



China in the Nuclear Suppliers Group (NSG)

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Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before the Committee today. Mr. Chairman, your letter of May 14 noted that you wish to focus the hearing on the decision by the Administration to support the membership of the People's Republic of China in the Nuclear Suppliers Group (NSG). I'm happy to address that issue as well as other questions that you or the Committee members may have.

In my statement, I would like to address the status and overall direction of our relationship with China, our efforts to bring China into the international nuclear nonproliferation regime, the progress we have made in this area, and just how we came to see now as the appropriate time for China to join the NSG.

First, let me say a few words about our relationship with China. As the Secretary has often said, the relationship is as good – if not in many respects better – than it has been at any time in the past twenty-five years. We had a rough start at the beginning of this Administration when an American reconnaissance aircraft flying in international airspace was intercepted, damaged and forced to land on Hainan Island in April 2001. The United States and China worked through this difficult and sensitive issue with an eye toward finding ways in which we could enhance cooperation and minimize misunderstanding in the future. And for the most part, we have been remarkably successful.

There are multiple reasons for that. Obviously, Korea is an important part in the “cooperation” side of the equation. In a January article in *Foreign Affairs*, the Secretary wrote:

“...we have worked to transform our common interests with China into solid and productive cooperation over the challenges posed by Pyongyang. ... Our agenda is ambitious, but it is succeeding, as attested to by the six-party framework for talks over North Korea's nuclear program. ... Beijing, as well as Washington, deserves credit for this achievement.”

But there is far more at stake in the U.S./China relationship than just the North Korea issue. China has emerged in the past decade as a country of major political and economic consequence. The President's National Security Strategy document from September 2002 stated that point succinctly, stating: “We welcome the emergence of a strong peaceful, and prosperous China.” What we care about is how China will put its growing power to work. What choices will it make?

We need a candid, constructive and cooperative relationship with China as it rises to meet the challenges of global responsibility. And we measure that responsibility by China's tangible decisions and actions. Our countries pursue certain complementary – and sometimes common – policies, particularly in the global war against terrorism. China supported UN resolutions in both Afghanistan and Iraq and has donated \$150 million in bilateral assistance to Afghanistan and \$25 million in bilateral assistance to Iraq. It is forgiving some of the sovereign debt Iraq owes. And again I have to note the importance of the fact that we are working together to end North Korea's nuclear weapons program.

At the same time, I would be the first to admit that we have differences with China, and we need to speak candidly about them. We make clear our concerns about trade issues, human rights, and nonproliferation, as well as our commitment to the Taiwan Relations Act. We have not hesitated to express our concerns when warranted, or to enforce U.S. legal sanctions against Chinese entities engaged in proliferation activities. We have encouraged China to broaden its laws, commitments and export controls, and to take more vigorous action to enforce new restraints. But the fact that there are differences should not preclude cooperation where we agree. Particularly since the overall trend in the nuclear area is positive and much has been accomplished over the last decade.

But overall? U.S./China relations are on the upswing. Mr. Chairman, this Administration and this President are committed to working toward a relationship with China that enhances America's security and that of our allies and friends, especially those in the Asia-Pacific area. Indeed, the President has led the way. On December 9, 2003, on the occasion of the visit of Premier Wen, he stated:

“America and China share many common interests. We are working together in the war on terror. We are fighting to defeat a ruthless enemy of order and civilization. We are partners in diplomacy working to meet the dangers of the 21st century.”

And at the Heritage Foundation on February 2 of this year, the President reaffirmed that:

“...it is American policy to integrate China into Asian and global institutions. To do so, we pursue a candid, constructive and cooperative relationship with China in all spheres.”

And that's our policy. To integrate China into global institutions -- but only when China comes eligible and meets the criteria for membership. And that brings me to the heart of our subject today, namely the Chinese application for membership in the Nuclear Suppliers Group. How did that come about? And why do we support Chinese membership? To answer those questions I need to review just a bit of history.

