

**Falling Behind: International Scrutiny
of the Peaceful Atom**

Testimony

By

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Mr. Chairman, Senator Lugar, members of the Committee, I want to thank you today for giving me an opportunity to testify on the dangers the U.S. and other countries may face if, as some predict, civilian nuclear energy spreads to a large number of additional countries.

We like to think that the peaceful and military atoms are distinct and divisible from one another. In fact, they are not.

A detailed study done for my center in 2004 by an experienced U.S. nuclear bomb maker, a veteran nuclear safeguards expert, and a former U.S. Nuclear Regulatory Commission commissioner spelled out the military diversion dangers associated with civilian nuclear energy. Their analysis speaks to many cases, including Iran and North Korea.

Tehran is building a large light water power reactor at Busheir. When completed and on-line, this plant will make 330 kilograms of near-weapons grade plutonium in the first 12 to 15 months of operation. This is enough material to make 40 to 65 crude nuclear weapons. To extract such material from the reactor's spent fuel, which is expected to remain in Iran for at least a year or more, Iran would need only to build a relatively crude chemical extraction plant that could be as small as 30 feet, by 130 feet, by 65 feet (see Figure IV on page 36 of the attached report). Such a plant would be easy to hide. It could be built in roughly six months and could be kept on the ready until needed. Once it began operating, though, this plant could produce a bomb's worth in as little as 10 days and one bomb's worth for each subsequent day it continued to function.

The Busheir reactor, like all light water reactors, also requires one-third of a fuel loading – approximately 20 tons of lightly enriched uranium – to be available at the site at all times. This fuel is needed to expedite refueling operations; both those that are routine and those that might be forced by a safety-related shut-down of the plant. This lightly enriched uranium, however, presents a danger: It can be used as feed material to accelerate an enrichment effort to make bomb-grade uranium.

The estimates done for NPEC indicate that if this fresh fuel was seized, technicians would quickly cut open the fuel cladding, crush the ceramic fuel pellets inside, heat the material, and run hexafluoride gas over it to produce lightly enriched uranium feed. This enriched feed, in turn, could be used to reduce the amount of effort needed to produce highly enriched uranium by as much as five-fold over using natural uranium. Instead of taking a year to make one bomb's worth of highly enriched uranium in its 1,500 odd centrifuges, Iran could get a bomb's worth in as little as seven weeks. North Korea, it should be noted, is now asking that it be supplied with a large light water reactor in exchange for dismantling its plutonium production facilities at Yongbyong.

Conventional wisdom, of course, has it that the International Atomic Energy Agency (IAEA) could detect such diversions of fresh or spent fuel rods. Allowing that it might, the agency's experience, though, with North Korea Iran suggests that it would be unreasonable to expect that the notice that such detections could afford -- two to seven weeks -- would be sufficient to rally the world's key nations to take decisive action.

Perhaps even more worrisome is that under a number of scenarios, the IAEA might not detect the theft of these rods at all. It's not generally known, but for most of the nuclear facilities it inspects, the IAEA simply does not know day to day if its remote cameras and monitors are on. Not long ago, the IAEA assessed this vulnerability and learned that over the previous six years, there had been camera "blackouts" that lasted for "more than 30 hours" on at least 12 separate occasions. The IAEA learned of these blackouts, moreover, only *after* inspectors went to the sites and downloaded the camera recordings as they are required to do every 90 days. During these blackouts, entire fuel rods could be removed and replaced with dummy rods. Within 90 days, a state could possibly convert this material into bomb fuel or come close to doing so. The study also discussed several other diversion scenarios. All of them were subsequently validated by State Department, national weapons laboratory, and IAEA advisory officials.

The good news is much can be done to correct this problem with the deployment of additional near-real time surveillance capabilities. Full deployment of such systems, however, costs money that the IAEA currently lacks. This funding gap is only likely to increase if, as predicted, more nuclear power plants are built in new locations. Thirty-one states currently operate large nuclear reactors or fuel making plants. In just the last 18 months, 15 more -- Algeria, Bangladesh, Saudi Arabia, Yemen, Egypt, Libya, Algeria, Morocco, Tunisia, Turkey, Australia, Indonesia, Vietnam, Kazakhstan, Nigeria -- have announced plans to build fuel making plants or large reactors before 2020.

One of the recommendations made in NPEC's IAEA safeguard report, which I am releasing today and ask be placed into the record, is that the U.S. take the lead supplementing current IAEA contributions with a safeguards user fee. This might be done through several incremental steps leading to imposition of a fee on each IAEA member. The fee would be based on a percentage of the costs associated with the production of civilian nuclear energy and the operation of fuel making plants in each member state.

A second type of safeguards challenge NPEC investigated is the difficulty the IAEA has inspecting nuclear fuel making plants. As the IAEA's director general has made clear, once a country has nuclear weapons usable fuels, such as highly enriched uranium and separated plutonium, there is little the IAEA can do but hope that the country doesn't decide to make bombs.

The dangers relating to nuclear fuel making, however, go much deeper. First, the plants themselves can be diverted to make bombs overnight. Second, the nuclear weapons usable materials these plants make or handle -- e.g., separated plutonium in the case of reprocessing and mixed oxide fuel making plants -- cannot be accounted well enough to prevent the possible "loss" or diversion of many bombs worth of material each year. It is projected, for example, that the IAEA will have to report nearly 50 crude bombs' worth of separated plutonium to be "material unaccounted for" (or MUF) each year Japan's latest large, commercial reprocessing plant is fully operational. Similar, worrisome MUF and inspection gaps are also possible at enrichment and certain fuel fabrication plants. Finally, the IAEA keeps secret how much nuclear material each country has by type that

would be directly usable to make bombs. Instead, it only makes the global aggregates public, claiming that this information is commercially proprietary.

These practices have long been tolerated. This is a mistake. One of the key recommendations my center's report makes is to get the IAEA to distinguish much more clearly between what the agency can only monitor and what it can inspect in a manner that will reliably detect military diversions *before* they are completed. Only the later fulfills the IAEA's official definition of what a safeguard is. Making this distinction more clearly between what can be monitored versus what can actually be safeguarded is important. It certainly makes it easier to understand what the IAEA can and cannot safeguard and just how dangerous certain nuclear facilities are. Fuel making centers, including the one that might be built in Kazakhstan would stand out as being unsafeguardable as would the commercial reprocessing plant India is proposing to build solely to recycle U.S.-origin spent fuel.

It certainly would make sense to increase inspections at such plants but not because more inspections would meet the IAEA's official safeguarding criteria. Instead, such intensified monitoring would be useful to assure a greater chance of detecting diversions, at least, some time *after* they have occurred. It also would make sense to upgrade physical security at many of these sites to make them as stringent as the toughest security measures currently being implemented at nuclear weapons-production and storage sites in the U.S.

Finally, the U.S. and other members of the IAEA should reassess the key assumptions behind the IAEA's current timeliness detection goals. Just how much material does it take to make a bomb? How much time is needed to convert different key nuclear materials into bomb fuel? How often should the IAEA check against diversions of safeguarded materials? All of the current safeguarding premises were set nearly 30 years ago. Many of them are overly generous. It's time that they were updated.

Mr. Chairman, there are a number of other specific recommendations that the NPEC safeguards report makes that deserve this committee's attention. One is to clarify the benefits or lack of them relating to nuclear energy by getting the executive branch to implement Title V of the Nuclear Nonproliferation Act of 1978. Under this provision, the executive is required to conduct analyses of what can be done to meet the energy needs of developing nations without fossil fuels or nuclear power. Unfortunately, it is something no president, Democratic or Republican, has yet chosen to do. There also are several recommendations to encourage states to act against those that engage in nuclear misbehavior.

What's encouraging is that none of these recommendations need wait upon consensus at the IAEA Board of Governors or the United Nations. Nearly all, in fact, can be acted upon by this committee.

With this, Mr. Chairman, I conclude and look forward to the Committee's questions.

Falling Behind: International Scrutiny of the Peaceful Atom

A Report of the Nonproliferation Policy Education Center
On the International Atomic Energy Agency's Nuclear Safeguards System

Overview

Ask how effective International Atomic Energy Agency (IAEA) nuclear safeguards are in blocking proliferation and you are sure to get a set of predictable reactions. Those skeptical of the system will complain that IAEA inspections are too sketchy to ferret out nuclear misbehavior (e.g., North Korea, Iraq, and Iran) and that in the rare cases when such violators are found out (almost always by national intelligence agencies), the IAEA's board of governors is loath to act. IAEA supporters have a rather opposite view. The IAEA, they point out, actually found Pyongyang, Baghdad, and Tehran in noncompliance with their IAEA safeguards agreements and reported this to the United Nations Security Council. International inspectors, moreover, were the only ones correctly to assess the status of Saddam's strategic weapons programs. The problem is not to be found in Vienna or in the IAEA's inspections system but in Washington's unwillingness to listen. In the future, the U.S., they argue, should rely more, not less, on the IAEA to sort out Iran's nuclear activities and to disable North Korea's nuclear weapons complex.

These two views could hardly be more opposed. There is at least one point, though, upon which both sides agree: If possible, it would be useful to enhance the IAEA's ability to detect and prevent nuclear diversions. This would not only reduce the current risk of nuclear proliferation, it would make the further expansion of nuclear power much less risky.

The question is what's possible? To date, little has been attempted to answer this basic question. Periodic reports by the U.S. Government Accountability Office and the IAEA have highlighted budgetary, personnel, and administrative challenges that are immediately facing the agency.¹ There also has been a two-year internal IAEA review of how existing IAEA safeguards procedures might be improved.² None of these

1. For the latest of these, see U.S. Accountability Office, *Nuclear Nonproliferation: IAEA Has Strengthened Its Safeguards and Nuclear Security Programs, but Weaknesses Need to Be Addressed*, GAO-06-93 [Washington, D.C.: Oct. 7, 2005] available at <http://www.gao.gov/new.items/d0693.pdf>.

2. Upon the suggestion of the United States, the IAEA Board of Governors agreed in 2005 to create a special committee to advise how best to strengthen the IAEA's current nuclear safeguards system. In private interviews, NPEC has learned that the confidential recommendations of this committee were almost entirely administrative and quite modest

assessments, however, has tackled the more fundamental question of how well the IAEA is actually doing in achieving its nuclear material accountancy mission. Precisely what nuclear activities and materials can the IAEA monitor to detect a diversion early enough to prevent it? What inherent limits does the IAEA nuclear inspections system face? In light of these limits, what new initiatives should the IAEA Safeguards Department attempt and, even more important, stay clear of? What additional authority and technical capabilities might the IAEA secure to help achieve its nuclear material accountancy goals? In the end, what is or should be protected as being “peaceful” under the Nuclear Nonproliferation Treaty (NPT) or the IAEA charter? What is the proper balance between expanding the use of nuclear energy and making sure it is not diverted to make bombs?

None of these questions admits to quick or easy answers. All, however, are increasingly timely. Will IAEA safeguards be able keep Iran from using their nuclear programs to make bombs? What of IAEA’s inspectors’ abilities to ferret out all of North Korea’s nuclear activities? Will the safeguards being proposed for India effectively prevent U.S. and foreign nuclear cooperation from assisting New Delhi’s nuclear weapons program?

