

THE WHITE HOUSE

WASHINGTON

RECOMMENDED TELEPHONE CALL

TO:

Senator Trent Lott
Senator Tom Daschle
Speaker Newt Gingrich
Representative Dick Gephardt

'97 OCT 30 10:30/97
returned to
WSC - asked to
Berger made
calls
by Nancy
Hennrich

DATE:

Thursday, October 30th or before
Hill consultations on Bosnia.

RECOMMENDED BY:

SAMUEL R. BERGER
JOHN HILLEY

PURPOSE:

To talk to the four
Congressional leaders to
explain why we are inviting key
members of Congress to the
White House next week (possibly
on Tuesday, November 4) to
discuss Bosnia, and to ask
their help in clearing the
Congressional schedule to allow
for good attendance at the
meeting.

BACKGROUND:

We are approaching a key
decision point in our Bosnia
policy. Before we announce any
major decisions, it would be
useful to engage in
consultations with the
Congress. To that end, a
meeting has been scheduled with
key members of Congress to
begin to lay out our thinking
and to get their reaction.

TOPICS OF DISCUSSION:

1. Request leaders attend meeting at the White House to discuss Bosnia
2. Want to solicit your views on U.S. policy post-IFOR
3. Would appreciate your help in managing floor activity to allow for members to attend

CONTACT PERSON AND
TELEPHONE NUMBERS:

William K. Davis 456-9171

DATE OF SUBMISSION:

October 30, 1997

Attachments

Tab A Points to be made

Tab A

TALKING POINTS FOR PRESIDENT'S CALLS TO CONGRESSIONAL
LEADERS ON BOSNIA

- Calling to talk to you about Bosnia.
- Asking that members of the leadership and the chairmen and ranking members of key committees meet with my national security team and me next week here at the White House.
- Would appreciate whatever help you can give me with regard to scheduling activity on the Hill to allow for the greatest possible attendance at the meeting.
- Hope you can join me at a larger meeting at the White House next, but wanted to talk privately before that.
- As you know, this is a vitally important issue - want to get the benefit of Congress' input as much as possible during the remainder of this session.
- Although much remains to be done, we have made significant progress in that war torn region, especially in recent months. Strong SFOR support for civil implementation has been one important key.
- The presence of U.S. troops beyond June of next year is obviously the critical question - we must decide whether a continued presence will help us advance our interests, or whether it will be possible to do that without American soldiers and commanders in Bosnia.
- I would welcome your thoughts.

THE WHITE HOUSE

WASHINGTON

October 29, 1997

'97 OCT 29 PM 6:29

10/30/97

Sent to RM for
Signature per
Phil CaplanACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
JOHN HILLEY

SUBJECT: Response to Senator Murkowski et. al.

Purpose

To respond to a letter from Senator Frank Murkowski et. al.
regarding Taiwan.

Background

Senator Murkowski and others wrote urging you not to take steps
damaging to Taiwan during Jiang Zemin's forthcoming visit. The
attached reply indicates that we will maintain our robust,
unofficial relationship with Taiwan and that our policies will
not change because of Jiang Zemin's visit.

RECOMMENDATION

That you sign the letters at Tab A.

Attachments

Tab A Letters to Senator Murkowski et. al.
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Senator Brownback:

Thank you for your September 23 letter urging me to oppose efforts to diminish U.S. support for Taiwan, and specifically not to agree to a "Fourth Communiqué," a change in U.S. arms sales to Taiwan, or a limitation on future visits by Taiwan leaders to the United States. I agree with your suggestions on each of these issues and you can be assured that we will not sign a Fourth Communiqué; our arms sales to Taiwan will continue to be based on the Taiwan Relations Act and the 1982 U.S.-China Joint Communiqué; and we will consider granting authorization for unofficial and personal visits by Taiwan leaders on a case-by-case basis, although we expect such requests will be infrequent.

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Sincerely,

The Honorable Sam Brownback
United States Senate
Washington, D.C. 20510-1604

337799 6176

United States Senate

WASHINGTON, DC 20510

September 23, 1997

The Honorable William J. Clinton
The President
The White House

OCT 2 4:20 PM

Dear Mr. President:

As you prepare for your summit with the President of the People's Republic of China, we thought it appropriate to share with you our thoughts regarding U.S. relations with the people and the government of Taiwan. We believe Taiwan has made extraordinary progress in recent years as the Republic of China has moved to establish a vibrant democracy with free elections, free press, strong trade unions and improved trading practices.

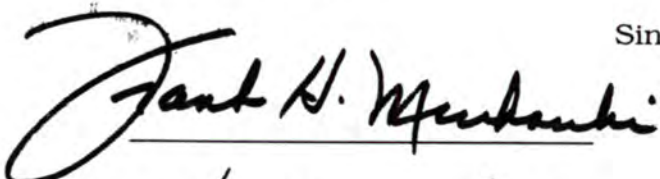
We believe the American people are united in their support for freedom and democracy on Taiwan. Time and again, Congress has made clear our commitment to Taiwan, beginning with the 1979 Taiwan Relations Act, and through many resolutions and bills since then.

With your important meetings in Washington with the leadership of the People's Republic of China scheduled for late October, there has been much discussion about how the U.S. government would respond to possible demands by the PRC Government regarding U.S. relations with the people and the government of Taiwan.

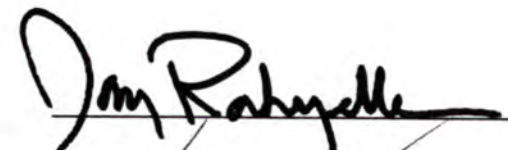
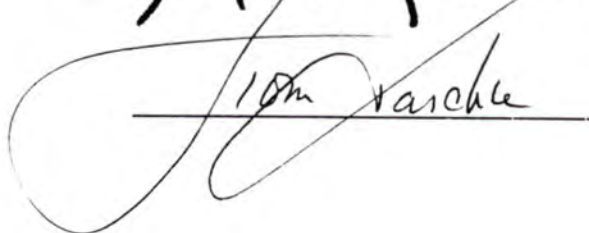
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We in Congress are prepared to reiterate the commitment of the American people to freedom and democracy for the people and government of Taiwan. We look forward to working with you and your Administration team on these issues in the weeks ahead.

Sincerely,


Jant H. Mendenhall

Trent Lott


Tom Rahn

Tom Rahn

Page 2

September 23, 1997

Craig ThomasSam BallCurtisJesse HelmsThos. G. SmithClude RobbLarry E. Haig

THE WHITE HOUSE

WASHINGTON

October 3, 1997

MEMORANDUM FOR GLYN DAVIES
NSC Executive Secretariat

FROM: SUSAN BROPHY
Legislative Affairs

SUBJECT: Presidential Correspondence

Attached are copies of letters sent to the President by various Members of Congress. Since these letters address national security issues, we would appreciate your assistance in drafting a response.

Thank you very much for your assistance. If you have any questions, please feel free to call Chris Walker at x67500.

The following is a brief description of the letters:

- 1) Rep. Tom Lantos (D-CA), concerning U.S. citizens in Guatemala,
- 2) Sen. John D. Rockefeller, IV (D-WV) and others, concerning the People's Republic of China,
- 3) Representatives John Conyers, Jr. (D-MI) and Melvin L. Watt (D-NC), concerning refugee admissions for FY 1998,
- 4) Rep. Walter Capps (D-CA), concerning the Israel Military Industries Ltd.,
- 5) Sen. Frank R. Lautenberg (D-NJ) and others, concerning the bombing in Buenos Aires, Argentina,
- 6) Sen. Rick Santorum (D-PA), concerning the proposed trip to the U.S. by President Jiang Zemin of China; and,
- 7) Sen. Jon Kyl (R-AZ) and others, concerning the Missile Technology control Regime.

Enclosures

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: OCTOBER 07, 1997

NAME OF CORRESPONDENT: THE HONORABLE JOHN D. ROCKEFELLER IV

SUBJECT: EXPRESSES CONCERN REGARDING THE PEOPLE'S
REPUBLIC OF CHINA

		ACTION		DISPOSITION	
ROUTE TO: OFFICE/AGENCY	(STAFF NAME)	ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED D YY/MM/DD
JOHN HILLEY		ORG	97/10/03		C 97/10/03
SAMUEL R. "SANDY" BERGER	REFERRAL NOTE:	RSA	97/10/03		/ /
	REFERRAL NOTE:		/ /		/ /
	REFERRAL NOTE:		/ /		/ /
	REFERRAL NOTE:		/ /		/ /
	REFERRAL NOTE:		/ /		/ /

COMMENTS: ADDITIONAL SIGNEES
ONE ILLEGIBLE SIGNEE

ADDITIONAL CORRESPONDENTS: 9 MEDIA:L INDIVIDUAL CODES: 1210
MAIL USER CODES: (A) D WV (B) (C)

 *ACTION CODES: *DISPOSITION *OUTGOING *
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 *X-INTERIM REPLY * * *

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.



THE WHITE HOUSE
WASHINGTON

'97 OCT 28 PM 7:17

10/28

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
JOHN HILLEY

Staff Secretary -
Presclearance please!
- NISC ExecSec

SUBJECT: Response to Senator Murkowski et. al.

Purpose

To respond to a letter from Senator Frank Murkowski et. al. regarding Taiwan.

Background

Senator Murkowski and others wrote urging you not to take steps damaging to Taiwan during Jiang Zemin's forthcoming visit. The attached reply indicates that we will maintain our robust, unofficial relationship with Taiwan and that our policies will not change because of Jiang Zemin's visit.

RECOMMENDATION

That you sign the letters at Tab A.

Attachments

Tab A Letters to Senator Murkowski et. al.
Tab B Incoming Correspondence

Probably need to send after Jiang visit, changing tenses (eg "I urged" not "I will urge")

cc: Vice President
Chief of Staff

703

THE WHITE HOUSE
WASHINGTON

Dear Senator Brownback:

Thank you for your September 23 letter urging me to oppose efforts to diminish U.S. support for Taiwan, and specifically not to agree to a "Fourth Communiqué," a change in U.S. arms sales to Taiwan, or a limitation on future visits by Taiwan leaders to the United States. I agree with your suggestions on each of these issues and you can be assured that: we will not sign a Fourth Communiqué; our arms sales to Taiwan will continue to be based on the Taiwan Relations Act and the 1982 U.S.-China Joint Communiqué; and we will consider granting authorization for unofficial and personal visits by Taiwan leaders on a case-by-case basis, although we expect such requests will be infrequent.

Our policy toward Taiwan is based on the Taiwan Relations Act, which provides the means for us to maintain our robust unofficial relationship with Taiwan and its people. We will continue to maintain such relations within the context of a "one China" policy consistent with the three U.S.-China Joint Communiqués that have been the foundation of the policy of successive Republican and Democratic Administrations toward the PRC and Taiwan. This policy has made it possible for democracy and prosperity to flourish in Taiwan. We hope Beijing and Taipei will resume their cross-Straits dialogue and work toward peaceful resolution of their differences. I will urge such an approach during President Jiang's visit.

Sincerely,

The Honorable Sam Brownback
United States Senate
Washington, D.C. 20510-1604

6116
E-37797

United States Senate

WASHINGTON, DC 20510

September 23, 1997

The Honorable William J. Clinton
The President
The White House

DOJ 2-2106

Dear Mr. President:

As you prepare for your summit with the President of the People's Republic of China, we thought it appropriate to share with you our thoughts regarding U.S. relations with the people and the government of Taiwan. We believe Taiwan has made extraordinary progress in recent years as the Republic of China has moved to establish a vibrant democracy with free elections, free press, strong trade unions and improved trading practices.

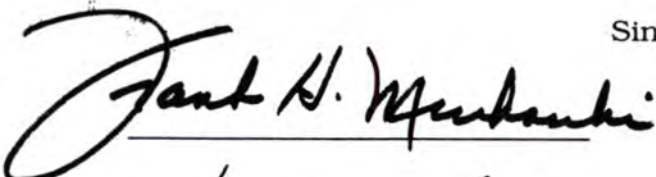
We believe the American people are united in their support for freedom and democracy on Taiwan. Time and again, Congress has made clear our commitment to Taiwan, beginning with the 1979 Taiwan Relations Act, and through many resolutions and bills since then.

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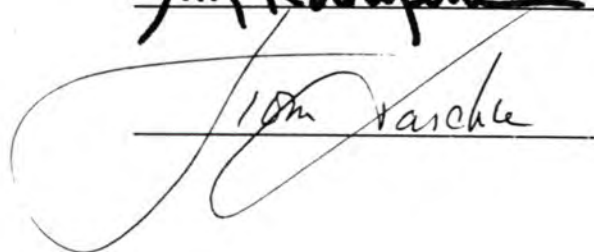
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We in Congress are prepared to reiterate the commitment of the American people to freedom and democracy for the people and government of Taiwan. We look forward to working with you and your Administration team on these issues in the weeks ahead.

Sincerely,


Frank H. Lautenberg

Trent Lott


Jim Rhyne

Tom Vascillo

THE WHITE HOUSE

WASHINGTON

October 3, 1997

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Legislative Affairs

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JOHN HILLEY

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Preclearance please!

- AISC ExecSec

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Response to Senator Murkowski et. al.

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United States Senate
Washington, D.C. 20510-1604

6111
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United States Senate

WASHINGTON, DC 20510

September 23, 1997

The Honorable William J. Clinton
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The White House

2072-2105

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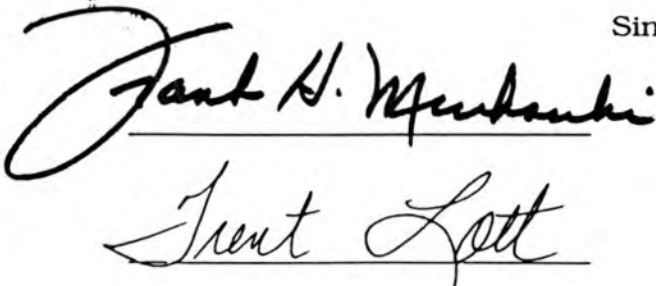
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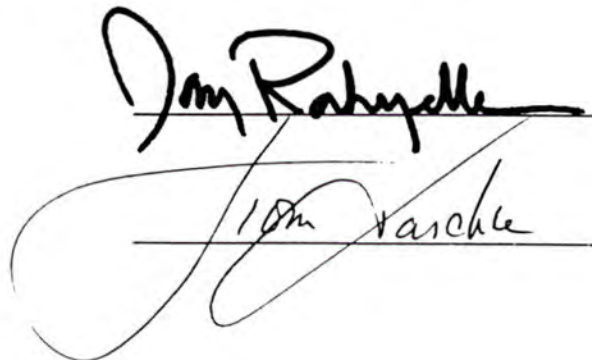
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Trent Lott


Tom Rosten

THE WHITE HOUSE

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October 3, 1997

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Legislative Affairs

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INCOMING

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MANAGEMENT.

240013

THE WHITE HOUSE
WASHINGTON

October 27, 1997

✓ 10.27.97

(X)

MR. PRESIDENT:

We thought you would like to see the attached letter from Dr. John Holdren who, as you know, addressed the WH Conference on Climate Change last week and also chairs PCAST's Energy and R&D Panel.

Holdren makes a number of recommendations about the five-year climate change package and asks to brief you and the VP in person. The package is undergoing OMB/NEC/WH review

We have sent copies of his letter to the climate change team as well as to Stephanie for her consideration.

Phil Caplan

Phil

PROGRAM IN SCIENCE, TECHNOLOGY, AND PUBLIC POLICY

John F. Kennedy School of Government
Harvard University
Cambridge, Massachusetts 02138

JOHN P. HOLDREN, Director

Teresa and John Heinz Professor of Environmental Policy

24 October 1997

President William Jefferson Clinton
The White House

VIA FAX

Dear President Clinton:

The climate policy position you announced on Wednesday represents a major step forward in dealing with this critical issue. I salute you and the Vice President for your courage and leadership in taking a bolder and more farsighted stance than many were urging upon you, and I thank you for the privilege I have had, as Chair of PCAST's Panel on Energy R&D for the Challenges of the 21st Century and as a participant in the July 24 and October 6 roundtables and many other discussions with members of your team, in making inputs into the deliberations that led to this result.

I write now not only to salute and thank you, however, but also to make a further input to the ongoing deliberations on the detailed content of parts of the position announced Wednesday — specifically, the \$5 billion / 5-year package combining energy R&D initiatives and tax incentives for implementation of energy options that would reduce carbon emissions. I take the liberty of addressing you about this now because I know there will be great pressure to define the details of that package quickly and because this matter relates so directly to the recommendations of the PCAST Panel I have been leading for you. I write here as an individual, but I believe the other twenty members of my Panel would support the argument I am going to make.

My argument has two parts. First, while energy R&D and incentives for implementation of improved technologies are both very important, it is particularly critical that the R&D should not be squeezed out or even significantly squeezed down by the incentives part of the budget for this combined package. Second, the cost-effectiveness of incentives varies enormously depending on how they are targeted and structured; to get the most "bang for the buck" from the limited funding that will be available for incentives (no matter how the \$5 billion is split) will require very careful attention to targeting the incentives on the biggest opportunities and structuring them appropriately.

The report of the PCAST Panel on Energy R&D, the 33-page Executive Summary of which you received on September 30, offers considerable analysis and advice on both points. The Panel's main report, which provides much more detail (it runs to some 200 pages), is in the process of review by the full PCAST and I hope will be delivered to you by late next week. I very much hope that it will be possible for me to meet with you and the Vice President soon to discuss these findings and their relation to the Administration's climate policy — both in terms of the R&D element and in terms of the incentives element. In the meantime, I'd like to offer a few further lines here on the first of these two points.

