

Medical Association for Prevention of War (Australia)



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19 February 2009

The Secretary,
Joint Standing Committee on Treaties,
PO Box 6021,
Parliament House,
Canberra ACT 2600

Dear Secretary,

Re: Medical Association for Prevention of War submission to the Inquiry into Nuclear Non-Proliferation and Disarmament

The Medical Association for Prevention of War (Australia) congratulates the Australian Government for calling this Inquiry into the important topic of the international treaties involving Australia which relate to nuclear non-proliferation and disarmament. We are pleased to be able to contribute to it.

As part of the submission, the secretariat will also receive by mail a copy of the booklet "An Illusion of Protection: The unavoidable limitations of safeguards on nuclear materials and the export of uranium to China", which was published jointly by MAPW and the Australian Conservation Foundation.

As the principal author of the submission, I would welcome the opportunity to make an oral submission at the hearings in Canberra. MAPW members in Melbourne would also be available for oral hearings.

We will be pleased to assist the Committee further by providing any additional information regarding our submission.

Please contact me in the first instance through our National Office at the above address.

Yours faithfully,

Dr Sue Wareham OAM
President



Medical Association for Prevention of War submission to the JSCOT Inquiry into Nuclear Non-Proliferation and Disarmament

February 2009

INTRODUCTION

The Medical Association for Prevention of War (Australia) strongly congratulates the Australian Government for its extremely positive actions, including the current inquiry, taken to address the problem of nuclear weapons. In particular, the Prime Minister's International Commission on Nuclear Non-Proliferation and Disarmament (ICNND) represents a very welcome recognition of the grave threat posed by the 26,000 nuclear weapons in existence. Only climate change poses a threat of similar order to the world as we know it.

It is important in any discussion on nuclear weapons to emphasise at the outset the unique nature of these weapons. Nuclear weapons are the quintessential weapons of mass destruction. They threaten indiscriminate violence on the most extreme scale. No other weapon matches their ability to devastate and destroy. Their unique characteristics, compared to biological or chemical weapons, were summarised in the May/June 2003 issue of *The Bulletin of the Atomic Scientists*: "Nuclear weapons have vastly different destructive properties. A single one can physically destroy an entire city instantaneously, kill hundreds of thousands of people, and leave lingering delayed radioactivity that will deny access to a very large area for very many years."

Satoru Konishi, a Hiroshima survivor, speaking in New York during the 2005 NPT Review Conference, said, "We have seen nightmarish catastrophe beyond imagination and expression". As Australians reel in horror and disbelief at the nightmarish catastrophe that has struck Victoria this past fortnight, we must do all that is within our power to prevent the even greater devastation and suffering wrought by a single nuclear weapon. The lessons of Hiroshima and Nagasaki must be foremost as we attempt to rectify the failure of the nuclear weapons states (NWS) to comply with the legal, ethical and political imperatives to abandon these most terrible of all weapons. Their failure is the primary stimulus to proliferation.

Despite a "nuclear taboo" having (probably only just) prevented the use of nuclear weapons in warfare since 1945, we know that they will be used again if they are not abolished. The Canberra Commission on the Elimination of Nuclear Weapons reported in 1996, "The proposition that nuclear weapons can be retained in perpetuity and never used – by accident or by decision – defies credibility". The only rational way forward is to abolish these weapons.

SUMMARY OF RECOMMENDATIONS:

ANZUS (Australia, New Zealand, United States) Treaty

- A copy of the ANZUS Treaty text be distributed to every Senator and federal Member of Parliament, with a copy of the UN Charter and UN Secretary-General Ban Ki-Moon's speech of 24 October 2008.

- The Australian Government reconsider our obligations, under ANZUS and as a UN member state, that relate to nuclear weapons.

The Non-Proliferation Treaty (NPT) and international law

- At the 2010 NPT Review, the nuclear weapons states be held accountable for their failure to comply with Article VI, and be called to demonstrate time-bound plans for nuclear disarmament.
- At the 2010 Review , the “inalienable right to develop research, production and use of nuclear energy”, as set out in Article IV, be reviewed, with particular reference to the security dilemmas this “right” is already creating.
- The promotion of nuclear power be removed from the mandate of the IAEA.

