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JOINT STANDING COMMITTEE ON TREATIES

Reference: Nuclear nonproliferation and disarmament

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**JOINT STANDING
COMMITTEE ON TREATIES**

Monday, 11 May 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, Mr Murphy, Ms Neal, Ms Parke, Mr Simpkins and Ms Vamvakinou

Members in attendance: Senators Birmingham, Ludlam, McGauran, Pratt and Wortley and Mr Briggs, Mr Forrest, Mr Murphy, Ms Neal, Ms Parke, Mr Simpkins and Mr Kelvin Thomson

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.

And:

To inquire into and report on:

- Treaties tabled on 12 March 2009.

WITNESSES

**ALLEN, Mr Malcolm, Assistant Commissioner, International Relations, Australian Taxation
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WOOD, Mr Gregory Kenrick, Policy Adviser, Department of the Treasury 1

Committee met at 10.02 am

ALLEN, Mr Malcolm, Assistant Commissioner, International Relations, Australian Taxation Office

MASON, Mr David, Executive Director, Treaties Secretariat, International Legal Branch, Department of Foreign Affairs and Trade

WOOD, Mr Gregory Kenrick, Policy Adviser, Department of the Treasury

Agreement between the Government of Australia and the Government of the Isle of Man on the Exchange of Information with Respect to Taxes

Agreement between the Government of Australia and the Government of the Isle of Man for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments

CHAIR (Mr Kelvin Thomson)—I now declare open this public hearing for the Joint Standing Committee on Treaties' ongoing review of Australia's international treaty obligations. The committee will take evidence on two treaty actions, which were tabled in the parliament on 12 March 2009 and on the committee's inquiry into nuclear nonproliferation and disarmament. We will be hearing from witnesses representing the Australian Taxation Office and from Ms Martine Letts, the Deputy Director of the Lowy Institute for International Policy. I thank witnesses for being available for this hearing. We will now take evidence on two taxation agreements with the Isle of Man. I call representatives from the Australian Taxation Office.

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 the proceedings of the House and Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. If you nominate to take any questions on notice, could you please ensure that your written responses to questions reach the committee secretariat within seven working days of your receipt of the transcript of today's proceedings. I invite you to make any introductory remarks before we proceed to questions.

Mr Wood—The proposed agreements with the Isle of Man include a tax information exchange agreement and an agreement on the allocation of taxing rights. In our view, the proposed agreements will benefit Australia by enabling us to better administer and enforce our tax laws. The proposed agreements are an important element of Australia's ongoing commitment to the OECD's efforts to curb tax avoidance and evasion through enhanced international cooperation. Australia, along with other OECD countries, is actively pursuing bilateral tax information exchange agreements with low-tax jurisdictions that are committed to the OECD principles of transparency and effective information exchange for tax purposes. The proposed tax information exchange agreement requires the two treaty partners to have in place necessary legal and administrative frameworks to support their commitment to information exchange and, further, the ability to exchange information cannot be hindered by restrictions such as bank secrecy laws.

The proposed agreement on taxing rights, which will allocate taxing rights over certain income between the two countries, is part of a package of additional benefits designed to encourage jurisdictions to conclude tax information exchange agreements with Australia. Essentially, that agreement will relieve double taxation of certain cross-border income derived by residents of Australia and the Isle of Man. It will also provide an administrative mechanism to resolve transfer pricing disputes. Due to its limited application to pension recipients, government employees and students, the cost of the agreement to Australia will be negligible.

In conclusion, tax information exchange agreements are an important tool in Australia's efforts to combat offshore tax evasion, and we therefore recommend that members of the committee support the treaty action proposed. Thank you.

CHAIR—Thank you. The committee has noted that the amendments to the International Tax Agreements Act required to bring these two agreements into force have been introduced into the parliament prior to this committee finishing the inquiry and making recommendations about these agreements. Why is that the case?

Mr Wood—It is not quite correct to say that both agreements are in parliament. Only the agreement that deals with the allocation of taxing rights is in parliament. The other agreement, the exchange of information agreement, does not require legislation to give it the force of law.

But to answer your question, you may recall earlier in the year we came to the committee concerning similar agreements with the British Virgin Islands. Those agreements were ready to go into parliament back then, and we merely added this agreement onto the same bill for reasons of drafting efficiency. It was a very easy thing for Attorney-General's to do two at once, if you like.

CHAIR—It might be, but the principle of parliamentary scrutiny of agreements prior to the government effectively ratifying them through the introduction of legislation is an important principle, so the committee might like to consider that issue presently. How significant is the Isle of Man in terms of tax evasion for Australia? Do you think that significant Australian tax evasion will be discovered as a result of this agreement?

Mr Allen—We see the Isle of Man as being midrange risk. It is not particularly being used for aggressive tax planning as such. When we look at the number of transactions showing up on AUSTRAC, it is there but not a major player. We are not seeing known, active promoters targeting Australians. But what you probably find, in common with many of the Channel Islands, is that a lot of people, before they migrate to Australia—and it may be from their affair before they even consider migrating to Australia—would have Channel Islands accounts with the UK banks that are present there. So what we tend to see is that there are pre-existing arrangements in place that then become taxable in Australia once they become residents here.

CHAIR—When you say 'midrange risk', what sort of order of money are you thinking about?

Mr Allen—The latest AUSTRAC figures we have are for the 2007-08 year, and, in round numbers, there was \$340 million coming into Australia from the Isle of Man and there was \$350 million going out. In terms of the number of transfers, there were about 5,500 coming in and 4,600 going out. I just need to point out that, when I look at AUSTRAC numbers, a number of

those are always legitimate trade. The harder part for the ATO is working out which ones are related to tax avoidance and other arrangements that impact on our tax system.

CHAIR—I have had some concern expressed about the tax information exchange agreements—that they are limited in their prospective effectiveness. To look at this one with the Isle of Man, it talks about ‘exchanging information that is foreseeably relevant’ to the administration and enforcement of tax laws. The concern has been expressed that this puts the cart before the horse and that, unless you can get access to bank accounts, you are not in a position to confirm suspicions or get to the point where you can ask for this information. What is your view about that?

Mr Wood—That is a standard feature of international exchange of information agreements. You will find the same condition attached to the exchange of information articles in our tax treaties. The principle behind that is that you should not engage in what we call fishing expeditions. You need to have a certain amount of information about a person or a company before you make a request. You cannot make a speculative request for information that you may not necessarily need.

CHAIR—Is it fair to say that we and other OECD countries which have signed these agreements will have to prove that we already have sufficient proof of criminality before authorities in these countries, like the Isle of Man, will hand over bank account details?

Mr Wood—It does not have to be a criminal offence; it can be a civil tax matter. This agreement will cover both civil and criminal tax matters. The burden of proof for civil cases is much lower than it is for criminal cases. That is where the ‘foreseeably relevant’ standard comes into play.

CHAIR—Do you see it as being significantly different from the present arrangements? Do you see it as a step forward when compared with the present arrangements?

Mr Wood—My understanding is there are no present arrangements with the Isle of Man. I believe—and I will take this on notice—that we do not have a mutual legal assistance treaty with the Isle of Man, so there is no scope to exchange tax information whatsoever with the Isle of Man.

CHAIR—What is your response to those who say that we need to abolish bank secrecy, that that is the core of the tax haven problem?

Mr Wood—We would agree with that principle. These tax information exchange agreements effectively override bank secrecy. The countries with which we signed the agreements are required to remove bank secrecy in order to implement the agreements.

CHAIR—The G20 finance ministers met in March. Is there anything out of that meeting that is relevant to this discussion? I understand it was on their agenda.

