

**Joint Testimony of Acting Assistant Secretary Vann H. Van Diepen and  
Deputy Assistant Secretary Janet Sanderson on the  
Agreement for Cooperation between the  
Government of the United States of America and the  
Government of the United Arab Emirates  
Concerning Peaceful Uses of Nuclear Energy  
Senate Foreign Relations Committee, Subcommittee on Near Eastern  
and South and Central Asian Affairs  
7 October 2009**

Mr. Chairman, Ranking Member Risch, members of the Committee:

Thank you for this opportunity to testify today before the Senate Foreign Relations Committee in support of the proposed U.S.-UAE Agreement for Peaceful Nuclear Cooperation, which President Obama submitted to the Congress on May 21 for review pursuant to Section 123 of the Atomic Energy Act of 1954, as amended. As shown by last month's visit of Sheikh Mohammed bin Zayed, the Crown Prince of Abu Dhabi and Deputy Supreme Commander of the United Arab Emirates Armed Forces to Washington to see President Obama and other officials, this important Agreement reinforces a particularly strong and mutually beneficial political, security, and economic bilateral relationship. The UAE is a valued partner, cooperating with us on issues related to the Palestinian Authority, Pakistan, Afghanistan, Iraq, and Iran.

In connection with approving the proposed Agreement and authorizing its execution, the President made the determination required by Section 123 of the Atomic Energy Act that performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security.

Our purpose today is to discuss with the Committee the principal factors that the President considered before making his statutory determination, and to urge the Senate to give the proposed Agreement favorable consideration.

*A Ground-breaking Achievement*

Let us say at the outset that the Administration recognizes the nonproliferation value of this unique Agreement. The UAE has made a principled decision that it will abide by the highest nonproliferation standards. The U.S.-UAE 123 Agreement recognizes these commitments and achievements of the government of the United Arab Emirates and

provides the basis to expand our existing cooperation into areas of peaceful nuclear energy.

Consistent with the UAE's commitments to the highest nonproliferation standards, the proposed Agreement contains some unprecedented features for agreements of this type. For the first time in an agreement of this type, the UAE has voluntarily agreed to forgo uranium enrichment and reprocessing of spent fuel. This will supplement in a legally binding international agreement the UAE's recent pioneering law to prohibit uranium enrichment and reprocessing of spent fuel. Additionally, for the first time, the proposed Agreement provides that prior to U.S. licensing of exports of nuclear material, equipment, components, or technology pursuant to the Agreement, the UAE shall bring into force the Additional Protocol to its safeguards agreement with the IAEA. The Agreement also allows for the United States to remove special fissionable material subject to the Agreement from the UAE either to the United States or to a third country if exceptional circumstances of concern from a nonproliferation standpoint so require.

The proposed Agreement has a term of 30 years and permits the transfer of nuclear material, equipment (including reactors), and components for civil nuclear research and civil nuclear power production subject to subsequent individual export licensing. It does not permit transfers of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities, or major critical components of such facilities. It limits the special fissionable material that may be transferred under the Agreement to low enriched uranium except for small amounts of special fissionable material for use as samples, standards, detectors, targets or other purposes agreed by the Parties. If the Agreement is terminated, key nonproliferation conditions and controls will continue with respect to material, equipment, and components subject to the Agreement.

In sum, the robust nonproliferation features of the UAE 123 Agreement are a significant achievement. The UAE is an example of a country that has concluded that indigenous fuel cycle capabilities are not needed to fully enjoy the benefits of civil nuclear energy.

Mr. Chairman, please let us expand on some of the key points I have just made.

Once the proposed Agreement enters into force, it will establish the necessary legal framework for the United States and the UAE to engage in subsequent, individually-authorized forms of cooperation in the development of nuclear energy for peaceful purposes to assist the UAE in meeting its growing energy demand. In addition to being indicative of our strong partnership with the UAE, the proposed Agreement is a tangible expression of the United States' desire to cooperate with states in the Middle East, and elsewhere, that want to develop peaceful nuclear power in a manner consistent with the highest nonproliferation, safety and security standards.

### *The UAE's Strong Nonproliferation Credentials*

We have spoken of the UAE's commitment to the highest nonproliferation standards. We shall summarize the UAE's strong nonproliferation credentials in a checklist form:

- The UAE acceded to the Nuclear Nonproliferation Treaty (NPT) on September 26, 1995 and its IAEA Safeguards Agreement entered into

force on October 9, 2003. It has signed the Additional Protocol to its Safeguards Agreement with the IAEA and is committed to bringing it into force.