If it is assumed that the five years covered by the indicated \$5 billion package are 1999 to 2003, and if the baseline against which the increases are measured is the Administration's FY 1998 budget request, then the energy R&D initiatives recommended by the PCAST Panel entail expenditures amounting to \$3.7 billion as-spent dollars over the five-year period. (They ramp up from an increase of \$369 million above the FY 1998 request in FY 1999 to an increase of \$996 million over the FY 1998 request in FY 2003.) Of the proposed billion dollar increase in the FY 2003

applied energy-technology R&D budget compared to the \$1.4 billion FY 1998 request in these categories, \$73 million would go to fission, \$87 million to fossil-fuel technologies, \$103 million to fusion, \$307 million to renewables, and \$426 million to end-use efficiency.

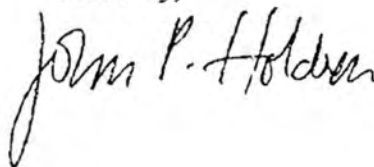
The Panel's proposal for increases in these amounts resulted from taking seriously your charge to make "recommendations...on how to ensure that the United States has a program that addresses its energy and environmental needs for the next century", taking into account the challenges, the opportunities, and the likely magnitude and distribution of future R&D efforts supported by the private sector. As you know, the Panel included representation from the fossil-fuel, nuclear, renewable, and energy-efficiency industries, from the academic community, and from public-interest organizations; and it included a number of individuals of great stature and experience in business and government who are *not* energy specialists or energy enthusiasts and would not be expected to endorse increases in government spending for these purposes without being convinced from scratch that such increases are fully justified. The Panel was fully attentive to the need for frugality with the public's money, and it invested great effort in developing a portfolio that spends neither more than is necessary nor less than is prudent. It recommended that some energy R&D programs in DOE's current portfolio be reduced or terminated, while recommending that others be augmented.

I believe that the recommendations of this Panel, which were unanimous, represent a degree of consensus about energy R&D needs that is remarkable in light of the diversity and stature of this group and in light of the contentiousness of this issue. It is clear to me that the "portfolio" approach taken in these recommendations, in which the package as a whole is crafted to address all of the major dimensions of the energy-related challenges our country faces, across a range of time frames, was crucial to obtaining this consensus and will need to be retained in the Administration's package of R&D initiatives if these are to command the wide support they will need from across the whole energy community. I frankly do not see a way to preserve the essential characteristics of this portfolio of initiatives with significantly less funding for it than the \$3.7 billion over five years that the Panel recommended, which is why I am so concerned about the split between R&D and tax incentives in a five-year package that contains only \$5 billion altogether.

I also believe that it is especially important, both for the long-term success of your climate policy and for its shorter-term credibility, that the parts of it to be implemented *before* the emissions ceilings and permit-trading go into effect in 2008 should be as robust and concrete as it is possible to make them. It seems to me that an R&D initiative very much along the lines that your PCAST Panel has recommended offers very high leverage for the money in this connection. Such an R&D initiative can and should be augmented by suitably targeted and structured incentives, but it cannot be replaced by them.

Again, I hope to have an opportunity to discuss these matters further with you soon. Thank you in the meantime for your attention to this preview.

Sincerely,



cc: The Vice President
Gene Sperling
Katie McGinty
Todd Stern
Franklin Raines
John H. Gibbons

10-27-97

Is Burkhardt for reply
after you have seen?

Yes ☒ No ☐

Todd -

10/28

I suggest copy &
letter cover note &
letter to

Streett

Climate change team

(Stern, Spohr,

McGrath, Tindley

Gibbons, Skirrow)

Agree

 Phil

24001355

THE PRESIDENT HAS SEEN
10-27-97 10-29-97

~~SEP 29 1997~~

THE WHITE HOUSE
WASHINGTON

OCT 2 1997

October 27, 1997

MR. PRESIDENT:

We thought you would like to see the attached letter from Dr. John Holdren who, as you know, addressed the WH Conference on Climate Change last week and also chairs PCAST's Energy and R&D Panel.

Holdren makes a number of recommendations about the five-year climate change package and asks to brief you and the VP in person. The package is undergoing OMB/NEC/WH review

We have sent copies of his letter to the climate change team as well as to Stephanie for her consideration.

Phil Caplan

Phil

I need reply
on schedule

Be

10000001

PROGRAM IN SCIENCE, TECHNOLOGY, AND PUBLIC POLICY

John F. Kennedy School of Government

Harvard University

Cambridge, Massachusetts 02138

OCT 29 1997
SEP 29 1997

JOHN P. HOLDREN, Director

Teresa and John Heinz Professor of Environmental Policy

24 October 1997

President William Jefferson Clinton
The White House

VIA FAX

Dear President Clinton:

The climate policy position you announced on Wednesday represents a major step forward in dealing with this critical issue. I salute you and the Vice President for your courage and leadership in taking a bolder and more farsighted stance than many were urging upon you, and I thank you for the privilege I have had, as Chair of PCAST's Panel on Energy R&D for the Challenges of the 21st Century and as a participant in the July 24 and October 6 roundtables and many other discussions with members of your team, in making inputs into the deliberations that led to this result.

I write now not only to salute and thank you, however, but also to make a further input to the ongoing deliberations on the detailed content of parts of the position announced Wednesday — specifically, the \$5 billion / 5-year package combining energy R&D initiatives and tax incentives for implementation of energy options that would reduce carbon emissions. I take the liberty of addressing you about this now because I know there will be great pressure to define the details of that package quickly and because this matter relates so directly to the recommendations of the PCAST Panel I have been leading for you. I write here as an individual, but I believe the other twenty members of my Panel would support the argument I am going to make.

My argument has two parts. First, while energy R&D and incentives for implementation of improved technologies are both very important, it is particularly critical that the R&D should not be squeezed out or even significantly squeezed down by the incentives part of the budget for this combined package. Second, the cost-effectiveness of incentives varies enormously depending on how they are targeted and structured; to get the most "bang for the buck" from the limited funding that will be available for incentives (no matter how the \$5 billion is split) will require very careful attention to targeting the incentives on the biggest opportunities and structuring them appropriately.

The report of the PCAST Panel on Energy R&D, the 33-page Executive Summary of which you received on September 30, offers considerable analysis and advice on both points. The Panel's main report, which provides much more detail (it runs to some 200 pages), is in the process of review by the full PCAST and I hope will be delivered to you by late next week. I very much hope that it will be possible for me to meet with you and the Vice President soon to discuss these findings and their relation to the Administration's climate policy — both in terms of the R&D element and in terms of the incentives element. In the meantime, I'd like to offer a few further lines here on the first of these two points.

If it is assumed that the five years covered by the indicated \$5 billion package are 1999 to 2003, and if the baseline against which the increases are measured is the Administration's FY 1998 budget request, then the energy R&D initiatives recommended by the PCAST Panel entail expenditures amounting to \$3.7 billion as-spent dollars over the five-year period. (They ramp up from an increase of \$369 million above the FY 1998 request in FY 1999 to an increase of \$996 million over the FY 1998 request in FY 2003.) Of the proposed billion dollar increase in the FY 2003

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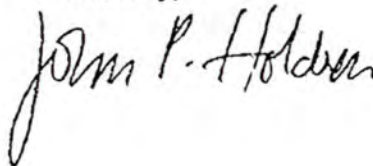
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Katie McGinty
Todd Stern
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John H. Gibbons

THE WHITE HOUSE

WASHINGTON

October 27, 1997

TO: Gene Sperling
Katie McGinty
Stephanie Streett
Dan Tarullo
Jack Gibbons
Jim Steinberg

FROM: Phil Caplan

The attached is forwarded for your
information.

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WASHINGTON

October 27, 1997

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Phil

I need reply
in second session

BC

PROGRAM IN SCIENCE, TECHNOLOGY, AND PUBLIC POLICY

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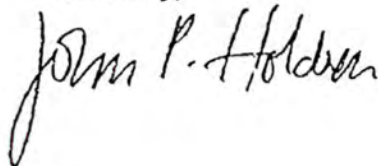
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cc: The Vice President
Gene Sperling
Katie McGinty
Todd Stern
Franklin Raines
John H. Gibbons

THE WHITE HOUSE
WASHINGTON

97 OCT 27 AM 11:40

Mr. President

I have just returned from Tokyo where I co-chaired the annual meeting of the US-Japan High Level Committee on Science and Technology. Climate change was the dominant topic. During my absence John Holdren sent a letter to you about the centrality of the PCAST Panel Report on Energy R&D to the success of your Climate Change Policy. (You noted on my 10/6 weekly report to you that the PCAST recommendations should be a part of our climate strategy).

I strongly concur with John's letter and believe that it is very important for you and the Vice President to be briefed by Holdren as soon as possible. The budget preparation is at a critical juncture, details of the climate policy are being worked out, and the Congress is asking for a briefing on the PCAST Report next week. I will submit a scheduling request to you later today.

Respectfully

Josh Eiden
10/27

SENSITIVE BUT UNCLASSIFIED



239788

OFFICE OF THE VICE PRESIDENT
WASHINGTON

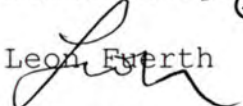
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October 27, 1997

✓ 10-27-97

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Fierth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

'97 OCT 27 PM 12:48

Issue

We are close to final agreement with the Chinese on a joint statement on an energy/environment initiative. This memorandum recommends that we indicate in the joint statement that the Administration, to support the initiative, is prepared to consider activating the Trade and Development Agency and other U.S. programs that are currently prohibited from operating in China. A decision on whether or not to activate would come after the summit, as the initiative begins to yield some specific results.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.

SENSITIVE BUT UNCLASSIFIED

- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects.

In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. (We have given the Chinese a list of commercial projects -- including power projects using natural gas and clean coal technologies -- that we believe could be approved quickly.) This initiative would promote our climate change objectives by moving the Chinese in the direction of cleaner alternatives to their current reliance on conventional coal combustion and 2) by helping the Chinese improve environmental management. It would better position our companies to compete in China's rapidly growing energy market (China's energy sector investment requirements could reach \$1 trillion over the next twenty years, of which \$200-300 billion will be needed to finance foreign equipment and services.)

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency (an independent agency that provides grants for project planning assistance, including feasibility studies, trade-related training, and technical exchanges); and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds for training, technical exchanges, and demonstration projects of U.S. technology and practices). Neither program can currently operate in China.

There are other steps that the U.S. government could take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating the program of the Overseas Private Insurance Corporation (which is not

operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs.

Action for the Summit

For your summit with President Jiang, we propose to signal publicly our willingness to consider activating one or more of these programs. We can do this by including the following language in the joint statement on the energy and environment initiative (the full document is at TAB A):

"In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency."

(The last sentence is currently in brackets in the draft joint statement, awaiting approval from the U.S.side.)

This language restates what we have told the Chinese in private about our plans to support this initiative. The language does not commit us to activating any program.

We propose to mention the Trade and Development Agency by name because the path to activating its programs is the clearest of the four (see discussion below). The Agency - through its feasibility studies and training grants - can give U.S. business additional support to compete more effectively against foreign firms in China whose governments offer tied aid and other subsidized lending. Our business representatives have stressed the important impact that TDA - through its training grants and feasibility studies - could have in conjunction with Eximbank to level the playing field.

Future Steps

After the summit, as discussions with the Chinese on the initiative begin to develop some concrete projects, we can evaluate whether or not to take the steps necessary to activate the programs of the Trade and Development Agency. The attached memorandum prepared by the NSC Legal Directorate (TAB B) discusses the legal and policy restrictions governing TDA. In

the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

We can expect opposition in Congress to activating TDA. Human rights and other Congressional critics of China will argue that we are "rewarding" the Chinese by eliminating a Tiananmen sanction without obtaining sufficient improvement in human rights conditions. Activating TDA could also give some ammunition to Congressional critics of export programs who say they are "corporate welfare." This opposition could probably be mitigated through soliciting support from business and environmental groups. One way to lessen criticism would be to instruct TDA to support only those projects related to the energy and environment initiative. This restriction might win support from some fence sitters in Congress. There is no notification period during which Congress could overturn a waiver.

Recommendation

That you authorize the inclusion in the joint statement on the energy/environment initiative of a mention of activating TDA as a step that the Administration "could consider."

TAB A - Draft Joint Statement

TAB B - NSC Legal Directorate Memorandum

UNITED STATES OF AMERICA
AND
PEOPLE'S REPUBLIC OF CHINA

ENERGY AND ENVIRONMENT COOPERATION INITIATIVE

Mission

- A sustained joint effort, through governmental cooperation and participation of the business sector, to meet China's energy needs, while striving to protect the local, regional, and global environment.

Goals

- Contribution to local, regional, and multilateral environmental objectives – from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

Targeted Areas

- Urban air quality: governmental cooperation on energy related air pollution problems in such areas as urban air quality monitoring, implementation of emissions standards, housing related issues (building materials, home heating and cooking), and the phase-out of lead and other air pollutants; enhanced business sector involvement in natural gas infrastructure development, coal gasification, manufacture and use of energy efficient vehicles, emissions monitoring equipment, and improved vehicle fuels.
- Rural electrification and energy sources: a substantial program, involving governmental and business sector cooperation, to bring clean energy systems to China's rural areas, using grid-connected and off-grid renewables, mini and micro hydro, and natural gas-fired systems.
- Clean energy sources and energy efficiency: a substantial program, involving governmental and business sector cooperation, to promote U.S.-China cooperation on: 1) clean energy sources in such areas as coal liquification, coal integrated gasification combined cycle (IGCC), circulating fluidized bed (CFB), natural gas and coal-bed methane development, oil sector development, wind energy, and solar energy; 2) energy efficiency in such areas as electric motor systems, cogeneration, industrial process controls, lighting, district heating, transformers and buildings; and government commitment to facilitate and support these cooperation efforts.

- *[The initiative can also address peaceful utilization of nuclear energy, consistent with the 1985 bilateral agreement on this subject.]*

Principles

- China will actively support international cooperation in relevant fields and welcome international investment and economic and technology cooperation of various forms in China on fair and reciprocal terms to meet the country's energy needs and protect the environment in a sustained way. China will continue to implement energy policy, regulatory, and pricing reforms, which improve the climate for trade and investment in energy and environmental projects.
- The U.S. economy can offer cost-competitive, environmentally superior energy technologies. In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. *[Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency.]*
- Environmentally sound energy technologies should be studied and applied, taking into consideration life-cycle costing, externalities, and innovative financing mechanisms.
- The initiative could accelerate the deployment of clean energy projects and the appropriate transfer of related technologies by identifying project opportunities and leveraging private and other sources of capital. It could also set the stage for broader cooperation on global environmental issues.

Implementation

- The U.S. and Chinese governments should each take steps to support implementation of this initiative, which is confirmed by the summit of President Clinton and President Jiang as an outgrowth the U.S.-China Forum on Environment and Development.
- The implementation will be led by the State Planning Commission -- in conjunction with the State Science and Technology Commission and the National Environmental Protection Agency -- for China, and the Department of Energy -- in conjunction with the Office of Science and Technology Policy and the Department of Commerce -- for the U.S., in consultation with all relevant agencies of the two governments participating in the U.S.-China Forum on Environment and Development.
- Within the framework of the initiative, representatives of the U.S. and Chinese governments should conduct concrete discussions on cooperative efforts, sign relevant agreements, and report annually to the leaders of their respective governments on progress in implementation.

Signed at Washington, D.C., this day of October, 1997, in the English and Chinese languages.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs “notwithstanding” these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance “notwithstanding any other provision of law.” This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the “notwithstanding” clause applies to those restrictions. It is legally defensible, however, to take the position that the “notwithstanding” provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions, which requires a determination by the President that to do so is in the national interest.



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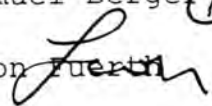
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OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Fuerth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

Issue

We are close to final agreement with the Chinese on a joint energy/environment initiative. To give substance to this initiative, we should activate one or more U.S. government programs, such as the Trade and Development Agency (TDA), that are currently prohibited from operating in China. This will require decisions by you and your Administration.

Background on the Energy and Environment Initiative

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U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds), both of which cannot currently operate in China.

The attached memorandum prepared by the NSC Legal Directorate discusses the legal and policy restrictions governing these two programs. In the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

Overcoming the legal restrictions affecting US-AEP is much more complicated. For example, the Administration would have to decide whether or not to declare China a "gross violator" of human rights and issue a waiver.

Having reviewed the attached NSC paper, I believe that the political costs of using Executive branch authority to activate US-AEP would be too high. Instead, as a longer term goal, we should continue to pursue legislation providing "notwithstanding" authority to US-AEP to operate in China. (Senator Baucus introduced such language to the Foreign Operations Appropriations Bill for FY 1998, but it fell out because of opposition from House conferees, specifically Representative Pelosi.)

For the near-term, we should look at enhancing cooperative programs - such as information sharing and policy advice - with

China through agencies such as EPA, Energy, and Commerce, whose dealings with China are not affected by sanctions. US-AEP could provide these agencies with advice (this would not be prohibited by law). The agency programs would not replicate the range of activities that US-AEP could offer, but would show the Chinese that we are interested in greater cooperation. While this undertaking would be very modest, and we could ask agencies to fund it from within their existing budgets, the agencies might request some additional funds.

There are other steps that the U.S. government could eventually take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating OPIC (which is not operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs. In my judgment, we should hold off a final decision on whether to activate these two programs until we have a clear picture of all the steps the Chinese may take, including in the human rights area, in the run-up to the summit.

RECOMMENDATION

To support this initiative, I recommend that you use your waiver authority to activate TDA. (Because of the risk of a Congressional backlash, I believe this is preferable to asking TDA to use its notwithstanding authority).

(Note: If we feel that progress on human rights is not sufficient to justify full operation of TDA, we could provide TDA with policy advice through the Secretary of State to limit its activities to support for projects under the energy/environment initiative).

