

**THE CHANGING LANDSCAPE OF U.S.-CHINA
RELATIONS: WHAT'S NEXT?**

HEARING

BEFORE THE

SUBCOMMITTEE ON EAST ASIA, THE PACIFIC, AND
INTERNATIONAL CYBERSECURITY POLICY

OF THE

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THE CHANGING LANDSCAPE OF U.S.-CHINA RELATIONS: WHAT'S NEXT?

TUESDAY, SEPTEMBER 29, 2015

U.S. SENATE,
SUBCOMMITTEE ON EAST ASIA, THE PACIFIC, AND
INTERNATIONAL CYBERSECURITY POLICY,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:35 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Cory Gardner (chairman of the subcommittee) presiding.

Present: Senators Gardner, Isakson, Cardin, and Markey.

OPENING STATEMENT OF HON. CORY GARDNER, U.S. SENATOR FROM COLORADO

Senator GARDNER. Good afternoon. Thank you very much. This hearing will come to order.

Let me welcome you all to the third hearing for the Senate Foreign Relations Subcommittee on East Asia, The Pacific, and International Cybersecurity Policy in the 114th Congress.

I want to thank Senator Cardin for his cooperation and support for holding this important hearing.

Today's hearing comes at an opportune time with the President of the Republic of China, Xi Jinping, having just concluded his state visit to the United States.

Prior to this visit, I sent a letter to President Obama with three of my colleagues on this committee urging the President to demonstrate leadership and deliver a strong message of United States concern to President Xi regarding the troubling trajectory of China's foreign and domestic policies. I urged the President to reiterate that China's recent destabilizing activities in East China Sea and South China Sea, behavior in cyberspace, and human right abuses are actions fundamentally at odds with a country that wants to be considered a peacefully rising global power.

China has declared an illegitimate air defense identification zone in the East China Sea and has dramatically expanded its land reclamation activities in the South China Sea. According to the Pentagon, China has created about 3,000 acres of new land over the past 18 months and has deployed artillery, built aircraft runways and buildings, and positioned radars and other equipment.

While on a visit to Beijing last month, I had an opportunity to engage a top official from the People's Liberation Army on this issue and came out convinced that only tough resolve from the United States and our partners can impact Beijing's actions and

calculus. I am convinced that China's actions mean that we must urgently pursue enhanced security measures with our traditional and emerging allies in the Asia-Pacific region to ensure future peace and stability.

First and foremost, we must enhance the capabilities of likeminded partners in the region with regard to maritime security, starting with the effort recently announced by Secretary of Defense Ash Carter called the Southeast Asia Maritime Initiative. And we should never miss an opportunity to reiterate our policy as stated by Secretary Carter at the Shangri-La Dialogue in Singapore on May 30, 2015, and I quote. "The United States will fly, sail, and operate wherever international law allows, as U.S. Forces do all over the world. America, alongside its allies and partners in the regional architecture, will not be deterred from exercising these rights, the rights of all nations."

China's behavior in cyberspace has also emerged as a serious threat to U.S. national and economic security. Regrettably, well documented state-sponsored or state-endorsed Chinese activities have not been met with an appropriate response from the United States. Although last year the administration announced criminal charges against five officials of the PLA, clearly that has not been enough to deter further bad behavior from happening.

I am deeply disappointed that despite new Executive orders issued on January 2 and April 1 of this year, this administration has not penalized a single entity responsible for national security threats or commercial cyber-enabled activities directed against our Nation and emanating from China.

On my trip to Beijing, I met with China's Cybersecurity Minister Lu Wei and had a frank conversation about these issues. We agreed that China and the United States must continue to talk about building international norms in cyberspace, and we have seen very modest progress on this issue with the cyber agreement announced last Friday.

But given the grave threat that China's activities represent to U.S. national and economic security interests, the administration and future administrations must never hesitate to use the punitive tools at their disposal such as criminal charges and sanctions to punish any and all sponsored cyber crime.

We also urgently need U.S. leadership to reverse China's deplorable human rights record which recently included illegal detention and harassment of more than 100 lawyers in China. The United States must have consistent and asserted diplomatic engagement with China to reinforce that all of these behaviors fall outside of accepted international norms. We should build a strong trilateral partnership between United States, Japan, and South Korea in the hopes that it will put the right kind of pressure on Beijing to play by established international rules. I believe that a mature, productive and peaceful relationship with Beijing is in the national security and economic interests of the United States.

This relationship will also help us further our relationship with China in regards to North Korea. For instance, if we continue to engage China on the threat of North Korea, I believe that we can actually make a difference in North Korea's behavior. It is Beijing that holds the key to survival of the North Korean regime, and it

is a message that I reiterated to Foreign Minister Wang Yi in Beijing during our meeting last month.

But the actions by China that have been outlined that I talked about today jeopardize our bilateral relations befitting of a peaceful, rising global power that China claims to be. And that is what this hearing is about today. What did the state visit accomplish this past week to change the state of affairs in United States-China relations? Can Beijing turn from a path of confrontation to cooperation? What should U.S. policy be to effect positive change and behavior? I look forward to our witnesses addressing these and other questions today.

And, Senator Cardin, again thank you, and I turn to you for your opening statement.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,
U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Chairman Gardner, first of all, thank you for convening this hearing of our subcommittee to look at the relationship between the United States and China, and the changing landscape of the United States-China relationship. It is absolutely accurate.

And Dr. Hart and Mr. Johnson, thank you for joining us in this discussion.

As the chairman pointed out, this has been an incredible few days with President Xi here in the United States. We have had an opportunity to be with him at a State Department lunch where we had a chance to hear his vision for the Chinese-American relations, along with Vice President Biden and Secretary of State Kerry. I was encouraged by the comments that President Xi made at that lunch.

Later in the day, we had a chance in a meeting in the Capitol to have an exchange in which we could drill down to a little bit more specific issues. I thought that was also very helpful. And of course, I have listened with a great deal of care to the comments that the President of China made with President Obama. So it was a chance to explore firsthand some of the issues.

Look, the rebalance to Asia is critically important to the United States. We have had hearings on this. We understand the importance of that region to us economically, from a security point of view, and from an environmental point of view. Our rebalance to China depends upon a more constructive relationship with China.

And there is reason to be optimistic. What we saw with China's engagement with the P5+1 on the Iranian negotiations was a positive step, China joining the international community on a geopolitical issue was incredibly important for the civility of the Middle East. This is a positive sign.

We also have a common agenda with China in regards to North Korea and seeing the Korean Peninsula nuclear weapon-free. So we should be able to figure out a way to engage China more effectively in the safety of the Korean Peninsula.

There were some very positive steps taken in regards to climate change and, environmental issues with the announcements that have been made, and the leadership demonstrated by China and the United States. Any of us who have visited China understand

the political mandate. I do not know, Mr. Chairman, if your experience was the same during your visit. But when I was there, I think for 3 or 4 days or 3 days, I never saw the sun and there was not a cloud in the sky. So there is quite an imperative for China to deal with the problems of pollution, and it looks like they are, indeed, taking some strong leadership as we lead up to the Paris international meetings.

All of that is very positive. And as you mentioned, there is now a protocol that is trying to be established between China and the United States dealing with cybersecurity issues. That is also a positive step, but let me remind everyone here of the strong evidence that we have seen to date of China's cyber attack against the personnel records of our Federal workforce. That is an issue that will not go without action. I can assure you of that. That was a very serious breach of our security, and it put a lot of individuals at risk. And we will certainly want to be able to follow up and hold accountable those responsible for those actions.

And as the chairman pointed out, the provocative actions in the China Seas. This is a very dangerous situation. It is very explosive. And China has been very provocative in its activities, reclaiming land, doing construction on the lands, building oil rigs, and almost encouraging a confrontation with its neighbors. That is very dangerous. And I appreciate Secretary Carter's comments at the Shangri-La security conference. I strongly agree with those comments. And the United States has to make it very clear—although we take no position on the claims as to who the territories belong to, we do strongly oppose provocative actions. We want a peaceful solution and we want it done based upon rule of law not based upon unilateral action of any one country.

I do want to underscore that we will not have as constructive a relationship with China as we should if they do not take steps in a positive direction to deal with their human rights problems. We saw maybe 10 years ago, 12 years ago, a pathway that we thought was positive in opening up some of the rights for their citizens, and we were encouraged because we understand it will take time. But in recent years, it looks like they are backtracking on their human rights commitments. When you look at the laws they are proposing that would restrict NGOs, when you look at what they have done with journalists, when you look at the imprisonment of human rights activists, all of that, religious freedom issues, what is happening in Tibet, and what is happening in Hong Kong, they all raise major flags as to whether we are seeing a retrenchment in China on the commitment to human rights.

So I took advantage of the opportunity last Friday during the afternoon meeting with President Xi to make sure that those issues were raised. Vice President Biden mentioned it in his talks. And I know that this is an issue that we are going to put a major focus in regards to the relationship between China and the United States.

My last point is on the economic front. There is some good news, and some bad news. But bottom line is we still have a China that is not protecting United States intellectual property rights. We have a China that is manipulating currency. It is China that has a huge interest in the United States market. We need to be better

in our economic relationships with China to understand that there is going to be a level playing field, and we expect that they will protect the rights of American producers, farmers, and manufacturers. And to date, we have not gotten as much protection as we should for a level playing field, and we need to continue to stress those points.

So, Mr. Chairman, I look forward to hearing from our two witnesses. Obviously, this is a complicated relationship. There are many issues, but it is critically important we get it right and that we build a stronger, more productive relationship with China.

Senator GARDNER. Thank you, Senator Cardin. And thank you as well. Senator Cardin serves, as everybody knows, as the ranking member of the full committee. So to continue to spend time with this committee, we truly appreciate it as ranking member here. So you are pulling double duty. So thank you.

Senator CARDIN. Well, do not tell the other regions, but this is the most important region. [Laughter.]

Senator GARDNER. Thank you for reinforcement. So I really do appreciate Senator Cardin's continued engagement.

And thank you to the witnesses. Thank you to Chris Johnson and to Dr. Hart for being here this afternoon.

Our first witness this afternoon is Chris Johnson, senior advisor, holding the Freeman Chair in China Studies, at the Center for Strategic and International Studies. An accomplished Asian affairs specialist, Mr. Johnson spent nearly two decades serving in the U.S. Government's intelligence and foreign affairs communities and has extensive experience analyzing and working in Asia. Mr. Johnson worked as a senior China analyst at the Central Intelligence Agency and has served as an intelligence liaison to two Secretaries of State and their deputies on worldwide security issues. In 2011, he was awarded the U.S. Department of State's Superior Honor Award for outstanding support to the Secretary of State. Welcome, Mr. Johnson. Thank you very much for being here and looking forward to your testimony.

**STATEMENT OF CHRISTOPHER JOHNSON, SENIOR ADVISOR
AND FREEMAN CHAIR IN CHINA STUDIES, CENTER FOR
STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON,
DC**

Mr. JOHNSON. Thank you very much and thank you for this opportunity to discuss this very important issue.

Distinguished members of the subcommittee, good afternoon and thank you again for this opportunity to come before you today for such an important hearing.

I have been asked here today to provide my assessment of United States-China ties in the wake of last week's summit between President Obama and Chinese President Xi Jinping and to give my view on where the relationship is likely headed going forward. In evaluating the summit's outcomes, I would like to focus my opening remarks on the degree to which they have helped narrow the gap between two narratives, one official and one unofficial, circulating in Washington in recent months with regard to bilateral ties.

In the official view, there are certainly tensions, areas of discord and tension with Beijing, but there remains a belief that the dis-

agreements are manageable and that given the substantial complexity of United States-China ties and the many cooperative dimensions of the interactions between the two countries, overall the relationship is stable and being managed well.

