

Some Australian Efforts to Promote Chemical Weapons Non-Proliferation and Disarmament

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Introduction

On 11–13 January 1993 representatives of 130 States participated in a ceremony in Paris to sign the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons.¹ The signing ceremony marked the culmination of more than 20 years of discussions and at least nine years of detailed negotiations. This protracted negotiation process had become so stagnant in recent years that many were convinced there would never be final agreement on an effective Chemical Weapons Convention.

In their speeches prior to signing the Convention several representatives singled out Australia for particular praise because of a major initiative by Australia in the context of the Chemical Weapons Convention negotiations early in 1992.² The Secretary-General of the United Nations, for example, stated that:

*Je pense également au rôle qu'a eu le Gouvernement australien dans l'intensification des négociations sur la Convention.*³

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1 Doc No CD/1170 (1992). In July 1993 a further 16 States had become signatories to the Convention and four instruments of ratification have already been received by the UN Secretary-General.

2 See, for example, speeches by Dr Klaus Kinkel, German Minister for Foreign Affairs; Mr Michio Watanabe, Japanese Foreign Minister; Dr HP Kooijmans, Dutch Foreign Minister; Mr Bernard Dowiyogo, President of Nauru; and by representatives of Mauritius, Chile and the Cook Islands.

3 *Discours de M Boutros Boutros-Ghali, Secrétaire Général des Nations Unies, prononcé lors de la cérémonie d'ouverture à la signature de la Convention sur les armes chimiques*, Paris, 13 January 1993. Text provided by the Department of Foreign Affairs and Trade, Canberra.

That particular Australian initiative involved an attempt to introduce a catalyst to expedite a conclusion to the negotiations by the end of 1992. On 19 March 1992 the Australian Minister for Foreign Affairs and Trade, Senator Gareth Evans, tabled an Australian version of a complete draft text for the Chemical Weapons Convention to the UN Conference on Disarmament in Geneva.⁴ The Australian text represented an attempt to provide acceptable and effective solutions for all the unresolved issues in the negotiations. Australia explicitly stated that this text was not tabled as an alternative to the official Rolling Text.⁵ Rather, by using all the agreed language of the Rolling Text, the Australian Text demonstrated that a potential compromise package on the unresolved issues was possible and that the stated goal of a complete text for signature before the end of 1992⁶ could be achieved.

The decision to attempt to draft acceptable solutions to all the unresolved issues was an adventurous undertaking. The Rolling Text was a large and complex document with at least 220 pages of text and annexes covering detailed technical information on schedules of chemicals and inspection procedures. The identification of the unresolved issues, the decisions about the best position to take to resolve each of those issues and the choice of wording to draft the provisions in the most acceptable way without undermining the goal of an effective convention amounted to a significant commitment of resources and a great deal of work. Despite the obstacles, however, the decision to undertake the task was vindicated with the completion and subsequent tabling of the text in Geneva. That achievement in itself was remarkable.

The decision to draft and to table was further vindicated by the reception extended both to Senator Evans and the draft text in Geneva. In an unprecedented display of acclamation 23 members of the Conference on Disarmament made statements in plenary sessions expressing their approval and support for the Australian contribution in drafting and tabling the text. More significantly, however, the chairman of the committee responsible for

4 Doc No CD/1143 (1992).

5 The Rolling Text is the designated term for the "[C]ontinuously updated version of the joint preliminary and non-binding draft Convention on Chemical Weapons which is being negotiated in the Ad Hoc Committee on Chemical Weapons": Bernauer T, *The Projected Chemical Weapons Convention: A Guide to the Negotiations in the Conference on Disarmament* (1990), p 9.

6 On 6 December 1991 the UN General Assembly adopted Resolution 46/673 in 12 Parts. Part C was adopted by consensus. In making operative paras 3 and 4 of Part C of that Resolution the General Assembly, *inter alia*, stated that it:

"3. *Commends* the decision of the Conference to intensify further the negotiations on the complete and effective prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction with the view to striving to achieve a final agreement on a convention by 1992;

4. *Strongly urges* the Conference on Disarmament, as a matter of the highest priority, to resolve in the forthcoming months outstanding issues so as to achieve a final agreement during its 1992 session;..."

producing the final text of the Convention was able to draw heavily on the Australian work in preparing the final version of the Chemical Weapons Convention.

It is now clear that the negotiations would not have concluded in 1992 without the Australian initiative and Australia has justifiably received international acknowledgments for its efforts. The response of the members of the UN Conference on Disarmament and the references by representatives at the signing ceremony in Paris reflect something of the standing Australia has attained internationally not only for the initiative of the draft Convention text but also for other contributions to the non-proliferation and disarmament of chemical weapons.

The purpose of this article is to briefly describe some of the initiatives Australia has taken on chemical weapons issues including the tabling of the complete Chemical Weapons Convention text. While there is no intention either to suggest that Australia is the only State to have made substantial contributions to the Chemical Weapons Convention negotiations, nor to play down the important initiatives of other States to chemical weapons non-proliferation generally, the article unashamedly focuses on Australian initiatives.

Background to Negotiations for a Chemical Weapons Convention

Although issues of arms control and disarmament relevant to chemical and biological weapons were raised in the context of UN disarmament fora in the 1950s and early 1960s, the basic approach was to consider disarmament issues relevant to all weapons of mass destruction together. Chemical and biological weapons were not considered separately from other "weapons of mass destruction" until the late 1960s.⁷ The Eighteen Nation Disarmament Committee began to discuss chemical and biological weapons as a separate issue on its agenda in 1968 with a view to satisfying the call of both the General Assembly and the Secretary-General to complete agreement on the comprehensive prohibition of chemical and biological weapons.⁸ The major international instrument up to that time had been the Geneva Protocol of 1925⁹ which only prohibited the use of such weapons in warfare and did not cover their production, stockpiling and testing.

