

## Iran and North Korea

### Introduction

- 8.1 As discussed in chapter four, the nuclear aspirations of Iran and North Korea are considered a significant threat to the integrity of the nuclear non-proliferation regime, and especially the NPT.
- 8.2 In his submission, Professor Joseph Camilleri stated:
- ...the NPT framework suffers from a key institutional defect. As of now, no mechanism exists to deal directly or effectively with issues of compliance, implementation, accountability and withdrawal. Such issues have normally been dealt with through the UN Security Council, largely on an *ad hoc* basis, with the result that such deliberations are often coloured by political tensions and rivalries. The absence of such a mechanism became glaringly obvious following North Korea's announcement of its intention to withdraw from the NPT in 2003.<sup>1</sup>
- 8.3 The chapter will examine the history of Iran and North Korea's nuclear program and then examine some of the implications of those programs, including the ramifications for the non-proliferation regime.

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

## Iran

### History of Iran's nuclear program

- 8.4 Iran's nuclear program began in 1957 when it signed a deal with the US to receive training and material assistance in the construction and operation of nuclear research reactors. Over the following decade the US provided nuclear fuel and equipment to Iran. Iran signed the NPT when it opened for signature in July 1968, ratified the Treaty in 1970 and concluded a Safeguards Agreement with the IAEA in 1974.<sup>2</sup>
- 8.5 Following the conclusion of its Safeguards Agreement, Iran announced plans to dramatically expand its nuclear program and, in addition to continued US assistance, concluded deals with French and German companies for the construction of large-scale nuclear power reactors. Iran maintained that its nuclear program was peaceful in nature and that all of its nuclear-related activities were declared to, and overseen by, the IAEA.<sup>3</sup>
- 8.6 Later in the 1970s concerns began to emerge that Iran harboured ambitions to pursue nuclear weapons (particularly in the wake of India's successful nuclear test in 1974) and, following the diplomatic fallout from Iran's 1979 Islamic Revolution, the US, France and Germany halted all assistance to Iran's nuclear program. This left Iran with only two partially completed large-scale nuclear power reactors.<sup>4</sup>
- 8.7 Iran's nuclear program made little progress over the next decade, largely due to the fact that nuclear technology was opposed by Iran's new head of state, Ayatollah Khomeini.<sup>5</sup>
- 8.8 In 1989, following the death of Ayatollah Khomeini, Iran's new head of state, Ayatollah Khamenei, set out to rebuild Iran's nuclear program. With assistance from Russia and China (and reported assistance from Pakistan

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2 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; Center for Non-proliferation Studies, *Inventory of International Non-proliferation Organizations & Regimes*, Nuclear Threat Initiative (NTI), 2009, viewed 12 August 2009, <[www.nti.org](http://www.nti.org)>.

3 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; Center for Non-proliferation Studies, *Inventory of International Non-proliferation Organizations & Regimes*, NTI, 2009, viewed 12 August 2009, <[www.nti.org](http://www.nti.org)>.

4 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; Federation of American Scientists, *Bushehr - Iran Special Weapons Facilities*, FAS, 2000, accessed 11 August 2009, <[www.fas.org](http://www.fas.org)>.

5 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>.

and North Korea), Iran resumed construction of its two partially-built large-scale nuclear reactors, and commenced the construction of a large network of uranium mines, fuel processing sites and research reactors. IAEA safeguards continued to apply to known facilities and operations, and Iran maintained that its activities were for peaceful purposes.<sup>6</sup>

- 8.9 Beginning in 2002, details began to emerge (via Iranian activist groups and national intelligence agencies) of undeclared Iranian nuclear facilities in either the construction or operational phase, including a heavy-water production plant and a fuel enrichment plant. Iran subsequently admitted that it had concealed parts of its nuclear program from the IAEA. In response, the IAEA intensified its inspections. In 2003, the IAEA reported that Iran had breached its Safeguards Agreement (with the first breach occurring in 1991) by failing to report a range of information relating to the import, processing and storage of uranium, as well as design information for two facilities.<sup>7</sup>
- 8.10 One of the greatest concerns that arose from these developments was that Iran seemed to be pursuing two separate pathways to a nuclear weapon: the enrichment of uranium and the production of heavy-water for the eventual production of plutonium.<sup>8</sup>
- 8.11 Following these revelations, the international community issued both warnings and incentives to influence Iran to bring its nuclear program into compliance. While Iran was threatened with referral to the UN Security Council, the 2004 'Paris Agreement', between Iran, the United Kingdom (UK), France and Germany, offered security and financial incentives to Iran in return for a halt to their enrichment activities. This two track approach (the issuing of warnings and sanctions on one hand, and the

