

# Measure for measure: The NPT and the road ahead

*Yielding overall positive results, the 1995 NPT Conference extended the Treaty indefinitely and underscored the IAEA's roles*

by **Berhanykun Andemicael, Merle Opelz, and Jan Priest**

**E**ven before the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) took effect in 1970, the IAEA was an integral component of the world's efforts against the spread of nuclear weapons. The NPT significantly expanded the world's nuclear verification system and the Agency's central role, to the extent that today nearly all of the IAEA's safeguards agreements are concluded in connection with the Treaty. On that basis alone, the outcome of the NPT Review and Extension Conference in May 1995 was of major importance to the Agency and the international community it serves.

On 11 May 1995, the Conference decided to extend the Treaty indefinitely, with greater accountability in future review conferences about its implementation. It further adopted a set of Principles and Objectives for Nuclear Non-Proliferation and Disarmament, and a resolution on the Middle East. (*See box.*) The Conference, however, was not able to adopt a Final Declaration.

Overall, as IAEA Director General Hans Blix has pointed out, the NPT Conference sent some welcome overriding messages. It reconfirmed that the ultimate objective of the Treaty is a nuclear-weapon free world, and supported the "Atoms for Peace" approach for the use and transfer of peaceful nuclear technology consistent with NPT provisions. For the IAEA, this points to the continued importance of its existing, and in some cases expanding, roles in areas of verification and safeguards, nuclear safety, waste disposal, transfer of nuclear technology, and technical assistance.

This article takes a closer look at the deliberations and decisions of the 1995 NPT Review and Extension Conference. In so doing, it focuses on

the achievements as they relate to the evolving role and responsibilities of the IAEA, and outlines those issues of relevance to the Agency on which consensus could not be reached.

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## NPT extension: Options and decision

The indefinite extension of the NPT, which originally was given a 25-year lifespan, was by no means a foregone conclusion. In fact, very few delegates or observers at the opening of the Conference would have been ready to bet on that outcome. On the other hand, there were also few who did not wish to see the Treaty given a long lease of life, even its greatest critics.

Various options were announced or proposed in addition to indefinite extension. In the months before the Conference opened, Venezuela announced an option that would extend the Treaty for another 25-year period on the same terms and conditions it was originally concluded. There was uncertainty, however, whether the Treaty's provisions could be interpreted to provide for the necessary subsequent extension conferences. By the third week of the Conference, the Venezuelan approach was replaced by two formally proposed options to go alongside the one for indefinite extension. The first option, introduced by Indonesia, called for extending the Treaty for rolling fixed periods of 25 years, with review conferences convened every 5 years. The second option, introduced by Mexico, proposed indefinite extension tied to a number of commitments, the attainment of which would be reviewed every 5 years.

Well into the Conference, Canada took the initiative to circulate a draft decision for indefinite extension through which States could indicate the position they would take should the question come to a vote. In the end it was through this initiative that the Conference was able to decide that a majority existed for indefinite ex-

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tension. Only Egypt and Syria mentioned the suspension of the Conference if no decision could be taken, with it to reconvene at a later date until which time the Treaty would remain in force.

Of the five nuclear-weapon States, four — France, Russia, the United States, and the United Kingdom — advocated indefinite extension from the start, strongly supported by Canada, Australia, and most European States. China joined the support later. While some developing countries supported indefinite extension from the beginning, most did not. The opposition started to fade about midway into the NPT Conference, following the outcome of the Bandung meeting of Foreign Ministers of States in the Non-Aligned Movement (NAM). The meeting did not unite around demands for the option of a 25-year rolling extension.

By the third week of the Conference, more than 100 States had signed up for indefinite extension and the question was no longer whether or not the Treaty would be extended indefinitely, but by how great a majority and under what conditions.

While it was clear that there would be a majority for indefinite extension if it came to a vote, the President of the Conference, Sri Lankan Ambassador Jayantha Dhanapala, was firm in seeking to achieve consensus. Using its unique position as an ex-nuclear-weapon State and as a non-aligned developing country, South Africa proposed linking an “enhanced” review process and the acceptance of “principles” covering non-proliferation, universality, safeguards, peaceful uses, nuclear disarmament and nuclear-weapon-free zones with the decision to extend the Treaty indefinitely. South Africa stressed that the principles were not “conditions”, but a “yardstick”. These principles were discussed in a small group of Friends of the President parallel to the review of the Treaty which was being carried out in three main committees. In the end, it was this package, augmented by a resolution on the Middle East, that won the day.