7 For a brief history of early UN disarmament efforts see Lawler, "Progress Towards International Control of Chemical and Biological Weapons" (1982) 13 *Toledo Law Review* 1222-26; and Thomas AVW and Thomas AJ, *Legal Limits on the Use of Chemical and Biological Weapons* (1970), pp 103-17.

8 Thomas and Thomas, n 7 above, pp 112-13.

9 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (17 June 1925) (1929) 94 *LNTS* 65, No 2318.

The United Kingdom proposed a further separation of chemical and biological weapons and tabled a draft Biological Weapons Convention for consideration by the Eighteen Nation Disarmament Committee.¹⁰ While several members of the Committee objected to the separation of the two types of weapons the United Kingdom position prevailed. The draft Biological Weapons Convention was presented to the General Assembly, and was adopted and opened for signature in 1972 after less than three years of negotiations. The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) Weapons and on their Destruction¹¹ entered into force in 1975 and now has well over 130 States Parties. Unfortunately, in 1992 after more than 20 years of discussions and at least eight years of detailed negotiations there was still no agreed text of a Chemical Weapons Convention for presentation to the international community.

The name of the multilateral negotiating body responsible for chemical weapons has changed several times since 1962 and with the name changes have come expanded membership. The Eighteen Nation Committee on Disarmament was, as the name suggests, limited to representatives of eighteen States.¹² In 1969 the name of the body was changed to the Conference of the Committee on Disarmament, and then in 1979 the name changed again to the Committee on Disarmament. The final name change occurred in 1984 and the Conference on Disarmament has retained its name since then.¹³ The Conference on Disarmament currently has 39 member States although there have been recent suggestions to expand the membership.¹⁴ Australia was first admitted to membership of the expanded Committee on Disarmament in 1979 and has remained a member of the multilateral disarmament negotiating forum since then.

The period from 1983–1984 was a significant time for the Conference on Disarmament and for chemical weapons issues in particular. Iran first alleged the use of chemical weapons against its forces by Iraq in the Iran–Iraq War in November 1983,¹⁵ and, in response to that allegation, the Secretary–General of the United Nations dispatched a team of international specialists to investigate the allegations in 1984. The findings of the investigative team revealed conclusive proof of the worst use of chemical weapons since the First World War and the most blatant violations to date of the Geneva Protocol of

10 Ibid, pp 113–17.

11 163 *UNTS* 1015; (1977) *ATS* No 23.

12 For membership of the ENDC, see *Yearbook of the United Nations* 1962, pp 5–14.

13 Bernauer, n 5 above, p 5.

14 Ibid.

15 Iran sent a letter to the Secretary–General of the United Nations alleging Iraqi use of chemical weapons against its forces. See UN Doc S/16128 (1983).

1925.¹⁶ The reality of chemical weapons proliferation and the willingness of Iraq to use these weapons against both Iranian forces and its own Kurdish civilians emphasised the importance of an expeditious conclusion to the Chemical Weapons Convention.

In the Conference on Disarmament in 1984 – the same year that the inaugural inspection by the United Nations team of specialists confirmed the use of chemical weapons in the First Gulf War – the United States tabled a draft Chemical Weapons Convention Text.¹⁷ Although not the only draft text presented in Geneva, this text became the basis for subsequent editions of the Rolling Text. The year 1984 marked the beginning of intensive and regular negotiations for a comprehensive Chemical Weapons Convention.

United Nations Investigations of Alleged Use of Chemical Weapons by Iraq

After receiving the Iranian complaints of chemical weapons use by Iraq, the Secretary-General approached several States, including Australia, about contributing personnel to a team of international experts to investigate the allegations. There were probably two reasons why Australia was asked to participate in the team of experts. First, although Australia has neither used chemical weapons in warfare nor produced them since the adoption of the Geneva Protocol in 1925, it is known to have a specialist chemical defence program with highly trained defence scientists.¹⁸ Second, Australia was a sufficiently neutral State as far as both Iran and Iraq were concerned. Neutrality was important so that the findings of the team would not only be objective and impartial but would be seen to be so by both the protagonists to the conflict and the international community in general.¹⁹ Dr Peter Dunn, a chemical scientist who directs the Chemical Defence Division at the

16 To which both Iran and Iraq were parties. See generally McCormack, "International Law and the Use of Chemical Weapons in the Gulf War", (1990-91) 21 *California Western International Law Journal* 1.

17 Doc No CD/500 (1984).

18 The Commonwealth Department of Defence's primary facility for these purposes is an establishment in Melbourne known as the Materials Research Laboratories (MRL). According to Senator Gareth Evans, MRL is now listed by the Secretary-General of the United Nations as a designated facility for the testing and analysis of samples for alleged chemical weapons use. See answer to a question in parliament in *Parliamentary Debates, Senate*. Vol 119 (17 March 1987), p 839.

19 The Secretary-General did not give reasons for approaching the particular States but all those approached had chemical science experts and were politically neutral vis-à-vis the Iran-Iraq conflict. The other States which contributed personnel were Sweden, Switzerland and Spain.

Department of Defence's Materials Research Laboratories in Melbourne, was selected from Australia to participate in the first investigation in 1984.²⁰

After the 1984 investigation, Dr Dunn was approached by the United Nations personally and asked to join subsequent investigations in 1986 and 1987. Dr Dunn's involvement in the United Nations investigations had the double effect of recognition internationally for Australia's expertise in chemical weapons defence and increased awareness within Australia for the international problems of chemical weapons proliferation and use. The damning findings of the specialists had broader dissemination in Australia than they may have had without Australian involvement in the team. As a consequence of the dissemination of information about the effects of the use of chemical weapons, there was a corresponding awareness of the importance of concluding the Chemical Weapons Convention and of the need to prevent the spread of these weapons.

