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JOINT STANDING COMMITTEE ON TREATIES

Reference: Nuclear nonproliferation and disarmament

THURSDAY, 26 FEBRUARY 2009

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JOINT STANDING
COMMITTEE ON TREATIES
Thursday, 26 February 2009

Members: Mr Kelvin Thomson (*Chair*), Senator McGauran (*Deputy Chair*), Senators Birmingham, Cash, Farrell, Ludlam, Pratt and Wortley and Mr Briggs, Mr Forrest, Ms Hall, Mrs Irwin, Ms Neal, Ms Parke, Mr Simpkins and Ms Vamvakinou

Members in attendance: Senators Birmingham, Farrell, Ludlam and Pratt and Mr Briggs, Ms Hall, Ms Neal, Ms Parke, Mr Kelvin Thomson and Ms Vamvakinou

Terms of reference for the inquiry:

To inquire into and report on:

- The international treaties involving Australia which relate to nuclear non-proliferation and disarmament.
- How these treaties advance Australia's objectives in this field.
- How the treaties might be made more comprehensive or effective.
- How inter-parliamentary action can assist in strengthening treaty-based aspects of the nuclear non-proliferation and disarmament regime.
- How the Committee and the Parliament can contribute to the work of the International Commission on Nuclear Non-proliferation and Disarmament.

WITNESSES

EVANS, The Hon. Mr Gareth, AO QC, Co-chair, International Commission on Nuclear Non-proliferation and Disarmament 1

Committee met at 10.14 am**EVANS, The Hon. Mr Gareth, AO QC, Co-chair, International Commission on Nuclear Non-proliferation and Disarmament**

CHAIR (Mr Kelvin Thomson)—I declare open this public hearing of the Joint Standing Committee on Treaties inquiry into nuclear nonproliferation and disarmament. This is the committee's first public hearing for this inquiry. Gareth, thank you very much for making yourself available for this hearing. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament.

If you nominate to take any questions on notice, could you please ensure that your written response to questions reaches the committee secretariat within seven working days of your receipt of the transcript of today's proceedings. Should there be any additional questions the committee may have that are not dealt with during the hearing, the secretariat will forward those to the commission secretariat.

Before I invite you to make some introductory remarks, there is one issue to deal with. We have been asked for permission for TV cameras to film. It is appropriate that I seek your agreement and that of the members of the committee before we agree to that course of action.

Mr Evans—That is fine by me.

CHAIR—If no-one has any objection, I will allow the broadcasting of the committee proceedings to occur. Gareth, I invite you to make some introductory remarks before we proceed to questions.

Mr Evans—Thank you, Kelvin. I welcome very much the opportunity to talk to you and your colleagues on this committee. Let me begin by putting the commission exercise into context. It was born of a desire to re-energise the international political debate at a high level, against a background of really a decade or more in which the international community has been sleepwalking when it comes to both nonproliferation and especially disarmament.

The last 10 years have seen one or two positive things but far more discouraging things: the emergence of India and Pakistan as nuclear armed states in their own right outside the non-proliferation treaty; the emergence of serious problems with both North Korea and Iran, demonstrating some of the weaknesses of the treaty itself as a disciplinary mechanism; the complete falling into desuetude or moribundity of arms control negotiations, such as the US and Russia at the conference in Geneva, where nothing has happened for the last decade. In the 2005 NPT Review Conference it was impossible to reach agreement on any language at all about the way forward under that treaty. At the 2005 world summit of the UN, attended by 150 heads of state and government, no agreement was able to be reached on any provision dealing with nonproliferation and disarmament.

Then of course we had the 9-11 events, demonstrating that out there were organisations—at least one—with a global intent to cause havoc. This is in an environment where we know now

that there is much greater capability on the part of non-state actors to translate that intent into action as a result of the explosion of information available on the internet, the black market activity of AQ Khan and the sheer access that already exists to a considerable amount of poorly secured fissile material and portable scale weapons.

The civil nuclear industry faces the prospect, as we know, of a considerable renaissance of activity in the context of the anxiety about global warming and the renewed interest in nuclear energy as an energy source. That, of course, in itself creates the potential for proliferation risks if the role of the industry in that respect is not seriously focused on. All this is occurring in an environment where there are still something like 27,000 nuclear warheads out there, a significant proportion of them in active deployment and a significant proportion of those in turn on hair-trigger alert or in a Cold War state of operational readiness.

We know that the risk of accident and miscalculation remains significant. We only have to remind ourselves of the incident just three or four weeks ago when, in the second largest ocean in the world, two armed nuclear submarines collided in mid-ocean. How they managed to achieve that is one of nature's miracles, but it is a demonstration of just how much of a factor human error is. We can all recall, just a year or so ago, the five or six strategic missiles that went missing for a day or two from a US air base without anybody noticing they had gone until somebody discovered them and brought them back. So the problem of miscalculation, of accident, is as real as it was during the Cold War years and, frankly, something needs to be done about it. So they are all of the problems.

On the opportunity side, on the positive side, I think two big things have happened. First of all, the famous article by the 'gang of four', Kissinger, Shultz, Nunn and Perry, in the *Wall Street Journal* in 2007, subsequently repeated a year later and picked up by similar heavies in other countries mounting similar arguments, for the first time in a very long time created a kind of intellectual momentum for a fundamental rethinking of this nuclear landscape and putting the elimination of nuclear weapons firmly on the agenda. A hard-headed, realist case being made for zero was really something new in the intellectual and political firmament, and it did have an impact. Then, secondly, there was the prospect and now the reality of a change of US administration which generated a very large degree of confidence that things might change in terms of the US's critical leadership role—and I will conclude my remarks by saying something about my discussions in the US just a few days ago.

