

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-v.- : 17 Cr. 779 (LAP)

CHI PING PATRICK HO, :
a/k/a "Patrick C.P. Ho," :
a/k/a "He Zhiping," :

Defendant. :

-----X

THE GOVERNMENT'S MOTIONS *IN LIMINE*

GEOFFREY S. BERMAN
United States Attorney
Southern District of New York

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division

Daniel C. Richenthal
Douglas S. Zolkind
Catherine E. Ghosh
Assistant United States Attorneys

Paul A. Hayden
Trial Attorney

- Of Counsel -

TABLE OF CONTENTS

BACKGROUND 2

ARGUMENT 4

I. EVIDENCE THAT THE DEFENDANT WOULD ONLY CONTRIBUTE MONEY TO JOHN ASHE IF ASHE FIRST AGREED, IN RETURN, TO UNDERTAKE ACTIONS BENEFICIAL TO CEFC’S INTERESTS IS ADMISSIBLE..... 4

 A. The Proffered Evidence..... 4

 B. Applicable Law 6

 1) Direct Evidence..... 6

 2) Evidence of Other Acts..... 6

 C. Discussion 8

II. EVIDENCE OF THE DEFENDANT’S BROKERING IRANIAN TRANSACTIONS AND ARMS TRANSACTIONS IS ADMISSIBLE 11

 A. The Proffered Evidence..... 11

 1) Evidence of Transactions With Iran 11

 2) Evidence of Arms Transactions 12

 B. Discussion 14

III. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT’S ALLEGATION THAT THE CHARGES AGAINST HIM ARE POLITICALLY MOTIVATED SHOULD BE PRECLUDED 17

IV. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT’S FAMILY BACKGROUND, HEALTH CONDITION, AGE, PRETRIAL DETENTION, OR ANY OTHER PERSONAL FACTOR UNCONNECTED TO GUILT SHOULD BE PRECLUDED, AS SHOULD DISCUSSION OF PUNISHMENT..... 19

V. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT’S OR CEFC’S PRIOR COMMISSION OF “GOOD ACTS” OR NON-COMMISSION OF OTHER BAD ACTS SHOULD BE PRECLUDED 20

VI. EVIDENCE OR ARGUMENT CONCERNING THE “MERITS” OF THE PROJECTS THE DEFENDANT SOUGHT TO ADVANCE THROUGH BRIBERY, OR THE ALLEGED GOOD CAUSES TOWARD WHICH THE OFFICIALS HE BRIBED COULD HAVE USED THE BRIBE PAYMENTS, SHOULD BE PRECLUDED.... 22

VII. THE DEFENDANT’S PROFFERED EXPERT TESTIMONY SHOULD BE PRECLUDED 24

CONCLUSION..... 30

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-v.- : 17 Cr. 779 (LAP)

CHI PING PATRICK HO, :
a/k/a "Patrick C.P. Ho," :
a/k/a "He Zhiping," :

Defendant. :

-----X

THE GOVERNMENT’S MOTIONS IN LIMINE

The Government respectfully seeks rulings *in limine* on several issues prior to trial.

First, the Government moves for the following pretrial rulings:

- evidence that the defendant stated that he would provide a financial contribution to John Ashe—who served as the President of the United Nations General Assembly (“PGA”) during the year prior to Sam Kutesa, whom the defendant is charged with bribing—only if it were first clear that Ashe would, in return, take actions beneficial to CEFC,¹ is admissible pursuant to Federal Rule of Evidence 404(b) (“Rule 404(b)”); and
- evidence of the defendant’s efforts to broker transactions in or with Iran, and to broker arms transactions, is admissible as direct evidence, or in the alternative, pursuant to Rule 404(b).

Second, the Government seeks to preclude certain evidence or argument that is wholly irrelevant to the issues at trial, and/or for which any conceivable probative value is substantially

¹ Kutesa is described in the Complaint and the Indictment as the “Ugandan Foreign Minister.” “CEFC” herein refers to CEFC China Energy Co. Ltd. (the “Energy Company” in the Complaint and the Indictment), China Energy Fund Committee (the “Energy NGO” in the Complaint), and affiliated entities, collectively. Where we intend to refer only to the “Energy Company,” we will refer to “CEFC China,” and where we intend to refer only to the “Energy NGO,” we will refer to “CEFC NGO.” In communications, the defendant and others often referred simply to “CEFC,” without specifically identifying the company or the NGO.

outweighed by the risk of juror confusion, distraction from the evidence, unnecessary lengthening of the trial, and/or unfair prejudice to the Government.

Specifically, the Government moves to preclude evidence or argument concerning:

- the defendant's view that the charges against him are politically motivated;
- the defendant's family background, health condition, age, conditions of detention, or any other personal factor unconnected to his guilt or innocence, and the potential punishment he faces if convicted;
- the defendant's or CEFC's alleged prior commission of good acts, such as philanthropic giving, and/or failure to commit other bad acts; and
- the "merits" of the projects that the defendant sought to advance through bribery, or the alleged good causes to which the officials he bribed could have used the bribe payments.

Finally, for similar reasons, the Government moves to preclude the defendant's proffered expert testimony, or other evidence or argument concerning the same subjects.

BACKGROUND

The factual allegations against the defendant are set forth in detail in Complaint 17 Mag. 8611, summarized in the Indictment, and described in prior submissions to the Court.

In sum, the defendant served as the Secretary-General of a non-governmental organization based in Hong Kong and Virginia (referred to herein as "CEFC NGO"), which holds "Special Consultative Status" with the United Nations ("UN") Economic and Social Council, and which is funded by a Shanghai-based oil and gas conglomerate (referred to herein as "CEFC China"). The charges against the defendant are based on two schemes in which the defendant offered and/or provided payments to high-level officials of African countries for the purpose of obtaining business advantages for CEFC China.

In the first scheme, the defendant offered a \$2 million cash bribe to the President of Chad. This money was offered in an effort to obtain advantages for CEFC China in its pursuit of

valuable oil rights and other business opportunities in Chad. Cheikh Gadio—the former Foreign Minister of Senegal and a lawful permanent resident of the United States, who at the time was acting as the head of his own consulting firm, and who is cooperating with the Government and is expected to testify at trial—introduced the defendant to the President of Chad and acted as the defendant’s intermediary for discussions and negotiations with the President and other Chadian officials. The defendant met with Gadio at and around the UN in New York, New York, in or about late September 2014, to engage him for this role. In exchange for Gadio’s work, the defendant paid his firm \$400,000 through two wires that were transmitted from a bank account in Hong Kong to correspondent banks in New York, New York, and then to a bank account in Dubai in the name of Gadio’s firm.

In the second scheme, the defendant caused a \$500,000 bribe to be wired from a bank in Hong Kong to a correspondent bank in New York, New York, and then to a bank account in Uganda that had been designated by the Foreign Minister of Uganda, Sam Kutesa (with the assistance of his wife), in the name of a purported charitable foundation. The defendant caused this bribe to be paid for the purpose of obtaining business advantages for CEFC China in its efforts to secure contracts in Uganda, including in Uganda’s financial and energy sectors. The corrupt relationship between the defendant and Kutesa developed during the preceding year in which Kutesa had been serving as the PGA, including through multiple meetings in New York, New York. The defendant also provided Kutesa, as well as the President of Uganda, with promises of future benefits, including proposing to partner with both officials’ families in potentially lucrative joint ventures.

ARGUMENT

I. EVIDENCE THAT THE DEFENDANT WOULD ONLY CONTRIBUTE MONEY TO JOHN ASHE IF ASHE FIRST AGREED, IN RETURN, TO UNDERTAKE ACTIONS BENEFICIAL TO CEFC'S INTERESTS IS ADMISSIBLE

A. The Proffered Evidence

As described in the Complaint, the Indictment, and above, among the individuals whom the defendant is charged with bribing is Sam Kutesa, the Ugandan Foreign Minister. The Government expects that the evidence will show that the corrupt relationship between the defendant and Kutesa developed between in or about September 2014 and September 2015, when Kutesa was serving as the PGA (specifically, the PGA for the 69th session of the UN General Assembly).

The evidence, in both the form of emails and a recorded phone call, also shows that, just as he did with respect to Kutesa when he was the PGA, the defendant sought to cultivate a business relationship with Kutesa's predecessor, John Ashe, who served as the PGA between in or about September 2013 and September 2014. As he did with Kutesa, the defendant began by introducing himself to Ashe as the Secretary-General of CEFC NGO. And just as he did with Kutesa when he served as the PGA, the defendant invited Ashe to visit CEFC NGO in Hong Kong and to speak at various events.

In mid-April 2014, Ashe traveled to Hong Kong and met with the defendant and others. After the trip, Ashe's aide sent a letter to the defendant thanking the Chairman of CEFC NGO (who was also the Chairman of CEFC China) for the contribution of \$50,000 to support the PGA. The aide had solicited the contribution from the defendant prior to the Hong Kong trip, and the defendant had confirmed that CEFC NGO would make the contribution.

In or about early June 2014, the defendant requested that Ashe officiate over a forum that CEFC NGO was planning to hold at the UN, and also attend and officiate over a luncheon at the

UN the following day. (The defendant made virtually the same request of Kutesa once he became the PGA.) The day before the forum (July 6, 2014), the defendant emailed two business associates of Ashe, who assisted him in raising funds, to invite them to the forum and luncheon and to request their assistance in “urg[ing] the PGA to grace the occasion with his presence and to deliver a short remark.”²

On or about the same day, the defendant and one of these associates (“Associate-1”) spoke by phone. (*See* Ex. A (draft transcript).) During the call, which was recorded, the defendant confirmed that he wanted Ashe to attend his event. The following conversation then took place:

Associate-1: So the last question, so sorry if I ask too direct. . . . [H]ave you, made some contribution to him . . . ?

The defendant: Yeah, we already paid.

Associate-1: Oh you did? Okay.

The defendant: Well, not a whole lot but it’s—it’s okay. On a couple of occasions. But I think the major contribution will come in after we talk about what he can—what he can help us with.

Associate-1: What you—what you mean major contribution? It’s after he return uh—leave the job?

The defendant: Yes, yes.

. . .

Associate-1: Wonderful . . . okay.

The defendant: That’s not a—that’s not a problem. The problem is—uh, it’s give and take.

Associate-1: Give and take. That’s—of course. This is the—this is business, right?

The defendant: Yeah, right.

² These two business associates subsequently pleaded guilty to bribing Ashe, based on conduct unrelated to the defendant and CEFC. Ashe was charged with tax offenses arising from his allegedly failing to disclose bribe payments as income. He passed away before trial, and the charges against him were therefore dismissed.

B. Applicable Law*1) Direct Evidence*

Direct evidence of a crime is not limited to “that which directly establishes an element of the crime.” *United States v. Gonzalez*, 110 F.3d 936, 941 (2d Cir. 1997). Rather, direct evidence includes evidence that is “inextricably intertwined with the evidence regarding the charged offense,” and/or “necessary to complete the story of the crime on trial.” *United States v. Carboni*, 204 F.3d 39, 44 (2d Cir. 2000) (internal quotation marks omitted); *see also United States v. Hsu*, 669 F.3d 112, 118 (2d Cir. 2012).

2) Evidence of Other Acts

Rule 404(b) allows for the admission of uncharged crimes, wrongs, or other acts for purposes other than proving criminal propensity, “such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” Fed. R. Evid. 404(b). The Second Circuit “has long adopted an ‘inclusionary’ approach to the admission of uncharged crime evidence, under which evidence of prior crimes, wrongs, or acts is admissible for any purpose other than to show a defendant’s criminal propensity.” *United States v. Paulino*, 445 F.3d 211, 221 (2d Cir. 2006) (internal quotation marks omitted). Applying this approach, the Second Circuit has routinely approved of the admission of “other acts” evidence with respect to the issues of knowledge, intent, and/or motive. *See, e.g., United States v. Thomas*, 54 F.3d 73, 81-82 (2d Cir. 1993); *United States v. Meyerson*, 18 F.3d 153, 166-67 (2d Cir. 1994). Where the defendant claims his conduct has an innocent explanation, the admission of such evidence of prior acts is particularly appropriate. *See, e.g., United States v. Zackson*, 12 F.3d 1178, 1182 (2d Cir. 1993) (“Where a defendant claims that his conduct has an innocent explanation, prior act evidence is generally admissible to prove that the defendant acted with the state of mind necessary to commit the offense charged.”).

The defendant's knowledge and intent are in issue unless the defendant has unequivocally conceded that element of the offenses with which he is charged. *See, e.g., United States v. Colon*, 880 F.2d 650, 656-57 (2d Cir. 1989); *see also United States v. Ramirez*, 894 F.2d 565, 568 (2d Cir. 1990) (when the defendant "disavows awareness that a crime was being perpetrated" and the Government bears the burden of proving knowledge "as an element of the crime, knowledge is properly put in issue").

Evidence of uncharged acts also is admissible as background evidence where it is used to (i) explain the development of the illegal relationship between co-conspirators; (ii) explain the mutual criminal trust that existed between co-conspirators; and/or (iii) complete the story of the crime charged. *See United States v. Mercado*, 573 F.3d 138, 141-42 (2d Cir. 2009); *United States v. Williams*, 205 F.3d 23, 33-34 (2d Cir. 2000) (affirming admission of prior act evidence involving co-conspirators "to inform the jury of the background of the conspiracy charged, to complete the story of the crimes charged, and to help explain to the jury how the illegal relationship between the participants in the crime developed" (internal quotation marks omitted)); *United States v. Pascarella*, 84 F.3d 61, 73 (2d Cir. 1996) (other act evidence admissible "to show the background of a conspiracy or the development of a relationship of trust between the participants"); *United States v. Pipola*, 83 F.3d 556, 566 (2d Cir. 1996) ("One legitimate purpose for presenting evidence of extrinsic acts is to explain how a criminal relationship developed; this sort of proof furnishes admissible background information in a conspiracy case.").

The Court has broad latitude in determining whether to admit evidence pursuant to Rule 404(b). *United States v. Brady*, 26 F.3d 282, 286 (2d Cir. 1994). Where evidence is offered for a proper purpose under Rule 404(b), it may only be excluded if the probative value of the

evidence is “substantially outweighed” by the danger of unfair prejudice. *Zackson*, 12 F.3d at 1182; Fed. R. Evid. 403. The Second Circuit has repeatedly held that evidence properly admissible under Rule 404(b) is not unduly prejudicial so long as the court gives a limiting instruction to the jury explaining the purpose for the evidence. *See Pipola*, 83 F.3d at 566; *United States v. Rosa*, 11 F.3d 315, 334 (2d Cir. 1993).

C. Discussion

The above-proffered evidence concerning the defendant’s relationship with Ashe is admissible under Rule 404(b) to prove the defendant’s intent and absence of mistake or accident. In particular, the Government expects that, at trial, there will be little dispute that the defendant participated in (i) wiring \$500,000 to an account designated by Kutesa, and (ii) offering \$2 million to the President of Chad. Rather, the central disputed issue is expected to be *why* the defendant offered and provided these funds—*i.e.*, whether he was motivated by charitable concerns or business interests. The proffered evidence strongly rebuts any claim that the defendant’s interests were solely or predominantly charitable. It also demonstrates that it was no mere “accident” or “mistake” that the defendant developed a relationship with Kutesa during the time he was the PGA that resulted in the payment of substantial funds following that period, when Kutesa was in a position to assist CEFC’s business interests. On the contrary, this was part of a conscious and deliberate plan by the defendant. *See Zackson*, 12 F.3d at 1182 (“Where a defendant claims that his conduct has an innocent explanation, prior act evidence is generally admissible to prove that the defendant acted with the state of mind necessary to commit the offense charged.”); *cf. Meyerson*, 18 F.3d at 166-67 (evidence of defendant engaging in fraud and tax evasion on prior occasions was “clearly admissible” under Rule 404(b) where he “contended that he lacked the state of mind to cheat on his income taxes”).

Specifically, as set forth above, when Ashe was in office—immediately before Kutesa—the defendant undertook a near-identical course of conduct. As he did with Kutesa, the defendant forged a relationship with Ashe by introducing himself as the head of a purportedly charitable, UN-recognized NGO; as he did with Kutesa, the defendant honored Ashe at various CEFC NGO events; as he did with Kutesa, the defendant invited Ashe to visit Hong Kong for a meeting with executives; and, crucially, as he did with Kutesa, the defendant promised Ashe a significant “contribution” after his term as PGA ended. But as the defendant admitted when he did not know he was being recorded, the “major contribution” to Ashe would not be made until the defendant could determine “what he can help us with.” As the defendant put it, “it’s give and take”; and as Associate-1 agreed, “this is the business,” to which the defendant responded, “Yeah, right.”