The Australia Group

The establishment of the Australia Group occurred subsequent to reports that Iraq had acquired chemicals and equipment for its chemical weapons program from Western States. The first report of the United Nations special investigative team in 1984 conclusively determined that mustard gas had been used in the Iran–Iraq war.²¹ Shortly after the tabling of that report by the Secretary–General, news reports suggested that Iraq's chemical weapons program included the nerve gas sarin, which had been, or shortly would be, produced from chemicals imported from Western States and prepared in plant and equipment built in Iraq by private West German firms.²²

The reality of chemical weapons proliferation and use by Iraq on an unprecedented scale since the First World War and the possibility that the chemical industries of Western States could be inadvertently or otherwise aiding chemical weapons programs in some developing States galvanised the international community into action. Australia, like other chemical exporting States, responded quickly to the reports of the Iraqi chemical weapons program. The Australian Government passed legislation amending the Customs (Prohibited Exports) Regulations²³ by adding a list of eight chemicals prohibited for export without a licence from the Minister for

20 "Report of the Specialists Appointed by the Secretary–General to Investigate Allegations by the Islamic Republic of Iran Concerning the Use of Chemical Weapons: Note by the Secretary–General", UN Doc S/16433 (1984).

21 *Ibid.*

22 Perry Robinson, "The Australia Group and the Chemical Weapons Convention", paper presented to the 19th Workshop of the Pugwash Study Group on Chemical and Biological Warfare, 11–12 January 1992, Geneva, p 3.

23 Statutory Rule No 5 of 1958 as amended.

Defence.²⁴ North American and European Community States also passed legislation restricting exports of certain chemicals, particularly to Iraq.²⁵

However, the various legislative provisions were not uniform either in scope or in application. Within the forum of the European Community discussions had commenced at the office director level on the identification of particular chemicals for export restriction.²⁶ As information circulated throughout the international community that some importing States were considering how to circumvent restrictions, the Australian government proposed a meeting of concerned exporting countries to discuss the tightening of export restrictions. The proposal was approved and a group of 15 chemical exporting States had an initial meeting at the Australian Embassy in Brussels in June 1985.²⁷

Functions of the Australia Group

The Australia Group currently consists of 22 States²⁸ which meet together in the Australian Embassy in Paris twice a year. The purpose of the group is essentially twofold. On one hand, the members of the group want to frustrate and hinder the process of chemical weapons proliferation on a global scale as much as possible. On the other hand, the members also want to prevent companies in their own States from either intentionally or unwittingly transferring chemicals and equipment to other States for the production of chemical weapons.²⁹

24 The relevant amendment was enacted on 2 August 1984 as the Customs (Prohibited Exports) Regulations (Amendment), Statutory Rule No 191 of 1984. The list of eight chemicals was added to the existing Schedule 13 of the regulations.

25 Perry Robinson, n 22 above, p 1.

26 Ibid, p 4.

27 Ember, "Worldwide Spread of Chemical Arms Receiving Increased Attention", *Chemical and Engineering News* (14 April 1986).

28 The current members of the group are Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, UK and USA. The European Commission is also represented at the meetings usually through the delegation of the State with presidency of the EC rather than the Commission in a separate capacity: Perry Robinson, n 22 above p 1.

29 Early in 1987 Senator Gareth Evans, representing the Minister for Foreign Affairs in the Senate, answered a question in parliament related to the steps Australia was undertaking to prevent the spread of chemical weapons in the Middle East. Senator Evans referred, *inter alia*, to the motivations for and the work of the Australia Group and stated that:

[T]he Government has taken steps to ensure that Australia does not inadvertently contribute to the problem of chemical weapons use through chemicals which are exported from Australia being secretly diverted to the manufacture of chemical weapons. The Customs (Prohibited Exports) Regulations have been amended to control the export from Australia of eight chemicals that could be misused in this way and the Government has recently decided to apply export controls to an additional 22 such

The group refer to themselves as the Australia Group Informal Consultations on Preventing Association with Chemical and Biological Weapons Programs. This name reflects the objectives of the members and confirms the nature of the group as an informal and loose gathering of States rather than a formal and institutionalised structure. Australia convenes the meetings of the group and takes responsibility for the administrative work in running the meetings, but there is no treaty arrangement, written agreements or any other semblance of institutionalisation.

All members of the Group express commitment to the goal of a comprehensive, verifiable, multilateral convention banning chemical weapons as the only possibility for both preventing the spread of chemical weapons and ensuring the elimination of existing stocks of chemical weapons. There is no suggestion that the Australia Group is an alternative to the Convention – rather that it is a measure to slow proliferation until the Convention enters into force.

The most visible work of the Group is the publication of a list of dual-use chemicals. These particular chemicals can all be readily converted from peaceful applications to the manufacture of chemical weapons – hence the generic title, chemical weapons precursors. All members of the Australia Group have voluntarily undertaken to restrict the export of the chemicals on the agreed list.³⁰ Some members of the Group have also passed legislation to prevent the export of equipment and technology for the production of chemical weapons.³¹ The Group has also commenced discussions about preventing the export of substances used for the production of biological weapons.³²

Efficacy of the Australia Group

Neither Australia, nor any other member of the Group, has suggested that the Australia Group exists to prevent the proliferation of chemical weapons. The Australian government's position is that the coordinated export control arrangement and an increased awareness of the potential dangers of trading in chemicals on the Australia Group list have made it "more difficult, more time-consuming and more costly for would-be proliferators of chemical

chemicals. Australia has convened consultations with eighteen industrial countries which have adopted similar measures (known as the "Australia Group") with a view to harmonising and cooperating in such measures internationally, as well as exchanging information and warning domestic chemical industries against the dangers involved. [*Parliamentary Debates, Senate* (17 March 1987), Vol 119, p 840]

30 The current list includes 54 chemicals. See Appendix 1 for a copy of this list of chemicals. Australia's latest amendment to the Customs (Prohibited Exports) Regulations extends the prohibition of export without licence to all 50 chemicals on the Australia Group List and an additional nine precursor chemicals. This amendment was effected on 5 December 1991 by Statutory Rule No 413 of 1991.