In the unofficial view held by analysts, pundits, journalists, the strategic competition between the United States and China is the dominant theme. And left unchecked, that competition is driving Washington and Beijing toward a so-called tipping point in the race for global or regional hegemony. This view also holds that the disagreements between the two sides are not under policy control within either the Chinese or the U.S. bureaucracies, suggesting that the potential for accidental conflict is high and growing steadily.

So against that backdrop, let me turn to a quick analysis of the summit's achievements and also look at some areas where a little headway was made.

Given the serious tension between our two countries over cybersecurity this year, I think it is safe to say that the most unexpected outcome of the summit was the agreement between the two sides on this contentious issue. Within the agreement, the most significant component is clearly the declaration that neither government will, "conduct or knowingly support," cyber-enabled economic espionage. As President Obama noted in his joint press conference with President Xi, the focus of the U.S. side must now be on ensuring China's actions comport with its words, or trust but verify. In fact, we can and should expect that the next time the United States side has releasable evidence of this type of activity by the Chinese emanating from China, the administration will present such evidence to the Chinese at a very high level with the full expectation that the responsible parties will be prosecuted to the full extent of Chinese law. And if that does not occur, then we should expect the United States to levy the type of sanctions against the offending Chinese individual or entity that were hinted at before President Xi arrived for his visit.

President Xi's visit also welcomed some progress on the bilateral economic relationship. One key commitment was both sides' acknowledgement that they have a shared interest in promoting a stable global economy supported by the multilateral economic institutions founded at the end of World War II that have benefited, obviously, the people of both nations. This recognition is a helpful step toward addressing some of the concerns that China seeks either to undermine those institutions or to short circuit their effectiveness through the development of parallel institutions such as the Asian Infrastructure Bank and other institutions. As with the cybersecurity agreement, however it remains to be seen whether China's actions will match its words. Commitments from the United States side to implement the 2010 IMF quota reforms as soon as possible and to endorse with the appropriate caveats the inclusion of the renminbi in the IMF's SDR basket of reserve currencies presumably will serve as positive inducements to China to remain committed to working within these established global financial structures.

President Xi also made an effort, primarily through his interactions with senior U.S. business executives in Seattle, to reassure

the U.S. business community on issues of market access and the promotion of a level playing field, as you mentioned in your opening remarks. Here, there was less reason for optimism. Xi certainly acknowledged all the contentious issues, but he also seemed to put the blame on the U.S. side to some degree for some of these issues or to simply suggest that there is no room for U.S. opinion on some of these areas such as pending legislation before the Chinese legislature that has been of deep concern to U.S. business.

Moreover, aside from the agreement on cybersecurity, there was very little progress on the several security issues currently complicating United States-China ties. President Xi showed almost no willingness to address U.S. concerns on maritime security, and the fact that maritime security and the South China Sea were not mentioned at all in the released fact sheet tells us that the two sides are very much at loggerheads on this issue.

So taking what seems to be a very mixed picture into account, can we divine with any greater clarity whether the official or unofficial narrative on United States-China ties has more explanatory power? As with all complex analytic problems, the truth probably lies somewhere in between, as we see elements of both narratives operating in the context of the summit's negotiations and its results. And those same features are likely to be manifest in the relationship going forward.

With that in mind, let me just close briefly by highlighting three trends in the relationship that do seem to point toward growing strategic divergence between the United States and China.

The first is the challenge faced by the United States reluctance to acknowledge China's great power ambitions exacerbating tensions. We have seen this in the U.S. approach to AIIB and some other areas. And I use the term "acknowledge" China's great ambitions, not "accept," because we do not want to be showing our acceptance of these ambitions of theirs, but we certainly need to acknowledge them because it is causing bilateral problems.

The second is the situation where a more capable Chinese military is meeting an underfunded U.S. defense establishment due to the burdens of sequestration and what we have seen there and a more capable defense posture from China.

And the third, as was mentioned in opening remarks, is a balkanized U.S. business community that is less supportive of stable bilateral ties. For a long time, certainly the bedrock, China's key asset in the United States, has been the U.S. business community, and now because of Chinese industrial policies in particular, we see the U.S. business community being less willing to advocate for those smooth and stable ties. And I expect that to continue unless we see actions from the Chinese side to move toward a more level economic playing field.

Let me end there and thank you very much for this opportunity.
[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF CHRISTOPHER K. JOHNSON

Distinguished members of the subcommittee, good afternoon, and thank you for this opportunity to come before you for this important hearing. I have been asked here today to provide my assessment of U.S.-China ties in the wake of last week's summit between President Obama and Chinese President Xi Jinping and to give my view on where the relationship is likely headed going forward. In evaluating the

summit's outcomes, I would like to focus my opening remarks on the degree to which they have helped narrow the gap between two narratives—one “official” and one “unofficial”—circulating in Washington in recent months with regard to bilateral ties. In the “official” view, there are substantial areas of discord and tension with Beijing, but there remains a belief that these disagreements are manageable and that, given the significant complexity of U.S.-China ties and the many cooperative dimensions of the interactions between the two countries, overall, the relationship is stable and being managed well. In the “unofficial” view, the strategic competition between the United States and China is the dominant theme and, left unchecked, that competition is driving Washington and Beijing toward a “tipping point” in the race for global hegemony. This view also holds that the disagreements are not under policy control within either the Chinese or the U.S. bureaucracies, suggesting that the potential for accidental conflict is high and growing steadily. Against that backdrop, let me turn to a quick analysis of the summit's achievements, as well as a look at areas where little headway was made.

EVALUATING THE OBAMA-XI SUMMIT'S OUTCOMES

Given the serious tensions between our two countries over cybersecurity this year, it is safe to say that the most unexpected outcome of the summit was the agreement between the two sides on this contentious topic. Within the agreement, the most significant component is the declaration that neither government will “conduct or knowingly support” cyber-enabled economic espionage. As President Obama noted in his joint press conference with President Xi, the focus of the U.S. side must now be on ensuring China's actions comport with its words. In fact, we can and should expect that, the next time the U.S. side has releasable evidence of this type of activity emanating from China, the administration will present such evidence to the Chinese, with the expectation that the responsible parties will be prosecuted to the full extent of Chinese law. If this does not occur, then we should expect the United States to levy the type of financial sanctions against the offending Chinese individual or entity that were hinted at before President Xi arrived for his visit.

President Xi's visit also witnessed some progress in the bilateral economic relationship. One key commitment was both sides' acknowledgement that they have a shared interest in promoting a stable global economy “supported by the multilateral economic institutions founded at the end of World War II that have benefited the people of both nations.” This recognition is a helpful step toward addressing some of the concerns that China seeks either to undermine those institutions or to short circuit their effectiveness through the development of parallel institutions such as the Asian Infrastructure Investment Bank (AIIB). As with the cybersecurity agreement, however, it remains to be seen whether China's actions will match its words. Commitments from the U.S. side to implement the 2010 IMF quota and governance reforms “as soon as possible” and to endorse, with the appropriate caveats, the inclusion of the Chinese currency, the renminbi, in the IMF's SDR basket of reserve currencies presumably will serve as positive inducements to China to remain committed to working within these established global financial structures.

President Xi also made an effort, primarily through his interactions with senior U.S. business executives in several events in Seattle, to reassure the U.S. business community on issues of market access and the promotion of a level playing field in China. Here, there was less reason for optimism. Although Xi in his public and private remarks acknowledged the various concerns U.S. business has raised, he offered little in the way of concrete solutions. In fact, in several instances, Xi seemed to intimate that the ball was in the U.S. court in these areas, or that there simply was no role for U.S. opinion, such as in the case of several pending laws in the Chinese legislature that have sparked controversy among foreign business. The two leaders' commitment to continuing the negotiations toward a bilateral investment treaty is encouraging, as the high standards envisioned would address many of these problems, but there was no clear vision laid out by either side for how to expedite those discussions.

Moreover, aside from the agreement on cybersecurity, there was very little progress on the several security issues currently complicating U.S.-China ties. For example, President Xi showed almost no willingness to address U.S. concerns on maritime security, especially as it pertains to brewing tensions in the South China Sea. In fact, the absence of any reference to maritime security in the fact sheet released by the White House represents a glaring omission and suggests the two sides are fundamentally at loggerheads, with the United States calling for Chinese restraint with their island building and the militarization of reclaimed islands and the Chinese reiterating their sovereignty claims. Similarly, while there was agreement to continue bilateral human rights talks, the Chinese made no concessions on

what might be called “nontraditional” human rights concerns, such as the worries over the provisions of China’s draft law promising major—and potentially worrisome—changes to the way the Chinese Government manages nongovernmental organizations operating there.

So, taking what seems to be a very mixed picture into account, can we divine with any greater clarity whether the “official” or “unofficial” narrative on U.S.-China ties has more explanatory power? As with all complex analytic problems, the truth probably lies somewhere in between, as we see elements of both narratives operating in the context of the summit’s negotiations and its results, and those same features are likely to be manifest in the relationship going forward. With that in mind, let me close my remarks by highlighting three trends in the relationship that do seem to point toward growing strategic divergence between the United States and China.

U.S. RELUCTANCE TO ACKNOWLEDGE CHINA’S GREAT POWER AMBITIONS IS EXACERBATING TENSIONS

Many in the U.S. policy community choose to ascribe the Xi administration’s seeming intransigence on sensitive bilateral issues to a developing sense of Chinese arrogance. However, the Chinese, in fact, are fundamentally looking for a basic U.S. recognition of Beijing’s growing global stature and influence. They want the United States to formally recognize that the cadence and the mechanics of U.S.-China relations must change to reflect the shifting power dynamics in a rapidly changing global order. The U.S. policy establishment has yet to craft an approach that offers concrete measures for signaling U.S. recognition of Chinese thinking in this regard without judging it is compromising on U.S. strategic interests in the region, whether real or perceived.

This shortcoming results in several practical policy effects. The feckless attempt by the United States to block China’s establishment of the AIIB offers a poignant example. Misguided concerns that the AIIB somehow represented a dagger pointed at the heart of the Bretton Woods system prompted a U.S. policy response that resulted in unnecessary awkwardness—and even tensions—with key U.S. allies such as Australia, the United Kingdom, and South Korea while emboldening a victorious China to view such institutions as desirable workarounds to the glacial pace of change in established institutions. Similarly, seeming U.S. discomfort with accepting China’s growing power and prestige may lead to unfounded confidence in the inevitability of Chinese policy failure. Talk of China “scoring own goals” with its regional diplomacy, military posture, and economic statecraft seems accurate given that China’s behavior has resulted in a counterproductive demand signal from its neighbors for greater U.S. security presence in the region. That said, a kneejerk assumption concerning the likelihood of Chinese failure is an excuse for intellectual and policy laziness in the U.S. diplomatic, economic, and security establishments, especially since the evidence to date in several of these areas points to mixed conclusions at best.

A MORE CAPABLE CHINESE MILITARY MEETS AN UNDERFUNDED U.S. DEFENSE ESTABLISHMENT

In many ways, China’s burgeoning ambitions are a reflection of the staggering success of its robust military modernization program over the last two decades. Beijing’s desire for advanced military capabilities stems from its general assessment of the pillars of U.S. military power projection and the recognition that these capabilities amounted to an insurmountable obstacle for the People’s Liberation Army (PLA). It is intuitively obvious that Chinese planners, with the assurance of sustained, targeted funding, have responded to these shortcomings by developing a suite of capabilities designed to counter each U.S. pillar: aircraft carriers; air superiority and long-range precision strike; regional bases and alliances; and space and information dominance.

At the same time, however, senior U.S. military officers presumably are concerned over the risk of degradation in U.S. combat effectiveness resulting from the sustained tight budgetary and fiscal environment imposed by sequestration. The impact on operations and maintenance accounts—to say nothing of the substantial drawdown in key investment accounts for future modernization of the force—makes responding to the challenge of China’s rise more daunting. As such, a growing chorus of U.S. military voices appears to be advocating for pushing back on the PLA’s expansion of its military operational activities while U.S. forces are still in a position to do so. Changes in Chinese defense strategy and priorities strongly suggest, however, that U.S. and Chinese forces will be coming into contact more often rather than not going forward. As such, the risk is rising that the potential for miscalcula-

tion is increasing faster than the two countries' national security establishments can keep those tensions under policy control.

