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Chinese Embassy Bombing in Belgrade: Compensation Issues

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Summary

U.S. and Chinese officials have reached agreement on compensation payments arising out of the May 7, 1999 NATO bombing of the Chinese Embassy in Belgrade. In the first of these agreements, on August 25, 1999, the United States made a “voluntary humanitarian payment” of \$4.5 million to the families of the 3 killed and to the 27 injured as a result of the bombing. On December 16, 1999, U.S. and Chinese officials announced they had agreed that the United States would seek funding for \$28 million in compensation for damage to the Chinese Embassy facility, and that China would pay \$2.87 million in compensation for damage inflicted by rioting crowds to the U.S. Embassy and other diplomatic facilities in China. The \$28 million payment is included in the FY2001 Foreign Operations Appropriation budget request, and will have to be voted on by Congress.

Background

For months prior to the accidental bombing of the Chinese Embassy in Belgrade, Chinese officials and Chinese press accounts had been uniformly critical of NATO’s and U.S. military involvement in Kosovo. On March 26, 1999, China joined Russia and Namibia in voting in favor of the U.N. Security Council resolution calling for an immediate halt to NATO air strikes in Yugoslavia. (The draft resolution failed on a vote of 3-12.) The basic points of China’s position were: that NATO airstrikes were an interference in Yugoslavia’s internal affairs; that unilateral NATO action was operating without U.N. authorization, and thus violated the U.N. charter and set a bad international precedent; and that the Kosovo issue should be settled through peaceful negotiations conducted under U.N. auspices.

In Chinese press accounts, Beijing equated Kosovo’s independence aspirations with similar aspirations (called “splittism”) in Tibet and Xinjiang — both autonomous regions of China — and in Taiwan, which Beijing considers a “breakaway province.” Indeed, some Chinese press accounts described Kosovo as a “breakaway province” of Yugoslavia involving “splittist” elements — thus explicitly drawing a link between Kosovo and

China's own internal challenges. In the opinion of many specialists, the similarity between independence aspirants in China and those in Kosovo meant that Chinese leaders were extremely unlikely to soften their position on NATO involvement in Yugoslavia.

Belgrade Bombing

On May 7, 1999, the Chinese Embassy in Belgrade was hit by five laser-guided bombs dropped by U.S. planes during a NATO bombing campaign. Three Embassy employees were killed and 27 were wounded in the NATO attack, and the Embassy building itself was severely damaged. In the days following the bombing, U.S. officials offered a number of apologies for the attack, calling it a grave mistake and tragedy that occurred as a result of a series of failures in U.S. intelligence and targeting procedures:

- May 8, 1999 – Secretary of Defense William Cohen and CIA Director George Tenet issued an unusual joint statement, saying the United States “deeply regret[s] the loss of life....The bombing was an error.”
- May 8, 1999 – Secretary of State Madeleine Albright wrote a letter to China's Foreign Minister, Tang Jiaxuan, saying “On behalf of my government and as a member of NATO, I extend sincere apologies and condolences.... There was absolutely no intention to hit your embassy...”
- May 8, 1999 – An official Department of State statement called the bombing a “tragic mistake,” and went on, “We wish to express our sincere condolences and remorse to the Chinese people and Government.”
- May 8, 1999 – U.S. Ambassador to China James Sasser officially apologized to Chinese officials in Beijing.
- May 10, 1999 – President Clinton, in opening remarks at a White House strategy meeting on children and violence, began with “I would like to say a word about the tragic bombing of the Chinese Embassy in Belgrade. I have already expressed our apology and our condolences to President Jiang and to the Chinese people....”

In a Department of Defense (DoD) News Briefing on May 10, 1999, Secretary of Defense William S. Cohen blamed outdated maps and target verification problems, and stated that NATO forces had not intended to attack the Chinese Embassy, but rather intended to hit the Federal Directorate for Supply and Procurement, a key Yugoslav military target.¹ Secretary Cohen also stated that the United States had already taken steps to ensure that such a mistake did not happen again. He described those steps as including: tasking the State Department with reporting to the intelligence community whenever foreign embassies move or new embassies are built; strengthening the internal mechanisms and procedures within the intelligence community for developing targeting information and updating maps; and developing rapid-response procedures at the Defense Intelligence Agency and the National Imagery and Mapping Agency for updating databases for no-strike targets.

