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Transcript

Unleashing the Nuclear Watchdog: Strengthening and Reform of the IAEA

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Patricia Lewis:

Welcome everybody. My name is Dr Patricia Lewis. I'm the Research Director for International Security here at Chatham House. And I can't tell you how delighted I am to see my friend and colleague, Professor Trevor Findlay, who is doing a whirlwind European tour from his base in both Canada and Harvard, Cambridge in Massachusetts.

Trevor is Professor at the Norman Paterson School of International Affairs at Carlton University in Ottawa, where he holds the William and Jeanie Barton Chair in International Affairs. He's also the Director of the Canadian Centre for Treaty Compliance. And he has degrees from the University of Melbourne and the Australian National University in Canberra.

He spent 13 years in the Australian Foreign Service in Tokyo, Mexico and Geneva. And he was on the Australian delegation to the conference on disarmament. And I think it's ever since you left that it's not worked properly, Trevor. I think we need you back there.

He was at SIPRI for a long time where he was working on peacekeeping and regional security. And of course, many people know him from his seven years in London where he headed up VERTIC, and I think we may have many of the other VERTIC former directors in the audience, including myself. And he also, while he was there, chaired the Independent Commission on the Verifiability of the Comprehensive Nuclear Test Ban Treaty, which was a second track diplomacy effort to work on CTBT entry into force. And as part of that whole thing, he also was working on a verification system for an Israeli-Palestinian peace accord as a track two initiative as well.

I've got lots of other things I could say about Trevor. He's one of the most fantastic people to work with. Always very clear, concise. And he's currently working also at the Belfer Center and teaching the next generation of our experts in this field. So Trevor, welcome to Chatham House. We're really honoured to have you here to release this report. You've all got a copy of it. 'Unleashing the Nuclear Watchdog: Strengthening and Reforming the IAEA'.

So Trevor, welcome.

Trevor Findlay:

Thank you very much, Patricia. And it's a great pleasure to be here and to see former VERTIC directors as well. It's wonderful to be back in London. Thank you for arranging this and thank you for your staff at Chatham House.

I want to go relatively quickly through this report. It's a huge one. You've got a copy, hopefully. But I'm very willing to answer in detail any questions you might have about specific parts of the report. I have to pay tribute to the Centre for International Governance Innovation, which sponsored the research on this.

And I think they've done particularly good on the graphics. The dog collar, I think, does suggest unleashing a nuclear watchdog. Although someone at Harvard, you know what they like, said it looked like the IAEA had run away. My editor assured me that he has dogs, and if they're well trained when they're off the leash, they do their most effective work. So I'm taking his word for it. But that's probably enough on the metaphor. You can take that too far.

So this is what I want to do. I want to talk about the project that produced the report. I'll give some background on the IAEA itself for those who are not familiar with it. My view on the current status of the Agency, the challenges that it faces in the future. I'll go through the ideas for the programmes, so the report looks at both the programmatic side of the Agency and look at the operational side, so the management, finance, those sorts of apparently boring aspects, but to me they're crucial to the Agency's operation. And then I'll draw some conclusions for you.

So the report is a joint undertaking by my very small institute, the Canadian Centre for Treaty Compliance, and CIGI, which is based in Waterloo, Canada, which is west of Toronto. It's funded in part by Research in Motion who produce the Blackberry, so I usually give a plug for Blackberry. They're not doing so well these days, unfortunately. But we've certainly had very generous funding from them.

The current report is an outgrowth of a previous report I did which is also available online on the future of nuclear energy to 2030 and the implications for safety, security and non-proliferation that might arise from this so-called nuclear renaissance. And I realised when I had done that, if I didn't know this before, that the IAEA really touches every aspect of global governance. And I've described it as the nucleus of the global governance system for nuclear matters.

And as a result of that, I concluded that well, one should gather all of the bits and pieces in that report on the future of nuclear energy, draw them together and make some overarching study of the Agency.

It's interesting, there are very few studies being done that encompass the entirety of the Agency's mandate. Paradoxically, or maybe not, the experts, the academics, governments themselves, mimic the Agency in its stove piping

of its various functions. One of the criticisms of the IAEA is it does things in stove pipes and the various departments don't really communicate very well with each other. And paradoxically, outsiders do exactly the same.

