



WOLF LETTER TO NASA'S BOLDEN CORRECTING RECORD ON RESTRICTIONS INVOLVING CHINESE NATIONALS

Washington, D.C. (October 8, 2013) – Rep. Frank Wolf (R-VA), chairman of the House Appropriations subcommittee that funds NASA, today released the following letter to Administrator Charles Bolden calling on NASA to correct misinformation circulated by the Ames Research Center that was reported in a recent article in The Guardian:

*Administrator Charles F. Bolden, Jr.
NASA
300 E St SW Mailstop 9042
Washington DC 20546*

Dear Administrator Bolden:

Earlier this year, I invited you to meet with an impressive group of Chinese human rights activists in my office. I appreciated your willingness to sit with them and hear their stories. As you witnessed, to a person, each loved their country and were rightly proud of their heritage. But all sought fundamental change. They longed to live in a land where they could worship freely, speak openly and enjoy the basic protections of a constitution grounded in rule of law.

Their quarrel – and mine – is with the thin layer of leadership at the helm of the Chinese communist party that rules by fear and oppression. China's repression knows no boundaries: the government has been a major arms supplier and source of economic strength to the regime in Khartoum, Sudan, headed by an internationally indicted war criminal and architect of the genocide in Darfur. The Chinese people know that such leadership is destined for the ash heap of history, and they long for the U.S. government, to find common cause with the Chinese people not with those who persecute them.

Few in Congress have done more to advocate for the Chinese people than me.

As co-chairman of the House's bipartisan Human Rights Commission, I have worked closely with many victims of repression. I have spent hours with countless Chinese dissidents ranging from legal advocate Chen Guangcheng, who escaped from house arrest seeking asylum in the U.S. embassy, to Uyghur Muslim activist Rebiya Kadeer, herself a political dissident, to house church pastor and advocate Bob Fu, to former laogai prisoner Harry Wu. I have traveled to China to meet with human rights and

religious freedom activists oppressed by Beijing. In 1997, I slipped into Tibet with a trekking group to meet with Buddhist monks and nuns living under the repressive watch of Chinese security agents. They showed me forbidden pictures of the Dalai Lama. In 2008, I returned to China the week before the start of the Olympics to meet with a group of activists and pastors – all but one was arrested on their way to the meeting.

The Chinese people are good people who yearn for freedom and the same universal human rights that we in the West enjoy, including freedom of speech and religion. In contrast, the Chinese government is fundamentally corrupt and systematically abuses the basic human rights of its own people. We only need to ask the Catholic bishop under house arrest, the house church pastor languishing in prison, the Tibetan monk willing to set himself aflame in desperation at the abuses suffered by his people to know this is true.

Consider that at the same time that the 2010 Nobel Prize recipient Liu Xiaobo, a Chinese dissident, was jailed, the 2009 Nobel Prize winner, President Obama, was hosting a state dinner for Chinese premier Hu Jintao. No such welcome was afforded to the Dalai Lama during his first visit to Washington during Obama's presidency. Much like Solzhenitsyn before him the Dalai Lama was denied an audience with the president because the White House didn't want to there to be any impact on the president's trip to Beijing the next month.

These events, coupled with former Secretary of State Hillary Clinton's comments during an early visit to Asia, in which she famously said that U.S concern with human rights issues in China "can't interfere with the global economic crisis, the global climate change crisis, and the security crisis," have sadly set the tone for this administration. Too often, the Obama Administration has willfully turned a blind eye towards human rights abuses as well as systemic Internet censorship, crackdowns on free speech and protestors and prolific theft of intellectual property all in the name of currying favor with the Chinese government.

In light of these realities, I have supported efforts to limit new collaboration with China until we see improvements in its human rights record, as well as a reduction in its well documented cyberattacks and espionage efforts against the U.S. My record on this has been clear and well publicized, especially with regard to language I have included in legislation affecting NASA and other agencies. However, I was concerned to read an October 4 article in The Guardian that reported on poor guidance about these policies with regard to restrictions on Chinese nationals attending a conference next month at NASA Ames Research Center. Unfortunately, the article is riddled with inaccuracies, as is, it appears, the guidance provided by NASA Ames staff to the attendees.

According to the article: "Chinese applicants were told they could not attend the conference in an email sent by Mark Messersmith, a Kepler project specialist at Nasa Ames. 'Unfortunately ... federal legislation passed last March forbids us from hosting any citizens of the People's Republic of China at a conference held at facilities of the National Aeronautics and Space Administration. Regarding those who are already working at other institutions in the US, due to security issues resulting from recent

Congressional actions, they are under the same constraints' according to the email, seen by the Guardian."

As you know, the congressional provision – which has been in place since early 2011 – primarily restricts bilateral, not multilateral, meetings and activities with the Communist Chinese government or Chinese-owned companies. It places no restrictions on activities involving individual Chinese nationals unless those nationals are acting as official representatives of the Chinese government. As such, the email from NASA Ames mischaracterizes the law and is inaccurate.