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6 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; World Nuclear Association, *Nuclear Proliferation Case Studies*, World Nuclear Association (WNA), May 2009, accessed 12 August 2009, <[www.world-nuclear.org](http://www.world-nuclear.org)>; Nuclear Threat Initiative, *Iran Profile*, NTI, May 2006, accessed 12 August 2009, <[www.nti.org](http://www.nti.org)>; L A Nicksch, *North Korea's Nuclear Weapons Development and Diplomacy*, US Congressional Research Service, 27 May 2009, p. 15, accessed 13 August 2009, <[www.fas.org](http://www.fas.org)>.

7 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; IAEA Director General, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran*, Report by the IAEA Director General to the Board of Governors, IAEA, 19 June 2003, p. 7; World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, accessed 12 August 2009, <[www.world-nuclear.org](http://www.world-nuclear.org)>.

8 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>

offer of incentives on the other) has since characterised the international community's efforts to curb Iran's apparent nuclear ambitions.<sup>9</sup>

- 8.12 In response to this international pressure, Iran ceased its fuel-enrichment activities and signed an Additional Protocol to give the IAEA greater access to its nuclear program, including any reprocessing capability. However, Iran soon reneged on these commitments by refusing to ratify and implement its Additional Protocol, and in 2005, it resumed and began to expand its enrichment activities.<sup>10</sup>
- 8.13 In response, the IAEA declared Iran 'non-compliant' with the NPT and referred the matter to the UN Security Council. In July 2006 the UN Security Council issued Resolution 1696 which required Iran to:
- provide a range of information and access to the IAEA in order to clarify and resolve the breaches of its Safeguards Agreement;
  - ratify its Additional Protocol and provide the IAEA with the increased access and information as is required under the Additional Protocol; and
  - suspend all enrichment and reprocessing-related activities.<sup>11</sup>
- 8.14 Iran began to tentatively address the first requirement through cautious cooperation with the IAEA and the provision of such information as is required under their Safeguards Agreement. However Iran continued to defy the two other requirements.<sup>12</sup>
- 8.15 From December 2006 to March 2008, the UN Security Council passed three resolutions implementing sanctions to increase pressure on Iran:

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9 A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Centre, Washington, 2009, p. 19; Nuclear Threat Initiative, *Iran Profile*, NTI, May 2006, accessed 12 August 2009, <[www.nti.org](http://www.nti.org)>

10 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>

11 A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Centre, Washington, 2009, p. 19; G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>; IAEA Director General, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran*, Report by the IAEA Director General to the Board of Governors, IAEA, 24 September 2005, p. 2; UN Security Council, *Resolution 1696 (2006)*, UN Security Council, 31 July 2006, accessed 12 August 2009, <[daccessdds.un.org](http://daccessdds.un.org)>.

12 G Bruno, *Iran's Nuclear Program*, Council on Foreign Relations, 4 September 2008, accessed 11 August 2009, <[www.cfr.org](http://www.cfr.org)>.

- Resolution 1737 in December 2006 embargoed the provision of any proliferation-sensitive nuclear and ballistic missile technology or training to Iran;
  - Resolution 1747 in March 2007 called upon all states to not provide arms to Iran, and restricted the provision of financial services and assistance to Iran; and
  - Resolution 1803 in March 2008 implemented an assets freeze, a travel ban and cargo-inspections on designated persons and entities suspected of facilitating Iran's nuclear program.<sup>13</sup>
- 8.16 At the same time as these sanctions were being imposed, the five permanent members of the UN Security Council and Germany (known as the '5+1' Group) were engaging diplomatically with Iran in the spirit of the 2004 Paris Agreement. Beginning in 2006, the 5+1 Group offered a series of increasingly comprehensive packages of incentives to Iran in return for a halt to enrichment activities and ratification of its Additional Protocol.
- 8.17 Iran seemed to effectively ignore all sanctions and incentives and stated that it would continue its enrichment program and would not comply with demands to implement its Additional Protocol. In turn the UN Security Council passed another resolution calling on Iran to comply.<sup>14</sup>
- 8.18 In February 2008, the IAEA declared that, due to continued cooperation from Iran, all breaches of Iran's Safeguards Agreement, as discovered since 2003, had now been resolved. Thus Iran had now met one of the three main requirements as laid down by the UN Security Council in its 2006 Resolution 1696. Nonetheless, Iran continued enrichment of uranium