So the nuclear weapons labs in the United States have asked me to speak on my report. I said sure. Then I get an email saying, ‘Oh, we'd like you to restrict yourself to safety and nuclear security.’ And I said, ‘Well that sort of defeats the purpose.’ The purpose of the report was really to take a holistic view of the Agency and to try and figure out what might be some of the trade-offs in terms of the various stakeholders' expectations and demands of the Agency.

The report is based on interviews, wide-ranging both in Vienna and elsewhere, including with current and former staff of the Agency. Literature survey, obviously, including using the existing two very fine books on the Agency by David Fischer and Larry Shineman. Looking at archival material. Anyone who's looked at the IAEA's archives and documents will realise what a chore that is. And some original research, particularly in terms of the charts that you'll see in the report that you have in front of you.

There are 20 sets of recommendations. There are some minor ones scattered throughout the report. Each section will have its own recommendations and there are a few hints about what I think should be done, but I wasn't quite able to draw conclusions as I would like. And some suggestions for the reforms.

And what I did, unlike previous reports, including the 2020 commission that was organised by the IAEA itself several years ago, I've tried to sheet home responsibility for reforms. It's very easy to say, ‘Oh, this should be done, that should be done,’ in the passive. But to actually pinpoint who should do the reforming and who should do the strengthening I think is important.

So I've attempted to do that. Sometimes there are overlapping, multiple responsibilities, but I try and be clear as to who should do what.

So basically for those who don't know about the Agency, it's the outcome of the Eisenhower Atoms for Peace proposal. The Agency didn't quite match what Eisenhower originally had in mind. There was to be a pool of fissionable material, which the Soviet Union and the United States could provide and they would then farm that out to those who wished to have peaceful nuclear energy programmes. And in return, those states would give up the bomb, essentially.

It didn't quite work out like that. But certainly it resulted in the International Atomic Energy Agency, established in 1957. It was a creature of the United

States and the United Kingdom and other Western countries. They framed the statute of the Agency and that's a legacy, which we are coping with today. The fact that it was a Western conception of how to handle nuclear governance. It embodies this bargain, as does the NPT, between peaceful uses and non-proliferation of nuclear weapons. So that preceded the NPT and the NPT solidified that bargain.

But interestingly enough, no one really had any idea what safeguards were supposed to do to prevent states acquiring nuclear weapons. It was simply a word, 'safeguards'. They had a conference on it in Geneva and everyone was very confused about that, even the Americans hadn't quite figured out what it meant and the Russians said, ‘We're very sceptical about this safeguards business.’

But as we'll see, it certainly did develop safeguards. Since then, since the NPT, safeguards have obviously become more complicated because they're now mandatory under the NPT. And nuclear safety and nuclear security have been added as the years have gone by.

Just to indicate the structure, because I'll be talking about these various components. There's a general conference, which comprises all member-states of the Agency, which makes general policy. But unlike many UN bodies, it's the board of governors, which is the critical governing body in this institution. And everyone should pay very close attention to the 35 member board of governors.

There's a director-general. Currently Mr Yukiya Amano. And there's a Secretariat, the international civil service, which runs the Agency. And that includes the inspectorate, the famous nuclear inspectorate that we hear so much about.

Here's how the Agency currently describes itself. ‘An independent, inter-governmental science and technology based organisation in the United Nations system that serves as a global focal point for nuclear co-operation’. Well as you will see, I hope, this doesn't always work out. It's a self-promoting description, which doesn't always bear a relationship to the truth.

Currently, there are the details of the Agency, it's relatively small in UN terms. It's not enormous by any means.

The current state of the Agency. Well, to my mind it is indispensable. If we didn't have the Agency, we'd have to invent. It's like the United Nations itself. It performs incredible functions that no individual state, however powerful, or group of states could manage to do. So it crossed my mind, at the beginning I

thought well maybe I could be radical and suggest we get rid of this body, replace it with separate organisations for verification and maybe the promotion of peaceful uses. But I concluded looking at it, we simply can't do without this. So we've got it, we have to make it stronger.