Mr Wood—Yes, it was. The G20 came out quite strongly in favour of worldwide implementation of the OECD standards on transparency and information exchange. In the lead-up to that meeting and immediately afterwards some 15 countries made a commitment to

implement those standards, and some of those countries would be regarded as bank secrecy countries. It had quite a big impact on the issue of transparency in general. The Isle of Man had already committed to implement those standards, so I guess with the Isle of Man there was little change. If you look on a broader basis, there was a lot of reaction from countries to the G20 and a lot of positive announcements.

CHAIR—In your view to what extent have tax havens exacerbated the global financial crisis? Will this sort of agreement go any way to ensuring that tax havens cannot cause this kind of damage in the future?

Mr Wood—It is a step in the right direction. We have not done any analysis of to what extent that will happen, but there is a school of thought that, in times when governments require additional revenue in order to assist their businesses in terms of the financial crisis, they would be looking to increase their tax revenue and one way of doing that is to look at offshore tax evasion. There is a direct impact, but we do not know the extent to which that impact will have an effect.

CHAIR—Senator Ludlam has joined us by phone.

Mr MURPHY—Have we any idea of the number of former residents of the Isle of Man living in Australia who would be affected by this agreement?

Mr Wood—No.

Mr Allen—I am not sure if we would see them also as being UK residents.

Mr Wood—That is actually a good point. The simple answer to your question is no, but there is an issue as to whether those people would be residents of the Isle of Man or the UK.

Mr MURPHY—Can we have that clarified?

Mr Wood—Yes. Can we take that on notice?

Mr MURPHY—Of course.

Mr Allen—When you look at risk, you never need to be a resident in the Isle of Man to have accounts there. A lot of the people that we have been dealing with that have had Channel Island accounts have actually been residents of third countries rather than the Isle of Man itself.

Senator WORTLEY—The NIA indicates that the ATO may need to provide technical assistance to the Isle of Man in relation to the operational exchange of information procedures. Given its relative inexperience in the area, what assistance may be required?

Mr Allen—This is generally negotiated between the countries. We run a number of multilateral events each year on topics where we invite a series of countries to come to Australia. We ran one last week on transfer pricing. We have one on exchange information in August. So, if Isle of Man want to attend that, they will be on the invite list. We run through how we do exchange of information. We find that the other countries get to talk to each other and that they

learn a lot from that. They often come from a different base from us. So it is useful for them to have those conversations. We would also look at exactly what their needs were and how best we could assist them. We also provide trainers for OECD training in this area. If we needed to, we will send somebody there to work with them and help them set up the admin practices. Basically, it is looking at whatever they need to get the admin processes in place so that they can accept exchange requests from us, obtain the information and provide it back while meeting the confidentiality requirements of the act.

Senator WORTLEY—The NIA also indicates that the Isle of Man would not have agreed to the accompanying tax information exchange agreement without the agreement being offered by Australia. Why was that? And what other benefits were offered?

Mr Wood—It is true to say that the Isle of Man would not have signed the tax information exchange agreement without the supplementary agreement. The reason for that is that the Isle of Man and other low tax jurisdictions in this situation are looking for credibility or reputation enhancement. To have an agreement that allocates taxing rights between two countries is something that gives the Isle of Man some credibility as an offshore financial centre.

In terms of the other benefits that would have been offered, one is technical assistance, which Mr Allen just mentioned. Another offer that we make is to list a jurisdiction's stock exchange for the purposes of our foreign investment fund rules. In this case, that did not apply because the Isle of Man does not have a stock exchange. The other main benefit, which is also contained in that agreement, is an administrative process designed to help resolve transfer pricing disputes between countries. Essentially, that is the package of additional benefits that the government has approved and we offer.

Mr FORREST—I have two questions: one is in regard to the first aspect of the agreement on the exchange of information and the second is on the allocation. I heard Mr Wood mention students in his opening remarks. That goes to Isle of Man citizens who are in Australia for legitimate reasons. They could be sending money home. Was that the reference you were making? How can we be assured that the agreement will have no indirect implications for legitimate business exchanges and how will that be protected?

Mr Wood—Students are dealt with in the second agreement, which is the agreement that allocates taxing rights. The intention is to benefit those students from the Isle of Man. They might come here to study at university or some other institution and, if they receive maintenance or education payments from the Isle of Man, those payments will not be taxable in Australia. So it is actually a benefit to those students, and it is a reciprocal situation if Australian students study in the Isle of Man as well. The Isle of Man has agreed not to tax any Australian sourced payments that would be made to Australian students studying in the Isle of Man. So it is not disadvantageous to them.

Mr FORREST—What about superannuants and retirees?

Mr Wood—Once again it is seen as a benefit. The taxing rights over a pension are going to be generally allocated to the country where the person resides provided that country taxes pensions. So, if an Isle of Man citizen retired to Australia, Australia would have taxing rights over that

pension. Conversely, if an Australian citizen retired to the Isle of Man, the Isle of Man would have taxing rights over that pension.

Mr FORREST—The other question I had was from the former inquiry we did on the Virgin Islands. There was a sort of barbed warning that if we put arrangements in place in one particular jurisdiction the offenders—however we might want to label them—will simply move their financial arrangements to the next one, the Caribbean or somewhere. Can you comment on that? There was a significant contribution to the last inquiry.

Mr Wood—That is a logical observation—that if a financial centre does become transparent then some of the money invested in that jurisdiction will flow to other jurisdictions. I guess the underlying theory is that the more jurisdictions that implement transparency the fewer the other jurisdictions that will be left standing and it will be much easier to target a smaller number of jurisdictions that still have bank secrecy than what was until recently quite a large number of jurisdictions that have bank secrecy. So, to use an expression, I guess it is a case of dominoes falling over. In the end there will be, hopefully, a small number of secrecy jurisdictions and they will be much easier to deal with by other tax administrations.

Mr FORREST—With the last seven it has been called a cascade effect. Mr Murphy might have already asked this question in a different way: what is the time line and plan for addressing this in all the jurisdictions of concern? Do we have a future plan to set up agreements everywhere?

Mr Wood—We do have a negotiation program. To be honest, we would probably implement these agreements with most countries that agreed to. Up until now, progress has been quite slow on this sort of work. This OECD project has been around for around 10 years and, in that time, we have only signed five of these TIEAs—tax information exchange agreements. But the G20 announcement last month provided a lot of impetus to this sort of work, and we would expect to sign quite a few more of these over the coming months and years.

CHAIR—So there have been about five years since this process was adopted and we have signed five agreements and there is talk of 38 or 39 identified tax havens. It would be pretty slow going if we continued at the previous rate.

Mr Wood—Yes, if we continued at that rate it would be slow going, but hopefully the change of international mood in this area will kick-start the process.

Mr Allen—There are probably two good signs that I think you could add to things changing. They both relate very much back to the G20 leaders' meeting last month. Coinciding with that meeting, the OECD issued a list of all the jurisdictions as a progress report, and they have just released a new version on 6 May. On the original there were something like four to six countries that had not committed to the agreed standard. All countries have now committed to the agreed standard, so I think we are seeing that there is more understanding that this is a practice that should not be continued. The second part of that, which is a positive sign, is the number of approaches that have come in from other countries. We have had stalled negotiations, but countries are now indicating they are looking at talking to us again and getting things moving. There is impetus around the world that the G20 leaders are having an impact there too, to move things towards—

Senator WORTLEY—So you are saying that Australia has had approaches from other countries?

Mr Allen—Approaches, and we have also reapproached countries as a result of their recommitments as well. But there is one country we have a current treaty with that is looking at increasing its exchange treaty to the full article 26 from the OECD model. We have had approaches from them to open up negotiations.

Mr SIMPKINS—Do I understand this correctly, Mr Allen: we have approached all these countries in the past, and there has been a reticence on their part; now, after the G20 agreements, we are hoping that the pace will pick up?

