NUCLEAR COOPERATION WITH THE UNITED ARAB EMIRATES: REVIEW OF THE PROPOSED U.S.–UAE AGREEMENT

HEARING

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JULY 8, 2009

Serial No. 111–27

Printed for the use of the Committee on Foreign Affairs

Available via the World Wide Web: http://www.foreignaffairs.house.gov/

U.S. GOVERNMENT PRINTING OFFICE

50–914PDF WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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NUCLEAR COOPERATION WITH THE UNITED ARAB EMIRATES: REVIEW OF THE PROPOSED U.S.–UAE AGREEMENT

WEDNESDAY, JULY 8, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room 2172, Rayburn House Office Building, Hon. Howard L. Berman (chairman of the committee) presiding.

Chairman BERMAN. The committee will come to order.

The purpose of today's hearing is to examine the proposed "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," and the whole variety of issues that are associated with that proposed agreement.

This marks the first appearance before Congress by the new Under Secretary of State for Arms Control and International Security, our former House colleague, our dear friend, California Representative Ellen Tauscher.

Madam Under Secretary, congratulations from the entire committee on your new appointment——

Ms. TAUSCHER. Thank you.

Chairman BERMAN [continuing]. And on your wedding. Two vows on the same day. This is a wonderful place to take a honeymoon.

And, in addition, our congratulations to you and our real joy at the fact that, number one, you are doing this very important job, and secondly, that there is life for former Members of Congress, I think we all want to offer—at least I want to offer my congratulations to the Obama administration on the framework for a new nuclear arms reduction treaty to replace the 1991 Strategic Arms Reduction Treaty (START), which expires in December. As was made clear in our hearing that we had 2 weeks ago, it is absolutely vital to our national security to preserve the gains of the START treaty and to further reduce the United States and Russian nuclear arsenals. There is no question but that there is a clear linkage between our nuclear nonproliferation and arms control policies, and we ignore that linkage at our peril.

On to the UAE agreement: Under U.S. law, a civilian nuclear cooperation agreement is required before we can transfer significant nuclear equipment and materials to a foreign nation. Often referred to as a "123 agreement" after section 123 of the Atomic En-

ergy Act, it provides the legal framework for the U.S. companies to export controlled civil nuclear goods.

By itself, a 123 agreement transfers nothing; all U.S. nuclear sales and exports must go through their own licensing review and approvals before they leave our shores. If a proposed agreement complies with all the requirements of section 123—as this one does—then it can be brought into force by the President, unless Congress enacts a joint resolution of disapproval within 90 days of continuous legislative session following its submission. Based on our mathematical geniuses' calculations, and assumptions regarding the legislative schedules, the review period for the UAE agreement will end on October 17th.

This is the first proposed United States nuclear cooperation agreement with a Persian Gulf state. As such, it inevitably raises questions about the broader implications of civil nuclear power in that volatile region, home to a number of terrorist groups and an Iran seemingly determined to acquire a nuclear weapons capability. There are those, both inside and outside Congress, who would clearly prefer that the region stay nuclear free, not just of weapons, but also of reactors and related facilities.

I share their concerns. But there are multiple suppliers of civil nuclear power reactors in the world today. Both France and South Korea have already concluded similar cooperation agreements with the Emirates. Moreover, many of the Gulf states, the UAE included, have ample financial means to buy from whomever they choose, under whatever terms those vendors are willing to offer.

It is unlikely that the United States would be able to bring sufficient diplomatic pressure to bear against France, Russia, Canada, South Korea and all the others that could do this to convince them not to sell civil nuclear equipment or fuel to the UAE and other Gulf states, all of which are parties to the Nonproliferation Treaty, or NPT.

That is the context in which we consider this agreement.

Some express concerns that 123 agreements encourage or enable the proliferation of nuclear weapons, as civilian reactors and some of their associated facilities can also produce material for a nuclear bomb if diverted from peaceful use.

In that context, it is important to note that the nonproliferation conditions of the proposed U.S.–UAE Agreement go beyond those required by the NPT, beyond those of the Nuclear Suppliers Group, and beyond those of even our own laws.

It contains, for the first time in any U.S. nuclear cooperation agreement, a binding legal commitment by the foreign recipient not to engage in any uranium enrichment or spent-fuel reprocessing activities, nor to have any facilities for such activities. If the UAE violates this provision, then the U.S. would have the legal right to terminate the agreement, prohibit all current and future transfers to the UAE, and demand the return of all equipment, material, and facilities previously provided. This is the same so-called "take-back" right that is normally reserved as a penalty for a nuclear test or a major violation of an IAEA safeguards agreement.

I believe any future U.S. 123 agreement in the region—with Jordan, Kuwait, and other states that are seeking it—should follow this model. Indeed, this model could even be applied if one day Iran

truly changes from pursuing a nuclear weapons capability to a country whose deeds match its own words in terms of its desire for nuclear energy.

Other supplier states will hopefully follow our lead and include the no-enrichment/no-reprocessing obligation in their own nuclear cooperation agreements.

For me, the fundamental issue is not the substance of the agreement itself. It is, I believe, the best one we have entered into. Rather, it is the extent to which the UAE has been a reliable partner of the United States in working to prevent Iran's efforts to develop a nuclear weapons capability.

For many years, Iran has sought to use the UAE as a transit point to illicitly procure items to support its nuclear and other WMD programs; expand its conventional military programs; and even to acquire electronics to incorporate into Improvised Explosives Devices (IEDs) which have killed and maimed the United States, Coalition, and Iraqi soldiers and civilians in Iraq. Iranian-affiliated banks continue to operate in Dubai, several of which have been sanctioned under U.S. antiterrorism laws as recently as last May.

By all accounts, the UAE has significantly improved its performance in preventing illicit shipments of military-sensitive goods to Iran over the past 2 years. Yet, questions remain about the extent of the UAE's commitment, as well as the pace at which it improves its export control capabilities. For example, why is the UAE moving so slowly to implement the comprehensive export control law it passed last year?

The Obama administration notes that the UAE considers Iran to be both its most significant security threat, but also an important trading partner with which it cannot cut ties. So how will the UAE strike a balance between not antagonizing Iran and supporting United States efforts to constrain the development of Iran's nuclear weapons capabilities? How much leverage does this agreement give the United States to help persuade the UAE in this area? And do we have more leverage before or after this nuclear cooperation agreement goes into force?

In closing, let me note that the committee held a classified briefing 2 weeks ago on some of these issues. And earlier, the committee, I believe, and I know I, myself, have received a number of different briefings on these issues that I have just raised. I know we can't get into classified information in this open hearing, but to the greatest extent possible, I hope we can use this as an opportunity to address some of the critical questions about this important nuclear cooperation agreement.

And I now turn to the ranking member, my friend from Florida, Ms. Ros-Lehtinen, for any remarks she may wish to make.

Ms. ROS-LEHTINEN. Thank you so much, always, Mr. Chairman.

Madam Under Secretary, let me thank you for taking the time from your schedule to testify before our committee so soon after your confirmation. Thank you so much. And let me also express my sincere congratulations on your very recent marriage.

My colleagues and I already lament your departure from the House, and we will miss your invaluable expertise and bipartisan approach to what are so often very difficult subjects of great impor-

tance to our country. And most importantly of all, we miss your friendship on a daily basis.

So you may have a high-fallutin' title now, but you will always be Ellen to us.

Ms. TAUSCHER. Thank you.

Ms. ROS-LEHTINEN. Let me begin my remarks Mr. Chairman, and Madam Under Secretary, by stating my strong support for stronger ties between the United States and the United Arab Emirates.

In recent years, U.S.–UAE political, economic, and security ties have significantly expanded. The UAE is becoming an important partner in the Persian Gulf, and I support expanding that relationship. I say this to put in context my concerns about moving this proposed nuclear cooperation agreement at this time.

For many years, the UAE has been the principal conduit of goods and materials intended for Iran's nuclear program, as well as for its ballistic missiles and advanced conventional weapons systems. In addition, banks and other enterprises in the UAE have facilitated Iran's acquisition of these items and its support of violent Islamic extremist organizations such as Hezbollah.

The Government of the UAE turned a blind eye to this trade for many years, even after U.N. Security Council sanctions were imposed on Iran. These and other transactions were also subject to U.S. sanctions that were ignored, a fact that we must remember in our consideration of this nuclear cooperation agreement.

Similarly, al-Qaeda and other groups freely utilized UAE-based financial networks to facilitate their anti-U.S. efforts by taking full advantage of the absence of effective anti-money/laundering laws and of the cooperation of UAE citizens and others eager to profit from these activities.

To its credit, the UAE has taken steps in the last 2 years to fight money laundering and terrorist financing. It has participated in exercises of the Proliferation Security Initiative (PSI) and it has adopted a number of laws and regulations to strengthen its export controls.

Many of us have supported a number of other U.S. efforts to acknowledge this progress and encouraged the UAE to continue. However, a nuclear cooperation agreement at this point, with just 2 years as a reference, is one line that some of us are not prepared to cross.

Despite repeated claims by officials in this administration, and last year by the Bush administration that the necessary laws and regulations are already in force in the UAE, the truth is that they are still incomplete. I reference two letters that I had written to President Bush about these concerns and letters to President Obama about these concerns. I am an equal opportunity, bipartisan worrier.

Why? Because these regulations have yet to be fully implemented. Sufficient personnel have not been hired and trained. A range of other measures are waiting to be put into effect. Specifically on the nuclear front, some nuclear laws and regulations are yet to be fully implemented.

But even if all the promised reforms were already in place, there simply is no track record to determine if they are, in fact, adequate

to the task, particularly in light of the UAE's long history of complicity or negligence regarding trade with Iran and other countries of concern. For this reason, along with my colleagues Mr. Royce, Mr. Sherman, Mr. Markey, Mr. Fortenberry, Mr. Burton, Mr. Boozman, and Mr. Wilson, I have introduced a bill, H.R. 364, to require the President to certify that the UAE has met a number of conditions before this nuclear cooperation agreement can go into effect.

The conditions include the UAE's full compliance with international sanctions against Iran. Also its crackdown on the use of its territory by its own or foreign individuals and enterprises engaged in illicit trade with Iran or assisting Tehran's financing of terrorist groups such as Hezbollah. And thirdly, the application of all United States laws and Executive orders regarding trade with Iran.

These are hardly onerous conditions. Nevertheless, both administrations, Bush and Obama, and the UAE argue against requiring these standards because they say that the UAE has already met them. If this is, in fact, the case, why is the administration opposed to this legislation?

My colleagues and I have written a letter to Secretary Clinton on the conditions in the bill. Under Secretary Tauscher, thank you for accepting my hand delivery of that letter, and I ask your assistance in ensuring that it reaches the Secretary.

This agreement with the UAE also has consequences going beyond the UAE itself—specifically, its potential to undermine nonproliferation efforts. As we are aware, there is no sharp dividing line between the facilities, materials, technology, and expertise used for peaceful purposes, such as generating electricity and those used in nuclear weapons or weapons programs. Iran and North Korea, among others, have demonstrated that the inspections and controls that we rely on to prevent this diversion have too many holes to provide the degree of protection needed to stop this deadly threat. And yet the Obama administration, as the Bush administration did, is set on using the UAE agreement as a template for new agreements with other countries in the Middle East, the most volatile region in the word.

The nuclearization of the Middle East by the United States and other countries, such as France and Russia, is an extremely dangerous development. How can this be reconciled with stated commitments to prevent the proliferation of such deadly unconventional weapons?

I have a number of other concerns regarding this agreement which I look forward to discussing with you, Madam Under Secretary, following your testimony.

Thank you so much, Mr. Chairman.

Welcome, Ellen. Thank you so much.

Thank you, Howard.

Chairman BERMAN. Thank you. And I am now pleased to recognize for 3 minutes for an opening statement the chairman of the Subcommittee on Middle East and South Asia, the gentleman from New York, Mr. Ackerman.

Mr. ACKERMAN. Thank you very much, Mr. Chairman. Double congratulations to our former colleague.

Ms. TAUSCHER. Thank you.

Mr. ACKERMAN. It seems like we have almost just begun to miss you, and find you here with us again. I want to thank you for making this your first stop and working with us from your new, very important vantage point.

I am trying to work through this whole notion of this 123 agreement with the UAE. I know the agreement is one that is very well written, supported by this and the previous administration. But I have a broader contextual concern, in specific, the region in which this agreement takes place.

My general concern is, what are the implications, the broader implications of a 123 agreement; and does it set off a nuclear energy reaction within the region—especially a region where opening any Pandora's box is generally a dangerous thing to do, because it is more of a "tinderboxical" region than any place else in the world. And what this does to other countries who would like to see this kind of agreement, perhaps some with a more jaundiced eye of what it could lead to if they have more demonical ambitions for something else down the road.

I know some might argue that this might not be the ideal country to do this in first. Some might argue otherwise. It is a country that appears to have a great deal of energy resources, both gas and oil. It is one of those few places, I guess, where they dig for oil and pray that they hit water. But they do have other greater needs.

So those are the concerns that I have. What does this do in the thinking of places like countries that are friendly to us, but are troublesome in where they are politically, Egypt and others, and every other country in the region?

So I look forward, with great anxiety, to hear your point of view and your explanation.

Ms. TAUSCHER. Thank you.

Mr. ACKERMAN. Thank you and welcome.

Ms. TAUSCHER. Thank you very much.

Chairman BERMAN. You will calm him down.

Ms. TAUSCHER. I will try.

Chairman BERMAN. I am pleased to recognize the ranking member of that Subcommittee on the Middle East and South Asia, the distinguished gentleman from Indiana, Mr. Burton, for 3 minutes.

Mr. BURTON. You sure look happy. I don't know whether it is from getting married or becoming an official at the State Department. You want to tell us which one?

Never mind. We will talk about that off the record.

I am not going to be redundant and go into the things that have already been covered by the chairman and ranking member and Mr. Ackerman. But I would just like to make a couple of real brief comments.

First of all, I find it interesting that we are helping India and the UAE with nuclear energy development programs, and we ain't doing it here. We ought to develop a lot of nuclear plants here for nuclear energy because it is clean burning, it is efficient, and it helps the environment. And so, since we are doing those things over there, why don't we take a hard look at doing it here in America? France gets about 75 percent of their energy from nuclear sources.

The other thing is the UAE has a long history of undermining U.N. Security Council sanctions regarding Tehran's weapons program. The UAE has many times overlooked the transfer of weapons systems and financial assistance through its ports to recipients such as Iran, Hezbollah, and other terrorist organizations. And that is something I don't think any of us, Democrat or Republican, want to continue.

I am pleased that they are making some strides with more effective export controls and financial controls, but so far that doesn't appear to be enough, and that is why I am cosponsoring the legislation that the ranking member just talked about.

I wish you well in your new duties, and I look forward to having you testify before us many times. And tell your husband I think he got a good deal.

Ms. TAUSCHER. Thank you very much. Thank you.

Chairman BERMAN. I am very pleased to recognize the chairman of the Subcommittee on Terrorism, Nonproliferation and Trade, the gentleman from California, Mr. Sherman, for an opening statement.

Mr. SHERMAN. Madam Secretary, about 2 years ago I spent my honeymoon with you and our colleagues, and I hope that your honeymoon is as delightful as ours was.

It was a dark day for Congress, and particularly the class of 1996, when we learned that you were leaving us. But then a light shown for at least those of us who serve on this committee, and especially the Nonproliferation Subcommittee, when we learned the position you would be taking and that you would continue to work with us.

The text of the agreement that you are here to discuss I think is a good one if we just look at the four corners of the agreement. First, it contains a binding commitment by the UAE to forgo enrichment and reprocessing technology. Second, the UAE will implement the additional protocol safeguards. These are two elements that should be in every 123 agreement.

But if you look outside the text of the agreement, there are a couple of significant problems. The first relates to jobs. The supporters of this agreement say there may be 10,000 jobs at stake, but no company will enter this industry unless they have protection from liability.

The French and the Russians already do because their major entities are part of the government, so they have sovereign immunity. And American companies will not actually do any work unless there is something similar adopted at the UAE to the Convention on Supplementary Compensation for Nuclear Damage (CSC). And I hope and expect that that is what UAE will do. I would feel better about this agreement if they had already done it.

I also am concerned that, from what I hear, the whole deal is wired for the French anyway. And this disturbs me a little bit when I realize that both Kuwaiti and Emirati independence is a direct result of the actions we took in the Gulf War.

