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ASIA OVERVIEW: PROTECTING AMERICAN INTERESTS IN CHINA AND ASIA

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BEFORE THE

SUBCOMMITTEE ON ASIA AND THE PACIFIC

OF THE

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CONTENTS

Page

WITNESSES

The Honorable Kurt Campbell, Assistant Secretary, Bureau of East Asian and Pacific Affairs, U.S. Department of State 2
Mr. James Fellowes, chairman and chief executive officer, Fellowes, Incorporated 35
Mr. Calman Cohen, president, Emergency Committee on American Trade 43
Michael Auslin, Ph.D., director of Japan studies, American Enterprise Institute 52
J. Kent Millington, DBA, entrepreneur in residence and director of the Department of Technology Commercialization, Utah Valley University 68

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

The Honorable Kurt Campbell: Prepared statement 4
The Honorable Donald A. Manzullo, a Representative in Congress from the State of Illinois, and chairman, Subcommittee on Asia and the Pacific: Prepared statement 17
The Honorable Eni F.H. Faleomavaega, a Representative in Congress from American Samoa: Prepared statement 22
Mr. James Fellowes: Prepared statement 37
Mr. Calman Cohen: Prepared statement 45
Michael Auslin, Ph.D.: Prepared statement 54
J. Kent Millington, DBA: Prepared statement 70

APPENDIX

Hearing notice 92
Hearing minutes 93
The Honorable Donald A. Manzullo: Question for the record submitted to the Honorable Kurt Campbell 94
Response from the Honorable Kurt Campbell 96
Mr. James Fellowes: Material submitted for the record 99
J. Kent Millington, DBA: Material submitted for the record 102

ASIA OVERVIEW: PROTECTING AMERICAN INTERESTS IN CHINA AND ASIA

THURSDAY, MARCH 31, 2011

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

The subcommittee met, pursuant to notice, at 2:10 p.m., in room 2360, Rayburn House Office Building, Hon. Donald A. Manzullo (chairman of the subcommittee) presiding.

Mr. MANZULLO. The subcommittee will come to order.

We have votes coming up. What I would like to do, is to get Mr. Campbell's testimony in as soon as possible, so he doesn't have to sit around and wait for democracy to take place on the floor of the House.

Secretary Campbell, do you want to go up and take a seat?

What I am going to do is just give a brief bio of Secretary Campbell, and then let you get your testimony in. We will worry about opening statements afterward, even after you are gone, if that is okay with you.

I got to know Kurt Campbell just a couple of weeks before going to New Zealand and Australia; he came in and did a great job at informing us.

He became Assistant Secretary of State for East Asian and Pacific Affairs in June 2009. Previously, he was the CEO and cofounder of the Center for a New American Security and concurrently served as the director of the Aspen Strategy Group and chairman of the editorial board of The Washington Quarterly.

He was the founder of StratAsia, a strategic advisory firm, and was senior VP, director of the International Security Program and the Henry A. Kissinger chair in national security policy at the Center for Strategic and International Studies.

He has served in various capacities in the government, including as Deputy Assistant Secretary of Defense for Asia and the Pacific. He is eminently well-qualified.

Mr. Secretary, the floor is yours.

Mr. FALEOMAVAEGA. Would the chairman yield?

Mr. MANZULLO. Oh, I am—of course.

Mr. FALEOMAVAEGA. Mr. Chairman, before Secretary Campbell proceeds with his statement, I, too, would like to offer my personal welcome, Secretary Campbell, for coming to testify to our subcommittee.

And I want to say that Secretary Campbell has done an outstanding job in not only representing our Nation before all of the

nations of the Asia-Pacific region, but not only is he well-versed, the tremendous depth that this gentleman has in understanding all that is going on in the Asia-Pacific region. And I want him to know it has been my privilege over the past 2 years in working closely with him on some of the issues affecting this region. And I look forward to continuing our working relationship with Secretary Campbell in this regard.

Thank you.

Mr. MANZULLO. Mr. Secretary, go ahead.

STATEMENT OF THE HONORABLE KURT CAMPBELL, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. CAMPBELL. Thank you, Mr. Chairman.

Let me just say at the outset that you learn a lot about people during crises. And I have to say, one of the very good things that came out of something very bad was to see your coolness, Mr. Chairman, under fire and your determination to demonstrate U.S. Commitment and solidarity with the people of New Zealand.

For those of us who were there on the ground with you, it was very inspiring and it was much appreciated. And I just want to tell you that I am proud to be able to stand before you today, and I am looking forward to exploring all dimensions of American policy in the Asia-Pacific region.

And to you, Congressman Faleomavaega, it is often the case that people who are appointed to these jobs take guidance from our friends on Capitol Hill.

One of the first things that the Congressman told me when I took this job is that, you know, officials say the "Asia-Pacific region," but oftentimes it is the second word that doesn't get as much focus as the first. And so he has urged us in the government to take a comprehensive look at all the things that we do in the Pacific, not just assistance, but our military policy, our support to the many regions.

Some of these countries have stood with us through very challenging times. They are with us in the United Nations. They have been supportive of us in wars. And I am proud of the fact that I think we have stepped up our game generally.

I want to just say, also, how much I appreciate your opening comments about the two tragedies that have befallen the Asia-Pacific region over the course of the last couple months: First, the terrible earthquake which has damaged the lovely town of Christchurch, which we had the very good fortune to have spent some time in. And I am confident that the strength and the determination and the resilience of the New Zealand people will lead to that town, that wonderful city, to be rebuilt in a way that will pay tribute to New Zealand.

And I want to tell you that I will be part of that effort. We have been working very closely on the establishment of a number of organizations, including the American Friends of Christchurch, which will be involved directly in support to rebuild parts of that town so badly damaged by the earthquake.

And then all of us have been working essentially around the clock; I would say there has not been a night over the course of the

last several that we are not working constantly to do everything possible to support our Japanese friends as they deal with one of the greatest natural disasters ever to befall any country.

And I have to say, I have always been a deep admirer of Japan. I believe that the absolute rock of American engagement in Asia is our relationship with Japan. And I have been impressed at the determination of the Japanese people and their ability to soldier through some of the most difficult imaginable conditions.

But I must say, I am also proud of the United States. You know, you hear a lot of talk about how the United States maybe doesn't have the same punching power, the same abilities, capabilities as other nations. I would just ask all of you to take a look at the string of natural disasters that have hit Asia over the course of the last several years: The tragic tsunami that hit Aceh, some of the horrible rains that have buffeted the Philippines and elsewhere, the earthquake in New Zealand, and now the tragedy striking Japan. The country that is the lead at providing humanitarian assistance, nuclear know-how, military airlift is not another country in Asia; it is the United States.

And I want people to see this very clearly for what it is. It is not only our continuing commitment to the region, but it shows very clearly the capabilities that, when we put our minds to it, what we are able to do. And I want our Japanese friends to know that this will not be a challenge that is over in the next several days. This will be with us for a substantial period of time, and the United States is going to be with Japan every step of the way.

So I just want to say, the purpose of this session is to focus on how we in the United States Government can support American business as we seek to play a vital role in the affairs, both economic, strategic, political, of the Asia-Pacific region. And I look forward to answering those questions and doing the best that I can to convey that we are deeply engaged in this overall mission.

But I want you to understand how much we appreciate you calling this hearing. I think sometimes people in other places start to think that the United States is either preoccupied on its domestic pursuits or on other parts of the planet, other parts of the globe. And, indeed, we are consequentially engaged in the enormous challenges in the Middle East, currently, where American forces are struggling mightily. But it is also the case that there is a deep and profound recognition that much of the history of the 21st century is going to be written in Asia. And we understand that, both in the executive branch and I think you do, Mr. Chairman, here in the legislative branch.

And I want to commit to you that, in a very bipartisan way, we are here to support you and to work with you in all of the important endeavors that the American people are involved in, not just in Asia but globally.

I would like to request that my full testimony be submitted for the record. It is not good for any of us——

Mr. MANZULLO. Without objection, of course.

Mr. CAMPBELL. It is not good for any of us to have to read through that, so I will—you can look at it later.

Mr. MANZULLO. Just speak from your heart.

Mr. CAMPBELL. I have just done that. So I will just leave that as my opening statement and look forward to answering your questions at a time of your choosing.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Campbell follows:]

Testimony of Kurt M. Campbell
Assistant Secretary of State
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Before the
House Committee on Foreign Affairs
Subcommittee on Asia and the Pacific
March 31, 2011

Mr. Chairman, Mr. Faleomavaega, and Members of the Subcommittee, thank you very much for inviting me here today to testify about the vital importance of Asia-Pacific countries to the United States and for the opportunity to underscore key aspects of our engagement strategy for the region.

I want to also use this opportunity to underscore the United States' unwavering commitment to Japan. Twenty days ago today, Japan experienced a "triple blow" from an earthquake, tsunami, and the subsequent challenges associated with the Fukashima Daichi nuclear reactors. By themselves, any of these incidents would have been enough to bring a country to its knees. In Japan, we have seen the opposite. The Government and people have responded bravely and, with the help of the United States and the international community, committed to building an even stronger Japan in the future. Japan is the cornerstone of our strategic engagement in East Asia, and we are committed to standing side-by-side with our ally in its time of need.

It is clear that America's success in the 21st century is tied to the success of the dynamic Asia-Pacific region. As Secretary Clinton has noted, much of the history of the 21st century will be written in Asia. There is no question that the region's influence is growing and holds the key to our shared future. Asian nations are vital to the life-blood of the global economy. Their opinions and decisions have profound influence from Latin American to the Middle East and Africa on addressing complex and emerging transnational challenges, like climate change.

Despite the Asia-Pacific region's tremendous growth, the region still faces some of the most pressing challenges of the 21st century. North Korea and Burma remain outliers to the region's prosperity and continue to be sources for insecurity and instability. Many of today's most critical issues -- military competition, nuclear proliferation, violent extremism, financial crises, poverty, weak and ineffective governments, unresolved territorial disputes, growing competition over energy and natural resources, climate change, and disease -- transcend national borders and pose a common risk in the region. The rapid emergence of transnational security risks and threats demands collective action, and it is critical for the United States to work with our allies and partners in the region to address and meet these significant challenges.

Essential to our long-term national interests is to make sure that the United States remains true to its identity as a Pacific power. The Obama Administration, following a long history of bipartisan commitment to Asia, has articulated a five-part framework for our engagement in the Asia-Pacific: First, deepen and modernize our alliances with Japan, the Republic of Korea, Australia,

Thailand and the Philippines. Second, broaden our engagement with increasingly important partners like Indonesia, Vietnam, Mongolia, New Zealand, Singapore, Malaysia, and most notably India. Third, develop a predictable, stable, and comprehensive relationship with China. Fourth, engage and invest in the region's burgeoning multilateral architecture. And, fifth pursue a confident and aggressive trade and economic strategy.

Underpinning our strategy is a steadfast commitment to our belief in the universality of democracy and our respect for human rights. The U.S. commitment to these values defines the unique aspect of U.S. relations with Asia-Pacific nations and is an intrinsic and indispensable aspect of our character as a nation. It is one of the best and most important contributions that we can offer the region. We are working to promote fundamental human rights in the region and support the region's own efforts to promote and protect human rights, democratic principles, and freedom of religion and of expression.

In order to ensure that the promotion of human rights and the rule of law as well as the development of civil society remain strong pillars of our engagement, we will continue to adopt new and creative approaches that seize the opportunities presented by advances created in our dynamic information age. The freedom to speak one's mind and to choose one's leaders, the ability to access information and worship how one pleases are the bases of stability. The United States will continue to speak for those on the margins of society, encouraging countries in the region to respect the internationally recognized human rights of their people while undertaking policies to further liberalize and open their states. We will continue to work with countries to combat the scourge of trafficking in persons, to promote the rights of women and children, and foster greater religious dialogue among the many communities of faith in the region. We continue to press for the restoration of democracy in Fiji, as well as to promote good governance, rule of law, and respect for human rights in Vietnam and China. We have already seen positive signs reflecting greater internalization of human rights with the recent establishment of such institutions as Indonesia's Bali Democracy Forum and the ASEAN Intergovernmental Commission on Human Rights (AICHR), which we welcomed for an official visit to the United States last November. In Burma, we have intensified efforts to promote human rights and democracy both through diplomatic engagement with key stakeholders in Southeast Asia and by delivering our message to the Burmese government via direct engagement. At the same time, we maintain extensive financial, trade, and visa sanctions that target regime authorities and their cronies who thwart democracy and disrespect human rights. Our message remains clear and consistent: absent concrete progress in key areas of democracy and human rights, our sanctions will remain in place.

I will use the remainder of my testimony to describe how we are implementing this strategy through an aggressive "forward-deployed diplomacy," and the steps we are taking to ensure U.S. leadership in the Asia-Pacific.

U.S. Strategic Framework for Engagement in the Asia-Pacific Region – The pace of our engagement in this critical region signals the renewed emphasis we place on developing and deepening partnerships. As Secretary Clinton has articulated, our forward-deployed diplomacy in Asia seeks to leverage these relationships to underwrite regional security, heighten prosperity, and support stronger democratic institutions and the spread of universal human rights in the Asia-Pacific region. The region offers the United States tremendous opportunities in a number

of areas, including expanding markets for U.S. economic interests and forming new strategic partnerships.

First, our alliances remain the foundation for our strategic engagement in the region, and the Obama Administration is committed to strengthening and modernizing our alliances to address both continuing and emerging challenges. Also, we must recognize that those alliances are, at their core, security alliances. . Our alliances have underwritten peace and stability for over a half-century and continue to provide a context for the region's tremendous economic growth and vitality.

Our treaty alliance with Japan remains a cornerstone of our strategic engagement in Asia. The U.S.-Japan relationship is both strong and comprehensive; it links two of the world's three largest economies and is supported by our people-to-people exchanges and our shared commitment to democracy and human rights. The cooperation between the Government of Japan and the United States in the aftermath of the March 11 events demonstrates the value of our security alliance with Japan. The United States stands resolved to assist Japan in its reconstruction efforts and to taking steps to further strengthen our alliance relationship. The pictures on the front-pages of Japanese newspapers that show U.S. military forces and Japanese soldiers working hand-in-hand to assist those in need is a potent symbol of the importance of this relationship. As we help Japan in its time of need, our two governments will continue to conduct open and direct discussions on a number of important strategic and alliance issues, including the roadmap for realigning U.S. forces in Japan. In addition, we are working to create a durable and forward-looking vision for the alliance that builds upon Japan's important global role in several areas, including climate change, non-proliferation, and humanitarian and development assistance programs. We have intensified high-level engagement between our two governments to address regional and global security challenges, and Japan is a lead contributor to the efforts to bring reconciliation and reconstruction to Afghanistan. Secretaries Clinton and Gates look forward to hosting their Japanese counterparts this year for an important "2+2" meeting where both sides will issue a detailed framework statement for the alliance going forward.

We are also working vigorously with our other critical ally in Northeast Asia, the Republic of Korea (ROK), both to modernize our defense alliance and to achieve a partnership that is truly global and comprehensive. The United States remains steadfastly committed to the defense of the ROK and to an enduring military presence on the Peninsula. The relationship continues to evolve from one solely focused on peninsular challenges to an ever more global and dynamic partnership that builds on our shared values and strategic interests. The ROK now has forces deployed overseas in over a dozen countries, with 200-to-300-person peacekeeping and reconstruction contingents in Haiti, Afghanistan, and Lebanon. The ROK understands that global challenges such as counter-piracy, nuclear nonproliferation, and development fundamentally affect Korea's interests and involve an obligation to be actively engaged around the world.

Our respective alliances with the ROK and Japan, as well as increasing trilateral coordination, play an essential role in maintaining peace and stability in Northeast Asia, including responding to the destabilizing policies and provocations of North Korea (Democratic People's Republic of Korea, DPRK). The DPRK's sinking of the ROK corvette *Cheonan* in March 2010, its

November 2010 disclosure of a uranium enrichment program, and its November 2010 shelling of Yeonpyong Island underscore the threat that the DPRK's misguided policies and provocations, including its nuclear and ballistic missile programs and proliferation activities, pose to regional stability and global security. Effective trilateral engagement in the wake of these provocations demonstrated to North Korea that its belligerent actions will be met with collective resolve. During an important U.S.-Japan-ROK Trilateral Ministerial meeting in December 2010, the three countries jointly declared that the DPRK's belligerent actions threaten all three countries and will be met with solidarity. The three countries jointly condemned the DPRK's uranium enrichment program as a violation of the DPRK's commitments under the September 2005 Joint Statement of the Six-Party Talks and its obligations under UNSCR 1718 and 1874.

We have also worked closely with Japan, the ROK, and our other partners in the Six-Party Talks to achieve the verifiable denuclearization of the Korean Peninsula in a peaceful manner. We are working closely with our partners and allies to make clear to the DPRK that its uranium enrichment program violates its commitments and obligations. We continue to urge the international community to fully and transparently implement UNSCR 1718 and 1874 to curb the DPRK's conventional and WMD-related proliferation efforts, as well as its illicit activities.

Australia remains a strategic anchor for regional stability and plays an incredibly important role in maintaining global security. U.S. and Australian forces fight side-by-side, extending a legacy of cooperation that goes back a century, and Australia is the largest non-NATO contributor to the coalition effort in Afghanistan. The U.S. commitment to Australia was on clear display during the visit of Prime Minister Gillard to Washington last month. Prime Minister Gillard had a very productive meeting with President Obama, in which they reviewed the many areas in Asia and around the world in which our two countries work together. She demonstrated Australia's respect for our past joint efforts through a generous contribution to the new Vietnam Veterans Memorial education center here in Washington. In addition, Secretaries Clinton and Gates visited Australia for the 25th Australia-U.S. Ministerial Consultations (AUSMIN) in November. That meeting was essential to our objective of modernizing and deepening our alliance, and our two governments announced the launch of the Australia-U.S. Force Posture Review Working Group, which is now exploring the potential for expanded U.S.-Australia military cooperation to optimize our U.S. force posture in the Asia-Pacific region.

We are also working to invigorate the Trilateral Strategic Dialogue with Japan and Australia, as well as to deepen security partnerships throughout the region. Our alliances with the Philippines and Thailand, our long-time Southeast Asian treaty allies, continue to evolve to meet modern challenges from violent extremism to infectious disease. We are working closely with our Philippine partners to improve maritime security and disaster response capabilities. In January of this year, we launched the first ever joint State-DOD strategic dialogue with the Government of the Philippines to help create a framework to enhance our alliance partnership. In Thailand, our oldest treaty ally in East Asia, we partnered to deploy Thai naval vessels, with U.S. Navy personnel aboard, to join Combined Task Force-151 to combat piracy off the Horn of Africa. Thailand has also provided a full battalion of peacekeepers to Darfur to assist with UN humanitarian relief operations. Our robust and mutually beneficial military relationships with both allies include joint exercises, ship visits, information sharing, logistics assistance, and a

broad slate of training and capacity-building activities in such areas as peacekeeping and anti-piracy operations.

Second, the Obama Administration is committed to broadening our relations with growing powers like Indonesia, Malaysia, Mongolia, New Zealand, Singapore, Vietnam, and most notably India.

- *India*: The Administration has taken significant steps to enhance our engagement with India, which is playing a key role in the Asia-Pacific. We have launched a dialogue on Asia-Pacific strategic issues, and I will travel to New Delhi next week to have further discussions and consultations. As a growing international player, engagement with India on a wide array of global issues is increasingly in the strategic interests of the United States.
- *Indonesia:* Our engagement with Indonesia continues to mature. The President's historic trip to Jakarta last fall highlighted the broadening and deepening of the U.S.-Indonesia relationship. The launch of the Comprehensive Partnership by President Obama and President Yudhoyono will further boost our growing partnership on bilateral, regional, and global issues. We look forward to working with Indonesia this year in its role as ASEAN chair and host of the East Asia Summit and value its emerging, positive voice on global topics, such as democracy and climate change.
- *Malaysia:* In addition, the Administration is working hard to enhance our bilateral relationship with Malaysia. We are in the process of launching a major English-language initiative that will place more young Americans in Malaysia to teach English and expose primarily rural Malay students to American culture. The Malaysian government, under the leadership of Prime Minister Najib, has also taken a number of steps to create more stringent export controls and play a constructive role in the international non-proliferation regime. Medical personnel from the Malaysian Armed Forces are currently deployed to Afghanistan. Our two countries are also working together closely in the Trans-Pacific Partnership (TPP) negotiations.
- *Mongolia:* Recently, I visited Mongolia, an ancient country yet a relatively young democracy on the verge of an economic boom that offers opportunities for American companies. According to some estimates, Mongolia has about $400 billion worth of minerals in the ground. Mongolia provides 190 troops to the International Security Assistance Force in Afghanistan and hosts training for peacekeeping operations. Mongolia also cooperates closely with us in international organizations such as the UN and International Atomic Energy Agency. And, Mongolia will chair the Community of Democracies starting this year. Mongolia is a reliable, democratic partner with a bright future.
- *Vietnam:* Over the last several years, we have broadened and deepened our engagement with Vietnam on a wide ranges of issues, including trade, security, nonproliferation, health, education, and the environment. Vietnam is also among our eight negotiating partners in the TPP talks. During their meetings in Hanoi last year, Secretary Clinton and Prime Minister Dung agreed to elevate the relationship further by moving toward a strategic partnership. However, we remain deeply concerned about the lack of progress in the human rights front. We continue to make it very clear to the Vietnamese government that political freedoms are not a source of instability but of strength.

- *New Zealand:* Last fall, Secretary Clinton visited New Zealand where she launched the Wellington Declaration. This visit effectively culminated the thaw in our relationship with New Zealand, after a 25-year freeze since the mid-1980s. New Zealand is an important friend and partner of the United States, especially in the South Pacific, and the Wellington Declaration establishes a framework for a new United States-New Zealand strategic partnership that will enhance our practical cooperation and political dialogue. Likewise, the United States and New Zealand are working to deepen our economic relationship through the TPP negotiations. In response to the tragic earthquake that struck New Zealand earlier this year, the United States deployed a USAID Disaster Assistance Response Team (DART) that included the Los Angeles County and the Fairfax County Urban Search and Rescue teams (USAR), transferred equipment and supplies, and committed more than $1 million for humanitarian assistance to support relief and recovery efforts.
- *Singapore:* The Administration is also taking steps to enhance our bilateral engagement with Singapore. In addition to being a strong partner on non-proliferation and other regional security matters, Singapore has participated in global security operations, including in Iraq, Afghanistan, and Gulf of Aden counter-piracy efforts for which Singapore will chair the International Contact Group in July. Singapore is hosting the sixth round of TPP negotiations this week.

Third, an important component of our efforts in the Asia Pacific is an approach to China that is grounded in reality, focused on results, and true to our principles and interests. Through this approach, we are pursuing a positive, cooperative, and comprehensive relationship with China. As Secretary Clinton has said, the U.S.-China relationship is at a critical juncture; how we manage the relationship today – with its elements of both competition and cooperation – will have a large impact on the future of the region.

Over the past year, we have taken solid, tangible steps to translate these words into action. Through steady diplomacy, we worked with Beijing to move the relationship in a positive direction, with President Hu attending the Nuclear Security Summit in April and China voting in favor of strengthened sanctions on Iran at the UN Security Council in June. The success of our approach is most clearly illustrated by President Hu's January state visit to Washington. Through that visit, China for the first time expressed concern about the DPRK's uranium enrichment program; we also gained Chinese agreement to respect the results of the referendum in southern Sudan, and strengthened cooperation with the Chinese on Iran through both the P5+1 process and enforcement of UN Security Council Resolutions. We also held firm to the principles that are important to us as Americans, making strong statements in both public and private about our concerns on China's human rights record. President Hu's visit was a success in large part because of our concerted effort since the beginning of the Administration to get this relationship right – in a manner that ensures U.S. interests are protected and advanced.

Related to our interactions with China is our consistent approach to Taiwan. As Secretary Clinton has noted, we are encouraged by the greater dialogue and economic cooperation between the Mainland and Taiwan – as witnessed by the historic completion of the Cross-Strait Economic Cooperation Framework Agreement last year. Our approach continues to be guided by our One China policy based on the three joint communiqués and the Taiwan Relations Act. In the period

ahead, we seek to encourage more dialogue and exchanges between the two sides, as well as reduced military tensions and deployments, and we have and will continue to meet our responsibilities under the TRA.

We will continue to make clear our views on the principles of freedom of navigation in the South China Sea. Recent events in China, including the forced disappearances of rights lawyers and crackdowns on Chinese and foreign journalists, have only further increased our concerns about human rights. And we continue to press China for further action on the DPRK's actions in violation of the September 2005 Joint Statement and UN Security Council Resolutions, as well as the need to more tightly enforce sanctions on Iran.

On the economic front, we continue to make lowering trade barriers a high priority in all our engagements with China, including the Strategic and Economic Dialogue (S&ED), the U.S.-China Joint Commission on Commerce and Trade (JCCT), and the G-20. Our embassy in Beijing and consulates throughout China reinforce the importance of maintaining a level playing field for U.S. companies on a regular basis and at all levels of the Chinese government. The State Department also works closely with other federal agencies to monitor China's compliance with U.S. and international trade rules. In 2010, the Department of Commerce initiated six investigations against imports from China (three antidumping and three countervailing duty) in order to provide relief for U.S. companies from unfair trade practices. Moreover, following consultations with the State Department and other Executive Branch agencies, USTR initiated WTO dispute settlement proceedings against China in three separate cases.

As a result of these efforts, during the December 2010 meeting of the JCCT and the January visit of President Hu, China made significant commitments on key trade issues, agreeing to ensure that Chinese government agencies use legitimate software, delink innovation policies from government procurement preferences, and include sub-central entities in its revised offer to join the WTO Government Procurement Agreement. China is a key export market for U.S. goods and services and a focus of President Obama's National Export Initiative that calls for doubling U.S. exports in five years to support millions of American jobs. In 2010, exports from the United States to China approached $92 billion, an increase of 32 percent from 2009.

An important element of our engagement with China is the S&ED, which brings together cabinet members and agency heads across both of our governments, not only to discuss a range of issues critical to our bilateral relationship, but also to inculcate the habit of cooperation across our two governments. Secretaries Clinton and Geithner will host the third S&ED in Washington in May and will build on the successes of the second S&ED last May, including cooperation in addressing the global economic crisis in the framework of the G20. In our preparation for the next S&ED, the U.S. Government will continue to press China for demonstrable progress on economic issues, including further advancements on trade and investment and full implementation of commitments it made during President Hu's visit on trade, investment, and economic rebalancing, including exchange rate reform.