We initiated an agreement for peaceful nuclear cooperation with China back in July 1985 and submitted it to Congress for the requisite period of Congressional review. The agreement entered into force in December of that year. However, exports under the agreement could not begin until the President made certain nonproliferation-related certifications set forth in a Congressional resolution of approval of the agreement. Those certifications were not made -- for reasons that would have to be discussed in classified session.

By 1994, however, it began to appear that China was taking a more serious approach to nonproliferation issues – although there were still problems –

and we suggested to the Chinese that implementation of the nuclear cooperation agreement might be possible under certain conditions and if China took certain steps. Negotiations began in earnest in the spring of 1995.

We asked China to join one of the two multilateral nuclear export control groups, the Nuclear Suppliers Group or the Zangger Committee. China chose to join the Zangger Committee for an obvious reason. China was supplying Pakistan with the Chasma nuclear power reactor. Chasma would be under IAEA safeguards, but Pakistan does not accept full-scope IAEA safeguards over its entire nuclear program. The NSG requires full-scope safeguards as a condition of nuclear supply. Zangger does not, because Zangger interprets the requirements of the Nuclear Nonproliferation Treaty, and the NPT does not require full-scope safeguards as a condition of supply. The point to note here is that we were suggesting Chinese membership in the NSG over nine years ago. This is not an issue that just surfaced over the last six months.

What steps did China take at the time? First, China promulgated nuclear export controls in September 1997 and based those controls on an itemized list that was substantively identical to the trigger list developed and used by the NSG. Second, at the October 1997 U.S./China Summit, China committed publicly not to provide any assistance to unsafeguarded nuclear facilities and nuclear explosive programs. Third, China promised to promulgate strengthened dual-use controls by the middle of 1998, which it did. Those dual-use controls use a control list substantively identical to the one used by the NSG. Fourth, China did join the Zangger Committee in 1997 and has been a cooperative member ever since.

My Director of Nuclear Energy Affairs, Dick Stratford, was on the U.S. negotiating team at the time, and he tells a good story. The U.S. wanted to see dual-use export controls promulgated before the Summit. The Chinese said that was impossible because developing a dual-use control list was a complicated task and getting interagency approval was worse. Dick said, "Why would you reinvent the wheel? Here's the NSG dual-use list. It's been accepted by over 30 supplier countries. And because it's an IAEA publication, it's already translated into Chinese." The Chinese said they couldn't just copy slavishly what others had done. But, when the list was published the following spring, one could tell that the entries were the same as on the NSG list, right down to the indentations.

In the meantime, after 1997, we continued to think about Chinese membership in the NSG. The NSG made China part of its "outreach" efforts each year. When I was the NSG Chairman in the spring of 2002 my briefing paper noted that China had indicated informally that it might be interested in seeking NSG membership. When we reported on the Chair's outreach efforts to the Prague Plenary in May 2002, we noted that China had expressed interest in how the NSG handled existing contracts (the so-called "grandfather clause") – a clear signal that China was thinking about membership.

In 2003, some NSG members reported that their bilateral discussions with China indicated that a Chinese request for membership might come sooner than expected. That fact was discussed at the 2003 NSG Plenary in Busan, South Korea, and the Busan Plenary, by consensus, agreed to pursue China's membership over the next year. That agreement by the group may have influenced China's thinking about the timing of membership. In any event, Chinese officials in Vienna last fall were asking us questions on how the grandfather clause worked – a sure sign of serious intent.

Meanwhile, China continued to take additional steps indicating that it was increasingly serious about nuclear nonproliferation and that it was willing to work with others to that end.

First, in September of 2003, we concluded arrangements with China on a system for obtaining reciprocal government-to-government assurances that nuclear technology transferred to the other party, and items derived therefrom, would not be retransferred to a third country without the consent of the supplier state. That was a complex negotiation because it involved creating a mechanism whereby each foreign ministry would have a way of knowing precisely what technology was proposed to be transferred, to whom, and what had actually gone.

