

5.1 – Chinese Mission to United Nations: Statement by H.E. Ambassador Wang Qun on the Tri-Lateral Nuclear Submarine Cooperation Under AUKUS

November 26, 2021

This statement by Wang Qun, Chinese Ambassador to the United Nations and Other International Organizations in Vienna, detailed China's concern over the AUKUS countries' decision to support Australia in acquiring eight nuclear-powered submarines and warned that such a move presents grave risks to non-proliferation norms. In addition, the statement expressed China's belief that the pact constitutes the formation of a military bloc that will exacerbate geopolitical tensions in the region. The statement requested that the United States, Australia, and the United Kingdom report to IAEA member states detailed information on the non-proliferation risks related to the deal and suggested that, since the matter goes beyond the existing mandate of the agency's secretariat, it should be subject to a formula to be worked out by the IAEA through the intergovernmental process.

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(From Chinese Mission to the United Nations and Other International Organizations in Vienna)

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Vienna, 26 November

Mr. Chairman and Colleagues,

On 15 September 2021, the United States, the United Kingdom and Australia announced their establishment of AUKUS, and with it, the three countries subsequently informed the IAEA that the United States and the United Kingdom would assist Australia in building at least eight nuclear-powered submarines.

The international community has expressed grave concern about the risk of the AUKUS. In the light of the above development, the Board of Governors of the Agency decided, by consensus, to set up a new and full agenda item entitled "Transfer of nuclear materials in the context of AUKUS and its safeguards in all aspects under the NPT" on 24 November.

This is a very unusual and extraordinary move, which, I believe, fully reflects the serious concerns of the Member States of the Board and shows that the matter goes beyond the existing mandate of the Agency's Secretariat and shall be subject a formula to be worked out by the Member States of the Agency through the intergovernmental process. China believes that the inclusion of the new agenda item within the Board is a step in the right direction towards a proper resolution of the issue.

Mr. Chairman and Colleagues,

While basing themselves on ideology, the United States, the United Kingdom and Australia have tried to set up a new military bloc by establishing AUKUS, exacerbating geo-political tensions.

At a time when the international community has all worked to promote solidarity in opposition of a new Cold War, the United States openly contradicted and departed from its recent political statement to the effect that "it will not seek a new Cold War" by ganging up for a small Anglo-Saxon "clique", with its geo-political and selfish interests overriding international solidarity. This is a typical Cold War mentality.

This move by the three countries will spur regional countries to accelerate their development of military capabilities, and even seek to cross the nuclear threshold while increasing the risk of military conflicts.

In the meantime, the United States has, on one hand, subjected some other countries to sanctions and suppression under the pretext of the latter's development of nuclear technologies, but it has, on the other hand, flagrantly engaged in transfer of nuclear-weapon materials and nuclear-weapon technologies to certain non-nuclear state. This is a classic case in point of a double-standard. China wishes to register its firm opposition to such a practice by the United States.

Mr. Chairman and colleagues,

The negative political implications of the trilateral nuclear-submarine cooperation under AUKUS are enormous. But given the mandate of the IAEA, China, while being here, will mainly look at this issue from the perspective of non-proliferation.

China believes that, in discussing the trilateral nuclear-submarine cooperation under AUKUS, it is imperative that the international community get straight the basic fact in the first place, i.e., what is the problem, and what's wrong with AUKUS and its deal? And what is the very essence of the AUKUS deal? This is the most fundamental question that must be clarified. In this context, we have to ask:

-- Whether the AUKUS deal involves nuclear materials?

-- Whether the nuclear material transferred under AUKUS involves nuclear-weapon materials?

-- Are the AUKUS-related nuclear materials under the jurisdiction or control of Australia are manufactured or to be manufactured by Australia on its own and indigenously ? Or such nuclear materials are to be transferred from the United States and the United Kingdom as Nuclear-Weapon States to Australia as a Non-Nuclear-Weapon State under the NPT?

In particular, given that the United States, the United Kingdom and Australia have already decided on their nuclear submarine cooperation, I hope that the three countries will clarify to the international community:

-- Whether the nuclear materials to be used in the naval reactors for propulsion of submarines under AUKUS are 93% HEU, based on the nuclear-weapon materials currently used by the US in its nuclear submarines, as widely believed by the international community and international experts?

-- If not, what exactly the kind of nuclear materials has the United States decided to provide to Australia?

In a nutshell, if nuclear-weapon materials are involved, they must be candidly clarified. And if there are nuclear-weapon materials transferred from nuclear-weapon states to a non-nuclear-weapon state, such acts of transfer must be candidly admitted. Such a fact is fundamental, and cannot afford to be obscured.

I hope that the United States, the United Kingdom and Australia will duly explain these fundamental questions of international concern, by providing full clarifications in a timely manner. These fundamental questions will help us get straight the fact before the Board Members as it pertains to the AUKUS deal, and the above fact is the basis for the serious and professional discussion to be undertaken within the Board. Only by getting straight the fact before us, can a proper formula be worked out.