Australia’s uranium sales agreements

- Australia’s uranium exports be phased out.
- No uranium be sold to the following countries:
 - Nuclear weapons states
 - States that are either not party to or not compliant with their obligations under the NPT, including Article VI
 - States which have not signed and ratified the Comprehensive Test Ban Treaty
 - States which do not have full-scope International Atomic Energy Agency (IAEA) safeguards and an Additional Protocol in place, with a consistent record of compliance
 - States which do not have excellent standards of nuclear regulation and safety, materials accountancy and physical security of nuclear facilities and materials
 - States which reprocess spent nuclear fuel to extract plutonium
- The Australian Government examine all the independent evidence available on the capacity of the Global Nuclear Energy Partnership (GNEP) to be “proliferation resistant”, and withdraw from GNEP
- For as long as nuclear power continues, all uranium enrichment be brought under international control.
- Safeguards be applied to all stages of the nuclear fuel chain, including mined uranium ore, refined uranium oxides, conversion to uranium hexafluoride and other forms of uranium for enrichment, and the facilities in which these processes are undertaken. (Currently safeguards only apply at the stage of enrichment, prior to fabrication of reactor fuel.)
- The effectiveness of, and compliance with, the above measures be reviewed and reported on regularly.
- The Australian Safeguards and Non-Proliferation Office (ASNO) be subject to a major overhaul that ensures, among other things, its independence from any pressure to facilitate Australian uranium sales.

The Comprehensive Test Ban Treaty (CTBT) (see under Australia’s uranium sales agreements)

The South Pacific Nuclear Free Zone (SPNFZ) Treaty

- Australia urges the US to ratify Protocol 1 of the SPNFZ.

- Australia actively promote review of the SPNFZ, with a view to expanding its prohibitions to include transit of nuclear weapons, launch of nuclear weapons from the Treaty zone, and land dumping of nuclear waste.

Fissile Material Cut-off Treaty (FMCT)

- Efforts for an FMCT be reinvigorated.
- Existing stockpiles of fissile material be included as an integral part of the negotiation of an FMCT.
- Pressure be applied on both Russia and the US to adequately fund the securing of Russia's fissile material stockpiles.

Nuclear Weapons Convention (NWC)

- The Australian Government (following the examples of the Biological Weapons Convention and the Chemical Weapons Convention) state clearly and explicitly a commitment to a Nuclear Weapons Convention as the most logical and unambiguous route to nuclear weapons abolition.
- The Australian Government emphasise the need for urgent action to abolish nuclear weapons, with time-bound commitments, particularly before the 2010 Review Conference of the NPT.
- The Australian Government develop close links with other governments committed to nuclear weapons abolition, particularly those committed to a NWC.

Additional possible Committee and parliamentary contributions to the work of the ICNND

- Australia reconsider the mixed messages that we give by advocating nuclear disarmament for others and accepting "protection" under a nuclear umbrella for ourselves, and that this issue be an integral part of our military planning.
- Australia pay no role in the US Missile Defence program
- Australia use the opportunity presented by the change of US Government to strongly advocate for a rejection of any role for nuclear weapons in the military policies of the US and Russia, and the other NWS, with the explicit goal of a Nuclear Weapons Convention.
- Australia urge that negative security guarantees be given to those countries previously named as possible nuclear targets.
- Australia promote the removal of all nuclear weapons from high alert status with the governments of the US and Russia as a matter of urgency.
- Australia use all available international fora to urge a moratorium on new nuclear power facilities globally and the phasing out of nuclear power.
- Australia play an active, leading role in the research, implementation and promotion of renewable energy and energy efficiencies, both domestically and internationally, and give strong support to the International Renewable Energy Agency.

SCOPE OF THIS SUBMISSION

Most aspects of the terms of reference will be addressed, under the headings of some of the relevant treaties, with a further section on possible Committee and parliamentary contributions to the work of the International Commission on Nuclear Non-Proliferation and Disarmament.

The following current and proposed treaties will be addressed:

1. The ANZUS Treaty
2. The Non-Proliferation Treaty
3. Australia's uranium sales agreements
4. The Comprehensive Test Ban Treaty
5. The South Pacific Nuclear Free Zone Treaty
6. The Fissile Materials Cut-off Treaty
7. The Nuclear Weapons Convention

1. ANZUS

The ANZUS (Australia, New Zealand, United States) Treaty has had major impacts on our foreign and military policies, and is considered by many to be fundamental to our security. While ANZUS does not refer explicitly to nuclear weapons, its guiding principles are important in determining our nuclear weapons policies.

The Treaty commences:

"Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area . . ."

Article 1 of the Treaty states:

"The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations."

The Treaty's intention that the United Nations is central to the security of all three ANZUS partners is clear. It is therefore to the purposes and principles of the UN that we should look for guidance on the issue of nuclear weapons.

The UN Charter, which arose from the rubble of the 2nd World War, commences "We, the peoples of the United Nations, determined to save succeeding generations from the scourge of war. . ." The Charter as a whole leaves no doubt that weapons with the capacity to destroy cities are anathema to the purposes of the UN.

