

**Lancaster House Conference on The International Fuel Cycle: Securing Safe Access to  
Peaceful Power  
Working Group E**

*How should the international community balance assurances of supply and services and proliferation concerns under the NPT?*

1. The group sought to address the following questions:

- What is the role of the NPT in assurances of supply?
- Can the two themes be linked? Should they?
- How can individual States Parties best assist the international community in balancing the concerns?
- Could a viable mechanism strengthen the NPT?
- Should MNAs become the norm under the NPT for sensitive nuclear facilities?

2. In practice, the group focussed its attention on two core issues: the provision of nuclear fuel assurances and services in situations of political disruption of the normal operation of the nuclear fuel supply market and the supply by technology holders of ‘sensitive facilities’ (i.e. enrichment and fuel reprocessing plants) to new entrants into the market / technology.

### **Fuel Assurances and Services**

3. Initial comments addressed the ability of assurances of fuel supply to act as a safety net / source of last resort in cases of market disruption for either political or any other reason. It was emphasised that an initial starting point was that their existence and operation should not distort the normal operations of the market. Moreover, a key technical issue was what was actually to be assured: the supply of yellowcake; low enriched uranium; or fuel fabrication services. The later was probably the most important type of assurance as fuel rods were often unique to a particular reactor (though in some cases the supplier also supplied the fuel fabrication technology as well). Thus what would be a credible assurance for specific reactor types, and thus their host state, could differ significantly and a family of assurances might be required to cover all possible cases.

4. It was acknowledged that the NPT says nothing specifically about assurances of fuel supply and services. Article IV.2 does however say that states ‘undertake ...to facilitate... the fullest possible exchange of ... materials...for the peaceful uses of nuclear energy’ and ‘shall also cooperate alone or together with other States or international organisations to the further development of applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world’. Assurances of peaceful nuclear supply and services thus appear to fall within the scope of this paragraph, and actions to provide them fulfil the obligations contained in it.

5. It was pointed out, however, that any fuel assurances would be provided through the IAEA under Article 9 of its statute, not the NPT. Article 9 is open to all IAEA parties, and not confined to those in the NPT. This may mean that if any agreement between the Agency and a state was to strengthen the Treaty, it would have to be specifically restricted to NPT parties. The converse was that any agreement which lacked such restriction might serve to weaken it.

6. Disquiet was expressed by some that plans for fuel assurances and services would inevitably result in forgoing rights contained in the NPT, or lead to the creation and operation of undesirable commercial cartels. More specifically, uncertainty was voiced over the legal status of any conditions that might be attached to fuel supply assurances for NPT parties in view of the ‘inalienable rights’ involved. It was argued also that there could be no

re-interpretation of the NPT or changes to well established rules. Others, however, pointed to the need for some rule to restrict co-operation in this area with states in non-compliance with the Treaty until full compliance was restored. Moreover, as co-operation between suppliers and consumers was an inherently non-zero sum activity, it could not involve the forgoing of rights in anything other than a voluntary manner. A key issue was thus whether states chose to link the NPT with assurances of fuel supply and services in a positive or negative way. Sustained engagement and dialogues between all interested parties appeared necessary, therefore, if there was to be a consensus that such developments would benefit all NPT parties.

7. It was also argued that it would benefit the NPT to have clear options about fuel assurances and services on the table by the Review Conference in 2010. Only in this way could there be created a viable assurance mechanism to strengthen the NPT. However, the 12 proposals made to date by individual states had generated confusion over which were competitive; which were complementary and could be fitted together to create an integrated multinational mechanism; and which were secondary and supplementary – nice to have but not absolutely necessary. In short, that there was a need to prioritise them.

8. It was also noted that two of the proposals would shortly come to the IAEA Board for approval, and thus a process of ad-hoc, rather than strategic, decision making was taking place round this issue. Such a process appeared unlikely to add to trust and confidence in either the NPT or the IAEA as, among other things, it gave an impression of the whole issue being driven by commercial interests. It was therefore suggested that ways should be sought to thin down rapidly the proposals and integrate them into a single assurance mechanism. This might be created via, for example, a UNIDIR study, or by refusing to take a decision at the June IAEA Board of Governors meeting on the two security assurance proposals scheduled for discussion and decision until an integrated strategy to deliver fuel assurances had been agreed.

### **Sensitive Items and Multinational Nuclear Arrangements**

9. While all NPT parties had a right to seek sensitive facilities, potential suppliers also had a right to withhold assistance to others in building such facilities if they believe a state was in non-compliance with the Treaty. There thus appeared a need for agreed criteria for judging non-compliance through its safeguards record if a state was an NPT party. However, the legitimacy of making export and trade judgements between sensitive and non-sensitive technologies in a non-discriminatory non-proliferation system was contentious, even though a minority of states in the nuclear suppliers group were implementing this procedure. This suggested the need for a mechanism to resolve differences in these areas.

10. A number of specific proposals were offered for addressing differences of views over access to sensitive items. One was to follow the UNRENCO method of responsible nuclear commerce by allowing enrichment facilities to be built in a country, but not allowing access to the technology (black boxing it). In this way the state concerned could gain the benefits of a national assured supply mechanism without the ability to build copies of the technology in the facility clandestinely. Another was to create Nuclear Fuel Cycle Free Zones under Article VII of the NPT, under which groups of regional states agreed to forgo national development of sensitive technologies in return for access to regional fuel cycle centres. However, some insisted that multinational regional centres of the URENCO type should not and could not become the norm, as this would undermined the ‘inalienable right’ of all NPT states to build national facilities housing ‘sensitive technologies’.