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United States General Accounting Office
Washington, DC 20548

February 27, 2004

The Honorable Henry J. Hyde
Chairman
The Honorable Tom Lantos
Ranking Minority Member
Committee on International Relations
House of Representatives

Subject: *Foreign Assistance: U.S. Funding for Democracy-Related Programs (China)*

In fiscal year 1999, Congress began authorizing the provision of U.S. foreign assistance funds to support programs aimed at strengthening democracy in China,¹ and, in fiscal year 2002, it began appropriating specific amounts for such programs.² However, the provision of foreign assistance funds to programs focusing on China continues to be controversial due to concern about some of the Chinese government's human rights practices and certain of its economic, political, and security policies. In your request to us and in subsequent meetings with your staff, you expressed concern about the lack of a complete picture of U.S. funding for democracy-related programs focused on China.

In response to your concern, we determined how much funding the U.S. government has provided for programs intended to strengthen democracy in China for fiscal years 1999 to 2003, in total and by year, and identified the agencies responsible for administering the funds, as well as the intended purposes of the programs they support. While we focused primarily on bilateral programs, we also briefly describe democracy-related efforts of multilateral institutions that the United States helps support. Information on these programs is provided in appendix I.

To address our objective, we reviewed and discussed relevant program documentation and funding information with cognizant officials administering democracy-related programs focused on China—primarily at the Departments of State and Labor and the National Endowment for Democracy. Also, we met with cognizant officials and reviewed documentation for democracy-related programs in China under the United Nations, the Asian Development Bank, and the World

¹Pub. L. No. 105-277, § 527.

²Pub. L. No. 107-115, § 526.

Bank. (See the scope and methodology section for a more complete discussion of our approach.)

Results in Brief

In fiscal years 1999 to 2003, the United States provided more than \$39 million in bilateral support for programs intended to strengthen democracy in China, with average annual funding levels increasing from about \$2.3 million in 1999 and 2000 to about \$14.4 million in 2002 and 2003. State provided about 45 percent of the total funds (nearly \$18 million), primarily to support programs to enhance the rule of law. The National Endowment for Democracy provided about 38 percent of the total (more than \$15 million) for programs aimed at a variety of purposes, such as strengthening labor rights and reforming electoral systems. Labor provided the remaining 17 percent (\$6.4 million) to enhance protection of internationally recognized workers' rights.

Background

Advancing democracy is an important overall theme in U.S. foreign policy—for example, the *Strategic Plan 2004-2009* issued by the Department of State and the U.S. Agency for International Development identifies democracy, security, and prosperity around the world as the three key underlying concerns for U.S. foreign operations. Democracy programs have become a prominent element in U.S. relations with many developing and transition countries.³

Beginning with fiscal year 1999, Congress began authorizing the use of Economic Support Funds⁴ to support China-focused democracy programs, so long as the funds went to nongovernmental organizations located outside China.⁵ In addition, in the October 2000 law that approved the normalization of U.S.-China trade relations, Congress authorized the Departments of State, Labor, and Commerce to initiate rule of law programs in China.⁶ In appropriations language for fiscal

³Transition countries are those working to convert their societies from the command and control model typical of communist states to a market-oriented model.

⁴Economic Support Funds are dedicated to promoting economic and political stability in strategically important regions.

⁵In the wake of the Chinese government's 1989 crackdown on demonstrators in Tiananmen Square, Congress adopted a number of restrictions on U.S. economic relations with China. Among other things, Title IX of the Foreign Relations Authorization Act of 1990 (Pub. L. No. 101-246, 104 Stat. 80) suspended obligations of foreign assistance funds for new activities of the Trade and Development Program, and issuance of Overseas Private Investment Corporation guarantees or other support for investments in China. Also, until recently, annual Foreign Operations Appropriations Acts prohibited indirect assistance to China—for example, Pub. L. No. 105-118, § 523.

⁶Commerce provided us with a list of workshops, seminars and other types of training conducted in response to this directive, but agency officials could not provide an estimate of the cost of these activities.

2002,⁷ Congress dropped the limitation that grants from Economic Support Funds could be provided only to organizations located outside China and directed that “not less than” a specific amount (\$10 million) be made available for programs aimed at supporting democracy, human rights, and the rule of law in China. For fiscal year 2003, Congress appropriated not less than an additional \$15 million for such programs. In appropriations acts and accompanying congressional committee reports, Congress directed that certain amounts of these funds be used to expand State and National Endowment for Democracy⁸ grants.⁹

U.S. Democracy-Related Assistance Has Totaled about \$39 Million

As shown in table 1, during fiscal years 1999 to 2003, the United States provided more than \$39 million for democracy-related programs focused on China, with average annual funding levels increasing from approximately \$2.3 million in fiscal years 1999 and 2000 to about \$14.4 million in 2002 and 2003. These funds have been provided primarily as grants through State, the National Endowment for Democracy,¹⁰ and the Department of Labor.¹¹

⁷Pub. L. No. 107-115, § 526.