Six decades of UN resolutions, reports and other high-level activities give further compelling evidence that global opinion generally rejects the existence of all weapons of mass destruction as incompatible with peace. The situation was summarised by UN Secretary-General Ban Ki-Moon in a major speech to the East-West Institute on 24 October 2008 (included as an appendix with this submission). He said, in referring to the Non-Proliferation Treaty:

"Moreover, we have pursued general and complete disarmament for so long that it has become part of the Organization's very identity. Disarmament and the regulation of armaments are found in the Charter. The very first resolution adopted by the General Assembly, in London in 1946, called for eliminating "weapons adaptable to mass destruction". These goals have been supported by every Secretary-General. They have been the subject of hundreds of General Assembly resolutions, and have been endorsed repeatedly by all our Member States."

In opening the 63rd session of the UN General assembly in September 2008, the Assembly's President Miguel d'Escoto Brockmann, said, "*General and complete disarmament is one of the ultimate objectives of the United Nations. Yet this urgent issue has been pushed into the background and has not received the kind of follow-up it deserves.*"

At the 2008 UN General Assembly 121 countries voted in favour of a resolution that called on all States immediately to fulfil their nuclear disarmament obligation by commencing multilateral negotiations on a Nuclear Weapons Convention.

Of the three ANZUS partners, the US has consistently and gravely violated the ANZUS Treaty by its refusal to comply with the repeatedly stated will of the UN to abolish nuclear weapons. However it is deeply regrettable that Australia also has failed in not holding the US accountable for its actions, and has instead been complicit, through US use of Australian port and land facilities, for preparations to fight a nuclear war. Rather than the popular notion of "upholding" ANZUS by complying with US military policies, Australia has violated the Treaty, by undermining the will and purpose of the UN in relation to these weapons.

MAPW believes that there are widespread misconceptions, possibly within the Australian Parliament, about the nature of the ANZUS treaty and its obligations. Given the importance of ANZUS, these misconceptions should be rectified.

MAPW recommends that:

- A copy of the ANZUS Treaty text be distributed to every Senator and federal Member of Parliament, with a copy of the UN Charter and UN Secretary-General Ban Ki-Moon's speech of 24 October 2008.
- The Australian Government reconsider our obligations, under ANZUS and as a UN member state, that relate to fighting or preparing to fight a nuclear war.

2. THE NPT AND INTERNATIONAL LAW

Hopes of achieving both non-proliferation and disarmament have generally rested on the 1970 Nuclear Non-Proliferation Treaty (NPT), which promises these dual goals. The Treaty, and general revulsion towards weapons of such destructive capacity, have successfully limited the number of nuclear weapons states to the current number of nine (including North Korea), contrary to the more alarming predictions of the 1960s when the Treaty was negotiated. That is an extremely important achievement.

MAPW wishes to particularly address two articles of the NPT.

Article VI

Nearly 40 years after entry-into-force of the NPT, its promise of nuclear disarmament, as set out in Article VI, remains unfulfilled. Article VI states:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

The international law obligation to disarm has been articulated even more explicitly by the International Court of Justice. In 1996 the Court, drawing significantly from Article VI of the NPT, stated *unanimously* that:

“There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.” (emphasis added)

Rather than moving to get rid of their weapons, the nuclear weapons states have emphasised the central role that these weapons play in their defence planning. The stigma that rightly belongs to the weapons has very often been replaced by the projection of power and influence. While the US and Russia have reduced their number of weapons, the central role that these weapons play in their military planning remains.

Each of the nine NWS continues to undermine the NPT, either by:

- violation of Article VI disarmament obligations (Russia, the US, France, China and the UK); or by
- refusing to join the NPT (India, Israel and Pakistan), or by
- development of nuclear weapons and withdrawal from the Treaty (North Korea).

Unless this situation is rectified, the Treaty is in grave danger of collapsing at the 2010 Review. Nuclear weapons cannot be indispensable for some countries and forbidden to others. This point has been stated forcefully and repeatedly by Mohamed ElBaradei, who wrote in *The Economist* (October 16, 2003):

“The very existence of nuclear weapons gives rise to the pursuit of them. They are seen as a source of global influence, and are valued for their perceived deterrent effect. And as long as some countries possess them (or are protected by them in alliances) and others do not, this asymmetry breeds chronic global insecurity.”

El Baradei’s reference to countries such as Australia that are “protected” by nuclear weapons in alliances is a stern reminder that currently we are part of the nuclear weapons problem, not the solution.

Article IV

There is a further problem with the NPT that must be addressed. Article IV refers to the “inalienable right of all Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes . . .”

“Peaceful” nuclear technology differs very little from military nuclear technology. It is increasingly clear that the goals of, on the one hand, removing states’ capacity to develop nuclear weapons, and, on the other, the promotion of nuclear power, are incompatible. For this reason the dual roles of the International Atomic Energy Agency (IAEA) are in direct conflict and should not be invested in the one organisation.

