

## **Remarks By**

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**LAWS / American Bar Association Nuclear Export Control Workshop**

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### **Introduction**

I would like to thank the Ministry of Foreign Affairs for its sponsorship of this workshop which my organization, the Lawyers Alliance for World Security, hopes will mark the beginning of a fruitful relationship through which China and the United States will be able to share their experiences in the important field of nuclear export controls. This workshop is particularly important and timely as China plays a pivotal and growing role in combating the proliferation of weapons of mass destruction. It is important that our work together continue and I look forward to our future meetings both here and in Washington. The vast majority of the world's nations are deeply concerned about preventing the spread of weapons of mass destruction and the missiles that deliver them, particularly nuclear weapons but these efforts cannot be effective without Chinese cooperation, which will depend on the hard work of many of you in this room.

We are not here to teach; we are here to share experiences and to learn together. The Chinese export control experience is different from that of the United States. However, there is every reason to believe that the Chinese export control experience will highlight emerging issues in the international nonproliferation scene that the United States and other countries are also confronting. Each country -- including China -- faces unique challenges in implementing successful export controls on nuclear and dual-use technologies. Both countries and the world will benefit greatly from cooperation between Chinese and American export control experts and practitioners.

### **The Proliferation Context of Export Controls**

The United States acquired nuclear weapons in 1945; the Soviet Union followed suit in 1949, followed by the United Kingdom in 1952, France in 1960, and China in 1964. This increase in the number of nuclear weapon states took place against the background of predictions during the 1960s of 25 - 30 nuclear weapon states -- meaning states with nuclear weapons being integrated into their military arsenals -- by the late 1970s. If such a trend had continued unchecked that number could probably have been doubled for 1997. Imagine for a moment a world in which 60 countries had independent nuclear arsenals. That is the reality the international community averted by embracing the Nuclear Non-Proliferation Treaty, the NPT, and that is the reality we could face again if the NPT regime is not kept strong. But today the threat would be immeasurably worse because if we cannot limit the spread of nuclear weapons among states we also cannot limit the spread of nuclear weapons to terrorist organizations or criminal conspiracies.

Today, a terrorist organization would not necessarily have to replicate the Manhattan Project to develop a nuclear explosive device if it could buy or steal the necessary material. The first nuclear explosive was produced with technology and expertise which is now a half-century old and widely understood. The biggest obstacle to building a nuclear weapon is the acquisition of weapons-usable nuclear material. The process of making plutonium or enriching uranium to purity levels required to create a nuclear device is extraordinarily expensive, technically difficult, time consuming, and likely to be detected. Preventing states outside the international non-proliferation regime and dangerous subnational organizations including terrorists or cultists like those who deployed poison gas on the Tokyo subway from acquiring the makings of an atomic bomb is of critical importance to the security of all the peoples of the world. Denying weapons-usable materials to states outside the international non-proliferation regime or terrorist organizations is a critical action that the United States and China can take together to make the world more secure.

### **The Role of Export Controls**

Effective national export controls are integral and critical to the health of the NPT regime. Export controls alone will not necessarily stop a state or sub-national group determined to acquire a weapon of mass destruction capability. They can, however, make proliferation more costly, slow, and visible, thereby increasing the likelihood that a proliferation attempt will be detected and responded to effectively by the international community. Export controls complement diplomatic efforts to discourage proliferation by raising the political and economic costs of proliferation. By slowing or exposing would-be proliferators, export controls can buy time for diplomacy to work.

Under Article IV, the NPT promotes safeguarded exchanges of peaceful nuclear technology. The 1985 United States - China Agreement for Peaceful Nuclear Cooperation established the framework within which such exchanges could take place between our two countries. Finally, after extensive discussions over several years, the President has made the decision to certify that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any non-nuclear weapon state, either directly or indirectly in acquiring nuclear explosive devices or the material and components for such devices. Such a certification is necessary under United States law in order for the United States to implement this cooperative agreement. As you know, such a certification must lie before the United States Congress for a period of time before it can become effective. The President sent this certification to Congress in January and it is expected to become effective in the near future. Despite a tradition of strong trade relations between our two countries, commerce in this important sector has been long held hostage to suspicion. This reluctance to build a close relationship in the area of nuclear commerce is not indicative of broader mistrust but rather of the great caution with which the possibility of nuclear weapons falling into the wrong hands must be treated. But trade in this important sector will grow increasingly important in the future. Today nuclear reactors provide only a very small amount of China's energy requirements. However, as China's energy needs increase, nuclear power is likely to play a growing role in meeting China's energy needs. If this is to be the case, the foundation for peaceful nuclear commerce, the NPT regime, must be secure.