⁸The National Endowment for Democracy is a nongovernmental organization that seeks to advance democracy around the world, primarily through a wide variety of grants to other nongovernmental organizations. In its annual report for 2002, the Endowment reported activities in more than 80 countries. Although independently managed, it receives most of its funding through annual noncountry specific appropriations by the U.S. government. These appropriations, which are separate from Economic Support Fund appropriations, amounted to \$42 million in fiscal year 2003, up from an average of about \$32 million per year over the previous 2 years.

⁹As we completed our work, Congress approved and the President signed an omnibus appropriations act for fiscal year 2004 that provided an additional \$13.5 million for such programs, with all of the funds designated for State and Endowment grants.

¹⁰Amounts provided through State and Endowment grant programs in fiscal 2002 and 2003 were less than the \$25 million in Economic Support Fund appropriations described in the background section of this report because:

- The appropriations acts specified that “not to exceed” \$6 million of the total could be made available for programs to preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in China, and State responded by allocating \$5.7 million to such programs;
- The Endowment retains about 15 percent of the funds it receives to pay its administrative costs;
- Amounts appropriated for fiscal year 2003 were subsequently reduced by a 0.65 percent rescission; and
- As of the end of fiscal year 2003 State and the Endowment retained a combined unobligated balance of about \$3.25 million in monies for China grants.

¹¹Labor funds came from that agency’s appropriations, rather than Economic Support Funds.

Table 1: U.S. Assistance for China Democracy-Related Programs by Fiscal Year

(Dollars in thousands)						
Agency/bureau	Fiscal year					Total
	1999	2000	2001	2002	2003	
Department of State ^a						
• Bureau for Democracy, Human Rights, and Labor Grants				\$3,827 ^p	\$5,306	\$9,133
• Bureau for East Asia and Pacific Affairs Grants			\$2,135	2,300	3,155	7,590
• Bureau for International Narcotics and Law Enforcement Affairs			489	476		965
Total State			\$ 2,624	6,603	8,461	17,688
National Endowment for Democracy	\$1,887	\$2,662	3,096	3,144	4,228	15,017
Department of Labor, Bureau for International Labor Affairs				6,400		6,400
Total	\$1,887	\$2,662	\$5,720	\$16,147	\$12,689	\$39,105

Source: Prepared by GAO with data from the Departments of State and Labor and the National Endowment for Democracy.

^aTo avoid double counting and to more accurately show the level of funds being provided to project implementers, State Bureau for Democracy, Human Rights, and Labor funds transferred to the Endowment and allocated to projects are included in the annual totals for the Endowment.

^bIncludes \$75,000 provided by State’s Bureau of Oceans and International Environmental and Scientific Affairs.

Department of State

As shown in table 1, in fiscal years 1999 to 2003, State administered about \$17.7 million, or more than 45 percent, of total U.S. funding for programs intended to strengthen democracy in China. Most of this was provided as grants to nongovernmental organizations, with the largest share awarded through the Bureau for Democracy, Human Rights, and Labor beginning in fiscal year 2002. Overall, State’s assistance has gone predominantly to programs to enhance the rule of law—an area where China’s government has acknowledged need for improvement and has actively sought assistance from the donor community.

In 2002 and 2003 the Bureau for Democracy, Human Rights, and Labor approved nearly \$9.1 million in China-focused grants through the Bureau’s Human Rights and Democracy Fund.¹² According to State, grants made through this fund are intended to “uphold democratic institutions, promote human rights, and build civil society in countries and regions of the world that are geo-strategically critical to the U.S.” State classifies approximately half of the assistance provided through the fund over the last 2 years as legal reform programs intended to address,

¹²In 2003, the Bureau also awarded \$50,000 to the U.S. embassy in Beijing for a project to support media reform. This award was made through the Bureau’s annual diplomatic post competition for democracy-related grants.

among other things, China's need for improved court proceedings, increased professionalism among lawyers and judges, and enhanced capacity for providing legal services to the disadvantaged. Several of State's grants support work to be undertaken in cooperation with Chinese government entities and/or with academics, consulting firms and nongovernmental organizations in China. For example, one project includes support for working with the Supreme People's Court, the National People's Congress and other counterparts to promote criminal defense reforms in China; another project funds a partnership between an American university and a legal reform consulting firm operating in China to help develop China's system for providing legal aid in rural communities.

