



COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON TREATIES

Reference: Protocols II and IV to the Inhumane Weapons Convention

CANBERRA

Friday, 6 December 1996

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON TREATIES

Members:

Mr Taylor (Chair)

Senator Abetz	Mr Adams
Senator Bourne	Mr Bartlett
Senator Cooney	Mr Laurie Ferguson
Senator Ellison	Mr Hardgrave
Senator Murphy	Mr McClelland
Senator Neal	Mr Tony Smith
Senator O'Chee	Mr Truss
	Mr Tuckey

For inquiry into and report on:

Protocols II and IV to the Inhumane Weapons Convention.

WITNESSES

**MEMBREY, Major Graeme Andrew, Staff Officer Grade Two, Directorate of
Engineers—Army, Moorebank Road, Moorebank, New South Wales 89**

**PEARCE, Colonel Geoffrey Norman, Director of Engineers—Army,
Department of Defence, Engineer Centre, Moorebank Avenue,
Moorebank, New South Wales 89**

JOINT STANDING COMMITTEE ON TREATIES

(Subcommittee)

Protocols II and IV to the Inhumane Weapons Convention

MOOREBANK

Friday, 6 December 1996

Present

Mr Taylor (Chair)

Senator Bourne

The subcommittee met at 12.47 p.m.

Mr Taylor took the chair.

CHAIR—Welcome, ladies and gentlemen. I declare open this fourth public hearing into Protocol IV as well as the amended Protocol II to the document known as the Inhumane Weapons Convention. The committee believes that these protocols are of considerable importance. We have already held three hearings on them.

On 30 October, we took evidence from the Department of Defence and the Department of Foreign Affairs and Trade. Earlier this week, a number of NGOs appeared before us, as well as representatives of the Medical Association for the Prevention of War and the RSL. This hearing, and the briefing which preceded it, have been arranged to ensure that the Australian Defence Force is given the opportunity to explain the implications of the amended Protocol II for its tactics and training.

Although this hearing is principally about amended Protocol II, we would welcome any comments about IV. For those of you who do not know, Protocol IV is laser blinding weapons.

MEMBREY, Major Graeme Andrew, Staff Officer Grade Two, Directorate of Engineers—Army, Moorebank Road, Moorebank, New South Wales

PEARCE, Colonel Geoffrey Norman, Director of Engineers—Army, Department of Defence, Engineer Centre, Moorebank Avenue, Moorebank, New South Wales

CHAIR—Do you have any comments to make on the capacity in which you appear?

Col. Pearce—I was a member of the Australian delegation which was involved in the negotiation of amended Protocol II.

CHAIR—Would you like to make a short opening statement?

Col. Pearce—Mr Chairman, I do not intend making an opening statement in the sense that we have already given evidence once before, other than to say that I hope the presentations that you saw this morning were helpful in enabling you to frame further questions.

CHAIR—I will say something about that when we sum up. Yes, the presentation was very welcomed. We thank you for that and I will have a little more to say about that in due course. Could I just open the batting with a question in two parts: firstly, could you give us your views on the nine-year rule from an ADF perspective; and, secondly, could you inform us as to what Australia might reasonably be expected to do, over and above amended Protocol II, perhaps to move further towards a total ban?

Col. Pearce—The first part of the question referred to the deferral period. During the negotiations in Geneva, it became clear that quite a few countries were reluctant to move at all away from the existing Protocol II of 1980. In order to get them moving towards the self-destruction and self-deactivation requirement and the detectability requirement—to get them moving in that direction at all—it was necessary to negotiate a period of grace. Most countries that were working towards a total ban were reluctant to give a period of grace at all.

It soon became quite clear that particularly those countries which had large stocks of existing mines and those countries which had a far greater threat posed to them by their neighbours than we do were reluctant to move at all. The only way we could get them to give ground at all was by giving them a period of grace to move towards some future higher standard and higher constraint. That is why the period of grace was put in there. You might also note that there is a plea in the amended Protocol II that countries should not invoke that period of grace, other than where they felt they certainly had to, and that during the period of grace they would undertake the maximum constraint and restraint in the employment of any mines which did not meet the revised criteria.

CHAIR—What about the second part?

Col. Pearce—The second part was what will we do to help movement towards a total ban. I think revised Protocol II is in itself a step down that path. It encourages people to be more careful in the use of existing mines. It encourages them to think twice and actually justify themselves before they use mines. So step one is to sign up to revised Protocol II.

From an army point of view, what we can do is to work with those countries to which we have links—in particular, the group consisting of America, Britain, Canada, Australia and New Zealand—and talk to them about ways in which we can help move towards a total ban. The difficulty is that it is not those countries that are causing the problem. The problem is being caused by groups, quite often not states or entities in their own right, which are abusing mines and using them indiscriminately. To be quite honest, I do not know how you get those groups to change their behaviour.

