

**Friday, September 24, 2010**

*Verbatim, as delivered*

## **Chairman Howard L. Berman's opening statement at hearing, "Nuclear Cooperation and Non-proliferation after Khan and Iran: Are We Asking Enough of Current and Future Agreements?"**

The Atomic Energy Act requires that this Committee hold hearings on pending U.S. nuclear cooperation agreements with other nations. Today's hearing fulfills that requirement for the Australia and Russia agreements, which were submitted to the Congress in May.

However, this hearing is really intended to serve a larger purpose – to consider changes that might be made in future nuclear cooperation agreements, and to the Atomic Energy Act itself.

The global nuclear nonproliferation regime has received two major jolts in the last six years. The first was the revelation that Pakistani scientist A.Q. Khan had been running a clandestine nuclear black market, which accelerated the spread of sensitive nuclear facilities and nuclear weapon designs around the world. The second has come from one of Khan's clients, Iran, where centrifuges obtained from the Khan network continue to spin, making enriched uranium that could be refined into fuel for nuclear bombs.

U.S. nonproliferation policies are adapting to counter these shocks to the global system. Congress has played a role in this effort by passing legislation, including the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010. This law is already helping to ratchet up the economic pressure on Tehran, raising the costs for its defiance of the world's demand that it cease its illicit and dangerous nuclear activities.

Regrettably, U.S. law and policy regarding civil nuclear cooperation with other countries has not undergone a similar evolution. The Atomic Energy Act was last amended in 1978, when Congress added the current set of nine conditions that any nuclear cooperation agreement – also known as 123 agreements – must satisfy. Many argue – and I believe with great justification – that the law is now sorely out of date.

Many suggestions have been offered to update the Atomic Energy Act for the post-Khan/Iran environment. Some of these include:

- a requirement for the foreign government to have agreed to and implemented the IAEA's Additional Protocol for safeguards, which gives the IAEA more authority to inspect the country's nuclear-related activities and facilities;
- another suggestion is that the recipient country be willing to accept near-real-time video monitoring of its IAEA-safeguarded facilities and activities, if the Agency thinks it would be useful to verify that no diversion of nuclear material from civil purposes has occurred;
- if the recipient is a state that supplies civil nuclear technology to other countries, that its policies, practices, and regulations are comparable to, or at least do not undermine, U.S. law and policy; and
- the recipient country, if it doesn't already possess uranium enrichment and/or spent-fuel reprocessing facilities, undertake a legally-binding commitment not to engage in such activities or develop such facilities.

We have had five new or renewed nuclear cooperation agreements submitted to Congress in the last four years (and one before us today, Russia, twice). We will be seeing a raft of new or renewed nuclear cooperation agreements in the next four. Nine existing agreements will expire between 2012 and 2015, including the U.S. agreement with China; presumably, all those will be renegotiated and submitted to the Congress for review. We may see new agreements with Jordan and Vietnam in the next Congress. That makes at least eleven new or renewed agreements. In addition, the U.S. has concluded Memorandums of Understanding with Saudi Arabia and Kuwait, and we could eventually see nuclear cooperation agreements with them, as well.

Given all this, it's clearly time to review whether U.S. nuclear cooperation agreements are fully serving U.S. and global nonproliferation objectives. This hearing continues the process begun by Mr. Sherman and the Terrorism, Nonproliferation and Trade Subcommittee at their hearing in May on the future of nuclear cooperation agreements.

The linkage between civil and military nuclear applications has never been clearer, or more pressing. The key linchpins are uranium enrichment and spent fuel reprocessing facilities.

For the majority of nuclear power reactors, natural uranium needs to be "enriched". This is usually accomplished through the use of highly-sophisticated centrifuges – exactly what Iran, by way of Khan, is using. Unfortunately, the same basic process can be used to produce highly enriched uranium that can be used in a bomb. Another process – called "reprocessing" – allows weapons-grade plutonium to be extracted from spent reactor fuel.

The Khan network trafficked in the technology and hardware of enrichment to Iran, Libya, North Korea, and possibly elsewhere. In 2004, two months after the network was exposed, President Bush announced that the U.S. would seek to prevent the spread of enrichment or reprocessing facilities to any state that did not already possess such technologies.

Regrettably, this approach ran into an immediate wall of opposition from many developing countries, which viewed it as an effort to deny their "inalienable right" to the benefits of peaceful nuclear energy under the NPT. The Bush effort was soon abandoned, and replaced by a drive to convince other members of the Nuclear Suppliers Group to institute more-restrictive criteria when deciding whether to transfer enrichment and reprocessing technologies to others.

In this context, it is worth highlighting the importance of the recent US nuclear cooperation agreement with the UAE. On its own, the UAE decided to forswear enrichment and reprocessing, and agreed to make that a legally-binding commitment in the nuclear cooperation agreement itself.

Even though the UAE ultimately decided to purchase nuclear reactors from a Korean vendor, the commitment in the US-UAE agreement applies unconditionally, regardless of who provides equipment and material to the UAE.

A State Department has since described the UAE nuclear cooperation agreement as the "Gold Standard" for such agreements, and I agree. The U.S. should seek the same commitment for every new nuclear cooperation agreement that it negotiates in all regions of the world. We should also consider making this an additional statutory requirement in the Atomic Energy Act.

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