Finally, and as has been mentioned by the ranking member and others, the UAE's record in transshipment and diversion to Iran is not something that is acceptable. As your testimony states, the 2007 law adopted by the UAE is a strong basis on which to build

an effective export control system. I agree with you. I just think before you give them the agreement, we shouldn't just have a strong basis to build an effective export control system; we should have that system in place. And the UAE has not named an enforcement agency, has not adopted regulations, and simply has no basis on which to learn what transshipments are taking place. So unless our intelligence hands it to them on a silver platter, it is unlikely that the present system will generate any enforcement.

I look forward to seeing how we deal with this.

Chairman BERMAN. The time of the gentleman has expired. The ranking member of the Subcommittee on Terrorism, Nonproliferation and Trade, the gentleman from California, Mr. Royce, is recognized.

Mr. ROYCE. Well, thank you, Mr. Chairman, and thank you for holding this important hearing.

And, Madam Secretary, I know you are getting right to work, and congratulations on your appointment. I think you certainly have your work cut out for you.

The proliferation challenges that we face are complex. As you know, they are very compounding, and that is why it is important that we get today's topic, nuclear cooperation with the United Arab Emirates, right. And it is even more so when the agreement has been talked of as a model which other nations across the region might elect to follow after we get this in place.

I know Under Secretary Tauscher will testify that this agreement encompasses the highest nonproliferation standards. Now, some contend additionally that this agreement will serve to isolate Iran's nuclear program; and I think that is a debatable conclusion. That the UAE is committed to forgo enrichment and reprocessing is a very, very positive development; and I think the administration is right to emphasize that. Yet, if the White House is considering endorsing some sort of enrichment capability under enhanced inspections on Iranian soil, as has been reported, I don't think that squares. I think that—personally I would hate to be the State Department official who has to explain to a Middle Eastern country that Iran can run X number of centrifuges while they can have none.

Before this committee in April, Secretary of State Clinton testified that the United States is laying the foundation for what she explained was crippling sanctions against Iran should the administration's engagement fail. I think that is what we need to do.

Given its extensive trade relationship, the UAE would be key to any aggressive sanction effort that we might cobble together under that approach. And to that end, the United States should be working to ensure the UAE's support of such an effort.

Thank you again, Mr. Chairman, for holding this hearing today.

Chairman BERMAN. The time of the gentleman has expired. I thank you.

And does any other member wish to make a 1-minute opening statement?

The gentlelady from California, Ambassador Watson, is recognized for 1 minute.

Ms. WATSON. Thank you so much, Mr. Chairman, for this hearing.

And I also want to add my congratulations. What a day for you, the high position that you hold. And the highest was the fact that you found a wonderful partner to work with you. And I know things will get much better for our side with you there as the Under Secretary.

I want to join with my colleagues with my concerns on the 123 agreement, which essentially promised United States cooperation on civil nuclear power in return for safeguards against sensitive technology being diverted to a weapons program or other non-NPT countries like Iran. It will remain in effect for 30 years.

However, my continued concern is that though this agreement has a cessation of cooperation clause and explicitly prohibits the reprocessing and enrichment of uranium and plutonium, it does not go far enough to encourage the UAE to fully implement its 2007 export control law.

So I look forward to listening to you, Madam Under Secretary, and I request unanimous consent that my full statement be added to the record, Mr. Chairman.

Chairman BERMAN. Without objection, so ordered.

Ms. WATSON. Thank you. I yield.

Chairman BERMAN. Any other?

Mr. McMahon?

Mr. MCMAHON. Thank you, Mr. Chairman. I too will submit, with unanimous consent, a longer opening statement to the record——

Chairman BERMAN. Without objection.

Mr. MCMAHON [continuing]. For the record.

But I too just want to welcome our, very recently, former colleague. What a great sense of personal satisfaction to see you there, but also for our Nation a great sense of security.

We look forward to hearing your testimony about this very important program and, in particular, ask you to focus in the testimony how it is that—given the vast procurement network that Iran has with the UAE, how the United States intends to guarantee that this technology shared with the UAE does not end up benefiting Iran. I think that is, for all of us, the crucial point, and a more expanded statement I will submit.

But let me just express or echo what we all said, what a great sense of pleasure and confidence we have in seeing you—a little sadness, but confidence as well—seeing you there. And congratulations on your marriage as well.

Thank you, Mr. Chairman. I yield the remainder of my time.

Chairman BERMAN. The time of the gentleman has expired.

The chairman of the Asia, the Pacific and the Global Environment Subcommittee, Mr. Faleomavaega, is recognized for 1 minute.

Mr. FALEOMAVAEGA. Mr. Chairman, thank you. And for the sake of time, I too would like to submit the full text of my statement to be made part of the record.

Chairman BERMAN. Without objection.

Mr. FALEOMAVAEGA. And I want to personally offer my personal welcome to the distinguished gentlelady from California, now as our Under Secretary. Could not have asked for a better person in understanding the importance of this issue of disarmament and

nonproliferation now facing our country, as well as other countries of the world.

And I look forward in dialoguing with Ms. Tauscher. Thank you, Mr. Chairman.

Chairman BERMAN. Thank you. The time of the gentleman has expired.

The gentleman from South Carolina, Mr. Wilson.

Mr. WILSON. Thank you, Mr. Chairman.

And Madam Secretary, congratulations. From this side of the aisle, we are very happy for your success. And I have confidence in you as to the issues that we will be facing.

I also want you to know that I brought the Congressional Record from 10 days ago, where you were commended. So we have got official recognition——

Ms. TAUSCHER. Thank you.

Mr. WILSON [continuing]. Which I will present to you.

But like so many other persons have indicated, we have a great concern about the ability of Iran, a state supporter of terrorism, as to their ability to possibly acquire nuclear material. I am very concerned and look forward to hearing your testimony as to how we can safeguard our allies in the Persian Gulf and also Israel. Thank you.

Ms. TAUSCHER. Thank you.

Chairman BERMAN. The gentleman from New Jersey, Mr. Sires, is recognized for 1 minute.

Mr. SIRES. Thank you, Mr. Chairman. I will just be very brief and congratulate you. Everybody back home is very proud of you. You know, the people in Harrison and East Newark and everybody, there is a special place in their hearts for you. And I know that you are going to do well.

And they are throwing you right into the fire the first day. So congratulations, but I know you will do very well.

Ms. TAUSCHER. Thank you very much. Thank you.

Chairman BERMAN. You are not a native Californian? I thought just her parents were from New Jersey.

The gentlelady from California, Ms. Woolsey, is recognized for 1 minute.

Ms. WOOLSEY. I have been trying so hard to sit back so that Ellen could say her piece.

Chairman BERMAN. But we can't.

Ms. WOOLSEY. No, but we can't. We have to hear ourselves first.

I want to congratulate you——

Ms. TAUSCHER. Thank you.

Ms. WOOLSEY [continuing]. On this appointment. It is the best fit—and I have told you this before——

Ms. TAUSCHER. Thank you.

Ms. WOOLSEY [continuing]. Of any appointment I have experienced since I have been a Member of Congress. And I look forward to going forward and working with you from this point on.

Ms. TAUSCHER. Thank you.

Ms. WOOLSEY. So I am glad you are here.

Ms. TAUSCHER. Thank you very much. Thank you.

Chairman BERMAN. The gentlelady from California, Ms. Lee.

Ms. LEE. Thank you very much. Let me say welcome——

Ms. TAUSCHER. Thank you, Barbara.

Ms. LEE [continuing]. Back home again.

It is remarkable to see you in this position. But as I said to you earlier, I feel that we can sleep better at night because you are in this position——

Ms. TAUSCHER. Thank you, Barbara.

Ms. LEE [continuing]. And that our children owe you a debt of gratitude.

Ms. TAUSCHER. Thank you.

Ms. LEE. People at home—of course, your California home—are very happy that you are where you are, but we miss you tremendously.

I remember the first day that we met. You were running for Congress. It was at the Port of Oakland. There was a rally with then-candidate Bill Clinton. And he looked at you and he said, "My goodness, you look like a Member of Congress."

And I just have to say to you, you look like Madam Secretary today. And we appreciate the sacrifices that you are making, but also congratulations to you on your marriage and good luck.

Ms. TAUSCHER. Thank you.

Ms. LEE. And I look forward to listening to your testimony.

Chairman BERMAN. Do any other members seek recognition?

The gentleman from Florida, Mr. Klein.

Mr. KLEIN. Thank you, Mr. Chairman. I am over here.

Welcome. I am so happy to have you here, and so happy for the American people and for Congress to have the level of expertise that you have in this role. It is a very important time to have the depth of experience. We are all obviously concerned and want to make sure we make the right decisions.

I am very supportive of the positions you have taken in the past on proliferation, nonproliferation, and things like that. Obviously, we are concerned about Iran. We are also concerned about the general Middle East; and whether it is the UAE or other places, obviously they could set off a chain of events which could be very detrimental to the region and the rest of the world. So we want to make sure we get it right.

I am very confident that you will give us the right direction. And we look forward to discussing with you and working with you.

Ms. TAUSCHER. Thank you very much. Thank you.

Chairman BERMAN. Does any other member wish recognition?

The only thing we are missing here is a bottle of champagne, all these toasts.

I am going to ask unanimous consent from the committee to include prepared statements by Mr. McGovern and Mr. Markey, both of Massachusetts, in the record of this hearing.

[The information referred to follows:]

Statement of Congressman James P. McGovern

House Committee on Foreign Affairs Hearing
Nuclear Cooperation with the United Arab Emirates:
Review of the Proposed U.S.-UAE Agreement
Wednesday, July 08, 2009
10:00 AM
Room 2172 of the Rayburn House Office Building

I would like to thank you, Mr. Chairman, for holding this important hearing today on the proposed 123 Nuclear Agreement with the United Arab Emirates (UAE).

Mr. Chairman, as your committee deliberates the merits of the nuclear agreement before you today, I very much appreciate this opportunity to express some of my doubts regarding this document. My concerns are not triggered by any of the specific provisions in it, or by the pending technology transfer as such, even though concerns particularly with regard to Iran in this context need to be fully vetted.

Much rather, I would like to draw the Committee's attention to significant human rights concerns that still exist with regard to the UAE, and which were part of the reasons for the initial delay in submitting this agreement to Capitol Hill.

Mr. Chairman, as you are aware, as Co-Chairman of the Tom Lantos Human Rights Commission, I convened a hearing on May 13th of this year to investigate the human rights situation in the UAE. The hearing came on the heels of ABC NEWS airing parts of some extremely depraved and brutal video footage which depicts Sheikh Issa bin Zayed al Nahyan severely torturing an Afghani grain dealer with the help of the uniformed official personnel. Sheikh Issa, of course, is the brother of the country's crown prince, Sheikh Mohammed, and younger brother of the current President of the UAE, Sheikh Khalifa Bin Zayed. The video footage further shows clearly that Sheikh Issa was assisted in his brutal attacks by uniformed officials.

Only after the brutal video footage sparked an international outcry and after the Obama Administration's decision to delay the referral of the Agreement to Capitol Hill, did UAE authorities announce a change in their standard attitude regarding the traditional impunity with which members of the royal family can act.

After having previously reviewed this case twice, the Minister of the Interior – who is another brother of Sheikh Issa's – originally determined that no laws were broken and police procedures were followed. Only a few days before our hearing did the UAE express a change of heart and announced that the Judicial Department of Abu Dhabi had accepted the recommendation of its Human Rights Office to refer all documents related to the broadcasted videos to the Abu Dhabi Public Prosecution Office. The Human Rights Office also met with the victim, and recommended the suspension of all individuals involved from their duties pending a criminal investigation. As a consequence, Sheikh

Issa was reportedly held in pretrial detention in a facility attached to a police station, and all responsible uninformed officials were allegedly removed and detained too.

Mr. Chairman, recent press reports, including an Associated Press story from yesterday, however indicate that Sheikh Issa is currently held under house arrest, and that still no formal charges have been brought despite the investigation and the clear cut video footage, and no information of any charges or convictions of police officers assisting Sheikh Issa is available. Does this mean that Sheikh Issa is currently held in one of his palaces? What is happening regarding the uniformed officials that so readily assisted the Sheikh?

After all this time, this does not sound like real progress or a real end of impunity to me, much rather like a damage control operation.

In addition, the sense of impunity seems not to be limited to members of the royal family alone, but also includes other UAE citizens, as was highlighted by the State Department Country Report for 2008:"Trafficking in persons continued, and legal and societal discrimination against women and noncitizens was pervasive. The government severely restricted the rights of foreign workers. Abuse of foreign domestic servants was common."

Mr. Chairman, the agreement before us is the last chance of leverage to bring a meaningful change in the rule of law in the UAE. Our Administration has accepted a heavy human rights responsibility by sending this Agreement up to Capitol Hill and triggering the 90 days timeline. This is a time when we clearly have the ear of the UAE government and I call on our Administration to undertake every effort possible to bring an end to impunity in the UAE and not to squander this opportunity. We must make clear that if Sheikh Issa were to be released after the Agreement enters in force, this would severely affect our relationship with the UAE.

Thank you, Mr. Chairman.

Rep. Edward J. Markey

Testimony as Prepared
Presented before a Hearing of the
House Foreign Affairs Committee
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement

July 8, 2009

Good morning Chairman Berman, Ranking Member Ros-Lehtinen, and Members of the Foreign Affairs Committee. Thank you for giving me the opportunity to testify today.

I would also like to join the Members of the Committee in welcoming my good friend, Undersecretary of State Ellen Tauscher, in her first appearance before the House as a member of the Obama Administration. During her time in the House, Ellen and I worked together on a number of vital nuclear security issues, and she is missed already.

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Chairman Berman, I oppose the proposed Agreement for Nuclear Cooperation with the United Arab Emirates because I strongly believe that the interests of the United States are not served by encouraging the countries of the Middle East to accelerate their race for sensitive nuclear technologies. In addition, the UAE's record of protecting sensitive technologies is extraordinarily poor, having served as the commercial headquarters of A.Q. Khan while he jumpstarted nuclear weapons programs in Iran, North Korea, and Libya. The United Arab Emirates is not a country, and the Middle East is not a region, where it is appropriate to export dangerous nuclear technology at this time. That is why I have introduced H.J.Res. 55, a resolution of disapproval pursuant to the Atomic Energy Act, to stop this agreement from entering into force.

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We cannot understand the nuclear ambitions of the UAE and other countries in the region without recognizing that they are acting at least partly in response to Iran.

In the past several years, as Iran has moved inexorably forward in its nuclear program, its neighbors Saudi Arabia, Turkey, Jordan, Egypt, Kuwait, Oman, Qatar, Yemen and the UAE have all stated their intentions to pursue nuclear energy programs. I do not believe this is merely a coincidence. Instead, it seems clear to me that Iran's neighbors are pursuing nuclear energy programs at least partly as a hedge against Iran's continuing nuclear program.

Instead of encouraging this trend, the United States ought to be seeking to reverse it. Instead of engaging France and Russia in a race to the bottom for nuclear construction contracts in the unstable Middle East, the United States ought to be leading all nuclear supplier countries to strengthen the global protections on the transfer of nuclear materials and technologies.

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The United Arab Emirates possesses what may well be the single worst record of controlling the import and export of sensitive high-technology goods of any country in the world. The Wisconsin Project on Nuclear Arms Control recently published a document titled "Nukes 'R' Us: Twenty Five Years of Transshipments Through the United Arab Emirates," which chronicles what they call only "a small fraction of the total" number of dangerous proliferation shipments which have passed through the Emirates. Among the most shocking transshipments documented in this study are:

- 100 metric tons of centrifuge-grade steel to Iraq;
- 66 triggered spark gaps, which can be used as nuclear bomb triggers, to Pakistan; and
- 60 tons of chemical weapons precursors to Iran.

In addition to this, the UAE served as a key node of the A.Q. Khan nuclear weapons proliferation ring. Exploiting the infamous nonexistence of the Emirates' export controls, the father of the

Pakistani nuclear bomb was able to provide uranium enrichment technology to Iran, Libya, and North Korea.

More recently, a new scandal has called into question the ability and willingness of the UAE to enforce its own laws. The shocking and horrific videotapes of torture being committed by a member of the Emirates' royal family, aided by officers of the police and military, raised profound questions about whether the rule of law is truth or fiction in the UAE. A country where powerful and well-connected individuals can flout the laws is not a country that can be trusted to safeguard sensitive U.S. nuclear technology.

