

**Testimony of Assistant Secretary Thomas M. Countryman on the President's Submission to the Congress of the U.S.-China Agreement for Peaceful Nuclear Cooperation (123 Agreement)**

**Joint Subcommittee Hearing: U.S. - China Civilian Nuclear Agreement  
Subcommittee on Asia and the Pacific, Subcommittee on Terrorism,  
Nonproliferation, and Trade**

**July 16, 2015**

Chairman Salmon, Chairman Poe, Ranking Members Sherman and Keating,  
and Members of the Subcommittees:

Good afternoon. It is a pleasure to testify before the Committee today regarding the President's submission of an agreement for peaceful nuclear cooperation between the United States and China.

As you know, the U.S. relationship with China is one of the most important and complex relationships we have in the world. Over the last six years, the Obama Administration has established a "new normal" of U.S. engagement with the Asia-Pacific that includes relations with China defined by building high quality cooperation on a range of bilateral, regional, and global issues while constructively managing our differences and areas of competition. Through the implementation of this policy, the United States

and China continue to improve diplomatic coordination to address the regional and global challenges of nuclear nonproliferation, energy security, and climate change, while growing both our economies. Peaceful nuclear cooperation with China is an example of collaboration that touches on all these challenges, and I'd like to explain why the Administration believes it is in the best interests of the United States to continue this important area of cooperation.

### **Description of Agreement**

Like all 123 agreements, this agreement is first and foremost an asset that advances U.S. nonproliferation policy objectives. It took approximately two and a half years to negotiate the agreement, and after numerous interventions by senior U.S. government officials throughout this period, our negotiators were able to win inclusion of significant new nonproliferation conditions that strengthen the agreement. The President's transmittal of the agreement, and the Nonproliferation Assessment Statement that accompanied it, include a detailed description of the contents of the agreement so I will not repeat that here, but the agreement contains all the U.S. nonproliferation guaranties required by the Atomic Energy Act and common to 123 agreements, including conditions related to International Atomic Energy Agency (IAEA) safeguards, peaceful uses assurances,

physical protection assurances, and U.S. consent rights on storage, retransfer, enrichment, and reprocessing of U.S.-obligated nuclear material. The agreement clearly states that equipment, information, and technology transferred under the agreement shall not be used for any military purpose, and the new text includes a right for the United States to suspend cooperation in the event of Chinese non-compliance, as well as our long-standing right to cease cooperation altogether. It also has a fixed duration of thirty (30) years. It is worth noting that the agreement does not commit the United States to any specific exports or other cooperative activities, but rather establishes a framework of nonproliferation conditions and controls to govern any subsequent commercial transactions.

### **Differences Between the 1985 and 2015 Agreements**

The 2015 agreement enhances several U.S. nonproliferation controls beyond those contained in the current U.S.-China 123 agreement, which was signed in 1985. Unlike the 1985 agreement, the 2015 agreement requires China to make all U.S.-supplied nuclear material and all nuclear material used in or produced through U.S.-supplied equipment, components, and technology subject to the terms of China's safeguards agreement with the IAEA. The 2015 agreement also contains additional, elevated controls on unclassified civilian nuclear technology to be transferred to China. Further,

the agreement requires the two Parties to enhance their efforts to familiarize commercial entities with the requirements of the agreement, relevant national export controls, and other policies applicable to imports and exports subject to the agreement – a requirement that will be implemented through joint training by U.S. and Chinese officials of commercial entities in both countries.

The background underlying the agreement has also changed. China's nonproliferation record has improved markedly since the first U.S.-China 123 agreement was signed in 1985, though it can still do better. Over the past thirty years, China has undertaken a variety of efforts to enhance its global standing on nonproliferation issues while significantly expanding its civil nuclear sector. Since the 1980s, China has become a party to several nonproliferation treaties and conventions and worked to bring its domestic export control authorities in line with international standards. China joined the Nuclear Nonproliferation Treaty in 1992, brought into force an additional protocol with the International Atomic Energy Agency in 2002, and joined the Nuclear Suppliers Group in 2004.

### **Justification for Agreement**

In addition to the improved nonproliferation conditions that I have already described, the agreement will have benefits for the U.S.-China

bilateral relationship, for nuclear safety in the United States and worldwide, for our economy, and for the climate. I'd like to touch on each of these for a moment.

Bringing a new 123 agreement with China into force will improve not only our bilateral nonproliferation relationship but also our overall bilateral relationship, and reflects the U.S. government effort to better rebalance our foreign policy priorities in Asia. We strongly believe that implementing this agreement will better position the United States to influence the Chinese Government to act in a manner that advances our global nuclear nonproliferation objectives. Conversely, failing to do so would set us back immeasurably in terms of access and influence on issues of nonproliferation and nuclear cooperation. The current China 123 agreement has allowed for, and the agreement will continue to facilitate, deepened cooperation with China on nonproliferation, threat reduction, export control, and border security. We believe that continuing cooperation with China will allow us to push China further to adhere to international norms in this area and meet U.S. standards of nonproliferation, nuclear safety and security.

