

The NPT and IAEA safeguards

Introduction

- 4.1 The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the key legal instrument underpinning the global non-proliferation regime. While the Treaty is generally considered to have been successful in stemming proliferation, participants in the inquiry identified a number of challenges that need to be addressed. This chapter begins by looking at some of these issues.
- 4.2 The chapter will then consider the role of the International Atomic Energy Agency (IAEA) in implementing the Treaty and examine the safeguards regime, Agency resources and differing attitudes to IAEA priorities.
- 4.3 While the chapter identifies issues surrounding Iran and North Korea's non compliance with the NPT, a more detailed discussion of these issues will be undertaken in chapter eight.

Treaty on the Non Proliferation of Nuclear Weapons (NPT)

- 4.4 In the 1960s, it was generally considered that the number of states possessing nuclear weapons would increase beyond the five then acknowledged nuclear powers. The United States and the Soviet Union in particular saw nuclear proliferation as a threat to their own security and

had a strong interest in establishing ‘a consensual, political and institutional barrier to proliferation’.¹

- 4.5 The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was signed on 1 July 1968 and entered into force in 1970. It is the principal treaty underpinning the global non-proliferation regime. The purpose of the NPT is to prevent the spread of nuclear weapons while ensuring fair access to peaceful nuclear technology under international safeguards.
- 4.6 Parties to the NPT have committed to:
- preventing the proliferation of nuclear weapons;
 - pursuing nuclear disarmament; and
 - promoting the peaceful uses of nuclear energy.
- 4.7 There are 190 parties to the NPT, which are divided into two categories: nuclear weapon states and non nuclear weapon states. Nuclear weapon states are the five states that were recognised by the NPT as having nuclear weapons as at 1 January 1967 when the Treaty was negotiated: China, France, Russia, the United Kingdom and the United States.
- 4.8 The obligations of a nuclear weapon state under the NPT differ from those of non nuclear weapon states. Under the Treaty, the nuclear weapon states have undertaken not to transfer nuclear weapons or nuclear explosive devices to any recipient and the non nuclear weapon states have agreed to forego acquiring or developing nuclear weapons. The Treaty affirms the right of all parties to use nuclear energy for peaceful purposes and to participate in the exchange of equipment, materials and information for the peaceful uses of nuclear energy. All parties are committed to pursuing nuclear and general disarmament.
- 4.9 The NPT has been described as a three-way bargain, a delicate balance between three competing objectives: non-proliferation, disarmament and the peaceful uses of nuclear energy.² The Chairman of the Republic of Korea’s Foreign Affairs, Trade and Unification Committee, Park, Jin stated in his submission:

The three pillars the NPT stands on – nuclear disarmament, nuclear non-proliferation, and the peaceful uses of nuclear energy – are mutually reinforcing and should be promoted in a balanced

1 Professor Joseph Camilleri, *Submission No. 66*, p. 3.

2 Dr Carl Ungerer, *Submission No. 50*, p.1.

manner. Preserving the delicate balance among the three pillars is vital for the credibility and viability of the NPT regime.³

- 4.10 There are four states outside the NPT that have or are believed to have nuclear weapons: Israel, India and Pakistan, which have never ratified the Treaty, and North Korea, which announced its withdrawal in 2003.
- 4.11 It is generally considered that the NPT has been successful in limiting the number of states with nuclear weapons. Although it was predicted in the 1960s that by the 1990s there would be 25 to 30 nuclear armed states, there are only 9 today (although Israel neither confirms nor denies its nuclear weapons status, it is widely believed to have weapons).⁴
- 4.12 The Treaty's successes include the renunciation of nuclear weapons and membership of the NPT by countries such as South Africa, Argentina, Brazil, Belarus, Kazakhstan, Ukraine and Libya.⁵ Its near universal membership and indefinite extension in 1995 are also considered major successes.⁶
- 4.13 Mr Allan Behm argued in his submission that the NPT affords enormous stability and imposes significant constraints on those NPT members that are nuclear weapon states:
- Weapons conventions are important elements in national defence policy, because they establish boundaries beyond which nations are prepared not to go.⁷
- 4.14 The Treaty is also the basis upon which the international safeguards regime, administered by the IAEA, has been built.

3 Rep. Park, Jin, *Submission No. 44*, p. 3.

4 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 8; Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 41.

5 Mr Allan Behm, *Submission No. 30*, p. 4; UN Association of Australia, *Submission No. 31*, p. 4; Dr Hans Blix, *Submission No. 78*, p. 2.

6 Mr John Carlson, 'Challenges to the Nuclear Non-Proliferation Regime, and Implications for Nuclear Disarmament', Presentation to representatives of UN Missions at the Australian Mission, New York, 8 September 2008, p. 1, *Exhibit No. 2*. Article X of the treaty provides for the conference of parties to decide on its indefinite extension 25 years after it enters into force. This occurred at the 1995 NPT Review Conference.

7 Mr Allan Behm, *Submission No. 30*, p. 3.

Challenges to the NPT

- 4.15 In her submission to the Committee, Ms Joan Rohlfing of the Nuclear Threat Initiative provided a useful summary of the challenges faced by the NPT:

Much of the recent strain on the Treaty emanates from growing unease from non-nuclear weapon states. Those states promised to indefinitely forgo nuclear weapons programs in exchange for a pledge from the nuclear weapon states that they would eventually give theirs up. Some four decades after the Treaty was concluded, not one of the five weapon states under the Treaty has disarmed, and most of them are actively embarked upon or considering some form of nuclear modernization. At the same time, the departure of North Korea from the Treaty, the unwillingness of other nuclear weapon possessing states (India, Pakistan and Israel) to join and the inadequacy of the international safeguards regime that underpins the Treaty to confidently detect and respond to violators has badly shaken confidence in the only fragile bulwark that we have.

... there is still no global consensus on the illegitimacy of nuclear weapons and many of the non-nuclear weapons states that agreed not to pursue nuclear weapons programs in 1968 are tired of what they see as a discriminatory system of nuclear apartheid.⁸

Perceived lack of progress on disarmament

- 4.16 In accordance with Article VI of the NPT:

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.⁹

8 Ms Joan Rohlfing, *Submission No. 87*, p. 2.

9 IAEA, INFCIRC/140, Treaty on the Non-Proliferation of Nuclear Weapons, 22 April 1970, viewed 24 August 2009, <<http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc140.pdf>>.