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### **Main Committee I: Disarmament and security issues**

The aim of the NPT Conference to adopt a Final Declaration on the review of the Treaty’s implementation could not be achieved because of deep divisions within Main Committee I over the issues of non-proliferation and nuclear disarmament.

**Polarized debate.** Main Committee I was unable to resolve the fundamental difference of perception on issues between the nuclear-weapon States and the majority of non-nuclear-

weapon States. The disagreements cut across North-South lines. Notably, criticism of the nuclear-weapon States on issues of disarmament brought together members of the NAM and some members of the Western European and Other States Group.

**Non-proliferation commitments.** At issue was the responsibility for past acquisitions by non-nuclear weapon States of sensitive nuclear technology and the manner in which future transfers could be prevented. The first disagreement occurred when Mexico raised two questions: whether Articles I and II were violated by the deployment of American and British nuclear weapons in the territories of other NATO members, with control transferable in times of war; and whether nuclear components and technology received by the UK under the US/UK Mutual Defense Agreement constituted nuclear transfer in breach of Article I.

Many NAM members agreed with Mexico that such transfers were not consistent with NPT obligations, while the argument was vigorously refuted by the US, the UK, and a number of NATO members. A second issue concerned a point made by Iran and several Arab States that certain nuclear-weapon States should bear responsibility for the acquisition of sensitive nuclear technology and materials by non-NPT parties, particularly Israel. No responsibility was acknowledged by any nuclear-weapon State for any such transfers. A third issue concerned the breach by Iraq of its non-proliferation obligations under Article II and the non-compliance by the Democratic People’s Republic of Korea (DPRK) with its safeguards obligations under Article III, with possible implications for Article II. There was not much disagreement on these issues as such, except by Iraq and the DPRK themselves who would not join a consensus if their cases were explicitly mentioned. The prevailing view among the NAM members was that a balanced assessment of non-compliance should cover both Articles I and II.

These issues by themselves were not intractable but they could not be resolved in the context of the deeper division over Article VI.

**Disarmament.** The main disagreement regarding Article VI concerned the following issues: whether the arms race has indeed ceased; how to speed up the process of nuclear disarmament by all nuclear-weapon States and achieve total elimination of nuclear weapons; how to strengthen existing security assurances to non-nuclear-weapon States; and whether a plan of action with specific time-frames was feasible for future nuclear disarmament. There was less problem with the specific issues of negotiations for a Comprehensive Test Ban Treaty (CTBT)

### The NPT, the 1995 Conference, and the IAEA

The Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation on Nuclear Weapons (NPT) was convened in New York from 17 April to 12 May 1995. Its significance was underscored by the participation of 175 of the Treaty's 178 States Parties and by the decision to extend the Treaty indefinitely. The dual purpose of the Conference was to review the operation of the Treaty and to decide upon its extension. Ambassador Jayantha Dhanapala, of Sri Lanka, was President of the Conference.

The Conference preparatory process, which had started in May 1993, was done in four sessions of the Preparatory Committee. Eleven background documents were accepted for transmission to the Conference, including three prepared by the IAEA. However, relatively little time was devoted to substantive discussions and no major issue were resolved before the Conference. The focus had been on preparation of the draft rules of procedure for the Conference, the most controversial rule of which was left for the Conference itself to resolve. This concerned the voting procedure on the extension decision, a question closely associated with the substantive issue of options for extension, both of which were eventually resolved in the last week of the Conference. The review of the Treaty's implementation was undertaken by three Main Committees with the following mandates:

- **Main Committee I: Disarmament and Security Issues**

Review and implementation of Articles I and II (non-proliferation commitments), Article VI (nuclear and general disarmament commitments); and Article VII (nuclear-weapon-free zones as related to disarmament and security issues) and the related preambular paragraphs.

- **Main Committee II: Non-Proliferation, Safeguards, and Nuclear-Weapon-Free Zones**

Review of implementation of Article III (verification and IAEA safeguards); Articles I and II (non-proliferation commitments in relation to verification and peaceful uses of nuclear energy); and Article VII (nuclear-weapon-free zones). Role of the Treaty in promoting non-proliferation, nuclear disarmament, and peace and security. Measures to promote the Treaty's wider acceptance.

- **Main Committee III: Peaceful Uses of Nuclear Energy**

Review of implementation of Article III (as regards application of safeguards in such a way as to avoid hampering the economic or technological development of Parties); Article IV (on promotion of peaceful uses of nuclear energy); and Article V (on peaceful applications of nuclear explosions) and related preambular paragraphs.

