

Trump is right to take on China, but Canada shouldn't extradite Meng

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by Conrad Black



There are many ironies in the controversies over the status of Huawei, the Chinese technology giant in the crosshairs of the U.S. Justice department, and its related issue of the detention in Canada of Meng Wanzhou, the company's chief financial officer (and daughter of the chief executive and founder, Ren Zhengfei), on an extradition request from the United States. The first place to start from Canada's perspective is the almost certain fact that Huawei's business was largely built on one of the most colossal and protracted thefts of information and violations of patent laws in the

lengthy history of industrial espionage, chiefly at the expense of this country.

Nortel Networks Corporation, formerly Northern Telecom, was by some measurement the largest corporation in Canadian history, and at its peak in about 2000, it accounted for one-third of the entire valuation of all companies listed on the Toronto Stock Exchange, and employed 94,500 people all over the world. It was a great Canadian success story frequently proudly mentioned as indicative of Canada's presence at the cutting edge of innovative technology. Suddenly everything went horribly wrong and in 2009 the greatest bankruptcy in Canadian history engulfed Nortel, and scores of thousands of jobs and scores of billions of investors' dollars were lost, while lawyers and accountants gleefully trousered \$2.5 billion to conduct the protracted and complicated obsequies of a great Canadian icon. There is good reason to speculate that this was almost entirely due to the theft of its intellectual property by Huawei.

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Huawei had been a contract manufacturer of Nortel products in China. Nortel had been victim of a number of attacks by hackers who invaded their internal systems and accessed huge databases of technical, research, financial, commercial and product planning matters, and internal correspondence – everything electronically recorded everywhere in the company. Around this time, Huawei began its rapid rise and usurped Nortel's market position, taking advantage of the economies in an under-developed country. It received massive assistance from the government of China, and benefited from relaxed Chinese business ethics which, especially 15 years ago, did not conform to what was customary in World Trade Organization

countries.

More venerable readers will recall that this company began as the Northern Electric and Manufacturing Company, mainly owned by the Bell Telephone Company and chiefly engaged in producing telephone equipment for its parent. There is something ineffably Canadian about the relative passivity with which Canada absorbed this great commercial rise and fall. In 2000, as subsequent research has demonstrated, Nortel sales began to soften, and Huawei began to spread its wings very determinedly. Nortel only discovered the security breach in 2004, and it was alleged in subsequent proceedings that it moved at a leisurely pace to check the extent of the breach and take the draconian measures required to protect what was still valuable and exclusive in the company's intellectual property. As matters deteriorated, some companies that acquired assets from Nortel charged that the company had withheld from them the fact that they were not buying exclusive rights. A number of executives of Nortel were eventually charged with various offences but all were acquitted. Management seems not to have grasped the full gravity of the problem until it was too late to save anything. As frequently happens with Canadian prosecutors and regulators in complicated commercial matters, civil and criminal charges were laid at symbolic targets; the executive team that came in after the initial breach was scapegoated, like the unoffending junior official (John Felderhof) who was accused and acquitted over the Bre-X fiasco in 1997. They, like Felderhof, were not guilty of anything except perhaps Dudley Do-Right Canadian incomprehension of how dangerous it is in less genteel countries than this one, and justice was done in their acquittals.

Huawei could not be charged because all that could be deduced was that Nortel had been hacked by Chinese cyber-intruders. The Chinese authorities did not co-operate, any more than they did in the impeachment trial of U.S. president Bill Clinton

when U.S prosecutors wanted to question Chinese nationals over possible connections between the authorization of the sale of defence-sensitive technology to the People's Republic, and Chinese contributions to the Clinton campaign and the Democratic National Committee in 1996. You can't convict without witnesses, but if Chinese hackers cyber-looted Nortel and Huawei took off like a rocket at once with similar products, it does not require Sherlock Holmes to figure out what happened, or a descent to McCarthyism to accuse the Chinese. One of the assets that was sold out of the Nortel bankruptcy was a large office building on the outskirts of Ottawa that was acquired as a headquarters by the Canadian ministry of national defence. At huge cost, all the communications wiring had to be stripped out because it was a direct cyber conduit for Chinese industrial espionage.

The current relevance of this unhappy episode is that the West generally should be unambiguously supportive of the ongoing U.S. effort to persuade China to conform to civilized international business practices. That effort has no more strenuous supporters than China's neighbours, including Japan, India, South Korea and Vietnam. No one wishes to antagonize China and no one disputes that the People's Republic has accomplished the greatest and swiftest emergence ever of any formerly under-developed country. It is also the first historic Great Power to make the full circle from its status as one of the world's great nations to a ramshackle state of exploitation and vulnerability, and then come back to being one of the world's most important and respected countries. "China has stood up!" said Mao Zedong in Tiananmen Square in 1949. It did so hesitantly through the Korean War, the Great Leap Forward (1950s), and the Cultural Revolution in the 1960s, both unmitigated disasters, and it had to take the economic roadmap of the West to make it, under Deng Xiaoping and his successors since the 1980s. But it has done what no other country has done. This was not just rebuilding a shattered advanced country that had lost a war, like Germany

and Japan; this was taking a country that had declined for centuries, been pillaged by the world's Great Powers through the "Open Door" and the "unequal treaties," and had suffered a brutal invasion and partial occupation by Japan and a prolonged civil war, and raising it in one generation to the level of a superpower.

All the world respects that, but that does not require us to tolerate lawless commercial aggression, and the United States is again, as it was with previous more destructive lawless regimes that threatened all civilization, the indispensable force in countering these practices and incentivizing the Chinese to raise their game. It's too late for Nortel, but not for everything else. With that said, we should not have an extradition treaty with the United States. In that country, prosecutors win 99 per cent of their cases, 97 per cent of those without trial because of the hideous deformation and abuse of the plea bargain system that effectively incites the extortion of perjured inculpatory testimony. We should not send anyone to another system that does not approach our own standard of judicial fairness (imperfect though it is). This was demonstrated in the Nortel and Bre-X cases – if the defendants had been prosecuted in the U.S., they would have been falsely convicted. We should require the release of Canadians improperly detained in China, warn China that we will shut our market to them if they commit such outrages again, and release Meng Wanzhou.

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