- 4.17 The NPT is the only international treaty that prohibits the proliferation of nuclear weapons and in which the five recognised nuclear weapon states are explicitly committed to nuclear disarmament.¹⁰
- 4.18 However, while the intent of Article VI is clear, it has been argued that its application has remained ambiguous.¹¹ Professor Joseph Camilleri pointed out that:
- Nuclear weapon states are required to negotiate ‘in good faith’, but no clear direction is given as to the desired outcomes of disarmament negotiations, or the speed at which agreement should be reached.¹²
- 4.19 Associate Professor Tilman Ruff also argued in relation to the Treaty:
- It has no organisation. It has no implementation mechanisms. There is no timeframe. There is no program for disarmament. The IAEA, in a sense, administers the Article IV obligations, but there is nothing to deal in detail with disarmament. It is simply incomplete and bereft in that regard.¹³
- 4.20 In Professor Camilleri’s view, the nuclear weapon states have used this ambiguity to demand progress on non-proliferation even in the absence of any demonstrable progress towards nuclear disarmament.¹⁴
- 4.21 During the Committee delegation’s meetings in Europe and the United States, it became clear that the nuclear weapon states are primarily concerned with non-proliferation, while the non nuclear weapon states place a high priority on disarmament. Indonesia’s Deputy Permanent Representative to the United Nations in New York told the Committee delegation that countries of the Non-aligned Movement¹⁵ are concerned

10 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 8; United Justice Australia, *Submission No. 27*, p. 3; Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 41; People for Nuclear Disarmament (Western Australia), *Submission No. 15*, p. 1.

11 Professor Joseph Camilleri, *Submission No. 66*, p. 5.

12 Professor Joseph Camilleri, *Submission No. 66*, p. 5.

13 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 42.

14 Professor Joseph Camilleri, *Submission No. 66*, p. 5.

15 The Non-aligned Movement is made up of 118 developing countries and aims to represent the political, economic and cultural interests of the developing world. It originated in 1955 amongst the common concerns of Asian and African countries about colonisation and the influence of the West. Indonesia has been the Chair of the Non-aligned Movement for ten years.

by a shift in focus to non-proliferation and a lack of progress on disarmament.¹⁶

4.22 In their book, *Abolishing Nuclear Weapons*, Dr George Perkovich and James Acton have argued that there is a general belief that it will be impossible to curtail nuclear weapons proliferation without serious progress towards nuclear disarmament.¹⁷ Others have expressed a similar view. For example, the Executive Secretary of the Preparatory Commission for the CTBTO, Ambassador Tibor Tóth, described nuclear disarmament and non-proliferation as 'mutually reinforcing concepts'.¹⁸ Mr Allan Behm saw that without significant and transparent reductions, 'the sincerity of the contract that underpins the NPT is brought into question, and the credibility of the NPT diminished'.¹⁹ United Justice Australia argued that disarmament and non-proliferation are fundamentally linked, and that non-proliferation cannot be achieved without steps towards complete disarmament.²⁰

4.23 Many non nuclear weapon states are now resisting further action on non-proliferation, such as efforts to strengthen IAEA safeguards, because of what they see as a lack of action by the nuclear weapon states.²¹ Ms Martine Letts of the Lowy Institute for International Policy told the Committee:

It is also clear that we are not going to get more action or more commitments on specific actions that support non-proliferation in a situation of growing danger unless there is corresponding action on disarmament.²²

4.24 The modernisation of nuclear arsenals is also considered to be inconsistent with the goal of abolition. Dr Hans Blix argued that the non nuclear weapon states see it as:

16 H.E. Hasan Kleib, Ambassador and Deputy Permanent Representative, Permanent Mission of Indonesia to the United Nations, personal communication.

17 G. Perkovich and J. Acton (eds), *Abolishing Nuclear Weapons: a debate*, Carnegie Endowment for International Peace, Washington, 2009, p. 13.

18 Ambassador Tibor Tóth, 'Arms Control, Non-Proliferation and Disarmament - Prospects and Challenges', speech to 2009 Nuclear Policy Symposium, Budapest, March 2009, p. 4, *Exhibit No. 81*.

19 Mr Allen Behm, *Submission No. 30*, p. 4.

20 United Justice Australia, *Submission No. 27*, p. 3.

21 G. Perkovich and J. Acton (eds), 2009, *Abolishing Nuclear Weapons: a debate*, Carnegie Endowment for International Peace, Washington, p. 15.

22 Ms Martine Letts, *Transcript of Evidence*, 11 May 2009, p. 17.

.... objectionable that the nuclear weapon states parties, that would be expected to draw up timetables for phasing out their arsenals, are in fact doing the opposite.²³

4.25 The International Physicians for the Prevention of Nuclear War made a similar point:

...all the nuclear-weapon states are engaged in projects to replace ageing warheads and delivery systems, or to add new, more sophisticated capabilities to their nuclear arsenals. Such programs are incompatible with a genuine commitment to a nuclear-weapons-free world, and send exactly the wrong signal to potential proliferators.²⁴

4.26 Significant reductions in nuclear weapons have already occurred.²⁵ For example, under bilateral and unilateral initiatives, the US and Russia have dismantled thousands of weapons.²⁶ France and the UK have reduced their smaller arsenals. All NPT weapon states have ceased producing plutonium and highly enriched uranium for weapons and the United States, Russia and UK have declared part of their stockpiles excess to military needs. Downblended highly enriched uranium from over 14,000 dismantled Russian nuclear weapons provides almost 10 percent of the electricity in the United States under the US-Russian HEU Purchase Agreement.²⁷

4.27 There is, however, a considerable stockpile of nuclear weapons remaining around the world. Many non nuclear weapon states consider that progress on disarmament has been too slow and that the nuclear weapon states are

23 Dr Hans Blix, *Submission No. 78*, p. 2.

24 International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 5.

25 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. 15.

26 According to the US Congressional Research Service, in September 1990, before START entered into force, the United States had more than 10,500 accountable warheads deployed on nearly 2,250 delivery vehicles. By January 2009, this number had declined to 5,576 accountable warheads on 1,198 delivery vehicles. Soviet forces had declined from more than 10,000 accountable warheads on 2,500 delivery vehicles in September 1990 to 3,909 accountable warheads on 814 delivery vehicles in January 2009. A F Woolf, *Strategic Arms Control after START: Issues and Options*, Congressional Research Service, 9 July 2009, viewed 31 August 2009, <<http://fpc.state.gov/documents/organization/128392.pdf>>.