In short, the defendant would make a bigger payment, but only if he could be assured that he—and those on whose behalf he was acting (“us”)—got something in return. That is precisely what the defendant did the following year with the next PGA, Kutesa. The repeat of the same plan, executed in the same way, powerfully demonstrates that, as the Government has alleged, the defendant entered into a *quid pro quo*. He did not “accident[ally]” or “mistake[nly],” Fed. R. Evid. 404(b)(2), send substantial money abroad at the direction of someone from whom he wanted business, and his intent was not principally a charitable one.

The proffered evidence is also admissible for another purpose. To the extent that the defendant were to suggest that he was not a decision-maker with respect to whether to pay a “donation” or “contribution” to a foreign official, the proffered evidence rebuts that claim. It shows that the defendant was no mere low-level bystander to events or ministerial actor who simply did what he was told. Rather, he played a central role in business decisions, including

weighing whether a particular “donation” or “contribution” to a foreign official would result in sufficiently valuable return benefits. *Cf. United States v. Ramirez-Amaya*, 812 F.2d 813, 817 (2d Cir. 1987) (“[Defendant’s] defense to the present charges against him was that, although he was a business associate of [co-defendant], he had had no intention of involving himself in unlawful activities. Proof that [defendant] had previously sought to engage in precisely such activities was admissible on the issue of his intent.”).

Nor is there any basis to preclude this evidence under Federal Rule of Evidence 403 (“Rule 403”). The evidence is straightforward, non-sensational, and highly probative of the defendant’s intent and absence of mistake. There is no risk that this evidence will elicit a separate, heightened response from the jury that would prevent the jury’s fair assessment of the evidence, even with a limiting instruction. *See, e.g., United States v. Williams*, 205 F.3d 23, 34 (2d Cir. 2000) (perceiving “no undue prejudice under Rule 403 [where] the evidence did not involve conduct more serious than the charged crime”); *United States v. Roldan-Zapata*, 916 F.2d 795, 804 (2d Cir. 1990) (evidence not unfairly prejudicial because it “did not involve conduct any more sensational or disturbing than the crimes with which [the defendant] was charged”). Indeed, the recorded call involves conduct that is less severe than the bribe arrangements at the center of this trial. In addition, the proffered evidence would not materially lengthen or complicate the trial. The Government proposes simply to introduce a small number of emails, play a short recorded call, and call a witness to identify the participants and context.

II. EVIDENCE OF THE DEFENDANT'S BROKERING IRANIAN TRANSACTIONS AND ARMS TRANSACTIONS IS ADMISSIBLE

As outlined in detail in the Complaint, the investigation that led to charges against the defendant uncovered numerous emails from the defendant that make plain his willingness to advance the business of CEFC China through payments to officials in Chad and Uganda and more generally show his focus on growing CEFC China's business.

In the course of its investigation, the Government has also uncovered evidence, including emails, in which the defendant expresses an interest in and willingness to advance CEFC China's business (and/or the business of affiliates) in other, particular ways, including (1) transactions in or with Iran, and (2) arms transactions. This evidence is admissible as direct evidence, or in the alternative pursuant to Rule 404(b).³

A. The Proffered Evidence

1) Evidence of Transactions with Iran

The evidence of the defendant's interest in and willingness to broker transactions in or with Iran principally consists of emails, spanning a multiple-year period. To choose a few examples:

In October 2014, the defendant sent his assistant an email stating, "I am going to BJ [*i.e.*, Beijing] this Friday to see [the Chairman of CEFC NGO and CEFC China] on Sat afternoon.

The documents I want to send him before hand in separate items are: . . . 7. Iranian connection

³ As described herein, the defendant often discussed multiple potential business opportunities in the same communications, including transactions involving Iran or arms. The Government is moving *in limine* with respect these particular types of transactions because they may involve uncharged offenses, but this is not the only evidence of the defendant's interest in advancing the business of CEFC China that the Government intends to introduce.

(brief).”⁴ On the same date, the defendant sent his assistant another email, attaching a document, which stated, in pertinent part:

7) Iranian Connection . . . Iran has money in a Bank in china which is under sanction. Iran wishes to purchase precious metal with this money. The precious metal is available through a Bank in HK which cannot accept money from the Bank in China which holds the money but is under sanction. The Iranian agent is looking for a Chinese company acting as a middle man in such transactions and will pay commission. (details to be presented orally) The Iranian connection has strong urge to establish trading relationship with us in oil and products

The following year, in June 2015, the defendant received an email that stated, in pertinent part: “The Iranian team will arrive in BJ See the attached.” The attachment referenced in the email was a PowerPoint presentation entitled “Presentation to Potential Partners Iran Petroleum Investments.” The next day, the defendant forwarded the email to his assistant, stating, “For writing report to [the Chairman of CEFC NGO and CEFC China].”

The following year, in June 2016, the defendant emailed another individual, blind-copying his assistant, and stated, in pertinent part, “Will get [two executives of CEFC China] to meet with [oil executive at company with operations in Iran] in BJ, and [another individual] also on another occasion if he comes. You can start organizing these. . . . Other matters ftf [*i.e.*, face to face].”

2) *Evidence of Arms Transactions*

The evidence of the defendant’s interest in and willingness to broker transactions in arms consists of both testimony and emails. Gadio is expected to testify, in sum, that the defendant told him that CEFC could provide arms and military equipment to Chad as part of an oil deal, and that over the course of Gadio’s dealings with the defendant, they had multiple discussions

⁴ All emails of the defendant in this section are with CEFC NGO email accounts.

about the possibility of CEFC selling or providing such arms and equipment. This testimony is corroborated by an email exchange in which Gadio asked the defendant: “Do you think CEFC can intervene with the Chinese state to get an urgent, extremely confidential and significant military weapon assistance to our friend [the President of Chad] who has engaged in the battle of his life against the devils of Bokko Haram?,” to which the defendant replied, “Your important message has been forwarded. It is being given the highest level of consideration. Will inform you once I hear back.”

The defendant also sought to and did broker arms transactions unrelated to the Chad and Uganda schemes charged in this case. For example:

In March 2015, an individual sent the defendant an email, stating, “I have the list and end user agreement. Pls advise next step.” On the same day, the defendant replied, in pertinent part, “Find a way to pass them onto me and we can execute that right away[.]” The individual replied, “Attached. [W]e have the funding and processing mechanisms in place. If it works nice there will be much more. Also for S. Sudan.” The attachment to this email was a document entitled “End User Certificate,” certifying that the user of the goods in question would be the Ministry of Defense of the Republic of Libya. The goods listed on the document included numerous arms.

The following month, the defendant sent an email that stated in pertinent part: “It so turns out Qatar also needs urgently a list of toys from us. But for the same reason we had for Libya, we cannot sell directly to them. Is there a way you could act as an intermediary in both cases?” The person whom the defendant emailed replied: “Qatar good chance bc there is no embargo. Libya is another case bc going against an embargo is tricky.” The defendant responded: “Qatar needs new toys quite urgently. Their chief is coming to China and we hope to give them a piece of good news. Please confirm soonest.”

B. Discussion

The above-proffered evidence is admissible for multiple reasons.

First, it is admissible as direct evidence because it is, at least in large part, “inextricably intertwined with the evidence regarding the charged offense,” and/or “necessary to complete the story of the crime on trial. *Carboni*, 204 F.3d at 44 (internal quotation marks omitted). Indeed, it substantially overlaps in time, method of communication, and persons involved with the evidence of the defendant’s agreeing to pay and payment of bribes.

For example, as discussed above, in October 2014, the defendant emailed his assistant a list of a number of items, one of which was “Iranian connection.” Other items in the numbered list included “[a] few PR items in the US with photo of PGA Kutesa,” “Chad President Report (brief),” “Croatia Oil company,” “PAZ Oil company,” and “Husky Oil team (Canada).” In short, the defendant’s interest and willingness to do business with Iran, as expressed in this email, is not separable from his general interest in advancing the business of CEFC China in multiple countries—including Uganda and Chad.

Similarly, the Government expects to introduce evidence that among the work of CEFC NGO was tracking energy developments (so as to assist CEFC China in profiting from them) in various parts of the world. This evidence includes reports that described such developments in, among other places, the Middle East and Africa.

Second, with respect to the evidence of arms transactions, it is admissible as background evidence to show the development and nature of the relationship between Gadio and the defendant. *See, e.g., United States v. Oliviere*, 740 F. Supp. 2d 414, 422 (S.D.N.Y. 2010) (“It is well established in the Second Circuit that uncharged evidence of other acts is admissible to show the background of a conspiracy or a relationship of trust.”). Indeed, Gadio is expected to

testify that one reason he was willing to work with the defendant is that he understood that the defendant could assist in providing arms to Chad.⁵

Third, and in any event, it is admissible pursuant to Rule 404(b). As discussed above, the Government expects that a central defense at trial will be the argument that the defendant did not offer payments to Chadian and Ugandan officials to seek to advance the business interests of CEFC China, but rather, consistent with his title as the Secretary-General of an NGO, for charitable reasons. Evidence that—day in and day out, in ways large and small—the defendant focused on advancing the business interests of CEFC China directly rebuts any claim that the defendant cared more about charity than the interests of CEFC China. *See Zackson*, 12 F.3d at 1182; *United States v. Aminy*, 15 F.3d 258, 260 (2d Cir. 1994) (“Where, for example, the defendant does not deny that he was present during a narcotics transaction but simply denies wrongdoing, evidence of other similar narcotics involvement may, in appropriate circumstances, be admitted to show knowledge or intent.”); *Ramirez*, 894 F.2d at 568-69 (when the defendant “disavows awareness that a crime was being perpetrated” and the government bears the burden of proving knowledge “as an element of the crime, knowledge is properly put in issue”).

Of course, the defendant could eliminate the issue of intent—and thereby moot the purpose of admitting evidence relevant to these issues, whether under Rule 404(b) or otherwise—either by proceeding with a defense that does not dispute this issue or by agreeing to a stipulation that removes this issues from consideration. The Second Circuit has explained, however, that

to take such an issue out of a case, a defendant must make some statement to the court of sufficient clarity to indicate that the issue will not be disputed. A defendant may not purposely use ambiguity

⁵ The Government is also permitted to introduce this evidence in its case-in-chief to the extent that it may be a subject for cross-examination. *See Giglio v. United States*, 405 U.S. 150 (1972); Fed. R. Evid. 607.

tactically, seeking to gain the one advantage of barring admission of prior acts evidence by proffering a particular defense theory, only to later seek the additional advantages stemming from arguing lack of intent to the jury.

Colon, 880 F.2d at 659. In short, to forestall the admission of evidence on the issue of intent, a defendant must affirmatively express a decision not to dispute that issue with sufficient clarity that the Court will be justified (a) in sustaining objections to any subsequent cross-examination or jury argument that seeks to raise the issue, and (b) in charging the jury that if they find all the other elements established beyond a reasonable doubt, they can resolve the issue against the defendant because it is not disputed. *United States v. Figueroa*, 618 F.2d 934, 942 (2d Cir. 1980). Here, the defendant has not made such a decision. On the contrary, he has repeatedly suggested that he intends to contest the purpose of the monies he offered and paid.⁶

Nor, again, is there a basis to preclude this evidence under Rule 403. While the defendant's agreeing to broker and brokering transactions with Iran or in arms might constitute crimes, *see* 50 U.S.C. §§ 1701 *et seq.*; 22 U.S.C. §§ 2771 *et seq.*, the jury will not necessarily so expect, given that the defendant is a foreign national discussing transactions in a foreign country, and the Court may minimize the risk of any prejudice with an appropriate limiting instruction. *See United States v. Tussa*, 816 F.2d 58, 68 (2d Cir. 1987) (limiting instruction sufficient to preclude prejudice to defendant); *see generally Parker v. Randolph*, 442 U.S. 62, 75 n.7 (1979) ("The 'rule'— indeed, the premise upon which the system of jury trials functions under the American judicial system — is that juries can be trusted to follow the trial court's instructions.").

⁶ The evidence concerning arms trafficking is also admissible because to the extent it discusses an "embargo," it shows that the defendant was aware of and sought to evade restrictions on what he and those with whom he worked could lawfully do. It is thus probative of the manner in which the defendant sought to advance the business of CEFC China, and rebuts any suggestion that the defendant inadvertently or unknowingly transmitted money, rather than did so with an intent to bribe, in violation of Chadian and/or Ugandan anti-bribery laws (which violations are an element of the charged money laundering offenses).

Nor is there a danger of “unfair prejudice,” Fed. R. Evid. 403, with respect to this evidence. “Because virtually all evidence is prejudicial to one party or another, to justify exclusion under Rule 403 the prejudice must be *unfair*.” *Costantino v. Herzog*, 203 F.3d 164, 174 (2d Cir. 2000) (emphasis in original). There is nothing unfair in the admission of straightforward, non-sensational evidence, which will be offered in part through a witness who is already expected to testify, and in part through emails and other documents that demonstrate the defendant’s interest, in his own words, in advancing the business of CEFC China in multiple ways. This is particularly true because the defendant is free to argue that, notwithstanding this evidence, the payments at issue in this case were not bribes, but mere charitable donations. The jury can decide for itself what to believe, in light of all of the evidence.

III. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT’S ALLEGATION THAT THE CHARGES AGAINST HIM ARE POLITICALLY MOTIVATED SHOULD BE PRECLUDED

As the Court is aware from submissions of the Government regarding the defendant’s prior motions for bail pending trial (*see, e.g.*, Docket Entry No. 73), the defendant has repeatedly asserted since his arrest that his case is, at least in large part, political. In multiple emails—including with officers or employees of CEFC China or its funded affiliate, CEFC NGO—the defendant has suggested that his case is not principally, or at all, about what he is alleged to have done, but about the reputation of CEFC China, or more generally, China.

In one email, for example, he stated: “Please tell SH [*i.e.*, Shanghai, the headquarters of CEFC China] that we need solidarity most at this time, and cannot be divided. . . . Please tell SH, if we are on the same line, with their support, I will fight to the very end. For it is not only HO who is on trial, it is [CEFC NGO], the Company, Country and Chinese values are on trial.” In another email, he asserted:

[T]his is a battle of honor and for clearing the [CEFC NGO's] name.

...

Prepare a press release in Chinese and in English: key words: public diplomacy, energy diplomacy, helping Chinese enterprises “going Out”, in accordance to the Belt and Road Initiative and its spirit.⁷

He also asked an individual to “set up blogs: such as ‘Belt and Road by HO’ with all my speeches ppts, articles and publications on OBOR [*i.e.*, One Belt, One Road, another way of describing the Belt and Road Initiative]; [and] set one blog up on ‘Sino-US dialog by HO’ and upload all speeches”

The defendant has also made similar statements in phone calls since his arrest. In one call, for example, the defendant stated that “they,” apparently referring to the Government, are using him to get to the “big tiger,” and to discredit “The Belt and Road.”⁸

The suggestion in these and other communications that this case is not really about whether the defendant engaged in bribery and money laundering, but about something else, is meritless. But even if it were not meritless, it is in any event not for the jury’s consideration. The only legally-cognizable motion that the defendant might bring based on his allegation is one of selective prosecution—but the defendant notably has not brought such a motion, and even if he did, it would be for the Court alone. *See United States v. Regan*, 103 F.3d 1072, 1082 (2d Cir. 1997) (a “selective prosecution defense is an issue for the court rather than the jury”); *United States v. Sun Myung Moon*, 718 F.2d 1210, 1229 (2d Cir. 1983).

⁷ The “Belt and Road Initiative” is an initiative of the Chinese government. *See, e.g.*, <http://english.gov.cn/beltAndRoad/>.

⁸ The defendant also recently gave notice of a potential expert for trial, the purpose of which appears to be to support this view. As described below, such testimony is improper and it should be precluded for multiple reasons.