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13 UN Security Council, *Resolution 1737 (2006)*, UN Security Council, 27 December 2006, accessed 12 August 2009, <daccessdds.un.org>; UN Security Council, *Resolution 1747 (2007)*, UN Security Council, 24 March 2007, accessed 12 August 2009, <daccessdds.un.org>; UN Security Council, *Resolution 1803 (2008)*, UN Security Council, 3 March 2008, accessed 12 August 2009, <daccessdds.un.org>.

14 A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Centre, Washington, 2009, p. 21; Nuclear Threat Initiative, *Iran Profile: Nuclear Overview*, NTI, May 2009, accessed 12 August 2009, <www.nti.org>; UN Security Council, *Resolution 1835 (2008)*, UN Security Council, 27 September 2008, accessed 12 August 2009, <daccessdds.un.org>; Ministère des Affaires étrangères, *Elements of a revised proposal to Iran made by the E3+3*, Ministère des Affaires étrangères, 6 June 2006, accessed 18 August 2009, <www.diplomatie.gouv.fr>.

(albeit under IAEA supervision) and made no moves to ratify its Additional Protocol.<sup>15</sup>

- 8.19 In March 2009 Iran declared that, with Russian assistance and under IAEA Safeguards, it would bring its first large-scale nuclear reactor online in September 2009.<sup>16</sup>
- 8.20 Currently, the IAEA continues its inspections under Iran's Safeguards Agreement and is able to verify the non-diversion of declared nuclear material. The Director General's Report to the IAEA Board of Governors of 5 June 2009 indicated, however, that there remain a number of outstanding issues which give rise to concerns and which need to be clarified to exclude the possible military dimensions of Iran's program. Due to Iran's refusal to implement its Additional Protocol, the IAEA's inspections and verification have been limited and the Agency is unable to make a conclusion about possible undeclared activities and other matters in the country. Furthermore, Iran has not suspended its enrichment related activities or its work on heavy water related projects as required by the UN Security Council.<sup>17</sup>
- 8.21 The dual approach of the international community to dealing with Iran's nuclear program also continues. In April 2009 the 5+1 Group again strongly urged Iran to engage in talks on its nuclear program.<sup>18</sup>
- 8.22 The Committee notes that on 28 August 2009, the Director General circulated to the IAEA Board of Governors a report on Iran, which updated the 5 June 2009 report. This report will be considered by the Board on 7 September 2009 and is not yet publicly available.<sup>19</sup>

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15 A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Centre, Washington, 2009, p. 20.

16 RIA Novosti, *Iran counts on Russia for September launch of nuclear plant*, RIA Novosti, 10 March 2009, accessed 14 August 2009, <en.rian.ru>.

17 IAEA Director General, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran*, Report by the IAEA Director General to the Board of Governors, IAEA, 5 June 2009, pp. 1-4; A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Centre, Washington, 2009, p. 21.

18 Mr Robert Wood, *US Department of State: Daily Press Briefing*, US Department of State, 10 August 2009, accessed 14 August 2009, <www.state.gov>; UN Security Council, *Resolution 1835 (2008)*, UN Security Council, 27 September 2008, accessed 12 August 2009, <daccessdds.un.org>; UK Foreign and Commonwealth Office, *Statement of the E3+3 meeting in London, 8 April 2009*, FCO, accessed 18 August 2009, <www.fco.gov.au>.

19 IAEA, 'Safeguards Report on Iran and Syria Circulated', viewed 30 August 2008, <[www.iaea.org](http://www.iaea.org)>.

## Iran as an example of the limitations of the current non-proliferation regime

- 8.23 Iran's nuclear program is considered to demonstrate four particular limitations of the current non-proliferation regime:
- the levels of scrutiny provided by IAEA Safeguards Agreements allow states to make significant progress towards a breakout capability;
  - without an Additional Protocol in place, NPT parties are not required to permit higher levels of IAEA scrutiny, even in cases where there are serious concerns about a state's nuclear program;
  - current diplomatic efforts to divert countries from military nuclear programs, through the dual-use of sanctions and incentives, appear to be largely ineffective; and
  - institutions that deal with non-proliferation issues, such as the UN Security Council and the IAEA, are sometimes perceived to serve political interests rather than genuine non-proliferation imperatives.