I believe what Mr. Messersmith may have been referring to was a temporary restriction on Chinese nationals that you put in place earlier this year after serious security protocol flaws were brought to your attention by some in Congress, including me, specifically regarding violations at Ames and Langley Research Center. You indicated at the time that security policies for foreign nationals for particular countries of concern would be reevaluated and new accreditations would not be approved until the security process was vetted. However, any restriction against Chinese nationals on NASA centers is entirely an agency policy and not covered under the statutory restriction. Furthermore, it was my understanding that NASA's temporary restrictions had been lifted after a review of security protocols for foreign nationals at all NASA centers.

As you know, NASA's inspector general recently produced a report documenting the serious failures in the security process that led to violations involving a Chinese national at NASA's Langley Research Center. I hope a copy of this report will soon be made public. For these reasons, I supported NASA's policies that were put in place earlier this year to ensure that these security flaws had been dealt with. I continue to support every effort you deem appropriate to ensure that NASA centers are fully compliant with laws and regulations governing security.

However, it is clear the NASA Ames guidance provided to conference attendees was inaccurate and not reflective of the statutory restrictions enacted by Congress. NASA headquarters needs to send updated guidance to both the conference attendees and to the press to correct this misconception.

That said, I was struck by comments from individuals quoted in the Guardian article who indicated their intent to boycott this conference. How many of these same people are all too willing to participate in science conferences in China that are hosted and paid for by the autocratic Chinese government, with its clear and undisputed record of abuses and censorship? Which begs the question, where then was their righteous outrage?

According to the article, "Geoff Marcy, an astronomy professor at the University of California, Berkeley, who has been tipped to win a Nobel prize for his pioneering work on exoplanets, or planets outside the solar system, called the ban 'completely shameful and unethical.' In an email sent to the conference organizers, Marcy said: 'In good conscience, I cannot attend a meeting that discriminates in this way. The meeting is about planets located trillions of miles away, with no national security implications,' he wrote.

'It is completely unethical for the United States of America to exclude certain countries from pure science research,' Marcy told the Guardian. "It's an ethical breach that is unacceptable. You have to draw the line.'"

Again, while the conference guidance provided by Ames was inaccurate, I hope Dr. Marcy will draw a similar line when it comes to cooperation with Chinese government funded agencies and programs due to their systemic human rights abuses. In fact, as a Nobel nominee himself, has he publicly advocated for the 2010 Nobel Prize recipient Liu Xiaobo who to this day languishes in Chinese detention?

In the powerful words of the Nobel Committee which asserted, in awarding the prize to Liu, that "there is a close connection between human rights and peace..." The Committee continued, "The campaign to establish universal human rights also in China is being waged by many Chinese, both in China itself and abroad. Through the severe punishment meted out to him, Liu has become the foremost symbol of this wide-ranging struggle for human rights in China." Will the international science community stand with those who are struggling for human rights in China? Will they take a similarly public stand against the "shameful" and "unethical" activities of the Chinese government which our own State Department characterizes as an "authoritarian state" which routinely engages in "repression and coercion" and resorts to "extralegal measures such as enforced disappearance, 'soft detention,' and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions"?

Given the attention raised in the Guardian article about the statutory restrictions on bilateral relations with the Chinese government, it is worth recalling why the Congress has deemed it appropriate to put these provisions in statute since 2011. In addition to the myriad human rights and religious freedom abuses described above, there are serious concerns about widespread espionage against the U.S., including NASA, as well as recent developments in China's space warfare program.

Over the last year, there has been much discussion about the unprecedented espionage campaign run by the People's Liberation Army (PLA) against the U.S. government – including NASA – and industry. The director of National Security Agency recently described Chinese espionage of U.S. technology as "the greatest transfer of wealth in history."

Other senior U.S. military and intelligence officials have become increasingly vocal about their concerns about the scope of Chinese espionage and cyberattacks. Defense Intelligence Agency chief General Ron Burgess testified last year that "China has used its intelligence services to gather information via a significant network of agents and contacts using a variety of methods... In recent years, multiple cases of economic espionage and theft of dual-use and military technology have uncovered pervasive Chinese collection efforts."

The evidence of prolific Chinese cyperattacks and espionage have become increasingly clear with the release of the Mandiant report in February as well as the newspapers that have come forward to report targeted attacks from China based on reporting critical of the Chinese government. Then, in April, Verizon released its annual cyber report which found that “96 percent of recorded, state-affiliated attacks targeting business’ trade secrets and other intellectual property in 2012 could be traced to Chinese hackers.” These are just the latest reports in a series of official documents that have built a damning case against Chinese cyber espionage against the U.S. government and industry.

In late 2011, the Office of the National Counterintelligence Executive released a report for foreign spies in the U.S. Not surprisingly, much of the report focused on China’s espionage operations. According to the report, Chinese espionage efforts “combine collection of open source information, [human intelligence], signals intelligence, and cyber operations” to “develop a competitive edge over the United States.” The report also explicitly notes that China views itself as a “strategic competitor” of the U.S. and is one of the “most aggressive collectors of U.S. economic information and technology.”

It is particularly notable that the president’s strategy on mitigating the theft of U.S. intellectual property specifically singled out core technologies that NASA develops, including “unmanned aerial vehicles, and other aerospace/aeronautic technologies” and “civilian and dual-use technologies in sectors likely to experience fast growth” as information of the greatest interest to Chinese espionage.