27 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. 15; USEC, viewed 31 August 2009, <<http://www.usec.com>>.

not serious about carrying out their obligations.²⁸ Table 4.1 shows the estimated number of warheads held by each nuclear armed state.

Table 4.1 Numbers of nuclear warheads by country

Country	Nuclear Warheads
United States	About 10,000 5000 deployed, 5000 awaiting dismantling
Russia	About 10,000 Large uncertainty as to the number of warheads awaiting dismantling
France	Fewer than 300
United Kingdom	185
China	About 240
Israel	100-200
Pakistan	About 60
India	60-70
North Korea	Fewer than 5

Source *International Panel on Fissile Materials, Global Fissile Material Report 2008: Scope and Verification of a Fissile Material (Cut-Off) Treaty, 2008, p. 8.*

4.28 The United Nations High Commissioner for Disarmament Affairs, Mr Sergio Duarte, identified a number of issues:

- there is little evidence that states possessing nuclear weapons are constructing the domestic infrastructures that will be needed to implement nuclear disarmament, such as disarmament agencies, relevant laws or budgets;
- progress that has been made has not satisfied any of the disarmament criteria that have been widely endorsed in multilateral arenas, including transparency, irreversibility, verification and bindingness. Instead, reductions have been declaratory, unilateral, reversible, without verification, and voluntary;
- there are no international negotiations underway relating to nuclear disarmament; and
- virtually all states that possess nuclear weapons claim that such weapons are essential for defence purposes and nuclear deterrence.²⁹

28 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. 4; Dr Hans Blix, *Submission No. 78*, p. 2.

29 Mr Sergio Duarte, *Submission No. 81*, p. 2.

4.29 While it is widely held that the United States and Russia, as the possessors of most of these weapons, must lead on disarmament, it has been suggested that abolition be achieved through phased disarmament. The Canberra Commission proposed a series of phased, verified reductions.³⁰ Perkovich and Acton also proposed that rather than eliminate arsenals unilaterally, the nuclear armed states should work incrementally, through 'reciprocating steps' towards nuclear disarmament.³¹

A double standard

4.30 One of the key criticisms of the NPT is that it is seen as a double standard, which allows some states but not others to legitimately possess nuclear weapons. This was clearly described by the Canberra Commission:

Nuclear weapons are held by a handful of states which insist that these weapons provide unique security benefits, and yet reserve uniquely to themselves the right to own them. This situation is highly discriminatory and thus unstable; it cannot be sustained. The possession of nuclear weapons by any state is a constant stimulus to other states to acquire them.³²

4.31 More recently, the IAEA Director General, Dr Mohamed ElBaradei said:

The very existence of nuclear weapons gives rise to the pursuit of them. They are seen as a source of global influence, and are valued for their perceived deterrent effect. And as long as some countries possess them (or are protected by them in alliances) and others do not, this asymmetry breeds chronic global insecurity.³³

4.32 At the 2000 NPT Review Conference, the nuclear weapon states committed to an 'unequivocal undertaking' to 'accomplish the total elimination of their nuclear arsenals', and to taking 13 practical steps to fulfil the NPT's disarmament obligation. Few of these steps have yet been

30 Canberra Commission on the Elimination of Nuclear Weapons, *Report of the Canberra Commission on the Elimination of Nuclear Weapons*, Commonwealth of Australia, Canberra, 1996, p. 10.

31 G. Perkovich and J. Acton (eds), *Abolishing Nuclear Weapons: a debate*, Carnegie Endowment for International Peace, Washington, 2009, p. 15.

32 Canberra Commission on the Elimination of Nuclear Weapons, *Report of the Canberra Commission on the Elimination of Nuclear Weapons*, Commonwealth of Australia, Canberra, 1996, p. 10.

33 Dr Mohamed ElBaradei, cited in Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 6.

implemented.³⁴ In a report to the Director General of the IAEA on the future of the IAEA, an independent Commission stated that:

This situation causes festering resentment over “double standards,” and what are seen as efforts to perpetuate the inequalities of the nonproliferation regime. The mounting resentment makes it much more difficult to agree on steps that are urgently needed to strengthen the global effort to stem the spread of nuclear weapons – even though such steps would serve the interests of all.³⁵

4.33 The independent Commission was also of the view that, while outside the IAEA’s direct responsibilities, the lack of progress on disarmament is affecting the Agency’s ability to progress non-proliferation. The Commission highlighted that:

When many states without nuclear weapons are asked about implementing the Additional Protocol, or phasing out their use of highly enriched uranium, or entering into new multilateral fuel-cycle arrangements, they ask: “what about disarmament?”³⁶

Non-compliance

4.34 In its submission, the Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office argued that ‘the foremost challenge to the effectiveness of the NPT is treaty violations or acts of non-compliance by State Parties’.³⁷ The IAEA Board of Governors has reported five cases of non-compliance to the United Nations Security Council: Iraq (1991), Romania (1992), DPRK (1993 and 2003), Libya (2004) and Iran (2006). Syria is the subject of a current IAEA investigation.³⁸

4.35 Iran and North Korea are ongoing issues. Both have pursued nuclear programs outside the boundaries of their NPT obligations. North Korea

34 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. 4.

35 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. 4.

36 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, p. vii.

37 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

38 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

has withdrawn from the NPT and, after two nuclear tests, made clear that it intends to remain a nuclear weapon state.³⁹ Iran's nuclear aspirations are considered more ambiguous. While it remains within the non-proliferation regime, it has not cooperated fully with international inspectors or complied with UN Security Council resolutions.⁴⁰ There is a range of evidence to suggest that Iran's nuclear intentions are not peaceful.⁴¹ The history and current status of Iran and North Korea's nuclear programs will be examined in chapter eight.