In short, any evidence or argument concerning the reasons for or timing of the defendant's prosecution is irrelevant to the issues for the jury at trial, and would serve no purpose other than to seek to distract the jury from evidence of the defendant's guilt or to encourage jury nullification. It therefore should be precluded. *See United States v. Stewart*, No. 03 Cr. 717, 2004 WL 113506, at *1 (S.D.N.Y. Jan. 26, 2004) (granting motion to preclude defendant from "presenting arguments or evidence that would invite the jury to question the Government's motives in investigating and indicting [the defendant]"); *see generally United States v. Thomas*, 116 F.3d 606, 614 (2d Cir. 1997) ("Nullification is, by definition, a violation of a juror's oath to apply the law as instructed by the court—in the words of the standard oath to jurors in the federal courts, to 'render a true verdict *according to the law and the evidence.*' We categorically reject the idea that, in a society committed to the rule of law, jury nullification is desirable or that courts may permit it to occur when it is within their authority to prevent." (internal citation omitted; emphasis in original)).

For the same reasons, the defendant should be precluded from offering evidence or argument concerning the filing of a motion in this case pursuant to the Classified Information Procedures Act or the provision of notice concerning the Foreign Intelligence Surveillance Act.

IV. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT'S FAMILY BACKGROUND, HEALTH CONDITION, AGE, PRETRIAL DETENTION, OR ANY OTHER PERSONAL FACTOR UNCONNECTED TO GUILT SHOULD BE PRECLUDED, AS SHOULD DISCUSSION OF PUNISHMENT

The Government is unaware of any lawful basis for the defendant to offer evidence or argument concerning his family background, health, age, pretrial detention, or any other similar factors. He should be precluded from doing so, and from mentioning such subjects in his opening statement, absent a showing that such a factor bears on his guilt. *See, e.g., United States v. Paccione*, 949 F.2d 1183, 1201 (2d Cir. 1991) (affirming preclusion of evidence that

defendant had son with cerebral palsy whom defendant had devoted his life to care for); *United States v. Battaglia*, No. S9 05 Cr. 774, 2008 WL 144826, at *3 (S.D.N.Y. Jan. 15, 2008) (precluding “evidence of Defendant’s family and personal status” as not “relevant to the issue of whether Defendant committed the crimes charged”); *United States v. Harris*, 491 F.3d 440, 447 (D.C. Cir. 2007) (affirming preclusion of evidence designed “mainly to cast [the defendant] in the sympathetic light of a dedicated family man”).

The defendant should similarly be precluded from offering evidence or argument concerning the punishment or consequences he faces if convicted. Where the jury has no role at sentencing—such as in this case—it “should be admonished to ‘reach its verdict without regard to what sentence might be imposed.’” *Shannon v. United States*, 512 U.S. 573, 579 (1994) (quoting *Rogers v. United States*, 422 U.S. 35, 40 (1975)). This is so for good reason: argument concerning punishment “invites [jurors] to ponder matters that are not within their province, distracts them from their factfinding responsibilities, and creates a strong possibility of confusion.” *Id.*

V. EVIDENCE OR ARGUMENT CONCERNING THE DEFENDANT’S OR CEFC’S PRIOR COMMISSION OF “GOOD ACTS” OR NON-COMMISSION OF OTHER BAD ACTS SHOULD BE PRECLUDED

To the extent that the defendant may seek to present evidence or argument concerning his or CEFC’s prior commission of “good acts,” including any philanthropic giving or other good deeds—which he has suggested, in the above emails, he thinks are relevant—or to offer evidence of his non-criminal activities to seek to disprove his guilt of the crimes charged, he should be precluded from doing so. Specific-act propensity evidence is no more admissible to refute a criminal charge than it is to establish one.

It is settled law that “[a] defendant may not seek to establish his innocence . . . through proof of the absence of criminal acts on [other] specific occasions.” *United States v. Scarpa*, 897 F.2d 63, 70 (2d Cir. 1990). Similarly, while a defendant may offer general testimony from a character witness about his reputation for a “pertinent trait of character,” or the witness’s opinion of the defendant as regards that trait, *see* Fed. R. Evid. 404(a)(2)(A) & 405(a), a defendant can neither testify nor offer other proof to establish specific acts in conformity with that trait that are not an element of the offense. *See, e.g., United States v. Benedetto*, 571 F.2d 1246, 1249-1250 (2d Cir. 1978) (evidence of defendant’s specific acts improperly admitted because “character evidence has long been admissible only in the form of reputation and not in the form of a recitation of good or bad acts”); *United States v. Fazio*, No. S2 11 CR 873, 2012 WL 1203943, at *5 (S.D.N.Y. Apr. 11, 2012), (“a defendant may not affirmatively try to prove his innocence by reference to specific instances of good conduct; character is to be proven by reputation or opinion evidence.”), *aff’d*, 770 F.3d 160 (2d Cir. 2014); *United States v. Rivera*, No. 13 Cr. 149, 2015 WL 1725991, at *2 (E.D.N.Y. Apr. 15, 2015) (precluding evidence of charitable giving). The defendant should accordingly be precluded from offering evidence or argument, including in his opening statement, concerning any charity, philanthropy, or any other specific instance or instances of his prior good acts, or the lack of commission of other bad acts. For the same reasons, the defendant should be precluded from offering this type of evidence or argument insofar as it relates to CEFC NGO, CEFC China, or affiliates, as any prior good acts by those entities similarly have no bearing on the defendant’s guilt or innocence.

Similarly, the defendant should be precluded from offering evidence or argument suggesting that because CEFC NGO had so-called Special Consultative Status with the UN, the defendant would not or did not pay bribes in his capacity as a CEFC NGO officer. More than

5,000 entities have consultative status; it is “very rare” for an application for such status not to be approved; “most new accreditations are in the Special category” (contrary to any suggestion that this designation means that CEFC NGO was deemed special in some way); and this common status does not somehow indicate that the UN has confirmed that the organization or its officers would not in engage in bribery. (*See* <https://csonet.org/?menu=100>.)⁹

VI. EVIDENCE OR ARGUMENT CONCERNING THE “MERITS” OF THE PROJECTS THE DEFENDANT SOUGHT TO ADVANCE THROUGH BRIBERY, OR THE ALLEGED GOOD CAUSES TOWARD WHICH THE OFFICIALS HE BRIBED COULD HAVE USED THE BRIBE PAYMENTS, SHOULD BE PRECLUDED

The issue at trial is whether the defendant participated in the charged bribery and money laundering schemes. The “merits” of the goals he sought to achieve through bribery; how those goals, if achieved, allegedly would have helped others; or how those he bribed might have decided to use or used bribe payments are all irrelevant to his guilt. *See, e.g., City of Columbia v. Omni Outdoor Advertising, Inc.*, 499 U.S. 365, 378 (1991) (an official “is guilty of accepting a bribe even if he would and should have taken, in the public interest, the same action for which the bribe was paid.”); *United States v. Miller*, 340 F.2d 421, 424-25 (4th Cir. 1965) (“It is immaterial whether the official action which the briber seeks to influence is right or wrong”); *United States v. Labovitz*, 251 F.2d 393, 394 (3d Cir. 1958) (“to constitute the offense of attempted bribery it is immaterial whether the official action sought to be influenced be right or

⁹ Nor would be proper for the defendant to point to other NGOs with such status to suggest that CEFC NGO must be like them. *Cf., e.g., United States v. Berg*, 710 F. Supp. 438, 445 (E.D.N.Y. 1989) (testimony concerning the “custom of other arms dealers in complying with arms export laws” precluded on the ground that such evidence was irrelevant to the state of mind of the defendants), *aff’d in part, rev’d in part on other grounds sub nom. United States v. Schwartz*, 924 F.2d 410 (2d Cir. 1991); *United States v. Oldbear*, 568 F.3d 814, 821 (10th Cir. 2009) (affirming preclusion of evidence as to how persons other than the defendant used funds because “only [the defendant’s] actions and state of mind were material to her guilt”).

wrong” (internal quotation marks omitted)); *see generally United States v. Manton*, 107 F.2d 834, 846 (2d Cir. 1939) (official action, “whether just or unjust, right or wrong, is not for sale”).

Moreover, even if evidence of the purported public benefits of the projects the defendant sought to advance through bribery, or the purported public benefits to which those he bribed might have used or did use the money were relevant—and neither is—such evidence should be precluded under Rule 403 because it is substantially more prejudicial, confusing, and/or misleading than probative, and would materially and unduly lengthen and complicate the trial. Were the defendant to offer such evidence, the Government would expect to offer evidence in rebuttal. For instance, the Government might offer evidence that other projects, not advanced by the defendant, would have been better for Uganda or Chad, or that bribe payments to officials generally have been squandered or spent on personal items rather than on the citizenry—leading to a trial within a trial on subjects that have no connection to the defendant’s guilt.

To the extent such evidence were offered to show that, even if the defendant did not know it at the time he acted, his goals might have been achieved without bribery, that too is irrelevant, and thus also cannot support the evidence’s admission. *See, e.g., United States v. Orenuga*, 430 F.3d 1158, 1165 (D.C. Cir. 2005) (proper to charge jury that “[i]t is not a defense to the crime of bribery that had there been no bribe, the public official might have lawfully and properly performed the same act” (internal quotation marks omitted)); *United States v. Quinn*, 359 F.3d 666, 675 (4th Cir. 2004) (“it does not matter whether the government official would have to change his or her conduct to satisfy the payor’s expectations”); *United States v. Jannotti*, 673 F.2d 578, 601 (3d Cir. 1982) (“it is neither material nor a defense to bribery that had there been no bribe, the [official] might, on the available data, lawfully and properly have made the very recommendation that [the briber] wanted him to make” (internal quotation marks omitted)).

To be sure, evidence bearing on the defendant's contemporaneous intent for the payments that he offered and made, at the time he offered and made them, is proper (provided it is in admissible form). But such evidence must bear on the contemporaneous intent of the defendant with respect to the payments at issue in this case. Otherwise, the evidence is both irrelevant and barred by Rule 403.

VII. THE DEFENDANT'S PROFFERED EXPERT TESTIMONY SHOULD BE PRECLUDED

On September 17, 2018, the defendant sent the Government a letter, enclosed herewith as Exhibit B (with enclosures thereto), notifying the Government that the defendant might call as an expert at trial Professor William C. Kirby. The defendant's letter stated:

Professor Kirby's testimony will concern two separate, but related topics. First, Professor Kirby will provide an overview of China's One Belt, One Road ("OBOR") initiative and the role that Chinese companies play in carrying it out. We expect that he will describe OBOR as a foreign policy initiative that seeks to export Chinese excess infrastructure capacity, use Chinese state financing for international infrastructure projects, and enhance China's economic and political influence in various regions of the world. He will discuss the history of OBOR and the motivation behind it, as well as its scope and importance to China. Professor Kirby will also describe the ways in which Chinese government agencies, state-owned banks, state-owned enterprises, and private companies participate in the implementation of OBOR.

Second, Professor Kirby will testify regarding the role of CEFC China Energy Company Limited ("CEFC") in the implementation of OBOR. We anticipate that Professor Kirby will testify that CEFC was closely tied to the Chinese state during the period relevant to this case and participated in promoting the Chinese state's agenda. Professor Kirby's testimony will be based on publicly available information regarding the structure, history, and financing of CEFC, documents disclosed to the defense by the government in connection with this case, and Professor Kirby's expertise regarding the relationship between the Chinese state and private businesses in China and the structure of the Chinese energy sector. We expect that Professor Kirby will testify that the close relationship between CEFC and the Chinese state is demonstrated by, *inter alia*, the

history of Chinese state monopoly in the energy sector; the lack of transparency and open information about CEFC and its founder, Ye Jianming; the organizational culture and personnel employed by CEFC; and the confluence of interests between CEFC and the Chinese government's clearly articulated international economic policies.

(Ex. B, at 2.) The defendant's letter also stated, "We reserve the right to amend or supplement this disclosure as necessary." (*Id.* at 1.) This proffered testimony should be precluded.

As an initial matter, the defendant's notice, at least in large part, is insufficient. A defendant must "give to the government a written summary of any testimony that the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial." Fed. R. Crim. P. 16(b)(1)(C). "This summary must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications." *Id.* The defendant's letter does not meet these requirements. The letter states that Professor Kirby "will discuss the history of OBOR and the motivation behind it, as well as its scope and importance to China," and "will also describe the ways in which Chinese government agencies, state-owned banks, state-owned enterprises, and private companies participate in the implementation of OBOR" (Ex. B, at 2), but does not say what Professor Kirby's views are on these subjects. The letter also states that Professor Kirby is expected to testify that CEFC China "participated in promoting the Chinese state's agenda" (*id.*), but does not say in what way it participated (much less tie such "participat[ion]" to the facts of this case). The letter similarly states that Professor Kirby is expected to testify that there was a "confluence of interests between [CEFC China] and the Chinese government's clearly articulated international economic policies" (*id.*), but does not say what those "interests" or "policies" are, or the basis for his belief that there was such a "confluence." General statements like these are not sufficient. *See, e.g., United States v. Valle*, No. 12 Cr. 847, 2013 WL 440687, at *5 (S.D.N.Y. Feb. 2, 2013) ("Merely identifying the

general topics about which the expert will testify is insufficient; rather, the summary must reveal the expert's actual opinions."); *United States v. Duvall*, 272 F.3d 825, 828 (7th Cir. 2001) ("The Rule requires a summary of the expected testimony, not a list of topics.").

The failure to provide adequate notice is sufficient cause for preclusion. *See, e.g., Valle*, 2013 WL 440687, at *5; *United States v. Mahaffy*, No. 05 Cr. 613, 2007 WL 1213738, at *2 (E.D.N.Y. Apr. 24, 2007); *United States v. Ferguson*, No. 06 Cr. 137, 2007 WL 4539646, at *1 (D. Conn. Dec. 14, 2007). The expert disclosure provisions of the Federal Rules exist to allow opposing counsel the opportunity to challenge the admissibility of testimony, adequately prepare for cross-examination, and decide whether to retain and prepare rebuttal witnesses. *See, e.g., United States v. Rajaratnam*, No. 09 Cr. 1184, 2011 WL 723530, at *3 (S.D.N.Y. Feb. 25, 2011) ("[T]he purpose of reciprocal expert disclosures is 'to minimize surprise that often results from unexpected expert testimony, reduce the need for continuances, and to provide the opponent with a fair opportunity to test the merit of the expert's testimony through focused cross-examination.'" (quoting Fed. R. Crim. P. 16 Advisory Committee's Note)); *Valle*, 2013 WL 440687, at *5 (same); *United States v. Day*, 524 F.3d 1361, 1372 (D.C. Cir. 2008) (same). The Government is unable to engage fully and properly in these tasks based on the defendant's letter.

In any event, to the extent that his proffered testimony is discernible at this time, it appears that Professor Kirby's testimony is inadmissible, in its entirety, for multiple reasons, even if the defendant were deemed to have given sufficient notice.

First, the proffered testimony is wholly irrelevant—as would be any other evidence or argument on the same subjects. Despite the defendant's repeated suggestions to the contrary, this in a criminal case. It is not a policy or political debate. Testimony about Chinese "foreign policy" or whether and how China seeks to "enhance [its] economic and political influence in

various regions of the world” (Ex. B, at 2) has no place in this trial. It is no more appropriate for the defendant to offer such testimony here than it would be for a defendant charged with bribing a state legislator to enact legislation concerning the real estate industry to offer testimony about the alleged good that industry does for the state economy. Nor does it matter whether CEFC China “was closely tied to the Chinese state during the period relevant to this case and participated in promoting the Chinese state’s agenda” (*id.*). The question for the jury is whether the defendant agreed to and did offer bribes, not whether those bribes were in furtherance of an alleged “state agenda.” The defendant, who bears the burden of demonstrating the admissibility of his proffered expert’s testimony, *see, e.g., In re Pfizer Inc. Sec. Litig.*, 819 F.3d 642, 658 (2d Cir. 2016); *United States v. Williams*, 506 F.3d 151, 160 (2d Cir. 2007), does not even attempt to explain the relevance at trial of such subjects.¹⁰

Second, the proffered opinions, even if deemed to be on potentially relevant subjects for trial (and they are not), are insufficiently connected to what the jury has to decide. Expert testimony is admissible only where it “will help the trier of fact to understand the evidence or to determine a fact in issue.” Fed. R. Evid. 702. In short, there must be a “fit” between the proffered testimony and “the facts of the case.” *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 591 (1993). There is no such fit here. The defendant does not purport to limit his proffered expert’s testimony to that which might help the jury to weigh *the defendant’s* contemporaneous knowledge, intent, and/or motive concerning *his* actions *in this case*. The defendant does not even purport to limit his proffered expert’s testimony to relevant subjects.