In a followup briefing, senior U.S. intelligence officials answered press questions about the complexities involved in military targeting and about how such an error could have been made. These officials stated that U.S. military targeters had used both U.S. intelligence databases and an incorrect map to establish bombing targets. These sources

¹ Secretary of Defense William Cohen, DoD News Briefing, May 10, 1999.

were then subjected to a multi-stage check for accuracy within both the intelligence community and DoD, and none of these sources nor the multi-stage checks had depicted the Chinese Embassy as having moved from its previous location in old Belgrade to the new site.² In response to a press question about where the incorrect target suggestion came from, one of the officials said, “This was a nomination originally from an agency in Washington.” Although no other specifics were offered at the time, subsequent reports revealed that the target site was the only one selected by the Central Intelligence Agency in the 78-day Kosovo bombing campaign.

Protests in China and Beijing’s Official Response

Chinese officials were highly suspicious of U.S. and NATO contentions that the bombing of their embassy was accidental. In the days following the bombing, Chinese state-run newspapers declared the bombing was a deliberate act of aggression meant to punish China for its opposition to NATO’s intervention in Kosovo. Tens of thousands of protestors demonstrated outside the U.S. and other NATO countries’ government facilities in Beijing and in five other Chinese cities, throwing rocks, splattering paint, and inflicting other damage. The residence of the U.S. consul-general in Chengdu was seriously damaged by fire and smoke, and protesters attempted to burn the U.S. consulate in Guangzhou. U.S. diplomatic personnel, including Ambassador James Sasser, were trapped for several days in the U.S. Embassy. The Chinese government and some Western observers insisted the public sentiment was real. Some Western press accounts, however, portrayed the protests as at least partially government-organized, and attributed some of the inflamed public passion to the Chinese government’s delay in publicizing any of the U.S. apologies until May 11, 1999. President Clinton reportedly tried to place several phone calls to Chinese Party Secretary Jiang Zemin, but was rebuffed by Chinese officials. The President finally was able to speak with Jiang on May 14, 1999.³

In the week after the bombing, the Chinese government suspended three formal bilateral dialogues with the United States: high-level military contacts; cooperation on non-proliferation; and human rights discussions. In subsequent weeks, China also ceased to allow U.S. military ship visits in Hong Kong and failed to resume negotiations on its World Trade Organization (WTO) accession. On May 10, 1999, China’s Foreign Minister lodged a serious protest and demanded four things of the U.S. government: an apology and an official explanation of U.S. and NATO actions; a “complete and thorough” investigation of the bombing; prompt publication of the results of the investigation; and to “severely punish” those found to be responsible.⁴ Later, Chinese officials also demanded that the United States pay for damage to the Chinese embassy and for loss of life and injuries.

² Subsequently, it was revealed that the Chinese Embassy had moved to the new Belgrade site in 1996.

³ Testifying before the Senate Foreign Relations Committee on May 27, 1999, Assistant Secretary of State for East Asia Stanley Roth criticized the “inexplicable delay” in President Jiang’s willingness to receive President Clinton’s phone call, and offered other criticisms of Chinese government reactions to the bombing.

⁴ “Chinese Foreign Ministry Lodges Serious Representation to U.S.,” May 10, 1999, <http://www.china-embassy.org/Cgi-Bin/Press.pl?lodges>. See also, Laris, Michael, “U.S., China Discuss Bombing,” *Washington Post*, June 16, 1999, p. A34.

U.S. officials, in turn, asked the Chinese government to pay for damage done to U.S. government facilities in China as a result of public protests.

On June 16, 1999, a U.S. delegation headed by Undersecretary of State Thomas R. Pickering met in Beijing with officials from China's Foreign Ministry to offer an official U.S. explanation of how the bombing occurred, along with a letter from President Clinton to China's President Jiang Zemin.⁵ The Chinese government rejected that explanation as unsatisfactory. U.S. and Chinese negotiators met on a number of occasions throughout the rest of 1999 to discuss appropriate payment terms, ultimately reaching agreement on two separate monetary packages: one for loss of life and injury; and one for mutual damage compensation payments.

