

Innovating Sustainable Governance
Solutions for a Secure Nuclear Future
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John Bernhard and Jonathan Herbach

On the eve of the final Nuclear Security Summit (NSS), at least in the current format, it is clear that much more remains to be done to strengthen global nuclear security. Looking forward, it is essential that the substantial progress and high-level political attention and engagement that has been created and driven by the Summit process over the past six years is sustained and expanded upon. This will require defining a set of process (sustained interaction among states and other relevant stakeholders, opportunities for commitment-making, leader engagement) and substance (comprehensive approach to addressing nuclear security-related issues) goals that will help lead to continuous improvement of the nuclear security regime. It will also entail identifying institutional arrangements, existing or needed, that are positioned to realize these goals.

One way to start the discussion is to examine gaps that exist in the current framework. For instance, there are no binding and comprehensive international standards or best practices that all states must follow; adherence to applicable international legal instruments is not universal; the current system does not adequately cover global stocks of weapons-usable nuclear material considered as military material; there is still no established way for states to hold each other accountable for security; and more work should be done reduce and eliminate weapons-usable nuclear materials where possible. This is not an exhaustive list.

The NSS process has, to a lesser or greater extent, dealt with each of these issues. The broad view taken throughout the Summit process has been facilitated by it being an informal process, without a set (statutory) mandate, thereby allowing participating states to raise any and all issues they wish to consider. Additionally, and perhaps more importantly, the high-level attention – heads of government – has propelled progress. Leader participation has prompted states to take a number of important steps, at an accelerated rate, to strengthen national and international nuclear security. High-level attention has prioritized the strengthening of nuclear security regimes unilaterally and through enhanced cooperation among states, and it has placed nuclear security on international and national agendas. The focus on this issue by heads of government during the course of the Summit process has also had an impact on media and general public interest, has empowered senior officials within states to coordinate initiatives within and across governments, and has motivated national implementation of commitments made at all levels of government.

A couple of other key characteristics of the Summit process bear mentioning. First is the structure of the process, which has entailed regular (biennial) meetings attended by leaders, supplemented by a series of inter-Summit preparatory meetings held at the level of senior officials. The structure has allowed participating states to systematically develop the scope and detail of commitments, to establish a close-knit network of functionaries (Sherpas), to keep abreast of and address relevant developments, and to generally take stock of progress being made with respect to Summit outcomes. Secondly, the Summit process has provided the opportunity for states to make additional commitments, both individually or jointly with other states, going beyond the more general content of the consensus communiqués. This has allowed states willing to do so to take more specific and ambitious steps in the areas of material minimization, transport security and radiological security, among others.

In devising potential means and methods for sustainable nuclear security governance, the foregoing points should be taken into account. The question then becomes how best to maintain the positive aspects and momentum of the NSS process in the absence of the Summits, and in doing so, how to balance ambition in terms of future actions with the opportunity for broader inclusivity (allowing participation by states that did not participate in the NSS process). This latter element is especially important as global nuclear security is only as strong as its weakest link. The IAEA Conferences on Nuclear Security, for instance, which are foreseen to be held every three years, can provide a forum for a further universalization of the efforts to strengthen international governance on nuclear security and may eventually also attract the kind of high-level political participation and attention¹ that has been essential for the NSS process.

A number of proposals for sustaining nuclear security efforts have been put forward. One is to regularize conferences pursuant to Article 16 of the Convention on the Physical Protection of Nuclear Material (CPPNM). Following entry into force of the 2005 Amendment, a milestone that continues to get closer, an Article 16 meeting will be convened after a period of five years to review the implementation and adequacy of the amended CPPNM. This approach has a number of advantages. It would bring together a sizable number of states – potentially 152 if all CPPNM parties take part, at least 102 of which will have ratified the Amendment with its expanded scope – convening based on a set of legal binding obligations to secure nuclear material and facilities. The particular scope of these conferences would largely be left up to states parties’ discretion, as the provision in Article 16 is quite broad. States could be encouraged to discuss topics such as strengthening national legal and regulatory frameworks and implementation of nuclear security; promoting the adoption and implementation of IAEA guidance; encouraging the use of peer reviews; increasing law enforcement cooperation to tackle illicit smuggling and other crimes; developing technical solutions for improving security, such as waste management and cybersecurity; and minimizing and eliminating civilian highly enriched uranium through reactor conversions, down-blending, repatriation, and technology development to transition to low-enriched uranium fuels.

Again, due to Article 16’s wide-ranging scope, in principle these conferences would further provide the opportunity to raise topics for which no specific forum will be available following conclusion of the NSS process, such as the security of military materials. While Article 16 conferences would provide a structured framework for priority setting and accountability, they would only be able to be held every five years. To supplement them, annual intersessional meetings could be held to ensure continuity of the nuclear security mission, motivate continued implementation of security commitments, and allow regular progress checks in the interim.

A less formal proposal that has been made is to establish a contact group, populated in the first instance by Sherpas willing and able to continue meeting on a regular (annual) basis but also open to states that did not participate in the NSS process. This group could serve to carry forward NSS themes and help scale-up NSS commitments of more general scope – such as INFCIRC/869 and enhancing radiological security. These states could also seek to drive progress in other fora, such as pursuing the convening of CPPNM Article 16 conferences.

¹ Of the 125 IAEA member states from which participants attended the 2013 International Conference on Nuclear Security: Enhancing Global Efforts, only 34 were represented at the level of minister. The next conference will take place in December 2016 where ideally more ministers will be in attendance.

INFCIRC/869 itself, otherwise known as the “Strengthening Nuclear Security Implementation” initiative, has potentially significant implications for international nuclear security norm-development and institution building. The states that have signed onto the initiative have pledged to reflect the fundamentals and recommendations of the IAEA Nuclear Security Series in domestic systems, the collective intent of the guidance documents being to help states establish and maintain a comprehensive and effective nuclear security regime. In a way similar to the contact group, the group of states subscribing to INFCIRC/869 could arrange to meet regularly and serve as a driving force for additional actions. Different from the contact group, however, these states would also meet to discuss implementation of the initiative, share lessons learned and reach out to other states to encourage broader participation. The initiative provides a concrete basis of far-reaching commitment upon which to build.

If it is broadly recognized that there are still gaps in the international legal framework governing nuclear security, which need to be closed, e.g. with regard to common security standards, a way forward could be to gradually improve the existing set of instruments. However, the most efficient and direct way to address the weaknesses of the current regime might be to develop and negotiate an International Convention on Nuclear Security, i.e. to follow the example from nuclear safety.

A drafting group under the auspices of the Nuclear Governance Experts Group (NSGEG), an international coalition of experts, has elaborated a Draft International Convention on Nuclear Security, which was presented at a press conference in Washington, DC in March 2015. The aim has been to illustrate how governance in this field could be strengthened by developing a convention, which would not replace or interfere with already existing treaties or other documents, but which would supplement them by establishing essential basic principles and standards, and by creating mechanisms for review and further development and improvement of the international regime, in particular at regular meetings of a Conference of the Parties (COP).

Whether a strengthening of the regime will focus on gradual improvements of existing instruments or on elaboration of a convention, it will be necessary for a number of states support such efforts, either in the most relevant organization, the IAEA, or in a negotiation framework established jointly by a number of states.