In response to the public attention to the Chinese espionage threat, earlier this year the White House released a white paper detailing its strategy to mitigate the theft of trade secrets. Notably, of the 19 trade secret espionage cases that have been brought under this administration, 16 of the 19 cases involved Chinese nationals spying for Chinese institutions. That’s 85 percent of all DOJ espionage cases that have involved Chinese espionage.

At the same time, the PLA – which runs China’s space program – is developing space weapons to use against U.S. satellites. According to a recent article from respected national security reporter Bill Gertz, “China last week conducted a test of a maneuvering satellite that captured another satellite in space during what Pentagon officials say was a significant step forward for Beijing’s space warfare program. The satellite capture took place last week and involved one of three small satellites fitted with a mechanical arm that were launched July 20 as part of a covert anti-satellite weapons development program, said U.S. officials familiar with reports of the test.”

The article continued: “The official said the satellites are part of China’s ‘Star Wars’ space weapon program that has been largely ignored by the Obama administration over concerns that pressing China to explain its space weapons program would upset U.S.-China relations. The ASAT program is a ‘real concern for U.S. national defense,’ the official said.”

There is good reason Congress is concerned about providing the Communist Chinese government with additional opportunities to work with the U.S. on space given their continued cyberattacks, espionage campaigns and development of space weapons to use against the U.S.

Returning to Ames, the misrepresentation of NASA policy quoted in the Guardian article is the latest in a series of questionable actions taken by the Ames center leadership that have resulted in criminal investigations of export violations and inspector general reviews of illegitimate contracts issued by the center. I believe the center has become a rat's nest of inappropriate and possibly illegal activities that appear to have occurred with the concurrence of the center's leadership.

In one troubling example, last month, The Wall Street Journal reported on a Space Act Agreement between Ames and Google's executives to use taxpayer-subsidized airplane fuel intended for military aircraft for personal travel by Google's leadership. A dubious scientific data collection scheme appears to have been developed as an excuse for this preferential treatment for these executives.

According to the article, "The main jets in the fleet – a Boeing 767, Boeing 757 and four Gulfstream V's – have departed from Moffett a total of 710 times since 2007, FAA records show. The most frequent destinations were Los Angeles and New York, but the planes also flew 20 times to the Caribbean island of Tortola; 17 to Hawaii; 16 to Nantucket, Mass.; and 15 to Tahiti." It would be difficult for anyone to make the case that these taxpayer-subsidized trips provided any credible scientific value to NASA.

The article continued: "In total, [the Google aircraft holding company] has bought 2.3 million gallons of jet fuel since early 2009, according to Pentagon records viewed by The Wall Street Journal, paying an average \$3.19 per gallon. 'I don't see how in the hell anybody can buy it that cheap,' said Fred Fitts, president of the Corporate Aircraft Association, a nonprofit that negotiates discounted jet-fuel prices for 1,600 corporate flight departments at airports around the U.S. Mr. Fitts provided figures showing that CAA members paid an average of \$4.35 a gallon across the U.S. over that period." Although the article noted that this arrangement was recently terminated, the fact that Ames leadership approved this sweetheart deal for the Google executives and allowed it to continue for six years knowing that there was no serious scientific merit is unacceptable.

In addition to this troubling relationship, I also have been outspoken about my concerns that a number of Ames staff were investigated for a number of years by the Federal Bureau of Investigation (FBI), the NASA Office of the Inspector General and other law enforcement agencies relating to the alleged illegal transfer of ITAR-controlled technology by individuals at the NASA Ames Research Center. It is my understanding that this illegal technology transfer may have involved classified Defense Department weapons system technology to foreign countries.

According to whistleblowers that contacted Congress, large numbers of foreign nationals were invited to work at NASA Ames over the last six years and that federal information and physical security safeguards may not have been used or may have explicitly been ignored on multiple occasions. Additionally, my colleagues and I were informed that

Ames staff may have traveled to foreign conferences and disseminated information about ITAR-controlled technologies in public forums, with Chinese and other foreign officials present.

In correspondence that I have seen, the FBI believed it had a solid case that was ready for prosecution and referred it to the U.S. Attorney for the Northern District of California. However, after a series of unexplained delays and the removal of at least one assistant U.S. attorney working the case, the charges ran up against the statute of limitations, and the first charge expired on December 15, 2012. The case was ultimately declined by the Justice Department for reasons that have never been explained to the Congress or federal law enforcement. I believe these inexplicable delays and ultimate declination was a product of politicization within the Justice Department, and I have included language in the FY 2014 Commerce-Justice-Science Appropriations bill further addressing this matter.

Nonetheless, it appears that federal law enforcement felt there was a solid case against certain Ames staff members involving export violations. Yet there has been no accountability at Ames for these alleged criminal violations. This is inexcusable.

Again, I hope you quickly correct the record and take appropriate action to inform the conference participants of NASA's actual policy regarding foreign visitors. I look forward to your prompt response.

Best wishes.

Sincerely,

*Frank R. Wolf
Member of Congress*