- 4.36 Iran and North Korea were considered to highlight not only some of the weaknesses of the NPT as a disciplinary mechanism but also the lack of political will to address non-compliance issues. In her submission, Joan Rohlfing of the Nuclear Threat Initiative argued that:

While governments of all stripes have taken to criticizing the NPT and its associated mechanisms for their inadequacy, the stark reality is that we have not yet mustered the political will to do what is essential and address its shortcomings. The equivocal international response to Iran is proof of that.⁴²

- 4.37 The Director-General of the Australian Safeguards and Non-Proliferation Office, Mr John Carlson, has argued:

Today, the most important single issue facing the non-proliferation regime is, how to deal with a determined proliferator. One way or other, the outcome of Iran's pursuit of technologies that would give it a nuclear weapon capability will have a major impact on the future of the regime.⁴³

- 4.38 In its report, *World at Risk*, the US Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism concluded that the developments in Iran, North Korea and Syria were disturbing because

39 B M Blechman, 'Introduction' in *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009.

40 B M Blechman, 'Introduction' in *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009.

41 Mr John Carlson, 'Challenges to the Nuclear Non-Proliferation Regime: Can the Regime Survive? An Australian Perspective', Paper presented to the Carnegie Moscow Center, 29 May 2007, p. 12, *Exhibit No. 1*.

42 Ms Joan Rohlfing, *Submission No. 87*, p. 2.

43 Mr John Carlson, 'Challenges to the Nuclear Non-Proliferation Regime: Can the Regime Survive? An Australian Perspective', Paper presented to the Carnegie Moscow Center, 29 May 2007, p. 1, *Exhibit No. 1*.

they represent 'a possible tipping point toward cascading nuclear proliferation'.⁴⁴

4.39 Commission Chairman, Senator Bob Graham, told the Committee:

...both Iran and North Korea are very serious in their potential to be major sources of destabilisation. If Iran were to acquire nuclear weapons, I think it is almost inevitable that Turkey, Egypt and Saudi Arabia would begin to pursue nuclear weapons.⁴⁵

4.40 Further, North Korea's possession of nuclear material was:

...having an effect in places like South Korea and Japan, which are beginning to wonder if they need to start developing a counterweight to North Korea.⁴⁶

4.41 Discussions undertaken by the Committee delegation suggested that the countries of the Non-aligned Movement are concerned by the incentives being offered to countries such as Iran and North Korea to forego nuclear weapons. They consider bad behaviour is being rewarded while other countries do the right thing for no return.

Withdrawal

4.42 Article X of the NPT states:

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.⁴⁷

4.43 A longstanding concern with the NPT is the ability of States Parties to withdraw with impunity, particularly if treaty violations are uncovered.⁴⁸

44 Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, *World at Risk: The Report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism*, Vintage Books, New York, 2008, p. 18.

45 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 6.

46 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 6.

47 International Atomic Energy Agency, INFCIRC/140, Treaty on the Non-Proliferation of Nuclear Weapons, 22 April 1970, viewed 24 August 2009, <<http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc140.pdf>>.

48 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

North Korea withdrew from the Treaty in 2003 and is the first and only state to have done so. In their submission, the Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office argued that the case of North Korea highlights the need for the NPT parties to develop and agree on measures to deal with states that withdraw from the NPT after violating their treaty obligations.⁴⁹

4.44 At the Third Preparatory Committee (PrepCom) meeting for the 2010 NPT Review Conference, Australia supported strong disincentives to withdrawal and an appropriate international response should countries do so. Australia's delegation made the following points:

- withdrawal does not absolve a state party from meeting obligations left un-met at the time of withdrawal;
- nuclear materials, equipment and technology acquired on the basis that they would be used for peaceful purposes while a country was subject to the non-proliferation assurances of the NPT should forever remain subject to peaceful use obligations;
- states that withdraw from the NPT should not be able to benefit from materials, equipment and technology acquired while party to the Treaty;
- any nuclear materials, technology and equipment acquired under Article IV prior to withdrawal must be returned to the supplier state, rendered inoperable or dismantled under international verification;
- the UN Security Council should convene automatically and immediately should any state give notice of NPT withdrawal; and
- the Security Council has a responsibility to respond appropriately and could set out the conditions that would apply in the event that a notified withdrawal proceeds.⁵⁰

4.45 Other participants in the inquiry also argued that the withdrawal clauses of the Treaty need to be strengthened.⁵¹ In his submission, Professor Joseph Camilleri argued that '[t]he possibility, let alone reality, of such

49 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

50 Statement by H.E. Caroline Millar, Ambassador and Permanent Representative of Australia to the Conference on Disarmament, 'Specific Issue - Other Provisions of the Treaty, including Article X', Third Preparatory Committee for the 2010 Nuclear Non-Proliferation Treaty Review Conference, 11 May 2009, *Exhibit No. 91*.

51 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 15; Dr Marianne Hanson, *Submission No. 79*, p. 2; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 10.

withdrawal makes the NPT a less sturdy legal barrier to proliferation than is often supposed'.⁵²

4.46 Professor Camilleri also argued that in the case of North Korea:

It is far from clear whether North Korea developed a nuclear weapons programme while party to the NPT, and whether such non-compliance had effectively cancelled the right of withdrawal.

4.47 In his view, both the NPT review cycle and the UN Security Council have failed to respond to North Korea's withdrawal in an effective and timely manner.⁵³ He further considered that allowing states to withdraw from the NPT with relative impunity undermines the credibility of the NPT.⁵⁴ He went on to make the following suggestion:

There are two things that should be done. Firstly, you cannot just withdraw by saying, 'I'm withdrawing.' You should have to show cause for withdrawing and it should be open to the Security Council and perhaps another body to look at the case and to see whether the case for withdrawal is a legitimate one. It is complex, but we need to have more obstacles placed in the path of withdrawal. It relates to the Koreas and Irans because Iran, of course, is a member of the NPT but could withdraw. We need to make the withdrawal option much more difficult and put obstacles/hurdles in its way more than currently exist.⁵⁵

4.48 Professor Camilleri also argued that nuclear materials, equipment and technology that is acquired by a state for peaceful purposes must remain subject to IAEA safeguards regardless of whether a state withdraws from the Treaty.⁵⁶

4.49 Australia and New Zealand presented a working paper on the issue of withdrawal at the 2005 NPT Review Conference and Australia has sought to advance debate at subsequent PrepCom meetings. The working paper suggested that any notice of withdrawal warranted immediate, automatic consideration by the United Nations Security Council and the convening of an extraordinary meeting of NPT parties.⁵⁷