Mr Allen—I think that on the original OECD list of tax havens there were 38 countries. We approached 31 tax havens that posed the greatest risk to the revenue. Of the original 38 the other four did not indicate a commitment to the OECD process at that stage. With the recent momentum of the G20, we have reapproached those countries that have given us more signs that they were prepared to move when before they had indicated that they had not wanted to discuss it. So we are basically using that momentum to push Australia's interests.

Mr Wood—Just to put the effect of the G20 declaration into context: the countries that announced that they would implement the standards either immediately before or after that declaration include traditional bank secrecy countries—Austria, Belgium, Hong Kong, Switzerland and Singapore. They are quite significant developments. I think that if the low-tax jurisdictions see these larger and more traditional bank-secrecy countries moving then they really have to move as well.

Senator BIRMINGHAM—Were there any aspects of these agreements where Australia sought additional measures from the Isle of Man and did not achieve them?

Mr Wood—No, I do not think there were. This particular tax information exchange agreement with the Isle of Man does not cover indirect taxes, which we would normally seek. Apart from that, I cannot think of any other things that we sought that we have not achieved.

Senator BIRMINGHAM—Is there a reason why we would normally seek the coverage of indirect taxes and have not in this one?

Mr Wood—We would normally try to cover all federal taxes in an exchange of information agreement. The Isle of Man would not do that because it does not have an indirect tax system—it does not have a VAT or a GST system. So the negotiators at the time agreed to sacrifice that in favour of getting an agreement that covered income tax. But there is a possibility that we can reopen that issue in the future.

Senator BIRMINGHAM—Obviously, the revenue implications overall that we seem to be talking about are fairly small and I imagine that, insofar as indirect taxes are concerned, those revenue implications would be quite small between the two countries anyway.

Mr Wood—We would expect the indirect taxes to comprise a much smaller component of the type of information we are after. So, yes, you are correct.

Senator BIRMINGHAM—Thank you.

CHAIR—Are there any other members with questions?

Mr MURPHY—I would just like to take this opportunity to ask: how do you think Project Wickenby is going? I was interested, some time ago, to see a rather arrogant response from Paul Hogan, who was one of the celebrated, high-profile, taxpayers, I suppose, who was being pursued by the Taxation Office, and the reports in the press seemed to be less flattering of the Taxation Office really hunting some of these people down. Is there anything the government can do to help? It has relevance to this.

Mr Allen—With regard to the part of the treaty process we have not touched on here, we have a number of bilateral treaties with OECD and other member countries, and we are talking about information exchange agreements with the traditional low-tax countries. In the past we have touched on expanding that network and the fact that some countries may not buy into it. I think where that leaves you, and where part of what was always intended in the OECD process and was picked up again by the G20 leaders, is the need for countries to take defensive measures against jurisdictions that are not providing transparency in both bank information and corporate registry information. Six broad categories are mentioned in that G20 communique as being areas those defensive measures should cover. I think that is the area we need to start looking at. What do you do to back up your treaty network for those countries which do not want to become part of it? I think there are some discussions happening at the administration level as to what they could look like, and that will eventually form a position for government considerations as to where we would want to go with that.

Mr MURPHY—Are you having much success with prosecutions?

Mr Allen—Sorry, I'm not across that area of Wickenby.

CHAIR—As there are no other questions, I thank you for attending and giving evidence today. If the committee has any further questions, the committee secretariat may seek further comment from you at a later date.

Mr Allen—Thank you.

Proceedings suspended from 10.31 am to 10.55 am

LETTS, Ms Martine, Private capacity**Inquiry into Nuclear Non-proliferation and Disarmament**

CHAIR—We will now take evidence for the Inquiry into Nuclear Non-proliferation and Disarmament. I call Ms Martine Letts. Do you have any comments to make about the capacity in which you appear?

Ms Letts—I am the Deputy Director of the Lowy Institute for International Policy but I am speaking here in a private capacity.

CHAIR—Thank you. 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. I invite you to make an opening statement.

Ms Letts—Thank you very much. I realise that this committee has received multiple submissions, including one from my colleague Rory Medcalf. You had a big session in Sydney on 26 March where quite a lot of ground was covered, so I am going to try and add a little bit to that. As I said, I am speaking in my private capacity as an observer and a former arms control diplomat. I am not a technician and I do not have any kind of specialisation, other than some general knowledge, in safety, security or safeguards.

I am going to focus today on my impressions of prospects for the International Commission on Nuclear Non-Proliferation and Disarmament, which is being co-chaired by former foreign ministers Evans and Kawaguchi. Also, I am going to drill down just a little bit on the aspect of its work I am concentrating on as a member of the advisory board of the commission, which is how to increase cooperation between government and industry in an era of broadened interest in nuclear energy and the benefits of nuclear technology. This is the subject of a paper that I co-authored with Fiona Cunningham. It is on the ICNND website, and I believe the committee has already received a copy of it.

The mandate of this committee includes how the committee and parliament can contribute to the work of the commission and how it can support treaty based aspects of the nonproliferation regime. I recently returned from the first regional meeting of the ICNND in Latin America, which was in Santiago in Chile. There are others scheduled, as you probably know, for North Asia and South Asia as well as the Middle East. I will be participating in some of those but I am also attending all of the commission meetings. The first one took place in Sydney in October last year, the second one was in Washington in February this year, the next one will be in Moscow in June and the final meeting before the NPT review conference, where the group will consider its report, is scheduled for October in Japan. The Lowy Institute is also a designated research centre for the commission. We are also a partner in a number of other initiatives, one of which might be of interest to the committee in the future. It is a research project we are engaged in with the Australian National University, Griffith University and Flinders University on Australia's nuclear futures, which I will touch on briefly as well.

I would like to put this in terms of how I see the work of the commission proceeding and what its prospects are. I will start with the positive. (There are some positives, but there are also quite a few iffy bits and negatives.) I was involved in arms control and disarmament discussions from the mid-1980s and have only recently re-entered this domain after a long break from 1998 to 2005. Not since the late eighties have I seen conditions similar to the optimism that we experienced in the eighties. We had some big achievements in the eighties—the START negotiations, the chemical weapons convention, where the great powers, the United States and the then Soviet Union, had decided they actually did not need chemical weapons anymore and were therefore prepared to agree to a treaty getting rid of them. Through our hosting of the Government-Industry Conference Against Chemical Weapons in 1989, Australia of course played a big role in bringing the chemical weapons negotiations to early conclusion and getting industry involved as active partners. The meetings between Bush and Gorbachev, and in particular the meeting in 1986 at Reykjavik, showed us what was possible in the nuclear domain.

I will move to the present. On nuclear issues, an interesting aspect of what gives us renewed optimism is that, I think, the very role and utility of nuclear weapons is being put into question by some of the major holders of them. It is an interesting reflection, particularly in the United States of America at the moment when its nuclear pre-eminence is showing early signs of fading. This is no longer an area where the United States is top dog. It still is top dog but it is moving towards becoming ‘primus inter pares’. Leadership from the United States is obviously still essential, but it is not a condition sufficient to achieve progress on nuclear disarmament globally. It is not arguing from the same position of strength that it might have been even, say, five to 10 years ago.

The other sign of optimism is that there is a lot of movement in the US led by the so-called ‘four horsemen’: Kissinger, Schultz, Nunn and Perry. They are largely, in my opinion, motivated by fear of terrorists using nuclear weapons as much as anything else—but, hey, whatever it takes. The signal from President Obama: his Prague speech in May was the big announcement from the United States that we were all looking for.

These are not exclusive but are some of the main developments. I also think that the approaching NPT review conference in 2010 has helped concentrate the minds of the international community. It is interesting to see that the Preparatory Committee, which just met in New York, was in fact able to agree to something that would appear extremely modest, but it was actually able to agree on an agenda for that NPT review conference, which was contrary to expectations. That agenda will focus on the same areas that the ICNND is focusing on—that is, disarmament, nonproliferation and civil nuclear energy. No doubt the United States’s position, including the Obama announcement, helped the Prepcom come to that agreement.

