COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON TREATIES

Reference: Protocols II and IV to the Inhumane Weapons Convention

CANBERRA

Tuesday, 3 February 1997

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

JOINT STANDING COMMITTEE ON TREATIES

Protocols II and IV to the Inhuman Weapons Convention

CANBERRA

Monday, 3 February 1997

Present

Mr Taylor (Chair)

Senator Bourne	Mr Bartlett
	Mr Truss

The subcommittee met at 2.07 p.m.

Mr Taylor took the chair.

CHAIR—I declare open formally this public hearing on Protocol IV and amended Protocol II to the Inhumane Weapons Convention. I thank you for coming along this afternoon. As most of you would know, we have already had a number of hearings—four,in fact—on these topics. Early in December, and I thank once again Geoff Pearce for hosting us at Moorebank, we got a briefing from the army on the impact of amended Protocol II. We saw at first-hand a demonstration of the detection of landmines, the consequences of what can happen with anti-personnel landmines and, of course, the use of dogs trained in detecting explosives.

Landmines in particular—and, of course, I refer to the amended Protocol II in relation to this hearing—have been very much in the news lately. As you will have seen, the Minister for Foreign Affairs made some comments at and after the Conference on Disarmament in the last week or so. We will have to reflect on some of those comments in the report that we table in the parliament.

What we agreed some weeks ago is that we would have this final wrap-up hearing to tidy up one or two of the issues as a result of our look at both protocols. We welcome the opportunity to do that.

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

PEEK, Mr Richard Matthew, Acting First Assistant Secretary, International Security Division, Department of Foreign Affairs and Trade, Casey Building, John McEwen Crescent, Barton, Australian Capital Territory

CHAIR—Do you want to make an opening statement? I am happy to accommodate one both from DFAT and Defence or, if you want to do it as a general one, I am happy to do that. Mr Peek, would you like to make an opening statement?

Mr Peek—Just a very brief one, if I could. The principal issues surrounding the proposed ratification by Australia of new Protocol IV and revised Protocol II of the Inhumane Weapons Convention were canvassed in the opening statement by the First Assistant Secretary of International Security Division of Department of Foreign Affairs and Trade, Mr Ian Cousins, at the committee hearing on 30 October 1996.

There is one additional matter relevant to the committee's deliberations which I would like to draw to your attention. This is the matter of a proposed declaration to be made upon ratification of Protocol IV which prohibits the use and transfer of blinding laser weapons. As explained in a letter of 24 January from Mr Cousins to you, Mr Chairman, we were approached by the International Committee of the Red Cross, subsequent to our appearance on 30 October as part of an ICRC campaign to encourage states adhering to new Protocol IV to make a declaration of their understanding that the protocol applies in all circumstances, not just in international armed conflict.

By way of background, as committee members would be aware, the scope of the Inhumane Weapons Convention—the 'chapeau' instrument for the four protocols attaching to it—applies only to international armed conflict. It was intended by most participants at last year's IWC review conference and was one of Australia's objectives for the review conference that developed Protocol IV should have the same extended scope of application as that agreed for the Protocol II on mines, booby traps and other devices; in other words, that it should apply to internal as well as international armed conflicts. However, the final review session of the conference concluded without resolving this issue.

A number of countries—notably, the United States, Canada, the Netherlands and New Zealand—have already indicated their intention to make an appropriate declaration when they notify their consent to be bound by Protocol IV. Sweden, which notified its acceptance of Protocol IV on 15 January 1997, made an accompanying declaration along the lines proposed by the ICRC. To date, Sweden and Finland are the only states to have ratified Protocol IV, Finland having done so before the ICRC campaign was launched.

The relevant Australian government agencies—DFAT, Defence and Attorney-General's—have no objections to Australia making an appropriate declaration at

the time it notifies its acceptance of Protocol IV. We therefore propose upon ratification to make a declaration in the following terms:

It is the understanding of the government of Australia that the provisions of Protocol IV shall apply in all circumstances.

Thank you, Mr Chairman.

CHAIR—Thank you very much. That was an issue canvassed in the preliminary draft which is circulating with the committee at the moment. I thank you for that because there was some confusion. It would have been an issue that we would have had to raise with the parliament for follow-up action as to whether it did apply to internal conflict. Now that that has been settled, we thank you for it.

