

ADDITIONAL PROTOCOL HEARING  
OPENING STATEMENT  
SENATOR RICHARD G. LUGAR  
JANUARY 29, 2004

Today the Committee meets to consider the Additional Protocol to the Agreement between the United States and the International Atomic Energy Agency (IAEA).

The United States signed the Additional Protocol in Vienna on June 12, 1998, and President Bush submitted it to the Senate on May 9, 2002. The State Department submitted the implementing legislation to Congress on November 19, 2003. At the Administration's request, I introduced the implementing legislation in the Senate last December.

Since Senate ratification of the Nuclear Non-proliferation Treaty and our voluntary offer to accept IAEA safeguards in 1980, 188 states have now approved the treaty. Unfortunately, the NPT and its existing safeguards agreements have been insufficient to stem the tide of proliferation, and we have witnessed an increase in the global availability of nuclear weapons materials and reprocessing and enrichment technologies. To ensure that materials and technologies are devoted only to peaceful uses, it is in the interest of the United States that the IAEA have the power to conduct intrusive inspections in a non-nuclear-weapon state.

In 2003, the international community was confronted with two cases involving non-nuclear weapon states violating their commitments under the NPT by pursuing nuclear weapon programs.

Iran's clandestine drive toward a nuclear weapons capability was exposed by an Iranian resistance group and confirmed by the IAEA. After months of discussion, Germany, France, and the United Kingdom concluded separate negotiations with Tehran in which the regime agreed to abandon its uranium enrichment program and to cease all efforts to pursue nuclear weapons. Iran signed an Additional Protocol with the IAEA in December. Earlier this month, Iranian Foreign Minister Kharrzi appeared to hedge on Iran's commitment by suggesting that Tehran had agreed "to the suspension, not stopping, of the uranium enrichment process." It is clear that Iran is not in full compliance with its obligations.

In Libya, we witnessed an important non-proliferation success. Following intense negotiations with the Bush Administration and the United Kingdom, Libya admitted that it had WMD programs and agreed to abandon these efforts and work with international treaty regimes to verify Libya's commitment. I applaud President Bush and his team for a victory in the war against the proliferation of weapons of mass destruction.

I am eager to hear from our panel today whether we would have been able to detect and stop Iran and Libya's clandestine programs long before now had Additional Protocols been in force in those countries.

Events in Iran and Libya are important to our consideration of the Additional Protocol. In 1980, the Senate ratified the U.S. commitment to voluntarily accept safeguards and inspections to demonstrate a firm commitment to the IAEA and to the NPT. As a nuclear weapon state party to the NPT, the United States is not required to accept any safeguards. Our decision sent an important non-proliferation message to the world: the preeminent superpower, with a large civilian nuclear power industry, could accept IAEA safeguards.

Over time, we have learned that existing safeguards agreements have been circumvented by determined cheaters in pursuit of weapons. The Additional Protocol seeks to fill holes in the existing patchwork of declarations and inspections. It will require the declaration of many locations and activities to the IAEA not previously required, and allow, with less than 24 hours' notice, inspections of such locations.

The United States, as a declared nuclear-weapon state party to the NPT, may exclude the application of IAEA safeguards on its activities. Under the Additional Protocol, the United States also has the right to exclude activities and sites of direct national security significance in accordance with its National Security exclusion contained in Article 1.b. This provision is crucial to U.S. acceptance of the Additional Protocol and provides the basis for the protection of U.S. nuclear weapons-related activities, sites, and materials as a declared nuclear power.

The Additional Protocol does not contain any new arms control or disarmament obligations for the United States. Although there are increased rights granted to the IAEA for the conduct of inspections in the United States, the Administration has assured the Foreign Relations Committee that the likelihood of an inspection occurring in the United States is very low. Nevertheless, should an inspection under the Additional Protocol be determined to be potentially harmful to U.S. national security interests, the United States has the right, through the National Security Exclusion, to prevent the inspection.

For the past month, the majority and minority staffs of the Committee have been working closely with the Administration to craft a resolution of ratification that will gain broad support in the Senate. I thank Senator Biden and his staff for their cooperation in this effort. I look forward to reporting soon the Protocol and the resolution of ratification and will work with the Majority Leader to schedule timely Senate consideration.

I am pleased to introduce our panel this morning. First, I would like to extend my personal thanks to Ambassador Linton Brooks, Administrator of the National Nuclear Security Administration. We will look to Ambassador Brooks to tell us how this Protocol will further U.S. non-proliferation interests, while not harming the critical weapons complex over which he and his agency preside.

We welcome Susan Burke, Acting Assistant Secretary of State for Non-proliferation. We look forward to Secretary Burke's perspectives on the U.S. negotiating position on this Protocol.

Joining us from the Commerce Department is Assistant Secretary for Export Administration Peter Lichtenbaum. Secretary Lichtenbaum will share his department's plans to mitigate the burdens of the Protocol, if any, on U.S. industry.

Lastly, we welcome Mark Esper, Deputy Assistant Secretary of Defense for Negotiations Policy. We appreciate his appearance today to share the Defense Department's strong support for the Additional Protocol and to discuss the national security benefits outlined in the President's letter of submission.

The Committee also has asked the Nuclear Regulatory Commission, the Nuclear Energy Institute, and outside experts to submit testimony outlining their views on the Additional Protocol. Further, we expect to receive the views of the Committee on Armed Services in the near future, for incorporation into our Committee Report.

We look forward to the insights of our witnesses this morning on this important agreement.

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