RESTRICTIONS ON TRADE AND DEVELOPMENT AGENCY (TDA) AND U.S. - ASIA ENVIRONMENTAL PARTNERSHIP (U.S.-AEP) ACTIVITIES IN CHINA

This paper summarizes the legal restrictions on providing assistance to China through the Trade and Development Agency (TDA) and the U.S. - Asia Environmental Partnership (U.S.-AEP). TDA assistance is legally available and can be provided without formal consultations with Congress or a need to make determinations about China's behavior. Assistance through U.S.-AEP, however, cannot be provided without engaging Congress and answering difficult questions about China.

One very important practical consideration for policy-makers is that the foreign operations appropriations conference remains open. If the Administration takes actions on U.S.-AEP that require congressional consultations, the conferees are free to address China and our authorities and make any changes they deem appropriate in conference.

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs "notwithstanding" these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance "notwithstanding any other provision of law." This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the "notwithstanding" clause applies to those restrictions. It is legally defensible, however, to take the position that the "notwithstanding" provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions,

which requires a determination by the President that to do so is in the national interest.

II. U.S. - ASIA ENVIRONMENTAL PARTNERSHIP

A. Restrictions

U.S.-AEP is an interagency program managed and primarily funded by USAID. Development funds under the FAA are used in U.S.-AEP operations.

1. FAA § 116(a) prohibits assistance to the government of a country that engages in gross violations of human rights, unless such assistance will directly benefit needy people.

2. FAA subsection 116(b) prohibits assistance to governments that fail to take appropriate and adequate measures to protect children from exploitation, abuse, or forced conscription. This subsection does not contain an exception for assistance that goes directly to needy people.

3. FAA §§ 620G and 620H prohibit assistance under the FAA to governments that provide assistance or lethal military equipment, under certain circumstances, to state sponsors of terrorism. (There are also provisions contained in several foreign operations appropriations acts, but to simplify the explanations below, we refer only to these two provisions.)

4. Section 101 of the Arms Export Control Act (AECA), the Symington Amendment, prohibits the provision of economic assistance under the FAA to any country that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to another country.

5. There are other criteria that could render a country ineligible for various forms of assistance. We understand that State/DRL has reviewed the so-called "AID Checklist" and determined that none of the others would apply here, though counsel are not in a position to conduct a separate review.

B. What Would be Required to Overcome Restrictions

1. Without Waivers. Although more factual inquiry would be necessary, it is not clear, as a factual matter, that U.S.-AEP assistance can be provided without waiver of at least some of the restrictions described above.

(a) § 116(a), Gross Human Rights Violators. Assistance can be provided notwithstanding this section if we can state, as a factual matter, either that (i) China does not "engage in a consistent pattern of gross violations of internationally recognized human rights" or (ii) this assistance will directly benefit the needy.

(i) So far, we have not had to conclude formally that the PRC is a gross human rights violator because we have not until now provided assistance to the government of China of the type that would be precluded. There is some flexibility in the § 116 standard. There are obvious political consequences of asserting that China is not a gross human rights violator.

(ii) While there has been a factual assertion by State/DRL that U.S.-AEP cooperation with China will directly benefit the needy, more factual work will need to be done on this, including seeking a determination from AID on this point. The statute permits Congress to require the Administration to submit information in writing demonstrating that the assistance will directly benefit needy people. If Congress disagrees, it may enact legislation to terminate assistance. As a legal matter, it is not necessary to formally determine that China is a gross human rights violator if we limit our assistance to that which will directly benefit the needy. (As a practical matter, of course, the implication is there.)

(c) FAA § 116(b), Failure to Protect Children, FAA §§ 620G and 620H, Supporters of Terrorist Countries, and AECA § 101, Symington Amendment. Although no formal decisions have been made, there is significant factual question about whether assistance can be provided under these sections absent a waiver.

2. With Waivers.

(a) FAA § 614 Waiver. This is an extraordinary waiver provision that is generally applicable to FAA assistance, which permits the President to authorize FAA assistance without regard to restrictions, such as those described above, if he determines that to do so is important to the security interests of the United States.

Section 614 requires notice to and consultation with Congress before it can be exercised. The consultation process is often a lengthy one, and it can be contentious.

It is legally possible to do a prophylactic waiver under § 614, and therefore not make a determination that a specific restriction is triggered. In practice, however, failure to identify the restrictions needing to be waived could be sharply criticized by some in Congress and itself become a lightning rod for objections. Another possibility would be to exercise § 614 waiver authority citing one or two particular restrictions that are being waived, and adding "or any other provision of law within the purview of this section [614]." This could avoid a finding about a particularly sensitive restriction (gross human rights violations, failure to protect children, or Symington, for example). As discussed below, however, the remaining restrictions (FAA §§ 620G and 620H) both have internal waiver provisions, so it would be difficult to explain why we have resorted to the extraordinary authority of § 614.

(b) Internal Waiver Provisions. If there is no need to waive § 116 (a) or (b), the other restrictions - FAA §§ 620G and 620H and AECA §101 -- have internal waiver provisions, so a § 614 waiver would not be required.

Waiver of FAA §§ 620G and 620H requires a determination by the President that furnishing the assistance is important to the national interests of the United States and a report to Congress no later than 15 days before obligating the assistance. (The authority to make these determinations has been delegated to the Secretary of State.)

The prohibition in § 101 of the AECA can be waived by the President if he determines and certifies to Congress (a) that failure to provide the assistance would have a "serious adverse effect on vital United States interests"; and (b) that he has received reliable assurances that China will not acquire or develop nuclear weapons or assist other nations in doing so. Congress may suspend the assistance if, within 30 days of receiving the President's certification, it passes a joint resolution disapproving of the assistance.

Even with these internal waiver provisions, it would be possible to argue that the Administration legally may do a prophylactic waiver. In the past however, State/L and AID/GC have taken the position that a prophylactic waiver is not necessarily legally available. We would probably need to consult with DOJ's Office

of Legal Counsel to resolve this issue. As a practical matter, even more than with the § 614 waiver, the implication is that the restriction is triggered because a specific section is being waived. Failure to make a finding would complicate congressional consultations considerably. Some in Congress would likely argue that they are owed a clear explanation by the President about whether the Administration believes that a prohibition is triggered. One possible consequence would be that Congress would limit the President's waiver authority in subsequent legislation.

3. Other Possibilities

(a) Providing Assistance on a Reimbursable Basis. Section 607 of the FAA provides that any agency of the US government (e.g., Commerce) may furnish services and commodities on a reimbursable basis to, among others, any friendly country. Prior to furnishing any such commodities or services, the President must determine that such action is "in furtherance of the purposes of" the economic assistance objectives of part I of the FAA, and "within the limitations of" that Act. Furnishing commodities and services in the energy sector would be in furtherance of the purposes of the FAA. Section 607 transactions are reimbursable programs, so they are not considered "assistance" for purposes of applying the limitations on the provision of assistance described above.

(b) Providing Assistance through NGOs. Section 544 of the Foreign Operations Appropriations Act permits the use of Development Assistance funds "in support of programs of nongovernmental organizations" notwithstanding any other provision of law. This provision could be considered if the U.S.-AEP program were structured to provide assistance through NGOs within China. Prior to obligating funds under this provision, the appropriation and authorizing committees must be given 15 days advance notice. (Although not legally required, the practice has been not to go forward with a program if the chairman or ranking member objects within that time period.)

THE WHITE HOUSE
WASHINGTON

October 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN 
SUBJECT: U.S.-China Energy and Environment Initiative

Leon Feurth, with Sandy Berger's concurrence, has sent you the attached memo recommending that you approve signature of a joint statement on a U.S.-China energy and environment initiative indicating that the U.S. would consider permitting the Trade and Development Agency (TDA) to operate in China. You should realize that this could lead to a waiver of Tiananmen Square sanctions in the coming months if the initiative begins to yield specific results.

Background. In conjunction with this week's visit, we made a proposal to the Chinese to promote the use of clean energy technologies. The Chinese accepted and a joint statement will be issued identifying broad goals such as enhancing bilateral cooperation in energy, technology and commerce and pursuing multilateral environmental objectives (e.g., climate change). The hope is that the agreement will lead to the development of cleaner energy alternatives in China and, at the same time, to expanded governmental cooperation and commercial contracts for our private sector. We have provided the Chinese with a list of commercial projects (e.g., clean coal power projects) that they could approve quickly.

Outstanding issue. We told the Chinese privately that we are prepared to take additional steps to leverage private capital in support of the initiative, including promising "to consider" activating TDA, a small independent agency that provides grants and assists in technical exchanges. We would signal our willingness to activate TDA by including appropriate language in the joint statement. The language would not commit the U.S. to activating TDA.

Sanctions. If some concrete actions result from the agreement, we would evaluate whether to activate TDA, which would likely lead to a suspension of Tiananmen Square sanctions. Imposed immediately after Tiananmen Square in 1989, the sanctions specifically suspended TDA activities in China. These restrictions may be waived upon a presidential determination (PD) that it is in the national interest to do so. This would likely lead to strong criticism from human rights groups and other Congressional critics of China. One way to temper the criticism would be to restrict TDA's activity to only those projects related to energy and the environment.

John Podesta, Rahm and John Hilley concur in the recommendation to include appropriate language in the joint statement that the U.S. will only consider activating TDA. Podesta would favor the restricted TDA waiver down the road.

_____ Approve _____ Disapprove _____ Discuss

Todd -

A draft cover note.
I haven't scrubbed it
yet nor gotten Podesta
et al's input.

Phil

on a US-China energy
& environment
initiative
could

October 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN

SUBJECT: U.S.-China Energy and Environment Initiative

Leon Feurth, with Sandy Berger's concurrence, has sent you the attached memo recommending that you ~~permit~~ ^{approve + signature of} a joint statement ~~to be signed tomorrow~~ indicating that the U.S. ~~is prepared to~~ ^{on a US-China energy & environment initiative} consider permitting the Trade and Development Agency (TDA) to operate in China. You should realize that this could lead to a ~~waiver~~ ^{US-China} of Tiananmen Square sanctions in the coming months if the initiative begins to yield specific results.

Background. In conjunction with this week's visit, we made a proposal to the Chinese to promote the use of clean energy technologies. The Chinese accepted and a joint statement will be issued identifying broad goals such as enhancing bilateral cooperation in energy, technology and commerce and pursuing multilateral environmental objectives (e.g., climate change). The hope is that the agreement will lead to ~~expanded~~ ^{the development of} governmental cooperation and commercial contracts for our private sector. We have provided the Chinese with a list of commercial projects (e.g., clean coal power projects) that could be approved quickly.

Outstanding issue. We told the Chinese privately that we are prepared to take additional steps to leverage private capital in support of the initiative, including promising "to consider" activating TDA, a small independent agency that provides grants and assists in technical exchanges. We would signal our willingness to activate TDA by including appropriate language in the joint statement. The language would not commit the U.S. to activating TDA.

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[[John Podesta, Rahm and John Hilley]] concur in the recommendation to include appropriate language in the joint statement that the U.S. will ~~consider~~ ^{at the same time, to} activating TDA.

____ Approve

____ Disapprove

____ Discuss

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: _____

10/27

ACTION/CONCURRENCE/COMMENT DUE BY: _____

Immediate

SUBJECT: _____

US / China Energy + Environment Initiative
(Revised)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS (concur by phone)	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐
			_____	☐	☐

REMARKS: _____

Please advise ASAP

RESPONSE: _____

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/27 ACTION/CONCURRENCE/COMMENT DUE BY: Immediate

SUBJECT: US / China Energy + Environment Initiative
(Revised)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☐	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Please advise ASAP

RESPONSE:

I'm ok but would opt now for "only" energy + environment

Staff Secretary
Ext. 6-2702

properties waiver form in the hand
STILL NOT completely

SENSITIVE BUT UNCLASSIFIED



OFFICE OF THE VICE PRESIDENT
WASHINGTON

October 27, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Everth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

'97 OCT 27 PM 12:48

Issue

We are close to final agreement with the Chinese on a joint statement on an energy/environment initiative. This memorandum recommends that we indicate in the joint statement that the Administration, to support the initiative, is prepared to consider activating the Trade and Development Agency and other U.S. programs that are currently prohibited from operating in China. A decision on whether or not to activate would come after the summit, as the initiative begins to yield some specific results.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.

SENSITIVE BUT UNCLASSIFIED

- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects.

In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. (We have given the Chinese a list of commercial projects -- including power projects using natural gas and clean coal technologies -- that we believe could be approved quickly.) This initiative would promote our climate change objectives by moving the Chinese in the direction of cleaner alternatives to their current reliance on conventional coal combustion and 2) by helping the Chinese improve environmental management. It would better position our companies to compete in China's rapidly growing energy market (China's energy sector investment requirements could reach \$1 trillion over the next twenty years, of which \$200-300 billion will be needed to finance foreign equipment and services.)

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency (an independent agency that provides grants for project planning assistance, including feasibility studies, trade-related training, and technical exchanges); and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds for training, technical exchanges, and demonstration projects of U.S. technology and practices). Neither program can currently operate in China.

There are other steps that the U.S. government could take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating the program of the Overseas Private Insurance Corporation (which is not

operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs.

Action for the Summit

For your summit with President Jiang, we propose to signal publicly our willingness to consider activating one or more of these programs. We can do this by including the following language in the joint statement on the energy and environment initiative (the full document is at TAB A):

"In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency."

(The last sentence is currently in brackets in the draft joint statement, awaiting approval from the U.S. side.)

This language restates what we have told the Chinese in private about our plans to support this initiative. The language does not commit us to activating any program.

We propose to mention the Trade and Development Agency by name because the path to activating its programs is the clearest of the four (see discussion below). The Agency - through its feasibility studies and training grants - can give U.S. business additional support to compete more effectively against foreign firms in China whose governments offer tied aid and other subsidized lending. Our business representatives have stressed the important impact that TDA - through its training grants and feasibility studies - could have in conjunction with Eximbank to level the playing field.

Future Steps

After the summit, as discussions with the Chinese on the initiative begin to develop some concrete projects, we can evaluate whether or not to take the steps necessary to activate the programs of the Trade and Development Agency. The attached memorandum prepared by the NSC Legal Directorate (TAB B) discusses the legal and policy restrictions governing TDA. In

the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

We can expect opposition in Congress to activating TDA. Human rights and other Congressional critics of China will argue that we are "rewarding" the Chinese by eliminating a Tiananmen sanction without obtaining sufficient improvement in human rights conditions. Activating TDA could also give some ammunition to Congressional critics of export programs who say they are "corporate welfare." This opposition could probably be mitigated through soliciting support from business and environmental groups. One way to lessen criticism would be to instruct TDA to support only those projects related to the energy and environment initiative. This restriction might win support from some fence sitters in Congress. There is no notification period during which Congress could overturn a waiver.

Recommendation

That you authorize the inclusion in the joint statement on the energy/environment initiative of a mention of activating TDA as a step that the Administration "could consider."

TAB A - Draft Joint Statement

TAB B - NSC Legal Directorate Memorandum

UNITED STATES OF AMERICA
AND
PEOPLE'S REPUBLIC OF CHINA

ENERGY AND ENVIRONMENT COOPERATION INITIATIVE

Mission

- A sustained joint effort, through governmental cooperation and participation of the business sector, to meet China's energy needs, while striving to protect the local, regional, and global environment.

Goals

- Contribution to local, regional, and multilateral environmental objectives – from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

Targeted Areas

- Urban air quality: governmental cooperation on energy related air pollution problems in such areas as urban air quality monitoring, implementation of emissions standards, housing related issues (building materials, home heating and cooking), and the phase-out of lead and other air pollutants; enhanced business sector involvement in natural gas infrastructure development, coal gasification, manufacture and use of energy efficient vehicles, emissions monitoring equipment, and improved vehicle fuels.
- Rural electrification and energy sources: a substantial program, involving governmental and business sector cooperation, to bring clean energy systems to China's rural areas, using grid-connected and off-grid renewables, mini and micro hydro, and natural gas-fired systems.
- Clean energy sources and energy efficiency: a substantial program, involving governmental and business sector cooperation, to promote U.S.-China cooperation on: 1) clean energy sources in such areas as coal liquification, coal integrated gasification combined cycle (IGCC), circulating fluidized bed (CFB), natural gas and coal-bed methane development, oil sector development, wind energy, and solar energy; 2) energy efficiency in such areas as electric motor systems, cogeneration, industrial process controls, lighting, district heating, transformers and buildings; and government commitment to facilitate and support these cooperation efforts.

- *[The initiative can also address peaceful utilization of nuclear energy, consistent with the 1985 bilateral agreement on this subject.]*

Principles

- China will actively support international cooperation in relevant fields and welcome international investment and economic and technology cooperation of various forms in China on fair and reciprocal terms to meet the country's energy needs and protect the environment in a sustained way. China will continue to implement energy policy, regulatory, and pricing reforms, which improve the climate for trade and investment in energy and environmental projects.
- The U.S. economy can offer cost-competitive, environmentally superior energy technologies. In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. *[Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency.]*
- Environmentally sound energy technologies should be studied and applied, taking into consideration life-cycle costing, externalities, and innovative financing mechanisms.
- The initiative could accelerate the deployment of clean energy projects and the appropriate transfer of related technologies by identifying project opportunities and leveraging private and other sources of capital. It could also set the stage for broader cooperation on global environmental issues.

Implementation

- The U.S. and Chinese governments should each take steps to support implementation of this initiative, which is confirmed by the summit of President Clinton and President Jiang as an outgrowth the U.S.-China Forum on Environment and Development.
- The implementation will be led by the State Planning Commission -- in conjunction with the State Science and Technology Commission and the National Environmental Protection Agency -- for China, and the Department of Energy -- in conjunction with the Office of Science and Technology Policy and the Department of Commerce -- for the U.S., in consultation with all relevant agencies of the two governments participating in the U.S.-China Forum on Environment and Development.
- Within the framework of the initiative, representatives of the U.S. and Chinese governments should conduct concrete discussions on cooperative efforts, sign relevant agreements, and report annually to the leaders of their respective governments on progress in implementation.