¹⁰ The Government does not disagree with all assertions of fact in the defendant’s letter, including the apparent connection between CEFC China and the Chinese state. Such facts might be relevant to sentencing, as would be any other evidence of the defendant’s contemporaneous motivation for his crimes. But they are not relevant at trial, and even if relevant, they should be precluded.

Third, to be admissible, expert testimony must not only be on a relevant subject and sufficiently connected to the particular facts of the case; it must also be appropriate as expert testimony. The Federal Rules of Evidence preclude a party from “admitting expert testimony where the evidence impermissibly mirrors the testimony offered by fact witnesses, or the subject matter of the expert’s testimony is not beyond the ken of the average juror.” *United States v. Amuso*, 21 F.3d 1251, 1263 (2d Cir. 1994); *see also, e.g., United States v. Nouri*, 711 F.3d 129, 145 (2d Cir. 2013) (district court was “well within its discretion” to preclude testimony on customary commissions by brokerage firms where cumulative of other evidence at trial); *United States v. Collins*, 581 F. App’x 59, 60 (2d Cir. 2014) (affirming preclusion of testimony by lawyers on the materiality of an agreement and “the work of transactional lawyers” generally, where “fact witnesses” covered the same ground).

Here, if the defendant wishes to offer evidence of CEFC China’s connection to the Chinese state—assuming *arguendo* that such testimony is relevant—he may call witnesses from CEFC China (which is funding the defendant’s defense, and to which the defendant plainly has access). Nothing about such testimony is “beyond the ken of the average juror.” *Amuso*, 21 F.3d at 1263. A defendant may not avoid calling lay witnesses with first-hand knowledge by calling a purported expert, without such knowledge, to say the same thing. *See id.*

Indeed, there is substantial reason to doubt that Professor Kirby is competent to testify as an expert as proffered. To the extent that his testimony “will be based on publicly available information regarding the structure, history, and financing of [CEFF China],” and “documents disclosed to the defense by the government in connection with this case” (Ex. B, at 2), it appears that he merely will be repeating, in the guise of purported expert testimony, hearsay. That is improper. Evidence that is otherwise inadmissible does not become admissible merely because it

emerges from the mouth of an expert. “Otherwise, the expert is simply repeating hearsay evidence without applying any expertise whatsoever, a practice that allows the [defendant] to circumvent the rules prohibiting hearsay.” *United States v. Mejia*, 545 F.3d 179, 197 (2d Cir. 2008) (internal quotation marks omitted). The defendant offers no authority, and the Government is aware of none, permitting a witness to pass off “publicly available information”—which appears, in this case, to be a series of news articles selected by the defendant (*see* Ex. B, Source List)—as purported expert testimony.¹¹

Finally, even if it were otherwise admissible (and it is not), the defendant’s proffered expert testimony should be precluded under Rule 403. Testimony from someone qualified by a court as an expert is likely to be given special weight by the jury, and thus such testimony must be given particular scrutiny before it is admitted. “Indeed, the Supreme Court, echoed by members of our own court, has noted the uniquely important role that Rule 403 has to play in a district court’s scrutiny of expert testimony, given the unique weight such evidence may have in a jury’s deliberations.” *Nimely v. City of New York*, 414 F.3d 381, 397 (2d Cir. 2005) (citing *Daubert*, 509 U.S. at 595). “Rule 702 imposes on the trial judge an obligation to determine whether the expert’s specialized knowledge will assist the trier of fact.” *United States v. Romano*, 794 F.3d 317, 330 (2d Cir. 2015). The defendant fails to meet his burden of showing that his proffered expert testimony would be of such assistance. But even assuming *arguendo* that the defendant had met his burden, the testimony’s limited probative value is substantially outweighed by the inevitable jury confusion and distraction, material lengthening of the trial, and unfair prejudice to the Government, that would result.

¹¹ For these and other reasons, if the Court is inclined to admit Professor Kirby’s testimony, the Government requests that the Court order a pretrial hearing to explore the contours and bases of his testimony.

This is so not merely because the defendant's proffered expert testimony is so utterly divorced from what the jury will have to decide, and appears to touch on sensitive or potentially contentious political issues, but also because if the defendant's proffered expert were to testify along the lines suggested by the defendant, the Government would have every right to respond. Prior to filing this memorandum, the Government gave notice, enclosed as Exhibit C, of an expert whom it would call in rebuttal. The Government is prepared to call such an expert. But that the Government is prepared to respond, if necessary, does not mean that the defendant is entitled to call an expert to testify on extraneous matters having nothing to do with his guilt.

CONCLUSION

For the foregoing reasons, the Government's motions *in limine* should be granted.

Dated: New York, New York
October 2, 2018

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: s/ Daniel C. Richenthal
Daniel C. Richenthal
Douglas S. Zolkind
Catherine E. Ghosh
Assistant United States Attorneys
(212) 637-2109/2418/1114

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division

By: s/ Paul A. Hayden
Paul A. Hayden
Trial Attorney
(202) 353-9370

EXHIBIT A

CASE NAME: UNITED STATES v. CHI PING HO, 17 Cr. 779 (LAP)

EXHIBIT NUMBER:

DATE:

TIME:

FILE NAME:

SESSION NUMBER:

PARTICIPANTS: CHI PING HO
ASSOCIATE-1

KEY:	UNINTELLIGIBLE	[U/I]
	PHONETIC SPELLING	[PH]
	TRANSCRIBER'S NOTE	[]

1 [indistinct background talk]

2 [ASSOCIATE-1]: Hello?

3 [CHI PING HO]: [Chinese, “Wei”, possibly “Hello”].

4 [ASSOCIATE-1]: Hello?

5 [CHI PING HO]: Hello, sorry.

6 [ASSOCIATE-1]: Hey—hey, hello, Patrick. Hey, hey. Quick question. Um, can you talk for a
7 minute?

8 [CHI PING HO]: Yeah.

9 [ASSOCIATE-1]: Oh okay. I’m going to have a dinner with a—[first name of the PGA] tonight.

10 So before I see him, there’s a couple of things I’d like to ask you. You—you want
11 him to if his time allow, you’d like to have him give the speech, right? That [U/I
12 00:50]

13 [CHI PING HO]: Yes. Just say it. [Chinese, “*Thank you*” ?] A few words of welcome. Just show
14 his face is fine.

15 [ASSOCIATE-1]: Oh okay.

16 [CHI PING HO]: [crosstalk U/I 00:55]

17 [ASSOCIATE-1]: Oh okay.

18 [CHI PING HO]: --to say, lunch time.

19 [ASSOCIATE-1]: Oh okay. Okay. If you want the lunch time or tomorrow? Both?

20 [CHI PING HO]: Lunchtime. Lunchtime, tomorrow. Not the morrow. If he even comes the
21 morrow, much better. If he comes for both--

22 [ASSOCIATE-1]: (laughs)

23 [CHI PING HO]: --but if he can come for only one, come to the lunch.

1 [ASSOCIATE-1]: Oh okay. Okay. That's one question. Two, you talked about—something that
2 uh—I—you talked him about your thinking of –you mentioned you like to, you
3 know, ask him, leave his administration.

4 [CHI PING HO]: Yes. Yes.

5 [ASSOCIATE-1]: You did? Okay. Does he agree?

6 [CHI PING HO]: Uh, he hasn't given me time to do that yet. But—

7 [ASSOCIATE-1]: Oh okay. Okay. So the last question, so sorry if I ask too direct—directly. Do—
8 have you, made some contribution to him, because we always, you know, we send
9 what he needed—he needs, you know, all the support to finish his position because
10 his country is so small and he need raise all the fund to run his office. Have you
11 done anything or you want to--?

12 [CHI PING HO]: Yeah, we already paid.

13 [ASSOCIATE-1]: Oh you did? Okay. Okay.

14 [CHI PING HO]: [U/I 2:16]

15 [ASSOCIATE-1]: Oh, okay, thank you, thank you for—

16 [CHI PING HO]: Well, not a whole lot but it's--it's okay. On a couple of occasions. But I think
17 the major contribution will come in after we talk about what he can—what he can
18 help us with.

19 [ASSOCIATE-1]: Oh okay, all right. All right. What you—what you mean major contribution?
20 It's after he return uh—leave the job?

21 [CHI PING HO]: Yes, yes.

22 [ASSOCIATE-1]: Oh, okay. He may need some money before he leave the job. (laughs)

23 [CHI PING HO]: Well, I think it's something that we can talk and negotiate, you know.

1 [ASSOCIATE-1]: Yeah.

2 [CHI PING HO]: But, uh, no, uh--

3 [ASSOCIATE-1]: (laughs) Sorry, because I—I'm, you know, a friend of him for long, long time. I

4 spend a year—I, actually, this year—well, since before he take the position, we

5 started raise funds to support him because his country give him nothing and he

6 need, you know, to run his office. But anyway, sorry-- (laughs)

7 [CHI PING HO]: Yeah, we've done something like that already.

8 [ASSOCIATE-1]: Oh, right. Okay, good, good, good, good.

9 [CHI PING HO]: We did—that's how we got him in Hong Kong.

10 [ASSOCIATE-1]: Wonderful. Wonderful. Wonderful. Wonderful. Okay.

11 [CHI PING HO]: That's not a—that's not a problem. The problem is—uh, it's give and take.

12 [ASSOCIATE-1]: Give and take. That's—of course. This is the—this is business, right?

13 [CHI PING HO]: Yeah, right.

14 [ASSOCIATE-1]: Okay. Okay, Patrick, so any other things you want me to mention? Or just,

15 push him to show up?

16 [CHI PING HO]: No, just to—just to—just to see if he can—if he can just come and drop in to

17 see it. Either tomorrow, or day after tomorrow, or both.

18 [ASSOCIATE-1]: Okay, all right. I think maybe one he can do—if only one—

19 [CHI PING HO]: One is Tuesday then.

20 [ASSOCIATE-1]: Tuesday, lunch? Okay, yeah. Wonderful. Okay.

21 [CHI PING HO]: And you can come to the lunch but we have—you have to give us the name.

22 [ASSOCIATE-1]: Yeah, we bring few interesting people. I—I give you name tonight.

23 [CHI PING HO]: Okay, please. Okay?

1 [ASSOCIATE-1]: Okay.

2 [CHI PING HO]: Thank you.

3 [ASSOCIATE-1]: Okay. Okay, Patrick. Okay, bye. Okay, bye bye.

EXHIBIT B

KRIEGER KIM & LEWIN LLP

500 Fifth Avenue
New York, NY 10110

Telephone: (212) 390-9550
www.KKLLP.com

September 17, 2018

By E-Mail

Daniel C. Richenthal
Douglas S. Zolkind
Andrew J. DeFilippis
Catherine E. Ghosh
Assistant United States Attorneys
United States Attorney's Office for the Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007

David A. Last
Paul A. Hayden
Trial Attorneys
United States Department of Justice
1400 New York Avenue, NW
Washington, DC 20005

Re: United States v. Chi Ping Patrick Ho, 17 Cr. 779 (LAP)

Dear Counsel:

We write on behalf of Dr. Patrick Ho in connection with the above-referenced matter. Pursuant to Rule 16(b)(1)(C) of the Federal Rules of Criminal Procedure and the Court's August 29, 2018 order, a summary of the testimony of Professor William C. Kirby is set forth below. We reserve the right to amend or supplement this disclosure as necessary.

* * *

Professor Kirby is an expert in contemporary China's business, economic, and political development with a particular focus on international activities. He currently serves as Spangler Family Professor of Business Administration at Harvard Business School and T.M. Chang Professor of China Studies at Harvard University. Before coming to Harvard in 1992, he was Professor of History, Director of Asian Studies, and Dean of University College at Washington University in St. Louis. At Harvard, Professor Kirby has served as Chair of the History Department, Director of the Harvard University Asia Center, Director of the Fairbank Center for Chinese Studies, and Dean of the Faculty of Arts and Sciences. Outside of his work at Harvard, Professor Kirby serves on the Board of Directors of Cabot Corporation; The China Fund, Inc.; The Taiwan Fund, Inc.; the American Council of Learned Societies; and Harvard University

September 17, 2018

Page 2 of 2

Press. He also serves on the Academic Advisory Council and the Board for Schwarzman Scholars at Tsinghua University. Professor Kirby's *curriculum vitae* is attached as Exhibit A.

Professor Kirby's testimony will concern two separate, but related topics. First, Professor Kirby will provide an overview of China's One Belt, One Road ("OBOR") initiative and the role that Chinese companies play in carrying it out. We expect that he will describe OBOR as a foreign policy initiative that seeks to export Chinese excess infrastructure capacity, use Chinese state financing for international infrastructure projects, and enhance China's economic and political influence in various regions of the world. He will discuss the history of OBOR and the motivation behind it, as well as its scope and importance to China. Professor Kirby will also describe the ways in which Chinese government agencies, state-owned banks, state-owned enterprises, and private companies participate in the implementation of OBOR.

Second, Professor Kirby will testify regarding the role of CEFC China Energy Company Limited ("CEFC") in the implementation of OBOR. We anticipate that Professor Kirby will testify that CEFC was closely tied to the Chinese state during the period relevant to this case and participated in promoting the Chinese state's agenda. Professor Kirby's testimony will be based on publicly available information regarding the structure, history, and financing of CEFC, documents disclosed to the defense by the government in connection with this case, and Professor Kirby's expertise regarding the relationship between the Chinese state and private businesses in China and the structure of the Chinese energy sector. We expect that Professor Kirby will testify that the close relationship between CEFC and the Chinese state is demonstrated by, *inter alia*, the history of Chinese state monopoly in the energy sector; the lack of transparency and open information about CEFC and its founder, Ye Jianming; the organizational culture and personnel employed by CEFC; and the confluence of interests between CEFC and the Chinese government's clearly articulated international economic policies.

In connection with his testimony, Professor Kirby has reviewed the sources listed in Exhibit B as well as the documents cited in the complaint.

Very truly yours,
KRIEGER KIM & LEWIN LLP

By: 

Edward Y. Kim
Paul M. Krieger
Jonathan F. Bolz
Jonathan L. Bodansky

cc: Andrew J. Levander, Esq.
Benjamin E. Rosenberg, Esq.
Katherine M. Wyman, Esq.
Kevin Brost, Esq.