Fourth, the Obama Administration is committed to enhancing engagement in Asia-Pacific multilateral organizations. In her speech in Hawaii in January 2010, Secretary Clinton highlighted the importance of the United States' involvement in the development of the regional institutions and architecture. APEC remains the premier economic organization in the Asia-Pacific region, and the United States remains committed to it. We have also taken a series of

steps to deepen U.S. engagement in regional institutions such as ASEAN, which the Secretary Clinton calls "the fulcrum" for the region's emerging architecture, the ASEAN Regional Forum (ARF), the ASEAN Defense Ministers Meeting (Plus), the East Asia Summit (EAS), and the Pacific Island Forum (PIF).

U.S. membership in the EAS will allow us to work with ASEAN and other EAS members to foster engagement on pressing strategic and political issues of mutual concern, including nuclear nonproliferation, maritime security, and disaster assistance. Last year, Secretary Clinton attended the EAS as the first-ever U.S. representative to the organization. This year, President Obama will attend the EAS in Indonesia and will focus on steps the organization can take to advance regional maritime security, capacity of countries to respond to humanitarian and natural disasters, and non-proliferation. In addition, we will seek to work with ASEAN to identify ways we can supports its Plan of Action. The President will also co-host the third U.S.-ASEAN summit, a regularized feature of our bilateral engagement with ASEAN.

Regional engagement can also be an effective way to enhance our efforts to deal with transnational security challenges such as climate change, pandemics, or environmental degradation, and disaster management. Humanitarian assistance and disaster preparedness will continue to play a role in the region's economic well-being. With the cooperation of the ARF, we supported the ARF Disaster Exercise in Indonesia earlier this month. We are looking at ways for the ARF to strengthen its capacity in managing crises, which is critically important in light of the spate of recent natural disasters that have battered the region. Another regional effort is the Lower Mekong Initiative (LMI), one of Secretary Clinton's signature priorities for U.S. engagement in Southeast Asia. Over the last year, the Secretary convened several meetings of the LMI with her counterparts from Laos, Thailand, Cambodia, and Vietnam to chart the way forward to advance shared goals for the region in environment, education, health, and infrastructure.

In August 2010, I led the largest-ever U.S. delegation to the Pacific Islands Forum Post-Forum Dialogue in Vanuatu. The delegation included not only Department of State officials, but also key defense and development personnel. We plan to take an even larger delegation to the 2011 meeting this September in Auckland to demonstrate our whole-of-government approach to addressing shared concerns in the Pacific. Building on the urgent request for support from the Pacific Small Island States, we have committed funds specifically for climate adaptation projects and related programs in Pacific Island countries. To help administer these new programs, USAID is finalizing plans for a new office in Port Moresby, Papua New Guinea this year. Funding to address climate adaptation will be an essential component of our strategy – and a critical element in the regional effort both to meet increasingly severe climate-related challenges and to maintain American pre-eminence in a region wooed by other suitors with deep pockets.

In this regard, the Compact of Free Association between the United States and Palau is a vital component of our growing presence and engagement in the Western Pacific. Our existing defense arrangement with Palau makes a valuable contribution to U.S. and international security. The Administration has submitted to the Congress legislation covering the results of the recently concluded fifteen-year review of the Compact. Enacting the proposed legislation will uphold our partnership under the Compact, underscore the United States' renewed

commitment to the region, and keep Palau allied with the United States at a time when other, international interests are aggressively courting Pacific Island countries.

Fifth, we are pursuing an aggressive economic and trade agenda in Asia. 2011 is a year of consequence for the United States to demonstrate economic leadership in the region and shape the agenda for future years to accelerate regional economic integration. We are taking a three-pronged approach to driving successful engagement with the region: securing ratification of the U.S.-Korea Free Trade Agreement, achieving milestone progress on the Trans-Pacific Partnership negotiations, and concluding a successful APEC host year.

Today, the 21 APEC economies, with approximately 2.7 billion consumers, purchase almost 60 percent of U.S. goods exports. Seven of the United States' top fifteen trading partners are in APEC. Strong Asian participation in APEC, the WTO, and the G-20 reflects the increasing importance of Asian economies and their centrality to strengthening the multilateral trading system and sustaining our own economic recovery. We must ensure our competitiveness in this vital region and promote continued integration of the U.S. economy with APEC economies, which will benefit workers, consumers, and businesses in the region and create jobs back here in the United States.

The region is essential to the success of President Obama's National Export Initiative, and our goal of doubling U.S. exports by 2015 to create new American jobs. In the first year of the National Export Initiative, U.S. exports to APEC members grew much faster than U.S. exports to the rest of the world (non-APEC member economies). U.S exports to APEC economies last year totaled $774 billion, up 25 percent from 2009, while U.S. exports to non-APEC member economies grew only about 15 percent to reach $503 billion. We are working with governments in the region to ensure an environment in which this trend can continue.

As we seek to achieve the President's goal of doubling exports over the next five years, a tremendously important concrete step toward reaching this goal is the U.S.-Korea Free Trade Agreement (KORUS). In December the Administration achieved important new commitments from the Koreans on outstanding issues that will level the playing field for U.S. automakers and autoworkers, and the Administration will submit the agreement to Congress soon. This agreement represents a major accomplishment for both countries and is an historic opportunity to boost exports, create jobs, and bolster our economy. It eliminates tariffs on 95 percent of U.S. consumer and industrial exports to Korea within five years and significantly reduces tariffs on our agricultural exports to Korea. KORUS is expected to increase exports of American goods by up to $11 billion based on the tariff cuts alone of KORUS and to support at least 70,000 additional jobs on the U.S. side alone. In addition, this agreement will support many more American jobs by opening Korea's $580 billion services market to U.S. companies in express delivery, telecommunications, insurance, and other services industries. The economic benefits for the ROK are also considerable. This trade agreement will deliver immediate, significant economic benefits, but will also deepen our engagement and strengthen our partnership with a central ally in a volatile and rapidly growing region. In strategic terms, it will underscore our commitment to prosperity and security in the Asia Pacific and fortify our leadership role and influence in the region.

Another important pathway to expanding U.S. economic engagement in Asia, and increasing U.S. exports to dynamic Asian markets, is the Trans-Pacific Partnership agreement, or TPP. The nine

APEC economies involved – Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States – represent almost 40 percent of APEC's total goods and services exports. With these economies we are negotiating a new template for a high-quality, high ambition, 21st century trade agreement. This is a strategic agreement that is central to enhancing the 21st century supply chain and new economies of IT and green growth, and one that supports high labor standards and the environment. We have now had a number of rounds of TPP negotiations, and we look forward to working in partnership with Congress as we continue towards realizing this important agreement.

And, in 2011, the United States is hosting APEC for the first time in 18 years, providing us with unique opportunities to demonstrate our commitment to and engagement in the region and to shape the organization's agenda in ways that reflect our values, promote regional economic integration, and create opportunities for U.S. businesses and workers in this dynamic region. The first round of Senior Officials Meetings took place here in Washington earlier this month, and we will have a busy APEC schedule as we build to the APEC Leaders Meeting, which President Obama will host in Hawaii in November. We have set an ambitious agenda that challenges APEC to maximize tangible, practical results, particularly in the area of removing trade barriers, promoting green growth, and building regulatory convergence among APEC economies. To that end, the President has laid out three priority areas to guide APEC's agenda in 2011 to build towards a seamless regional economy: (1) strengthening regional economic integration and expanding trade; (2) promoting green growth; and (3) expanding regulatory cooperation and advancing regulatory convergence. We are looking to conclude specific and ambitious initiatives in each of these three priority areas this year. We want to ensure that APEC will continue to benefit American businesses, especially small and medium size enterprises, and will remain focused on specific, practical outcomes. Through APEC, we can continue to advance regional economic integration, and by reducing barriers to trade and investment in the region, we can increase U.S. exports and support jobs at home at the same time.

Conclusion

American leadership in the Asia-Pacific is essential to our long-term national interests. The Administration is committed to investing in and playing an engaged and active role in the region. The shift of geopolitical forces from the West to the East is a defining feature of the 21st century's international landscape – and Asia will be the main stage for these transformations. These changes will present both tremendous challenges and opportunities for the United States. We are committed to meeting these challenges and seizing opportunities through high-intensity and comprehensive engagement. We have demonstrated to the region that as a global power, we can "walk and chew gum at the same time." We can, and will continue to be forced to, juggle multiple challenges at once. We are committed to taking steps to further strengthen our linkages to the Asia-Pacific region to ensure the preservation and promotion of our interests.

I look forward to working with you, Mr. Chairman, and with Members of this Subcommittee and Congress to seek opportunities to influence positively the future direction of the region to deliver more benefit to more of our people. Thank you for extending this opportunity to me to testify today on this vitally important issue. I am happy to respond to any questions you may have.

Mr. FALEOMAVAEGA. The chairman has been very kind to allow me to project some questions, Mr. Secretary, concerning your statement. And having the opportunity to go through your written statement, there are so many questions, we can probably take all day in touching on some of these issues that are very critical to this important region.

I wanted to ask you, in terms of the five sectors or divisions that you have made in your statement, I hope that it isn't putting priorities in terms of which countries are more important than the other. I think you are just saying, these are some of the issues that are important accordingly. Of course, we are here, in particular, discussing our bilateral trade relations with China as one very critical and important area.

I just wanted to raise a question with you in terms of the trirelationship that we currently have with Korea, Japan, and the United States. Can you comment on how this triumvirate, if you will, relates to the rest of the region and why you consider this as a very critical point, probably in terms of our national strategic and security interests in this region?

Mr. CAMPBELL. Thank you, Congressman. I would be pleased to do so. And I just want to give you all a sense of how we tried to construct this overall testimony.

I think sometimes when American friends think about China, they only focus on China. And I think what we are trying to suggest is that good China policy is embedded in a larger regional context and that, if you want to get China right, that you also have to get your relations with your allies right. You have to work more closely with India. You have to build stronger relations with Southeast Asia. And that the only way to be effective in Asia is to be effective comprehensively across the board, not just militarily, not just strategically, but in our economic and commercial endeavors, as well.

To your particular question, Congressman, it is the case that the linchpin, the foundations of our engagements in the Asia-Pacific region really flow from our alliances. And those alliances in Northeast Asia are very strong. We have two key bilateral relationships, one with Japan and one with South Korea. These are extraordinarily important to us. We have important commitments strategically to both players.

I would think it would be fair to say, Congressman, that over the course of the last several decades, that while we have had excellent relationships with Japan and South Korea, there has been a distance and a gap that has existed between South Korea and Japan. And one of the things that we have been pleased by in recent times is that there is a beginning of a strengthening of ties between Seoul and Tokyo and an attempt by both sides to put aside some of the problems of history, to deal directly as democracies and friends on the joint challenges that we all face.

Last winter, Secretary Clinton hosted the first-ever trilateral engagement between the United States, South Korea, and Japan, in which we talked about our mutual commitments to our values, to try to ensure that North Korea abide by its various commitments, and our collective desire to deal——

Mr. FALEOMAVAEGA. Mr. Secretary, I know—I would love to have a—I am critical; I only have 1 minute and 30 seconds.

Mr. CAMPBELL. Okay. I am answering too long. I will be shorter.

Mr. FALEOMAVAEGA. Yeah, one more quick question. You know, the free-trade agreement with Korea is something that I certainly fully support, as well as, I am sure on a bipartisan basis, my colleagues in the Congress does this.

Now there seems to be a little problem that we have the free-trade agreements with Colombia and Panama, and our friends on the other side of the aisle are saying that, if you don't put all of these three free-trade agreements together, we are not going to approve that South Korean free-trade agreement.

Can you comment on that?

Mr. CAMPBELL. My primary domain is the Asia-Pacific region, as you know, Congressman. And I would defer to my friends on the economic side to comment more directly on Panaman and Colombia.

I would simply say that the Korea free-trade agreement is essential for American leadership. It is not only important economically, it is important strategically. It will give us the appropriate leverage to be able to embark on consequential diplomacy, economic diplomacy associated with the so-called TPP.

And it will send a very clear message that, even through difficult times, the United States is committed to trade, committed to an optimistic, broad, economic engagement strategy in Asia. Ultimately, what matters to Asian friends is not just our strategic engagement or our military commitment, but the fact that we are committed to the economic intercourse in the region as a whole.

The Korea free-trade agreement is extraordinarily important, and I look forward to seeing it passed in the nearest possible time.

Mr. FALEOMAVAEGA. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. MANZULLO. We have a vote. We should be back in about 25 minutes. Is that okay with you? At least we got started and got your statement in.

Mr. CAMPBELL. Nothing more important to me. And, actually, unlike your opening comment, I actually do think democracy is pretty good, so I am happy to wait around.

Mr. MANZULLO. Okay. Thank you.

We stand in recess until, let's say, 2:45.

[Recess.]

Mr. MANZULLO. The hearing will now be called back to order.

We are going to take just a couple of minutes to give the opening statements so we can put the testimony into context. The Secretary has indicated that he is good until 3:30 and he has to leave.

Is that correct, Mr. Secretary?

Mr. CAMPBELL. I am, Congressman. But I have to tell you honestly, if you need to go longer, I am totally prepared. So just, whatever you need to do, I am happy to support.

Mr. MANZULLO. Okay. I appreciate that. Thank you.

The Obama administration's effort to increase American engagement in Asia is welcome. A lot of it has to do with recognizing areas in the world that are especially important, such as New Zealand and Australia, among others. That is one of the reasons why

I led a delegation to New Zealand and Australia. It was the largest delegation to those countries, working on the Trans-Pacific Partnership.

The President's National Export Initiative occupies a central role in his domestic agenda. It takes a look at Asia as a region of tremendous opportunity for American exports. Secretary of State Hillary Clinton's numerous trips to the region and the appointment of Commerce Secretary Locke as the U.S. Ambassador to the People's Republic of China, reinforce this strategic approach to Asia. I support the President's focus on Asia, in particular, his efforts to double American exports by 2014.

While I support the President's efforts, I do have concerns about the ability and tools available that the administration has for protecting American interests in China and Asia. Far too many American businesses are being hurt, as we will see on the second panel. We see this worrying trend increasing rather than decreasing.

Under Secretary Francisco Sanchez wanted to be here. Unfortunately, he is leading—well, fortunately, he is leading a trade delegation to Indonesia. It consists of 55 colleges and universities that he is taking with him for the purpose of enhancing exports by getting kids from foreign countries interested in coming to the United States to study.

We know that trade violations in China remain a persistent problem, and something urgent must be done to address the problem. While large corporations are much better equipped to negotiate the pitfalls of doing business in China, the reality is that there are many more American companies struggling to survive because of grossly unfair trade practices.

American companies doing business in China face many serious threats, including piracy, intellectual property theft, corruption, lack of transparency regulations, and an artificially low currency that allows competitors to market their goods for up to 20 percent cheaper.

The crux of the matter is that the Chinese market is not truly competitive. We are calling upon the administration to do more to protect our economic and commercial interests there.

Mr. James Fellowes, chairman and CEO of Fellowes, Incorporated, is the head of a manufacturing firm in Illinois that makes some of the best office equipment in the world. Mr. Fellowes is here to testify about China's violation of trade laws that I just described.

Fellowes, Inc., is the case of a legitimate joint venture between an American company and a Chinese company being illegally hijacked by the Chinese partner to steal critical intellectual property. In fact, an entire line of machine tools and inventory has been seized in a brazen effort to force a transfer of technology. To make matters worse, his former Chinese joint venture partner is now in the process of trying to market its own line of office shredders and office equipment.

The U.S. Government has failed to do anything to protect the rights of this investor in China, and we are at loggerheads with the Chinese Government to get them to recognize a valid rule of law.

The U.S. Government must do everything in its power to pressure China to uphold its World Trade Organization commitments. Vital American interests are at stake, and if we fail to halt this

theft, how can we ensure the future of American industry? It is very troubling that we are still dealing with so many problems a decade after China's accession to the WTO. Something, clearly, needs to be done.

I will now recognize my ranking member, Mr. Faleomavaega, for his opening statement.

[The prepared statement of Mr. Manzullo follows:]

STATEMENT OF

THE HONORABLE DONALD A. MANZULLO
CHAIRMAN

SUBCOMMITTEE ON ASIA AND THE PACIFIC

"Asia Overview: Protecting American Interests in China and Asia"

March 31, 2011

The Asia-Pacific region is one of the fastest growing and dynamic parts of the world. Home to over 3 billion people, East Asia is moving full steam ahead into the 21st century with purpose and much anticipation. Economic integration in the broader Asia-Pacific region is the clearest example of Asia's growing importance. The Association of Southeast Asian Nations (ASEAN) is now more committed to working together than ever before, and countries throughout Asia have signed numerous free trade agreements with each other to boost their own commercial interests.

For the Untied States, the Asia-Pacific region plays a very important role in our nation's economic wellbeing and national security. America's interests in Asia go beyond the usual diplomatic and political engagement to encompass important economic, commercial, and security goals. The purpose of today's hearing is to examine what the Obama Administration is doing to promote America's broader interests in this part of the world given its importance.

The Obama Administration's effort to increase American engagement in Asia is a welcomed recognition of the region's importance. The President's National Export Initiative (NEI), which occupies a central role in his domestic agenda, looks at Asia as a region of tremendous opportunity for American exports. Secretary of State Hillary Clinton's numerous trips to the region and the appointment of Commerce Secretary Locke as the U.S. Ambassador to the People's Republic of China reinforces this strategic approach to Asia. I support the President's focus on Asia, and in particular, his efforts to double American exports by 2014.

However, while I support the President's efforts I have serious concerns about the Administration's effectiveness at protecting American interests in China and Asia. Far too many American businesses are being hurt, and I see this worrying trend increasing rather than decreasing.

As our distinguished witnesses and the audience may have noticed, the Department of Commerce, which leads America's trade promotion efforts, is noticeably absent from today's hearing. The Department declined to provide a witness at this important hearing citing jurisdictional concerns. It is truly a sad day when the lead agency responsible for carrying out the Administration's efforts to double exports hides from Congress. Therefore, we can only infer that their absence translates into a lack of commitment to helping American companies overseas.

We know that trade violations in China remain a persistent problem and something urgent must be done to address this problem. While large corporations are much better equipped to negotiate the pitfalls of doing business in China, the reality is that there are many more American companies struggling to survive because of grossly unfair trade practices.

American companies doing business in China face many serious threats, including piracy, intellectual property theft, corruption, lack of transparency in regulations, and an artificially low currency that allows competitors to market their goods for up to 20 percent cheaper. The crux of the matter is that the Chinese market is not truly competitive, and it is time the Administration did more to protect our economic and commercial interests there.

Mr. James Fellowes, Chairman and CEO of Fellowes, Incorporated, is the head of a manufacturing firm in Illinois that makes some of the best office equipment in the world. Mr. Fellowes is here to testify about China's violation of trade laws that I just described. In Fellowes, Inc.'s case, a legitimate joint venture between an American company and a Chinese company is being illegally hijacked by the Chinese partner to steal critical intellectual property. In fact, entire lines of machine tools and inventory have been seized in a brazen effort to force a

transfer of technology. To make matters worse, his former Chinese joint venture partner is now marketing its own line of shredders and office equipment.

The U.S. Government must do everything in its power to pressure China to uphold its World Trade Organization commitments. Vital American interests are at stake here, and if we fail to halt this behavior how can we ensure the future of American industry? It is very troubling that we are still dealing with so many problems a decade after China's accession to the WTO. Clearly, something more needs to be done.

Before I recognize the Ranking Member, I want to emphasize the importance of maintaining America's industrial base. The manufacturing sector supports over 51,000 jobs in the northwest Illinois congressional district that I represent. The hardworking men and women of this country want to know what their government is doing to protect America's broader interests overseas. They are tired of the same old partisan politics, and they want their elected representatives to work together to find solutions to these problems.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Let me begin by congratulating you on your new appointment as the chairman of the House Foreign Affairs Subcommittee on Asia and the Pacific. I do consider it an honor to serve with you.

And I want to personally thank you for stopping in my little district of American Samoa during our recent CODEL visit to New Zealand and Australia. The people of American Samoa were deeply touched by your visit. And on their behalf, I want to join with you in extending my condolences and sympathies to our friends in New Zealand, as well as in Japan, who are suffering beyond comprehension.

Two years ago, even my own little district had a little experience dealing with earthquakes and tsunamis. In fact, it was an earthquake that was 8.3 Richter scale, the most powerful earthquake in the world at that time. Only in a matter of 10, 15 minutes, we had tidal waves up to 20 feet high. And my people have a very deep appreciation and understanding when it comes to tragedies, when it comes to earthquakes and then to tsunamis.

In some small way, Mr. Chairman, I hope that the good people of New Zealand and Japan are comforted by knowing that our Nation and the American people are committed to helping them.

I also want to commend you for your leadership in putting America back to work. As the former chairman of the House Committee on Small Business, for some 4 years or 5 years in your tenure, you held more than 60 hearings on the state of manufacturing in America. And, no doubt, during your tenure as chairman of this subcommittee, you will focus, again, your efforts on increasing export opportunities for American business owners everywhere. And I fully support your effort in this regard.

While today's hearing will broadly address U.S. policy in Asia and its implications for U.S. Commercial interests, this hearing is also important to both of us at the district level, because we both represent constituencies that are suffering as a result of trade policies that are not working.

For my little district of American Samoa, which I represent, we are barely hanging on by a thread due to increased competition from low-wage workers in Asia and unfair trade practices that have gone unchecked.

Approximately 80 percent of my own territory's economy depends on the private sector, and a workforce of about 74 percent, on two canneries, tuna processors in StarKist and Chicken of the Sea. Unfortunately, in 2009, Chicken of the Sea, without the courtesy of discussions, closed down its operations and went on to continue its business with the parent company, which is Thai Union, located, obviously, in Thailand, where the fish cleaners there are paid less than 70 cents an hour.

Thailand has since reported an 11 percent increase of tuna exports, while StarKist has been forced to lay off more than 1,000 workers due to increased competition from Thailand, which is now the world's leading producer and exporter of canned tuna in the world. In the third quarter of 2009, Thai Union reported a remarkable 12 percent profit. The growth in its private-label canned tuna currently accounts for about 30 percent of the tuna sold here in the United States.

Thai Union has previously been found to be dumping shrimp, and I believe there is strong evidence that it is also dumping canned tuna to the United States. And I certainly would like to join with you in calling upon the administration to take a hard look at where we go from here when it comes to fair trade.

But whether we are talking about Thailand or China, Mr. Chairman, I have to say I don't place all the blame on Asia for our trade deficits and imbalances. I also blame U.S. Corporations who outsource American jobs to low-wage countries that do not pay workers decent wages, all for the sake of maximizing profits for their shareholders. This happens in the tuna industry with companies like Chicken of the Sea, and it also happens in one industry after another all across America.

Of course, Mr. Chairman, over the years, our country has always been challenged by finding where do we strike the proper balance between corporate America and our country's workers, corporate profits versus the cost of living that always should be taken into account when we talk about the rights and the privileges of the American workers trying to make ends meet and to provide for their families, church, and taxes, as well, that they pay.

Interestingly enough, too, Mr. Chairman, how is it that 2 percent of the population of our country owns 50 percent of the wealth, which leaves the other 90 percent of the population with only 50 percent? I would love to make a dialogue and try to see if we can understand that maybe there is a disparity of the distribution of wealth in our own country and to see where do we need to go, what is happening to the middle class, and maybe we can find out a sense of balance, how we can do this.

And in fairness to our Asia counterparts, Mr. Chairman, America must assume some responsibility for our record trade deficits. As CRS, the Congressional Research Service, reports, and I quote, "The fundamental cause of the U.S. Trade deficit is excess spending by the U.S. consumers, the businesses, and the government." Put another way, we don't save. We buy on credit. We rob Peter to pay Paul. And to subsidize our lack of savings, the U.S. Borrows money from foreign governments, which spells debt and deficit. We also consume more than we produce, and, consequently, this allows countries to sell more to the U.S. than they buy from us.

In my humble opinion, Mr. Chairman, something has to give, given that there are serious issues on both sides of the water that must be addressed. As we continue the dialogue, Mr. Chairman, I think it is extremely important that we do not politicize the challenge before us——

Mr. MANZULLO. I need to politicize the time.

Mr. FALEOMAVAEGA. Okay. I have about 10 more pages of my statement, Mr. Chairman. Well, let me just give you—I would like to ask unanimous consent that the rest of my statement be made part of the record.

Mr. MANZULLO. The entire statement will be put into the record, along with the entire statements of the other members.

[The prepared statement of Mr. Faleomavaega follows:]

STATEMENT OF
THE HONORABLE ENI F.H. FALEOMAVAEGA
RANKING MEMBER

before the
SUBCOMMITTEE ON ASIA AND THE PACIFIC

"Asia Overview: Protecting American Interests in China and Asia"

March 31, 2011

Mr. Chairman:

Let me begin by congratulating you on your new appointment as the Chairman of the House Foreign Affairs Subcommittee on Asia and the Pacific. I consider it an honor to serve with you, and I want to personally thank you for stopping in American Samoa during the recent CODEL you led to Australia and New Zealand.

The people of American Samoa were deeply touched by your visit and, on behalf of them, I want to join with you in extending my condolences to our friends in New Zealand and Japan who are suffering beyond comprehension. In some small way, I hope they are comforted by knowing we are committed to helping them.

I also want to commend you for your leadership in putting Americans back to work. As Chairman of the House Committee on Small Business from 2001 to 2006, you held more than 60 hearings on the state of manufacturing in America and, no doubt, during your tenure as Chairman of this subcommittee, you will focus your efforts on increasing export opportunities for American business owners.

While today's hearing will broadly address U.S. policy in Asia and its implications for U.S. commercial interests, this hearing is also important to both of us, at the district level, because we both represent constituencies that are suffering as a result of trade policies that are not working.

For the U.S. territory of American Samoa, which I represent, we are barely hanging on by a thread due to increased competition from low-wage workers in Asia, and unfair trade practices that have gone unchecked. As you may know, more than 80% of American Samoa's private sector economy and 74% of our workforce has hinged on two canneries, StarKist and Chicken of the Sea. But, in 2009, Chicken of the Sea, without the courtesy of discussion, closed down its operations in American Samoa after doing business in the Territory for some 50 years and

moved the bulk of its business to Thai Union, its parent company in Thailand, where fish cleaners are paid less than $0.70 cents per hour. Thailand has since reported an 11% increase of tuna exports while StarKist Samoa has been forced to lay off more than 800 workers due to increased competition from Thai Union, which is now the world's leading producer and exporter of canned tuna in the world.

In the 3rd quarter of 2009, Thai Union reported a remarkable 12% profit growth and its private label canned tuna currently accounts for about 30% of the U.S. market share. Thai Union has previously been found of dumping shrimp, and I believe there is strong evidence that it is also dumping canned tuna in the U.S., and I would like to join with you in calling upon the Administration to take a hard look where we go from here when it comes to fair trade.