**IAEA Roles and Responsibilities.** Under the NPT, the IAEA has been entrusted with the specific role as the international safeguards inspectorate and is generally recognized as the multilateral channel for the transfer of technology for peaceful uses of nuclear energy. Responsibilities emanate from Articles III and IV, respectively. In practical terms, the Agency has roles in connection with a number of other Articles. In practice, the IAEA has been entrusted with verification pursuant to Articles VII (in the Treaty-based nuclear weapon free zones already established or in prospect) and to Article VI (in the context of safeguarding nuclear material deemed excess to US defense requirements.) Possible new roles include those emerging from completion of negotiations for a Comprehensive Test-Ban Treaty (CTBT); and the conclusion of an agreement banning the production of fissionable material for nuclear weapons or other nuclear explosives.

In his statement to the Conference on 17 April 1995, IAEA Director General Hans Blix described the important role which has been given to the IAEA in the implementation and fulfilment of the NPT, the Agency's potential role in new areas of nuclear arms control, and its extensive technical cooperation and assistance activities. Background Documents prepared by the IAEA provided detailed information to the Conference. IAEA staff further provided assistance to the Committees, in clarifying issues as well as in providing service as part of the Conference Secretariat.

**NPT Origins and Objectives.** Signed in 1968 and in force since 1970, the NPT has been hailed as one of the great success stories of multilateral arms control. Its main objectives are to halt the further spread of nuclear weapons, to provide security for non-nuclear weapon States which have given up the nuclear option, to create a climate where co-operation in the peaceful uses of nuclear energy can be fostered, and to encourage good faith arms control negotiations leading to the eventual elimination of nuclear weapons. While opinions differ among States as to how successful the NPT has been in achieving these goals, most are of the view that the world is a safer place with the Treaty than it would be without it.

Considering what is at stake, the NPT is a rather simple document consisting of only 10 Articles, the longest of which is six paragraphs. The details of the verification of Treaty obligations are left for negotiation in the framework of the IAEA. These safeguards agreements and subsidiary arrangements go into much greater detail and constitute the Treaty's verification system.

The Treaty provides for periodic review conferences at 5-year intervals. The first one was thus held in 1975, followed by those convened in 1980, 1985 and 1990 in accordance with NPT provisions and resolutions by the United Nations General Assembly. The 1995 Conference was specifically provided for in Article X of the Treaty: "Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty."

### The Final Package of Decisions

The positive outcome of the NPT Conference was a package of three decisions:

- **Extension of the Treaty.** The Conference decided that, as a majority exists among States Party to the Treaty for its indefinite extension, in accordance with its Article X.2, the Treaty shall continue in force indefinitely.
- **Principles and Objectives for Nuclear Non-Proliferation and Disarmament.** In 20 operative paragraphs, the Conference adopted principles and objectives in all relevant areas. **Universality:** Urgent priority was given to universal adherence to the NPT. **Non-Proliferation:** The NPT's vital role in preventing nuclear proliferation and reducing the danger of nuclear war was stressed, as well as the need to make every effort to implement the non-proliferation provisions in all their aspects. **Nuclear disarmament:** The commitments by nuclear-weapon-States to pursue nuclear disarmament negotiations in good faith were reaffirmed and those States were urged to fulfil their undertakings with determination. Specifically, the implementation of the following programme of action was stressed: completion of negotiations on a Comprehensive Nuclear Test Ban Treaty no later than 1996, with utmost restraint on testing pending its entry into force; immediate commencement and early conclusion of negotiations for a cut-off agreement on the production of fissile material for nuclear weapons; determined, systematic, and progressive efforts by nuclear-weapon States to reduce nuclear weapons globally, with the ultimate goal of their elimination. **Nuclear-weapon-free-zones (NWFZs):** The development of NWFZs and zones free of all weapons of mass destruction, especially in regions of tension such as the Middle East, was encouraged as a matter of priority. **Security assurances:** Going beyond Security Council resolution 984 (1995) and the recent declarations by nuclear-weapon States on negative and positive assurances, consideration should be given to further steps that could take the form of "an internationally binding instrument." **Safeguards:** Recognizing that the IAEA is the competent authority responsible to verify and assure compliance with the safeguards agreements under Article III of the NPT, the Conference stated that nothing should be done to undermine IAEA's authority; States parties that had not yet concluded safeguards agreements should do so without delay; decisions of the IAEA's Board of Governors for further strengthening the effectiveness of IAEA safeguards should be supported; acceptance of safeguards and legally binding non-proliferation commitments should constitute a precondition for new supply arrangements for transferring nuclear material or equipment or items specially designed for the processing, use, or production of special fissionable material; nuclear material transferred by nuclear-weapon States from military to civilian use should, as soon as practicable, be placed under IAEA's voluntary offer safeguards. **Peaceful uses of nuclear energy:** Stressing the inalienable right of all parties to develop research, production, and use of nuclear energy for peaceful purposes without discrimination and in accordance with NPT provisions, the Conference urged full implementation of undertakings to facilitate transfer of peaceful nuclear technology; preferential treatment for non-nuclear-weapon States Parties in all peaceful nuclear activities; transparency and dialogue in nuclear-related export controls; maintenance of highest practical levels of nuclear safety, including in waste management, physical protection and transport of nuclear materials; and strict avoidance of attacks or threats of attack on peaceful nuclear facilities. **Resources for IAEA:** The Conference urged that every effort should be made to ensure that the IAEA is equipped with adequate financial and human resources to meet effectively its responsibilities and that the Agency should intensify its efforts to find ways and means for funding technical assistance through predictable and assured resources.
- **Strengthening the Review Process.** In addition to the Review Conferences at 5-year intervals, it was decided that, beginning in 1997, the Preparatory Committee should hold a meeting in each of the three years prior to the Review Conference to consider the Principles and Objectives and ways to promote the full implementation of the Treaty.
- **Resolution on the Middle East.** The resolution reaffirms the importance of the early realization of universal adherence to the NPT and calls upon all States of the Middle East that have not yet done so to accede to the Treaty as soon as possible and to accept IAEA full-scope safeguards. It also endorses the aim and objectives of the Middle East peace process and calls upon States in the region to take practical steps in appropriate forums towards the establishment of a Middle East Zone free of weapons of mass destruction and their delivery systems. The resolution, which was adopted without a vote, was sponsored by the NPT depositary States: Russia, the United Kingdom, and the United States. A first version was originally proposed by 14 members of the League of Arab States expressing concern about Israel's unsafeguarded nuclear facilities and calling for a Middle East free of nuclear and all other weapons of mass destruction and their delivery systems. As other States resisted singling out Israel, a compromise was reached whereby the language agreed in the report of Main Committee III was referred to. That language had expressed concern about unsafeguarded sensitive nuclear facilities in India, Israel, and Pakistan.

