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

February 15, 2000

(Note: These are unedited and uncorrected transcripts)

Introduction

Mr. Chairman, it is a privilege to appear before you and the 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 are not rewarded or unwittingly underwritten by American private and institutional investors and portfolio managers. Over the past twenty-five years, I have had the opportunity to examine how potential adversaries of the United States fund themselves and their global activities. This focus began during my career as a Vice President in the International Department of the Chase Manhattan Bank with responsibilities for the bank's loan portfolios in the former Soviet Union, Eastern and Central Europe, and Yugoslavia. It took on a more security-minded emphasis in my position as Senior Director of International Economic Affairs at the National Security Council under President Reagan. In addition to private consulting activities, I hold the Casey Chair at the William J. Cagey Institute of the Center for Security Policy, a non-profit policy group which addresses, among other issues, the nexus between national security and global finance.

Background

In the interest of time, I will move directly to the issues before the Commission. Over the past two decades, emerging market countries and companies have increasingly looked to the private capital markets (i.e. the issuing of stocks and bonds) for larger-scale funding and away from their traditional reliance on syndicated commercial bank loans and Western government financing vehicles. Regrettably, the level of disclosure and transparency required of these foreign governments and firms has been inadequate both in comparison to that demanded of U.S. firms in our markets as well as with regard to the ability of prospective U.S. investors to understand the true identity , affiliations and activities of many of these entities.

As
a result of these 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, suspected proliferators, arms smugglers, money launderers and foreign firms assisting (directly or indirectly) tertorist-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.

The
Commission is fully aware of the ill-considered 25% stake held by Talisman Energy Inc. of Canada in Sudan's Greater Nile Petroleum Operating Company and the even larger 40% equity position of China National Petroleum Company (CNPC) in this oil development consortium. Indeed, one of the challenges which the Commission faces is to evaluate the credibility and effectiveness of the Sudan'"related "firewall" reportedly constructed by CNPC's subsidiary, "PetroChina" (in which CNPC maintains an 85% -90% equity stake according to press accounts), to ensure that funds raised in the U.S. capital markets will not be diverted to the parent company's operations in Sudan. PetroChina is expected to list on the New York Stock Exchange and proceed with a $5-7 billion initial public offering (IPO) in the next several weeks. This would be one of the largest IPO's in the history of the New York Stock Exchange and China's largest equity offering.

The Capital Markets Transparency Initiative

Mr.
Chairman, I know you and the other Commission members share my view that it would be counterproductive to advocate or institute leverage-orientated policy tools which would impede the free flow of capital into and out of our debt and equity markets, function as capital controls or stimulate undue government intervention in the markets. Nevertheless, it is only prudent that the U.S. investor community be equipped with the information needed --in prospectuses and other disclosure-related documentation --to make purchasing decisions vis a vis foreign securities that are consistent not only with their financial goals and expectations, but with their most coveted values and perceptions of our national security interests.

Accordingly,
the Casey Institute and my personal efforts over the past four years in this emerging national security and human rights policy portfolio have been narrowly dedicated to: 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 "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 redressed or remedied. Putting aside for a 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 (e.g. the Talisman case).

Financial Versus Trade Sanctions

As
a public policy tool to help catalyze positive change or penalize wrong-doing, greater scrutiny of foreign entrants to the U.S. capital markets offers distinct advantages over measures in the trade portfolio. For example, in the event of blatant religious persecution overseas, 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 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 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 fund-raising for offenders in other global markets and could, over time, limit the actual amount of capital which could be attracted. In addition, a clear indication that the activities of foreign borrowers and equity fund-raisers --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.

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 end-use. This is especially the case with respect to publically-managed portfolios in the fifty 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 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 "grass roots" and state-level initiative has the following attributes: 1) It does not require undue government intervention in 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 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.

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CENTER FOR SECURITY POLICY

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WASHINGTON POST ARTICLE COULD PROVE A TURNING POINT IN EFFORTS OF

THE PROBLEMATIC CHINESE ENTITIES SEEKING TO PENETRATE U.S. CAPITAL MARKETS

(Washington,

D.C.): On the day the front-page of the Washington Post's business section laid bare the struggle underway to block a New York Stock Exchange (NYSE) listing and follow-on IPO of a unit of China National Petroleum Company (CNPC) called "PetroChina," the State of New Jersey revealed that it had sold all of its holdings (estimated to amount to 680,000 shares) in Talisman Energy, Inc. -- a partner company with CNPC in the development of Sudan 's oil fields.

The
latter development is of particular interest in light of the revelation contained in the Post article by David Ottaway that "At least two of these pension funds {i. e., TIAA- CREF and CalPERS which had previously divested their holdings in Talisman] are among the largest in the country and have also decided not to participate in the Chinese company's [PetroChina] stock offering. (Emphasis added.) If true, these decisions could mark a potential turning point in the U.S. investment community 's appetite for the increasingly controversial PetroChina IPO (estimated to be valued at $5-7 billion).