Then, there is the long-term problem of nuclear power’s possible expansion. Since 2005, more than fifteen countries announced a desire to acquire large reactors of their own by 2020 (this is on top of the 31 nations that already operate large reactors).³ Nine of these states — Algeria, Morocco, Tunisia, Libya, Egypt, Turkey, Jordan, Saudi Arabia, and Yemen — are located in the war-torn region of the Middle East. Morocco, Tunisia, Jordan, and Yemen seem unlikely to achieve their stated goal. But the others, with U.S., Chinese and Russian nuclear cooperation, may well succeed. What’s clear is that most are interested developing a nuclear program capable of more than merely boiling water to run turbines that generate electricity. In fact, at least five have made it clear that they are interested in hedging their security bets with a nuclear weapons-option. For these states, developing purportedly peaceful nuclear energy is the weapon of choice. Will the IAEA, which is pledged to keep these programs peaceful, be able to do so?

In anticipation of these nuclear challenges, The Nonproliferation Policy Education Center (NPEC) began in 2005 to consult with officials from the IAEA, the U.S., the U.K., Germany, and France, as well as outside experts on the effectiveness of the IAEA’s safeguards system and how best to improve it. NPEC went on to commission thirteen studies on a variety of safeguards-related issues. These analyses were reviewed and discussed at a series of private conferences with senior level officials and outside experts held in Washington, Paris, and London.⁴

in scope. None of the recommendations, which were made in the spring of 2007, have yet been acted upon.

3. These states included Algeria, Tunisia, Morocco, Libya, Egypt, Turkey, Jordan, Saudi Arabia, Yemen, Vietnam, Australia, Indonesia, Bangladesh, Vietnam, and Nigeria.

4. For a list of experts who participated in NPEC’s IAEA safeguards workshops, go to Appendix I.

A key conclusion of these meetings and research was that the IAEA is already falling behind in achieving its material accountancy mission and risks slipping further unless members of the IAEA board independently and in concert take remedial actions in the next two to five years. The most important of these measures can be organized around seven basic recommendations:

1. *Resist calls to read the NPT as recognizing the per se right to any and all nuclear technology, no matter how unsafeguardable or uneconomic such technology might be.*

The current, permissive, mistaken interpretation of the NPT is that all states have a sovereign *per se* right to any and all nuclear technology and materials, including nuclear fuel making and nuclear weapons usable materials, so long as they are declared to the IAEA, occasionally inspected, and have some conceivable civilian application. This interpretation, if not overturned, will guarantee that the world full of nuclear weapons ready states. With only a few more such states, the IAEA's ability to detect military diversions in a timely fashion will be marginal at best. For this reason, as well as a series of legal, historical and technical reasons, it is essential that members of the IAEA Board of Governors make the IAEA's ability to detect military nuclear diversions in a timely fashion and the economic viability of any nuclear project to be two clear criteria for what is peaceful and protected under the NPT. Not all forms of nuclear energy under all circumstances deserve to be protected and promoted as being "peaceful". Nuclear power should only be considered to be peaceful and beneficial if it makes at least as much economic sense as its nonnuclear alternatives. Thirty years ago, the U.S. stipulated that in Title V of the Nuclear Nonproliferation Act of 1978 (see Title V, The Nuclear Nonproliferation Act of 1978, (P.L. 95-242) Sections 501-503) the U.S. executive branch should create a series of international technical cooperative programs to promote the use of non-nuclear and non-petroleum renewable sources energy. The law also required the Executive Branch to conduct country-specific energy assessments toward this end and to report annually on the progress of U.S. and international efforts to employ such energy sources abroad. Unfortunately, since the law's passage, the White House and the U.S. Departments of Energy and State have yet to comply with any of the legal requirements of this title.

Specific Recommendations:

A. The U.S. and like-minded nations should stipulate in the run up to the 2010 NPT Review Conference that future civilian nuclear energy projects should only enjoy the protection of the NPT if they are:

- (1) able to be monitored in non-nuclear-weapon states in such a manner as to afford timely warning of military diversions as stipulated by the NPT and the IAEA's own definitions of what the purpose and criteria for effective safeguards are; and
- (2) economically viable enough to be financed *without* nuclear-specific government subsidies.

B. The U.S. government should begin full implementation of Section V of the Nuclear Nonproliferation Act of 1978 and urge its closest allies to cooperate in achieving its stated goals.

2. *Distinguish between what actually can be effectively safeguarded, and what can be, at best, monitored.* Currently, the IAEA is unable to provide timely warning of diversions from nuclear fuel-making plants (enrichment, reprocessing, and fuel processing plants utilizing nuclear materials directly useable to make bombs). For some of these plants, the agency loses track of many nuclear weapons-worth of material every year. Meanwhile, the IAEA is unable to prevent the overnight conversion of centrifuge enrichment and plutonium reprocessing plants into nuclear bomb-material factories. As the number of these facilities increases, the ability of the agency to fulfill its material accountancy mission dangerously erodes. The IAEA has yet to concede these points by admitting that although it can monitor these dangerous nuclear activities, it cannot actually do so in a manner that can assure *timely detection* of a possible military diversion – the key to an inspection procedure being a safeguard against military diversions. In addition, the IAEA’s original criteria for how much nuclear material is needed to make one bomb (a “significant quantity”), for how much time is required to convert various materials into bombs (“conversion time”), and what the IAEA’s own inspection goals should consequently be (“timeliness detection goals”) were set over thirty years ago and are no longer all up to date.

Specific Recommendations:

A. Require the IAEA Department of Safeguards to distinguish between those nuclear activities and materials for which timely detection of military diversions is actually possible and those for which it is not yet possible. This could be encouraged by having the nuclear weapons state members of the IAEA do their own individual, national analyses of these questions and making their findings public.

B. In light of the nuclear inspections experience of the last fifteen years with North Korea, Iraq, Iran, Egypt, Taiwan, Libya, and South Korea, each member of the IAEA Board of Governors should undertake their own national reassessment of whether or not the IAEA’s current significant quantities criteria, conversion times and timely detection goals should be. These reassessments would be driven by what the IAEA would need to assure timely detection of military diversions – i.e., time sufficient to allow states to intervene to block the possible high-jacking of civilian facilities and materials to make bombs. On the basis of these analyses, the IAEA Board of Governors should instruct the IAEA Department of Safeguards to report back to Board regarding desirable revisions to the agency’s criteria for what nuclear safeguards over different nuclear materials and activities require.

C. Call for increased monitoring of those nuclear facilities for which such timely detection is not yet possible (e.g., nuclear bulk-handling facilities where nuclear fuel is made and processed and on-line fueled reactors, such as heavy water reactors where keeping track of the fuel going in and out of the plant is particularly taxing). Such increased monitoring should be designed at least to increase the prospect of detecting diversions *after* they have occurred. The IAEA should make clear that timely detection of diversions (i.e., detection of diversions *before* they are completed) from such facilities is not yet possible. Finally, the IAEA should make the plant operators and owners pay for this additional monitoring. This additional cost should be considered a normal cost of conducting these activities.

D. Avoid involving the IAEA in the verification of a military fissile material cut-off treaty (FMCT). As currently proposed, a FMCT assumes that the timely detection of diversions from nuclear fuel-making plants is possible when, in fact, it clearly is not.

E. Call for physical security measures at those facilities where timely detection is not possible that are equivalent to the most stringent standards currently employed in nuclear-weapons facilities in the United States, Britain, Russia, China, and France. Again, the cost of such additional security measures should be born by the owner or operator.

3. ***Re-establish material accountancy as the IAEA's top safeguards mission*** by pacing the size and growth in the agency's safeguards budget against the size and growth of number of significant quantities of special material and bulk handling facilities that the agency must account for and inspect (see Chart 1, appended below). As noted above, the amounts of special nuclear material under IAEA safeguards that go unaccounted for is large and increasing every year. These increases are most worrisome in non-weapons states that are now making nuclear fuel (e.g., Iran, Japan, the Netherlands, Germany, and Brazil). Unfortunately, the IAEA refuses to report anything but aggregate information about these materials: There are no national breakdowns that are publicly available for the different types of nuclear fuels being safeguarded in each country nor a run down of the materials that have gone unaccounted for country-by-country. As already noted, the IAEA is technically unable to meet its own timely detection goals for the safeguarding of plants producing and processing separated plutonium, highly enriched uranium, and mixed oxide fuels. Candor and encouraging restraint is all that can currently be offered to address this safeguards gap. In addition, at most of the sites that it must safeguard, the IAEA lacks the near-real time monitoring capabilities necessary to determine if the agency's own monitoring cameras and other sensors (which are left unattended for 90 or more days) are actually turned on. As such, a proliferator could divert entire fuel rods containing one or more significant quantities of lightly enriched uranium and nuclear weapons-usable plutonium without the agency finding out either at all or in a timely fashion. Unlike the safeguards gap associated with nuclear fuel producing and processing plants, though, this gap can technically be fixed by installing near-real time

surveillance systems that allow IAEA inspectors in Vienna to receive information from the remote sensors it has deployed without being on site. Certainly before the IAEA takes on additional dubious or extremely challenging missions, such as monitoring fissile production cut-offs or searching for nuclear weapons-related activities, it must arrest this growing gap between the amounts of nuclear materials it must safeguard and its technical ability to do so.

Specific Recommendations:

A. Pay greater attention to what the IAEA can clearly do better – count fresh and spent fuel rods – by quickly increasing and optimizing its remote near-real time monitoring capabilities for all of its monitoring systems, and increasing the number of full-time, qualified nuclear inspectors necessary to conduct on-site inspections.

B. Require the IAEA Department of Safeguards to report annually to the public on its safeguards budget and identify not only the number of man-hours dedicated to onsite inspections and the number of significant quantities under the IAEA's safeguards charge, but also the amount of direct-use materials (materials that can be quickly turned into bomb fuel) under its charge by type *for which the agency could not achieve its own timeliness detection goals*, the amount of direct-use materials for which the agency could achieve its own timeliness detection goals; the number and location of facilities under near-real time surveillance; the amount of money dedicated to wide-area surveillance; and the amount of money dedicated to IAEA safeguards research and development. In each case, the IAEA should present national breakdowns of each total.

C. In addition, each member state of the IAEA Board of Governors should routinely conduct their own national analysis of what it believes the proper ways to address the problems noted above are and publicly identify and explain what it thinks the agency's top safeguards priority should be to improve these numbers.

4. *Focus greater attention on useful safeguards activities that are necessary, but have yet to be fully developed.* To assure that the IAEA's material accountancy assets do not risk becoming cannibalized for other urgent missions that might arise (e.g., inspections for India if the U.S.-India nuclear deal should go forward, more intrusive inspections for Iran, and North Korea, etc.), it would be useful for the agency to develop stand-by wide-area surveillance teams for the imposition of sudden inspections requirements. The agency might also usefully do more to account for source materials in processed form, as it was information regarding the shipment of such material from China that originally tipped off the IAEA to suspicious nuclear activities in Iran. The agency also needs fully to fund and properly staff its sampling analysis facilities and its efforts to secure overhead imagery of the sites that it must inspect. Finally, the agency needs to do more to establish what its own safeguards research and development requirements are.