and a cut-off agreement on fissionable material. On those issues, the adopted Principles and Objectives reflect the eventual agreements.

The Principles and Objectives acknowledge that nuclear disarmament is substantially facilitated by the easing of international tension and by the strengthening of trust between States. They include specific measures that would certainly require effective verification.

On disarmament issues, the five nuclear-weapon States reaffirmed the position that they had taken in recent declarations. In April 1995, France, Russia, the UK, and the US had issued a joint statement which welcomed the fact that the arms race had ceased, underlined the importance of the security assurances that were approved by the Security Council, and reaffirmed their commitment, as stated in Article VI, "to pursue negotiations in good faith on effective measures relating to nuclear disarmament, which remains [their] ultimate goal." The fifth nuclear-weapon State, China, had issued a separate declaration, reiterating its position on non-first use of nuclear weapons and its support for legally binding security assurances for non-nuclear-weapon States. It also called for the complete prohibition and total destruction of nuclear weapons. But it did not address many of the specific issues raised by the non-nuclear-weapon States.

Countries of the Non-Aligned Movement contended that the arms race could not be assumed to have ended, as long as new warheads were being made, fissionable material was being produced for weapons, and nuclear tests were allowed. While the recent nuclear reductions by Russia and the United States were welcomed, the NAM countries called for further commitments to deeper cuts by them and by China, France, and the UK at this stage. They further regarded the reference to nuclear disarmament as an "ultimate goal" and its placement in the context of "general and complete disarmament" as language presenting disarmament as a virtually unreachable goal. They also argued that the Conference should agree on a programme of action for concrete steps towards the total elimination of nuclear weapons in the foreseeable future.

**Committee report.** The polarized debate led to deadlock and a massive heavily bracketed report reflecting all the differences. The report could therefore not provide a basis for the segment of the draft Final Declaration addressing non-proliferation and disarmament issues. In the last week of the Conference, parallel with the effort of the Conference President, the Chairman of the Drafting Committee, Tadeusz Strulak of Poland, drafted a new paper reflecting a middle course on the divisive issues. But no consensus could be reached on the last day of the Confer-

ence, even with the active support of the Conference President and the backdrop of the adoption of the final package of decisions.

In a broad sense, however, it can be concluded that the absence of agreement was partly filled by the relevant elements of the decision on Principles and Objectives. Of particular significance were the paragraphs on CTBT, the cut-off agreement, and security assurances, all of which went beyond the points of the April joint statement of the four nuclear-weapon States.