I would like to now have a quick look at the pressures and the stresses which have given rise to at least some of the specialist community thinking that we need to do more in this area. There are significant as well as new players who are becoming more attached to their nuclear weapons such as the Russians because of their concern about the US conventional superiority and China because it wants to balance US influence in its region and wants to balance against missile defence and precision-guided weaponry. There are rapidly evolving pressure points which have been a long time in the coming but which have become much more acute, such as the situations in the DPRK and Iran and the general consequences that we are now seeing from the effects of the A.Q. Khan network.

There is also, as you know, a growth and interest in nuclear energy for energy needs because of climate change and nuclear power as a security hedging strategy, especially in geostrategically fragile regions like the Middle East. All are putting even more pressure on a fragile NPT and its associated institutions like the IAEA.

So business as usual is unsuited to the times and measures are already being taken outside the usual framework. The Nuclear Suppliers Group deal with India, for better or for worse, is what I might call a pragmatic response to the changing context in which we are working. So the NPT is not doing it for us—not on its own—and new players need to be brought into the tent and that of course includes India, Pakistan and Israel. The international commission is trying to take a holistic approach which reaches beyond the NPT review conference and which aims to provide a practical agenda for global policymakers to eliminate nuclear threats and, as such, it is quite an innovation. It is the first time that that kind of holistic approach has been taken. It will be interesting to see whether it actually comes to a final report. Without giving too much away of what has been going on within the commission, as you would expect there are some fairly strong differing views about what the priorities are and there are even differing views about whether the commission will come to an agreed conclusion. So that is still very much an open issue.

The conclusions may not be to the liking of governments including the two sponsoring governments, Australia and Japan, and I know that some people have already alerted you to the fact that there will be some pretty tricky proposals in there that might cause a number of us some difficulties. So, without wanting to pre-empt the conclusions, I want to mention a couple of the issues that I think are of interest to Australia, Japan and others and that might be some of the pressure points as the commission tries to reach a concluding document. What look like some of the easy wins, like the ratification of the Comprehensive Test Ban Treaty, are not really all that easy, as you probably know, because it is not just a question of the US administration wanting this to happen; it has to pass the Senate. That is going to be quite difficult and there is concern that the question of ratification not get to the Senate too quickly lest it fail again, which would be an absolute nail in the coffin for a very long period of time. One of the big issues there is that the United States has to be satisfied that stockpile stewardship can take place without nuclear testing. There is a hell of a lot of work that still needs to be done there. For Australia and for the Australian parliament there are some big opportunities for you to use your contacts in the US Congress to persuade some of the critical members, particularly those on the Republican side, that this is something that is long overdue. There was a very interesting point made by Baroness Williams to President Bachelet of Chile. Baroness Williams said that there is a women's network in the Senate which is a cross-party network and which has voted on issues in an unexpected way and that she should be using her contacts with that women's network in the Senate as well, which I think is an excellent proposal, one which this parliament might think about as well.

Also, there are other areas like progress in fissile material cut-off, all of which are just the initial steps that we have identified in a very long and complex list. But we cannot underestimate how difficult even they will be to achieve. But if we do make progress on them I think that will unlock a whole lot of other movement internationally.

Another issue which is going to really cause a number of difficulties to countries including, in particular, Australia and Japan is the question of extended deterrence and what happens to extended deterrence as the major nuclear powers start reducing their weapons. I note in that

context that the Australian white paper talks about the US using its extended deterrence capacity until 2030 and that Australia will be relying on that—something worth thinking about.

One of the other highly sensitive issues is the question of whether we can place limits on the development of sensitive nuclear technology. This goes to the heart of what countries consider to be their right under article IV of the NPT. You have got, on the one hand, the concern that if you add another 20 countries with a nuclear program of some sort and they all decide that they should be developing an indigenous enrichment or reprocessing capacity, you can forget completely the ability of the international community to keep that under control. So there are some additional controls that need to be negotiated. That is in turn linked to very strong feelings about national rights. I talk in particular about those states—like Brazil and Argentina and others—that already have a capacity and see absolutely no reason why they should be giving this up if there is no significant progress on disarmament. The trick is knowing how much progress is enough for those states for them to be willing to put a cap on the development of their technology. I might add again in that context that the last time the United States suggested in the NSG that the other members of the NSG, like Canada and Australia, forgo the right to develop sensitive nuclear technology, they were told in very polite terms that they had to be kidding: ‘Why would you force us to forgo a right in this context?’ It is something that we are going to have to think about.

I have already mentioned big concerns about the ability of the international regime, the IAEA, to effectively monitor and control 20 additional nuclear-capable states. Maybe what we need to be looking at is some sort of new ‘Atoms for Peace’ deal. It is big issue. It is one where we must try to make sure that the majority of countries get the benefit of access to nuclear technology that does not in turn have serious proliferation consequences. But the whole question of the multilateral nuclear fuel cycle and a fuel bank also needs to be examined quite closely. There are some serious questions being asked about how effective it is going to be, whether it is actually going to work technically and whether it is going to work in a practical way. We need better understanding about not only whether it will work politically, which is already a big question, but whether it will work practically as well.

The supplying governments also need to think very carefully about their role in concluding nuclear cooperation agreements. The United States has been very keen to reward states, particularly in the Middle East, for doing the right thing and behaving responsibly in the nuclear arena, in contrast to what the Iranians are doing, by signing nuclear cooperation agreements with them. I am not saying that the UAE agreement, for example, is not a good model. It has some very important undertakings in it. But governments have to think carefully about rushing to reward countries for good behaviour by concluding nuclear cooperation agreements with them without thinking through the consequences further down the track. In the commission we are in the business of thinking strategically. We are not thinking five years down the track; we are thinking what will happen in five, 15, 20, 25 years time.

The other big question mark over the commission is whether China is going to be able to agree with any of its conclusions. I think China is re-examining its role and the role of its nuclear posture right now. Whether it is going to be ready to agree to any new steps is an interesting issue and needs to be watched carefully. How to manage the transition from low levels to zero without creating a new window of opportunity for countries to play catch-up—with the big nuclear weapon states having reduced to a certain level—is also one of the big tricky issues that

the commission will need to find some answers to. Finally, I will just reiterate the political point that the balance between disarmament and nonproliferation and what goes first may well yet bring agreement within the commission unstuck. Although, I think there is a general willingness to try and make sure that they get the balance right.

I have a couple of final words about some nuclear governance matters that the commission has been talking about. There is, of course, the broader issue about whether there will ever be enough momentum behind its work, given all the other crises we are facing. There is a sense that people are not feeling that this is very urgent, given the global financial crisis and everything else that is bearing down upon us. And there is certainly a role for parliament and civil society to be active in that area. There is also the question of the nuclear weapons convention, whether we need a new treaty, to replace the NPT. It is a pretty controversial proposal. I, frankly, cannot tell you what I think the outcome on that will be. But it may be a way, a little further down the track, of getting buy-in from the larger community of nations. It could turn off the very powers we are trying to persuade, but maybe there is some sort of declaration, some sort of draft which is a more visionary declaration than what is in the NPT that might do the trick. That is just something that I put for consideration by the committee.

There has also been some discussion about a nuclear G20 to manage the global nuclear agenda as the G20 now is attempting to do for the global financial system and global trade. It might not be exactly the same membership as the G20 that we have now, but, again, it might compensate for the fact that the Security Council, the NPT review conference, the CD and other forums in which these issues are discussed have not really been able to manage the nuclear problems particularly effectively. Broadening the stakeholders beyond the P5 to a representative group of 20 is an idea that the commission is considering at the moment, which sounds quite interesting.

