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## CHINA UPDATE

January 29, 2014

### QUOTE OF THE WEEK

*"My fascination with China goes back fifty years to my days as a college student at Stanford. I was a young man who grew up on a ranch outside Helena, Montana, full of youthful idealism and curiosity. And so I packed a backpack, took a year off from my studies, and hitchhiked around the world. I set out to visit countries I had only imagined — India, Japan, and China, to name a few. Before I departed, I had never thought about a life of public service. But that trip opened my eyes. I realized how people across the globe were interconnected. And I saw the vital role America plays as a leader on the world stage. I returned to the States with a focus and commitment to a career where I could improve the lives of my fellow Montanans and all Americans." – Senator Max Baucus, at his January 28 confirmation hearing to serve as the next U.S. Ambassador to China*

### U.S.-CHINA RELATIONS

#### **Baucus Nomination Hearing**

On January 28, the Senate Foreign Relations Committee held a confirmation hearing for Senator Max Baucus (D-MT), President Obama's nominee to serve as the next U.S. Ambassador to China, replacing outgoing Ambassador Gary Locke. ML Strategies' summary of the hearing can be found as an attachment to this week's China Update. In his opening statement, Senator Baucus said that, if confirmed, he hopes to accomplish two goals that are critical to the U.S.-China relationship: 1) to develop our economic relationship with China in a way that benefits American businesses and workers; and 2) to partner with China as it emerges as a global power and encourage it to act responsibly in resolving international disputes, respecting human rights, and protecting the environment. His prepared statement can be found [here](#).

The committee is expected to approve the nomination of Senator Baucus perhaps as early as next Tuesday.

### **SEC Rules Against Chinese Affiliates of U.S. Auditing Firms**

On January 22, an administrative law judge at the Securities and Exchange Commission (SEC) administrative law found that the Chinese affiliates of the five major U.S. auditing firms had willfully violated the 2002 Sarbanes-Oxley Act by failing to produce work papers of clients under SEC. The SEC decision can be found [here](#).

### **Trial and Conviction of Chinese Activist Xu Zhiyong**

On January 22, the Chinese government began the trial of Xu Zhiyong, a Chinese legal and civil rights advocate. Xu is charged with “gathering a crowd to disturb social order.” On January 23, the Congressional-Executive Commission on China (CECC) issued a report on the trial that can be found [here](#). On January 25, the State Department issued a statement in response to reports that Xu had been convicted and sentenced to four years in prison. That statement can be found [here](#).

### **U.S. Special Representative for North Korea Policy Visits China**

January 27-31, a U.S. delegation led by Special Representative for North Korea Policy Glyn Davies is visiting China, the Republic of Korea (ROK), and Japan for meetings with senior officials to discuss North Korea policy. Ambassador Davies was in Beijing January 27-28 for meetings with senior Chinese Government officials, including Special Representative for Korean Peninsula Affairs Wu Dawei. On January 28, Ambassador Davies delivered remarks at the Westin Chaoyang Hotel in Beijing. A transcript can be found [here](#).

The delegation then traveled to Seoul January 29-30 for meetings with Special Representative for Korean Peninsula Peace and Security Affairs Cho Tae-yong and senior ROK Government officials. On January 30-31, Ambassador Davies will visit Tokyo January 30-31 for meetings with senior Japanese Government officials, including Director General for Asian and Oceanian Affairs Junichi Ihara.

### **China's Counterspace Program**

On January 28, the House Armed Services Subcommittee on Seapower and Projection Forces and Subcommittee on Strategic Forces held a hearing on China's counterspace program and its implications for U.S. national security. Witnesses included: Dr. Robert L. Butterworth, President, Aries Analytics, Inc.; Mr. Michael Krepon, Co-Founder/Senior Associate, The Stimson Center; and Dr. Ashley J. Tellis, Senior Associate, Carnegie Endowment for International Peace. Prepared statements can be found [here](#).

