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# Managing Nuclear Threats after Iraq

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## About the Project

**The Iraq Crisis and World Order** is a joint project of the United Nations University (UNU) and the International Peace Academy (IPA), in partnership with King Prajadhipok's Institute, Thailand, and Ritsumeikan University and Ritsumeikan Asia-Pacific University, Japan.

The project, jointly directed by Professor Ramesh Thakur at UNU and Dr. W. Pal S. Sidhu at IPA, aims to examine the implications of the war on Iraq and its aftermath on contemporary notions of world order. The two primary areas of interest are the effects that the conflict will have on the existing UN-centered world order in general and on the current global regimes designed to manage weapons of mass destruction in particular.

The project featured two policy-oriented workshops. The first workshop, hosted by King Prajadhipok's Institute in Bangkok, Thailand, and supported by the Government of Germany, focused on the broad implications of the emerging US-centric world order in structural, political and institutional terms. The second workshop, hosted by Ritsumeikan University and Ritsumeikan Asia-Pacific University, in Beppu and Kyoto, Japan, concentrated on global responses to the evolving US-led military and non-proliferation doctrines.

The outputs include policy reports from each of the workshops and two co-edited volumes to be published by UNU. The volumes will include short chapters based on selections from the papers developed by the authors within the workshops.

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For more information on the partner institutions and the project, please visit the following web links:

United Nations University, Peace and Governance Programme <<http://www.unu.edu/p&g/>>

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## Executive Summary

- UN-led nonproliferation effort vis-à-vis Iraq from 1991-2003 had ironic results. Although the Iraqi unconventional weapons capabilities were destroyed during this period, the international community remained oblivious of its own success, and Saddam Hussein and his close associates maintained a defiant stance. Some have argued that if cool-headed thinking had prevailed in 2002-2003, the world could have been assured that the threat had been eliminated. But this view seems to neglect other trends: inspections and sanctions were providing diminishing returns, because threats were losing credibility and sanctions were unraveling. Ultimately, inspections were not quelling doubts.
- The international community faces inherent knowledge limitations in gauging the intentions and behavior of would-be proliferators. A state's proliferation motivations, which may include struggles to maintain domestic and regional authority, are usually opaque. Inspections face the inherent impossibility of proving the non-existence of an illegal weapons program, especially in the face of an uncooperative state. Thus, the challenge for the international community is to promote the notion that inspections are not punishment, but rather an opportunity for a state to show that it has nothing to hide.
- In the post-Iraq era, key pillars of the nonproliferation regime are shaky. The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) leaves a "loophole" allowing parties to the treaty to develop enrichment capabilities that may be used for a weapons program. The privileges granted to the nuclear weapon states are out of sync with realities. The IAEA has not functioned as a confidence building measure and an early warning system. The UN Security Council (UNSC)'s centrality was undermined by the diplomatic crisis surrounding the invasion of Iraq, and its credibility is eroded by unenforced resolutions and an antiquated distribution of veto power and representation. The UN Secretary-General's High Level Panel on Threats, Challenges and Change (HLP) focused on these issues, but it is unclear how many and which of the HLP's recommendations will be accepted and implemented.
- "Ad hoc approaches"—which are organized outside the terms of the NPT-centered regime—are efforts to make up for the regime's inadequacies in some cases. The Proliferation Security Initiative is a good example of how an ad hoc approach could prove effective. Similar initiatives are likely for engaging the "de facto nuclear weapon states" (Israel, India, and Pakistan). But as evident with the stalled progress in the Six Party Talks on Korea, ad hoc approaches do not guarantee results. Finally, ad hoc approaches risk generating resentment that may undermine the multilateral regime. To the extent that ad hoc approaches actually depend on the multilateral regime for their success, they eat away at their own foundation.
- "Legitimate discrimination" is one approach for closing the NPT's loopholes. The idea would be to establish auxiliary conventions, presumably through the UNSC, in which "states of concern" would be denied privileges such as the right to develop enrichment capabilities. The difficulty is that there is no way to identify mechanistic criteria for determining whether a state is of concern and thus deserves more pointed attention. This determination would require UNSC deliberation and could only reasonably be made on a case-by-case basis.

- The costs of forceful prevention are abundantly clear while the benefits are hardly apparent. Arguments for forceful preventive approaches propose that credible threats against would-be proliferators can be used to deter proliferation. But this logic does not seem to apply to the effects of the US-led invasion of Iraq—rather, the opposite effect seems to be true vis-à-vis North Korea and Iran. The lessons from a previous attempt—the Israeli Osirak strike in 1981—suggests that, absent threat reduction or the drastic measure of “regime change”, forceful prevention is nothing more than a costly way of buying some time. Such short-term fixes simply allow proliferators to learn, adapt, and make their programs even more hidden and resilient.
- If there has been any progress in disarmament, it has been through innovative Cooperative Threat Reduction programs and unilateral disarmament, as with Libya. Nonetheless, progress on disarmament still lags seriously behind expectations stemming from Article VI of the NPT, contributing to the deadlock that inhibits any renegotiation of rights to enrichment capabilities. A state’s development of new tactical nuclear capabilities to deter would-be proliferators has the inherent drawback of eroding that state’s moral authority. This inhibits that state’s, and the international community’s, ability to organize action against proliferators that have not been deterred by such new capabilities.
- Ad hoc approaches, legitimate discrimination, and forceful prevention reflect altered beliefs in the wake of the Iraq experience and 9/11. The question arises: *can these changed beliefs be harnessed to further enhance the international community’s ability to neutralize today’s true nuclear threats?*
- The approaches outlined above also reflect how the nonproliferation regime has not adapted to changing nuclear threats. But even if these approaches appear to challenge the regime, it is important to raise the question: *to what extent and in what ways do these seemingly alternative approaches actually depend on the existence of the multilateral regime for their success?*
- The HLP report provides the most prominent attempt to address the issues raised here, and the 2005 NPT Review Conference and the September 2005 Special Session of the General Assembly offer important opportunities to act. It remains to be seen whether the key actors will decide to push the agenda forward.

