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Statement
of
S. Jacob Scherr
and
Thomas B. Cochran
before the
Subcommittee on Energy and the Environment
of the
Committee on Interior and Insular Affairs
House of Representatives

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I am S. Jacob Scherr. I am a Senior Staff Attorney with the Natural Resources Defense Council (NRDC). I am accompanied by Dr. Thomas B. Cochran, a Senior Staff Scientist at NRDC. We are pleased to have this opportunity to present to the Subcommittee our views concerning our nation's nuclear weapons nonproliferation strategy.

NRDC is a U.S. non-profit environmental protection organization, with over 45,000 members here and abroad. For the last five years, we have been actively concerned about the spread of nuclear weapons. NRDC has participated in administrative proceedings, Congressional hearings, and international meetings with the objective of stimulating sound nuclear nonproliferation efforts.

Of all the risks associated with the civilian nuclear fuel cycle none is more serious than that of nuclear weapons proliferation. In the 1970's, the myth of the exclusively "peaceful atom" was shattered. Using nuclear equipment, materials, and technology ostensibly acquired for civilian purposes, a number of nations already have crossed the threshold into the nuclear weapons club or have moved dangerously close to doing so. India has exploded its first atomic bomb, while Israel and South Africa are widely regarded as nuclear-weapons capable. Both South Korea and Taiwan have sought to establish

although much remains to be accomplished. Our comments today will focus on a few critical areas of nonproliferation policy implementation.

THE UNITED STATES MUST MAKE CLEAR ITS
OPPOSITION TO PLUTONIUM USE IN THE
CIVILIAN NUCLEAR FUEL CYCLE

A major thrust of U.S. nonproliferation policy has been to forestall a premature global commitment to the use of plutonium in the civilian nuclear fuel cycle. We continue to view plutonium recycle and the development of the plutonium breeder as posing the most immediate, most severe proliferation risks. In April 1977, it appeared that the Administration was going to draw a clear line between light-water reactors using low-enriched uranium and plutonium utilization. President Carter announced an indefinite deferral of commercial reprocessing and recycling of plutonium produced in U.S. nuclear power programs in the United States. The U.S. would restructure its breeder reactor programs "to give greater priority to alternative designs of the breeder other than plutonium" and would "defer the date when breeder reactors would be put into commercial use." The Administration called for the cancellation of the Clinch River demonstration breeder reactor and for an international review of the nuclear fuel cycle to evaluate ways to reduce proliferation risks.

in this regard. There are some promising alternative reactor concepts, such as the Fast Mixed Spectrum Reactor (FMSR), being developed under the direction of Dr. Herbert Kouts at the Brookhaven National Laboratories. The FMSR concept, like the light water reactor, does not require fuel reprocessing or plutonium separation. Yet like the breeder, the FMSR is up to 15 times more efficient in terms of uranium resource utilization. By pursuing such alternatives to the plutonium breeder, the U.S. can demonstrate the seriousness of its non-proliferation concerns.

The first real test of the Administration's nonproliferation policy came in the summer of 1977 with the Japanese request to process U.S.-supplied spent fuel at the Tokai-Mura pilot reprocessing plant. A U.S.-Japanese Joint Communique, dated September 12, 1977, permitted the plant to start up and the use of the resulting plutonium for research and development. According to a July 10, 1979 Energy Daily article, the Japanese have relied upon this loophole to move ahead with the conversion and fabrication of mixed oxide fuel using plutonium from the Tokai Mura facility. This fuel will probably be used in the commercially-operating 165-Mwe Fugen reactor. This action on the part of the Japanese is clearly in violation of the spirit, if not the letter, of the Joint Communique. The U.S. was not informed in advance; and the DOE apparently has acquiesced.

THE UNITED STATES SHOULD PRESS AHEAD
WITH THE ESTABLISHMENT OF INTERNATIONAL
PLUTONIUM AND SPENT FUEL STORAGE

A second related weakness of our nonproliferation policy involves the issue of U.S. approval for the reprocessing abroad of U.S.-supplied spent nuclear fuel. President Carter's April 7th speech failed to address this question and later Administration pronouncements left the U.S. position unclear. The "case-by-case" approach simply has not worked. We have seen that the "need" criteria has been expanded beyond those situations where spent fuel storage capabilities are inadequate to include political considerations. The failure of the United States to take a clear position on reprocessing abroad contributed to the unfortunate decision in the United Kingdom to proceed with the construction of a large-scale reprocessing facility at Windscale.

The U.S. has been giving approvals to "MB-10" requests by Japan and other nations to retransfer U.S.-supplied spent fuel for reprocessing in the United Kingdom and France. We are very disturbed that these approvals fail to address the question of what is to be done with the resulting plutonium. If retransfers of U.S.-supplied spent fuel for reprocessing are approved, the U.S. should specify, at a minimum, that the plutonium must remain in storage in the weapons state under international auspices.

The Nuclear Non-Proliferation Act of 1978 may remedy one of the major flaws. As of this September, the United States will no longer consider new applications for nuclear exports to non-nuclear-weapon states unless IAEA safeguards are maintained with respect to all peaceful nuclear activities. Nonetheless, the issue remains whether IAEA safeguards are adequate to assure timely detection of diversions.

The ineffectiveness of the IAEA safeguards system has been confirmed by the publication of the IAEA's Special Safeguards Implementation Reports and the unwillingness of the Nuclear Regulatory Commission's Office of Nuclear Safety and Safeguards to certify the adequacy of IAEA safeguards. Even the State Department has been forced to concede that the IAEA "has in general had difficulty safeguarding bulk-handling facilities," such as nuclear fuel fabrication plants.

The Nuclear Non-Proliferation Act of 1978 leaves open whether the NRC should independently conduct country or site specific visitations in its consideration of the application of IAEA safeguards under Criterion 1 of Section 127. The NRC continues to avoid the question and to rely blindly upon IAEA safeguards. In his concurrence to a March, 1979, NRC decision to license the export of nuclear fuel to India, Commissioner Ahearne went even further. He said:

It might be argued that the safeguards as implemented are inadequate, precluding a finding that Criterion 1 is met. It is perhaps accurate that the Indian system has some weak-

in the U.S. and the emerging, unworkable distinction concerning plutonium use between, on the one hand, reliable industrialized nations, and, on the other, unreliable developing countries. We believe that Congress has a central role in the evolution of U.S. nonproliferation strategy. We welcome and encourage your continued concern and scrutiny.

Thank you.