Could I just open the questioning. If we could start with Protocol IV because I think that is probably the easiest to get out of the road first of all. What we did back at that October hearing was to discuss having a possible working party—and this involved the Australian Customs Service as well—to clarify whether there was a need to strengthen customs powers in relation to both the import and export elements. This applies both to Protocols II and IV, I suppose. Could you just tell us whether that working party has met; has it reported; what, if any, conclusions or recommendations it has made; and how they might be acted upon?

Mr Peek—Could I ask Dr Balkin from the Attorney-General's Department to address that question.

Dr Balkin—Thank you. There has been a standing interdepartmental committee on defence exports which is composed of representatives from Defence, Customs and Attorney-General's departments. I have not been a member of that committee personally but I have a briefing note from a person from our department who is on that committee. He has informed me that discussions in that committee reveal that landmines are regarded as defence relevant goods. All exports of such goods are currently controlled by means of the Customs Act 1901 and the Customs (Prohibited Exports) Regulations.

The problem is that the Customs Act does not apply to the transit or transhipment of defence relevant goods because it is considered that they do not involve the importation into or exportation from Australia in technical legal terms. In 1986 the Customs Act was amended to control the transit and transhipment of narcotics. The extent to which defence relevant goods are transited or transhipped through Australia is not, however, known.

The committee has been looking at the matters. The major initial issue has been the manner of importation of controls because of the implication of resources; for example, making it illegal for any defence relevant goods to be transited or transhipped without a licence or permission from the relevant Australian authority, which would be the

Customs Service. It is considered that a balanced decision on whether and how Australia should control the transit and transhipment of defence relevant goods cannot be made unless the expense of such control is known. There has been some discussion on transhipment control in recent international forums, but departments have agreed that Customs should examine relevant international practice.

I understand another meeting of this committee is scheduled for February. At the moment it is a wait and see exercise with Customs doing some investigations into what is happening abroad, and most particularly the cost not only in terms of money but also resources.

CHAIR—Would you like to make a follow-up comment?

Mr Gulbransen—Yes, Mr Chairman, I did attend a meeting of the committee. Since that meeting, we have written to our posts in Brussels, Tokyo and Washington and requested that they find out details of administrations in their particular regions and how they handle these goods. At the moment, we have received responses from Brussels in regard to the United Kingdom and the European Community. We have received a very brief response from Tokyo in regard to Japan. We are still expecting one in regard to Korea but we have not received anything from Washington in regard to the United States or Canada at this stage.

At this stage it would appear that no other customs administration exerts controls on goods that are in transit and, in fact, the European Community legislation specifically excludes goods which are in transit. To impose the sorts of controls we are talking about on goods which are in transit would have enormous resource implications for Customs. The goods are not even reported to us at the moment. Goods which are transhipped are reported to us, and that would be somewhat less difficult for us. But at the moment we have a legal problem to resolve and we are trying to advance that at the moment.

CHAIR—Would it require statutory change or could it be done through the regulations, depending on what is done to—

Mr Gulbransen—If we want to impose controls on goods which are in transit, it would require statutory—

CHAIR—Statutory change.

Mr Gulbransen—Yes. Landmines, for instance, are covered both in the prohibited imports regulations and prohibited exports regulations at the moment, and we can probably make an amendment there to satisfactorily cover goods which are in transit. If the result of our legal problem is that goods which are transhipped are not in fact imported into Australia or re-exported from Australia, then we may require further statutory change there as well.

CHAIR—It is a fairly unsatisfactory situation in many ways, is it not? What is driving it; is it simply the resource implications for Customs; is that the major issue?

Mr Gulbransen—Resources are a major issue for us. If I could give an example. If someone could provide Customs with very high class intelligence and tell us that there were strategic goods—I will call them that rather than specifically landmines or whatever—in a particular container on a particular vessel. For Customs to examine that container, we would certainly have to unload it from the vessel. That may involve unloading 50 or 100 other containers to get to it.

We would certainly delay the sailing of the vessel. To search a single container is a fairly significant task for us. It would take a team of probably eight to 10 people close to a day to search. Obviously, if we are talking about a container full of landmines, we would find the landmines very quickly; but if we are searching for something much smaller which is hidden within other cargo, it would be far more difficult for us.

CHAIR—You talked about the European Union that has specifically excluded; is that something they have for a legal reason or have they just decided that that is the way they would play it?

Mr Gulbransen—I do not know the reason, Mr Chairman. I believe that they would probably regard it as too difficult a problem to resolve.

Mr BARTLETT—How significant a problem is it in terms of detecting the transhipment of these goods? You have said it is very costly in terms of the overall strategy of limiting the use, trade and production of landmines; how significant is that particular aspect?