There are few obstacles to a country going a considerable distance towards nuclear weapons development while a signatory to the NPT, with access to enrichment and reactor technology and technical support for ‘peaceful’ nuclear activities, and then withdrawing from the Treaty when it is ready to proceed with weaponisation.

The example of Iran, with its ambiguous nuclear program, illustrates the problem. Iran can correctly claim that under the NPT it has an “inalienable right” to its nuclear program, and yet many countries have valid reason for concern about that program. If Iran is to be denied nuclear technology under the NPT, then clearly the right to such technology is not “inalienable”. It is almost certain that other such situations will arise in the future if nuclear power is further embraced. We would then see increasing tensions over who can be “trusted” with nuclear technology, and, importantly, who will decide.

It is time to rethink any country’s “inalienable right” to nuclear power, the technology and raw materials for which also grant the capacity to make the world’s most destructive weapons.

MAPW recommends that

- At the 2010 NPT Review, the NWS be held accountable for their failure to comply with Article VI, and be called to demonstrate time-bound plans for nuclear disarmament;
- At the 2010 Review, the “inalienable right to develop research, production and use of nuclear energy”, as set out in Article IV, be reviewed, with particular reference to the security dilemmas this “right” is already creating;
- The promotion of nuclear power be removed from the mandate of the IAEA.

3. NUCLEAR POWER AND AUSTRALIA’S URANIUM SALES AGREEMENTS

As noted above, the material and technology to produce nuclear power automatically confer the capacity to produce fissile material usable for nuclear weapons. Evidence indicates that the links between civilian and military nuclear programs are inextricable.

A number of countries have developed nuclear weapons via essentially clandestine programs largely utilising ‘research’ and civilian reactors. Examples include Israel, South Africa, India and Pakistan.

Attempts to separate civilian and military programs have relied heavily on safeguards implemented by the IAEA. However IAEA safeguards have not always detected in a timely fashion, let alone prevented, nuclear weapons proliferation. Weapons programs in both North Korea and Iraq occurred while each country was subject to IAEA safeguards. Although the Additional Protocols confer enhanced opportunities for deterring and detecting suspicious activities, safeguards still represent, in the words of the 1970s Fox Report into Australia’s uranium sales, an ‘illusion of protection’.

In Iraq, even with intrusive inspections, allegations of a nuclear weapons program created sufficient uncertainty that they helped trigger a catastrophic war that is still tearing the country apart. The example of Iran, noted above, also indicates the political complexities, manipulation and tensions that can arise, with war being a distinct possibility given sufficient political stupidity and hubris.

The Proliferation Security Initiative (PSI), and the previous US administration’s desire to deny access to uranium enrichment to selected states, are a de facto acknowledgement that current barriers to horizontal proliferation of nuclear weapons are inadequate.

The Global Nuclear Energy Partnership (GNEP) also would define which countries can be trusted with domestic uranium enrichment and reprocessing. Far from helping prevent proliferation, GNEP is likely to aid it, through the production of greater quantities of plutonium. Contrary to the claim made in a letter of 5/9/08 to MAPW from Anthony Byrne, the Parliamentary Secretary to the PM, GNEP technologies will not be proliferation-resistant. Richard L. Garwin, IBM Fellow Emeritus and expert on nuclear weapons technology, in testimony before the US Congress House Science Committee on April 6, 2006, stated that GNEP's goal of "proliferation resistance" would not be met with the proposed technology. ¹

One of the difficulties with any program targeted at potential proliferators, such as PSI or GNEP, is that governments change, but nuclear technology remains, and fissile material remains for a very long time. Iran's first nuclear research reactor came from the US in the 1960s. Today's friend may be tomorrow's foe.

Therefore Australia's uranium sales support an industry that has, among other major problems, the potential to fuel weapons proliferation either now or in the future. Of most grave concern are our continuing sales to countries that undermine the NPT, and this includes both NWS and non-NWS, as listed above. Non-compliance with Article VI represents an extremely serious breach of Treaty obligations. While the Australian government's refusal to sell uranium to India is welcome and commendable, it would be far more commendable and consistent if Australia were to also refuse to sell uranium to all those nations that have undermined the NPT.

In addition to IAEA safeguards, countries purchasing Australian uranium must enter into bilateral safeguards agreements. The Australian Government asserts that such agreements provide reliable assurance that our uranium cannot end up in weapons. This is not borne out by the evidence:

- In some countries where Australian uranium is utilised, such as France, some nuclear facilities serve both the nuclear power industry and military purposes
- Accounting procedures for nuclear materials involve uncertainties and margins of error which, on the industrial scale involved, leave open the possibility of undetected diversion of fissile material
- At any stage of uranium enrichment, processing or fuel rod fabrication, it is impossible to distinguish between uranium from one source and uranium from any other source. Accounting is 'virtual'; so-called 'flag-swapping' has been shown to be routine.

