

(Translation)

Mr. William Taft  
Legal Advisor to US State Department  
Washington D.C. 20520-6310

Beijing, 23 August 2004

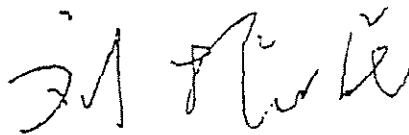
Dear Mr. Taft,

I am writing to you on the attempted "lawsuit" by the "Falun Gong" against Chinese Commerce Minister Bo Xilai at the US District Court for the District of Columbia. As Director General of the Department of Treaty and Law of China's Ministry of Foreign Affairs, I would like to inform you, officially, that the Chinese Government has decided to present its position to the US side on this matter, presenting the truth of the April 22<sup>nd</sup> incident and explaining its position on the issue of sovereign immunity. I would be much appreciative if you could help convey the position attached herewith to the above-mentioned court in

good time.

With best wishes.

Your Sincerely,



Liu Zhenmin

Director General, Department of Treaty and Law

Ministry of Foreign Affairs

(Translation)

**Position of the Chinese Government on the Assault and Attempted  
Frame-up by "Falun Gong" Against Minister Bo Xilai**

The Government of China wishes to state its position on the assault and attempted frame-up by "Falun Gong" against Chinese Commerce Minister Bo Xilai:

I. The April 22<sup>nd</sup> incident was an assault perpetrated by "Falun Gong" element, and Minister Bo Xilai was not "served" any US court summons

In April 2004, acting on the agreement reached by Chinese Premier Wen Jiabao and US President George W. Bush and at the invitation of the US Government, Chinese Commerce Minister Bo Xilai accompanied Vice Premier Wu Yi to attend the 15<sup>th</sup> Session of the China-US Joint Commission on Commerce and Trade (JCCT). At about 6:30pm on April 22<sup>nd</sup>, Minister Bo Xilai and his Chinese entourage walked into the lobby of the Fairmont Hotel in Washington D.C. on their way to the dinner held by the US-China Business Council, the National Committee on US-China Relations and the American

Chamber of Commerce. An unidentified adult male, with an object in his hand, made a sudden and violent charge toward Minister Bo and his Chinese entourage, posing a serious threat to the Minister's personal safety. The man's act could only be described as a criminal assault. As he tried to flee the scene, a US police officer by the name of Regina A. Randolph stopped and apprehended him. Neither Minister Bo nor any one of the Chinese entourage touched the object the assaultant once held in his hand or knew anything about it and how it was later disposed of.

Owing to the failure of the US Government to live up to the responsibility for security and safety of Minister Bo during his stay in the US, which resulted in the above-mentioned assault, the Chinese Government has made solemn representations to it accordingly.

## **II. US courts have no jurisdiction over the so-called "lawsuit" by "Falun Gong"**

1. The principle of sovereign immunity is derived from one of sovereign equality, which forms the cornerstone of modern international law and is enshrined in clear-cut terms in many important international legal documents including the UN Charter. Based on the

principle of *par in parem non habet jurisdictionem* (between equals there is no jurisdiction), the court of one State shall not accept a lawsuit in which a foreign State is the defendant without the explicit consent of its government to give up jurisdictional immunity. Only when a foreign State institutes a proceeding before a court of another State, or only when there is a counter-claim arising out of the same legal relationship or facts as the principal claim, the foreign State cannot invoke jurisdictional immunity. Even if a foreign State has lost the case in the court of another State, it is not subject to measures of constraint. Such are the basic contents of the principle of sovereign immunity.

2. The principle of sovereign immunity was universally accepted by countries in their judicial practices as early as in the 19<sup>th</sup> century. The US was among the first countries to follow such principle. The Case of Schooner Exchange heard by the US Supreme Court in 1820 and many other cases before US courts thereafter all upheld this principle. In international relations of the modern times, the principle of sovereign immunity, as a universally recognized norm of international law, is widely supported by legislative and judicial practices of countries as well as by international legislation.

3. It is China's act of state when the Chinese Government, acting in compliance with the Constitution and laws of the land, outlawed the "Falun Gong" cult, and when its government officials perform their duty in accordance with the power entrusted to them by China's Constitution and laws. Under the principle of sovereign immunity, China's act of state is entitled to jurisdictional immunity in the US courts. And the US courts, therefore, have no jurisdiction to hear the so-called "lawsuit" by "Falun Gong" against Minister Bo Xilai.

### III. The negative impact of "Falun Gong" "lawsuit" on China-US relations

Since the establishment of their diplomatic relations in 1979, China and the US have enjoyed increasingly broad and close exchanges and cooperation in the political, economic, trade, science and technology, culture, narcotics control, counter-terrorism and other fields, which greatly promoted the well-being of the two peoples and effectively contributed to peace and stability in the Asia-Pacific region and the world at large.

China and the US are both major countries of global influences. They have had extensive and important common interests though not

without some differences. China-US relationship has always been a two-way and mutually beneficial one. Such relationship can move ahead along a sound and steady course only when the two countries observe such basic norms governing international relations as mutual respect for sovereignty and territorial integrity, mutual non-interference in the internal affairs, equality and mutual benefit. As an important official of the Chinese Government, Minister Bo Xilai has made a huge contribution to the development of China-US relations. The frame-up "lawsuit" by the "Falun Gong" cult against Minister Bo Xilai, who was attending a JCCT session as a guest of the US Government, was aimed not only at attacking the Chinese Government but also obstructing the normal contact and the friendly cooperation between China and the US. The political motive behind the "Falun Gong" scheme cannot be more sinister.

Should the US court adjudicate this trumped-up "lawsuit", it would send out a deadly wrong signal to the "Falun Gong" cult, cause immeasurable disruption to the normal bilateral exchanges and cooperation in the various fields, and severely undermine the common interests of the two countries. Therefore, the Chinese Government calls for the immediate dismissal of the "Falun Gong" "lawsuit" against Minister Bo Xilai.