Mr Gulbransen—Detection from our point of view depends on the intelligence that we have. In regard to transhipments, goods which are being transhipped through Australia—if I can clarify what I term 'transhipment', I am talking about goods that come to Australia on one vessel and are unloaded, and are then loaded onto another vessel before they depart; or on one aircraft and then onto another aircraft. Those goods are reported to Customs. They are under Customs control for the whole time that they are in Australia.

In terms of detection, we would be concerned only if someone is misdescribing the goods to us and calling them something else, and we would use our normal processes to try to detect that. Obviously, we would rely very heavily on intelligence, and that intelligence would come from a whole range of sources.

In terms of goods which are in transit, they are not reported to Customs at all. We could only rely on intelligence. We do have the power to search any ship or aircraft which is within an Australian port or airport. Any goods which are on board any ship or aircraft

are subject to customs control, and that includes the right of customs to examine them completely. The magnitude of the haystack, should I say, is probably the most difficult problem for us.

CHAIR—Thank you. It is obviously an issue that we will have to raise in the report to the parliament. It seems there is a certain amount of moral impetus, but it just gets down to wherewithal to do it—whether it be in transit or whether it be under transhipment arrangements. We will certainly raise it in the context of the report to the parliament. How we will raise it, I am not sure just yet. Anything more from the committee on Protocol IV? If there is nothing else on IV, I think we need to spend a bit of time on Protocol II. Would you like to open the questioning on Protocol II, Senator Bourne?

Senator BOURNE—Thank you, Mr Chair. If I can just follow on from the questions I had before which were for Mr Griffin, if I recall correctly. Have you heard if there has been any progress towards a conference following on from the Canadian conference—I think they were thinking of having another one—and, if so, what our reaction to that is? Also, I think it was Shaun Hoyt from the ICRC who said that we were looking to see if there was a conference happening in our near region this year as well. Have you heard anything about that?

Mr Griffin—Yes. Firstly perhaps on the regional conference which is shorter and easier to address. It is a preliminary initiative only at this stage. It is being planned by the ICRC in Manila with the support of the government of the Philippines but not actually co-hosted by the government of Philippines, although they may provide some resource assistance. It is tentatively scheduled for August to October this year. Its focus will be on the military utility or non-utility of those sorts of aspects of landmines as well as the humanitarian consequences and legal issues.

They plan for it to have a regional focus to bring in members of south-east Asian strategic studies institutes, military figures but not in their official capacities and not government representatives as such. It is a track two exercise. Since the ICRC is very committed to a global ban as quickly as possible, they are still, as I understand it, looking at the thematic fit that this initiative would have with other post-Ottawa activities.

The objective appears to be to get a regional debate going on the APL banish issue in a region where, frankly, apart from ourselves, New Zealand, Japan and the Philippines, there is not a lot of attention paid to the issue. It seems to be a consciousness raising exercise engaging people to attract activities from key institutes.

As far as the agenda goes, we really have not heard much about it at all, but an ICRC document dating from some time last year that I am aware of lists four particular items. They are: firstly, landmines in Asia, humanitarian and medical aspects; secondly, international humanitarian law applicable to the use and choice of weapons; thirdly,

military effectiveness of anti-personnel landmines and alternatives; and, fourthly, global political efforts to prohibit or control anti-personnel landmines—the role of Asia. But, as I said, that document could well have been overtaken. That is for the Manila exercise.

On the follow-up to Ottawa there has been a fair degree of activity. One of the big things called for in Ottawa, apart from a ban by December of this year, was a strong UN General Assembly resolution mapping the way forward and assembling as big a vote as possible to demonstrate the political commitment. The US sponsored and we co-sponsored that resolution. It went through the First Committee of the General Assembly with a certain vote and was finally adopted in plenary with a vote of 155 in favour, none against and 10 abstentions; so it was an outstanding outcome. There are 180-something in the UN membership these days, subtract usually about 10 people who have not paid their dues and cannot vote; so, apart from the 10 abstentions, it is a pretty good roll-out. There were 115 co-sponsors all up. It was a very good outcome.

Senator BOURNE—Excellent. Can I just ask on that: was it as strong as you hoped it would be in the end?

Mr Griffin—Yes. It calls for a vigorous pursuit of:

. . . an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines with a view to completing the negotiation as soon as possible.

CHAIR—Sorry to interrupt but, could I just ask: in terms of the abstentions, were those abstentions predictable; what sort of countries abstained, for example?