Mr. Chairman, and colleagues,

If it can be confirmed that the trilateral submarine cooperation under AUKUS does involve nuclear weapons materials and does involve the transfer of such materials from nuclear-weapon states to a non-nuclear-weapon state, it will certainly give rise to a series of political, legal and technical issues affecting the international non-proliferation regime, global strategic stability and the international security order. And comprehensive and in-depth discussions shall be undertaken through the inter-governmental process.

I. The issues in political aspect as a result of the trilateral submarine cooperation under AUKUS.

Firstly, under AUKUS in relation to their trilateral submarine cooperation, it will be the first time, since the conclusion of the NPT, for Nuclear-Weapon States to engage in openly and directly export of tons of nuclear weapons materials to a Non-Nuclear-Weapon States, in explicit violation of the object and purposes of the NPT, to the detriment of the international non-proliferation regime with the NPT as its cornerstone.

-- And, as a result, what consequences will arise in reality?

Secondly, the international non-proliferation system has played an important role in helping maintain the post-war international order in promotion of the global strategic balance and stability.

-- Given the detrimental effect of AUKUS deal on the international non-proliferation system, what implications it will ensue for the global strategic stability and post-war international security order?

-- What will be its implications for other important international arms control treaties that are relevant to global strategic stability, such as the new US-Russian START Treaty?

Thirdly, given that Australia is, under AUKUS, to become the first non-nuclear-weapon state to acquire nuclear submarines, with nuclear-weapon materials from the United States and the United Kingdom as nuclear-weapon-states,

-- Whether, under such circumstances, other non-nuclear-weapon states can do the same accordingly?

In the 1980s, when Canada tried to import nuclear-powered submarines, the United States and Australia were the two countries with strongest opposition.

-- Are the arguments that the United States and Australia articulated, on the basis of the NPT, against Canada's intended import still valid today?

-- Has the NPT become irrelevant, or the United States, the United Kingdom and Australia three have changed their position by walking to the opposite side of the NPT?

Fourthly, the implication of the AUKUS deal on regional hot-spot issues. On the Iranian nuclear issue, for instance:

-- In terms of enriched uranium, why the United States and the United Kingdom demand that Iran cannot manufacture enriched uranium above 3.67%, while, on the other hand, openly and directly transferring to Australia tons of 90% highly-enriched nuclear-weapon materials?

-- In terms of breakout time, why the United States and the United Kingdom insist that the breakout time for Iran shall be one year as a minimum requirement, while allowing Australia to have a breakout time of only a few days or even hours by virtue of acquiring readily manufactured nuclear-weapon materials directly?

-- Is this a sheer act of double standard? At a time when the negotiations are scheduled to be resumed in Vienna to get the US and Iran back to the JCPOA, what message are the three countries trying to send out? What will be the implications for the negotiations to be resumed just in days?

-- What is the basis for the three countries' claim that Australia is a country "with exemplary non-proliferation credentials"? And what is their basis for such a claim?

-- Apart from Australia, what are the other countries with such exemplary non-proliferation credentials that are eligible for the assistance by the United States and the United Kingdom in this regard?

-- If Australia is a country with such exemplary non-proliferation credentials, why did it terminate the relevant agreement with France by shifting from uses of low-enriched uranium to other countries' highly-enriched uranium with high non-proliferation risks, in its nuclear submarine under AUKUS?

II. The issues in legal aspects as a result of the trilateral sub-marine cooperation under AUKUS.

Firstly, in terms of the provisions of the NPT per se.

-- Under Article 1, the Nuclear-Weapon States shall undertake, inter alia, "not to transfer to any recipient whatsoever nuclear weapons" and "directly, or indirectly"; and they shall also undertake not "in any way" to assist, encourage, or induce any Non-Nuclear-Weapon States to manufacture or otherwise acquire nuclear weapons. So, what such explicit terms and provisions mean as "not to transfer directly or indirectly"? Or "not in any way to assist"?

-- Now that the United States and the United Kingdom have decided to transfer, in an open and direct manner, tons upon tons of nuclear-weapon materials, to Australia as a Non-Nuclear-Weapon State, how to look at the treaty obligations of the United States and the United Kingdom as Nuclear-Weapon States vis-a-vis Article 1 of the NPT?

-- Under Article 2, Non-Nuclear-Weapon States shall undertake, inter alia, "not to receive the transfer from any transferor whatsoever" of nuclear weapons "directly, or indirectly"; and they shall also undertake "not to seek or receive any assistance" in the manufacture of nuclear weapons. So, how to look at the treaty obligation of Australia as a Non-Nuclear-Weapon State, especially whether Australia directly violate NPT per Article 2?

Secondly, in terms of the object and purpose of the NPT.

-- What, in the first place, are exactly the object and purpose of the NPT?

-- Does the Treaty just prohibit the proliferation of the nuclear weapons in its totality? Is "nuclear weapon" per se just an empty concept, without physical nuclear-weapon materials and components?

-- Does the NPT just prohibit the proliferation of the whole nuclear weapon system, but not in terms of nuclear weapons when they are separated or converted into nuclear-weapon parts, components or materials?

-- And does the NPT just prohibit covert and clandestine nuclear proliferation, while allowing open and flagrant nuclear proliferation?