Importantly,
Ottaway declares: "The campaign against the {PetroChina] IPO marks a new direction in the widening involvement of church and human rights groups in various foreign policy Issues. Now, for the first time they have decided to focus on the behavior of foreign companies registered on U.S. stock exchanges." (Emphasis added.) Ottaway's article should be considered required reading.

Washington, Post, 27 January 2000

CHINESE FOUGHT ON NYSE LISTING GROUPS CITE OIL FIRM'S ROLE IN SUDAN

By David B. OTTAWAY

Conservative
religious and human rights groups have launched a campaign to block China's largest petroleum company from listing an affiliated company on the New York Stock Exchange next month because of its oil investments in Sudan, an African nation under extensive U.S. sanctions because of its alleged support of terrorism and persecution of Christians.

Leaders
of the campaign charge that the Chinese-backed Islamic fundamentalist regime there is committing "genocide" in its war against a Christian-led rebel movement in the south and encouraging a flourishing

trade in non-Muslim slaves.

They have urged the
Clinton administration to bar the Chinese company from the New York exchange, where it hopes to raise $5 billion in new capital through a public stock offering. They have already helped to persuade a number of big U.S. public pension funds to divest their holdings in a Canadian oil firm associated with the Chinese in the same oil project.

At
least two of these pension funds are among the largest in the country and have also decided not to participate in the Chinese company's stock offering.

The pressure is coming just as the
administration is launching its own lobbying effort to persuade Congress to approve China's admission into the World Trade Organization.

With
the advice of American consultants, China National Petroleum Co., China's state-owned oil company, has taken a number of steps to blunt the campaign by U.S. religious and human rights groups. The most important was to create a separate company, PetroChina Co., that will operate only inside China while CNPC holds onto its overseas operations.

"They
understood the sanctions issue here early on," said one investment banker familiar with CNPC's strategy for the public offering.

PetroChina
will rank as China's largest company, holding 70 percent of the country's petroleum reserves and accounting for two- thirds of all its oil and gas production. It will become the world's fourth-largest publicly traded oil and gas company, with profits expected to reach nearly $3 billion this year , according to its U.S. promoters.

After the initial public offering, the Chinese government will still hold 85 percent to 90 percent of PetroChina's stock.

The
campaign against the IPO marks anew direction in the widening involvement of church and human rights groups in various foreign policy

issues. Now for the first time they have decided to focus on the behavior of foreign companies registered on U.S. stock exchanges.

"This is unchartered waters for religious and human rights groups," said Nina Shea, director of the Freedom House's Center for Religious Freedom, one of the groups spearheading the effort. "But if American companies can't invest in Sudan, why should we be capitalizing foreign companies who do it?"

Also involved in the campaign are Prayer for the Persecuted Church, Christian Solidarity International, the Family Research Council, the Institute for Religion and Democracy, the American Anti-Slavery Group, the Hudson Institute's Project for International Religious Freedom and the Southern Baptist Convention.

Most of these groups are already outspoken critics of the Chinese government's suppression of Christian and other religious activities inside China but have found themselves powerless to do anything about it. The Chinese company's bid to raise capital in the United States has given the groups a new opportunity for action.

Last month, more than 180 religious leaders sent a letter to President Clinton asking him to stop the CNPC from listing its unit in U.S. stock markets. They cited CNPC's central role in building a 1,000-mile pipeline last year that now allows the Sudanese government to earn several hundred million dollars annually in oil exports to help prosecute the war. China sent 10,000 workers to accelerate construction of the project.

Specifically, the religious leaders asked Clinton to extend his 1997 executive order prohibiting U.S. companies from investing in Sudan to CNPC.

Also signing the letter were three former senior officials of the Reagan administration--national security adviser William P. Clark, Treasury secretary William E. Simon and assistant secretary of state Elliott Abrams. A number of conservative Republicans have become involved because they want to make U.S. investors more aware of the activities and character of foreign companies, particularly Chinese state-owned ones.

The letter noted that Secretary of State
Madeleine K. Albright had already taken up with the Canadian government the role of Calgary, Alberta-based Talisman Energy Inc. in the same Sudanese oil project. After her intervention, Canada sent a special mission to Sudan to investigate charges of religious persecution by its Islamic government and Talisman's role in the war .It is to make a recommendation shortly on whether Canada should impose economic sanctions on Sudan.

Clinton will shortly send a
reply to the religious leaders stating that while he shares their concern about the "gross abuse of human rights" in Sudan, current U.S. sanctions do not cover the activities of foreign companies that do "some part of their business in Sudan," according to National Security Council spokesman Jim Fallin.