Over the years, it has adapted pretty well to crises, I have to say. After Chernobyl, it found itself with a role in nuclear safety. After the discovery that Iraq had come closer to nuclear weapons than we ever imagined, it strengthened safeguards, including the additional protocol. After 9/11, it found a role for itself in nuclear security, albeit one that's still evolving.

But it's also shared various things as the years have gone by as they've not worked out. The nuclear pool disappeared. We have an echo of it now in the nuclear fuel bank but nothing like what was grandly envisaged. And it gave up peaceful nuclear explosive services when we realised that PNEs so-called were actually nuclear devices and could lead to nuclear weapons proliferation.

The Agency is also a vital mediator of this deal that I mentioned, this bargain between the developing countries and the developed over peaceful uses of nuclear energy versus preventing the spread of the bomb. And there's huge controversy about how much is done on that score by the West. It's now linked, of course, to the NPT, where the developing countries demand nuclear disarmament proceeds much more quickly. So it's become very much more complicated as a bargain now that we have the non-proliferation treaty.

I concluded the Agency is relatively effective and efficient. It has a technical competence at its core which I think is deserved. It's got a unique role in fostering a global nuclear community. It more or less acts like a churning device for putting people back into national atomic energy commissions, bringing them into the Agency. Because it doesn't have a large permanent Secretariat, it actually graduates people out of the Agency into national governance. Hopefully with the norms of safety, security and non-proliferation that the Agency is supposed to stand for. I think that's unrecognised, or not recognised well enough, that it plays this role.

And it's relatively lean and mean. I think the budget is relatively small considering what it does and what it means for international security. That's partly, I think because of zero real growth that's been imposed on the Agency since 1985.

There are 'buts'. You knew this was coming, and the Agency people yesterday saw this coming as well. Governance. Governance has become more politicised over the years, particularly as a result of the Iran issue, but also

other issues. And it's essentially killed this famous spirit of Vienna whereby states were collaborative in the board of governors in general conference. They set aside their cold war rivalries in the cold war era.

I am a bit sceptical, I have to admit, about the old timers waxing lyrical about the spirit of Vienna because we did have controversies in the early days of the Agency – over South African membership, over Israel, over the bombing of the Osirak reactor. One shouldn't get too carried away, but it's now very clear that the board often votes on issues, which is divisive because it means the minority then are not with the resolution as carried.

Nuclear safety. Fukushima showed significant weaknesses in the Agency's ability to react to nuclear crises. It did practically nothing in the first few days. The intention of the Secretariat was that they would wait and learn lessons from this that could be applied further down the track. They didn't really conceive of their role, which others expected of it, to be an independent analyst of what had happened at Fukushima. Particularly, in a case where Japan, the country affected by the disaster, was unable to provide information itself.

The Agency had its own independent sources. They were drawing up their own graphs and charts and putting together a report. They simply wouldn't release them. They didn't see that as their role. To my mind, that indicated a fundamental weakness and a lack of self-awareness about what the rest of the public expected. It was in the public level that they were not acting.

On nuclear security, states are very sensitive about giving the Agency more of a role in nuclear security for pretty obvious reasons. And the Agency itself has not traditionally dealt with the threat of nuclear terrorism, has not dealt with security agencies, Interpol, police, this is a whole foreign world for them. So they're grappling with that particular area.

Nuclear safeguards are still a work in progress. We discovered that Syria had not been complying with its safeguards agreement, when we thought that nuclear safeguards had been strengthened after Iraq. So there have been a series of non-compliance cases where the Agency has been caught out. They themselves discovered North Korean non-compliance, which is terrific. So it shows that it can be done. But there's a major issue about detecting non-compliance, undeclared activities and facilities.

The technical co-operation part of the Agency I think has traditionally underperformed, partly because the developing countries saw this as their right. This was the thing that they were getting in return for giving up the bomb. And they certainly didn't want too much scrutiny to it. They wanted it to

be regarded as an aid programme, essentially, a quid pro quo. That is changing to a certain extent, but it has to change much further.

On management, the Agency hasn't adopted modern management practices throughout. It's still catching up to the 21st century. Technology and infrastructure, likewise. It's been held back because of zero real growth. Only now are they modernising their laboratories at Seibersdorf, which paradoxically didn't even comply with the Agency's own recommendations on safety and security. I went there and it was pretty poor sight. So the Agency now has funds to be doing that and they are improving, but they're not quite there yet.