Mr Griffin—They were largely predictable: Belarus, China, Cuba, North Korea, Israel, Pakistan, the Republic of Korea, Russia, Syria and Turkey.

CHAIR—Predictable.

Mr Griffin—They are the ones who will not be coming to the Canadian party and they are the ones we have to try to get in. I think I mentioned in my previous testimony that it was the first time that the General Assembly had called for a total ban. Previously, there had only been annual resolutions on mine clearance and export moratoria.

Senator BOURNE—That is really good.

Mr Griffin—So that added momentum to it. You have probably seen reports to the effect that the pro-ban states are divided on how best to get from here to there. Following on from Canadian Foreign Minister Axworthy's 'challenge' to the Ottawa conference to conclude a ban by the end of the year, a certain number of countries—notably Canada, the Netherlands, Austria, Switzerland and Belgium—are the most active in wanting to push ahead with the countries who are prepared to sign up to a ban quickly, regarding the

resulting instrument as a means of bringing pressure on the outsiders to come in eventually.

We and a number of others, notably the United States—most recently, you will have seen the President's announcement—favour negotiations in the Conference on Disarmament. Of course, it was a principal focus of Mr Downer's recent address to urge the conference to get on with negotiation in that forum. Our views are I think well known. The Conference on Disarmament brings together not only the soft cases but the hard cases. The critics of this Conference on Disarmament say it takes decades to produce an agreement. We do not accept that. Both the CWC, the Chemical Weapons Convention, and CTBT demonstrated that, once you get the political will—and clearly the political will is developing—then we can conclude an agreement quite quickly. And it does involve the hard cases.

Our fear with a quick treaty is that you would, in a way, sidetrack the current impressive international momentum in favour of a ban into a sort of cul-de-sac because the pressure would no longer be on the Conference on Disarmament to deliver a treaty; the pressure would be on reticent states to sign this treaty that will be open next December, maybe. Obviously, the explanation for not signing it will be very easy, because they would have had nothing to do with the negotiation of it.

So at this stage we are hoping the two tracks can be complementary. We will be going to the various post-Ottawa so-called fast track meetings—the first one in Vienna from 12 to 14 February—with the aim of working in that context to throw up ideas about the elements which might be included in a global ban treaty. In fact, the very existence of this parallel activity could exert useful political pressure on the CD to move quickly. So working on what might be in the treaty in the fast track meetings but with a view to feeding those elements into the Conference on Disarmament rather than opening for signature with the ink dry a treaty as such in December which, for the reasons I have outlined, we think could be counterproductive.

Senator BOURNE—Okay, thanks.

CHAIR—We have all read press reports of the foreign minister's most recent overseas visit and his comments about a total ban. As I recall one media comment that was made—and I would be interested in the validity or not of those media comments—it was that Mr Downer would be pushing the issue in the parliament very soon towards a total ban. Bearing in mind this committee is planning to table this report on the 24th of this month, is there likely to be any movement in the camp—if that is the right word—at the ministerial level?

Mr Griffin—I did not see that particular press comment. I can only think that the minister may have been referring to the tabling of this committee's report. I am not aware of any other initiative planned in the Australian parliament.

CHAIR—Because without wanting to pre-empt what we are going to report to the parliament, I think it would be fair to say that we would be wanting to move perhaps a little faster than some might have even expected this committee to recommend. That is not really saying too much, I guess. But until such time as we have formalised that and actually table the report, I cannot talk about the specifics. Kerry, did you want to raise anything on that particular issue?

Mr BARTLETT—Not on the issue of the conference.

CHAIR—Okay, you go ahead now.

Mr BARTLETT—Last year there was an indication that a review was being undertaken concerning the impact of the amended protocol on training measures in Australia. Could you indicate to the committee the progress of that review and what results have been achieved so far?

Mr Peek—Can I ask Colonel Pearce to answer that.

Col. Pearce—Thanks very much, Mr Chairman. Existing Australian army doctrine on mines, booby traps and other devices is based on Protocol II of the 1980 Inhumane Weapons Convention. In all areas it either complies with or exceeds the requirements of that convention. Protocol II was amended in May 1996 with many very important improvements, but most of them apply either to landmines which the Australian army does not possess—for example, remotely delivered mines—or to aspects of landmines other than end use, such as transfers, protection of UN forces and technological cooperation.

With the exceptions of the detectability of the M14 blast anti-personnel mine, a small change in the design requirements of minefield marking signs and the new requirements for trip wire operated claymores, Australian army doctrine on use still meets or exceeds—for example, in fencing and the like—the requirements of the amended Protocol II. Aspects which relate to training which flow from amendments to Protocol II are therefore limited and you saw, when you visited Moorebank last year, that those limited matters are known and are already being incorporated into training.

