

Hearings on Religious Persecution in Sudan: Mr. Roger Robinson Jr. Oral Testimony

February 15, 2000

(Note: These are unedited and uncorrected transcripts)

MR. ROBINSON: Thank you, Mr. Chairman.

It is a privilege to appear before you and other Commission members on arguably one of the most compelling and empowering public policy issues of our time--the monitoring of prospective and existing foreign debt and equity offerings in the U.S. capital markets to help ensure that those engaged in or aiding religious persecution and other human rights and national security abuses like those taking place in Sudan are not rewarded or unwittingly underwritten by American private and institutional investors and portfolio managers.

As you mentioned, over the past 25 years, I have had the opportunity to examine rather closely how potential adversaries of the United States fund themselves and their global activities, first, during my career as a vice president in the International Department of the Chase Manhattan Bank in New York, with responsibilities for the Bank's loan portfolios in the former Soviet Union, Eastern and Central Europe and Yugoslavia, and later in my position as Senior Director of International Economic Affairs at the National Security Council under President Reagan.

In the interest of time, I will summarize my written testimony and the accompanying attachments, submit it for the record of these hearings, and move directly to the issues before the Commission.

I would like to very briefly provide some of the context in which to view, for example, the Talisman and PetroChina challenges that have been referenced earlier by Professor Reeves and others.

Primarily as a result of disclosure-oriented shortfalls, numerous global bad actors have already successfully penetrated or are planning to enter our capital markets, among them, religious persecutors or corporate entities facilitating such persecution, human rights abusers, potentially hostile militaries, technology-theft and intelligence-related front companies, proliferators, arms smugglers,

money launderers, and foreign firms assisting, directly or indirectly, terrorist-sponsoring regimes.

More often than not, the same foreign governments and firms engaged in or facilitating national security-related abuses are likewise responsible for human rights violations and the suppression of religious freedoms. Such is the case with regard to foreign companies partnering with the terrorist-, slavery-, and genocide-sponsoring Khartoum regime.

Professor

Reeves has already referenced the ill-considered 25 percent stake held by Talisman Energy, Inc. of Canada in Sudan's Greater Nile Petroleum Operating Company and the even larger 40 percent equity position of China National Petroleum Company in this oil development consortium, as well as the direct relationship existing between newly generated oil revenues and the fueling of the Sudanese Government's genocidal activities in the south of the country.

Indeed, one of the challenges which the Commission faces is to evaluate the credibility and effectiveness of the Sudan-related "fire wall" reportedly constructed by CNPC's subsidiary, PetroChina, in which CNPC maintains an 85 to 90 percent equity stake according to press accounts to ensure that funds raised in the U.S. capital markets will not be diverted even in part to the parent company's operations in Sudan.

As many of you know, PetroChina is expected to list on the New York Stock Exchange and proceed with a \$5 to \$7 billion initial public offering, a so-called IPO, in the next several weeks. This would be one of the largest IPOs in the history of the New York Stock Exchange and China's largest equity offering.

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Institute with which I am involved and chair, and my personal efforts over the past 4 years in this emerging national security and human rights portfolio have been narrowly dedicated to the following: 1) strengthening disclosure and reporting requirements with regard to foreign entities already in or seeking to enter our capital markets; 2) recommending the voluntary integration of these material non-financial considerations into the so-called due diligence process performed by U.S. private and public portfolio managers; and 3) urging the temporary denial of access to the U.S. capital markets in the event of egregious national security and human rights abuses until such time as these abuses are addressed or remedied.

Putting aside

for the moment the moral and security dimensions of this matter, I use the term "material" with regard to these non-financial concerns because of the advent of South African apartheid-type divestment campaigns and the prospect of economic sanctions against proliferators or other offenders which could impact adversely on the value of foreign equity and debt holdings. Witness the Talisman case.

As a public policy tool to help catalyze positive change or penalize wrongdoing, greater scrutiny of foreign entrants to the U.S. capital markets offers distinct advantages over, for example, measures in the trade portfolio. For example, in the event of blatant religious persecution overseas of the type we are witnessing in Sudan, where sanctions are deemed an appropriate response, targeted actions in the capital markets are likely to produce considerably less collateral damage to U.S. exporters, workers, consumers and interests than trade-related sanctions. This is primarily because the use of trade sanctions--which are already, frankly, in the process of being eviscerated by congressional legislation and increasing pressure from the business community on the executive branch not to implement them--often result in the loss of valuable U.S. exports and jobs. Such sanctions can also be undermined by so-called "foreign availability," or the ability of other foreign companies to step in and supply the same product, and constrain further potentially useful people-to-people contact and other forms of bridge-building with potential adversaries or competitor nations.

While there are no cost-free solutions to the sanctions dilemma, putting at risk unfettered access to the U.S. capital markets in the case of foreign religious persecutors and those that aid them would likely result in higher costs of borrowing and equity fundraising for offenders in other global markets and could over time limit the actual amount of capital which could be attractive.

In addition, a clear indication that the activities of foreign borrowers and equity fundraisers and those of their senior managers and affiliates and subsidiaries are being scrutinized by U.S. investors could well catalyze positive change in the behavior of past or prospective offenders.

In conclusion, Mr. Chairman, it is inevitable in the internet age that American investors will increasingly insist on a better understanding of to whom their money is going and its ultimate end use. This is especially the case with respect to publicly-managed portfolios in the 50 States.

The possibility and even likelihood that strengthened discipline and transparency in our financial markets can ultimately bring about desired reforms in emerging market economies such as those of China and

Russia cannot be sufficiently underscored.

Finally, this carefully crafted, non-disruptive capital markets initiative, which I recommend can be very useful in leveraging peace in Sudan, provides an opportunity for those committed to religious freedom to express themselves in a concrete manner that sends a potent message to and potentially can inflict a serious cost upon those engaged in religious persecution and other human rights and national security abuses.

Moreover, such a grassroots and state-level initiative has the following attributes: 1) it does not require undue government intervention the marketplace; 2) it more often than not would not impact adversely on U.S. exports, jobs or people-to-people contact; 3) it would usefully incorporate relevant non-financial factors into the "due diligence" risk assessments of portfolio managers throughout the country; and 4) it is a selective, voluntary approach which avoids capital controls and other impediments to the free flow of capital.

For these and other reasons, I commend the Commission for its early leadership in this important new public policy arena to help advance peace in Sudan.

Thank you, Mr. Chairman.