Even if atoms of Australian uranium are not used for weapons, our uranium contributes to the total pool of uranium that is available to our customers to use for either nuclear power or for weapons.

Transportation of fissile material is a particularly vulnerable phase, during which safeguards are not applicable and the risk of terrorist access to the material is highest.

Particular mention must be made of Australia's uranium sales agreement with China and the proposed agreement with Russia. Both should be abandoned. Not only are China

¹ <http://www.fas.org/rlg/060406-gnep.pdf>

and Russia both NWS who have violated article VI of the NPT, but there are further specific concerns in relation to each of them.

- **China**

China does not separate its military and so called civilian nuclear sectors and has not ratified the CTBT. The country suffers lack of transparency, an appalling human rights record (which puts at risk nuclear whistleblowers), and a terrible record of spreading sensitive nuclear technologies to other countries. The safeguards agreement has significant weaknesses. China has given no assurance that it will cease production of nuclear weapons fuel. These issues are discussed further in the study *"An Illusion of Protection: The unavoidable limitations of safeguards on nuclear materials and the export of uranium to China"* which was published by MAPW and the Australian Conservation Foundation, a copy of which is forwarded by post as part of this submission.

- **Russia**

In relation to Russia, MAPW congratulates JSCOT on its recommendation that the Government does not proceed with the nuclear cooperation agreement, and strongly urges the Government to accept the Committee's recommendation. Particular problems include the lack of separation of the civilian and military sectors, the severe paucity of IAEA inspections of any nuclear facilities in Russia, grossly irresponsible waste management practices, and a very poor human rights record.

MAPW notes with concern also the 1990 nuclear treaty between Australia and the USSR² allowing for enrichment and reprocessing of Australian uranium in un-safeguarded facilities. These activities are a major proliferation hazard and should be prohibited.

Final mention should be made of the Australian Safeguards and Non-Proliferation Office (ASNO) and its extraordinarily poor record of drawing attention to glaring inconsistencies between Australia's rhetoric and practice in the area of nuclear non-proliferation. The multitude of problems with the nuclear cooperation agreements with China and Russia, which ASNO has blessed with its standard reassurances, are just the last in a long history of superficial and irresponsible examinations of exactly what happens to uranium when it leaves our ports.

A nuclear weapons free world will be far more readily achieved and maintained with the phasing out of nuclear power. In such a world, bomb ingredients will be harder to acquire, and the search for them more conspicuous and politically costly. This will substantially deter proliferation, while facilitating the easier identification, sanction, prosecution and penalising of proliferators, "... focusing scarce intelligence resources on needles, not haystacks."³

² Agreement between the Government of Australia and the Government of the Union of Soviet Socialist Republics concerning the Peaceful Uses of Nuclear Energy; Entry into force 24 December 1990

³ Lovins et al. Rocky Mountains Institute. Solutions. Spring 2008; xxiv(1):23-7

MAPW recommends that:

- Australia's uranium exports be phased out.
- No uranium be sold to the following countries:
 - Nuclear weapons states
 - States that are either not party to or not compliant with their obligations under the NPT, including Article VI
 - States which have not signed and ratified the Comprehensive Test Ban Treaty
 - States which do not have full-scope IAEA safeguards and an Additional Protocol in place, with a consistent record of compliance
 - States which do not have excellent standards of nuclear regulation and safety, materials accountancy and physical security of nuclear facilities and materials
 - States which reprocess spent nuclear fuel to extract plutonium
- The Australian Government examine all the independent evidence available on GNEP's capacity to be "proliferation resistant", and withdraw from GNEP
- For as long as nuclear power continues, all uranium enrichment be brought under international control.
- Safeguards be applied to all stages of the nuclear fuel chain, including mined uranium ore, refined uranium oxides, conversion to uranium hexafluoride and other forms of uranium for enrichment, and the facilities in which these processes are undertaken (currently safeguards only apply at the stage of enrichment, prior to fabrication of reactor fuel)
- The effectiveness of, and compliance with, the above measures be reviewed and reported on regularly.
- ASNO be subject to a major overhaul that ensures, among other things, its independence from any pressure to facilitate Australian uranium sales.

4. THE COMPREHENSIVE TEST BAN TREATY

The CTBT is one of the important steps towards nuclear weapons abolition. Australia has a long and proud history of promoting and bringing into existence the Treaty. Our efforts to ensure it comes into force are valuable.