31 Perry Robinson, n 22 above, pp 10–11.

32 *Ibid*, pp 12–13.

weapons to secure key ingredients" for their weapons program.³³ Other members of the Australia Group have enunciated a similar position.³⁴

It may well be that the Australia Group has had the desired effect of making chemical weapons proliferation more difficult. The major chemical exporting States are now members of the Australia Group and so the most accessible supply sources are no longer available for chemical weapons production. This does not mean that there are no alternative sources of supply. Perry Robinson suggests that the existence of the Australia Group has resulted in the inducement and stimulation of new sources of supply in Asia and Latin America for at least some of the chemicals on the Australia Group list.³⁵ Nevertheless, chemicals from the alternative supply sources are more costly and cannot be provided in the same quantities as from the Australia Group members.

Slowing proliferation *per se*, however, is not the only function of the Australia Group arrangement. The members of the group have certainly restricted the possibility of their industries unknowingly or otherwise contributing to chemical weapons programs in other States. The West German government was embarrassed by revelations of the involvement of German firms in the Libyan chemical weapons program at the Rabta facility.³⁶ The desire to avoid this type of embarrassment is undoubtedly a significant motivation for involvement in the group.

Perry Robinson suggests that the Australia Group also plays a significant role in the sharing and transfer of information amongst members of the group. He identifies two categories of information exchange: one is in relation to national practices in the implementation of chemical and biological "counterproliferation export controls", and the other is intelligence in relation to attempts by certain States to acquire or develop a chemical or biological weapons capability. It is conceded that these types of information exchange must have some benefits for helping to slow proliferation.³⁷

An effective, verifiable Chemical Weapons Convention with universal adherence is essential to prevent chemical weapons proliferation altogether. The Australia Group is not intended to hinder the conclusion of the Convention in any way. Although the Australia Group does not provide a guarantee of non-proliferation in the absence of a comprehensive convention banning chemical weapons, the Australia Group is possibly the most effective

33 Department of Foreign Affairs and Trade, "The Origins and Functions of the Australia Group", *Peace and Disarmament News* (July 1989), p 40.

34 Perry Robinson quotes official US and UK statements consistent with the Australian government's position: see n 22 above, pp 14-15.

35 Perry Robinson, n 22 above, p 2.

36 "Merchants of Death", *Time* (10 September 1990), p 42.

37 Perry Robinson, n 22 above, pp 7-8.

counter-proliferation mechanism the international community could realistically hope for.³⁸

The Government Industry Conference on Chemical Weapons

The worst year for the use of chemical weapons in the Iran–Iraq war was 1988. The United Nations specialist team found extensive use by Iraq of both mustard and nerve gas against Iranian soldiers and against Iraqi Kurdish villagers. In March 1988 in the Kurdish village of Halabja, representatives of the International Committee of the Red Cross estimated that as many as 5000 civilians were killed by exposure to Iraqi chemical weapons.³⁹

After the United Nations–brokered ceasefire to the conflict had been implemented late in 1988, several States recognised the importance of capitalising on the international revulsion against Iraq's use of chemical weapons in the context of negotiations for the Chemical Weapons Convention. An important international conference was held in Paris in January 1989 to condemn the recent use of chemical weapons, reaffirm support for the Geneva Protocol of 1925, and to urge the rapid conclusion of the Chemical Weapons Convention.⁴⁰

Australia identified a gap in preparations for the Chemical Weapons Convention in the failure to involve the international chemical industry in any substantial way in the negotiations. The proposed Chemical Weapons Convention had significant implications for the industry including restrictions on the production and exporting of certain chemicals as well as independent inspections of facilities to verify compliance with the Convention. To breach this gap, Australia suggested, and offered to host, a government–industry conference to raise the issues of the Convention relevant to the industry, and to seek unqualified cooperation and support from the industry for the implementation of the Convention when it enters into force.

The concept of the conference gained widespread support, and the Government Industry Conference on Chemical Weapons (GICCW) was held in Canberra in September 1989. The conference involved representatives from governments and chemical industries from 66 States and four international organisations.⁴¹

38 Ibid, p 1.

39 Danby, "The Spectre of Chemical Warfare" (1989) 14(8) *Australia/Israel Review* 8.

40 See the Final Declaration of the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States on the Prohibition of Chemical Weapons, Paris 7–11 January 1989, UN Doc A/44/88 (1989). The conference was attended by representatives from more than 100 States.

41 Department of Foreign Affairs and Trade, *Government–Industry Conference Against Chemical Weapons: Directory of Delegations and Secretariat* (1989).

Major achievements of the conference

The effective implementation of the Chemical Weapons Convention and the achievement of its objectives will only occur with the cooperation and commitment of the international chemical industry. At GICCW representatives from the industry in many States expressed their support for the objectives of the Chemical Weapons Convention and their commitment to cooperate to achieve those objectives.⁴² This was the first occasion on which industry representatives from all major chemical-producing and exporting States had met together to discuss the implementation of the Chemical Weapons Convention. Since GICCW, the chemical industry has remained in close consultation with national delegations to the Conference on Disarmament and it is clear that implementation of the Convention will occur more smoothly now that industry has been informed and engaged in negotiations.

