Hearings on Religious Persecution in China: Gare Smith Prepared Testimony

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(Note: These are unedited and uncorrected transcripts

Thank you, Mr. Chairman. I'd like to begin by thanking the Committee for its leadership in promoting religious freedom worldwide and for according me the honor of testifying today.

My name is Gare Smith, and I have been asked to address the issue of whether U.S. multinationals can playa role in promoting religious freedom in China. I feel uniquely qualified to address this issue: as Principal Deputy Assistant Secretary of State, I raised freedom of religion issues with the Government of China and worked with some of you on the Secretary of State's Advisory Committee on Religious Freedom Abroad. More recently, I served as Vice President of Levi Strauss & Co., in which capacity I visited numerous Chinese factories and met with hundreds of workers. I currently specialize in corporate social responsibility at the law firm Foley, Hoag & Eliot.

As the State Department's 1999 Country Reports on Human Rights Practices makes clear, religious freedom does not exist in China. U.S. multinationals are playing a positive role in promoting other fundamental freedoms in China through socially responsible business practices; they could also play a limited but valuable role in promoting religious freedom if encouraged to do so on a voluntary basis.

Business ties between the U.S. and China are extensive and growing. China is this country's fourth largest trading partner and two-way trade totaled $95 billion in 1999. Hundreds of U.S. multinationals are doing business in China: Hong Kong is now the seat of the largest American Chamber of Commerce in the world. Notably, the vast majority of manufacturing done in China for U.S. multinationals is completed not by U.S. facilities, but by Chinese factories from which U.S. companies source.

During the past decade, many U.S. companies have been vessels for positive change in China. Multinationals are ardent supporters of the rule of law, which

protects both business interests and the rights of individuals. Moreover, a growing number of multinationals are working to increase respect for fundamental human rights -including the freedoms of speech, assembly, association, and movement. Although the overall effect of these efforts has been. limited, they have set important precedents and facilitated the more widespread recognition of these rights. The influence of U.S. multinationals will grow as the American business sector continues to expand its operations in China.

To date, companies have paid little attention to the issue of religious freedom, primarily for three reasons. First, unlike labor rights, they do not perceive a nexus between this freedom and their business interests. Second, some companies fear retaliation from the Government of China if they appear to be forcefully advocating fundamental freedoms. Third, speaking frankly, companies do not believe that they bear responsibility for promoting religious freedom. For these reasons, any effort to mandate multinational support for religious freedom is likely to be met with hostility from the business community and could be counterproductive to the objectives of this Committee. If the Committee wants the business community to exert leadership in this area it will need to set the stage for such leadership by educating companies and encouraging their voluntary efforts.

Recent history regarding related issues suggests that some companies will be interested in promoting freedom of religion. During the past decade, U.S. multinationals demonstrated an unparalleled interest in human rights issues -particularly with respect to business interests abroad, such as in China. Corporate initiatives promoting fundamental rights emerged in two manners.

First, through values-based decision-making by industry leaders who were committed to improving the lives of the workers who made their products and who recognized that the brand image of their products was tied to responsible corporate behavior. Bob Haas, Chairman ofLevi Strauss & Co., and John Kamm, President of Asia Pacific Resources, Inc. are two such examples. Under Haas, Levi's produced the first corporate code of conduct guaranteeing respect for the rights of workers worldwide. Based on that code, in 1993 the company announced that it would terminate contracts in China due to concern that it could not guarantee respect for the rights of workers in its sourcing facilities.

John Kamm, who had formerly served as Chairman of the U.S. Chamber of Commerce in Hong Kong, has for a decade urged Chinese government leaders to identify and release prisoners of conscience -such as those who have been jailed for their religious beliefs. He has been successful in securing the release of many such prisoners, including Catholic Bishop Zeng Jing Mu, and saved house church pastor Li Dexian from a lengthy prison sentence. Notably, neither Levi' s nor Asia Pacific Resources was retaliated against by the Chinese government for their activities.

The second manner in which corporate initiatives promoting fundamental rights have emerged is through influence from external stakeholders -including labor unions, student and consumer groups, human rights organizations, and the federal government. In 1995, the Clinton Administration released the Model Business Principles, a voluntary code of conduct under which companies assume responsibility to abide by key labor, environmental, and ethical standards. A "Best Practices Award" was established to recognize the leadership of companies following these principles. The following year, the Administration created the Apparel Industry Partnership (AIP), under which textile and footwear manufacturers, working in conjunction with ., representatives of organized labor, human rights groups, and a national consumer organization, created an industry-wide code guaranteeing respect for fundamental worker rights. The AIP inspired companies to create a follow-up organization, the Fair Labor Association, to oversee independent monitoring of code compliance by non-governmental organizations and auditing companies to ensure that workers' rights are respected.