Those efforts are undermined by one factor – our sales (or proposed sales) of uranium to countries that have not ratified the Treaty, specifically the US and China. The Treaty will not enter into force without these ratifications.

Our sales of the raw material needed for nuclear weapons testing and production greatly weaken our advocacy for a permanent cessation of all nuclear tests in all environments.

Quite apart from the importance of the CTBT in the process of nuclear disarmament, the health effects of nuclear testing are very significant. It is estimated that atmospheric testing will result in 430,000 additional fatal cancers worldwide from the fallout received up to the year 2000⁴, and a total of 2.4 million extra cancer deaths long-term⁵. While

⁴ *Radioactive Heaven and Earth: The health and environmental effects of nuclear weapons testing in, on an above the earth.* International Physicians for the Prevention of Nuclear War and the Institute for Energy and Environmental Research. Apex Books and Zed Press 1991. Page 42.

⁵ Ibid page 40.

underground testing does not produce the same degree of fallout, it nevertheless adds significantly to the total radioactive load to which particular populations are exposed.

Recent chromosomal analyses of New Zealand naval veterans exposed to atomic weapons testing fallout in the South Pacific in the 1950s have revealed high rates of genetic distortion.⁶

MAPW's recommendation that Australia does not sell uranium to any country that has not ratified the CTBT, including China and the US, is noted above.

5. THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

The South Pacific Nuclear Free Zone Treaty represents a rejection of military policies based on nuclear weapons by its 13 member states. It is part of a global network of such zones that have served as valuable confidence-building measures that enhance the security of the member states. Nuclear Free Zones (NFZs) also help to de-legitimise nuclear weapons, an extremely important aspect of disarmament.

The SPNFZ is particularly significant in that it has helped create a Southern Hemisphere that is nearly all declared nuclear free. All the Southern Hemispheric land area and much of its ocean is covered by Nuclear Weapons Free Zones (although the Treaty of Pelindaba in Africa has not yet come into force).

It is timely to consider strengthening the SPNFZ to further promote the interests of its member states and also the expansion of NFZs globally. The areas that should be rectified or strengthened include the following:

- The US has not ratified Protocol 1, under which it must apply the provisions of the Treaty to its territories in the zone. (Russia, China, France and the UK have ratified their relevant protocols);
- The Treaty does not prohibit either the transport of nuclear weapons through the area covered by the SPNFZ or the launch of nuclear weapons from the zone to targets outside the zone. These are glaring omissions that detract from the fundamental "nuclear free" nature and purpose of the Treaty. The issue of transport of nuclear weapons is of relevance to Australia, as discussed above in relation to the ANZUS Treaty.
- Land dumping of radioactive waste is not prohibited. This also is a significant omission that leaves open the possibility of waste created elsewhere being dumped within the SPNFZ, against the interests of one or more member states.

MAPW recommends that:

- Australia urges the US to ratify Protocol 1 of the SPNFZ
- Australia actively promote review of the SPNFZ, with a view to expanding its prohibitions to include transit of nuclear weapons, launch of nuclear weapons from the Treaty zone, and land dumping of nuclear waste.

6. FISSILE MATERIAL CUT-OFF TREATY

A treaty to ban the production of fissile material has long had wide international support, including from Australia. It was one of the many recommendations made by the UN

⁶ Wahab et al. Elevated chromosome translocation frequencies in NZ nuclear test veterans. *Cytogenet. Genome Res.* 121:79-87 (2008).

Weapons of Mass Destruction Commission chaired by Hans Blix. With growing attention to the nuclear weapons problem, including the risk of terrorist access to fissile material, pressure must again be applied for the negotiation of an FMCT.

However there is a significant hurdle to be overcome, in that some countries already have very large stocks of fissile material. Unless an FMCT covers these stockpiles, it will be seen as another example of the big powers, especially the two countries that bear large responsibility for our heavily nuclear-armed world, being at an “advantage” yet again. In addition there is the practical reality that fissile material stockpiles in Russia have perilously poor security. This problem alone requires far greater and more urgent attention than it has received.

MAPW recommends that:

- Efforts for an FMCT be reinvigorated
- Existing stockpiles of fissile material be included as an integral part of the negotiation of an FMCT
- Pressure be applied on both Russia and the US to adequately fund the securing of Russia’s fissile material stockpiles.

7. NUCLEAR WEAPONS CONVENTION

The NPT, while remaining an extremely important brake on the horizontal spread of nuclear weapons, is no longer sufficient in itself to achieve a nuclear weapons free world. For nearly four decades, the nuclear weapons states that are party to the Treaty have obfuscated and abused their positions of power to thwart the NPT goal of a nuclear weapons free world. Their Article VI obligation to negotiate “in good faith” to this end has been by and large ignored. While the US and Russia claim that reductions in their numbers of weapons constitutes compliance with Article VI, the legal obligation to disarm requires reduction to zero.