### Ability to pursue breakout capability under NPT

8.24 In evidence to the inquiry, the Hon Gareth Evans AO QC and Dr Marco Beljack argued that Iran demonstrates the extent to which NPT parties can develop a nuclear weapons capability without breaching their obligations under the NPT. In Iran's case, IAEA safeguards have not proven to be a deterrent.<sup>20</sup>

8.25 A number of submitters argued that much of this situation stems from Article IV of the NPT which states that NPT parties have the 'inalienable right' to pursue nuclear energy for peaceful purposes.<sup>21</sup> Dr Carl Ungerer told the Committee:

The non-proliferation regime has at its heart three basic goals. One is nonproliferation, the other is disarmament under Article VI, and the other is the peaceful uses of nuclear energy. Those three things bump against each other because most countries that have developed a nuclear weapons capability other than the permanent

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20 G Evans, *Joint Press Conference between Mr Gareth Evans and Ms Yoriko Kawaguchi, Co-Chairs, International Commission for Nuclear Non-proliferation and Disarmament, ICNND, 21 October 2008, Sydney*, accessed 14 August 2009, <[www.icnnd.org](http://www.icnnd.org)>; Dr Marko Beljac, *Submission No. 18*, p. 4.

21 Medical Association for Prevention of War, *Submission No. 61*, p. 7; People for Nuclear Disarmament, *Submission No. 15*, p. 1; Anti-Nuclear Alliance of Western Australia, *Submission No. 75*, pp. 5-6.

five members who were the five declared nuclear weapon states have done so under the guise of a nuclear energy program. This is the question that we face with Iran at the moment. Iran says that it is engaged in a peaceful nuclear program, which is fully legitimate under the terms of the 1968 non-proliferation treaty, yet we have plenty of evidence to suggest that those intentions may not be completely benign.<sup>22</sup>

- 8.26 In its report, *World at Risk*, the US Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism noted that if Iran did acquire a nuclear weapons capability it would be the third time since 1991 that a Party to the NPT had used a civilian nuclear program, as permitted by the NPT, to obtain, or come close to obtaining, a nuclear weapon capability.<sup>23</sup>

### Additional Protocol

- 8.27 In discussions with the IAEA, the Committee delegation was informed that while there are serious concerns that Iran has military aspects to its nuclear program, the IAEA cannot investigate these claims while Iran refuses to ratify the Additional Protocol. The IAEA described the current situation as a 'technical stalemate'. The IAEA told the delegation that robust safeguards exist on Iran's declared nuclear program and fuel enrichment activities, and that there is a high level of inspection including unannounced inspections about once a month. However, the Agency's ability to detect any activities that are undeclared is constrained. This reflects a further weakness of the NPT: there is no requirement for parties, even those suspected of prohibited activities, to provide the IAEA with greater powers to inspect facilities.
- 8.28 In March 2009, in an address to the IAEA Board of Governors, Dr Mohamed El Baradei described the persisting problems with Iran as a 'stalemated situation' and stated:

Unless Iran implements the transparency measures and the Additional Protocol, as required by the Security Council, the Agency will not be in a position to provide credible assurance

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22 Dr Carl Ungerer, *Transcript of Evidence*, 25 March 2009, pp. 50-51.

23 Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, *World at Risk: Report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism*, Vintage Books, New York, 2008, p. 61.



about the absence of undeclared nuclear material and activities in Iran.<sup>24</sup>

### Ineffectiveness of current methods of diplomacy

8.29 As already noted, the international approach to Iran has comprised both sanctions and incentives. The lack of success of these approaches to date demonstrates some real problems with the current approach to potential proliferators. Dr Perkovich told the Committee that Iran has demonstrated the inability of the UN Security Council to enforce non-proliferation measures:

... Iran ... is noncompliant with its IAEA obligations and so on. It took three years to get it to the Security Council. It has now been at the Security Council, and I believe there are four Security Council resolutions, and Iran just continues to laugh and conduct enrichment. So there is a question about enforcement.<sup>25</sup>

8.30 It was suggested to the Committee delegation that sanctions may have actually been counterproductive. Prior to the sanctions being imposed the IAEA had access to Iran's facilities as though an Additional Protocol were in place. With the implementation of the UN Security Council resolutions, Iran withdrew this cooperation.

