

Dual Use or Proliferation? China's Janus Face

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What is the nature of the involvement of the Chinese dual-use industrial base in the illegal transfer of nuclear material to non compliant states? To what extent can the Chinese transfers of dual-use technology be attributed to design as opposed to a lack of regulatory mechanisms? What are the dual industry challenges facing proliferation regulation?

This essay explores the double standards held by China and aims at presenting an organizational rationale for this double edged stance. While evidence of a political project could not be gleaned, this this essay argues that the Chinese government cannot ignore what is happening given the nature of extant regulatory mechanisms. This leads to the conclusion of a bipolar policy where proliferation is seen as the means to an end as opposed to being the end itself.

On January 2011, Robert J Einhorn (Special Advisor for Nonproliferation and Arms Control at the US Department of State) speaking at an event of the Carnegie Endowment (CEIP, 2011), pointed out the lack of compliance by China with UN sanctions on Iran. He underlined the possible collaboration of Chinese companies with Iran in the field of nuclear material export. This accusation comes while China has been repeatedly indicted for illegal transfers of sensitive technologies to Syria and Pakistan. The private intermediaries at the core of this accusation seem to play a substantial role in technological transfers. The specific disposition of the strategic industrial base towards the State and the nature of the State's export control, bring into question the State's level of involvement given the international obligations it subscribes to.

I POLITICAL MOTIVATIONS

China has strong political stakes in sharing technologies with countries which do not comply with international norms. As a diplomatic stance, it allows China to reaffirm its hold over East and Central Asia. Adopting West led embargo policies toward Iran would therefore not serve Chinese interests as it could be interpreted as a step back on the Chinese influence in Central Asia. In a more pragmatic way, the huge needs of China in terms of oil energy and the geostrategic imperative to forestall the rise of the Indian continental rival by supporting the Pakistan's military nuclear program guides China's lack of full compliance with the "international community's nonproliferation ethic" (Yoram Evron, 2010).

China has not complied with the western led oil embargo. Despite this, the PRC cut its import from 555,000 barrels per day in 2011 to around 285,000 barrels in 2012. (Reuters, 2012). Negotiations are being held by both representatives of the refiner SINOPEC and the National Iranian Oil Company, which could lead to preferential rates being granted to China as a strategic partner of the Islamic Republic.

However, actual Chinese policy priorities are seen as providing the rhetorical basis for the curbing of the PRC's stance on proliferation of nuclear materials out of control. This actual political line comes in the aftermath of several steps towards openness and international cooperation on proliferation issues, as reminded by Premier Li Peng in 1991, during a meeting with the then Director General of the IAEA Hans Blix: "China's position is

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clear-cut, that is, China won't practice nuclear proliferation. Meanwhile, we are against the proliferation of nuclear weapons by any other country".

This declaration shows a hint of change in PRC's strategic lines which used before the 1980's to assert that proliferation was a tool of both equity at the international scale and then balance and deterrence (Xinhua, 1991). The People Republic of China is presently a signatory of the NPT since 1984 and agreed with the policy of non granting exports to countries which do not insure the full enforcement of IAEA safeguards. China repeatedly reasserted its commitments to nuclear materials control and is a member of the in the Nuclear Supplier Group and the Zangger Committee. As permanent member of the Security Council, it is a key decision maker at the United Nations. Its compliance towards the main multilateral non-proliferation regimes helps the PRC to assert its status of great power.

The two stances of China - seeking the status of a reasonable actor, and the alleged support of illegal transfers, have to be examined at the light of the growing development of a dual-use industrial base. The question of whether China has to be indicted for illegal transfers carried out by private firms pertains to an assessment of the PRC export controls.

II IMPLICATIONS OF THE PRIVATE SECTOR IN TECHNOLOGY TRANSFERS

The Chinese industrial strategy allows more interconnected and more decentralized initiatives, leading in some cases to a complication of the decision making process.

Techno-nationalism: The dual industry strategy

Dual-use industry is at the forefront of the China's strategy and has to be seen as part of a broader

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trend of civilian-governmental cooperation in the field of sensitive technologies. The Ministry of Science and Technology (MoST) has been promoting since March 1986 a National high-tech strategy called 863 program. In the same way, aiming at developing the strategic vision of the high-tech industry, the Torch program was intended to boost the Chinese industry in the field of high-tech development, R&D capacity, socio-economic development, and national security. The program emphasizes the participation of private industry, and implies a complex interaction between State's regulatory agencies and private companies.

Following the four principles of *Junmin jiehe* (creating civil - military synergies), *Yujun yumin* (Identifying military use of civil capabilities), *Dali xietong* (Fostering cooperation and coordination) and *Zizhu chuangxin* (spearheading innovations), Chinese industry has been integrated in a dual way, with the General Armament Department playing a decisive role in managing these interactions. Therefore, the two-way shift of private companies being integrated in State's dynamics and State agencies being involved in a liberalization and modernization process leads to a complication of the decision making process (more than 36 agencies acting in different perspectives). According to a 2003 unclassified commentary of the Canadian Security Intelligence Service: "the conversion of the civilian defense industry, and the growth of the non-state high-tech sector make it much harder for the State to monitor proliferation activities" (Canadian Security Intelligence Service, 2003).