The lead underwriter
for the PetroChina offering is Goldman Sachs Group Inc., the New York investment banking firm. The same firm was involved in an ill-fated attempt by the Russian energy giant, Gazprom, to float a $1 billion bond on U.S. markets in late 1997. Gazprom dropped the plan after an outcry in Congress over the Russian company's plan to invest $2 billion in Iran, which, like Sudan, is under U.S. sanctions.

The
Gazprom example has encouraged religious leaders to believe they may be able to stop the Chinese public offering, too, if they make investors aware of China's role as Sudan's main foreign ally, arms supplier and oil investor.

"It's a combination of the South
African anti-apartheid campaign and the Gazprom precedent," said Roger W. Robinson Jr ., a director of the [Center for Security Policy's] William J. Casey Institute...and a former Reagan administration adviser on international economic issues.

But Goldman Sachs
officials insist there is no parallel between Gazprom and PetroChina because the new Chinese company, unlike the Russian one, will have no activities outside China. In addition, they say the Russian deal collapsed mainly because of the financial turmoil in Russia rather than congressional and public pressure.

Goldrnan Sachs
officials say the Chinese have set up a number of "firewalls" to assure U.S. investors that PetroChina's funds and activities will remain

segregated from those of CNPC and that none of the capital raised here will go to finance operations in Sudan.

These include outside monitoring of PetroChina's accounts and quarterly reports to investors by an international accounting firm, probably PricewaterhouseCoopers, which has also been advising CNPC on restructuring itself for the U.S. market.

"The structure of the deal emerging should mean that Sudan is not an issue because of the safeguards ensuring all the funds raised here will be used domestically," said Robert D. Hormats, Goldman Sachs International vice chairman and a former National Security Council and State Department official. "PetroChina will be a purely domestic company ."

Meanwhile, the religious groups have been working through the recently established U.S. Commission on International Religious Freedom set up by Congress to press their case with the Clinton administration.

On Oct. 19, a commission delegation met with Clinton, national security adviser Samuel R. "Sandy" Berger and White House chief of staff John D. Podesta at the White House and asked them to take action to bar CNPC from American stock markets.

"They made no commitment other than to think about it," said Shea, one of the commission representatives attending the meeting.

The White House meeting was followed by a national conference on Sudan held in the Hart Senate Office Building on Nov. 9. Addressing the conference were Sen. Sam Brownback (R-Kan.), a sponsor of the Sudan Peace Act, and Rep. Frank R. Wolf (R-Va.), who has visited that country three times.

Wolf has written Arthur Levitt Jr, chairman of the Securities and Exchange Commission, and Richard A. Grasso, chairman of the New York Stock Exchange, asking them to stop CNPC's public offering. Levitt replied that the SEC did not take into consideration a company's activities in other nations. Grasso told him the NYSE "is not a government agency and is not in a position to affect U.S. foreign policy through the listing process."

Wolf also wrote Treasury Secretary Lawrence H. Summers asking whether Clinton's 1997 executive order could also be applicable to foreign companies such as CNPC doing business in Sudan. In a Dec. 27 reply, Treasury Assistant Secretary Linda L. Robertson said the administration could stop PetroChina from listing only "if the offering were for the purpose of raising capital for investment in Sudan."

But Robertson indicated the administration was reluctant in principle to take such action. She said it had considered other proposals to bar foreign companies from listing on U .S. exchanges and concluded that it "would create serious uncertainties about our commitment to open markets and the free flow of capital."

Meanwhile, religious and human rights leaders are claiming some success in their divestment campaign against Talisman. Over the past few months, the Texas Teachers Retirement Fund has sold its 100,000 shares in the company; Manning & Napier, a U.S. investment firm, sold 1.2 million shares; and TIAA-CREF, a New York-based pension fund and financial services organization, divested itself of 260,000 shares.

The State of New Jersey, which holds 680,000 shares, and New York City's $90 billion pension fund with 160,000 shares are also weighing whether to sell their Talisman holdings.

TIAA-CREF spokesman Patrick Connor said his $291 billion pension fund, the world's largest, had "no plans at this time" to invest in the PetroChina offering. He said the fund looked "at all sorts of factors" surrounding any investment decision but declined to say whether the controversy over China's involvement in Sudan was one of them.

In addition, the California Public Employees' Retirement System (Calpers), another leading pension fund, sold its 203,500 shares in Talisman on Dec. 30. Fund officials attributed their decision to the sharp drop in the value of the company's stock caused by the divestment campaign.

The California legislature's audit committee wrote Calpers earlier this month urging the fund to review any plans it might have to purchase PetroChina stock given "the substantial scrutiny and criticism" of its ties to CNPC and that company's activities in Sudan.

Calpers
spokeswoman Patricia Macht said it was doubtful the fund would buy any PetroChina stock because its investment advisers had decided "it doesn't fit in with our strategy ."