CHAIR—Are you prepared to say on the *Hansard* record what those groups and countries are?

Col. Pearce—A good example, I guess, is the Khmer Rouge. I would venture to say that, if it had not been for their use of landmines, the Khmer Rouge would have been defeated militarily some time ago. Any time that forces try to move into their safe haven areas, they start to sustain injuries caused by antipersonnel landmines. It is not long before they call it off and withdraw, and lose interest, if you like, in pursuing them. Landmines are effective as a defensive measure for groups like that. A lot of other insurgent groups around the world are behaving in a similar way. I might add that some of the governments that are trying to deal with those insurgent groups are also using mines.

Senator BOURNE—Just to put it on the public record, because I know you have already mentioned this: you were saying that a large amount of our stockpile would not comply with the response signal equivalent to eight grams of iron. Can you tell us how we can comply with that, the consequences as far as money is concerned and anything else that is relevant?

Col. Pearce—Firstly, our only mine that does not comply with the detectability standard is the M14 small antipersonnel blast mine. It is detectable with modern mine detectors but it does not meet the signal requirement of eight grams. It does meet the standard as long as you do not use it. It is only a restriction on use. So while ever it is just sitting in the depot, then it is meeting the standard. It only fails to meet the standard if we ever employ those mines and, of course, at the moment there is a suspension on operational use anyway.

If we were to use them—if the strategic situation were to deteriorate significantly, Australia was threatened, Australian lives were at threat and the government reconsidered

its position and decided that we needed them for national defence—then before we used them we would have to make them detectable. We would probably choose to do that at the time that we placed them in the ground. It is very simple: we would just put a metallic washer around the initiator before we placed it in the mine and before we placed the mine in the ground. It is a cheap process. You are probably talking about 5c a mine.

Senator BOURNE—Can you also give us an idea of the cost and the practicality if we did dispose of the stockpile; do you have any ideas about that?

Col. Pearce—I would not have any figure on the cost. But it would require drawing all those stocks out of depots, accounting for them all, taking them to a safe place and going through a process of explosively disposing of them. It is relatively simple, but it is a fairly major task. You cannot just place pallet loads of them and blow them up. You would have to strip them out of the boxes and either explosively dispose of them or burn them or do something like that to get rid of them. The quality control would have to be such that you made sure that every one went off and that none were left lying around which failed to detonate.

CHAIR—On the stockholding policy, understandably, the NGOs have a particular view on that. It would be fair to say that the RSL has a contra view. Whilst ADF stockholding policy is obviously classified and you cannot talk about the depth of that stockholding—bearing in mind that the Minister for Defence in the joint statement with Mr Downer indicated ‘that ADF stocks of landmines would be used for training and research purposes only’—could you just give us for the *Hansard* record your views as to why and to what extent the ADF has to maintain those stocks both for operational training and for a contingency situation?

Col. Pearce—To go back to the joint statement, I think it depends on where you put the punctuation. The joint statement really suggested that we would retain operational stocks and then it said, with regard to use during the period of the suspension, that we would only use them for training and research. My understanding is that the government had decided to keep those stocks in case that dire circumstance arose where we would need to use those stocks. Our stockpile is not a stockpile that is causing a problem. It is locked away, and we have a suspension on use. The military is bound by government policy. While ever that policy remains, our stockpile is doing absolutely no harm to anyone.

CHAIR—Let us talk about operational training. It was said to me and to a number of other members of the defence subcommittee of the Joint Foreign Affairs, Defence and Trade Committee a few months ago when we were in Townsville that it was almost impossible to get authority to use some of these things, even in a training scenario. Is that an unreasonable comment for them to make at the sharp end?

Col. Pearce—Mr Chairman, I think there is a degree of frustration out there

associated with the change in government policy—a bit of misunderstanding too, I might add, down at the lower levels. The reason we restricted the issue of live mines—and it is only live mines that we are talking about—was that we wanted to make sure that we were not being involved in unsafe training procedures.

At that stage we were considering a restructuring of our forces and the possibility that the assault pioneers within the infantry battalions would disappear, be amalgamated, change cause or whatever. That responsibility for mine use would come across to our own corps, the Royal Australian Engineers. We would be the ones who would provide that operational capability in a time of emergency.

We issued a directive saying that live mines could only be released on the say-so of the director of engineers; namely, me. We gave certain standing exemptions to that. We gave them to our regular engineer units and to the School of Military Engineering here.

CHAIR—What about the ready reaction force?