The Chemical Weapons Regional Initiative

In 1988, in addition to the need for government-industry consultation on the Chemical Weapons Convention, the Australian Government recognised the need for consultation in the Asia-Pacific region for non-Conference on Disarmament Member States on issues relating to the Chemical Weapons Convention. The suggestion for a regional dialogue on chemical weapons issues was first raised by Prime Minister Hawke in a speech to the Asia Society in New York in June 1988. In discussing new international efforts in arms control Prime Minister Hawke stated:

[M]y Government sees merit in exploring a new step in arms control for the Asia-Pacific region. This would be a regional effort against chemical weapons proliferation....

Certainly, chemical warfare is an abhorrence. Australia has very actively supported and contributed to the effort to establish a Comprehensive Chemical Weapons Convention in the Committee on Disarmament in Geneva. But at the same time we may be able to complement these global efforts at a regional level.⁴³

Following the Prime Minister's suggestion, the Department of Foreign Affairs and Trade received support in the region for a seminar which was held in Canberra in August 1988 – the first Chemical Weapons Regional Initiative (CWRI). Representatives from 22 States attended and discussed issues of relevance including the state of negotiations for the Chemical Weapons Convention, the implications for the chemical industry once the Convention

42 "Summary Statement Issued after the Government-Industry Conference Against Chemical Weapons by the Conference Chairman, Senator Gareth Evans", *Australian Foreign Affairs and Trade: The Monthly Record* (September 1989), pp 491-95. See also Jones, "Over 60 Nations Sign Industry Statement Calling for Chemical Weapons Ban", *Engineers Australia* (6 October 1989), p 22.

43 "Australia: 1988 and Beyond", *Australian Foreign Affairs Record* (June 1988), p 227 at 230.

had entered into force and the security benefits for the region if all States became signatories to the Convention.⁴⁴

Australia has hosted annual seminars since 1988 for representatives from South East Asian and South Pacific States to discuss issues of relevance in preparation for the establishment of the Chemical Weapons Convention. The only States in the region which are members of the Conference on Disarmament in Geneva additional to Australia are Indonesia and Myanmar (Burma). Consequently, other States in the region do not have as much information on the progress of the negotiations, nor have they discussed in detail the implications for signatory States to the Chemical Weapons Convention once it is open for signature. Australia's goal in facilitating the CWRI has been to promote a regional dialogue on chemical weapons issues with a view to encouraging a consensus against the value of chemical weapons in the region and firmly in support of universal adherence to the Chemical Weapons Convention.⁴⁵

Since the 1989 seminar there have been two further seminars and a workshop. In Brisbane in November 1990⁴⁶ the seminar focused on policy issues similar to those raised in 1989. In Melbourne in August 1991, however, a workshop was held for chemists which raised technical issues for States Parties on the implementation of obligations under the proposed Convention. In the context of that seminar, participants also undertook a trial inspection of a chemical manufacturing facility in Melbourne to demonstrate how the routine inspection regime under the Convention is expected to operate.⁴⁷

The most recent seminar was held in Sydney in June 1992. Representatives from 21 States in the South East Asia and South Pacific region⁴⁸ attended the seminar and considered issues relevant to the implementation of the Chemical Weapons Convention after it is opened for signature. One obligation under the Convention is for States Parties to make initial declarations about chemical weapons and chemical weapons production facilities within 30 days of the

44 For text of the Minister for Foreign Affairs and Trade Senator Gareth Evans' opening speech to the seminar see "Regional Dialogue on Chemical Weapons", *The Monthly Record* (August 1989), p 409. For general information see "Chemical Weapons: Regional Initiative", *Peace and Disarmament News* (December 1988), p 9.

45 Department of Foreign Affairs and Trade, "Australia's Regional Initiative on Chemical Weapons", *Peace and Disarmament News* (July 1989), p 37.

46 "Australia to Host Chemical Weapons Convention", *The Monthly Record* (November 1990), p 815.

47 "Meeting on Chemical Weapons Convention", *The Monthly Record* (August 1991), p 509.

48 The participating States were Australia, Brunei Darussalam, the Cook Islands, Fiji, Indonesia, Kiribati, Laos, Malaysia, the Federated States of Micronesia, Myanmar, New Zealand, Papua New Guinea, the Philippines, Singapore, the Solomon Islands, Thailand, Tonga, Tuvalu, Vanuatu, Vietnam and Western Samoa.

Convention entering into force for each particular State Party.⁴⁹ Representatives at the Sydney seminar agreed to recommend to regional governments a mutual exchange of such initial declarations between States in the region in preparation for signature of the Convention. In a consensus statement issued at the conclusion of the seminar:

Participants affirmed their respective Governments' views that the global and regional effectiveness of the forthcoming Convention would be considerably enhanced by early action by all States of Southeast Asia and the South Pacific to adhere as original States Parties. Participants confirmed that their respective Governments were giving favourable consideration to the United Nations General Assembly's call to all States to commit themselves to becoming original States Parties to the CWC.

In this context, participants noted the requirement in the Chemical Weapons Convention draft text for each State Party to make initial declarations on chemical weapons – relevant matters. In preparation for signature of the Convention, and noting the potential regional confidence-building benefits of such declarations in their own right, participants recommended that Governments in the region mutually exchange statements in the terms required for such declarations. Participants agreed that this regional initiative in support of the Convention be drawn to the attention of the Conference on Disarmament.⁵⁰

Virtually all States involved in the regional initiative seminars have become original signatories to the Chemical Weapons Convention and many of them have expressed their appreciation to the Australian government for the opportunity to be informed of the negotiation process in the context of past seminars.