Thirdly, the relevant provision of the Vienna Convention on the Law of Treaties.

Under the relevant provisions of generally accepted norms of international law, especially, the Vienna Convention on the Laws of Treaties, it is the treaty obligation of any signatories or ratifiers to refrain from acts which would defeat the object and purpose of a treaty. Now that the United States, the United Kingdom and Australia, as Parties to the NPT, have decided to be engaged in direct and flagrant transfer of tons of nuclear-weapon materials.

-- Under such a circumstance, do such acts jeopardize the object and purpose of the NPT?

-- How to check such acts that may defeat the object and purpose of the NPT?

Fourth, the relevance of the catch-all policy.

Export control mechanisms, especially the Nuclear Suppliers Group (NSG) and MTCR, together with the NPT as the customary international law, constitute the current global non-proliferation regime. Within such export control mechanisms, they have adopted and implemented the "catch-all policy", by which, the members make their decision of denials to transfer of sensitive items and technology, on the basis of recipient countries' "capability" and "intention".

-- Given the decision of the United States and the United Kingdom to transfer tons upon tons of nuclear-weapon materials to Australia, what is the relevance of the catch-all policy with AUKUS deal going on?

III. The issues in technical aspects as a result of the trilateral sub-marine cooperation under AUKUS.

Firstly, in terms of legal status.

-- How to look at the Agency's comprehensive safeguards agreement (CSA) template vis-a-vis the NPT?

-- Can the above CSA template contradict and override the NPT as its parent law?

Secondly, Article 14 of the CSA template.

As per Article 14 of the CSA template, even if applied, it is generally construed as a provision on nuclear materials, in a context of naval propulsion reactor, developed and manufactured indigenously by the relevant countries, instead of involving nuclear materials transferred.

-- What legal problem may ensue should Article 14 is extended to cover the nuclear materials transferred by providing the relevant safeguards?

Thirdly, the source or nature of nuclear weapon materials.

-- Can Article 14 apply to nuclear weapons materials of unknown or even illicit origin?

-- Just like in a case of banks, they shall not be engaged in handling transactions involving black money, or money of unknown or illicit origin. IAEA shall not, likewise, be engaged in providing safeguards to nuclear materials of unknown or illicit origin, otherwise, what difference does it make between "money-laundering" in a case of banks and "material-laundering" in the context of IAEA?

-- How to ensure the non-proliferation character of the IAEA be duly preserved?

Fourthly, the technical aspect of the Article 3 of the NPT.

Under Article 3, Non-Nuclear-Weapon States, like Australia, shall undertake to accept safeguards, covering all nuclear materials, equipment, and facilities "under its jurisdiction", or "under its control". But the Australia's nuclear submarine acquired under AUKUS will not resurface for a protracted period of time, under such a circumstance, if purely from a technical perspective,

-- In what way can the nuclear materials in Australia's naval propulsion reactors be subjected to IAEA's effective safeguards?

-- What is the relevance of the IAEA's comprehensive and full-scope safeguards if they cannot provide safeguards to nuclear sub-marines under the sea?

-- Whether and how should new formulas be explored to address the above lacuna?

In addition, many experts have many misgivings on the trilateral nuclear sub-marine under AUKUS, for instances,

-- Will the AUKUS deal undercut or even neutralize the international efforts to "minimize highly enriched uranium" as advocated by the United States and Australia?

-- Why the United States, the United Kingdom and Australia have failed notify the Agency, as required under the modified Code 3.1, of their pronounced plan even they have already decided to do so? How do the three countries envisage to fulfill their obligations in this regard?

In short, the above are merely a small portion of questions China is pondering, and far from all. The trilateral nuclear submarine cooperation under AUKUS not only bears on the integrity, effectiveness and authority of the NPT, but also affects the global strategic stability and post-war international security order, with issues covering a wide spectrum in political, legal, and technical aspects.

It is the hope of China that the on-going inter-governmental process should continue within the Board. As the next step, in order to work out the relevant issues in a more focused and effective manner, China wishes to propose establish a body in a nature of a special committee, open to all Member States of the Agency, as early as possible, so as to continue in-depth discussions and submit a report with recommendations to the Board of Governors and the General Conference of the Agency.

China maintains that, pending a proper formula worked out by Member States of the Agency through consensus, the United States, the United Kingdom and Australia should not go ahead with their nuclear sub-marine cooperation under AUKUS, whereas the secretariat of the IAEA, for its part, should not proceed on its own to negotiate the relevant safeguards arrangement with the three countries.

Mr. Chairman and Colleagues,

It is the hope of China that the the United States, the United Kingdom and Australia will listen to the voice of the international community, abandon the obsolete "Cold War" mentality and narrow geo-political concepts by revoking the wrong decision. And we hope the three countries will re-commit themselves to fulfilling international nuclear non-proliferation obligations under the NPT and work more to contribute to regional peace and stability.

In the meantime, we also call on the international community to work together to defend the object and purpose of the NPT with practical actions, safeguard the international nuclear non-proliferation regime and maintain global strategic stability and international peace and security.

Thank you, Mr. Chairman.