Col. Pearce—Yes, the engineers in the ready reaction force are a regular engineer unit. So there is no change for all those people with regard to drawing live mines for training purposes. We said in that instruction to them that they should give demonstrations and all that was necessary to train other people in the impact of live mines so that they would be aware, in terms of mine awareness training, of what mines were about. What we did not want was to continue to let the army reserve draw live mines because we were concerned about their level of training and capability. We were jumping the gun a little, if you like, in terms of force structure changes with regard to restricting the infantry assault pioneers from using them on the basis that at that stage they were likely to be subsumed by the engineer corps in terms of that capability.

CHAIR—I guess the bottom line to what I am asking is how confident are you that the operational capability will be maintained as the result of this new policy, both in terms of your ability to deal with it within the ADF and your ability to convey that professionalism and experience to other elements overseas?

Col. Pearce—We do not believe that the constraints that are imposed by Protocol II have any impact at all. The change in government policy may have a slight impact in that we are going to have to pass stuff down through the various training publications to make sure that the message gets right down to the lower levels. In terms of effective training of our soldiers and our officers, it should make absolutely no difference at all in our training with the mines that we have in service at the moment or in terms of recognition of foreign mines and how foreign mines work.

What it could impact on is our ability to develop training, doctrine and capability in terms of new mine technology, the smart mines: off-route mines, mines which self-destruct and self-deactivate, or mines which can be remotely delivered. We do not have

any of those mines. In terms of capability, I would suggest that it would be very difficult under the current circumstance to purchase those types of mines, even for training purposes.

CHAIR—How do you react to suggestions given to us last week by the NGOs and others, and the RSL reacted too, that perhaps within the defence budget—bearing in mind the increasing area of expertise at the commercial level within Australia to deal with the clearance, you only have to look at what we saw out there today from South Australia in small terms—the defence department could contribute by partially funding some of that clearance research?

Col. Pearce—Mr Chairman, the defence department is already providing \$1 million a year to just that very cause through the Defence Science and Technology Organisation. Huge amounts of money are being spent by other countries, of course, which are far better equipped in terms of modern technology. The United States, for example, is pouring fairly large amounts of money into this sort of research. So that is the research side of it. Did I understand that you were also talking about the actual clearance training?

CHAIR—Yes.

Col. Pearce—I believe that using military people to do humanitarian mine clearance training has a double effect. Firstly, it enables us to maintain an operational capability in terms of mine clearance. Secondly, I believe we are probably orders of magnitude more effective and efficient than the non-government organisations in terms of mine clearance training. I think the dollar is far better spent putting it through defence rather than putting it through some of these non-government organisations.

Senator BOURNE—I have one more question, again you have already answered it but not on the record. I think you said that all of those mines we saw today would be detectable with equipment that we have now; is that right?

Col. Pearce—Correct.

Senator BOURNE—In relation to detectable mines and mines that we are likely to come across—that included the wooden one which was identified in the Red Cross booklet but which, as we saw, had the metal in it—how many of them do you believe are undetectable by our equipment?

Col. Pearce—All of those mines had some metal in them. The most common form of metal is in the metal cap over the detonator. Most mines also have metal in the firing pin and in some other elements of the mechanism. Even the more modern mines which have electronic components are detectable in the sense that the battery is generally metallic and some of the electronic componentry contains metal parts.

The two mines that were considered to have low detectability were the type 72A, which is a Chinese small antipersonnel blast mine that exists in huge quantities in stockpiles around the world, and our own M14 mine, which is an American mine that has been built under licence by numerous countries around the world. That mine is also held in other people's stockpiles—not our own—in fairly large quantities. Both of those mines fail to meet the eight gram signal criteria. However, the new mine detector which is produced by Minelab in South Australia detects both of those mines very easily. They are readily detectable with that new mine detector.

One other concern that I am not up to speed on is that some of the antipersonnel mines being used in the former Yugoslavia have absolutely no metal content at all. I am not aware of the detail of them at this stage. It is early days in terms of intelligence reporting on those particular mines.

CHAIR—Just on that, are they Russian or are they Czechoslovakian?

Col. Pearce—They are Yugoslavian mines, as I understand it. They work on a phosphorus igniter, friction igniter, and do not have either a metallic coating over the detonator or a metallic firing pin—they have no metallic component at all. None of our people have been exposed to those mines, so we do not have first-hand knowledge of this. My only knowledge of them is through a non-government organisation friend that I may have occasional contact with. He has described them to us. We will be pursuing it and getting information through the various intelligence networks in the military system. As soon as we have that, we will be able to comment more knowledgeably on it.