But whether we are talking about Thailand or China, I have to say, I don't place all the blame on Asia for our trade deficits and imbalances. I also blame U.S. corporations who outsource American jobs to low-wage countries that do not pay workers decent wages, all for the sake of maximizing profits for their shareholders. This happens in the tuna industry with companies like Chicken of the Sea and it also happens in one industry after another all across America.

Also, in fairness to our Asian counterparts, America must assume some responsibility for our record trade deficits. As CRS reports, "the fundamental cause of the U.S. trade deficit is excess spending by U.S. consumers, business, and government." Put another way, we don't save. We buy on credit. We rob Peter to pay Paul. And, to subsidize our lack of savings, the U.S. borrows money from foreign governments which spells debt and deficit. We also consume more than we produce and, consequently, this allows countries to sell more to the U.S. than they buy from us. In my opinion, something's got to give, given that there are serious issues on both sides of the water that must be addressed.

As we continue the dialogue, I think it is extremely important that we do not politicize the challenges before us, especially given that every Administration, whether Republican or Democrat, has grappled for answers and solutions and, to date, our relations with Asia are still a work in progress.

Considering that China, with a population of 1.3 billion people, is the fastest-growing market for U.S. exports and our second-largest trading partner with trade between our countries estimated to be at $459 billion in 2010, we must find new ways to move forward in a way that balances our desire to cooperate with our need to compete.

In so doing, we must not get lost in the overarching U.S.-China relationship but must engage more fully with the Association of Southeast Asian Nations (ASEAN) as well as our Trans-Pacific partners. I believe these relationships are crucial to protecting American interests in the Asia-Pacific region.

From first-hand experience, I know that our partners in Asia are very appreciative of the unprecedented steps Secretary Clinton and Assistant Secretary of State Kurt Campbell have

taken on behalf of the Obama Administration in bringing renewed attention to the Asia-Pacific region, and I thank them for their work which is critical to our security and economic well-being.

I also welcome our witnesses and look forward to hearing their perspectives about the challenges which confront us including intellectual property right protection, currency manipulation, pending FTAs, market-distorting subsidies, etc.

Once more, I thank Chairman Manzullo for holding this hearing.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Again, I want to hear from Secretary Campbell on this. I can go on, but I understand.

Mr. MANZULLO. Okay. I won't let you go on.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. That is all right.

Mr. MANZULLO. Thank you.

We have opening statements from Congressman Johnson and then Congressman Sherman.

Can you guys keep it kind of short, unlike his? Okay?

Mr. JOHNSON. I will certainly be mindful of the time. Thank you, Mr. Chairman.

And thank you, Secretary Campbell, for being with us today.

Like you and my colleagues here, our hearts and prayers go out to the people of New Zealand and Japan for the disasters that have occurred in those nations to those people.

I want to shift gears just a little bit, though. In his State of the Union Address last month, the President reaffirmed the pivotal role of exports with regard to job creation here in America. The administration's stated goal of doubling U.S. exports to $3.14 trillion by 2015 will support 2 million new jobs here in the United States. Our commercial and economic success in reaching this goal relies heavily on American relations in Asia. Plain and simple, U.S. exports create U.S. jobs.

Although our Nation's economy is showing positive signs of recovery, we are still experiencing high levels of unemployment, and many small- and medium-sized businesses are still struggling just to stay afloat. In most of my district in southern and eastern Ohio, unemployment rates linger, on the average, at 11 percent or above, well above Ohio's overall 9.8 percent rate.

Trade agreements are important to expanding trade opportunities and opening up emerging markets for U.S. Exports. Unfortunately, we do not enjoy the trade protection offered by trade agreements with every nation with which we trade.

One of my biggest concerns is the growing role that China is playing in our trade relations, accompanied by growing sources of economic conflict. China is the third-largest and fastest-growing market for U.S. exports, totaling $92 billion in 2010. However, these trade ties are weighed down with deep mistrust for China. Whether it is through currency manipulation, massive government subsidies to Chinese industry, or concerns surrounding indigenous innovation efforts, China's trade policies pose a significant threat to American exports, businesses, and, therefore, jobs.

In southern and eastern Ohio, these unfair trade practices have halted the growth of small businesses, led to significant job loss, and caused many factories to close their doors.

I have a specific example. I came to Congress from a company where I was a senior executive. We have an operation, manufacturing operation, in China. I was surprised, when I joined that company, to learn that, at least from my understanding, if you are going to do business in China, you have to use an information technology system that is mandated by the Chinese Government. You can't just use your own system. Everything has to go through the government. So they basically see everything that you are doing. Your financial data goes across that network, your manufacturing

data goes across that network, your operational and HR data goes across that network. I am not sure I understand how anyone could consider that fair and balanced trade practices.

I would like to touch on a few of these. In fact, in 2010, our trade deficit with China was $273 billion. And while this massive dollar amount may not be the direct result of any one policy, the fact that China manipulates its currency is a strong contributing factor.

China's deliberate efforts to keep its currency from appreciating against the U.S. dollar promotes Chinese job and export growth, leaving U.S. companies at a severe competitive disadvantage. As America tries to compete with the cheap imports from China, business owners face tough choices, particularly job layoffs.

Earlier this month, I made remarks at a hearing on China's indigenous innovation policy and its potential to severely damage the strides that American businesses have made to compete globally. Many American companies have taken great risk to develop new technology, and I cannot stress enough the importance of protecting that intellectual capital from our biggest trade rivals.

China has announced its intent to transition its economy to a worldwide source of innovation within 15 years. It has subsidized high-tech industries such as aerospace, renewable energy, computer science, and life sciences. Simultaneously, China has placed limits on competition from foreign firms and denied access to China's markets unless foreign firms operate in China and share their technology with Chinese firms.

These practices are cause for strong concern. We must have safeguards in place to ensure our continued position as a global leader in the world economy. And I am concerned that one of our largest export markets is heavily involved in these unfair trade practices, some of which also have significant national-security implications.

I look forward to the testimonies today and your comments and the chance to discuss these issues with our panelists. Thank you so much, again, for being here.

I yield back.

Mr. MANZULLO. Thank you.

Mr. Sherman?

Mr. SHERMAN. Thank you.

There are some who say that our trade deficit is because of the American people—something the matter with them. They don't save, run Federal deficits. We were in a Federal surplus under Clinton; we still had a tremendous trade deficit. There are even more people who are out there saying that our trade deficit is because our workers are lazy or overpaid.

But the real answer is, we are running a trade deficit because the middle class has been betrayed by Washington and Wall Street. And if we had a government as good as our people, we would be running a trade surplus.

Now, we can wax eloquently about how wonderful trade agreements are, but it is important to actually read the agreement, particularly Annex 22–C of the Korea free-trade agreement and the sourcing rules in that agreement. And when we look at that, we see that this agreement is not what it is made out to be.

It is made out to be: Goods produced by Americans get entry into the South Korean market; goods produced by South Korea get into

the U.S. market. Now, we could argue maybe that would be a good deal, maybe not. But the Korea free-trade agreement allows goods made in China and North Korea free access to the American market.

Let's first talk about China. I am going to use the figure 65 percent because that is the percentage that applies to autos, auto parts, steel, and electronics. Different percentages apply to different products. If the goods are made 65 percent in China, then brought to South Korea, where the other 35 percent of the work is done, they get free access to our markets. So China, without allowing a single additional American good into their country, gets access to our market.

But it is not that the 35 percent of the work done in South Korea has to be done by South Koreans, because they have, in South Korea, barracks filled with Chinese workers. So the other 35 percent of the work can be done by Chinese workers living in barracks in South Korea.

Now, I am told, well, don't worry about that because at least those Chinese workers are being paid almost $4 an hour. But wait a minute. Those Chinese workers don't see the $4 an hour, because the money is taken from them to pay for all that wonderful barracks living. So they get as much money net as the employer wants to give them.

So we have goods 65 percent made in China, 35 percent made by Chinese workers in barracks coming into our country duty-free, and China doesn't open their market to us at all.

You have to read the agreement and see its implications.

Even worse, North Korea: The goods are partially made in North Korea, partially made in South Korea; they will come to an U.S. port. At that point, under the agreement, they have a right to come into our country. But under American law, we bar them at the port, because we don't accept North Korean goods.

What is the effect? Well, our law will apply; we will bar the goods. And then North Korea can find us not in compliance with the agreement, which would have the additional disadvantage of being true. And then South Korea can do to us exactly what Mexico did: Find us in violation of a trade agreement and take away from us the advantages that we originally were promised when we signed the agreement.

Once those goods are barred, then South Korea can raise tariffs by billions of dollars, just as Mexico has when we didn't, in their view, adhere to NAFTA, and bar U.S. exports to North Korea.

And then, finally, we have the Kaesong and similar special manufacturing zones, places where workers are paid perhaps $7 or $8 a month, if they see that. They are not actually paid anything by the employer; the money goes to the North Korean Government. And under Annex 22–C, a future administration could just enter an executive agreement and let those goods, 100 percent made in slave conditions in North Korea, into the United States duty-free. An executive decision is that they would have to waive our ban on North Korean goods, which the executive department of this government can do, and they would have to reach an executive agreement with the South Korean Government viewing Kaesong as under the jurisdiction of the South Korean Government.

So it is one thing to tell American workers that they are going to get access to the South Korean market and that South Koreans will have access to our market. But when you allow goods 65 percent made in China, 35 made by Chinese workers in barracks in South Korea, when you allow goods made in North Korea or goods made in the Kaesong industrial zone into our country, the only way to pass this agreement is to hide its real implications from the American people.

Mr. MANZULLO. Well, these guys have opinions.

I am glad you showed up anyway, Mr. Secretary. I appreciate it.

I do have a couple of questions. I am going to talk about trade promotion, because I know that you are heavily involved in that. You talked about a five-part framework, at least in your written testimony, regarding the President's approach to engaging the Asia-Pacific region. Obviously, that is one of the reasons why we were down in New Zealand and Australia, and that is why you were also there.

I noted that "pursuing a confident, aggressive trade and economic strategy" is the last of the five priorities, even after "promoting multilateral organizations." Why does the State Department place economic and commercial interests last? Or was that simply an issue of how it was listed in your testimony?

Mr. CAMPBELL. First of all, thank you very much for each of your questions and, again, for the honor to be with you.

What I tried to suggest, Mr. Chairman, is that, in our Government, agencies have certain specific responsibilities. I actually thought there would be someone from USTR or Commerce here. The primary responsibility of the U.S. Trade Representative's Office and the Commerce Department are these particular issues.

Our primary responsibility are some of the issues at the top. But, at the same time, we also recognize that, particularly in the current environment, it is essential for American diplomats to promote American businesses, to protect American jobs, and to secure a strong American economic and commercial presence in the Asia-Pacific region.

So I would not want to suggest simply by the fact that it is listed at number five that it has lesser significance. In fact, I would say that a very large part of my time, of Secretary Clinton's time, of all of my colleagues at the State Department, is to ensure that agreements, that arrangements, that American foreign policy supports and extends the operations and the input of critical economic agencies: The National Economic Council at the White House, U.S. Trade Representative's Office, and the Commerce Department.

So I just want to say that, before I knew I would be coming up here today, I have had extensive discussions with the U.S. Trade Representative's Office. They have asked me to convey a few things. They have asked me to take back a few concerns that you and others might have to make sure, as we go forward, that some of those concerns can be reflected in ongoing negotiations.

Mr. MANZULLO. Congressman Faleomavaega?

Mr. FALEOMAVAEGA. Yes, can I finish my opening statement with my 5 minutes? No, I am just kidding.

Mr. MANZULLO. Wait a second. It would be Congressman Sherman because you questioned him before.

Mr. FALEOMAVAEGA. I did. I did have my 5 minutes.

Mr. MANZULLO. Okay.

Mr. FALEOMAVAEGA. We will just make the first round completed.

Mr. MANZULLO. All right.

Congressman Sherman?

Mr. SHERMAN. Thank you.

Sir, one of your predecessors was one of the most storied diplomats that we have had in the last 20 years. And yet, I think his testimony before, I believe it was, this subcommittee about 5 years ago illustrates what I fear is a feeling of benign neglect toward U.S. jobs. Because this was a man who we trusted very much and who wouldn't make an obvious mistake in anything he really cared about, and he testified as to how, as our Ambassador to South Korea, was promoting Americans jobs because he put Chrysler cars on the lawn of the Embassy and invited South Koreans to see how great they were. And one of the cars was the Crossfire, a DaimlerChrysler product made entirely in Germany. I have checked; the German Embassy to South Korea did nothing to promote American-made automobiles to the South Korean market.

I wonder whether you, sir, would come before this subcommittee and advocate we open our markets, duty-free, to goods that are 65 percent made in China, 35 percent made by Chinese workers in barracks in South Korea? Is that something fair for American workers to have to compete against?

And does it make any sense to give Chinese products access to our markets, when we only get access to the South Korean market and not to the Chinese market?

Mr. CAMPBELL. Let me first say that I very much appreciate the compliments to my predecessor, who, in fact, was deeply committed to promoting U.S. economic interests in South Korea. And I humbly submit that I worked with him often in that endeavor and previously. And he was a very strong supporter for American jobs and American engagement in the Asia-Pacific region.

I would like, if you will allow me, Congressman, I think there were a couple of things that were said that would, at least in my view, I would like to——

Mr. SHERMAN. Sir, I have very limited time. I would like you to address the question. Does it make any sense for us, in a deal that does not get us any access to the Chinese market, to open our markets, duty-free, to goods that are 65 percent Chinese-made?

Mr. CAMPBELL. I would simply say, I believe the Korea free-trade agreement, as currently negotiated, is in the best strategic interest of the United States. And I believe that it will go a long way——

Mr. SHERMAN. Did you understand before my opening statement that goods 65 percent made in China were going to have free access to the United States market?

Mr. CAMPBELL. I think perhaps in another setting we could probably go and explore whether we have differences of view on this particular matter. I——

Mr. SHERMAN. This is a wonderful setting, if you would just answer my question.

Mr. CAMPBELL. Well, I would simply say that I think there were two statements you made—I think the issue of Chinese component

in manufacturing in South Korea is something that we could debate and discuss.

The other matter that you have discussed, about whether this will somehow apply to North Korea, I think is clearly incorrect.

Mr. SHERMAN. Can you get a statement from the South Korean Government that they will never hold America to be in violation of this agreement if goods that are 1 percent North Korean-made are barred at our ports?

Mr. CAMPBELL. It is longstanding U.S. policy that——

Mr. SHERMAN. No, I know the goods won't come in. The question is whether the South Koreans are going to then find us in violation of this agreement. They are waiting for the opportunity to take away every concession they have made. And you can't get them to make a statement like this because that takes away the advantage that they expect.

Mr. CAMPBELL. I believe that—first of all, some of the details of this are better discussed by our representatives at the U.S. Trade Representative. But I happen to know that, on these particular issues, there was a lot of discussion back and forth between the United States and South Korea. And I believe there is a clear understanding on the part of our South——

Mr. SHERMAN. There could be a new administration in South Korea. There will be a time where there will be a pharaoh that knew not Joseph——

Mr. CAMPBELL. Yeah.

Mr. SHERMAN [continuing]. And the text of the agreement is the text of the agreement. And you have nothing in writing from the South Koreans that they will not point to the text of that agreement and raise tariffs on American chickens or whatever else they want to raise tariffs on when we bar those North Korean goods from our ports.

Mr. CAMPBELL. Let me just say, it is a very longstanding American policy of which the Obama administration has no intention of changing that we will prohibit North Korean imports into the United States. The South Koreans have been made—this point has been made very clear to them. I believe they understand this very clearly——

Mr. SHERMAN. And they then understand that the moment that we enforce our law, they are free, under this agreement, to impose countervailing tariffs on American goods. And they are looking forward to that opportunity, which they will not deprive themselves of by sending a letter claiming that they—announcing that they will not use that tactic.

Mr. CAMPBELL. With respect, Congressman, I believe that there is a very different understanding between the United States and South Korea. Now, you may say, well, look, there could——

Mr. SHERMAN. In 2 years, there will be a new South Korean Government.

Mr. CAMPBELL. It is the case that with all agreements that are negotiated between two countries that you have to always be vigilant going forward. But I will tell you——

Mr. SHERMAN. If you sign an agreement that is faulty and then you say you are going to be vigilant——

Mr. CAMPBELL. Look, I don't——

Mr. SHERMAN. My time has expired. I thank you.

Mr. CAMPBELL. We have very clear protections, very clear protections, and we have made very clear to the South Koreans that we will not import goods produced in North Korea.

Mr. SHERMAN. You have nothing signed by them.

I yield back.

Mr. MANZULLO. Congresswoman Wilson, do you have a question? I like your hat, but they won't let you wear that on the floor, will they?

Ms. WILSON. No.

Mr. MANZULLO. So you are welcome to wear it here.

Ms. WILSON. Thank you, Mr. Chairman.

I came in late, and I am not sure where we are, at this point. But the reason I wanted to serve on this particular subcommittee was I was interested in job creation in my district and in a part of the world that I am interested in, which is Haiti, but especially in my 17th Congressional District.

And I wanted to see how the Obama administration's Asia policy translates into any commercial benefits to U.S. companies or workers and consumers.

Mr. CAMPBELL. Thank you very much, Congresswoman.

We have had a good discussion so far about American economic performance in Asia. And I think you will see, if you look over the course of the last couple of years, the area in which American exports have had the greatest success, by an order of magnitude, has been in the Asia-Pacific marketplace.

I think you are going to hear from a lot of companies—and I have been grateful to have the opportunity to work on some of the specific issues that Fellowes, a very able company from Illinois, will present in a little bit. And it is a very tough environment in many places in Asia. But I think what we have seen is American businesses that are committed and recognizing that the commerce of the 21st century is going to be anchored in the Asia-Pacific region and we have to be successful there.

So I think you see a multifaceted approach on the part of the Obama administration. One is to promote exports. Two is to make sure that any kind of trade agreements protects the interests of American workers and American companies.

Three, there is, I think, a deep recognition that there has to be a form of rebalancing. And you heard this a little bit from Congressman Johnson and also from Chairman Manzullo. We are going to have to save a bit more. But, as importantly, big countries in Asia are going to have to spend more on American products, products that will assist in all aspects of their economic development.

I think that the United States is sending a message that we are prepared to compete in the Asia-Pacific region and that, through exports, we can create good jobs. And so I think that you are seeing the initial fruits of that strategy playing out before you.

This is a very difficult time. Manufacturing is struggling in almost every State if the Union. We recognize that we are facing very stiff competition from many countries in the Asia-Pacific region. But we believe, through a very principled application of American laws, clear advocacy of American firms, that the United

States can be successful, that American jobs can be created, and American exports can penetrate some of the most challenging markets in the Asia-Pacific region.

Ms. WILSON. Can you give me an example of the jobs that you have in mind? When you say that they will translate into jobs, what kind of jobs?

Mr. CAMPBELL. I mean, there are a lot of examples, and I would hate to just choose one industry, but let me choose one, if I might, Congresswoman.

When President Hu came to Washington not long ago for a meeting with President Obama, there were very detailed and intense discussions in advance of that trip. And when he was there, he and the Chinese Government agreed to purchases of American products somewhere between $40 billion and $50 billion over a period of time.

One of the key components of that are in the realm of aerospace. Aerospace jobs affect many States in the Union. They are well-paying. They are unionized. They allow for the United States to maintain a technological edge. And they, in fact, allow for American brands to penetrate markets.

That is just one example. But you see in a variety of areas—agricultural products, ranching products, high-tech carbon fibers, a variety of manufacturing—the United States has some unique advantages.

Now, it is our job, once the United States is able to make these sales, to protect the IPR, to ensure a level playing field, and to give the United States the opportunity to compete fairly with Asian competitors. I believe that we have taken some initial steps, and, frankly, previous administrations have done, as well, but I am pleased at some of the progress we have seen of late.

Mr. MANZULLO. Congressman Royce?

Mr. ROYCE. Just a couple of questions, Mr. Chairman. One has to do with the Philippines. I wanted to ask Mr. Campbell about the state of affairs there.

Three Filipino workers were put to death in China after being convicted for drug smuggling, and we got engaged in this. I understand the death penalty is largely disapproved of in the Philippines, as you know. So it is having an impact, especially since according to one report I have seen there are 74 more Filipinos sitting on death row in China. And these men and women are awaiting a similar fate.

And one of the arguments is that you have Triads or you have those working this business that are well-established in China taking advantage of workers, who then basically are utilized as pawns and as couriers. And if something goes wrong, they get the death penalty. But the entities actually involved in setting this up and running the operation in which the worker may or may not know about their being used as a courier, there seems to be very little reprisal there.

So with such an exceptionally high number, are these cases justifiable, or, in your view, is there something nefarious taking place here?

And to what extent are poor Philippine workers being taken advantage of in countries like China where you have the death pen-

alty handed out? And now these three individuals, despite the international requests for clemency, for some level of mercy, they have all lost their lives.

Mr. CAMPBELL. First of all, I thank you, Congressman, for bringing up the Philippines. A good country, a solid ally of the United States, wonderful Filipino American citizens here who contribute so much to our livelihood. We all celebrated when President Aquino came to power. We have had a very strong relationship with the Philippines for years.

And you will have noted, in the last couple of months, we have taken a series of steps to step up our own engagement with the Philippines, through enhanced trade interactions, a strategic dialogue to make sure that we are coordinating on issues of mutual concern like the South China Sea. We are also working with the government of President Aquino to try to help him in his effort to reduce corruption and profiteering in the Philippines. And I must say we are very impressed by the early steps that he has taken.

I think the way you stated that, Congressman Royce, is exactly accurate. I would just add one further thing, if I might.

It is fairly unusual in Asia, when a government makes a very, almost personal appeal at the very highest levels—and I won't go into great detail, but I think you know how strongly the Philippines Government and President Aquino's own cabinet felt about this issue—to be turned away in such a manner. And I think it was a little bit of a surprise to Filipino friends. And I will be interacting with our Filipino colleagues in the coming days about this matter.

Mr. ROYCE. Thank you.

Mr. CAMPBELL. I do think that the overarching picture that you paint of, frankly, the lowest member of the totem pole of this crime syndicate paying the highest price is, indeed, accurate. And I believe that this is something that we will want to support our Filipino friends on, going forward.

Mr. ROYCE. Very good.

Mr. CAMPBELL. Not that these people don't deserve punishment. They do. But, clearly, there are procedures here that should be followed.

Mr. ROYCE. The radical disparity of the death penalty here, when the people organizing it get off scot-free is riveting.

But let me ask you another question. We frequently hear the argument that China has used foreign investment—for 30 years now—to spark its economy and now has an abundance of domestic capital. So, being less dependent on foreign direct investment, China is changing course and deciding that "made in China" is going to be "designed in China" but, more importantly, is going to be done by breaking the rules and basically preventing U.S. firms from competing domestically.

The Harvard Business Review had a good piece in December about how this is official state policy, basically, in China. And I wanted to ask you about that, because that portends—I mean, for investors, for hope for reform in China, this has grave consequences.

Am I right to be concerned about this? We just had a hearing on it.

Mr. CAMPBELL. I think it would be fair to say that we are all concerned. And, look, we are committed to having a strong and stable relationship with China, but it is also the case that we expect countries to play by the rules.

Improving the protection and the enforcement of intellectual property rights has to be a top priority for any administration, and it is for the Obama administration. Continuing U.S. trade losses to counterfeiting and to piracy in China, frankly, remain unacceptably high. It is also the case that certain practices, like the so-called indigenous innovation, run contrary to established procedures of how to maintain an open economy.

I will assure you that we have many fora with the Chinese interlocutors. Our Commerce Secretary, the White House, the President himself, Secretary Clinton, everyone underscores how important it will be for the United States and China to make sure that there is this kind of open playing field and that American firms have the opportunity to sell their products in China in an environment where they are unhindered by unfair disadvantages.

Mr. ROYCE. Thank you, Mr. Campbell. But I don't think quiet diplomacy is working. And we are going to have to try another strategy.

Right, Mr. Chairman.

Mr. MANZULLO. He is not very quiet. Talk to him one-on-one and you get some more——

Mr. ROYCE. No, I have worked with Mr. Campbell before. I know his effectiveness, and that is why I am trying to instill a little enthusiasm to help us solve this problem.

Thank you very much, Mr. Chairman.

Mr. MANZULLO. Thank you.

The Secretary is going to be leaving, but Melissa Sweeney from his office will be staying to hear the testimony of the second panel, so we have continuity.

Mr. Secretary, thank you very much for coming. We appreciate you spending almost 2 hours with us because of the vote.

Mr. CAMPBELL. Thank you.

Can I just have one appeal?

Mr. MANZULLO. Absolutely.

Mr. CAMPBELL. This is a rare appeal from the executive branch. We want more hearings on Asia. We want more hearings on American competitiveness in Asia. We want more hearings on American alliances in Asia. We want more hearings on American focus in Asia. And I can promise you willing witnesses and strong support for the legislative branch continuing this effort.

Mr. MANZULLO. We appreciate that. We will do that on a couple of levels: First, hearings at the subcommittee level and then also informal get-togethers, briefings, et cetera, that are open to the public.

Mr. FALEOMAVAEGA. Would the chairman yield?

Mr. MANZULLO. Of course.

Mr. FALEOMAVAEGA. If I could just have 30 seconds before the Secretary leaves.

Mr. MANZULLO. Okay.

Mr. FALEOMAVAEGA. Mr. Secretary, with all due respect—and I appreciate the fact that you have given a sense of importance about

the Pacific region, but, unfortunately, as I read your testimony, you have all of Asia covered, you have New Zealand and Australia covered, but nothing whatsoever in reference to the 16 Pacific Island countries.

And I would note also with interest that India, in my humble opinion, should be treated just like China because of the tremendous population and the priorities that this administration has given to this country.

I just wanted to add that, Mr. Chairman.

Mr. CAMPBELL. Let me respond, if I could, to that.

It is absolutely the case, Congressman, that one of the most important Asia-Pacific countries in the 21st century will be India. We have to do everything possible to support India's "Look East" policy. For any omission, that is my fault. Frankly, you always worry about having too long a testimony. But if that was not covered in great enough detail—I know I had a few sentences—I stand corrected, and I will not make that mistake again.

The truth is, I did testify before your committee on the Pacific. I should have taken sections of that and put it into this testimony. I think you will see, Congressman, over the course of the next couple of months, we have a strategy that we are about to roll out, including businesses, commercial support, a new AID mission, thanks to your strong pushing, that I think you can be proud of in the months and years ahead.

Thank you.

Mr. MANZULLO. Thank you, Mr. Secretary.

If the staff could get the second panel. While they are setting up, I am going to be introducing the panel, so we can maximize our time.