The question is: what is the value added by a commission like ours in an environment where there have been so many earlier reports? I myself have participated in some of them, like the Blix commission. I think the answer is that there are at least five or six ways in which we can see this commission as having real utility. One is its timeliness. We could not quite have picked the moment, I guess, last year when the commission was set running, but there is no doubt that, with the way the momentum has developed in the context of the run-up to the NPT Review Conference in 2010 but also the way that other pieces are falling out, we could not be better placed to ride such a momentum and to add to that momentum, and there are a lot of people around the world now looking to the commission for the contribution it will make just by virtue of being around at this time.

A second way is the global perspective that the commission will bring to this. It is very much a worldwide enterprise. The membership of the commission, which I think you have had drawn

to your attention in previous documentation, speaks for itself, as does the way in which we are going to be meeting all around the world. There are the commission meetings themselves, not only in Japan and in Australia but also in Washington DC and in Moscow in the course of this year, as well as regional meetings for subsets of the commission, with key figures from the regions in question, planned now for Santiago, Cairo, Beijing and New Delhi, focusing on the regional issues in each of those areas. So it is a genuinely global perspective, reinforced also by that global network of associated research centres that is going to be giving solid, substantive input into our deliberations—and they are all listed in the documentation that you have.

The third dimension that I think means this will be a value-adding enterprise is the comprehensiveness of the commission's brief. A great many of these reports, although some of them have had wider ambitions, have tended to focus fairly single-mindedly either on the non-proliferation side or on the disarmament side—or, as in the case of the recent IAEA 2020 report chaired by Zedillo, on the peaceful uses side. What we are going to do in this commission is bring all these manifestly inter-related threads together and really be absolutely insistent on giving more or less equal weight to, certainly, the disarmament and non-proliferation elements in a way that has not perhaps previously been the case.

The fourth area of added value is in the fact that we are absolutely determined that the commission product should be accessible to a high-level political readership and indeed a mainstream community readership. When you look back on so many of these reports, I think it has to be acknowledged that it is the nuclear priesthood talking to other members of the nuclear priesthood—it is monks talking to monks—using the alphabet soup language that is intimately familiar to monks and the priesthood and those who lived and breathed this stuff during the Cold War years, but it is frankly not familiar stuff to the current generation of policymakers or parliamentarians anywhere in the world. We have to address these issues in language that recognises that reality and which explains from the bottom up the basic concepts and how they all fit together, and the commission is determined to try and do that.

The fifth thing is that I think you will find us producing a report and recommendations which are very hard-headed, practical, pragmatic, realistic, but still combining that with the appropriate degree of idealism because, at the end of the day, we are all totally committed to achieving a world without nuclear weapons but we understand the degree of difficulty involved in getting there and are determined to produce recommendations which are just not seen as violin playing but are practically focused and oriented so that there is a real world action plan there which can actually be implemented.

The final thing I want to say about value added is that we really want to place an almost equal emphasis on advocacy as on analysis and the production of the written record. We are already doing a fair bit of this. As the commission proceeds, these regional meetings of which I spoke are themselves advocacy occasions. The meetings we had in Washington last week—which I will come back to shortly—were major advocacy occasions. And it will be very, very important not just to dump a report out there and hope and expect that someone will take some notice of it; we are going to have to be quite active moving around the world and selling it. That is what the Australian government certainly is committed to supporting, and I would urge that this committee expresses support for that approach.

In terms of the substance of the report, as distinct from all these process and background issues, it is still early days yet for me to be able to be very forthcoming about where we are at because we are still working through the issues and reaching internal agreement and we have not, of course, sat down yet to write anything. But the broad shape of an action plan is emerging and it will, I think, be basically constructed around short-term objectives, medium-term objectives and long-term objectives, with the main determinant of how you describe those phases being what is possible, what is achievable, on the disarmament side. Most of the things we want to achieve on the non-proliferation side—the familiar repertoire of recommendations—ought to be achievable within a relatively short time frame and we do not need to be thinking about stretching things out to 2025 and beyond. But when we are talking about disarmament and getting to zero I think we have to be realistic that that is the frame of reference we need to have.

For the short term we are thinking in the first instance of the very short term that we face with the 2010 NPT Review Conference in May next year—but that itself is probably putting it in a bit too limited a fashion. We are thinking of a short term which is basically definable in a three- or four-year time frame, through to 2011 or 2012, the endpoint of which could conceivably be a special UN General Assembly session on disarmament designed to take stock of where we have got to in that time frame and to set an agenda for the world for the years following. Whether that is a good idea, a productive idea or a counterproductive idea is something we are still wrestling with, but any views that this committee might have on that particular subject would be welcome input.

The non-proliferation issues are fairly familiar, as I said—things like improving the verification mechanism under the NPT through, in particular, universally embraced take-up of the additional protocol; improving compliance under the NPT by creating some kinds of disciplines, perhaps involving Security Council engagement at an earlier stage, when a country actually walks away or purports to walk away or threatens to walk away from the NPT. There are other familiar issues, like the comprehensive test ban treaty, which is a building block for both nonproliferation and disarmament, and a fissile material cut-off treaty stopping the further production of fissile material for nuclear weapons, which again is a building block for both nonproliferation and disarmament and something which is on everyone's agenda. Also in the short-term framework—and I am thinking in terms of three or four years being the target within which to achieve these various things—one would also hope, of course, that the Iran and the DPRK, North Korea, issues could be resolved once and for all in a satisfactory way. That is the short term.

