mr. KENNEDY. I will just—the only example that I could think of off the top of my head would have been to the extent in 2013 and '14 when the Chinese Government was focused on anti-corruption or unfair competition practices in their health care sector, and others, and they would have let the U.S. Department of Justice know about potential violations of foreign corrupt practices at——

Mr. SHERMAN. Okay. So that was attacking a U.S. company and depriving American workers and American companies of access to the Chinese market. You have illustrated my point. They will reveal that information only when it is in the interest of mercantilist objectives of Beijing.

So we have one huge benefit, and that is they get—China gets free access to our market, and of course there is nothing in this agreement that gives us access to Chinese markets, because China isn't even a signatory. But the other big win here was we were told that this deal would be a chance for the United States to establish that it is American trade rules that will govern the Pacific.

Well, to a good extent, Wall Street's rules are going to govern the Pacific. But there is one departure, and that is currency manipulation. This agreement sanctifies the view that countries are free to manipulate their currency and to have all the benefits of free trade agreements. And I don't think that is a victory for American trade objectives. That is a victory for Chinese trade objectives.

But I want to go on to the media, and here is where I may have some expertise given my home district. The day is gone when Hollywood is going to make a movie about Tibet. As a matter of fact, I don't know if Richard Gere will get many parts in the future at all.

We now have a situation where, whether it is Mars or anywhere else, there has to be a pro-Chinese Government hero message in the movie in order to be made in Hollywood. Not only do the Chinese control their own market, but a Chinese company controls, I believe it is AMC anyway, the second largest bit of screens in the United States.

So if any of you—I hate to break this to you, Mr. Chen, you will not be the lead character in any major movie made in Hollywood, either yourself nor will you be played by a famous actor, because that movie will not be shown on a big chunk of American screens, and the Chinese only let—what is it? Thirty-five movies made in America into their country.

So all of Hollywood is desperate to be one of those 35, and the only way to be sure that you are going to be one of those 35 is to make sure that the Chinese Government or its agencies or activities are one of the heroes of your movie, whether it is Mars or anywhere else. So those who think the Chinese Government only controls China don't understand how interconnected the world is.

We have an expert in human rights in China. Mr. Chen, what can we do to expand human rights in China?

Mr. CHEN. As I recommended in my statement testimony, that if Congress makes laws to deny the entrance of those human rights violators in the Communist regime, that will help defend human rights in China. Another thing is about freedom of internet.

As I said, if Congress budgets a little bit more assistance to develop the cyber software to break down the firewall of China, which would provide the information definitely needed for the Chinese people which will promote press freedom and democracy there. That would be a great contribution.

And, actually, the Chinese regime knows this very well, and they tried to stop people invest—in developing such a kind of software. And, as a matter of fact, I observed that some of the shortwave radios have stopped broadcasting, which is a mistake. That is just what the Communist regime needs.

Mr. SALMON. Thank you.

Mr. SHERMAN. If I could——

Mr. SALMON. The gentleman's time has expired.

Mr. SHERMAN. It has more than expired.

Mr. SALMON. Yes. We are going to vote in just a minute, but I did have one followup question, because it is such a pressing issue, with Mr. Bejtlich.

This agreement that our two Presidents made regarding cyber hacking, what are the ramifications or implications if China doesn't agree? Was there anything really tangible that can act as a deterrent for this happening? And, you know, what would be the likely outcome if something does occur?

And then, the second thing is, with the People's Liberation Army not being involved in any of this agreement, does China just have the ability to kind of do this now and blame them? Or not even blame them, but say our Government is not involved, like you said in your opening statement, and is there a way for us to continue to push forward to say, "Wait a minute. You know, we are asking that you make sure that the Army doesn't do any of this hacking as well. And, anyway, what are the best ways for us to move in that direction?"

Mr. BEJTLICH. Thank you for the question, sir. The last consequence that we appear to have available is sanctions. The President mentioned that in the event the Chinese don't appear to be upholding their end of this agreement that the administration would pursue activities, possibly through U.S. Trade Rep or through the WTO or through some mechanism. The Executive Order that they signed earlier this year gives them the authority to impose sanctions as well.

My personal opinion is we are not going to see sanctions anywhere within, say, a 6-month period. And, honestly, that starts to get toward the end of the Obama administration, and he may simply say, "I am going to hold off just for the rest of my time."

