

U.S. Senator Foreign Relations Committee Hearing
Section 123: Civilian Nuclear Cooperation Agreements
January 30, 2014

U.S. Senator Bob Corker, R-Tenn., Ranking Member
Opening Statement

****Remarks Prepared for Delivery****

- Chairman Menendez, thank you for agreeing to hold this important and timely hearing today.
- Not only have I requested that we hold this hearing for some time now, but nearly two years ago Senator Lugar sent a letter to then Chairman Kerry requesting this very same hearing.
- Now, two years later, we have the opportunity to examine and begin the process to weigh in on what shape U.S. policy in this arena should take and review – and cause to be more robust – the role that Congress plays in entering into these important decisions.
- I also want to thank the witnesses for appearing before us today. I am particularly interested in hearing from our private panel today, as we examine U.S. policy as it relates to civil nuclear cooperation agreements and the role they play in achieving U.S. nonproliferation goals.
- As I stated in a letter to Secretary Kerry on October 28 of last year, I am deeply concerned about the administration’s current policy – or rather lack of consistent policy – toward negotiation of civil nuclear cooperation agreements. The administration’s acceptance of enrichment and reprocessing (ENR) capabilities in some but not all new agreements with countries where no ENR capability currently exists is inconsistent and confusing, potentially compromising our nation’s non-proliferation policies and goals.
- The “gold standard,” where nations forswear domestic ENR capabilities, was finalized under this administration with the completion of the civil nuclear cooperation agreement with the United Arab Emirates. The UAE 123 agreement signaled the United States’ strong commitment to nuclear nonproliferation and established a high standard to ensure tight control of potentially dangerous technologies that can also be used for the foundations of a nuclear weapons program.
- The absence of a consistent policy weakens our nuclear nonproliferation efforts, sends a mixed message to those nations we seek to prevent from gaining or enhancing such capability, and signals to our partners that the “gold standard” is no standard at all.
- I am equally concerned that the current administration has taken an “economics”/industry first, national security second approach to entering into 123 agreements.
- Also, we need to understand how the agreement with Iran relates to our other civilian nuclear agreements and our overall nonproliferation strategy.

- The agreement with Iran is a de facto sign-off on enrichment, and while we are not negotiating a 123 agreement with Iran, these negotiations will have implications for our global nuclear nonproliferation regime.
- As many of us may recall, during the review of the India 123 agreement several years ago, the administration at that time indicated that the value of the agreement, in addition to demonstrating a growing commitment to the bilateral relationship, was in the nature of contracts for our domestic nuclear suppliers.
- Those contracts have yet to appear for U.S. industry, likely never will appear, and we are left holding a bag of goods. To say many in Congress have buyer's remorse would probably be an understatement as it pertains to the concessions made in this agreement in order to "open the market" for U.S. industry.
- It was this administration, following in the disappointing footsteps of the India agreement that negotiated the first "gold standard" agreement between the United States and the UAE.
- This standard, welcomed by Congress, has since been set aside for a "case-by-case" approach that no longer seeks these strong commitments from our partners.
- In a 2012 editorial titled "Shall We Call it the Bronze Standard", the *New York Times* rightly pointed out the following with regard to the new, relaxed standard:

"American officials now say that asking for too much could cost America's nuclear industry valuable new business. Officials also insist that once American businesses have contracts in hand, Washington can still use its nuclear trade rules and suasion to urge countries signing nuclear deals to limit enrichment and reprocessing and meet other nonproliferation standards so there is no diversion.

But if the administration doesn't make curbing the spread of enrichment and reprocessing an explicit priority, it will never happen. As for the business rationale, the Bush and Obama administrations and the nuclear industry made similar claims when they cast proliferation concerns aside and gave India an overly generous nuclear deal in 2008. The Indians are still mainly buying from others because they have yet to institute a sufficient liability regime to protect American firms.

The blowback from not pressing others to accept the same deal as the U.A.E could also be significant. If Vietnam is given easier terms, charges will inevitably arise that Washington is tougher on the Arab world. If the provision is not in the agreement with Jordan or others in the Mideast, the U.A.E. has the right to renegotiate its deal."

- Within this committee, we have an important obligation to review and provide recommendations to the full Congress on all 123 agreements submitted for consideration under the Atomic Energy Act.
- This year, we have already passed an extension to the ROK 123 agreement, providing another two years for the administration to reach a new comprehensive deal. Maintaining uninterrupted civilian nuclear cooperation is important for U.S. political and commercial interests. And while I was pleased to support

this extension, I am concerned that the administration will not hold the line on advanced consent for enrichment and reprocessing.

- We are also presently asked to review the 123 agreement with Taiwan, which was submitted to our committee for consideration on January 7, 2014.
- While this agreement preserves the “gold standard”, I am concerned about the decision to make the agreement of unlimited duration thereby bypassing Congressional review of the agreement beyond this current 60-day statutory review period.
- I do hope that our government witnesses will address the reasons for concluding that this was the best approach, but caution that it should not become common practice.
- Later this year, we will be asked to review a 123 agreement with Vietnam. This agreement reportedly does not meet the “gold standard”. Rather it relies on a political side note that Vietnam will seek to meet its fuel requirements utilizing the international nuclear fuel market.
- If the Vietnamese are willing to buy their nuclear fuel on the international market, why aren’t they willing to agree to legally binding language forswearing enrichment and reprocessing technologies?
- With this great inconsistency across agreements, which standards can we expect the administration to reach for in negotiating new agreements with Jordan or Saudi Arabia?
- I also appreciate the opportunity to raise prospects for an enhanced Congressional role in the 123 approval process. While Congress provides an important check on the administration to ensure that our national security interests are placed first and are being met with each agreement, I am concerned that we will be increasingly marginalized if we do not explore changes to the current process for Congressional approval.
- The law governing the current Congressional role was written decades ago and has had little updating since. With a packed domestic agenda and a growing number of members with little to no background in civil nuclear cooperation agreements, the process by which an agreement goes into effect absent a resolution of “disapproval” opens the door for less and less review of these important agreements.
- We should examine whether it is time to call on Congress to provide a resolution of approval on all agreements prior to them becoming law, except perhaps in the case where an agreement reaches the “gold standard”. I welcome our witnesses’ comments and observations on this and other proposals to update the Atomic Energy Act.

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