Mr BARTLETT—So there is nothing more that needs to be done?

Col. Pearce—Not with regard to Protocol II. There will be follow-up action with regard to some aspects of the change in government position, dating back to 15 April, and also related aspects associated with army force structure changes, which will be evaluated over the next two to three years and be incorporated in changes to doctrine at that stage. But the actual changes that affect training and use that flow from Protocol II are very limited.

Mr BARTLETT—Thank you.

CHAIR—Geoff, in terms of the training commitment, are you able to quantify what is a reasonable stocking policy to enable that training expertise to continue? I know you cannot talk about stock holdings because they are classified, but is there a reasonable quantity stock holding that might be feasible just to enable that training commitment to be followed through and, for example, in an extreme situation for the rest of those stocks to be destroyed?

Col. Pearce—Mr Chairman, are you saying that, in a situation where the government decided that we would not keep an operational capability—

CHAIR—I mean, at the moment government policy is to be held subject to a change in the strategic environment; is it not?

Col. Pearce—Correct, to maintain in stockpile an operational capability and to remain current with regard to training in both use and clearance.

CHAIR—If in fact that policy—it is just a what-if situation at the moment, and I come back to the foreign minister's comments in Geneva—were to be changed to allow a little more flexibility in relation to those stocks, do you have a feel for the sort of stocks that would be required just to fulfil a training commitment rather than to be held subject to a strategic change?

Col. Pearce—The stocks would be fairly modest, Mr Chairman. If we were just training to maintain a capability for clearance—which is what you are suggesting—rather than a capability for the ability to use mines, the stockpile needed for that would be reasonably modest. However, to remain current, we would probably need a few more different types of mines additional to what we have got but in limited numbers.

CHAIR—I just speak as one member of this committee and nothing else at the moment. But in terms of ADF training levels, the ability, the professionalism and the expertise of ADF people to carry out mine clearing operations in an international sense—in other words, to contribute more widely and in an international sense—would you need large stocks, small stocks?

Col. Pearce—Very modest stocks, Mr Chairman.

CHAIR—I think that is an issue which, obviously, we will have to consider in the context of this report and perhaps make some recommendations.

Col. Pearce—Mr Chairman, in terms of developing a capability for employment of mines, it would not be easy to gain that capability if you needed to. The ability to purchase mines in the current environment is almost zero, so what we have got is probably all that we are ever going to have.

CHAIR—As you know, the dilemma is that, as signatories to this protocol and

with a certain thrust behind that nationally, it has been argued to us—as you would expect by some of the NGOs—that that does not go far enough and that this moral requirement should be taken a bit further. That is why we are listening to what everybody has to say. Kerry, do you want to ask some more questions on that?

Mr BARTLETT—Not at the moment.

CHAIR—If I could just go back to Attorney-General's. On 30 October, AG's gave evidence about some gaps in Australian legislation relating to the amended protocol and these, of course, related to differences between the protocol and the Geneva conventions. Have any other gaps come to light with closer scrutiny of the amended Protocol II; if there are breaches, how significant are they; and what action is required, if any, at this stage to deal with any gaps?

Dr Balkin—At this stage we have not detected any other gaps. We expect that, if any do develop, they will become apparent with operational use of the treaty itself and then we will look into it. But we have not found any at this stage.

CHAIR—In terms of the budgetary implications, in 1995-96 Australia gave a little over $7 million to five countries for de-mining activities. Could somebody tell us just which countries and how much, so we can put that on the record, and which countries are receiving assistance in this financial year and just very much is involved?

Mr Peek—Could I ask Mr Buckley of AusAID to answer that.

Mr Buckley—Australia's humanitarian assistance focuses on three major areas. The first one is a geographic one where we operate in countries that are heavily mine affected and where we have significant other programs. The reason is basically that we cannot cover the full extent of the world, so we are a middle level donor.

The second area that we put a fair bit of emphasis in on institution strengthening so the countries have the capacity themselves to be able to carry on the de-mining sort of situation. And within the institution strengthening we look very closely at capacity building and also rehabilitation of people. The institutional support that we provide for mine clearance includes things like technical assistance, funding and training— will give you details in a moment of the amounts of money we are using there. We train indigenous de-mining teams so that they can go out and continue to de-mine.