Specific Recommendations:

A. Members of the IAEA Board of Governors should assess on their own what would be required to conduct wide-area surveillance inspections of Iran and North Korea (i.e., what such inspections would cost to stand up and maintain in terms of dollars and staff), and ask the IAEA Board of Governors to task the IAEA Department of Safeguards to do likewise.

B. The IAEA Board of Governors should ask its members for supplemental contributions to stand up and maintain such surveillance units so that they can be tapped at any time without effecting the IAEA's routine safeguards operations. The supplemental contributions should be based on a formula tied to the kilowatt hours each member produces (as called for by recommendation 5 detailed below).

C. Similar studies should be conducted and supplemental assessments made in support of IAEA efforts to improve the agency's ability to account for nuclear source material and to fund nuclear sampling analyses and of inspections-related overhead imagery and analysis.

5. Complement the existing UN formula for raising IAEA funding with a user-fee for safeguards paid for by each nuclear operator. The IAEA's director general has repeatedly noted how small the agency's safeguards budget is, but has yet to propose how to increase it. As a stop-gap measure, the U.S., E.U., and Japan have been giving token amounts of voluntary, "supplemental" contributions to the agency. Currently, the U.N. formula used to raise IAEA funds has nations that possess no power reactors, such as Italy, paying more than nations, such as South Korea, that possess twenty such plants. Countries including the U.S., Canada, Brazil, Japan, and India, meanwhile, are taxing the IAEA safeguards system (or soon will be) with nuclear fuel-making and bulk-handling facilities and on-line fueled reactors that are much more expensive to monitor than other nuclear plants. Although the IAEA inspects the nuclear reactors and facilities of nuclear-weapon state members of the NPT far less than they inspect those of the non-nuclear-weapon states, the nuclear-weapon NPT states arguably have the most to gain from IAEA efforts to prevent the further spread of nuclear weapons. Both the insufficiency of the IAEA safeguards spending and the inequity of the way funds are currently raised for this function suggest the need to complement existing country assessments with a safeguards surcharge that is based on the amount of nuclear energy generated in each country. This surcharge is needed to assure the IAEA's budget not only grows significantly above its current level (which is too low by one or two orders of magnitude), but also to keep up with the possible expansion of nuclear power.

Specific Recommendations:

A. The U.S., E.U. and Japan each should base all of their current supplemental contributions to the IAEA safeguards budget on a national formula based on a

specific percentage of nuclear generating costs as it relates to the number kilowatt hours that their civilian reactors generate per year.

B. The U.S., E.U., and Japan should, then, negotiate among themselves on what an agreed safeguards surcharge formula should be and encourage others to follow suit so that revenues from such a fee would become mandatory for each country contributing to the IAEA and it would go exclusively to support the IAEA's Department of Safeguards. The UN formula, meanwhile, would be used to support the IAEA's non-safeguarding activities.

C. The IAEA Board of Governors should instruct the agency's Department of Safeguards to identify those nuclear facilities (e.g., on-line fueled reactors and nuclear fuel making plants) that require the greatest amount of resources to inspect or pose the greatest difficulty in meeting the agency's own timely detection criteria. The IAEA Board of Governors should then ask those countries possessing these identified facilities to pay an additional amount to the IAEA Department of Safeguards to cover the additional costs associated with their inspection. To the extent possible, the IAEA should encourage nations having to pay such additional fees to collect them from the customers or owners or operators of these facilities.

6. *Establish default actions against various levels of IAEA safeguards agreement noncompliance.* Currently, any proliferator that violates their IAEA comprehensive safeguards agreement knows that the deck is stacked against the IAEA Board of Governors reaching a consensus to (1) find them in non-compliance, and (2) take any disciplinary action. The key reason why is simple: The current burden of proof regarding any non-compliance issue is on the IAEA staff and the Board of Governors rather than on the suspect proliferator. In the absence of political consensus in the IAEA Board of Governors, the proliferator can be assured that no non-compliance finding will be made, much less any disciplinary action taken. This set of operating assumptions needs to be reversed. The best way to assure this is to establish a set of country-neutral rules regarding non-compliance that will go into effect automatically upon the Board of Governors inability to reach a consensus on (1) whether or not a given party is in full compliance with its comprehensive safeguards agreement, and (2) what action to take in the event that a party is found to be in non-compliance.

Specific Recommendations:

A. The U.S., E.U., and other like-minded nations should announce -- independent of NSG consensus -- that they will suspend transfers of controlled nuclear goods from their jurisdiction to any country that the IAEA Board of Governors has been unable to find in full compliance with its safeguards obligations and urge the IAEA Board of Governors and the NSG to agree to do the same. Under such a regime, the IAEA Board of Governors would be forced to suspend nuclear

cooperation from any IAEA member to the suspected state until the Board could unanimously determine that the suspect state was in full compliance.

B. The U.S., E.U., and other like-minded nations should call on the United Nations Security Council (UNSC) to pass resolutions prohibiting states found in non-compliance by the IAEA Board of Governors from making nuclear fuel for a decade, and requiring these states to submit to intrusive wide-area surveillance to establish that they are completely out of the bomb-making business.

C. The U.S., individual E.U. member states, and other like-minded nations should take national actions to sanction states that withdraw from the NPT while in violation of the treaty, and call on the UNSC to pass a country-neutral sanctions resolution that tracks these sanctions measures.

D. At a minimum, the U.S. and like-minded states should adopt national laws and executive orders to establish what sanctions they would be willing to impose against any non-nuclear-weapon state that tests a nuclear device and call on the UNSC to pass a country-neutral sanctions resolution that tracks these national sanctions. The sanctions could be lifted after the testing state has disarmed and demonstrated to the IAEA Board of Governors that they are out of the bomb making business.

7. *Plan on meeting future safeguards requirements on the assumption that the most popular innovations – integrated safeguards, “proliferation-resistant” fuel-cycles, and international fuel assurances – may not achieve their stated goals or, worse, may undermine them.* Perhaps the three most popular safeguards innovations – integrated safeguards under the Additional Protocol, proliferation-resistant fuel-cycles under America’s Global Nuclear Energy Partnership (GNEP), and international fuel assurances that can be afforded through fuel banks and regional fuel-making centers – are also the most unexamined. Recent analyses conducted by outside think-tanks (including the Council on Foreign Relations, Princeton University’s International Panel on Fissile Materials, the Keystone Center, and the U.S. National Laboratories), in fact, conclude that each of these innovations could prove to be ineffectual or even self-defeating. GNEP’s proposed proliferation-resistant fuel-cycles, for example, do not appear to be very proliferation resistant especially with respect to state-based proliferation and could easily increase the use and availability of nuclear weapons-usable fuels worldwide. Fuel banks and fuel making centers, if they make fuel available at “affordable” or “reasonable” prices could easily end up subsidizing nuclear power development in regions where such activity would not be economical or safe. Fuel-making centers also could end up spreading nuclear-fuel making technology. Finally, integrated safeguards, which reduce the number of inspections per safeguarded facility, could easily become a crutch for the IAEA to evade its material accountancy responsibilities.

Specific Recommendations:

A. The U.S. government should create a board of outside experts to serve as quality-assurance panel to spot the potential downsides of any nonproliferation initiative. This group would be created by and report to Congress on the potential self-defeating consequences of any proposed government “nonproliferation” initiative might have prior to Congress authorizing or appropriating to support it.

Some of these recommendations are easy to act upon; others are not. IAEA member states, though, should begin to act on them now. Certainly, it would be a mistake to wait to see if civilian nuclear energy will expand (a proposition whose demonstration may require another decade or more). The reason why is simple: Even if nuclear power does not expand, the amounts of nuclear weapons usable materials that the IAEA must prevent from being diverted to make bombs is already very large and rising.

Some Negative Trends

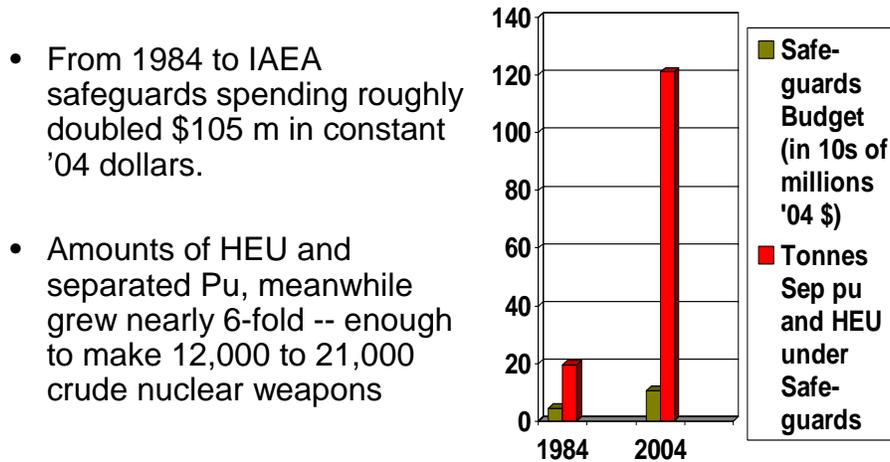
On a number counts, the IAEA safeguards system appears to be getting better. After more than a decade of no real growth, annual funding for nuclear inspections finally was increased in real terms in 2003 from \$89 million in 2003 to \$102 million in 2004 and to \$108 million in 2007. Deployment of advanced remote monitoring equipment is on the rise and implementation of new, more intrusive inspections authority under the Additional Protocol is moving forward. In the future, nuclear power might expand, but most of this expansion will take place in nuclear weapons states or countries that are so trustworthy that it could be argued that few, if any, additional nuclear inspections may be needed. As for additional safeguards requirements – e.g., inspections in India, North Korea, or Iran – they might well be met with additional contributions when and if they arise. From this perspective, current safeguards budgeting and planning could be viewed as being adequate to the task for years to come.⁵

It could, that is, until other, less positive trends are considered. Of these, perhaps the most important concerns the number of significant quantities of nuclear material that the IAEA must safeguard to prevent from being diverted and directly fashioned into bombs. This number is not only growing, but growing a rate far faster than that of the IAEA’s safeguards budget. The amount of separated plutonium and highly enriched uranium (nuclear fuels that can be fashioned into bombs in a matter of hours or days) that the IAEA inspects, for example, has grown more than six-fold between 1984 and 2004 while the agency’s safeguards budget has barely doubled (see the Figure I below).

5. This line of argument was actually presented to NPEC’s executive director in a private briefing by the IAEA safeguards planning staff in Vienna early in 2006.