A BALKANIZED U.S. BUSINESS COMMUNITY IS LESS SUPPORTIVE
OF STABLE BILATERAL TIES

Finally, one of the immediate consequences of President Xi's apparent turn to the left on the state's role in the economy is the effective Balkanization of the foreign business community into something akin to "haves" and "have nots." In this construct, the "haves" include firms that produce products—especially high-technology items—that Chinese domestic firms are either completely incapable of producing on their own or can only do so with very poor quality. As to the "have nots," these are firms where a domestic Chinese competitor is already close to producing products on par with those produced by the foreign firm, or where the foreign firm is directly competing with a Chinese counterpart in an industry where the government has clearly signaled its intent to favor an indigenous capability.

Regardless of which category various U.S. firms happen to fit into, the net result is a business community less capable of—and less willing to—come together in using its lobbying power to stress the maintenance of sustained healthy U.S.-China ties. In fact, it is likely that the business community will turn toward greater pressure on the relevant government agencies to push back on the more blatant manifestations of Chinese industrial policy. Given the fundamental role of the economic relationship historically in stabilizing U.S.-China ties in times of security or political tension, the deterioration of that influence provides the potential for a more conflictual relationship going forward.

In conclusion, the summit between President Obama and President Xi succeeded in highlighting the challenges in the U.S.-China relationship but offered little in terms of providing concrete policy solutions or strategies. Each of the three trends I have laid out pointing to increased strategic divergence between the United States and China is entirely manageable with the application of creative thinking and strong leadership on both sides. The alternative is to allow these and other negative trends in the relationship to conspire to effect a steady worsening of ties. Moreover, the risk of that happening is amplified by the fact that the Obama administration will soon enter its final year in office, making a disposition toward maintaining the status quo its likely default setting. Given that the U.S.-China relationship arguably should be the chief strategic preoccupation of U.S. foreign policy thinkers in the 21st century, allowing such policy malaise to enter the equation is something both of our nations—and arguably the world—can ill afford.

Senator GARDNER. Thank you, Mr. Johnson.

Dr. Hart, our second witness, Director of China Policy at the Center for American Progress. Dr. Hart has worked on China issues for more than a decade. Before joining the Center for American Progress, she worked as a project consultant for the Aspen Institute International Digital Economy Accords Project. She also worked in the private sector where she provided technology market and regulatory analysis to guide operations in China, and has served as China advisor for the Scowcroft Group and others and the University of California Institute on Global Conflict and Cooperation.

Welcome, Dr. Hart. Thank you for being with us today, and please proceed.

**STATEMENT OF DR. MELANIE HART, DIRECTOR OF CHINA
POLICY, CENTER FOR AMERICAN PROGRESS, WASHINGTON,
DC**

Dr. HART. Chairman Gardner, Ranking Member Cardin, thank you very much for this opportunity to speak today on United States-China relations. I will focus my opening remarks on three key points.

First, in the runup to this recent summit, there has been a rising debate on whether we need a course correction in U.S. foreign policy toward China. The United States is pursuing a multitrack en-

agement strategy toward China. It is an eyes wide open engagement strategy. Engagement need not be predicated on the assumption that China will not seek to undermine U.S. interests in some areas. The United States can work constructively with China while also accepting that we have different principles in some issues. We can work along multiple tracks at the same time, expanding cooperation in some tracks, while also confronting differences and exchanging threats in other tracks.

This current strategy is largely effective, but there is a need for tactical adjustments in some areas. We are doing much better on the cooperative side of the strategy than we are at confronting differences and managing differences and addressing differences in the United States-China relationship. When it comes to cybersecurity, market access barriers, and maritime issues, progress has been incremental at best. That is because China is deploying new tactics that evade our current enforcement strategies. Going forward, the United States should maintain the current good momentum on cooperative issues like climate change, but we also need to expand our toolkit for addressing difficult issues like cyber and the South China Sea.

Second, many experts view the lack of concrete progress on regional maritime issues as evidence that the U.S. should abandon our engagement strategy and shift toward some form of neocontainment. Those assessments are misguided. Our problem in the South China Sea is not a strategy problem. It is a tactical problem. China is taking actions in that region that violate international laws and norms, namely the U.N. Convention on the Law of the Sea. The United States has not ratified that treaty. We do not have a seat at the table when U.N. tribunals weigh in on Chinese actions or claims. The only levers we have are public statements, military actions, and our ability to create space for smaller claimants to assert their claims. Unfortunately, those levers have not proven particularly effective at changing Chinese behavior.

This is an area where the U.S. Senate can significantly improve American influence and American capabilities abroad. Asian maritime maps will not be determined by military might alone. They will also be determined by law. And we and the rest of the world need the United States to be in the room when those legal decisions are made. Ratifying the U.N. Convention on the Law of the Sea would change the game in the South China Sea. It would enable the United States to play a leading role in setting norms that will shape the region for decades to come.

Ratification would also improve our strategic capabilities in the Arctic where the United States is sitting on the sidelines and watching Russia and other Arctic nations make new claims that dramatically expand their territorial boundaries in the Arctic Ocean.

Third, the climate track has become a groundbreaking action track in United States-China relations, and progress on climate change justifies a continuation of the engagement approach that we are currently pursuing. Last November, the Obama administration secured Chinese commitments to peak carbon emissions by 2030 and double the nonfossil portion of their energy mix by 2030. These were groundbreaking commitments.

In addition, the peaking commitment was a bottom line commitment. China also promised to make best efforts to peak even earlier. In the runup to this most recent summit, the administration secured a new round of climate peaking commitments from 11 Chinese cities who were willing to step forward and make commitments to peak well before their nation's 2030 deadline. Three of those cities pledged to peak in 2020, which is only a few years away and a decade ahead of the commitment we achieved last November.

This summit also produced groundbreaking progress on climate finance. China pledged \$3.1 billion in climate aid to developing nations, an amount that actually exceeds what the United States has pledged thus far under the Green Climate Fund.

It is important to remember that climate change was not always a positive area of United States-China relations. As recently as 2009, this was an area of staunch divide. The United States wanted China to step up and play a leadership role in line with its growing emissions, but China refused to do so. That put our nations on opposite sides in global climate negotiations.

However, since then, the United States has used smart diplomacy to turn this dynamic around. Now China is not only doing more at home, they are also working in concert with the United States to drive all other developing countries to do more. We could not have achieved that without working through the U.S.-China Partnership.

The climate arena can serve as a model for other areas of the relationship. It also serves as a reminder that when the United States has the right tools for the job and employs the right tactics, engagement can be very successful even on particularly difficult issues.

Thank you very much.

[The prepared statement of Dr. Hart follows:]

PREPARED STATEMENT OF DR. MELANIE HART

Chairman Corker, Ranking Member Cardin, Subcommittee Chairman Risch, Subcommittee Ranking Member Murphy, Senator Gardner, and members of the committee, thank you for this opportunity to discuss U.S.-China relations.

We are witnessing a period of great change within China and in China's behavior abroad. Under President Xi Jinping's leadership, the Chinese Communist Party is launching a wave of policy reforms that aim to fundamentally restructure China's economy and move the nation away from the "hide your strength, bide your time" foreign policy strategy it has adhered to since the Deng Xiaoping era.¹ Beijing is demonstrating a new assertiveness across multiple policy fronts. That assertiveness creates new opportunities and new challenges for the United States.

The United States has pursued an engagement strategy toward China for almost four decades. Regardless of party affiliation, every U.S. President since Nixon has aimed to integrate China into the international system. That decision has been, and continues to be, one of the greatest American foreign policy successes of the post-World War II era. The U.S. engagement strategy toward China and alliance relationships in the Asia-Pacific region made it possible for Asia-Pacific nations to focus on economic development at home instead of strategic competition abroad.

Now, nearly 37 years after U.S.-China normalization, China is an upper-middle-income nation. China's economic growth is allowing it to expand its military capabilities and foreign policy ambitions. That is a natural expansion. Beijing is increasingly unwilling to sit on the sidelines and watch other nations shape international norms. Today, instead of biding their time, Chinese leaders are experimenting with new ways to use their nation's growing strengths to shape the international environment in China's favor. On some issues, those efforts dovetail with U.S. interests, so China's new assertiveness is opening up new opportunities for cooperation.

Where U.S.-China interests are not aligned, however, Chinese actions are reheating old frictions and creating new ones. Those frictions—most notably in the South China Sea—are triggering new debates in the United States about overall foreign policy strategy toward China. Some U.S. observers discount the new opportunities for cooperation and argue that because some challenges in the U.S.-China relationship appear difficult to navigate, the United States should scrap the entire engagement strategy and begin treating China as a strategic rival. Those arguments are misguided.

The fundamentals of the U.S.-China relationship are the same today as they were in the 1970s when the United States first reached out to turn this former rival into a strategic partner. Chinese leaders still prioritize domestic economic growth and stability above all other policy goals; they still view the U.S.-China bilateral as China's most important foreign policy relationship and want that relationship to be peaceful and cooperative. The Chinese military still focuses first and foremost on defending the Chinese Communist Party's right to govern the Chinese mainland and its territories. These fundamentals have not changed. What has changed in recent years is China's capabilities and the tools Beijing is using to further its domestic and foreign policy interests. Those changes call for some tactical adjustments on the U.S. side. Those changes do not warrant an abandonment of the engagement strategy that has brought, and can continue to bring, decades of enduring peace and economic growth for all Asia-Pacific nations, including the United States.

My testimony will cover four main points:

1. Economic and political challenges within China are still Beijing's top priority, and those challenges trigger a new assertiveness from Beijing.
2. China's new assertiveness is constructive in some areas of U.S.-China relations and problematic in others.
3. The current U.S. engagement strategy excels at expanding cooperation in constructive areas and is achieving incremental progress in problematic areas.
4. The United States should maintain this engagement strategy but expand its tactical toolkit for addressing problematic Chinese behavior.

BEIJING'S PERSPECTIVE

The Chinese economy has reached an inflection point. It is not yet clear whether the Chinese Communist Party can successfully traverse these changing circumstances and maintain its hold on power. The growth model that pulled more than 400 million Chinese citizens out of poverty over the past three decades is running out of steam. Chinese wages are rising and eliminating China's prior price advantages in global export markets. Fixed infrastructure investments are producing diminishing returns. Chinese citizens no longer accept the pollution costs associated with heavy industry, and even if they did, the global market cannot continue to absorb more Chinese steel and cement at double-digit annual growth rates. In order to keep the economy growing and maintain ruling legitimacy, Chinese leaders must downshift from the old growth model and foster new industries based on technological innovation, domestic consumption, and services.

This will be a difficult transition to execute. Chinese leaders must eliminate benefits flowing to state-owned enterprises and other vested interest groups that have supported the party for decades. Growth will slow, and businesses will close their doors. In theory, new businesses and new political supporters will emerge to take their place. However, it is uncertain how long it will take for growth to pick up and create new pillars of support—for example, business and local government leaders that thrive under the new model—for the Chinese Communist Party. As China undergoes this transition there is a risk that disenfranchised groups will challenge the ruling regime and push for political change. To guard against those risks, Chinese leaders are strengthening defenses against forces that have triggered political change in other nations—namely, domestic and foreign nongovernmental organizations, journalists, and networked communication.

Chinese leaders are behaving more assertively at home because they view a more forward-leaning policy stance as the only way to successfully traverse difficult waters. Policy stasis would likely lead to a massive political crisis. The only way forward is massive change, and that depends on the leadership's ability to overcome powerful vested interest groups—some within the party itself—that either oppose economic rebalancing or believe it should proceed at a more gradual pace. From a U.S. perspective, Chinese leaders should pursue and achieve aggressive market economic reform, and in that respect, Beijing's new assertiveness can be a positive development not only for China but also for the United States.