CHAIR—I would assume some of it is classified anyhow and you cannot comment on it in an open hearing like this. Could I ask two more questions: firstly, in relation to the unilateral decision by the Canadians, how do you react to what the Canadians have done in terms of the total ban; and, secondly, to what extent is the ADF involved in two follow-up meetings next year? I understand that there is one in March in Japan on the technical side and one in June in Belgium. To what extent is the ADF involved in one or both of those?

Col. Pearce—Canada's position, as I understand it—and you might like to check with Foreign Affairs to confirm this—is identical to ours or near enough to being identical to ours. They have given no undertaking to dispose of all their stockpile.

CHAIR—That is not what we were given earlier this week. My understanding—and I could be wrong—was that the Canadians have agreed to dispose of their stocks.

Col. Pearce—Of antipersonnel mines?

CHAIR—Of antipersonnel mines.

Col. Pearce—Of course, at the same time they are buying new anti-tank mines. So there is a certain irony there.

CHAIR—If you do not know, that is fine, because we will be recalling the Department of Defence, DFAT and AusAID before we wrap up the report.

Col. Pearce—Yes, they may well have changed their position. But certainly at the time that Protocol II was in its final throws of development, when the Canadians first announced their support for a total ban, at that stage they had no intention of disposing of their stockpile. In that sense, the positions of New Zealand and the United Kingdom were also very similar.

CHAIR—What about the March and June meetings?

Col. Pearce—We have had an initial meeting with the department of foreign affairs to do with a meeting which is to be held in about a week's time in Germany. We decided that we would seek representation from our army attache and defence attache based in London. They would go along and represent us at those meetings. Travel funds are very tight. We decided that we would try to conserve those funds so that we would possibly be able to participate in the meeting in Japan—something that is a little closer to home and more germane to our area of influence and interest, if you like.

CHAIR—That is a technical one, is it not?

Col. Pearce—Yes, it is. When we know more about it, at that stage we would decide whether we should be represented by military people or defence science and technology people.

CHAIR—And the June one in Belgium?

Col. Pearce—I know nothing about it.

CHAIR—I suspect that is more at the DFAT level. Is there anything more that you wanted to put on the record in terms of amended Protocol II?

Col. Pearce—No, I am satisfied that all the military has got to say about amended Protocol II has been said, Mr Chairman.

CHAIR—We also have some comments from you on the record on Protocol IV from the previous hearing that we had, did you want to make any other comments on IV?

Col. Pearce—No, I have read the draft of the *Hansard*. I am not an expert in that area. It is really outside my area of detailed competence. I have general knowledge of it, of course, as a military person. What I gave at that time is as accurate as I can give.

CHAIR—Thank you. Major, do you have anything further that the Colonel wants you to say?

Major Membrey—No, I think he has adequately summed up.

CHAIR—I think that will conclude it. Just to reinforce the point I made before, we are very thankful to you, Geoff, and to your team for having us here today. I think it has just rounded out for a small number of us who were able to come along. I do apologise for that. There are 16 in this committee making it the second largest in the parliament. But with the exigencies of the parliament at the moment, you will understand that there are some priorities. That is why you just got the quality rather than the quantity here today. We thank you for that. It practically round out for me, I am sure for Vicky and also for Kerry Bartlett who was here for the presentation that at least we will be able to go back to the committee and say that we have seen it and we now know a bit more about it.

We intend to have a general hearing, towards the end of January and towards the first sitting week in February 1997, involving a wrap up from the Department of Defence—so you will have another opportunity—DFAT and AusAID on what we feel we need just to close it off. By that stage we will have a draft report. It is just going to be a topping and tailing exercise. The aim is to table this report in the third week in February or thereabouts.

As I indicated to the foreign minister, these two protocols are the only two of the 52 treaties that this committee has dealt with in our very short tenure in which we have not met the 15 sitting day rule. Under the circumstances, in the light of what we have heard and of what we have seen today, I think it will be very worth while having the sort of report that I hope we will produce in relation to amended Protocol II and Protocol IV.

I want to thank you, Geoff. I am sorry that we had to get you to change your leave arrangements. That point has been made to me by the secretariat. I also want to thank Major Williams and Major Membrey. I congratulate Lieutenant Colonel John Swete Kelly, who is sitting down the back there, and wish him the best in his new posting. I thank Mr Mountain, who is not here, and also Major Nick Rowntree and Lieutenant Colonel Rex Wright. I do not think I have missed anyone. Thank you very much.

Resolved (on motion by **Senator Bourne**):

That this subcommittee authorises publication of the evidence given before it this day.

CHAIR—I formally declare the hearing closed. I also thank DFAT and Defence officials for coming along, just keeping us honest.

Subcommittee adjourned at 1.15 p.m.