And on finance and budget, the rules were developed at a time when we had a very different world, when most states didn't have safeguards agreements, for instance, when the balance of power in the world was different, when the financial health of various countries was different. So to my mind, that needs to change as well.

What are the future challenges? One thing that many people don't realise, that this agency is with us forever. Especially if we're serious about nuclear disarmament. We'll need safeguards in perpetuity. And that's quite a tall order for any organisation to cope with, looking into the indefinite future and planning for that. This agency is not going to go away any time soon, as long as we're trying to prevent the spread of nuclear weapons.

I've already mentioned undeclared nuclear activities, and that's an ongoing challenge for the Agency, because states will get cleverer if they want to try and violate their obligations. Iran, for instance, is putting facilities underground. That represents a challenge to the Agency.

Laser enrichment. The Agency still hasn't come to terms with how you verify laser enrichment.

Nuclear safety and security are works in progress. You'll never get experts either in safety or security saying, ‘It's done. We're safe as we can possibly be.’ Clearly they won't do that. So the Agency has to cope with that.

The Agency might get new verification mandates arising as we've seen in the case of South Africa, for instance, Iraq, Iran, Syria. It goes on, and suddenly they scramble to deal with these cases. There's no set amount of money, there are no people ready to leap into this. They have to pull them from other areas.

The Agency might be involved in nuclear disarmament in the sense of verifying surplus fissionable material as weapon stocks are run down. And the

United States and Russia are already investigating that with the Agency, negotiating how this might be done, while at the same time avoiding the Agency itself getting access to nuclear secrets. We don't want proliferation when we're having a process of nuclear disarmament.

And finally, we might have this renaissance, nuclear renaissance, despite Fukushima. My own view is this has really dampened down enthusiasm for nuclear energy in various places. But in other places, it's clear it's going to go ahead. And if we have catastrophic climate change, which I'm afraid I think we will have, then states might scramble to have a crash programme of nuclear energy. And the Agency needs to be ready for that. Whether it's wise or not is another thing. I think some states will be grasping at straws and going for the nuclear option.

So on nuclear safety, there is a post-Fukushima action plan, which to my mind is relatively weak. The key missing aspect of that was mandatory peer review of nuclear power plants. Some states wanted this. Russia said it wanted it. The French apparently wanted it. The United States was opposed and so we've got this rather mealy mouth compromise where peer review will be promoted. The Agency will do its best to convince states they need peer review. But to my mind, that is an essential part of a strengthened nuclear safety regime.

You might be surprised to know that there's no global nuclear regulators organisation. So my thought here is that the Agency should encourage that. Get all regulators to talk to each other. There is a little Western club of regulators, but clearly that's not good enough. You want everybody who's regulating the nuclear industry to be talking together and learning lessons from each other.

And that would feed into establishing a global network involving everybody, including the industry. One of the weird things about the IAEA is that it is relatively distant from the industry that it's meant to issue governance regulations for. And that's partly the industry's fault. They think all the agencies about nuclear weapons, non-proliferation, we don't want to be associated with any of that.

So it's a rather strange relationship. And so one might think that the Agency might be captured by the industry as it pushes forward this renaissance, but I think it's actually the opposite. The problem is that the industry is too distant from the Agency, not that you've got regulatory capture as you might have in a national governance situation.

And clearly we need to strengthen the Agency's emergency response capabilities. When we had the Fukushima accident, some parts of the system worked, other parts didn't. They're supposed to have a standing list of offers for assistance in case of emergency. They had only a few. Japan didn't ask, incidentally. But if Japan had asked for assistance through the IAEA, they would have been bereft of assistance. That's just one example. So that does need strengthening.

On security, to my mind there's a great opportunity for the IAEA here. As you may know, the nuclear security summits initiated by the Obama Administration will end in 2014 with a summit in the Netherlands. We've just had one in Seoul. The IAEA could position itself to take over that role.