Other rule of law efforts were funded through the Bureau for East Asia and Pacific Affairs, which granted about \$7 million to the Temple University School of Law to support legal education activities in China.¹³ This Bureau also provided \$175,000 to the U.S. Embassy in Beijing for a small grants program focused on enhancing the rule of law;¹⁴ and, in fiscal year 2001, it provided \$385,000 to the American Bar Association to strengthen the legal framework for and civil society participation in protecting China's environment.¹⁵ In addition, the Bureau for International Narcotics and Law Enforcement Affairs provided \$965,000 for a resident legal adviser in the U.S. Embassy in Beijing for a 2-year term, ending in August 2004.¹⁶ The advisor's mission is to engage with Chinese counterparts to stimulate justice sector reforms through (for example) bilateral discussions and programs focusing on substantive and procedural criminal and civil law topics.

National Endowment for Democracy

During fiscal years 1999 to 2003, the Endowment awarded more than \$15 million in grants aimed at enhancing democracy in China—about 38 percent of total U.S.-government funded support for democracy-related programs during this period. Because appropriations to the Endowment did not preclude it from making grants focusing on China, it was able to make grants for such purposes prior to fiscal year 1999. For example, the Endowment reported granting about \$2.5 million for China programs and projects during fiscal year 1998. Endowment officials noted

¹³The U.S. Agency for International Development manages the support provided to Temple University, and it has also participated in selecting recipients of grant support through the Human Rights and Democracy Fund.

¹⁴Funds for the small grants program were from State's appropriations for public diplomacy, rather than Economic Support Funds.

¹⁵This project subsequently received \$650,000 in additional support through the Human Rights and Democracy Fund and (as noted in table 1) the Bureau of Oceans and International Environmental and Scientific Affairs.

¹⁶Funds for the legal adviser did not come from Economic Support Funds, but rather from appropriations to support the operations of this Bureau. As of December 2003, State reported funding 21 resident legal advisers in embassies around the world. While funded by State, the Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training selects the advisers and provides administrative support.

that these grants were made using the organization's "core" appropriations, which are noncountry specific. Since fiscal year 1999, the Endowment has continued to grant more than \$2 million per year (on average) for China-related programs from its annual core appropriations. In addition, however, State has transferred nearly \$8 million to the Endowment for China-specific grants and, beginning in 2001, the Endowment has used these funds to increase its total grant volume for China-focused projects by about \$808,000 per year, on average. Endowment officials stated that these additional funds have not dramatically changed the orientation or character of Endowment support for programs in China. While noting that the Endowment's highest priorities for China are human rights and the free flow of information, these officials observed that the Endowment supports activities in a variety of areas, including human rights (documentation and advocacy) and independent media, as well as labor rights, electoral and legal reform, policy analysis by independent think tanks, and promotion of free markets.¹⁷

Department of Labor

In fiscal year 2002, the Department of Labor's Bureau for International Labor Affairs awarded a total of \$6.4 million to nongovernmental organizations to help improve the content and application of labor laws and regulations and enhance mine safety, with the latter effort to include measures to strengthen enforcement of worker safety laws and regulations. As noted with regard to State's grants, Department of Labor grants have focused on areas where the Chinese government has acknowledged a need for improved practices and has sought foreign assistance.

Agency Comments

Officials at the Departments of State, Labor, Justice, and Treasury; the U.S. Agency for International Development; the National Endowment for Democracy; the International Labour Organization; the United Nations Development Program; and the United Nations High Commissioner for Human Rights provided oral comments on a draft of this report. Overall, they found the report to be an accurate description of the agencies' programs. In addition, these officials provided technical comments that we have incorporated into this report, as appropriate.

Scope and Methodology

To determine how much funding the U.S. government has provided for democracy-related programs in China during fiscal years 1999 to 2003, and to identify the agencies responsible for administering the funds and the intended purposes of the programs they support, we reviewed relevant program

¹⁷The Endowment has devoted a portion of each year's grant program to supporting projects promoting human rights and democracy in Tibetan areas of China. For example, in fiscal year 2002, the Endowment awarded seven such grants, totaling about \$223,000.

documentation and met with cognizant officials at the Departments of Commerce, Labor, and State; the National Endowment for Democracy; and the U.S. Agency for International Development. We also met with officials at several major grantees, including the Temple University School of Law and the American Bar Association. We asked the organizations how much funding they had provided based on their definitions of democracy-related programs.