At the time of writing, the next seminar is planned for 31 March–2 April 1993 again in Sydney. The proposed program focuses on issues of implementation of the Chemical Weapons Convention now that States have signed the Convention and that it seems likely to enter into force.⁵¹

49 Details of the requirements for the initial declarations are included in article III on Declarations and article VI on Activities Not Prohibited Under the Convention in the Rolling Text of the Chemical Weapons Convention. Basically States Party are required to declare whether or not they possess, have produced or are producing, have received or transferred chemical weapons and, if so, the details of those weapons. States Party are also required to declare any relevant details about chemical weapons production facilities.

50 Department of Foreign Affairs and Trade, "Chemical Weapons Regional Initiative (CWRI) Sydney, 21–23 June 1992, Seminar Statement" (23 June 1992). The Seminar Statement is only reproduced in part. For complete text of the statement see Department of Foreign Affairs and Trade (1992) 3(12) *Background* 7.

51 Entry into force requires 65 ratifications and cannot occur earlier than two years from the date of opening for signature. Provided the requisite ratifications are lodged, the Convention will enter into force in January 1995.

Significance of the Chemical Weapons Regional Initiative

The most obvious benefit of the CWRI is the dissemination of information about developments in the Conference on Disarmament negotiations in Geneva for the non-CD member States attending the CWRI seminars. However, the CWRI is a significant development for several other reasons as well. At a time when there is an increasing push for regional dialogue on economic cooperation, particularly through the auspices of APEC (Asia Pacific Economic Cooperation), there is a corresponding recognition of the nexus between economic development and security matters. Suggestions have already been made about more formal regional security structures. While any institutionalisation along those lines may be remote, the CWRI has created a forum for discussion about chemical weapons and security in the region by a consensus position on the undesirability of proliferation of those weapons.

Furthermore, had the Geneva negotiations for the Chemical Weapons Convention not been finalised, the CWRI would have provided an important forum for regional support for a global ban on chemical weapons. In that sense the CWRI was important regardless of the outcome in Geneva.

Australian Contributions to the United Nations Special Commission

Two other areas of Australian participation should be referred to briefly. The first is involvement in the United Nations Special Commission (UNSCOM) established pursuant to Security Council Resolution 687⁵² in the aftermath of Iraq's withdrawal from Kuwait in 1991.

Under the terms of Resolution 687 the Security Council called for a report by the Secretary-General on the establishment of a Special Commission to help in the task of eliminating both Iraq's weapons of mass destruction and the means of their production and with the measures to ensure that production is not resumed.⁵³ The Secretary-General's report⁵⁴ was adopted and 21 people

52 UN Doc S/RES/687.

53 Operative para 9(b) of Section C of Resolution 687 stated that:

The Secretary-General, in consultation with the appropriate Governments ... within 45 days of the passage of this resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within 45 days of such approval:

- (i) the forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself;
- (ii) the yielding by Iraq of possession to the special Commission for destruction, removal or rendering harmless ... of all items specified ... ;

Under operative para 10 of Resolution 687 the Security Council also stated that it:

Decides that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified ... and requests the Secretary-General, in consultation with the Special Commission, to

were appointed to the Special Commission.⁵⁵ The Australian member of the Commission, Dr John Gee, was appointed coordinator of the Chemical/Biological Weapons Group.⁵⁶

Dr Gee spent several months in New York with the UNSCOM Secretariat preparing for the implementation of UNSCOM's mandate vis-à-vis chemical and biological weapons. He has participated in at least one chemical inspection in Iraq and has made a major contribution to the operation of the Chemical/Biological Weapons Group. It should also be noted that Dr Gee has recently been appointed to head the Verification Division of the new International Organisation for the Prohibition of Chemical Weapons (OPCW) – the organisation with the responsibility to implement the Chemical Weapons Convention.⁵⁷ Dr Gee's appointment to this senior post in the new organisation reflects not only his own standing in the international community but also the respect Australia has gained for its contributions to chemical weapons disarmament generally.

In order to fulfil its mandate UNSCOM has undertaken several inspections of Iraqi establishments and has observed the commencement of destruction of some of Iraq's weapons of mass destruction and production facilities. The first of UNSCOM's chemical weapons related inspections was led by Dr Peter Dunn of Australia.⁵⁸ Australian personnel have participated in many of the inspections since then, but Dr Dunn is the only Australian to have had the responsibility of leading an inspection.

The Australian Defence Forces have provided personnel in a number of different capacities for UNSCOM inspections in Iraq including explosive ordinance disposal, structural engineering, computers, and medical aspects of nuclear, biological and chemical defence.⁵⁹ In particular, Surgeon Captain John Parkes of the Department of Defence's Directorate of Occupational Health and Safety and Naval Medicine led medical personnel on six separate UNSCOM inspections.⁶⁰ As a leading medical specialist, particularly in

develop a plan for the future ongoing monitoring and verification of Iraq's compliance with this paragraph, to be submitted to the Council for approval within 120 days of the passage of this resolution;...

54 UN Doc S/22508 (1991).

55 For names and nationalities of the members, see Appendix I of the Report by the Executive Chairman of the Special Commission, UN Doc S/23165 (1991), p 15.

56 Ibid, p 16. See also "Canberra Diplomat to Head Iraq Chemical Weapons Demolition Team", *The Age* (3 May 1991), p 5.

57 "Australian to Oversee Verification Procedures for Chemical Weapons Convention", Department of Foreign Affairs and Trade, *Peace and Disarmament News* (February 1993), p 5.

58 "Iraqi CBW Armament and the UN Special Commission", *Chemical Weapons Convention Bulletin* (September 1991), p 21.

59 "Confessions of an On-Site Inspector" (1991) 4(4) *Pacific Research* 5.

60 Three inspections were chemical weapons related, two were biological weapons related and the sixth was both chemical and biological weapons related (information supplied in personal correspondence from Surgeon Captain Parkes).

chemical and biological defence, Surgeon Captain Parkes had the dual responsibility of ensuring the protection of UNSCOM personnel from the hazards of inspecting chemical and biological munitions, plant and equipment and providing advice as to the conduct of inspections particularly in medical facilities.