William C. Kirby

T. M. Chang Professor of China Studies
 Spangler Family Professor of Business Administration
 Harvard University Distinguished Service Professor
 Harvard University
 Cambridge, MA 02138
 (617) 495-5119, fax (617) 496-2420
William_Kirby@Harvard.edu

EDUCATION

Ph.D.	1981	Harvard University	History
A.M.	1974	Harvard University	History
	1973	Freie Universität Berlin	History, Political Science
A.B.	1972	Dartmouth College	History <i>summa cum laude</i>

ACADEMIC POSITIONS

2014-	Faculty Chair, Harvard Center Shanghai
2008-	Spangler Family Professor of Business Administration Harvard Business School
2008-	T. M. Chang Professor of China Studies Harvard University
2006-	Harvard University Distinguished Service Professor
2006-	Chairman, Harvard China Fund
2006-2013	Director, John K. Fairbank Center for Chinese Studies Harvard University
2006-2008	Visiting Professor of Business Administration Harvard Business School
2002-2006	Dean of the Faculty of Arts and Sciences Harvard University
1999-2008	Edith and Benjamin Geisinger Professor of History Harvard University
1999-2002	Director, Harvard University Asia Center

WILLIAM C. KIRBY, page 2

1995-2000	Chair, Department of History Harvard University
1993-1997	Chair, Council on East Asian Studies, and Director, National Resource Center for East Asia, Harvard University
1992-	Professor of History, Harvard University
1992-	Member, Harvard University Asia Center Steering Committee
1992-	Member, Harvard University Asia Center Publications Committee
1992-	Member, Harvard University Council on Asian Studies
1988-1992	Dean, University College, Faculty of Arts and Sciences Washington University
1988-1991	Director, Asian Studies Co-director, JD/MA Program in Law and Asian Studies, Washington University
1983-1988	Director, International Affairs Program Washington University
1980-1991	Assistant Professor to Professor of History, Washington University

ACADEMIC AWARDS AND HONORS

2016	Honorary Visiting Professor, Tsinghua University
2011	Honorary Professorship, Zhejiang University
2011	Honorary Professorship, East China Normal University
2011	Honorary Professor, National Chengchi University
2010	Dr. Phil. Honoris Causa (Honorary Doctorate), The Hong Kong Polytechnic University
2008	Honorary Professorship, Fudan University, Shanghai
2008	Honorary Research Professorship, Shanghai Academy of Social Sciences
2008	Honorary Professorship, Chongqing University
2006	Dr. Phil. Honoris Causa (Honorary Doctorate) Fachbereich Geschichts- und Kulturwissenschaften Freie Universität Berlin
2006	Distinguished Faculty Award, Harvard Foundation for Intercultural and Race Relations
2005	Elected as Fellow, American Academy of Arts and Sciences

WILLIAM C. KIRBY, page 3

1994-1999	National Endowment for the Humanities Grant
1996	Honorary Professorship, Peking University
1994	Honorary Professorship, Nanjing University
1994-1995	American Council of Learned Societies Fellowship in Chinese Studies
1993-2000	Chiang Ching-kuo Foundation Grants
1991	Distinguished Faculty Award, Washington University
1987	Research grantee, U.S. National Program for Advanced Study and Research in China
1984-1985	American Council of Learned Societies Fellowship in Chinese Studies
Summer 1983	National Endowment for the Humanities Grant
Summer 1982	Sloan Foundation History and Technology Grant
1979-1980	Whiting Fellowship in the Humanities
1977-1978	Fulbright-Hays Doctoral Dissertation Research Fellowship, Taiwan
Summer 1977	Harvard Center for European Studies Research Grant, Europe
Summer 1976	Harvard History Research Grant, Europe
1975-1976	National Defense Foreign Language Grants, Chinese
1973-1976	Harvard University Graduate Fellowships
1972-1973	Deutscher Akademischer Austauschdienst Fellow, Freie Universität Berlin
June 1972	Phi Beta Kappa, Dartmouth College

OTHER PROFESSIONAL ACTIVITIES

Chair, Academic Advisory Council, Schwarzman Scholars Program, 2013-2017
 Director, Board of Directors, Schwarzman Scholars Program, 2018-
 Director, The Taiwan Fund, Inc., 2013-
 Chairman, Board of Directors, The Taiwan Fund, Inc., 2017-
 Director, American Council of Learned Societies, 2013-
 Chair, Board of Directors, American Council of Learned Societies, 2018-
 Director, The Cabot Corporation, 2012-
 Director, The China Fund, Inc., 2008-
 Member, The University Grants Committee, Hong Kong, 2008-2015
 Director, Board of Directors, Harvard University Press, 2000-
 Chair, Board of Directors, Harvard University Press, 2016-
 Member, Board of Visitors, Nelson Rockefeller Center, Dartmouth College, 2003-2013
 Chair, Board of Trustees, Harvard-Yenching Institute, 2002-2008
 General Editor, The Cambridge Modern China Series, Cambridge University Press, 1997-2004
 Member, Editorial Boards, The China Quarterly, Twentieth-Century China, Minguo shi
 [Republican History] (Nanjing)
 Visiting Professor, University of Heidelberg, Spring 1995
 Visiting Professor, Freie Universität Berlin, Spring 1996

WILLIAM C. KIRBY, page 4

Visiting Research Associate, Economics Institute, Shanghai Academy of Social Sciences, January-July 1987; Institute of Modern History, Chinese Academy of Social Sciences, Beijing 1985; Institute of Modern History, Academia Sinica, Taiwan 1977-78, 1984-85

COURSES TAUGHT

Doing Business in China (Harvard Business School)
Planning Your Business in China (Harvard Business School)
Immersion Experience Program: China; Current Challenges, Future Opportunities (Harvard Business School)
ChinaX (online program of ten mini-courses on Chinese history and culture under HarvardX)
The Worlds of Business in Modern China
Tradition and Transformation in East Asia: China
Contemporary China: The People's Republic and Taiwan
China's Partners: Sino-Foreign Economic and Cultural Relations
Politics and Development in Modern China
Literature and Politics in Modern China
European Imperialism: Theory and Practice, 1840-1960
Seminar in History and Technology: Science and Civilization between China and the West
Methods and Materials for Chinese Studies
Graduate seminars in modern and contemporary Chinese history
Graduate seminars in Qing and Republican documents

CURRENT PROJECTS

The World of Universities in the 21st Century (under contract to Harvard University Press)
Entrepreneurs and the State in Contemporary China

BOOKS

Experiences in Liberal Arts and Science Education from America, Europe, and Asia: A Dialogue Across Continents. Co-edited with Marijk C. van der Wende. (New York: Palgrave Macmillan, 2016).

Can China Lead? Reaching the Limits of Power and Growth. Co-authored with Regina M. Abrami and F. Warren McFarlan. (Cambridge: Harvard Business Review Press, 2014).

The People's Republic of China at 60 –An International Assessment. Editor. (Cambridge: Harvard University, Asia Center, 2011).

WILLIAM C. KIRBY, page 5

Prospects for the Professions in China. Co-edited with William P. Alford and Kenneth Winston. Routledge Studies on Civil Society in Asia. (London: Routledge, 2010).

China and the World: Internationalization, Internalization, Externalization. (Zhongguo yu shijie: guojihua, neihua yu waihua). Co-edited with Dayong Niu. (Beijing: Hebei People's Press, 2007.)

Global Conjectures: China in Transnational Perspective. Co-edited with Mechthild Leutner and Klaus Mühlhahn. Berliner China-Hefte, vol. 30. (Berlin: Lit Verlag, 2006).

The Normalization of U.S.-China Relations: An International History.

Co-edited with Gong Li and Robert Ross. (Cambridge: Harvard University Press, 2006.)

Also published as Cong jiedong zou xiang jianjiao [From Rapprochement to the Establishment of Sino-American Relations, 1969-1979.] (Beijing: Zhongyang wenxian chubanshe, 2004.)

Realms of Freedom in Modern China. Editor. Making of Modern Freedom Series, vol. 15. (Stanford: Stanford University Press, 2004.)

State and Economy in Republican China: A Handbook for Scholars.

Project director and senior editor. Co-edited with James Chin Shih, Man-houng Lin, and David A. Pietz. Two volumes. (Cambridge: Harvard Asia Center, 2001).

Germany and Republican China. (Stanford: Stanford University Press, 1984). With new Chinese introduction and translation, published as Deguo yu Zhonghua minguo [Germany and the Republic of China], Chen Qianping, Chen Hongmin, et al., trans. (Nanjing: Jiangsu renmin chubanshe, 2006). First translated with new Chinese foreword as Jiang Jieshi yu Nacui Deguo [Chiang Kai-shek and Nazi Germany], Chen Qianping, et al., trans., (Beijing: Zhongguo qingnian chubanshe, 1994).

Translator, Andreas Hillgruber, Germany and the Two World Wars. (Cambridge, MA: Harvard University Press, 1981.)

ARTICLES

“Why Do So Many Chinese Students Come to the United States?” in Jennifer Rudolph and Michael Szonyi, eds., The China Questions: Critical Insights into a Rising Power (Cambridge, MA: Harvard University Press, 2018).

“The Real Reason Uber Is Giving Up in China,” Harvard Business Review Online (August 2, 2017).

“Special Issue on New Directions in Liberal Arts and Science Education in Asia,” with Marijk C. van der Wende, eds. International Journal of Chinese Education 5, no. 1 (2016)

“China Stands Up: The Wartime Foundations of China's Emergence as a Great Power” with Fangshang Lü, ed. Zhan zheng de li shi yu ji yi [War in History and Memory] (Taipei, 2015).

WILLIAM C. KIRBY, page 6

- “China Still Isn’t Ready to Be a True Global Leader,” with F. Warren McFarlan. Harvard Business Review Online (January 5, 2015).
- “Zhongguo shiji? Gaodeng jiaoyu de tiaozhan [The Chinese Century? The Challenges of Higher Education].” Tsinghua daxue jiaoyu yanjiu [Tsinghua Journal of Education], 35, no. 3 (June 2014): 1-8.
- “The Chinese Century? The Challenges of Higher Education,” Daedalus 143 (2) (Spring 2014).
- “Lessons of China’s Modern History: A Nation Engaged with the World,” in China Since 1644: A History Through Primary Sources (Boston: Cheng and Tsui, 2014), xiii-xviii.
- “Why China Can’t Innovate,” with Regina M. Abrami and F. Warren McFarlan. Harvard Business Review 92, no 3. (March 2014): 107-111.
- “Global Business Across the Taiwan Strait: The Case of the Taiwan Semiconductor Manufacturing Company Limited,” in Wen-hsin Yeh, ed, Mobile Horizons: Dynamics Across the Taiwan Strait (Berkeley: Institute of East Asian Studies, 2013), 178-208.
- “Case Study: The Ex-CEO Contemplates a Coup,” Harvard Business Review (June 2013).
- “Five Challenges China Must Meet by 2034,” with Regina M. Abrami, and F. Warren McFarlan, Harvard Business Review Online (November 27, 2013).
- “Engineers and the State in Modern China,” in William Alford, William C. Kirby, and Kenneth Winston, eds., The Professions in Modern China (London: Routledge, 2010.)
- “Youxian de huoban guanxi: 1928 nian zhi 1944 nian Zhongguo yu Deguo, Sulian he Meiguo de guanxi” [Limited Partners: China’s Relationships with Germany, the Soviet Union, and the United States, 1928-1944], Shehui kexue yanjiu [Social Science Research] (2010, no. 3), 138-152.
- “Guanyu Zhongguo, Ouzhou, yu Meiguo de daxue” [On the State of Chinese, European, and American Universities]. Zhongguo xueshu [China Scholarship] 7, no. 1 (2009): 186-195.
- “China’s Republican Century: Leaders and Followers on the Mainland and on Taiwan, 1911-2007,” with Lu Fang-shang, ed., Lun Minguo shiqi lingdao qingying [Leadership Elites in Republican China] (Hong Kong: Commercial Press, 2009), 22-32.
- “On Chinese, European and American Universities,” Daedalus: Journal of the American Academy of Arts and Sciences 137, no. 3 (Summer 2008).
- “China’s Internationalization in the Early People’s Republic: Dreams of a Socialist World Economy,” The China Quarterly (Dec. 2006), 870-890.
- “Archives and Histories in Twentieth-Century China,” in Francis X. Blouin Jr. and William G. Rosenberg, eds., Archives, Documentation and Institutions of Social Memory (Ann Arbor: University of Michigan Press, 2006).

WILLIAM C. KIRBY, page 7

- “When Did China Become China? Thoughts on the Twentieth Century,” in Joshua A. Fogel, ed., The Teleology of the Modern Nation-State (Philadelphia: University of Pennsylvania Press, 2005), 105-114.
- “Introduction,” and “The Chinese Party-State under Democracy and Dictatorship on the Mainland and Taiwan,” in William Kirby, ed., Realms of Freedom in Modern China (Stanford: Stanford University Press, 2004), 1-17, 113-138.
- “The Two Chinas in the Global Setting: Sino-Soviet and Sino-American Cooperation in the 1950s,” in Robert Ross, ed., Re-examining the Cold War: U.S. China Diplomacy, 1954-1973 (Cambridge, MA: Harvard University Asia Center, 2001), 25-46.
- “Images and Realities of Chinese Fascism,” in Stein Ugelvik Larsen, ed., Fascism Outside Europe: The European Impulse Against Domestic Conditions In The Diffusion Of Global Fascism (New York: Columbia University Press, 2001), 233-268.
- “Engineering China: The Origins of the Chinese Developmental State,” in Wen-hsin Yeh, ed., Becoming Chinese (Berkeley: University of California Press, 2000), 137-160.
- “The Nationalist Regime and the Chinese Party-State,” in Merle Goldman and Andrew Gordon, eds., Contemporary East Asia in Historical Perspective (Cambridge, MA: Harvard University Press, 2000), 211-237.
- “The People’s Republic of China as History,” Sino-American Relations 25, no.4 (Winter 1999), 12-21; also published in Harvard Asia Quarterly (June 1999).
- “The Internationalization of China,” The China Quarterly, no. 150 (June 1997), 443-458. Translated as “Zhongguo de Guojihua: minguo shidai de duiwai guanxi,” Ershiyi shiji [Twenty-first Century] (Hong Kong), no. 44 (Dec. 1997), 33-47.
- “Intercultural Connections and Chinese Development: External and Internal Spheres of Modern China’s Foreign Relations,” in Frederic Wakeman and Wang Xi, eds., The Modernization of China (Berkeley: Institute for East Asian Studies, 1997), published first in Zhongguo xiandaihua wenti [Issues of Chinese modernization] (Shanghai: Fudan daxue chubanshe, 1994), 219-248.
- “Chinese-American Relations in Comparative Perspective, 1900-1949,” in Warren Cohen and Akira Iriye, eds., Pacific Passage: The Study of American East-Asian Relations on the Eve of the Twenty-First Century (New York: Columbia University Press, 1996), 163-90.
- “The Study of Modern China’s Foreign Relations: Trends and Research Agendas,” in Mechthild Leutner, ed., Politik, Wirtschaft, Kultur: Studien zu den Deutsch-Chinesischen Beziehungen (Münster: Lit Verlag, 1996), 385-406.
- “China, Unincorporated: Company Law and Business Enterprise in Twentieth Century China,” Journal of Asian Studies 54, no. 1 (February 1995), 43-63. Reprinted in Capitalism in Asia: Sixty Years of the Journal of Asian Studies, ed. David Ludden (Ann Arbor: Association for Asian Studies, 2004), 29-50.

WILLIAM C. KIRBY, page 8

- “Planning Postwar Taiwan: Industrial Policy and Nationalist Takeover, 1943-1947,” Harvard Studies on Taiwan 1, no. 1 (1995), 286-301.
- “Traditions of Centrality, Authority and Management in Modern China’s Foreign Relations,” in David Shambaugh and Thomas Robinson, eds., Ideas and Interpretations in Chinese Foreign Policy (New York and London: Oxford University Press, 1994), 13-30,
- “Intercultural Contacts and International Relations: China’s Relations with Germany, the Soviet Union and the United States, 1927-1944,” in Kuo Heng-yü and Mechthild Leutner, eds., Deutschland und China (München: Minerva, 1994), 225-252.
- “The Chinese War Economy: Mobilization, Control, and Planning in Nationalist China,” in Steven I. Levine and James C. Hsiung, eds., China’s Bitter Victory: The War With Japan, 1937-1945 (New York: M.E. Sharpe, 1992), 185-213.
- “Continuity and Change in Modern China: Chinese Economic Planning on the Mainland and on Taiwan, 1943-1958,” Australian Journal of Chinese Affairs 24, (July 1990), 121-41.
- “Guomin zhengfu shiqide zhongwai lianhe qiye, jishu zhuanrang yu jishu zuzhi (1928-1949)” [Sino-foreign cooperative enterprises, technology transfer, and technological organization under the Nationalist government (1928-1949)], in Zhongguo jindai jingjishi yanjiu ziliao [Research in modern Chinese economic history (Shanghai)] 9 (1989), 122-42.
- “Technocratic Organization and Technological Development in China, 1928-1953,” in Denis Fred Simon and Merle Goldman, eds., Science and Technology in Post-Mao China (Cambridge, Mass.: Harvard University Press, 1989), 23-44.
- “Recent American Scholarship on Republican China,” co-authored with Stephen C. Averill, in Chitake ni arite [Being nearby: discussions on modern China (Tokyo)], 16 (November 1989), corrected version 17 in (May 1990) 43-64. Published also in Zhongguo jindaishi yanjiu tongxun [Research in modern Chinese history (Taipei)] 9 (1990).
- “Minguo shiqi Zhongwai jingji jishu hezuo: Meiguo zhanshi shengchan quwentuan huan Hua, 1944-1946,” [Sino-foreign economic and technical cooperation in Republican China: the U.S. war production mission to China, 1944-46] in Zhang Xianwen, et al., eds., Minguo dang’an yu minguo shi xueshu taolunhui lunwenji [Proceedings of the conference on the archives and history of Republican China] Beijing: Dang’an chubanshe [Archives Press], 1989).
- “Zhonghua minguo shiqide hezi he jishu zhuanrang” [Joint ventures and technological development under the Republic of China] in Zhongwai shehui kexue [Sino-foreign social science] (December 1987).
- “Joint Ventures, Technology Transfer and Technocratic Organization in Nationalist China,” Republican China 12, no.2 (April 1987).
- “Zhongguo zhanhou jihua: Zhongguo, Meiguo yu zhanhou jingji zhengce” [Planning postwar China: China, the U.S., and postwar economic strategies, 1941-1948], in Sun Zhongshan

WILLIAM C. KIRBY, page 9

xiansheng yu jindai Zhongguo xueshu taolunji [Proceedings of the conference on Dr. Sun Yat-sen and modern China], (Taipei: Party Historical Commission of the Kuomintang, 1985 [English edition, 1986]).