The medium term is what we are talking about, stretching out to, for the sake of argument, 2025. By that time we would hope that really, really major advances could be made on the disarmament front, to the point of getting to what might be variously called a vantage point, or a base camp, or a penultimate minimum, or a basement or a cellar—we are still wrestling with the appropriate metaphor—but an environment in which the number of warheads out there is dramatically limited, not just down to the sort of thousand-plus strategic weapons on each side which the US and Russia are currently talking about but dramatically limited below that, embracing tactical as well as strategic weapons and also having the buy in of all the nuclear armed states, both inside and outside the NPT, as well. So: dramatically limited numbers and an environment in which there is a dramatic limitation on their operational deployment—hopefully no operational deployment at all, with these things basically locked away and separated into bits so that days or even weeks would have to pass before they could be put back into operational

shape, and that is a consummation devoutly to be wished when you compare that with the high-alert systems we are operating under at the moment. Perhaps a third characteristic of that penultimate minimum stage, or the base camp stage, would be a general acceptance by all the nuclear armed states of an appropriate doctrinal discipline: namely, a commitment to no first use by all of them, and a serious commitment—conceivably, even a legally enforceable commitment, whatever that might mean—to such to such an outcome. So that is the medium term.

It might sound a long way away—2025—but, in terms of the scale of ambition that is involved in this, and the degree of complexity and difficulty in getting there, and bearing in mind how long it normally takes for these things to be implemented, 2025 is actually a fairly optimistic target. But it is one that I, and the commission, as presently advised, think is a realistic one. What we will be planning to do is to set out a fairly detailed timetable about how, step by step, this sort of outcome might be achieved.

The third stage is the longer term—2025-plus—in which the objective is, of course, to get from that minimal condition down to actual zero. And here, I think, we have to accept the reality that this is not going to be a straightforward continuum. It is much more difficult to talk about time-bound processes and dates certain, in getting from a minimum to zero than it is in talking about getting from here to a minimum, simply because there is a whole bunch of things that determine the way in which countries will make these decisions.

I think it is not too hard to persuade all the nuclear armed states that they are not really sacrificing anything in terms of protecting their own security by getting from where we are now down to that penultimate minimum stage. But persuading them that they are not sacrificing something in going from there to zero is going to be quite tricky in an environment where you are presumably going to have a continuation of significant conventional arms imbalance, you are going to have anxiety about regional tensions and unresolved problems, and you are going to also have anxiety about the global tectonic plates and who is exercising what kind of influence, and relative status and stature, other than in a purely regional environment. All of these things, along with the technical verification measures that will make everybody comfortable, are going to have to be resolved if we are genuinely going to get from a minimum to zero. It is very, very hard to put time limits on that stuff, but it is not hard to state it as a very strong aspiration. So that is, broadly, our thinking in terms of the overall shape of the report and the content of it.

We do hope, also, to say something quite useful on the civil nuclear energy side—but not, as some of you would prefer, that we think there should be a ban, completely, on any reliance on civil nuclear energy. While I understand the traditional reasoning of many civil society groups in favour of such a universe, realistically to bring that into play is an instant recipe for losing any kind of commitment to the non-proliferation targets and the basic continuing utility of the NPT, and I think we have to be realistic about that.

An expansion of civil nuclear energy—a dramatic expansion—even if oil prices stay as low as they are now, is a significant reality for the future. It is very important that we do not multiply proliferation risks associated with that expansion, and in that context we are going to want to talk to civil nuclear industry about proliferation-resistant technology, about voluntary codes of conduct—issues of that kind. In that context, we are hoping to begin a dialogue with the world's industry leaders at our next commission meeting in Moscow. How much of that will be

achievable? I think this will take quite some time to put together, but with the commission's life intended to extend at least until the middle of 2010, this is perhaps one of the themes that we can take up in more detail than will be possible just in these early months ahead.

Finally, let me say something quite specific about the advocacy enterprise that we engaged in in Washington DC just 10 or 11 days ago, when the commission met there. We devoted one full day to a series of advocacy meetings attended by me, my co-chair, Yoriko Kawaguchi, former Japanese foreign minister, and also William Perry, our US commissioner and former US defense secretary, who is a very distinguished and highly regarded American. A couple of the meetings I will mention were also attended by some other commissioners, but that was basically the core group. The people we met were, first of all, Vice-President Joe Biden—I think you have already been briefed on this—and, secondly, Jim Jones, the United States National Security Advisor, together with four of his senior directors in the National Security Council, including Gary Samore, who is going to be the key point man on a lot of these disarmament and non-proliferation issues in the period ahead. From the state department, Hillary Clinton was out of town, but we did meet with her deputy, Jim Steinberg, and a number of the senior players there. I should also mention that we met with a number of other putative state department appointees who have not yet been confirmed but who are expected to be serious players in this area. On top of all that, we had very good meetings with Senator John Kerry, chairman of the Senate foreign relations committee, and Howard Berman, chairman of the House foreign relations committee.

Apart from Defense going missing, which we will pick up on another occasion, it was as comprehensive a set of meetings as I think it is possible to have and at as high a level as it is possible to have, which I think in itself is evidence of how seriously this commission is being taken. We took the occasion not simply just to chat at large about these issues but specifically to advocate that the US take initiatives in five areas in the months and the year ahead leading up to the 2010 review conference and, by doing so, to try to really change the psychological landscape, which at the moment is badly in need of change if we are to ensure the success of the review conference and to ensure continuing momentum of enterprise here.