Chinese leaders are also demonstrating a new assertiveness on foreign policy issues.² That is partly because they recognize that their upper-middle-income status

and overall economic strength bring new capabilities; it is also because Beijing wants to use foreign policy to shore up political support at home and support the nation's economic transition. For example, Beijing's new Belt and Road initiative is primarily an economic growth strategy.³ Chinese leaders hope to improve regional economic integration and create new markets for Chinese products, thus giving the Chinese economy new legs to stand on as it move through the transition phase. On regional maritime issues, many Chinese scholars argue that their nation has too long bided its time and watched other nations make territorial gains at China's expense. They believe that since China now has the capabilities to push back and assert its territorial claims, Beijing has a responsibility to do so.

THE U.S. CHALLENGE: DEALING WITH A MORE ASSERTIVE CHINA

China's new assertiveness creates new opportunities and new challenges for the United States. On the positive side, China is showing an increasing willingness to play a leadership role among nations outside the highly industrialized democratic block. China played a key role in the Iran nuclear negotiations, helping the process through shaky moments, and Chinese nuclear experts helped Iranian officials redesign the Arak plutonium reactor so that it will never produce nuclear fuel.⁴ On climate change, China's willingness to issue bold climate targets with the United States last November challenged other developing nations to follow suit and knocked down a firewall that has hindered global climate negotiations for decades.⁵ China also appears to be leaning harder on North Korea.⁶ China supported the U.N. Security Council effort to sanction North Korea in response to that nation's February 2013 nuclear test. Earlier this month, after North Korean officials announced plans to launch another long-range rocket, China's Foreign Minister warned against "taking new actions that could lead to tensions" on the Korean Peninsula and called for all nations to take a "responsible attitude."⁷ On all of these issues, Beijing's ability to speak to a different audience and from a different angle than the United States has made China a valuable diplomatic partner.

On the commercial front, Chinese companies are venturing outward, which creates new partnership opportunities, most notably in China-to-U.S. direct investment.⁸ For many Americans, China-to-U.S. foreign direct investment, or FDI, projects provide their first opportunity to directly engage in and benefit from the U.S.-China economic partnership. A recent survey conducted by the Rhodium Group reveals that 340 of the 435 American congressional districts have at least one China FDI project.⁹ Many of those projects are providing jobs for American workers: More than 80,000 Americans are now directly employed through a Chinese investment project in the United States.¹⁰ Economic competitiveness has always been an issue in the relationship, including U.S. concern that American jobs will migrate to China. Now the reverse is happening: Chinese companies are finally creating jobs in this Nation—a trend that leaders in both countries should support.

On the other side of the Pacific, if Chinese leaders successfully rebalance their economy, it should, in theory, create new overseas commercial opportunities for American businesses. China is already the United States fastest growing export market: U.S. exports to China have grown nearly 300 percent over the past decade.¹¹ Beijing's new reform program aims to boost consumer buying power and expand the nation's dependence on high-tech products, two trends that should boost Chinese consumption of U.S. goods and services.

Unfortunately, Chinese leaders are also moving forward with initiatives that undermine U.S. interests via tactics that evade current international governance mechanisms and U.S. attempts to counteract and deter these actions. Problematic areas include:

- **Cybersecurity:** Recent cyberspace intrusions at health insurer Anthem and the U.S. Office of Personnel Management are reported to be Chinese intelligence-gathering operations.¹² Those two incidents affected an estimated 100 million Americans, and they follow a string of commercial cyber thefts targeting American businesses. It is difficult to quantify with precision the costs to the United States from a steady drain of U.S. commercial secrets and other private information—including federal government information—but those costs are likely to be significant, both in terms of U.S. economic competitiveness and U.S. national security. In the absence of an international cyber-governance mechanism or common cyberspace norms, it is difficult for U.S. leaders to craft an effective response. That problem is particularly acute with commercial cyber espionage because many American businesses prefer to keep cyber thefts private to avoid undermining investor confidence.
- **Commercial concerns:** Trade complaints have plagued the U.S.-China economic relationship for decades. U.S. companies have confronted intellectual property

theft, export subsidies that appear to violate World Trade Organization regulations, and overt market access barriers in China. More recently, Chinese regulators are applying antimonopoly legislation in a biased manner against American firms to force those firms to surrender market share to Chinese competitors and license or sell their intellectual property at submarket rates.¹³ The underlying legitimacy of the antimonopoly rules that Beijing is manipulating for protectionist purposes makes it very difficult to counter these actions.

- Infrastructure construction in the South China Sea: China is building new outposts on disputed reefs and rocks in the South China Sea to strengthen its hand in ongoing maritime territorial disputes.¹⁴ This activity raises new questions about China's intentions toward its neighbors and willingness to abide by both the letter and spirit of international law. Of particular concern for the United States, the Chinese military has ordered U.S. and Philippine aircraft to stay away from some of these new outposts. Those actions indicate that China may be aiming to block foreign military navigation in the seas surrounding these new infrastructure projects, a move that would violate the U.N. Convention on the Law of the Sea.
- National security regulations: China's ongoing internal political tightening is directly affecting American businesses and other interest groups with a presence in mainland China. Chinese regulators are drafting a new banking security law that would force banks to utilize more Chinese technology products and force U.S. technology vendors to share sensitive source code with Chinese regulators.¹⁵ In the academic realm, Chinese legislators are drafting a new law that if implemented in current draft form, would impose new administrative restrictions on American universities and think tanks that send scholars to conduct policy research in China.

MULTITRACK ENGAGEMENT STRATEGY

Under the Obama administration, the United States is conducting the U.S.-China relationship along multiple parallel tracks. The administration formulates China policy on an issue-by-issue basis. Where interests converge, the administration seeks to expand concrete cooperation. Where interests diverge and China pursues actions that impose direct or indirect costs on the United States, the administration seeks to counter and deter those actions. This multitrack approach enables the United States to push back against problematic actions as needed without curtailing overall U.S.-China cooperation. This is a realpolitik, eyes-wide-open approach to engagement. Engagement need not be predicated on the assumption that China will not seek to undermine U.S. interests in some areas. The United States can work constructively with China while accepting that we have different principles, that we are not perfectly aligned. We can work along multiple tracks at the same time: expanding cooperation in one area while confronting differences and exchanging threats in another. That dynamic was on display through the most recent U.S.-China Presidential summit, which aimed to achieve three distinct goals.

First, where interests converge, aim to work constructively on concrete initiatives that provide tangible benefits for both nations and lay groundwork for even bigger and more beneficial cooperation in the future. Successes from the recent summit include:

- Securing a \$3.1 billion climate finance commitment from China that exceeds what the United States has pledged thus far via the Green Climate Fund, or GCF.¹⁶ In addition, prior to the official Presidential meeting, U.S. and Chinese climate negotiators convened a climate leadership summit during which 11 Chinese city- and provincial-level governments formed an Alliance of Peaking Pioneer Cities, or APPC, under which all are committing to peak carbon emissions earlier than the nationwide 2030 target announced last November.¹⁷ Since China issued its commitment to peak in 2030 and to make its "best efforts" to peak earlier, new economic data have opened the possibility that China could peak well before the current deadline and possibility as early as 2025. All of the APPC cities believe that with the right policy mix, they can beat the 2030 target and serve as models for the rest of the nation. Early-peak targets vary by location based on individual capabilities. Beijing, Guangzhou, and Zhenjiang have committed to peak around 2020, 10 years ahead of China's official national target.
- Working collaboratively with China to expand the international reconstruction effort in Afghanistan. Afghanistan's peace and stability are critical to both U.S. and Chinese national security objectives. The United States and China co-chaired a high-level U.N. General Assembly meeting on Afghan reconstruction during which Chinese Foreign Minister Wang Yi called on other nations to join

the United States and China in supporting Afghan peace, development, and integration into the global community.¹⁸ The United States and China are already partnering on capacity-building programs in Afghanistan, and China has committed to provide \$150 million in development assistance. Such collaborative efforts are bringing China forward on the diplomatic and development stage at a time when U.S. funding is diverted to other pressing crises. Furthermore, such collaboration should become the foundation for greater Chinese development assistance to Afghanistan's long-term development.

Second, where interests diverge, take actions that decrease the risk of inadvertent conflict with China and increase the costs China pays for problematic behavior. Successes from the recent summit include:

- Establishing new annexes on air-to-air safety and crisis communication under the military-to-military confidence-building measure, or CBM, framework launched in November 2014.¹⁹ The 2001 collision of a U.S. EP-3 and a Chinese J-8 aircraft and recent incidents between U.S. and Chinese aircraft underscore the need to establish better operational standards and best practices for military aircraft and military vessels operating in close proximity in the Asia-Pacific region.
- Launching a new high-level dialogue on cybercrime and securing what appears to be a new Presidential-level commitment on commercial cyber espionage. The new high-level dialogue will hold its first meeting before the end of 2015 and, if the mechanism works as intended, will give U.S. officials new tools for investigating and prosecuting cyber attacks and intrusions attributed to Chinese actors. In addition, according to the U.S. fact sheet on the recent summit meetings, the two Presidents agreed that neither the United States nor China "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."²⁰ This agreement is not likely to completely eliminate those activities on the Chinese side, but if the White House did secure a personal commitment from President Xi on this issue, that will increase the reputational damage Chinese leaders will face if their nation continues to engage in commercial cyber theft and those activities are reported by the United States. Within China, a Presidential-level commitment of this nature would likely add new administrative restrictions on these activities. Chinese leaders will have an incentive to improve their awareness of and control over what is happening at the operational level. They may apply new restrictions and require higher level approvals for cyberspace intrusions targeting U.S. commercial entities. If so, those controls may reduce the scope of this activity and therefore reduce the associated harm to U.S. commercial interests.

Third, when Chinese behavior poses a direct and serious threat to American interests, take actions, as necessary, to signal that the United States will not withhold punitive action in one issue area to pursue promising opportunities in another. When pursuing U.S.-China relations among multiple tracks, there is a risk that China will assume that if there are good cooperative opportunities on the table, the United States will not risk losing those opportunities by taking punitive action on more-controversial issues. Clear U.S.-China communication is necessary to avoid this dangerous misperception, which could lead Beijing to underestimate the probability the United States will take punitive actions in response to provocative behavior. In the runup to the most recent summit, the Obama administration utilized public and private channels to signal that the United States was seriously considering levying cyber sanctions against China and that the White House was willing to issue those sanctions right before the September Presidential summit regardless of the impact that would have on President Xi's state visit. Beijing took those threats seriously and dispatched a high-level delegation to Washington to discuss cyber issues 2 weeks before the official Presidential visit.²¹ This presummit communication likely played a role in the new U.S.-China cybercrime mechanism and new commercial espionage commitment mentioned above.

EXPANDING THE TACTICAL TOOLKIT

The current U.S. engagement strategy is achieving breakthrough cooperation on issues of common interest ranging from climate change to development cooperation. Where interests diverge, however, progress is more incremental. Going forward, the United States should maintain current momentum on the cooperative side and simultaneously seek to expand its toolkit for addressing problematic areas of U.S.-China relations. If progress on difficult issues does not become more concrete, those problems are likely to fester and undermine positive cooperation. For example, if

China does not take steps to substantially reduce the scope and frequency of its commercial cyber-espionage activities, those activities will likely reduce U.S. willingness to engage in joint technology development projects that benefit both nations but also give Chinese companies more knowledge about and access to U.S. technology development projects.

U.S. experience with prior difficult issues in U.S.-China relations suggests that three approaches can be particularly effective at deterring problematic behavior.