Signed at Washington, D.C., this day of October, 1997, in the English and Chinese languages.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs “notwithstanding” these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance “notwithstanding any other provision of law.” This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the “notwithstanding” clause applies to those restrictions. It is legally defensible, however, to take the position that the “notwithstanding” provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions, which requires a determination by the President that to do so is in the national interest.

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/27 ACTION/CONCURRENCE/COMMENT DUE BY: ImmediateSUBJECT: US / China Energy + Environment Initiative
(Revised)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Please advise ASAP

RESPONSE:

SENSITIVE BUT UNCLASSIFIED



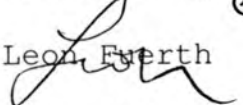
OFFICE OF THE VICE PRESIDENT
WASHINGTON



October 27, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Everth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

'97 OCT 27 PM 12:48

Issue

We are close to final agreement with the Chinese on a joint statement on an energy/environment initiative. This memorandum recommends that we indicate in the joint statement that the Administration, to support the initiative, is prepared to consider activating the Trade and Development Agency and other U.S. programs that are currently prohibited from operating in China. A decision on whether or not to activate would come after the summit, as the initiative begins to yield some specific results.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.

SENSITIVE BUT UNCLASSIFIED

- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects.

In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. (We have given the Chinese a list of commercial projects -- including power projects using natural gas and clean coal technologies -- that we believe could be approved quickly.) This initiative would promote our climate change objectives by moving the Chinese in the direction of cleaner alternatives to their current reliance on conventional coal combustion and 2) by helping the Chinese improve environmental management. It would better position our companies to compete in China's rapidly growing energy market (China's energy sector investment requirements could reach \$1 trillion over the next twenty years, of which \$200-300 billion will be needed to finance foreign equipment and services.)

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency (an independent agency that provides grants for project planning assistance, including feasibility studies, trade-related training, and technical exchanges); and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds for training, technical exchanges, and demonstration projects of U.S. technology and practices). Neither program can currently operate in China.

There are other steps that the U.S. government could take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating the program of the Overseas Private Insurance Corporation (which is not

operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs.

Action for the Summit

For your summit with President Jiang, we propose to signal publicly our willingness to consider activating one or more of these programs. We can do this by including the following language in the joint statement on the energy and environment initiative (the full document is at TAB A):

"In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency."

(The last sentence is currently in brackets in the draft joint statement, awaiting approval from the U.S.side.)

This language restates what we have told the Chinese in private about our plans to support this initiative. The language does not commit us to activating any program.

We propose to mention the Trade and Development Agency by name because the path to activating its programs is the clearest of the four (see discussion below). The Agency - through its feasibility studies and training grants - can give U.S. business additional support to compete more effectively against foreign firms in China whose governments offer tied aid and other subsidized lending. Our business representatives have stressed the important impact that TDA - through its training grants and feasibility studies - could have in conjunction with Eximbank to level the playing field.

Future Steps

After the summit, as discussions with the Chinese on the initiative begin to develop some concrete projects, we can evaluate whether or not to take the steps necessary to activate the programs of the Trade and Development Agency. The attached memorandum prepared by the NSC Legal Directorate (TAB B) discusses the legal and policy restrictions governing TDA. In

the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

We can expect opposition in Congress to activating TDA. Human rights and other Congressional critics of China will argue that we are "rewarding" the Chinese by eliminating a Tiananmen sanction without obtaining sufficient improvement in human rights conditions. Activating TDA could also give some ammunition to Congressional critics of export programs who say they are "corporate welfare." This opposition could probably be mitigated through soliciting support from business and environmental groups. One way to lessen criticism would be to instruct TDA to support only those projects related to the energy and environment initiative. This restriction might win support from some fence sitters in Congress. There is no notification period during which Congress could overturn a waiver.

Recommendation

That you authorize the inclusion in the joint statement on the energy/environment initiative of a mention of activating TDA as a step that the Administration "could consider."

TAB A - Draft Joint Statement

TAB B - NSC Legal Directorate Memorandum

UNITED STATES OF AMERICA
AND
PEOPLE'S REPUBLIC OF CHINA

ENERGY AND ENVIRONMENT COOPERATION INITIATIVE

Mission

- A sustained joint effort, through governmental cooperation and participation of the business sector, to meet China's energy needs, while striving to protect the local, regional, and global environment.

Goals

- Contribution to local, regional, and multilateral environmental objectives – from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

Targeted Areas

- Urban air quality: governmental cooperation on energy related air pollution problems in such areas as urban air quality monitoring, implementation of emissions standards, housing related issues (building materials, home heating and cooking), and the phase-out of lead and other air pollutants; enhanced business sector involvement in natural gas infrastructure development, coal gasification, manufacture and use of energy efficient vehicles, emissions monitoring equipment, and improved vehicle fuels.
- Rural electrification and energy sources: a substantial program, involving governmental and business sector cooperation, to bring clean energy systems to China's rural areas, using grid-connected and off-grid renewables, mini and micro hydro, and natural gas-fired systems.
- Clean energy sources and energy efficiency: a substantial program, involving governmental and business sector cooperation, to promote U.S.-China cooperation on: 1) clean energy sources in such areas as coal liquification, coal integrated gasification combined cycle (IGCC), circulating fluidized bed (CFB), natural gas and coal-bed methane development, oil sector development, wind energy, and solar energy; 2) energy efficiency in such areas as electric motor systems, cogeneration, industrial process controls, lighting, district heating, transformers and buildings; and government commitment to facilitate and support these cooperation efforts.

- *[The initiative can also address peaceful utilization of nuclear energy, consistent with the 1985 bilateral agreement on this subject.]*

Principles

- China will actively support international cooperation in relevant fields and welcome international investment and economic and technology cooperation of various forms in China on fair and reciprocal terms to meet the country's energy needs and protect the environment in a sustained way. China will continue to implement energy policy, regulatory, and pricing reforms, which improve the climate for trade and investment in energy and environmental projects.
- The U.S. economy can offer cost-competitive, environmentally superior energy technologies. In the context of this initiative, the U.S. government will look at ways that it might help leverage private sector participation in Chinese energy sector development. *[Steps the U.S. government could consider include appropriate legal authority for such U.S. programs as the Trade and Development Agency.]*
- Environmentally sound energy technologies should be studied and applied, taking into consideration life-cycle costing, externalities, and innovative financing mechanisms.
- The initiative could accelerate the deployment of clean energy projects and the appropriate transfer of related technologies by identifying project opportunities and leveraging private and other sources of capital. It could also set the stage for broader cooperation on global environmental issues.

Implementation

- The U.S. and Chinese governments should each take steps to support implementation of this initiative, which is confirmed by the summit of President Clinton and President Jiang as an outgrowth the U.S.-China Forum on Environment and Development.
- The implementation will be led by the State Planning Commission – in conjunction with the State Science and Technology Commission and the National Environmental Protection Agency – for China, and the Department of Energy -- in conjunction with the Office of Science and Technology Policy and the Department of Commerce -- for the U.S., in consultation with all relevant agencies of the two governments participating in the U.S.-China Forum on Environment and Development.
- Within the framework of the initiative, representatives of the U.S. and Chinese governments should conduct concrete discussions on cooperative efforts, sign relevant agreements, and report annually to the leaders of their respective governments on progress in implementation.

Signed at Washington, D.C., this day of October, 1997, in the English and Chinese languages.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs “notwithstanding” these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance “notwithstanding any other provision of law.” This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the “notwithstanding” clause applies to those restrictions. It is legally defensible, however, to take the position that the “notwithstanding” provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions, which requires a determination by the President that to do so is in the national interest.

SENSITIVE BUT UNCLASSIFIED



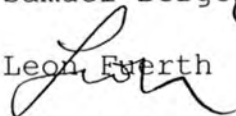
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Signed at Washington, D.C., this day of October, 1997, in the English and Chinese languages.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

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To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions, which requires a determination by the President that to do so is in the national interest.

THE WHITE HOUSE
WASHINGTON

October 25, 1997

To: Leon Fuerth
Jim Steinberg

Fr: Todd Stern *TJS*

I have several concerns about the memo to POTUS on U.S.-China Energy and Environment initiative. The memo in essence recommends that we waive Tiananmen sanctions concerning TDA in exchange for a general statement of principles on energy and environmental cooperation. But:

- it doesn't give President any feel for the upside potential -- what kind of concrete results might we expect/hope for from such cooperation and to what degree is TDA support necessary or important to achieving these results;
- it doesn't discuss what I could imagine to be the serious downside potential of congressional reaction (other than to say that congressional reaction would be *worse* if we did this without a waiver);
- it doesn't really make clear why we need to make a concrete waiver *now*, when we appear to be only at a stage of articulating general principles with the Chinese, which may or may not ever translate into concrete projects, etc.;
- the last parenthetical paragraph is very confusing because it seems to say that TDA could support projects under the energy/environment initiative *without* the national interest waiver. If that is true, and we face real human rights downsides from waiving (as I imagine we would), why wouldn't that be the better option?

I think memo needs to be clearer on these points and also explicitly seek a presidential decision. If the parenthetical really presents a second option, as it seems to, I think the memo should be framed to present both options, with NSC's recommendation as to the option the President should choose. We could then get input from other key players, like John Podesta, Rahm, Gene, Katie, etc.

I can be reached at home or by pager. Phil will be in office or reachable by pager.

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/24 ACTION/CONCURRENCE/COMMENT DUE BY: 10/24 8:00pm

SUBJECT: Waiver of Tiananmen Square Sanctions

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA <i>10/27 see attached</i>	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL <i>10/24 comments att.</i>	☒	☐	STREETT	☐	☐
GIBBONS <i>10/24 comments attached</i>	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☒	☐
LEWIS	☐	☐	BEGALA	☒	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Please advise

RESPONSE:

CLOSE HOLD

Staff Secretary
Ext. 6-2702

- Hows For
LF

- Then
Circulate

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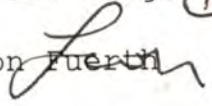
'97 OCT 23 PM7:04

OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Fuerth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

Issue

We are close to final agreement with the Chinese on a joint energy/environment initiative. To give substance to this initiative, we should activate one or more U.S. government programs, such as the Trade and Development Agency (TDA), that are currently prohibited from operating in China. This will require decisions by you and your Administration.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

239788

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects. In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. Such results can contribute to our climate change objectives.

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds), both of which cannot currently operate in China.

The attached memorandum prepared by the NSC Legal Directorate discusses the legal and policy restrictions governing these two programs. In the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

Overcoming the legal restrictions affecting US-AEP is much more complicated. For example, the Administration would have to decide whether or not to declare China a "gross violator" of human rights and issue a waiver.

Having reviewed the attached NSC paper, I believe that the political costs of using Executive branch authority to activate US-AEP would be too high. Instead, as a longer term goal, we should continue to pursue legislation providing "notwithstanding" authority to US-AEP to operate in China. (Senator Baucus introduced such language to the Foreign Operations Appropriations Bill for FY 1998, but it fell out because of opposition from House conferees, specifically Representative Pelosi.)

For the near-term, we should look at enhancing cooperative programs - such as information sharing and policy advice - with

China through agencies such as EPA, Energy, and Commerce, whose dealings with China are not affected by sanctions. US-AEP could provide these agencies with advice (this would not be prohibited by law). The agency programs would not replicate the range of activities that US-AEP could offer, but would show the Chinese that we are interested in greater cooperation. While this undertaking would be very modest, and we could ask agencies to fund it from within their existing budgets, the agencies might request some additional funds.

There are other steps that the U.S. government could eventually take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating OPIC (which is not operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs. In my judgment, we should hold off a final decision on whether to activate these two programs until we have a clear picture of all the steps the Chinese may take, including in the human rights area, in the run-up to the summit.

RECOMMENDATION

To support this initiative, I recommend that you use your waiver authority to activate TDA. (Because of the risk of a Congressional backlash, I believe this is preferable to asking TDA to use its notwithstanding authority).

(Note: If we feel that progress on human rights is not sufficient to justify full operation of TDA, we could provide TDA with policy advice through the Secretary of State to limit its activities to support for projects under the energy/environment initiative).

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

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Divider Title: _____

RESTRICTIONS ON TRADE AND DEVELOPMENT AGENCY (TDA) AND U.S. - ASIA ENVIRONMENTAL PARTNERSHIP (U.S.-AEP) ACTIVITIES IN CHINA

This paper summarizes the legal restrictions on providing assistance to China through the Trade and Development Agency (TDA) and the U.S. - Asia Environmental Partnership (U.S.-AEP). TDA assistance is legally available and can be provided without formal consultations with Congress or a need to make determinations about China's behavior. Assistance through U.S.-AEP, however, cannot be provided without engaging Congress and answering difficult questions about China.

One very important practical consideration for policy-makers is that the foreign operations appropriations conference remains open. If the Administration takes actions on U.S.-AEP that require congressional consultations, the conferees are free to address China and our authorities and make any changes they deem appropriate in conference.

I. TRADE AND DEVELOPMENT AGENCY

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To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions,

which requires a determination by the President that to do so is in the national interest.

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3. FAA §§ 620G and 620H prohibit assistance under the FAA to governments that provide assistance or lethal military equipment, under certain circumstances, to state sponsors of terrorism. (There are also provisions contained in several foreign operations appropriations acts, but to simplify the explanations below, we refer only to these two provisions.)

4. Section 101 of the Arms Export Control Act (AECA), the Symington Amendment, prohibits the provision of economic assistance under the FAA to any country that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to another country.

5. There are other criteria that could render a country ineligible for various forms of assistance. We understand that State/DRL has reviewed the so-called "AID Checklist" and determined that none of the others would apply here, though counsel are not in a position to conduct a separate review.

B. What Would be Required to Overcome Restrictions

1. Without Waivers. Although more factual inquiry would be necessary, it is not clear, as a factual matter, that U.S.-AEP assistance can be provided without waiver of at least some of the restrictions described above.

(a) § 116(a), Gross Human Rights Violators. Assistance can be provided notwithstanding this section if we can state, as a factual matter, either that (i) China does not "engage in a consistent pattern of gross violations of internationally recognized human rights" or (ii) this assistance will directly benefit the needy.

(i) So far, we have not had to conclude formally that the PRC is a gross human rights violator because we have not until now provided assistance to the government of China of the type that would be precluded. There is some flexibility in the § 116 standard. There are obvious political consequences of asserting that China is not a gross human rights violator.

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(c) FAA § 116(b), Failure to Protect Children, FAA §§ 620G and 620H, Supporters of Terrorist Countries, and AECA § 101, Symington Amendment. Although no formal decisions have been made, there is significant factual question about whether assistance can be provided under these sections absent a waiver.

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(a) FAA § 614 Waiver. This is an extraordinary waiver provision that is generally applicable to FAA assistance, which permits the President to authorize FAA assistance without regard to restrictions, such as those described above, if he determines that to do so is important to the security interests of the United States.

Section 614 requires notice to and consultation with Congress before it can be exercised. The consultation process is often a lengthy one, and it can be contentious.

It is legally possible to do a prophylactic waiver under § 614, and therefore not make a determination that a specific restriction is triggered. In practice, however, failure to identify the restrictions needing to be waived could be sharply criticized by some in Congress and itself become a lightning rod for objections. Another possibility would be to exercise § 614 waiver authority citing one or two particular restrictions that are being waived, and adding "or any other provision of law within the purview of this section [614]." This could avoid a finding about a particularly sensitive restriction (gross human rights violations, failure to protect children, or Symington, for example). As discussed below, however, the remaining restrictions (FAA §§ 620G and 620H) both have internal waiver provisions, so it would be difficult to explain why we have resorted to the extraordinary authority of § 614.

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Waiver of FAA §§ 620G and 620H requires a determination by the President that furnishing the assistance is important to the national interests of the United States and a report to Congress no later than 15 days before obligating the assistance. (The authority to make these determinations has been delegated to the Secretary of State.)

The prohibition in § 101 of the AECA can be waived by the President if he determines and certifies to Congress (a) that failure to provide the assistance would have a "serious adverse effect on vital United States interests"; and (b) that he has received reliable assurances that China will not acquire or develop nuclear weapons or assist other nations in doing so. Congress may suspend the assistance if, within 30 days of receiving the President's certification, it passes a joint resolution disapproving of the assistance.

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3. Other Possibilities

(a) Providing Assistance on a Reimbursable Basis. Section 607 of the FAA provides that any agency of the US government (e.g., Commerce) may furnish services and commodities on a reimbursable basis to, among others, any friendly country. Prior to furnishing any such commodities or services, the President must determine that such action is "in furtherance of the purposes of" the economic assistance objectives of part I of the FAA, and "within the limitations of" that Act. Furnishing commodities and services in the energy sector would be in furtherance of the purposes of the FAA. Section 607 transactions are reimbursable programs, so they are not considered "assistance" for purposes of applying the limitations on the provision of assistance described above.

(b) Providing Assistance through NGOs. Section 544 of the Foreign Operations Appropriations Act permits the use of Development Assistance funds "in support of programs of nongovernmental organizations" notwithstanding any other provision of law. This provision could be considered if the U.S.-AEP program were structured to provide assistance through NGOs within China. Prior to obligating funds under this provision, the appropriation and authorizing committees must be given 15 days advance notice. (Although not legally required, the practice has been not to go forward with a program if the chairman or ranking member objects within that time period.)



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OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger *SB*
FROM: Leon Fuerth *LF*
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

Issue

We are close to final agreement with the Chinese on a joint energy/environment initiative. To give substance to this initiative, we should activate one or more U.S. government programs, such as the Trade and Development Agency (TDA), that are currently prohibited from operating in China. This will require decisions by you and your Administration.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects. In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. Such results can contribute to our climate change objectives.