In that context, the five recommendations we made were, first, the two 'building blocks', as I have already described them, for both nonproliferation and disarmament—that is to say, the Comprehensive Nuclear Test Ban Treaty ratification by the US and removal of such obstacles as the US has been putting in the way of the negotiation of the fissile material cut-off treaty in Geneva. Nobody underestimates the degree of difficulty in getting the 67 senators who are required for that ratification, but, as I will say in other contexts, I think the will is there, and we spent quite a lot of time discussing the kind of strategy that will be needed to achieve that. They are the first two points. The third point was to urge—not that the US needed much urging—the plunge into urgent negotiations bilaterally with Russia on a replacement treaty for START and the accompanying Moscow treaty, SORT, which are designed to achieve further deep reductions in the US and Russian strategic weapons armouries. That treaty, START, is due to expire at the end of this year. The Moscow treaty is due to expire in 2012. If nothing happens, we will be left without any overarching legal framework for the achievement of further reductions and the existing verification mechanisms that are there and which need to be retained and extended. The fourth thing we urged was that, in addition to plunging into those negotiations on the deep force reductions, the US also seek to initiate wide-ranging strategic dialogues with both Russia and China on related issues.

In the case of Russia, that means a whole set of issues which are going to complicate that bilateral relationship: the missile defence issue, which clearly is alive and well in the context of the Polish and Czech proposed deployments; the question of dealing with tactical nuclear weapons, which Russia is going to be somewhat resistant to bringing into the equation but which very much need to be; the issue perhaps of conventional force imbalances which, over the long haul but maybe not so much in the short term, is going to be a really major impediment to ultimately getting to zero; and more immediately the question of de-alerting, taking these things off high levels of readiness. Some of this stuff could be done unilaterally, but politically we have to be realistic and acknowledge that it is clearly in the context of a bilateral agreement that the best chance of early progress lies.

As far as China is concerned, the suggestion was that a high-level strategic dialogue be initiated to deal with a whole range of issues like transparency; China's future intentions; how far it is determined to go in the modernisation of its own nuclear armoury; and what its reaction would be to ratification by the US of the test ban treaty and whether China can be persuaded to follow immediately, which would be extremely important if it can be. More generally, the whole question is how you multilateralise deep force reductions or significant force reductions in an environment where the initial focus is going to be very much on the US and Russia, because that is where 90 per cent plus of these weapons presently are. If you are going to get serious about getting down to an overall penultimate minimum, you need to have the other nuclear states getting into the equation sooner rather than later. On all those issues we are urging that a serious dialogue be commenced sooner rather than later.

The fifth, and last, issue was the issue of nuclear doctrine. The US has this Nuclear Posture Review coming up in which it is going to reconsider the basic question of what US nuclear weapons are for. At the moment, if you read that doctrine as articulated under the Bush administration, nukes are for everything. They are not only to deter other countries using their nuclear weapons against the US and its allies but also to deter the use of chemical weapons, biological weapons, conventional weapons, terrorist enterprises by states or even by non-state actors. It is a complete full flush, and, unless we start seeing from the United States a narrowing down of that, beginning with the statement that the only purpose, the sole purpose of US nuclear weapons is to deter other countries using nuclear weapons against the US and its allies, unless we see some movement in that direction sooner rather than later it will be very hard to persuade the rest of the world that the US is serious about moving on the disarmament front as well as just the non-proliferation side of the house.

That is what we were saying to all our interlocutors. What were they saying in return? I cannot go into detail about that in the nature of these occasions, but I can say that we were pushing at an open door. The reaction we had from our high-level US interlocutors was very encouraging. These were conversations with people who universally were thoroughly committed to the basic objectives of our commission and of the great majority of countries around the world that want to see progress now on these fronts. It was made very clear that that commitment starts with President Obama himself, who personally said a number of things during the campaign to indicate his commitment and where, clearly, he is giving the right cues to senior members of the administration. The kind of appointments that are being made of the second-level people—the directors and the key players in the NSC and State Department and elsewhere—are very encouraging again from this point of view. People with a track record of real contribution in

these areas are the people being appointed to the key positions. I think generally we can expect quite a lot of follow-through.

The proof of the pudding will, as always, be in the eating. In the real world governments start life with lots of good intentions and then they are swamped by other urgent priorities that come in over the top. Everybody is swamped at the moment, obviously, by the economic crisis, and that is going to occupy a huge amount of the time and attention of senior-level figures, but with people like Biden and Kerry, who have been living and breathing these issues for a very long time—as committed as they certainly seem to me and my colleagues to be—I think we can look forward to a very much more receptive environment and a very much more positive momentum coming out of the US than has been the case for the last decade or so. So it is an encouraging story.

Let me finish by saying that that response has largely been repeated in the discussions that I have had right around the world over the last few months while I have been working, getting this commission set up and having preliminary consultations, during the course of which consultations I have literally been to every one of the nuclear-armed states—not only the P5 countries but India, Pakistan and Israel as well. In every one of these countries, there is clearly a willingness to take this commission seriously—to regard it as not just yet another tedious exercise in stating the obvious that has been stated before. It is seen, as I began by saying, as a timely and positive contribution.

I think it is also being seen—and this is my very last word—as Australia playing itself back into the international game, from which we have been somewhat missing on a lot of these issues for a rather long time. Without being in any way partisan about that, I think it is fair to acknowledge that there is a bit of a hunger for leadership on these issues. While, obviously, the leadership is ultimately going to have to come from the big guys, not least the US itself, there is an extraordinarily useful role that can be played by creative, energetic middle powers that have a genuine global respect on these issues. The combination, in this instance, of Australia, which has had that reputation and is in the process of reacquiring it, and Japan, which has so much history, commitment and passion on this issue, is, I think, a formidable one. Hopefully, we have not created expectations that we are not now going to be able to satisfy, but that is where the commission is at. I will be only too happy to answer your questions.