A much cheaper option and a very effective mechanism that we support as well is mine awareness, particularly in rural areas with local communities and school children. We have put quite a bit of emphasis into that as well. We have also in recent years provided a fair degree of assistance for those people who are the victims of landmines and have been debilitated by landmine accidents, mainly in Cambodia.

Essentially, since 1992 that means that we have spent in the region now—and we are updating the figures all the time—of about $17.7 million. In 1995-96 figures, the countries that we have provided that to are Afghanistan, $400,000; Angola, $550,000; Cambodia, $4.88 million; Laos, $367,000; and Mozambique, $695,000. Then we have also provided some global money of $510,000 for things which cannot be quantified for countries, things like attendances of Sister Pak Poy at meetings, global funds and that sort of thing.

In terms of our future commitments, in 1996-97 the minister has, as you would have seen, recently announced the $4 million for Cambodia and for Mozambique. That is on top of the $12 million that he announced soon after the government came to power. Some of those commitments are multi-year ones. For example, the latest commitment by the minister, the $4 million, is over a three-year period; so obviously that will have implications for this and for future years. It is not possible to quantify a figure for 1996-97 because we are still going through the process. We do not have a set amount of money that we use for de-mining. It comes out of a series of different programs that we operate. So at the end of the financial year we can certainly tell you that—

CHAIR—But the bottom line is $12 million plus?

Mr Buckley—Well, it is a fair bit more than that. The total commitment of the government since 1991 is $24.5 million and that takes into account the money that has been spent as well as the $12 million commitment and the $4 million commitment. So all in all the amount of money which has been spent or committed to date is $24.5 million.

Mr BARTLETT—How does that compare with the contribution of other developed countries?

Mr Buckley—We did a run around all the major donors that have landmine programs and we have provided a letter to the committee which has listed the contributions of all the major donors. But, essentially, we look very favourable compared with other donors, because of being a middle ranking donor we have done reasonably well. In fact, in a number of cases we have done better than larger donors.

CHAIR—Can I just move on again article 5 which refers to the so-called ‘dumb’ mines. Dr Maley from the Defence Force Academy indicated when he appeared before us that he felt that Australia should express a reservation in relation to that article. How do you respond to that; would somebody like to take that one?

Col. Pearce—I am not aware—

CHAIR—In other words, reservations in relation to article 5.

Col. Pearce—I am not aware of what his reservations were.

CHAIR—What he was saying is that article 5 of the amended protocol permits the use of so-called 'dumb' mines in certain circumstances. He feels that morally Australia should inject in the ratification process some reservation in relation to that article in the use of 'dumb' mines?

Col. Pearce—I understand what he is on about now, Mr Chairman, I think. He is suggesting that the use of mines which are not short-lived, even though they might be fenced, is probably inadequate.

CHAIR—Yes, that is exactly right.

Col. Pearce—That is a matter for judgment. If a country meets the requirement of the revised Protocol II in terms of article 5 and carefully marks, records, fences, supervises, maintains the fences and observes the minefield as required by article 5, then there should be no problem. People just do not stumble through a three stand barbed wire fence with signs on it.

CHAIR—Okay. Another issue that was raised, not by Dr Maley but by Dr Wareham, was in relation to the ADF's involvement in mine clearance in Vietnam. Can I just ask—I think I know the answer but just to get it on the public record—has the ADF ever been involved in mine clearance in Vietnam and has it ever been asked to assist in relation to mine clearance in Vietnam?

Col. Pearce—I can answer part of that, Mr Chairman. The Australian army laid mines in Vietnam. We cleared all the mines that we laid before we left. As for any other humanitarian clearance programs along the lines of Cambodia or Mozambique, I am not aware. The request would have gone to someone else.

CHAIR—Have AusAID or DFAT had any approaches from Vietnam?

Mr Buckley—We have done nothing in Vietnam that I am aware of.

CHAIR—Okay. The final one that I have got at this stage is the DSTO. We have received an article. Is it the wish of the subcommittee that the document be authorised for publication. There being no objection, it is so ordered. I wonder if Mr Bird from DSTO could just brief the committee in general on what is happening in terms of the DSTO involvement.

Mr Bird—Thank you, Mr Chairman. DSTO has an active research and development program on landmine counter-measures. It covers detection, clearance-that is, the neutralisation of mines—vehicle protection, the development of databases and the development of simulation landmines. For three years we have been working with universities, private enterprise and with CSIRO and, in our opinion, there is a breakthrough in the detection of plastic mines both with the DSTO-CSIRO program and

with a program that comes out of private industry.