52 Professor Joseph Camilleri, *Submission No. 66*, p. 5.

53 Professor Joseph Camilleri, *Submission No. 66*, p. 10.

54 Professor Joseph Camilleri, *Submission No. 66*, p. 10.

55 Professor Joseph Camilleri, *Transcript of Evidence*, 25 March 2009, p. 8.

56 Professor Joseph Camilleri, *Submission No. 66*, p. 11.

57 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

4.50 The Hon Gareth Evans AO QC similarly proposed improving compliance by creating disciplines, such as Security Council engagement at an earlier stage, 'when a country actually walks away or purports to walk away or threatens to walk away from the NPT'.⁵⁸

4.51 In evidence to the Committee, Dr George Perkovich argued that:

One of the worries that you have about expanding the nuclear industry is that over time a country develops the expertise, the know-how and the material with which they can make a nuclear bomb if they decide to drop out of the NPT. Right now a state can do that with three months notice, and the procedures by which they are legally allowed to withdraw are not spelled out. This is another area where the international community needs not to deny the right to withdraw but to say if there is going to be a withdrawal, here are the procedures that ought to be followed. Those should be such that you would have much greater deterrence and also much greater confidence that it would not happen.⁵⁹

Not universal

4.52 The lack of universality of the NPT is another challenge confronting the NPT and the question arises as to how to incorporate Israel, India and Pakistan into the non-proliferation regime. Despite repeated calls to disarm and enter the NPT as non nuclear weapon states, there is little apparent expectation that this will occur, nor that other parties to the NPT will allow these states to join as nuclear weapon states.⁶⁰

4.53 The Hon Gareth Evans AO QC told the Committee that he considered what was needed to bring India and Pakistan into the regime was a global set of disciplines relating to both non-proliferation and disarmament, accompanied by an appropriate willingness to accept safeguards and verification disciplines.⁶¹ Others held a similar view:

We ought to begin exploring, through some kind of more formal consultative process and of necessity outside the NPT, what kind of parallel mechanism can be created to bring India and Pakistan into conformance with the essential obligations of the non-proliferation treaty and the additional obligations that we would

58 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 4.

59 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, pp. 14-15.

60 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9.

61 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9.

hope for them to undertake, such as accession to the CTBT, to the Fissile Material Cut-Off Treaty...⁶²

- 4.54 Mr Evans argued that the US-India civil nuclear agreement has been characterised as a positive step insofar as:

...it does demonstrate that through a bilateral process-multilateralised now to some extent by the buy-in from the Nuclear Suppliers Group-you can get at least some new disciplines which were previously lacking, the discipline in question being a large number of Indian nuclear facilities now being subject to safeguards that were not there previously.⁶³

- 4.55 Participants also argued, however, that some aspects of the agreement could have been stronger, for example by imposing 'serious disciplines', in relation to monitoring, fissile material production and ratification of the CTBT.⁶⁴ The deal was not viewed favourably by a number of countries. Ms Martine Letts told the Committee:

It was very badly received, I might say, in Latin America in particular. This was particularly so among those states that decided to ratify the NPT after some delay, because they naturally said, 'We do not understand how those that stay outside the regime are being rewarded and we, who are coming into the regime, are having further restrictions placed on us'.⁶⁵

- 4.56 Senator Graham also raised concerns in his evidence to the Committee as to the likely repercussions of the deal:

... it has become the excuse for other countries to begin to bend their policies on provision of nuclear material. Since the pact went through China has agreed to build two additional reactors in Pakistan and Russia has somewhat moderated its position vis-a-vis Iran's nuclear aspirations.⁶⁶

62 Ms Joan Rohlfing, *Transcript of Evidence*, 14 May 2009, p. 8.

63 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9.

64 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9; Dr Marianne Hanson, *Transcript of Evidence*, 26 March 2009, p. 48.

65 Ms Martine Letts, *Transcript of Evidence*, 11 May 2009, p. 16.

66 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 6.

The International Atomic Energy Agency

The IAEA Statute

- 4.57 The IAEA was established in 1957 under the Statute of the International Atomic Energy Agency.⁶⁷
- 4.58 Article II of the Statute sets down the following objectives for the Agency:
- The Agency shall seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose.⁶⁸
- 4.59 Articles III (A) 1 to 4 relate to the Agency's functions in relation to peaceful applications of atomic energy.
- 4.60 Article III (A) 5 states that the Agency is authorised to establish, administer and apply safeguards to ensure that fissionable and other materials are not used for any military purpose.⁶⁹

Conflict between preventing proliferation and promoting peaceful uses

- 4.61 Some participants in the inquiry saw an inherent conflict within the statute of the IAEA to monitor non-proliferation but also to promote peaceful uses of nuclear energy.⁷⁰
- 4.62 The Medical Association for the Prevention of War (Australia) argued that Article IV of the NPT, which refers to the 'inalienable right of all parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes...' needs to be addressed. Specifically, it considered that the roles of the IAEA are incompatible and should not be invested in one organisation:⁷¹

67 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 4.

68 Statute of the IAEA, viewed 31 August 2009, <www.iaea.org/About/statute_text.html>.

69 Statute of the IAEA, viewed 31 August 2009, <www.iaea.org/About/statute_text.html>.

70 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 2; Anti-Nuclear Alliance of WA, *Submission No. 75*, p. 8; Friends of the Earth, South Australia, *Submission No. 67*, p. 2.

71 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 6.

There are few obstacles to a country going a considerable distance towards nuclear weapons development while a signatory to the NPT, with access to enrichment and reactor technology and technical support for 'peaceful' nuclear activities, and then withdrawing from the Treaty when it is ready to proceed with weaponisation.⁷²

- 4.63 The Medical Association for the Prevention of War (Australia) called for the promotion of nuclear power to be removed from the mandate of the IAEA.⁷³ It considered that Iran, with its ambiguous nuclear program, clearly illustrated this problem. The People for Nuclear Disarmament (Western Australia) made a similar point:

Iran is a signatory [of the NPT] and as such, under Article IV, has the right to develop peaceful nuclear power. This means it can engage in enrichment via its numerous cyclotrons, but this capacity also gives Iran the capability to enrich to weapons-grade material, and a great deal of international suspicion that it is doing so. This illustrates a fundamental problem with the NPT's linkage of nuclear power for peaceful and military uses – and needs to be addressed.⁷⁴

- 4.64 In response to this issue, Dr Perkovich told the Committee that separating these functions was likely to cause such political rancour and tumult that it would probably not be worth it:

Somehow you need both roles to give all the necessary states an incentive to buy into the whole package.⁷⁵

- 4.65 Similarly, the Australian Nuclear Science and Technology Organisation argued:

I think that would create an unnecessary overhead for no advantage. ... Essentially, the statute of the agency is as it is and it gives it both roles. You have to understand that the agency has a constituency out there with all these member states – I think there are 190 member states. They split themselves up into different blocks, for example, the Non-Aligned Movement, the G77 and the G8, et cetera. The Non-Aligned Movement and the G77 are keen to exercise the benefits of nuclear science and technology. They see that as the primary role that they are looking for the agency to do,

72 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 6.