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I believe that if this agreement is to enter into force, three additional elements should be delivered by the Obama administration. These three new components could negotiated without reopening the already-signed agreement, making them relatively easy to accomplish.

First, the United States should secure an agreement from all other nuclear supplier states that, if they negotiate any nuclear supply agreements with the UAE, that they will not undercut the nonproliferation commitments negotiated by the United States. Securing this sort of multilateral commitment by other nuclear suppliers would ensure that the new provisions in the U.S.-UAE agreement would not simply be ignored by France or Russia.

Second, UAE should agree to accept near-real time monitoring by the International Atomic Energy Agency as part of its comprehensive safeguards agreement. So far, like Iran, the UAE has not agreed to this enhanced safeguards measure. By securing the UAE's agreement to near-real time monitoring, it would help us pressure Iran to accept the same measure.

And third, the United States should receive the assurance of the UAE that it will fully support and implement current sanctions against Iran for its ongoing nuclear program, as well as any additional sanctions that are levied in the future. Given that so much of the international trade flowing into and out of Iran passes through the UAE, its commitment to full implementation of all sanctions against Iran is absolutely essential for such sanctions to be effective in bringing an end to Tehran's dangerous nuclear ambitions.

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Chairman Berman, thank you again for allowing me to testify today. I hope that the Committee will press for the improvements that I have mentioned.

Chairman BERMAN. And now, Madam Secretary, it is your turn. I don't think I need to introduce you, but for the record, Secretary Tauscher previously served seven terms, representing the 10th District of California. She served on the House Armed Services Committee and the Transportation and Infrastructure Committee, and chaired the House Armed Services Strategic Forces Subcommittee.

She also chaired the New Democratic Coalition, a group of 60 centrist Democrats.

She has been known for many years in the House, as has been mentioned by my colleagues, as a tireless advocate for arms control and nonproliferation. This is, as Barbara Lee said, the perfect fit.

Madam Secretary, please proceed with your testimony.

STATEMENT OF THE HONORABLE ELLEN O. TAUSCHER, UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY, U.S. DEPARTMENT OF STATE

Ms. TAUSCHER. Chairman Berman, Ranking Member Ros-Lehtinen, distinguished members of the committee, colleagues, I may not be a Member of the House any longer, but I have come back to visit my heart. And I look at all of you and want you to know that on my third day in office and my third day at work, I took the first opportunity I could to come and come before this committee, which will be so very important to President Obama and Secretary Clinton's agendas. And wanted you to know that I came here as fast as I could because the work that I will do with you on behalf of the American people is so very, very important.

You have my commitment that I will serve as best I can in this new job, as I tried in my old job with you, to provide the very best national security for the American people.

And Ranking Member Ros-Lehtinen, you have my commitment to deliver to Secretary Clinton your letter.

For the members that have spoken, you have touched my heart, but you have also made very clear what your concerns are. And I want to take this opportunity to testify to make sure that you hear from me exactly what the administration's position on this situation with the UAE 123 agreement is.

I look forward to working with you in my capacity as Under Secretary of State for Arms Control and International Security. As I said, while I may be working in a different part of town, I will not be a stranger to this committee; and as we move forward to implement President Obama's arms control and international security agenda, I will be at the ready to be with you and your staff at any time you require it.

I am here today to testify in support of the proposed U.S.–UAE Agreement for Peaceful Nuclear Cooperation, which President Obama submitted to the Congress on May 21st for review, pursuant to section 123 of the Atomic Energy Act of 1954. I would like to request that my prepared statement be included in the record of today's hearing; I will present a shorter version in my oral testimony.

Mr. Chairman, the proposed agreement under review today should be seen in the context of an extraordinary bilateral relationship that has developed between the United States and the United

Arab Emirates in the last several years. The UAE is the largest Arab importer of U.S. goods, more than $15 billion worth in 2008.

The United States and the UAE have established an enduring partnership and share a common vision for a secure, stable, and prosperous Middle East. The UAE provides the United States and Coalition forces with access to its ports and territory and other critical and important logistical assistance.

The United States and UAE collaborate as like-minded partners on a range of issues facing the region. The UAE is a strong supporter of the Palestinian Authority. The UAE was the first Arab state to send an ambassador to Baghdad and to support Iraq's engagement with its neighbors. It also committed to cancel $7 billion in Iraqi debt.

The United States and the UAE also work closely to bring peace and stability to Afghanistan, where the UAE has deployed combat troops. The UAE is also working vigorously to support Pakistan, pledging $300 million in support of the Tokyo Conference in April 2009.

The UAE has been a responsible and reliable supplier of energy to world markets, with sustained involvement of U.S. companies in the UAE oil and gas industry for more than 40 years. The UAE has also made sizable investments in the development of renewable energy, and on June 29th, was selected to host the headquarters of the International Renewable Energy Agency, called IRENA.

The proposed agreement on peaceful nuclear energy is a further strengthening of cooperation between our two countries. In addition, the agreement is a significant nonproliferation achievement. For the first time, a U.S. partner has voluntarily agreed to forgo enrichment and processing.

The proposed agreement also provides for the first time 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. It also allows the United States to require the removal of special fissionable material from the UAE and transfer it to either the United States or a third country as exceptional circumstances of concern from a nonproliferation standpoint so require.

The UAE's expressed commitment not to pursue enrichment and reprocessing capabilities represents a marked contrast to Iran, which has failed to comply with its international obligations and seeks indigenous nuclear capabilities unnecessary for civil nuclear power, but critical for the development of nuclear weapons.

With respect to Iran, I know members have concerns about transfers, from or through the UAE, of items to Iran that could support its pursuit of weapons of mass destruction, the means of their delivery, or terrorism-related activities. It is well known that the UAE has been a transshipment hub for sensitive items and was used by the A.Q. Khan network for some of its activities. In the last several years, however, the UAE has taken critical steps to address this problem. It helped the United States expose and shut down the Khan network by taking actions against firms and financial activities on its territory. The UAE has decided at the highest levels not to be a source of proliferation in the future.

While more work remains to be done, the UAE has made considerable progress. It is enforcing an export control law. It has taken steps to implement United Nations Security Council resolutions against North Korea and Iran. It has taken actions to prevent the abuse of its financial system by proliferators. It has worked closely with the United States to prevent the diversion of U.S.-origin goods and technology through its territories. It is taking action against companies engaged in proliferation-related activities, and it has indicated it has stopped shipments of WMD-related goods to countries of concern.

The United States is committed to working with the UAE on further steps toward establishing a comprehensive export control regime and effective export control practices. Earlier this year, we held our annual Assistant Secretary of State-level bilateral counterproliferation task force in which we discussed additional ways to improve our mutual efforts to address proliferation issues. We are assisting the UAE through the Department of State Coordinated Export Control and Related Border Security Program as well as other U.S. Government programs in establishing a comprehensive export control regime and effective export control practices.

We recently completed training UAE prosecutors and judges in handling proliferation-related cases, as well as training in conducting investigations. Follow-up training is currently ongoing. While the UAE still has work to do, we believe it has taken the necessary steps to implement an effective export control system. As a result, the UAE has become one of our strongest nonproliferation partners. It generally shares our concern over the proliferation of weapons systems of mass destruction, their delivery systems, and related materials, as well as WMD financing.

In closing, Mr. Chairman and ranking member, distinguished members of the committee, I would like to ask the committee and the Congress to consider the proposed agreement on its own merits. It is in some ways a groundbreaking 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 usual stringent U.S. licensing procedures. As President Obama has formally determined, it will promote and not constitute an unreasonable risk to the common defense and security of the United States.

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 Congress.

Chairman Berman, Ranking Member Ros-Lehtinen, thank you. And I am prepared to answer whatever questions you might have. Thank you very much.

[The prepared statement of Ms. Tauscher follows:]

Testimony of Under Secretary Ellen Tauscher 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 House Foreign Affairs Committee July 8, 2009

Mr. Chairman and Ranking Member:

Thank you for this opportunity to testify today before the House Foreign Affairs 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. This important Agreement reinforces a particularly strong and mutually beneficial political, security, and economic bilateral relationship. The UAE is a valued partner on many issues, cooperating with us in such areas as support for 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.

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

A Ground-breaking Achievement

Let me 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 now our 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 enrichment and reprocessing. For the first time in a U.S. agreement for peaceful nuclear cooperation, 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 exceptional circumstances, under which the United States may 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 is a significant achievement and 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 me 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

I have spoken of the UAE's commitment to the highest nonproliferation standards. I 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 has committed to concluding the 2005 Amendment strengthening the Convention.

- 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 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 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 expressed commitment not to pursue enrichment and reprocessing capabilities is a marked contrast to Iran, which continues 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, and the Agreement for Cooperation will facilitate its involvement. 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 I would ask the Committee, and the Congress, to consider the proposed Agreement on its own 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 and Ranking Member, thank you.

Chairman BERMAN. Thank you. And I will yield to myself—I am just going to ask one question now; at the end I may have a couple more.

But Article 7, as we have talked about, legally binds the UAE not to conduct enrichment or reprocessing activities or facilities on their sovereign territory. I know the answer to this, but I think it is important to get it on the record and make sure everyone understands.

Does that operate regardless of the source of the material being enriched or reprocessed? For example, if they import uranium from a country other than the U.S., can they perform enrichment on that uranium and not be in violation of Article 7 of the U.S.–UAE Agreement?

Ms. TAUSCHER. No, Mr. Chairman.

Chairman BERMAN. Now it is on the record.

I am pleased to yield 5 minutes to the ranking member.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman.

Thank you for your excellent testimony this morning.

The administration has said that this agreement ensures that the UAE will not pursue enrichment and reprocessing, but there are other countries, such as Russia, which are lining up to sign their own nuclear cooperation agreements with the UAE. France has just done so.

Are we coordinating our efforts with these countries to ensure that a common front is maintained on this very important subject? The French agreement does not appear to include a binding commitment by the UAE.

Further, Madam Under Secretary—and you can answer these with the time we have remaining—in your testimony you said, before submitting the agreement, the President determined that it will not constitute an unreasonable risk to the common defense and security. How is the U.S. defining or interpreting the level of risk, and what constitutes an unreasonable risk?

Again, your statement further states that the agreement states that the U.S. may remove special fissionable material subject to the agreement if exceptional circumstances of concern from a nonproliferation standpoint so require. Again, how do we define "exceptional circumstances"? At what point would that determination be made? When would it be too late to prevent a proliferation risk?

And lastly, reference has continued to be made to the UAE's International Atomic Energy Agency Safeguards Agreement of 2003, yet UAE was still actively facilitating transfers to Iran. How can we be certain that the promises made in this agreement will be kept and that once they receive the agreement they will continue to abide by those commitments?

Thank you, Madam Secretary.

Ms. TAUSCHER. Ranking Member Ros-Lehtinen, there are a number of questions, and I will try to summarize them.

You asked about the other countries that have collateral agreements that they are negotiating in and of themselves. And the answer is, no, we are not coordinating them, but of course we are aware of them. And what satisfies us is that we have the strongest agreement.

And that also leads me to the second question that you asked about the President's confidence that this is an agreement that will enhance, not diminish our national security. I think that what we have to do is step back and take a look at the region and understand that there are many other players on the field that are negotiating with these countries to provide civil nuclear and other kinds of energy-related agreements. And what we have done, I think, is to set a very high bar.

Whether that is something that, as the chairman has suggested, can be agreed to by other countries is a moot question. The issue is that the UAE has agreed voluntarily. This is what their terms are. And we think that it is a significant achievement not only in civil nuclear, but in nonproliferation.

There are many other players on the field, as I said, that are negotiating with countries in the region to provide very similar opportunities that the United States is offering. But only the United States has this kind of agreement with the UAE where we are very, very confident that the proliferation concerns that everyone shares are mitigated by the fact that we have these no-reprocessing, no-enrichment agreements.

You asked about the risk to security. I think that by the fact that we have this agreement as strong as we believe we have it, that the UAE has agreed to—voluntarily agreed to sign, says to me that we have a significant opportunity here at a time when there is a lot of competition in the region from other countries to provide similar services, that we have the standard that I think meets the President's standard of national security and one that meets the standard of civil nuclear cooperation.

Ms. ROS-LEHTINEN. Thank you.

Ms. TAUSCHER. You are welcome.

Chairman BERMAN. The gentleman from California, Mr. Sherman, is recognized for 5 minutes.

And I might say at the beginning—and I should have—around here the 5 minutes is the question and the answers. So depending upon the member asking the question, it may leave you no time for an answer.

Ms. TAUSCHER. Okay.

Chairman BERMAN. The gentleman from California.

Mr. SHERMAN. We see that Iran is getting most of its refined gasoline through UAE terminals at Fujairah and Jebel. The UAE is a potential choke point for commerce to Iran. The UAE-Iran trade amounts to $12 billion in exports to Iran, although much of that is just reexporting what is brought in from elsewhere. This might explain the reluctance of UAE officials to enact and really enforce robust export control that has the potential to impact this trade with Iran.

Can we use this 123 agreement as leverage to address the fact that the UAE is a vital lifeline to the Iranian regime, particularly with regard to refined petroleum products?

Ms. TAUSCHER. Well, Chairman Sherman, I would think that everything is acknowledged in doing this agreement. I think that we understand not only the competition in the region, but we also understand the special relationship that the UAE has with the United States and Iran. And that is this is not a risk-reward situation.

This is what we believe to be a good deal not only for the UAE when it comes to civil nuclear cooperation, but this is a very key ally for us in the region. We have expanded our comments about the export control regime that the UAE has recently put in. We are offering a significant amount of cooperation with them to make sure that we believe that their export control regime is not only robust, but actually has prosecutorial and adjudication ability, which is key to making sure that, should something be interdicted, there is actually follow-through with prosecution and other things.

So I think that the United States has stepped up to a partner, considering that there is competition in the region for civil nuclear agreements, and what we have said is, This is what our side of the agreement is; we think that this is a very good deal for us when it comes to national security and nonproliferation concerns. And I think that we believe that the UAE is stepping up on their side, providing things like better export control regimes and other things.

Mr. SHERMAN. But the UAE hasn't even been asked, let alone committed to the United States, to interrupt refined petroleum exports from those terminals that I outlined. Is that correct?

Ms. TAUSCHER. I don't believe the United States is going to interfere in the domestic and other issues that the UAE has with its trading partners. But certainly we understand what the agreement says. And the agreement says that the UAE is meant to step up on these other things, including export control regime.

Mr. SHERMAN. Okay. Those don't include refined petroleum.

It concerned me that right after we saved not only Kuwaiti independence, but the Emirates' independence in the Gulf War, they decided to buy a French phone system. And I commented at the time when you dial 911 on a French phone system you get Paris, not the Pentagon.

Now the word seems to be that the French have been assured that they will get to build the reactors, while U.S. firms will get the crumbs, namely a contract to manage the nuclear program. Do you believe that American companies will get significant work in the nuclear program? And do you think that the French contractor has had an unfair advantage? Because the French Government has pretty much indicated that if you want that French naval base, you have got to give them the jobs; whereas we provide far more security to the Emirates, and I don't think we have hinted that getting jobs for Americans will have any effect on our foreign policy in the region.

Ms. TAUSCHER. I don't believe that there is any quid pro quo to other countries' agreements, including basing agreements for opportunities to get contracts.

Once again, as I said in my testimony, all this agreement allows is a beginning for the opportunity to have these agreements, these contracts. I happen to believe, as I believe you do and most members do, that there is a superiority of American business competition not only in technology but in the American workforce that would support it. I think we can be very, very competitive. But we need this agreement in order to do that.

Mr. SHERMAN. I don't underestimate American technology, but I think you underestimate French mercantile policies.

Ms. TAUSCHER. That could be true.

Mr. SHERMAN. I yield back.

Chairman BERMAN. The gentleman from California, Mr. Royce, is recognized for 5 minutes.

Mr. ROYCE. Thank you, Mr. Chairman.

And Madam Secretary, if I could raise an issue that I think is important to the nonproliferation community—and I think it is a logical step that we could take that the IAEA would be in support of—they have this ability now with surveillance—what do they call it, "near-real-time" surveillance of nuclear sites. And they have those cameras at many sites around the world, and that is one of the ways they do inspections.

And there would be, of course, the opportunity to do that here if we asked the UAE and tried to get their commitment to authorize the IAEA to employ those cameras; and so, you know—Iran has refused, of course, the IAEA request to employ such systems. But given the fact that this is going to be a model for the region, in contrast to the Iranian behavior, I think it would be important to secure a commitment to authorize such surveillance as kind of a priority.