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### **Main Committee II: Non-Proliferation, safeguards, and nuclear-weapon-free zones**

Largely because fundamental differences in Main Committee I precluded agreement on a Final Declaration, the report of Main Committee II was issued as a document of the Conference. It will, one assumes, be a point of reference for future work under the enhanced review mechanism. The main point, however, from the IAEA perspective is that some of the key elements (and indeed the language) of the Main Committee II report are incorporated in the adopted Principles and Objectives. (*See box, page 33.*)

To facilitate its work, the Committee had before it 15 Background Documents, including three prepared by the IAEA relevant to Article III, Article IV, and Article V, and 18 separate working papers submitted by individual or groups of delegations on topics relevant to the Committee's deliberations.

**Safeguards.** What, from the IAEA perspective, could reasonably have been expected from the Conference, and what was achieved?

At previous NPT Review Conferences, Parties had expressed or reaffirmed the conviction that Agency safeguards play a key role in preventing proliferation. They *inter alia* had reaffirmed their determination to strengthen barriers against nuclear weapons proliferation and had urged the IAEA to take full advantage of its rights under safeguards agreements. Previous Conferences had also welcomed the significant contributions made by NPT Parties in facilitating safeguards application and had recognized the crucial importance of continuing political, technical, and financial support for IAEA safeguards.

The detailed IAEA Background Document submitted to the Conference on safeguards highlighted the measures which had been taken in response to such decisions and conclusions. It did so against the background of new and ever-increasing demands upon the Agency's safeguards system; the financial constraints and critically important developments relevant to safe-

guards since 1990, notably the discovery of Iraq's clandestine nuclear programme; the end of the Cold War and all its implications; and the needs emerging as a result of advances in areas of nuclear disarmament.

It was significant that the 1995 Conference reaffirmed support for IAEA verification and ongoing efforts to strengthen safeguards, which the IAEA applies on behalf of the international community, and that it decided, in the broad interests of the non-proliferation regime, on the long-term future of the Treaty. This is because the duration of safeguards agreements between the IAEA and NPT Parties are linked to the Treaty itself.

The safeguards-related elements of the adopted Principles and Objectives can be expected to have significant implications for the further evolution of the verification system, both in terms of its scope of application and effectiveness. Although the safeguards system has proved effective with regard to *declared* nuclear activities, the case of Iraq made clear that the system was not effectively equipped to detect any *undeclared* activities, primarily because of a shortage of information about any such activities. This realization was fundamental to the first and subsequent steps that the IAEA Board of Governors has approved and which are aimed at correcting such shortcomings. Strengthening measures in place had already proved effective, for example in connection with IAEA verification activities related to assessing the completeness and correctness of the DPRK's declaration of its nuclear material subject to safeguards.

In the broad interests of the non-proliferation regime, it was very important for the Agency that the NPT Conference supported and endorsed what it was seeking to achieve in strengthening safeguards. The IAEA gave a presentation at the Conference on "Programme 93+2", its overall safeguards development programme, that was well received. During the General Debate and throughout the Committee's discussions, many positive statements were made about the IAEA's efforts, and the continuing need to support them, notwithstanding some divergences of views on some of the programme's specific ideas and proposals.

In terms of the practical support which might be expected to assist safeguards implementation, the 1995 Conference *inter alia* acknowledged that under comprehensive safeguards agreements, NPT Parties and the IAEA have an obligation to co-operate fully to ensure effective safeguards in all circumstances. In this respect it is to be hoped that — over and above the characteristic calls upon Parties at NPT Conferences to ensure adequate technical and financial support for safeguards — States will also agree to imple-

ment other measures of practical value for the efficient discharge of the IAEA's functions. These include such measures as agreeing to simplify designation procedures for Agency inspectors and agreeing to waive visa requirements or to grant multiple-entry visas to Agency inspectors. This is particularly important, given that short notice or no notice inspections are among key elements of safeguards strengthening proposals under "Programme 93+2". Clearly, such inspections cannot be carried out if restrictive visa requirements prevail.

**Nuclear-Weapon-Free-Zones (NWFZs).** Article VII of the NPT reflects the significance of regional non-proliferation arrangements as valuable complements to global ones. NWFZs established by virtue of the Tlatelolco and Rarotonga Treaties provide for verification arrangements closely linked with safeguards implementation pursuant to the NPT. Additionally, a draft Treaty on an African NWFZ also assigns to the IAEA the responsibility for verifying compliance. In the Middle East, although the creation of an NWFZ is likely to come about only in the context of an overall peace settlement, there is agreement in principle among Middle East States as to the potential value of such a zone in their region.