### **USCC Hearing on China's Military Modernization**

On January 30, the U.S.-China Economic and Security Review Commission (USCC) will hold a hearing on “China's Military Modernization and Its Implications for the United States.” Witnesses will include: Dr. Andrew Erickson, Associate Professor, and founding member, China Maritime Studies Institute, U.S. Naval War College; Dr. James Lewis, Senior Fellow and Director of the Strategic Technologies Program, Center for Strategic and International Studies; Mr. Jesse Karotkin, Senior Intelligence Officer for China, Office of Naval Intelligence; Mr. Donald L. Fuell, Technical Director for Force Modernization

and Employment, National Air and Space Intelligence Center; Mr. Mark Stokes, Executive Director, Project 2049 Institute; Dr. Roger Cliff, Senior Fellow, Atlantic Council; The Honorable David Gompert, Distinguished Visiting Professor, U.S. Naval Academy; and Mr. Thomas Donnelly, Resident Fellow and Co-Director of the Marilyn Ware Center for Security Studies, American Enterprise Institute

## **ENERGY & THE ENVIRONMENT**

### **U.S. Climate Leadership Crucial for Globe**

In an interview with the New Yorker's David Remnick on January 23rd, President Obama said that he will place a high priority on his climate action plan in order to retain the viability of fossil fuels as the world works to mitigate and adapt to climate change. Saying that China, India, and other nations are likely to continue building coal-fired power plants, the president reiterated the importance of developing strong carbon capture and storage technologies.

## **TRADE**

### **Chinese Polysilicon Duties Imposed**

On January 20, China affirmed import tariffs on United States and South Korean polysilicon companies. Imports from the U.S. will be subject to anti-subsidy duties at a rate of 2.1 percent, and to antidumping duties at rates of up to 57 percent. The final rule upholds preliminary July 18 antidumping duties on solar cells, and exempts Korean producers and some U.S. companies from lower anti-subsidy fees.

### **AD/CVD Investigation Launched**

On January 23, the Department of Commerce announced that it would initiate new anti-dumping and countervailing duty investigations of crystalline silicon photovoltaic products from China and Taiwan. The inquiry was spurred by a petition from SolarWorld which contended that Chinese solar manufacturers are avoiding 2012 tariffs by exploiting loopholes in the earlier investigation. The International Trade Commission will make its preliminary injury ruling by February 14.

### **Davos Talks**

The United States, the European Union, China, and several other countries announced January 24 at the World Economic Forum in Davos that they will begin negotiating a deal to reduce tariffs on the world's \$955 billion in annual environmental goods trade. The effort is similar to a recent deal among Asia-Pacific Economic Cooperation countries, and will build on those efforts to make renewable and clean energy technologies cheaper and more broadly accessible. The group accounts for 86 percent of the world's trade in related products, and has already been praised by businesses and trade groups and questioned by environmentalists for its actual impact on climate change. Environmental Protection Agency Administrator Gina McCarthy attended the forum, as did Secretary of State John Kerry, Treasury Secretary Jacob Lew, Commerce Secretary Penny Pritzker, and several other administration officials and high-ranking members of Congress. The forum devoted a full day to addressing the economic costs of climate change, and the costs to businesses and governments of solving the problem. Global development leaders, led by the World Bank Group, urged governments and the private sector to put a

price on carbon and encourage more low-carbon investment.

### **USITC to Review Duty Orders on Thermal Paper from China**

On January 23, the U.S. International Trade Commission (USITC or Commission) voted to conduct full five-year ("sunset") reviews concerning the countervailing duty order on certain lightweight thermal paper from China and the antidumping duty orders on certain lightweight thermal paper from China and Germany. As a result of these votes, the Commission will conduct full reviews to determine whether revocation of these orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Uruguay Round Agreements Act requires the Department of Commerce to revoke an antidumping or countervailing duty order, or terminate a suspension agreement, after five years unless the Department of Commerce and the USITC determine that revoking the order or terminating the suspension agreement would be likely to lead to continuation or recurrence of dumping or subsidies (Commerce) and of material injury (USITC) within a reasonably foreseeable time. The Commission will issue a report after it completes its reviews.

### **USITC to Review Duty Orders on Polyethylene Terephthalate Products from China**

Also on January 23, the USITC voted to conduct five-year sunset reviews concerning the antidumping duty orders on polyethylene terephthalate film, sheet, and strip from Brazil, China, and the United Arab Emirates. As a result of these votes, the Commission will conduct full reviews to determine whether revocation of these orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission will issue a report after it completes its reviews.