Some companies have adopted stronger human rights stances to respond to the burgeoning anti-sweatshop movement, which is the most widely supported social cause on college campuses since the anti-apartheid movement. The anti-sweatshop movement has focused on the sourcing of products in developing countries such as China and has led U.S. multinationals to pay greater attention to the working conditions under which their products are manufactured. As a consequence, many multinationals now regulate the conditions in the factories in which they source as well as their own facilities. This past year, Levi Strauss, Reebok, and Mattel joined labor and human rights groups in promoting the U.S. Business Principles for Human Rights of Workers in China -a code of conduct designed specifically for multinationals doing business in China. Other multinationals have taken stronger steps to protect worker rights subsequent to public embarrassment -such as the revelation that Kathie Lee Gifford' s foreign sourcing facilities were employing underage girls to manufacture clothing.

The opportunities for leadership presented by the Administration through the Model Business Principles and the AIP , combined with the anti-sweatshop initiatives launched by external stakeholders, have led multinationals to recognize that it is in their self-interest to protect the rights of their workers and have led to the widespread promulgation of codes of conduct and both internal and independent monitoring operations in the course of only five years. Such initiatives are certain to expand in the future.

These developments demonstrate that business can be responsive to glob.al human rights issues. The challenge for this Committee is to identify how businesses could help promote religious freedom and how Congress or

the Administration could provide encouragement and recognition that would provide an impetus for them to do so. A handful of industry leaders will ultimately lead on their own. Most companies, however, will need significant encouragement to even consider investing resources in this issue given the lack of a clear nexus between religious freedom and business and the absence of a stakeholder movement promoting this right.

In approaching the business community about this issue, it might be helpful to outline a series of tiered approaches by which companies could advance religious freedom. The most basic level would be to encourage multinationals operating and sourcing in China to guarantee that no worker be discriminated against with respect to hiring or promotion on the basis of his or her religious beliefs. Some multinational codes already have such a provision, although most do not. Companies, and independent monitoring organizations, could be encouraged to amend their codes to address this issue.

Companies interested in taking an additional step could seek to ensure that workers worshipping in private on factory premises would not be censured or punished for doing so -or might provide an designated area where individuals would be free to worship. (This would be particularly helpful at large factories in which workers live on the premises.) Additionally, ., companies might follow in the footsteps of John Kamm, and urge authorities to release individuals detained for their religious beliefs or other crimes of conscience. Companies with positive relationships with provincial leaders could focus on local prisoners in such an effort. Finally, companies could urge government officials to more closely adhere to China's constitutional guarantee of freedom of religion.

Inevitably, those interested in pursuing this issue will create their own initiatives by which to promote religious freedom. Accordingly, the Committee might recommend the creation of a high profile award, similar to the Ron Brown Award for Corporate Achievement in Employee and Community Relations, that is specifically tied to the promotion of religious (and other) freedoms. The Committee might also recommend the creation of a presidential roundtable for representatives of multinationals interested in the issue. Fiscal incentives would, of course, also receive significant attention from the business community. The government already provides special grants and loans to corporations addressing worthy domestic issues, such as the revitalization of city neighborhoods; why not support worthy international issues as well? The Committee might recommend that the Department of State or Commerce vet the monitoring and implementation of respected corporate codes and reward those companies that pass certain standards with a small interest rate break on Export-Import Bank loans.

U.S. multinationals are often asked to shoulder greater responsibility for

promoting fundamental freedoms abroad than their foreign competitors. The Committee might seek to internationalize the religious freedom issue by urging the Administration to take steps in appropriate fora such as the Organization for Security and Cooperation in Europe, the Council of Europe, and the United Nations Human Rights Commission to encourage all multinationals to share responsibility in promoting such freedoms.

It would be unrealistic to assume that companies will race to participate in this effort. Few are likely to express an initial interest. The past decade, however, has demonstrated that U.S. multinationals can be among our best ambassadors in promoting democratic ideals and fundamental freedoms in China. If asked to lead, the Committee can be certain that some will seize upon the opportunity.

Thank you, very much.