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds), both of which cannot currently operate in China.

The attached memorandum prepared by the NSC Legal Directorate discusses the legal and policy restrictions governing these two programs. In the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

Overcoming the legal restrictions affecting US-AEP is much more complicated. For example, the Administration would have to decide whether or not to declare China a "gross violator" of human rights and issue a waiver.

Having reviewed the attached NSC paper, I believe that the political costs of using Executive branch authority to activate US-AEP would be too high. Instead, as a longer term goal, we should continue to pursue legislation providing "notwithstanding" authority to US-AEP to operate in China. (Senator Baucus introduced such language to the Foreign Operations Appropriations Bill for FY 1998, but it fell out because of opposition from House conferees, specifically Representative Pelosi.)

For the near-term, we should look at enhancing cooperative programs - such as information sharing and policy advice - with

China through agencies such as EPA, Energy, and Commerce, whose dealings with China are not affected by sanctions. US-AEP could provide these agencies with advice (this would not be prohibited by law). The agency programs would not replicate the range of activities that US-AEP could offer, but would show the Chinese that we are interested in greater cooperation. While this undertaking would be very modest, and we could ask agencies to fund it from within their existing budgets, the agencies might request some additional funds.

There are other steps that the U.S. government could eventually take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating OPIC (which is not operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs. In my judgment, we should hold off a final decision on whether to activate these two programs until we have a clear picture of all the steps the Chinese may take, including in the human rights area, in the run-up to the summit.

RECOMMENDATION

To support this initiative, I recommend that you use your waiver authority to activate TDA. (Because of the risk of a Congressional backlash, I believe this is preferable to asking TDA to use its notwithstanding authority).

(Note: If we feel that progress on human rights is not sufficient to justify full operation of TDA, we could provide TDA with policy advice through the Secretary of State to limit its activities to support for projects under the energy/environment initiative).

RESTRICTIONS ON TRADE AND DEVELOPMENT AGENCY (TDA) AND U.S. - ASIA ENVIRONMENTAL PARTNERSHIP (U.S.-AEP) ACTIVITIES IN CHINA

This paper summarizes the legal restrictions on providing assistance to China through the Trade and Development Agency (TDA) and the U.S. - Asia Environmental Partnership (U.S.-AEP). TDA assistance is legally available and can be provided without formal consultations with Congress or a need to make determinations about China's behavior. Assistance through U.S.-AEP, however, cannot be provided without engaging Congress and answering difficult questions about China.

One very important practical consideration for policy-makers is that the foreign operations appropriations conference remains open. If the Administration takes actions on U.S.-AEP that require congressional consultations, the conferees are free to address China and our authorities and make any changes they deem appropriate in conference.

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs "notwithstanding" these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance "notwithstanding any other provision of law." This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the "notwithstanding" clause applies to those restrictions. It is legally defensible, however, to take the position that the "notwithstanding" provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions,

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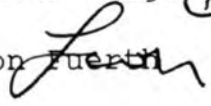
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OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997

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THROUGH: Samuel Berger 
FROM: Leon Fuerth 
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of Legal Counsel to resolve this issue. As a practical matter, even more than with the § 614 waiver, the implication is that the restriction is triggered because a specific section is being waived. Failure to make a finding would complicate congressional consultations considerably. Some in Congress would likely argue that they are owed a clear explanation by the President about whether the Administration believes that a prohibition is triggered. One possible consequence would be that Congress would limit the President's waiver authority in subsequent legislation.

3. Other Possibilities

(a) Providing Assistance on a Reimbursable Basis. Section 607 of the FAA provides that any agency of the US government (e.g., Commerce) may furnish services and commodities on a reimbursable basis to, among others, any friendly country. Prior to furnishing any such commodities or services, the President must determine that such action is "in furtherance of the purposes of" the economic assistance objectives of part I of the FAA, and "within the limitations of" that Act. Furnishing commodities and services in the energy sector would be in furtherance of the purposes of the FAA. Section 607 transactions are reimbursable programs, so they are not considered "assistance" for purposes of applying the limitations on the provision of assistance described above.

(b) Providing Assistance through NGOs. Section 544 of the Foreign Operations Appropriations Act permits the use of Development Assistance funds "in support of programs of nongovernmental organizations" notwithstanding any other provision of law. This provision could be considered if the U.S.-AEP program were structured to provide assistance through NGOs within China. Prior to obligating funds under this provision, the appropriation and authorizing committees must be given 15 days advance notice. (Although not legally required, the practice has been not to go forward with a program if the chairman or ranking member objects within that time period.)

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/24 ACTION/CONCURRENCE/COMMENT DUE BY: 10/24 8:00pmSUBJECT: Waiver of Tiananmen Square Sanctions

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☒	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Please advise

Has this gone?

I'd favor the

RESPONSE:

narrower
TDA approach
outlined in note
on pgr 3.
jll

CLOSE HOLD

Staff Secretary
Ext. 6-2702



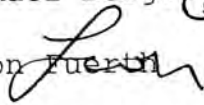
'97 OCT 23 PM7:04

OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997

MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Fuerth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

Issue

We are close to final agreement with the Chinese on a joint energy/environment initiative. To give substance to this initiative, we should activate one or more U.S. government programs, such as the Trade and Development Agency (TDA), that are currently prohibited from operating in China. This will require decisions by you and your Administration.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects. In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. Such results can contribute to our climate change objectives.

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds), both of which cannot currently operate in China.

The attached memorandum prepared by the NSC Legal Directorate discusses the legal and policy restrictions governing these two programs. In the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

Overcoming the legal restrictions affecting US-AEP is much more complicated. For example, the Administration would have to decide whether or not to declare China a "gross violator" of human rights and issue a waiver.

Having reviewed the attached NSC paper, I believe that the political costs of using Executive branch authority to activate US-AEP would be too high. Instead, as a longer term goal, we should continue to pursue legislation providing "notwithstanding" authority to US-AEP to operate in China. (Senator Baucus introduced such language to the Foreign Operations Appropriations Bill for FY 1998, but it fell out because of opposition from House conferees, specifically Representative Pelosi.)

For the near-term, we should look at enhancing cooperative programs - such as information sharing and policy advice - with

China through agencies such as EPA, Energy, and Commerce, whose dealings with China are not affected by sanctions. US-AEP could provide these agencies with advice (this would not be prohibited by law). The agency programs would not replicate the range of activities that US-AEP could offer, but would show the Chinese that we are interested in greater cooperation. While this undertaking would be very modest, and we could ask agencies to fund it from within their existing budgets, the agencies might request some additional funds.

There are other steps that the U.S. government could eventually take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating OPIC (which is not operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs. In my judgment, we should hold off a final decision on whether to activate these two programs until we have a clear picture of all the steps the Chinese may take, including in the human rights area, in the run-up to the summit.

RECOMMENDATION

To support this initiative, I recommend that you use your waiver authority to activate TDA. (Because of the risk of a Congressional backlash, I believe this is preferable to asking TDA to use its notwithstanding authority).

(Note: If we feel that progress on human rights is not sufficient to justify full operation of TDA, we could provide TDA with policy advice through the Secretary of State to limit its activities to support for projects under the energy/environment initiative).

RESTRICTIONS ON TRADE AND DEVELOPMENT AGENCY (TDA) AND U.S. - ASIA ENVIRONMENTAL PARTNERSHIP (U.S.-AEP) ACTIVITIES IN CHINA

This paper summarizes the legal restrictions on providing assistance to China through the Trade and Development Agency (TDA) and the U.S. - Asia Environmental Partnership (U.S.-AEP). TDA assistance is legally available and can be provided without formal consultations with Congress or a need to make determinations about China's behavior. Assistance through U.S.-AEP, however, cannot be provided without engaging Congress and answering difficult questions about China.

One very important practical consideration for policy-makers is that the foreign operations appropriations conference remains open. If the Administration takes actions on U.S.-AEP that require congressional consultations, the conferees are free to address China and our authorities and make any changes they deem appropriate in conference.

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs "notwithstanding" these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance "notwithstanding any other provision of law." This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the "notwithstanding" clause applies to those restrictions. It is legally defensible, however, to take the position that the "notwithstanding" provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions,

which requires a determination by the President that to do so is in the national interest.

II. U.S. - ASIA ENVIRONMENTAL PARTNERSHIP

A. Restrictions

U.S.-AEP is an interagency program managed and primarily funded by USAID. Development funds under the FAA are used in U.S.-AEP operations.

1. FAA § 116(a) prohibits assistance to the government of a country that engages in gross violations of human rights, unless such assistance will directly benefit needy people.

2. FAA subsection 116(b) prohibits assistance to governments that fail to take appropriate and adequate measures to protect children from exploitation, abuse, or forced conscription. This subsection does not contain an exception for assistance that goes directly to needy people.

3. FAA §§ 620G and 620H prohibit assistance under the FAA to governments that provide assistance or lethal military equipment, under certain circumstances, to state sponsors of terrorism. (There are also provisions contained in several foreign operations appropriations acts, but to simplify the explanations below, we refer only to these two provisions.)

4. Section 101 of the Arms Export Control Act (AECA), the Symington Amendment, prohibits the provision of economic assistance under the FAA to any country that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to another country.

5. There are other criteria that could render a country ineligible for various forms of assistance. We understand that State/DRL has reviewed the so-called "AID Checklist" and determined that none of the others would apply here, though counsel are not in a position to conduct a separate review.

B. What Would be Required to Overcome Restrictions

1. Without Waivers. Although more factual inquiry would be necessary, it is not clear, as a factual matter, that U.S.-AEP assistance can be provided without waiver of at least some of the restrictions described above.

(a) § 116(a), Gross Human Rights Violators. Assistance can be provided notwithstanding this section if we can state, as a factual matter, either that (i) China does not "engage in a consistent pattern of gross violations of internationally recognized human rights" or (ii) this assistance will directly benefit the needy.

(i) So far, we have not had to conclude formally that the PRC is a gross human rights violator because we have not until now provided assistance to the government of China of the type that would be precluded. There is some flexibility in the § 116 standard. There are obvious political consequences of asserting that China is not a gross human rights violator.

(ii) While there has been a factual assertion by State/DRL that U.S.-AEP cooperation with China will directly benefit the needy, more factual work will need to be done on this, including seeking a determination from AID on this point. The statute permits Congress to require the Administration to submit information in writing demonstrating that the assistance will directly benefit needy people. If Congress disagrees, it may enact legislation to terminate assistance. As a legal matter, it is not necessary to formally determine that China is a gross human rights violator if we limit our assistance to that which will directly benefit the needy. (As a practical matter, of course, the implication is there.)

(c) FAA § 116(b), Failure to Protect Children, FAA §§ 620G and 620H, Supporters of Terrorist Countries, and AECA § 101, Symington Amendment. Although no formal decisions have been made, there is significant factual question about whether assistance can be provided under these sections absent a waiver.

2. With Waivers.

(a) FAA § 614 Waiver. This is an extraordinary waiver provision that is generally applicable to FAA assistance, which permits the President to authorize FAA assistance without regard to restrictions, such as those described above, if he determines that to do so is important to the security interests of the United States.

Section 614 requires notice to and consultation with Congress before it can be exercised. The consultation process is often a lengthy one, and it can be contentious.

It is legally possible to do a prophylactic waiver under § 614, and therefore not make a determination that a specific restriction is triggered. In practice, however, failure to identify the restrictions needing to be waived could be sharply criticized by some in Congress and itself become a lightening rod for objections. Another possibility would be to exercise § 614 waiver authority citing one or two particular restrictions that are being waived, and adding "or any other provision of law within the purview of this section [614]." This could avoid a finding about a particularly sensitive restriction (gross human rights violations, failure to protect children, or Symington, for example). As discussed below, however, the remaining restrictions (FAA §§ 620G and 620H) both have internal waiver provisions, so it would be difficult to explain why we have resorted to the extraordinary authority of § 614.

(b) Internal Waiver Provisions. If there is no need to waive § 116 (a) or (b), the other restrictions - FAA §§ 620G and 620H and AECA §101 -- have internal waiver provisions, so a § 614 waiver would not be required.

Waiver of FAA §§ 620G and 620H requires a determination by the President that furnishing the assistance is important to the national interests of the United States and a report to Congress no later than 15 days before obligating the assistance. (The authority to make these determinations has been delegated to the Secretary of State.)

The prohibition in § 101 of the AECA can be waived by the President if he determines and certifies to Congress (a) that failure to provide the assistance would have a "serious adverse effect on vital United States interests"; and (b) that he has received reliable assurances that China will not acquire or develop nuclear weapons or assist other nations in doing so. Congress may suspend the assistance if, within 30 days of receiving the President's certification, it passes a joint resolution disapproving of the assistance.

Even with these internal waiver provisions, it would be possible to argue that the Administration legally may do a prophylactic waiver. In the past however, State/L and AID/GC have taken the position that a prophylactic waiver is not necessarily legally available. We would probably need to consult with DOJ's Office

of Legal Counsel to resolve this issue. As a practical matter, even more than with the § 614 waiver, the implication is that the restriction is triggered because a specific section is being waived. Failure to make a finding would complicate congressional consultations considerably. Some in Congress would likely argue that they are owed a clear explanation by the President about whether the Administration believes that a prohibition is triggered. One possible consequence would be that Congress would limit the President's waiver authority in subsequent legislation.

3. Other Possibilities

(a) Providing Assistance on a Reimbursable Basis. Section 607 of the FAA provides that any agency of the US government (e.g., Commerce) may furnish services and commodities on a reimbursable basis to, among others, any friendly country. Prior to furnishing any such commodities or services, the President must determine that such action is "in furtherance of the purposes of" the economic assistance objectives of part I of the FAA, and "within the limitations of" that Act. Furnishing commodities and services in the energy sector would be in furtherance of the purposes of the FAA. Section 607 transactions are reimbursable programs, so they are not considered "assistance" for purposes of applying the limitations on the provision of assistance described above.

(b) Providing Assistance through NGOs. Section 544 of the Foreign Operations Appropriations Act permits the use of Development Assistance funds "in support of programs of nongovernmental organizations" notwithstanding any other provision of law. This provision could be considered if the U.S.-AEP program were structured to provide assistance through NGOs within China. Prior to obligating funds under this provision, the appropriation and authorizing committees must be given 15 days advance notice. (Although not legally required, the practice has been not to go forward with a program if the chairman or ranking member objects within that time period.)

CLOSE HOLD

97 OCT 24 PM 5:02

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/24 ACTION/CONCURRENCE/COMMENT DUE BY: 10/24 8:00

SUBJECT: Waiver of Tiananmen Square Sanctions

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☒	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐
				☐	☐

REMARKS:

RESPONSE:

*Please advise / OSTP concurs with
memo recommendations,
including note on note
for State.*

CLOSE HOLD

10/24/97

Kerr Ann Jones

Staff Secretary
Ext. 6-2702

fax 62215

CLOSE HOLD

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/24 ACTION/CONCURRENCE/COMMENT DUE BY: 10/24 8:00

SUBJECT: Waiver of Transnational Square Sanctions

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☒	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

RESPONSE:

*Please advise / OSTP concurs with
memo recommendations,
including note on note
for State.*

CLOSE HOLD

10/24/97

Kerr Ann Jones

Staff Secretary
Ext. 6-2702

CLOSE HOLD

'97 OCT 24 PM 7:07

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/24

ACTION/CONCURRENCE/COMMENT DUE BY: 10/24 8:00 pm

SUBJECT: Waiver of Tiananmen Square Sanctions

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☒	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☒	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☒	☐	TARULLO	☒	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☒	☐	YELLEN	☐	☐
LEWIS	☐	☐	BEGALA	☒	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

RESPONSE:

Please advise - If you present this as a waiver of sanctions No. However an Energy Cooperation Maybe.

CLOSE HOLD

Staff Secretary
Ext. 6-2702

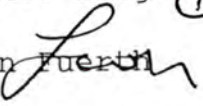


'97 OCT 23 PM7:04

OFFICE OF THE VICE PRESIDENT
WASHINGTON

INFORMATION

October 23, 1997
MEMORANDUM FOR THE PRESIDENT

THROUGH: Samuel Berger 
FROM: Leon Fuerth 
SUBJECT: U.S.-China Energy and Environment Initiative:
Activation of U.S. Programs

Issue

We are close to final agreement with the Chinese on a joint energy/environment initiative. To give substance to this initiative, we should activate one or more U.S. government programs, such as the Trade and Development Agency (TDA), that are currently prohibited from operating in China. This will require decisions by you and your Administration.

Background on the Energy and Environment Initiative

For your summit meeting with President Jiang, we made a proposal to the Chinese government for an energy and environment initiative to promote the use of clean energy technologies in China. The Chinese accepted this concept. We are now working with them to finalize the text of a ministerial-level joint statement for signature during the Jiang visit.

The joint statement identifies three goals for the initiative:

- Contribution to local, regional, and multilateral environmental objectives - from improving public health to addressing climate change.
- Enhanced bilateral cooperation in the fields of energy and environment that may include but not be limited to science, technology, and commerce.
- Mobilization of significant levels of clean energy trade, investment, and appropriate technology transfer over the next five years.

The statement sets forth a number of principles, including Chinese intention to continue policy and other reforms to improve the climate for trade and investment in energy and environment projects. In the coming months, we hope this framework will produce concrete results - from expanded governmental cooperation to commercial contracts for our private sector. Such results can contribute to our climate change objectives.

U.S. Government Support

We have told the Chinese that we are prepared to consider additional steps the U.S. government could take to leverage private capital in support of this initiative. We have raised two programs as examples: the Trade and Development Agency and the U.S.-Asia Environmental Partnership (an AID-managed program that uses Foreign Assistance Act funds), both of which cannot currently operate in China.

