



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAR 5 1982

F:IV.C.

MEMORANDUM FOR:

Chairman Palladino
Commissioner Gilinsky
Commissioner Bradford
Commissioner Ahearne
Commissioner Roberts

FROM:

Carlton Kammerer, Director
- Office of Congressional Affairs

SUBJECT:

HOUSE FOREIGN AFFAIRS HEARING ON IAEA SAFEGUARDS

The Subcommittees on International Economic Policy and Trade and on International Security and Scientific Affairs of the House Foreign Affairs Committee held the first of two joint hearings on IAEA safeguards on March 3, 1982. The purpose of the hearing was to receive testimony from Colorado Senator Gary Hart and from a panel of experts. The prepared statements of each of the witnesses are attached. Attending the hearing were Foreign Relations Committee Chairman Clement Zablocki (D-WI), Trade Subcommittee Chairman Jonathan Bingham (D-NY), and Trade Subcommittee Ranking Minority Member, Robert Lagomarsino (R-CA).

Senator Hart was the first witness. In his prepared statement, he called for a suspension of U.S. nuclear exports to non-nuclear weapons countries "until the NRC can find that safeguards are adequate to detect the diversion or theft of nuclear material" together with a U.S. effort to seek a joint effort with other nuclear exporting nations to suspend their exports until safeguards have been upgraded. Hart urged enactment of legislation "explicitly requiring the NRC to consider the adequacy of safeguards in its export licensing determinations." He proposed divesting IAEA of its safeguards function and creating a new international agency for that purpose. Such a split would parallel the separation of AEC functions into the NRC regulatory and DOE developmental roles. Finally, Hart urged more public disclosure of information about the adequacy of safeguards on the ground that "a better informed public would probably insist on stricter restraints on nuclear exports or an upgraded international safeguards system."

Hart's proposals were described by Bingham as "interesting" and "provocative." Questioning by Committee members sought further elucidation of Hart's proposals. In response to questioning, Hart stated his views

- that the problem of covert activities (not dealt with in his statement) should probably be addressed bilaterally;
- that US suspension of exports need not wait for a convening of exporting nations and that such a suspension was needed for the US to regain the moral edge, even if it were against our immediate self-interest;

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that the issue of proliferation should be addressed at the highest levels (i.e., between heads of state);

that a separation of safeguards functions along the lines of the AEC split was preferable to a strengthened IAEA; and

that greater disclosure of information was needed, noting that despite his former Chairmanship of the Nuclear Regulation Subcommittee, he only recently became aware of shortcomings in IAEA safeguards through the NRC November Letter to Congress and the testimony of a former IAEA inspector.

In commenting on the last point, Chairman Zablocki noted that the IAEA inspector's testimony was "controversial" and that there was a risk in IAEA becoming too open in that it might reduce the flow of information to IAEA inspectors.

Chairman Bingham in a brief statement following Hart's appearance noted that IAEA safeguards were never intended to be the sole protection against diversion and that a purpose of the hearing was to look at the range of options outside of IAEA as well as ways to strengthen the agency. Witnesses Kratzer and Scheinman, both former government officials with long experience in the international safeguards area, sought to provide historical perspective and to clear up "misunderstandings" concerning the role of IAEA safeguards in the broader nonproliferation regime. Both stressed the unique and progressive nature of the IAEA safeguards system, which represents a new and unprecedented approach to international relations. Many nations share the U.S. commitment to nonproliferation objectives. The IAEA safeguards system was designed to verify compliance by member nations. It is neither a system of prevention nor of intelligence gathering.

Mr. Kratzer's 35 page statement provided historical perspective on the development of the IAEA safeguards system. Both he and Dr. Scheinman responded to written questions of the Committee concerning (1) what institutional problems confront the IAEA in carrying out its safeguards responsibilities; (2) what measures can be taken to address these within the existing IAEA framework; and (3) what additional measures can be taken outside that framework.