### **USTR Seeks Comments on Chinese WTO Challenge**

On January 24, the U.S. Trade Representative (USTR) published a notice in the Federal Register seeking comments on the request for World Trade Organization (WTO) consultations by China on various U.S. antidumping measures. The request from China is tied to that country's allegations regarding the methodologies used by the Department of Commerce for various products, including: coated paper suitable for high-quality print graphics using sheetfed presses, oil country tubular goods, high pressure steel cylinders, polyethylene terephthalate film, sheet, and strip, aluminum extrusions, frozen and canned warmwater shrimp, new pneumatic off-the-road tires, crystalline silicon photovoltaic cells, diamond sawblades and parts thereof, multilayered wood flooring, narrow woven ribbons with woven selvage, polyethylene retail carrier bags and wooden bedroom furniture. The Chinese request can be found [here](#), and the USTR Federal Register notice can be found [here](#).

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**The U.S. Senate Committee on Foreign Relations**  
Foreign Affairs Nominations  
Tuesday, January 28, 2014  
10am, 419 Dirksen

Purpose

*The purpose of this hearing was to examine nominees to the Foreign Service.*

Members Present

Chairman Menendez, Ranking Member Corker, Cardin, Rubio, Coons, McCain, Barrasso, Johnson, Risch and Tester participated in the hearing.

Nominees

**Senator Max Baucus**, Montana, to be Ambassador to China

Opening Statements

**Senator Menendez** said that the biggest challenge and opportunity for the United States today is getting the relationship with China right. The Administration's rebalance to Asia is a policy of the utmost importance. He can think of no better person than the Senator from Montana to serve as ambassador to China. There exist many opportunities for exporters in China. The rest of the 21<sup>st</sup> century and beyond will be shaped by decisions made in Washington and Beijing. The key challenge is how to recognize the strategic and economic difficulties that come with the rise of china. America is an Asia Pacific actor and will remain one in the future and so we need to work with China and other allies to construct a new rules-based system for Asia.

**Senator Corker** said that the most important relationship we as a nation will have over the next decade is with China. The relationship with China is not well defined. The nominee will be in a position to shape the future of that relationship. Many Americans wonder if China is friend or foe. We must strive to complement each other's countries and shape this developing relationship with stability and Western values. There exist many tensions in East Asia and it will be the nominee's job to ease them.

**Senator Tester** introduced Senator Baucus. He said Senator Baucus' passion for Montana is second to none. Senator Baucus was identified as a legend in the Senate. The nominee's commitment to greater economic opportunity has paid off to Americans and Montanans for decades. The nominee has the fire in his belly to be the next US Ambassador to China.

**Senator Baucus** thanked his colleagues and introduced his family.

**Senator Menendez** thanked Senator Baucus' family for their willingness to serve.

Nominee Statement

**Senator Baucus** said it was an honor to speak in front of the Committee as nominee to be the next ambassador to China. He said that the President is a true friend and he appreciates support of Vice President Biden and Secretary Kerry. He is thankful to other ambassadors for their friendship and council. The United States and China will shape global affairs for generations to come. Both countries must do the job the right way. The senator's fascination with China dates back to college when he took a year off and spent his time traveling throughout Asia. These travels helped him to realize how people around the globe are interconnected. He identified the vital role of America as a leader in the world. He

led negotiations around free trade agreements with eleven countries. His position has allowed him to travel to emerging markets, which equips him to advance trade interests in many countries including China. The senator learned core lessons along the way and is a firm believer that a strong geopolitical relationship comes with strong economic relationship and the key to a strong relationship is trade.

Today, US and China trade accounts for more than \$500 billion of goods and services. Economic diplomacy is the key to a more stable relationship. He shared his two goals of developing an economic relationship in way that benefits American businesses and protecting human rights and respect for the environment. The United States and China have more in common than not and each state has far more to gain from cooperation than conflict. China must establish a rules-based economic system and as its economy grows rapidly, it must engage in bilateral talks and regional forums with other countries of the region. Last year a bilateral investment treaty was signed with United States, which serves as an important step to opening China to investors. Cooperation in geopolitical issues and increasing responsibility in the very regional security that has allowed China to grow are necessities.

Senator Baucus said he will urge China to follow international laws on border issues and double efforts to de-nuclearize North Korea. The United States must remain loyal to its core values and push China to pay attention to human rights abuses. As ambassador, he will not be confined to the embassy and believes he must be out in field working to build relationships with people and between nations. He acknowledged the outstanding team at the embassy in Beijing and how he looks forward to working with them.

#### Q&A

**Senator Menendez** said that the nominee is well versed in economic issues and recognized that China is a complicated portfolio. He identified that China continues to refer to a new type of great power relationship and asked what China means by that. He also asked what America's counter to China's increasing power should be.