And I don't think there would be a problem doing that. But I think, you know, since the UAE has agreed to the additional protocol, that needs to happen. And I would just ask you if you could sort of honcho and make sure that does happen. Because other countries are going to follow suit here, and we want to make sure that is teed up.

Could I have your——

Ms. TAUSCHER. Congressman, you have my commitment to work with you on this issue. I don't believe that we can reopen the agreement and have new requirements in the agreement.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE EDWARD R. ROYCE

The specific safeguards measures that the IAEA will apply at a specific site in the UAE will be determined under the procedures provided for in the UAE's NPT safeguards agreement. The IAEA has a wide array of safeguards measures at its disposal, including remotely monitored surveillance; it selects those which are applicable based on its technical analysis of the needs of each situation. The IAEA will require that the measures applied are effecting in carrying out its verification responsibilities. It is premature to determine whether use of a real time surveillance camera will be the most effective way of meeting safeguards needs at a future UAE facility.

Mr. ROYCE. No. I don't think there is a problem here, unless we are just trying to make it easy for Iran to cheat.

I think it is very, very important. There are a lot of other countries that are going to follow suit here. I don't think this is something that the UAE would have any problem with, nor anybody else. There is an agreed additional protocol. Unless we are trying to fool ourselves with respect to blinding the IAEA with respect to what they monitor in Iran, let's get this done.

Because frankly, between you and me, I don't know that we are going to be all that successful with Iran at the end of the day. But I sure would like to get this right.

Ms. TAUSCHER. Congressman Royce, you have my commitment to work with you on this issue. The UAE has agreed to the additional

protocol. To the extent that everything that is on the table they have agreed to, we are there.

Mr. ROYCE. You don't have to reopen anything. You can just do a side agreement on this. I think it is something that we didn't bring up. And I don't know if that is because of lack of attention to detail or—or because of the way we are going to handle Iran down the road and we didn't want, you know, this issue to surface. But it is something that needs to be addressed.

Ms. TAUSCHER. If you will allow me to work with you on this. First of all this is about the UAE. And Iran is a huge proliferation concern of ours, but this is about an agreement that the Bush administration negotiated a long time ago with the UAE. I am reluctant to agree right now that I am going to support looking at surveillance as a piece of this. As a side agreement, I am not even sure how that could be enforced. What I am looking for are things that we could request and that are enforceable.

Mr. ROYCE. What I am sharing with you is that this is something that the IAEA can do, that they have indicated that they are in favor of, that the nonproliferation community would like to see, that any of us who have worked with this over a period of time who don't want to fool ourselves would really think would be important, given the fact that this is a model. So I don't understand the reluctance. I think there should be enthusiasm to work in this regard.

Ms. TAUSCHER. I am enthusiastic to work with you. But the details of the UAE safeguards were negotiated with the IAEA, not the United States. We can weigh in if there is an issue. But these side agreements are as you know, rarely enforceable and worth what we think they might be. Not a lot.

You have my commitment. I am a fan of the opportunity have as many safeguards a possible. I think the surveillance equipment and the monitoring that the IAEA has done and matured over the last 5 years are significant and worthy of our support.

If you don't mind, I will provide for the record the answers to these issues. But right now the details of the UAE safeguards are what they negotiated with the IAEA, not with us, so.

Mr. ROYCE. Also you mentioned—just in closing—you mentioned that the UAE is cooperating with us on Iran. I will just quote the Prime Minister. He said last month that Iran's nuclear program was peaceful and that Iran's program was an internal matter.

That is probably not the cooperation that you are referring to. I am a realist in these things and I think if you are going to set a precedent, let's do it right. And thank you very much, Madam Secretary.

Chairman BERMAN. The gentleman's time has expired. Ms. Watson.

Ms. WATSON. Madam Secretary, according to the United Arab Emirates officials, their 9 percent growth rate is cited as the main justification for the country's need to pursue a nuclear program. However the Government of the United Arab Emirates has neglected to share the economic costs and energy analysis referred to in the briefing. The lack of transparency raises some interesting questions. How can we be sure this program is necessary without access to the primary source data?

Ms. TAUSCHER. Well, Congresswoman, countries, I don't believe, need to justify their civilian nuclear desires. I think it is very obvious that countries—certainly the United States is one of them—want to have a basket of opportunities to provide inexpensive, climate-neutral power to their citizens. And the UAE has made it clear that they want to have a civilian nuclear program only. They have negotiated a very tight agreement that precludes any kind of enrichment or things that would concern us about nonproliferation. They have done a number of different things on export controls. They have, I think, worked significantly with us to interdict; concerning issues with Iran. And I think that these are domestic decisions that the people and the Government of the UAE have made to seek this opportunity.

But once again, all of this agreement does is allow them to consider working with us to have this capability. It doesn't say that they are going to have the United States contracts or that they are going to have, you know, move forward on this. All this does is say this is the construct of how you do—the framework of how you would do it and then negotiations would begin.

Ms. WATSON. Well, as we go into further negotiating and dialogue with them, maybe we will ask to see some of the data. I think it would be important for us to have that information if we can get it. And I am sure that can be handled in a very diplomatic way in our interest.

Ms. TAUSCHER. We will try to handle that, thank you.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DIANE E. WATSON

We have requested the Government of the UAE to provide further details of its analysis.

Ms. WATSON. Another question, the United Arab Emirates appeared to be showing an interest in establishing joint ventures with the U.S. firms for the design, the construction and the operations of a nuclear power plant. However, the Government of the Emirates has also reached out to numerous other countries including France and the United Kingdom. And so the question is will U.S. companies be shown any sort of preference with regards to the awarding of contracts, specifically relates to the design, the construction and the operation of nuclear power plants to the extent possible?

Ms. TAUSCHER. Congresswoman, U.S. industry is already contributing to the development of nuclear power program in the UAE and the Agreement of Cooperation will facilitate its further involvement. The U.S. technology in this area is leading edge and the United States anticipates that the UAE will give it strong consideration as it moves forward in implementing its plans to the United States.

Ms. WATSON. Thank you. And one last question. The agreement of nuclear cooperation between the Government of the United States and the Government of the United Arab Emirates states that the UAE shall not engage in the enrichment and reprocessing of nuclear material. The agreement goes on to outline a list of safe-

guards to ensure that this does not come to fruition, yet the majority of safeguards involve the IAEA.

And the question is: Are there any direct methods being taken by the United States to ensure that the nuclear technology does not fall into the hands of Iran and result in the creation of a uranium enrichment process? Final question.

Ms. TAUSCHER. It is in our security interests to make sure that the proliferation of weapons of mass destruction does not happen with any of our partners. Clearly with the UAE, we have a very strong agreement. It is one that they have negotiated voluntarily. It is not something that we have forced on to them. But it is about as tight as you can get it. And it really precludes any kind of reprocessing or transferring of material. And I believe that both the IAEA monitoring of the UAE and U.S. agreement is strong. And I believe that the United States' commitment and the UAE commitment is equally strong.

Ms. WATSON. Well, in the negotiations, I would hope that we could get a firm response from them as to whether or not it could get into the hands of the Iranians.

Ms. TAUSCHER. Well, it is very clear in the agreement that has been negotiated that that is a cause for a breaking of the agreement and significant penalties for it.

Ms. WATSON. Thank you so much.

Ms. TAUSCHER. You are welcome.

Mr. ACKERMAN [presiding]. Mr. Rohrabacher.

Mr. ROHRABACHER. Well, here we are. Let me ask you, first of all, state for the record that I believe that working with the UAE to demonstrate to other Arab countries, as well as to Iran, that we are not opposed to their use of nuclear energy for peaceful purposes is a good idea.

Ms. TAUSCHER. Thank you.

Mr. ROHRABACHER. The UAE has proven itself in the past. We had problems with them in the distant past. But it has proven themselves to be very good friends of the United States now and we should recognize that and work with them on that friendship. And this would be a good way to do that.

However, we have to make sure that we do that in a way that does basically structure the program in a way that it will absolutely not help in the development of nuclear weapons.

Now, with that said, has your agency looked into—I am taking it, excuse me, I am taking it that when we talk about the long term goal that the plans that are being looked at are for light water reactors?

Ms. TAUSCHER. Well, first of all, this is just the framework agreement that allows the UAE to negotiate with United States businesses.

Mr. ROHRABACHER. All right. Conceptually they are the only things that are available right now anyway. But let me just note, I would like from your agency an analysis of how the high temperature gas cooled reactor which is an alternative reactor to light water reactors might be used and the benefits that a high temperature gas cooled reactor might offer in terms of nonproliferation and other benefits when we are trying to expand our nuclear program. So if you could get that for me, I would appreciate it.

Ms. TAUSCHER. I would be happy to get that for you for the record. And also, you are correct on the light water reactor issue is the scope of what we expect.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DANA ROHRABACHER

The UAE has stated its commitment to pursuing the highest standards of nonproliferation, safeguards and security. We applaud this commitment. The UAE believes that advanced third-generation light water reactors would best meet its safety goals. The reactor types it has under consideration are all either currently deployed or under construction in other countries. There is substantial international experience in the safe and secure operation of such reactors, and the IAEA has extensive experience in safeguarding them. We accept the UAE's decision that such reactors can effectively meet its commitments. As to the high temperature gas cooled reactor (HTGR), there are no currently operating reactors of this type, the IAEA has no experience in safeguarding power reactors of this type, and they are not currently available in the commercial market.

We refer you to DOE for a thorough technical analysis of the merits of the HTGR. A number of studies have been conducted, and we understand it has promising characteristics from the point of view of both safety and nonproliferation. We would also like to point out that the UAE has stated that it will "favor and support the development of technologies and designs that potentially offer a strong reduction or negation of proliferation risks from a technical standpoint."

Mr. ROHRABACHER. And a high temperature gas cooled reactor is a different type of reactor which attributes may well fit into the nonproliferation goal, and I would like your analysis of that.

Ms. TAUSCHER. You will have it for the record, sir.

Mr. ROHRABACHER. Thank you very much. Also, I think that—well, if I could ask you on another subject, and I know that you have asked people questions on other subjects when they came before you. There is an effort going on now to ease some of the export controls that would permit the United States to export our technologies with less restrictions for friendly countries. And it is going through this committee. However, one exception that we have made in our legislation that has already passed through this committee was that we do not believe that those export controls should be loosened on the Government of Communist China. And we do not believe, for example, that there should be any loosening of the prohibition of launching United States satellites on Chinese rockets. Do you know if the administration has taken a position on that yet?

Ms. TAUSCHER. I assume you are talking about the UK-Australia defense trade agreement?

Mr. ROHRABACHER. No, I'm talking about the export control agreement treaty or legislation that has gone through this committee.

Ms. TAUSCHER. That is right.

Mr. ROHRABACHER. And it is not specifically aimed at that, but a general issue. Although we are concerned about Australia launching their satellites on Chinese rockets, yes.

Ms. TAUSCHER. If I could take that for the record, Congressman Rohrabacher, I am happy to. We are reviewing right now the export control regimes, and I am happy to take a look at this specific issue. I know of your great concern and your long-standing——

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DANA ROHRABACHER

The Administration supports legislation that will provide the Executive Branch with flexibility to determine the appropriate type of controls for exports of sensitive U.S. dual-use or munitions items and technologies. H.R. 2410, Section 826 provides such flexibility for most potential foreign sales of U.S. commercial communications satellites and related components. The Department plans to consult the Departments of Defense and Commerce about the national security and foreign policy implications of Section 826, and also with U.S. satellite and related component manufacturers on whether Section 826 addresses industry concerns that current U.S. export controls place them at a disadvantage vis-a-vis their foreign competitors. The Department looks forward to working with the Committee on this matter. Whatever the export licensing jurisdiction is for commercial communications satellites and their related components and technologies, ultimately, the Department's goal is to ensure that our export control system strongly protects U.S. national security and foreign policy interests.

Mr. ROHRABACHER. The last time we did this, we ended up transferring huge amounts of technology to the Chinese. And I don't mind taking that risk with countries like Australia and friendly countries. But for us—and I think this committee has made itself very clear because we voted on this that we are interested in loosening those export controls for the benefit of business, but not for countries like Communist China and obviously North Korea or Iran or any other potentially hostile power.

Ms. TAUSCHER. I will take that for the record, sir.

Mr. ROHRABACHER. Thank you very much.

Mr. ACKERMAN. I thank the gentleman. The chair recognizes himself.

Part of the lesson that we are offering is that in the selection of energy, nuclear energy has an appropriate alternative, is that we have no objection to countries doing that as long as proper safeguards are in place and choosing the kind of partners becomes a first priority in that program. I think that is an important thing that we are up to. And certainly in talking about the Middle East, looking for an appropriate partner, the UAE would probably be at the top of most people's list.

Going forward from that, it also seems that the more countries that participate in partnering up with us on 123 agreements that there are as this number bulks up, I would think it becomes more and more difficult to start turning people down. It just has that dynamic.

One of the things that you mentioned was that we have a tighter agreement than countries which already have agreements with the UAE, such as I believe you mentioned Russia and France. Are there anything in those agreements that are tougher than we have, requirements that we would like to see?

Ms. TAUSCHER. I will have to take that for the record Chairman Ackerman. I don't really know. I will do some review of that. I hesitate to say no, but my sense is that that our agreement is far superior and balances the economic development wishes of the United States and our companies with the necessity to have very, very strong nonproliferation IAEA safeguard agreements. So I would say that we have a superior agreement, that it is a very, very strong agreement. One that the President believes does have the correct balance of first and foremost working very strongly against proliferation.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE GARY L. ACKERMAN

The UAE does not routinely make bilateral agreements public. We have requested a copy of the UAE-France Agreement from the UAE, but have not yet received it. It is my understanding that the UAE has not signed a nuclear cooperation agreement with Russia.

Mr. ACKERMAN. Which would be the next two countries in the Middle East, Arab countries, that would seek such an agreement?

Ms. TAUSCHER. I really cannot speculate right now. I am happy to——

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE GARY L. ACKERMAN

The United States proposed a peaceful nuclear cooperation agreement to Jordan in December 2007. The Administration has made no decision on pursuing negotiation of a nuclear cooperation agreement with any other country in the Middle East. Among the States of the Middle East, the United States has an existing peaceful nuclear cooperation agreement with Egypt.

Mr. ACKERMAN. Have any requested it yet do you know?

Ms. TAUSCHER. I believe that Jordan has talked to the United States. Perhaps Egypt. We have a very good friend in the UAE, but we have other friends in the Middle East. And my guess is that once this agreement is perhaps is agreed to by the United States Congress, I think it is the hope that on a case-by-case basis——

Mr. ACKERMAN. You may open the floodgates?

Ms. TAUSCHER. I think you are right. Your analysis in the beginning of your question is right on. This is meant to be used on a case-by-case basis because of the volatility of the region but also because of the fact that you have to balance both the economic and the significant nonproliferation concerns.

Mr. ACKERMAN. Let me make a suggestion. It was a good correction we made in law in addressing the credit market when we did away with the ability of one company to deny you credit in a credit agreement if you defaulted on somebody else's credit agreement. You didn't pay your rent, you lost your credit card with your bank. It may be in this case a good idea to examine an agreement among agreers, such as in the case of the UAE, Russia, France and whoever else, ourselves—if and when we go through with this—a mutual agreement that a default on any agreement which accrues to our benefit, ours being the strongest as you pointed out, a breach of anybody's agreement would be a breach in all agreements.

And this would prevent a country—I am not saying the UAE, but any country that would have a 123 agreement if we help them and sell them that which is necessary to build their nuclear energy system, for them turning their back on us and saying we don't need you because we have other agreements after benefiting from our technology and superior provisions, to then say we have other providers with whom we have not, and therefore you are too stringent, default on our agreement, and still have the backup to done whatever else they might be doing.

Ms. TAUSCHER. I think that is a very good idea, Congressman, and I think also the fact that we have included the safeguards

agreement, the IAEA safeguards agreement, is one that takes our superior and one that knits together the international coalition that supports the IAEA and its efforts and makes sure that the highest standards of nonproliferation are met.

Mr. ACKERMAN. I would like to work with you on that.

Ms. TAUSCHER. My pleasure.

Mr. ACKERMAN. My time has expired. Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Chairman. And Madam Secretary, congratulations.

Ms. TAUSCHER. Thank you. Glad to be here.