## Introduction

The diplomatic crisis and the subsequent fallout that have surrounded the US-led invasion of Iraq—ostensibly to deal with the nuclear, biological, and chemical weapons threat—have opened fissures among parties to the nonproliferation regime. Some have argued that the Iraq crisis has clearly demonstrated the dysfunction of the regime, while others have suggested that the Iraq experience has provided a foundation for an effective multilateral nonproliferation toolbox. What *has* the Iraq experience revealed about the adequacy, or inadequacies, of the nonproliferation regime for dealing with today’s nuclear threats? What are the implications for enhancing the international community’s efforts to manage future nuclear threats? Unfortunately, the diplomatic heat over Iraq has inhibited proper dialogue within official forums. Parties have not been able to clarify the terms of key debates that would have to be resolved for policy processes to move forward.

In order to promote the needed dialogue and clarification, a group of scholars and practitioners were convened in a series of workshops on “The Iraq Crisis and World Order: Arms Control, Disarmament, and Proliferation Challenges”. The workshops were convened on October 18-23 by the United Nations University (UNU) and the International Peace Academy (IPA), and hosted by the Ritsumeikan Asia-Pacific University and Ritsumeikan University in Beppu and Kyoto, Japan. Participants and paper contributors hailed from seventeen countries—including some from the Middle East, South Asia, and Northeast Asia—and also from key international organizations.

The discussions touched on nuclear, chemical, and biological weapons (NBC), but participants dealt chiefly with nuclear proliferation and the multilateral nuclear nonproliferation regime, which consists of the interlinked Treaty for the Nonproliferation of Nuclear



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Weapons (NPT), the International Atomic Energy Agency (IAEA) and related statutes, bodies of the UN and a small set of United Nations Security Council (UNSC) Resolutions, as well as a small collection of other more specialized treaties. This report will summarize the ideas expressed at the workshops as they pertained to the questions posed above and issues related to nuclear proliferation.

It was duly acknowledged that there were limits to what can be learned from the Iraq case, given its particularities. But it was clear that the Iraq case has shed considerable light on many of the assumptions undergirding different proposals for addressing today’s nuclear threats. The discussions at the workshop focused less on technical lessons-learned than on political and strategic lessons.<sup>1</sup> The first part of this report summarizes workshop participants’ discussion on the successes and failures of the international community’s efforts to manage the Iraqi proliferation threat. The second part summarizes discussions on broader nonproliferation policy options in the “post-Iraq” era.

<sup>1</sup> Some of the more technical lessons are discussed in a number of papers contributed to the UNU-IPA project on “The Iraq Crisis and World Order: Arms Control, Disarmament, and Proliferation Challenges”. These include Trevor Findlay, “Lessons of UNSCOM and UNMOVIC for WMD Nonproliferation, Arms Control and Disarmament”, Tariq Rauf, “The IAEA’s Role in Strengthening WMD Nonproliferation and Disarmament”, Patricia Lewis, “Why We Got It Wrong: Attempting to Unravel the Truth of Bioweapons in Iraq”, and Waheguru Pal Singh Sidhu and Christophe Carle, “Dealing With Missiles”. Contributions to the project will be compiled into a forthcoming volume to be published by UNU Press.

## Learning from the Iraq experience

The international community's massive effort to manage the threat posed by Iraq's proliferation of weapons of mass destruction was unprecedented in scale. But the international community would be remiss in assuming that such tasks may not arise again. Although it may be too early to assess all of the outcomes of the international community's nearly fifteen-year effort to manage the Iraqi proliferation threat, a preliminary exploration of the lessons learned from the Iraq experience is warranted.

In particular, it is worthwhile to examine the inadequacies that efforts vis-à-vis Iraq revealed in the regime to deal with today's proliferation threats. This is not only to set a research agenda that balances against the optimism that tends to flow within official institutional circuits. It is also to grasp the lessons on evasion that *would-be proliferators* may have learned. At the workshop, participants discussed whether or not one should declare the inspections, destruction, and sanctions strategy vis-à-vis Iraq a success or a failure, or whether there were successful bits that could be identified amidst particular failures. Participants also discussed whether the Iraq experience had implications for future proliferation challenges in the Middle East and Northeast Asia.

### *The international community and Iraq: a postmortem*

Participants' focused on the efforts initiated by UN Security Council Resolution 687 (1991) and continuing, through a number of turning points, up to the US invasion of Iraq in March 2003. It was noted that this engagement came a decade after the 1981 Israeli strikes on the Osirak reactors<sup>2</sup>, and that international inspectors had been shocked to discover in 1991 that signifi-

cant progress had been made in regenerating a clandestine Iraqi nuclear program within ten years. It was also noted that the international community's approach was augmented by significant and costly efforts that were not explicitly endorsed by UNSC resolutions, including the no-fly zones and other US demonstrations of force in the region.<sup>3</sup> Attention focused on inspections and verification and on sanctions as the key components of the international community's engagement.

Some participants were confident in asserting that the engagement was successful. Iraqi NBC capabilities, it was argued, were destroyed, and Saddam Hussein's regime did not have the space or means to regenerate an arsenal. Such is the conclusion to be drawn from the findings of the US's Iraq Survey Group and Central Intelligence Agency report and post-invasion revelations by Iraqi scientists.<sup>4</sup> The escalation that took place in 2002-2003 was puzzling, taking place despite the removal of the "object" of the international community's confrontation with the Iraqi regime: the



(l-r) Dr. Zhang Jiadong, Mr. Tsutomu Kono, and Professor Chung-Min Lee

<sup>2</sup> From a normative standpoint, it is worth recalling that the UNSC passed Resolution 487 to condemn the 1981 Israeli preventive attack on Osirak.

<sup>3</sup> In a contribution to another part of the UNU-IPA project, David Malone and James Cockayne argue that Western "unilateralism" was thus initiated well-before the 2003 invasion. Malone and Cockayne, "Lines in the sand: the United Nations in Iraq, 1980-2001", in Ramesh Thakur and Waheguru Pal Singh Sidhu, eds. *The Iraq Crisis and World Order, Volume 1: Structural and Normative Challenges* (Tokyo: UN University Press, forthcoming).