**Senator Baucus** said that it is imperative that we as Americans be involved in the Asia Pacific. He said that rebalancing is critical and the American-Chinese relationship is vital to solving global problems. China's interpretation of the new relationship suggests that China can take care of its own issues, including human rights and Taiwan, and essentially block out the rest of the international community. This is not an approach that makes sense. China must participate fully in the United Nations and resolve issues grounded in international law. It is extremely important that the United States stay engaged in the world while standing up for our values as China grows.

**Senator Menendez** said that cybersecurity and fighting the theft of intellectual property is important to the Committee. Firms that operate in China lose billions of dollars in IPR violations. He asked if the nominee could commit to strive to improve these.

**Senator Baucus** said that he absolutely will. As a member of the Administration, he must do what he can to address IP theft and cyber theft. Industrial espionage is a huge problem. This serves as an opportunity for the United States to keep reminding China that it has benefitted greatly from our open rules based economy and will benefit more if it follows a similar system.

**Senator Menendez** said that he appreciates the nominee raising the point of standing up for principles. It is easy to remain fixated on economic challenges and opportunities but ignore human rights.

**Senator Corker** spoke about how China has named an air defense zone that overlaps with Japanese airspace. Under Article 5 of the Japanese defense treaty, the United States would be bound to defend Japan within that zone. He asked what logic is behind China's recent actions.

**Senator Baucus** said that he cannot reduce tensions in East China Sea unilaterally. The United States doesn't recognize or confirm the zone. It is important to let China know that we do not approve in order to discourage other actions China may take. Escalating tensions can easily lead to a miscalculation and violence. We must remind China that it will be in its best interest to maintain peace in the Asia Pacific. If relations deteriorate, it would be detrimental to all countries involved in the region.

**Senator Corker** said that on December 5<sup>th</sup> a Chinese warship crossed the bow of a US ship and Chinese officials are critical of the pivot to Asia. He asked what was sense there was in China's display of force.

**Senator Baucus** said that China was probing to see how far it could go. There was bridge to bridge communication. This incident raises the question of engagement at all levels, specifically military-to-military communication. Increased communication will not solve all problems, but it can help. Rebalancing is appropriate, but we must better coordinate at all levels – economic, political, and human rights. The more we can talk to people the more likely it is that we will develop trust to minimize misunderstandings.

**Senator Corker** said that journalists in China are concerned. He asked where the best areas for improvement lie.

**Senator Baucus** said that economic relations are the first area of and the second is geopolitics. The economic playing field has to be leveled so American businesses can invest without being discriminated against. The more American companies that can engage with Chinese businesses, the better the relationship will become.

**Senator Corker** said that the Administration has been big on making statements without much definition or policy behind them. He respects that the candidate doesn't seem like one to take direction from a young White House staffer. He said that the nominee should be independent and take full advantage of fact that Administration does not have a defined policy towards China. He should take advantage to help shape Chinese relations.

**Senator Baucus** said that he must remind everyone that as ambassador he will have to work as a team and further the foreign policies of the Administration.

**Senator Cardin** said that the relationship with China is very complex. He said that currency manipulation is a matter that must be dealt with and that security issues, such as maritime issues, are also important. He asked if good governance and human rights will always be on the table with China.

**Senator Baucus** said the concern is extremely important. He is proud of the action he took years ago when he repeatedly asked Chinese officials to release a dissident in Tibet. After two or three weeks, the dissident was released. Protection of human rights is the bedrock of American society. People look to America to lead in the protection of human rights.

**Senator Cardin** said that the issue of breathing air in China must be discussed. The international community must see China do a stronger job at reducing carbon emissions. He asked how the nominee sees himself working with China towards more responsible emissions.

**Senator Baucus** said that Vice President Biden put together a climate change working group. The first issue is pollution and the second is developing smart grid systems. Technologies must be developed that the Chinese can use to help achieve these objectives.

**Senator Cardin** said that air pollution is critically important to not just Americans on ground, but the whole world.

**Senator Rubio** said that our policy is not to contain China. China should be seen as a growing market we can trade with. We should look to China as a partner with whom we can confront security issues, such as Iran and North Korea. He said that we are often criticized for getting involved in other nations and asked if the US Embassy in China should be an “island of freedom.”