The attached memorandum prepared by the NSC Legal Directorate discusses the legal and policy restrictions governing these two programs. In the case of TDA, relief from these restrictions is relatively straightforward. TDA could use its "notwithstanding" authority to overcome the Tiananmen sanctions legislation that prohibits its operation. However, to avoid a fight with Congress over use of this provision and the risk of damage to its programs, TDA will recommend that you use your authority (on "national interest" grounds) to waive the sanctions provision.

Overcoming the legal restrictions affecting US-AEP is much more complicated. For example, the Administration would have to decide whether or not to declare China a "gross violator" of human rights and issue a waiver.

Having reviewed the attached NSC paper, I believe that the political costs of using Executive branch authority to activate US-AEP would be too high. Instead, as a longer term goal, we should continue to pursue legislation providing "notwithstanding" authority to US-AEP to operate in China. (Senator Baucus introduced such language to the Foreign Operations Appropriations Bill for FY 1998, but it fell out because of opposition from House conferees, specifically Representative Pelosi.)

For the near-term, we should look at enhancing cooperative programs - such as information sharing and policy advice - with

China through agencies such as EPA, Energy, and Commerce, whose dealings with China are not affected by sanctions. US-AEP could provide these agencies with advice (this would not be prohibited by law). The agency programs would not replicate the range of activities that US-AEP could offer, but would show the Chinese that we are interested in greater cooperation. While this undertaking would be very modest, and we could ask agencies to fund it from within their existing budgets, the agencies might request some additional funds.

There are other steps that the U.S. government could eventually take to support the energy/environment initiative, which we have not raised with the Chinese. These include activating OPIC (which is not operating in China because of Tiananmen sanctions and worker rights legislation). We could also reexamine our policy on MDB lending for clean energy projects in China. Current Administration policy is to oppose MDB loans to China, except for those addressing basic human needs. In my judgment, we should hold off a final decision on whether to activate these two programs until we have a clear picture of all the steps the Chinese may take, including in the human rights area, in the run-up to the summit.

RECOMMENDATION

To support this initiative, I recommend that you use your waiver authority to activate TDA. (Because of the risk of a Congressional backlash, I believe this is preferable to asking TDA to use its notwithstanding authority).

(Note: If we feel that progress on human rights is not sufficient to justify full operation of TDA, we could provide TDA with policy advice through the Secretary of State to limit its activities to support for projects under the energy/environment initiative).

RESTRICTIONS ON TRADE AND DEVELOPMENT AGENCY (TDA) AND U.S. - ASIA ENVIRONMENTAL PARTNERSHIP (U.S.-AEP) ACTIVITIES IN CHINA

This paper summarizes the legal restrictions on providing assistance to China through the Trade and Development Agency (TDA) and the U.S. - Asia Environmental Partnership (U.S.-AEP). TDA assistance is legally available and can be provided without formal consultations with Congress or a need to make determinations about China's behavior. Assistance through U.S.-AEP, however, cannot be provided without engaging Congress and answering difficult questions about China.

One very important practical consideration for policy-makers is that the foreign operations appropriations conference remains open. If the Administration takes actions on U.S.-AEP that require congressional consultations, the conferees are free to address China and our authorities and make any changes they deem appropriate in conference.

I. TRADE AND DEVELOPMENT AGENCY

A. Restrictions

Tiananmen Sanctions. Sanctions imposed immediately after Tiananmen Square in 1989 specifically suspend new TDA activities in China. These restrictions may be waived upon a presidential determination that it is in the national interest to do so.

B. What Would be Required to Overcome Restrictions

A defensible legal argument exists that TDA can undertake programs "notwithstanding" these restrictions. Under FAA § 661, the Trade and Development Agency is authorized to provide assistance "notwithstanding any other provision of law." This provision postdates the Tiananmen sanctions legislation. Because the Tiananmen sanctions legislation mentions TDA specifically, it is not entirely clear that the "notwithstanding" clause applies to those restrictions. It is legally defensible, however, to take the position that the "notwithstanding" provision applies and the assistance can be provided without a waiver. We would be subject to the counter-argument that this interpretation robs the Tiananmen sanctions of any meaning.

To avoid a fight about whether resumption of assistance was legal, TDA will recommend that the more prudent course would be to obtain a presidential waiver of the Tiananmen sanctions,

which requires a determination by the President that to do so is in the national interest.

II. U.S. - ASIA ENVIRONMENTAL PARTNERSHIP

A. Restrictions

U.S.-AEP is an interagency program managed and primarily funded by USAID. Development funds under the FAA are used in U.S.-AEP operations.

1. FAA § 116(a) prohibits assistance to the government of a country that engages in gross violations of human rights, unless such assistance will directly benefit needy people.

2. FAA subsection 116(b) prohibits assistance to governments that fail to take appropriate and adequate measures to protect children from exploitation, abuse, or forced conscription. This subsection does not contain an exception for assistance that goes directly to needy people.

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4. Section 101 of the Arms Export Control Act (AECA), the Symington Amendment, prohibits the provision of economic assistance under the FAA to any country that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to another country.

5. There are other criteria that could render a country ineligible for various forms of assistance. We understand that State/DRL has reviewed the so-called "AID Checklist" and determined that none of the others would apply here, though counsel are not in a position to conduct a separate review.

B. What Would be Required to Overcome Restrictions

1. Without Waivers. Although more factual inquiry would be necessary, it is not clear, as a factual matter, that U.S.-AEP assistance can be provided without waiver of at least some of the restrictions described above.

(a) § 116(a), Gross Human Rights Violators. Assistance can be provided notwithstanding this section if we can state, as a factual matter, either that (i) China does not "engage in a consistent pattern of gross violations of internationally recognized human rights" or (ii) this assistance will directly benefit the needy.

(i) So far, we have not had to conclude formally that the PRC is a gross human rights violator because we have not until now provided assistance to the government of China of the type that would be precluded. There is some flexibility in the § 116 standard. There are obvious political consequences of asserting that China is not a gross human rights violator.

(ii) While there has been a factual assertion by State/DRL that U.S.-AEP cooperation with China will directly benefit the needy, more factual work will need to be done on this, including seeking a determination from AID on this point. The statute permits Congress to require the Administration to submit information in writing demonstrating that the assistance will directly benefit needy people. If Congress disagrees, it may enact legislation to terminate assistance. As a legal matter, it is not necessary to formally determine that China is a gross human rights violator if we limit our assistance to that which will directly benefit the needy. (As a practical matter, of course, the implication is there.)

(c) FAA § 116(b), Failure to Protect Children, FAA §§ 620G and 620H, Supporters of Terrorist Countries, and AECA § 101, Symington Amendment. Although no formal decisions have been made, there is significant factual question about whether assistance can be provided under these sections absent a waiver.

2. With Waivers.

(a) FAA § 614 Waiver. This is an extraordinary waiver provision that is generally applicable to FAA assistance, which permits the President to authorize FAA assistance without regard to restrictions, such as those described above, if he determines that to do so is important to the security interests of the United States.

Section 614 requires notice to and consultation with Congress before it can be exercised. The consultation process is often a lengthy one, and it can be contentious.

It is legally possible to do a prophylactic waiver under § 614, and therefore not make a determination that a specific restriction is triggered. In practice, however, failure to identify the restrictions needing to be waived could be sharply criticized by some in Congress and itself become a lightening rod for objections. Another possibility would be to exercise § 614 waiver authority citing one or two particular restrictions that are being waived, and adding "or any other provision of law within the purview of this section [614]." This could avoid a finding about a particularly sensitive restriction (gross human rights violations, failure to protect children, or Symington, for example). As discussed below, however, the remaining restrictions (FAA §§ 620G and 620H) both have internal waiver provisions, so it would be difficult to explain why we have resorted to the extraordinary authority of § 614.

(b) Internal Waiver Provisions. If there is no need to waive § 116 (a) or (b), the other restrictions -- FAA §§ 620G and 620H and AECA §101 -- have internal waiver provisions, so a § 614 waiver would not be required.

Waiver of FAA §§ 620G and 620H requires a determination by the President that furnishing the assistance is important to the national interests of the United States and a report to Congress no later than 15 days before obligating the assistance. (The authority to make these determinations has been delegated to the Secretary of State.)

The prohibition in § 101 of the AECA can be waived by the President if he determines and certifies to Congress (a) that failure to provide the assistance would have a "serious adverse effect on vital United States interests"; and (b) that he has received reliable assurances that China will not acquire or develop nuclear weapons or assist other nations in doing so. Congress may suspend the assistance if, within 30 days of receiving the President's certification, it passes a joint resolution disapproving of the assistance.

Even with these internal waiver provisions, it would be possible to argue that the Administration legally may do a prophylactic waiver. In the past however, State/L and AID/GC have taken the position that a prophylactic waiver is not necessarily legally available. We would probably need to consult with DOJ's Office

of Legal Counsel to resolve this issue. As a practical matter, even more than with the § 614 waiver, the implication is that the restriction is triggered because a specific section is being waived. Failure to make a finding would complicate congressional consultations considerably. Some in Congress would likely argue that they are owed a clear explanation by the President about whether the Administration believes that a prohibition is triggered. One possible consequence would be that Congress would limit the President's waiver authority in subsequent legislation.

3. Other Possibilities

(a) Providing Assistance on a Reimbursable Basis. Section 607 of the FAA provides that any agency of the US government (e.g., Commerce) may furnish services and commodities on a reimbursable basis to, among others, any friendly country. Prior to furnishing any such commodities or services, the President must determine that such action is "in furtherance of the purposes of" the economic assistance objectives of part I of the FAA, and "within the limitations of" that Act. Furnishing commodities and services in the energy sector would be in furtherance of the purposes of the FAA. Section 607 transactions are reimbursable programs, so they are not considered "assistance" for purposes of applying the limitations on the provision of assistance described above.

(b) Providing Assistance through NGOs. Section 544 of the Foreign Operations Appropriations Act permits the use of Development Assistance funds "in support of programs of nongovernmental organizations" notwithstanding any other provision of law. This provision could be considered if the U.S.-AEP program were structured to provide assistance through NGOs within China. Prior to obligating funds under this provision, the appropriation and authorizing committees must be given 15 days advance notice. (Although not legally required, the practice has been not to go forward with a program if the chairman or ranking member objects within that time period.)



CHIEF OF STAFF TO THE PRESIDENT

Phil - from Erstar

—

Daniel Patrick Moynihan
New York



United States Senate
Washington, D.C.
October 27, 1997

copy
POUS

'97 NOV 3 AM 9:11

Dear Erskine:

You may recall that at the meeting on fast track last Wednesday the President asked me to touch on the provisions in the Senate bill concerning the ILO. I don't know that I did our cause much good, for I quite failed to mention that the ILO is a tripartite organization in which business and labor participate independently of government. The American business community was much involved from the earliest years. As Secretary of Commerce, Herbert Hoover arranged for the AF of L and the U.S. Chamber of Commerce to begin sending representatives to the annual labor conference in Geneva.

At first the ILO was simply concerned with what we would call labor legislation. But in response to the 1930s depression, it turned to general economic policy, with proposals that much influenced the New Deal. Frances Perkins would so attest. Roosevelt was involved from the earliest days. Much of the energy has gone out of the organization, but it could be revived. And in the interest of trade policy it ought to be, or so I think. I tend to hold with Jagdish Bhagwati up at Columbia:

The efforts at using trade sanctions to eradicate child labor -- which the ILO estimates involved nearly 250 million children last year -- clearly illustrate the intellectual bankruptcy of quick fixes devised in a context like international trade, which is dominated by special interests. Linking liberalized international trade to a host of other goals is the lazy man's answer, unworthy of a great nation known for leadership on both trade and moral issues.

He has proposed a Rio-like summit to get the ILO going again, and quite agrees that inspection is the key.

Best,


The Honorable Erskine B. Bowles
The White House
Washington, DC 20500



October 25, 1997



MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN
SEAN MALONEY

SUBJECT: Recent Information Items

We are forwarding the following recent information items:

- (A) **Update on Philadelphia Service Summit from Silverman, Fortuna and Hubbard --** summarizes the Administration's summit follow-through over the last six months (*e.g.*, your speeches underscoring summit's five goals for children, your announcement of Americorps scholarships and other policy initiatives); sets forth a "proactive strategy" for the next six months (*e.g.*, six-month anniversary Gen. Powell/Prime Time Live interview, a Thanksgiving "Update to the Nation," a possible radio address, and cooperation with America's Promise on mini-summits and a video tape). *Please see memo for details of six-month strategy.*
- (B) **Begala memo on Houston mayor's race and affirmative action referendum.** Paul forwards the Al Hunt piece on Lanier (which you have seen already) and a Houston Chronicle piece on the referendum and its national implications. Lanier's polling data shows the pro-affirmative action forces have made amazing progress, largely through the use of plain and simple language. Lanier is also running spots where he looks directly into the camera and basically says, "Houston's affirmative action programs is good for the city, but don't let a group from California turn back the clock when only folks like me [Lanier] could get city contracts." Lanier has requested that you do a radio spot for the campaign. Counsel, Sylvia and DPC have signed off and Stephanie is trying to work it in the schedule for early next week.
- (C) **Ann Lewis update on White House web page --** site is now three years old; has become one of the best known and most highly-rated sites on the Internet; public will access the site 45 million times this year -- 200,000 to 300,000 times a day; new "sub-sites" focus on your top priorities (*e.g.*, climate change, fast track, the race initiative, the millennium project); site offers more than 17,200 documents, including photos, speeches, statements, press releases, conferences, town hall meetings, statistics and accomplishments); hope soon to upgrade the design of the site to improve further the services it provides.
- (D) **William Raspberry column on Ted Forstmann --** Erskine sent a note to Forstmann, NY investment banker, praising him for his efforts and wanted you to see it. Article describes how Forstmann and John Walton are giving \$3 million each to a scholarship

fund for low-income children in D.C. -- program amounts to tuition assistance for three years for K-8 kids who are accepted to private and parochial secondary schools.

- (E) **Foreign Media Reports of South American Trip from McCurry** -- says, "you mentioned that you would like to see some foreign media reports of your trip to South America;" attaches two foreign media reaction summaries compiled by USIA "for you to browse."

THE WHITE HOUSE
WASHINGTON

'97 OCT 21 PM 1:00

MEMORANDUM FOR THE PRESIDENT

THROUGH: SYLVIA MATHEWS AND BRUCE REED

FROM: STEVE SILVERMAN *for all*
DIANA FORTUNA
BIBB HUBBARD

DATE: October 21, 1997

CC: ANN LEWIS AND THURGOOD MARSHALL, Jr.

This is to update you on Administration progress in the six months since the Philadelphia service summit and to provide a strategy for the next six months. Attached you will find 1) a review of your accomplishments to date; and 2) a six month proactive strategy.

The six month anniversary is October 27, and we expect continuing press attention in the coming weeks. General Powell and America's Promise (the non-profit organization continuing the summit's work) will commemorate the six-month anniversary by releasing an "Update to the Nation" on November 25, perhaps at the National Press Club. Prime Time Live will interview Powell about the anniversary. Jonathan Alter of Newsweek is working on a comprehensive update that is expected to be influential.

Contrary to reports in last week's Time and last Sunday's Boston Globe, you and the Administration have made significant progress since the event in Philadelphia. You have highlighted the summit's five goals for children in several speeches; you have followed through on your major announcement on AmeriCorps scholarships; you have announced a variety of policy initiatives that relate directly to the summit's goals; and Cabinet agencies have begun to follow through on their commitments. The Corporation for National Service is very actively involved in summit follow-up work, as Harris Wofford travels the country to participate in and plan dozens of follow-up summits.

Although America's Promise has not yet been able to develop measures of the summit's success, your work at the summit has clearly contributed to a spirit of service and volunteerism that is developing every day in communities around the country. And, while challenges of this magnitude are not without difficulties (e.g., organizational difficulties at America's Promise, cynical media, heightened expectations, and measurement questions), you and the Administration have every right to be proud. By any measure, you have effectively follow-up on your service commitments and will continue to do so.

10-27-97

After a bumpy start, America's Promise appears to be moving toward a stable organizational structure. This week, Peter Gallagher became the third CEO of America's Promise, replacing Ray Chambers, who remains very involved. Gregg Petersmeyer, who ran President Bush's volunteer office, manages the communities team and Tim Hanlon handles Communications. They manage a staff of 50-60 that continues to grow.

As you have noted, it is critical for the Administration to connect our on-going policy initiatives to service and to the summit's five goals for children wherever possible (i.e., America Reads, children's health, welfare to work, racial reconciliation, education technology). Moreover, real progress has been made on projects directly related to service, including AmeriCorps Scholarships, high school service scholarships, and cabinet agency summit commitment implementation.

We should remain proactive over the next six months, continuing to demonstrate the Administration's commitment to service through Presidential speeches, several service-related events, participation in mini-summits, agency commitment follow-up, new policies related to service and children, and direct service program enhancement. As set forth here, your record of accomplishment on service is profound. In the coming weeks, we will ensure that all interested media and constituencies are briefed about your record.

SIX MONTH STRATEGY ON SERVICE INITIATIVES

We should remain proactive over the next six months, continuing to demonstrate the Administration's commitment to service through Presidential speeches, several service events, mini-summit participation, agency commitment follow-up, service-related policy development and direct service program enhancement.

There are a number of promising opportunities for events and announcements that will allow us to show significant progress by next April, one year after the Summit.

I. Six-Month Anniversary October 26-28

America's Promise is now planning to downplay the six-month anniversary because much of their empirical and anecdotal evidence is not ready for release yet. So, rather than hold a press conference at the National Press Club and release a report, General Powell will have one interview from Prime Time Live.

However, America's Promise has set November 25 as the release date for their "Update to the Nation" report and we are considering having your pre-Thanksgiving radio address be on AmeriCorps reauthorization and service.