<sup>4</sup> *Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction*, US Central Intelligence Agency, 30 September 2004. See also Mahdi Obeidi and Kurt Pulitzer, *The Bomb in My Garden: The Secrets of Saddam's Nuclear Mastermind* (Hoboken: John Wiley and Sons, 2004).



weapons. But this puzzling outcome was simply the product of misperceptions and diplomatic blunders. Technical progress and deepened knowledge had made IAEA/UNMOVIC inspections significantly more effective than had been the case with IAEA/UNSCOM. Targeted “smart” sanctions were significantly less damaging to innocent Iraqis but no less effective in closing off NBC development opportunities. In the end, the argument goes, the real lesson is that the international community’s approach was working, and that had cool-headed thinking prevailed, the world could have been assured that the Iraqi proliferation threat had been eliminated.

Others were less generous. Some still contended that the approach was generally successful in containing Iraq’s proliferation interests, but that this success was experiencing diminishing returns. Containment could only work if inspections were paired with credible threats and sanctions were consensually upheld. But half-measure applications of force were decreasing in their effectiveness and threats were losing their credibility. Divergences in threat perceptions among the Permanent Five were pulling apart the tightness of sanctions. Thus, the containment strategy may have had a time limit to effectiveness.

Another critical opinion held that informational failures undermined any other successes. The international community did not confidently come to know whether it was successful. Inspections and verification procedures did not develop the information necessary for the formation of consensus. Sanctions may have been successful in denying the means to regenerate weapons, and inspections may have been successful as deterrents. But the IAEA/UNMOVIC inspections hardly improved upon the IAEA/UNSCOM inspections in quelling doubts. Their inability to do so was because of a characteristic strategic problem: the impossibility of “proving a negative”. Because of this impossibility, such inspections rely on the willingness of the authorities from within the state in question to dispel doubts. But Iraqi scientists were muzzled by threats to them and their families, and Saddam Hussein’s regime showed no

intention of demonstrating its benign intentions. Thus, it was argued, inspections were unlikely to ever quell doubts.

Participants noted that outside intelligence was compromised in a number of ways. On the one hand, the US and UK had shattered others’ trust by broadcasting intelligence assertions that proved to be faulty at best, conniving at worst. Political taint thus spoiled the quality of the inspections process. On the other hand, the implementation of Amarin report recommendations for “one-way” intelligence flows of intelligence also had a compromising effect.<sup>5</sup> As much as this arrangement helps to protect the neutrality of the inspections, it significantly compromises effectiveness. This is especially so for discovery operations, in which national intelligence is often crucial but for which national intelligence agencies are reluctant to operate without two-way information flows.

Finally, some workshop participants argued further that IAEA/UNMOVIC inspections did not face a “real test” in 2002-2003 because there were no weapons. The Iraq experience does little to instill confidence in the international community’s ability to tackle a genuine proliferation problem, where actual weapons exist. Thus, any conclusions about the success of



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<sup>5</sup> Refer to the *Report of the First Panel Established Pursuant to the Note by the President of the Security Council on 30 January 1999, Concerning Disarmament and Current and Future Ongoing Monitoring and Verification Issues [Amarin Report]*, S/1999/356, United Nations, 30 March 1999, paragraph 57.



IAEA/UNMOVIC in the run up to the 2003 invasion must be qualified, if not rejected.

Another line of assessment concerned the limited effects of the international community's approach on the intentions of the Baghdad leadership. The attitudes and intentions of Saddam Hussein and his close associates, it seems, were not changed. Arguments proposing that containment suffered from diminishing returns provoke consideration of how the containment approach could have possibly concluded. Was "regime change" the inevitable conclusion? Were the interests of the Iraqi regime manipulable through inducements, or was war inevitable? If the latter was likely to be true, then shouldn't the timing of that military action have been chosen on the basis of operational propitiousness? This incapability to affect the Baghdad leadership's attitudes and intentions was based on how little the international community understood about the domestic and regional dynamics that were playing into Saddam Hussein's calculations. It is puzzling to note that even though evidence suggests that Saddam Hussein may have been acting on the basis of high domestic and regional insecurity, the international community seemed almost powerless to raise the costs of his defiance sufficiently to change his interests and attitudes.

A final point was that a sophisticated assessment of the international community's approach to Iraq should distinguish between different policy areas. This would certainly be true for different classes of weapons; for example, although the Baghdad regime was never forthcoming about biological weapons capabilities, dismantlement of nuclear facilities was less obstructed. In addition, one participant noted that UNSCOM demonstrated great proficiency with on-going monitoring and verification (OMV), but was less successful with discovery and initial verification.

#### *Implications for future nonproliferation efforts*

An important theme that emerged at the workshop was that proliferation motivations seem to be closely linked to the imperatives of political survival for leaderships fighting to maintain domestic and regional authority. But, workshop participants also noted that the international community faces a knowledge deficit in



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ascertaining the threat perceptions and motivations of these leaderships. This issue was discussed in relation to proliferation dynamics in the Middle East and Northeast Asia, today's two proliferation flash points.

Traditional analyses of proliferation tend to build on the core concept of national survival, but evidence from Iraq, Iran, and North Korea suggest that "state leadership survival" may be more useful analytically. An emphasis on state leadership survival forces one to look past the national veneer and into domestic dynamics and the more parochial interests of the leaders vis-à-vis their people and vis-à-vis the world. In the case of Iraq, such an approach may help to explain the puzzling posturing of Saddam Hussein in the run-up to the 2003 invasion. Workshop participants also noted that economic reforms within North Korea might have important effects on Pyongyang's proliferation motivations. Recognition of the importance of state leadership survival provides the international community with another entry-point for policies aimed at reducing the demand for unconventional weapons.

But even if such an approach is analytically compelling and provides an important entry-point for policy, it faces a number of inherent limitations. First is the problem of opacity. Difficulties in ascertaining state leadership's motivations should be expected as a likely element of proliferation dynamics and crises. This is because of the strategic value of ambiguity. For Iraq, Saddam Hussein has disclosed in interviews after his

capture that ambiguity about his NBC capabilities was part of a strategy to deter neighboring Iran while simultaneously forestalling the emergence of an international consensus against him. For Iran and North Korea, artful obfuscation and opacity have similarly divided international responses and thus have been sources of bargaining leverage in negotiations over their nuclear capabilities. Strategic opacity compounds the already difficult task for outsiders to penetrate into the “black box” of a state and discover threat perceptions and possible proliferation motivations. Participants also noted Israel’s “strategic ambiguity” policy as an important element of proliferation dynamics in the Middle East. Some argued that progress in arms control in the region hinges on Israeli transparency. But one participant suggested that for the sake of regional stability, such ambiguity is more desirable than transparency, because it provides face-saving cover for neighboring states, lessening domestic pressure to develop a balancing arsenal.