8.31 It has also been argued that Iran's response to incentives, offered first through the 2004 Paris Agreement and later via the 5+1 Group, was quite positive, and that Iranian diplomats had expressed strong interest in such incentives. However, following the implementation of sanctions, Iran appeared to reject any offers of incentives.<sup>26</sup>

### Politicisation of non-proliferation and disarmament institutions

8.32 The situation in Iran reflects another criticism of the nuclear non-proliferation regime: that the institutions which govern, implement and enforce non-proliferation measures may be perceived by some to serve political interests over genuine non-proliferation concerns. For example,

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24 M El Baradei, *Introductory Statement to the Board of Governors, IAEA, 2 March 2009, Vienna*, accessed 17 August 2009, <[www.iaea.org](http://www.iaea.org)>.

25 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 9.

26 A Ehteshami, 'Iranian Perspectives on the Global Elimination of Nuclear Weapons', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations, Volume IV*, The Henry L. Stimson Centre, Washington, 2009, p. 41.

Dr Perkovich suggested that Iran illustrates the difficulty of separating genuine non-compliance issues and 'politically motivated' issues.<sup>27</sup>

- 8.33 Dr Ben Saul also told the Committee of the perceived politicisation of the UN Security Council and its resolutions:

... we have seen the use of the UN Security Council and its binding resolutions to deal with situations in Iran and North Korea. From the work of [the University of Sydney's Centre for International and Global Law] with organisations like the Islamic Conference, the League of Arab States and others, we often hear the criticism that the security council is seen as some kind of tool of Western hegemony or great power hegemony, particularly on the nuclear issue.

There is certainly a concern about unequal treatment of countries, for example, such as Iran under those sanctions regimes compared with other countries, which equally possess serious and dangerous nuclear capabilities, such as Israel, the United States and others.<sup>28</sup>

- 8.34 This perception characterised Iran's response to the 2006 and 2007 sanctions implemented by the UN Security Council. Iran's Foreign Minister said:

... the Security Council is being abused to take an unlawful, unnecessary and unjustifiable action against the peaceful nuclear program of the Islamic Republic of Iran ...

In order to give [these sanctions] a semblance of international legitimacy, [the advocates of the sanctions] ... have taken advantage of their substantial economic and political power to pressure and manipulate the Security Council to adopt three unwarranted resolutions within 8 months.

... certain members of the Security Council decided to hijack the case from IAEA ... and politicize it.<sup>29</sup>

### Implications of a nuclear armed Iran

- 8.35 In its report, *World at Risk*, the US Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism considered that
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27 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 13.

28 Dr Ben Saul, *Transcript of Evidence*, 26 March 2009, p. 45.

29 M Mottaki, *Statement made by H.E. Manouchehr Mottaki Foreign Minister of the Islamic Republic of Iran before the United Nations Security Council*, United Nations, 24 March 2007, pp. 1-3, accessed 18 August 2009, <www.un.int>.

Iran constitutes a threat to international peace and security. The Commission argued that:

Failure to resolve these crises could lead some countries to revisit their earlier decisions to renounce nuclear weapons, potentially leading to a cascade of new nuclear-weapon states.<sup>30</sup>

- 8.36 Senator Graham, the Chair of the Commission, reiterated this point to the Committee and emphasised that such nuclear weapon proliferation in the Middle East would be detrimental to security in the region. As discussed in chapter four, Senator Graham considered that Turkey, Egypt and Saudi Arabia were likely to pursue nuclear weapons if Iran acquired them. Senator Graham also argued that any solution to the Middle East problems relied upon preventing Iran from developing nuclear weapons.<sup>31</sup>
- 8.37 The Hon Gareth Evans AO QC told the Committee that if Iran acquired nuclear weapons it could lead to extremely counterproductive military action:

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.<sup>32</sup>

## **Democratic People's Republic of Korea (North Korea)**

### **History of North Korea's nuclear program**

- 8.38 North Korea's nuclear program began at the end of the 1950s with assistance from the then USSR when a number of facilities were built in a nuclear complex at Nyongbyong. In 1979, North Korea began a second

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30 Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, *World at Risk: Report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism*, Vintage Books, New York, 2008, p. 61.