II. Participation with America's Promise

We meet regularly with representatives from America's Promise and are working closely together in order to promote the goals of the Summit -- especially goal five, to serve. Below are activities at America's Promise that we are involved in.

Mini-Summits:

You, the Vice President, Mrs. Clinton and Mrs. Gore should participate in one of the several hundred mini-summits being held in communities and regions around the country. We are working closely with General Powell's staff to determine the most appropriate summit for you and the other principals -- including your cabinet -- to participate in over the next six months. Harris Wofford will continue to travel extensively to these mini-summits. The Corporation for National Service is part of the planning team for many of the state and local summits.

Meeting with General Powell:

You and the Vice President should meet with General Powell again, as you did in July, for a briefing on Summit follow-up. White House staff will continue to meet regularly with America's Promise officials to keep abreast of developments and to keep America's Promise up to speed on Administration service related activity. In this regard, we should ask America's Promise to report to you on their progress since the summit. It will be useful to continue to foster these positive relationships.

America's Promise Video:

On behalf of America's Promise, the John Schreiber Group is producing a television special to highlight the daily risks facing millions of American children and youth and the numerous programs, corporations and individuals that have responded through the efforts of the Summit and America's Promise. The John Schreiber Group has requested photos of the President for the special. We supplied them with a photo taken at the Summit in Philadelphia and are waiting for them to send us a copy of the program for counsel's approval.

III. Administration Policies with Service Themes

As has been noted, your interest in service did not commence or conclude with the advent of the Service Summit. Over the years, you have promoted service as a way of life and as one of your major themes. Your signature program -- AmeriCorps-- is a testament to that commitment. As we go forward, there are opportunities to continue and enhance the ongoing service related initiatives and to announce new ones. Below are some thoughts on possible next steps towards promoting community service.

Children's Health Outreach:

We are working with states and community groups to ensure that eligible children are enrolled in Medicaid and the new child health program. Through America's Promise, we could ask all the organizations that made commitments to the summit to embark on a major effort to reach these children. Gen. Powell has been interested in this issue.

Teen Pregnancy and Service:

A new study shows that engaging in community service is at least as effective as other methods of teen pregnancy prevention. We could design an event with the National Campaign to Prevent Teen Pregnancy and the Corporation for National Service.

Policy Events Focussed on Summit's Goals:

You could appear at one or more event centered on one of the five goals of the summit. Opportunities are many, and they could include an event with the Department of Justice's new Mentoring Alliance, which is working toward the summit's first goal. Another option is the launching of the Corporation for National Service's Seniors for Schools: America Reads initiative, which uses older volunteers as literacy tutors in elementary schools. The Corporation says such an event could take place in October or November.

President's Initiative on Race:

We are working to make the topic of your first town hall on Race in early December revolve around service themes. We could look at the AmeriCorps programs like City Year that have focused consciously on race as part of the service experience, and also examine how more service-learning programs in schools could bring together students of different backgrounds to share in community service. We are also preparing for your review a major proposal on mentoring young people to ensure that they take advantage of higher education opportunities.

Additionally, we will reach out to America's Promise to see how we can integrate the goals of the race initiative with the Summit-related activities taking place in cities and states across the country.

IV. Service Projects Moving Forward

The Corporation for National Service is making significant progress in pushing goal five of the Summit and continues to gain national support for AmeriCorps and its other important programs. Additionally, within the White House, we are thinking about ways to promote citizen service nationally.

AmeriCorps:

Harris Wofford has put together a draft legislative proposal to reauthorize the Corporation for National Service's programs, including AmeriCorps. As discussed above, we could announce this as part of a pre-Thanksgiving radio address on service, immediately prior to Powell's summit update. This would be the first reauthorization of these programs, which are now operating without authorization. Ideally, we would like to reauthorize these programs through the end of your term or beyond. We could use this as an opportunity to reflect on the contribution AmeriCorps has made in the past five years, including its key role in mobilizing volunteers.

It appears that the antipathy toward Corporation programs has lessened significantly since the summit. This year's appropriations battle has not seen an assault on the Corporation's core programs, as previous years have. The remaining battle is over what level of funding the Corporation will secure for the America Reads program. We have asked the Corporation to wait on this proposal until appropriations are finished. Wofford is pushing hard to send our draft legislation to the Hill before Congress leaves for the year.

Expansion of High School Service Scholars Program:

Next year we can expand our program of \$1,000 scholarships for exemplary high school service to 10,000 high schools, a significant increase from the 1,700 schools that participated in the first year of the program. There are approximately 24,000 high schools in the U.S.. The Corporation for National Service is planning a major promotional campaign to generate more interest in this program, including getting local sponsors to provide matching funds. You could send a letter to all high school principals urging them to become involved and nominate a student from their school.

Mentoring through the Inter-Net/Virtual Reference Desk:

OSTP, in conjunction with Cabinet Affairs, DPC and the Corporation, is promoting this initiative. The goal is to allow all qualified and interested individuals to volunteer their time to answer the questions of the k-12 community which relate to the federal government. The project builds on national initiatives of the Administration including a call for increased volunteerism and community service.

Mentoring Projects:

White House staff and the federal agencies are investigating opportunities to tutor young

people through America Reads, Everybody Wins and other appropriate programs.

The White House Service Web Page:

The Office of Communications, under the direction of Kevin Moran, is developing a clearinghouse of community service opportunities for White House staff.

Strengthening The Clinton Administration's Commitment to Service Presidential Memorandum:

Shortly, we expect to recommend a Presidential Memorandum directing federal departments and agencies to explore additional measures to expand service opportunities for Federal employees.

Other Service Ideas:

We are continuing to search for opportunities to highlight citizen service. For example, there may be opportunities in St. Louis or Sacramento to do a service related event. Another idea is to have you host a meeting with representatives of companies, volunteer groups, recipients of mentoring, non-profits and community leaders to get a report from the field on how things are going. There would support the anecdotal information, like the story General Powell related to you, about Sioux Falls, South Dakota and the groundswell that is taking place. This would contrast with the "inside the beltway" view offered by some reporters.

Martin Luther King Day of Service:

Martin Luther King Day is designated as a day of service -- "a day on, not a day off". Rev. King was an advocate of service. You, the Vice President and/or the First Lady could join some of the service activities planned for that day.

Administration Accomplishments Since the Presidents' Service Summit

President Clinton is deeply committed to the goals of the Presidents' Summit for America's Future held in Philadelphia last April. Service and the well-being of our nation's children have been at the center of the President's agenda since he took office.

The President is committed to moving forward with America's Promise and other partners to attain the summit's goals for children --a caring adult, a safe place, a healthy start, a marketable skill, and a chance to serve. Since April, the President has continued to emphasize the importance of service to audiences, including the Business Roundtable, the Conference of Mayors, the Welfare-to-Work Partnership, and the radio address, and has recognized major corporate commitments. At the same time, the Administration has been moving forward on all five goals.

The Spirit and Work of the Summit Continues

Since the summit, America's Promise and the Corporation for National Service have continued the work that began at the summit --working with communities at the grass-roots level and securing commitments from corporate and non-profit America toward the five goals. America's Promise, the independent organization founded to follow up on the summit, has garnered over 200 new commitments since the summit, some very substantial. Over 150 cities and states are holding "mini-summits" around the country, with the help of America's Promise and the Corporation for National Service. America's Promise is encouraging communities to become "communities of promise" that take responsibility for reaching children at risk. The President has met with General Powell to discuss progress since April and talk about future directions.

The President's Corporation for National Service is also helping corporations and non-profits implement their summit commitments at the local level. Viacom is deploying its employee volunteers through AmeriCorps. The Corporation's Learn and Serve America program is helping in the delivery of eye exams and glasses to over 40,000 needy children promised by Vision Service Plan. The Corporation's National Senior Service Corps is helping the National Education Association-Retired meet its commitment to deploy thousands of retired teachers as tutors for America Reads. AmeriCorps*VISTA is working with IBM to bring technology to community organizations.

The Administration is Moving Ahead on the Summit's Goals

Since April, we have continued our work on the summit's five goals. Several of the following initiatives were announced at the summit itself by the President or by federal agencies.

AmeriCorps Scholarships:

We have increased opportunities for young people to serve their communities. At the summit, the President issued a challenge to service and religious organizations that we would provide 50,000 new AmeriCorps scholarships over the next 5 years to organizations that offer young people the chance to serve. The response since then has far exceeded our expectations. Seventy-seven organizations answered that challenge, offering to sponsor 10,000 new AmeriCorps members. In June, 8,900 scholarships were approved, well ahead of our first-year plan for 5,000 scholarships. (Summit goal

5, among others.)

National Service Scholars:

This summer, we launched a new effort to recognize and foster outstanding community service among our nation's youth. We awarded scholarships to over 1,600 high school students with exemplary service records in the first year of the National Service Scholars program. A host of leading community organizations stepped forward to raise the local match for the scholarships, including the Kiwanis, Rotary, Lions, Veterans of Foreign Wars, the American Legion, Elks, and Women's Clubs. Each high school principal was invited to nominate a junior or senior for the scholarship. For next year, we have secured funding that will allow the program to expand to 10,000 high schools --almost half of all high schools in the nation. (Summit goal 5.)

Children's Health:

The Balanced Budget Act included a huge investment of \$24 billion in children's health care, the single largest investment in health care for children since 1965. This Children's Health Initiative will give many more children the "healthy start" that the Summit recognized as so important. In June, the President announced that Kaiser Permanente is committing \$100 million to provide health coverage for uninsured children in California, complementing the Administration's efforts. The Administration is also focusing on outreach to families who may not know their children are eligible for Medicaid or other health insurance. (Summit goal 3.)

Welfare to Work:

Since May, the Vice President has been leading the Coalition to Sustain Success, a new partnership of civic organizations that is working with state and local government to mentor families seeking to leave welfare for work and provide them with networking and support. In addition, the Welfare to Work Partnership has mobilized over 2,500 businesses to hire welfare recipients, so that those parents can move into the economic mainstream and improve their children's future. The Partnership is helping companies all across the nation hire people off welfare by providing information on best practices through a Blueprint for Business and other information available on their toll-free hotline and web page, as well as working closely with community and business leaders in a number of cities to promote innovative and effective welfare to work initiatives. (Several summit goals.)

Loan-Forgiveness for Community Service:

The President's proposal for loan forgiveness for those who perform community service was enacted as part of the balanced budget. To encourage private universities and non-profit organizations to offer loan forgiveness to borrowers who take lower-paying service jobs, the President proposed and won a provision that would not subject such loan forgiveness to taxation. (Summit goal 5.)

America Reads and AmeriCorps:

The Department of Education and the Corporation for National Service have begun to implement the President's America Reads initiative this year, while seeking resources from Congress for full-scale implementation in 1998-99. Hundreds of colleges and universities have committed to provide tens of thousands of work-study students as reading tutors in the current school year as part

of America Reads, the national literacy campaign to ensure that every child can read well and independently by the third grade.

AmeriCorps members are working in 94 programs across the country to tutor and mentor, set up after-school and summer programs, and recruit parents and community volunteers as tutors. The Corporation is also launching a new "Seniors in Schools" initiative in nine cities to use older volunteers as literacy tutors in some of the nation's poorest elementary schools. In the District of Columbia, over 1,000 college students, volunteers, seniors, and parents will tutor first grade children in 16 of the neediest schools in the city. (Summit goal 4.)

White House Conference on Child Care:

On October 23, the President and First Lady will host this event as part of an Administration focus on how to ensure high quality and affordable child care. This effort builds on our earlier emphasis on the importance of early learning. (Summit goals 1, 2, and 4.)

Commitments by Federal Agencies:

Federal agencies are following through on the more than 40 commitments they made at the summit, including mentoring and tutoring and launching new partnerships with corporations and nonprofits. They are also continuing to launch new initiatives and partnerships to reach the summit's goals. Here are some examples of agency progress:

- **Department of Justice:** The Department of Justice has convened a new public/private Mentoring Alliance to promote the Summit's mentoring goal, disseminate information about best practices, and determine how best to link volunteers with the children who need them. Members include Big Brothers/Big Sisters, One to One, Boys and Girls Clubs of America, and Save the Children. In addition, DOJ has followed through on its commitment to more than double the number of sites for its Juvenile Mentoring Program. (Summit goal 1.)

DOJ also completed its commitment to expand its Drug Education for Youth (DEFY) summer camp program that promotes positive life choices for children between the ages of 9 and 12. After the summer program, the children are linked with mentors from the local U.S. Attorney's office, police department, or university. DOJ's new Youth Network provides a forum for young people and community organizations to exchange ideas on juvenile violence and delinquency prevention. (Summit goals 1 and 2.)

- **Corporation for National Service:** The Corporation for National Service is taking the lead to meet the Summit's goal of engaging an additional 2 million young people in community service. (Summit goal 5.) It is also developing a new initiative "To Learn and Grow" to expand and improve the quality of afterschool programs (Summit goal 2).

- **Department of Education:** This summer, the summer reading program Read*Write*Now! reached over 1.5 million children through over 500,000 reading partners, fulfilling the Department's commitment. (Summit goal 4.)
- **Health and Human Services:** In June, HHS Secretary Shalala launched a new partnership with the Girl Scouts, to teach girls about the dangers of substance abuse and other risky behaviors, featuring a new patch that Girl Scouts can earn by completing the program. (Summit goals 1 and 3.)
- **Department of Defense:** The Army has modified its leave policy to make it easier for military and civilian personnel to volunteer in schools. Pursuant to its commitment, the Department of Defense is increasing high school enrollment in Junior ROTC Career Academies, an alternative to the regular high school JROTC program designed to address the special needs of at-risk youth. (Summit goals 1, 2, and 4.)
- **Department of Agriculture:** In September, the Vice President and Agriculture Secretary Dan Glickman convened a National Summit on Food Recovery, to develop a national strategy to increase gleaning efforts by one-third by the year 2000. (Summit goal 5.)
- **Department of Transportation:** DOT has launched its new effort, the Garrett A. Morgan Technology & Transportation Futures Program. To date, DOT has heard from over 200 partners who want to join its effort to reach one million students by the year 2000. The program will offer these students better math, science, and technology skills and information about careers in technology and transportation. (Summit goal 4.)
- **Partnerships with Schools:** The Social Security Administration, the Department of Labor, the Department of Health and Human Services, and the Department of Transportation are among the agencies now forging new partnerships with schools. (Summit goals 1 and 4.)

Update on
Admn. Progress since
Philadelphia Summit
on volunteerism

Seen -
into park ... short of
should draw POTUS'
attention to ensure and
6 mos strategy in
particular planned

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/21 ACTION/CONCURRENCE/COMMENT DUE BY: 10/23SUBJECT: Service Summit Follow-up and planning

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS (see comment)	☒	☐	REED	☒	☐
RAINES	☒	☐	RUFF	☐	☐
BLUMENTHAL	☒	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☒	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	BEGALA	☒	☐
LINDSEY	☐	☐	<u>Silverman</u>	☐	☒
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Any comment (note attachment)

RESPONSE:

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/21 ACTION/CONCURRENCE/COMMENT DUE BY: 10/23SUBJECT: Service Summit Follow-up and planning

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VICE PRESIDENT	☒	☐	McCURRY	☐	☒
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RAINES	☒	☐	RUFF	☐	☐
BLUMENTHAL	☒	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☒	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	BEGALA	☒	☐
LINDSEY	☐	☐	<u>Silverman</u>	☐	☒
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Any comment (note attachment)

RESPONSE:

10/23/97 Phil
 I read before
 I think the
 next steps
 for your summary
 are the future plans.
 smart

Staff Secretary
Ext. 6-2702

THE WHITE HOUSE
WASHINGTON

97 OCT 21 PM 1:00

MEMORANDUM FOR THE PRESIDENT

THROUGH: SYLVIA MATHEWS AND BRUCE REED

FROM: STEVE SILVERMAN *SS for all*
DIANA FORTUNA
BIBB HUBBARD

DATE: October 21, 1997

CC: ANN LEWIS AND THURGOOD MARSHALL, Jr.

This is to update you on Administration progress in the six months since the Philadelphia service summit and to provide a strategy for the next six months. Attached you will find 1) a review of your accomplishments to date; and 2) a six month proactive strategy.

The six month anniversary is October 27, and we expect continuing press attention in the coming weeks. General Powell and America's Promise (the non-profit organization continuing the summit's work) will commemorate the six-month anniversary by releasing an "Update to the Nation" on November 25, perhaps at the National Press Club. Prime Time Live will interview Powell about the anniversary. Jonathan Alter of Newsweek is working on a comprehensive update that is expected to be influential.

Contrary to reports in last week's Time and last Sunday's Boston Globe, you and the Administration have made significant progress since the event in Philadelphia. You have highlighted the summit's five goals for children in several speeches; you have followed through on your major announcement on AmeriCorps scholarships; you have announced a variety of policy initiatives that relate directly to the summit's goals; and Cabinet agencies have begun to follow through on their commitments. The Corporation for National Service is very actively involved in summit follow-up work, as Harris Wofford travels the country to participate in and plan dozens of follow-up summits.

Although America's Promise has not yet been able to develop measures of the summit's success, your work at the summit has clearly contributed to a spirit of service and volunteerism that is developing every day in communities around the country. And, while challenges of this magnitude are not without difficulties (e.g., organizational difficulties at America's Promise, cynical media, heightened expectations, and measurement questions), you and the Administration have every right to be proud. By any measure, you have effectively follow-up on your service commitments and will continue to do so.

After a bumpy start, America's Promise appears to be moving toward a stable organizational structure. This week, Peter Gallagher became the third CEO of America's Promise, replacing Ray Chambers, who remains very involved. Gregg Petersmeyer, who ran President Bush's volunteer office, manages the communities team and Tim Hanlon handles Communications. They manage a staff of 50-60 that continues to grow.