On the second panel, we have James Fellowes. He is the chairman and CEO of Fellowes, Inc. It is one of Chicago's oldest and largest family-owned businesses. This is the firm that started making what we know as the "Bankers Box" and now is one of the premier makers of residential and industrial paper shredders. Recognized throughout the entire business community, Mr. Fellowes received Ernst and Young's Illinois Master Entrepreneur of the Year award in 1997.

Also joining us on the panel is another survivor of the New Zealand earthquake, Cal Cohen. He is president of the Emergency Committee for American Trade. It is an organization whose purpose is to promote economic growth through the expansion of international trade and investment.

Mr. Cohen has worked with Members of Congress and the executive branch on a wide range of investment and trade issues, such as NAFTA, China's World Trade Organization accession, and, more recently, the pending trade agreements with Colombia, Panama, and South Korea. In New Zealand, we discussed the salient issues involved in the Trans-Pacific Partnership.

Dr. Michael Auslin is resident scholar in foreign and defense policy studies and concurrently director of Japanese studies at the American Enterprise Institute for Public Policy Research in Washington. He is also a columnist for the Wall Street Journal, writing on Japanese and Asian topics. Previously, he was an associate professor of history at Yale University and senior research fellow at

Yale's Macmillan Center for International and Area Studies prior to joining AEI.

I also want to note that Dr. Auslin's young son, Ben, is in the audience today to watch his father testify, and who shadowed me when we went to the floor, helped me make some very important votes, and asked some very important questions about the State of Illinois, on which he is writing a paper for his school.

Also joining us is Mr. Kent Millington. He is entrepreneur in residence and director of the Department of Technology Commercialization at Utah Valley University. He has 25 years of experience in the business community, helping build one of the world's largest Internet companies, with extensive international experience in Asia. He has 9 years of experience teaching at the university level and is currently teaching innovative outline MBA courses to students worldwide and serves as adjunct professor of entrepreneurship at the University of Science and Technology of China.

Without objection, the complete statements of all the witnesses will be made part of the record.

I now give Mr. Fellowes the floor.

Mr. Fellowes, we look forward to your testimony.

STATEMENT OF MR. JAMES FELLOWES, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, FELLOWES, INCORPORATED

Mr. FELLOWES. Chairman Manzullo, Ranking Member Faleomavaega, members of the subcommittee, my name is James Fellowes. I am a third-generation chairman and chief executive officer of Fellowes, Inc. Thank you for providing this opportunity for me to testify today.

Fellowes, a family-owned business headquartered in Itasca, Illinois, produces business machines and office products that reach customers in over 100 countries. Until the time of our difficulties last August, we employed approximately 2,700 workers in 16 countries, including 625 workers in the United States. The company is perhaps best known for our market-leading line of paper shredders. Fellowes' engineering expertise and intellectual property is what sets our shredders apart.

Although Fellowes produces many products domestically, we began manufacturing our shredders in China in 1998 to serve the global market. In 2006, Fellowes entered into a joint venture agreement with Jiangsu Shinri Machinery Company in Changzhou, China. Under the terms of the contract, Fellowes retained ownership over the tooling and the IP used to manufacture the Fellowes-brand shredders in the JV facilities. Moreover, the JV contract specifically provided Fellowes the right to manage the day-to-day operations of this business.

For over 3 years, this engagement resulted in a very productive relationship with Shinri to manufacture and ship our goods to Fellowes locations around the world. Shinri enjoyed a 100 percent-plus return on investment for each of the years, and this return on investment was always paid on time.

In 2009, Shinri methodically imposed unreasonable requirements on Fellowes in an effort to extort more profit and ultimately control our global shredder business, in direct violation to our contract. Specifically, unless Fellowes would assign its 100-percent-owned

tools to the JV, and unless Fellowes would assign its 100-percent-owned engineering capability and its 100-percent-owned Chinese sales division to the JV, and unless Fellowes immediately increased its prices by 40 percent, and unless Fellowes agreed to unilaterally contribute over $10 million to the JV, then Shinri would close down our operation as legal representative of the JV.

When Fellowes refused these illegal demands, Shinri proceeded to destroy our business. They illegally obstructed shipments of paper shredders, beginning on August 7, 2010, forcing the JV to stop production. This ultimately led to the bankruptcy of the JV.

They placed security guards and trucks at the gates of the JV to prevent entrance of our personnel, shipment of our goods, and transfer of our wholly owned assets. They expelled Fellowes-appointed management personnel from the facility, and they illegally detained Fellowes' injection molding tools.

Immediately after the closure of our facility, I traveled to Changzhou and met with local Chinese Government officials. They sympathized with our plight but were either unable or unwilling to force our Chinese partner to open our factory and they were unable to facilitate a purchase of the JV by Fellowes.

Fellowes' global sales volume for these blocked products was $168 million. The cumulative impact of these actions is an economic loss to Fellowes totaling over $100 million.

Also, we recently learned that affiliates of Shinri are planning to compete directly with Fellowes in the shredder business, all while using illegal tactics to block Fellowes from recovering its custom molding tools that represent the embodiment of Fellowes' engineering investment and intellectual property.

As a result of Shinri's decision to stop shipments, suppliers filed lawsuits against the JV for its failure to pay its invoices. The Changzhou intermediate court has initiated proceedings to liquidate the JV and to auction the assets to satisfy the debts of the JV.

The sale of Fellowes' tooling and/or finished goods inventory to anyone other than Fellowes would directly violate our intellectual property rights. The immediate release of our tools is a great concern for us today. We have been restricted from these tools for nearly 8 months, and that has greatly hampered our ability to recover.

We also want to close by commenting that we are working around the clock to retool our products and to bring up new factories. One of these factories will be in Itasca, Illinois. We will bring two high-performance shredder models up, with the hope of adding more products in time. This will immediately create about 30 jobs at Fellowes and about twice that amount to the approximately 15 suppliers that will supply parts to us in the Midwest.

We are grateful for your efforts, Mr. Chairman and Ranking Member Faleomavaega, as well as the assistance that we have received from Senators Durbin and Kirk and Congressman Roskam. We hope the U.S. Government will act to protect the rights of American companies like ours.

[The prepared statement of Mr. Fellowes follows:]

Testimony of James Fellowes
Chairman and Chief Executive Officer, Fellowes, Inc.
Before
House Foreign Affairs Committee, Subcommittee on Asia and the Pacific
"Asia Overview: Protecting American Interests in China and Asia"
March 31, 2011

Chairman Manzullo, Ranking Member Faleomavaega, esteemed members of the Subcommittee, my name is James Fellowes and I am Chairman and Chief Executive Officer of Fellowes, Inc. Thank you for providing me the opportunity to testify today on the subject of fair business treatment of U.S. companies doing business in China. Given the recent experience of our company in China, as described below, I hope my testimony will shed light on the risks that U.S. businesses face in doing business there.

About Fellowes, Inc.

Fellowes, Inc. is a family-owned company headquartered in Itasca, Illinois and is the global market-leading manufacturer of paper shredders and other business machines and office products reaching customers in over 100 countries. Until the time of our difficulties last August, we employed approximately 2,700 workers in 16 countries around the world, including approximately 625 workers in the United States in manufacturing, distribution and administrative facilities in Itasca and Hanover Park, Illinois, Las Vegas, Nevada, and East Haven, Connecticut.

I am proud to represent the third generation of my family to lead our business, which was founded in 1917 by my grandfather, Harry Fellowes. Our company came into existence when my grandfather bought a fledgling box business from an acquaintance who was called up for military service during World War I. Purchased for just $50, the company, then identified by the now familiar name of Bankers Box®, manufactured and sold a corrugated filing box designed for bank records. Later, as my uncle, Folger, and my father, John, took over the business from their father, our product lines expanded to meet the demands of office environments and the boxes first produced by the company turned into entire systems of efficient records management. As the Information Age blossomed, our company changed its name to Fellowes, Inc. and created an entire range of products for the office workstation that help people manage increasing loads of information. These products include business machines, solutions for records storage, workspace organization and workspace ergonomics, and computer accessories.

Our company is perhaps best known for our market-leading line of paper shredders, which we first introduced as a Fellowes® brand product in 1982. Fellowes manufactures a wide variety of shredders for personal, professional, commercial, and governmental use. Our shredders are known as the "World's Toughest Shredders" because Fellowes is the global leader in paper shredder design and engineering. Our engineering expertise and intellectual property is what sets our shredders apart.

Fellowes Joint Venture in China

In 1998, a former Fellowes employee created a supplier relationship with the Zhou family in Changzhou, China for the purpose of manufacturing paper shredders exclusively for Fellowes. The company was called Jinsen. As the business with Fellowes grew, a second company, Jinxun, was formed. Initially, the factory manufactured only inexpensive shredders. The

company built shredders to Fellowes' exacting specifications and only provided products to Fellowes.

After a number of years, Fellowes determined that it needed to control its own manufacturing capabilities and to make further investment in research and development. To expand our capacity, Fellowes started manufacturing operations on a limited basis in southern China. Soon after, the Zhou family contacted Fellowes with a proposal for Fellowes to enter into a joint venture. Discussions started with general agreements on how the joint venture would be managed and continued to a detailed joint venture agreement negotiated over several months. In 2006, a subsidiary of Fellowes formally entered into a joint venture contract with Jiangsu Shinri Machinery Co., Ltd. ("Shinri") in Changzhou, Jiangsu Province, China. Shinri is now part of a large holding company owned by the Zhou family called New United Group.

The joint venture agreement gave Fellowes a 50 percent interest in Jinxun and Jinsen, which would continue to produce shredders bearing the Fellowes® brand and incorporating Fellowes technology exclusively for sale to Fellowes and its subsidiaries. Under the terms of the joint venture agreements, Fellowes maintained the right to manage Jinxun and Jinsen by virtue of its exclusive authority to appoint each company's General Manager, Financial Controller, and Operations Director. Although the original joint venture agreement stipulated that the parties would distribute profits according to their respective proportions of equity, Shinri later requested – and Fellowes agreed – that Shinri's profits would come in the form of a dividend constituting an annual fixed percentage of Jinsen's net sales. Written agreements entered into before and after the joint venture agreements provided that Fellowes would retain ownership over the tooling and intellectual property used to manufacture Fellowes® brand shredders in the joint venture facilities. Fellowes invested heavily in research and development efforts in the United States and at a Fellowes-owned facility in China, greatly improving Fellowes' quality, technology, and ultimately, its global market share.

For over three years, this engagement resulted in a productive partnership with Shinri to manufacture and ship goods from the joint venture facility in Changzhou to Fellowes locations around the world. Fellowes issued orders worth tens of millions of dollars each year to Jinsen and allowed Jinsen to utilize new product designs and technologies at no cost to the joint venture. Under the terms of the contract, Shinri was paid a formula-calculated dividend each year. Shinri enjoyed a 100 percent plus return on investment each of the three years and was always paid on time. The two joint venture companies employed over 1,600 employees and approximately 120 parts suppliers benefitted from production of machines by the joint venture.

Mistreatment of Fellowes under Joint Venture

In late 2009, Zhou Licheng took over as chairman of Shinri from his brother, Zhou Liqun. Over the next year, Zhou Licheng and his representatives from the Shinri management gradually attempted to usurp control of Jinsen and Jinxun in direct violation of the joint venture agreement. Shinri repeatedly attempted to impose unreasonable requirements on the joint venture companies in an effort to extort more profit and ultimately control Fellowes' global shredder business. In January, 2009, Shinri illegally took possession of the company seal and business license to gain control over the company's transactions. Then, Shinri attempted to coerce Fellowes to assign to

the JV its 100 percent-owned assets. This included Fellowes' production tools, which carry Fellowes' intellectual property. It also insisted that Fellowes assign to the JV two Fellowes wholly-owned divisions of a separate Chinese corporation. Shinri also attempted to coerce Fellowes to change its pricing practices by demanding an immediate 40 percent increase. These pricing practices were totally within Fellowes' control under the contract. Shinri insisted that Fellowes unilaterally add over $10 million of capital to the business. Further, Shinri also restricted payment of Fellowes' dividend. These actions resulted in a deadlock between the parties on issues of key concern to the joint venture.

When Fellowes refused these illegal demands, Shinri brought increased pressure to bear:

- Illegal obstruction of shipments of paper shredders beginning August 7, 2010, forcing the joint venture to stop production.
- Placement of security guards and trucks at the gates of the joint venture facility to prevent entrance of personnel and outbound shipment of goods or Fellowes-owned assets.
- Illegal detention of Fellowes' injection molding tools.
- Expulsion and confinement of Fellowes-appointed management personnel and illegal transfer of joint venture funds to a Shinri-controlled bank account.
- Expulsion of 1600 joint venture employees.
- Expulsion of Fellowes-appointed joint venture employees from the joint venture facility.
- Under cover of night, a Shinri truck entered the joint venture facility and stole several Fellowes owned tools, even though the tools were subject to a court order preventing their removal.
- Shinri refused to approve the dividend to the Fellowes subsidiary of approximately $3 million.

Fellowes' sales volume for these blocked products is $168 million. These shredders are the feature-rich, IP-protected shredders of our range. The cumulative impact of these actions is an economic loss totaling over a hundred million dollars for Fellowes. Fellowes has not shipped any of these products from the factory since the shutdown in August. These actions have also deprived businesses and individuals in the United States and around the world of the opportunity to purchase paper shredders that they rely upon and trust.

Shinri continues to block Fellowes from recovering nearly 1,000 custom molding tools that represent a $10 million investment by Fellowes as well as the embodiment of Fellowes' engineering investment and intellectual property rights. These tools are mostly owned 100 percent by Fellowes or, with a small number of tools, Fellowes retains the right to purchase the other 50 percent ownership from the JV. They are essential to our ability to manufacture products for sale to consumers in the United States and around the world. In addition, Shinri

blocked the shipment of nearly 70,000 finished paper shredders, originally valued at over $3.5 million. Shinri, or someone acting on its behalf, has even promoted these products to potential buyers in Europe.

Fellowes must stop these products from reaching the world market until it has the opportunity to inspect them. Sales of these shredders by Shinri not only represent a direct infringement of Fellowes' intellectual property rights; such sales also may represent a safety risk. Sampling has shown that metal parts are rusted, but the effect on the electronic components has not been determined. At minimum, Fellowes would be subject to warranty returns and damage to its brand while Shinri would be the sole beneficiary of the sales.

Judicial Proceedings

The joint venture agreement with Shinri provides Fellowes with the right to manage the day-to-day operations of the joint venture. Additional agreements provide that the injection molding tools and all intellectual property belong exclusively to Fellowes. If such conduct were to have taken place in the United States, we are confident that a court would have immediately entered a temporary restraining order against Shinri to prevent it from its continued illegal activities.

As a direct result of Shinri's decision to stop shipments, up to 80 suppliers have filed suit against the joint venture in Changzhou Intermediate Court for its failure to pay its invoices. If Shinri had not stopped shipments from the facility, these invoices would have been paid and no lawsuit would have been necessary. These suppliers have also entered a preservation order against all of the joint venture's property.

Although the timing remains uncertain, the Changzhou Intermediate Court has initiated proceedings to liquidate the joint venture and auction all of its assets, including equipment, real estate, the molding tools, and the nearly 70,000 unshipped paper shredders. These paper shredders, which bear the Fellowes® brand and include Fellowes patented features, would be sold to satisfy the debts of the joint venture. This sale of IP-protected products to anyone other than Fellowes directly violates Fellowes' intellectual property rights under Chinese law and international treaties.

To protect our interests, Fellowes has instituted a lawsuit against the joint venture requesting that the court validate our ownership of our tools and return them immediately to us. We have applied for this order because we believe that injection molding tools owned by Fellowes or for which Fellowes has a contractual right to purchase from the joint venture are at risk of being sold and/or stolen by Shinri. In a late-night raid on November 22, 2010, Shinri removed and retained several Fellowes-owned injection molding tools in direct violation of Fellowes' contractual rights, the court-imposed preservation order, and Fellowes' intellectual property rights. Fellowes today has been given no assurances that these tools have been returned and can only conclude that Shinri may be using Fellowes' property to manufacture paper shredders in an effort to directly damage Fellowes' business interests.

Our understanding of the exact nature of ties between Shinri management and public officials remains incomplete; however concerns have been raised by our Chinese employees and counsel

that local political and legal authorities have refused to intervene as Shinri has violated Fellowes' intellectual and physical property rights.

Federal Government Attention to Dispute

In response to our dispute with Shinri, our company team has consulted with leaders in Congress and in the Executive Branch on a proper course of action against Shinri. We have also requested that the federal government intervene, where appropriate, to ensure that our American, family-owned business is protected under Chinese and international law. We are grateful for the advice and assistance of our Congressman, Peter Roskam, as well as that from Chairman Manzullo, Ranking Member Faleomavaega, and our U.S. senators from Illinois, Dick Durbin and Mark Kirk. We are confident that the actions by our elected officials is having a significant impact on our case.

As our matter progresses, we look forward to further contact with officials in the U.S. Departments of Commerce and State, as well as those in the office of the U.S. Trade Representative. We are hopeful that, working together, the U.S. government will be able to help us achieve a diplomatic solution to a dispute that, by all accounts, may not be resolved fairly in the Chinese legal system.

The Larger Problem of Commerce in China

As we have worked to find a way to resolve our dispute in China, we have learned that other major American companies have fallen prey to practices by disreputable businesses in China. While we are confident that the vast majority of business dealings between U.S. and Chinese companies are fair and transparent, Fellowes shares your concern that our dispute is emblematic of a larger problem that could have an impact on bilateral commerce. U.S. companies should have confidence that, when they decide to do business in China, they will receive fair treatment under the law, free from political interference and acts of corruption. We know that these issues are of great concern to the Subcommittee and we stand ready to provide assistance, as requested, to shed light on them and to be part of a solution.

Until these larger policy issues are resolved, we hope that U.S. government agencies will act under appropriate circumstances to protect the rights of American companies like ours when such businesses are abused by actors in China. We are heartened to hear that Secretary of Commerce Locke – who we congratulate for his nomination as U.S. Ambassador to China – recently declared to the U.S.-China Economic Cooperation Forum in Chicago that the U.S. government, the Chinese government, and business leaders must act with "constant vigilance" against efforts by some in China to violate intellectual property rights and to discriminate against foreign companies operating there. This comment complemented Secretary Locke's previous testimony before the Senate Finance Committee on June 23, 2010, in which he observed that "U.S. companies operating in China are not granted the same degree of openness and fair treatment that foreign companies, including private Chinese companies, receive in the U.S. market." We hope our federal government will exercise this vigilance in protecting the interests of our longstanding Illinois company, as well as others facing similar, daunting circumstances.

Conclusion

Mr. Chairman and distinguished Members of the Subcommittee, we are respectfully requesting your assistance. Our inability to ship finished paper shredders to our customers, combined with the absence of having the injection-molding tools necessary to produce our industry-leading products, is crippling our attempts to rebuild our paper shredder business.

We remain hopeful and, indeed, confident that our paper-shredder business will survive and prosper. In fact, even as we continue to attempt to resolve our dispute in China, we are retooling existing manufacturing facilities in the United States to produce high-performance paper shredders domestically. When operating, these facilities will immediately create at least 30 new American jobs, as well as man other jobs for part suppliers in several states. With further assistance from our elected representatives and honorable public servants, we also look forward to resolving our dispute in China.

Once again, thank you for the opportunity to share our story at today's hearing. I look forward to answering any questions you may have and remain eager to work with the Subcommittee to protect U.S. companies doing business in China.

Mr. MANZULLO. Thank you very much.

The next witness will be Cal Cohen.

STATEMENT OF MR. CALMAN COHEN, PRESIDENT, EMERGENCY COMMITTEE ON AMERICAN TRADE

Mr. COHEN. Thank you, Mr. Chairman, Ranking Member Faleomavaega, members of the committee, for this opportunity to testify.

ECAT, which I represent, is an association of the chief executives of leading U.S. business enterprises with global operations that was founded more than four decades ago to promote expansionary trade and investment. ECAT and ECAT companies have played an active role in policies, negotiations, and legislation related to U.S. commercial and economic policy in the Asia Pacific.

U.S. trade and investment with Asia and the Asia Pacific have expanded significantly over the last decade. Nevertheless, U.S. exports represent a declining portion of Asia's imports, as other countries have pursued a much more aggressive policy of entering into new arrangements with our Asian and Asia-Pacific trading partners.

In March 2010, eight countries formally began the TPP negotiations, including the United States. Malaysia became the last member to join these negotiations in October 2010. From ECAT's perspective, the TPP, the Trans-Pacific Partnership, should be viewed as a building block that could eventually bring other major trading countries, including Canada, Mexico, Japan, and Korea, into a common set of rules and market openings that will provide even greater benefits for the United States.

I have appended to my written testimony a summary of the key negotiating objectives that ECAT and ECAT business members would like to see from these negotiations. Let me just focus on five of these objectives.

First, we believe the negotiations should create new market openings among the negotiating partners. The agreement should be comprehensive, covering all sectors and subsectors, goods and services, and digital and traditional trade.

Second, the agreement should simplify trade throughout the Asia Pacific. Negotiators indicate that they are seeking a 21st-century agreement. For many of us, that includes addressing day-to-day costs and delays that companies with global supply chains and global operations face every day. The TPP needs, too, to create a regulatory environment among the TPP countries that builds effective, mutually coherent regulatory systems.

Third, we believe the TPP should achieve high standards on all core issues, including intellectual property and investment. IP is a major contributor to U.S. economic growth and employment in IP-dependent industries that span every sector of the U.S. economy. It is vital that the final agreement provide the highest protections for all industries. IP protection should build off of, but not diminish, IP protections found in each of the existing trade agreements that the United States has with TPP countries and the currently pending U.S.-Korea FTA.

We in the business community see major challenges in the protection of IP among several of our TPP negotiating partners. In last

year's Special 301 Report on intellectual property, Chile was listed on the priority watchlist. Industry is concerned by actions in New Zealand and potentially other countries, such as Australia, that would weaken strong IP-protection regimes.

Industry is strongly seeking a final agreement in which all the negotiating partners agree to high-standard IP protections and effective enforcement for all sectors, including trademark, patent, and copyright protection. A successful TPP agreement should incorporate strong investment protections as well, covering market access and investor-state and state-to-state dispute settlement.

Fourth, the TPP has the potential to create a living framework, both in terms of membership and activities, that will expand its reach and make it relevant for years to come.

And, fifth, the TPP must be concluded as quickly and as smartly as possible. Many, starting with an initiative of our coalition, have called for the agreement to be reached by the November 2011 APEC Leaders' meeting. While such a deadline will require focused and intensive negotiations, we believe it is an achievable outcome.

Beyond the TPP negotiations, the United States must continue to advance its economic engagement with leading countries throughout the Asia Pacific, including through the Doha Development Agenda negotiations and the work program of the Asia-Pacific Economic Cooperation forum.

As well, engagement with China and Japan are critical. For the United States, China is both a major market and a major competitor. U.S. exports to China have quadrupled since 2000. It is America's fastest-growing export market in the world. Among the key issues on which ECAT and ECAT companies are focused are the following: China's indigenous-innovation policies that restrict market access, China's inadequate intellectual-property protection and enforcement, and China's government-procurement restrictions and discrimination.

Lastly, as regards to Japan, I would just seek to point out that it is now trying to recover and move forward from the horrific earthquake and tsunami, as well as address its nuclear crisis, we are even more mindful of the special relationship between the United States and Japan.

The only point that I would make at this time is that, before the recent shocking events, Japan had been actively engaged in considering joining the TPP negotiations. That focus was predicated on decisions within the government to address longstanding agricultural issues. We look forward to hearing more from the Japanese Government at the appropriate time on its continued interest in these negotiations.

Having, like both of you, recently returned from a New Zealand visit, I wanted to associate myself with your comments about how we all support the reconstruction and the restoration to economic health of both of those countries, Japan and New Zealand. We believe that the TPP could also be a vehicle to assist in the economic recovery of right now New Zealand but also, over the long term, Japan.

In conclusion, America's role as the world's economic leader is being put to a difficult test in the Asia Pacific. Expanding our network of commercial engagements through regional and bilateral

trade and investment agreements, as well as the APEC forum and other activities, must become, as both of you have pointed out, a top priority to ensure American goods, services, and investments grow strongly in the bourgeoning Asia-Pacific market, including the Pacific Islands, and can help sustain and grow American jobs.

Thank you.

[The prepared statement of Mr. Cohen follows:]

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Testimony of Calman Cohen, President of the Emergency Committee for American Trade (ECAT)

Before the Subcommittee on Asia and the Pacific of the House Committee on Foreign Affairs

March 31, 2011

Thank you for the opportunity to appear before you today on behalf of the Emergency Committee for American Trade (ECAT). ECAT is an association of the chief executives of leading U.S. business enterprises with global operations that was founded more than four decades ago to promote economic growth through expansionary trade and investment policies. Today, ECAT's members represent all the principal sectors of the U.S. economy – agriculture, financial, high technology, manufacturing, merchandising, processing, publishing, retailing and services. The combined exports of ECAT companies run into the tens of billions of dollars. The jobs they provide for American men and women – including the jobs accounted for by suppliers, dealers, and subcontractors – are located in every state and cover skills of all levels. Their annual worldwide sales exceed $1.6 trillion, and they employ more than 6.2 million persons.

ECAT and ECAT companies have played an active role on policies, negotiations and legislation related to U.S. commercial and economic policy in the Asia Pacific. ECAT co-led the Business Coalition for U.S.-China Trade that worked to ensure normalized economic relations with China and China's accession to the WTO on commercially meaningful terms that would benefit the United States. Since China's accession, ECAT has worked to promote an improved economic relationship with China, including with respect to WTO and non-WTO economic issues. ECAT worked in support of strong outcomes in the Australia and Singapore free-trade-agreement negotiations and supported passage of both agreements by Congress. ECAT currently serves as the Secretariat to the U.S. Business Coalition for TPP, to seek a strong and commercially meaningful outcome in the Trans-Pacific Partnership (TPP) negotiations. ECAT is also working extensively in support of passage this year of the U.S.-Korea Free Trade Agreement, as well as the pending trade agreements with Colombia and Panama.

Importance of the Asia Pacific to U.S. Economic Growth

U.S. trade and investment with Asia and the Asia Pacific have expanded significantly over the last decades, and the United States has entered into two major free trade agreements with our 15th- and 21st- largest trading partners – Singapore and Australia. U.S. goods exports to the Asia-Pacific Economic Cooperation (APEC) forum members have more than tripled from $228 billion in 1990 to $774 billion in 2010. U.S. imports from these countries have also grown from $312 billion to $1.2 trillion over the same period.

This dynamic region boasts 32 percent of the world's population and 28 percent of its purchasing power. Over the next five years, this region is expected to grow economically faster than anywhere else in the world.