Second, in December 2003 China issued its "white paper" setting forth China's views and policies on nonproliferation. The white paper is a useful and detailed statement on Chinese export controls, the use of "catch-all" controls, the responsibilities of Chinese agencies, and some of the provisions of Chinese criminal law as it applies to export activities.

Third, DOE Secretary Abraham and his counterpart at the China Atomic Energy Authority signed a Statement of Intent in Beijing in January 2004 pledging mutual cooperation and collaboration with the International Atomic Energy Agency in the fields of export control, nuclear safeguards, physical protection and radioactive source security.

That understanding, by the way, is already bearing fruit. My Principal Deputy, Susan Burk, is in Beijing this week leading export control talks that will get into the details of licensing, enforcement, outreach, and identifying challenges in implementation. Those talks will also include interagency decision-making, identifying suspicious transfers, investigation and prosecution. There will be a separate break-out session on the details of nuclear export controls, including developments in the supplier regimes, dual-use licensing reviews, nuclear technology security, and intangible technology transfers.

And that takes us to January 26, 2004 when China filed with the NSG Chairman its application to join the NSG. In its letter of application, China stated clearly that it will act in accordance with the Guidelines and Control Lists of the NSG. On the same day, China wrote to the IAEA Director General to inform the Agency that it was adhering to the Nuclear Suppliers Guidelines, specifically that:

"China will, once admitted into NSG, act in accordance with the NSG Guidelines (as contained in INFCIRC/254/Part 1 and Part 2, including Annexes, as amended) and duly exercise export control over nuclear and nuclear dual-use items."

That means that China agrees to apply the commitments of the Nuclear Suppliers Guidelines to its own export control policies, including requirements for IAEA safeguards, physical protection, and retransfer consent rights.

China also supplied additional information on its intention to amend its national legislation to incorporate full-scope safeguards as a condition of nuclear supply (and in case of delay, to take administrative measures to the same effect, such as the issuance of a State Council decree).

The NSG Chairman circulated the Chinese application to members on January 27, noting that he was reviewing the application. On March 22, the Chairman wrote to NSG members stating that:

"It is the NSG Chair's view, after evaluating the content of China's export control legislation and other requirements for participation, that China has taken all the necessary steps for consideration for participation in the NSG."

The Chairman requested that members provide their written responses on China's application by April 30, "with a view to China's participation in the 2004 NSG Plenary in Sweden."

Thirty members have replied to the Chairman. As of midday Monday, Vienna time, the Chairman had received nine positive responses from South

Korea, New Zealand, Switzerland, Ukraine, Kazakhstan, Latvia, Turkey, Russia and the United States. The issue is complicated by the fact that there are three other applications pending. Estonia, Lithuania, and Malta; and Russia has not been positive on the two Baltics. Because of the Russian hesitation on the Baltics, 21 EU countries have told the Chairman that they want to discuss all four applications at the Plenary. The Chairman has now proposed that all four applicants be invited to the Swedish Plenary as "observers" and the issue taken up there.

As I said, Mr. Chairman, the U.S. did reply positively on the issue of China's admission to the NSG, for a number of reasons:

- First, we raised NSG membership with China in 1995 as one of the steps we wanted China to take at the time – with Zangger Committee membership as an acceptable alternative. China chose Zangger for the reasons I mentioned.
- Second, for over a decade, we have been trying to bring China into the international nuclear nonproliferation arena. As Secretary Powell has said, we welcome a global role for China.
- Third, China has continued to take steps to control nuclear and dual-use exports and to demonstrate its willingness to adopt global norms. To that end, we can cite the adoption of nuclear and dual-use export controls, full-scope safeguards as a condition of supply, the broad-scale cessation of nuclear cooperation with Iran, the Chinese white paper on nonproliferation, and the increasing cooperation with the United States in the areas of export controls, safeguards, and physical protection.