- The UAE ratified the Convention on the Physical Protection of Nuclear Material on November 15, 2003 and deposited its instrument of acceptance for the 2005 Amendment strengthening the Convention on July 31, 2009.
- It acceded to the International Convention on the Suppression of Acts of Nuclear Terrorism on January 10, 2008.
- The UAE is implementing UNSC 1540 – a resolution that, among other things, requires UN Member States to take and enforce effective measures to establish domestic controls to prevent the proliferation of weapons of mass destruction, their means of delivery and related materials.
- UAE Federal Law 6 issued in 2009 prohibits uranium enrichment and spent fuel reprocessing, creates a Federal Authority for Nuclear Regulation, and develops a nuclear material licensing and control system.

- UAE Federal Law 13 issued in 2007 provides a strong basis on which to build an effective export control system for commodities that are subject to import and export control procedures.
- The UAE actively participates in the Global Initiative to Combat Nuclear Terrorism, the Proliferation Security Initiative, and the Container Security Initiative.
- The UAE is a key counterterrorism partner and actively works to combat money laundering and terrorist financing.
- The UAE has stated it intends to implement export and import control rules for nuclear and nuclear-related equipment and technology in strict accordance with the Nuclear Suppliers Group Guidelines for nuclear transfers. This will enhance the UAE's current basis for an export control system and assist its government in preventing illicit transshipments of sensitive nuclear technologies through the UAE.

In March 2008, the United Arab Emirates published its policy for the development of nuclear energy in a report entitled, “Policy of the United Arab Emirates on the Evaluation and Potential Development of Peaceful Nuclear Energy.” In it, the UAE committed itself *inter alia* to “pursuing the highest standards of nonproliferation” and “the highest standards of safety and security.” In signing this Agreement, the UAE has demonstrated its commitment to develop civil nuclear energy in a responsible way, in full conformity with its nonproliferation commitments and obligations. U.S. cooperation with the UAE will also serve as a distinct counterpoint to those countries that have chosen a different path, in particular Iran.

The UAE’s commitment not to pursue enrichment and reprocessing capabilities is in marked contrast to Iran, which has continued to defy its international obligations and is continuing to develop technical capabilities that could be applied to nuclear weapons development.

The UAE recognizes the value of international cooperation for establishing a nuclear power program as well as the need to develop domestic human resources. The UAE is expected to hire a foreign consortium to construct, operate and perhaps partially own its first nuclear



power plants while local expertise is developed. U.S. industry is poised to assist with the development of a nuclear power program in the UAE, but the Agreement for Cooperation is necessary to allow its full participation. U.S. technology in this area is leading-edge, and the United States anticipates that the UAE will give it strong consideration as the UAE moves forward in implementing its plans.

*U.S. Prior Approval for Retransfers*

The Agreed Minute to the proposed Agreement provides U.S. prior approval for retransfers by the UAE of irradiated nuclear material subject to France and the United Kingdom, if consistent with their respective policies, laws, and regulations. Such retransfers would provide the UAE opportunities for management of its spent fuel, subject to specified conditions, including that prior agreement between the United States and the UAE is required for the transfer to the UAE of any special fissionable material recovered from any such reprocessing. Plutonium recovered from reprocessing could not be returned under the Agreement (with the exception of small quantities for the uses described above, but even then only with the further agreement of the Parties). The transferred material would also have

to be held within the European Atomic Energy Community subject to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community (EURATOM).

In view of the fact that this retransfer consent would constitute a subsequent arrangement under the Act if agreed to separately from the proposed Agreement, the Secretary of State and the Secretary of Energy have ensured that the advance approval provisions meet the applicable requirements of Section 131 of the Atomic Energy Act. Specifically, they have concluded that U.S. advance approval for retransfer of nuclear material for reprocessing or storage contained in the Agreed Minute to the proposed Agreement is not inimical to the common defense and security. An analysis of the advance approval given in the Agreed Minute is contained in the Nuclear Proliferation Assessment Statement (NPAS) submitted to Congress with the Agreement.

*Conclusion*

For all the above reasons we would ask the Subcommittee, and the Senate, to consider the proposed Agreement on its merits. It is, in some ways, a ground-breaking agreement. It contains all the necessary nonproliferation conditions and controls that Congress has written into law. It does not commit either Party to transfer any nuclear commodities, technology or services to the other. Those are decisions for the future and will be handled on a case-by-case basis according to the usual stringent U.S. licensing procedures. As President Obama determined, the Agreement will promote, and not constitute an unreasonable risk to, the common defense and security. By signing this Agreement, the United States and the UAE have taken an important step in building a long and mutually beneficial partnership to enhance nonproliferation and energy security in the region. The proposed Agreement deserves the support of the Congress.

Mr. Chairman, members of the Committee, thank you. We look forward to your questions.