Nevertheless, U.S. exports represent a declining portion of Asia's imports, as other countries have pursued a much more aggressive policy of entering into new arrangements with our Asian and Asia-Pacific trading partners. The U.S. market share in Asia dropped from 15 percent in 2000 to less than 10 percent in 2009. By contrast, over 50 percent of all Asian trade is intra-regional.

If the United States is to remain competitive in one of the fastest-growing regions of the world, the United States must pursue much more active economic engagement through existing bilateral relationships and agreements, but also through new agreements such as the Trans-Pacific Partnership (TPP) negotiations and bilateral investment treaties with China, Vietnam and India and beyond.

TPP Negotiations Are Vital to Spur Increased U.S. Engagement in the Asia Pacific

In March 2010, eight countries formally began the TPP negotiations – the United States, along with Australia, Brunei, Chile, New Zealand, Peru, Singapore and Vietnam. Malaysia became the 9th negotiating partner in October 2010.

The key data points for the United States' eight negotiating partners are:

- a combined population of 196 million;
- a combined GDP of $2.6 billion; and
- combined trade flows with the United States of $171 billion – equal to our 4th largest trading partner, Japan, with U.S. exports of $89 billion and U.S. imports of nearly $82 billion.

The sixth round of negotiations are currently ongoing in Singapore.

ECAT and the broader business community represented by the U.S. Business Coalition for TPP strongly support the negotiation of a comprehensive, high-standard and commercially meaningful TPP by the time of the APEC Leaders' Meeting in Hawaii in November of this year. This negotiation provides an enormous opportunity for expanding U.S. economic engagement and improving U.S. competitiveness in the Trans-Pacific corridor. While the United States already has trade agreements with several of these countries separately (Australia, Chile, Peru and Singapore), this multilateral agreement could have substantial additional benefits by opening new markets, harmonizing key rules and providing important strategic benefits.

For the United States, negotiating and entering into a commercially meaningful TPP will enhance U.S. engagement with the economically and strategically important Asia-Pacific corridor. Rather than being on the sidelines as many Asian nations conclude their own trade and investment agreements, the United States will be an equal and active participant in the most important new trade-liberalization effort in the region. This will provide important economic growth benefits to the United States through enhanced trade and investment, while also promoting broader U.S. national interests.

The recent completion of the EU-Korea free trade agreement, the ASEAN-Australia-New Zealand free trade agreement, and the China-New Zealand free trade agreement are just three examples. Perhaps even more important are recently completed agreements between ASEAN and China and ASEAN and India, reflecting the deepening of commercial ties between key emerging-market partners across Asia, which leave the United States at risk of being excluded from these vital growth markets. It should be noted that these

agreements fall short of the strong and comprehensive type of trade agreement that the United States negotiates, including with respect to such issues as services liberalization, intellectual-property protection, investment protections and competition policy. A high-standard TPP would create the basis for the United States to seek partnerships with these and other countries at some later date on the basis of a high-standard, comprehensive 21st-century TPP. Indeed, from ECAT's perspective, the TPP should be viewed as a building bloc that could eventually bring other major trading nations, including Canada, Japan, Mexico, and Korea, into a common set of rules and market openings that will provide even greater benefits for the United States.

The TPP also represents an important opportunity to strengthen alliances with each of these countries. In turn, these alliances will aid the United States as it seeks to advance other important priorities that are beyond the scope of a trade agreement.

From the beginning, the TPP negotiators embraced the goal of achieving an agreement that would not be written with rules for the past century, but would reflect the increasing economic integration of the region through multiple production and sourcing networks and promote the competitiveness of the individual TPP countries. It is a negotiation that seeks to create rules that address the issues and challenges we have now and will have in the years and decades to come.

I have appended to my written testimony a summary of key negotiating outcomes that ECAT and the Business Coalition for TPP are seeking from these negotiations. I would like to focus on just five issues this afternoon:

- First, the TPP must create new market openings among the negotiating partners. The final TPP agreement should be comprehensive (covering all sectors and subsectors, goods and services, and digital and traditional trade), incorporate flexible rules of origin and result in major new and meaningful market access. The agreement should not roll back existing access for U.S. industries in any of these markets.

- Second, the TPP must simplify trade throughout the Asia Pacific. Negotiators indicate that they are seeking a 21st-century agreement to address today's and tomorrow's challenges. For many of us that includes addressing the day-to-day costs and delays that companies with global supply chains and global operations face every day. A successful TPP, therefore, must truly be a regional agreement, seeking to achieve key common elements, but particularly supply-chain facilitation. We don't just need to see port-to-port facilitation with mutual recognition of entry documents, but rather facilitation all the way from sourcing and production to the customer. Work on addressing conflicting and duplicative standards must be part of the mix. To be successful, the TPP needs to create a regulatory environment among the TPP countries that builds public confidence and effective, enforceable and mutually coherent regulatory systems to promote the safety of products through risk- and science-based analyses. To achieve these results, we need new thinking, new commitments and new modes of collaboration between different government agencies in each of the TPP countries.

- Third, the TPP must achieve high standards on all core issues including intellectual property and investment. Obtaining such high-standard outcomes, with strong and binding enforcement mechanisms, is important not only with respect to the countries already at the negotiating table, but also with other major economies in the Asia-Pacific region that are likely to join this agreement at a

later point. The rules that the TPP sets now could very well establish the template for the U.S.-Asia-Pacific trading relationship for decades to come.

In this regard, I would emphasize intellectual property and investment standards. Intellectual property (IP) is a major contributor to U.S. economic growth and employment in IP-dependent industries that span every sector of the U.S. economy. It is vital, therefore, that the final TPP agreement provide the highest IP protections for all industries in order to produce effective and transparent enforcement of IP rights in the TPP countries. Importantly, IP protections should build off of, but not diminish, IP protections found in each of the existing U.S. trade agreements with TPP countries and the currently pending U.S.-Korea FTA. We in the business community see major challenges in the protection of intellectual property among several of our TPP negotiating partners. In last year's Special 301 Report by the Office of the United States Trade Representative (USTR) on intellectual property rights protection, Chile was listed on the priority watch list. In addition, industry is concerned by actions in New Zealand and potentially other countries, such as Australia, that would weaken strong intellectual-property regimes. Industry is strongly seeking a final TPP agreement in which all the negotiating partners agreed to high-standard intellectual-property protections and effective enforcement for all sectors, including through trademark, patent and copyright protection.

With regard to investment protections, it is important to note that U.S. foreign investment is a key driver of U.S. exports and access to foreign markets, as well as promoting economic opportunities and good wages in the United States. A successful TPP agreement should incorporate strong investment protections, market-access provisions and investor-state and state-to-state dispute settlement to create the type of secure, predictable and non-discriminatory legal environment for U.S. investment abroad that foreign investors already enjoy in the United States through our Constitution and laws.

- Fourth, the TPP has the potential to create a living framework both in terms of membership and activities that will expand its reach and make it relevant for years and hopefully decades to come.

  With regard to membership, the intention of the negotiating parties is to expand membership beyond the original eight, now nine, countries to other major economies in the Asia Pacific. Canada and Japan have both expressed strong interest in joining. In addition, by creating a living, not a static, agreement, the TPP countries should be able to address jointly new regulatory, trade-facilitation and other issues that will arise in years to come.

- Fifth, the TPP must be concluded as quickly and as smartly as possible. Many, starting with an initiative of our TPP Coalition, have called for a TPP agreement to be reached by the November 2011 APEC Leaders' meeting. While meeting such a deadline will require focused and intensive negotiations, we believe it is an achievable outcome and will avoid these negotiations dragging out for years and becoming a talk-fest, like the Free Trade Area of the Americas negotiations.

We at ECAT and the broader TPP Business Coalition are working hard to ensure these strong results.

Bilateral and Multilateral Improvements in U.S. Commercial Engagement in the Asia Pacific Provides Growth Opportunities for the United States

Beyond the TPP negotiations, the United States must continue to advance its economic engagement with leading countries throughout the Asia Pacific through both multilateral and bilateral avenues.

Doha Development Agenda Negotiations

Multilaterally, a strong, commercially meaningful outcome in the Doha Agenda negotiations of the World Trade Organization (WTO) remains a top priority and could provide substantial new access and economic opportunities in the Asia Pacific. Binding provisions reducing and eliminating tariffs and non-tariff barriers to U.S. agricultural and manufactured goods and services are critical, particularly among key growth markets, including many in the Asia Pacific. These negotiations remain ongoing in Geneva and have the strong support of the U.S. business community.

Asia Pacific Economic Cooperation (APEC) Forum

The United States' hosting of APEC this year provides an important opportunity to advance APEC's work and U.S. engagement in the region. Created in 1989, the 21-member[1] APEC has proved to be a useful forum to develop new ideas and promote best practices in a number of areas throughout the Asia Pacific. Its members accounted for 43 percent of world trade and 55 percent of global GDP in 2009. While APEC seeks the creation of a Free Trade Area of the Asia Pacific that would actually eliminate barriers and ensure strong rules among the APEC economies, negotiations have not started in earnest. The United States has focused on several priorities within APEC this year beyond regional integration:

- Improving and streamlining the supply-chain performance.
- Advancing innovation and trade in technology.
- Promoting green economic growth, including through eliminating barriers that limit trade in environmental goods and technology.
- Improving regulatory cooperation and coherence, including by strengthening the implementation of good regulatory practices.

Bilateral Engagement

Equally important to spur economic growth opportunities and broader American objectives is the United States' economic and commercial engagement with many Asia-Pacific partners not already included in the TPP negotiations, including most importantly China and Japan.

1. China

For the United States, China is both a major market and a major competitor. China's accession to the WTO represented the culmination of years of effort to encourage China's commitment to the basic rules of the

[1] Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States and Vietnam.

global trading system. The terms for China's WTO accession were generally higher than for any other acceding country. In large part as a result of these commitments, U.S. commercial participation in the Chinese market has grown exponentially. U.S. exports to China have quadrupled since 2000, making it America's fastest-growing export market and our third-largest export market in the world. Benefits are also evident from increased U.S. sales in China and increased investment that acts as a magnet for U.S. exports. Even imports from China – much critiqued – have helped keep inflation low and provide consumers with enormous choices.

While China has made great strides towards opening its economy, that opening has not fully occurred and in some cases has been actively thwarted by other Chinese policies, including a number of the industrial policies that favor state-owned and other domestic entities over foreign entrants. The United States has sought to address many of these issues and, in a subset of these areas, the United States has initiated WTO dispute-settlement cases that successfully resolved several issues. Among the key issues on which ECAT and ECAT companies are focused are the following:

- China's Indigenous-Innovation Policies that Restrict Market Access. These policies represent one of the most important challenges for the United States in its economic relationship with China and need to be addressed quickly and comprehensively. We were pleased to see that China committed to delink indigenous-innovation policies from its procurement going forward during the Strategic and Economic Dialogue (S&ED) last fall, but will continue to follow this issue closely to verify that China fulfills that commitment.
- Intellectual-Property Protection and Enforcement. While China's laws on the protection of intellectual property have been improving over time, there remain major areas where the standards for protection need to be improved and substantial problems in China's enforcement of existing protections.
- Government-Procurement Restrictions and Discrimination. While negotiating entry into the WTO Government Procurement Agreement, China has been systematically making its government-procurement rules more restrictive, contrary to the basic principles of WTO negotiations.
- Industrial Policy. China's continued governmental intervention in the marketplace to the advantage of domestic companies is exemplified in many sectors throughout the economy, from unique standards to discrimination in the auto, information technology and telecommunications sectors. More broadly, ECAT is also concerned by a growing series of localization measures that require local content and local ownership and make other restrictions limiting participation in the Chinese market.
- Other areas. Other areas of great concern include barriers in the financial-services sector; discriminatory and non-transparent standards and certifications, such as the China Compulsory Certification, investment restrictions, and other barriers.

To promote U.S. economic growth and broader national interests, the United States must work to maximize the economic opportunities that U.S.-China relations present and address effectively the economic challenges that China poses. To do so, the United States must adopt and implement a comprehensive, coordinated, sustained and multifaceted approach to improving the U.S.-China economic relationship both within and outside the WTO.

Within the WTO, the United States should focus on promoting stronger WTO commitments and responsibility by China through the Doha and GPA negotiations and enforcing current WTO commitments. It is very clear, however, that the WTO is not sufficient to address all of the barriers and challenges within

the U.S.-China economic relationship. Therefore, ECAT strongly supports the coordinated use of other key mechanisms, including:

- U.S.-China bilateral investment treaty (BIT) negotiations that have the ability to address key barriers in China's market. U.S. investment overseas is a magnet for U.S. exports and helps generate and support American jobs and investment in U.S. research and development.
- Continued U.S. engagement through various dialogues, such as the Joint Commission on Commerce and Trade (JCCT), the S&ED, the G-20 and elsewhere to promote the resolution of short- and long-term trade and economic issues.
- High-level and focused efforts to address key issues, such as China's indigenous-innovation policies and continued failure to enforce effectively intellectual property rights.

2. Japan

As Japan, with the help of the United States and countries from around the world, seeks to recover and move forward from the horrific earthquake and tsunami, as well as address its nuclear crisis, we are even more mindful of the special relationship that we have with Japan. Our commercial and economic relationship deserves much more focus than it has received in recent years, and we look forward to working with all of you, the Administration and the Japanese government on ways that we can enhance and deepen our relationship as Japan recovers. The only point that I would make at this time is that before the recent shocking events, Japan had been actively engaged in considering joining the TPP negotiations. That focus was predicated on decisions within the Japanese government to address longstanding agricultural issues. We look forward to hearing more from the Japanese government at the appropriate time on its continued interest in these negotiations.

Trade and investment between the United States and Japan remain very substantial, with significant integration into each other's supply chains. Total U.S.-Japan goods trade totaled $180.6 billion in 2010, with U.S. goods exports of $60.6 billion in 2010, still reflecting a drop from their peak of nearly $70 billion in 2008. U.S. goods imports from Japan equaled $120 billion in 2010. Japan was the fourth-largest U.S. export market in 2010, behind Canada, Mexico and China. Japan is also the United States' fourth-largest trading partner in goods overall. For Japan, the United States is now its second-largest export market, after China, and its second-largest source of imports, after China. U.S. services exports to Japan equaled $41 billion, and U.S. services imports from Japan totaled $21 billion in 2009. U.S. foreign direct investment in Japan totaled nearly $104 billion in 2009, with annual flows of $6.1 billion. The stock of Japanese foreign direct investment in the United States equaled more than twice the amount of U.S. investment in Japan, at $264 billion in 2009, with annual flows that year of $4.4 billion.

Conclusion

America's role as the world's economic leader is being put to a difficult test in the Asia Pacific. Expanding our network of commercial engagements through regional and bilateral trade and investment agreements, as well as the APEC forum and other activities, must become a top priority to ensure American goods, services and investments grow strongly in the burgeoning Asia-Pacific market and can help sustain and grow American jobs.

Mr. MANZULLO. Thank you.
Dr. Auslin?

STATEMENT OF MICHAEL AUSLIN, PH.D., DIRECTOR OF JAPAN STUDIES, AMERICAN ENTERPRISE INSTITUTE

Mr. AUSLIN. Mr. Chairman, Mr. Faleomavaega, members of the committee, thank you for inviting me to testify here today.

And, Mr. Chairman, I would like to thank you very much for giving my son, Ben, an extraordinary experience in direct democracy in our legislative branch today which I know he won't forget.

I guess I am a bit of the odd man out here today. I am not here to talk about jobs, but what I am here to talk about is the broader strategic context of our position in the Asia Pacific and the threats to it and the opportunities, as well.

There are questions in Washington, as you are well aware, whether the extraordinary expense that we commit to maintaining our position in Asia is worthwhile, whether that money can be spent better in other places or not. And I think the answer is absolutely that the United States has extreme direct interests in maintaining the liberal, democratic trends in this region, because it is, without question, I think, the most important region in the Earth to our long-term prosperity and stability here at home.

Mr. Chairman, you asked in this hearing to consider whether or not we are protecting our interests. And I guess there are two ways, I think, to answer that.

The first is to look at what we are doing today. And Secretary Campbell and others can attest to the fact that we have our top officials going over to the Asia Pacific regularly. We have good relations with most of the countries there. We have economic ties, we have political ties, we have military ties. We have problems, and some that we seem not to be able to solve like North Korea. But on the whole, when we look in the past, let's say, compared to other periods in history, it seems to be a fairly benign time.

Within that, we have heard today, at least, from the economic end about some of the problems we face with China. And I think that the concern that we hear echoed in Washington about the challenge that China poses politically and militarily, politically and economically as well, is something that will grow in coming years.

What I think we have to face and accept is that China sees its interests very differently from ours; that is not simple and easy for us to engage simply in a conversation that is going to get them to accept our definition of norms of international behavior.

At the same time, I think it is important not to overstate China's strength or make unrealistic predictions that it one day will supplant us in Asia. But while we do that, we also have to understand the immensity of the impact that China is having on the region. Its actions over the past several years, be they in the economic sphere or, more importantly, I think, in the political and military sphere, have increased the sense of insecurity on the part of many of our friends and partners in the region.

And, as we saw with the Japan-China clash over the Senkakus last year, with the very recent interaction between the Philippine Navy and the Chinese Navy, there has, indeed, been increased in-

stability in connection with China's expansive maritime territorial claims.

The United States has played a key role in underwriting security in this region for the past 70 years. It is a role that I think we cannot give up, and I don't think that any administration would claim that it is giving up. The question is, where do we go from here? How do we more effectively play that underwriting role, that assurance role that we have played for the past half-century and longer.

We may think that our commitment to Asia is not waning, but nations around the region—and you have been there, Mr. Chairman; and, Mr. Faleomavaega, I know you have been there often—are undoubtedly concerned about the future of our position. They question how our defense spending cuts will impact our ability to live up to our security commitments. They watch in concern as we bend over backward not to antagonize China. They question whether we are wavering in defining what interests we are willing to defend.

The point is that they see us active in the region, but they question to what end. Are we committed just simply to stability for stability's sake or to some larger goal?

So I think the answer to your question, Mr. Chairman, are we protecting our interests, is actually not enough. We need to actively promote them. And I think we can do that and help to bring about an Asia that contributes to global prosperity, liberalism, and stability by doing two things.

First, we need to broaden our perspective beyond merely Asia and the Pacific. And I certainly echo Mr. Faleomavaega's comments that we need to include the many nations of the Pacific in this. But the region we are really concerned with is one that stretches from the Western Pacific all the way to the Indian Ocean. And it came up at the very end of Secretary Campbell's comments, but it includes India. There is simply no way that we can make effective policy in this region by excluding India. And I would argue that both our legislative and executive branches should reorganize so as to focus on this broader Indo-Pacific, as opposed to the Asia Pacific.

And then, finally, I think we need to move beyond the hub and spoke that has structured our alliances for the past half-century—not get rid of them, but expand them. There is something that I have included in my formal testimony and a map that is what I call the concentric triangles, a way of linking together both our closest allies and strategic partners in the region in a grand triangle or an outer triangle of Japan, South Korea, Australia, and India, along with an inner triangle that is focused on the lower South China Sea, which links us with Indonesia, Malaysia, Singapore, and Vietnam.

If we are able to focus our efforts on creating a working relationship with these two interlocking triangles on issues of job growth, standards and best practices, on freedom of navigation and maritime security, then I think we will best serve our interests and promote those of the region as a whole. The 21st century almost certainly will be an Indo-Pacific one. It is up to us whether to make it an Americasian one, as well.

Thank you for the opportunity to testify, and I look forward to your questions.

[The prepared statement of Mr. Auslin follows:]

"Asia Overview: Protecting American Interests in China and Asia"

Testimony before the House Foreign Affairs Subcommittee on Asia, the Pacific, and the Global Environment

By

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Room 2200

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Auslin, "Asia Overview: Protecting American Interests in China and Asia"

Mr. Chairman and Members of the Committee, thank you for inviting me to testify today on U.S. interests in Asia. It is a pleasure to appear before you and also to testify alongside my friend, Secretary Campbell, who has played such an important role in shaping policy and working with America's friends and partners in the region.

As our country continues to recover from the 2008 economic crisis, maintains combat operations in Afghanistan, and now undertakes military action in Libya, some may question not only what our interests in Asia actually are, but whether our investment in maintaining America's presence and influence in the region is worth it. I believe the answer is an unequivocal yes and for the following reason: there is no region on Earth that is more vital to the long-term prosperity and stability of the United States than the Asia-Pacific. Its economic vitality is crucial for workers and consumers here at home; its political trends will help determine the future of global liberalism and democracy; and its continued stability is of the utmost importance to the global economy as well as to our military, with its various commitments to allies and friends. In short, while we may consider other regions of the globe as areas that demand problem solving and crisis management, the Asia-Pacific is the one area that offers the promise of a brighter and more prosperous future, but only if we remain committed and involved.

Mr. Chairman, you have asked whether we are protecting the broad range of our interests in China and Asia. Such a question can be answered in two ways. The first way is to equate our current Asian commitments and relationships with our interests and then to judge how well we are protecting them.

From that perspective, the United States remains deeply engaged in the Asia-Pacific region and on the balance is well protecting our interests. As Secretary Campbell can attest, our

diplomats and bureaucrats are in constant contact with their Asian counterparts and travel regularly to the region. The President and the Secretaries of State and Defense have made multiple trips to the region. We retain important military relationships in the Asia-Pacific, and are expanding those with new partners, such as Indonesia. Countries such as Malaysia are embracing a larger role in anti-terrorist and non-proliferation initiatives. The State Department runs numerous public diplomacy programs and our Fulbright and other student exchange programs bring hundreds of young Asians to our shores. To all this can be added various state, local, and private initiatives, from parliamentary exchanges to art exhibitions, not to mention annual festivals, such as the National Cherry Blossom Festival, which began this week in our city. From the outside looking in, there is little question that the United States has a varied, rich, and important set of relations and activities with respect to the Asia-Pacific region.

Subtracting from this particular ledger would be the on-going and seemingly irresolvable nuclear crisis with North Korea, the continuing problem of Burma's authoritarian rulers, and deep and enduring uncertainty about China's growing strength and more assertive attitude in the region. These are important and worrisome threats and challenges, and it is clear that this Administration, like others before it, is attempting above all to prevent trends from worsening, while slowly, sometimes hesitantly, grappling with confronting these issues. There are as many who believe these threats are overstated as there are those who believe the government is not doing enough to protect our interests.

Yet there is a second way to answer your question of our interests, Mr. Chairman, and that is to ask, what kind of Asia-Pacific do we want to see in the future, what kind of region would contribute to prosperity, liberalism, and stability in ways that would benefit America, the world, and the Asia-Pacific itself? When looked at from this perspective, then I believe the

picture is cloudier and there is more reason to doubt that this nation has either identified its interests or is prepared to protect them over the long-term. Indeed, if we look at the world from this perspective, then I believe merely protecting our interests is not enough. Rather, we must actively promote them. It is not enough to simply attempt to maintain the status quo, for we have ample evidence that the status quo is increasingly difficult to defend over time, and that the propensity for international systems to decay often outstrips the ability of supporting states to maintain them.

What, specifically, are U.S. interests from this second perspective? Above all, it is in the national interest of the United States to help nurture and promote a more democratic and liberal Asia. This means working most closely with democratic states and supporting liberal states that play constructive roles in the region. It also means being an active player in those multilateral initiatives that can help to develop liberal norms and help promote regional stability. Free trade agreements are one important arena of activity, as is participation in gatherings like the ASEAN Asian Defense Ministers' Meeting Plus. Moreover, it is in our interest to encourage the on-going liberalization of states both large and small in the region.

A second major interest we have is ensuring that stability in the region's common areas is not disrupted. With nearly 40 percent of world trade passing through the Strait of Malacca alone, maintaining freedom of navigation and overall maritime security is of overriding importance to continued economic growth and political stability in the region. Again, here it is not enough merely to maintain a presence, though that is important; it is crucial that we form ever more effective security partnerships and activities. This requires a policy that is unambiguous in upholding accepted norms of regional behavior in the commons and ensuring that our partners and friends doubt neither our intentions nor our capabilities. It requires not merely an enhanced

naval, air, and amphibious presence to be most credibly postured to respond to the most likely future threats, but also a diplomatic policy that unreservedly rewards friends and does not excuse the actions of those who upset the regional security equilibrium.

Thirdly, we must help encourage further economic growth in what is already the world's most economically vibrant region. Higher economic growth rates generally correspond to a growing middle class, which itself leads to greater liberalization and more representative government. In 2010, trade in goods with the nations of the Asia-Pacific totaled just under $1 trillion dollars, which, according to estimates from the U.S. Chamber of Commerce accounts for as many as 11 million U.S. jobs. Moreover, our exports to the region are largely from skilled jobs sectors, including machinery, electrical machinery, aircraft, and optic and medical instruments, not to mention significant agricultural exports. The more that we work with business groups, legislators, schools and training institutes and the like, the more that we are developing markets for U.S. goods as well as ensuring sources of affordable consumer goods for Americans.

All three of these national interests are interlinked and point to the type of Asia-Pacific that we want to see in the future. We must recognize that, for the next generation at least, this will be most dynamic region on the globe, that it will develop with or without our engaged presence, and that we stand to lose a great deal if we slowly become a passive observer of the Asia-Pacific future.

And yet today, I would argue that, for all our engagement that I mentioned earlier, we run the risk of falling behind events and thereby failing eventually to promote our interests. First and foremost are the general geopolitical trends, manifested most obviously in the rise of China. Closely following this is the relative weakening of our traditional liberal allies. These two trends

may be seen as well as part of a much larger global trend in which authoritarian regimes, from Venezuela to Iran and China, are acting more boldly and developing greater military capabilities, while liberal nations, in North America and Europe, are retrenching, cutting their defense spending, and often are suffused with a crisis of confidence.

The complexity of our relationship with China is, as many have noted, unlike others in the past. As important as China is to our economy, it also increasingly acts as a challenger to U.S. interests in Asia and around the globe. Both this and previous administrations have attempted to engage China under a variety of rubrics, from responsible stakeholder to strategic reassurance. And yet, based on the past several years of Chinese action, we must accept the fact that Beijing defines its interests very differently from ours and acts increasingly as a rival in Asia, rather than a benign challenger. All this is occurring while China, like all nations in the Asia-Pacific, continues to benefit enormously from the public goods provided by the United States, such as ensuring freedom of navigation, which creates conditions of stability that have allowed the Asian economic miracle to develop over the past half-century.

China's actions follow a traditional pattern of rising powers, in which generic dissatisfaction with the prevailing regional order results in a probing and testing of the limits of that order. Beijing's expansive maritime claims in the East China and particularly South China Seas are one means of testing the regional order. More worryingly, its willingness to bully smaller neighbors and employ the threat of varying levels of military activity to defend those claims, or to get other nations to compromise on their claims, is a direct challenge to stability in the Asia-Pacific commons. Here I would commend the comments of Secretary of State Clinton last year in Hanoi which made clear that the peaceful, multilateral resolution of these conflicting claims in the South China Sea is in the national interest of the United States.