To develop similar information about democracy-related programs undertaken by multilateral organizations, we reviewed program documentation and met with cognizant officials from the United Nations, the Asian Development Bank, and the World Bank. We obtained publicly available data for programs that these organizations identified as strengthening democracy, human rights, and/or the rule of law.

The funding data contained in this report were provided by agency officials at our request. While U.S. agencies and grantees provided annual funding information, the multilateral organizations we contacted provided us with life-of-program funding data. Thus, we are reporting budget data for multilateral organizations in this format. Since State and the Endowment made multiple grants, we consulted with officials from both organizations about the methodology they employed to maintain and report information on their grant awards. Based on our discussions with U.S. and multilateral organization officials and our examination of the documentation we were provided, we concluded that the data we obtained were sufficiently reliable for the purposes of this engagement. However, because of differences in the definition of democracy-related programs, the data may not be directly comparable between the U.S. agencies and multilateral organizations.¹⁸

We conducted our work from August 2003 through February 2004 in accordance with generally accepted government auditing standards.

We are sending copies of this report to interested congressional committees; the Secretaries of Commerce, Justice, Labor, State, and Treasury; and the Administrator of the U.S. Agency for International Development. We will also make copies available to others upon request. In addition, this report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

¹⁸Data are also not directly comparable because the U.S. government and the multilateral organizations discussed in this report define their fiscal years differently. For example, while the U.S. government fiscal year ends on Sept. 30, the United Nations' fiscal year ends on June 30.

If you or your staff have any questions about this report, please contact me at (202) 512-4128 or at FordJ@gao.gov. Janey Cohen, Simin Ho, Al Huntington, Michael McAtee, and Richard Seldin made key contributions to this report.

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J".

Jess T. Ford, Director
International Affairs and Trade

Enclosure

Democracy-Related Assistance to China Provided by Multilateral Organizations Supported in Part by the United States

Three United Nations' (UN) organizations—the UN High Commissioner for Human Rights, the International Labour Organization, and the UN Development Program—support programs in China that are explicitly aimed at strengthening democracy, human rights, and/or the rule of law. The Asian Development Bank and the World Bank also support programs aimed at relevant purposes, such as strengthening the legal system, although the Banks' articles of agreement preclude interference in the political affairs of any member country. In total, these agencies identified more than \$82 million in relevant funding for projects initiated in or continuing from 1999. U.S. support accounts for about 22 percent of the budgets of UN organizations, about 16 percent of the budget of the Asian Development Bank, and about 18 percent of the budget of the World Bank.

United Nations Organizations

The UN High Commissioner for Human Rights and the International Labour Organization have negotiated Memoranda of Understanding with the Chinese government through which these organizations provide technical support for China's ratification and implementation of international human rights and labor treaties. For 2002 to 2003, the High Commissioner budgeted \$951,820 to provide such support. Officials at the International Labour Organization identified a total of about \$8.7 million in 1997 to 2004 funding for activities related to promoting respect for labor rights in China—as well as creating greater opportunities for employment and enhancing social protection for workers. Of this amount, about \$2.9 million represents funds provided from the organization's own budget—the remainder was provided by individual donor countries or organizations.¹⁹ Organization officials could not separate those portions of their programs aimed at enhancing labor rights from those devoted to other purposes. The UN Development Program has laid out strategies on promoting human rights, rule of law and democracy in China, and the organization's budget for related activities in that country from 1996 through 2007 is about \$38.3 million. These funds support a variety of activities, including programs aimed at reforming electoral systems and training participants in the legal system on international best practices in criminal law. Out of the total amount, the UN Development Program is funding about \$7.2 million while the remainder is being provided by bilateral donors and the Government of China.

Multilateral Development Banks

Both the Asian Development Bank and the World Bank have identified improving the functioning of China's markets as a major point of emphasis in their country assistance strategies, and both cite promotion of the rule of law and improved

¹⁹These were Japan, Switzerland, the United Kingdom, Denmark, the Netherlands, and the Joint UN Program on HIV/AIDS.

Enclosure

governance as important concerns. For the period 1999 to 2006 the Asian Development Bank reports budgeting about \$35.5 million for technical assistance to China on legal systems and governance. These funds support a variety of efforts, including programs aimed at building a stronger legal and regulatory framework and efficient judicial system, supporting financial and fiscal reform, improving local public administration capacity in less developed provinces, and broadening public participation in decision-making, particularly among the poor. World Bank officials could not provide specific funding information, but commented that the institution has focused its technical assistance efforts on areas where it has expertise, such as corporate governance, enterprise reform, fiscal policy reform, land reform and tenure, and water rights. These officials said that, in areas where the Bank has relatively little expertise, such as criminal law reform, it defers efforts to other donors such as the European Union, the United States, and France.

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