**Senator Baucus** said that our overarching mission is to stand up for human rights around the world.

**Senator Rubio** said that the Chinese government has detained unregistered Christians. He also said that unregistered Catholic clergy remain in detention or have disappeared. He asked the nominee if he would be open to attending a worship service in an unregistered church in China.

**Senator Baucus** said that he wants to do his best to communicate in a way that is most effective. Where he will go and not go is a matter of judgment. His goal is to be effective. The bedrock of the position and mission is the protection of human rights. He said that he doesn't want to answer the specific question directly because it's a point that he must also discuss with the Administration.

**Senator Rubio** said that there comes a point when effectiveness to communicate cannot come before things that go against our values. If the Chinese want to use newfound powers to oppress within its borders and turn neighbors into tributary states we cannot sacrifice the fundamental human rights focus that makes us America.

**Senator Coons** asked how the nominee would use the position to work with the USDA on biotechnology.

**Senator Baucus** said he would keep pushing sound science, as restrictions on agricultural products have existed for political reasons, not scientific ones.

**Senator Coons** said that many US companies that file suit against China for copyright laws or IP violations are persecuted or barred from Chinese market.

**Senator Baucus** said that it is important for China to understand that the more it goes down that road, the more it will hurt itself and the living standards of people within its borders. The Chinese people, in the long run, will be better off with more transparency and a more level playing field.

**Senator Coons** said that Africa is of great importance because it serves as the last reserve of natural resources in the world. Dramatic investments in Africa are not done on a level playing field. He said that he hopes the nominee will reinforce a vision of fair trade and level playing fields in Africa.

**Senator Baucus** said that he has much to learn about Africa and that he will push for rules-based and values-based investment there. If China wants to invest in Africa, it should and has the right to.



**Senator Coons** said that he looks forward to the nominee's service and is confident that he will be exemplary.

**Senator Johnson** asked what motivated Chinese leadership.

**Senator Baucus** said that like most leaders, they want to do well and fight for their people. He also said that the leaders like their jobs and that they want to do what they can to not lose them. If confirmed, he will have time to spend with many different people in China to see who is most effective.

**Senator Johnson** asked what would motivate the Chinese to implement the air defense zone.

**Senator Baucus** said that the Chinese people are as proud as Americans are proud. The Chinese people are taking advantage of that pride to test America in the South China Sea. We must be fair but firm by engaging in constructive conversation. We must stand up during border disputes in the sea and air by denouncing what we do not agree with.

**Senator Johnson** said that China holds \$1.3 trillion of U.S. debt and asked what the positives and negatives of that are.

**Senator Baucus** said that the percentage of U.S. debt held by China is smaller than people think. We must establish more balanced trade and stop allowing currency reserves to accumulate.

**Senator Risch** said we have been working hard to try to get the Chinese to accept U.S. beef. He is very concerned that difficulties in the seas will cause negotiations to stall. He asked the nominee to speak about the US efforts to persuade China to open its markets to U.S. beef.

**Senator Baucus** said that China doesn't take much US beef now. He believes that with communication, we can get around the day-to-day conflicts and focus on the end goal of opening markets to beef.

**Senator McCain** said that it's not that the Chinese are proud as we are proud or that they want to keep their jobs. The Chinese leadership has a sense of history wherein they believe China has to be the leader and dominant force in Asia. He said that we must appreciate that if we want to communicate with them. Aggressive behavior in the South China Sea is part of a pattern of their ambition to dominate that part of the world and unless you understand that, you are going to have trouble dealing with them. When the United States flew two B-52s over the air zone, it was great until the government told airliners to respect the new borders. The Chinese are continuous human rights abusers on a daily basis. Until you understand that, you are going to have trouble.

**Senator Baucus** said that he agrees and that he applauded the B-52s flying over the air zone. It is important for us to maintain and strengthen our alliances with other countries. We must engage China eye-to-eye and avoid conflict in the China Seas. We have to get this relationship right.

**Senator Barrasso** said the United States has exported \$5.5 billion of beef around the world annually. In 2003, China banned all imports of US beef. It has allowed Australia to replace the United States as China's top beef exporter. There are signs that China may soon lift the ban. He asked how the nominee will work to address this issue.

**Senator Baucus** said that he cares a lot about beef.

**Senator Barrasso** asked if the nominee has had any conversations with the governor of Montana prior to his nomination about his successor.

**Senator Baucus** answered that he had not.