I would just like to explain: the problem in detecting small plastic landmines is that some have very small amounts of metal in them; some have been none. In a battlefield where there is a large number of fragments, present in-service metal detectors have a lot of difficulty finding them. In some areas, like in Cambodia, there is highly mineralised soil and the in-service detectors are ineffective.

The equipment that is being developed by CSIRO and DSTO is based on ground penetrating radar where you can look below the surface and see that there is something there, and the metal detector developed by Minelab can work in highly mineralised soil. It is quite a breakthrough. Very briefly, metal detectors are cheap. They are about $5,000 a copy. The technology is developed and that equipment will be for sale. DSTO has recommended that the army purchase some of those for trial, and we will be fully evaluating that equipment. So I think it is a breakthrough for Australian industry and we fully support it. That equipment is being demonstrated to people in Cambodia and to the Canadians. Again, I would just like to mention to you that we consider it as a breakthrough.

With radar, radar is complex and the radar we have been working on is a laboratory concept demonstrator. We have very good results with it, but it must be developed a lot further before it can be put into the field. If there are any questions, I am very happy to answer.

CHAIR—Thank you. Senator Bourne, do you have any questions?

Senator BOURNE—Not on that one. I have another. Just out of interest—back to you, John, because I think you might know—can you tell us what the Canadian government has done about their stockpile of landmines because they have been very vocal; do we have any idea what is happening with theirs?

Mr Griffin—They announced as part of the scene setting for their October conference that we attended that they were destroying two-thirds of Canada's holdings. As I recall, I think Sister Pak Poy went to a demonstration of landmine destruction at the war museum but I am not aware of any follow-up to that announcement.

Senator BOURNE—Do we know what the timetable is for that destruction; have they started it, have they finished it or do you have no idea?

Mr Griffin—There has been no follow-up reports that I am aware of but one assumes that it is being undertaken in a fairly timely way since it was a major government announcement at the time of the conference.

Senator BOURNE—Yes, Thanks.

CHAIR—Geoff, in terms of destruction is there any guarantee that every individual landmine will be destroyed; basically, how would you go about destroying bulk stocks?

Col. Pearce—Normally, you would be required to strip them out of the boxes and place them in heaps; place bulk charges under them, over them and around them; light the blue touchpaper and retire; and then go back and check to make sure that they had been cleared. The problem that can occur with bulk demolition of stocks like that is that you do not necessarily set them off. You may in fact propel them large distances.

The Australian army has been involved in a couple of clearance programs with large disposal programs that went wrong after the Second World War. Out in western New South Wales, one particular case comes to mind where large artillery shells were projected anything up to two kilometres from the point of destruction; so we had people out there searching for bits and pieces. It was quite an expensive program to make sure the area was clear. It has to be done very carefully under controlled conditions, and you just cannot put the boxes on top of a slab of explosive and expect them to detonate.

CHAIR—Right. It can be done but with care.

Col. Pearce—There is another way of doing it, and that is probably by fire. You can actually burn them and make sure that the temperature of the fire is sufficient to actually cause them to burn. If you just light an explosive with a match, it just burns like a normal firelighter. For example, with the coal beads that you see for barbeques, the little firelighters, are in fact a very high explosive. If you were to put those in a shell, it would work the same as any other high explosive.

CHAIR—What you were just explaining, Mr Bird, is that part of a formal technical group formalised with the United States and/or other countries or is that just an ad hoc thing?

Mr Bird—Firstly, the work is carried out under a formal research task which I am the manager of. I am also a member of the technical cooperation program which has members including Australia, Canada, the UK, the US and New Zealand. We meet annually to discuss both counter-mine and humanitarian de-mining.

CHAIR—So the answer is yes.

Mr Bird—Yes.

Mr TRUSS—I have just a few queries about the new detector. Presumably it will allow mines that previously could not be readily detected to now be found?

Mr Bird—That has been my experience.

Mr TRUSS—Are you therefore arguing that certain mines which previously were prohibited could now therefore be allowed because they can be found?

Mr Bird—I said that was my experience. There was some mines that I had in a test field where the soil was highly mineralised and I found it difficult, in fact impossible, to detect those with in-service equipment; but, with the new equipment, I could find those same mines.

Mr TRUSS—Are there any mines that this detector will be able to find that previous ones could not?

Mr Bird—It will not detect mines which have absolutely no metal in them. So there are mines out there that this new equipment will not detect.