CHAIR—Thank you, Gareth, for that characteristically comprehensive presentation on the work of your commission and the contemporary landscape on nonproliferation and disarmament. Last year you said that nuclear powers like India, Pakistan, Israel and North Korea needed to be brought inside a new framework alongside the existing signatories, and you referred to perceived discrimination in the treaty between the nuclear haves and have-nots. I am just wondering how you see that happening and how likely you see that as being.

Mr Evans—In an ideal world, of course, the NPT would embrace everybody, and the three major nuclear armed countries that never signed up to it, India, Pakistan and Israel, would somehow come within its framework; North Korea, which is presently in its twilight zone of having purported to withdraw from the treaty—but some people think that has been legally ineffective—would be back as a fully fledged player; and we would not have any more ambiguity or anxiety about Iran. That is the ideal world, but the truth of the matter is that there is no particular point in chanting, as so many people do in these gatherings of the first committee

or NPT preparatory meetings, the mantras: 'It's very simple; what India and Pakistan have to do is enter the treaty as non-weapon states—just give up their weapons and come in.' Equally, India and Pakistan say, 'We might be prepared to come into the treaty provided you recognise us as weapon states,' which again the other states are not prepared to do. So there is a problem about just saying that the NPT is the answer, although in an ideal world it would be. We do have these, as I call them, elephants outside the room, and what we have to do is find a way of bringing them into the room, the room in question being a global set of disciplines relating both to nonproliferation and to disarmament, with appropriate willingness to accept safeguards and verification disciplines.

There are two ways of achieving this other than by somehow finding some magic solution to bring them back within the NPT. One is to start again from scratch with the kind of nuclear weapons convention that is being proposed by a significant slice of the global NGO community, which would basically start from the beginning, with a new convention which would have within its scope the whole content of the NPT, plus the Comprehensive Nuclear Test Ban Treaty, plus the fissile material treaty, plus some additional verification strategies like in the PSI—the Proliferation Security Initiative—and so on which are taking place outside any of these treaty frameworks. It would be a great global catch-all, and we could start from the beginning.

The problem about that is that, while it is very intellectually attractive and actually quite emotionally attractive for many people, the notion of even negotiating a starting point treaty that enough countries are satisfied with to get out and seriously endorse will be a labour of Hercules, extraordinarily time consuming, and there is a real question about what the utility of that approach will be.

The remaining option then to bring these countries within the disciplines we are talking about is to think in terms of parallel processes of some kind—bilateral, plurilateral; ultimately multilateral. It is in that context that the India-US deal, for example, has been characterised as a positive step insofar as it does demonstrate that through a bilateral process—multilateralised now to some extent by the buy-in from the Nuclear Suppliers Group—you can get at least some new disciplines which were previously lacking, the discipline in question being a large number of Indian nuclear facilities being now subject to safeguards which were not previously. This, however, remains a controversial deal because there are aspects of that agreement which were perhaps not as robust as they might have been in imposing serious disciplines relating to testing, fissile material production and so on. So it is an ongoing issue as to what the precedential utility of that agreement is. But, as a way forward, as indicating that something like these mechanisms are going to have to be devised, I think probably we have to accept that that is the real world we are living in. That is really what I was hinting at last year, and I think that is the way the thinking of the commission is going—and that is not at odds with the thinking of many of the countries with whom I have been consulting so far.

CHAIR—The other one I want to ask you about—I do not know whether you think of it as an elephant outside the room—is Iran. How serious do you think are the unresolved issues with their nuclear program, and what would the implications be for the whole non-proliferation objective if Iran were to break and acquire nuclear weapons?

Mr Evans—The commission itself has not reached a commission view on this, so I am really speaking in a personal capacity or an International Crisis Group capacity. I have been quite

closely working the Iran issue for quite some time. I have been to Teheran within the last 18 months and I have spoken as recently as three weeks ago to Ali Larijani, the former negotiator, and many of the other key players—as well as talking at great length to the Europeans, the Americans and others with an interest in this—so I have some sense, I think, of the dynamics of this.

In short, it would be very, very dangerous indeed were Iran to acquire actual nuclear weapons. It would be extremely destabilising in the region. It would almost certainly generate a military response from Israel, maybe with other support, and that in turn, I think, would itself have quite catastrophically destabilising implications not only for the region but on a broader front. So the name of the game has to be to stop Iran crossing that big red line of actually weaponising, acquiring nuclear weapons.

Until now, the red line has been drawn at a rather earlier stage. The hope of the international community has been that, by appropriate pressure through UN Security Council sanctions and so on, Iran could be persuaded to abandon its fissile material production capability entirely and to wind that back to zero. Unfortunately, I think we have to acknowledge that, while the best solution, that is almost certainly the enemy now of a good solution because it is just not going to be achievable. The more we hang our hats on winding that capability back to zero, the more frustrated we are going to be, the more the Iranians are going to rush to acquire even greater capability and the more fragile the situation is going to be.

My own view, in short—and I can spell this out in more detail if you want—is that an acceptable, doable deal can be negotiated in the months ahead. That would involve a degree of acceptance by the West, unwilling though it might be, of some Iranian fissile material capability being maintained, combined with a very determined drawing of the red line short of weaponisation; a combination of incentives and disincentives to get the Iranians, to get everybody, to that position; and an extremely intrusive monitoring and verification regime involving, at the very least, the additional protocol disciplines which the Iranians have signed up to but not ratified or currently implemented. My instinct is that, if this issue is seriously negotiated, if some serious level of engagement and exploration can now occur with the Iranians, something like this is negotiable. I say that for many, many reasons based on my own discussions with all the relevant players, but I think that is an achievable outcome.