These actions are the visible challenge China poses to regional order and American interests, broadly defined. As China has grown, as its political influence has increased along with its military capabilities, we have seen more assertive behavior, and a government that is quick to take offense at suggestions that it act less confrontationally. This should be of concern to U.S. policymakers, for it indicates the continued likelihood of tension between our two countries and an incompatibility of national interests between China and the United States. It also calls into question whether it is realistic to believe we will be successful in getting China to accept our notions of cooperative, if not constructive, international behavior.

Yet Beijing's actions have ramifications beyond our bilateral relationship. While it is important not to overstate China's strengths or make unrealistic predictions that it will one day supplant us in Asia, we also must not underestimate its impact on the region. The nature of China's rapid military modernization, its development of weapons that have the ability to target America's most advanced military platforms, and its unwillingness to engage in meaningful dialogue with us or its neighbors, combine with its more assertive actions in recent years to create an increased sense of uncertainty in the Asia-Pacific.

Indeed, I believe we are seeing the beginning phases of a geopolitical risk cycle that is comprised of three parts. The first part is the sense of uncertainty over China's future behavior and its effect on the regional order that I just mentioned. The second part is an increased sense of insecurity. This insecurity I believe we are witnessing on the part of countries ranging from Vietnam to Japan, due in no small part to their recent brushes with China over maritime claims in the East and South China Seas. The third part of the geopolitical risk cycle is instability, and it is something that we must be committed to preventing. The presence of U.S. military forces in the region, combined with an unyielding diplomatic presence is of utmost importance in forestalling

the rise of instability. Unfortunately, even with our presence, China has pursued its current path and rogue regimes such as that of North Korea also play a highly destabilizing role, even if their ultimate impact on the region is less significant than that of China.

The significance of the risk cycle I have just discussed is that it is by its nature corrosive of the liberal regional order in the Asia-Pacific. This liberal order has largely kept the peace and allowed Asian nations to prosper so dramatically over the past half-century, and it has been underwritten by the United States. At its most fundamental, the credibility of our security guarantees cannot be underestimated in shaping the calculations of actors seeking to disrupt stability, in establishing conditions under which economic development can progress, and in encouraging regimes attempting democratic reforms to continue on their often difficult path.

Unfortunately, the greatest security challenge the United States faces globally in the coming generation is precisely the decay of the U.S.-led, post-World War II liberal international order. This order is increasingly challenged by states seeking to maximize their own interests in their particular regions. Venezuela and Iran, Russia and China all are putting pressure on liberal nations trying to uphold norms of international behavior, defend the commons, and fight for democratization. They are joined by others who similarly hope to benefit from the retreat of market economies, and the weakening of democratic states. Smaller nations, nations struggling to choose more liberal paths, and those who have depended on regional stability for their own safety are watching the decay of the liberal international order with growing concern and even alarm.

There are those who question the value of the security which the United States provides both in Asia and globally, noting its expense. Yet how much more expensive would it be to this country if Asia were not the economic powerhouse that it is and if the relative calm of its

commons were replaced by conflict or greater uncertainty? States in the region would be forced to spend even more on defense, thereby negatively impacting their consumer-oriented production. Shipping insurance and protection of merchant fleets also would be more expensive, thereby raising the price of imported goods here at home. In the worst-case scenario, the United States might well be called upon to defend allies and partners in the various conflicts they had with other nations.

Indeed, we see the beginnings of this dynamic even today, as some states around the region start procuring advanced weapons systems, in particular submarines and fighter jets. As this happens, our traditional allies, most notably Japan, are spending less on their own defense, thereby inserting yet another element of uncertainty into the regional security equation.

Having discussed the rise of China and its effect on broad American interests in the Asia-Pacific, let me briefly discuss Japan. As our long-standing ally and the host for the bulk of the U.S. forward presence in Asia, Japan is the lynchpin to protecting and promoting our interests in the region. For the past nearly two years we have had a trying political time with our counterparts in Tokyo, as the Democratic Party of Japan has struggled to govern effectively while at the same time reopening the question of whether to move Marine Corps Air Station Futenma to a location in the north of the island. So difficult has this time been, that I and others testified about it before this very committee almost exactly a year ago.

Now, however, our Japanese friends are faced with a national emergency and a humanitarian catastrophe that would test the resolve of any government. The devastating earthquake and tsunami that hit northeast Japan has taken the lives of over 10,000 Japanese and destroyed the livelihood of many hundreds of thousands more. Yet amidst the horror, we have watched scenes of extraordinary heroism, selflessness, and strength on the part of millions of

Japanese. The world has seen the best of Japan's character and is reminded of the importance of a shared sense of community as well as a belief in responsibility to our fellow man in times of need.

Yet politically, Washington must be prepared for a Japan that is necessarily inward looking in the coming years. Disaster relief activities will continue for months, and the task of reconstruction will occur over years. The cost of the disaster is already estimated at over $300 billion dollars, and that number will likely rise as the true extent of the devastation becomes known. This reality will force the Japanese government to make difficult choices in the coming years. Discretionary spending will likely be slashed, and entitlements may also be cut. As Japan turns inward, it may well be less engaged as a global actor, less willing to spend on traditional security concerns or in concert with the United States, and this may complicate American policies in the Asia-Pacific. Already, there are reports that Prime Minister Kan may back away from his stated desire to liberalize Japan's trade, and will not pursue membership in the Trans-Pacific Partnership. While I believe this is the wrong path for Japan to pursue, it is these kinds of choices for which the Administration will have to prepare itself.

The international system abhors a vacuum, whether one that is real or perceived. While we at home may not believe that our commitment to Asia is waning or that our presence is shrinking, it is undeniable that nations around the region are concerned about the future of the U.S. position. They question how our defense spending cuts will impact our ability to live up to our security commitments. They watch in concern as we bend over backwards not to antagonize China while signaling that we may be wavering in clearly defining that which we are willing to defend. They see us active in the region but question, to what end? Are we committed above all

to stability for stability's sake or to some larger goal for Asia's future, that of freedom and prosperity?

We have long endeavored not to make Asia a region in which nations must choose sides. That is the correct policy, but reality may be making that position obsolete. For all our economic dependence on China, we have so far been less successful in engaging it in ways that portend a more constructive Chinese government role in the region. Other nations, too, are calculating the risks and rewards of moving closer to China, and thereby in many cases working less closely with the United States.

What then, should we do to ensure that we are protecting our interests in Asia? I believe the time has come for a new American policy. Our half-century hub-and-spoke alliance system has served us well, but we must think how to enhance it. Our focus largely on Northeast Asia has been natural, but we must expand our view of the region. Our sense of ourselves as a largely Eurocentric nation must give way to a broader identity that encompasses Asia. In our efforts, we should endeavor to build a new community, a merging of Asian and American interests, one we might call "Americasia."

First, we should broaden our perspective beyond merely Asia and the Pacific. The realm we are dealing with stretches from the western Pacific to the Indian Ocean in a great arc. We cannot effective make policy for Asia by excluding India, whose role will only grow in the coming decades. It is this "Indo-Pacific" that should define our boundaries of interest. It is one integrated realm, united by its common maritime and air corridors, in which all nations are dependent on the free flow of goods and peoples. Currently, no U.S. government department is optimally organized to deal with this region: the State Department is split into East and South Asian bureaus, while the Defense Department includes Pakistan and Afghanistan in its Asia and

Pacific Affairs division. The area of responsibility of U.S. Pacific Command is perhaps best correlated with the realities of the region, and other departments should consider following the same boundaries. This would also benefit the National Security Council, where interagency deliberation should be centered. And if I may suggest, Congress as well should consider reorganizing its subcommittees on a broader regional basis. Such an arrangement would lead to policymaking focused on the Indo-Pacific as a whole, where trade and social issues abut with political and security concerns, and a more complete accounting of how we can allocate resources to promote our interests in this realm can be carried out.

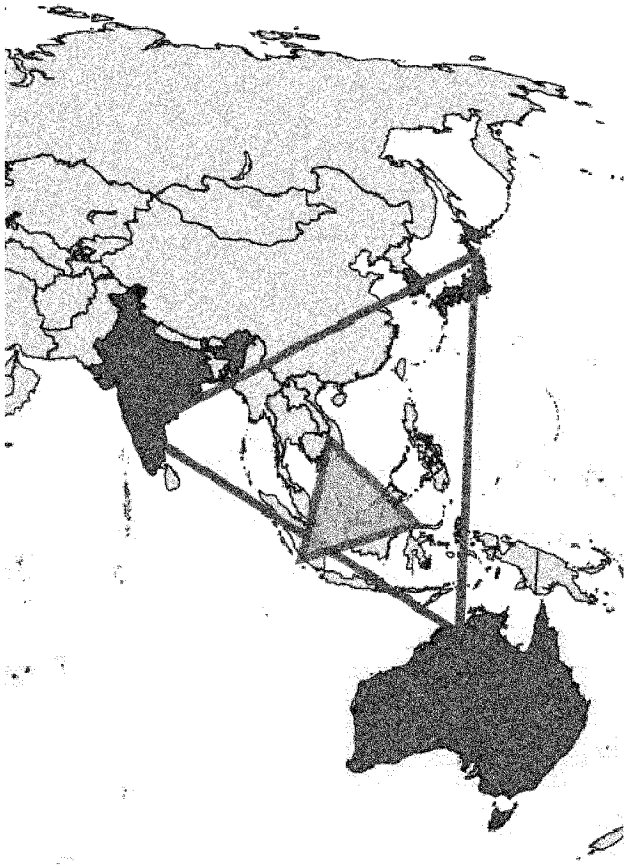
Second, in terms of our actual policy, we must consider moving beyond the hub-and-spoke system that has structured our alliances in Asia for the past half-century. While those should remain in force, we should consider a new approach that explicitly links our political and security initiatives with a broader set of liberal or liberalizing partners. I would conceptualize these as a set of "concentric triangles." The outer triangle links us with our major allies, Japan, South Korea, and Australia, along with India, with whom the Obama and Bush Administrations have begun serious strategic dialogues. This great power triangle should concern itself with the largest set of geopolitical issues, discussing threats to the regional Indo-Pacific order and taking the initiative to respond to disturbances in their respective sub-regions. This triangle also should help set a liberal political agenda for the region, and strive to encourage democratizing states and free-trade regimes that uphold high standards.

The "inner triangle" is centered on the lower South China Sea, the area of greatest geopolitical significance and also where there is a plethora of political and security challenges today. This triangle should link us with Indonesia, Malaysia, Vietnam, and Singapore, and it should focus on freedom of navigation, development of maritime, air, and ISR capabilities, and

nascent joint cooperation. Promoting security in the South China Sea commons should be the main goal of this triangle, yet it should also serve as a leading force for increased liberalization in the region. By focusing U.S. efforts on creating a working relationship with these two interlocking triangles, we can promote the interests that best serve our own country as well as those in the region. Enhancing democratic reform, developing civil society, building security capabilities, and discussing regional political goals and trends can ensure that the initiative in the Indo-Pacific rests with us and our partners and not on those that seek instead to weaken the liberal order.

Finally, Mr. Chairman, we must endeavor here at home to inculcate a more Asian identity. We have been a Pacific power for over a century, and more and more of our fellow citizens come from an Indo-Pacific background. Our future economic vitality, our future political influence, and our future security come increasingly from this vast and vibrant region. More of our students should study there, more of our media should report on trends there, and more of our state and national legislators should travel there. It is an area of extraordinary promise, not simply crisis. The 21st century almost certainly will be an Indo-Pacific one. It is up to us whether make it an "Americasian" one, as well.

Thank you for the opportunity of testifying before you and I look forward to your questions.



The "Concentric Triangles" in the Indo-Pacific

Mr. MANZULLO. Thank you.
Mr. Millington?

STATEMENT OF J. KENT MILLINGTON, DBA, ENTREPRENEUR IN RESIDENCE AND DIRECTOR OF THE DEPARTMENT OF TECHNOLOGY COMMERCIALIZATION, UTAH VALLEY UNIVERSITY

Mr. MILLINGTON. Thank you, Chairman Manzullo, Representative Faleomavaega. Thank you for the opportunity to be here today.

Because I have been involved in the development and deployment of technologies on both sides of the Pacific, I am optimistic about the future.

There is no question that America leads the world in the development of technologies of all kinds. In this area, we have a strong competitive advantage, one that we can use not only to create jobs, opportunity, and growth for ourselves, but to forge strong relationships between America and the nations of the Pacific Rim.

These nations are important to us. They are part of our economic ecosystem and are necessary for our future. There are obvious challenges and even threats. However, I believe these are outweighed by opportunity. And that begins with our technological prowess, an advantage that gives us an opportunity to change the current environment that sometimes hinders our U.S. companies in China or prevents them from effectively competing in the Chinese markets.

It has been my experience with students and business leaders in China that there is a strong desire to do business with American companies. They are eager to develop business relationships that can be mutually beneficial, in spite of official policies that sometimes limit market access.

China has made numerous changes and improvements in the last 30 years. Let me point out some of the beneficial effects of these changes.

Over 100,000 Chinese students currently study in America, with 65 percent of them being in graduate schools, mostly technological or engineering schools. This level has been maintained for most of the last 15 years. Many of these former students are now producing a quality and quantity of technology that is approaching world standards, if not leading the world.

For example, China has become the world leader in research of nanotechnologies. A specific use for one nanotechnology is that the Chinese Academy of Sciences has found that sheets of a new technology called graphene oxide are highly effective at killing bacteria such as E. coli. This means that graphene could be used in applications for packaging that will keep food fresh for a longer period of time.

I have worked with Chinese researchers in areas as diverse as emissions controls and medicine and have found them to be of world class.

The science parks throughout China are populated by U.S. companies, both large and small. One American company, GEM, a maker of semiconductors, has a large semiconductor plant in Hefei, in Anhui province, currently employing 600 employees and plans to expand to 1,500 employees. And this is to service the making of

laptops that are then shipped to the United States. Most of the laptops in the world are made in China.

It is in the area of technological development and moving these technologies to the marketplace by innovating good, new products where the U.S. and China can realize substantial improvement in bilateral relations. I am convinced that people want this to happen and are willing to make the necessary changes in order to allow it to happen.

Moving from a centralized planning system to a more open market system has not come without pain. It is no secret that companies, such as Fellowes, doing business in China have had a variety of legal problems, including intellectual property violations and contract disputes. Both of these major issues stem from the lack of a well-developed legal system in China.

The government is taking a variety of steps to correct these abuses by developing a more robust and recognized legal system. Improvements in the law are being made at a rather rapid pace. Adherence to these new laws will take some time, as there are entrenched practices that must be routed out and a new order of business accepted.

U.S. ingenuity is still the best in the world. The technologies discovered here and the products that flow from our technological advances are still the envy of the world. As we continue our technological leadership, China will be a cooperative partner and will be able to strengthen political, cultural, and economic ties.

There are some things that the United States can do to assist China in its transition to a stronger legal system that will allow for more cordial and profitable economic interactions: First, provide legal tutoring and legal training for Chinese students and attorneys in the area of business and contract law and intellectual property law.

Second, assist in the development of intellectual property law and observance by inviting patent office and government officials in China to intern in the United States at universities and at the U.S. PTO.

Finally, promote scientific and technological exchanges, especially in areas that address mutual problems of health, the environment, energy, and medicine. Instead of further isolating China, we need to engage China's leaders as well as business and legal professionals in a systematic process of dialogue.

We protect America's interests best when we assist others in seeing the value of the systems and processes we have put into place and show how effectively they work to provide a functional business environment.

Thank you for allowing me to make this presentation.

[The prepared statement of Mr. Millington follows:]

Asia Overview: Protecting American Interests in China and Asia

Statement by J. Kent Millington
Director, Technology Commercialization, Utah Valley University
Before the House Committee on Foreign Affairs,
Subcommittee on Asia and the Pacific

March 31, 2011

Chairman Manzullo, Representative Faleomavaega, Members of the Subcommittee, thank you for allowing me the opportunity to share with you my perspective on the important links between the United States and our Asian friends.

My name is Kent Millington and I am Director of Technology Commercialization at Utah Valley University (UVU) located in Orem, Utah. Previously I have been in executive positions in financial services firms, as well as internet and software companies. I have lived in Asia, traveled extensively in the area, and I am an adjunct professor of entrepreneurship at The University of Science and Technology of China (USTC) one of China's leading universities, where I teach in the MBA and Executive MBA programs.

Opportunity

Because I have been involved in the development and deployment of technologies on both sides of the Pacific, I am optimistic about the future. There is no question that America leads the world in the development of technologies of all kinds. The world's students, including a large portion of Chinese, come to America for graduate studies in engineering and the sciences. In this area, we have a strong competitive advantage, one that we can use not only to create jobs, opportunity and growth for our future but to forge strong relationships between America and nations along the Pacific Rim. These nations are important to us. They are part of our economic ecosystem and necessary for our future. There are obvious challenges and even threats. However, I believe these are outweighed by opportunity. And that begins with our technological prowess – an advantage that gives us an opportunity to change the current environment that sometimes hinders our US companies in China or prevents them from effectively competing in the Chinese markets.

Current Developments

As China has emerged from its period of isolation, the changes in government policy have not kept pace with the changes in the attitudes and desires of the people of China. My experience

with students and business leaders in China indicates that there is a strong desire to do business with American companies. They are eager to develop business relationships that can be mutually beneficial, in spite of official policies that may limit market access. After the death of Mao Zedong, China's leadership decided to take a gamble and move beyond the isolation in an attempt to become more economically stable and strong. Deng Xiaoping determined that China could engage in international trade and yet still maintain its internal political bearings. The miracle of the last 30 years is largely a testament to his foresight. But old practices die hard and no where is this more evident than China.

Deng's vision has allowed China to grow at a rate of almost 10% per year for most of the last 20 years. His challenge to the people to help build the country and become rich has had marvelous, if uneven, results. China is now the second largest economy in the world and many forecast that it might overtake the US within the next 20 years. Time will tell if that is correct. But the moves by the Chinese government have been very beneficial for a substantial percentage of the people and will continue to improve the lot of millions more every year. New businesses have been created from formerly state owned enterprises (SOEs). Personal freedoms have been significantly increased with decisions about careers and study being left to the individual. Housing reforms have allowed many millions to own their own homes. Illiteracy has all but been wiped out with educational reforms, and the reforms have opened new opportunities for the vast majority of Chinese people. The attitudes of the people have been shifted from reliance on government for all decisions to the desire and ability to make personal choices concerning almost all aspects of life. This transition has been a marvel to behold, but has not yet been complete in its full reach to all aspects of life in China.

Let me point out some of the beneficial effects of the changes and how they now impact the relationships between the US and China. Over 100,000 Chinese students currently are studying in the US, with about 65% of those in graduate schools. This level has been maintained for most of the last 15 years. This growing cadre of American trained engineers and business professionals will be the nucleus of a very bright future of cooperation and strengthening relationships between China and America. Many of these former students are now producing a quality and quantity of technology that is approaching world standards, and in some cases leading the world. For example, China has become the world leader in the research of nanotechnologies as measured by the number of patents and uses of the technologies. A specific use for one nanotechnology is that the CAS (Chinese Academy of Sciences?) has found that sheets of a new technology called graphene oxide are highly effective at killing bacteria such as E-coli. This means that graphene could be useful in applications such as hygiene products or packaging that will keep food fresh for a longer period of time.

I have visited the CAS installation called Science Island located near the city of Hefei in Anhui Province. There I have visited with Dr. Dong Fengzhong who is doing research on products that will enable coal burning plants to operate more efficiency, thus reducing harmful emissions. His stated goal is to eliminate such emissions completely. His technology was tested in the plants

around Beijing prior to the 2008 Olympics and contributed to the ability of the Chinese government to clean the air for the Olympics. Dr. Wang Hongzhang, founder of the Hongshen Group, a large medical products company based in Beijing, has developed several new medical products that have specific application in the West when they are able to get regulatory approvals. His growing company is actively looking for medical devices that can be imported into China from other countries in an attempt to provide better medical care inside China as well. I have worked with Dr. Wang both in China and in the US to facilitate this complementary transfer of medical technology.

I have visited research parks in Beijing, Shanghai, Guangzhou, Hefei, and Chongqing, where the leading technology companies in the world are successfully locating. The Information Technology Park in Chongqing is inhabited by HP, IBM, and a variety of other leading Western companies. GEM, A large American company, has a large chip-making plant in Hefei with over 600 employees now and plans to rapidly expand to over 1,500. Unilever has a large plant in Hefei that supplies products to the Chinese markets through stores like Wal-Mart and Carrefour. There are thousands of US and other foreign companies located in the Science parks in China and are making a difference in the way companies are treated and accepted.

These public and private efforts to both develop and deploy technologies are being promoted by the government of China and are being actively pursued by Chinese entrepreneurs and their companies. In speeches given to major government meetings in October, 2010 and March, 2011, Premier Wen Jiabao specifically stated that the further development of technology and the innovation of the new technologies into useful products is a major focus of the government. In fact, China has a stated goal of becoming an "innovation nation" by the year 2020. Instead of just taking innovations from others and being a low-cost manufacturer, China recognizes the need to once again become a major source of technology and innovation, as it was prior to the 15th Century. There is a realization that future economic strength and vitality come from the development of world-class technology and the creation of products based on those technologies.

To illustrate current activity in China in the areas of science and technology the following statistics are very telling. In all measures about investment in technology, China is investing strongly and expects the results to propel their economy forward in the years to come. If we are to maintain our competitive edge, we need to watch carefully this trend and match it with our own investment in science and technology.

Select S&T Indicators for China	1998	2001	2004	2007
Gross Domestic Spend on R&D (Billion RMB)	55.1	104.2	196.6	371.0
Government S&T Appropriation (Billion RMB)	43.9	70.3	109.5	211.4
Exports of High Tech Products (Billions)	20.3	46.5	165.4	347.8
Percent of Total Exports	11.0%	17.5%	27.9%	28.6%
Patent Applications filed in China	122,000	204,000	354,000	694,000
Patents Granted in China	68,000	114,000	190,000	352,000

It is in the area of technological development and moving those technologies to the marketplace through innovation where the US and China can realize substantial improvement in bilateral relations. I am convinced that the people want this to happen and are willing to make the necessary changes that will allow it to happen.

Moving from a centralized planning system to a more open market system has not come without pain, both in and out of China. It is no secret that companies doing business in China have had a variety of legal problems, including intellectual property violations and contract disputes. Both of these major issues stem from the lack of a well-developed legal system in China. The government is taking a variety of steps to correct these abuses by developing a more robust and recognized legal system. In recent meetings of the Association of University Technology Managers (AUTM) I visited with attorneys from China who made presentations on the changing, and improving, legal environment in China. To expect China to suddenly step from behind its curtain of government imposed regulations into a fully developed legal system as we have in the West is expecting far too much of any country. Improvements in the law are being made and at a rather rapid pace. Adherence to those new laws will take some time as there are entrenched practices that must be rooted out and a new order of business practice accepted. Even in the US, our legal system evolves and adherence can be spotty at times. Recent spectacular business frauds such as Enron and Madoff are indications that our own system is not always adhered to. Criticisms of China's pace as being too slow or not in the right direction need to be muted by a realization of the pace of change our own legal system.

To those who think that business interaction with China is always a disaster or problem for companies from the West, I want to point out a growing business "opportunity" that has emerged in recent years. Some attorney friends of mine who practice in both China and the US are now specializing in collecting receivables from US companies who are not paying their bills to Chinese companies which have provided them with products and services. And these disputes are not largely connected to disputes over contract or IP terms. American companies are simply not paying the bills they rightfully owe. This is a growing concern on the part of Chinese companies and certainly shows that disputes between international companies can be as vexing on both sides of the transactions as the ones seen in our domestic markets.

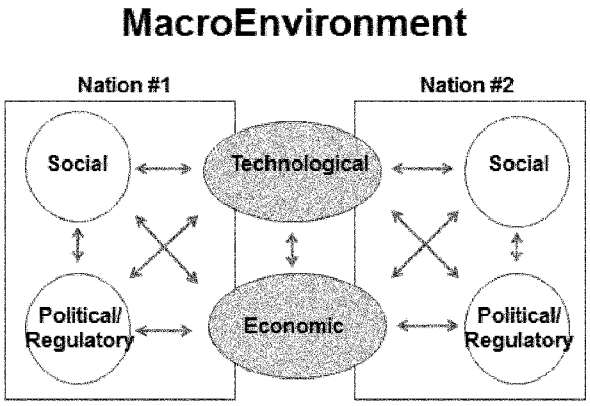
The Way Forward

China is evolving from a closed to an open society and is finding a new place among the leading countries of the world. From scientific discovery, to educational reform, to business practices, China is finding its way out of its cloistered past and into the world community as a full partner among developed nations. While by some measures it is still a developing nation, it now seeks to participate on more equal footing with developed nations because China has reached an important economic milestone of being the second largest economy in the world. We need not view such growth with suspicion nor should we unnecessarily ascribe nefarious motives to China's efforts to build scientific, economic, and military strength. We value those efforts by our own government, and should simply see the Chinese efforts as a logical response to the world in which China finds itself. China has never been an aggressive nation, claiming lands or invading other nations, and we should at least recognize the strength of history as we try to predict the future.

China is facing many problems that will need to be addressed in order to keep achieving its technological and economic goals. Some of these problems are the same ones we face in the West and as we solve these problems together we can not only protect our own interests but help China achieve greater prosperity and stability. The first of the problems is that of demographics. The population is aging faster than most other countries and it is already a poor country. Much has already been said of the pending problems of an aging population in countries like Japan. Instability could result from this imbalance in all of the countries facing this issue, including the US. As we solve our own internal problem, we can shed light on solutions that can be implemented in other countries, especially China. Where they are already a poor country in terms of per capital income, demographics can play a rather harsh trick on Chinese economic expansion. Another problem is that of the environment. There is worldwide concern for pollution and its effects on the quality of life we enjoy. But in China these impacts are even more severe than most. In some places in northern China crop yields are down because the sunshine cannot reach the plants to make them grow to full yield. With lower yields on crops, food supplies are squeezed making imports necessary and putting overall pressure on food supplies in the world. As we mutually solve the problems that cause such pollution and lower crop yields, we can impact the quality of life for people around the world, and could have an

especially favorable impact on the lives of the Chinese people. While these problems are especially acute in China, they are not the only country facing these issues. Solving problems like these together can add to our mutual security and trust.