The importance attributed to NWFZs by NPT Parties was reflected in three specific paragraphs of the Principles and Objectives. In discussions on this issue, there was a broad agreement about the value of and growing interest in NWFZs. There were differences of view, however, as to the appropriate language for referring to NWFZs in specific areas. Some differences were accommodated through a spirit of compromise. Thus, ultimately, bracketed language was retained in the relevant paragraphs of the Main Committee II report only with regard to a future NWFZ in the Middle East (because of very predictable differences of perception centering on Israel's accession to the Treaty and the significance of the Middle East peace process) and on an NWFZ in Central Europe (supported by Belarus but contested by others, essentially on the grounds of what constituted "Central Europe").

That said, it is significant that the Conference was firm in its conviction, expressed formally through the Principles and Objectives, that the development of NWFZs, especially in regions of tension, should be encouraged as a matter of priority, taking into account the specific characteristics of each region. Of relevance as well is the resolution on the Middle East which was adopted on 11 May 1995. It calls upon all States in the Middle East to take practical steps towards the establishment of an effectively verifiable Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems.

**Other related issues.** Other issues relevant to safeguards were addressed in Main Committee II. Thus, paragraphs in the Committee's report address, *inter alia*, a need for greater transparency on the management of plutonium and highly enriched uranium for civil purposes; the paramount importance of effective physical protection of nuclear material, especially such material useable for military purposes; the need for strengthened international co-operation and physical protection in preventing illicit trafficking in nuclear material, (including in this respect the work already being conducted under IAEA auspices); and the non-proliferation benefits of converting civilian research reactors from high enriched uranium to low enriched uranium fuel.

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### **Main Committee III: Peaceful uses of nuclear energy**

The "peaceful uses" Committee benefitted from a constructive and non-confrontational atmosphere from the outset. The only matter which eluded consensus was a text that expressed regret concerning restrictions on free and unimpeded access to peaceful nuclear technology which was sent to the Drafting Committee. The delegation of Iran insisted on the retention of the text within brackets, but intimated that it might be withdrawn in the light of final versions of other bracketed text being looked at by the Drafting Committee. Since the Drafting Committee was unable to put together a consensus text, this short paragraph remained in brackets.

At the Conference, as it did with respect to its safeguards work, the IAEA gave a presentation on its technical cooperation and related activities. The deliberations of Main Committee III were supportive of IAEA efforts. Technical cooperation and nuclear safety activities were specifically mentioned in the adopted Principles and Objectives as areas where efforts should be made to ensure that the IAEA has the financial and human resources necessary to meet its responsibilities. The Committee reviewed with approval the new directions of IAEA's technical cooperation programme. It also discussed issues that have been attracting international attention in the "sustainable development" debate: nuclear safety and in particular the 1994 Nuclear Safety Convention; the transport of nuclear materials by sea; radioactive waste management, in particular endorsing preparatory work towards an international convention on the safety of radioactive waste management; liability for nuclear damage; and conversion of nuclear materials to peaceful uses.

While consensus was reached on all the above issues, some were more difficult to resolve than others:

**Fuel cycle choices.** A few States which have made policy decisions not to develop nuclear power for the production of electricity were wary of strong endorsements of the technology. Some others resented what they considered interference with their national decision-making authority in the peaceful nuclear field. Still others pointed out that the NPT does not oblige a State to actively support the fuel cycle choices of another State Party. To cover these concerns, the Conference confirmed "that each country's choices and decisions in [this] field .. should be respected without jeopardizing its policies or international cooperation agreements and arrangements ... and its fuel-cycle policies"

**Nuclear safety.** The importance of ensuring a high level of nuclear safety through rigorous national measures, international instruments, and international cooperation was recognized by all. The nuclear safety services provided by IAEA were fully endorsed and the 1994 Convention on Nuclear Safety was welcomed. States were urged to utilize its principles pending its entry into force. Steps to define the peer review process for the Convention were supported. Some States wished to welcome a voluntary extension of the Convention, or at least its safety objectives, to other civil nuclear activities. Consensus was reached on a recommendation to consider the possibility of further conventions that might strengthen safety in nuclear activities other than civil nuclear power plants.

**Safety of marine transport of nuclear material.** The group of small island developing States, supported by Australia, New Zealand, and several non-governmental organizations (NGOs), expressed particular concern about the safety of marine transport of nuclear material. A rather lengthy text was eventually worked out recognizing the International Maritime Organization (IMO) Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-level Nuclear Wastes in Flasks on Board Ships, and stressing the importance of ongoing work within IAEA to complement the Code. The same group also introduced language noting that effective liability mechanisms are essential to provide compensation for nuclear-related damage that may occur during sea transport.