Figure I

IAEA Safeguards Spending vs. Mounting Weapons Usable Material Stockpiles



Meanwhile, the number of nuclear fuel fabrication and fuel making plants (facilities that are by far the easiest to divert nuclear material from) has grown from a mere handful in the last two decades to 65. Then, there is the number of other plants containing special nuclear material that the IAEA must safeguard: It has roughly tripled to more than 900 facilities today.⁶

These trends have forced the IAEA to work their inspections staff harder. Over the last twenty years, the number of days IAEA inspectors have been in the field has nearly doubled from 60 to 70 days to 125 to 150.⁷ This doubling has not only cost more money to maintain, it one of the reasons (along with unreasonable employment and contracting rules) for a hollowing out of IAEA's experienced inspections staff. This hollowing out is

6. For data on the IAEA's safeguards budget obligation in current—not constant—U.S. dollars, see *The Agency's Accounts for 1984*, GC(XXIX)/749, p. 26; and *The Agency's Accounts for 2004*, GC(49)/7, p. 47. For data on the amount of nuclear material safeguarded by the IAEA, see *Annual Report for 1984*, GC(XXIX)/748 (Vienna, Austria: IAEA, July 1985), p. 63; and *Annual Report for 2004*, GC(49)/5, Annex, Table A19..

7. Private interviews with safeguards staff and former IAEA safeguards inspectors at the Los Alamos National Laboratory, Los Alamos, New Mexico, May 12, 2005.

soon expected to become acute. As noted by the U.S. Government Accountability Office, about 50 percent or 30 out of 75 of the IAEA's senior safeguards staff are expected to retire by 2011.⁸

One way to address this inspections crunch is to have the IAEA simply inspect less. This could be done legally by implementing the Additional Protocol. In fact, limiting the number of routine safeguards inspections is one the incentives the IAEA currently offers countries to sign up to the Additional Protocol. Once a country has ratified the Additional Protocol and the IAEA has established that there "is no indication of undeclared nuclear material activities for the state as a whole", the agency can reduce the number of routine nuclear inspections it makes of that country's nuclear materials and facilities significantly.⁹

The trouble with taking this approach, though, is that initially it actually *increases* the amount of staff time and resources that the IAEA would have to spend on safeguarding a given country. It turns out that determining whether or not a country has no undeclared nuclear materials activities takes considerable safeguards staff time.¹⁰ Over the entire lifetime of a nuclear facility (i.e., 20 to 50 years), then, applying integrated safeguards might reduce the total amount of staff time needed to safeguard a particular set of nuclear plants but in the first few years more, not less staff time and safeguards resources would be consumed.¹¹

8. See Gene Aloise, Director Natural Resources and Environment, U.S. Government Accountability Office, "Nuclear Nonproliferation: IAEA Safeguards and other Measures to Halt the Spread of Nuclear Weapons Materials," testimony before the Subcommittee on National Security, Emerging Threats and International Relations, Committee on Government Reform, House of Representatives, September 26, 2006.

9. For a more detailed discussion of the Additional Protocol see Richard Hooper, "The IAEA's Additional Protocol," *Disarmament Forum* "On-site Inspections: Common Problems, Different Solutions," 1999 no. 3, pp. 7-16 available at http://www.unidir.ch/bdd/fiche-article.php?ref_article=209.

10. For example, in the case of Japan, the IAEA needed five years to determine it had no undeclared nuclear material activities and estimates that it will need about as much time to make the same determination for Canada. See U.S. GAO, *Nuclear Nonproliferation*, pp. 12-13.

11. According to IAEA internal analyses, the average lifetime savings in safeguards resources likely implementing integrated safeguards, though, may be no more than five percent. See C. Xerri, H. Nackeaerts on behalf of the ESARDA Integrated Safeguards Working Group, "Integrated Safeguards: A Case to Go Beyond the Limits: Consequences of Boundary Limits Set to the Reduction of "Classical Safeguards Measures on Efficiency and Resources Allocation in Integrated Safeguards" produced in 2003 for the IAEA available at http://esarda2.jrc.it/bulletin/bulletin_32/06.pdf. For an official overview of the various safeguards resources required to implement the Additional Protocol, see Jill N. Cooley, "Current Safeguards Challenges from the IAEA

Also, the Additional Protocol authorizes the IAEA to conduct wide area surveillance inspections. These would be extremely useful in the case of Iran or North Korea. They also would require significant additional safeguards staff and funding (by one estimate done for NPEC by a seasoned former IAEA inspector, perhaps a plus up in funding constituting as much as 30 percent of the IAEA's entire current safeguards budget¹²). So far, the IAEA has done nothing to establish such an inspections capability.

Finally, relying heavily on integrated safeguards may be unsound in principle. As already noted, they require the IAEA to determine that the country in question has no undeclared nuclear material. Yet, the IAEA's safeguards staff itself has admitted that it cannot yet be relied upon to discover covert nuclear fuel making facilities in the hardest cases (e.g., Iran). Also, reducing the frequency of on-site inspections increases the risks that a member state might divert materials to make bombs without the IAEA finding out until it is too late.

In a detailed study completed for NPEC late in 2004 on the proliferation risks associated with light water reactors, several scenarios were presented under which fresh and spent nuclear fuel rods might be diverted to make nuclear weapons fuel in covert reprocessing or enrichment plants in a matter of days or weeks without tipping off IAEA inspectors.¹³ These scenarios were subsequently validated independently by key officials working within the IAEA's Standing Advisory Group on Safeguards, the U.S. Department of State, Los Alamos National Laboratory.¹⁴

That a country could evade IAEA inspectors in diverting entire fuel rods is disquieting. One would assume that the current crop of IAEA remote nuclear monitoring equipment

View,” an IAEA document produced in 2003 available at http://esarda2.jrc.it/events/other_meetings/inmm/2003-esarda-inmm-Como/1-paper%20pdf/1-1-040127-cooley.pdf.

12. See Garry Dillon, “Wide Area Environmental Sample in Iran,” available at <http://www.npec-web.org/Essays/WideAreaEnvironmentalSampling.pdf>.

13. See Victor Gilinsky, Harmon Hubbard, and Marvin Miller, *A Fresh Examination of the Proliferation Dangers of Light Water Reactors* (Washington, DC: The Nonproliferation Policy Education Center, October 22, 2004) reprinted in Henry Sokolski, editor, *Taming the Next Set of Strategic Weapons Threats* (Carlisle, PA: Strategic Studies Institute, 2006) and at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=20041022-GilinskyEtAl-LWR&PDFFolder=Essays>.

14. See, e.g., Andrew Leask, Russell Leslie and John Carlson, “Safeguards As a Design Criteria – Guidance for Regulators,” (Canberra, Australia: Australian Safeguards and Non-proliferation Office, September 2004), pp.4-9 available at http://www.asno.dfat.gov.au/publications/safeguards_design_criteria.pdf.

could be counted upon entirely to warn against such diversions. In fact, they cannot.¹⁵ Most of the currently deployed remote sensors, in fact, do not allow the IAEA even to know day to day if these systems are on. This is a serious shortcoming. Over the last six years, the agency has learned of camera “blackouts” that lasted for “more than 30 hours” on 12 separate occasions. What’s worse, it only learned of these blackouts *after* inspectors went to the sites and downloaded the camera recordings as they are required to do every 90 days.¹⁶

Under new proposed “integrated safeguards” procedures, such “downloading”, moreover, would occur as infrequently as every 12 months—a period within which a state could conceivably make a nuclear weapon unbeknownst to the IAEA.¹⁷ The IAEA staff recently proposed to correct this inspections gap by accelerating implementation of near real-time monitoring using satellite communication connections. This effort, though, is still being implemented at an excruciatingly slow pace due to a lack of funds.¹⁸

Structural Problems

The current gap in the IAEA’s near-real time monitoring capabilities may be worrisome but it, at least, can be addressed assuming additional safeguards funding is made available. Far more intractable is the IAEA’s inability to detect diversions in a timely manner from nuclear fuel making plants. As already noted, NPEC’s earlier study on the proliferation dangers associated with light water reactors highlighted the relative ease

15. For more detailed discussion of how fuel diverted from different commercial and research reactors could help accelerate a country’s covert bomb program, go to Appendix II of this report.

16. See J. Whichello, J. Regula, K. Tolk, and M. Hug, “A Secure Global Communications Network for IAEA Safeguards and IEC Applications,” IAEA User Requirements Document, May 6, 2005.

17. The problem of states “losing” fuel rods, it should be noted is not limited to countries intent on diverting them to make bombs. The U.S. civilian nuclear industry, which has a clear industrial interest in keeping track of its nuclear fuel has had difficulty keeping proper account of all of it. On this point, see U.S. Government Accountability Office, NRC Needs to Do More to Ensure Power Plants Are Effectively Controlling Spent Fuel, GAO 05-339, April 2005 available at <http://www.gao.gov/new.items/d05339.pdf>.

18. Only about a third of the facilities the IAEA currently has remote sensors at have near-real-time connectivity with Vienna or other regional headquarters and almost all of these facilities are in countries that are of minimal proliferation risk. This information was presented at a private IAEA Department of Safeguards briefing of NPEC’s executive director at Vienna, Austria, IAEA Headquarters, January 30, 2006.

with which states might build covert reprocessing plants or divert spent civilian fuel to accelerate undeclared uranium enrichment efforts.

Additional NPEC commissioned research details just how poorly IAEA safeguards have performed at nuclear fuel plants in Europe and Japan. In his study, “Can Nuclear Fuel Production in Iran and Elsewhere Be Safeguarded against Diversion,”¹⁹ Dr. Edwin Lyman highlights several examples. At a fuel fabrication plant at Tokai-mura in Japan making mixed-oxide (MOX) fuel out of powdered uranium and nuclear weapons usable separated plutonium, the IAEA could not account for 69 kilograms of plutonium. This is enough to make at least 9 nuclear weapons (assuming 8 kilograms per weapon) or twice that figure (assuming the U.S. Department of Energy’s preferred 4 kilograms per crude nuclear weapon figure). Only after two years, the expenditure of \$100 million, and the disassembling of the plant could the operator claim that he could account for all but 10 kilograms (i.e., one to two bombs worth).²⁰

Dr. Lyman details a similarly disturbing incident involving MOX scrap in Japan where at least one bomb’s worth of weapons usable plutonium went missing and another accounting discrepancy at a Japanese reprocessing plant at which the IAEA lost account of between 59 and 206 kilograms of bomb usable plutonium (but only determined this years *after* the material initially went unaccounted for). Add to these discoveries, the many bombs’ worth of material unaccounted for (MUF) annually at reprocessing plants in France and the United Kingdom (where the IAEA has employed its very latest near-real time monitoring techniques) and there’s even more cause for alarm.²¹

The picture relating to safeguarding centrifuge enrichment plants is not much brighter. Even at plants where IAEA monitoring and inspectors are on site, there will be times in

19. See Edwin Lyman, “Can Nuclear Fuel Production in Iran and Elsewhere be Safeguarded Against Diversion,” presented at NPEC’s Conference “After Iran: Safeguarding Peaceful Nuclear Energy” held in London, UK, October 2005 available at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=Paper050928LymanFuelSafeguardDiv&PDFFolder=Essays>.