Second, uncertainty about a leadership’s motivations can make it impossible to gain consensus on policy options. As much as workshop participants agreed that economic liberalization is likely to affect North Korea’s proliferation interests, they disagreed fundamentally on how these interests would be affected. One interpretation was that the Pyongyang leadership is pursuing a “mini-perestroika” strategy, seeking to exchange their nuclear ambitions for international economic integration as part of a broader strategy to maintain domestic authority. But a participant proposed that the Pyongyang leadership might look to emulate Pakistan, maneuvering to maintain the nuclear option while also integrating into the international community. Finally, a few participants rejected entirely that there was any compelling relationship between Pyongyang’s proliferation interests and economic reform. These different interpretations lead to contradictory beliefs on what kind of policy would be “right”.

The international community’s knowledge deficit about proliferation motivations, combined with the logical impossibility of “proving a negative”, reinforces the conclusion that the onus during inspections and verifi-

cation processes is on the authorities of the state in question. On the one hand, this is a rather pessimistic conclusion about the potential of multilateral inspections given current technology and knowledge. But it is also helps to protect against the lulling effect of an overly generous interpretation of what inspections can accomplish. Such lulling would increase a would-be proliferator’s ability to use inspections as a deceptive cover. Perhaps the international community could do more to rally around a particular interpretation of what inspections are all about: as Hans Blix expressed during the UNMOVIC inspections in 2002-2003, inspections are not punishment, but rather an opportunity for a state to show that they have nothing to hide.

## Reshaping the repertoire

The Iraq crisis revealed a number of inadequacies in the multilateral institutions designed to manage current nuclear threats. Workshop participants expressed different opinions on whether these inadequacies could be addressed through modifications to the current institutional architecture, or whether they were symptomatic of broader tectonic changes compelling a paradigm shift. These differing opinions were based on a variety of interpretations of whether the NPT, the IAEA, and the UNSC could be enhanced to provide an effective set of mechanisms for managing nuclear threats. Workshop participants discussed whether alternatives to the multilateral regime were desirable; such alternative approaches include ad hoc approaches, “legitimate discrimination” of “states of concern”, and “forceful prevention”. Finally, attention was given to the role of disarmament in managing proliferation threats.

### *Reform imperatives and obstacles*

Workshop participants noted inadequacies in the central pillars of the nonproliferation regime: the NPT, IAEA, and UNSC. The bargain enshrined in the NPT leaves a “loophole”, in which states interested in clandestinely developing enrichment capabilities for a weapons program can do so too easily.<sup>6</sup> Because of

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<sup>6</sup> The NPT “bargain” refers to the implicit trade-off between (i) the NPT’s acceptance of nuclear weapon state status for the US, the UK, USSR/Russia, China, and France, and (ii) the obligations put on the nuclear weapon states in Articles IV and VI. Refer to the NPT text for details.



(l-r) Dr. Xu Xin and Dr. Andrei Zagorski

technological diffusion, would-be proliferators are not as hampered by the need to import know-how and materials as they would have been when the NPT was negotiated.<sup>7</sup> In addition, the “chronological” basis of the privileges granted to the nuclear weapon states (NWS) in the NPT is out of sync with current realities.<sup>8</sup> This problem also affects the legitimacy of the UNSC as the prime enforcement body of the regime, given that the Permanent Five members of the UNSC (P5) are also the same five NWS. The IAEA has never lived up to its purported role as a confidence building measure and an early warning system triggering responses by the international community. In the cases of Iraq, North Korea, Iran, and Libya, the IAEA’s role was introduced in *reaction* to startling revelations that came about in ways independent of the agency’s work. Finally, the UNSC’s centrality was undermined by the diplomatic crisis surrounding the US-led invasion of Iraq. This comes on top of the erosion of the UNSC’s credibility due to piles of unenforced resolutions and its antiquated distribution of veto power and representation.

Given these inadequacies, workshop participants debated the degree of change that was needed. For some, change only need be selective and incremental. One participant noted, for example, that the “chronological”

basis of NWS/P5 privilege is only a serious concern worth addressing if there exists some other attainable solution to the problem of coordinating international action. Such coordination is the key benefit, and an extremely important one, that the NPT and the UNSC provide. So long as the current arrangement represents the best of the *feasible* coordination solutions, it ought to be maintained as the center of the regime, perhaps only incrementally adjusted. Another perspective was that the institutional structures themselves were sound, but that they simply received insufficient resources. The key problem, on the basis of this argument, is one of identifying more effective financing arrangements. Some also argued that there had been significant progress in reforming the regime, and that it was too early to pass judgment. The IAEA Additional Protocol was noted in this regard. And finally, as a continuation of the optimistic assessments of the UN-centered approach vis-à-vis Iraq, some participants noted that this success was a clear demonstration of the potential of the existing nonproliferation regime. The international community only need appreciate the significance of this success.

But for others, such incremental and selective tinkering could not produce a regime that could truly manage today’s nonproliferation threats. The feasibility of closing the NPT “loophole” is blocked by deadlock. This is because closing the loophole would require renegotiating Article IV rights. Given prevailing perceptions among the non-NWS that the NWS’s progress on fulfilling their Article VI commitments has been insufficient, willingness among non-NWS to give up any rights granted in NPT, including in Article IV, would not be forthcoming. If making “sufficient” progress on Article VI is out of the question for the NWS, then much of the issue of reforming the NPT becomes trivial.

Aside from deadlock on NPT reform, examples were cited of the disconnect between the principles undergirding the multilateral regime and contemporary proliferation threats. Because of the diffusion of know-how and increase in available sources of equipment and fissile materials, some participants suggested that

<sup>7</sup> This change is the result of both an increase in indigenous know-how as well as in suppliers of know-how and materials.

<sup>8</sup> The “chronological” basis refers to the fact that the only factor that determines whether a state is granted NWS status in the NPT is whether it had tested nuclear weapons by the time the NPT came into effect (1970).