Paul Leventhal characterized the IAEA safeguards system as "dangerously ineffective and grossly misleading." He urged an end to U.S. exports of HEU and plutonium and a restriction on exports of LEU to nations which agreed to forego reprocessing and have adequate safeguards. Leventhal viewed the problem of proliferation less in terms of IAEA weaknesses than as inevitably related to nuclear commerce and the widespread distribution of hundreds of tons of weapons usable material against which no IAEA safeguards program can be truly effective. Leventhal echoed Senator Hart's recommendation that the IAEA should be split into separate and independent regulatory and promotional agencies along the lines of the AEC split. He urged that the secrecy surrounding safeguards be lifted

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and that there be a public airing of the weaknesses and limits of international safeguards. He advocated a number of steps to tighten U.S. export controls including: (1) an assertive U.S. policy of withholding nuclear assistance and applying economic sanctions to nations that pursue reprocessing, enrichment and breeder development; (2) a resumption of meetings of nuclear supplier nations at US initiative; (3) reenactment of a provision of the 1946 Atomic Energy Act which banned the exchange of information with other nations on the use of atomic energy until a Congressional finding of effective and enforceable international safeguards; (4) consolidation of all commercial nuclear export activities in the NRC; and (5) NRC conditioning of approval of all export licenses on its own determination that safeguards can be effectively applied.

Mr. Sokolski, a visiting scholar at the Heritage Foundation, did not address deficiencies in the IAEA safeguards system. Rather, he characterized the problem of nuclear proliferation as primarily a matter of national security and advocated improvements in our intelligence gathering activities with respect to other nation's nuclear programs. He made a dozen suggestions for improving our intelligence operations in this area.

In the exchange between witnesses and the Committee which followed, Mr. Kratzer noted that there have been some successes in reducing proliferation. Korea was discouraged from developing reprocessing; India lost much following its explosion of a nuclear device and has not continued with further explosions.

With regard to Senator Hart's proposal to create a separate international safeguards agency, Mr. Kratzer called it "unachievable." Creation of a new agency would require a new treaty. The new regulatory agency would lack support from other nations. Dr. Scheinman agreed with Mr. Kratzer feeling that any new safeguards agency would have little support. Mr. Sokolski said such a separation would be "harmful" as well as impractical. Mr. Leventhal felt separation was a good idea and was "do-able" if backed by the US and USSR and given adequate resources. Congressman Lagomarsino commented that that was a rather big "if." Even if do-able, Lagomarsino was concerned about what would happen in the long period of time before a new agency could get underway.

The witnesses, except for Mr. Leventhal, also expressed skepticism or opposition to Senator Hart's proposed unilateral ban on exports. Mr. Kratzer questioned the premise on which it was based. Deficiencies in international safeguards are not the principal problem. Nor is it likely that other supplier nations will follow the U.S. example. Most importantly, he was concerned about the U.S. reneging on its international commitments. Dr. Scheinman agreed with Mr. Kratzer noting that this was not the first time the idea of a moratorium had been suggested and rejected. He pointed out that the U.S. had to spent a great deal of time and effort explaining

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itself after passage of the Nuclear Non-Proliferation Act of 1978. He also asked what would be the objective criteria by which the effectiveness of safeguards would be judged. Mr. Leventhal said that a moratorium would be a good start but that it must be part of a broader nonproliferation effort. Mr. Sokolski said that he did not think that a moratorium would address what he sees as the problem, mentioning the difficulty of dual-use items and the need to secure the cooperation of other nations.

Mr. Bingham asked Mr. Leventhal if he really felt that Japan and France could be persuaded to forego reprocessing. He said yes, if these nations can be educated to the view that reprocessing and breeder development is uneconomic. He reported that The Nuclear Club has funded a study along these lines. But Congressmen Bingham and Lagomarsino expressed skepticism, noting these nations' overriding concern with national security and energy independence regardless of cost. Both indicated that, after many hours of discussion with the Japanese, they were convinced that Japan would go ahead with reprocessing whatever the economics.

When asked about Mr. Leventhal's proposal to reenact the 1946 Atomic Energy Act provision banning export of nuclear information, Dr. Scheinman criticized the approach as "too narrow." Mr. Kratzer called it the "only thing more futile" than a moratorium on nuclear materials. The information was out. In qualification, Mr. Leventhal stated that, although the 1946 Act spoke in terms of information, he intended this to be broadly applied to include equipment as well. Mr. Sokolski said that, in his view, the exchange of information was more helpful than harmful and that if more information were readily exchanged, it might in fact discourage the use of plutonium in breeders.

There was more agreement with respect to Senator Hart's suggestion for greater openness. Dr. Scheinman spoke of "confidence through increased transparency"; Mr. Leventhal, of lifting the secrecy surrounding safeguards. The witnesses also generally agreed that greater resources would be helpful to the IAEA program.

The hearing was adjourned at 5 p.m.

Enclosures:

As stated

cc: EDO
NMSS
SECY
OGC
OPE
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ELD (Becker)