20. This incident received only scant public attention. See, however, Bayan Rahman, “Japan ‘Loses’ 206 kg of Plutonium,” *Financial Times*, January 28, 2003 at <http://news.ft.com;servlet/ContentServer?pagename=FT.com/StoryFT/FullStory&c=StoryFT&cid=1042491288304&p=10112571727095>.

21. Idem. Also see “Missing Plutonium ‘Just on Paper,’” *BBC News*, February 17, 2005 available at <http://news.bbc.co.uk/1/hi/uk/4272691.stm> and Kenji Hall, “Missing Plutonium Probe Latest Flap for Japan’s Beleaguered Nuclear Power Industry,” *Associated Press* (Tokyo), January 28, 2003 available at http://www.wise-paris.org/index.html?/english/othersnews/year_2003/othersnews030128b.html&/english/frame/menu.html&/english/frame/band.html.

between inspections during which remote monitoring might be defeated. There also is the constant problem of the operator giving false design, production or capacity figures.²²

In any case, the times between a decision to divert and having enough material to make a crude bomb (assuming the IAEA's high estimate of 25 kilograms of highly enriched uranium being required to make one weapon) are so short, even an immediate detection of the diversion, which is by no means assured, would generally come too late to afford enough time to prevent bombs from being made. In the case of a small commercial sized plant, a bomb's worth could be made in as little as 18 hours to 12 days (depending on whether natural or slightly enriched uranium is used as feed).²³

Safeguards Assumptions

Exacerbating this safeguards gap is the IAEA's overly generous view of how much material must be diverted to make a bomb (referred to by the IAEA as a "significant quantity") and how long it might take to convert this material into a nuclear weapon (known as the "conversion time"). Most of these IAEA estimates were made over 30 years ago. To reassess their accuracy, NPEC commissioned Thomas Cochran, chief nuclear scientist at the Natural Resources Defense Council (NRDC). His analysis and conclusions were revealing. The IAEA's estimates it would take eight kilograms of separated plutonium and 25 kilograms of highly enriched uranium to make a crude bomb. These estimates were found to be too high by a minimum of 25 percent and a maximum of 800 percent depending on the weapons expertise employed and the yield desired (see Figure II below).²⁴

22. These points have been long recognized by outside experts. See, Paul Leventhal, "Safeguards Shortcomings—A Critique," (Washington, DC: NCI, September 12, 1994); Marvin Miller, "Are IAEA Safeguards in Plutonium Bulk-Handling Facilities Effective?" (Washington, DC: NCI, August 1990); Brian G. Chow and Kenneth A. Solomon, *Limiting the Spread of Weapons-Usable Fissile Materials* (Santa Monica, CA: RAND, 1993), pp. 1-4; and Marvin Miller, "The Gas Centrifuge and Nuclear Proliferation," in *A Fresh Examination*, p. 38.

23 See *idem.* and the comments of the former chairman of the IAEA's Standing Advisory Group on International Safeguards, John Carlson, Australian Safeguards and Non-Proliferation Office, "Addressing Proliferation Challenges from the Spread of Uranium Enrichment Capability," Paper prepared for the Annual Meeting of the Institute for Nuclear Materials Management, Tucson, 8-12 July 2007. Copy on file at NPEC.

24. See Thomas B. Cochran, "Adequacy of IAEA's Safeguards for Achieving Timely Warning," paper presented before a conference cosponsored by NPEC and King's College, "After Iran: Safeguarding Peaceful Nuclear Energy," October 2-3, 2005, London, United Kingdom available at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=Paper050930CochranAdequacyofTime&PDFFolder=Essays>.

Figure II

NRDC Estimate of the Approximate Fissile Material Requirements for Pure Fission Nuclear Weapons

Yield (kt)	WEAPON-GRADE PLUTONIUM (kg)			HIGHLY-ENRICHED URANIUM (kg)		
	Technical Capability			Technical Capability		
	Low	Medium	High	Low	Medium	High
1	3	1.5	1	8	4	2.5
5	4	2.5	1.5	11	6	3.5
10	5	3	2	13	7	4
20	6	3.5	3	16	9	5

Values rounded to the nearest 0.5 kilogram.

When presented with these figures, senior IAEA safeguards staff did not dispute them. Instead they argued that the “exact” amount of diverted nuclear material needed to make a crude bomb was not that important. Instead, what mattered most was the IAEA’s ability to detect microscopic amounts of weapons usable materials since securing such environmental samples was the thing most likely to put an inspected party in the international spotlight.²⁵

The potential downside of taking this approach, however, is significant. It is these estimates, along with the agency’s projections of how long it takes a proliferator to convert uranium and plutonium materials into bombs (i.e., conversion times), that the IAEA uses to determine how often it should conduct its inspections of different nuclear facilities. If these estimates are too high, the frequency of inspections needed to detect military diversions risks being egregiously low. Certainly, what the IAEA defines as desirable “detection times” – the maximum time that may elapse between the diversion of a significant quantity of nuclear material and the likely detection of that diversion – should correspond (according to the IAEA’s own guidelines) to the agency’s estimated conversion times. If they don’t, IAEA-inspected countries could count on being able divert a crude weapon’s worth of nuclear material and fashioning it into a bomb before the IAEA could either detect the diversion or have any chance of taking appropriate action to block bomb making.

25. Interview of senior advisors to the IAEA Director General, IAEA Headquarters, Vienna, Austria, January 30, 2006 and January 17, 2005.

This worry seems quite real when one considers how high the IAEA's 30-year old significant quantity estimates appear to be and one then looks at how generous the IAEA's estimated conversion times are (see Figure II below).

Figure II

Estimated Material Conversion Times for Finished Pu or U Metal Weapons Components²⁶

Beginning material form	Conversion time
Pu, HEU or ²³³ U metal	Order of days (7–10)
PuO ₂ , Pu(NO ₃) ₄ or other pure Pu compounds; HEU or ²³³ U oxide or other pure U compounds; MOX or other non-irradiated pure mixtures containing Pu, U (²³³ U + ²³⁵ U ≥ 20%); Pu, HEU and/or ²³³ U in scrap or other miscellaneous impure compounds	Order of weeks (1–3) ^a
Pu, HEU or ²³³ U in irradiated fuel	Order of months (1–3)
U containing <20% ²³⁵ U and ²³³ U; Th	Order of months (3–12)

^a This range is not determined by any single factor but the pure Pu and U compounds will tend to be at the lower end of the range and the mixtures and scrap at the higher end.

Using the history of the Manhattan Project as a benchmark, the IAEA's first set of estimates regarding the amount of time (seven to 10 days) needed to convert separated plutonium (Pu) or highly enriched uranium (HEU) or U233 metal were judged by Dr. Cochran to be the correct order of time. The key reason why is that in 1945, the plutonium and enriched uranium for the first American bombs had to be shipped thousands of miles from where they were produced to where the material was fashioned into nuclear weapons. This transport took several days. If a country making nuclear weapons did not have to ship these distances, the conversion time could be much shorter. However, the conversion times would still be on the order of a day or more.

The IAEA's estimates of how long it would take (one to three weeks) to convert fresh plutonium-uranium fuels (known as mixed oxide fuels or MOX) do not fare as well. Here Dr. Cochran points out that it would take no more than a week and possibly as little as a few days to convert these materials into metal bomb components. Instead of a matter of weeks, he concludes that the correct conversion time should be measured in matter of days.

26. IAEA, *IAEA Safeguards Glossary*, 2001 Edition, Paragraph 3.13, Figure II here is identified as Table I in the IAEA glossary.

As for the IAEA's conversion time estimates of one to three months for plutonium, HEU, or U233 contained in irradiated spent reactor fuel, these were also judged to be accurate *only* if the country possessing these materials did not have a covert or declared reprocessing or enrichment plant. If the country in question did, then it could possibly convert the spent fuel into bombs in a matter of weeks rather than months.

Finally, Dr. Cochran agreed with the IAEA's low end estimated conversion time of three months for low enriched uranium but, with the increased international availability of gas centrifuge uranium enrichment technology, found the IAEA's high end estimate of 12 months to be totally unwarranted. In fact, as already noted, a country might well be able to convert low enriched uranium into a bomb in a matter of weeks or less.²⁷

The policy ramifications of these overly generous IAEA estimates could hardly be more significant. They directly impact what the IAEA's detection goals should be. In three cases – the conversion of low enriched uranium, the conversion of plutonium, HEU, and U233 metal and of these materials in spent fuel – the order of time associated with the IAEA estimates is correct. In another three cases, however – the conversion of plutonium, HEU and U233 in MOX and of these materials in spent fuel and of low enriched uranium if the inspected country has a covert or declared nuclear fuel making facilities – the IAEA's estimates are egregiously high. IAEA conversion times are measured in months when they should be measured in weeks and in weeks when they should be measured in days.

As a result, the IAEA's timeliness detection goals in many cases are dangerously high. More important, the agency's current detection goals give the mistaken impression that the IAEA can detect military diversions before they result in bombs or even early enough to prevent the diversion from succeeding when this clearly is not the case. Dr. Cochran's analysis highlights that timely detection for plutonium, HEU and U233 in metal and in fresh MOX is simply not possible. He concludes that countries that do not yet have nuclear weapons should not be allowed to stockpile or produce these materials. He reaches the same conclusion regarding the agency's ability to detect diversions of plutonium, HEU, and U233 in spent fuel in nonweapons states that may have a declared or covert enrichment or reprocessing plant. In these cases, the problem is not that the IAEA's timeliness detection goals are too liberal; it's that the IAEA claims that timely detection is possible when it clearly is not (see Figure III below).

To some extent, these critical conclusions are gaining official support. As the IAEA's former director for safeguards recently explained, when it comes to nuclear fuel making, the IAEA is must rely on its limited ability to ascertain the inspected country's military intent.²⁸ Even the director general of the IAEA conceded that once a

27. Cf. the low-end conversion time estimates for low enriched uranium of John Carlson in note 22 above, which for a small commercial enrichment facility range between 18 hours and 12 days.

Figure III

MATERIAL	IAEA Conversion Time	Cochran/NPEC Commissioned Estimate	Official IAEA Timeliness Detection Goal	Cochran Conclusions and Recommended Timeliness Detection Goals
Pu, HEU, U233 in metal form	Order of days (7-10)	Order of days (7-10)	One month	Timely detection is not possible
In fresh MOX	Order of weeks (1-3)	Order of days (7-10)	One month	Timely detection is not possible
In irradiated spent fuel	Order of months (1-3)	Order of months (1-3), if reprocessing - enrichment plant on tap (7-10 days)	Three months	For countries with covert or declared nuclear fuel making plants, timely detection is not possible
Low enriched uranium	Order of months (3-12)	Order of weeks to months	One year	For countries with covert or declared enrichment plants, timely detection is not possible

country acquires separated plutonium and HEU, the IAEA must rely on these states' continued good intentions, which could change rapidly. Unfortunately, the IAEA's Board of Governors and major governments, including the U.S., do not yet fully appreciate the full implications of these points.