CHAIR—Okay. I invite you to say a little bit more about prospects for progress on two issues that you raised in your introduction. One was US ratification of the Comprehensive Nuclear Test Ban Treaty. You talked about the 67 senators and so on; are you expecting an administration initiative that puts it before them?

Mr Evans—What we will see, I hope, in the not too distant future, is the commencement of a series of hearings by the US Senate Committee on Foreign Relations, which is the necessary precondition, ultimately, to putting all this to a vote. I think those hearings will primarily address two issues about which senators were simply not persuaded back in 1999 when this issue was last before them. There is currently an acknowledgement that it was a pretty amateurish effort and a pretty incomplete effort in 1999 and not entirely surprising that it was greeted with the result that it was.

The two issues in particular the senators are going to be obsessive about are, first, satisfaction on the technical issue of stockpile reliability—in other words, that without a nuclear explosion test, which is prohibited by the CTBT, those nuclear weapons can be kept at a confident state of useability. There have been major reports on that issue since 1999, from the US National Academy of Sciences and other key bodies, suggesting that there is no need for tests to take place; it can all be done through computer simulation and so on. This, I think, has changed the nature of that debate. Nonetheless, it is going to be very much a live issue and it is going to be get caught up and entangled with the issue of a so-called reliable replacement warhead, which is being enthusiastically supported by some in the military and the military-industrial establishment but would be a very unhappy development indeed if it were to occur. A whole new class of nuclear weapon being developed would send about as wrong a message as one could possibly envisage to the rest of the world about the seriousness of intent on the disarmament front.

The second issue is to persuade the senators that there is now in place such a comprehensive worldwide verification system, with seismic monitoring, hydroacoustic monitoring, radionuclide air atmosphere testing and monitoring, that we can really be confident now that any test—including below ground, of course—can be detected almost anywhere in the world. The fact that the North Korean test, which was a bit of a fizzer in terms of these things—I cannot remember the exact yield of it, but, whatever it was, it was not a huge explosion—was able to be detected seismically and then verified by atmospheric radionuclide testing a few days later is the best possible practical demonstration we have that that verification system works. It has been put in place by the CTBTO, the comprehensive test ban organisation, which is alive and well and working in Vienna although it does not have a treaty to support it.

There are other issues that are going to come into that debate, including the fact that I think US senators are going to want to know what the response to US ratification will be from the other hold-out countries. As the committee may know, nine countries that have not yet ratified the treaty have got to ratify it before it comes into effect, and that means not only the United States but also China, India, Pakistan, Indonesia, Egypt, North Korea and Israel—is that nine? Almost.

What people are going to be concerned about is that, if the US does go through this protracted process and does ratify, it will bear positive fruit elsewhere. I would be very confident about a positive response from China, probably also from India. I am not quite so sure about the other countries, but part of the advocacy effort and part of the work of this commission will be, over the next few months, to try to create an environment in which we can hopefully give some positive feedback to the US process about what the likely international ramifications will be.

It is going to be very tough, because you are going to have to bring with you a significant slice, obviously, of Republican senators. You are certainly going to have to have Senator Lugar and others, and people like Senator McCain, who did not vote for this in 1999. They are going to have to be part of the coalition of support. And a lot will depend on the overall political environment. Whether this can be done by the 2010 review conference next May remains to be seen, but there is a willingness that I can discern clearly on the part of the administration and its key supporters in the Senate to move this forward.

Senator BIRMINGHAM—Did you or members of the commission meet with the ranking Republicans or any of the key Republicans to whom you have referred during the recent US meetings?

Mr Evans—My co-chair met with Senator Kyl, who is the absolute diehard opponent of the CTBT and who is leading the charge already against that. She did her best the day before the meeting started to persuade him of our seriousness of intent and all the rest of it. But clearly there is going to be significant opposition. In the period ahead I will be spending some time personally with senators. I know Senator Lugar very well. I will be seeing George Shultz, for example, one of the gang of four, who is still very influential with the Republicans, in California in April. Although we did not get the opportunity to speak with more than a handful of Republicans—just in the margins of other events—I think we do have to acknowledge that the outreach has to take place in that direction. Frankly, however, for the Republicans the most important issues are the technical issues on which they are going to want to be persuaded by US experts, and it will be fairly difficult to get them energised simply with the force of international reasoning—but we will try.

Senator BIRMINGHAM—Do you see it purely as an advocacy role for the commission or do you expect to actually appear before the Senate foreign relations hearings and so on?

Mr Evans—That is entirely for them. Again, I do not know whether that would be productive in the light of what I have just said or whether it would be seen as unhelpful. I do not know; I will just take advice. We did not ask to appear before them, and they will be thinking hard about what kind of strategy to adopt in this respect over the months ahead. I think if we were able to come up with some evidence that an international response would be extremely positive to a US ratification then that would be a role that we could play, but maybe that is thinking a few too many bridges ahead at this stage.

CHAIR—You referred to the negotiations between the US and Russia concerning reducing the nuclear arsenals. How likely do you think an agreement is and what do you think the content of such an agreement might be?

Mr Evans—I think it is very likely that there will be an agreement, because it is in the interests of both sides to reduce the costs and stress that is associated with having many more warheads, many more strategic warheads, than they need. Both sides acknowledge that the present numbers—even though they are right down on what they were during the Cold War years—which are still in the multiple thousands are far too many. Whether it gets down to an agreed 1,000 on both sides, which has been the subject of some speculation, quickly or whether this will be a phased approach remains to be seen. There are a lot of complications in terms of how you count these things—is it delivery systems; is it the warheads themselves? There are also all sorts of issues about taking things out of deployment but then putting them in storage and not destroying them and how you count those—whether that is the objective or whatever.