According to testimony by Director of Central Intelligence George J. Tenet before the House Permanent Select Committee on Intelligence on July 22, 1999, the U.S. government would conduct an accountability review on the events surrounding the bombing, would contemplate "discipline" for errors, and would report results to the Chinese government. According to a *Washington Post* report of April 9, 2000, the CIA early in April 2000 fired one intelligence officer and reprimanded 6 CIA managers for errors committed in selecting the target site. Undersecretary Pickering briefed the Chinese Ambassador to the United States on April 8, 2000, about the results of the U.S. accountability review. On April 10, 2000, China rejected the U.S. explanation, again demanding that the United States "punish those responsible."⁶ U.S. officials, however, now maintain that the matter is closed.

Payment Agreements

U.S. \$4.5 million "Voluntary Humanitarian Payment". On July 30, 1999, the United States agreed to make a "voluntary humanitarian payment" of \$4.5 million to the families of the 3 killed and to the 27 injured as a result of the NATO bombing error. U.S. officials were particular in referring to the payment as "voluntary" in order to avoid acknowledging legal liability.⁷ The agreement was announced by David Andrews, a U.S. State Department Legal Adviser, after two rounds of U.S.-China discussions on the matter. According to U.S. State Department officials, the payment was made to the Chinese government on August 25, 1999, out of DoD discretionary appropriated funds. Decisions about how to divide the funds among the bombing victims and their families were specified in the agreement, with payment to be made directly to the victims by the

⁵ In addition to Pickering, the delegation included U.S. Ambassador to China, James Sasser; Assistant Director of the CIA, James Simon; Assistant Secretary of Defense for International Security Affairs, Franklin Kramer; Deputy Director for the Defense Intelligence Agency, Jeremy Clark; Deputy Assistant Secretary of State for East Asia and the Pacific, Susan Shirk; and Director for Asian Affairs at the National Security Council, James Keith. In "Oral Presentation to the Chinese Government Regarding the Accidental Bombing of the PRC Embassy in Belgrade," June 17, 1999. http://www.state.gov/www/regions/eap/1999_eap_speeches.html

⁶ Myers, Steve Lee, "China Rejects U.S. Actions on Bombing of Embassy," *New York Times*, April 11, 2000, p. A6.

⁷ Laris, Michael, "U.S. agrees to pay Chinese Embassy bombing victims," *Austin American Statesman*, July 31, 1999, p. A13.

Bank of China. U.S. officials say they received confirmation from Beijing in October 1999 that the funds had been disbursed according to agreement.

Property Damage Agreements. On December 16, 1999, after five rounds of talks following the June 1999 Pickering mission, Department of State Legal Adviser David Andrews announced that two separate agreements had been reached on property damage payments: one for \$28 million in U.S. payment to China for damage to the Chinese Embassy in Belgrade; and one for \$2.87 million in Chinese payment to the United States for damage to U.S. diplomatic and consular facilities as a result of post-bombing protests in China. These sums were in addition to the \$4.5 million “voluntary humanitarian payment.” The U.S. payment is contingent upon an appropriation by the U.S. Congress, and a request for this amount is included in the Foreign Operations Appropriation account budget request for FY2001. By mutual agreement, the Chinese payment of \$2.87 million is contingent upon U.S. approval and payment of the \$28 million. The concluded agreement is intended to cover any and all future claims, and it presumes that China will make no further demand on the United States for explanation, apology, or punishment of “responsible parties” for the accidental bombing.

