

Standing at the Precipice: Nuclear Proliferation in the Age of Khan and Iran

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I'd like to begin by thanking Chairman Berman, Ranking Member Ros-Lehtinen, and the other members of the committee for the invitation to appear today at this very important hearing on "Nuclear Cooperation and Non-proliferation after Khan and Iran: Are We Asking Enough of Current and Future Agreements?"

If I convey nothing else today, I'd like to make the point that I fear that we are on the precipice of proliferation of nuclear weapons unlike anything we have witnessed since the development of the atomic bomb. I don't make this statement lightly, because ever since the Enola Gay dropped its payload over Hiroshima, analysts have predicted that nuclear weapons would rapidly proliferate. Dr. Henry Kissinger famously wrote in his seminal 1957 book *Nuclear Weapons and Foreign Policy* that:

"Within a generation the peaceful uses of atomic energy will have spread across the globe. Most nations will then possess the wherewithal to manufacture nuclear weapons. Foreign policy henceforth will have to be framed against the background of a world in which the 'conventional' technology is nuclear technology."

Thankfully, at the time, Kissinger was incorrect. The uneasy deterrence between our country and the Soviet Union during the Cold War as well as mechanisms such as the 1970 Nuclear Non-Proliferation Treaty (NPT) helped to keep proliferation of nuclear technology, until recently, at the margins.

Unfortunately, over the last decade, that has begun to change. During this period, we have seen North Korea withdraw from the NPT and go nuclear despite our repeated efforts to prevent this

outcome. Pyongyang has proliferated sensitive nuclear technology and know-how to Syria, a state sponsor of terrorism, with few repercussions, and there are now press reports that it is doing the same with Burma, another despotic regime. We have just begun to unravel the nefarious trafficking of nuclear materials and expertise by Pakistani scientist Abdul Qadeer Khan to a whole host of countries including Libya and Iran. And now we are watching Iran repeatedly flout the international community's demands that it halt its illicit nuclear program.

Unfortunately, successive administrations of both political parties have failed in their efforts to prevent this proliferation. I would argue that the U.S. government has not just been unable to address these proliferation challenges, but has actually contributed to them by not successfully refuting the now prevalent notion that all states have the right to sensitive nuclear technology and processes. The Bush administration attempted to shift the debate by developing programs such as the Global Nuclear Energy Partnership and attempting to get the Nuclear Suppliers Group (NSG) to limit the transfer of enrichment and reprocessing technology, but these efforts appear to have fallen by the wayside. This focus on promoting nuclear cooperation, albeit peaceful cooperation, is leading us down the path to the very uncertain nuclear future I now fear our children and grandchildren will face. That is why it is so important that this committee and this Congress engage in a serious debate about our nuclear cooperation policy.

The fact that we are meeting today to in part discuss the administration's proposed nuclear cooperation or "123" agreements with Australia and Russia without representatives from the Executive Branch present, unfortunately says much about what is wrong with the current state of affairs. As you well know, the Atomic Energy Act requires the Executive Branch to submit proposed agreements to Congress for review. As you also know, it is incredibly difficult for Congress to then block such agreements unless a resolution of disapproval is passed by a veto-proof majority.

Despite having spent my time in government primarily in the Executive Branch, I feel strongly that because we stand on the cusp of a highly proliferated world, we need to have a serious debate about each and every 123 agreement we enter into, even if this means increased authorities for the legislative branch. Agreements with treaty allies, such as Australia, should obviously not be as controversial as those with countries where our long-term interests are less clear, but if the United States is serious about moving toward a world without nuclear weapons

instead of one with even more nuclear weapons states, we need to carefully consider the consequences before we share sensitive technology and conduct nuclear cooperation with additional countries.

Russian Nuclear Cooperation Agreement

First, let me examine the situation surrounding the proposed 123 agreement with Russia. The agreement has been, and is, essentially a political concession to the Russian Federation. I am not here today to oppose the agreement outright, but believe that the Congress and the Obama administration should be having a debate about the timing of the agreement, why it is in the interest of the United States, and what it means for our efforts to coax Russia into the family of democratic nations.