Mr. FORTENBERRY. Sometimes in hearings, we drill down deeply very quickly. I would like to go back to the top of the mountain. A civilian nuclear program can be a foundation for a nuclear weapons program. There are technological hurdles there, but it can set a foundation.

Ms. TAUSCHER. Yes.

Mr. FORTENBERRY. That may be a significant threat with our friends in the UAE in regards to this agreement, however if this agreement does serve as a template for future agreements as has been suggested, isn't it important that we really examine one safeguard—real-time surveillance? And has the administration pushed aggressively for this beyond the additional protocol that Iran has already rejected.

Ms. TAUSCHER. As you know this agreement was negotiated by the Bush administration and inherited by the Obama administration.

Mr. FORTENBERRY. But of course, you own it now.

Ms. TAUSCHER. I own it now. But if you allow me to get better—get a better answer for you, exactly, I will tell you that when I was sitting on that side of the table, I was not a fan of side agreements. I believe side agreements are just what you think they are. They are just like kissing your sister. Nice, but it doesn't get you anywhere.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE JEFF FORTENBERRY

The specific safeguards measures that the IAEA will apply at a specific site in the UAE will be determined under the procedures provided for in the UAE's NPT safeguards agreement. The IAEA has a wide array of safeguards measures at its disposal, including remotely monitored surveillance; it selects those which are applicable based on its technical analysis of the needs of each situation. The IAEA will require that the measures applied are effecting in carrying out its verification responsibilities. It is premature to determine whether use of a real time surveillance camera will be the most effective way of meeting safeguards needs at a future UAE facility.

Mr. FORTENBERRY. I have not had that experience, but.

Ms. TAUSCHER. So, this is an agreement that is agreed to. And what it needs now is for House and Senate action. So let me go back and understand exactly what the opportunities are and what the situation is. I cannot tell you where the UAE would be; I cannot tell you whether we would propose it.

But at the same time let me endorse what you are saying. I think there is a lot of merit in what the IAEA has done in technology both in surveillance and monitoring. Their international monitoring system now is up and running and it is of significant

value to us. I think what we need to do if you don't mind we will take this for the record and I will give you a call.

Mr. FORTENBERRY. Thank you very much. I appreciate your willingness to work with us on that. It is a serious concern to me and to a lot of members and to you as well. I think it also sends the correct message to France and Japan and the Russians and the South Korea who may be in line waiting if this goes another way to sell things and that that it is a necessary component of safeguards that the international—the spirit of safeguards that the international community should readily embrace. And so there is a leverage point with the other countries who are interesting in this pursuing this business as well. Thank you very much.

Ms. TAUSCHER. Congressman, I will get back to you before the end of the week.

Mr. FORTENBERRY. Thank you.

Mr. ACKERMAN. Mr. Woolsey.

Ms. WOOLSEY. So let me put this picture together. Before we went on our break, you finally were sworn in. You were—you had a wedding, I hope you went on a trip. This is your first work and probably your first hearing.

Ms. TAUSCHER. Yes.

Ms. WOOLSEY. You are really good. Thank you. I cannot wait for us to all go—that you will we have to do.

Ms. TAUSCHER. Thank you.

Ms. WOOLSEY. Congratulations and you make me really proud.

Ms. TAUSCHER. Thank you.

Ms. WOOLSEY. This morning we have talked a lot about peaceful and safe use of nuclear power. Sadly, I don't believe there is such a thing. Right here in our own country, we are struggling to find a place to store spent nuclear materials. And here we are, we are a stable government and with the highest levels of security. We talk about proper safeguards with the IAEA and with this agreement and what good partners the UAE is. Well, partners split. Partners get divorced. And then what?

So I worry that this is a bit of a slippery slope. Once we okay the use of nuclear materials, how do we guarantee the program won't change from a so-called civil use to military use? We have India as our example. They started out with a civil use system and then they moved to a military use system. We waived the rules for India. So I ask you, Madam Secretary, why won't we waive them here?

Ms. TAUSCHER. Let me first say thank you very much for your comments. I enjoy our friendship and I look forward to working with you. And as somebody who has been married for 10 days, I am not ever going to advocate divorce.

Ms. WOOLSEY. I was worried about bringing that in right there.

Ms. TAUSCHER. You could say that this agreement has a very strong prenup in it. It is called article 13. Where we make a very, very strong case for the cessation of cooperation or termination of the agreement should there be any enrichment of uranium or reprocessing of nuclear fuel within the territory or any termination or abrogation or material violations with the IAEA agreements. You know, this is a very strong, tight agreement.

And I think that we have history as our guide. And yes, we have had relationships in the past where people have not done what they promised and abrogated agreements and done things and have caused them to have sanctions and other things. I think that the UAE understands the balances and benefits of this agreement. I think that we have done the best we can to balance for ourselves the potential commercial activities with what is the most important piece of this, which is that there is virtually no opportunity for transfer, reprocessing or other things. And that there are lots of eyes on this. And that there is this agreement in abeyance that would be terminated immediately very visibly. And I think the UAE has voluntarily come into this agreement. I think we have made very clear our most important piece of this is the national security of the United States and the region and the world and that there will be no proliferation of any of the materials involved in this.

Ms. WOOLSEY. Well, I hope you are right.

I would like to change the subject. It is the same subject: Nukes. You know I have H. Res. 333 titled "No Nukes" so that following up on what President Obama called for a world free of nuclear weapons—and I have been working on this for years as you know—and my legislation calls on the President to live up to our nuclear treaty obligations and to move us toward a nuclear-free world.

So as the world's leading superpower, what should we be doing to lead by example? Should we be reaching out? I am asking you that question, what should we be doing?

Ms. TAUSCHER. Congresswoman, I appreciate your work, and I would say that President Obama in his Prague speech was channeling you in many ways. I think that in his Prague speech the President was very eloquent and very strong about his agenda for a world free of nuclear weapons in the future. But at the same time that the United States is not going to unilaterally disarm and that we are certainly going to maintain our weapons while other people have them.

But at the same time, we have an opportunity with the climate change benefits and other countries competing for this business, if we can satisfy ourselves on significant issue of nonproliferation, if we can make sure that the IAEA safeguards are parts of these agreements and that we have strong agreements with good partners and that it is done on a case-by-case basis that this is a good opportunity for the United States, especially when we have a partner like the UAE that is as close to us in a volatile region.

So I think the President in his Prague speech, which I encourage everyone to read again, was eloquent about our position going forward, about our strong commitment to nuclear nonproliferation, and also about his plans. As you know, we had a very good agreement in Russia just this past weekend on a follow-on START agreement and a further reduction in our stockpiles. So I think this is a very busy area. I look forward to working with you on these issues and I appreciate your leadership.

Mr. ACKERMAN. Thank you. The chair would use a quick prerogative to note that the instance we have a very strong prenuptial agreement was basically the cause for my suggestion because despite that, we are not in a monogamous relationship.

Ms. TAUSCHER. You are good at this, much better than I am.

Mr. ACKERMAN. Pay no attention to me. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Madam Secretary, welcome. Madam Secretary, I am probably the only member of the committee who has probably a very different perception in terms of what we are discussing here. And I would like to take the lead of what Chairman Ackerman stated earlier, saying what are the broader implications of this 123 agreement. And I recall, I think it was Santayana who said, "Those who do not remember the past are condemned to repeat it."

I say that my perspective comes from after the fact. After the fact, that it was in World War II that we exploded the first nuclear bomb, killed over 100,000 people just in a split second. It was after the fact that our country went through a tremendous debate whether or not the harnessing of the use of nuclear power was to be for scientific and peaceful purposes or for military purposes. The military won out. And to that extent we went to the Marshall Islands and conducted 67 nuclear detonations, exploding the first hydrogen bomb there on that island. Literally obliterated. Caused over 300 Marshallese people—to this day we have not made our commitment to those people medically. Take possession disposition of their lands and properties.

That is my saying that after the fact, that we have five nuclear countries who are permanent members of the Security Council. Somewhat because of the provisions of the nuclear proliferation treaty they are the only ones who can still use and have in their possession nuclear weapons. And it raises the questions about why then Iran and North Korea are trying to develop nuclear weapons in the same way. So we are trying to prevent them through the nonproliferation treaty. We even had an international treaty ban on nuclear testing. Guess what? One of the permanent five nuclear members in 1995 said the hell with it and broke the moratorium.

And so France goes out and says we will continue conducting nuclear testing in the South Pacific on the island of Moruroa, despite world opposition, despite the fact that it is a signatory to the ban on nuclear testing, they went ahead and did it.

So I am really bothered by the fact that we are making all of these safety provisions—and by the way I do support the proposed agreement in principle.

Ms. TAUSCHER. Thank you.

Mr. FALEOMAVAEGA. But the realities of what I am trying to say here, Madam Secretary, how serious are we really in saying that nuclear weapons all together is something that we ought to get rid of it, and yet the five permanent members of the Security Council continue to have these weapons. Is there any wonder that India said hey, if China has it, why couldn't I? It is on my borders. And if India has it, Pakistan raises the issue, why couldn't I have nuclear weapons? So this madness continues.

And I am very, very concerned. Where are we at some point in time saying are we really serious enough of getting rid of nuclear weapons, weapons of mass destruction all to together? That is my initial question. I just wanted to give you that philosophically, Madam Secretary.

Ms. TAUSCHER. Congressman, the President's speech in Prague I will commend to you is an enormous undertaking by the President to state what I think had not really been stated before by a head of state. That the United States is not going to unilaterally disarm, that we are not going to remove our nuclear deterrent nor our protections for countries that we have offered safeguards to, but we are going to work toward the elimination of nuclear weapons. I think that the President's work this weekend in Russia with President Medvedev on the follow-on to the START agreement is another example of President Obama's leadership on this issue.

Mr. FALEOMAVAEGA. Madam Secretary, my time is limited and I appreciate—I will definitely read the President's speech that he gave in Prague.

I introduced a House Resolution 402, on a recent incident where the nuclear industry contracted two British ships from France to take a considerable amount of MOX, lethal nuclear waste from France, transshipment by ship to Japan. And I am told if this MOX, if you transform it into nuclear weapons are talking about taking 225 nuclear bombs by ship that was done recently. It apparently has the blessings of the nuclear community at the UAEA, the Nuclear Suppliers Group. My question is how safe are we really making sure that 1 in 1 million chances—we said that about Valdez, the oil spill. What are the chances that this continues now—I will wait for the second round.

Ms. TAUSCHER. If I could answer that for the record, I will be happy to. I will answer it for the record.

Mr. ACKERMAN. Would you like to answer it for the record?

Ms. TAUSCHER. I will take it for the record.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Sea shipment of mixed plutonium/uranium oxide (MOX) fuel is primarily undertaken between Europe and Japan, although other instances have occurred. The particular shipment mentioned in H. Res. 402 involved plutonium subject to both the U.S.-Euratom and U.S.-Japan peaceful nuclear cooperation agreements. Both agreements allow for the return to Japan of plutonium recovered from reprocessing of U.S.-obligated Japanese spent fuel in France and the United Kingdom. The US-Japan agreement has specific provisions governing such shipments, in particular, provisions involving the safety and security of the shipments.

The Administration considers these shipments to be both safe and secure. Sea transport of radioactive materials is routinely carried out with an exceptionally high degree of safety in compliance with stringent International Atomic Energy Agency (IAEA) and International Maritime Organization (IMO) standards. The carrier of the MOX fuel has completed more than 160 sea shipments of radioactive materials (including spent fuel as well as vitrified high level radioactive waste and MOX) between Japan and Europe over more than thirty years without a single incident involving serious radiological consequences. Moreover, the security plans for these MOX shipments, including the most recent one, have been specifically reviewed by the Executive Branch (Departments of Defense, Energy, and State), and have been determined by U.S. experts to be a sound basis for the Government of Japan to undertake its physical protection responsibilities in connection with such shipments.

Mr. ACKERMAN. Mr. Inglis.

Mr. INGLIS. Thank you and congratulations, Madam Secretary.

Ms. TAUSCHER. Thank you, Congressman.

Mr. INGLIS. I see advantages here to a nuclear partnership with the UAE. It is certainly wonderful when a country is willing to re-

nounce claims to domestic enrichment and seek an agreement like this.

The challenge that I see in a number of questions that I could ask, some of which may have been already asked, have to do with their effectiveness in controlling exports of that technology from the UAE. And of course, we have a brand-new export control law passed just in August 2007, not fully implemented, regulations haven't been promulgated.

How can we be sure that the UAE is going to be diligent in protecting the export—preventing the export of this technology to other places in a region that has some folks that we are very concerned about that might get some of this technology. What is your response? Where do you think we stand with that?

Ms. TAUSCHER. I think, Congressman, Article 13 of the agreement provides a very, very clear path for any kind of transfer or enrichment, abrogation of the agreement, any kind of material violations of the IAEA safeguards would cause complete and utter stoppage of the agreement. And the UAE has made it very clear that they are moving on their export control regime. They have moved not only to articulate the law from August 2007 and to promulgate it but they have already begun hiring prosecutors and doing ways to adjudicate, which is a very key piece of having a soup-to-nuts opportunity to deal with any kind of interdiction that they might have or any problems that they might have with transfers or making sure that the export control regime as strong as possible.

We are confident that they are keeping up with their promises and their initiatives. But once again it will be our job to make sure that they follow through and it will be my job to make sure that I follow through with you to let you know that we remain confident that they are doing so.

Mr. INGLIS. How about existing acts like the Iran Sanctions Act of 1996, the Iran, North Korea and Syria Nonproliferation Act? Are we confident that they are in compliance and are a partner with us in those kinds of controls that we are seeking in those——

Ms. TAUSCHER. Yes, Congressman as far as I know, they are. Yes.

Mr. INGLIS. Thank you, Mr. Chairman.

Ms. TAUSCHER. Thank you, Congressman.

Mr. ACKERMAN. Thank you. Ms. Lee.

Ms. LEE. Madam Secretary, now I suspect and there seems to be little doubt that U.S.–UAE nuclear cooperation agreement will probably encourage other regional states to aggressively pursue civil nuclear power.

Now with your business background, my business background, I am looking at it from a cost-benefit analysis, do the benefits first of all of really setting this high a standard for future peaceful nuclear power agreements as outlined in this proposed agreement, do these benefits outweigh the increased export control and proliferation concerns that we might have as a number of additional states with access to sensitive technologies and materials increases? So that's the first question.

And the second question is just let me ask you about the human rights considerations that may or may not be factored in because

we know that the UAE has had some issues with regard to human rights abuses. And has that been part of these negotiations and have we said anything in the context of this agreement? Thank you.

Ms. TAUSCHER. Thank you. The first part of your question as far as the business opportunities, that is secondary to the agreement. The agreement once again is a framework that would allow companies, United States companies to bid for and to seek opportunities to build civil nuclear reactors in the UAE. But the most important part of the agreement is that this is a very, very strong nonproliferation agreement and we think it is superior to other countries' agreements with other countries. We believe that this is an agreement that is important because it embeds the IAEA safeguards and makes very clear what would happen should there be any abrogation, any kind of transfer, any reprocessing, all the things that we don't want to have happen. And this is something that the UAE has volunteered to do. This is not something that we—we have the high bar but it is something that they have agreed to. And once again, these agreements going forward with potential other countries are going to be done on a case-by-case basis.

And I will stress to you that the nonproliferation component of this is the most important piece of it. We always in the United States Government want to support the ability for United States business to have outreach around the world, but it is never going to take the front seat to national security.

Ms. LEE. Let me just ask you though, and I understand what you are saying and I agree. But does this agreement encourage other regional states to be more aggressive in their pursuit of nuclear power?

Ms. TAUSCHER. I don't think it does. But I think what it does do is set the standard for if there are ambitions to have civil nuclear power, it sets the standard for, I believe for how these agreements should be done. Whether other countries will agree to this high standard, I don't know in the future. But I certainly think that this is the tightest agreement that we could have gotten.

When you asked about human rights, Congresswoman, I am going to have to get back to you for the record, if you don't mind. I don't know, since I was not party to the negotiations, it was negotiated during the Bush administration's time, I don't know what conversations there were. If there were any, I will certainly let you know.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE BARBARA LEE

The U.S. supports efforts by every country to strengthen respect for human rights and the rule of law. While not a subject of discussion during the negotiation of this agreement, our embassies and consulates regularly engage on human rights issues and report on allegations of human rights abuses in the annual Country Report on Human Rights Practices.

Ms. LEE. Thank you very much. Congratulations.