(l-r) Professor Chung-Min Lee (foreground), Professor Ramesh Thakur, Ms. Midori Okabe, and Ambassador Mohamed Shaker

reform efforts must stress enforcement of compliance to nonproliferation obligations. But it was noted that the NPT is a good faith treaty with no explicit enforcement provisions. The de facto enforcement structure—based on the linkage between the NPT, the IAEA verification mechanisms, and the UNSC—suffers from a number of problems. Even with the Additional Protocols, the IAEA operates on the basis of the good will of states. As for the UNSC, members of the Permanent Five have exhibited different perceptions and priorities vis-à-vis proliferation threats, and thus have not often found consensus on WMD-related matters. When they have, like with UNSC Resolution 1540, the result is weak implementation.<sup>9</sup> Finally, the UNSC's enforcement role suffers from an "enforcement contradiction", in which the enforcers themselves are seen by many in the world as being in nonobservance of their Article VI obligations.

Given this mixed assessment, workshop participants turned to an appraisal of some alternatives to the current regime-based approach to managing nuclear proliferation threats. For some, these alternative approaches were *substitutes* to the existing regime; such substitution was taken as necessary given the unreformability of regime. For others, these alternative

approaches served as possible auxiliary policies that could bolster the regime.

#### *Evaluating ad hoc approaches*

Ad hoc approaches are those that are organized outside the terms of the NPT-centered regime and do not function according to the procedural stipulations of the regime. The Proliferation Security Initiative (PSI) is one example; another is the Nuclear Suppliers Group (NSG). Argument exists about whether "legislative" UNSC resolutions such as Resolution 1540 are ad hoc, given that they do not carry the explicit endorsement of all relevant parties but that they are the products of legally sound procedure. In February 2004, US President George W. Bush and IAEA Director General Mohamed ElBaradei exchanged views on how to improve international nonproliferation efforts. Bush's proposals included emphasis on ad hoc initiatives; ElBaradei warned of problems with such approaches, which he described as unpredictable "gentlemen's agreements". Workshop participants discussed the merits of ad hoc approaches and whether they are a sustainable substitute in addressing concerns for which the regime is politically crippled.

One proposition favoring ad hoc approaches is that unity of purpose is often difficult to fashion in rigid multilateral institutions, and that an ad hoc grouping may achieve deeper consensus that is more conducive to tackling difficult security problems. Such is the logic behind the "effective multilateralism" approach promoted by the US at recent international conferences. The logic would seem to be sound. If actors are assembled on the basis of a particular common interest, then a higher level of consensus should be forthcoming. But if actors are procedurally included in decision-making and they do not have a direct stake in the problem at hand, then they are likely to act on the basis of *principles* such as inviolable sovereignty to ensure that such principles are protected. PSI is a favorable example for this logic, having been established and put into action quickly. In addition, proponents hold that

<sup>9</sup> UNSC Resolution 1540 (April 2004), passed under Chapter VII of the UN Charter, calls upon states to act against non-state actors' acquisition or development of NBC and their delivery systems, establish controls over the flow of NBC-related materials, promote strengthening of the regime, and ensure their own compliance to treaties which they have ratified. A Committee of the Security Council was established under the Resolution to report on its implementation.



PSI operates within the framework of international law, although some workshop participants disagreed with the spirit of this assessment, stating that it was a “legitimization of piracy”.

But, as workshop participants made clear, the world is not always so simple. The sets of actors *needed* to tackle particular proliferation problems are not invariably the *most willing*. The Six Party Talks on North Korea are a manifestation of this complicating reality: clearly, all of the six parties that are involved in the talks *must* be involved. But the pace of the talks nonetheless suffers because the different parties have different priorities. The Chinese and Russian leaderships, for example, may have an interest in seeing North Korea roll back its weapons programs, but only to the extent that regional stability is maintained. A similar issue holds for South Korea’s leadership, in relation to its own interests in pursuing better relations with Pyongyang. The ordering of priorities is thus inconsistent between the US and its Six Party Talks partners. One might add that North Korea has made some of its most pointed exhortations in reference to the possibility of referral to the UNSC. The Six Party Talks thus seem to sit below the UNSC in the escalatory ladder of diplomatic engagement.

Ad hoc approaches may be the only way to work with the “de facto nuclear weapon states” (de facto NWS): Israel, India, and Pakistan. Workshop participants who presented perspectives from these three states made it clear that, to some degree, the de facto NWS prefer to be outside the regime and may derive strategic value from the ambiguity surrounding their capabilities. On the flip side, many of the non-NWS signatories to the NPT are unwilling to allow for the legitimization of the de facto NWS nuclear arsenals through accommodations within the NPT. Finally, the P5 have shown little willingness to push the de facto NWS into the regime. Another approach exists to bring the de facto NWS into a regime amended with a Fissile Material Cut-Off Treaty (FMCT). But the FMCT proposal also



(l-r) Dr. John Glen and Professor Kalevi Holsti

faces seemingly irreconcilable disagreements.<sup>10</sup> Given this situation, the integration of the de facto NWS into fissile material control programs, for example, would necessitate arrangements outside of the regime. Of course, the sustainment of extra-regime status for the de facto NWS raises some uncomfortable issues. What would be the implications for the regime if India takes a permanent or “quasi-permanent” seat on the UNSC, as implied by the recommendations of the Report of the UN Secretary-General’s High Level Panel in Threats, Challenges and Change (HLP report), for example?<sup>11</sup>

Another argument for the necessity of ad hoc approaches is based on regional particularities. In the Middle East and South Asia, proliferation dynamics involve de facto NWS. In South Asia and Northeast Asia, the fact that a P5 country, China, is deeply entangled in regional proliferation dynamics suggests that the UNSC is compromised in its enforcement role. As a result, the regime’s compliance and enforcement mechanisms are hindered for dealing with regional proliferation dynamics in the most sensitive regions. In addition, regional security dynamics may be better dealt with separate from the global politics that

<sup>10</sup> One point of disagreement is over verification measures, which some states, most notably the US, deem excessively intrusive without offering sufficient assurances. Another is over whether the treaty should call for a drawdown of existing fissile material stockpiles or allow for the maintenance of existing stockpiles. Finally, as with the NPT, the de facto NWS seem to prefer not to come under treaty restrictions, although Pakistan has shown more of a strategic interest in the FMCT.