Already there exists in international law the obligation to not only pursue complete nuclear disarmament, but to achieve it. As stated above, the 1996 advisory opinion of the International Court of Justice on the legal status of nuclear weapons was that “There exists an obligation to pursue in good faith *and bring to a conclusion* negotiations leading to nuclear disarmament in all its aspects under strict and effective international control” The Court did not distinguish between the use and threat of use, that is possession, of nuclear weapons. Illegal acts must be neither committed nor threatened.

A model Nuclear Weapons Convention (NWC) exists. The Model Convention on the Prohibition of the Development, Testing, Production, Stockpiling, Transfer, Use and Threat of Use of Nuclear Weapons and on Their Elimination was drafted by an international consortium of lawyers, scientists, physicians and disarmament specialists, and was released and circulated by the UN in 1997. It was revised in 2007. The book “Securing Our Survival: The Case for a Nuclear Weapons Convention” contains the draft text of the Convention, and addresses the many technical, legal, security and strategic aspects of nuclear weapons abolition. The draft text is just that, a draft. It is not intended as the final word on every aspect of the subject, but as a starting point. It deserves serious attention from governments and parliamentarians.

In UN Secretary-General Ban Ki-Moon’s speech on October 24 last year, cited above, he suggested a five-point plan for nuclear disarmament. The plan commenced:

“First, I urge all NPT parties, in particular the nuclear –weapons-states, to fulfil their obligation under the treaty to undertake negotiations on effective measures relating to nuclear disarmament.

They could pursue this goal by agreement on a framework of separate, mutually reinforcing instruments. Or they could consider negotiating a nuclear –weapons-convention, backed by a strong system of verification, as has long been proposed at the United Nations. Upon the request of Costa Rica and Malaysia, I have circulated to all UN member states a draft of such a convention, which offers a good point of departure.”

In recent correspondence with MAPW (in a letter dated 12 December 2008 from DFAT) the Government stated that it regards a legal framework such as an NWC as “a long term goal requiring many intermediate steps”. However there is no explanation given as to an appropriate timeframe. What is “long term”? How long should potential nuclear weapons states wait before deciding whether they too should join the nuclear club? Why is there seemingly boundless patience with the current nuclear weapons states, those who refuse to disarm, but little patience with those countries that are at or just over the nuclear threshold, such as Iran and North Korea?

Concerns have been expressed by some that a NWC would undermine the NPT. It is difficult to see how this could be so. The NPT calls for nuclear disarmament, but does not set out a detailed mechanism whereby this will occur. A Nuclear Weapons Convention would simply be a vehicle for the fulfilment of article VI of the NPT.

The ICNND is a timely and very promising initiative for the examination of all possible routes to nuclear weapons abolition, including a NWC. It is to be hoped that the Commission will engage strongly with advocates of a NWC, both government and non-government.

MAPW strongly recommends that, regardless of the Government’s views on the timing of a NWC, timetables for at least some of the intermediate steps be set. Failure to measure progress in this way will simply reinforce the notion that the NWS are not serious about fulfilling their NPT obligations. This would be the single greatest spur to proliferation.

It remains extraordinary that of all “weapons of mass destruction” – nuclear, chemical and biological weapons – two classes are outlawed, while the most destructive of all, nuclear weapons, are tolerated. All are morally repugnant creations that have no place in human society.

MAPW recommends that:

- The Australian Government (following the examples of the Biological Weapons Convention and the Chemical Weapons Convention) state clearly and explicitly a commitment to a Nuclear Weapons Convention as the most logical and unambiguous route to nuclear weapons abolition.
- The Australian Government emphasise the need for urgent action on this issue, with time-bound commitments, particularly before the 2010 Review Conference of the NPT.

- The Australian Government develop close links with other governments committed to nuclear weapons abolition, particularly those committed to a NWC.

HOW THE COMMITTEE AND PARLIAMENT CAN CONTRIBUTE TO THE WORK OF THE INTERNATIONAL COMMISSION ON NUCLEAR NON-PROLIFERATION AND DISARMAMENT

1. A non-nuclear defence policy for Australia

The primary barrier to nuclear disarmament is the notion that nuclear weapons increase security. While this notion is promulgated mainly by the nuclear weapons states, their allies who also “benefit” from alleged protection by nuclear weapons bear some responsibility for conferring this security benefit.