People from other nations coordinate other groups in UNSCOM and have led other chemical weapons related inspections. People from other nations have also led medical teams on other UNSCOM inspections. There is no intention of suggesting here that UNSCOM's chemical weapons related work could not proceed without Australian involvement. Rather, the involvement of Dr Gee, Dr Dunn and Surgeon Captain Parkes is simply referred to as a significant Australian contribution to that aspect of the work of UNSCOM.

Australian Contributions to the Conference on Disarmament

Like many other members of the Conference on Disarmament, Australia has been an active participant in the negotiations and has been working hard to suggest and facilitate solutions to outstanding issues for the finalisation of a Chemical Weapons Convention text. Like other member States, Australia has served as Friend of the Chair on particular issues, tabled its own working papers and sometimes co-sponsored or co-tabled papers with one or more other member States.

The most significant Australian initiative in the Conference on Disarmament has been the drafting and tabling of the alternative compromise text referred to above. Until the tabling of that text the basic approach in Geneva had always been to consider unresolved issues separately. After all the years of negotiations 20 per cent of the Rolling Text was still in square brackets or footnotes.

Various national delegations held to fixed positions reflected in these unresolved parts of the text and showed no willingness to budge. Whenever one of the unresolved issues was under discussion very little progress could be achieved. While some delegations were prepared to make conditional concessions on certain issues provided concessions were offered by other delegations on other issues, such an approach was not conducive to a swift conclusion to the process.⁶¹

By contrast, the Australian approach was to table the text as a model package – a contemporaneous compromise position on all unresolved issues. If nothing else, the Australian text helped delegations realise that a final text was a real possibility. One commentator has described the effect of the Australian text as follows:

61 For a more detailed account of the status of the negotiations in late 1991, see Mathews, "Verification of Chemical Industry under the Chemical Weapons Convention" in Poole JB and Guthrie R (eds), *Verification Report 1993* (forthcoming).

After in-depth consultations in various global capitals, the Australians took a jackhammer to the negotiations impasse. They produced a leaner, meaner text by proposing compromises on all unresolved issues and by suggesting that decisions on some procedures be deferred to the Preparatory Commission (held after signature to prepare for implementation). Gareth Evans, Australian minister of foreign affairs and trade, introduced the draft on March 19 and 23 nations publicly lauded the effort.

Evans also gave the committee a much needed lesson in cutting red tape. He recommended that von Wagner work during the intersessionals, using the Australian draft to create a chairman's text. This strategy would take the negotiators away from the minutiae upon which they had seized, and redirect their efforts toward progress on the larger issues. Von Wagner took the Australians up on their proposal....⁶²

The major unresolved issues prior to the tabling of the Australian text were article IX and the details of the challenge inspection regime; article VI and the details of the routine verification regime – particularly for Schedule III and other relevant chemical weapons capable facilities; article XI and guarantees for economic and technological development for peaceful purposes; article IV and the question of old and abandoned stocks of chemical weapons; article VIII and the structure and membership of the Executive Council; financing the new organisation; and ensuring confidentiality of sensitive military and commercial information.

Compromise solutions on each of these issues were presented in the Australian text.⁶³ It is now history that the chairman's text also presented compromise solutions to each of these issues and that the final text was adopted as a package by an overwhelming number of States.

Motivations for Australian Efforts in Chemical Weapons Non-Proliferation and Disarmament

Having examined Australian initiatives in chemical weapons non-proliferation and disarmament, it is important to attempt some analysis of the motivations for these contributions. Why has the Australian government made chemical weapons non-proliferation and disarmament such a high foreign policy priority? Australia does not possess chemical weapons and has not used them in the last 60 years so what is the explanation for Australia's commitment to the elimination of these weapons?

The most compelling explanation for Australia's position on chemical weapons is the threat of proliferation and use in the Asia-Pacific region. It is

62 Smithson, "Chemical Weapons: The End of the Beginning", *Bulletin of Atomic Scientists* (October 1992), p 37.

63 For summary of the Australian proposal in relation to each of these issues see speech by the Australian Minister for Foreign Affairs and Trade, Senator Gareth Evans, on tabling the Australian text at the Conference on Disarmament in Geneva: Department of Foreign Affairs and Trade, *Peace and Disarmament News* (June 1992), pp 12-16.

well known that chemical weapons are relatively easy to produce. Highly toxic substances can often be made by the simple mixing in measured proportions of certain chemical substances (particularly those included on the Australia Group list). These highly toxic substances can be stored in ordinary munition shells and missiles and fired from conventional artillery. Chemical weapons do not require elaborate delivery systems. Furthermore, if used against unprotected persons chemical weapons can cause severe injuries and widespread death. The use of such weapons by Iraq against its Kurdish population gave ample evidence of the effects of chemical warfare on unprotected populations.

In addition to their relative ease of use and damaging effect, chemical weapons are also relatively cheap to produce in large quantities if a State already possesses basic chemical equipment and can acquire supplies of the appropriate chemicals. All these factors make chemical weapons attractive to the defence establishments of many States.

Australia is justifiably concerned that without the implementation of the Chemical Weapons Convention prohibiting the possession, development and production of chemical weapons there is a real possibility that States in the region could decide that it would be advantageous to develop a chemical weapons capability. Once one State in the region takes that decision it could trigger proliferation throughout the entire region, since States will not want to be without a deterrent chemical weapons capability. Obviously in the Middle East, this sort of proliferation has already taken place and has led to the widespread use of chemical weapons by Iraq at least. In South East Asia and the South Pacific this scale of proliferation has not yet occurred.