I have a couple of words to say about Australia's value add, because I know that is something that you are interested in. If the government can live with the ICNND conclusions—that is still an 'if'—then the entire government and parliamentary system will need to swing behind it. You recall that, when the report of the Canberra Commission on the Elimination of Nuclear Weapons was tabled, there was not a great deal of follow-up. It is going to be very important, particularly for the sponsoring governments, to really intensify diplomatic efforts in selling what the report says. So that will require some political and resource support in the future.

More broadly, I would like to conclude by looking at Australia's role as a nuclear supplier. We are working in an entirely different context to when we first started supplying uranium in the seventies. We need to understand what the strategic, market and regime based drivers are and how that will affect the platform for our nuclear exports in the future.

My instinct is not to say that we withdraw altogether because we do not think the arrangements or the safeguards are strong enough but to say that we should work with others to fill what is a growing demand, because you can be pretty sure that other suppliers will be far less scrupulous than we are. I do not just mean new suppliers; I also mean old, established suppliers.

In the meantime, we can play a role in galvanising industry in the way that we did for chemical weapons. I hope the commission will make some recommendations in that regard about industry's role. The meeting in Moscow in June is specifically focused on talking to

industry. About 25 major industry representatives from around the world will speak with the commission about this.

The chemical weapons meeting that we had here in Australia in 1989 admittedly took place in the context of support for total chemical disarmament, which is not the case, I think, in the nuclear field. But industry did see a commercial imperative at play, which the nuclear industry should also be thinking about, given that it still has major reputational issues and that anything it can do to assure the public and others that it is in the business of providing nuclear energy, equipment and material safely will be of assistance to it.

That is not to say that the nuclear industry does not, by and large, comply with its legal nonproliferation obligations, but it does not actively manage the proliferation threat as it manages, for example, safety and security issues where its competence has, of course, been directly challenged and where it needed to show that it had taken remedial action post incidents like Chernobyl and the Three Mile Island event.

Two types of outcomes may result from industry engagement: symbolic ones, in which industry declares its support for preventing proliferation and possibly even support for nuclear disarmament, which I think would be a real plus—also a new idea which has not really been discussed in great detail. This would be an exercise in public diplomacy, which should not be devalued. But there could also be practical outcomes in which companies take more active measures in order to prevent proliferation. I have some examples of these and of course they are also listed in the paper that we wrote for the commission.

These outcomes could be achieved through industry self-regulation or through cooperative action between government and industry. It is certainly my view that if government and industry do this in a collaborative way, and also in consultation with the International Atomic Energy Agency, they will be much more productive.

Going back to the point I made earlier about government promoting nuclear cooperation agreements, it is often thought that industry is keen to sell and that government has to keep industry under control. That is not always the case. The French and others are very proactively signing nuclear cooperation agreements all over the place. It does not mean that industry is interested in following through. Often it is not a commercial proposition, anyway, and not something they can handle as a supplier. They also have some scruples about spreading things around too quickly without there being adequate controls. So do not underestimate industry's capacity to also exercise a few disciplines on overenthusiastic governments. It is a kind of reticence that I think we should be capturing and taking advantage of.

Some industry players are already showing an interest in these matters. You know about the *World Nuclear Association's policy document*—its Charter of Ethics. The Australian Uranium Association—Michael Angwin spoke to you about this—is actually taking an extra step. It has begun to advocate for best practice in support of nonproliferation through its uranium stewardship principles: you are not just responsible for what you mine; you are responsible for what happens to the product right to the end of its life cycle.

At this stage, for industry, we need a lot more information. We have prepared a survey for industry that we want to give to them in Moscow in June and to start a conversation about how

industry feels about taking a more active approach. They need to be coaxed. They do feel they have a very bad press and that they are already overregulated, but I think there are some real opportunities there and an area where Australia can play a leading role. Those are my opening remarks. I hope I was not too long. I am happy to answer questions.

CHAIR—Thank you, Martine. The 2010 NPT review conference; what do you think of its objectives or of the key performance indicators, if you like? I think that most people would say that the previous NPT review conferences achieved precious little. What are we after from 2010?

Ms Letts—First of all, I want to make a comment about the NPT review process, because I have participated in quite a few of them. On one level we attach too much importance to the NPT review conference process and the fact that we sometimes do not get an agreed declaration. It has the unfortunate consequence of undervaluing the treaty and its practical functioning. There are some negative effects on our confidence in the regime, which are not necessary, simply because, on the conference floor with 180-plus member states, you cannot agree on a common statement. I want to put those declarations in context. It is not the be-all and end-all of making the nuclear nonproliferation regime more effective.

That said, a lot is hanging on this 2010 conference. There will be at a minimum an agreement that there needs to be concrete action taken on specific steps on nuclear disarmament, nonproliferation and managing civil nuclear energy. That is something to look forward to and will set the tone for future years.

Some matters could possibly hijack the conference and the participants need to look out for them. The Iran question could overtake the deliberations. The conference should be very careful about focusing on all the agenda items and not just on the Iran issue. It is about the treaty as a whole and how to make it function better; it is not just about the Iran question. I think the signs so far are quite positive. There are of course the quite famous 13 steps which were agreed to in 2000. A more up-to-date version of those would be a good achievement in my opinion.

CHAIR—In relation to the complete abolition of nuclear weapons, you mentioned in your remarks there is a lack of trust on the part of the nuclear powers now. If they move from low levels to zero that is a bit too scary for them and it opens up opportunities for others. Do you see any other obstacles to the objective of complete abolition of nuclear weapons?

Ms Letts—A lot. I think there is still very strong thinking in the national security positions of states about the utility of nuclear weapons—and there are obviously differing views in the United States. As some in American leadership circles are beginning to question their utility, there is still a very strong belief in these utility among some of the other nuclear weapon holders, in particular as a hedge against things such as conventional superiority. Getting to doctrine and being able to paint the picture of what a nuclear weapon free world would look like, a convincing picture that says that everyone's security is going to be not only not negatively affected but enhanced, is going to be one of the big challenges. How do you prevent catch up from happening? How do you control that? That is a big question.

One of the major obstacles of getting to zero is how people think about their security. Another major obstacle is that, if action does not happen quickly and if the geostrategic situation gets

worse in regions like North Asia and the Middle East, you may well be in a situation where a number of other countries develop the capacity—at least a break out capacity—so your ability to put a lid on proliferation will be set back for decades to come. That is going to be another one to watch because there will be number of additional countries that will think that they need nuclear weapons as a hedging strategy as well.

CHAIR—You mentioned in your remarks the nuclear supplies deal with India. Former US senator Bob Graham described this as a very serious mistake by the United States and Rory Medcalf described it as a flawed and controversial way to attempt to bring India into what its proponents have called the nuclear mainstream. Do you want to express a view about the agreement?

Ms Letts—I am afraid the horse has bolted on this one. I was certainly very concerned about the deal when it was first concluded, as many others were. It seemed a strange way to be addressing the broader issue of bringing India into the global mainstream, which of course is extremely important—India is a major power and a growing power. Concluding this agreement with them seemed to be a strange way of going about bringing the Indians into the tent.

That said, it has happened. We need to manage it. We need to work very hard on the Indians to undertake in a real way rather than in just a rhetorical way specific actions on things like ratifying the comprehensive test ban treaty and negotiating for the Fissile Material Cut-off Treaty. Those are practical ways in which they can make a contribution towards nuclear disarmament. Bringing them into the tent at the international commission is another way of doing that.

The deal set an unfortunate precedent. It was very badly received, I might say, in Latin America in particular. This was particularly so among those states that decided to ratify the NPT after some delay, because they naturally said, ‘We do not understand how those that stay outside the regime are being rewarded and we, who are coming into the regime, are having further restrictions placed on us’. Politically, it is a very bad look, but we need to manage it and, in the longer term with a bit of hard work, again, including with work with your own colleagues in the Indian parliament, hopefully we can get some benefit out of it.