Mr TRUSS—I accept that. But are there mines that this one will detect that other ones would not; and, if so, is that a readily identifiable group of mines that would affect this protocol?

Mr Bird—All the testing I do depends on the soil that they are in. If it was in absolutely benign soil, this detector would detect mines that the other ones do not. It has an advantage.

Mr Griffin—Perhaps I could clarify with assistance from Mr Fox who was more intimately associated with the negotiations for Protocol II than I was. But, as I understand it, the bans and prohibitions on certain types of mines introduced in revised Protocol II do not depend on their detectability; that is, improved ability to detect them does not affect the bans and prohibitions imposed on them. Your use of them would not be legitimised under Protocol II simply because they can now be more easily detected.

Mr TRUSS—So detectability is not a factor in Protocol II?

Mr Griffin—No.

Col. Pearce—Mr Chairman, in revised Protocol II the technical annex requires that anti-personnel mines must have a detectability equivalent to eight grams of metal. They must give off the signal. They do not have to have any metal in them at all actually but they have to give a signal to a metal detector equivalent to eight grams of ferrous metal. Our M14 blast mine fails to meet that criteria.

The mine that they were particularly concerned about in the negotiations was the Chinese type 72A mine, which is held in very large stocks through the world, and existing mine detectors in the Western world were not able to detect that mine. We have used the Minelab equipment in field trials at the School of Military Engineering and we find that it picks up reasonably well both the type 72A and the M14 mine. But that is really not the

question because the question is: does the mine meet the new standard of detectability?

Having said that, detecting it is only part of the problem. That is why the Defence Science and Technology Organisation is looking at the synthesis of detection equipment and other types of equipment to determine what it is. Because in humanitarian mine clearance, for every piece of metal in a mine that is detected, there are somewhere between 500 and perhaps 600, 700 or 800 in some cases false detections. So you say, 'Yes, I have found a piece of metal. What is it? I don't know.' So prod, prod, prod; dig, dig, dig; look and find that it is only a bottle top, a piece of shrapnel or something like that.

So the detectability of the mine is only part of the problem. The other one is determining what it is that you have actually detected. The advancements being made in the synthesis of metal detection, ground probing radar and a few other types of capabilities to discern what it is you are actually detecting—that is where the exciting breakthroughs are going to be made.

CHAIR—And Minelab is the South Australian company?

Col. Pearce—Minelab is the South Australian one which we believe is the best metal detector in the world in the sense that it picks up very small pieces of metal. It is also able to work in soil types which other metal detectors are not able to function properly in because they are spooked by the background signature of the nature of the soil.

CHAIR—And is Minelab working with DSTO and CSIRO in that area?

Mr Bird—Minelab has developed their own metal detector and they are marketing that metal detector totally on their own. We have had discussions with them to incorporate their metal detector with the ground probing radar we are developing so you have one piece of equipment. If there is a little bit of metal detected, you can look at what the profile is of the thing that it is detecting. If you see the profile represents a landmine, you then can say that that bit of metal is connected with a landmine.

I think I left you a bit confused. In a battlefield there are thousands and thousands of bits of little metal. To say that metal is associated with these type 72s—you find a bit of metal but you do not identify that as a landmine—you need more information and you get more information from radar.

CHAIR—Warren, did you have some more questions?

Mr TRUSS—You say on the one hand that detection is not an aspect of the protocol; yet, on the other hand, the answer that was just given seems to imply that there is some association within the reasoning behind the development of the protocol in the first place. In other words, had this machine been invented before the protocol was

revised, maybe it would have been revised differently.

Mr Griffin—I cannot really comment on whether the eight grams of metal detectability standard equivalence would have been radically altered had this new technology been more commonly available at the time the amendment to the protocol was negotiated. All I can say is that we were pushing for much stronger restrictions in the context of those negotiations than more conservative parties were prepared to accept. So we would not as policy want to argue for weaker restrictions than are already in the revised protocol. If anything, we did want much stronger restrictions.

CHAIR—I guess, like everything else, it is a compromise. The nine-year rule is another thing. It is a practical impact of varying degrees of commitment, I suppose.

Mr Griffin—Yes.

CHAIR—Anything more from committee members on either Protocols II or IV? Any further comments from the other side of the table? As I say, we will now tidy the preliminary draft. We thank you for just those few additional comments which have been very helpful, particularly the International Committee of the Red Cross comments on internal conflicts. That was one issue that you have saved us on. We will still mention it but we now have a more specific comment to insert into the report. We thank you for that.

Subcommittee adjourned at 3.04 p.m.