73 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 2.

74 People for Nuclear Disarmament (Western Australia), *Submission No. 15*, p. 1.

75 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 10.

whereas a lot of the developed countries are looking for the agency to have this compliance inspection verification role. However, the statute allows it to do both. You would have to get a change to the statute. To get a change to the statute you would need to get consensus among the member states. Since they are coming at it from two very different points of view, the chance of that happening is low.⁷⁶

Safeguards and the Additional Protocol

4.66 The non-proliferation pillar of the NPT is implemented primarily through IAEA safeguards. The comprehensive safeguards agreement, introduced in 1971, is the model for safeguards agreements between non nuclear weapon states that are party to the NPT and the IAEA. These agreements require states to account for and control nuclear material, verified through reports to, and on-site inspections and other measures, by the IAEA.⁷⁷ According to the Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office:

These arrangements underpin the ongoing effectiveness of the NPT:

- the risk of early detection by the IAEA of any diversion of nuclear material from peaceful use deters non-compliance and reinforces the norms of behaviour set out in the NPT;
- by constraining the misuse of declared facilities, verification increases the difficulties confronting proliferators; and
- verification provides an objective mechanism for identifying non-compliance, so that, if necessary, enforcement action can be taken through the UN Security Council.⁷⁸

4.67 The Additional Protocol arose following revelations in 1991 of the extent of Iraq's nuclear program that was unknown to IAEA inspectors.⁷⁹ The Additional Protocol is an agreement concluded between a state and the IAEA, which broadens the information to be reported to the IAEA and

76 Dr Ron Cameron, *Transcript of Evidence*, 26 March 2009, pp. 16-17.

77 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 9.

78 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 9.

79 Dr Ron Huisken, 'Can we live without the nuclear abyss? The task ahead of the Australia-Japan nuclear commission', Strategic and Defence Studies Centre, Australian National University, p. 6, *Exhibit No. 92*; Mr John Carlson, 'IAEA Safeguards Additional Protocol', 2009, viewed 25 August 2009, <http://www.icnnd.org/latest/research/IAEA_Additional_Protocol.pdf>.

access by safeguards inspectors. It is complementary to the state's comprehensive safeguards agreement with the IAEA.

- 4.68 While the traditional safeguards system focussed upon verifying declared activities, the Additional Protocol is intended primarily to establish the technical capabilities and legal authority necessary for the detection of undeclared nuclear materials and activities.⁸⁰ Australia was the first state to sign and ratify an Additional Protocol in 1997.⁸¹
- 4.69 The Additional Protocol strengthens the safeguards system as:
- By providing for additional reporting and inspector access, the AP enhances the IAEA's ability to more accurately assess whether a state has undeclared nuclear activities, and thus to provide credible assurance about the peaceful purpose of the state's nuclear activities. This level of assurance is an important part of building the international confidence necessary to progress global nuclear non-proliferation and disarmament.⁸²
- 4.70 As at 9 July 2009, 123 states had signed an Additional Protocol and 91 Additional Protocols were in force.⁸³ The Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office has stated that universalisation of the Additional Protocol is a key Australian non-proliferation policy objective and that it considers the combination of a comprehensive safeguards agreement and an Additional Protocol to be 'the contemporary verification standard for NPT non-nuclear-weapon states'.⁸⁴
- 4.71 In addition, the Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office considered that the endorsement of this position by NPT parties would both strengthen the Treaty and be an important step towards addressing non-compliance risks.⁸⁵
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80 Mr John Carlson, 'IAEA Safeguards Additional Protocol', 2009, viewed 25 August 2009, <http://www.icnnd.org/latest/research/IAEA_Additional_Protocol.pdf>.

81 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 4.

82 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 9. The key elements of an Additional Protocol are summarised in Mr John Carlson, 'IAEA Safeguards Additional Protocol', 2009, viewed 25 August 2009, <http://www.icnnd.org/latest/research/IAEA_Additional_Protocol.pdf>.

83 IAEA, 'Strengthened Safeguards System: Status of Additional Protocols', viewed 25 August 2009, <http://www.iaea.org/OurWork/SV/Safeguards/sg_protocol.html>.

84 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 9.

85 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 11.

4.72 A submission from the Chairman of the Foreign Affairs, Trade and Unification Committee of the National Assembly of the Republic of Korea, Park, Jin, expressed that Committee's view:

To strengthen the Agency's effectiveness in verifying compliance and detecting actions of non-compliance, it is important to promote the universality of the Additional Protocol (AP) to the IAEA Safeguards Agreement. Universalization of the AP would enhance confidence in the compliance of States Parties with their non-proliferation obligations.⁸⁶

4.73 Six non nuclear weapon states with significant nuclear activities are yet to adopt the Additional Protocol. These states are Argentina, Brazil, North Korea, Egypt, Syria and Venezuela. Iran has suspended its cooperation under the Additional Protocol, which it was formerly providing on a 'provisional' basis.⁸⁷ The Committee understands from discussions undertaken during the Committee delegation that Brazil and Argentina are unwilling to sign an Additional Protocol as they argue it is not legally required, and that Egypt has refused to take on further non-proliferation commitments until Israel has a comprehensive safeguards agreement in place.

The Additional Protocol as a condition of uranium supply

4.74 It is long standing Australian policy that uranium will only be exported to member states of the NPT following the conclusion of a bilateral nuclear safeguards agreement. Since May 2005, Australia has required that all non nuclear weapon states which purchase Australian uranium must have in place an Additional Protocol.⁸⁸

4.75 In discussions with US Government agencies, it was indicated to the delegation of the Committee that the US supported both universalisation of the Additional Protocol and establishing it as a condition of uranium supply. The delegation was told that the US has promoted this position in the Nuclear Suppliers Group.