Also, as I have said, this will get complicated, probably quite early, with concern about substrategic or tactical or battlefield or airdropped weapons and so on that are different from the strategic missile delivered ones. But hopefully those issues can all be separated out and the common commitment to getting the big numbers down quickly will actually produce some results—literally, within the next year. Certainly I sense a very strong determination on the US

side to achieve that. From my conversations—I have been to Moscow and I have talked to the foreign minister and other Russians, including in the aftermath of Georgia and other such excitements of recent months—my sense is that whatever other issues are in play, whether it is NATO enlargement or all the rest of it, in a sense this is somewhat on a different track. There is a sense of urgency about the need to come up with a replacement for START and SORT and the follow-on arrangement. I would be pretty confident that something can be negotiated sooner rather than later. Again, whether that is in time to feed into the NPT review process as a major achievement remains to be seen. It could be, but who knows.

Ms HALL—When you spoke about your discussions in the US, you mentioned that Defense was not involved. How can the Defense Department and those in Defense be involved and how vital is that to moving forward and for the US to move its position?

Mr Evans—It will be very important because they are obviously critical players. So too is the Department of Energy in that respect. They have historically had a major role to play in all of this.

Ms HALL—Were they involved?

Mr Evans—The problem is that Energy had none of its key people in place—apart from Secretary Chu himself, who was unavailable at short notice. The problem with Defense was not so much unwillingness but just the transition. Michelle Flournoy, who has the primary responsibility in this area, had literally been appointed three days earlier—and we arrived on the Friday before a long weekend, so it was a chaotic environment. I do not sense any unwillingness to engage with the commission, and we will certainly try to pick up the pieces on subsequent visits. That said, Defense is Defense. It has a view on these things and may take a little bit more persuasion. For example, on the nuclear doctrine issue, we have already had some indications that most of the concern about narrowing that doctrine is going to come from that side of the house. So there is quite a long interagency process ahead.

What is interesting about the new US administration is that the National Security Council is coming back into central focus as the coordinating disciplinary agency within the government—in a way that, frankly, it was not during the Bush administration. And it was not as strong, frankly, as it could have been in the latter years of the Clinton administration; it was not perceived as such. But there really has to be someone holding the ring in this very complex, byzantine US process to ensure that, where there are differences, they do not just create stalemates but decisions are made. With General Jones, who is a very competent and highly regarded player, now in charge of the NSC, and with a very strong cast of characters in the senior positions there, I think we will see a bit of a counterweight to what might otherwise be a foot-dragging role on the part of the Pentagon. But it is too early to make competent judgments about any of this stuff yet.

Senator BIRMINGHAM—You have spoken a lot about the need for practical, realistic, pragmatic and acceptable deals. In relation to the United States's bilateral agreement with India, despite some misgivings would you describe that as a net positive in terms of providing some safety and controls around India?

Mr Evans—I would say the positives and negatives are rather finely balanced. I do not really want to get too much further into that because it is still the subject of lively discussion on the commission and we have not quite formulated a view. I cannot really add to what I said before. The good news is that it shows that something is achievable outside the framework of the NPT, which at least notionally brings people into a disciplinarian framework and exposes facilities and institutions to safeguards and so on that were not previously part of that repertoire. The less-good news is that those disciplines are not as strong as they might be and, if applied elsewhere—in the case of Pakistan, example—I think they would have a lot of people feeling that this is not good enough.

One of the issues here is whether or not these sorts of agreements should be criteria based rather than country situation based. If a number of criteria for the degree of control and accountability of the material in question had been specified in advance and then it had been adjudged that, yes, India satisfies those criteria but other people do not yet, I think most observers would have felt slightly more comfortable about that approach. But it is very finely balanced and is the subject of intense debate. Mohamed ElBaradei—who is as tough a guy as you could find on issues of nonproliferation and disarmament and as committed as anyone you could find—was a very early supporter of the agreement. Other people have been much more critical of it, including some members of my own commission. I am just trying to steer a course through this at the moment.

The reality is that it is a done deal—it is out there. The thing is to ensure that we work on strengthening those parts of it for the future that are perhaps not as strong as they could be, recognising the political difficulties that will be in the way of that, given the huge amount of dissent, even in India itself, as to whether it was a good deal for India—which surprised a lot of international observers, because manifestly it was. It is a demonstration of just how it will be to negotiate these things.

Senator BIRMINGHAM—With appropriate safeguards in place, can you see a time when there would be a positive for Australia in entering into similar bilateral arrangements with India with regard to the sale of uranium?

Mr Evans—I would prefer not to get into bilateral issues, whether Australia-India or Australia-Russia. I think that is outside the scope of my present mandate.

Mr BRIGGS—But you can see the difference between civilian and military—the bilaterals—with civilian use of nuclear power, recognising the benefits that it has for climate change issues, compared to the use for military purposes?

Mr Evans—Yes. As I said earlier, any attempt to wind back the clock and say that the best way forward in dealing with the whole problem of proliferation is to just stop any further expansion of peaceful nuclear energy production and indeed to wind back—as some European countries have decided to do in recent years—and let the existing installations die when they are dead, is, I think, frankly, not going to be a very helpful approach. Most of the countries that have entered into the NPT have done so very much on this two-way street bargain: that we get support for peaceful nuclear uses in return for which we agree not to engage in military uses. That is the reality that is out there and the overwhelming thinking around the world, and any attempt to cut

across that—which some of the NGO community is urging us to do with this nuclear weapons convention and so on—would, I think, be very counterproductive indeed.