Ms. TAUSCHER. Thank you.

Chairman BERMAN [presiding]. The gentleman from Illinois, Mr. Manzullo is recognized for 5 minutes.

Mr. MANZULLO. I think you are doing remarkably well for having been on the job for 3 days and having gotten married over the weekend.

Ms. TAUSCHER. Thank you.

Mr. MANZULLO. Congratulations. A great choice for this position.

Ms. TAUSCHER. Thank you.

Mr. MANZULLO. I have a simple question and perhaps you don't have the information right at hand, which we readily understand. On page 6 of your testimony, the last bullet point, it says the UAE is a key counterterrorism partner and actively works to combat money laundering, terrorist financing, et cetera.

Can you delineate for me what legislative and functional actions the UAE has taken to target the logistical and financial networks that support terrorist organizations and how effective have they been?

Ms. TAUSCHER. Well, in August 2007 the UAE promulgated its own export control regime which they have now significantly beefed up, including prosecution and adjudication. This was something that impressed us because of the significant transshipment portage that the UAE is. This is something that is important for us because not only of our technology advantages but obviously because of the nonproliferation issues that we have been concerned about in the past and the relationship between the UAE and Iran. So I think, Congressman, that is the best example I can give you. If you don't mind for the record, I am happy to supply others if we have them.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DONALD A. MANZULLO

The UAEG is a partner in our efforts against terrorism and has taken important legislative steps to establish a stronger regulatory environment for the financial sector. These include passage of an Anti-Money Laundering Law in 2002 with the subsequent creation of a Financial Intelligence Unit (FIU) and passage of an Anti-Terrorism Law in 2004. The UAE was the first Arab country to join the Egmont Group in 2002, and participates in the Middle East North Africa (MENA) Financial Action Task Force (FATF) and the mutual evaluation process. In addition, the UAE Central Bank provides training programs to financial institutions on combating money laundering and terror financing. Finally, the UAE has taken action to freeze terrorist funds pursuant to the regime set up by United Nations Security Council resolution 1267, and in response to U.S. requests.

Despite these significant efforts, challenges remain. For example, the 2008 MENA-FATF Mutual Evaluation Report for the UAE made a recommendation to amend the federal anti-money laundering law and increase resources available to the Central Bank's FIU. The UAE has taken important steps to address hawala remittances, but further vigilance is required. Although the UAE enacted regulation against bulk cash smuggling in 2002, we have encouraged them to implement additional measures to combat bulk cash smuggling. This is a critical issue as the UAE is one of the most significant financial and trading centers in the Middle East with a high degree of cash intensive transactions. We look forward to continued close cooperation with UAE officials to address these important issues and to advance our mutual interest in combating terror finance.

Mr. MANZULLO. I would appreciate that. It would be both as to legislative actions and functional actions. If you could respond.

Ms. TAUSCHER. The most recent is the 2007 export control.

Mr. MANZULLO. If there is anything else, would you respond? And you can take more than 3 days to send the letter.

Ms. TAUSCHER. I may call you.

Mr. MANZULLO. Thank you. I yield back.

Chairman BERMAN. The gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you very much. And welcome.

Ms. TAUSCHER. Thank you.

Mr. SCOTT. It is such a pleasure to see you sitting there on that side and congratulations to you.

Ms. TAUSCHER. Thank you. Thank you very much.

Mr. SCOTT. I really don't know where to begin, but let me begin with this. We just returned from Russia last week, and there have been discussions on nonproliferation with the Russians. And in terms of moving forward, there is a thin line here. And it is sort of a balancing act it seems to me that we have to take as we move forward to nonproliferation.

And that is in some measures having nuclear weapons can be interpreted as having been a major deterrent in terms of maintaining peace in the world and among the nations.

But as we move forward in all of these countries now wanting to get nuclear capacity, could it not be that if the UAE moves forward, and I am inclined to agree to go along with it because if I believe we don't do it, somebody else will and we would lose control. I also believe that we also could lose some extraordinary solid business opportunities.

But I think down the road, Madam Secretary, what we are all going to be faced with is how do we balance this? How do we balance this rush for nuclear energy in many of these countries, particularly in the countries, and how do we know whether or not this rush for nuclear energy for civilian purposes is not also a way to begin to get into the process of getting nuclear weapons?

Because you look everywhere down the line, Iran says we are not getting a nuclear weapon here. We are just trying to get this for civilian purposes. And if the UAE moves down that road, then maybe others will say, well, this is the way you do it. You don't say what you really want, you say I want these for nuclear energy but we are moving to try to get a counterbalance. How do we deal with that?

Ms. TAUSCHER. Thank you Congressman for that very thoughtful question, and I think that is as Congressman Ackerman and Chairman Berman have said and Ms. Ros-Lehtinen has said this is a balancing act and clearly you have identified the two very key components. One is national security and our strong desire for no proliferation of weapons of mass destruction at all, but certainly not in a very volatile region like the Middle East. And with the reality of the fact that there are very aggressive partners out there from other countries that are willing to make deals. And what the United States did—and by the way it was the previous administration—they made what we could do was make the strongest agreement possible.

And I think that the UAE's agreement to the IAEA safeguards and the whole idea of Article 13 being as strong as it is and unambiguous as to the consequences of any kind of transfer, abrogation, as being a cessation of the agreement and other things happening is what the IAEA has volunteered to do.

And I think you are right. It does take a very strong sense of purpose to make sure that you understand what you is important

obviously be national security and nonproliferation is the most important piece of it. But I think what we have done is we have got now an agreement that is one that we think is the best agreement that we can get and one that will protect us when it comes to nonproliferation, also give the United States businesses a chance to compete for business in the UAE. Work with a very strong partner that we want to stay close to. And make sure that we are diligent in making sure that we are monitoring this situation. Having a big IAEA role is a very strong component of this. But there are also future opportunities, closed end fuel cycles, nuclear fuel banking, many things that President Obama and Secretary Clinton and others have talked about are components of this. Because if you can really make sure that countries that have access, sovereign countries that make their own decisions to civilian nuclear power but that they are completely closed off from the opportunity of reprocessing or transferring that would make everybody a lot more secure.

Mr. SCOTT. Let me ask you this on Iran. The UAE has conducted a significant amount of bilateral trade. But have we asked the UAE or did they offer to decrease their trade activities with Iran, particularly with respect to refined petroleum products?

Ms. TAUSCHER. The agreement was negotiated with the Bush administration. I don't have any idea if that was part of the agreement.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE ELLEN O. TAUSCHER TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DAVID SCOTT

The UAE has told us that it fully supports and enforces United Nations Security Council resolutions that prevent the transshipment of sensitive materials and technologies to Iran. We have made our view that states should not engage in business as usual with Iran well known to our allies and international partners.

Chairman BERMAN. I am just going to parenthetically interject here. I know that we have some votes now and we have got to wind it up. But the issue Mr. Scott raises is the issue that a number of members have raised regarding other countries. Much of this can be dealt with if the administration leads the way in the Nuclear Suppliers Group to take this excellent agreement and make it the standard for all the nuclear technology suppliers to incorporate in their export policies.

So I do urge step two after the negotiation of this agreement is to make this the gold standard, the real standard for all future——

Ms. ROS-LEHTINEN. Mr. Chairman, if I may? May I? I realize that the member's time has extend ended and then you sort of take up that baton. That doesn't seem fair.

Chairman BERMAN. I take your point.

Ms. ROS-LEHTINEN. Thank you.

Chairman BERMAN. Ms. Sheila Jackson Lee.

Ms. JACKSON LEE. Secretary, I love saying that, double congratulations to you. And we look forward to working with you. Let me try to say that we have many friends in the UAE, meaning the United States, the cross-pollenization of business, trade, and certainly our engagement has been a positive one, I believe.

And so I pose this question that may have been asked, I just want to hear how you frame it or how you perceive it, and that is,

of course, the relationship with Iran and the suggestion that there have been some support for terrorist activities, in particular Hezbollah.

And the second question is would you give a layman's explanation—when you think of civil nuclear use, there is certainly medical use but you think of energy. When you think of the UAE, you think of the region that it is in and you think that even though we support green, we know it seems to be in a region where it can be self-sufficient. What is the pressing need for this agreement, if you will? And then the question regarding its relationship with Iran?

Ms. TAUSCHER. Congresswoman, sovereign nations will make their own decisions, as you know, as to how they are going to balance green power and give themselves other opportunities to provide hopefully low cost energy to their populations. So the UAE's agreement with the United States is one that they entered into voluntarily to acquire the ability to negotiate in the future with American companies to have them bid for and build civilian nuclear power plants.

This is a region that has obviously a lot of petrochemicals but also a lot of wealth and a lot of poverty. So whatever choices the UAE has made and other countries make, are their own to make. But there is a lot of competition in these countries from our competitors around the world.

Ms. JACKSON LEE. The nuclear business?

Ms. TAUSCHER. The nuclear business. It is a very, very, very competitive area. We have a very close relationship with the UAE. Over time, the UAE has significantly improved its work in interdicting transshipments of materials and other things that are worrisome to us on a whole host of weapons of mass destruction——

Ms. JACKSON LEE. You view them as having been a good friend or a consistent partner?

Ms. TAUSCHER. They are a very, very good friend. They are a very good trading partner. They were a very close military partner to us for the region and they are obviously a country where we have many, many relationships and where we want to maintain a very strong relationship.

Having said that, we are not going to enter into a bad nuclear agreement with anybody, even a good friend. So that is why we hold this agreement up as a superior agreement because it has gone farther than many other agreements have, and certainly our competitor's agreements, we believe in that it includes Article 13, which is a deal breaker for the agreement if there is any kind of transfer or abrogation or any breaking of the safeguards.

Ms. JACKSON LEE. And are you concerned about past history?

Ms. TAUSCHER. I think that there are always lessons in history. But I think that our friends in the UAE have done a lot to demonstrate that they are aware of those issues. And that they are working closely with us, and with the community generally, the international community generally. And they have a very strong relationship with Iran. They are a very strong transshipment and trading partner with Iran.

Ms. JACKSON LEE. And you have no conflictedness with changing governments or changing attitudes with the United States, even

though we have this agreement, and transfer going into Iran which is a very troubling state?

Ms. TAUSCHER. I think everyone is aware of what would happen if this agreement is abrogated or broken in any way.

Ms. JACKSON LEE. And finally, you feel that the monitoring process and, in fact, Article 7 that binds the UAE not to conduct enrichment or reprocessing, you feel that the State Department is able to monitor that sufficiently? Article 7?

Ms. TAUSCHER. I think that the United States Government and the IAEA combined, yes, I think that we are sufficiently able to do that.

Ms. JACKSON LEE. I yield back. Thank you.

Chairman BERMAN. We have 2 minutes and 20 seconds to vote. I will ask unanimous consent that Mr. Connolly's statement be included in the record. And to the extent he had some questions that you answer them for the record.

Ms. TAUSCHER. I am happy to answer them.

Chairman BERMAN. Thank you very much for coming. Did you want to say——

Mr. CONNOLLY. I just want to welcome back my friend and our colleague, Under Secretary Tauscher. We are in good hands having her at the State Department. Thank you, Mr. Chairman.

Chairman BERMAN. Thank you.

Ms. TAUSCHER. Thank you. Mr. Chairman.

Chairman BERMAN. Thank you.

[Whereupon, at 11:58 a.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

FULL COMMITTEE HEARING NOTICE

Committee on Foreign Affairs

U.S. House of Representatives
Washington, D.C. 20515-0128

Howard L. Berman (D-CA), Chairman

July 2, 2009

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held in **Room 2172 of the Rayburn House Office Building:**

DATE:	Wednesday, July 8, 2009
TIME:	10:00 a.m.
SUBJECT:	Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement
WITNESS:	The Honorable Ellen O. Tauscher Under Secretary for Arms Control and International Security U.S. Department of State

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF FULL COMMITTEE HEARING

Day *Wednesday* Date *7/8/09* Room *2172RHOB*

Starting Time *10:02 A.M.* Ending Time *11:57 A.M.*

Recesses [ ] (_____ to _____)

Presiding Member(s) *Howard L. Berman, (CA) Chairman; Gary L. Ackerman (NY)*

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]

Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement

COMMITTEE MEMBERS PRESENT:
see attached

NON-COMMITTEE MEMBERS PRESENT:

HEARING WITNESSES: Same as meeting notice attached? Yes [ ] No [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*
Statement of Reps. James P. McGovern and Edward J. Markey

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*
n/a

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *11:57am*

Doug Campbell, Deputy Staff Director

Attendance - HCFA Full Committee Hearing
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement
Wednesday, July 8, 2009 @ 10:00 a.m. , 2172 RHOB

Howard L. Berman (CA)
Gary Ackerman (NY)
Eni F.H. Faleomavaega (AS)
Brad Sherman (CA)
Diane E. Watson (CA)
Albio Sires (NJ)
Gerald E. Connolly (VA)
Michael E. McMahon (NY)
Lynn C. Woolsey (CA)
Sheila Jackson-Lee (TX)
Barbara Lee (CA)
Brad Miller (NC)
David Scott (GA)
Jim Costa (CA)
Ron Klein (FL)

Ileana Ros-Lehtinen, (FL)
Christopher H. Smith (NJ)
Dan Burton (IN)
Dana Rohrabacher (CA)
Donald Manzullo (IL)
Edward R. Royce (CA)
Joe Wilson (SC)
Jeff Fortenberry (NE)
Ted Poe (TX)
Bob Inglis (SC)

HCFA Full Committee Hearing:
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement
Wednesday, July 8, 2009, 10:00 a.m.

Questions for the Record

Response from The Honorable Ellen O. Tauscher, Under Secretary for Arms Control and International Security

The Honorable Gerald E. Connolly (VA-11)

1. Since 2001, the UAE has been under increased U.S. scrutiny for being an alleged transshipment point for military and dual-use exports to Iran. What steps is the UAE government taking to halt transfers of militarily-sensitive technology to Iran?

Answer:

The UAE has demonstrated its commitment to preventing the proliferation of weapons of mass destruction and is a strong nonproliferation partner. We believe the UAE government is taking positive actions to address the transfer of items to Iran that could support WMD or terrorism-related activities. During the past several years, the UAE decided at the highest political levels to take critical steps to ensure that it is not a source or transit point for onward proliferation. In addition to passing and enforcing an export control law, it has told us that it has interdicted ships bound to Iran through the UAE and that it has shut down companies involved in the shipment of dual-use goods banned under United Nations Security Council resolutions.

2. U.S., E.U, and U.N. sanctions have led to a significant withdrawal of financial institutions from Iran, but banks in the UAE have reportedly picked up much of this business. In some cases, this has led to Iranian banks continuing their operations in Dubai. What is the UAE doing to address this issue?

Answer:

The State and Treasury Departments have been working closely with the UAE government on implementation of the UN Security Council Resolutions on Iran and other international obligations. In this capacity, the UAE government has told us that it is committed to enforcing all UN Security Council Resolutions.

3. There are reports that the UAE's Central Bank has ordered financial institutions to cease direct and indirect transfers to the Iranian Government. Do you believe the UAE's Central Bank and the UAE government have taken adequate steps to address financial assistance to Iran?

Answer:

The UAE government has told us that it is committed to enforcing all UN Security Council resolutions. The UAE was the first Gulf State to alert its financial institutions to the risks of doing business with Iran, consistent with the Financial Action Task Force (FATF) statements on Iran.

4. There are concerns that this deal could result in a destabilization of the Middle East by infusing the region with nuclear technology. Is this an accurate assessment?

Answer:

We applaud the UAE's nonproliferation commitments and believe they make a strong contribution to international nonproliferation efforts. In particular, the UAE's commitment to refrain from enrichment and reprocessing activities within its territory sets a new high standard that contributes to stability, security, transparency, and predictability in the region, not proliferation or destabilization. This Agreement is a tangible expression of the U.S. desire for active cooperation with States in the Middle East and around the world to meet their domestic energy needs in a transparent manner consistent with the highest standards of safety, security and nonproliferation.

5. Opponents of the proposed agreement have said the UAE's poor record on human rights is a major concern. Is there a plan to address this?

Answer:

The USG takes human rights matters very seriously. The annual Country Report on Human Rights Practices will continue to serve as a basis for constructive engagement with the UAE government on matters relating to human rights.