“Technocracy and Politics in Nationalist China,” Zhongguo lishi xuehui jikan [Journal of the association for Chinese history], (Taipei: July 1985).

“Kuomintang China’s ‘Great Leap Outward’: The 1936 Three Year Plan for Industrial Development,” in Essays in the History of the Chinese Republic, ed. Center for Asian Studies, University of Illinois (Urbana, 1983).

“Development Aid or Neo-Imperialism? German Industry in China, 1928-1937,” in Bernd Martin, ed., Die deutsche Beraterschaft in China, 1927-1938 (Düsseldorf: Droste, 1981).

HARVARD BUSINESS SCHOOL CASES

“Yunnan Baiyao: Transforming a Chinese State-Owned Enterprise.” Harvard Business School Case 318-078. With Michael Chu, Nancy Hua Dai, and Yuanzhuo Wang. February 2018. (Revised April 2018.)

“HNA Group: Global Excellence with Chinese Characteristics (B).” Harvard Business School Supplement 318-090. With Yuanzhuo Wang. February 2018. (Revised February 2018.)

“Wenzhou Kangning Hospital: Changing Mental Healthcare in China (B).” Harvard Business School Supplement 318-077. With Wei Zhang, Yuanzhuo Wang, and Nancy Hua Dai. January 2018. (Revised March 2018.)

“Wenzhou Kangning Hospital: Changing Mental Healthcare in China.” Harvard Business School Case 318-054. With Wei Zhang, Yuanzhuo Wang, and Nancy Hua Dai. January 2018. (Revised March 2018.)

“Outrageous Ambition: Duke University.” Harvard Business School Case 318-043. With Yuanzhuo Wang. November 2017.

“Public Mission, Private Funding: The University of California, Berkeley.” Harvard Business School Case 317-023. With Joycelyn W. Eby. December 2016.

“Uber in China: Driving in the Gray Zone (B).” Harvard Business School Supplement 317-064. With Yuanzhuo Wang, Shuang L. Frost, and Adam K. Frost. November 2016.

“Yili Group: Building a Global Dairy Company.” Harvard Business School Case 317-003. With Nancy Hua Dai. October 2016.

“Augustine Heard & Co.: Building a Family Business in the China Trade (A) and (B).” Harvard Business School Teaching Note 317-018. With Joycelyn W. Eby. August 2016.

WILLIAM C. KIRBY, page 10

- “Augustine Heard & Co.: Building a Family Business in the China Trade (A).” Harvard Business School Case 316-185. With Joycelyn W. Eby and John S. Ji. June 2016.
- “Augustine Heard & Co.: Building a Family Business in the China Trade (B).” Harvard Business School Case 316-186. With Joycelyn W. Eby. June 2016.
- “University of Hong Kong: Bridging East and West.” Harvard Business School Case 316-068. With Joycelyn W. Eby. June 2016. (Revised January 2017.)
- “Agricultural Revolution without a Land Revolution: the Megafarms of CP Group.” Harvard Business School Case 316-150. With Nancy Hua Dai. May 2016. (Revised October 2016.)
- “Agricultural Revolution without a Land Revolution: the Megafarms of CP Group.” Harvard Business School Teaching Note 316-159. With Joycelyn W. Eby. May 2016.
- “Uber in China: Driving in the Gray Zone.” Harvard Business School Teaching Note 316-158. With Joycelyn W. Eby. March 2016.
- “HNA Group: Global Excellence with Chinese Characteristics.” Harvard Business School Teaching Note 316-157. With Joycelyn W. Eby. April 2016.
- “From Preparatory Academy to National Flagship: The Evolution of Tsinghua University.” Harvard Business School Case 316-141. With Joycelyn W. Eby. January 2016. (Revised May 2016.)
- “Uber in China: Driving in the Gray Zone.” Harvard Business School Case 316-135. With Joycelyn W. Eby, Shuang L. Frost, and Adam K. Frost. January 2016. (Revised November 2016.)
- “HNA Group: Global Excellence with Chinese Characteristics.” Harvard Business School Case 316-013. With F. Warren McFarlan, and Joycelyn W. Eby. January 2016. (Revised March 2016.)
- “Higher Education in China: Internationalization in Turbulent Times.” Harvard Business School Background Note 316-066. With Joycelyn W. Eby. October 2015.
- “World-Class' Universities: Rankings and Reputation in Global Higher Education.” Harvard Business School Background Note 316-065. With Joycelyn W. Eby. October 2015. (Revised November 2016.)
- Kirby, William, and Erica Zendell. “Advanced Leadership Field Perspectives: Shanghai.” Harvard Business School Background Note 315-107, March 2015.
- “China's Environmental Challenge.” Harvard Business School Background Note 315-026. With Nora Bynum, Erica M. Zendell, and Brittany Crow. October 2014. (Revised November 2014.)
- “From Beijing Jeep to ASC Fine Wines: The Story of an American Family Business in China.” Harvard Business School Case 314-053. With Erica M. Zendell. 2014
- “Teach for China and the Chinese Nonprofit Sector.” Harvard Business School Case 314-052. With Erica M. Zendell. 2014

WILLIAM C. KIRBY, page 11

- “Wanxiang Group: A Chinese Company's Global Strategy (B).” Harvard Business School Supplement 313-096. With Nancy Hua Dai and Erica M. Zendell. 2013.
- “Kunshan, Incorporated: The Making of China's Richest Town.” Harvard Business School Case 313-103. With Nora Bynum, Tracy Yuen Manty, and Erica M. Zendell. 2013. (Revised May 2013.)
- “The China Entrepreneurs Forum.” Harvard Business School Case 312-095. With G.A. Donovan and Tracy Yuen Manty. 2012.
- “Taikang Insurance: Standing Out In China's Crowded Insurance Market.” Harvard Business School Case 312-109. With Tracy Yuen Manty. 2012.
- “Boardroom Battle Behind Bars: Gome Electrical Appliances Holdings—A Corporate Governance Drama.” Harvard Business School Case 312-025. With Tracy Yuen Manty. 2012.
- “Inner Mongolia Yili Group: China's Pioneering Dairy Brand.” Harvard Business School Case 308-052. With Regina M. Abrami, F. Warren McFarlan, and Tracy Yuen Manty. 2011.
- “Sealed Air China.” Harvard Business School Case 308-051. With Regina Abrami, F. Warren McFarlan, and Tracy Manty. 2007
- “Jiamei Dental: Private Health Care in China.” Harvard Business School Case 910-404. With G.A. Donovan. 2011.
- “International Agribusiness in China: Charoen Pokphand Group.” Harvard Business School Case 910-418. With Michael Shih-ta Chen, Tracy Manty, and Yi Kwan Chu. 2011.
- “CP Group: Balancing the Needs of a Family Business with the Needs of a Family of Businesses.” Harvard Business School Case 312-059. With Tracy Yuen Manty. 2011.
- “China Mobile's Rural Communications Strategy.” Harvard Business School Case 309-034. With F. Warren McFarlan, G.A. Donovan, and Tracy Manty. 2011.
- “China Netcom: Corporate Governance in China (A) and (B).” Harvard Business School Teaching Note 311-018. With Regina M. Abrami and F. Warren McFarlan. 2010.
- “Myths and Lessons of Modern Chinese History.” Harvard Business School Note 308-065. With Brittany Crow. 2008.
- “Appellation Shanxi: Grace Vineyard.” Harvard Business School Case 309-075. With Michael Chen, Keith Wong, and Tracy Manty. 2009.
- “China Mobile's Rural Communications Strategy.” Harvard Business School Case 309-034. With F. Warren McFarlan, G.A. Donovan, and Tracy Manty. 2009.
- “A Strait of Uncertainty: Taiwan’s Development in the Shadow of China.” Harvard Business School Note 909-408. With J. Megan Greene and Tracy Manty. 2009.

WILLIAM C. KIRBY, page 12

- “A Chinese Start-up's Midlife Crisis: 99Sushe.com.” Harvard Business School Case 309-060. With F. Warren McFarlan, and Tracy Manty. 2009.
- “HNA Group: Moving China’s Air Transport Industry in a New Direction.” Harvard Business School Case 309-029. With F. Warren McFarlan and Tracy Manty. 2009.
- “Political and Economic History of the People's Republic of China: An Annotated Timeline.” Harvard Business School Note 309-073. With Regina Abrami, Elisabeth Koll, and F. Warren McFarlan. 2009.
- “Taiwan Semiconductor Manufacturing Company Limited: A Global Company’s China Strategy.” Harvard Business School Case 308-057. With Michael Chen and Keith Wong. 2008.
- “Wanxiang Group: A Chinese Company’s Global Strategy.” Harvard Business School Case 308-058. With Regina Abrami, F. Warren McFarlan, Keith Wong, and Tracy Manty. 2008.
- “Xi'an International University: The Growth of Private Universities in China.” Harvard Business School 309-074. With Michael Shih-ta Chen, Keith Chi-ho Wong, and Tracy Manty. 2009.
- “China Netcom: Corporate Governance in China,” Harvard Business School Case 308-027. With F. Warren McFarlan, Reina Abrami, Ning Xiangdong, and Tracy Manty. 2008.
- “Fiyta—The Case of a Chinese Watch Company.” Harvard Business School Case 308-025. With Regina Abrami, F. Warren McFarlan, and Tracy Manty. 2008.
- “Gome Electronics: Evolving the Business Model.” Harvard Business School Case 308-026. With Regina Abrama, F. Warren McFarlan, and Tracy Manty. 2008.
- “The Challenges of Launching a Start-up in China: Dorm99.com.” Harvard Business School Case 307-075. With F. Warren McFarlan and Tracy Manty. 2007.
- “Esquel Group: Integrating Business Strategy with Society to Create Competitive Advantage.” With F. Warren McFarlan and Tracy Manty. Harvard Business School Case 307-076. 2007.
- “Li & Fung 2006.” Harvard Business School Case 307-077. With F. Warren McFarlan and Tracy Manty. 2007.

UNIVERSITY SERVICE

Harvard University

Faculty Chair, Harvard Center Shanghai, 2013-
Faculty Co-Chair, Harvard Advanced Leadership Initiative, 2013-2018
Chair, Executive Committee, Fairbank Center for Chinese Studies, 2006-2013
Chair, Steering Committee, Harvard China Fund, 2006-

WILLIAM C. KIRBY, page 13

Chair (ex officio), Faculty Council, 2002-2006
Chair (ex officio), Standing Committee on the Core Program, 2002-2006
Chair (ex officio), Educational Policy Committee, 2002-2006
Chair (ex officio), FAS Resources Committee, 2002-2006
Chair (ex officio), Committee on General Education, 2004-2006
Chair (ex officio), Steering Committee of the Harvard College Curricular Review, 2003-2006
Board of Syndics, Harvard University Press, 1998-2002
Committee on Out-of-Residence Study, 2000-2003
Governance Committee, Center for Government and International Studies, 2000-2002
Executive Committee, Weatherhead Center for International Affairs, 1999-
Provost's Advisory Committees on Inter-Faculty/International Initiatives, 1999-2002
Faculty of Arts and Sciences International Studies Committee, (Co-chair), 1998-2001
Council on East Asian Studies (Chair), 1993-97
Steering and Executive Committees, Harvard University Asia Center, 1997-2002
Publications Committee, Harvard University Asia Center, 1997-
Executive Committee, Fairbank Center for East Asian Research, 1992-2002
Executive Committee, History Department, 1993-2000
Planning Committee, History Department, 1993-2002
Committee on the Ph.D. in History & East Asian Languages, 1992-
Committee on the A.M. in Regional Studies – East Asia, 1992-
Committee on the A.B. in East Asian Studies, 1994-
Committee on Non-Departmental Instruction, 1993-96
Library Committee, Faculty of Arts & Sciences, 1992-95
Search Committee, Harvard College Librarian (Chair), 1995-96

Washington University

Academic Planning Committee (ex officio), 1988-92
Committee on Tenure, Promotion, and Personnel (ex officio), 1988-92
Faculty Council (ex officio), 1988-92
Asian Studies Committee, 1981-1991

Source List

中国华信叶简明被查复杂政商关系网起底, Caixin, Mar. 1, 2018, <http://companies.caixin.com/2018-03-01/101215246.html>.

Alexandra Stevenson, *Hard-Charging Chinese Energy Tycoon Falls from Xi Government's Graces*, N.Y. Times, Mar. 14, 2018, <https://www.nytimes.com/2018/03/14/business/china-cefc-investigation.html>.

Alfred Cang & Aibing Guo, *Why an Enigmatic Chinese Company Just Spent \$9 Billion on a Stake in Rosneft*, Bloomberg, Oct. 3, 2017, <https://www.bloomberg.com/news/articles/2017-10-02/why-cefc-spent-9-billion-on-rosneft-while-seeing-30-oil-risk>.

Andrew Chubb, *Caixin's Investigation of CEFC and Chairman Ye Jianming*, South Sea Conversations, Mar. 29, 2018, <https://southseaconversations.wordpress.com/2018/03/29/caixins-investigation-of-cefc-and-chairman-ye-jianming>.

Anjani Trivedi & Julie Steinberg, *How China's Acquisitive HNA Group Fell from Favor*, Wall St. J., Nov. 19, 2017, <https://www.wsj.com/articles/how-chinas-acquisitive-hna-group-fell-from-favor-1511118961>.

Arash Massoudi & Lucy Hornby, *China's HNA Reveals Ownership Details after U.S. Stake Transfer*, Fin. Times, July 24, 2017, <https://www.ft.com/content/14a8ab20-706e-11e7-aca6-c6bd07df1a3c>.

Barry Naughton, *The Chinese Economy: Transitions and Growth* (2006).

Barry Naughton, *The Transformation of the State Sector: SASAC, the Market Economy, and the New National Champions*, in *State Capitalism, Institutional Adaptation, and the Chinese Miracle* (Barry Naughton & Kellee S. Tsai eds., 2015).

Chen Aizhu & Jan Lopatka, *China's CEFC Has Big Ambitions, but Little Known about Ownership, Funding*, Reuters, Jan. 12, 2017, <https://www.reuters.com/article/us-cefc-china/chinas-cefc-has-big-ambitions-but-little-known-about-ownership-funding-idUSKBN14X0B5>.

China's Belt and Road Initiative: Changing the Rules of Globalization (Wenxian Zhang, Ilan Alon & Christoph Lattemann eds., 2018).

Christopher Balding, *China Takes on State-Owned Firms*, Bloomberg, Aug. 10, 2017, <https://www.bloomberg.com/view/articles/2017-08-10/china-takes-on-state-owned-firms>.

David Barboza, Marc Santora & Alexandra Stevenson, *China Seeks Influence in Europe, One Business Deal at a Time*, N.Y. Times, Aug. 12, 2018, <https://www.nytimes.com/2018/08/12/business/china-influence-europe-czech-republic.html>.

Gabriel Wildau, *China Cautiously Embraces Privatisation of State-Owned Enterprises*, Fin. Times, Sept. 25, 2015, <https://www.ft.com/content/69253d76-633c-11e5-97e9-7f0bf5e7177b>.

Gabriel Wildau, *China Rejects Singapore Model for State-Owned Enterprise Reform*, Fin. Times, July 20, 2017, <https://www.ft.com/content/21e99a38-6d08-11e7-bfeb-33fe0c5b7eaa>.

Jianming Ye: Executive Profile & Biography, Bloomberg, <https://www.bloomberg.com/research/stocks/private/person.asp?personId=145798346&privcapId=275515786>.