4.76 Contributors to the inquiry considered that as a major uranium supplier, Australia 'is uniquely placed to press for the universal implementation of

86 Rep. Park, Jin, *Submission No. 44*, p. 2.

87 Mr John Carlson, 'IAEA Safeguards Additional Protocol', 2009, viewed 25 August 2009, <http://www.icnnd.org/latest/research/IAEA_Additional_Protocol.pdf>.

88 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 7.

the Additional Protocol and related safeguards measures'.⁸⁹ The Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office considered that requiring the Additional Protocol as a condition of uranium supply could encourage greater adoption by states. Further:

If efforts succeed to persuade other nuclear supplier countries to promote the same requirement, the impact could be considerable.⁹⁰

- 4.77 The ability of the IAEA to detect undeclared activities is a critical component of the non-proliferation regime. For this reason, the Committee fully supports universalisation of the Additional Protocol and the Australian Government's efforts to promote this.
- 4.78 The Committee agrees that the Additional Protocol represents a significant strengthening of safeguards policy in terms of implementation of Article III of the NPT. The Committee therefore recommends that the Government maintain its policy of requiring an Additional Protocol to be in force as a condition of uranium supply. The Committee further considers that the Government should work diplomatically to persuade other uranium supplier countries to establish the Additional Protocol as a universal standard of uranium supply.

Recommendation 5

The Committee recommends that the Australian Government encourage all other uranium exporting countries to require that the countries to whom they export uranium have an Additional Protocol in place.

IAEA resources

- 4.79 A delegation of the Committee met with representatives of the IAEA in Vienna on 6 July 2009. One of the topics for discussion was the Agency's resourcing. This was a theme throughout the Committee's inquiry, with many participants identifying a lack of resources as an impediment to the Agency's work.⁹¹

⁸⁹ Professor Joseph Camilleri, *Submission No. 66*, p. 10.

⁹⁰ Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 14.

⁹¹ Tasmanian Quakers Peace and Social Justice Committee, *Submission No. 3*, p. 1; Mr Paul Grillo, *Submission No. 7*, p. 1; People for Nuclear Disarmament, Perth, *Submission No. 15*, pp. 2-3;

- 4.80 Participants identified concerns about the Agency's ability to fully implement the safeguards system, the frequency and breadth of IAEA inspections, and detection of the diversion of a significant quantity of nuclear materials. It has been suggested that the IAEA's definitions of significant quantities and the timeliness of detection need to be updated.⁹²
- 4.81 The IAEA outlined to the Committee delegation the action that had been taken in relation to resourcing. In 2007 the Director General established an independent commission to review the Agency's current activities and make recommendations regarding future activities and priorities. A report was prepared for the Commission by the IAEA Secretariat that considered 'what kind of IAEA would be required up to and beyond 2020' and 'how the Agency would fulfil these requirements'. The Secretariat identified rising nuclear energy expectations, the need to provide greater support to newcomer countries, safety, impacts on security, impacts on the Agency's verification role, and additional verification roles (e.g. with the FMCT).⁹³
- 4.82 The delegation was informed that the IAEA's regular budget is €300 million of which Australia contributes 1.77%. The remainder of its budget, including funding for the Technical Cooperation Fund, comes from voluntary contributions from member states governments. The delegation was told that the target for voluntary funding is US\$85 million. The Agency is reliant upon voluntary funding for 90% of its nuclear security program, 30% of its nuclear safety program, and 15% of the verification program. The Technical Cooperation Fund is entirely funded through voluntary funding.⁹⁴
- 4.83 The nature of this funding impacts upon the IAEA's ability to carry out its work. For example, the delegation was informed that there is a need to regularise the budget for nuclear security, which relies almost entirely

Adjunct Professor Richard Broinowski, *Submission No. 16*, p. 4; United Nations Youth Association of Australia, *Submission No. 35*, p. 3; Vine & Fig Tree Planters, *Submission No. 38*, p. 4; Ms Michele Madigan, *Submission No. 49*, p. 1; Australian Conservation Foundation, *Submission No. 55*, pp. 11-12; Mr Bill Fisher, *Submission No. 56*, p. 4; Canadian Centre for Treaty Compliance, *Submission no. 64*, p. 2; Women's International League for Peace and Freedom, *Submission No. 65*, p. 5; Friends of the Earth, Adelaide, *Submission No. 67*, p. 3; The Environment Centre NT, *Submission No. 74*, p. 3; Friends of the Earth, Australia, *Submission No. 77*, p. 6; Religious Society of Friends (Quakers) Western Australia, *Submission No. 83*, p. 4; Mr David Noonan, *Transcript of Evidence*, 25 March 2009, pp. 28, 48.

92 Australian Conservation Foundation and Medical Association for the Prevention of War, *An Illusion of Protection: the unavoidable limitations of safeguards on nuclear materials and the export of uranium to China*, October 2006, p. ii, *Exhibit No. 16*.

93 See International Atomic Energy Agency, *20/20 Vision for the Future: Background Report by the Director General for the Commission of Eminent Persons*, February 2008, p. 25.

94 International Atomic Energy Agency, *20/20 Vision for the Future: Background Report by the Director General for the Commission of Eminent Persons*, February 2008, p. 25.

upon voluntary funding. In addition, donors can provide conditions on their contributions which can then distort the program. The nature of the funding also impacts upon the Agency's ability to attract staff. In nuclear security there are very few permanent staff members and the Agency can mostly only offer one year contracts. Funding for nuclear security is also complicated by the argument by some states that it does not fall within the mandate of the IAEA.

4.84 In its report, the independent Commission identified that, with the exception of a modest increase in 2003, the Agency has been subject to a zero real growth in funding since the 1980s.

4.85 Ms Jennifer Rawson of the Department of Foreign Affairs and Trade told the Committee:

Our policy across the board in terms of UN and other agencies has for a long time, I think, been real zero growth in budget for agencies such as the IAEA.⁹⁵

4.86 Australia makes voluntary contributions on an annual basis to the Technical Cooperation Fund. In 2009, Australia contributed \$450,000 to the IAEA's nuclear security fund.⁹⁶

4.87 The independent Commission noted that the amount of material under safeguards increased more than tenfold from 1984 to 2007. The Commission found that:

... a substantial increase in IAEA resources for safeguards is urgently required.⁹⁷

4.88 Former US Senator Bob Graham, in discussing the IAEA, told the Committee that not only is the IAEA underfunded, but its form of funding is also very unstable.⁹⁸ Senator Graham highlighted the difficulties associated with building long-term institutional support 'dependent upon year-by-year decisions as to whether people want to voluntarily make additional resources available.'⁹⁹ The IAEA also emphasised to the Committee delegation the need for improved resourcing, especially in the areas of nuclear security and infrastructure, such as the IAEA laboratories, which were described as 'crumbling'.