31 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, pp. 6, 8. See also Ms Jennifer Rawson, *Transcript of Evidence*, 14 May 2009, p. 26.

32 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 10.

phase, described by the IAEA as 'indigenous', when it built a five megawatt reactor at Nyongbyong.<sup>33</sup>

- 8.39 North Korea acceded to the NPT in 1985 but did not conclude its safeguards agreement with the IAEA until 1992. In that period it brought into operation a five megawatt reactor, had two much larger reactors under construction, and completed and commissioned a reprocessing plant for the extraction of plutonium from spent reactor fuel.
- 8.40 Shortly after inspections began in 1992, IAEA inspectors found discrepancies that indicated the reprocessing plant had been used more often than North Korea had declared, which suggested the country might have weapons-grade plutonium that it had not declared to the IAEA. North Korea refused to allow special inspections by the IAEA and in 1993 announced its intention to withdraw from the NPT. The IAEA Board concluded that North Korea was in non-compliance with its safeguards obligations and referred this non-compliance to the UN Security Council.<sup>34</sup>
- 8.41 During 1993 and 1994, limited IAEA inspections continued, although hampered by the North Korean Government. The IAEA concluded in June 1994 that North Korea was 'continuing to widen its non-compliance with its safeguards agreement...'.<sup>35</sup>
- 8.42 In October 1994, the US-North Korea Agreed Framework allowed North Korea to continue some activities. The IAEA was given responsibility for monitoring the dismantling of plutonium production reactors and related facilities.<sup>36</sup> The five megawatt reactor and reprocessing plant were 'frozen', but still maintained. In contrast, the larger reactors 'were allowed to atrophy to the point where they were no longer salvageable'.<sup>37</sup>
- 8.43 North Korea was ultimately persuaded to halt its nuclear weapons program in exchange for about \$US5 billion in energy related assistance,

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33 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>.

34 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>; World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

35 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>.

36 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

37 L V Sigal and J Wit, 'North Korea's Perspectives on the Global Elimination of Nuclear Weapon', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009, p. 10.

- including two 1,000 megawatt light water nuclear power reactors, contracts for which were signed in 1999.<sup>38</sup>
- 8.44 By 2002, the project was several years behind schedule due to North Korea's continued lack of cooperation with the IAEA. The project was subsequently suspended in 2003 and terminated in May 2006.<sup>39</sup>
- 8.45 In October 2002 it was revealed that North Korea had been clandestinely enriching uranium for weapons use, using centrifuge equipment supplied by Pakistan.<sup>40</sup>
- 8.46 In December 2002, North Korea removed the IAEA seals on its facilities at Yongbyon and ordered IAEA inspectors out of the country. It then commenced reprocessing some 8,000 irradiated fuel rods to recover weapons-grade plutonium.<sup>41</sup>
- 8.47 North Korea announced its withdrawal from the NPT effective from 11 January 2003. Since then, negotiations have been underway to secure some agreement on curtailing North Korea's nuclear weapons program.<sup>42</sup>
- 8.48 In October 2006, North Korea tested a nuclear weapon underground near Gilju and the matter was referred to the UN Security Council.<sup>43</sup> The UN Security Council Resolutions 1695 and 1718 imposed sanctions upon North Korea. This included targeted sanctions, banning trade in conventional arms with North Korea and the provision of materials or assistance to its programs to develop weapons of mass destruction and their delivery systems. A ban was also imposed on the supply of specified luxury goods to North Korea, as well as financial and travel sanctions against persons designated by the UN Security Council as supporting North Korea's programs to develop weapons of mass destruction and their delivery systems.

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38 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

39 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

40 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

41 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>; World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

42 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>; World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