Kane Wu & Sumeet Chatterjee, *Exclusive: China's Belt and Road Acquisitions Surge Despite Outbound Capital Crackdown*, Reuters, Aug. 15, 2017, <https://www.reuters.com/article/us-china-m-a/exclusive-chinas-belt-and-road-acquisitions-surge-despite-outbound-capital-crackdown-idUSKCN1AW00K>.

Lei Zou, *The Political Economy of China's Belt and Road Initiative* (2018).

Lucy Hornby & Don Weinland, *Opaque Chinese Oil Group Makes Clear Gains in Former Soviet Bloc*, Fin. Times, Sept. 13, 2017, <https://www.ft.com/content/e3f8cbd2-983f-11e7-a652-cde3f882dd7b>.

Lucy Hornby, Yuan Yang & Gabriel Wildau, *Big China Companies Targeted over "Systemic Risk"*, Fin. Times, June 23, 2017, <https://www.ft.com/content/23c8ba54-5710-11e7-9fed-c19e2700005f>.

Michael Forsythe & Alexandra Stevenson, *Behind an \$18 Billion Donation to a New York Charity, a Shadowy Chinese Conglomerate*, N.Y. Times, July 26, 2017, <https://www.nytimes.com/2017/07/26/business/hna-group-billion-donation-new-york-charity.html>.

Noel King, *Why a Chinese Company Invested Billions of Dollars in the U.S.*, NPR, Nov. 2, 2017, <https://www.npr.org/2017/11/02/561671224/why-a-chinese-company-invested-billions-of-dollars-in-the-u-s>.

Reform of China's Ailing State-Owned Firms Is Emboldening Them, Economist, July 22, 2017, <https://www.economist.com/news/finance-and-economics/21725293-outperformed-private-firms-they-are-no-longer-shrinking-share-overall>.

Scott Cendrowski, *The Unusual Journey of China's Newest Oil Baron*, Fortune, Sept. 28, 2016, <http://fortune.com/2016/09/28/cefc-ye-jianming-40-under-40>.

Tai Wei Lim, Henry Chan, Katherine Tseng & Wen Xin Lim, *China's One Belt One Road Initiative* (2016).

The Secretive China Energy Giant that Faces Scrutiny, Bloomberg, Mar. 28, 2018, <https://www.bloomberg.com/news/articles/2018-03-12/the-secretive-china-energy-giant-that-faces-scrutiny-quicktake>.

Tom Hancock, *China Encircles the World with One Belt, One Road Strategy*, Fin. Times, May 3, 2017, <https://www.ft.com/content/0714074a-0334-11e7-aa5b-6bb07f5c8e12>.

Tom Hancock, *China Nationalises Troubled Conglomerate Anbang*, Fin. Times, June 22, 2018, <https://www.ft.com/content/279318d4-75fd-11e8-b326-75a27d27ea5f>.

Vivienne Walt, *You've Never Heard of HNA Group. Here's Why You Will*, Fortune, July 24, 2017, <http://fortune.com/2017/07/24/fortune-global-500-hna-group-china>.

Who Owns HNA, China's Most Aggressive Dealmaker?, Fin. Times, June 2, 2017, <https://www.ft.com/content/8acfe40e-410b-11e7-9d56-25f963e998b2>.

EXHIBIT C



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 2, 2018

By Email

Andrew J. Levander, Esq.
Benjamin E. Rosenberg, Esq.
Katherine Wyman, Esq.
Edward Y. Kim, Esq.
Jonathan L. Bodansky, Esq.

**Re: *United States v. Chi Ping Patrick Ho,*
17 Cr. 779 (LAP)**

Dear Counsel:

Pursuant to Rule 16(a)(1)(G) of the Federal Rules of Criminal Procedure, we write to provide notice that the Government may call Oriana Skylar Mastro, PhD, in the above-referenced case as an expert to rebut the proffered opinions of Professor William C. Kirby, whom the defense noticed as an expert on September 17, 2018.¹

(A) Qualifications: Dr. Mastro is an assistant professor of security studies at the Edmund A. Walsh School of Foreign Service, Georgetown University, where she has been a professor since 2013. She is also a Jeane Kirkpatrick Scholar at the American Enterprise Institute and a Council on Foreign Relations Team Member. She is a graduate of Stanford University and Princeton University, and has received a number of fellowships and awards. Dr. Mastro also has published and lectured extensively with respect to issues concerning China and Asia. Dr. Mastro's testimony would be based on her training, education, and experience as described in her *curriculum vitae*, a copy of which is enclosed, as well as her review of relevant material relating to the subjects of her expert testimony, also enclosed, including the materials provided by the defense with respect to the opinions of Professor Kirby.

¹ The Government does not believe that the defense notice is sufficient and in any event expects to file a motion *in limine* seeking to preclude Professor Kirby's proffered testimony. Nothing in this notice is intended as agreement that Professor Kirby's proffered testimony, or other evidence on the subjects in the defense notice, is appropriate or admissible, in whole or in part. The Government reserves the right to supplement this notice after receiving additional information relating to Professor Kirby's opinions and the bases thereof and/or in response to any ruling of the Court concerning the admissibility of such evidence.

October 2, 2018

Page 2

(B) Summary of Expected Testimony:

If called as a witness, we expect that Dr. Mastro would provide the following testimony, in sum and substance:

In response to Professor Kirby's proffered opinions regarding "China's One Belt, One Road initiative and the role that Chinese companies play in carrying it out," Dr. Mastro would testify that the One Belt, One Road initiative (now known as the Belt and Road Initiative or "BRI") is a Chinese foreign policy initiative that prioritizes China's own national interests over the interests of developing nations or the global good. Dr. Mastro would further be expected to testify that the BRI often uses economic leverage as a way to maintain an economic advantage, often at the expense of developing countries. Under the BRI, these developing countries often take loans from China or Chinese companies with oppressive terms that they are unlikely to be able to repay. This, in turn, leads to a loss of participatory country sovereignty and hurts them economically in the long term. Dr. Mastro would further be expected to testify that excess capacity and infrastructure projects under the BRI create a minimum level of capacity building and are designed to obtain the best deal for China.

Additionally, Dr. Mastro would be expected to testify that private Chinese companies who participate in the BRI generally do so because it is immensely profitable. The companies benefit from a close relationship with the Chinese state that allows them to receive strategic business information and state bank subsidies giving them an advantage over non-Chinese firms. Dr. Mastro will further testify that China has sought to crackdown on corruption within China for domestic political reasons; however, it has shown little interest in controlling Chinese companies' conduct overseas, where they often disregard laws prohibiting bribery and corruption, placing U.S. and other western businesses at a competitive disadvantage. Moreover, Chinese enterprises face strong incentives to engage in graft and other dishonest business practices due to political credit they can gain at home for promoting BRI. Dr. Mastro would further be expected to testify that there have been multiple accounts of Chinese companies, operating under the guise of the BRI, paying bribes to foreign officials in an effort to gain business and expand China's sphere of influence.

Finally, based on her review of the website of CEFC China Energy and publicly-available articles and reports, Dr. Mastro would be expected to testify that CEFC China Energy is not formally a state-owned enterprise, like China National Petroleum Corporation (CNPC), China's state-owned oil company; however, certain articles and public reports suggest that CEFC China Energy and its Chairman at the time, Ye Jianming, are linked to varying degrees to the Chinese state, military, and communist party. Dr. Mastro would further be expected to testify that CEFC China Energy aggressively pursued many overseas energy opportunities, growing at a shockingly fast rate as compared to other Chinese companies and that CEFC China Energy's growth was largely under the radar. For example, CEFC China Energy invested in, and acquired assets, in multiple sectors of the Czech Republic economy. This resulted in numerous problems for the Czech Republic.

(C) Bases and reasons in support of testimony: The bases and reasons in support of Dr. Mastro's testimony are her training, education, and experience, as well as a review of relevant materials discussed above.

October 2, 2018

Page 3

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: s/ Daniel C. Richenthal
Daniel C. Richenthal
Douglas S. Zolkind
Catherine E. Ghosh
Assistant United States Attorneys
(212) 637-2109/2418/1114

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division

By: s/ Paul A. Hayden
David A. Last
Paul A. Hayden
Trial Attorneys
(202) 616-5651/353-9370

Enclosures

ORIANA SKYLAR MASTROom116@georgetown.eduwww.orianaskylarmastro.com

Twitter: @osmastro

CURRENT POSITION

Assistant Professor of Security Studies <i>Edmund A. Walsh School of Foreign Service, Georgetown University</i>	8/13-pres
Jeane Kirkpatrick Scholar <i>American Enterprise Institute (AEI)</i>	9/17-pres

EDUCATION

PhD, Princeton University, Politics, 2013
M.A., Princeton University, Politics, 2009
Fields: International Relations, Comparative Politics (NE Asia), Formal & Quantitative Methods
Dissertation Committee: Thomas Christensen (chair), Aaron Friedberg, Jacob Shapiro
B.A., Stanford University, East Asian Studies with honors in International Security, 2006

Languages: Professionally proficient in Mandarin, Italian; conversational in Spanish, French

PREVIOUS WORK EXPERIENCE

Senior China Analyst, HAF/A2O, Pentagon (reserve duty)	7/18-pres
Political Military Affairs Strategist, PACAF A5X, Hawaii (reserve duty)	2/16-7/18
Reserve Air Attaché, Asia-Pacific Region (reserve duty)	12/14-2/16
Asia-Pacific Cell (A8XS-APC), Pentagon, Asia-Pacific Strategist (reserve duty)	4/13-12/14
Center for a New American Security (CNAS), Fellow	3/12-5/13
Strategic Studies Group (SSG), Pentagon, China Strategist (reserve duty)	9/10-4/13
Project 2049, Summer Associate	6/10-9/10
U.S. Pacific Command (PACOM), Analyst	6/09-9/09
RAND Corporation, Summer Associate	6/08-9/08
Carnegie Endowment for International Peace, China Program, Junior Fellow	8/06-8/07

SELECT FELLOWSHIPS AND AWARDS

External

Council on Foreign Relations Term Member	2018-pres
Jeane Kirkpatrick Scholar, American Enterprise Institute (AEI)	2017-pres
National Committee on U.S.-China Relations Public Intellectuals Program	2016-pres
Ellis Joffe Prize for PLA Studies Winner for outstanding research contributions	2017
Council on Foreign Relations (CFR) Stanton Nuclear Security Fellowship	2016-17
Asia Foundation Faculty Research Grant on the Domestic Dimensions of IR	2016
Miller Center National Fellowship, University of Virginia	2012-13
Pacific Forum CSIS nonresident Sasakawa Peace Fellow	2012-13
Institute for Defense Studies and Analysis (IDSA), Summer Visiting Fellow	2012
One of Top 99 Most Influential International Professionals Under 33, <i>Diplomatic Courier</i>	2011

George Washington University, Institute for Security and Conflict Studies (ISCS), predoc	2010-11
Smith Richardson Foundation World Politics and Statecraft Pre-doctoral Fellowship	2010-11

Internal

Georgetown University Internal Summer Academic Grant	2016
Georgetown University Junior Faculty Research Fellowship Award	2015
Georgetown University Professor in Residence at Campion Hall, Oxford	2015
Bradley Fellow, recipient of grant to conduct research Beijing, Seoul	2009-12
Princeton Institute for International and Regional Studies (PIIRS) Summer Research Grant	2012
Princeton University’s Mamdouha S. Bobst Center for Peace and Justice Research Grant	2012
Woodrow Wilson School Undergraduate Program Preceptor Award	2009
Parker D. Handy Fellow, twice-received for student with future in public affairs	2007-09

PUBLICATIONS

Books

The Costs of Conversation: Obstacles to Talks in Wartime forthcoming with Cornell University Press, Security Studies Series.

Assessing the Threat: The Chinese Military and Taiwan’s Security with (eds.) Michael D. Swaine, Andrew N.D. Yang and Evan S. Medeiros, (Washington: Carnegie Endowment, July 2007).

Articles

“How China Ends Wars: Implications for United States and East Asian Security,” *The Washington Quarterly*, vol 4, iss 1, March 2018: 45-60.

“Why China Won’t Rescue North Korea,” *Foreign Affairs*, January/February 2018: 58-67.

“Why Chinese Assertiveness is Here to Stay,” *The Washington Quarterly* 37, No. 4, 2014: 151-170.

“China Can’t Stay Home,” *The National Interest*, November/December 2014: 38-45.

“The Problems with the Liberal Peace in Asia,” *Survival* 56, (April/May 2014): 129-158.

Peer-Reviewed Articles

“The Day After: The United States, China and the Rush to Denuclearization North.” *Forthcoming in International Security*, Fall 2018.

“It Takes Two to Tango: Autocratic Underbalancing, Regime Legitimacy and China’s Responses to India’s Rise,” *Journal of Strategic Studies*, July 2, 2018, DOI: <https://www.tandfonline.com/doi/full/10.1080/01402390.2018.1485567>.

“The Theory and Practice of War Termination: Assessing Patterns in China's Historical Behavior,” *International Studies Review*, February 2018, <https://doi.org/10.1093/isr/vix061>.

“A Global People’s Liberation Army: Possibilities, Challenges and Opportunities” with Kristen Gunness, *Asia Policy* 22, (July 2016): 131-155.

“The Vulnerability of Rising Powers: The Logic Behind China's Low Military Transparency,” *Asian Security* 12, Iss. 2, 2016: 63-81.

“The Great Divide: Chinese and Indian Views on Intrawar Negotiations, 1959-1962,” *The Journal of Defence Studies* 6, No. 4, (October 2012): 71-108.

“Signaling and Military Provocation in Chinese National Security Strategy: A Closer Look at the Impeccable Incident of March 2009,” *Journal for Strategic Studies* 34, No. 2 (April 2011): 219-244.

Book Chapters

“Long-Term Strategic Competition between the United States and China in Military Aviation,” with Michael Chase, in Tai Ming Cheung and Thomas G. Mahnken (eds), *The Gathering Pacific Storm: Emerging US-China Competition in Defense Technological and Industrial Development*, (Cambria Press, 2018): 111-137.

“Ideas, Perceptions, and Power: An Examination of China’s Military Strategy,” in Ashley Tellis, Alison Szalwinski and Michael Wills (eds), *Strategic Asia 2017–18: Power, Ideas, and Military Strategy in the Asia-Pacific*, (Washington DC: National Bureau of Asian Research, 2017): 18-43.

“Dynamic Dilemmas: China’s Evolving Northeast Asia Security Strategy” in Gil Rozman (ed), *2016 Joint U.S.-Korea Academic Studies*, (Washington DC: Korea Economic Institute, 2016): 9-22.

"A Global Expeditionary People’s Liberation Army: 2025-2030," in *The Chinese People's Liberation Army in 2025*, Roy Kamphausen and David Lai, eds., (Carlisle: Strategic Studies Institute, 2015): 207-234.

“China’s Antiaccess-Area Denial (A2/AD) Capabilities: Is the U.S. Rebalancing Enough?” in William H. Natter III and Jason Brooks (eds), *American Strategy and Purpose: Reflections on Foreign Policy and National Security in an Era of Change*, (Lexington: CENSA, 2014): 118-140.

“Noninterference in Contemporary Chinese Foreign Policy: Fact or Fiction?” in Donovan Chau and Thomas Kane (eds), *China and International Security: History, Strategy, and 21st Century Policy*, vol. 2 (Santa Barbara, CA: Praeger, 2014): 95-114.

POLICY PUBLICATIONS AND PUBLIC COMMENTARY

Reports and Briefs

“Risk and Resiliency: China’s Emerging Air Base Strike Threat,” with Ian Easton, Project 2049 Institute, November 8, 2017.

"China's Evolving North Korea Strategy," United States Institute for Peace Brief 231, September 12, 2017, <https://www.usip.org/publications/2017/09/chinas-evolving-north-korea-strategy>.

“The Emerging Asia Power Web: The Rise of Bilateral Intra-Asian Security Ties,” with Patrick Cronin, Richard Fontaine, Zachary Hosford, Ely Ratner and Alexander Sullivan, *Center for a New American Security*, June 2013.

“The Obama-Xi Summit: A New Era in Bilateral Relations?” NBR Commentary, June 12, 2013.

“The Sansha Garrison: China’s Deliberate Escalation in the South China Sea,” *Flashpoints Bulletin #5*, Center for a New American Security, September 2012.

“Air Power Trends in Northeast Asia: Implications for Japan and the U.S. Japan Alliance,” with Mark Stokes, *Project 2049 report*, Aug 2011.