1. Using smart statecraft and institution-building to expand common interests and turn a difficult area of the relationship into a new pillar of cooperation

The climate arena provides an excellent model to follow. Climate change started out as an area of U.S.-China contention rather than cooperation. When U.S. and Chinese leaders met to discuss climate change during the first round of the Kyoto Protocol negotiations in the mid-1990s, the United States was on one side of a global divide, China was on the other side, and the two nations struggled to figure out how to work in concert. That dynamic persisted through the Copenhagen climate negotiations in 2009. However, since then, U.S. and Chinese leaders have worked proactively to change that dynamic. Leaders on both sides made a critical observation: Although the two nations were always on opposite sides of a developed versus developing country divide in multilateral negotiations, the United States and China had many common interests on energy and climate issues at the bilateral level. U.S. and Chinese leaders decided to nurture and expand those common interests by identifying a set of common goals in this space and launching a new framework of bilateral mechanisms designed to rally U.S. and Chinese officials, businesses, and non-governmental experts to work together to achieve those goals. That effort has been enormously successful. Over the past few years, bilateral energy and climate projects have helped both nations expand clean energy deployment and reduce climate pollution. Progress at the bilateral level has also made it possible for the two nations to redefine their roles in multilateral negotiations and work together to shape a new global climate regime. The increasingly positive U.S.-China energy and climate dynamic reflects a natural interest alignment between the two nations. However, careful diplomacy was required to identify those commonalities and lay the groundwork for joint action. The United States should apply this model in other areas of the U.S.-China relationship.

2. Working multilaterally with other nations and, where available, through international institutions to address issues that affect not only the United States but also a broader array of international interest groups

The United States should not rely on the bilateral U.S.-China relationship to solve problems that are multilateral in nature. Where Chinese behavior is a common concern for multiple nations, the best way to address that behavior is to make the issue a broader multilateral discussion. In the past, it has been much easier to change Chinese behavior on issues relating to international norms rather than a U.S.-specific complaints. When the United States is the only party challenging a particular action, Chinese officials often suspect that the United States is doing so as a tactic to block or contain China's rise. That can lead China to harden its positioning rather than accommodate American interests. When the United States works in concert with other nations, the dynamic changes, and Beijing can view the issue as a wide-ranging problem rather than a U.S. containment strategy. For example, on the commercial front, engaging partners in Europe and the United Kingdom played a critical role in convincing China to table a controversial cyber-banking law earlier this year. To be clear, this is not about the United States furthering its own interests through third parties; rather, this is about recognizing that when an issue affects multiple parties, it is generally not helpful to frame that issue as a U.S.-China problem.

In the maritime domain, ratifying the U.N. Convention on the Law of the Sea would better enable the United States to work with other countries to push back against China's unlawful actions in the South China Sea.²² Until the United States does so, we stand outside the international system and have a limited capacity to leverage international law to counter Chinese actions.

3. Shoring up defenses and strengthening capacity at home to reduce U.S. vulnerabilities to, and costs from, problematic Chinese actions

Cybersecurity is now a high-priority issue in U.S.-China relations. It is important to do what is possible to reduce the frequency and scope of Chinese intrusions, and the U.S.-China relationship appears to be making progress in that direction. However, if hackers are breaking into U.S. networks on a regular basis, then better security is necessary. Improving security should be a top priority for federal government systems, as well as for the private sector. Americans should not be receiving

multiple notices every year telling them that their information has been stolen. This is a problem. It is a U.S. problem and a global problem. This is not just a sticky issue in the U.S.-China relationship. The U.S. Federal Government needs to do a better job at driving progress in this area at home. China and Russia are hacking into U.S. Federal Government networks, and that is a concern, but what happens if a group such as the Islamic State of Iraq and al-Sham, or ISIS, develops those capabilities? If policymakers do not close these loopholes, then they leave the nation open to unacceptable security risks.

One of the most important steps the U.S. Congress could take to strengthen U.S. cyber-response capabilities is to pass cybersecurity legislation that facilitates information sharing between the American companies targeted in these attacks and the U.S. Government agencies with the expertise and capacity to assist. Closing current security loopholes should be the first priority. Figuring out how to respond to these attacks should be the next priority, and that is where this becomes a U.S.-China issue.

End Notes

¹For a good overview of Chinese military strategy under previous administrations in Beijing, see U.S. Department of Defense, *Military Power of the People's Republic of China* (2009).

²Michael D. Swaine, "Xi Jinping's Address to the Central Conference on Work Relating to Foreign Affairs: Assessing and Advancing Major-Power Diplomacy with Chinese Characteristic," *China Leadership Monitor*, March 19, 2015.

³Ariella Viehe, Aarthi Gunasekaran, and Hanna Downing, "Understanding China's Belt and Road Initiative" (Washington: Center for American Progress, 2015).

⁴Xinhua, "China to Play a Key Role in Modification of Iran's Arak Heavy Water Reactor: Chinese FM," *China Daily*, July 15, 2015; William J. Broad, "Plutonium Is Unsung Concession in Iran Nuclear Deal," *The New York Times*, September 7, 2015.

⁵The White House, "U.S.-China Joint Announcement on Climate Change," Press release, November 11, 2014.

⁶Rick Gladstone and David E. Sangermarch, "New Sanctions on North Korea Pass in Unified U.N. Vote," *The New York Times*, March 7, 2013.

⁷Ministry of Foreign Affairs of the People's Republic of China, "Wang Yi: Jian Chi 9.19 Gong Tong Sheng Ming Jing Shen" (Wang Yi: Uphold Sprit of 9.19 Common Statement), September 19, 2015.

⁸Melanie Hart, "Mapping Chinese Direct Investment in the U.S. Energy Economy" (Washington: Center for American Progress, 2015).

⁹Thilo Hanemann and Daniel Rosen, "New Neighbors: Chinese Investment in the U.S. by Congressional District" (New York: Rhodium Group and the National Committee on U.S.-China Relations, 2015).

¹⁰*Ibid.*

¹¹Wayne M. Morison, "China-U.S. Trade Issues" (Washington: Congressional Research Service, 2015).

¹²U.S. Office of Personnel Management, "OPM Announces Steps to Protect Federal Workers and Others From Cyber Threats," Press release, July 9, 2015; Reed Abelson and Matthew Goldstein, "Millions of Anthem Customers Targeted in Cyberattack," *The New York Times*, February 5, 2015.

¹³U.S. Chamber of Commerce, "Competing Interests in China's Competition Law Enforcement: China's Anti-Monopoly Law Application and the Role of Industrial Policy" (2014).

¹⁴Derek Watkins, "What China has been Building in the South China Sea," *The New York Times*, September 23, 2015.

¹⁵Christian Oliver and Tom Mitchell, "E.U. and U.S. Groups Sound Alarm on China Cyber Security Rules," *The Financial Times*.

¹⁶The White House, "U.S.-China Joint Presidential Statement on Climate Change," Press release, September 25, 2015.

¹⁷The White House, "U.S.-China Climate Leaders' Declaration" (2015).

¹⁸Xinhua, "China Urges International Support for Afghanistan's Reconstruction," September 27, 2015.

¹⁹The White House, "Fact Sheet: President Xi Jinping's State Visit to the United States," Press release, September 25, 2015.

²⁰*Ibid.*

²¹The White House, "Readout of Senior Administration Officials' Meeting with Secretary of the Central Political and Legal Affairs Commission of the Communist Party of China Meng Jianzhu," Press release, September 12, 2015.

²²Nina Hachigian, "China's Rise Is A Big Reason to Ratify the Law of the Sea Convention: Treaty Gives Us a Stronger Hand in the Region," *Center for American Progress*, June 12, 2012.

Senator GARDNER. Thank you, Dr. Hart, for your testimony.

And I will begin with the questions.

To both of you, Dr. Hart and Mr. Johnson, as you were building up and looking up to the meeting, the summit, the visit, what was the one or two things, the takeaways that you had hoped this would result in—the meeting between President Obama and Presi-

dent Xi would result in? And did we get there? Where did we fall short? And how do we continue the conversation going forward? Mr. Johnson, Dr. Hart, feel free.

Mr. JOHNSON. I will take it first.

I would say there were two areas that did not materialize that I had hoped we would see. One was despite what we achieved on cyber, I found it striking that there was no agreement, as was much rumored, on a nonfirst use agreement, especially on critical areas with regard to non-mutual targeting of critical infrastructure, these sort of areas. This seems like something that is a bit of a no-brainer actually from my perspective, and the fact that we cannot seem to come to agreement on such a core issue is quite striking.

I think the second area where we did see some but not enough was the two leaders coming out on the margins of their meetings and even in President Xi's speeches and so on to talk about how the two countries, as they did after the global financial crisis, are working together to calm volatility in global equity markets in particular. With President Xi, I think we could have and would have like to see more explanation about what has been happening in China in their own equity market, the move to devalue the currency, things of this area. He provided some explanation but certainly not enough to be able to counter the worries that people have about what is actually happening in the Chinese economy. And from our own side, insufficient sort of forward-looking approach on this to indicate how we intend to work with China to manage this problem because when the countries of the two largest economies are meeting—when the leaders are meeting—the whole world looks to them for guidance on how to think about this issue. And the fact that that did not come up was disappointing.

Thank you.

Senator GARDNER. Dr. Hart.

Dr. HART. I was really watching for three issues in the summit. One was positive. Two were fairly positive.

So, first, on climate, I was hoping to see the language that we did receive from the Chinese on moving forward to look at tightening standards for overseas investment. China is leading a cumulative \$200 billion in new overseas investment aid. And we need to make sure that aid goes in positive directions that support rather than undermine U.S. interests. For example, we do not want China building dirty coal plants all over Asia with some of that overseas aid. And there was some language within the climate deal that points toward some increased agreement and progress on that issue and is basically code language for more cooperation with AIIB investment standards. And I see that as a stepping stone to possibly more progress on this when China hosts the G20 next year.

On cybersecurity, I think this was an inflection point on United States-China cyber relations. For quite a long time, it seems that Beijing did not fully understand how seriously the United States is taking this issue, and it seems that Beijing did not fully understand that the United States is not going to withhold punitive action on cyber in order to protect and save good things on the agenda like climate change and other forms of cooperation. And it seems that the United States succeeded in getting that message across.

The fact that Beijing dispatched a special envoy and negotiation team 2 weeks before the summit to tee up a conversation on cybersecurity indicates that they were taking the rising U.S. concern and messaging very seriously. My own conversations with Chinese counterparts also indicate that there was a shift in understanding of how the United States was viewing the cyber issue around August of this year.

So it seems that we definitely succeeded in improving communication on that issue. We do have a new high-level dialogue for confronting cyber crime which could be very influential, but we need to see how that will go.

We do have what appears to be a new commitment from the Chinese to not engage in cyber espionage for commercial gain. That commitment, if it was indeed from President Xi personally and if that information is distributed within the Chinese bureaucracy, that should change China's administrative controls for doing commercial espionage. You know, if President Xi has personally made a promise that the nation will not do that, then there will be an incentive to at least restrict the amount of agencies and actors that are allowed to do that within China so that they can keep better track of those activities. We will have to monitor those issues going forward to see if we have had progress. We will see if our verbal progress turns into progress on actions.

The third issue I had hoped for but do not really see much progress as yet is the issue of what role U.S. companies will have in the Chinese market as it moves toward a new normal. China's economic growth is slowing. They are rebalancing the economy. There seems to be a changing mindset in Beijing about what role American businesses will play in that process. In China's first three decades of economic reform, there was a very clear demand for American companies to be there, that they needed American technology and actual American boots on the ground, and they needed to give a certain amount of market access in exchange for that. With this new round, with this new normal, there seems to be a growing sentiment on the Chinese side that Chinese companies are strong enough now to do a lot of their technology development on their own, and they may not need an American presence any more. And they may, therefore, feel more latitude to drive forward some market access barriers that would be very damaging to American interests. I was hoping to see President Xi deliver a clearer message to American companies about the type of regulatory treatment that they can expect within the Chinese market and how they view new laws such as the banking cyber law, the national security law, the antimonopoly law as tools for, hopefully, fair treatment of domestic and foreign companies. We did not see as much progress on that area as one would hope.