U.S. officials maintain that the sums agreed upon represent fair compensation for the respective damage inflicted to the properties of both countries. According to State Department officials, the \$28 million U.S. payment is consistent with estimates made by the State Department’s Foreign Buildings Office on the approximate costs for building, in Belgrade, a facility comparable to the Chinese Embassy, which the Chinese government maintains was effectively destroyed by NATO bombs and will have to be replaced.⁸ In addition, the \$28 million U.S. payment includes: compensation for temporary housing in Belgrade for Chinese Embassy personnel, who were housed within the Belgrade embassy compound; funds for replacement of Chinese antiques and furnishings which China claims were destroyed in the bombing; and funds for replacement of technical equipment. Likewise, according to State Department officials, the Chinese payment of \$2.87 million will fully cover the remaining U.S. costs incurred for repairing damage done to U.S. facilities by demonstrators in the days following the bombing.⁹

Implications for Congress

Although the \$4.5 million U.S. “voluntary humanitarian payment” of August 1999 was paid out of DoD discretionary funds, State Department officials maintain that the \$28 million U.S. payment for property compensation is too large to be covered by such contingency accounts. Therefore, the property compensation agreement with China has to come from U.S. funds appropriated for that purpose. A request for this amount has been included in the FY2001 international affairs budget, which Congress will consider as part of the Foreign Operations Appropriations bill. The bill could see Appropriations Committee mark-up as early as May 2000, with full consideration and conclusion not likely

⁸ According to Chinese government officials interviewed for this report, the new Chinese Embassy in Belgrade will be built at a different site.

⁹ According to Administration officials, actual U.S. repair costs were somewhat lower after a U.S. company donated windows to replace those broken in U.S. diplomatic facilities – a cost that State Department officials say was about \$45,000.

until September or October 2000. Several points of controversy could affect congressional consideration.

Inclusion in the Foreign Operations bill. In a decision thought to have been controversial within the executive branch and likely to be so in Congress, the Administration elected to include the \$28 million payment as part of the international affairs budget's Economic Support Fund account (ESF) – a flexible economic aid channel used to support U.S. security and political interests, funded within the Foreign Operations spending measure. (The total ESF request for FY2001 is \$2.3 billion, most of which involves assistance to Israel and Egypt.) To cover any potential restrictions in U.S. law against aid transfers to China, the legislative request earmarking the payment also waives any restrictions in current law.¹⁰ Some may suggest that the payment to China should come out of other U.S. government agency budgets. They may feel that the CIA budget would be a more appropriate source of payment, or that the approximately \$300 billion Department of Defense (DoD) budget would be better able to absorb the payment than the \$22 billion foreign policy budget would be. There is recent precedent for making such a payment out of DoD's budget in the case of a \$20 million U.S. payment following a February 3, 1998 accident involving a U.S. military aircraft and a ski gondola in Italy.¹¹

Payment amounts. Some may object to the dollar amounts involved in the payments. They may feel that the \$2.87 million agreed on for China's payment to the United States is too low to cover actual damage to U.S. diplomatic facilities, or that China's payment should be increased to reimburse a U.S. company for having donated part of the repair costs. Likewise, some may raise concerns about the amount of the \$28 million U.S. payment to China, suggesting it to be too high, or perhaps objecting to U.S. funds being used to help pay for replacement of technical equipment reported to have been used in Chinese intelligence-gathering activities in Eastern Europe. Concerns may also be raised about the agreement to make China's payment to the United States contingent upon the U.S. payment to China.

Congressional Options. Congressional decisionmakers have a variety of options in considering the issue involving the U.S. payment to China, including straightforward approval as part of the foreign operations budget, or flat denial of any appropriation of U.S. funds for that purpose. Or, congressional appropriators may elect to approve the payment, but as part of another U.S. government agency appropriation rather than as part of the ESF account. Appropriations Committee or other Members may amend the payment request, either by changing the amount or by placing conditions or restrictions on the payment. Finally, the payment provision could simply be deleted, either in committee, during floor consideration, or in conference.

¹⁰ In the OMB Budget Submission, Appendix Volume, p. 997.

¹¹ In the February 3, 1998 incident, a U.S. Marine Corps A-6 aircraft severed the cable of a ski gondola near Cavalese, Italy, killing 20 people. The following year, a U.S. payment of \$20 million for reimbursement of property damage was provided in Section 8114 of the Department of Defense Appropriations Act (P.L. 105-262), under the heading "Operation and Maintenance, Navy."