Congressional Testimony

“Cooperation and Competition with China: The Need for New Approaches.” *Testimony prepared for the Senate Foreign Relations Committee Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy*, September 5, 2018.

“China’s Policy Toward Contingencies in North Korea,” *Testimony prepared for the U.S.-China Economic and Security Review Commission*, 12 April 2018.

“Developments in China’s Military Force Projection and Expeditionary Capabilities,” *Testimony prepared for the U.S.-China Economic and Security Review Commission*, 21 Jan 2016.

“China’s Active Defense Strategy and Its Regional Impact,” *Testimony prepared for the U.S.-China Economic and Security Review Commission*, 27 Jan 2011.

Op-Eds and Commentary

“Dangers of a Doctrine of Patriotism,” (with Arzan Tarapore), *The Hill*, September 29, 2018, <https://thehill.com/opinion/international/409064-dangers-of-a-doctrine-of-patriotism>

“Xi Jinping and Kim Jung Un Keep Meeting – and Here’s Why,” *The National Interest* (online), June 26, 2018, <http://nationalinterest.org/feature/chinas-xi-north-koreas-kim-keep-meeting%E2%80%944-heres-why-26415>.

“The Big Winner of the Singapore Summit,” with Bonnie Glaser, *Foreign Affairs* (online), June 15, 2018, <https://www.foreignaffairs.com/articles/china/2018-06-15/big-winner-singapore-summit?cid=int-fls&pgtype=hpg>.

“What China Gained from Hosting Kim Jung Un,” *Foreign Affairs* (online), April 9, 2018, <https://www.foreignaffairs.com/articles/china/2018-04-09/what-china-gained-hosting-kim-jong-un>.

“Why Xi Jinping Wants to Broker the Trump-Kim Deal,” *The National Interest* (online), March 28, 2018, “<http://nationalinterest.org/feature/why-xi-jinping-wants-broker-the-trump-kim-deal-25118>.”

“China’s End Run Around World Order,” *Cato Unbound*, March 14, 2018, <https://www.cato-unbound.org/2018/03/14/oriana-skylar-mastro/chinas-end-run-around-world-order>.

“China is Gaining on the United States. What Are We Doing About it?” with Ely Ratner, *Politico*, February 9, 2018. <https://www.politico.com/magazine/story/2018/02/09/china-united-states-donald-trump-216955>

“Yes, North Korea could drive a wedge between the U.S. and South Korea,” with Arzan Tarapore *Washington Post Monkey Cage*, January 12, 2018, https://www.washingtonpost.com/news/monkey-cage/wp/2018/01/12/yes-north-korea-could-drive-a-wedge-into-the-u-s-south-korea-alliance-heres-the-problem/?utm_term=.d2feb952bdcf.

“Xi is fast arming China to impose its influence around the world,” *Newsweek*, January 3, 2018, <http://www.newsweek.com/xi-fast-arming-china-impose-its-influence-around-world-767251>.

“Trump Should Consider Kim Jung-Un’s Response to a Limited Strike Against North Korea,” *Newsweek*, January 2, 2018, <http://www.newsweek.com/trump-should-consider-kim-jong-uns-response-limited-strike-against-north-korea-768951>.

“Will China Invade North Korea and Take Its Nuclear Facilities?” *Newsweek*, September 14, 2017, <http://www.newsweek.com/will-china-invade-north-korea-and-take-its-nuclear-facilities-665008>.

“Countering Chinese Coercion: The Case of Doklam,” with Arzan Tarapore, *War on the Rocks*, 29 August 2017, <https://warontherocks.com/2017/08/countering-chinese-coercion-the-case-of-doklam/#16-most-read-WOTR-article-in-2017>.

“China’ Lukewarm Response to Indian Military Modernization,” *China Brief* 13 Jan 2017.

“Taiwan’s Defense Policy Under Tsai,” *China Brief* 16, Iss 15, October 4, 2016.

“USAF Strategic Approach in the Asia-Pacific: Aspirations and Reality,” *Banyan Analytics Brief*, October 2, 2013.

“New CMC Vice Chairmen Strong Advocates for Joint, Modern Chinese Military” with Michael S. Chase and Benjamin S. Purser, III. *China Brief*, November 16, 2012.

“China’s Air Force: Ready for Take Off? With Michael S. Chase, *The Diplomat*, November 6, 2012.

“In Search of ‘Dexter’: Why You Can’t Buy Pirated DVDs in China Anymore,” *The Atlantic Monthly*, October 26, 2012.

“False Start,” *The New Republic (online)*, December 15, 2006.

“How to Deal with North Korea,” coauthored with Minxin Pei, *Financial Times*, December 13, 2006.

Podcasts

“Tinker, Tailor, Soldier, Scholar: Conversation w/ Dr. Oriana Skylar Mastro,” The Global Cable, University of Pennsylvania Perry World House Podcast, November 2017, <https://global.upenn.edu/perryworldhouse/podcasts>.

“China’s Grand Strategy,” The Security Studies Podcast, Georgetown University, November 2017, <https://itunes.apple.com/us/podcast/episode-18-oriana-mastro-on-china-and-its-military/id1110393903?i=1000394505553&mt=2>.

“China and India Relations,” University of Pennsylvania Center for the Study of Contemporary China, October 17, 2017, Episode 1, <http://pennccsc.libsyn.com/china-india-relations-oriana-skylar-mastro>.

“What Will the President’s Policy Be Toward North Korea?” TrumpWatch with Jesse Lent, 12 April 2017, Episode 19, <https://soundcloud.com/trumpwatchwbai/ep-19-41217-what-will-the-presidents-policy-be-toward-north-korea-guest-oriana-skylar-mastro>

“Bull in a China Shop,” No Jargon, Scholars Strategy Network, 24 January 2017, Episode 68, <http://www.scholarsstrategynetwork.org/podcast/bull-china-shop>.

"What Trump Means for China," Asia Unbound, Council on Foreign Relations, 14 December 2016, <http://blogs.cfr.org/asia/2016/12/14/what-trump-means-for-china/>.

“Let’s Talk about Great Power Competition with China,” Pacific Pundit, 26 Oct 16, <http://www.pacificpundit.org/podcast/2016/10/26/episode-5-lets-talk-about-great-power-competition-with-china>.

Blogposts

See my AEI scholars page for numerous blogposts on current events:
<https://www.aei.org/scholar/oriana-skylar-mastro/>

“Can India Help the United States Against China?” *Brookings Institution Lawfare Blog*, August 26, 2018. <https://www.lawfareblog.com/can-india-help-united-states-against-china>

“One Year After They Almost Went to War: Can China and India Get Along?” *ChinaFile Conversation*, Asia Society, June 13, 2018, <http://www.chinafile.com/conversation/one-year-after-they-almost-went-war-can-china-and-india-get-along>.

“Can China End Wars Once They Start?” *Brookings Institution Lawfare Blog*, May 20, 2018, <https://lawfareblog.com/can-china-stop-wars-once-they-start>.

“Trump’s National Security Strategy and China,” *ChinaFile Conversation*, Asia Society, December 20, 2017, <http://www.chinafile.com/conversation/trumps-national-security-strategy-and-china>.

"Is the United States Still the Predominant Power in the Pacific," *ChinaFile Conversation*, Asia Society, August 30, 2017, <http://www.chinafile.com/conversation/united-states-still-predominant-power-pacific>.

"Why China Will Become a Global Military Power," *Brookings Institution Lawfare Blog*, 11 Jan 15, <https://www.lawfareblog.com/foreign-policy-essay-why-china-will-become-global-military-power>.

"The Threats to Asia's Regional Order," *IISS Politics and Strategy Blog*, May 31, 2014, <http://www.iiss.org/en/politics%20and%20strategy/blogsections/2014-d2de/may-b015/asia-regional-order-c972>.

"China's ADIZ: A Test of U.S. Resolve?" *Brookings Institution Lawfare Blog*, 15 Dec 13, <https://www.lawfareblog.com/foreign-policy-essay-oriana-skylar-mastro-chinas-adiz-%E2%80%93-successful-test-us-resolve>.

"What's the Truth about U.S.-China Strategic Mistrust?" *Best Defense*, 16 Nov 12, <http://foreignpolicy.com/2012/11/16/whats-the-truth-about-u-s-china-strategic-mistrust-you-cant-handle-the-truth/>.

SELECT RESEARCH PRESENTATIONS AND TALKS

I have given over a hundred talks to government agencies, at think tanks and policy talks at universities. Additionally, I have presented research at universities, research centers and government institutions in South Korea, China, India, Taiwan, Australia, the UK, Germany, France, Italy, the Netherlands, Norway, Sweden, the Netherlands, Djibouti and Canada. A full list is available upon request.

SELECT PROFESSIONAL ACTIVITIES, TRAINING AND ASSOCIATIONS

Fellow at Institute for Corean Studies (ICAS); Military Veterans in Political Science board member; Institute for Qualitative and Multi-Method Research (IQMR) 2015; Pacific Forum CSIS Young Leaders Program; CSIS Project on Nuclear Issues (PONI) China Working Group; Future Leaders Program, Foreign Policy Initiative (FPI); Next Generation National Security Leader Program, CNAS; 2010 Summer Workshop on Analysis of Military Operations and Strategy (SWAMOS)

SOURCE LIST

“一文看懂 138 家央企的行政级别和管理” [Understand the executive ranks and management of 138 major state-owned enterprises in one article], 澎湃 [The Paper], May 3, 2015, https://www.thepaper.cn/newsDetail_forward_1464250.

“中华人民共和国矿产资源法” [People’s Republic of China Mineral Resources Law], 中华人民共和国国土资源部 [Ministry of National Resources of the People’s Republic of China], August 29, 1996, http://www.mlr.gov.cn/zwgk/flfg/kczyflfg/200406/t20040625_292.htm.

“两桶油联姻还只是传闻?” [Is it only a rumor that the two oil companies will merge?], 国际金融报 [International Financial News], March 19, 2015, http://paper.people.com.cn/gjjrb/html/2015-03/09/content_1540230.htm.

“1989 年大事记” [1989 Chronicals], 中国华能集团有限公司 [China Huaneng Group Co., LTD], January 1, 1990, <http://www.chng.com.cn/n31529/n31559/c32065/content.html>.

Alexandra Wrage, “Companies Engaging in China’s Belt and Road Projects Must Address Bribery Risks,” *Forbes*, October 12, 2017, <https://www.forbes.com/sites/alexandrawrage/2017/10/12/companies-engaging-in-chinas-belt-road-projects-must-address-bribery-risks/#49df52184f52>.

Bill Ide and Saibal Dasgupta, “Rift Between China, International Community Over Maldives Growing,” *Voanews.com*, February 9, 2018, <https://www.voanews.com/a/maldives-china/4246068.html>.

Brookings Staff, “Fixing Wind Curtailment with Electric Power System Reform in China,” *Brookings-Tsinghua Center for Public Policy*, April 9, 2018, <https://www.brookings.edu/wp-content/uploads/2018/04/fixing-wind-curtailment-with-electric-power-system-reform-in-china.pdf>.

Catherine Putz, “Silk Road and Another Corruption Report,” *The Diplomat*, January 6, 2018, <https://thediplomat.com/2018/01/silk-road-fever-and-another-corruption-report/>.

Reuters Staff, “Rajapaksa comeback bid checked by Sri Lanka bribery probe,” *Reuters*, July 24, 2015, <https://www.reuters.com/article/sri-lanka-rajapaksa/rajapaksa-comeback-bid-checked-by-sri-lanka-bribery-probe-idUSL3N1043EF20150724>.

China Power Staff, “How will the Belt and Road Initiative Advance China’s Interests?,” *CSIS*, September 28, 2018, <https://chinapower.csis.org/china-belt-and-road-initiative/>.

Christopher K. Johnson, "President Xi Jinping's 'Belt and Road' Initiative: A Practical Assessment of the Chinese Communist Party's Roadmap for China's Global Resurgence," *Center for Strategic and International Studies*, March 2016, https://csis-prod.s3.amazonaws.com/s3fs-public/publication/160328_Johnson_PresidentXiJinping_Web.pdf.

Christy Leung, "Hong Kong's ICAC Chief Warns of Corruption in Belt and Road Countries," *SCMP*, July 3, 2018, <https://www.scmp.com/news/hong-kong/hong-kong-law-and-crime/article/2153483/hong-kongs-icac-chief-warns-corruption-belt>.

David Dollar, "China as a Global Investor," *Brookings*, May 18, 2016, <https://www.brookings.edu/research/china-as-a-global-investor/>.

Dr. Daniel Kliman and Abigail Grace, "Power Play: Addressing China's Belt and Road Strategy," *CNAS*, September 20, 2018, <https://www.cnas.org/publications/reports/power-play>.
Economist Staff, "China's Belt-and-Road Plans are to be Welcomed – and Worried About," *The Economist*, July 26, 2018, <https://www.economist.com/leaders/2018/07/26/chinas-belt-and-road-plans-are-to-be-welcomed-and-worried-about>.

Elena F. Tracy, Evgeny Shvarts, Eugene Simonov, and Mikhail Babenko, "China's new Eurasian ambitions: the environmental risks of the Silk Road Economic Belt," *Eurasian Geography and Economics*, Vol. 58 No. 1 (February 2017), <https://www.tandfonline.com/doi/full/10.1080/15387216.2017.1295876>.

Jenni Marsh, "How a Hong Kong millionaire's bribery case exposes China's corruption problem in Africa," *CNN.com*, February 9, 2018, <https://www.cnn.com/2018/02/09/world/patrick-ho-corruption-china-africa/index.html>.

Joel S. Hellman et al, "Seize the State, Seize the Day: An Empirical Analysis of State Capture and Corruption in Transition Economies," *World Bank*, April 18, 2000, https://www.researchgate.net/publication/228724476_Seize_the_State_Seize_the_Day_An_Empirical_Analysis_of_State_Capture_and_Corruption_in_Transition_Economies.

John Morrell et al, "Channeling the Tide: Protecting Democracies Amid a Flood of Corrosive Capital," *CIFE*, September 2018, <https://www.cife.org/resources/channeling-the-tide-protecting-democracies-amid-a-flood-of-corrosive-capital/>.

Johnathan E. Hillman, "The Belt and Road's Barriers to Participation," Reconnecting Asia blog, *Center for Strategic and International Studies*, February 7, 2018, <https://reconnectingasia.csis.org/analysis/entries/belt-and-road-barriers-participation/>.

Jonathan E. Hillman, "China's Belt and Road Initiative: Five Years Later," *Center for Strategic and International Studies*, January 25, 2018, <https://www.csis.org/analysis/chinas-belt-and-road-initiative-five-years-later-0>.

Joshua Eisenman and Devin T. Stewart, "China's New Silk Road Is Getting Muddy," *Foreign Policy*, January 9, 2017, <http://foreignpolicy.com/2017/01/09/chinas-newsilk-road-is-getting-muddy/>.

Michael J. Green, "China's Maritime Silk Road: Strategic and Economic Implications for the Indo-Pacific Region," *CSIS*, April 2, 2018, <https://www.csis.org/analysis/chinas-maritime-silk-road>.

Miroslav Lajčák, "Belt and Road Initiative and 2030 Agenda for Sustainable Development," *United Nations*, June 13, 2018, <https://www.un.org/pga/72/2018/06/13/high-level-symposium-on-belt-and-road-initiative-and-2030-agenda-for-sustainable-development/>.

Nadege Rolland, *China's Eurasian Century? Political and Strategic Implications of the Belt and Road Initiative*, (Washington, DC: National Bureau of Asian Research, 2017).

Rex Tillerson, "U.S.-Africa Relations: A New Framework," *George Mason University*, March 6, 2018, <https://www.state.gov/secretary/20172018tillerson/remarks/2018/03/279065.htm>.

Sanjeev Miglani and Shihar Aneez, "Asian giants China and India flex muscles over tiny Maldives," *Reuters*, March 7, 2018, <https://in.reuters.com/article/maldives-politics/asian-giants-chinaand-india-flex-muscles-over-tiny-maldives-idINKCN1GJ12N>.

Shihar Aneez, "China's 'Silk Road' push stirs resentment and protest in Sri Lanka," *Reuters*, February 1, 2017, <https://www.reuters.com/article/us-srilanka-china-insight/chinas-silk-road-push-stirs-resentment-and-protest-in-sri-lanka-idUSKBN15G5UT>.