<sup>11</sup> *A More Secure World: Our Shared Responsibility: Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change*, United Nations, December 2004, p. 81, paragraphs 252-253.

accompanies the regime. Such a regional approach would prevent “principle” from interfering with problem solving, in the manner discussed above. In addition, and perhaps more importantly, such an approach would allow nonproliferation efforts to be linked with other regional security interests, which may open up avenues toward achieving agreement on nonproliferation objectives. Of course, the mechanisms of the multilateral regime could be linked to such a regional security arrangement.

The key question is whether such ad hoc approaches undermine the regime, and leave the international community in a worse position. To the extent that they generate resentment, this may certainly be the case. But some workshop participants argued that such ad hoc approaches could bolster the regime, so long as they do not violate the spirit of the regime. Such may be the case for the PSI and NSG, which may ultimately lay the groundwork for a treaty-based export and transshipment control system. Until that treaty-based system is put into place, these ad hoc approaches fill a necessary gap. Along those lines, UNSCOM and UNMOVIC were, arguably, ad hoc approaches that may now serve as the basis for a more permanent inspection capability maintained by the UN as a regularized part of the nonproliferation regime.

Given the mixed value of ad hoc approaches in relation to different types of proliferation problems, some participants also asked whether “mixed multilateral” approaches might offer avenues for progress. Outside the realm of proliferation, mixed models have been used to structure political will in relation to the particularities of the problem. The Quartet (the US, UN, EU, and Russia), established to revitalize the Middle East peace process in 2003, is the most prominent example. Perhaps a similar model, involving the US, the IAEA Director General, and other key partners, could provide a diplomatic framework more conducive to progress in arms control, disarmament, and nonproliferation in the Middle East, South Asia, and Northeast Asia.

#### *Debating discriminating approaches*

A key issue for workshop participants was whether the multilateral nonproliferation regime suffers as a result



(l-r) Ambassador Kamran Niaz and Professor Kimio Yakushiji

of resting on an untenable “Westphalian fiction” of equal status, and whether some form of “legitimate discrimination” should be introduced. The acquisition of nuclear weapons by some states, the argument goes, should elicit extra worry, and thus efforts to prevent their acquisition of NBC should be given sharpened attention. Of course, the NPT codified the notion that not all states are equal when it comes to proliferation, giving special rights to the five NWS. In effect, arguments for legitimate discrimination are for the creation of a second tier of differentiation, subdividing the class of non-NWS into “states of concern” and, presumably, states of “non-concern”. Members of the “non-concern” class could maintain, for example, uranium enrichment facilities as part of peaceful energy production programs, while such privileges would be denied to “states of concern”. Auxiliary conventions could be established, presumably through the UNSC, to enforce this differentiation in rights. This would represent a fundamental shift in the nature of the regime, and there were strong objections.

The argument that such a discriminating approach is warranted rests on a number of observations. First is the observation that differences abound among states, and thus so should treatment. States vary in their relative power and wealth, and these differences are appreciated in the multilateral regimes. If some differences translate into different privileges, then why shouldn’t different behaviors translate into different

treatment? An analogy was made to the Brahimi report on peace operations, which stated that the political neutrality of the UN should not be misunderstood as moral equivalence, and that there ought to be recognition of the difference between victim and perpetrator. In the context of nonproliferation, this would translate into granting differentiated rights; this differentiation would be based on judgments of whether or not a state demonstrates its responsibility in international affairs. For example, Japan's maintenance of a latent nuclear "break out" capacity should be recognized within the regime as benign, on the basis of its otherwise responsible international behavior.

Second was the observation that technological diffusion and the resulting ability for states to increasingly seize advantage of the NPT's proliferation "loophole" increased the general likelihood of proliferation. Related to this was a third observation that shadowy threats from transnational militant networks required that the international community increase its capacity to mobilize quickly. Based on these observations, participants favoring discriminating approaches proposed that trigger mechanisms and selectivity criteria should be established. Such trigger mechanisms would force a state of concern to accept more intrusive inspections or automatic referral to the UNSC in connection to proliferation risk. Selectivity criteria would provide a legal basis on which to determine whether particular states would be subject to export controls of sensitive materials and equipment. If the international community were to settle upon such a set of criteria for declaring that a state is in noncompliance, then it may be easier to mobilize international collective action. Such a discriminating approach would have the additional benefit of making the regime more efficient, freeing up resources now applied to inspecting states that are not the concern of the international community.

The chief criticism of this view questioned whether such "legitimate discrimination" could possibly serve to undergird a regime. It was proposed that there was no way to identify mechanistic criteria for determining whether a state was responsible or not. State regime types such as democracies or dictatorships have not historically been associated with either more or less



(l-r) Ambassador Gopaldaswami Parthasarathy, Mr. Cyrus Samii, and Ambassador Mohamed Shaker

irresponsibility in nuclear proliferation or NBC use. Any litmus test of political virtue is a political decision in itself; thus a regime founded on such a litmus test would be a readily apparent instrument serving the political interests of some group of states. The opponents of discriminating approaches did not deny the need for specialized treatment toward "states of concern". But they concluded that no mechanistic criteria could serve as a substitute for case-by-case UNSC deliberation.

#### *Forceful prevention*

In the context of nuclear nonproliferation today, the concept of "prevention" has come to mean more than just structuring regimes to induce states to not proliferate. The amended meaning includes *the use of force or the threat of force to neutralize proliferation problems*. The argument for preventive approaches proposes that credible threats against would-be proliferators can be used to deter proliferation. If the threats fail, then military action can directly neutralize the proliferation problem and restore credibility for future threats against proliferators. The approach has been most forcefully promulgated in the 2002 US National Security Strategy. The 2003 US-led invasion of Iraq was the most intense exercise of this approach. The 1981 Israeli strike on Iraq's Osirak reactors was a previous manifestation. Veiled pronouncements about US and





(l-r) Dr. Damon Coletta and Dr. David Cortright

Israeli military planning vis-à-vis Iran are an application of the approach in principle. The HLP report proposes that such preventive action may be justified under certain conditions.<sup>12</sup>

Workshop participants used the invasion of Iraq as a test case for addressing whether the prevention alternative represents an effective approach to nonproliferation and whether it might be considered as an auxiliary approach for the regime, as the HLP report suggests. US administration officials have pointed to Libya as an example of how the invasion of Iraq restored the US's deterrence credibility against would-be proliferators. But workshop participants noted that a number of issues detract from this argument. Libya had been making normalization overtures to Europe and the US for years, and it is unclear whether the US simply took advantage of the situation to claim success vis-à-vis Libya as justification for Iraq.

