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Innovating Nuclear Security Governance

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Introduction

The international governance arrangements for nuclear activities vary depending on the subject. The public imagines that the IAEA (International Atomic Energy Agency) has broad decision-making authority on behalf of the international interest, but in reality this is far from the case. The prevailing ethos in international relations continues to be the sovereign right of the nation state. Although the international interest in national nuclear programs was one of the first subjects considered on the creation of the United Nations in 1946, governance arrangements have a long way to go to reflect this interest adequately.

Even in non-proliferation, where the IAEA's authority is strongest, its responsibilities are limited. It can perform safeguards inspections and determine safeguards compliance, but has no authority e.g. over the kind of fuel cycle activities a state can undertake, provided these are under safeguards. In nuclear safety and security the IAEA's authority is much weaker – limited to recommendations and advice. It is entirely up to the discretion of states whether they seek and pay attention to the IAEA's advice. At least under the Nuclear Safety Convention there is a mandatory peer review process, albeit rather broad-brush and weak. In nuclear security there is no equivalent.

Underscoring the weakness of nuclear security governance, some states have challenged whether the IAEA should have a role at all, and much of the IAEA's work in this area is funded by voluntary contributions rather than the regular budget.

The Fukushima accident has demonstrated that a major nuclear accident anywhere is an accident everywhere. Fukushima has also demonstrated that neither individual states nor the international community as a whole are well served by relying exclusively on national oversight of nuclear activities. In both safety and security there is a need for international transparency and accountability, as well as greater cooperation.

The need for reform in nuclear security governance

The strong international interest in nuclear security is reflected by the Nuclear Security Summit process initiated by President Obama. If terrorists succeed in stealing fissile material, this could pose a threat to many states. A nuclear detonation or major nuclear sabotage by terrorists will have global repercussions. As with nuclear safety, a major nuclear security failure anywhere can impact everywhere.

The main treaty in the security area, the Convention on the Physical Protection of Nuclear Material and its 2005 Amendment, sets out fundamental principles but not detailed standards. The IAEA issues security guidelines which are only recommendatory. There are two peer review mechanisms – by the IAEA and by the non-government World Institute for Nuclear Security (WINS). These mechanisms are entirely voluntary, as to whether the state invites review and whether it follows review recommendations.

Every state benefits from assurance that nuclear security in other states is implemented at a high standard. Yet today there is a lack of transparency in how well states are performing in

nuclear security, and within the nuclear security community there is resistance to changing this.

What can be done?

International peer review is a powerful mechanism for ensuring good security performance. The international interest should be strengthened through a commitment to regular peer review, and a commitment to transparency. Peer review should be established as a regular process, with each state committed to inviting peer reviews commensurate with the nature and scale of its nuclear activities. It is important to appreciate that external review is not simply about compliance, but helps share best practice and can be vital in identifying overlooked vulnerabilities.

The need to avoid compromising security should not be used as a pretext for avoiding external review. The managed access concept is well established, and states can readily establish appropriate procedures. To the extent compatible with protecting sensitive information, the peer review process should be transparent, with states reporting on reviews undertaken and whether recommendations were followed. Transparency would help to ensure that reviews are taken seriously. Transparency would also help identify where international cooperation should be focused, in areas such as training and capacity-building.

The lack of transparency, and lack of progress on this in the Nuclear Security Summit process, led the Nuclear Threat Initiative to develop a Nuclear Security Index analyzing indicators relating to confidence in nuclear security performance. This Index is planned for release in December.

Today the idea of an international nuclear security inspectorate seems anathema to most national security officials. For the future, states should seriously consider how an international security inspection process could be developed so as to operate to their benefit.

Another concept that should be developed is a “3S” culture, a professional approach that draws together the disciplines of safeguards, safety and security and benefits from the synergies in these areas. A 3S culture could be reflected not only in nuclear operations, but in governance arrangements, e.g. peer reviews that look at safeguards, safety and security, or safeguards inspectors that can advise on safety and security matters.

Conclusions

The major lesson of Fukushima is that the 20th century emphasis on national sovereignty is increasingly out of step with international needs for assurance, transparency, accountability and cooperation. Better governance arrangements are needed to ensure a more sustainable balance between national and international interests. This is particularly the case for nuclear security where current international governance is weak. It is to be hoped that discussion at and around the Seoul Nuclear Security Summit, in March 2012, can lead to genuine progress on these issues.