43 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

- 8.49 In February 2007, agreement was reached in the Six Party Talks involving China, Japan, Russia, South Korea and the United States that North Korea would:
- shut down and seal the Yongbyon reactor and related facilities including a reprocessing plant within 60 days and accept IAEA monitoring of this, in exchange for assistance with energy needs. The reactor was shut down in July 2007 and other facilities closed under IAEA verification. Used fuel was to be reprocessed in either the UK or Russia and not returned;
  - provide a full inventory of nuclear materials and disable the plants. This was to be completed by December 2007 but dragged out to June 2008 when Yongbyon's cooling tower was demolished; and
  - fissile and weapons materials would be handed over.<sup>44</sup>
- 8.50 On 22 September 2008, North Korea asked the IAEA to remove the seals and surveillance equipment from the reprocessing plant at Yongbyon. This was completed by 24 September at which time the Agency was also informed its inspectors would no longer have access to the reprocessing plant.<sup>45</sup>
- 8.51 The IAEA was granted access to some facilities at Yongbyon between October 2008 and April 2009. On 14 April 2009, the Director General reported to the IAEA Board that North Korea had decided to:
- cease all cooperation immediately with the IAEA;
  - request the IAEA personnel at the site to remove all Agency containment and surveillance equipment;
  - no longer allow IAEA inspectors access to facilities once the containment and surveillance equipment was removed; and
  - that IAEA inspectors would be required to leave North Korea at the earliest possible time.<sup>46</sup>

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44 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>; World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

45 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, p. 2.

46 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, pp. 2-3.

- 8.52 Prior to their departure on 16 April 2009, the IAEA inspectors were informed that North Korea 'had decided to reactivate all facilities and to go ahead with the reprocessing of spent fuel'.<sup>47</sup>
- 8.53 In May 2009, North Korea exploded another nuclear device underground.<sup>48</sup> This test, in contravention of UN Security Council resolutions attracted condemnation from around the world. In a statement to the House of Representatives, the Prime Minister, the Hon Kevin Rudd MP, said:
- This is an unacceptable, provocative and destabilising act by North Korea. ... These actions obtain the absolute condemnation of the government of Australia....<sup>49</sup>
- 8.54 The Prime Minister called on the international community to take a strong and unified position against the actions of North Korea, which he described as a 'flagrant breach of UN Security Council resolution 1718'.<sup>50</sup>
- 8.55 The United Nations Security Council also condemned the nuclear test and adopted Resolution 1874 on 12 June 2009, which tightened sanctions against North Korea by:
- ...blocking funding for nuclear, missile and proliferation activities through targeted sanctions on additional goods, persons and entities, widening the ban on arms imports-exports, and calling on Member States to inspect and destroy all banned cargo to and from that country -- on the high seas, at seaports and airports -- if they have reasonable grounds to suspect a violation.<sup>51</sup>
- 8.56 The resolution also called for North Korea to return at an early date to the NPT and IAEA safeguards and the Six Party Talks.<sup>52</sup>
- 8.57 In the IAEA's safeguards report of 30 July 2009, the IAEA stated that since 15 April 2009, the Agency has been unable to carry out any monitoring

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47 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, p. 3.

48 World Nuclear Association, *Nuclear Proliferation Case Studies*, WNA, May 2009, viewed 13 July 2009, <<http://www.world-nuclear.org/info/inf73.html>>.

49 Hon Kevin Rudd MP, *House of Representatives Hansard*, 26 May 2009, p. 4257

50 Hon Kevin Rudd MP, *House of Representatives Hansard*, 26 May 2009, p. 4257.

51 UN Security Council, SC/9679, 12 June 2009, viewed 28 August 2009, <<http://www.un.org/News/Press/docs/2009/sc9679.doc.htm>>.

52 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, p. 3.

and verification activities in North Korea. It was therefore unable to 'provide any conclusions regarding the DPRK's nuclear activities'.<sup>53</sup>

- 8.58 Both North Korean nuclear tests were detected by the International Monitoring System established under the Comprehensive Nuclear-Test-Ban Treaty and were discussed in chapter two.

## Reasons for North Korea's actions

- 8.59 In an analysis of North Korea, Leon Sigal and Joel Witt have argued that over the last two decades, North Korea has sought nuclear weapons for the following reasons:
- to counter the political, economic and security threats it perceives to be posed by the United States and its allies;
  - as a deterrent to the threat of a nuclear or other attack; and
  - as a possible 'bargaining chip' to end US hostility.<sup>54</sup>
- 8.60 Sigal and Wit argue that North Korea views its nuclear stockpile and ballistic missile program as important sources of political leverage in dealing with more powerful countries:

These programs have allowed a small, economically devastated country to command international attention and to bolster what otherwise would be a weak bargaining position vis-à-vis the rest of the global community.<sup>55</sup>

## Implications of North Korea's nuclear program

- 8.61 The Committee understands from discussions during the delegation visit to Europe and the United States that one of the key concerns with North Korea is its potential role as a proliferator of nuclear materials. Indeed, according to *World at Risk*, North Korea has sold nuclear weapon-capable

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53 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, p. 4.