President Clinton's decision to certify that peaceful nuclear cooperation may now proceed between our countries reflects recognition by the United States of China's increasingly visible commitment to nuclear non-proliferation. China has taken several important steps toward demonstrating a strong commitment to non-proliferation in the last several years, including: becoming a party to and later supporting the indefinite extension of the NPT, playing a constructive role in promoting the conclusion of the Agreed

Framework between the United States and the Democratic People's Republic of Korea, ceasing nuclear weapon testing and signing the Comprehensive Test Ban Treaty, and joining the Zangger Committee. These steps indicate to the world that China is willing to be a leader in the struggle to prevent the spread of nuclear weapons and to work toward real progress toward a world free of nuclear weapons. These steps have made possible this historic opportunity for our two nations to work together to prevent the proliferation of nuclear weapons and have opened the door to cooperative efforts to arrest the spread of other weapons of mass destruction and other destabilizing military technologies.

## **The Multilateral Export Control Regimes**

Many countries possess nuclear technology and many countries must work together to prevent its misapplication to destabilizing weapon programs. The multilateral nuclear export control regimes help to weave national export control systems into a interlocking net capable of deterring and impeding proliferation. The Zangger Committee and the Nuclear Suppliers Group are the key international regimes through which national nuclear export controls are harmonized.

The NPT Exporters Committee, or Zangger Committee, as it is often referred to, was created to coordinate implementation of Article III.2 of the NPT. This article requires each NPT party to ensure that International Atomic Energy Agency safeguards are applied to their exports to non-nuclear weapon states of source or special fissionable nuclear material, "especially designed or prepared" equipment or material. One of the main activities of the Zangger Committee has been to define and clarify a list of items that should be controlled to prevent the proliferation of nuclear weapons, known as the "trigger list."

The Nuclear Suppliers Group was created to coordinate nuclear export controls in a multilateral forum not directly tied to the NPT originally in order to involve important states which were not yet parties to the NPT. Nuclear Suppliers Group guidelines require that a recipient non-nuclear weapon state accept safeguards on all its nuclear activities, not just the exported item, as a condition for a supply of nuclear material, equipment, and technology. The guidelines also emphasize the importance of exercising restraint, and call for consultation in cases where such exports might increase the risk of conflict or instability. The Nuclear Suppliers Group has thirty-one members and meets several times a year.

One subject area beyond these regimes of current special interest to the United States is that of post-shipment checks. While this subject is one of general interest with respect to all export licenses, a new law in the United States requires post shipment verification for computer technology. Perhaps we can discuss this subject later during the course of this workshop.

The application of export controls beyond the nuclear field to control other weapons of mass destruction, like chemical and biological weapons, and missiles and other destabilizing military technologies also can make a significant addition to world security. While this workshop and the forthcoming one in Washington are wholly devoted to the discussion of the subject of export controls applicable to nuclear technology, such a discussion cannot be completely divorced from other world-wide non-proliferation and export control regimes. Thus, a brief discussion is warranted of some of the important multilateral regimes dedicated to the control of dangerous non-nuclear exports.

The Australia Group is an informal group of states organized to discourage and impede chemical weapon proliferation by harmonizing national export controls on chemical weapons precursor chemicals, sharing information on proliferation on potential proliferation programs, and seeking other ways to curb

chemical weapons proliferation.

The purpose of the Missile Technology Control Regime is to arrest missile proliferation worldwide through export controls on missiles and their related technologies. It is neither a treaty nor an agreement, rather the MTCR is a voluntary arrangement among twenty-seven countries that share a common interest in stemming missile proliferation and controlling exports of missile-related items in accordance with common guidelines and a technology annex. The MTCR originally controlled only certain missiles and unmanned air vehicles, but it has been expanded to cover missiles capable of delivering any weapons of mass destruction.

The Coordinating Committee for Multilateral Export Controls, or COCOM, was a multilateral export control regime established in 1949 to maintain common controls on items that could enhance the military capabilities of the then Communist Bloc nations. Following the Vancouver Summit, Presidents Clinton and Yeltsin agreed to eliminate export controls relics of the Cold War and replace them with a partnership between the East and the West. COCOM formally ended in March 1994, but members agreed to keep national controls on former COCOM-controlled items until the new regime is established. This new regime, the Waasenaar Arrangement, which was founded in July 1996, has now replaced COCOM. The new regime regulates conventional weapons technology and "dual use" goods and technology and seeks to prevent the development of destabilizing military capabilities without being directed against any state or group of states.

Taken together, these export control regimes hold promise for fostering cooperation among nations with one goal: a safer world. As a non-proliferation leader facing unique challenges in the application of national export controls, China has the opportunity to make a very significant contribution to the effectiveness of these international efforts.

## **Conclusion**

The possibility that an irresponsible party could acquire and use or even threaten to use a nuclear weapon or another weapon of mass destruction is one of the most serious threats human civilization has ever faced and it is growing more real every day. Only perpetual vigilance protects us from unimaginable tragedy; this vigilance is the duty of all great nations. Both China and the United States have demonstrated their commitment to fulfilling this duty, and working and learning together, through workshops like this one and those that will follow it, we will increase our chances of success considerably. The danger to all mankind posed by weapons of mass destruction is very great. If we are to avoid disaster, our commitment to work together must be even greater. Your willingness to be here today demonstrates your commitment and I look forward to working with you over the next two days and beyond.

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