Because my fear is once the summits end, there's going to be no institution that will actually take responsibility for this. At the moment it's all very voluntary. States just make these pledges, this house gifts as they call them rather quaintly, at each summit, but no one really is there to follow up. No one to monitor or verify.

The Agency needs to strengthen itself to be able to step forward and say, ‘Okay, we'll take over this role from now on. We'll do the summits.’ And for many developing countries, that would be a very positive development because they felt excluded from this rather exclusive summit process where the Obama Administration simply picked who it would invite.

So to have a truly multilateral response on nuclear security [audio cut out 26:06 – 26:13]… We should embed the norm of peer review in the security area. It's much harder even than in nuclear safety, because here states are very sensitive as I've mentioned, about their security. They don't really see that as an international business.

There is something called the World Institute of Nuclear Security in Vienna, which has taken over some of the Agency's role, unfortunately, doing things like producing guides, running training courses on nuclear security. So now that WINS exists, the Agency really needs to co-operate with it. It can't overtake it. It can't abolish it. It needs to work much more closely.

And again, with an overall aim of creating a nuclear security community, which involves security agencies, Interpol, all those bodies that have traditionally been foreign to the IAEA. But it could take the initiative on this.

On safeguards and verification, my own view is that the safeguards department of the IAEA is one of the most effective and efficient. They have a strategic plan, and would you believe the IAEA itself has never had a strategic

plan. They have a midterm plan, which was negotiated supposedly by the Board of Governors, but in fact the Secretariat does it because the board can't agree. But it's lowest common denominator.

So the safeguards department actually has a strategic plan, and that takes a risk assessment approach, which was novel for the Agency. So what they're doing is they're looking at where proliferation threats might come from and how they might be able to cope with that, and they will have an ongoing review of the strategic plan to see how those threats change.

So to me that's an excellent thing, and if you read the public elements of this plan, you could easily apply it to the whole agency because they take this risk assessment approach. And that's what the Agency should be doing in terms of safety, security, all its mandate elements.

I've already mentioned that there should be enhancement of the safeguards approach. One is cultural change, and they're still moving with this cultural change in terms of the inspectorate and their experts from the old system where they used to essentially do nuclear counting, through to what they now call the state level approach where they use all possible sources of information, open source, intelligence information. They craft inspections based on the information they've received rather than simply the inspectors sending a report back and filing it.

So they have a state level approach and they take an all information approach. It seems to me exactly what they should be doing. They still haven't quite got there, but they are certainly conscious of the need to do this.

They also need to increase transparency and there are some who argue that they should release the safeguards implementation reports on each country. At the moment we get very detailed reports on the non-compliers like Iran and Syria, but we actually don't hear about the good guys, if you like.

They've made a few mistakes in releasing information on the good guys in the past by not putting in proper context. I know Canada was very upset by a rather negative safeguards report, which was actually the fault of the Agency, not of Canada, but it made it look like Canada was at fault. So they have to be careful. They have to put it in the context, particularly for the public and the media to understand what they're talking about.

And I would recommend they standardise their non-compliance reports. If you follow, as I have, all the reports on Iran for instance, they're incredibly complicated. They don't always give the entire picture in each report. And if you're Burkina Faso or Jamaica or Burundi and you had one person in Vienna

who looks after all the international agencies, you haven't got a hope of following this story. And if we expect support from developing countries for strengthened safeguards and for action on Iran, how can we possibly do that if we can't brief them properly?

So to my mind, the Agency should standardise those reports, include things like annexes with the whole development of the story, all the non-compliance issues. So I don't know how they'll react to that, but I gather that the UK maybe and some other countries have suggested that in the past.

I think I've skipped one... Technical co-operation. This is the programme set up essentially to assist developing countries with peaceful uses programmes. And as I've mentioned over the years, it has been a bit of a hobby horse for the developing countries and they've provided the Director-General and they've tended to advocate a hands off approach. They don't meddle in this too much. And as a result, it's not very transparent. It's not efficient, it's not accountable and it's very rarely integrated into a country's national development plan.

So the auditor of the IAEA recommended that the Agency actually improve its links with the international development community. And act as if it were, at least in part, a development assistance agency. Because that, in effect, is what it does. And it's pointless providing assistance to developing countries who have no capacity to absorb it. And as soon as the Agency leaves, the project falls into a heap.