While individual nations may have their own cultural and political heritage, they interface with each other in the major areas of technology and economy. Because economies are very significantly influenced by technological advances, technology exchanges can be of great importance in the way in which economies of the world respond to the problems we face as individual nations and as a world community. One illustration I like that demonstrates this individual and collective interaction is the following, showing how the influences within an individual country can be altered as a result of technological and economic dynamics. The more technology is exchanged between countries the more those countries come to rely on and trust each other.



US ingenuity is still the best in the world. The technologies discovered here and the products that flow from our technological advances are still the envy of the world. It has been my privilege to work with some of the most creative minds in the world, whether they are in specific technologies or innovations or business applications. We still lead the world and recognize that the flat world we inhabit was made flat by technologies developed largely right here in the US.

As we continue our technological leadership, China will be a cooperative partner and we will be able to strengthen political and cultural ties along with growing economic ties. There are some things that we can do in the US to preserve our competitive edge in an increasingly technological world.

1. Promote further technological development by increasing our investment in research and development.
2. Provide tax incentives for investment in early stage companies that are based on specific technologies like alternative energy, communications, medical devices and treatments, and nanotechnologies.
3. Increase our focus on early education in the sciences, mathematics, reading, and writing.

There are also things we can do to assist China in completing its transition to a stronger legal system that will allow for more cordial and profitable economic interactions.

1. Provide legal tutoring and legal training opportunities for Chinese students and attorneys in areas of business and contract law and intellectual property law.
2. Assist in developing intellectual property law and observance by inviting patent office personnel from China to intern in the US at universities and perhaps the USPTO.
3. Promote scientific and educational exchanges to acquaint both sides with the other especially in the areas mutual R&D.
4. Promote technological exchanges especially in areas that address mutual problems of health, environment, energy, medicine, etc.

Instead of further isolating China, we need to engage China's leaders as well as business and legal professionals in a systematic process of dialogue and education in how to develop and adhere to a system of laws. Just as in the US, it will take time to make this transition, but pulling back from this responsibility will not lead in the direction that we need to go. We protect America's interests best when we assist others in seeing the value of the systems and processes we have put into place and show how effectively they work to provide a functional business environment. Rather than being fearful of China's economic growth and resulting political influence we need to welcome them into the community of developed countries and expect the respect for law and compliance with international standards of conduct, both from the government as well as the business community. It has been my experience that business leaders are anxious to learn new techniques and cooperate to develop successful business partnerships. We can foster America's ideals when we reciprocate that cooperative attitude.

Summary

China was once the leading technological nation on earth. By sharing its technology with Europe, it paved the way for the emergence of the modern world that we enjoy now. China is now beginning to recover its former status as a generator of technologies that the world both needs and will eagerly accept. Though fraught with uncertainty, an expanded base of economic and technological exchange is the surest way to promote and protect American interests with China and in the greater Asian Pacific region. The need to develop these strong ties with China has been made more apparent by the unfortunate disaster in Japan in the last three weeks. As Japan works to recover and restore that which has been lost, that country will, of necessity, be looking inward and will focus more on internal development than on external relationships. China, already a major power in the Pacific region, will continue to expand its influence through its technological and economic prowess. If the US is to maintain a strong presence, we must engage the Chinese in the two areas where nations most effectively interact: technology and economy. We should strengthen our relationship with China by carefully pursuing cultural, legal, technological, and economic exchanges that benefit both countries.

Thank you for allowing me to present this information to you today.

For the record I want to add this historical perspective.

Historical Perspective

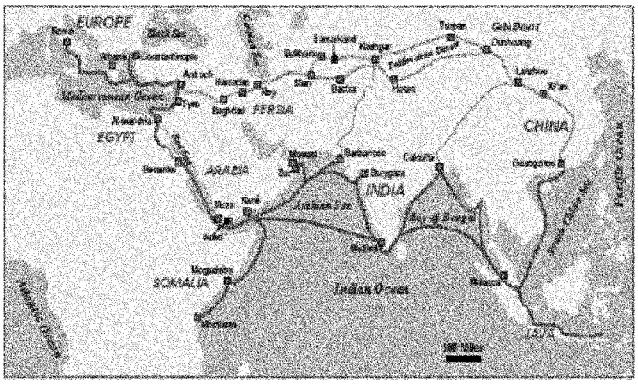
For over 3000 years China was a leader in invention and scientific discovery. They were the first to chart the heavens, the first to describe the circulation of blood, the first to develop mechanical clocks, the first to invent paper and the moveable type to print on paper, the inventors of the compass, and numerous other inventions. These technological firsts have been described extensively. (For example, see *Science and Civilisation in China,* by Joseph Needham, Cambridge University Press; *Ancient China's Technology and Science,* Foreign Language Press; and *The Genius of China,* by Robert Temple, Simon and Schuster.)

During the last four years significant new research has shown that the early Ming Dynasty Emperor Xuan De sent emissaries from China to the rest of the world to let the world know of the technological advances of China and to request tribute to the Emperor. In the year 1434, the great Chinese Admiral Zheng He led an expedition that carried him to Europe where he visited the Vatican and other Italian leaders. He carried with him a series of printed books where the inventions and technological advances of China were carefully catalogued and illustrated. The Admiral himself was a seasoned voyager and was able to give significant and important evidence of ocean travel to the Europeans. There is mounting evidence that this singular visit by the Chinese to Europe ignited the Renaissance that began in Italy within 30 years of the visit by the Chinese. (See two books by Gavin Menzies: *1421, The Year China Discovered America,* and *1434, The Year a Magnificent Chinese Fleet Sailed to Italy and Ignited the Renaissance.*) This unusual visit provided the fertile minds of Europe with examples of technology that had been used for centuries in China before they were ever "invented" in Europe.

"One of the greatest untold secrets of history is that the 'modern world' in which we live is a unique synthesis of Chinese and Western ingredients. Possibly more than half of the basic inventions and discoveries which the 'modern world' rests come from China. Without the importation from China of nautical and navigational improvements such as ships' rudders, the compass and multiple masts, the great European Voyages of Discovery could never have been undertaken. Without the importation from China of paper and printing, Europe would have continued for much longer to copy books by hand." (*The Genius of China,* page 9)

Almost immediately after this significant voyage to Europe, the Ming dynasty began to close its doors to the outside world and to stop its own scientific development. But the visit made possible the explosion of scientific and geographic discovery centered in Europe from which the modern world has emerged. For the last 600 years Europe and the West have been the centers of scientific and technological advancement, but the impetus for that improvement is squarely placed on the technology that was transferred to Europe by the Chinese. This transfer occurred along the ancient Silk Road and the ocean passages that were first traversed by the Chinese.

The Silk Road
The First Technology Transfer



The technologies that were developed in China have had an impact on our modern world. The technologies that are being developed now will also have an impact, both those developed in

China coming to the rest of the world, and those being developed in the rest of the world and taken to China.

Mr. MANZULLO. I appreciate that very much.

I chaired the U.S.-China Interparliamentary Exchange for years. Mr. Millington, I am going to take great disagreement. I see China as going backward. I have never in my life, as a Member of Con-

gress, seen so many complaints over outrageous stealing of intellectual property, and making a folly over the rule of law.

The Chinese know—we don't need to have legal tutoring for them. Many of them in the government have gone to law schools in this country. They know the rule of law. They just are not interested in enforcing it because they don't have the same principles of private property as we do. It is an entirely different culture.

Along with intellectual property, we had a company back home, Aqua-Aerobic, that made wastewater treatment facilities, et cetera, from Rockford, Illinois. They were in the process of bidding and installing a waste-treatment facility in China, and somebody there locally stole everything, I mean, even wiped out their Web site.

While at one time we had a working relationship with the Chinese Embassy, we no longer do. We have written five letters to the Ambassador of China. Each time, he has refused to answer those letters. With prior ambassadors, we have asked them to come into the office for this case involving Aqua-Aerobic. We showed them the evidence, and the Chinese Government became actively involved in that litigation, along with our Commerce Department, and made sure the litigation ended up favoring the American company.

However, I see the Chinese going in the opposite direction, based upon the number of complaints that are coming in. I can't believe that the people who are tearing apart Mr. Fellowes' company lack any type of knowledge about property law, intellectual property law, or the legal system.

In fact, I am a member of the Legislative Commission on Human Rights, which was set up at the time that China came into the WTO. We see more and more egregious abuses in the area of human rights, so I just see China as going in the opposite direction.

If the Ambassador of China wants to blow off Members of Congress, which he has been doing over the past several months, that is up to him. To me, that is no indication of any breath of fresh air going through that country.

Did you—I have to give you the opportunity to respond to that. It wouldn't be fair.

Mr. MILLINGTON. Thank you very much for the observation.

There is no question, as I already indicated in my testimony and at longer length in the written submission, that there are problems there. Part of the reason that we see an increase in these problems is simply because we have had a fourfold increase in interaction with China in the last 10 years. Obviously, we are going to see an increase in problems.

I have already testified that, while the laws may be changing, observance of the law will take longer to change. I have not suggested at all that we should stop putting pressure on China to effect these changes in observance, not just in passing the laws. And that is the issue that will take longer, of course.

You are exactly correct, in that many of these people understand the law. They are moving from a central-planned, dictated way of doing business to a more market-oriented way of doing business, and that shift will take some time.

Mr. MANZULLO. Do you really believe that?

Mr. MILLINGTON. Yes, I do.

Mr. MANZULLO. I mean, maybe I am missing something here. You have extraordinarily impressive credentials, 25 years of experience in dealing with this, way beyond the business experience that I have on it, but I can't see that.

China will say, "Well, you know, we are still a struggling country. We are not market-oriented. We are not there yet." If I could bring Mr. Fellowes into this discussion, as it were, your facility in China opened, was it 19 or 16 years ago?

Mr. FELLOWES. No. It opened in—the facility that became our JV operation opened in about 2000, 2001.

Mr. MANZULLO. Oh, okay. So you have about 10 years.

Mr. FELLOWES. Yes.

Mr. MANZULLO. Do you want to get into this dialogue as to what you see going on in regards to openness and rule of law and what you have been seeing going on over the last several years?

Mr. FELLOWES. Well, our own experience has been a case of ignoring rule of law. That is exactly the situation in which we find ourselves.

I would not have any particular perspective on how the trend has been unfolding here, except to say that, in our conversations with U.S. Government officials, we keep hearing that our case is not a one-off kind of case, that we hear of these things frequently.

Mr. COHEN. Mr. Chairman?

Mr. MANZULLO. Yes, go ahead, please.

Mr. COHEN. Just picking up on the theme of the discussion, I would say, at the time of China's accession to the WTO, we in ECAT and the broader business community saw a desire on the part of China to open its market to allow for increased engagement and commercial exchange.

In recent years, we have seen a partial shift that you are addressing, where increasingly the focus of its leadership is on autochthonous development, to the exclusion of imports from outside the country. I say that at the same time that the exports of the American business community continue to grow and the market remains our fastest-growing market, as I said in my written testimony.

Nonetheless, we do, in the business community, see the shift that you are referring to. And, in some cases, the shift brings about specific actions that are inconsistent with China's obligations under the world trading system. As a result, you do see American business availing themselves of dispute settlement under the rules of the World Trade Organization. That is to say, we do have some mechanisms in place to address these issues.

It doesn't mean that we can justify them. It means that we have to be aggressive, to use the terms of your hearing, to protect and advance America's interests. And that means pressing China to live up to its obligations and to abide, in the area of intellectual property, by the commitments that it has made.

Mr. MANZULLO. Let me get Dr. Auslin's, and then, Eni, I will just double your time, as I did mine. Okay?

Mr. AUSLIN. Thank you, Mr. Chairman. Actually, I would like, if I can, just to expand the frame a little bit and say that I think what Mr. Fellowes——

Mr. MANZULLO. Well, I picked on Mr. Millington, so—I didn't mean to do that. You know that.

Mr. MILLINGTON. That is just fine. You are welcome to do that.

Mr. AUSLIN. Well, I think, actually, what Mr. Millington and Mr. Fellowes have shown is——

Mr. MANZULLO. They are saying the same.

Mr. AUSLIN. Well, in one way they are saying the same, but they also really represent the two views of how do we deal with China. Mr. Millington's view, which is very widely accepted, is that the more we engage, the more we help shape the Chinese eventual adoption of our principles and norms. And what I think Mr. Fellowes has shown is that the Chinese act very much—and the state will support this—in their own interests when they determine that that is where they want to go, regardless of that framework.

I think, Mr. Chairman, you pinned it when you said that they simply don't share the same principles that we do. We don't see this only in the economic sphere, and that is really what I want to bring up. We see it in the political sphere, we see it in the military sphere. We see a China that, as it has grown stronger and more confident, it has become more assertive. I don't think there is any observer who would really doubt that. It has become more confrontational. It has become less willing to accede to the norms that we have helped establish in the region and that other states have tried to adhere to. That, I think, is the great concern.

For example, when so many of the states in the region are concerned about clashes over these maritime territorial areas, it is not that the Chinese Navy is going to these small islands, it is individual private fishing boats. But what is happening is that the Chinese Coast Guard—it is not often the PLAN—but the Coast Guard is then supporting these small fishing boats. It is that the state has made a choice to uphold what it perceives to be Chinese interests regardless of the declarations of other states over EEZs and the like.

So I think that what we are hearing today not only reflects the different views on how to deal with China, but it has to be understood in the broader context, that it is not just economic. This is how we face China's emergence into the world, and I would agree that it is probably becoming less cooperative and more confrontational.

Mr. MANZULLO. Congressman Faleomavaega?

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

I agree with the chairman, and I disagree with him, on the basis that I think I take a more broader view of the situation in our bilateral relationship with China.

China has experienced a colonial legacy like many other Asian countries—the British in Burma and China, the Dutch in Indonesia, the French in Laos, Cambodia, and Vietnam. I would say that probably 99 percent of the American people had no idea that Vietnam was a colony of the French for some 100 years before we stepped into the picture.

The point I wanted to make here is that, when China finally achieved its independence in 1949, there were 400 million people living in China at that time. In our own history of well over 226

years, we have just barely reached 310 million people as a population.

So I take the view of the fact that now we have 1.3 billion people living in China. And I say, I don't care what kind of a governmental system you have in that country, but you have to give them some kind of a credit to the leaders and those who are trying to figure, how are we going to feed 1.3 billion people?

The fact that China, as we all know, despite all its media hype about it is now the second most powerful economic country in the world, the fact that 800 million people in China still live below the poverty level. Barely 400 million are trying to, in some way, reach some element of being in the middle class.

I think Professor Auslin stated quite accurately that Mr. Fellowes has become one of the victims, in terms of how he was treated as a company.

But I would like to ask Mr. Fellowes, what prompted your company to want to go do business in China to begin with?

Mr. FELLOWES. Our company began to move some of our manufacturing to China in the period of late 1990s and early 2000s. We did so because we could not be competitive in manufacturing these products in the United States.

Mr. FALEOMAVAEGA. Competitive because you were having to pay your workers how much, in terms of the wage?

Mr. FELLOWES. Yes, considerably more than in China, perhaps $15 an hour or $12 an hour. I can't remember precisely at this time. We would have preferred to keep all of those positions in the United States, but the economics of it forced us to move to China.

And China had the infrastructure to make the parts that go into our kind of product. They were readily available. They are not readily available, that technology is not readily available in all countries that you might imagine. So that is the reason that we made that choice.

Mr. FALEOMAVAEGA. And in the process of the 10-year period when you were in partnership your counterparts in China, did you make the reasonable margin of profit in those years that you were an active participant or as a partner in doing business in China?

Mr. FELLOWES. Truthfully, we have had a mixed picture in terms of the profitability. Our category is a very competitive category. Our company invented the first personal shredder and envisioned a residential product, a household product. And we made these products in the United States, and they were copied and made in China within, literally, a matter of months from the time that we launched these machines.

Mr. FALEOMAVAEGA. Well, I know that what the chairman—and I totally agree with the chairman that this has been one of the biggest problems in dealing with China, intellectual property piracy, to the extent that many of our companies who have gone to China and do business——

Mr. FELLOWES. Right.

Mr. FALEOMAVAEGA. And you are not the only company. I have had other companies also complain to me about the fact that they will let you come in, do the business, and all of a sudden chase you out, and then continue on doing the business. And by that time, they have taken all of your technology, they know how to do the—

fix the tractors or whatever it is that they wanted to do. And there is no question there is a violation of law here, in that respect.

China—and, again, in reference to what Mr. Millington is trying to share with us—it is a huge, huge—just to consider the bureaucracy, if you want to talk about a bureaucracy, how do you provide a governmental system, which has taken us over 220 years and it is still not perfect, to the extent that they definitely have administrative problems.

You know, when you talk about the Parliament of China, there are 3,000 members that make up the Parliament of China. I don't know of any other Parliament in the world or any country of the world that has that many people representing someone 1.3 billion people, let alone with our own 535 or 541 Members representing 310 million people. To me, that is peanuts compared to the leaders of these countries like China, like India.

I would like to feel a sense of encouragement. India has very serious problems. It is the largest democracy in the world. And to say their kind of democracy effectively implements the principles of democratic principles in a country like China, I think it can.

I think Deng Xiaoping's decision in 1978 to change China's whole economic structure by getting into the free-market system has been a totally diametric opposition to the idealogy of a socialist, planned economic system that they found after years of doing has been an utter failure. And now it is one of the most unique features of a communistic country practicing free-market system somewhat.

And yet, ironically, in the middle of this global recession, even in our country it almost went to pot because of what Wall Street has done to our own economy. Which country happens to have the most stable economy in the midst of the global recession? And I am sure Professor Auslin knows about it. And my guess, it is China. Because they had control systems like we had at one point in time. I think it was Glass law that did pass through that put an I&R on Wall Street for which for years Wall Street wanted to get rid of. And, ironically, it was the Clinton administration that took out that Glass law to keep an eye on our Wall Street moneymakers, for which—when that left, I think that is how we ended up with derivatives and wraparounds and the housing market losing its fence. If I am wrong, correct me on that.

Professor Auslin?

Mr. AUSLIN. Well, Mr. Faleomavaega, I think that what you are pointing out is the question of, how do you make a balance? And it is true that China emerged in relatively good condition from the financial crisis, but so did Canada, for example.

Mr. FALEOMAVAEGA. Yes.

Mr. AUSLIN. And Canada maintained all of the property rights of owners but had a——

Mr. FALEOMAVAEGA. And so did North Dakota.

Mr. AUSLIN. Actually, what is interesting and ironic, perhaps, what you were saying about China being a socialist system with a more capitalist economy is that India, the largest democracy in the world, had a socialist economy that it is now trying to get rid of.

Mr. FALEOMAVAEGA. And so were most of the countries in Europe in the past—democracies, but they are somewhat socialistic. And

that has caused a lot of problems with their economies, if you want to put it in those terms.

Mr. AUSLIN. But I think, just very briefly, what you have said I think is right, I agree with. And what I think it requires from us, then, is just simply a realism, to understand that this process—and I don't disagree with Mr. Millington here—that is going on is something we cannot fool ourselves about, as to where China is.

Mr. FALEOMAVAEGA. Right.

Mr. AUSLIN. And I think that that would reduce a lot of the disappointment and uncertainties, whether it is agreements that we make with them or expectations for Chinese behavior. But if we expect that simply because we have engaged them they are going to change, we are in for, I think, a much rougher ride.

Mr. FALEOMAVAEGA. Mr. Cohen?

Mr. COHEN. I just want to pick up on some of the discussion of the panel and of you, Congressman, and Congressman Manzullo.

I recognize the importance of historical and cultural analysis and developmental processes, including how long development takes. But there is another part of the interest aspect of your hearing that, again, I just wanted to address. And perhaps one of the best ways to address it is by giving a real example, just as the one that we heard from the Fellowes company.

And that is, at a time when China is developing, we do need to give it some time to take on all the obligations of an industrial, advanced economy. Having said that, there are areas where China can be doing much more, and has the capacity to do much more, but it has chosen not to.

The example I want to give is how the Chinese Government operates its system. They are using in all its bureaucracies counterfeit software. This is government, over which, it has in the Beijing area, control. But the agencies of government in China are using purloined, counterfeit software.

And for several years now, they have said they will put in place a system to end that process that has not been enforced. When the President of China was here most recently, he committed to doing an inventory of the software being used in government agencies.

I say this not to be a critic of China, but to say we do have some core commercial interests tied to the success of our own companies and the workers at those companies who are paying the price for this illegal activity in China.

Does that mean we don't want to trade with China? Does that mean we want to wall off China? Absolutely not. Our companies and the companies I represent are among the major investors in China, the major traders with China. But we believe that systems have been put in place, commitments have been made, and they do need to be held to account.

And that is all that the American business community is saying right now. We are not saying that we want to end or somehow not recognize the importance of China. We are not saying that we don't realize they need more time to develop. But there are certain things that they can do that they are choosing not to. We believe it is a national policy that has been put in place to favor its own companies and not protect the intellectual property of foreign companies, and that does need to be challenged.

Mr. FALEOMAVAEGA. I just want to make a comment in closing. Thank you, Mr. Chairman, for extending my time.

Probably the biggest challenge that China currently faces is the fact that you have one political party, which is the Communist Party. Then you have to figure, how are you going to keep controlling every aspect of the community, 1.3 billion people? You are talking about free speech, you are talking about the right to—even Twitter or Google, all these things that the world community is actively participating in.

And I think there is probably a subtle fear among the leadership in the Communist Party: How are we going to continue controlling this number of people and make it in our own political way? Because, right now, I think the level of governments in the provinces—I think there are 33 provinces in China—there is beginning to be a little schism between these provincial governments and the central government and the Communist Party, because these provincial governments are wanting to expand their own respectives, just like the 50 States that we have here. And it is a question of how the central committee, how the central government is going to continue putting its control over these provincial governments who want to expand trade.

And I am sure the chairman must have had delegations and delegations of these people coming from these different provinces. They want to expand. They want to do things. Basically, they want to be free to do the economic things. Why? So they can benefit.

I remember, when I was in Shanghai, I was amazed to see, the provinces surrounding just the city of Shanghai, you are talking about 400 million people, just around Shanghai. And Shanghai is only about, what, 16 million people? When we talk about 60,000 people who died in a catastrophe, to China that is not even a pea in a pod. But to us, it is a major, major catastrophe or something that we feel very much, and simply because of the numbers.

So I don't think that, when I say the numbers are so small, that the leaders don't have a sense of compassion or understanding or sympathy for what has happened. But just the sheer numbers makes me wonder sometimes, too, is, how do we really deal with a country—right now, basically, we have allies—and I think you noted in one of the comments made by Professor Auslin—allies versus strategic partners.

Who are our strategic partners? I suspect that China is one of those strategic partners. And what is our new policy toward China? It is called hedging. It is called, who has the upper leg over whatever policy or whatever issue that we are having problems in resolving. But just a sense of, who is getting the better end of the stick, if you will, about whatever happens—economics, political.

And this is the other thing that I think sometimes when our allies put pressure on China, saying, "Do this," you know what China would say? And I would feel the same way. "I am not your messenger boy. You know, treat me with a little more respect, North Korea, all other countries. Let's work it together, rather than to think that I am just going to jump simply because you request it."

And I think that is the essence of where sometimes we have these difficulties in communications. And this is where I—I support your concerns, Mr. Fellowes. At the same time, I support Mr.

Millington's advocacy of the idea that we need to continue the engagement process. And I honestly believe it can only lessen the tensions and the problems, that China could really be a big help, in working together with our country, in resolving the problems.

Thank you, Mr. Chairman.

Mr. MANZULLO. I have a question. Mr. Fellowes, what happens if you don't prevail in the litigation with this former joint venture partner? I mean, they locked you out of the facility; is that correct? What happens? What happens to you? What happens to your company?

Mr. FELLOWES. Well, our company has basically walked away from the joint venture. It is bankrupt. And we have established, or are in the process or establishing, new supply chains. We are bringing up three new factories; we may bring up a fourth factory. We are retooling. We are concluding that our recovery should not be based on our recapturing these assets.

Mr. MANZULLO. You are presuming that you are going to lose in the Chinese courts, which you already have.

Mr. FELLOWES. Well, I wouldn't exactly choose those words. We are going to fight very, very hard. It is extremely important to us.

Mr. MANZULLO. The plans you are making——

Mr. FELLOWES. Yes.

Mr. MANZULLO [continuing]. Are on the basis that you can defend?

Mr. FELLOWES. Exactly.

Mr. MANZULLO. I found something very interesting. You said that you were making a new line of shredders, and then, within a few months, some copycat came along and China started making the same thing.

Mr. FELLOWES. Yes.

Mr. MANZULLO. Did you seek counsel at the time? Or was there just nothing you could do because of the price that was involved in fighting it? Or did you just accept the fact that they had commoditized and stolen your invention?

Mr. FELLOWES. The shredders that I was referencing were the first personal shredders that we brought into the market in about 2000, or 1999, 2000. And we did not have patent protection around them, so we had no legal case to bring against them.

Mr. MANZULLO. Okay.

There has been a very extraordinarily disturbing decision from the WTO on tires. It involves a company back home, Titan Tires, which was not impacted, but at one time, if the Chinese Government owned a company, a wholly state-owned enterprise, it was presumed that one was the alter ego of the other, to use an old law school term. Now the WTO has come out with an astonishing decision that says, in order to impose countervailing duties on that company, in light of predatory pricing, one actually has to show manipulative policy on the part of the Chinese Government toward a company which it owns 100 percent.

Are any of you familiar with that latest decision?

Mr. COHEN. I have read of that decision. I know our Government has indicated that it has problems with this outcome and is seeking clarification and has registered its concern.

Mr. MANZULLO. Okay.

Professor Auslin?

Mr. AUSLIN. I would just like to, not necessarily on that but connected——

Mr. MANZULLO. That is okay. Go ahead.

Mr. AUSLIN [continuing]. If I could, just two very brief points.

One is on the nature of economic development in China over the past decade. One thing that is not reported on as much and I think we have to pay attention to is that the PLA, the army, has moved dramatically and rapidly into productive facilities and capabilities and exporting. Huawei, for example, the company that tried to buy into one of our major telecoms, is a wholly owned subsidiary of the PLA.

So when we talk about state control, we are talking not only about, in many cases, military control but, in fact, about a tension between the state and the military. And I think it is something we should pay attention to.

Very briefly, Mr. Chairman, if I could just pick up on what Mr. Faleomavaega stated about the concerns of the regime to maintain control. This is probably the greatest issue facing China. This is a very brittle regime. It is a regime that has scrubbed the word "Egypt," for example, from its Internet sensors. People in China are not able to see what is happening in the Arab Spring. It is a regime that is faced with enormous income disparities throughout the country. It is a regime that arrests Nobel Prize winners and arrests their families.

There is no doubt that what we need to be paying attention to, I believe, in Washington, DC, is not necessarily a China that grows linearly over the next decade; it is a China that may suddenly stop growing and would have dramatic repercussions, not only economically for our companies, but throughout the region and for the instability that we and our allies would be drawn into. This is a great issue of concern.