## **Nuclear Safety**

With respect to nuclear safety, as U.S. and Chinese experts work together in the development of Westinghouse's AP1000 reactors in China, their collaboration enhances the strength of the safety culture in the Chinese civil nuclear program. Even the choice of AP1000 technology, with passive safety systems, over other, older, less safe technologies, enhances nuclear safety in China. It is fundamentally in the U.S. interest to promote the spread of U.S. best practices in nuclear safety as a nuclear accident anywhere is a global problem. The United States will have a far greater influence on Chinese nuclear safety practices if cooperation is continued than if it is cut off. When we export U.S. civil nuclear technology, we also export an American nonproliferation, safety, and security culture that encourages a safe and responsible Chinese civil nuclear program.

## **Economic Benefits**

There are also very significant economic reasons to remain engaged with China in nuclear cooperation. China has the fastest growing nuclear energy program in the world, with twenty-seven (27) nuclear power plants in operation, twenty-four (24) under construction, and dozens more planned. Over one-third of the world's nuclear power plants currently under construction are in China. Westinghouse estimates the value of China's

second wave of six reactors at \$25 billion with the potential for \$2.5 billion in U.S. export content. In addition, U.S. civil nuclear companies are supplying China – and if this agreement is brought into force, could continue to supply China – with equipment and components as well as a broad range of services, including engineering, construction, fuel cycle expertise, and training. The proposed agreement would allow for future joint U.S.-Chinese supply partnerships if China were to become a larger nuclear supplier in the future. These export opportunities could support tens of thousands of high-paying American jobs. For all of these reasons, the U.S. nuclear industry strongly supports the agreement. Indeed, the Department of Commerce’s Civil Nuclear Trade Advisory Committee identified the renewal of the U.S.-China 123 agreement as one of its top priorities and a top priority for the U.S. civil nuclear industry.

## **Climate Change**

The agreement can also help both of our countries to deploy non-fossil based energy sources to address the effects of global climate change. In November 2014, President Obama and Chinese President Xi took a historic step for climate change action and for the U.S.-China relationship by jointly announcing the two countries’ respective post-2020 climate targets.

The announcement was the culmination of a major effort between the two countries, inspired by our serious shared concern about the global effects of climate change and our commitment to leadership as the world's largest economies, energy consumers, and carbon emitters. One of China's announced targets is to increase the share of non-fossil energy to around 20% by 2030 – an approximate doubling from current levels. China sees the large scale development of civil nuclear power as key to meeting this and other climate targets, and these commitments strongly reinforce opportunities for U.S. nuclear suppliers in the Chinese market.

### **Negative Consequences of Lapse**

I'd also like to take a moment to highlight some of the negative consequences should the United States cease nuclear cooperation with China. A failure, or delay, to put in place a new agreement to replace the current expiring agreement would undermine U.S. nonproliferation policy and our nuclear industry and would have a significant effect on the broader U.S.-China bilateral relationship.

As I described earlier, the current 123 agreement has been a vehicle for significant U.S. influence on China's nonproliferation policy. If



cooperation ceases, U.S. influence on Chinese nonproliferation practices will be placed in serious jeopardy. A lapse in the agreement would most likely lead to a suspension of our nonproliferation dialogues, to include recently established mechanisms seeking to enhance China's export control enforcement capabilities, thereby damaging our cooperation in countering shared proliferation challenges. In addition, if the United States does not maintain its nuclear cooperation with China, that vacuum will be filled by other nuclear suppliers who do not share the same nonproliferation and safety-focused practices in the execution of their civil nuclear cooperation.

Ending U.S.-China cooperation would also be devastating for our nuclear industry. All significant nuclear commerce between the United States and China would stop, and a large number of high-paying American jobs would likely be lost. More broadly, unilateral termination of this relationship would discredit the United States as a reliable supplier, undermining the ability of the U.S. civil nuclear industry to compete globally and enabling competitors such as Russia and France to gain a greater foothold in China's nuclear energy market, as well as in other markets. The construction of four Westinghouse AP1000 reactors in China is driving innovation in the U.S. civil nuclear industry, helping us

domestically to make the AP1000 reactors currently under construction in the United States safer and more efficient. Without this continuous learning process, the United States will lose global market share. If there is no successor agreement, U.S. civil nuclear companies with joint ventures in China will also lose the technology and hardware they have already provided to China – there is no U.S. government right of return at the expiration of the agreement– and the United States will not benefit from future sales arising from these ventures.

Finally, it is worth emphasizing that China would view a lapse of this agreement as evidence that the United States is less willing to engage China at a high level on important commercial, energy, environmental, and security related issues. Stopping U.S.-China cooperation would also strengthen the position of those in China who advocate a more confrontational approach to the bilateral relationship and create new difficulties in our efforts to manage this complex relationship.

## **Conclusion**

In sum, we believe that the strategic, nonproliferation, economic, and environmental benefits of this agreement demonstrate that the continuing

nuclear cooperation with China is in the best interests of the United States. We are mindful of the challenges that this relationship and this agreement present, and yet we firmly believe the clear path forward is to remain engaged with China, constructively manage our differences, and work collaboratively to advance our numerous common objectives while bringing China toward international norms of behavior. This is not just a matter of U.S. engagement with China, it is frankly a test of U.S. leadership and our ability to continue to play a decisive and prominent role in crucial sectors such as the civilian nuclear power industry. The entry into force of this agreement will allow the United States to continue to develop and participate in the world's largest nuclear power market, which is the best way to ensure that fundamental U.S. national interests in this area are advanced in the long term.

Mr. Chairman and Ranking Member, thank you.