The U.S. Government discusses human rights with the UAE government, both in general terms and specific cases. The U.S. Government engages organizations and individuals with nonofficial views and information to shed light on the human rights situation in the country, including the lack of civil liberties. The U.S. Government offers resources and access to expertise and training through U.S.-funded programs, which foster greater public awareness of the value of a viable NGO community and public monitoring of human rights, an area of increasing importance for the UAE government following revelations about a member of the ruling family's involvement in a videotaped incident of abuse.

6. How would you compare this proposed agreement with other nuclear cooperation agreements the U.S. has finalized? Countries like Egypt and Morocco come immediately to mind.

Answer:

The U.S.-UAE Agreement is similar to the U.S.-Morocco Agreement in satisfying all applicable requirements for such agreements established by the U.S. Atomic Energy Act. (The only U.S. agreement that does not meet all such requirements is the U.S.-India Agreement, which, pursuant to the Hyde Act, was exempted from the statutory requirement for full-scope IAEA safeguards.) The U.S.-UAE Agreement also contains certain additional nonproliferation features not typically found in U.S. agreements. These are modeled on provisions in the 1981 U.S.-Egypt Agreement and include: (a) a right of the United States to require removal of 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; and (b) a confirmation by the United States that the fields of cooperation, terms and conditions accorded by the United States to the UAE shall be no less favorable in scope and effect than those that the United States may accord to any other non-nuclear weapon state in the Middle East in a peaceful nuclear cooperation agreement.

Uniquely, in the case of U.S. agreements for peaceful nuclear cooperation concluded to date, the UAE undertakes a legally-binding obligation to forgo enrichment and reprocessing within its territory – the first instance of such an obligation being undertaken by a U.S. cooperating partner. The U.S.-UAE Agreement also provides, for the first time in a U.S. agreement for peaceful nuclear cooperation, 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 (AP) to its safeguards agreement with the International Atomic Energy Agency (IAEA). (The UAE has signed the AP but has not yet brought it into force.)

HCFA Full Committee Hearing:
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Wednesday, July 8, 2009, 10:00 a.m.

Questions for the Record

Response from The Honorable Ellen O. Tauscher, Under Secretary for Arms Control and International Security

Rep. Michael E. McMahon:

1) The UAE has signed a nuclear cooperation agreement with France and memoranda of understanding on this matter with Japan and the United Kingdom. To what extent will the security provisions incorporated into the 123 agreement be reflected in the Emirates' *overall* nuclear activities, and will the United States take such a broad view of the UAE's nonproliferation performance -- using this as a benchmark when reviewing approval of U.S. exports under the new pact?

Answer:

The UAE has the sovereign right to enter into agreements for cooperation with suppliers other than the United States; however, we have assurances from the UAE that it intends to work in partnership with responsible nations that adhere to the highest standards of nonproliferation, safety, and security, and with experienced and reputable firms of such nations.

For our part, this Agreement is unique among U.S. agreements for peaceful nuclear cooperation concluded to date in that the UAE undertakes a legally-binding obligation to forego enrichment and reprocessing within its territory – the first instance of such an obligation undertaken by a U.S. cooperating partner. Steps taken by the UAE to pursue enrichment and reprocessing within its territory – via transfers from other states or through indigenous development – would have consequences. For example, the United States would have a right to cease further cooperation under the Agreement, require the return of items subject to the Agreement, and terminate the Agreement by giving 90 days written notice. In this respect, the greater the level of cooperation pursuant to this agreement, the greater the disincentive for the UAE to break its obligation to forego domestic enrichment and reprocessing.

2) In August 2007, the UAE adopted a stronger national export law, but as of May 2009, the government had yet to issue implementing regulations for the law or to fully staff a national export control body to enforce it. I understand that export control enforcement functions remain

the responsibility of authorities in the UAE's individual emirates, but has the administration raised this concern with the UAE? Has the UAE taken to address our concerns?

Answer:

The UAE has made significant progress in the area of export controls. While the UAE still has work to do, it is taking steps to implement a modern export control system. The UAE recently formed the "UAE Committee on Commodities Subject to Import and Export Control", an interagency committee chaired by the Minister of State for Foreign Affairs that reports directly to the Council of Ministers. This Committee will help facilitate effective implementation of the export control law across all emirates and will draft and approve implementing regulations. We met recently with the UAE to discuss this Committee and encouraged it to expedite issuance of implementing regulations and take other steps to ensure the effective implementation of their law.

3) Given the vast procurement network Iran operates in the UAE, how does the US intend to guarantee technology shared with the UAE pursuant to this agreement does not end up benefitting Iran?

Answer:

The civil nuclear power programs that exist in dozens of countries that do not possess nuclear weapons demonstrate that proliferation concerns can be managed through states following the highest standards of nonproliferation, safety and security. The UAE has expressed its desire to work in partnership with responsible nations that adhere to the highest standards of nonproliferation, safety and security, and with experienced and reputable firms of such nations. Iran, given its repeated and ongoing safeguards violations, would clearly not be an appropriate partner for the UAE in this area.

With respect to its own potential exports, the UAE has committed itself to follow strictly the Nuclear Suppliers Group Guidelines. It has also passed a comprehensive export control law (August 2007). The law provides a strong basis upon which to build an effective and enforceable export control system.

The UAE has told the United States that it fully supports UN resolutions barring the shipment of sensitive materials and technologies to Iran.

Finally, the U.S.-UAE Agreement has stringent limitations on the types of civil nuclear commodities that the United States is prepared to make available to the UAE itself. For example, the Agreement does not permit U.S. transfers to the UAE under it of special fissionable material other than low enriched uranium (apart from small quantities of other special fissionable materials for such uses as samples, standards, detectors and targets), nor does it provide for U.S. transfers to the UAE of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities or major critical components of such facilities. Any retransfer by the UAE of items subject to

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Response from The Honorable Ellen O. Tauscher, Under Secretary for Arms Control and International Security

Rep. Barbara Lee:

Q1: Under the proposed U.S.-UAE nuclear cooperation agreement, what tools will the United States have at its disposal to ensure it does not provide nuclear assistance directly or indirectly through other suppliers in the event that UAE breaks its nonproliferation commitments?

Answer:

The U.S.-UAE nuclear cooperation agreement facilitates supply. It does not require it. It also does not replace the licensing process. Exports of nuclear material, equipment and technology to the UAE will, as appropriate, require licenses issued by the Nuclear Regulatory Commission, the Department of Commerce or the Department of Energy.

Article 12 of the U.S-UAE agreement provides that if the UAE materially violates certain provisions of the Agreement or terminates, abrogates or materially violates a safeguards agreement with the IAEA, or if the UAE following entry into force of the Agreement detonates a nuclear explosive device or engages in enrichment of uranium or reprocessing of nuclear fuel, the United States shall have the right to cease cooperation under the Agreement, require the return of items transferred pursuant to it and any special fissionable material produced through their use and terminate the agreement on 90 days notice.

Under Article 16(3), key nonproliferation provisions of the Agreement, including the requirement for full-scope IAEA safeguards, will continue in effect, notwithstanding termination or expiration of the Agreement or any cessation of cooperation under it, so long as any items subject to it remain in the territory of the Party concerned or under its jurisdiction or control anywhere, unless the Parties agree that such items are no longer usable for any nuclear activity relevant from the point of view of safeguards.

All U.S. nuclear cooperation agreements require U.S. consent over the retransfer of nuclear material and equipment provided under the agreement. As a consequence, the United States has the legal authority to refuse to consent to the retransfer to the UAE of nuclear material or equipment subject to another nuclear cooperation agreement directly or indirectly through other suppliers in what we view as the highly unlikely event that the UAE breaks its nonproliferation commitments.

Q2: Could you elaborate on the so-called "take-back" provision? How can the United States compel the return of sensitive technologies if the UAE becomes an unwilling and uncooperative partner?

Answer:

The U.S.-UAE Agreement does not provide for the transfer thereunder of sensitive nuclear technologies. With regard to items that are transferred under the U.S.-UAE Agreement, Article 12 provides that if the UAE materially violates certain provisions of the Agreement or terminates, abrogates or materially violates a safeguards agreement with the IAEA, or if the UAE following entry into force of the Agreement detonates a nuclear explosive device or engages in enrichment of uranium or reprocessing of nuclear fuel, the United States shall have the right to cease cooperation under the Agreement, require the return of items transferred pursuant to it and any special fissionable material produced through their use and terminate the agreement on 90 days notice.

Should there be any violation of the agreement, the United States would, of course, explore options available to it under international law, including any provided for within the agreement itself. The options available to the United States in any particular case would depend on the nature of the violation.

Q3: Video released earlier this year depicting the torture of an Afghan grain merchant by an Abu Dhabi ruling family and uniformed security guards raises serious concerns that egregious human rights abuses, and deficiencies in the rule of law are not only present in the UAE, but in some cases openly condoned.

What steps is the State Department taking to independently investigate alleged incidents of human rights abuse in the UAE?

Answer:

The USG takes human rights matters very seriously. The annual Country Reports on Human Rights Practices will continue to serve as a basis for constructive engagement with the UAE government on matters relating to human rights.

In addition to this report, the State Department, through our Embassy in Abu Dhabi and our Consulate in Dubai, cultivates useful contacts with the UAE human rights community, UAE government and NGOs to independently verify the facts behind allegations of abuse. The United States encourages a broader discussion of political freedoms through student exchanges, dialogue on ethnic and religious tolerance, and energetic promotion of the pursuit of higher education at U.S. institutions or U.S.-affiliated institutions in the country.

Q4: Is it appropriate to move forward with this agreement before completing, at a minimum, a thorough review of alleged human rights abuses in the UAE, and particularly of this most recent, flagrant case?

Answer:

The State Department is encouraged by the seriousness with which the UAE takes the case to which you refer. The Abu Dhabi Judicial Department has launched a criminal investigation of the very disturbing videotape. The individuals in the tape, including Sheikh Issa, have been detained by UAE authorities. Additionally, the Human Rights Office of the Abu Dhabi Judicial Department released that it "unequivocally condemns the actions depicted in the video" and is committed to a full review of the events. The State Department will continue to closely monitor the human rights situation in the UAE in general and the progress of this case in particular.

Q5: Do you believe that nuclear power is the best means to rapidly meet increasing energy needs in the UAE, or are there other forms of energy, conservation, and increased efficiency that could more rapidly and more cheaply meet most of the UAE's future needs?

Answer:

In his July 6 statement issued jointly with Russian President Medvedev, President

energy for peaceful purposes." Since it is a proven source of low-emission, baseload electricity, the United States supports the deployment of nuclear power as one important component of a sustainable energy portfolio.

Given the clear emphasis the UAE has placed on the responsible development of nuclear power – in a manner consistent with the highest standards of safety, security, and nonproliferation – the United States supports its decision to add nuclear power to its energy mix.

Q6: UAE officials have cited environmental concerns as a driving factor behind their pursuit of Nuclear energy to meet increasing energy demand.

Is the United Arab Emirates taking parallel steps to similarly expand energy production from renewable sources of energy including wind and solar?

Answer:

The UAE has made a strong policy commitment to the development of renewable sources of energy. The Emirate of Abu Dhabi has announced a target of generating 7% of total electricity supply from renewables by 2020. A 10 MW solar plant at the model "zero carbon, zero waste" Masdar City was connected in June 2009. Other UAE federal and local authorities and utilities are actively considering how to utilize renewable energy, particularly solar, for future power generation. UAE companies have also invested in environmental technology firms, including solar and wind technology and electric cars.

In addition, the UAE was recently selected to host the headquarters of the International Renewable Energy Agency (IRENA) in Masdar City. As the headquarters host the UAE will be the center for global efforts to expand use of renewable energy across IRENA's 136 member states, particularly in the developing world.

The UAE has informed us that while it is committed to expanding the renewable energy technologies such as wind and solar, alone such technology will be insufficient to provide for growing electricity demand.

Q7: Should the Administrations proposal include measures to ensure commitments to pursue these alternative sources of energy?

Answer:

Section 123 of the Atomic Energy Act (AEA), as amended, sets out the elements that must be included in peaceful nuclear cooperation agreements such as the UAE agreement currently before Congress. The scope of a peaceful nuclear cooperation agreement pursuant to section 123 of the AEA is limited to transfers of nuclear commodities under the conditions set out in that section of the Act. Therefore, such agreements exclusively deal with exports related to civil nuclear energy. Any complementary steps taken to promote alternative

At the same time, for many years since enactment of the Nuclear Non-Proliferation Act of 1978 (NNPA), which inter alia calls on the United States to endeavor to cooperate with other nations and with international organizations in establishing programs for the development of non-nuclear energy sources and in protecting the international environment from contamination arising from both nuclear and non-nuclear energy activities (sec. 501), the United States has supported a broad range of such bilateral and multilateral energy assistance activities.

It might be noted, in this general connection, that the UAE recently submitted a very compelling bid to locate the headquarters of the International Renewable Energy Agency (IRENA) in the UAE and was indeed selected to host the headquarters. On June 29, the United States signed the IRENA Statute and supported locating the headquarters in the UAE. IRENA has 136 members and will focus on renewable energy capacity building. The UAE has announced that the headquarters will be in Masdar City.

Regarding the pursuit of civil nuclear energy, the Administration believes that the United Arab Emirates has demonstrated a serious and sincere commitment to its deployment in a manner consistent with the highest standards of safety, security, and nonproliferation.

Q8: The Non-Proliferation Treaty provides that, in exchange for a commitment from non-nuclear weapon states to not acquire nuclear weapons and to submit to international safeguards and verification of compliance, the NPT nuclear weapons states will pledge access to peaceful nuclear technologies.

Do you believe the creation of a multilateral fuel bank represents a realistic mechanism for deterring states' ambitions, and claims, to enrichment capabilities?

Answer:

As part of a broader strategy to discourage the spread of enrichment technology, a multilateral fuel bank could play an important role in persuading countries not to pursue an indigenous enrichment capability. Many countries are now considering adopting nuclear power or expanding existing peaceful nuclear power programs. There are sound economic reasons for countries using peaceful nuclear power not to seek an indigenous enrichment capability. Developing such capabilities is very expensive. However, some, most notably Iran, have argued that to ensure energy security a state relying on nuclear power must develop an enrichment capability so that it can make its own nuclear reactor fuel. The creation of one or more reliable fuel banks could reassure countries that they do not need to develop an enrichment capability in order to exploit peaceful nuclear energy.

Q9: The United Arab Emirates has committed $10 million to the nuclear fuel reserve, launched by the Nuclear Threat Initiative (NTI), which would provide a dedicated low-enriched uranium (LEU) stockpile to be owned and administered by the International Atomic Energy Agency (IAEA). The United States has also pledged $50 million to this same program.

Does the U.S.-UAE agreement provide the opportunity to bring additional credibility to this particular solution to the fuel cycle dilemma?

Answer:

We believe it does. The UAE's ENR commitment in the 123 Agreement not to pursue enrichment and reprocessing technologies reinforces the principle that a country can conduct a peaceful nuclear cooperation program in reliance on the international market for nuclear fuel. This is an important rejection of the argument that a country relying on nuclear energy must have its own enrichment capability to ensure its energy security. The proposed IAEA fuel bank would act as a backup to the international market and thereby provide countries with a viable alternative to the acquisition of sensitive enrichment technologies. The UAE commitment to contribute $10 million to the IAEA fuel bank also underlines its rejection of the argument that an enrichment capability is necessary for a country to enjoy the full benefits of peaceful nuclear power.

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Response from The Honorable Ellen O. Tauscher, Under Secretary for Arms Control and International Security

Rep. Russ Carnahan

1. Under Secretary Tauscher, I would be interested to know how you think the US-UAE Civil Nuclear Agreement fits into the larger context of our diplomatic relations; and if failure to move forward on this agreement would negatively impact relations between our two countries.

Answer:

The UAE is a strategic partner in the Gulf. The UAE often takes the initiative in helping shape the economic and political issues confronting the region, the Gulf Cooperation Council (GCC), and the Arab League to pursue moderate solutions. The UAE contributes significantly to economic development and political stabilization efforts, including Iraq, Afghanistan, Pakistan, and Lebanon. The UAE has demonstrated its willingness to provide financial and in-kind assistance in support of regional peace and security efforts and in response to humanitarian crises. The UAE has been an active participant in the reconstruction of both Iraq and Afghanistan.

Since the UAE first informed the U.S. of its interest in developing civilian nuclear power, the U.S. government has actively cooperated to help the UAE develop a program that will meet the highest standards of safety, security and non-proliferation. Several U.S. companies are already working in the UAE to establish the framework for a civilian nuclear program. Successful completion of a 123 agreement is a sign that the U.S. government is a reliable partner in the development of civilian nuclear energy.