Mr. MILLINGTON. If I may comment, just a couple of things.

China continues its rapid development of all kinds of technologies. And regardless of policies that we put into place, we will not stop that. Their reliance upon their own inventions will grow simply because they are inventing great technologies. I have provided in my written testimony the history of how the technologies of China ignited the Renaissance in the 15th century. Well, China is getting back to its inventive ways, and it will continue to do that.

Now, we will notice a further reliance on internal technology advancements simply because they are making them. And they will not look to us for further technology advancements. And so we need to pay attention to our own technology advancement and protecting our IP and then learning ways to share. And, in that way, we can mutually be beneficial.

May I take issue with Professor Auslin just briefly? I returned from China 10 days ago, and I was there during the Arab Spring. And I found references on the Internet to Egypt and the Arab Spring and much of what was going on, both on television and on the Internet. And I was there, inside of China, where I had been teaching at the EMBA program for Zhongguo Keji Daxue. So, yes,

they have put some limits. They are not total. You can still find that information.

I do not apologize for their brutality. I recognize that. I am a realist. I have been there for many, many years. And I make no excuses for their behavior in that regard, in human rights.

But I am optimistic about the possibilities as we engage China in technological advancements, because it is technology that advances economies. And, as we work together, we will mutually advance economics and cultural and political ties. And that is perhaps the only way that we will be able to continue to be engaged with China. Because they will make advancements in technology, whether we want them to or not.

Mr. FALEOMAVAEGA. Mr. Chairman, would you——

Mr. MANZULLO. Well, sure.

Mr. FALEOMAVAEGA. I was watching television the other evening, 3 o'clock in the morning, watching the situation in Japan. And there was an announcement that there was a Chinese cruiser ship, a frigate—you know, this is a big, big, big—almost close to a battleship—came all the way from China, went through the Straits of Malacca, and went right through the Suez Canal for the purpose of picking up some 36,000 Chinese nationals who were working either in Egypt or whatever it was.

But it was something that was so new, I think, in the eyes of the world, to see, here is China coming with up with this huge ship that came right through the Suez Canal, and it was just simply to say looking after the interest of some 36,000 Chinese nationals who were working in Libya and Egypt, to pick them up, just like what we are doing with our own people whenever there is a catastrophe or an emergency.

Interestingly enough, what I was trying to say in terms of, where or what should we do? I mean, are we going to consider China as the next monster or the next Soviet Union, or are we going to consider China truly as a strategic partner? Where there are issues, we are going to continue to disagree, as well as there are issues that we could work together and solve some of the serious problems that the world community is now confronted with.

And, Mr. Chairman, I totally agree with your premise, the fact that intellectual property violations of companies like Mr. Fellowes', we need to continue the engagement process. And I feel for you, the fact that the Embassy and the officials of the Chinese Government have not even bothered to respond to your letters and requests from you and some of our colleagues. And why they have not done so, that is a very good question.

Mr. MANZULLO. Well, we finally got a letter, a two-page letter, after our staff engaged with the Embassy.

Well, this has been an extraordinary hearing—four people of vast backgrounds: Academic, hands-on victim of what has been going on in China. We will be having, if not more hearings, roundtables, and informal discussions. I am very much concerned—there are a lot of things we could go into: The U.S. trying to change its own patent system to "harmonize with Europe."

Mr. Millington, I take it—and we can talk afterwards—that you are not too much in favor of that and have a lot of problems with it.

We have a long way to go on this issue. My big concern is in the attitude of the Chinese. I thought, when I voted for WTO, that was a tough vote. I purposely joined the Commission on Human Rights because I wanted to see if the condition of human rights would improve for the Chinese people.

In one of several trips that I made to China, we were at Johns Hopkins University in Shanghai and at another university in Beijing, interacting with American students and the Chinese students. At the forum in Shanghai, one of the Chinese students asked an extraordinary question. There were 13 Members of Congress there. I had led the largest U.S. Delegation of Members of Congress to China. The extraordinary question was: Do you think that China, the Chinese, are ready for democracy?

This was a Chinese student asking that question, and I think we all gasped when we heard that because, number one, it wasn't a lack of information. This student had studied in the United States, knew what democracy was, and asked the question, are they ready for democracy?

The second thing that happened at that extraordinary town hall meeting with 13 Members of Congress and over 200 U.S. and Chinese students, is one of the Chinese students asked, of all the seminal documents that make up the American experience, which of these do you consider to be most appropriate?

Congressman Pascrell from New Jersey gave the most brilliant definition and defense of the doctrine of natural law that I have ever seen. We were in absolute astonishment as how he described the basis of personal property rights and liberties. He said, "In our country, we believe that God is the author of rights, that he is the author of liberties, not man." If God is the author of liberties, only God can take them away; but in China, you don't have such a belief. They believe that man only has the liberties to which other men give him.

This went on for about 15 or 20 minutes—I think the most brilliant lecture in defense of the doctrine of natural law that I have ever heard in my entire life. I have known Bill Pascrell for a long time, and he used to teach at a community college on the method of learning. So he just—this was just tucked deep within his heart, as he just expounded.

I think that is where we are, between the United States and China. Our systems come from such different constructs that it is almost impossible for the Chinese to understand the dignity of personal property. That is not within their definition. They have no idea what personal property means.

You talk about what they are doing in their cities, if they don't like somebody's house, they just put an X on it. Well, of course, we have some horrible situations taking place here in our country, where the Supreme Court actually condoned condemnation for economic purposes, but nothing near what the Chinese are doing.

What I expected to see after joining the WTO, was a whole new way of thinking in China. They had wanted to be a part of the international market for years. It would behoove them, they would actually benefit from embracing democracy. It would help their economy. It would help their people, but they simply do not under-

stand, notwithstanding the years of studies here in this country at our marvelous universities, the concept of private property.

Anyway, I appreciate you coming. If there is anything additional that you want to add to your testimony, even though we have had a lot of time, please feel free to send it to us. I will just keep the record open for 21 days. Even if it is a simple letter that you want to send to us, we would be willing to work with it.

Thank you very much for coming.

This hearing is adjourned.

[Whereupon, at 4:57 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

Subcommittee on Asia and the Pacific
Donald A. Manzullo (R-IL), Chairman

March 29, 2011

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, Subcommittee on the Asia and the Pacific, to be held in **Room 2360 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at http://www.hcfa.house.gov):**

DATE: Thursday, March 31, 2011

TIME: 2:00 p.m.

SUBJECT: Asia Overview: Protecting American Interests in China and Asia

WITNESSES:

The Honorable Kurt Campbell
Assistant Secretary
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Mr. James Fellowes
Chairman and Chief Executive Officer
Fellowes, Incorporated

Mr. Calman Cohen
President
Emergency Committee on American Trade

Michael Auslin, Ph.D.
Director of Japan Studies
American Enterprise Institute

J. Kent Millington, DBA
Entrepreneur in Residence and
Director of the Department of Technology Commercialization
Utah Valley University

By Direction of the Chairman

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

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Asia and the Pacific* HEARING

Day *Thursday* Date *March 31, 2011* Room *2360 Rayburn*

Starting Time *2:10pm* Ending Time *4:57pm*

Recesses [1] (*2:25* to *2:57*) (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

Donald A. Manzullo, Chairman

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [ ]

Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING:

"Asia Overview: Protecting American Interests in China and Asia"

SUBCOMMITTEE MEMBERS PRESENT:

Chairman Donald Manzullo, Eni Faleomavaega, Bill Johnson, Steve Chabot, Brad Sherman, Frederica Wilson, Edward Royce

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

None

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

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

1. *Chairman Manzullo Opening Statement*
2. *Ranking Member Faleomavaega Opening Statement*
3. *Prepared testimony of Assistant Secretary Kurt Campbell, James Fellowes, Calman Cohen, Michael Auslin, and J. Kent Millington*
4. *Chairman Manzullo question for State Department regarding Viva Macau Airlines*
5. *James Fellowes - Four pictures illustrating some of the issues in his testimony*
   - Statement regarding intellectual property theft experienced by Fellowes, Inc.
6. *J. Kent Millington - Statement for the record regarding Chinese legal environment*

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *4:57*

Subcommittee Staff Director

Question for the Record
March 31, 2011

I would like to discuss the expropriation of an American-owned business, Viva Macau Airlines, by the Government of Macau. This expropriation, possibly the first by the Macau Government against property owned by American investors, was recognized in the State Department's March 2011 Report on U.S. Citizen Expropriation Claims and Certain Other Commercial and Investment Disputes and represents not only a serious downward turn for the treatment of investors from the United States in Macau, but also a disregard for international aviation norms. It is my understanding that Viva Macau Airlines is not involved in Macau's gaming industry.

In an action unprecedented in international aviation history, Viva Macau Airlines' air operating certificate was revoked without any opportunity to cure the problem, causing massive disruptions in international aviation and harm to passengers, creditors, and suppliers. I also understand that there is evidence suggesting collusion between state-owned rival Air Macau, the state-owned fuel supplier Nam Kwong, and the Macau Aviation Authority to stage the events leading to the expropriation.

This case has grave implications for U.S. interests in Macau, where the United States is the largest source of foreign direct investment. Furthermore, the actions of the Macau Government, as well as the various state-owned entities involved, calls into question the rule of law in Macau and its treatment of foreign investors.

I fear that the expropriation of Viva Macau Airlines, which was one of the only low cost carriers in Asia flying U.S.-made Boeing planes, may represent a new wave of anti-American policies and a worsening investment climate in Macau. Viva Macau was not involved in gaming; and, in line with China's vision for a diversified and international Macau, it served the greater public good by providing affordable transportation to and from Macau.

Along with other U.S. investors in Macau and China, many of my colleagues and I have been watching this situation closely and have sent letters to Secretary Clinton and Commerce Secretary Locke, who has been nominated to be our Ambassador to China, asking them to express their concerns over this matter to the Chinese Central Government. Copies of these letters have been submitted for the record.

For nearly a year, the Macau courts refused to hear Viva Macau's appeal against the government's actions. But, finally, last month, after it was publically revealed in the press that Members of Congress have been looking into this matter, Macau's Supreme Court ordered a hearing on the case. However, there is no guarantee that Viva Macau will get a fair trial.

I strongly believe the most effective way to ensure that local Macau interests do not ride roughshod over Viva Macau is to make sure the Chinese Government in Beijing is fully engaged in this matter. Beijing has taken impressive steps over the last decade to encourage Macau to open itself to foreign investment, to diversify its local economy, and serve as a platform for trade between China and the West. Consequently, it is in China's interest to see companies like Viva Macau succeed because they support China's objective of growing Macau's non-gaming tourism and business visitor sectors.

Beijing can help resolve this. Under the "One Country, Two Systems" policy, Beijing is responsible for Macau's foreign policy. Accordingly, it is entirely appropriate to engage Beijing on this issue, particularly since this matter is clearly implicating Macau's relationship with the United States.

Therefore, given China's oversight of Macau's foreign affairs, let me ask, what is the U.S. State Department doing to ensure Viva Macau receives a fair trial in Macau and express its concerns in the strongest possible terms to the Chinese and Macau Governments about the Viva Macau case and its implication for the U.S. Government and business community's view of Macau's rule of law, investment climate, and commitment to international aviation norms?

Kurt Campbell
March 31, 2011

Question:

Mr. Manzullo: Therefore, given China's oversight of Macau's foreign affairs, let me ask, what is the U.S. State Department doing to ensure Viva Macau receives a fair trial in Macau and express its concerns in the strongest possible terms to the Chinese and Macau Governments about the Viva Macau case and its implication for the U.S. Government and business community's view of Macau's rule of law, investment climate, and commitment to international aviation norms?

Mr. Campbell: As the second largest foreign investors in Macau after Hong Kong, U.S. businesses have invested more than $8 billion in Macau over the past six years. As a result, protecting U.S. business interests in Macau is one of the U.S. State Department's top priorities. Regarding Viva Macau, State Department officials have met with MKW Capital Management's (MKW) partners and their Washington-based legal advisors Patton Boggs (PB) on numerous occasions since April 2010. U.S. diplomats at our Consulate General in Hong Kong continue to raise the matter with GOM officials on a regular basis, including the Consul General's raising the case with Macau's Chief Executive. In all such meetings, we have stressed the importance of transparency and due process for U.S. investors in Macau.

We continue to monitor developments in this case closely and understand that Macau's Court of Final Appeal ruled in Viva Macau's favor on February 23 by returning the case to the Court of Second Instance, which will have to decide whether there was an administrative act from the government instructing Air Macau to revoke Viva Macau's air operator certificate and, if so, if such an act was legal. As we have explained to MKW, Viva Macau should continue to pursue all local remedies available.

We believe involving the Government of the People's Republic of China in Beijing in this case would violate our long-standing policy toward Macau which is to support "one country, two systems" and Macau's autonomy under the Basic Law. Under the Basic Law, Macau has jurisdiction over commercial/economic, legal, and all other matters outside national security and foreign affairs. Inviting Beijing to weigh in on this commercial, and now legal, matter would signify a break from this policy.

In our many conversations and meetings with U.S. business representatives in Macau, they have not reported to us any other alleged instances of GOM harassment, any anti-American sentiment, or a worsening

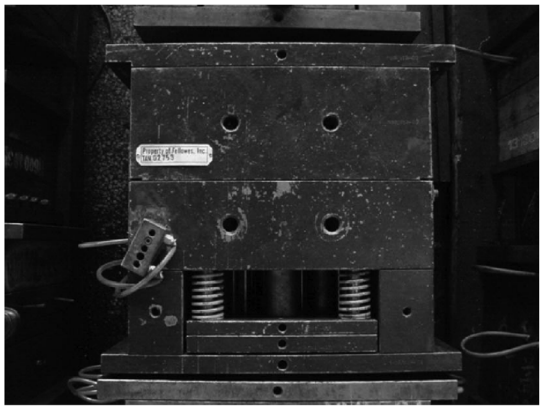
investment climate in Macau. We treat all allegations of harassment by government authorities very seriously. We continue to monitor our contacts and other sources of information to see if in fact there is a pattern of discrimination toward foreign investors in Macau. So far, we have not identified such a trend.

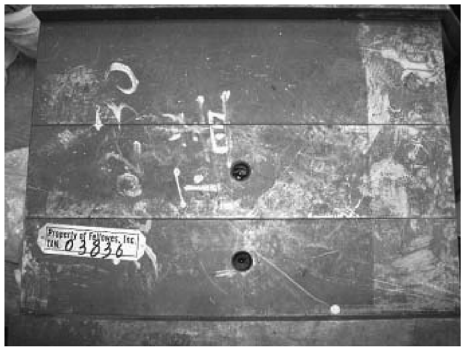
Submitted for the record by James Fellowes - Addition to written testimony Subcommittee on Asia and the Pacific Hearing: "Asia Overview: Protecting American Interests in China and Asia" – March 31, 2011

Fellowes experienced another egregious situation with reverse engineering in China in 2008. While attending trade show in Shanghai, Fellowes employees spotted a line of shredders that were an exact copy of shredders that we were just in the process of launching. The packaging and instruction manuals were also nearly identical. Since the products had not been shipped to customers, we knew that there was a leak within the factory and that the competitor was given access to our electronic CAD files. We traced the leak and developed a case against the individual. The police refused to take any action against the individual even though we had very strong circumstantial evidence. We were also advised by Chinese counsel that we could not stop the competitor because although the designs were identical to Fellowes designs and the competitor had never made a shredder before, it was possible that they came up with the exact same design independently. The competitor continues to sell the copies in China though we have been able to stop them in nearly every other country in the world. There was no process under Chinese law for us to prove they were our designs.

Submitted for the record by James Fellowes
Subcommittee on Asia and the Pacific Hearing: "Asia Overview: Protecting American Interests in China and Asia" – March 31, 2011

Fellowes, Inc. Injection Molding Tools





Submitted for the record by James Fellowes
Subcommittee on Asia and the Pacific Hearing: "Asia Overview: Protecting American Interests in China and Asia" – March 31, 2011

Tooling theft experienced by Fellowes, Inc. in China

Asia Overview: Protecting American Interests in China and Asia

Additional Information for the Record submitted by J. Kent Millington

Director, Technology Commercialization, Utah Valley University

For the House Committee on Foreign Affairs

Subcommittee on Asia and the Pacific

April 19, 2011

On March 31, 2011, I appeared before the Subcommittee and gave written and oral testimony. The following information is submitted for the record to supplement what I have previously submitted.

In my testimony before the Subcommittee I indicated that China has made significant progress in recent years in terms of the treatment of foreign companies, the creation and enforcement of laws pertaining to intellectual property, and opening Chinese markets to foreign companies. I indicated that one very promising way for the US and China to cooperate was in the area of technology development and deployment. Because I recommended increased interaction between the two countries in the area of technology, I also recognize that the further development and enforcement of Chinese law concerning intellectual property is of great importance.

During my testimony, Chairman Manzullo indicated that he thought China was actually going backwards in its legal responsibilities. I maintained my position that I thought improvements were being made. Therefore, I submit to the Subcommittee the following information that indicates areas of improvements that have been made but also highlights the need for continued vigilance on the part of US companies as they do business in China.

The American Chamber of Commerce in the People's Republic of China (AmCham-China) issues a white paper each year entitled *White Paper on the State of American Business in China.* A full copy of the report may be downloaded at www.amchamchina.org/whitepaper2010 . I have taken the following excerpts from the chapters on Competition Law, Intellectual Property Rights, and Innovation, Information, and Communications Technology Policy. The entire report gives a balanced report on the status of American business in China, highlighting achievements as well as areas of concern where improvement is still needed. A summary of the report states the following:

The 2010 *White Paper* reflects US companies' positive overall outlook on the Chinese economy, as well as growing concern on market access in the future, as well as completing the transition to a market economy. "We have seen the Chinese government engaging us on issues like energy and innovation policy," AmCham-China President Christian Murck said. "We are optimistic that the recommendations that we are publishing will help progress towards tangible improvements."

This year's *White Paper* also marks the first year that AmCham-China tracked year-on-year progress for the top recommendation in each industry chapter. Of last year's 41 top recommendations, 11 received either a four or five, indicating partial or full resolution of the issue. Issues remain, but steady progress has been made.

Competition Law (pages 50-61)

The Anti-Monopoly Law of the PRC (AML), which took effect in August 2008, is the most significant development in the history of Chinese competition policy. As China's first comprehensive competition law, the AML is a significant step in China's continuing transition from central planning to a market economy.

With some exceptions, the AML's framework and substantive provisions are generally consistent with prevailing worldwide antitrust regulatory practices. The AML addresses the three principal areas of antitrust regulation: anti-competitive monopoly agreements involving multiple firms; exclusionary and predatory unilateral conduct by firms with substantial market power (abuse of dominance); and mergers, acquisitions, and other transactions that may restrict or reduce competition. Beyond regulating private anti-competitive conduct, the AML also includes a limited provision to address administrative monopoly, or the misuse of official authority to protect or promote favored firms. But while the AML incorporates many well-established principles, several key implementation regulations remain unclear or have yet to be promulgated.

If the AML is implemented to promote consumer welfare and economic efficiency in accordance with established worldwide practices, and is enforced in a transparent and nondiscriminatory manner, it should help markets better serve Chinese consumers while improving overall Chinese economic efficiency.

While the AML focuses on administrative enforcement, it also allows private actions to recover damages resulting from AML violations. The Supreme People's Court has assigned jurisdiction for such actions to courts responsible for intellectual property (IP) disputes.

The AML's behavioral rules target two types of anticompetitive conduct: restrictive agreements (monopoly agreements) and abuses of dominant market positions (i.e., anti-competitive single-firm conduct). The AML's behavioral provisions are generally consistent with prevailing international practices. However, as implementing regulations remain sparse and no enforcement decisions have been issued, it is difficult to assess how actual enforcement converges with international practice. The AML prohibits dominant firms from unfair pricing. Although an analogous provision exists in the European Commission Treaty, worldwide competition authorities rarely initiate enforcement actions against dominant firms for charging unfairly high prices unless accompanied by other exclusionary or predatory conduct because high prices incentivize other undertakings to compete on price, enter the market and/or develop

substitute goods. Aggressive enforcement of this provision in China could lead to direct price regulation or deter rational pricing practices by dominant firms.

Many provisions of the AML, consistent with international practice, are aimed at promoting consumer welfare and economic efficiency through the competitive process. Still, several provisions appear to allow the enforcement of the law as an instrument of protectionism and industrial policy.

Intellectual Property Rights (pages 108-119)

The commitment of the Chinese government to protection of intellectual property (IP) has continued to evolve significantly in recent years. While the government has taken steps to address many older issues, such as widespread counterfeiting and piracy, significant structural problems remain unresolved, including local protectionism, disproportionately low resource allocation to copyright enforcement and varying local practices.

Bilaterally, IPR talks under the US-China Joint Commission on Commerce and Trade (JCCT) resumed in 2009, following a hiatus after the US filing of a WTO case. AmCham-China believes that sustained, effective JCCT IPR talks and other bilateral dialogues, in close coordination with industry, are vital to addressing pressing IP concerns, new and old, and to ensuring that prior commitments are fully implemented. AmCham-China believes there is great potential to deliver concrete, meaningful results, particularly where Chineselaws and policies are clear and China has made explicit JCCT commitments, such as ensuring China's stateowned enterprises (SOE) are using legally licensed software. Technical capacity building and cooperation talks between patent authorities US Patent and Trade Office (USPTO) and China's State Intellectual Property Office (SIPO), as well as the patent authorities of Europe, Japan and several other countries, have continued and are deepening. This too is very positive given the importance of patents to innovation and competitiveness. Other dialogues, on areas such as trademarks, copyright, criminal justice cooperation in IPR, pharmaceutical and medical devices, are also critical.

Another example of win-win cooperation was the establishment of a joint US-China Clean Energy Research Center during President Obama's 2009 trip to China, which will facilitate joint research and development of clean energy technologies by scientists from both countries.

However, several ongoing, overarching IP issues continue to negatively impact the development of both foreign and domestic industry. First, China's continued failure to adequately enforce IP rights continues to cost China's trading partners, including US knowledge based industries, billions of dollars in lost exports. Second, measures announced by China to promote "indigenous innovation" have made nationality of IP ownership a market access barrier to Chinese government, and potentially SOE, procurement. Finally, a range of Chinese measures relating to patent, standards and competition policies threatens to weaken or eliminate underlying IP rights themselves if the Chinese government determines they are against the "public interest" or if abuse of IP or "abuse of dominance" is found.

If not addressed, these problems could pose a threat to the long-term competitiveness of a wide range of America's strongest knowledge based industries, given that China is, or will soon be, the world's largest market for many cutting-edge products and services. The inability of US companies to capture the value of their IP in China directly impacts job growth and the health of companies in both the US and China.

While China has made great efforts to improve the body of IP laws and regulations, enforcement of these regulations is now needed to ensure the continued growth and development of IP in China.

On October 1, 2009, China's new Patent Law came into effect. Since 2006, AmCham-China has submitted three sets of comments on the new law. AmCham-China appreciates the opportunity to provide input and looks forward to future opportunities to contribute. We applaud the release at the end of 2009 of implementation regulations and the judicial interpretation as they are essential for increasing compliance with the Patent Law, which includes numerous terms and provisions requiring further clarification and explanation. The new Patent Law made numerous amendments to the previous law, including revisions to design patents, heightened patentability standard (absolute novelty was adopted), joint-ownership revisions, preliminary injunction procedures, international patent exhaustion and new rules on inventor remuneration.

There have been other noteworthy patent-related developments in China. In March 2009, the Supreme People's Court issued an opinion which, among other things, encourages local courts to increase the costs to infringers "dramatically" by raising compensation awards, which would both increase deterrence and lower costs of enforcement for IP owners.

Innovation, Information and Communications Technology Policy (pages 216-231)

AmCham-China welcomes China's drive to establish an innovation-based economy. Improved intellectual property (IP) protection, more open and competitive markets, combined with educational, financial and legal system reforms, will strengthen China's competitiveness and accelerate its transformation from the world's factory to a leading global innovator.

However, AmCham-China is concerned about the direction of China's policies to promote innovation. Am-Cham-China member companies have spent billions of dollars investing in world-class research and development (R&D) centers and providing China's engineers with global best practices and many of the processes and tools that they need to innovate. However, policies that China is adopting under the banner of "indigenous innovation" are increasingly closed and protectionist in nature, threatening to limit foreign participation in China's economy. Domestic innovation should be encouraged, but more closed policies, whether in procurement, standards, IP, security requirements, or selective enforcement and application of competition and IP laws, undermine, rather than advance, domestic innovation.

Specifically, the current innovation drive has manifested itself in policies favoring Chinese products, services and standards over those imported or produced by foreign-invested firms in China. In the long run, these preferences will reduce competition in the marketplace, discourage innovation and deprive Chinese companies and workers of opportunities to capitalize on international best practices.

Research and development today is truly global, involving collaboration between teams around the world. Ideas and technologies are licensed through market driven transactions for further use and development across borders, between partners, and between competitors. This is how new products and services are created. China is a central participant in and beneficiary of today's global innovation ecosystem, evidenced by the fact that China's patent authority now leads the world in number of applications. Building walls or barriers around China's innovation

and market in an increasing number of strategic sectors will retard, not accelerate, innovation. China's trading partners will be tempted to respond by adopting similarly protectionist policies. Furthermore, China's continued failure to adequately enforce IP is hindering the growth of its domestic knowledge-based industries and costing China and its major trading partners exports and jobs.

It is unsustainable for China to retain open access to foreign markets for China's most competitive exports while closing its own markets and failing to enforce IP rights of the most competitive knowledge-based and innovative exports of China's trading partners. AmCham-China urges China to pursue policies that provide a level playing field for all innovative companies in China. We strongly believe that history has demonstrated this type of competitive environment to be the best stimulator of innovation.

Particularly in light of the recent global economic downturn, there is an opportunity to promote economic transformation through innovation. Such a transformation could lead to accelerated high value-added growth, a stronger investment environment, continued high GDP growth rates, lower per-unit GDP consumption of scarce resources (e.g., energy and water) and the opportunity for further global integration. The Chinese government has intelligently linked innovation in the information and communications technology (ICT) industry with overall industrial advancement and high-quality economic growth.

Summary

It is clear that the Chinese government is taking steps to adhere more to international norms of law and enforcement. As I stated in my oral testimony, adherence to these new laws will take some time, but progress is being made. There are numerous examples of both the favorable changes that are being made and of the persistence of abuses. Examples of both instances should not be pointed to exclusively without reference to the other. But a positive approach to engagement with China is the surest way to protect the economic integrity of all parties to the myriad transactions occurring each day between the US and China.

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