**Nuclear waste.** The Conference recognized the need to prohibit dumping of radioactive waste and noted the 1994 amendment of the London Convention, 1972, by which sea dumping of all types of radioactive waste is prohibited. The Conference noted the particular importance of ensuring that possible effects on human health

and the environment beyond national borders are taken into account in the management of all kinds of radioactive waste, civilian as well as military.

**Conversion of nuclear materials to peaceful uses.** The Conference recognized the problems of safety and contamination related to the discontinuation of nuclear operations formerly associated with nuclear-weapon programmes. It called for international assistance for remedial measures, safe resettlement of displaced populations, and restoration of economic productivity to affected areas, where appropriate. Further, the Conference acknowledged the existence of a special responsibility towards those people of former United Nations Trust Territories who have been adversely affected as a result of nuclear weapons tests.

**Liability.** Recognizing the need for completion of ongoing work in the field of nuclear liability within the IAEA and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development, the Conference took note of the proposal to hold a diplomatic conference in the first quarter of 1996. The conference is to be convened to revise the Vienna Convention on Civil Liability for Nuclear Damage and provide an effective supplementary funding regime.

**Technical cooperation.** Differences among States on technical cooperation were mainly of emphasis rather than of substance. All commended the work of IAEA and agreed that the IAEA technical cooperation programme, in particular its new directions, should be fully supported. There was general concern about declining pledges and payments to the Technical Cooperation Fund. The developing countries stressed the need for more adequate and predictable funds and called for a "new financing method" to that end; they also wanted a more active role by IAEA in assisting developing countries in the development of nuclear power. Several supported the creation of the standing advisory group on technical assistance and cooperation and this was reflected in the final text. In view of the fact that many NPT Parties are not IAEA Member States, the Agency was encouraged to give special attention to the needs of least-developed countries and to look into ways it could extend technical assistance to non-members.

As regards bilateral cooperation, the Conference regretted that some non-parties had been able to benefit from cooperation with NPT Parties that may have contributed to non-peaceful programmes and welcomed subsequent steps to rectify the situation. As in the past, preferential treatment to Parties to the Treaty was urged.

**Access to peaceful nuclear technology.** Several supplier States pointed out that the main

obstacles to transfers related to nuclear power were the lack of interest (because of availability of other energy sources), infrastructure or financing, rather than restrictions on technology transfer. There was general agreement that non-proliferation measures should not be a pretext for restricted access as long as the recipient was Party to the NPT and accepted comprehensive IAEA safeguards. A number of countries, led by Iran and Malaysia, called for transparency and non-discrimination in export controls and an NPT forum for discussing nuclear technology transfers that was open to recipients as well as suppliers. The text finally agreed in Main Committee III called for all States to observe the legitimate rights of all NPT Parties to have full access to nuclear technology for peaceful purposes. Transfers made in conformity with Articles I, II, and III of the Treaty were to be encouraged and "undue constraints" eliminated.

This issue would have been more divisive had it not been for the emerging consensus on an "enhanced" review process, which provides an opportunity for assessing progress in implementing the adopted Principles and Objectives.

**The non-issues.** Compared to heated debate in past Review Conferences, two issues were resolved with fewer words and more solidarity than might have been expected: prohibition of armed attacks against peaceful nuclear facilities, and Article V of the Treaty which deals with peaceful nuclear explosions. Armed attacks were dealt with succinctly as jeopardizing nuclear safety and raising concerns of international law on the use of force.

Regarding peaceful nuclear explosions, the Conference recorded that their potential benefits have neither materialized nor been demonstrated and on the contrary, serious concerns have been expressed about their environmental consequences. This was an important message which the quasi-totality of NPT Parties wished to pass on to the Conference on Disarmament (CD) in the context of ongoing negotiations on a Comprehensive Test Ban Treaty. China alone resisted the reference to the CD, saying that it went beyond the review of the Treaty, but accepted the rest of the text. Eventually the message passed, albeit somewhat diluted with possible "future developments" which should also be taken into account.

**Universality of NPT membership.** In the last area of its work, the Review of Article IX on universal membership of the NPT, Main Committee III agreed to a text that eventually was a key to the adoption of the final package, as it addressed the issue of non-parties in a way that was found acceptable by all. This issue was of particular concern to Middle East Parties.

The Australian delegation provided the original draft which became the basis for consensus on the following paragraph: "The Conference particularly urges those non-parties to the Treaty which operate unsafeguarded sensitive nuclear facilities — India, Israel and Pakistan — to take such action [accede to NPT], and affirms the important contribution this would make to regional and global security."