In addition, it is difficult to argue that North Korea's or Iran's strategies have become more pliant vis-à-vis the US. Immediately after the war began, North Korea agreed to the Six Party Talks. But, it seems, after North Korea observed the complications that erupted in post-invasion Iraq, the Pyongyang leadership has acted as if the invasion was more of an opportunity than a fearful

example. Thus, participants suggested that with US forces tied down in Iraq, North Korea and Iran might feel that the pressure has lightened. In addition, the visible costs to the US in dealing with the aftermath of the invasion make it difficult to believe that such an approach could become conventional.

Aside from the dubious contribution to livening deterrence, the manner in which prevention was carried out vis-à-vis Iraq had other costs. These include undermining the trust of long-time partners, not only as a direct effect of the fallout from the 2003 diplomatic crisis, but also as a result of the reputation that the US has acquired for being strategically myopic. Military-operational considerations and geopolitical goals notwithstanding, the findings of the US-commissioned Iraq Survey Group have cut away the core of the justification for acting beyond the regime to address the Iraqi proliferation threat.

Finally, as mentioned above, such forceful prevention is not entirely new, as evidenced by the Israeli strikes on the Osirak reactors in 1981. Nonetheless, the eventual regeneration of Iraq's program demonstrates how forceful prevention may only be a short-term solution. If so-called "demand side" issues are not addressed—that is if no arrangements are made to mitigate the threats that actually propel proliferation interests—then such preventive measures may only set back progress toward weapons development for the short term. The logic of forceful prevention, in the absence of viable threat reduction, descends rapidly into the logic of "regime change". Also, experts disagree on whether the Osirak strikes significantly set back Saddam Hussein's progress toward a nuclear weapon. But it is apparent that he learned the necessity of making the Iraqi program more hidden and more resilient. Arguably, the problem for the international community was ultimately made much more difficult.

Thus, the costs of forceful prevention are abundantly clear while the benefits are hardly apparent. Forceful prevention in the mode of the Osirak strike in 1981 amounts to a one-shot, diplomatically costly way to

<sup>12</sup> The HLP report argues that preventive force can be used legally if the UNSC invokes Chapter VII to do so, but that it *should* be used only when "there is credible evidence of the reality of the threat in question [and when a] military response is the only reasonable one in the circumstances." *A More Secure World*, pp. 63-64, 67, paragraphs 190, 193, 195, and 207.

buy time for managing proliferation threats. Such short-term fixes also allow proliferators to learn, adapt, and make their programs even more hidden and resilient. Nonetheless, some participants argued that if other preventive means have failed and if the consequences of a new state crossing the nuclear threshold are serious enough, then such time-buying might be sufficiently valuable to warrant the cost. Forceful prevention in the mode of the 2003 invasion, however, amounts to a staggeringly costly manner of neutralizing a single proliferation threat. In all accounts, workshop participants took such an approach to be unconventional and extreme. Such historically informed analysis is crucial when weighing forceful prevention against other strategies, like inspections and sanctions.

#### *Whither disarmament?*

Workshop participants held varying views on the role of disarmament in relation to managing nuclear proliferation threats. The key issue was whether slow movement or regression in fulfilling NPT Article VI commitments undermined nonproliferation efforts. The issue is linked to the debate over whether discriminating approaches to nonproliferation are desirable or feasible. As one workshop participant who had also been part of the original NPT negotiations affirmed, the current regime would not exist were it not for Article VI. But the question remains whether the relevant conditions under which this grand bargain was negotiated still hold.

One line of argument questioned whether perceptions of lack of progress on Article VI and related problems were unfounded. First, under Cooperative Threat Reduction (CTR) programs initiated in recent years, the world has seen more progress on disarmament than ever during the Cold War. Second, it is not clear that disarmament by the NWS would change the minds of those who are currently seeking nuclear technologies. There is good reason to believe that the US's conventional superiority, for example, is impetus enough for motivating some states to pursue nuclear capabilities. In other cases, proliferation dynamics are based on regional security concerns and are clearly far removed

from the likely effects of Article VI, as in the case of South Asia.

But those who defended the need to put pressure on the NWS to move more quickly on Article VI reiterated its centrality to the maintenance of the NPT bargain. So long as commitment to the NPT is strong, the international normative and political climate creates costs to proliferation. These costs would evaporate if expressed commitments to the NPT were to wither. In line with this reasoning, those who argue that world perceptions of non-progress on Article VI commitments are insignificant should stop to think about whether an unraveling of the NPT is an acceptable consequence.

A related debate at the workshop was over the US's plans, as announced in recent Nuclear Posture Reviews, to develop new types of tactical nuclear weapons. The issue was whether such weapons development increases or decreases the difficulty of stemming nuclear proliferation. On the one hand, some participants argued that such "mini-nuke" development would actually deter would-be small-scale proliferators, because they would calculate that the odds of succeeding with a clandestine program would be sufficiently diminished by a US capability to destroy. But most participants seemed to agree that such new weapons development would erode the moral authority of the US in nonproliferation affairs, which would severely complicate any attempt to halt or roll back proliferators that had decided to take the risk to go forward with programs.

## Conclusion

As is clear, the discussions at the workshop opened up more avenues for enquiry than they provided answers. Nonetheless, even this preliminary assessment of the success or failure of the international community's approach vis-à-vis Iraq, and its implications for future nonproliferation efforts, has helped to pose important questions and highlight assumptions that may be insupportable. The experience in trying to manage the Iraqi proliferation threat has highlighted the importance of information problems, the relationship between the political climate and intelligence, and the

need for deeper assessments of how calculations of political survival factor into proliferation motivations. In the post-Iraq era, some approaches that have been initiated outside the terms of the regime hold significant potential while the promise of others may have been overblown.

The international community would do well to keep in mind two key considerations. First, ad hoc approaches, legitimate discrimination, and forceful prevention reflect altered beliefs in the wake of the Iraq experience and the 9/11 terrorist attacks. The question arises: *can these changed beliefs be harnessed to further enhance the international community's ability to neutralize*

*today's true nuclear threats?* Second, the approaches outlined above also reflect how the nonproliferation regime has not adapted to changing nuclear threats. But even if these approaches appear to challenge the regime, it is important to raise the question: *to what extent and in what ways do these seemingly alternative approaches actually depend on the existence of the multilateral regime for their success?*<sup>13</sup> The HLP report provides the most prominent attempt to address the issues raised here, and the 2005 NPT Review Conference and the September 2005 Special Session of the General Assembly offer important opportunities to act. It remains to be seen whether the key actors will decide to push the agenda forward.