Mohamed El Baradei’s words bear repetition: “*As long as some countries possess them (or are protected by them in alliances) and others do not, this asymmetry breeds chronic global insecurity.*” As long as Australia accepts “protection” by our ally’s nuclear weapons, any important advocacy work we undertake on the subject will be compromised. To strengthen our nuclear disarmament credentials, we must finally reject any role for nuclear weapons in the defence of Australia. We cannot simultaneously advocate the abandonment of nuclear weapons by other countries while relying on them in any way for our own security.

A nuclear-free defence policy for Australia would have several implications. Ships visiting our ports would need to be declared nuclear weapons free. No activity related to nuclear war fighting, such as missile targeting, would take place at military bases on Australian soil.

While “Missile defence” has applications beyond the interception of nuclear missiles, it is such a powerful stimulus to other nations, especially Russia and China, to increase their number of nuclear weapons that it should be abandoned. Australia should play no part in it. Recent indications that US President Obama may re-consider the stationing of missile defence facilities in Poland and the Czech Republic are very encouraging, and provide a good opportunity for Australia’s role also to be re-considered.

MAPW recommends that:

- Australia reconsider the mixed messages that we give by advocating nuclear disarmament for others and accepting “protection” under a nuclear umbrella for ourselves, and that this issue be an integral part of our military planning.
- Australia pay no role in the US Missile Defence program

2. Advocacy with the US and other NWS

Australia, as a major ally of the US, has a particular responsibility to advocate that our ally takes a strong position of leadership for a nuclear weapons free world. With a new US President who has brought waves of hope on many fronts, the time is right to strongly encourage and work with President Obama for his stated goal of a nuclear weapons free world. The time is right to strengthen the political commitment in the US for this goal, and to prepare the way for the negotiation of a NWC. With such a commitment in the US, prospects of other nations following suit would dramatically improve. Australia can play a strong role in promoting a NWC with all the NWS.

It will be important also to undo the terrible excesses of President George W Bush's nuclear weapons policies. His 2002 Nuclear Posture Review gave explicit confirmation that the US was prepared to use nuclear weapons against five named non-nuclear weapons states (Iran, Iraq, Syria, North Korea and Libya,). This profoundly destabilising development should be explicitly reversed. Australia could play a very useful role in encouraging this and in promoting security guarantees generally.

MAPW recommends that:

- Australia use the opportunity presented by the change of US Government to strongly advocate for a rejection of any role for nuclear weapons in the military policies of the US and Russia, and the other NWS, with the explicit goal of a Nuclear Weapons Convention.
- Australia urge that negative security guarantees be given to those countries previously named as possible nuclear targets.

3. Urge the elimination of high alert status

One of the most dangerous and irresponsible, yet readily-reversed, legacies of the Cold War is the retention of thousands of US and Russian nuclear weapons on high alert status, whereby they can be launched within minutes. This risk is in fact greater now than at the end of the Cold War, due to the deterioration of Russian command and control systems.

High on the list of short-term goals for the International Commission on Nuclear Non-proliferation and Disarmament should be the removal of all nuclear weapons from high alert status.

Australia's vote for this step at the 2008 UN General Assembly was very welcome. Additional advocacy directly with the Russian and US Governments would be very beneficial.

MAPW recommends that:

- Australia promote the removal of all nuclear weapons from high alert status with the governments of the US and Russia as a matter of urgency

4. Rejection of nuclear power, the promotion of renewable energies and support for IRENA

As argued above, the abolition of nuclear weapons, already a formidable task, will be inordinately more difficult if the world further embraces nuclear power. The task is likely to be impossible.

For this and other reasons, nuclear power should be phased out. It is not a solution to climate change, nor even part of the solution⁷. It distracts research, funding and

⁷ Nuclear power's unique hazards and problems include the risk of accidents and terrorist attack resulting in widespread and long-term radioactive contamination; the need to keep huge quantities of radioactive waste safe from terrorists and isolated from the environment for hundreds of thousands of years; enormous and escalating costs; and its limited and slow greenhouse benefits. In addition, uranium is a finite resource.

attention from real solutions, and wastes scarce time. The need for rapid uptake of the clean, renewable sources of energy and energy efficiencies that are already available is urgent. Without this, nuclear power will re-emerge, nuclear weapons will remain with us, and they will, inevitably, be used again.

MAPW notes with serious concern that Australia is not yet a Signatory State of the Conference on the Establishment of the International Renewable Energy Agency (IRENA) initiated by Germany and held recently in Bonn. For a Government that claims to be taking climate change seriously, this seems a startling omission.

MAPW recommends that:

- Australia use all available international fora to urge a moratorium on new nuclear power facilities globally and the phasing out of nuclear power
- Australia play an active, leading role in the research, implementation and promotion of renewable energy and energy efficiencies, both domestically and internationally, and gives strong support to the International Renewable Energy Agency