Senator GARDNER. Thank you, Dr. Hart.

Chris Johnson, you mentioned the issue of critical infrastructure. And the agreement that we entered into—excuse me—that was announced last Friday said 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 to providing competitive advantages to companies or commercial sectors.

As Dr. Hart just pointed out, I mean, this obviously goes to the commercial espionage issue.

Why did we hear only or enter an agreement or see an agreement only about commercial espionage? Why did it not go further? Why was there no discussion about OPM or any kind of agreement of what happened at OPM?

Mr. JOHNSON. I think that is actually the part of both the special envoy's visit that sort of failed and the part of the negotiations for the summit itself that failed in that, you know, the Chinese—their approach to the situation had been largely to suggest that the OPM hack was something of a normal cyber crime opportunity and to be very reluctant to, certainly not to admit any role on the Chinese Government's behalf.

The challenge with negotiating things outside the economic espionage piece is that in some ways the administration unwittingly and for all the right reasons trapped itself when it initially defined the breakpoint, if you will, between traditional espionage, which would be aimed at gaining military or diplomatic or intelligence secrets, and economic espionage. And so in some ways, by our own definition, the Chinese certainly would see the OPM hack as legitimate under those definitions.

Senator GARDNER. Thank you, Mr. Johnson.

Senator Cardin.

Senator CARDIN. Well, once again, thank you all for your participation here.

I find historically our relationships with large countries where we have many, many issues such as China, that human rights concerns are always a struggle to get on the agenda. And it is always difficult to make progress. I saw virtually no progress made during this summit on the human rights front. There was almost the obligatory comments made by our leaders just to say that we did not forget the subject, although you question how aggressively it was raised in the bilaterals. It is not unusual. My criticisms would be with both Democratic and Republican administrations and with the State Department that when you are dealing with the regional secretaries or you are dealing with the missions, the human rights issues do not get the same attention as the so-called security basket or the economic basket or the other areas which are more visible.

It cries out for congressional action. We have done that. We have initiated human rights actions against major countries, and it has been pretty effective. We have gotten a lot of publicity on this and we are really encouraging the human rights activists in countries by the actions that Congress has initiated.

So my question to you, what is the most effective way for us to advance the good governance, human rights agenda with China? Does it require the Congress to take some pretty aggressive actions, or do you think this can be one that we can advance through the diplomacy within the executive branch?

Dr. HART. I think it is important to distinguish between effectiveness and noise. With China, sometimes the most effective actions are quiet actions. And I would argue that one of the most impactful things the United States has done over the past decade is install an air quality monitoring device on the U.S. Embassy in Beijing

and put the data on Twitter. That information was a ripple effect. Once the people who had a VPN and could access Twitter started paying attention to that information—

Senator CARDIN. You are absolutely right, but they almost had to do that because American personnel working there demanded it. And then they realized the value. I do not know if they understood. I agree with you. It was a very visible opening of the society to facts.

Would you disagree that we have seen a backtracking of the commitment on human rights in China?

Dr. HART. It is hard to say because if you look at NGO freedoms, press freedoms, Internet freedoms, they go up and down. They went down in 2008 when there were issues around Tibet. You know, they go up and down. They went down in the runup to the Olympics in Beijing. There is a trajectory over the time. And there is rising concern right now that we might be in a downward trajectory and there is concern that with the current leadership, it might be that it is only down and not about to come up again. It is too soon to say. A lot of these issues will be determined by the Chinese people.

One thing that is new is that the regulations are—there are proposals to extend some of these restrictions to touch Americans, American universities, American think tanks, American associations.

Senator CARDIN. Should we sit back and do nothing? What should we do?

Dr. HART. We should accept the facts that does have a legislative process on some of these issues and, while they are in the middle of a process, engage in that as much as possible. You know, we have to commend them with the fact that with some of these new laws, they sent us a draft copy before they were actually implemented and asked our opinion. They asked us to submit our comments. They asked for NGO, you know, media comments on these documents. And so that indicates a type of progress that we would not have seen 10 years ago. And on some of these issues, we need to wait a little bit and let the legislative process play out, view that process as legitimate.

Senator CARDIN. Meanwhile, people are in prison, and meanwhile people cannot practice their religion. Meanwhile, journalists are being denied access. Meanwhile, the Internet freedoms are being taken away. Meanwhile, meanwhile, meanwhile. And I do not know how much patience we should have on this.

Dr. HART. The most important patience indicator is the indicator of the patience of the Chinese people. I think we need to look to them as our guide on what is best for their nation.

Senator CARDIN. So when they get upset like Tiananmen Square, we see violence and we see rights taken away. Protests do not work in China. If you try to go to a religious service, they will close down the doors. How do you organize in China? If you are a religious minority—and that could be Protestants—and you are trying to set up a church and you cannot set up a church, how do you protest that?

Dr. HART. These are important issues. I think our best leadership model is leading by example, showing that the United States is a nation where we can have freedom of religion, we can have

freedom of expression, freedom of communication, and be the strongest nation in the world. But on a lot of these issues, we do need to watch the Chinese people and let the Chinese people lead and see where are they pressing most against the boundaries of freedom. And we see that when they all press hard together, they enact change. There has been a radical change in the amount of information available on air pollution in China because the Chinese people drew a line in the sand.

Senator CARDIN. Look, I agree with you. Environmental rights or human rights—I do not disagree with that, and it relates to health and it relates to a lot of other things. I would tell you that I think it had very little to do with the people from the point of view of protests. It had to do with the visibility. It was something they could not hide. When you cannot see the sky, you know you have a problem. So it was the reputation of the government not so much the protests of the people that brought about a change in attitude in China. Yes, we facilitated some of that because we had to take care of the safety of our own personnel at our embassies. So I am still not convinced that China will allow their people to speak.

And I must tell you we have taken the same attitude in a lot of countries around the world only to be on the wrong side of history. And the one thing about America—I want it actively engaged around the world, but we have got to stand up for what we believe in. And this country brings the perspective of universal rights and human rights for all the citizens. And when we leave that out of the discussion, we will end up getting in trouble for U.S. interests.

And I was disappointed in this summit that there was no visibility on the human rights front. I think it was a major failure, and I think every time you do that, world leaders in countries where they are not allowing their citizens to exercise their human rights think that they can get away with this in their relationship with the United States. And I think that is not the right policy for us. You have got to be aggressively involved in these issues because no one else will stand up for it. The United States is the only country that is going to lead on this. And if we do not lead, the rest of the world will not.

Thank you, Mr. Chairman.

Senator GARDNER. Senator Isakson.

Senator ISAKSON. Chairman Gardner, Senator Cardin, thank you for this hearing.

Dr. Hart, 3 or 4 years ago in this committee, we had an extensive debate and investigation on the Law of the Sea Treaty with the United Nations. And in the end, the final conclusion was we did nothing out of fear of loss of sovereignty. So I want to ask you a couple of questions.

Are there any international maritime interests in the South China Sea or the Pacific Rim that are not members of the Law of the Sea Treaty other than ourselves?

Dr. HART. To my knowledge, there are not, but I would be happy to check that and submit it for the record.

Senator ISAKSON. Would you check that out?

Dr. HART. Yes, absolutely.

[The written response to the above requested information for the record follows:]

The United States, North Korea, and Cambodia are the only Asia-Pacific nations that have not signed and ratified the United Nations Convention on the Law of the Sea (UNCLOS). All other Asia-Pacific nations have signed and ratified the Convention. While those nations participate in critical U.N. tribunal decisions regarding the validity of China's territorial claims in the South China Sea, the United States stands on the sidelines with North Korea and Cambodia. Asian maritime maps will not be determined by military might alone. They will also be determined by law. The United States needs to be in the room and at the table when those legal decisions are made.

Senator ISAKSON. Secondly—and I came in somewhat late on your testimony, Mr. Johnson. I am sorry. I heard a couple of yours. But I think the reference was we were actually getting weaker in that part of the world and the Chinese are getting stronger. Is that right? Militarily?

Mr. JOHNSON. I would just say this. We are still number one. The challenge is that what is happening in the South China Sea is part and parcel of a broader maritime strategy that we see from China where the message is to the regional partners primarily, regional neighbors, but also to the United States that Chinese forces intend to operate at times of their choosing, perhaps even with impunity, out to the so-called second island chain, so out to Guam and that region, and that the rest of us have to accept it. And this is a challenge for the United States in several ways.

One, while our interests in the South China Sea primarily are related to supporting our treaty allies in the Philippines and the freedom of navigation that we all support. You can argue that the straight strategic interests of the United States are not directly affected by what is happening in the South China Sea, but by allowing any sort of show of weakness or that we are not going to maintain freedom of navigation and its importance, there are worries then that extend to other areas where our vital strategic interests are involved such as the Strait of Malacca and other maritime areas.

Secondly, the issue that relates to this is how will the United States sort of maintain the redlines that it is developing with the Chinese on this activity going forward. You know, if you say, such as Secretary Carter did during the Shangri-La Dialogue, we asked the Chinese not to militarize these islands and so on, what are we going to do when they do it because they are already sort of moving in this direction, as we see from commercial imagery and other—

Senator ISAKSON. Well, they are in the process of doing it—

Mr. JOHNSON. Correct.

Senator ISAKSON [continuing]. From a standpoint of both runways, as well as what appear to be support technology if not actual technology for intelligence.

Mr. JOHNSON. Exactly.

Senator ISAKSON. Is being a signatory to the Law of the Sea Treaty any help whatsoever? Is not being a signatory in any way hurting our military or our freedom of travel in the South China Sea?

Mr. JOHNSON. I do not know if it is hurting our military's ability to operate. But I agree with Dr. Hart's earlier testimony that it cer-

tainly damages our credibility in terms of seat at the table when these issues are being discussed, especially on the legal side.

Senator ISAKSON. As well as claims into the seabed for rare earth minerals and things of that nature. Is that not correct? Because I think that is where that territory is decided.

Mr. JOHNSON. Correct.

Senator ISAKSON. I want to follow up on something that Senator Gardner talked about a minute ago, and you talked about the OPM breach. We talked about business espionage and the agreement between us and the Chinese. But I do not consider the OPM breach—and I do not think we have officially stated publicly that China was the one that hacked into OPM, but I think everybody believes it came out of that part of the world.

Was there any discussion in the meetings between our President and the Chinese President last week in Washington about the use of hacking into our military assets or our personnel assets in the United States, not just commercial espionage but specifically our Government assets?

Mr. JOHNSON. I do not have any direct knowledge of what was discussed, but I would be shocked if the issue was not very clearly communicated to the Chinese side.

Senator ISAKSON. But from a public knowledge standpoint, nothing was said about any agreement being—

Mr. JOHNSON. Not that I am aware.

Senator ISAKSON. And last comment. In Atlanta next week, Ambassador Froman will be there negotiating what they think may be the last round of TPP or certainly next-to-the-last round. We are talking about a bilateral trade agreement with the Chinese. Is that correct?

Mr. JOHNSON. Yes.

Senator ISAKSON. What is TPP doing to have an effect on that? Is it helping us to get the Chinese to come to the table on a bilateral agreement?

Dr. HART. Absolutely. What the TPP process is demonstrating is that in the Asia-Pacific region, there are still more strong economies than not that are interested and willing and demanding to join the United States in a high standards agreement. So it is demonstrating if there is a choice between high trading standards that protect commercial interests and provide a level playing field and the lack of those standards, most countries are going to follow the United States and the high standards structure. And that puts pressure on China to seek to move in that direction as well, and that is something they will have to do in order to sign a bilateral investment treaty with the United States. So it is putting pressure on the Chinese to move in the direction they would need to move to meet the criteria needed to sign a bilateral investment treaty with us.