We have to accept the reality and just work to ensure that any further expansion of civil nuclear energy is done in a way that respects the three Ss of safety, security and safeguards. Most of the focus until now has been on safety and environmental issues. We have to really, really seriously focus on the security issues, ensuring the non-dispersal of active fuel, waste products and so on that could be used to generate fuel sources, and the whole issue of safeguards, ensuring that these facilities are very, very closely scrutinised to ensure that there is no diversion.

Beyond that, as I mentioned in passing in my opening remarks, I think what we are looking to from civil nuclear energy is a far more concerted effort to try to create proliferation resistant technology in the future, which, without going into the technical detail, basically means closed fuel cycles. This raises quite tricky issues because getting to there can often expose you to more risks along the way. But, once you are there, you do not have the problem of waste products and so on. This stuff is highly difficult, technically quite complex and quite sensitive commercially, but I think that kind of focus is the way forward, rather than try to think in terms of winding the clock back completely and getting to a nuclear fuel-free universe.

Senator BIRMINGHAM—Other committee members probably have lots of other questions, so I have two quick ones. Firstly, respecting your desire not to get into bilateral discussions, have they nonetheless been raised with you by Russia in terms of concerns about Australia's failure to proceed?

Mr Evans—No, not directly with me.

Senator BIRMINGHAM—Lastly, whilst, of course, there is a lot of engagement with the foreign policy establishment around the world on this matter, what engagement are you seeking with the defence establishment and the defence side of governments around the world? In your opening statement you spoke a lot about the policy wonks around the world who talk about these matters. It is one thing within government to have support on the foreign policy side; it is another thing, of course, if defence is dragging countries in a totally different direction.

Mr Evans—Our intent will certainly be to talk to the defence establishments. The way these regional meetings are being constructed is that the key countries are going to be asked to send appropriate delegations which are a mixture of official personnel or think tanks and, where appropriate, the NGO community as well. The official delegations would certainly, we hope, include both the foreign affairs and the military representatives, because, as you very accurately say, without their buy-in to this stuff not a lot is going to happen. In the case of Pakistan, our representative on the commission is in fact a retired general and former chief of staff, so we have that very direct line in, and we have similar equivalent relationships elsewhere.

Senator BIRMINGHAM—As a point of clarity, are the commissioners appointed by the governments or do they have standing with their governments?

Mr Evans—No. Actually I should have made it clear in opening that, even though this is a government initiated thing, with Australia and Japan as governments formally setting the thing up and supporting it, the commission is wholly independent of government. While there was

some consultation with governments in describing the sorts of people we were looking for on the commission and some willingness to listen to what governments in some cases were prepared to suggest by way of names in that respect, essentially the decision to make the appointment was that of the co-chairs and our respective governments. Everybody has been appointed on a personal basis. Obviously, with a couple of countries—you can probably guess which—you are not going to get very far in terms of having any influence with your final product if you do not have someone who is not at least acceptable to the governments in question. That was a factor in a couple of the appointments. But the same logic really applies to everyone. Unless we have people who are going to be genuinely influential with their own governments as well as others, there is not much point in having them on the commission. Really, we are an independent commission, but the real world does on occasion intrude.

Ms NEAL—Essentially you are not negotiating on behalf of any state.

Mr Evans—No, I am not negotiating from an Australian position. It is the same with my Japanese colleague, and we are not negotiating with other governments through their proxies on the commission. We are just trying to reach agreement as a group of hopefully well-informed and well-connected individuals and a group of individuals who know very well what the internal dynamics are in these countries, but we are not negotiating with governments.

CHAIR—It is my melancholy duty to inform the committee that our booking of the room has expired. I did not realise we were operating under a time constraint, but I am told that another committee now has the use of the room. I think it might be appropriate that, if people have questions they would like to ask, our secretariat might provide them to you, Mr Evans, and perhaps you might be willing to give us a considered response to things that have not been raised this morning. I thank you very much for coming along. You have given us a great deal of food for thought. As an initial hearing it is certainly helping us to organise and concentrate our thinking.

Mr Evans—I have something I might suggest to the committee. You were asking me previously what contribution the committee could make. One of the issues very much in our mind is what would be the best institutional vehicle for mobilising government and community, civil society, support worldwide as this momentum hopefully develops. Is it perhaps something like the nuclear weapons convention which the NGO community is urging upon us? Or might there conceivably be some utility in approaching this with the same basic thought in mind but in a different way—perhaps, for example, by preparing a simple one- or two-paragraph convention which would embody the declaratory judgment made by the International Court of Justice that the use of nuclear weapon is against international humanitarian law? Maybe, just maybe, there would be some utility. Some people would say that unless you go all the way and argue for absolute prohibition of possession you are compromising and therefore you do not energise the community you want to; others would say it is just unproductive, rather than counterproductive. We are wrestling with this because the Ottawa and Oslo convention processes do give you some sense of the utility of being able to mobilise a wider constituency so that even if you do not get early buy-in from the countries that matter most, in the sense of the nuclear armed states, maybe it is a way of generating that kind of psychological momentum.

This is something on which the commission presently has a completely open mind. It is something on which you as politicians, as parliamentarians with connections with other

parliamentarians around the world may well have a view. If you can make a recommendation we would certainly take it very seriously.

Senator PRATT—If we are looking for something early then it need not necessarily be a complex document, if you are talking about something that needs to give some momentum in the next couple of years.

Mr Evans—There might be advantage in it being a very simple document.

CHAIR—All right. Thank you again.

Resolved (on motion by **Ms Hall**, seconded by **Ms Neal**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.21 am