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The middle men's channel of illegal export

Most of illegal technological smuggling follows a complex process, with China providing an intermediary platform.

A US congressional report (Shirley Kann, 2011) states that, in 2010, China's Zhejiang Ouhai Trade Corporation, a subsidiary of Jinzhou Group, supplied to the Iranian firm Javedan Mehr Toos valves and vacuum gauges used for uranium enrichment. (IAEA investigation), a firm connected to the Kalaye Electric Company, which itself is part of the Atomic Energy Organization of Iran. This

supply comes in contradiction of UNSCR 1929 against the Iranian nuclear program.

Towards Pakistan, an ISIS report (Andre Stricker 2011) indicted a Chinese national of having exported US nuclear designed technical equipment (high-performance epoxy paint coatings, necessary to bind the carbon fibers used in both uranium centrifuge and missile structures) to Pakistan through China. In order to fulfill its obligations under Chasma II contract's terms, PPG falsified documents in coordination with Huaxing, and indicated Dalian Shi Zi Kou as the end-user. Huaxing, a Government-owned Company acted as an intermediary. Shipments were made from the US through China to Pakistan, precisely to circumvent US nuclear restrictions on Pakistan. The ISIS report goes on to raise the issue of whether China knowingly conducts illicit nuclear trade in violation of other countries' laws and, more concerning in violations of its own obligations contracted with the NPT.

III

FOLLOWING THE TRAIL: WHO DECIDES?

An effective export control system is one of the pre-conditions attached to membership of the NSG. Such controls had first been implemented 1950, at a time when a few major actors were likely to deal with sensitive goods. In the aftermath of market reforms and liberalization, the system was consequently tasked with regulating a flood of new non state-owned actors. In 1980 a new framework – “Temporary Provisions of Export Licensing System” was implemented, with a clause punishing violators of the license attribution system. In 1986, a directive linked technology exports to “foreign and national security interest”.

In 1998, the Chinese government promulgated the Control of Nuclear Dual-Use Items and Related Technologies Export. The Ministry of Commerce plays a leading role in the process of export licensing. However, it appears in practice that nuclear technologies don't fall under the full control of the MoC. What results from these regulation boards is that practice and not only administrative regulation binds companies' export activity.

The export control

Companies must submit to the China Atomic Energy Authority their application, which is then reexamined by the State Administration for Science, Technology and Industry for National

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Defense (SASTIND), subordinated to the Ministry of Industry and Information Technology. The application, transferred to the Ministry of Commerce, is likely to be revised by the Ministry or Foreign Affairs, depending on the diplomatic sensitivity. The State Council has the last word in the licensing process. As most transfers are not exclusively relevant from nuclear export, other ministries may overview or be associated to the decision making. Each ministry operating in order to exert an influence over the decision making process.

A competition of interests

We can assess that export-control borders on institutional bargain between official and private actors. According to Professor Richard P. Suttmeier “initiatives from one or more of these groups are not necessarily welcomed by—or compatible with the interests of others. China's standards strategy, in short, must accommodate a considerable heterogeneity of interest.” (Richard P. Suttmeier, 2005) Furthermore, organizational challenges played a role in the 1980's. This period saw the relative autonomy of some companies at a time where militaries were allowed to run independent companies.

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IV

CONCLUSION

It could be deduced that China whether failed on its obligations towards international

community, or to exert a modern and appropriate trade control on its sensitive industries. The PRC could be, for economic and global scale political reasons, on the way towards non-proliferation, but still has to struggle against its own regional proliferation legacy.

On Iran, China's assertiveness could be on the rise with Teheran threatening to close up the Ormuz straight in case of strengthening of sanctions. It is then clear that China's interests themselves can be double edged, with its support to Iran against the western embargo coming along with the necessity to prevent any attempt from Teheran to restrain the vital commercial sea road of Ormuz.

Beijing is kept under two kinds of obligations which are whether of economic and tactic whether of strategic, long term and normative nature. In that frame the collusion of state and non-state rationalities as well as the cooperation of civil and military entities can be seen as the organizational consequences of these two parallel stances. According to Yoram Evron, "a complementary explanation is that China's relatively weak legal system allows proliferators to operate under the protection of high-level officials." (Yoram Evron, 2010) This observation implies the following two:

- The strong political base of the PRC and the State's control on private activities doesn't nevertheless imply a monolithic Chinese administration. Organizational and political struggles call for a deconstructive approach. The State, as the interface between external obligations and internal pressures combines a multiplicity of interests and political lines.
- This fragmentation has to be addressed by a proper actors mapping in the prospect of talks and negotiations. Furthermore, the collusion of private and public sector favors the connection of public and private interests, counter-pressuring the State's ability to enforce the regulation frameworks it promotes.

Identifying shared responsibilities helps to understand the two-side's identity of the PRC as responsible nuclear actor and destination of illegal export. Whether China has to be indicted and

presented as a central actor for proliferation is a question of diplomatic choices. Considering on the one side that China is on the way to regulating its nuclear industry, with all the difficulties it implies, helps fostering the adherence of the PRC to international norms when asserting on the other side that irrelevant of the regulatory frameworks' enforcement, the proliferation goes on following even more complicated and sophisticated processes would serves a strategy of sanctions rather than a strategy of self limitation.

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Views expressed are author's own.