In informing China of our support for membership, we also informed Chinese officials that we expect China's support for the President's initiatives involving the NSG, and specifically for the ban on the further transfer of enrichment and reprocessing technology, and for making the Additional Protocol a condition of supply for trigger list items by the end of 2005.

There are still problems that concern us. There are implementation issues. China needs to do a consistently better job in identifying and denying risky exports, seeking out potential violators, and stopping problematic exports at the border. This week's nuclear export control talks in Beijing are one way of getting progress in these areas.

Mr. Chairman, among the questions that might be raised is whether China would prove to be a "spoiler" inside the NSG. There are no certainties in diplomatic relations, but certainly that has not been their role in Zangger for the last seven years. Moreover, their declared policies in their white paper suggest a confluence of views with the majority of NSG members on such issues as catch-all controls. Also, Chinese officials have commented positively on the initiatives that President Bush put forward in his February 11 speech. Generally, we see that China takes its responsibilities in international organizations seriously.

Do we think that China will play a role similar to that of Russia? Some might. But I don't. Russia has posed some difficulties in the NSG on certain issues, probably driven in part by Russia's interest in protecting its nuclear supply relationships with India. That said, we do not foresee China posing the same difficulties regarding nuclear supply relationships, as this is not an issue for China. And China has stated that it will inform the NSG of the particulars about its supply of Chasma II to Pakistan – something which is not yet required by the Guidelines.

We have known for some time that China planned to supply Chasma II. But, although we would prefer that no such cooperation occur, Chasma II will be under IAEA safeguards and the NSG full-scope safeguards provisions have always made allowance for the completion of agreements and contracts entered into before membership.

Another question might have to do with our sanctioning of Chinese entities for various exports of concern, including as recently as April. When we see exports from time to time that concern us, we are sometimes able to use diplomatic channels to get China to stop the shipments. When shipments do occur in spite of laws prohibiting them and our considerable diplomatic efforts, we apply sanctions. The vast majority of sanctions cases deal with missile and chemical issues. But nuclear technology, services and materials are represented in the mix. And therefore we have to continue to call such instances to Chinese attention and to insist that Beijing take the necessary steps to stop such transfers.

If missile and chemical transfers are a major issue, some would ask why it might not seem prudent to tie Chinese admission to the NSG to across-the-board improvements in export behavior. The answer is that a decade ago we set out to resolve concerns about Chinese policies and practices with respect to nuclear nonproliferation. We set certain goals and tied them to implementation of the agreement for peaceful nuclear cooperation. China greatly desires to be a participating member of the international nuclear nonproliferation regime, and has continued to take steps to demonstrate its bona fides to that end. Tying NSG membership to a host of other issues at the last moment would not bring us progress on the other issues. It would only cause the cessation of cooperation on nuclear issues we care about and on which we are now engaging – even this week.

And lastly, did we favor NSG membership for China because we want China to buy U.S. nuclear power reactors? No. The Administration does favor the sale of U.S. products, including nuclear reactors and civilian nuclear power technology to China, and there are people whose job it is to urge the Chinese to buy American. Moreover, since the Chinese are interested in procuring nuclear power reactors from abroad, if they buy from the United States we would have substantial influence on how China manages its civilian nuclear program in such areas as nuclear safety. But, as I said, we set out a decade ago to influence and change the direction of Chinese policy and practices with respect to nuclear nonproliferation. We wanted China in a multilateral nuclear export control forum then and we achieved that with Zangger membership. But today, it's the NSG where the major nuclear export control issues are considered and China as a nuclear supplier should face those issues head-on. That is one of the global responsibilities it should take on. It also means that Chinese diplomats and export control officials would be exposed regularly to the nonproliferation views of 40 (and soon 43) other countries. That can only help.

Mr. Chairman, I'll stop here. I hope I've answered many of the questions you might have had and assuaged concerns about the merits of having China inside, not outside, the NSG. I'm at the Committee's disposal and would be happy to address any other questions or concerns.

Thank you.

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