The position of Australia in this respect is in stark contrast to the States of Europe or North America, for example. Since the termination of the Cold War and the breakdown of Socialist States in Eastern Europe the threat of use of chemical weapons has diminished significantly. The United States has removed its stocks of chemical weapons from NATO positions in Europe and has begun to destroy them on Johnston Atoll under the terms of the bilateral agreement between itself and the former Union of Soviet Socialist Republics. Despite the extensive use of mustard gas in the First World War in Europe, it is unlikely that chemical weapons will be used there again in the foreseeable future. The United States and Canada also do not face the prospect of the use of chemical weapons in North America. Consequently, for these States the threat of chemical weapons proliferation is removed and is not an issue of immediate concern.

Australia was not content to allow the Geneva negotiations to drag on indefinitely. As a member of the Western Group of States at the Conference on Disarmament Australia brings a different perspective to the priority considerations of the Group. All other Western Group members of the Conference on Disarmament (with the exception of Japan) are NATO members and have, until recently, viewed arms control issues from a predominantly East-West perspective. Australia has attempted to broaden the

perspective of the Western Group by highlighting the importance of preventing proliferation, particularly in South East Asia and the South Pacific.

Australia's position on chemical weapons is consistent with its position on other disarmament issues. Australia has worked hard to help establish the Nuclear Free Zone in the South Pacific, to help establish the Comprehensive Test Ban Treaty, to strengthen the Biological Weapons Convention in the context of Review Conferences at the Conference on Disarmament, and has been involved in other conventional arms control and disarmament issues.

A cynical view is that the chemical weapons issue for Australia is an easy way to parade the good international citizen image with little political cost. Australia does not possess chemical weapons and has no desire to do so. Australia will not have to destroy existing stocks of chemical weapons and it is in Australia's strategic interest to prevent the spread of these weapons in the region. Furthermore, Australia does not have a huge chemical industry and does not stand to lose significant export revenue. Australia thus has the opportunity to make important contributions and to achieve significant strategic objectives without the possibility of accusations of hypocrisy or inconsistency.

Such a view fails to recognise the importance of a middle power, such as Australia, geographically removed from Europe and North America and located in close proximity to the developing States of South East Asia, making a significant contribution to global issues because of its different geo-political perspective. Chemical weapons disarmament cannot be viewed simply from an East-West perspective. Australia is able to play a bridging role between North and South and has a responsibility to use any influence it has for what must be seen as a universal benefit.

Conclusion

A comprehensive international convention banning chemical weapons has long been a high priority for Australian disarmament policy.⁶⁴

These words from Senator Evans reiterate a consistent and longstanding Australian foreign policy position – a commitment to the conclusion of an effective, verifiable, universal, comprehensive treaty ban on chemical weapons finalised and implemented as expeditiously as possible. The Australian government has demonstrated that this is not merely political rhetoric and has taken substantial initiatives internationally, regionally and domestically to facilitate the achievement of that goal. Australia has always been willing to allocate resources and has worked hard to suggest resolutions to outstanding issues, fill in gaps in preparation for a convention and encourage all States to prepare for the implementation of the Convention. While the conclusion of the negotiating process is now complete and is itself a reason to celebrate,

64 Senator Gareth Evans, Australian Minister for Foreign Affairs and Trade, in answer to a question in parliament on 17 March 1987, *Parliamentary Debates, Senate*, Vol 119 (1987), p 389.

Australia will undoubtedly commit itself to working towards universal implementation of the Convention and the elimination of chemical weapons for all time.

Appendix 1

THE AUSTRALIA GROUP EXPORT CONTROL LIST OF CHEMICAL WEAPONS PRECURSOR CHEMICALS

1. Thiodiglycol
2. Phosphorus Oxychloride
3. Dimethyl Methylphosphonate
4. Methyl Phosphonyl Difluoride
5. Methyl Phosphonyl Dichloride
6. Dimethyl Phosphite
7. Phosphorus Trichloride
8. Trimethyl Phosphite
9. Thionyl Chloride
10. 3-Hydroxy-1-methylpiperidine
11. N,N-Diisopropyl-(beta)-Aminoethyl Chloride
12. N,N-Diisopropyl-(beta)-Aminoethane Thiol
13. 3-Quinuclidinol
14. Potassium Fluoride
15. 2-Chloroethanol
16. Dimethylamine
17. Diethyl Ethylphosphonate
18. Diethyl N,N-Dimethylphosphoramidate
19. Diethyl Phosphite
20. Dimethylamine Hydrochloride
21. Ethyl Phosphinyl Dichloride
22. Ethyl Phosphonyl Dichloride
23. Ethyl Phosphonyl Difluoride
24. Hydrogen Fluoride
25. Methyl Benzilate
26. Methyl Phosphinyl Dichloride
27. N,N-Diisopropyl-(beta)-Amino Ethanol
28. Pinacolyl Alcohol
29. O-Ethyl 2-Diisopropylaminoethyl Methylphosphonite
30. Triethyl Phosphite
31. Arsenic Trichloride

32. Benzilic Acid
33. Diethyl Methylphosphonite
34. Dimethyl Ethylphosphonate
35. Ethyl Phosphinyl Difluoride
36. Methyl Phosphinyl Difluoride
37. 3-Quinuclidone
38. Phosphorus Pentachloride
39. Pinacolone
40. Potassium Cyanide
41. Potassium Bifluoride
42. Ammonium Bifluoride
43. Sodium Bifluoride
44. Sodium Fluoride
45. Sodium Cyanide
46. Tri-ethanolamine
47. Phosphorus Pentasulphide
48. Di-isopropylamine
49. Diethylaminoethanol
50. Sodium Sulphide
51. Sulphur Monochloride
52. Sulphur Dichloride
53. Triethanolamine Hydrochloride
54. N,N-Diisopropyl-2-Aminoethyl Chloride Hydrochloride