As you have noted, it is critical for the Administration to connect our on-going policy initiatives to service and to the summit's five goals for children wherever possible (i.e., America Reads, children's health, welfare to work, racial reconciliation, education technology). Moreover, real progress has been made on projects directly related to service, including AmeriCorps Scholarships, high school service scholarships, and cabinet agency summit commitment implementation.

We should remain proactive over the next six months, continuing to demonstrate the Administration's commitment to service through Presidential speeches, several service-related events, participation in mini-summits, agency commitment follow-up, new policies related to service and children, and direct service program enhancement. As set forth here, your record of accomplishment on service is profound. In the coming weeks, we will ensure that all interested media and constituencies are briefed about your record.

SIX MONTH STRATEGY ON SERVICE INITIATIVES

We should remain proactive over the next six months, continuing to demonstrate the Administration's commitment to service through Presidential speeches, several service events, mini-summit participation, agency commitment follow-up, service-related policy development and direct service program enhancement.

There are a number of promising opportunities for events and announcements that will allow us to show significant progress by next April, one year after the Summit.

I. Six-Month Anniversary October 26-28

America's Promise is now planning to downplay the six-month anniversary because much of their empirical and anecdotal evidence is not ready for release yet. So, rather than hold a press conference at the National Press Club and release a report, General Powell will have one interview from Prime Time Live.

However, America's Promise has set November 25 as the release date for their "Update to the Nation" report and we are considering having your pre-Thanksgiving radio address be on AmeriCorps reauthorization and service.

II. Participation with America's Promise

We meet regularly with representatives from America's Promise and are working closely together in order to promote the goals of the Summit -- especially goal five, to serve. Below are activities at America's Promise that we are involved in.

Mini-Summits:

You, the Vice President, Mrs. Clinton and Mrs. Gore should participate in one of the several hundred mini-summits being held in communities and regions around the country. We are working closely with General Powell's staff to determine the most appropriate summit for you and the other principals -- including your cabinet -- to participate in over the next six months. Harris Wofford will continue to travel extensively to these mini-summits. The Corporation for National Service is part of the planning team for many of the state and local summits.

Meeting with General Powell:

You and the Vice President should meet with General Powell again, as you did in July, for a briefing on Summit follow-up. White House staff will continue to meet regularly with America's Promise officials to keep abreast of developments and to keep America's Promise up to speed on Administration service related activity. In this regard, we should ask America's Promise to report to you on their progress since the summit. It will be useful to continue to foster these positive relationships.

America's Promise Video:

On behalf of America's Promise, the John Schreiber Group is producing a television special to highlight the daily risks facing millions of American children and youth and the numerous programs, corporations and individuals that have responded through the efforts of the Summit and America's Promise. The John Schreiber Group has requested photos of the President for the special. We supplied them with a photo taken at the Summit in Philadelphia and are waiting for them to send us a copy of the program for counsel's approval.

III. Administration Policies with Service Themes

As has been noted, your interest in service did not commence or conclude with the advent of the Service Summit. Over the years, you have promoted service as a way of life and as one of your major themes. Your signature program -- AmeriCorps-- is a testament to that commitment. As we go forward, there are opportunities to continue and enhance the ongoing service related initiatives and to announce new ones. Below are some thoughts on possible next steps towards promoting community service.

Children's Health Outreach:

We are working with states and community groups to ensure that eligible children are enrolled in Medicaid and the new child health program. Through America's Promise, we could ask all the organizations that made commitments to the summit to embark on a major effort to reach these children. Gen. Powell has been interested in this issue.

Teen Pregnancy and Service:

A new study shows that engaging in community service is at least as effective as other methods of teen pregnancy prevention. We could design an event with the National Campaign to Prevent Teen Pregnancy and the Corporation for National Service.

Policy Events Focussed on Summit's Goals:

You could appear at one or more event centered on one of the five goals of the summit. Opportunities are many, and they could include an event with the Department of Justice's new Mentoring Alliance, which is working toward the summit's first goal. Another option is the launching of the Corporation for National Service's Seniors for Schools: America Reads initiative, which uses older volunteers as literacy tutors in elementary schools. The Corporation says such an event could take place in October or November.

President's Initiative on Race:

We are working to make the topic of your first town hall on Race in early December revolve around service themes. We could look at the AmeriCorps programs like City Year that have focused consciously on race as part of the service experience, and also examine how more service-learning programs in schools could bring together students of different backgrounds to share in community service. We are also preparing for your review a major proposal on mentoring young people to ensure that they take advantage of higher education opportunities.

Additionally, we will reach out to America's Promise to see how we can integrate the goals of the race initiative with the Summit-related activities taking place in cities and states across the country.

IV. Service Projects Moving Forward

The Corporation for National Service is making significant progress in pushing goal five of the Summit and continues to gain national support for AmeriCorps and its other important programs. Additionally, within the White House, we are thinking about ways to promote citizen service nationally.

AmeriCorps:

Harris Wofford has put together a draft legislative proposal to reauthorize the Corporation for National Service's programs, including AmeriCorps. As discussed above, we could announce this as part of a pre-Thanksgiving radio address on service, immediately prior to Powell's summit update. This would be the first reauthorization of these programs, which are now operating without authorization. Ideally, we would like to reauthorize these programs through the end of your term or beyond. We could use this as an opportunity to reflect on the contribution AmeriCorps has made in the past five years, including its key role in mobilizing volunteers.

It appears that the antipathy toward Corporation programs has lessened significantly since the summit. This year's appropriations battle has not seen an assault on the Corporation's core programs, as previous years have. The remaining battle is over what level of funding the Corporation will secure for the America Reads program. We have asked the Corporation to wait on this proposal until appropriations are finished. Wofford is pushing hard to send our draft legislation to the Hill before Congress leaves for the year.

Expansion of High School Service Scholars Program:

Next year we can expand our program of \$1,000 scholarships for exemplary high school service to 10,000 high schools, a significant increase from the 1,700 schools that participated in the first year of the program. There are approximately 24,000 high schools in the U.S.. The Corporation for National Service is planning a major promotional campaign to generate more interest in this program, including getting local sponsors to provide matching funds. You could send a letter to all high school principals urging them to become involved and nominate a student from their school.

Mentoring through the Inter-Net/Virtual Reference Desk:

OSTP, in conjunction with Cabinet Affairs, DPC and the Corporation, is promoting this initiative. The goal is to allow all qualified and interested individuals to volunteer their time to answer the questions of the k-12 community which relate to the federal government. The project builds on national initiatives of the Administration including a call for increased volunteerism and community service.

Mentoring Projects:

White House staff and the federal agencies are investigating opportunities to tutor young

people through America Reads, Everybody Wins and other appropriate programs.

The White House Service Web Page:

The Office of Communications, under the direction of Kevin Moran, is developing a clearinghouse of community service opportunities for White House staff.

Strengthening The Clinton Administration's Commitment to Service Presidential Memorandum:

Shortly, we expect to recommend a Presidential Memorandum directing federal departments and agencies to explore additional measures to expand service opportunities for Federal employees.

Other Service Ideas:

We are continuing to search for opportunities to highlight citizen service. For example, there may be opportunities in St. Louis or Sacramento to do a service related event. Another idea is to have you host a meeting with representatives of companies, volunteer groups, recipients of mentoring, non-profits and community leaders to get a report from the field on how things are going. There would support the anecdotal information, like the story General Powell related to you, about Sioux Falls, South Dakota and the groundswell that is taking place. This would contrast with the "inside the beltway" view offered by some reporters.

Martin Luther King Day of Service:

Martin Luther King Day is designated as a day of service -- "a day on, not a day off". Rev. King was an advocate of service. You, the Vice President and/or the First Lady could join some of the service activities planned for that day.

Administration Accomplishments Since the Presidents' Service Summit

President Clinton is deeply committed to the goals of the Presidents' Summit for America's Future held in Philadelphia last April. Service and the well-being of our nation's children have been at the center of the President's agenda since he took office.

The President is committed to moving forward with America's Promise and other partners to attain the summit's goals for children --a caring adult, a safe place, a healthy start, a marketable skill, and a chance to serve. Since April, the President has continued to emphasize the importance of service to audiences, including the Business Roundtable, the Conference of Mayors, the Welfare-to-Work Partnership, and the radio address, and has recognized major corporate commitments. At the same time, the Administration has been moving forward on all five goals.

The Spirit and Work of the Summit Continues

Since the summit, America's Promise and the Corporation for National Service have continued the work that began at the summit --working with communities at the grass-roots level and securing commitments from corporate and non-profit America toward the five goals. America's Promise, the independent organization founded to follow up on the summit, has garnered over 200 new commitments since the summit, some very substantial. Over 150 cities and states are holding "mini-summits" around the country, with the help of America's Promise and the Corporation for National Service. America's Promise is encouraging communities to become "communities of promise" that take responsibility for reaching children at risk. The President has met with General Powell to discuss progress since April and talk about future directions.

The President's Corporation for National Service is also helping corporations and non-profits implement their summit commitments at the local level. Viacom is deploying its employee volunteers through AmeriCorps. The Corporation's Learn and Serve America program is helping in the delivery of eye exams and glasses to over 40,000 needy children promised by Vision Service Plan. The Corporation's National Senior Service Corps is helping the National Education Association-Retired meet its commitment to deploy thousands of retired teachers as tutors for America Reads. AmeriCorps*VISTA is working with IBM to bring technology to community organizations.

The Administration is Moving Ahead on the Summit's Goals

Since April, we have continued our work on the summit's five goals. Several of the following initiatives were announced at the summit itself by the President or by federal agencies.

AmeriCorps Scholarships:

We have increased opportunities for young people to serve their communities. At the summit, the President issued a challenge to service and religious organizations that we would provide 50,000 new AmeriCorps scholarships over the next 5 years to organizations that offer young people the chance to serve. The response since then has far exceeded our expectations. Seventy-seven organizations answered that challenge, offering to sponsor 10,000 new AmeriCorps members. In June, 8,900 scholarships were approved, well ahead of our first-year plan for 5,000 scholarships. (Summit goal

5, among others.)

National Service Scholars:

This summer, we launched a new effort to recognize and foster outstanding community service among our nation's youth. We awarded scholarships to over 1,600 high school students with exemplary service records in the first year of the National Service Scholars program. A host of leading community organizations stepped forward to raise the local match for the scholarships, including the Kiwanis, Rotary, Lions, Veterans of Foreign Wars, the American Legion, Elks, and Women's Clubs. Each high school principal was invited to nominate a junior or senior for the scholarship. For next year, we have secured funding that will allow the program to expand to 10,000 high schools --almost half of all high schools in the nation. (Summit goal 5.)

Children's Health:

The Balanced Budget Act included a huge investment of \$24 billion in children's health care, the single largest investment in health care for children since 1965. This Children's Health Initiative will give many more children the "healthy start" that the Summit recognized as so important. In June, the President announced that Kaiser Permanente is committing \$100 million to provide health coverage for uninsured children in California, complementing the Administration's efforts. The Administration is also focusing on outreach to families who may not know their children are eligible for Medicaid or other health insurance. (Summit goal 3.)

Welfare to Work:

Since May, the Vice President has been leading the Coalition to Sustain Success, a new partnership of civic organizations that is working with state and local government to mentor families seeking to leave welfare for work and provide them with networking and support. In addition, the Welfare to Work Partnership has mobilized over 2,500 businesses to hire welfare recipients, so that those parents can move into the economic mainstream and improve their children's future. The Partnership is helping companies all across the nation hire people off welfare by providing information on best practices through a Blueprint for Business and other information available on their toll-free hotline and web page, as well as working closely with community and business leaders in a number of cities to promote innovative and effective welfare to work initiatives. (Several summit goals.)

Loan-Forgiveness for Community Service:

The President's proposal for loan forgiveness for those who perform community service was enacted as part of the balanced budget. To encourage private universities and non-profit organizations to offer loan forgiveness to borrowers who take lower-paying service jobs, the President proposed and won a provision that would not subject such loan forgiveness to taxation. (Summit goal 5.)

America Reads and AmeriCorps:

The Department of Education and the Corporation for National Service have begun to implement the President's America Reads initiative this year, while seeking resources from Congress for full-scale implementation in 1998-99. Hundreds of colleges and universities have committed to provide tens of thousands of work-study students as reading tutors in the current school year as part

of America Reads, the national literacy campaign to ensure that every child can read well and independently by the third grade.

AmeriCorps members are working in 94 programs across the country to tutor and mentor, set up after-school and summer programs, and recruit parents and community volunteers as tutors. The Corporation is also launching a new "Seniors in Schools" initiative in nine cities to use older volunteers as literacy tutors in some of the nation's poorest elementary schools. In the District of Columbia, over 1,000 college students, volunteers, seniors, and parents will tutor first grade children in 16 of the neediest schools in the city. (Summit goal 4.)

White House Conference on Child Care:

On October 23, the President and First Lady will host this event as part of an Administration focus on how to ensure high quality and affordable child care. This effort builds on our earlier emphasis on the importance of early learning. (Summit goals 1, 2, and 4.)

Commitments by Federal Agencies:

Federal agencies are following through on the more than 40 commitments they made at the summit, including mentoring and tutoring and launching new partnerships with corporations and nonprofits. They are also continuing to launch new initiatives and partnerships to reach the summit's goals. Here are some examples of agency progress:

- **Department of Justice:** The Department of Justice has convened a new public/private Mentoring Alliance to promote the Summit's mentoring goal, disseminate information about best practices, and determine how best to link volunteers with the children who need them. Members include Big Brothers/Big Sisters, One to One, Boys and Girls Clubs of America, and Save the Children. In addition, DOJ has followed through on its commitment to more than double the number of sites for its Juvenile Mentoring Program. (Summit goal 1.)

DOJ also completed its commitment to expand its Drug Education for Youth (DEFY) summer camp program that promotes positive life choices for children between the ages of 9 and 12. After the summer program, the children are linked with mentors from the local U.S. Attorney's office, police department, or university. DOJ's new Youth Network provides a forum for young people and community organizations to exchange ideas on juvenile violence and delinquency prevention. (Summit goals 1 and 2.)

- **Corporation for National Service:** The Corporation for National Service is taking the lead to meet the Summit's goal of engaging an additional 2 million young people in community service. (Summit goal 5.) It is also developing a new initiative "To Learn and Grow" to expand and improve the quality of afterschool programs (Summit goal 2).

- **Department of Education:** This summer, the summer reading program Read*Write*Now! reached over 1.5 million children through over 500,000 reading partners, fulfilling the Department's commitment. (Summit goal 4.)
- **Health and Human Services:** In June, HHS Secretary Shalala launched a new partnership with the Girl Scouts, to teach girls about the dangers of substance abuse and other risky behaviors, featuring a new patch that Girl Scouts can earn by completing the program. (Summit goals 1 and 3.)
- **Department of Defense:** The Army has modified its leave policy to make it easier for military and civilian personnel to volunteer in schools. Pursuant to its commitment, the Department of Defense is increasing high school enrollment in Junior ROTC Career Academies, an alternative to the regular high school JROTC program designed to address the special needs of at-risk youth. (Summit goals 1, 2, and 4.)
- **Department of Agriculture:** In September, the Vice President and Agriculture Secretary Dan Glickman convened a National Summit on Food Recovery, to develop a national strategy to increase gleaning efforts by one-third by the year 2000. (Summit goal 5.)
- **Department of Transportation:** DOT has launched its new effort, the Garrett A. Morgan Technology & Transportation Futures Program. To date, DOT has heard from over 200 partners who want to join its effort to reach one million students by the year 2000. The program will offer these students better math, science, and technology skills and information about careers in technology and transportation. (Summit goal 4.)
- **Partnerships with Schools:** The Social Security Administration, the Department of Labor, the Department of Health and Human Services, and the Department of Transportation are among the agencies now forging new partnerships with schools. (Summit goals 1 and 4.)

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/21 ACTION/CONCURRENCE/COMMENT DUE BY: 10/23

SUBJECT: Service Summit Follow-up and planning

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☒	☐
RAINES →	☒	☐	RUFF	☐	☐
BLUMENTHAL	☒	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☒	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☒	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	BEGALA	☒	☐
LINDSEY	☐	☐	<u>Silverman</u>	☐	☒
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Any comment (note attachment)

RESPONSE:

OMB Comments attached

OMB Comments re Memo to POTUS on Service Summit Follow-up and Planning.

- 1) Page four of the document, **Policy Events Focussed on Summit's Goals** paragraph, first sentence -- the word event should be changed to **events**
- 2) Page six of the document, **Other Service Ideas** paragraph, fourth sentence -- the word there should be changed to **this**.
- 3) Page seven of the document, **The Spirit and Work of the Summit Continues**, second paragraph, second sentence should be changed to read -- **Viacom is deploying its employee volunteers to serve in AmeriCorps programs with AmeriCorps participants.** (The new sentence clarifies that Viacom employees will not be serving as AmeriCorps members but serving in AmeriCorps programs working with AmeriCorps members.)
- 4) Page seven of the document **The Spirit and Work of the Summit Continues**, second paragraph, fourth sentence should be modified to read -- **The Corporation's National Senior Service Corps is helping the National Education Association -- Retired Teachers and the National Retired Teachers Association to meet commitments to deploy thousands of retired teachers as tutors for America Reads.** (The CNCS is helping both groups. The groups are separate and distinct entities.)
- 5) Page seven of the document, **AmeriCorps Scholarships** paragraph, fourth and fifth sentences should be changed to read as follows -- **Seventy-seven organizations answered the challenge, offering to sponsor new AmeriCorps members. Currently more than 15,000 scholarships have been approved, well ahead of our first-year plan for 5,000 scholarships.** (We don't know exactly how many the 77 organizations offered to fund, but we know that as of right now more than 15,000 scholarships have been approved.)
- 6) Page eight of the document, **National Service Scholars** paragraph, second sentence -- the number should be changed from 1,600 to **1,700**.
- 7) Page 9, top of the page, add another space in between the end of one paragraph and the beginning of the next.