If the IAEA cannot provide timely detection of diversions of weapons usable HEU and plutonium from centrifuge enrichment, spent fuel reprocessing, and other fuel making

28. See the testimony of Pierre Goldschmidt before a hearing of the House Subcommittee on National Security and Foreign Affairs of the House Committee on Oversight and Government Reform, "International Perspectives on Strengthening the Nonproliferation Regime," June 26, 2007, Washington, D.C. available from the subcommittee upon request.

plants, how can it claim that it is “safeguarding” such facilities in Brazil, the Netherlands, Germany, and Japan? How can it effectively safeguard an Indian reprocessing plant (as is being currently proposed by the Indian government as a way to allow for the reprocessing of foreign fuel for use in an unsafeguarded Indian breeder reactor)? What of the idea of promoting regional nuclear fuel making centers in non-weapons states, such as, Kazakhstan? How might the IAEA prevent diversions?²⁹

What of other more ambitious missions for the IAEA? If one can not keep track of many bombs’ worth of nuclear weapons usable material produced annually at declared civilian nuclear fuel making plants or assure that the plants themselves would not be seized, how much sense does it make to encourage the IAEA to oversee an even more difficult to verify military fissile production cut-off treaty?³⁰ Finally, there is the question of large research reactors and nuclear power plants, which require lightly enriched fuel or produce significant quantities of plutonium. If the IAEA cannot reliably ferret covert nuclear fuel making programs, how safe is it to export such machines to new countries particularly in war-torn regions, such as the Middle East?

The questions here are all intentionally rhetorical. Yet, many experts and officials within the IAEA and the U.S. and other governments actively support at least one or more of the questionable nuclear initiatives referred to. This needs to change.

One of this report’s key recommendations is to encourage governments and the IAEA to reassess the agency’s estimates what a significant quantity is along with the conversion times for various materials and what the proper detection goals should be for the agency. The most important part of this reassessment is clarifying precisely what nuclear materials and activities IAEA inspections cannot be counted on to detect militarily significant diversions in a timely fashion. These activities and materials include plutonium, HEU and U233, making MOX, enriching uranium with centrifuges, reprocessing and fabricating plutonium-based fuels, and operating large research or power reactors in non-weapons states that might have covert or declared nuclear fuel making plants.

29. See Ann Mac Lachian and Mark Hibbs, Elaine Hiruo, “Kazakh Buy-in to Westinghouse Seen as Win-win for Kazakhs, Toshiba,” *Nucleonics Week*, July 12, 2007, p. 1 and Kenneth Silverstein, “As North Korea Gives Up Its Nukes, Kazakhstan Seeks a Nuclear Edge,” *Harper’s Magazine*, July 2007, available at <http://harpers.org/archive/2007/07/hbc-90000549>.

30. On the challenges of verifying a military fissile production cut-off treaty, see Christopher A. Ford, “The United States and the Fissile Material Cut-off Treaty”, *delivered* at the Conference on "Preparing for 2010: Getting the Process Right", Annecy, France, March 17, 2007 available at <http://www.state.gov/t/isn/rls/other/81950.htm>.

For these nuclear activities and materials, the IAEA would do well simply to declare that the agency can monitor, but not safeguard them – i.e., that it can mind these facilities and materials but not assure detection of their possible military diversion in a timely fashion. Such an honest announcement would be helpful. First, it would put governments on notice about how dangerous the conduct of certain nuclear activities most closely related to bomb making actually are. Second, it would encourage countries to demand more monitoring and physical security of these unsafeguardable nuclear materials and activities. The primary aim in increasing such security and monitoring would not be to block diversions so much as to increase the chance of at least detecting diversions after they occurred to help deter such deeds and to limit further the risks of nuclear theft or sabotage. It is difficult to determine what the optimal level of monitoring and physical security might be for this purpose but a good place to start would be to upgrade physical security at nuclear facilities handling or producing nuclear weapons usable materials to that currently found at the most secure nuclear weapons production and storage facilities.

Funding

As already noted, the IAEA's inspections of safeguardable nuclear materials and activities could be enhanced in a number of ways. More near-real time monitoring could significantly enhance the agency's ability to detect the diversion of fuel rods. Retention and expansion of experienced nuclear inspectors could help assure the IAEA actually meets its timelines detection goals and is able to analyze remote sensing information and imagery properly. Full support for the IAEA's environmental sampling activities would enable it to replace its aging Safeguards Analytical Laboratory and help the IAEA shorten the time needed to analyze samples from months to days or weeks. Much needed work to develop new safeguarding research capabilities and equipment could proceed much more quickly if more funds were made available.³¹ Similarly, with proper funding, the IAEA could muster reserve inspections staff and resources to meet unexpected demands and to provide the agency with a deployable wide-area surveillance capability.

The first step to address these gaps is simply to admit that they exist. For years, the IAEA has avoided doing this publicly. At the very outset of NPEC's investigations, early in 2005, the IAEA's safeguards planning staff briefed NPEC that it believed safeguards funding for the mid-term (i.e., the next five years) was sufficient. It conceded that it had

31 For a detailed discussion of what specific new safeguards capabilities the IAEA Department of Safeguards is investigating, see N. Khlebnikov, D. Parise, J. Whichello, "Novel Technology for the Detection of Undeclared Nuclear Activities" IAEA-CN148/32 presented at the IAEA Conference on Safeguards held in Vienna, Austria October 16-20, 2006, available at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=20070301-IAEA-NovelTechnologiesProject&PDFFolder=Essays>.

given little or no thought to what funding agency safeguards might require beyond this period.

Fortunately, in the last two years, the agency's approach to safeguards planning has changed for the better. Most recently the IAEA's director general highlighted the agency's lack of safeguards funding to deal with urgent inspections requirements associated with monitoring the shutdown of the reactor in North Korea. In a statement he made July 9, 2007, Dr. El Baradei explained that the IAEA was having difficulty paying for the nearly 4 million euros needed to cover the monitoring costs. He went on to note:

The DPRK case clearly illustrates the need for the agency to have an adequate reserve that can be drawn upon to enable it to respond promptly and effectively to unexpected crises or extraordinary requests, whether in the areas of verification, nuclear and radiological accidents, or other emergencies. The agency's financial vulnerability is also demonstrated by our current cash situation, which indicates that unless some major donors pay their outstanding contributions by the end of next month, the agency will have to draw from the Working Capital Fund in order to continue operations. And unless contributions are received by September, that Fund would be depleted. Finally, let me stress that the recent process of preparing and getting approval for the programme and budget for the next biennium has once again highlighted the urgent need for adequate resources to ensure effective delivery of the entire programme that you have requested. As I made clear during the last Board, even with the budget originally proposed by the Secretariat, the agency remains underfunded in many critical areas, a situation which, if it remains unaddressed, will lead to a steady erosion of our ability to perform key functions, including in the verification and safety fields.

At the conclusion of this statement, the director general then announced that he had initiated a study to examine the IAEA's "programmatic and budgetary requirements" over the "next decade or so". In addition, he announced his intention to create a high level panel to study to consider options for financing the agency's requirements.³²

The director general's announcement accords almost precisely to the recommendations Dr. Thomas E. Shea made to a select group of U.S. and European officials, including Dr. ElBaradei's top scientific advisor, Andrew Graham, at an NPEC-sponsored conference

32. See IAEA Director General Dr. Mohamed ElBaradei, "Introductory Statement to the Board of Governors," July 9, 2007, Vienna, Austria available at <http://www.globalsecurity.org/wmd/library/news/dprk/2007/dprk-070709-iaea01.htm>.

held in Paris, France November 13, 2006.³³ In his brief, “Financing IAEA Verification of the NPT,” Dr. Shea argued that North Korea “provides a clear justification” for additional safeguards funding and that to secure it the Director General “should convene a council of wise men to assist in determining how best to respond in this matter.”

As has been noted, the IAEA’s funding is based on a United Nations formula that weights a country’s gross domestic product and other factors. This formula may be sensible for raising general funds but for nuclear safeguards purposes, it produces several anomalies. Countries with no large reactors (e.g., Italy) are sometimes asked to pay in more than countries that have a score or more of them (e.g., the Republic of Korea). The UN assessment method also overlooks the actual inspections requirements particular nuclear facilities impose that are significantly higher than the norm. Nuclear fuel making plants of any type, reactors that are on-line fueled (i.e., fueled constantly while they are operating, e.g., heavy water and gas-cooled reactors, versus off-line fueled reactor, e.g., light water reactors), fast reactors all impose additional inspections challenges that are significantly higher than other types of nuclear facilities. Inspecting or monitoring these facilities cost much more than it does for other nuclear plants yet the operator or owner pays no premium to cover these additional expenses.

Finally, because the IAEA’s current approach to assessing its members for contributions fails to raise enough money for the Department of Safeguards, the agency must depend on additional voluntary contributions of cash and technical assistance. Almost all of voluntary contributions come from the U.S. (amounting to roughly 35 percent of the IAEA’s safeguards budget.). That so much of the safeguards budget is paid for voluntarily by the U.S. is politically awkward since the agency’s most challenging inspections cases – e.g., India, Iran, North Korea, Taiwan, and South Korea – are all of special interest to Washington.³⁴

Dr. Shea suggests several ways to increase funding for safeguards – everything from setting up an endowment to selling bonds. All of them are worth pursuing but one of his ideas is particularly deserving: The customer (i.e., the inspected party) should pay. There already is a precedent for doing this. Taiwan, which the IAEA does not recognize as being an independent, sovereign nation does not pay as other nations do but instead pays what the IAEA estimates it costs the agency to inspect Taiwan’s plants.

This report recommends that the U.S. take the lead getting the IAEA to help fund its safeguards activities with a user fee. The U.S. should continue to make its voluntary contributions but instead of making them outright, Washington should justify them as

33. See Thomas E. Shea, “Financing IAEA Verification of the NPT,” paper presented before a conference sponsored by the Nonproliferation Policy Education Center and the French Foreign Ministry, “Assessing the IAEA’s Ability to Verify the NPT,” 12-13 November 2006, Paris, France available at <http://www.npec-web.org/Essays/20061113-Shea-FinancingIAEAVerification.pdf>.

34. See U.S. GAO, *Nuclear Nonproliferation*, pp. 34-40.

representing a specific percentage of America's nuclear generating costs as it relates to the number of kilowatt hours its civilian nuclear reactors produce annually. Japan, which also gives voluntary contributions, should be urged to do likewise. Agreement might be reached on an international standard and this surcharge should be tacked on to the cost of electricity or other products these civilian plants produce. The last step would be to make the surcharge obligatory and assign all of the funds so raised to the IAEA's Department of Safeguards.

In addition to these funds, the agency should consider assessing an additional charge for the monitoring of unsafeguardable nuclear materials or facilities (e.g., nuclear fuel making plants and nuclear weapons or near-nuclear weapons usable fuels, etc.). Finally, an additional fee might be levied against nuclear facilities or plants that are particularly costly for the IAEA to meet its own timeliness detection goals (e.g., for on-line fueled reactors).