They really need to do that. There's a Ghanaian chap who's now head of the department, I think he's doing a good job. He's having to act very carefully, because the developing world is very sensitive about this. But to my mind, they're moving in the right direction. They just need to, I think make the case to the developing countries that if this programme is made more efficient, transparent, effective, donors will be willing to give more money. Because currently this is all voluntary contributions. It's member-states giving money voluntarily for the programme. Which is an issue, which I'll come to.

Management and administration. I'm not a management consultant, so I couldn't go into all the details here. It seems to me, one of the key things is the strategic plan I mentioned. It's hard to imagine a corporation that's 50 years old not having a strategic plan. That just seems so illogical.

One of my other recommendations is that they appoint a true deputy Director-General. When the Agency was first set up, it was tiny. So one Director-General who did everything was fine. But now it's developed as a very flat organisation. You have the DG, you have all these departments, six

departments under the DG, and nothing in between. So no one to take the burden from the DG when there's an international crisis or to help him manage the Agency. So to my mind, to insert that deputy DG would be very useful. And again, to adopt essentially modern management practices.

On budget. This is very sensitive amongst member-states. I'm suggesting a grand budgetary bargain. One of the key elements of this would be to get rid of zero real growth and focus on the needs of the Agency, so the Agency needs to make a better case for why it needs particular money, not just simply ask for doubling the budget as it has in the past.

But also, a deal. The West has wanted for quite awhile, at least since 9/11, to bring nuclear security into the main budget of the Agency. At the moment, again, it's placed on this voluntary nuclear security fund. And the developing countries say they want technical co-operation into the main budget as well, given the background of the statute and the bargain. So to my mind, here's a perfect case for a grand bargain. Get both of them into the regular budget.

Also, lots of other things involved in that. But also to make the newly emerging countries pay more for the Agency. China, South Korea, they're all having very big nuclear energy programmes. And yet they pay less than Canada. So to my mind, that needs to be rejigged. If these countries are now claiming to be richer and claiming a stake in the international system, they should be able to pay more, or should be asked to pay more. China, in particular, has had a free ride on the IAEA for many years.

And just some ideas for how the Agency could find additional funds. A contingency fund. At the moment, the Agency refunds surplus to states at the end of the year, which is ridiculous. No national treasury is sitting there thinking, oh, I can't wait for the refund from the IAEA. So to my mind, that should go into a contingency fund.

They need an endowment. People like Bill Gates may be very willing to give money to the Agency, if only they knew where to put the money. And how would they know? If you have an endowment, the Agency could then decide. They don't even have a resource mobilisation strategy. Almost every other UN agency has this. How can we plan for the future in terms of funding requirements outside the regular budget?

So in conclusion, I realised as I've gone through this process that the Secretariat can certainly do reforms. It hasn't always taken opportunities placed in front of it. It doesn't seize the initiative. It doesn't use all the powers it has at its command. So it certainly should do that and it can reform itself. It can produce the strategic plan without member-states interfering in it.

But ultimately, every programme I looked at requires additional funding or additional support through the Board of Governors or the general conference for those programmes and projects to be strengthened and reformed. Ultimately, it is they who would help unleash the nuclear watchdog rather than the Secretariat being expected to do so itself. And that would be in terms of political, financial, material support.

To do that, I think the member-states need to de-politicise the whole system to a certain extent. And there are a couple of points there I'm suggesting. Have a bi-annual general conference instead of annual, because if you have it annually, you get an annual political row and many of the resolutions are the same every year. Why put ourselves through this process? I think the Secretariat know perfectly well what's expected of them by the member-states. So why labour the point?

And then I would drop board expansion. There's a plan already, there's a statutory amendment to expand the board. I just think of what's happened on the conference on disarmament. I don't think expansion has improved its performance. I think if anything it's led to a deterioration of performance.

So I would not expand the board. But I would reform the electoral system to give more states a chance to be on the board. At the moment, there's a handful of states who are [audio cut out 36:21 – 36:25] on the basis of their competence and reputation in the nuclear field.

My idea is that each region should elect its own representatives. So each state would have to stand on its own merits. And over time I think that would be better reflective of changes in the international system.