54 L V Sigal and J Wit, 'North Korea's Perspectives on the Global Elimination of Nuclear Weapon', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009, pp. 1, 9, 12.

55 L V Sigal and J Wit, 'North Korea's Perspectives on the Global Elimination of Nuclear Weapon', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009, p.9.



ballistic missiles to Pakistan, Iran and several other Middle Eastern states, and provided Syria with a nuclear reactor for plutonium production.<sup>56</sup>

- 8.62 In August 2009, reports also emerged in the media that North Korea was assisting Burma to develop a clandestine nuclear weapons program.<sup>57</sup> A senior fellow at the International Institute of Strategic Studies was quoted in the media as stating:

North Korea is willing to sell anything to anyone....<sup>58</sup>

- 8.63 In addition to proliferation concerns, North Korea, as the first and only country to have withdrawn from the NPT, is considered to demonstrate the need for stronger measures in relation to the Treaty's withdrawal provisions. Possible measures to strengthen this aspect of the Treaty were discussed in chapter four, including stronger disincentives and a more immediate role for the UN Security Council.

- 8.64 It is important to recognise that since 1993, the IAEA has concluded that North Korea is non compliant with its obligations:

In other words, the Agency has never had the complete picture regarding DPRK nuclear activities and has never been able to provide assurances regarding the peaceful character of the DPRK nuclear programme.<sup>59</sup>

- 8.65 Like Iran, North Korea is considered to be a threat to international peace and security and there is considerable international concern about the potential effects that failure to resolve this situation may have.

## Conclusions

- 8.66 Dr Marianne Hanson argued that the willingness of the United States to engage with Iran and North Korea could be important in achieving progress on resolving these issues.<sup>60</sup> Sigal and Wit expressed a similar view in relation to North Korea:

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56 Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, *World at Risk: The Report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism*, Vintage Books, New York, 2008, p. 19.

57 D Flitton, 'Burma and the bomb', *The Age Insight*, 1 August 2009, p. 1.

58 D Flitton, 'Burma and the bomb', *The Age Insight*, 1 August 2009, p. 1.

59 IAEA, *Fact Sheet on DPRK Nuclear Safeguards*, viewed 28 August 2009, <[www.iaea.org](http://www.iaea.org)>.

60 Dr Marianne Hanson, *Submission No. 79*, p. 3.

... improvement of political relations is absolutely essential to achieve denuclearization.<sup>61</sup>

8.67 In relation to North Korea, the Director General of the IAEA has called on all parties:

... to continue to work for a comprehensive solution through diplomatic means that would bring the DPRK back to the NPT and address its security concerns, humanitarian needs and other political and economic requirements.<sup>62</sup>

8.68 Serious diplomatic effort will be required to address the situation in both Iran and North Korea. The Committee notes that there has been considerable media reporting of the prospect of dialogue with both countries, particularly involving the United States, throughout the course of this inquiry. In late August 2009, there were media reports that North Korea had invited a US special envoy to visit Pyongyang for talks on its nuclear program.<sup>63</sup> The Committee considers that the Australian Government should provide whatever support it can to progress such dialogue.

8.69 The situations of Iran and North Korea are clearly destabilising and counter the positive moves that have been identified elsewhere in the Committee's report. The Committee considers that resolution of these issues must be priorities for the international community. There are likely to be serious implications for the NPT and the non-proliferation regime more broadly if strong international action is not taken.

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61 L V Sigal and J Wit, 'North Korea's Perspectives on the Global Elimination of Nuclear Weapon', in B M Blechman (editor), *Unblocking the Road to Zero: Perspectives of Advanced Nuclear Nations*, Volume IV, The Henry L. Stimson Center, Washington, 2009, p. 3.

62 IAEA Director General, *Implementation of Safeguards in the Democratic People's Republic of Korea (DPRK)*, Board of Governors General Conference, IAEA, 30 July 2009, p. 3.

63 See, for example, P Alford, 'Pyongyang vows to lay it all on the table in talks with Americans', *Australian*, viewed 31 August 2009, <<http://www.theaustralian.news.com.au/story/0,25197,25957713-2703,00.html>>.