As you know, the Bush administration rightly withdrew the agreement from congressional review after Russia's August 2008 invasion of Georgia. What events, despite the passage of time, have changed the strategic situation with Russia that would support this agreement's approval in 2010? Have Russian troops withdrawn from Georgian territory per the ceasefire negotiated by French President Sarkozy? Has Russia abandoned its threatening rhetoric against our NATO allies? Is it no longer in violation of arms control agreements such as the Biological Weapons Convention and the Chemical Weapons Convention? Has it halted its transfers of conventional weapons to some of the world's most odious regimes, including state sponsors of terror?

The answer to all of these questions is clearly no. I would argue that on its current course, the situation in Russia is deteriorating, not improving. Many Russia analysts now expect Prime Minister Vladimir Putin to seek to return to the Presidency in 2012. In recent weeks, Russian security forces have quashed peaceful democratic protests, arrested opposition figures, and raided independent newspapers. These were not aberrant acts, but were orchestrated by the highest levels of the Kremlin. Asked about recent protests, Putin sanctioned violence against the opposition, saying that if they continued to take to the streets, "You will be beaten upside the head with a truncheon. And that's it."

Of course, the United States routinely enters into agreements with countries that do not share our respect for fundamental human rights. We have, for example, a nuclear cooperation agreement

with China. So this alone is not reason to reject nuclear cooperation with Russia, but I highlight these recent events to make clear who we are dealing with and to question what our long-term strategy is toward Russia and how this agreement fits into that strategy.

The Obama administration's "reset" with Russia has been predicated on the notion that by easing tensions with Moscow, we will gain a partner in our efforts to halt Iran's nuclear program, win the war in Afghanistan, and move toward global nuclear disarmament. The administration likes to cite gains in all of these areas.

Look below the surface, however, and it becomes clear that the "reset" has produced negligible results. Despite Russia's support for United Nations Security Council Resolution (UNSCR) 1929, Iran continues to make steady progress toward a nuclear weapons capability and Russia continues to conduct an extensive weapons trade with Iran, including its unfulfilled contract to deliver the advanced S-300 air defense system to Tehran. This system would not just pose a threat to our ally Israel, but could also threaten U.S. forces stationed in the region. Just this week, press reports indicate that Russia has concluded a deal to deliver the P-800 Yakhont anti-ship cruise missile to Syria, another state sponsor of terrorism. The Israeli government is rightly concerned that this advanced weaponry will end up in the hands of terrorist groups such as Hezbollah. A number of Russian entities also have a history of providing assistance to the Iranian nuclear program. The administration reportedly maintains that such assistance has ceased.

On Afghanistan, the number of U.S. transit flights over Russian territory into Afghanistan has been well below the number promised when the agreement was concluded in July 2009. In addition, Russia has undermined U.S. and NATO capabilities in other countries in Central Asia, raising the costs of our leasing agreements and possibly putting our ability to move personnel and material into Afghanistan at risk.

On nuclear disarmament, the Senate is reviewing the New START agreement signed by President Obama and President Medvedev in April in Prague. Putting aside the question of whether ratification of New START is in our interest, the fact of the matter is that this is an agreement under which the United States, which has global alliance responsibilities, will make

cuts to our strategic forces while few cuts will be made to Russia's nuclear forces and its vast arsenal of tactical nuclear weapons will go untouched.

The "reset" has also caused some of our allies in Central and Eastern Europe to question our commitment to them and their security in the wake of Russia's invasion of Georgia. For many of these allies, Russia is not an academic concern; it is a very real problem they need to deal with on a regular basis. Their experience with Russia ranges from threats of nuclear annihilation, to cyberattacks, to Russian organized crime, to the use of energy and natural resources as a weapon.

