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ROUNDTABLE ON REFUGEE ISSUES RELATING TO CHINA

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Today's meeting is intended to identify policy options for addressing the current problems facing refugees and asylum seekers in China, most notably North Koreans, and China's policies toward Uighur Muslims and Tibetan Buddhists who have sought refuge outside China. However, what we really are talking about is China's emergence as a world power with territorial ambitions, growing influence in Asia and increasing economic and political impact throughout the world, all the while demonstrating insufficient commitment to the international refugee and human rights standards to which it has signed onto. If this situation remains unchecked, it will be a dangerous regional and international development. To be sure, China's behavior in the human rights and refugee spheres over the past decades has moved forward in some positive ways, but its actions are still quite unrestrained by international norms. Of course China like other countries does not want large numbers of refugees or migrants crossing its borders, and it fears the destabilization of North Korea, but its forced repatriation of North Koreans who can only leave their country at risk of arrest and then are subject to punishment if sent back stands in violation of the Convention Relating to the Status of Refugees. The UN High Commissioner for Refugees has said as much and has asked without success to have access to North Korean nationals in China. Similarly, China's efforts to prevent Tibetans from going through Nepal to India and its pressure on countries to send back Uighur refugees stand in contravention of international refugee standards.

It is therefore incumbent upon the United States together with democratic Asian and European countries as well as other democracies to promote the incorporation of basic international human rights and humanitarian standards in China's domestic and foreign policy and promote

compliance with those standards. Those standards are also in China's interests as it seeks to develop a sustainable economic and political system. While important steps can be taken bilaterally, I consider a multilateral approach particularly effective. No one country has sufficient influence to handle this problem unilaterally.

What could a multilateral approach involve?

First, the creation of a multilateral framework and institution for security and cooperation in Northeast Asia, drawing from the European and US experience of the Helsinki process with the former Soviet Union and Eastern Europe. Such a framework would allow regular discussions and review meetings of political, security, economic, humanitarian and human rights issues – including freedom of movement, family reunifications, refugees and asylum issues, and religious freedom. The six-party talks on North Korea, which produced a nuclear agreement, also created a set of working groups in which human rights and humanitarian issues could and should be integrated as well. A multilateral framework could emerge from the talks or be set up as a parallel process. United Nations Secretary-General Ban Ki Moon when serving as South Korea's foreign minister referred to the six-party talks as the Asian version of the beginning of the Helsinki process. A whole series of meetings will be needed to explore the possibility of developing a multilateral security and cooperation framework, and Congressional hearings might be held on this as well. I was in the State Department when the Helsinki process held its first review meetings, enabling discussions on human dimension issues to take place by countries with totally different systems and motivations. A framework for Northeast Asia will not happen overnight but work needs to begin earnestly. Refugee and human rights issues need to become a legitimate part of a broader and systematic framework for Northeast Asia.

Second, it is important to work more through the United Nations. A multilateral approach would mean a strong focus by a group of states and non-governmental organizations at the UN to hold China accountable on its international responsibilities toward refugees. This doesn't necessarily have to be done by resolution or condemnation. China has ratified quite a number of international human rights treaties – which directly bear on refugee protection and treatment. The Convention on the Rights of the Child, on Discrimination against Women, on Torture, and on Economic, Social and Cultural Rights all extend to non-nationals. Under the Torture Convention, China is forbidden to *refoul* a person to a country where he/she will face torture on return; under the women's convention, China is expected to provide protection for women against exploitation, which could apply to North Korean women forced into marriages or trafficked and who have no legal status even when married to Chinese. These treaties all have monitoring bodies with experts to which well-documented information could be supplied on violations specific to refugees. In addition, a concerted effort is needed by states and NGOs at the Human Rights Council to ensure that the recommendations of UN rapporteurs are implemented on China. There are rapporteurs on torture, religious freedom, minorities, violence against women and other human rights issues, some of who visited China. Indeed, the United States pressed China to give entry to these rapporteurs, but their recommendations have not been implemented. A democracy-human rights coalition in the UN should give priority to the carrying out of these recommendations, with particular reference to the treatment of refugees and asylum seekers -- which is after all a human rights issue.

Third, a multilateral approach means the development of a strategy by member states at UNHCR to address China's violation of the Refugee Convention. This is not only undermining the agency and the protections it tries to uphold but also is influencing the attitudes of other countries, particularly in Asia, which are expected to take in refugees and protect them. China is a member of UNHCR's Executive Committee (Excom). There is need to explore the options available to states to hold China to account – from private multilateral intercessions to regularly bringing the issue before Excom's Standing Committee or before an international court. Of course, attention must be paid to the fact that UNHCR plays an important and constructive role on the ground, which should not be put in jeopardy, in particular its presence, its dialogue, and the refugees it is assisting. But the staff at headquarters could do more to follow up on the High Commissioner's 2006 visit – it might explore joint action with other UN agencies to ensure that North Koreans gain access to international humanitarian services. It could also raise its own public profile at various international fora on access to refugees and asylum seekers, including in China. In its publications, whether *Refugees* magazine or the *State of the World's Refugees*, it could include information on North Koreans in China and on China's refugee obligations and its practices.

Finally, capacity building and engagement in China are important. UNHCR has been holding workshops in China on asylum and refugee law, a significant first step, and has also participated in a workshop for the first time in Pyongyang. These and additional workshops are needed so that a corps of experts can develop in China with an understanding of the human rights of refugees, of temporary protection, of issues of statelessness and who can work to influence their own government's policies. The US' Democracy and Human Rights Fund could play a role by adding protection of refugee programs to the work it supports in China. The Fund might also explore supporting technical resettlement programs to benefit North Korean refugees in South Korea. The United States, European Union and other countries could also develop programs and convene meetings to promote the integration of human rights and refugee issues into China's foreign policy. This is longer term, but Chinese staff at think tanks, institutes, moderates in the party will want to think about the integration of standards in foreign policy as China's economic and military relationships expand with other countries, and as China becomes more sensitive to its reputation and aspires to be seen as a responsible member of the international community.