Senator ISAKSON. To that point, you made three points at the end of your remarks. You talked about climate. You talked about cyber, and you talked about the role of U.S. companies in the Chinese economy. Going to that third point, having a bilateral agreement will that help us to get a role for U.S. companies in terms of the Chinese economy in the future if we have that agreement?

Dr. HART. It should help with addressing some of the policies that are of deep concern in the Chinese market. A lot of China's market access barriers—they are not issues that you can fix through the WTO.

Senator ISAKSON. Right.

Dr. HART. So if you have a bilateral investment treaty, you can drill down on some of those more specific market access issues. And also, it should provide some new dispute settlement mechanisms. Right now, if American companies have a problem in China, if you bring that problem to Chinese courts or Chinese regulators, the deck is stacked against you. So to the effect that we can help balance out that process and provide a new place to go with company concerns, that would be to our good.

Senator ISAKSON. Well, the goal is a more level playing field for American competition.

Mr. JOHNSON. Absolutely.

Senator ISAKSON. Thank you both for your testimony.

Mr. JOHNSON. Thank you, sir.

Senator GARDNER. Thank you.

I see Senator Markey has arrived. I guess in the order of things, you would be next, but you also just got here. Do you want to jump in asking questions or do you want us to stall a little bit? Recognizing that you just walked in, if you need some time to—

Senator MARKEY. I think I am okay.

Senator GARDNER. Okay, very good. Please. Senator Markey.

Senator MARKEY. Thank you.

Dr. Hart, I appreciate your focus on areas that we have been able to work with China in recent years. And I would like to drill down on the energy and climate policy arena. If we were having this hearing a decade ago, we would be focused on an issue involving oil drilling. China's national offshore oil corporations attempted to buy an American oil company, Unocal. That was the big debate.

That attempt brought the national security implications of oil consumption for both countries into sharp focus, and of course, as the world's two biggest importers of oil, it still is. We both import about 5 million barrels a day. We are the two countries that drive the international market for that discretionary barrel of oil.

But a decade later, instead of potential hostility on energy issues, President Obama and President Xi announced on Friday domestic policy steps each country is taking to advance energy efficiency and clean energy, as well as programs to enhance collaboration and cooperation between our nations.

Can you tell us a little bit more about the lessons that you take away from the United States-China climate in energy collaboration and what that could mean for areas of tension between our two countries right now?

Dr. HART. So two things. One is that in the climate sphere, we have seen that we can find a small common interest between our two nations and build that out to bring other areas into alignment. In climate, we did that by focusing first on clean energy because, as you say, Senator, both the United States and China were big and growing oil importers, and so both nations had a common interest in working together to develop alternatives to oil. You know, from a Chinese perspective, homegrown energy is the only home-

grown energy they have other than coal, and they cannot continue to use coal in the future because of the environmental implications. So we both have a very common security interest in working to develop new energy technologies that do not depend on foreign import markets.

And through that process, we have been able to build out a common understanding on the need to do more on global climate change at large. Through cooperation on clean energy, we have helped China see how it can step up and take more responsibilities in the global battle to combat climate change and do so in a way that boosts the economy. It is not a drain on the economy. It is a major new driver of Chinese economic growth.

So our challenge going forward is figuring out how we can further build on that area and use it to leverage new cooperation in other areas of the relationship that are still not quite as aligned. One that I believe has a huge potential is overseas investment standards. China is leading the formulation of the Asia Infrastructure Investment Bank, the new development bank. They have a South-South cooperation fund and also a Silk Road fund. And those four mechanisms together will be directing over \$200 billion in overseas investment to build new projects in Asia and beyond, and we want to make sure those projects adhere to strong environmental and social standards. We have seen the preliminary draft of the AIIB standards, and they are not ideal. There is no ban on funding for coal plants, and every environmental guideline they have has a pretty big loophole in it.

Senator MARKEY. On the other hand, can I say this? And I agree with you. We have to police that very closely.

But on the other hand, the Chinese President announced that they are going to build 1 gigawatt of renewable electricity by the year 2030. Renewables, 1 gigawatt. Now, people do not know what a gigawatts is. So a gigawatt is 1,000 megawatt, equivalent to a nuclear power plant. So if you think of a big, big, big nuclear power plant, that is about 1,000 megawatts of electricity. So this would be 1,000 nuclear power plants at 1,000 megawatts. They are going to build that equivalent in renewables between now and 2030 in China, and moreover, that is the equivalent of all of the electricity from all sources in America right now, all coal, oil, all hydro, wind, solar, all of it. So that is unbelievable.

So talk a little bit about that and what that revolution means in China and what it means ultimately for the price of solar, for the price of wind, and the global installation of that much lower price of sources of energy that otherwise would not see that price pressure downward.

Dr. HART. Absolutely. You know, their 2030 commitment is really impressive. They are basically going to roll out a clean energy expansion equivalent to our entire U.S. electricity generation. That is the world's biggest clean energy laboratory experiment because we have never seen that much clean energy technology deployed at such a large scale. So they are going to be driving new advancements in how electric grids can incorporate clean power and move those supplies around the country across the grid.

One of the advancements in the new announcement that is particularly interesting is China's new commitment to a green dis-

patch program. Previously their old strategy was that they built a lot of green energy but they built a lot of dirty energy too. Now they are starting to shift so that they phase down and phase out primarily coal and other sources of dirty energy and prioritize clean energy and give it the first spot on the grid. So their new green dispatch program will be eliminating the special access that coal had to the electric grid and fast tracking renewable sources around the nation.

Senator MARKEY. So back in 1993, I was the chairman of the Telecommunications Committee over in the House of Representatives. So I worked with my friends on the committee, Mike Oxley and Jack Fields, Republicans. And so we passed out a bill that moved over 200 megahertz of spectrum to create cell phones that could be accessible for ordinary families. So at that point the cell phone was about the size of a brick. It cost 50 cents a minute, and you did not own one. I mean, that was just Gordon Gekko stuff. This was the wealthiest businessman in the world. Well, within 3 years, everyone had one of these in their pocket. It was under 10 cents a minute. It got miniaturized. It was analog and everybody was happy.

Senator GARDNER. Most of us do not have a flip phone still. [Laughter.]

Senator MARKEY. And so this was great. And you know, it worked. We moved to digital. It was great. It was more encrypted. Digital is much more encrypted than analog. So this was it by 1996, 1997, 1998, 1999, 2000. Everybody was kind of happy.

And then Steve Jobs comes along and he does an iPhone. Oh, my God. It is like a computer, a size that is miniature and with the power of a Univac computer just 30 years before. And moreover, it is moving so fast that in Africa we now have 600 million people with wireless devices in their pockets. Who had that on the books 10 years ago, 12 years ago?

So that is what this revolution really means now in solar and wind. There is a real virtuous competition going on now. No, we are going to have even more than you have, but every time you do it, the price drops more, the capacity of the devices continues to increase. So just 5 years ago, 1 percent of electricity in America was renewable, just 5 years ago. Now it is 5 percent of electricity is renewables. That is how fast it is moving here. China takes note of that. So does not Germany. So do not other countries. In other words, it is moving like this. It is the same pace. You got a brick. You got a clam phone. You got an iPhone. So once you get that competition going, the free market is wide open, Darwinian, paranoia-inducing, at a national level competition.

So I thank you for coming because I think that this dynamic energy sector is something that we have to really pay attention to in China, but at the same time, we know that we got to keep our eye on China on cybersecurity. We know we have to keep our eye on them in the compromise of the copyright inventions of people in the United States. And we are going to have to keep our eye on them in terms of pollution, in terms of what they are doing. But at large, there is something big that is happening here in terms of the switch over to lower carbon sources of energy, and I think it is actually kind of where we want to be with China, competing on the

good stuff that can transform the way we generate electricity and as a result endanger the planet.

I thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Markey. And are you still using the clam phone or is that just Lindsey Graham's that you borrowed for a little bit? [Laughter.]

Senator MARKEY. Well, when I have something to do, I actually do use this phone. It is very simple. When I just want to sit up here and Google something and make it look like I am really working, then I use this phone. And I think everybody understands what I am talking about. [Laughter.]

My goal—can I tell you my goal?

Senator GARDNER. Please.

Senator MARKEY. Because I could see how many people were looking down while I was speaking, especially the staff in the back. And my goal is that we reach a day when no one ever looks up again. There is never again—there is no human contact whatsoever. [Laughter.]

Everyone is always just looking down at their devices. And we would have not—this was not booked 10 years ago. Right? But it changed everything and the same thing is going to happen in energy.

Thank you, Mr. Chairman.

Senator GARDNER. Thanks, Senator Markey.

We will go another round. If you wanted to stay a little bit longer, we can continue this back and forth, Senator Markey, if you want.

I wanted to go back to the issue of cybersecurity, where we kind of left off. I mentioned the high-level visit that we had from a Chinese official leading up to the summit regarding cyber in response to some of the conversations that were going to be held at the meeting between President Xi and President Obama. And this issue of sanctions came up.

What sanctions do you believe were dangled? What scared them the most into action? And is the thought or the possibility of sanction or further action, OPM done? Mr. Johnson?

Mr. JOHNSON. I think the sanctions that were suggested that were the most effective were those that relate to the sanctioned entity or individual, but primarily entity's ability to engage in financial transactions in the United States. And obviously, that has serious implications for a firm that is especially operating internationally like most of the Chinese firms are these days for their ability to execute financial transactions internationally. This can paralyze a business' operations and I think that was certainly very effective in this regard.

The challenge with sanctions in the same manner that there is a challenge with indictments, which we had earlier and you mentioned in your opening remarks, Mr. Chairman, is that while more effective than indictments, it still falls into that broad category of sort of naming and shaming approach to dealing with this problem. It can be effective from a sort of getting the message out there point of view. But the challenge is that what happens in that instance is that because it is so public, it immediately puts the Chinese on the defensive and gives them very little room to actually

be able to react, which is what we want. We want them to change their behavior.

So in my own view, while sanctions can be an important tool and should be relied on going forward because it clearly has effect, we also have to think about what we can do in other spaces in the non-public space to respond to this challenge from China.

Senator GARDNER. In terms of the national laws that we have discussed here today and the issue of cybersecurity and the agreement that was announced, how does the issue of national laws, the issue of national security interact with the cybersecurity agreement? Are the two going to be mutually exclusive? Are they going to turn around and say, I am sorry, this is national security, therefore the cyber agreement does not apply here?

Mr. JOHNSON. Well, the risk is that they will take, as they often do, a broad definition of national security, and so that is the challenge. And it really is somewhat unique to their system, if you will, in that they see economic development as critical to national security. They also have a tendency to see sort of the advancement of state-owned enterprises in particular but their economic development at large as part and parcel of the national security that keeps the Chinese Communist Party in power, which is, of course, the number one goal. So we do have to monitor this issue for blurring.

But as I mentioned in my opening remarks, I think what we have with this agreement is a real opportunity for the United States to be able to now create some parameters around Chinese behavior in this space and to be able to then present them with evidence, when we have it, where there is clear attribution and that can be determined, and to expect them to take action, and if they do not, then we will turn to these methods.

I think the most effective thing that happened in the run-up to the summit was the administration at all levels communicating very clearly to the Chinese side this is not going to happen anymore. It needs to stop. And that message was received I think by the Chinese, and that produced the agreement. Was it received enough to balance off the clear gain that they seem to get from engaging in this activity.

Senator GARDNER. What if there is a Sony-like incident directed from China to the United States? That episode was not deemed a cyber attack. It was deemed cyber vandalism. How does this agreement function in the case where something is defined like Sony—say the same kind of thing happens again but it is cyber vandalism—what happens under the terms of this agreement?