So, given all of the above, I am not surprised that there are no administration officials here today to defend this nuclear cooperation agreement with the Russian Federation. They would likely be asked to explain how the agreement fits into the broader "reset," and what exactly what the United States gains. In reality, this administration's Russia policy increasingly appears to be a series of concessions to Moscow for very little in return. Indeed, when it was reported in the Wall Street Journal in August that administration officials had given Russia the go ahead to begin fueling the Bushehr nuclear reactor as part of our efforts to convince Russia to support UNSCR 1929, it was just the latest in a long list of concessions that ranges from our abandonment of missile defense sites, to delisting Russian entities, to unwillingness to speak out about human rights abuses, to our anemic support for an ally with Russian forces occupying its territory.

Again, despite all of these facts, it still might be in the interest of the United States to pursue nuclear cooperation with the Russian Federation. But we should first have a public debate, a debate that in this case has not occurred.

I thus have several recommendations for the committee that would ensure that the frustrating situation we face today with the Russia 123 agreement does not repeat itself and also put us on a path toward a world with fewer, not more, states possessing nuclear weapons.

Recommendations

1. **Modify the Atomic Energy Act to allow greater congressional scrutiny of future 123 agreements.** Much as Congress required that the Bush administration submit the U.S.-India 123 agreement for Congressional approval, in the future, administrations should be required

to submit each agreement that does not follow the United Arab Emirates model (i.e. limit the country's ability to conduct indigenous enrichment) for Congressional approval. This will hopefully ensure that such agreements are kept to a minimum and put the onus on the Executive Branch to convince potential partners that it is in their interest to forgo enrichment or to justify why this was not possible. Given recent press reports that an agreement is in the works with Vietnam that does not conform to this standard, Congress should act quickly to enact this requirement. We should not forgo peaceful nuclear cooperation with countries that have a legitimate need for civilian nuclear energy, but given the options available to most countries today, the rationale for indigenous fuel production is weak.

2. **Get serious about stopping proliferation.** We face the challenges I described at the outset because we have become fundamentally unserious about nonproliferation. It is fine to talk about disarmament or nuclear security, but that is only one side of the coin. Bilateral arms control is not going to prevent a polynuclear Middle East or convince Iran, Syria, Burma, or North Korea, of the error of their ways. We must punish proliferators severely. We have routinely failed to make clear to rogue regimes and states that support their activities that their efforts will be met with serious consequences.

One of the most damaging lapses in recent years was the failure by the United States and our allies in the wake of Israel's bombing of Syria's covert nuclear reactor at Al Kibar in September 2007 to use Syria's covert activities as a teachable moment. To this day, I am not aware of one Syrian entity or individual that has been designated by the U.S. government for their involvement in this flagrant violation of the NPT. A number of North Korean entities have been designated by the Treasury Department, including some recently, but it is not enough. The International Atomic Energy Agency (IAEA) has vigorously pursued an investigation of Syria's activities, but has not gotten the support it deserves from the United States and our allies. I would urge this committee to call on the Obama administration to support an IAEA Special Inspection of Syria at the soonest possible time. Our current policy toward Damascus is one of engagement, sending the message to future would-be violators of the NPT that you can covertly develop a nuclear weapons program for years and be caught, only to have it swept under the rug.

U.S. policy under both the Bush and Obama administrations in the aftermath of this event has done nothing to deter North Korea from doing the same thing again and I fear it has made it clear to other prospective violators that the NPT and U.S. rhetoric about nonproliferation are of little value. To forestall future Syrias, I would suggest that the committee explore ways to make additional sanctions automatic in such cases or even require the Executive Branch to designate certain entities and individuals involved in proliferation, or justify to Congress why they are unable to do so.

Another troubling example of the fraying of the nuclear nonproliferation regime is China's announced plans to build two new nuclear reactors in Pakistan, a clear violation of its NSG obligations. China likely argues that this deal is grandfathered given agreements in place at the time it was invited to join the NSG and is nevertheless warranted given the exception granted to India by the NSG in 2008. China has apparently endured little more than stern demarches from the United States on this issue. Congress should call on the administration to make clear to China that this deal will have severe consequences for U.S.-China relations and perhaps explore whether this action should impact the U.S.-China nuclear cooperation agreement.