95 Ms Jennifer Rawson, *Transcript of Evidence*, 14 May 2009, p. 28.

96 Ms Jennifer Rawson, *Transcript of Evidence*, 14 May 2009, p. 29.

97 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, pp. vii, 28.

98 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 4.

99 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 4.

- 4.89 The 2008 report by the independent Commission made a number of recommendations, including:
- an immediate one time increase of €80 million for refurbishing the Safeguards Analytical Laboratory and for adequate funding of the Agency's Incident and Emergency Response Center;
 - consistent annual increases in the regular budget for security and safety, to support newcomer states embarking on nuclear programs, and for nuclear applications and technology transfer, estimated at about €50 million annually.
 - increases over the longer term to meet growing demands for IAEA services; and
 - funding for the Agency's statutory functions in nuclear energy, nuclear applications, development, safety, security and safeguards to be fully funded from assessed contributions. Voluntary contributions should not be relied upon for day to day financing of core missions.¹⁰⁰

- 4.90 The Committee notes comments by the Australian Safeguards and Non-Proliferation Office that the IAEA budget:

... is something that obviously governments keep under very careful review, because we all have an interest in ensuring that the IAEA is adequately resourced.¹⁰¹

The Committee is persuaded that governments need to demonstrate a stronger funding commitment to the IAEA.

- 4.91 The IAEA's role in promoting the peaceful use of nuclear energy includes not only nuclear power but also other nuclear applications in areas such as health, agriculture, industry and the environment. The Committee understands that for countries of the Non-aligned Movement, this aspect of the IAEA's role is considered central. The Committee delegation was informed that achieving increased resources for safeguards and verification is complicated by these countries insistence that the Agency's main focus should be on peaceful uses. They therefore demand that any increase in funding for safeguards be matched by increases in technical cooperation funding, and that developing countries should be shielded from bearing safeguards costs. This has implications for the Agency in the allocation of resources and in seeking additional funding.

100 *Reinforcing the Global Nuclear Order for Peace and Prosperity: the Role of the IAEA to 2020 and Beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, May 2008, pp. vii, 28.

101 Mr John Carlson, *Transcript of Evidence*, 14 May 2009, p. 28.

- 4.92 In evidence to the Committee, Ms Joan Rohlfing of the Nuclear Threat Initiative attributed part of the Agency's problems to a lack of political will to build the resources necessary and to give the IAEA 'the authority they need to do their job'.¹⁰²
- 4.93 The delegation that visited the United States was told that President Obama strongly supported increasing the IAEA budget. The US Administration has indicated it will seek a doubling of the IAEA's budget in four years.¹⁰³
- 4.94 The Committee notes that on 3 August 2009, the IAEA Board approved the IAEA's budget for 2010, including a 2.7% real growth increase and a 2.7% price adjustment as well as a number of cost-cutting measures. The IAEA reports that the regular budget for 2010 will be €318.3 million, 'with the largest increases in Nuclear Security and Safety, Technical Cooperation, Nuclear Power and Nuclear Applications'.¹⁰⁴
- 4.95 The Committee is pleased to note that funding for the IAEA for 2010 has been increased, however the Committee also notes that the Agency's announcement does not indicate that any additional funding has been provided for verification activities. Further, these verification activities already rely in part upon voluntary funding. Given the perceived need for real funding increases, the Committee is concerned about the modest quantum allocated in 2010.
- 4.96 During the delegation's discussions with representatives of the IAEA in Vienna, the question of value for money was pursued. Mr David Waller, Deputy Director General, gave an account of the due diligence conducted by the Agency over recent times to satisfy the many stakeholders who have an interest in this question. This included a major independent external review conducted in 2002, which concluded that the Agency had identified all significant possibilities for savings.¹⁰⁵ The Committee also

102 Ms Joan Rohlfing, *Transcript of Evidence*, 14 May 2009, p. 10.

103 See for example, 'Confronting 21st Century Threats', viewed 26 August 2009, <http://www.barackobama.com/pdf/issues/foreign_policy/Fact_Sheet_21st_Century_Threats.pdf>; and comments by the IAEA Director-General, Dr Mohamad ElBaradei, viewed 26 August 2009, <<http://www.iaea.org/NewsCenter/Statements/2009/ebsp2009n006.html>>; and <<http://www.iaea.org/NewsCenter/Transcripts/2009/derspiegel180509.html>>.

104 IAEA, 'Board of Governors Approves 2010 Budget', viewed 25 August 2009, <<http://www.iaea.org/NewsCenter/News/2009/board030809.html>>.

105 International Atomic Energy Agency, 20/20 Vision for the Future: Background Report by the Director General for the Commission of Eminent Persons, February 2008, p. 24; Dr Mohamed ElBaradei, 'Introductory Statement to the Board of Governors', IAEA, Vienna, 15 June 2009, viewed 14 September 2009, <www.iaea.org/NewsCenter/Statements/2009/ebsp2009n005.html>.

notes that in 2006, the US Office of Management and Budget 'gave a unique virtual 100% value-for-money rating to the US contributions to the IAEA'.¹⁰⁶

- 4.97 While recognising the need of the Agency to balance its responsibilities and acknowledging that the focus of the Non-aligned Movement is upon the technological cooperation program, the Committee considers that it is essential that adequate resources and authority be allocated to the IAEA to perform safeguards activities. It is clear that the funding and resources of the IAEA will become more critical if it is to carry out verification activities under a Fissile Material Cut-Off Treaty.

Recommendation 6

The Committee recommends that the Australian Government abandon its zero real growth policy on the International Atomic Energy Agency's (IAEA) budget and work with other states to strengthen the IAEA's funding base.

106 International Atomic Energy Agency, *20/20 Vision for the Future: Background Report by the Director General for the Commission of Eminent Persons*, February 2008, p. 24; See also ExpectMore.gov, 'Program Assessment: Contributions to the International Atomic Energy Agency', viewed 14 September 2009, <<http://www.whitehouse.gov/omb/expectmore/summary/10004639.2006.html>>.