Rights

Some countries, of course, are likely to bridle at these proposals arguing that imposing surcharges would interfere with their right to peaceful nuclear energy. These arguments, however, should be dismissed. The exercise of one's right to develop, research and produce peaceful nuclear energy hardly extends to not paying what it costs to safeguard these activities. Also, the premise behind their argument is a dangerously distorted view of the nuclear rules – that so long as they can claim a nuclear material or activity has some conceivable civilian application, any state has a right to acquire it even if it is unprofitable commercially, brings its possessor to the very brink of having bombs, and cannot be safeguarded against military diversion. The danger of this over-generous interpretation of the NPT is obvious: It risks, as U.N. General Secretary Koffi Anan explained to the last NPT review conference creating a dangerous world full of nuclear fuel-producing states that claim to be on the right side of the NPT, but are, in fact, only months or even days from acquiring nuclear weapons.³⁵

Luckily, as research conducted for NPEC makes clear, this interpretation of the NPT is wrong.³⁶ The NPT makes no mention of nuclear fuel-making, reprocessing or enrichment. Spain, Romania, Brazil, and Mexico all tried in the late 1960s to get NPT negotiators to make it a duty under Article IV for all of the nuclear supplier states to

35. See Statement of UN Secretary General Kofi Annan, Statement to the Nuclear Nonproliferation Treaty Review Conference, May 2, 2005, UN Headquarters, New York, available at <http://www.acronym.org.uk/docs/0505/doc11.htm>.

36. Robert Zarate, "The NPT, IAEA Safeguards and Peaceful Nuclear Energy: An 'Inalienable Right,' But Precisely To What?," presented at *Assessing the IAEA's Ability to Safeguard Peaceful Nuclear Energy*, a conference held in Paris, France, November 12-13, 2006.

supply “the entire fuel cycle” including fuel making, to non-weapons states. Each of their proposals were turned down.³⁷ At the time, the Swedish representative to the NPT negotiations even suggested that rules needed to be established to *prevent* nations from getting into such dangerous activities since there seemed no clear way to prevent nations that might make nuclear fuel from quickly diverting either the fuel or the fuel making plants very quickly to make bombs.³⁸ They certainly were not interested in protecting uneconomical propositions that are unnecessary and that could bring states to the brink of having bombs.³⁹

A clear case in point was the NPT’s handling of peaceful nuclear explosives, which turned out to be so dangerous and impossible to safeguard that the treaty spoke only of sharing the “potential benefits” of peaceful nuclear explosives that would be supplied by nuclear weapons states. No effort, however, was ever made to request or to offer such nuclear explosives because they were so costly to use and no clear economic benefit could be found in using them.⁴⁰

37. See “Mexican Working Paper Submitted to the Eighteen Nation Disarmament Committee: Suggested Additions to Draft Nonproliferation Treaty,” ENDC/196, September 19, 1967, in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1967*, Publication No. 46 (Washington, D.C.: U.S. Government Printing Office, July 1968), pp. 394-395; “Romanian Working Paper Submitted to the Eighteen Nation Disarmament Committee: Amendments and Additions to the Draft Nonproliferation Treaty,” ENDC/199, October 19, 1967, in *ibid.*, pp. 525-526; “Brazilian Amendments to the Draft Nonproliferation Treaty,” ENDC/201, October 31, 1967, in *ibid.*, p. 546; and “Spanish Memorandum to the Co-Chairman of the ENDC,” ENDC/210, February 8, 1968, in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1968*, Publication No. 52 (Washington, D.C.: U.S. Government Printing Office, September 1969), pp. 39-40.

38. See “Statement by the Swedish Representative [Alva Myrdal] to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons,” ENDC/PV. 243, February 24, 1966, in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1966*, Publication No. 43 (Washington, D.C.: U.S. Government Printing Office, September 1967). p. 56.

39. See Eldon V.C. Greenberg, “NPT and Plutonium: Application of NPT Prohibitions to ‘Civilian’ Nuclear Equipment, Technology and Materials Associated with Reprocessing and Plutonium Use,” Nuclear Control Institute, 1984 (Revised May 1993).

40. See *Report of Main Committee III*, Treaty on the Nonproliferation of Nuclear Weapons Review and Extension Conference, May 5, 1995, NPT/CONF.1995/MC.III/1, Sec. I, para. 2, emphases added <available at <http://www.un.org/Depts/ddar/nptconf/162.htm>>, which states: “The Conference records that the potential benefits of the peaceful applications of nuclear explosions envisaged in article V of the Treaty have not materialized. In this context, the Conference notes that

Finally, in no case did the framers of the NPT believe that the inalienable right to develop, research or produce peaceful nuclear energy should allow states to contravene the NPT restrictions designed to prevent the proliferation of nuclear weapons. These restrictions are contained in articles I, II, and III of the treaty. Article I prohibits nuclear weapons states “assist[ing], encourage[ing], or induc[ing] any non-weapons state “to manufacture or otherwise acquire” nuclear weapons. Article II prohibits non-weapons states from acquiring in any way nuclear explosives or seeking “any assistance” in their manufacture. Together these two prohibitions suggest that the NPT not only bans the transfer of actual nuclear explosives, but of any nuclear technology or materials that could “assist, encourage or induce” non-weapons states to “manufacture or other wise acquire” them.⁴¹

If there was any doubt on this point, the NPT also requires all non-weapons states to apply safeguards against all of their nuclear facilities and holdings of special nuclear materials. The purpose of these nuclear inspections, according to the treaty is “verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons.”⁴² It was understood at the time of the treaty’s drafting it was hoped a way could be found to assure such safeguards. It, however, was not assumed that such techniques already existed.⁴³

the potential benefits of the peaceful applications of nuclear explosions have not been demonstrated and that serious concerns have been expressed as to the environmental consequences that could result from the release of radioactivity from such applications and on the risk of possible proliferation of nuclear weapons. Furthermore, no requests for services related to the peaceful applications of nuclear explosions have been received by IAEA since the Treaty entered into force. The Conference further notes that no State party has an active programme for the peaceful application of nuclear explosions.”

41. See Greenberg, “NPT and Plutonium” and Henry D. Sokolski and George Perkovich, “It’s Called *Nonproliferation*,” *Wall Street Journal*, Apr 29, 2005, p. A16.

42. NPT, Art III, para. 1.

43. For example, see “British Paper Submitted to the Eighteen Nation Disarmament Committee: Technical Possibility of International Control of Fissile Material Production,” ENDC/60, August 31, 1962 (Corr. 1, November 27, 1962), in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament, 1962*, Publication No. 19, Vol. 2 of 2 (Washington, D.C.: U.S. Government Printing Office, November 1963), pp. 834-852.

Conclusion

It would be useful if somehow, one could remind members of the IAEA of these points. The most direct and easiest way to begin is to make clear what can and cannot be safeguarded – i.e., what can and cannot be monitored so as to detect a military diversion *before* it is completed.

Beyond this, the IAEA should make sure the costs associated with monitoring and safeguarding all civilian nuclear activities are born by the facilities' owners, operators, and customers. The hope here would be that the poor economics associated with large nuclear power reactors and nuclear fuel making plants might help some nations reconsider the desirability of acquiring them. Making sure that the full external costs of IAEA inspections are carried by each inspected party would be useful. The NPT, after all, is dedicated to sharing the “benefits” of peaceful nuclear energy, not money losing programs that bring countries to brink of having bombs.⁴⁴

In this regard, it is worth noting that a popular idea to promote nonproliferation that enjoys IAEA support – assuring supplies of nuclear fuel at “affordable” or “reasonable” prices with fuel banks and the construction of fuel making centers in nonweapons states – could, under certain circumstances, actually undermine the NPT's intent. If these assurances come with subsidies, more countries may be enticed to develop large nuclear programs that may not be economically viable. If these assurances come, as they now do, with repeated pledges that the recipients of the fuel retain a *per se* right to make nuclear fuel any time they wish, then, there is a danger that after bootstrapping themselves up with fuel assistance, recipient nations will simply proceed to make fuel on their own. Finally, if the assurances result in building fuel making centers in countries that do not yet have nuclear weapons, the risks of nuclear weapons proliferation will surely be increased.⁴⁵

Unfortunately, there is no technical fix yet for the dangers associated with declared and covert nuclear fuel making activities. Initially, one of the claims of the U.S. Global Nuclear Energy Partnership (GNEP) initiative was it would make it possible to recycle spent fuel in a proliferation resistant manner and, thereby, strengthen the international nonproliferation regime. NPEC commissioned two leading national nuclear experts at

44. On these points, see Henry Sokolski, “Market-based Nonproliferation,” testimony presented before a hearing of the House Committee on Foreign Affairs, “Every State a Superpower?: Stopping the Spread of Nuclear Weapons in the 21st Century,” May 10, 2007.

45. On these points, see Charles Ferguson, *Nuclear Energy: Balancing Benefits and Risks* (New York, NY: The Council on Foreign Relations, April 2007).

MIT and Princeton to examine these claims.⁴⁶ Their conclusion – that these assertions do not hold up and that the recycling technology would be more not less difficult to monitor – now is closer to the view that even the Department of Energy itself is making. Its official strategy document now warns against spreading its “proliferation resistant” UREX system for fear it too might be diverted to make bombs.⁴⁷

Finally, routine inspections alone are unlikely to deter states from breaking the rules. One of the key reason why is that after the agency’s experience with Iraq, Iran and North Korea, it is no longer clear what might happen to the next nation that breaks its IAEA safeguards agreement or the strictures of the NPT. Pierre Goldschmidt, the former IAEA Deputy Director who headed up the agency’s Department of Safeguards, knows this first hand: He had to deal with Iraq, Iran, and North Korea where the burden of proof for misbehavior was laid at IAEA’s doorstep rather than with the suspect party. NPEC was fortunate to be able to commission Dr. Goldschmidt to review what might be done to correct this. His recommendations, which consist of developing a set of country neutral rules that come into play when the IAEA is *unable* to clarify suspicious behavior, when a majority of the IAEA board finds a nation to be noncompliant or is attempting to break free from the NPT before it is found to be in compliance -- are among the ones contained in this final report.

Adoption of these recommendations, along with the others, are essential to give the IAEA the resources and authorities it needs to succeed. Beyond this, member states must stop pushing the IAEA to safeguard nuclear materials and projects that are both unnecessary and so close to bomb making that no agency, national or international, could credibly safeguard them against military misuse. The balance, in short, that must be struck is to

46. See Franck von Hippel, “Managing Spent Fuel in the United States: The Illogic of Reprocessing,” January 2007 an NPEC-commissioned paper published as Research Report No. 3 by the International Panel on Fissile Materials, available at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=20070100-VonHippel-ManagingSpentFuel&PDFFolder=Essays>; Richard K. Lester, “New Nukes,” *Issues in Science and Technology*, Summer 2006, pp. 39-46 available at <http://www.npec-web.org/Frameset.asp?PageType=Single&PDFFile=20060600-Lester-NewNukes&PDFFolder=Essays> and Edwin Lyman, “The Global Nuclear Energy Partnership: Will It Advance Nonproliferation or Undermine It?” presented at the annual meeting of the Institute of Nuclear Materials Management, July 19, 2006 available at <http://www.npec-web.org/Essays/20060700-Lyman-GNEP.pdf>.