CHAIR—The final question from me concerns Iran, which you mentioned both in your opening remarks and in the article in the *Australian* that has been provided to us. You say that Iran is at the very least pursuing an indigenous enrichment capacity as a way of keeping its future weapons options open. Given that troubling situation, what do you see as being the best way to deal with Iran or to handle that situation?

Ms Letts—Direct negotiations with Iran are clearly the least worst option and need to be maintained. I think that Iran has drawn a lot of comfort from the hypocrisy that has been perceived by many other states by the nuclear weapon states hanging on to their weapons but insisting that Iran cannot develop its peaceful nuclear capacity, which it has the right under the treaty to do. So a lot of diplomatic cover has been provided for Iran. A lot of time has been lost in the negotiations with Iran because it had that diplomatic cover because of that perceived hypocrisy. There is a lot of work that needs to be done, and the steps that we have already talked about provide a greater pressure on Iran and diplomatically isolate Iran to a greater extent than before.

Mr BRIGGS—I am interested in your thoughts on the current situation in Pakistan. We are talking about proliferation issues going to the future, but there seems to be a very real and present danger in what is going on in Pakistan. How dangerous do you think the situation is, with the threat of Pakistan becoming a failed state and nuclear weapons getting into the hands of people with bad intentions?

Ms Letts—I have no special expertise in this area other than what I read about, and I know that it is a major concern. There are really two concerns. One is that a nuclear armed state which is in danger of becoming a failed state is going to have difficulties looking after what it has got in terms of inventory. Also, to my mind at this stage, possibly a higher danger is that from within the Pakistan nuclear establishment, control of that information and equipment and means will be supplied to terrorist networks. It is my understanding that the actual Pakistani government control over nuclear weapons is sound and not in danger at this point. As to the other matter, the AQ Khan network has already shown us what is possible, and I think that continues to be a danger. It is something that we need to keep an eye on, but I do not have any particular magic solution to this issue or any expertise in terms of how close they might be.

Senator BIRMINGHAM—Ms Letts, thank you for your evidence today, which is quite important. A number of people have put to us that the NPT framework was developed as a trade-off situation in which, of course, the five nuclear states got to keep their weapons and that the framework, however, provided for that cooperative development of nuclear energy, including usage for peaceful purposes. We are looking at what type of paradigm shift there will be into the future. It strikes me that you are saying that the trade-off, or that balancing act, is as critical as if not even more critical for the future—that you are not going to get and achieve a global consensus without providing an even better framework for that cooperation on peaceful purposes.

Ms Letts—I have never thought that the importance of nonproliferation is linked only to progress on disarmament. It is an objective in its own right. But the fact of the matter is that the treaty is clear that there is an expectation that there will be progress on both fronts. It is also clear that we are not going to get more action or more commitments on specific actions that support nonproliferation in a situation of growing danger unless there is corresponding action on disarmament.

It is also easy to overexaggerate the so-called nuclear renaissance. There are huge impediments on the financial side, on the national capacity side to develop a nuclear power capacity. Even the operation of a research reactor requires a certain level of expertise that many countries that have said they aspire to getting nuclear power simply do not have and will not have for a long time. There is also a global shortage in expertise and capacity. We cannot close the door on any country wishing to explore that option if it decides that that is what it requires in order to meet needs like energy security and to fight climate change. There is already a proliferation of nuclear cooperation agreements that have set the tone for that, so we had better make sure that we have that properly under control and that these things are being supplied under the right conditions. To simply say that we are not going to do it is not an option because there will always be others that will try and meet that market need.

I am not advocating for an acceleration of the spread in the world of nuclear power. That is not the case at all. There are some quite considerable dangers in that. But let us at least make sure the supply conditions are right and the safeguards we attach to it are the correct ones.

Senator BIRMINGHAM—You mentioned the fuel bank in your opening statement and said there were political and practical questions attached to that type of idea of placing the fuel cycle under some type of multilateral framework. We have heard evidence from Senator Graham and others advocating the concept of a fuel bank. We have probably not heard much criticism of that concept thus far. Obviously you are attuned to the fact that there has been negative reaction elsewhere. Where is that negative reaction coming from? I can see the national sovereignty interests but, for our benefit, on what basis?

Ms Letts—There are a couple of things that have been mentioned to me. They come at the problem from a different angle. One of the claims is that the mere talk of multilateralisation of the nuclear fuel cycle is going to accelerate efforts by some to develop an indigenous capacity before the door is shut and that this might cause countries to want to develop their own capacity quickly so that when the multilateral fuel cycle finally comes online they do not have to worry about forgoing their national rights. That is one concern and that is more on the political side of it. The other one is that internationalising what countries feel they have a national right to is going to take some work, and I do not know how long it will take or what it will take or how much progress on disarmament will be required before the Brazils and the Argentinas of this world say, ‘Yes, that is okay now.’ I should note in parentheses that the Brazilian defence white paper says that they will not give up anymore of their rights until there has been progress on disarmament. That is in the Brazilian white paper. White papers can be changed and reissued, but that is a pretty big claim to make and include specifically in their white paper.

The other issue is a technical one which I am not competent to comment on, but there will be countries that have particular fuel types that they need that might differ and where a central facility cannot necessarily provide the right type of fuel, so there are some technical things that need to be worked out as well. Then there is the continuing problem that some countries have that they fear that, if it really comes down to it and there is a political reason why they are being refused fuel, other countries will be able to exercise influence on the multilateral facility, on the management or on the governance of the multilateral facility to stop the supply from happening. I think the industry has quite a sound attitude. It says: ‘Let the market dictate, and we are never going to supply or not supply if there is not actually a market for it. We will not supply for political reasons. We will only supply if the facility is an appropriate facility under the appropriate safeguards.’ So industry can become an ally in this respect.

Senator PRATT—I am looking at the paper you wrote, which is before the committee, for the second meeting of the international commission. You talk there about commercial interests and the way they are integrated with national interests. I wonder if you could unpack that for us to give us a little more detail.

Ms Letts—Okay. Fifty per cent of the world’s nuclear industry is government owned. In the case of Electricite de France it is something like 75 or 80 per cent government owned. Within specific parts of the industry, government ownership goes up even further. So there are interests there which are not just commercial or just political. I mentioned the fact that some governments have particular enthusiasm at the moment for signing nuclear cooperation agreements with new

countries. Those are geopolitical motives which do not necessarily correspond to what commercial imperatives there are or what is commercially feasible. That is what I mean by the government side and the commercial side being difficult to unpick or to separate sometimes. So, in terms of the argument that we are trying to make, there is a lot more work that needs to be done on government and industry working together to manage this, because there are so many crossed lines.

Senator PRATT—Are governments across the world with nuclear interests reluctant to delink proliferation from their energy and other uses? How easy is it to put the commercial interests aside so as to pursue that delinking, notwithstanding the fact that in and of itself it does not create a mandate to pursue those other interests, as you have highlighted?

Ms Letts—I do not think I quite understood the question. What is it that you think can be delinked—what are you suggesting?

Senator PRATT—We have had a discussion about sharing information and there being a strong culture of exchange around peaceful uses of nuclear technology. I would assume that to some extent a greater emphasis on that means that we are really trying to separate the proliferation from the commercial, in terms of the motivation for its use.

Ms Letts—I think we have to take as our basic platform that no nuclear cooperation agreement or growth in the nuclear industry can take place in any context other than full assurances on security, safety and safeguards. There is no justification, in my mind, for there ever being a commercial imperative that would override that consideration, or any rewards being provided for good behaviour which neglect those three basic standards.

Senator PRATT—Okay. In that context, what is the extent, if any, of a commercial motivation within government and within the nuclear industry more broadly—the privately owned nuclear industry—to pursue proliferation for commercial purposes?

Ms Letts—I do not believe there is in the industry such a consideration. There might be some pockets that I do not know about, but I do not believe there is.

Senator BIRMINGHAM—In general, the industry is after a sustainable industry?