Mr. JOHNSON. I think the interesting thing about that is that to some degree I think the Sony attack actually helped facilitate the agreement we just signed for a couple of reasons. One, the Chinese recognized that U.S. attribution has clearly improved. The ability to determine where these attacks are coming from has improved. Secondly, I think both the very strong public and private messages of how we intended to respond in this case prevented them from further behavior. So, for example, in the same way they were able to shut down Sony's Web site they very easily could have done denial of service attacks on the servers that then showed the movie when they decided to release it online. They did not do that, and I think primarily the reason they did not is because they saw our

response and our resolve in this case. How this agreement applies to something like that—fortunately, we really have not seen Chinese behavior in this aspect, you know, sort of cyber vandalism, if you will. Their behavior has been about two categories, the traditional espionage and the economic cyber-enabled economic espionage.

Senator GARDNER. There have been discussions about North Korea and how they have used either portals or directly through China to conduct attacks against the United States. How will this agreement deal with those situations?

Mr. JOHNSON. I do not think the agreement directly applies, but this is certainly a new pathway and area for us to be working with the Chinese on the North Korea problem. In so many ways, our discussions with them about other areas related to North Korea, especially with regard to the nuclear situation—it is the same movie over and over again. You know, we are not making a lot of progress. Here is an area where I think we can work cooperatively and where the Chinese understand fundamentally that North Korea is creating a problem for them, and that is very important.

Senator GARDNER. And I wanted to focus a little bit more on North Korea as well in a broader context. We know in just another week or 2, the 70th anniversary of the party, and we expect or anticipate some kind of North Korea action to observe the date. What happened at the summit with President Xi and President Obama in relation to North Korea? What takeaways and where did we actually move forward in terms of China dealing with North Korea and the United States together?

Mr. JOHNSON. My sense—and I welcome Dr. Hart's view on this. My sense is that obviously the issue would have been thoroughly discussed between the two leaders. I was disappointed that there was not more public sort of release as to what we were going to do together.

I would say this. I think it is very clear that the China and North Korea relationship is probably the worst it has ever been or certainly in competition for the worst it has ever been. There is opportunity for our two sides to be able to engage on this, especially on the issue of regime implosion scenarios and things like this. I think we have increasingly softened the Chinese side, a greater willingness to recognize this as a problem especially as the North Koreans, for example, continue to conduct nuclear tests again and again in the same area, which is right on the border with China. China has concerns about the seismic ramifications of that behavior. Maybe we are going to see another one here at the 70th anniversary, as you suggested. So there really is some fresh opportunities for us to be able to engage in this. It does not seem that the two sides were able to agree on anything necessarily, but I think it is an issue for us to work on collaboratively going forward.

Senator GARDNER. Dr. Hart.

Dr. HART. I fully agree. You know, the redline that limits China's forward-leaning on North Korea is the fear of regime collapse because they worry about what would happen. So they are applying more sanctions, but China's northeast provinces are also deepening their economic connections with North Korea. And part of the reason they are doing that is because they want to pursue economic

growth at home, but also they see maintaining at least some economic ties as critical to avoiding regime collapse. So to the extent that the United States can seek to address those fears and do some strategic planning and clarify what steps might be taken in that situation, make some kind of commitments to the Chinese on that issue, we could hopefully start to reassure those fears and therefore open up a new willingness to lean even harder than they are doing now.

Senator GARDNER. Thank you.

Talking a little bit more about the antiterrorism law and the foreign NGO law in China, they are in the third reading, I believe, at the National People's Congress. Under the terrorism law, it would allow China to—and I quote—“access and examine any private data transmitted through the domestic Internet without prior notice or court order so long as it were deemed necessary to facilitate the investigation into potential terrorist activities.” The law basically means that U.S. companies must turn over sensitive cyber data to the Chinese Government. And if that is not the case, we would love to hear a countervailing view.

According to Human Rights Watch, under the NGO law, if adopted as currently drafted, the law will severely and arbitrarily restrict the ability of civil society organizations in China to access resources from and cooperate with international organizations. In addition, it would place vague and overly broad restrictions on foreign organizations, including business associations, universities, and museums that wish to carry out valuable activities in China. That again from Human Rights Watch.

How were these addressed during the state visit? And what are the prospects for China actually falling back or stepping back away from the conversations that they had or moving forward without any changes? Mr. Johnson, Dr. Hart.

Dr. HART. On the cyber regulatory issues, I think it is important that we separate out two separate issues here. One of them is how do nations address national security concerns, conduct needed national security information gathering activities within their own domestic networks. That is a contentious issue in the United States. That is a contentious issue in China. You have to balance national security needs with personal privacy needs. That could be a very interesting avenue of United States-China dialogue. We have not yet opened up an honest, frank dialogue on what are some best practices in that area. Is there any area of agreement between the United States and China on that issue? That is just as contentious here as it is in China.

The other piece is using national security legislation as a lever to force U.S. companies to hand over source code and back out of Chinese markets. That is a commercial issue. It should be treated completely differently than the national security side of it. I believe those two issues are being conflated in a nonproductive way in the Chinese legislative process, and if we can pull them apart and address the valid legislative concern, valid regulatory concern in one channel and the market access concern in another, I think that is the best way to make progress. I did not see that there was any public progress on those issues. They could have been more conversations behind closed doors.

On the NGO law, that is something—as a think tank scholar who goes to China to conduct research activities, I would be directly impacted by that law when it comes down. It is something we are watching very closely. I am heartened by the fact that we have been able to review the law before it was implemented. Chris and I were in Beijing a few weeks ago and were brought to meet a Chinese congressional representative so that we could personally exchange views with Chinese legislators, voice our concerns, and ask questions. That openness gives me hope that this could go in a positive direction and we should engage as much as possible and take that openness and willingness to engage at face value. If it does not go in a positive direction, then every American university and think tank will have some decisions to make about how they might need to reshape their operations in China, and that is an issue that should be special in the human rights category because it is one that is regulating Americans directly. And so I would hope that American leaders would keep paying special attention to that particular law, but yet engaging and respecting and appreciating the openness that has been shown so far.

Senator GARDNER. You talk about separating the two out, I believe, when we were talking about the national security legislation or at least the need for national security separated from market access to privacy issues. You also used the term “personal privacy needs.” What is the view that the Chinese Government has as it relates to personal privacy needs?

Dr. HART. That is a much hotter issue in the United States than it is in China. You know, that is a key issue in our debates. In China, that is not a principle that is held quite as much as it is in the United States. But it would be a very interesting area for a United States-China discussion.

Senator GARDNER. But I think the answer is there is no personal privacy needs viewed by the Chinese Government to the people, and that is why we see this law. So how would this law, when it comes to national security, be changed for market access?

Dr. HART. Well, there are voices in the United States that would also argue that some of our intelligence agencies are overlooking some of the personal privacy needs or not adequately balancing those in the national security equation.

We lose nothing by recognizing that every nation has a responsibility to secure its Internet networks and to make sure that there are no dangerous technology back doors that could be used for cyber attacks. I think that is something that we can agree on with China. And based on that agreement, we could hopefully move forward on some bilateral or hopefully even multilateral mechanisms that would provide a set of rules that could perhaps fill some of the regulatory need that these processes in China are trying to fill in an apparently less helpful direction.

And it is important to mention that this law—when you speak to people in Beijing, they say this law was a direct response to the Snowden revelations. So we cannot claim that China has no legitimate reason to be concerned about network security.

I think the most positive place to start is to recognize that every nation in the world has a legitimate reason to be concerned about network security. We do have that in common, and if we can use

that as a building block for something that will guarantee everyone some degree of security, perhaps that would reduce the need for some of these problematic regulatory rules that are not just a China issue. It is an international issue.

Senator GARDNER. Mr. Johnson.

Mr. JOHNSON. I would just add that I think the challenge with this is the way in which Chinese law is increasingly being used as another tool of industrial policy. I think that is the real challenge that we face with these laws, the national security law itself, the antiterror law, even the human rights law.

In some ways China has understood the problem from the earlier period where they promoted a policy of so-called indigenous innovation. One of the challenges of indigenous innovation was that it created a lightning rod term around which people could rally. What we see under the Xi Jinping administration in this area is a series of different tools, whether it is use of the antimonopoly law, use of pricing investigations, use of these so-called law fair approaches. They are using different tools so that nothing at any one time gets too much attention, but the goal is the same, which is to promote and advantage Chinese companies.

I agree with Dr. Hart that in many ways the Snowden issue is the gift that keeps on giving for Chinese security agencies and those inside the system who have wanted for some time to be able to prove, if you will, this is dangerous, you know, having these U.S. firms be so involved in our critical infrastructure.

So my point is that my own sense is that no sort of amount of negotiation or discussion with the Chinese is fundamentally going to change their views on how they are thinking about their infrastructure.

Senator GARDNER. So the visit is over. The summit is over. Some agreements going forward. The BIT negotiations continue. What are the next steps and the next big steps for the Asia pivot out of this summit going forward? What do you anticipate seeing in terms of the overall rebalance strategy?

Mr. JOHNSON. I think the main piece and the piece that has been lacking in the rebalance strategy so far is this economic and trade piece, and the key piece there is getting TPP done. That is the fundamental piece because what we have seen has had the greatest effect—and Dr. Hart referenced this in her earlier comments—you know, why is it that China is even really talking about a BIT with us because they fundamentally understand that in a BIT, they are going to have to give a lot more than we will to get compliant with an agreement? It is because they watched Japan get into TPP, and they understand fundamentally that that decision by Tokyo was much more a geostrategic decision than an economic one. It puts pressure on the Chinese. And as Dr. Hart said earlier, the best way to encourage the Chinese to move toward these high-standard agreements and so on is to conduct our own negotiations with partners who are ready from that point of view to be able to encourage the Chinese to move in that direction because they will be economically disadvantaged if they do not.

Senator GARDNER. Dr. Hart.

Dr. HART. I agree with that.

One of our biggest problems with the rebalance is that it has been viewed as a primarily military shift because when the President called for rebalance, the Pentagon was ready to go.

Senator GARDNER. Do you think that has been viewed primarily military here or—

Dr. HART. In the region.

Senator GARDNER. Over in the region.

Dr. HART. In the Asia-Pacific region, they see that the U.S. military is there and the economic piece is lagging. And so many nations view this as a military shift and an effort to contain China's rise. There is growing concern that the United States and China are engaged in some strategic rivalry in the region and that there is a spiraling security conflict. So if we can catch up the economic side to the military side by finalizing the TPP, then that will hopefully demonstrate and improve the credibility that America rebalance is not just about strategic competition with China, it is about recognizing that this is the most economic dynamic region in the world and we want to be there.

Senator GARDNER. Thank you.

What China has accomplished over the past several years is truly remarkable, I mean, lifting 500 million people out of poverty, the changes that we have seen from an economic standpoint. It is remarkable. And I think there is not a person here who would disagree with the desire for this nation to become a great nation in a way that allows both the United States and China and our relationship to not only flourish together but to benefit the world because the world will benefit from a strong China. The world will benefit from a strong United States. And so I think sometimes the U.S. attitude or policies toward China can come across as either finger-wagging or perhaps telling people what they can and cannot do. As Dr. Hart talks about, the national interests, the national security needs of the nation determine where they believe they need to go.

But I think to have two global powers, to have a rising China that is a responsible rising nation to meet these needs and concerns that we have expressed today, concerns over activities in the seas, concerns over activities in the economy, concerns over NGO laws and human rights and cyber issues and how we can deal with aggressive neighbors or regimes like North Korea together in a successful global economy really does determine whether China can reach the full potential of a great nation. And I think we all hope that they can. And that is where this relationship needs to go I believe.

And so I appreciate your thoughts today, your testimony today. And obviously, we will continue working on this very important issue and the most important region in terms of our relationship going forward. So thank you very much.

I got to read a few final requirements today about keeping the record open.

So I truly do appreciate both of you for your time and testimony today.

And for the information of members, the record will remain open until the close of business this Friday, including for members to submit questions for the record. And we ask the witnesses to re-

spond as promptly as possible. Responses will be made part of the record.

And with the thanks of the committee, this hearing is now adjourned. Thank you.

[Whereupon, at 3:52 p.m., the hearing was adjourned.]