2. How do you view this agreement in terms of our defense relationship with UAE? As you may know, Boeing has a pending sale of 4 C-17's to the UAE, and I would be interested to know how you think our overall ability to continue to support U.S. companies' business interests in the region would be effected by this agreement.

Answer:

The UAE is the largest purchaser of U.S. exports in the Arab world, a tangible demonstration of our strong economic relationship. Just as numerous American companies are active in defense industries in the UAE, American companies are already participating in building the project management and regulatory structure for the development of the UAE nuclear power program. Successful conclusion of the U.S.-UAE 123 agreement will further strengthen our bilateral commercial relationship and extend it into the nuclear area. This relationship will enhance opportunities for American companies to compete, not only as part of the tender process, but also in numerous auxiliary and services contracts that we expect the UAE to award as the program develops.

7-8-09

Chairman Berman's opening statement at hearing, "Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement"

The purpose of today's hearing is to examine the proposed "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," and the whole variety of issues that are associated with that proposed agreement.

This marks the first appearance before Congress by the new Under Secretary of State for Arms Control and International Security, our former House colleague, our dear friend, California Representative Ellen Tauscher.

Madam Under Secretary, congratulations from the entire committee on your new appointment, and on your wedding – two vows on the same day. This is a wonderful place to take a honeymoon. And in addition to our congratulations to you and our real joy at the fact that, number one, you are doing this very important job, and secondly that there is life for former members of Congress, I want to offer my congratulations to the Obama Administration on the framework for a new nuclear arms reduction treaty to replace the 1991 Strategic Arms Reductions Treaty, or START, which expires in December.

As was made clear in our hearing that we had two weeks ago, it is absolutely vital to our national security to preserve the gains of the START treaty and to further reduce the U.S. and Russian nuclear arsenals.

There is no question but that there is a clear linkage between our nuclear nonproliferation and arms control policies, and we ignore that at our peril.

On to the UAE agreement.

Under U.S. law, a civilian nuclear cooperation agreement is required before we can transfer significant nuclear equipment and materials to a foreign nation.

Often referred to as a "123 agreement" after Section 123 of the Atomic Energy Act, it provides the legal framework for U.S. companies to export controlled civil nuclear goods.

By itself, a 123 agreement transfers nothing; all U.S. nuclear sales and exports must go through their own licensing review and approvals before they leave our shores.

If a proposed agreement complies with all the requirements of Section 123 – as this one does -- then it can be brought into force by the President, unless Congress enacts a joint resolution of disapproval within 90 days of continuous legislative session following its submission. Based on our mathematical geniuses' calculations, and assumptions regarding the legislative schedules, the review period for the UAE agreement will end on October 17.

This is the first proposed U.S. nuclear cooperation agreement with a Persian Gulf state. As such, it inevitably raises questions about the broader implications of civil nuclear power in that volatile region, home to a number of terrorist groups and an Iran seemingly determined to acquire a nuclear weapons capability.

There are those, both inside and outside Congress, who would clearly prefer that the region stay nuclear-free, not just of weapons, but also of reactors and related facilities.

I share their concerns. But there are multiple suppliers of civil nuclear power reactors in the world today. Both France and South Korea have already concluded similar cooperation agreements with the Emirates.

Moreover, many of the Gulf states, the UAE included, have ample financial means to buy from whomever they choose, under whatever terms those vendors are willing to offer.

It is unlikely that the United States would be able to bring sufficient diplomatic pressure to bear against France, Russia, Canada, South Korea and all the others that could do this to convince them not to sell civil nuclear equipment or fuel to the UAE and other Gulf states, all of which are parties to the Non-Proliferation Treaty, or NPT.

That is the context in which we consider this agreement.

Some express concerns that 123 agreements encourage or enable the proliferation of nuclear weapons, as civilian reactors and some of their associated facilities can also produce material for a nuclear bomb if diverted from peaceful use.

In that context, it is important to note that the nonproliferation conditions of the proposed US-UAE Agreement go beyond those required by the NPT, beyond those of the Nuclear Suppliers Group, and beyond those of even our own laws.

It contains, for the first time in any U.S. nuclear cooperation agreement, a binding legal commitment by the foreign recipient <u>not</u> to engage in any uranium enrichment or spent-fuel reprocessing activities, nor to have any facilities for such activities.

If the UAE violates this provision, then the U.S. would have the legal right to terminate the agreement, prohibit all current and future transfers to the UAE, and demand the return of all equipment, material, and facilities previously provided.

This is the same so-called "take-back" right that is normally reserved as a penalty for a nuclear test or a major violation of an IAEA safeguards agreement.

I believe any future U.S. 123 agreement in the region -- with Jordan, Kuwait, and other states that are seeking it -- should follow this model.

Indeed, this model could even be applied if one day Iran truly changes from pursuing a nuclear weapons capability to a country whose deeds match its own words in terms of its desire for nuclear energy.

Other supplier states will hopefully follow our lead and include the no-enrichment/no-reprocessing obligation in their own nuclear cooperation agreements.

For me, the fundamental issue is not the substance of the agreement itself. It is, I believe, the best one we have entered into. Rather, it is the extent to which the UAE has been a reliable partner of the United States in working to prevent Iran's efforts to develop a nuclear weapons capability.

For many years, Iran has sought to use the UAE as a transit point to illicitly procure items to support its nuclear and other WMD programs; expand its conventional military programs; and even to acquire electronics to incorporate into Improvised Explosive Devices -- IEDs -- which have killed and maimed U.S., Coalition and Iraqi soldiers and civilians in Iraq

Iranian-affiliated banks continue to operate in Dubai, several of which have been sanctioned under U.S. anti-terrorism laws as recently as last May.

By all accounts, the UAE has significantly improved its performance in preventing illicit shipments of militarily-sensitive goods to Iran over the past two years.

Yet, questions remain about the extent of the UAE's commitment, as well as the pace at which it improves its export control capabilities.

For example, why is the UAE moving so slowly to implement the comprehensive export control law it passed last year?

The Obama Administration notes that the UAE considers Iran to be both its most significant security threat, but also an important trading partner with which it cannot cut ties.

So how will the UAE strike a balance between not antagonizing Iran and supporting U.S. efforts to constrain the development of Iran's nuclear weapons capabilities?

How much leverage does this agreement give the United States to help persuade the UAE in this area?

And do we have more leverage before or after this nuclear cooperation agreement goes into force?

In closing, let me note that the Committee held a classified briefing two weeks ago on some of these issues. And earlier, the committee and I, myself, have received a number of briefings on these issues that I've just raised.

I know we can't get into classified information in this open hearing, but to the greatest extent possible, I hope we can use this as an opportunity to address some of the critical questions about this important nuclear cooperation agreement.

Opening Statement
Rep. Dan Burton
Committee on Foreign Affairs
July 8, 2009
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement

Mr. Chairman, thank you for calling today's hearing. When this agreement was first brought to the table, I was a tentative supporter. However, as time has gone on, a number of concerns have been raised that I hope can be addressed here today and in future conversations with the United Arab Emirates (UAE). I believe that assistance to our friends in developing countries to create peaceful, nuclear power is positive and that we should continue to work both here in the United States and abroad to develop clean energy.

Nuclear power is an incredible energy resource that we should utilize more in the United States. I find it interesting, Mr. Chairman that we are working with nations like India and the United Arab Emirates to help develop nuclear energy, while excluding it from our own energy initiatives. I strongly believe that the development of more nuclear energy plants here in the United States would help reduce our so-called carbon footprint and break our addiction to foreign oil. If it's good enough for us to develop in other countries, it's good enough for us to develop here in the United States.

It's important to note that states do not need to weaponize nuclear technology in order to meet the energy needs of their people. I commend the UAE for voluntarily forgoing enrichment and reprocessing when so many other countries have done the opposite. It is my great hope that this agreement with the UAE will help to demonstrate that nuclear power can be used for good.

However, Mr. Chairman, I still have a number of concerns regarding this agreement, particularly in relation to Iran. The UAE has a long history of undermining United Nations Security Council sanctions regarding Tehran's weapons program. The UAE has, many times overlooked the transfer of weapons systems and financial assistance through its ports to recipients such as Iran, Hezbollah and other terrorist organizations.

I am pleased that the UAE has made some efforts to establish more effective export controls and financial controls, but it is not enough. The laws must be implemented and the loopholes must be closed if we are to see the security situation improve at any near date. On January 9th of this year, I joined the Ranking Member along with many other members of the House to introduce H.R. 364 "The Limitation on Nuclear Cooperation with the United Arab Emirates Act of 2009". This legislation outlines important conditions that must be met before this agreement goes forward.

Mr. Chairman, I look forward to hearing from our former colleague in her new role on these questions. I remain hopeful that we can find a way to join Arab and Gulf allies in the effort to prevent Iran from acquiring nuclear weapons, which is the most significant concern in this region.

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The Honorable Gerald E. Connolly (VA-11)

Thank you, Mr. Chairman.

If executed properly, a nuclear cooperation agreement that emphasizes civilian energy can accomplish two goals: meet a diplomatic agenda and prevent global proliferation. We have the responsibility to scrutinize this proposed agreement between the United States of America and the United Arab Emirates to ensure it meets these goals without sacrificing our national security.

Many Members have raised concerns about the possible proliferation of nuclear technology to Iran via the UAE The U.S. Department of Treasury has designated several UAE-based entities as falling under Executive Order 13382, which aims to freeze the assets of weapons of mass destruction proliferators. There have also been incidents of illegal proliferation to Iran through the UAE

Just in August of 2008, a man (named Robert E. Quinn) pled guilty to illegally exporting forklift parts to Iran, via a trading company in Dubai (United Arab Emirates). In September of 2008, a Department of Justice investigation led to a guilty plea by a man who was supplying fighter jet components to Iran via an Iranian national. This Iranian national allegedly picked up the parts in Dubai and Bangkok. And in May of 2008, Afshin

Rezaei was sentenced in the Northern District of Georgia to six months' imprisonment for the unlicensed export of computers to Iran via the United Arab Emirates.

These incidents do not demonstrate a desire on the part of government authorities in the UAE to engage in surreptitious proliferation. But they do show the need for us to examine this proposed agreement, and ensure that the U.S. and the international community have effective enforcement mechanisms in place. This is necessary because we know that nuclear proliferation does not just manifest itself in isolated incidents, but also in networks of proliferation. The infamous A.Q. Khan network is the most oft-cited example.

There are reassuring elements in the proposed agreement which we are examining today. It would obligate the UAE to "forgo [nuclear] enrichment and reprocessing." This is the first instance where we have placed such an obligation on a partner nation in an agreement such as this. Many members of the business community–specifically the U.S.-UAE Business Council and the National Foreign Trade Council–support this agreement, estimating it could support 10,000 jobs. Through this proposed agreement, we have the potential to further financial and diplomatic engagement and create a template that will serve as an efficacious alternative for Iran and other would-be nuclear states in the region.

It is an honor to welcome back our esteemed colleague, Undersecretary Ellen Tauscher.

Opening Statement
Committee on Foreign Affairs
July 8, 2009
Nuclear Cooperation with the United Arab Emirates: Review of the Proposed U.S.-UAE Agreement

Rep. Michael E. McMahon:

- Thank you, Mr. Chairman,
- Under Secretary Tauscher, thank you for being here today. I look forward to working with you in your new position as Under Secretary for Arms Control and International Security. I would like to add that I am glad to know that such a sensitive and important piece of our global security has been entrusted to you.
- Under Secretary Tauscher, The proposed nuclear energy agreement between the United Arab Emirates and the United States provides our country with the opportunity to shape nonproliferation standards through the development of a rewarding commercial relationship with a focus on clean energy.
- Emirates Nuclear Energy Corporation (ENEC) officials have expressed interest in establishing joint ventures with US firms for the design, construction and operation of nuclear power plants.
- Given the fact that the UAE has also signed a nuclear cooperation agreement with France and memoranda of understanding on this matter with Japan and the United Kingdom, it is important for the United States to compete with its global colleagues in the field of energy security and bring back home jobs and capital through this venture.
- Bilateral relations with the UAE through the 123 agreement can set an influential precedent for other nations that are currently seeking nuclear energy technology.
- A successful energy cooperation between the UAE and the US will lead to future agreements with other nations, boosting our economy, technological innovation and ability to monitor and curtail the transshipment of dangerous nuclear technologies and fissile materials to hostile nations, like Iran.
- I am encouraged to see that the UAE has adopted stronger export laws, has agreed to forgo construction of enrichment and reprocessing facilities and has of yet, and has cooperated openly with the US on these issues further illustrating their intent.
- Of course, while nuclear cooperation is important, it should not be looked at in isolation.

- Our administration should continue to work with UAE officials to ensure that countries like Iran do not benefit from this agreement and through the use of Dubai, which has become a major transshipment point for goods to and from Iran.
- While the agreement has a high degree of safeguards in place to avoid proliferation along with the plan to develop the most technologically advanced and proliferation proof reactors, the issue of management of nuclear materials and waste to avoid fissile material getting into the wrong hands is paramount. I look forward to hearing how we can accomplish that goal along with a strong ally of the US, and create a market for US companies and jobs for Americans.
- Thank you, Mr. Chairman. I yield my time.

Statement of Congressman Gene Green
House Foreign Affairs Committee
"Nuclear Cooperation with the United Arab Emirates:
Review of the Proposed U.S.-UAE Agreement"
July 8, 2009

Thank you, Mr. Chairman, for holding this hearing and I would like to welcome Sec. Tauscher and congratulate you again on your appointment.

It is good to see you again so soon.

We are here today to discuss the proposed agreement on nuclear cooperation between our country and the United Arab Emirates that President Obama sent for our review in May.

This agreement will establish a foundation for mutually beneficial cooperation in civil nuclear energy between our countries and will serve as a model for responsible nuclear energy development in the UAE.

It also contains the strongest nonproliferation conditions of any nuclear cooperation agreement negotiated by the United States.

I applaud the UAE's willingness to develop a peaceful nuclear power program that could very easily become the model for future programs world-wide.

I do hope, however, that we take the time today to address the UAE's ability to stop the transfer of military-sensitive technology to Iran in our effort to prevent Iran from acquiring a nuclear weapons capability.

Thank you again for holding this hearing, Mr. Chairman, and I look forward to the testimony of our witness.

Opening Statement
Congresswoman Diane E. Watson
Subcommittee on Terrorism, Nonproliferation and Trade
Wednesday, July 8, 2009
10:00 a.m.

"Nuclear Cooperation with the United Arab Emirates: Review of the proposed U.S. - UAE Agreement"

Thank you, Mr. Chairman for calling today's hearing to review the proposed U.S. - UAE Agreement approved by President Obama on May 19, 2009.

On January 15, 2009, former Secretary of State Condoleeza Rice and United Arab Emirates Foreign Minister Sheikh Abdallah Bin Zayid Al Nahyan signed a proposed 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, also called the "123 Agreement" named for section 123 b. and section 123 d. of the Atomic Energy Act of 1954. The Agreement has since been revisited by both governments as our new Administration took office.

The Agreement establishes the framework for commerce in civilian nuclear energy; opens new opportunities for U.S. firms to participate in the UAE nuclear energy program and; seeks to advance nonproliferation and other foreign policy interests of the United States. The U.S. - UAE Agreement essentially promises U.S. cooperation on civil nuclear power in return for safeguards against sensitive technology being diverted to a weapons program or other non-NPT countries like Iran. It will remain in effect for thirty years.

Mr. Chairman, my continued concern, like that of some of my colleagues is that even though this Agreement has, in Article 13, a Cessation of Cooperation and Right of Return clause, and explicitly prohibits reprocessing, alteration, and enrichment of uranium and plutonium, as well as prohibits the detonation of a nuclear explosive device, it does not go far enough to encourage the UAE to fully implement its 2007 export control law.

In 2006, our own export control policy was tested when information came to light that computer circuits used to make improvised explosive devices (i.e.d.'s) that wounded and killed U.S. soldiers in Iraq were funneled through the United Arab Emerites(UAE) on to Iran.

In this respect, the UAE remains a transshipment hub and the seriousness of this reality cannot be stressed enough.

Mr. Chairman, I look forward to listening to the testimony of Under Secretary Tauscher and would also like to thank her for taking the time to appear before this committee.

Thank you and I yield back the balance of my time.

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