Ms Letts—The industry is after a sustainable industry, and it certainly is after not doing anything that is going to blacken what is already a pretty iffy reputation, for better or worse. If you had another major incident like Chernobyl, not to speak of an incident where there was some form of explosion that could be traced back to leakages out of the power industry—which I believe probably will not happen; but let us say that happened—you could kiss the nuclear industry goodbye for several generations. It would not be able to survive.

Senator PRATT—What about other commercial interests. The national interest can be security concerns and they can be drivers for proliferation. You have highlighted the government ownership, but when we are talking about technology and sharing of that technology and making it as freely available as possible if it suits nonproliferation purposes, how do we engage around those commercial interest issues as far as ownership et cetera goes?

Ms Letts—In the nuclear game I do not think you can ever really separate the two. There is always going to be an element of both, what is commercially viable but what also has got proliferation implications. One of the areas, and I say this in the paper, where industry could do little more is particularly on the provision of dual use equipment, which is in some ways the most sensitive equipment. There are sales that are taking place of dual use equipment which even the NSG does not know about. There was recently an example of some tubes or something being supplied by a Chinese company to Iran which in effect was for the program but the Chinese company either did not know or did not care to find out what the destination was, and the Chinese government certainly did not put any controls on it either. So there are some loopholes there that can be filled through additional cooperation from industry.

Senator PRATT—So there are some sectors of the industry that still either do not care, or do not care because they have not been asked to care, about the ultimate use of the technology they are selling.

Ms Letts—Yes, absolutely. That is an area of concern that needs to be looked at. It may well be that if it is too ambiguous or if the threat is too large that this will lead to a program or a sister program that is a legitimate program or has other dangers inherent, that is a decision for government and industry to take jointly, I think.

Ms PARKE—What do you consider are the possible mechanisms that could be used to bring Israel, India and Pakistan into the nonproliferation regime?

Ms Letts—The low hanging fruit are the Comprehensive Test Ban Treaty and the Fissile Material Cut-Off Treaty. Israel has signed the CTBT but has not ratified it. India and Pakistan have done nothing so far, and I think that would be really a significant step. There is also agreeing to the commencement of negotiation of the cut-off of fissile material for weapons purposes, and I think that is something that would not only substantively make a distance but psychologically would make a very big difference to the dynamic. We know what the issues are between India and Pakistan and the regional dynamic that is driving them. That is an effort that has to be taken almost in parallel to what the commission or others are doing in terms of providing the security circumstances, working very hard on creating the geosecurity circumstances where they do not feel they need a deterrent capacity anymore. Israel is tricky. The Arab states in the Middle East have consistently advocated for a nuclear weapon free zone in the Middle East and Israel has very ambiguously said that it would not be the first to introduce nuclear weapons into the region. That is where we are standing at the moment. With the developments that have happened in Iran, it is my view that a number of the Arab states are in a big quandary right now. If Israel were to admit tomorrow that it had nuclear weapons as a first step, this would put the Arab states under terrible pressure to respond, either by taking on Israel in some way or, more likely, by accelerating their own capacity to develop some sort of breaker capacity. It is a very difficult question. I think the only way in which Israel can be brought into the regime is through some sort of general agreement with its neighbours.

Ms PARKE—A nuclear weapons-free zone.

Ms Letts—It could be the nuclear weapon-free zone, for example.

Ms PARKE—How important do you see the role of nuclear weapons-free zones in the world as a way of promoting a nuclear-free world?

Ms Letts—I think they are extremely important, not only because in some cases they have actually been ahead of the game. You have got certain regions, like the Latin American region, the South Pacific, where you have some very good and solid arrangements and some of them are a step ahead of the NPT with their additional obligations. They are a great demonstration of the importance that many nations of the world attach to a nuclear free world. I think they are extremely important and they are very good interim measure, particularly if they have got practical inspection arrangements and verification arrangements attached to them rather than just being declaratory.

Ms PARKE—Would you support a review of the South Pacific Nuclear Weapon Free Zone?

Ms Letts—A review to do what?

Ms PARKE—The requirements to have an enforcement mechanism attached to it.

Ms Letts—There are already inspection arrangements that flow from the obligations of the states parties. I would not think that the South Pacific needs a great deal more done right now. I do not know what practical purpose would be served by reopening the Treaty of Rarotonga.

Ms PARKE—Or not even a review of the treaty? That has been something that other witnesses have given evidence about.

Ms Letts—And what would be their argument for reviewing the treaty? In order to—

Mr BRIGGS—Make it stronger.

Ms Letts—Stronger in what way? Ban the transit of nuclear weapons? I think that that is something that, at this stage, would not serve useful purpose because what we are talking about are issues that are the subject of global negotiation. There is nothing wrong with reviewing a treaty. You can review it and there might be some refinements, but if you are going down to the nitty-gritty, the hard stuff like the transit, I do not think a great of deal of use right now would be served by reviewing the treaty. It might just cause frustration.

Mr BRIGGS—You have put your finger on the bigger problem with the NPT with your first comment about India and Pakistan. As you said, we know the issues but the resolution is very difficult. Putting aside the Middle East, India is not going to be in a rush to disarm, given the situation in Pakistan. Ultimately, the difficulty with this issue is controlling it in the real world.

Ms Letts—That is true, although India, interestingly, has always advocated a world free of nuclear weapons. It also does not have a threatening posture within the region, other than against Pakistan. Rory Medcalf has written a little bit about looking at East Asia as a region where some confidence-building measures and some additional stuff could take place, building on the practice that is already the case within the region. That would be a useful first step. I would refer you to those ideas.

Ms NEAL—Thank you very much for giving us the benefit of your expertise. It has been very stimulating. One of the biggest impediments to effective disarmament is the fact that many countries are still developing nuclear weapons. It is very hard to effectively try and aim for a world with no nuclear weapons when people are still producing them, and countries that did not have the capacity before are spending a lot of time, effort and political energy in producing them. What can Australia do to try and discourage or prevent new countries developing nuclear weapons? I know that is a hard question.

Ms Letts—Through force of argument and example—and I mean that quite seriously. Why? I do not know whether any of you read the *Voters guide* that the Lowy Institute prepared before the last election which said, ‘These are the issues that an incoming government needs to consider and think about.’ I got myself into a lot of trouble over that. I have to admit that, to be a little bit provocative, in the bit that I covered, which was on nuclear proliferation, I said that the global nonproliferation system is under pressure, that strategic circumstances are changing and that we need to really make some progress here otherwise we in Australia might find ourselves in a situation where the system as it is now does not work any longer for us and we might have to consider the option of developing our own capacity if we do not shore up the nonproliferation system and make some progress on disarmament. That caused a fair bit of anxiety amongst some who accused me of advocating nuclear weapons for Australia—I think the headline was ‘Former Labor adviser recommends that Australia develop a nuclear weapon’. That is not what I meant at all. I would like to put that on the record again.

It was by way of illustrating that it is not that hard for us to slip into a situation where we no longer can say with our hands on our hearts, ‘It is in our interest not to have nuclear weapons and it is in our interest to have an effective nonproliferation treaty system and we believe it is in our interest and in the globe’s interest to have a world free, eventually, of nuclear weapons.’ But it does mean that we, in the longer run, have to give up a few things.

I mentioned the question of extended deterrence at the beginning of my remarks. That is going to be a really hard policy issue that Australia is going to have to tackle. There is a view across the board that Australia and the region have benefited from the extended deterrence that has been provided by the United States—that Asia has benefited from extended deterrence. There are some strong arguments in favour of that view. The dynamics are changing and that may no longer be the case in the future. So how do we deal with that? How does Australia respond to the possibility that extended deterrence may not be a permanent thing?

Ms NEAL—I do not really think we have, in a practical sense, benefited at all, bearing in mind the US view of Indonesia and our relationship with it.