If the measure of a Treaty's success is in its membership, the NPT regime is much stronger today than at its last Review in 1990. In 1990 there were 139 Parties, 84 of which participated in the Review Conference. France and China had not yet joined. By early 1995 there were 178 Parties, 175 of which participated in the NPT Conference. The accession of States such as South Africa and Argentina, as well as the former Soviet Republics, and the positive role played by them in their "first" Review Conference, created an atmosphere that was quite different from previous Conferences. The NPT Club had gone global. Just days after the Conference ended, Chile announced its accession to the Treaty.

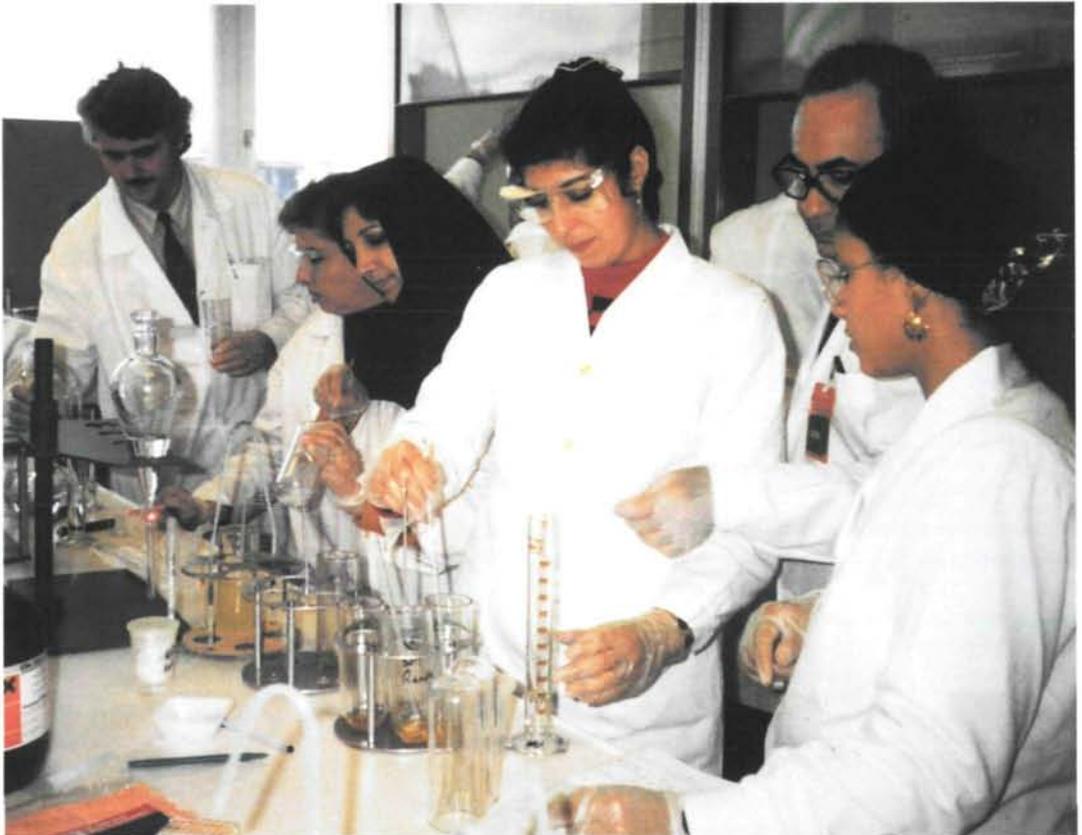
### The road ahead

Despite lack of agreement at the NPT Conference on a Final Declaration, the overall con-

sensus is reflected in the package of decisions that was adopted. It significantly incorporates strong support for IAEA roles, programmes, and plans. The Conference notably commended Agency efforts in areas of safeguards and the transfer of technology for peaceful applications of nuclear energy, particularly with respect to technical cooperation and nuclear safety, and it called for renewed efforts to ensure that the IAEA is equipped with adequate financial and human resources to meet effectively its responsibilities.

At a time when the international community is facing new demands and challenges in areas of nuclear verification and social and economic development, there is greater need than ever for strengthening the institutions engaged in these efforts. In many respects, a window of opportunity exists for reinforcing the IAEA's roles and capabilities within the evolving global framework, something which was grasped clearly if judged from deliberations at the 1995 NPT Conference. However, as IAEA Director General Hans Blix has made clear, what will be achieved depends essentially on whether States are now prepared to match words with actions by granting the Agency the necessary political, technical, and financial support.

Which way the international community moves on the road ahead remains to be seen. □



Peaceful nuclear technologies are being applied worldwide.