Finally, we should examine whether our current tools are adequate to prevent proliferation once our persuasive abilities have failed and a state has made the decision to proliferate. We should utilize instruments such as the Proliferation Security Initiative and strengthen our legal authorities to allow inspections of suspect shipments by air and sea from known proliferating states and entities. The administration says it has pursued a policy of "strategic patience" coupled with a strategy of containing proliferation when it comes to a serial proliferator such as North Korea, but I would question how confident we are that we are effectively able to prevent proliferation using our current set of tools.

- 3. Restore the balance between proliferation concerns and promotion of the U.S. nuclear industry.** It is obviously in the interest of the United States to ensure that U.S. companies can compete in the nuclear trade, including that of sensitive nuclear technology. For instance, there are clearly some commercial benefits for U.S. companies if we conduct nuclear cooperation with Russia that should be taken into account. However, I fear that the

balance we have struck to date has not been a sensible one. As more and more countries express interest in nuclear power, we appear to be rushing to conclude nuclear cooperation agreements without first examining the underlying rationale for their interest in nuclear energy. The fact that other countries, such as France and Russia, are often moving to conclude agreements with the same countries is frequently cited as a reason that the United States must also act or run the risk of being left behind.

This is an understandable concern, but we cannot lead global nonproliferation efforts while chasing the next reactor deal. Nor can we lead if we are subjugating our standards to those of other countries. We should be fully engaged in efforts to develop best practices with these countries but cannot always follow their lead. Syria is a case in point. Less than a year after Israel destroyed Syria's reactor at Al Kibar, press reports indicated that the French company Areva was exploring the possibility of building a nuclear reactor in Syria. Thankfully, it appears that the French government and Areva decided that this was dangerous territory. Should the United States explore nuclear cooperation with Syria just because others are?

Not all cases will be this clear cut, but I would recommend that the committee explore options for using international companies' interest in operating in the United States to hold them to certain standards about their practices abroad. I would also note that there are a number of U.S. allies that are currently building new nuclear reactors, such as the Czech Republic and Hungary, just to name two, that desperately are interested in U.S. business despite active competition from other international firms. On a recent visit to the region, I heard frequent complaints that the U.S. nuclear industry was not making every effort to put forward the most competitive and cost effective proposals. It would behoove the U.S. nuclear industry to focus first on areas in which nuclear cooperation will ensure that there is no onward proliferation before chasing after the next exotic market.

4. **Take all actions necessary to prevent Iran from developing nuclear weapons.** In many ways, the nightmare scenario I outlined earlier hinges upon our ability to prevent Iran from developing nuclear weapons. In addition to the threat a nuclear Iran would pose to U.S. allies and interests, it would likely result in a cascade of proliferation and the beginnings of a polynuclear Middle East. As I've noted, Syria already was developing a covert nuclear weapons program. Other countries in the region, a number of them U.S. allies, would likely

follow. It is many of these of countries that are now also expressing interest in civilian nuclear programs. Setting aside the issue of how you supposedly contain a nuclear weapons state run by messianic fanatics who support terrorist groups, how will we be able to assure our allies in the region that the United States will defend their interests when U.S. policymakers have now stated for years that a nuclear Iran is unacceptable with little result? Even if we were to extend a nuclear umbrella to Israel, would the American people support such reassurance with Saudi Arabia or Jordan? Would Americans agree that an Iranian attack on Cairo, Amman, or Riyadh should be treated in the same way as an attack on Chicago?

The way to avoid this frightening scenario is to ensure that Iran does not develop nuclear weapons. Despite our tough rhetoric and round after round of sanctions, including significant legislation passed by this committee, to date we have not been able to influence Tehran's calculus. I would thus advocate a serious exploration by this administration and by this Congress of all available options, including the use of military force because the consequences of a nuclear Iran are truly unthinkable.

As I stated at the beginning of my testimony, the challenges facing us in this area are unprecedented. But they are not insurmountable. By recognizing that we need a serious bipartisan examination of the pros and cons of future nuclear cooperation agreements, we will take a small step toward a more sensible U.S. nonproliferation policy.