Ms Letts—It is all part of the discussion. So that is one area where Australia needs to think about its role. It is not just at the rhetorical level; we have been very good at that—we have been very good at advocating for disarmament and arms control in the past. We have been very active in the field on a number of fronts—not just on the nuclear side but also on the chemical and biological side. We have a good record in providing assistance within our own region to help countries shore up their own export control systems and their implementation systems. That is all fine, but the rubber will hit the road one day where we are really going to be tested if the cover of extended deterrence is diminished. That is one thing to keep in mind.

The other area where I honestly think Australia can make a contribution right now is in the context of its role as a supplier of uranium—to make sure that that is managed responsibly and equitably in the future. Those are a couple of examples I can think about.

Senator McGAURAN—Could you explain something you said—it may have been on the issue of extended deterrence. You said that the final conclusion of the commission—that document—could have tricky proposals for Australia. What are they?

Ms Letts—I have already mentioned one of them, which is the question of how the commission manages the question of extended deterrence—in the context of getting to zero. I should say, by the way, that the report will be a commission report and then governments will have to do with it what they want. That is one of the issues. There could be some concern about countries that do not yet have the indigenous capacity to enrich and reprocess—being asked to forego that right. That might be one that may cause some difficulties for policymakers. We may have some concerns about timetabling. Those are the hard ones for us that I can think of off the top of my head right now. There will be other stuff in the detail. By and large most of what the commission concludes I think the government will be quite comfortable with. But those are a couple of the tricky ones.

Senator McGAURAN—You also mentioned that some countries—uranium exporters—have suspect safeguards. Who and has Australia got the strongest safeguards?

Ms Letts—I do not recall saying that any countries had suspect safeguards; I said that there were some exporters of dual-use equipment where the NSG did not know about the transaction taking place. I do not recall saying that any countries had suspect safeguards as such, but that is not to say that there are not problems in some countries with the way in which the safeguards system works. A more general statement is of course that accounting for nuclear material has been under challenge a couple of times. The Iraq example was one. India's test and Iraq generated the creation of some groups that tried to handle that better. Of course, the introduction of the additional protocol through the IAEA was in response to the fact that the classical safeguard system was not enough to detect the illicit development of a nuclear weapons program.

Does Australia have the best safeguards? I think we certainly have a very robust system, to the extent that not only do the countries that we sell to have to have signed the NPT but also, including in the case of a nuclear weapons state, we have to conclude our bilateral safeguards agreement with them. This is something that you have received briefings on from ASNO, who are far more qualified to comment on this than I am. There is no such thing as perfection; there is always room for improvement. There is the issue of there not being that many inspections in the nuclear weapons states because, as they already have nuclear weapons anyway, why would you spend the precious resources of the IAEA on going and inspecting on a regular basis what is going on in Russia and China when there are other states that do not have the capacity that you are more interested in preventing from getting that capacity. That is a question of resources as much as anything else, I think. The commission will make some comments about resourcing the IAEA better in the future.

Senator McGAURAN—I just have a couple of more questions. I was not quite clear on the point you were trying to make in regard to the United States rewarding Middle Eastern countries for their conduct in this area.

Ms Letts—That is a very personal assessment of what is happening right now. Of course, the UAE has a very strong argument, having big energy needs that it needs to meet. There is an argument there as to why it needs to have nuclear power. But there are a number of other countries in the Middle East where one might ask what the argument is for a nuclear power program and where there are some discussions about signing nuclear cooperation agreements.

Senator McGAURAN—What countries would they be?

Ms Letts—The one I can think of in particular is Jordan. There is also the Egyptian plan for developing a nuclear power program. I might say, going back to your question about Australian safeguards, the Egyptians have shown an interest in buying Australian uranium. I understand that the Australian government has said, ‘We will consider it if you sign the additional protocol.’ The Egyptians have said, ‘We won’t sign the additional protocol, because of the situation with Israel.’ We said, ‘Well, then we will not sell you uranium.’ Fortunately, the Egyptians then said: ‘Don’t worry; we will find it somewhere. We will find it in the Sinai.’ It is tricky.

Senator McGAURAN—So you are saying that, down the track, the United States—

Ms Letts—No, I am saying that we need to be very careful about providing a facility as a way of saying: ‘If you behave, unlike Iran, and you sign the right agreement, you are entitled to this. If you have the right under the NPT, we are prepared to engage with you on the development of this technology.’ One just has to think through the consequences of that further down the track.

Senator McGAURAN—Hasn’t that same deal, if you like, been offered to Iran?

Ms Letts—What same deal?

Senator McGAURAN—A nuclear energy industry—

Ms Letts—Provided you—

Senator McGAURAN—provided you stop.

Ms Letts—If you are asking me what I think is going to happen with Iran, I do not know. I would imagine that the current deal that is being worked on right now is: ‘You can continue to keep your nuclear power program. You might even be able to continue to enrich up a certain level, but in exchange you have to have intrusive IAEA inspections.’ I do not know whether the Iranians even feel at this point that they need to make that concession, but that is the deal I think will be worked out. That is the deal that I understand the EU, for example, would be working on with the Iranians at the moment, but I have no insider knowledge. This is just what you hear.

Senator McGAURAN—But they have rejected that.

Ms Letts—I do not know the status of the negotiations right now. I would have to take that on notice.

Senator McGAURAN—I do not know how I know; I do not know if you do not. I would say that they have rejected it the many times it has been put to them by the Europeans particularly and the United Nations, which shows a clear intent, does it not?

Ms Letts—They have rejected it because the Europeans have offered it to them. They may not reject it if they get to negotiate directly with the Americans. Propositions that have been rejected can be accepted in the future. I do not think we can say that because it has been rejected now it necessarily would be rejected in the future. We can only speculate about Iran's intent, but their behaviour would indicate that, at a minimum, Iran intends to be in the position that, for example, one might say Japan is in—that is, you get to a point where it would not take much for you to take that extra step to develop a weapons capacity.

CHAIR—I think we need to wind up. I will give John Forrest one question and Dana Wortley a question.

Mr FORREST—Thank you, Ms Letts. I have been fascinated by your evidence. We have talked about all the big ogres but we have not sought your opinion on North Korea. Do you have any comment?

Ms Letts—Your guess is as good as mine. All I can say is what I am sure you have heard from many others before. The only negotiating coin that state has is its nuclear weapons capacity, and it is going to milk that for all it is worth. I think that the main consideration is preservation of the regime and has as much to do with internal politics as it has to do with its relationship with the rest of the world. That said, it is of course extremely worrying, particularly with the most recent developments in which they have withdrawn from the six-party talks and have signalled their intention to start production again. The more time that is given, the bigger the capacity. There is also the missile threat. There are big concerns there. As to how you actually persuade the regime to change its mind, much more knowledgeable heads have been working on this for a longer period of time and it is really one of those big conundrums.

Senator WORTLEY—Thank you, Ms Letts, for your detailed and informative opening statement. I found it very interesting. Throughout your article and in your opening statement you used terms such as 'in the future' or made reference to time. From my position it appears as though there is a sense of urgency that you are putting forward. In your article in the *Australian* you said:

The link between the spread of sensitive nuclear technologies and the strains this will put on our ability to control the capacity of latent proliferators is getting stronger.

What sort of time frame for action do you think is required?

Ms Letts—There are long lead times involved here—unless you are going to buy a weapon off the shelf, in which case you can do it pretty quickly. But, given the time that it takes to negotiate agreements, to put in place controls, you are talking about the work of decades. So, to

that extent, I take a longer view. I think these are issues we need to address now to address what consequences they may have further down the track. That is the context in which I was talking.

CHAIR—Martine, thank you very much for attending to give evidence today. If the committee has any further questions, the committee secretariat may seek further comment from you at a later date.

Ms Letts—Thank you. Thanks very much for making time to speak with me.

Resolved (on motion by **Senator Wortley**):

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

Committee adjourned at 12.03 pm