As far as the issue with the PLA, it is entirely possible that the Chinese Government could, rather than direct the PLA or the MSS to conduct these operations, they could sort of take a Thomas Becket approach and say, "Wouldn't it be great if someone could get us this information," or "There is a need—the government has a need for this sort of information."

And the military might pursue it on their own, or you may see a movement of people from those units into the Chinese private sector where suddenly they become security companies and contractors who carry out this activity. We have called that the decentralized scenario at FireEye.

Honestly, until the Chinese Government changes its strategic decision to pursue Western technology and to abandon any sort of vulnerability or dependence on Western technology, they are going to continue to get this by any means necessary.

Mr. SALMON. So it sounds like to me everybody is on their own. Everybody would be advised to beef up your security as much as you possibly can, because in the near future there probably isn't going to be any real significant government action to make sure that it doesn't keep happening.

Mr. BEJTLICH. Yes. We are not worried about not being busy for the next many years in our industry. And, by the way, sir, there is nothing about this that is exclusively Chinese either. You could easily see a country like Nigeria or some other country say, "We are going to adopt a similar model."

Mr. SALMON. Or Iran or any number of countries, as you mentioned.

Mr. BEJTLICH. Yes.

Mr. SALMON. Mr. Sherman, I am going to give you one more question, and then we will go ahead and wrap up.

Mr. SHERMAN. Thank you.

China has a program against corruption. I think this is maybe just aimed at the opponents of whoever, President Xi. The United States has the capacity to identify assets owned by princelings and their children and relatives outside of China, and otherwise to paint a beautiful, clear, and embarrassing picture of unwarranted wealth of those in power.

If we had this information and leaked it to various press organs, would that outrage the Chinese people at the party? And which publications would have both the courage to publish and the credibility with the Chinese people? I will go to any witness who wants to answer.

Mr. CHEN. For those human rights violators of the Communist regime, we can tell who they are and what they did through the internet users in China who expose their violations. Well, we can tell by the normal calculation of the monthly salary or year salary of those Communist regime officials, and so we know that any number beyond that should be regarded as ill-gotten wealth, which is quite easy to recover, I think.

And as you can tell that by the already reported wealth of those individual top Chinese officials whose household wealth could be—amount to tens of thousands of—multi-millions of U.S. dollars, actually, and I can't imagine how could that possible based on their basic income as an official in China. If we had this system of exposure in place, I think that we could find solutions to those issues in relating the two countries.

Thank you.

Mr. SALMON. Thank you very much. This has been a very wonderful discussion. There is so much more to say and so many more things to learn. The goal is to improve the bilateral relationship. It is not just to cast aspersions but to build that relationship.

We do have some very big concerns. Mr. Sherman has raised several, and has in the past, about currency manipulation issues and unfair trade practices.

Mr. Chen, we are very honored that you would take the time to be here today. You have developed such a wonderful global reputation for fighting for freedom and for human rights, and we appreciate it.

But all of our distinguished panelists have been extremely good, and we appreciate you being here today.

And this committee will be adjourned. Thank you.

[Whereupon, at 1:32 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Asia and the Pacific
Matt Salmon (R-AZ), Chairman

October 7, 2015

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Asia and the Pacific in Room 2200 of the Rayburn House Office Building (and available live on the Committee website at http://www.ForeignAffairs.house.gov):

DATE: Wednesday, October 7, 2015

TIME: 12:15 p.m.

SUBJECT: Reviewing President Xi's State Visit

WITNESSES: Mr. Chen Guangcheng
Founder
The Chen Guangcheng Foundation

Jessica Chen Weiss, Ph.D.
Associate Professor of Government
Cornell University

Mr. Richard Bejtlich
Chief Security Strategist
FireEye

Scott Kennedy, Ph.D.
Director
Project on Chinese Business and Political Economy
Center for Strategic and International Studies

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Asia and the Pacific* HEARING

Day *Wednesday* **Date** *10/07/15* **Room** *2255*

Starting Time *12:20pm* **Ending Time** *1:32pm*

Recesses [ ] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Salmon

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [ ]
Electronically Recorded (taped) [ ]
Stenographic Record [ ]

TITLE OF HEARING:

Reviewing President Xi's State Visit

SUBCOMMITTEE MEMBERS PRESENT:

Rohrabacher
Sherman, Meng

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not members of full committee.)*

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] **No** [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *1:32pm*

Subcommittee Staff Director