47. See U.S. Department of Energy, Office of Fuel Cycle Management, *Global Nuclear Energy Partnership Strategic Plan* (Washington, DC: U.S. Department of Energy, GNEP-167312, Rev.0, January 2007), p. 5, where the DoE notes that “*there is no technology “silver bullet” that can be built into an enrichment plant or reprocessing plant that can prevent a country from diverting these commercial fuel cycle facilities to non-peaceful use.* From the standpoint of resistance to rogue-state proliferation there are limits to the nonproliferation benefits offered by any of the advanced chemical separations technologies, which generally can be modified to produce plutonium....”

give the agency much more to do its job and to back off demanding that it tackle the impractical.

Appendix I

NPEC IAEA Safeguards Workshop Participants, 2005-2007

Graham Andrew, *Special Assisant to the Director General for Sci. & Tech,
Office of the Director General - IAEA*

Andrew Barlow, *Foreign and Commonwealth Office, U.K.*

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Kory Budlong-Sylvester, *NNSA - Department of Energy - USA*

John Bunney, *Former Adviser to the Department of Safeguards, IAEA*

Ed Burrier, *Professional Staff, Subcommittee on International Terrorism and
Nonproliferation*

Doug Campbell, *Office of Congressman Berman, USA*

Thomas B. Cochran, *Chief Nuclear Scientist, Natural Resources Defense Council*

Leland Cogliani, *Government Accountability Office*

Garry Dillon, *International Atomic Energy Agency (retired)*

Bruno Dupre, *Ministry of Defence, France*

Jack Edlow, *President, Edlow International*

Steve Elliott, *Department of State, Chief of Staff, Office of the Under Secretary of State
for International Security*

Phillipe Errera, *Deputy Director du Centre d'Analyse et de Prevision
Ministère des Affaires étrangères*

Steve Fetter, *Dean, School of Public Policy, University of Maryland*

Mark Fitzpatrick, *International Institute for Strategic Studies*

Jeff Fortenberry, *Congressman, USA House of Representatives*

Paul Fouilland, *Etat-Major des armées, France*

Thomas Göbel, *Ministry of Foreign Affairs, Germany*

Jose Goldemberg, *Former Brazilian Secretary of State for Science and Technology*

Pierre Goldschmidt, *former Deputy Director General, Head of the Department of
Safeguards, IAEA (Retired)*

Bruno Gruselle, *Fondation pour le Recherche Strategique, Paris*

Thomas Guibert, *Ministère des Affaires Étrangères*

Erwin Häckel, *German Council on Foreign Relations*

Glenn Hawkins, *Department of Trade and Industry, U.K.*

Brian Jenkins, *RAND Corporation*

Joanna Kidd, *King's College*

Bernadette Kilroy, *Director, Strategic Planning Office - Department of State - USA*

Michael Knights, *The Washington Institute for Near East Policy*
Michael Levi, *King's College London*
Ed Levine, *Senior Professional Staff Member, Senate Foreign Relations Committee*
Edwin Lyman, *Union of Concerned Scientists*
Cécile Maisonneuve, *Assemblée Nationale, France*
Jim McNally, *U.S. Department of State*
Quentin Michel, *EU Commission, Expert National Détaché on dual use export controls*
Thomas Moore, *Majority Staff, Senate Foreign Relations Committee*
Raphaële Pailloux, *Delegation General for Armaments (DGA) of France*
Florian Riendel, *First Secretary (Political), Embassy of Germany*
Guy Roberts, *NATO, Deputy Assistant Secretary General for WMD*
Henry S. Rowen, *The Hoover Institution, Stanford, former member of the U.S. Presidential Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction*
Wolfgang Rudischhauser, *German Foreign Ministry*
Guillaume Schlumberger, *Fondation pour la Recherche Stratégique, Paris*
Thomas Shea, *Pacific Northwest National Laboratory*
Pam Tremon, *U.S. Embassy, London*

Appendix II

The Proliferation Dangers of LWRs

Adding to the IAEA's nuclear inspection challenges is the continued spread of large research and power reactors to countries like Egypt, Algeria, and Iran that require lightly enriched uranium as fuel and produce a significant amount of plutonium-laden spent fuel — materials, which, as has already been noted, could be seized to accelerate the production of weapons usable uranium or plutonium. Most of these reactors are off-line fueled and so are considered to be “proliferation resistant” because their fuel cannot be removed or inserted without shutting the entire reactor down and because they are fueled with slightly enriched uranium that only a handful of advanced nuclear nations can produce. This makes inspections against possible diversions or misuse of the fuel easier than with graphite or heavy-water moderated reactors like those found in Israel, India, North Korea where the reactor is fueled “on-line”, i.e., while the reactor is still operating with natural uranium, a fuel that, unlike lightly enriched uranium, is much easier to produce indigenously.⁴⁸

But with the development in North Korea and Iran of covert enrichment and reprocessing facilities, the proliferation resistance of even these “peaceful” reactors now is far less than advertised. In fact, one could seize all, or a portion, of the many tons of fresh lightly enriched uranium fuel that normally sits outside of most power reactors for safety

48. An additional argument often offered to explain why light water reactors are proliferation resistant is that the plutonium they produce is “reactor” grade rather than “weapons” grade. This argument is specious. Reactor-grade plutonium will normally contain about 25 percent “even isotope” plutonium (Pu 240 and Pu 242). This even isotope plutonium reduces the predictability of the precise weapons yield of any explosive device that uses it but reactor grade plutonium can be relied upon to produce bombs with a minimum yield of at least kiloton. Reactor grade plutonium is also more hazardous to handle than weapons-grade plutonium, which normally contains no more than 6 percent even isotope plutonium. Still, for most national weapons efforts, the disadvantages of reactor-grade plutonium can be surmounted with proper weapons designs adjustments to make a weapon of any yield. On these points, see J. Carson Mark, “Explosive Properties of Reactor-Grade Plutonium,” *Science and Global Security*, 4 (1993), p. 111 and U.S. Department of Energy, *Nonproliferation and Arms Control Assessment of Weapons-Usable Fissile Material Storage and Excess Plutonium Disposition Alternatives* (Washington, DC: U.S. Department of Energy, DOE/NN-0007, 1997), pp. 37-39.

reasons,⁴⁹ divert it to a covert or declared enrichment plant, open the fuel rods, crush the uranium oxide fuel pellets, heat them and run fluoride gas over the material. The result would be the quick production of massive amounts of uranium hexafluoride without ever having to mine and mill uranium ore, or use a complicated hexafluoride production plant. More important, the enrichment of the uranium produced would reduce five-fold the amount of effort otherwise required to enrich natural uranium for use in nuclear explosives. This would significantly reduce the amount of time required for a country to produce its first uranium bomb.⁵⁰

Yet another way that would-be-bomb makers could exploit the operation of large reactors would be to divert the reactor's spent fuel either from the reactor itself, or from its spent fuel pond. Spent fuel is laden with plutonium -- itself a nuclear fuel, which -- once chemically stripped from the other spent fuel by-products, can make nuclear weapons of any yield. In fact, during the normal operation of large light water reactors of the sort Iran is building at Bushier, the reactor will produce 330 kilograms of near-weapons grade plutonium — enough to make over 50 crude nuclear bombs.⁵¹

As for chemically separating the plutonium from spent fuel, this could be accomplished in a facility as small as 65 feet by 65 feet (small enough to be built and hidden within an existing large warehouse). This plutonium separation plant also need not be elaborate. Yet another “quick-and-dirty” design plant, detailed by the nuclear industry's leading experts in the late 1970s (measuring 130 feet by 60 feet by 30 feet, see Figure IV below), employs technology little more advanced than those required for the production of dairy products and the pouring of concrete.

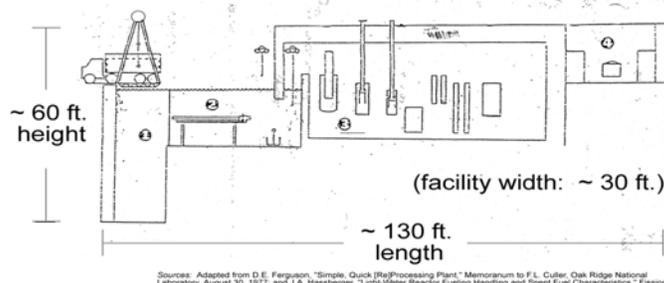
Figure IV

49. For a large power reactor of the size of Iran's Bushier reactor, it is customary to keep one reload, a third of a core consisting of 20 tons of lightly enriched uranium fuel at the reactor site.

50. For additional details on how fresh light water reactor fuel could be used to accelerate a uranium weapons program, go to Gilinsky, *A Reassessment*, pp. 35-41.

51. This near weapons grade material is referred to as “fuel” grade plutonium and contains no more than 14 percent even-isotope plutonium. For a detailed discussion of the weapons utility of reactor and fuel grade plutonium as compared to weapons grade, see, Gilinsky, *A Reassessment*, pp. 21-33 and Harmon W. Hubbard, “Plutonium from Light Water Reactors as Nuclear Weapons Material,” April 2004, (Washington, DC: The Nonproliferation Policy Education Center) available at <http://www.npec-web.org/projects/hubbard.pdf>

**Simple, Quick Reprocessing Plant
Designed to Make As Many as 20 Bombs
a Month (Ferguson-Culler)**
10-day startup, 1 bomb's-worth-a-day production rate



These relatively compact plutonium chemical separation plants could be built within other larger buildings undetected, would not send off any signal until operated, and could separate a bomb's worth of plutonium each day after the first 10 days of operation. Assuming the country in question had already perfected a working implosion device,⁵² the separated plutonium could be inserted to make a bomb directly – i.e., much more quickly than any outside party could act to block the diversion.

52. Although developing a working implosion device that can be used with either uranium or plutonium nuclear fuel is much more challenging than perfecting a working gun device, which can only be used to make a uranium bomb, it should no longer be assumed to be a major technical hurdle for most nations. Saddam Hussein's scientists perfected a working implosion device over 15 years ago. Working, tested designs have also been shared with at least the Pakistan, Israel, and Libya by the French, U.S., China, and Pakistan. For more on these points, see Barton Gellman, "Iraqi Work Toward A-Bomb Reported "U.S. Was Told of 'Implosion Devices'", *The Washington Post*, September 30, 1998, p. A01; Carey Stubblett, "Pakistan's Nuclear Weapons Program Development," January 2002 available at <http://nuclearweaponarchive.org/Pakistan/PakDevelop.html>; BBC News, UK Edition, "China 'Link' to Libya Nuke Design," 16 February 2004, available at http://news.bbc.co.uk/1/hi/world/middle_east/3491329.stm; and Avner Cohen, *Israel and the Bomb* (New York, NY: Columbia University Press, 1998), pp. 82-83 and Weissman, Steve and Krosney, Herbert. *The Islamic Bomb: The Nuclear Threat to Israel and the Middle East*. (New York, New York: Times Books, 1981), pp.114-17.