Participants at the Beppu workshop

<sup>13</sup> For an argument that the success of ad hoc approaches depends on the framework provided by the multilateral regime, see Natasha Bajema, with Cyrus Samii, "Weapons of Mass Destruction and the United Nations: Diverse Threats and Collective Responses", *IPA Report*, June 2004. Available at: <[http://www.ipacademy.org/PDF\\_Reports/WEAPONS\\_OF\\_MASS\\_DEST.pdf](http://www.ipacademy.org/PDF_Reports/WEAPONS_OF_MASS_DEST.pdf)>

## ANNEX I: Agenda

*Conference on*  
**THE IRAQ CRISIS AND WORLD ORDER:  
ARMS CONTROL, DISARMAMENT, & PROLIFERATION CHALLENGES**

*Jointly hosted by*

Ritsumeikan University, Ritsumeikan Asia-Pacific University,  
The United Nations University & The International Peace Academy

*18-23 October 2004  
Beppu and Kyoto, Japan*

### WORKSHOP I: BEPPU

*Convention Hall, Ritsumeikan Asia-Pacific University (APU) Campus*

**Monday, October 18**

10:15-10:30      WORKSHOP INTRODUCTORY REMARKS

Professor Ramesh Thakur  
Dr. Waheguru Pal Singh Sidhu  
Professor Monte Cassim

10:30-12:30      PROLIFERATION CHALLENGES AND INTERNATIONAL RESPONSES IN NORTHEAST ASIA

Chair:	Professor Ramesh Thakur	
Paper 1:	Dr. Wade Huntley	<i>Proliferation Dynamics in East Asia</i>
Paper 2:	Professor Chung-min Lee	<i>Korean Peninsula</i>
Paper 3:	Dr. Heigo Sato	<i>Japan</i>
Discussant:	Professor Xu Xin	

**Tuesday, October 19**

9:30-11:00

PROLIFERATION CHALLENGES AND INTERNATIONAL RESPONSES IN THE MIDDLE EAST

Chair: Professor Ramesh Thakur  
 Paper 1: Professor Mohammad Selim *Arab world*  
 Paper 2: Professor Jalil Roshandel\* *Iran*  
           \*Presented by Mr. Cyrus Samii  
 Paper 3: Ambassador Mohamed Shaker *Egypt*  
 Paper 4: Brig. Gen. Shlomo Brom *Israel*  
 Discussant: Mr. Tsutomu Kono

11:30-13:00

EVOLVING NORMS OF NONPROLIFERATION AND DISARMAMENT

Chair: Dr. Waheguru Pal Singh Sidhu  
 Paper 1: Professor Ramesh Thakur *From universal nonproliferation to selective nonproliferation*  
 Paper 2: Dr. Rebecca Johnson\* *From nonproliferation + disarmament to nonproliferation only*  
           \*Presented by Dr. David Cortright  
 Discussants: Dr. Kennedy Graham & Dr. Andrei Zagorski

14:30-16:30

THE CENTRALITY OF THE UN IN NONPROLIFERATION AND DISARMAMENT?

Chair: Dr. Martina Timmerman  
 Paper 1: Mr. Tsutomu Kono *UN Security Council*  
 Paper 2: Mr. Tariq Rauf\* *IAEA*  
           \*Presented by Dr. Kennedy Graham  
 Paper 3: Dr. Trevor Findlay\* *UNSCOM/UNMOVIC*  
           \*Presented by Dr. Wade Huntley  
 Discussant: Brig. Gen. Shlomo Brom

**WORKSHOP II: KYOTO**

*Nakano Memorial Hall, Peace Museum,  
Ritsumeikan University (RU) Campus*

Friday, October 22

9:15-9:30

WORKSHOP INTRODUCTORY REMARKS

Dr. Waheguru Pal Singh Sidhu  
Dr. Kennedy Graham  
Professor Monte Cassim

9:30-11:00

STRATEGIC DOCTRINE AND WORLD ORDER

Chair: Dr. Waheguru Pal Singh Sidhu  
Paper 1: Professor Kalevi Holsti *War and statecraft*  
Paper 2: Dr. Kennedy Graham *Deterrence & compellence*  
Paper 3: Dr. David Cortright *Public opinion*  
Discussant: Dr. Damon Coletta

11:30-13:00

BROADENING THE SCOPE OF THE NONPROLIFERATION REGIME

Chair: Dr. Kennedy Graham  
Paper 1: Dr. William Potter\* *Nonstate actors*  
*\*Presented by Brig. Gen. Shlomo Brom*  
Paper 2: Dr. Waheguru Pal Singh Sidhu *Missiles*  
          & Dr. Christophe Carle  
Discussants: Mr. Tsutomu Kono & Ambassador Mohamed Shaker

14:00-15:30

THE PERMANENT FIVE, PT I: PART OF THE PROBLEM OR DEVISING NEW SOLUTIONS?

Chair: Dr. Martina Timmermann  
Paper 1: Dr. John Simpson\* *UK*  
*\*Presented by Dr. John Glen*  
Paper 2: Professor Shen Dingli *China*  
          & Dr. Ziadong Zhang  
Discussants: Dr. Wade Huntley & Dr. Andrei Zagorski





## ANNEX II: Workshop Participants

**Brig. Gen. (ret.) Shlomo Brom**  
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**Professor Monte Cassim**  
Ritsumeikan Asia-Pacific University and Ritsumeikan University

**Dr. Damon Coletta**  
U.S. Air Force Academy

**Dr. David Cortright**  
The Fourth Freedom Forum

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United Nations University

**Professor Kalevi Holsti**  
University of British Columbia

**Dr. Wade Huntley**  
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**Dr. Zhang Jiadong**  
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**Professor Akihiko Kimijima**  
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**Mr. Tsutomu Kono**  
United Nations Department of Disarmament Affairs

**Professor Chung-min Lee**  
Yonsei University

**Professor Keiji Nakatsuji**  
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