

Nuclear Weapons Convention

Introduction

- 6.1 Some members of the international community argue that, in order to provide a clear and feasible pathway to the universal abolition of nuclear weapons, it is necessary to negotiate a new comprehensive multilateral treaty which would cover all aspects of the nuclear non-proliferation and disarmament regime. Such a treaty is widely referred to as a Nuclear Weapons Convention (NWC).
- 6.2 This chapter will provide a summary of the arguments presented to the Committee relating to the advantages, opportunities and barriers to a NWC, and will look at the steps that can be taken to move towards the negotiation of a NWC.

Background

- 6.3 The Hon Gareth Evans AO QC told the Committee that a NWC would be a new agreement that encompasses the broad range of nuclear security mechanisms and initiatives that currently exist:

... [a NWC] would have within its scope the whole content of the NPT, plus the Comprehensive Nuclear Test Ban Treaty, plus the fissile material treaty, plus some additional verification strategies ... which are taking place outside any of these treaty frameworks. It would be a great global catch-all, and we could start from the beginning.¹

1 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9.

- 6.4 In 1997 Costa Rica submitted a model NWC to the United Nations (UN) General Assembly. This model NWC was developed by a group of non-government organisations comprised of the International Physicians for the Prevention of Nuclear War, the International Association of Lawyers Against Nuclear Arms and the International Network of Engineers and Scientists Against Proliferation. An updated version of this model NWC was jointly submitted to the UN General Assembly by Costa Rica and Malaysia in 2007.²
- 6.5 This model NWC uses the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction*, also known as the Chemical Weapons Convention (CWC), as a template to construct a treaty banning an entire category of weapons. It also draws on the International Atomic Energy Agency's verification measures and the UN Security Council. This model NWC outlines the rules, schedule and verification mechanisms for prohibiting the development, testing, production, stockpiling, transfer, use and threat-of-use of nuclear weapons.³
- 6.6 The model Convention also provides a phased approach by which nuclear armed states would dismantle and destroy their nuclear arsenals under international monitoring mechanisms. According to the model, states would follow a process whereby weapons would be taken off alert, removed from deployment and disabled. Nuclear weapons storage areas would then be dismantled and fissile material would be placed under international control.⁴
- 6.7 Since the submission of this model to the UN, the merits of a NWC have been widely debated in international forums. The prospect of a NWC has been well received by some governments and civil society organisations while others have questioned the utility of such a treaty, including some key nuclear armed states.⁵
- 6.8 In 2008, calls for the commencement of multilateral negotiations leading to the early conclusion of a NWC received widespread support in the UN

2 G Reeve, B Williams and J Loretz, *An SOS for the Human Race*, International Campaign to Abolish Nuclear Weapons, n.d., p. 1, *Exhibit No. 24*; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 4; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, covering letter.

3 T Ruff and J Loretz (eds), *Securing our Survival: The Case for a Nuclear Weapons Convention*, 2007, pp. 2, 6, 42, *Exhibit No. 23*.

4 International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 3.

5 T Ruff and J Loretz (eds), *Securing our Survival: The Case for a Nuclear Weapons Convention*, 2007, p. 1, *Exhibit No. 23*.

General Assembly, however Australia did not voice support for negotiations to begin.⁶

- 6.9 The joint submission to the inquiry from the Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office stated the Government's current position on the negotiation of a NWC:

Australia supports the exploration of possible legal frameworks for the eventual abolition of nuclear weapons, including the possibility of negotiation of a nuclear weapons convention. The negotiation of such a convention is a long-term goal.⁷

Benefits of a Nuclear Weapons Convention

- 6.10 The Committee received a range of evidence on the benefits of a NWC. The main advantages cited were:

- a NWC would unequivocally declare abolition as the ultimate goal of the international nuclear non-proliferation and disarmament regime which would provide clarity and momentum to nuclear security initiatives;
- a NWC would allow disarmament and non-proliferation to proceed simultaneously;
- a NWC would engage the nuclear armed states that are not party to the NPT;
- a NWC would fulfil obligations under Article VI of the NPT; and
- a NWC could help to de-legitimise nuclear weapons in domestic and international communities.

- 6.11 Contributors argued that a NWC would make clear to the international community that the ultimate goal of the international nuclear non-proliferation and disarmament regime is the universal abolition of nuclear weapons. It was argued that such a commitment would help to reinforce the currently existing treaty framework and would provide a means by which disparate aspects of the international nuclear security regime, such

6 International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 6.

7 Department of Foreign Affairs and Trade and Australian Safeguards and Non-Proliferation Office, *Submission No. 29*, p. 13.

as nuclear weapons free zones (NWFZs), the CTBT and a FMCT, could be coordinated in a formal process.⁸

6.12 Additionally, it was argued that the commitment to complete abolition contained in a NWC could assist in circumventing persisting deadlocks in the nuclear non-proliferation and disarmament regime, such as those around the CTBT and a FMCT.⁹

6.13 Associate Professor Tilman Ruff told the Committee that the commitment to abolish nuclear weapons, as contained in a NWC, would provide crucial moral and political momentum:

... a [NWC] that clearly is aimed at zero is not just intellectually but morally and politically compelling. It is probably the only thing that is going to be sufficiently credible with the non-nuclear weapon states [for them] to want to keep their side of the bargain ... I think that is a really critical point. Anything less ... is simply not going to be politically compelling or inspire people sufficiently to really have traction.¹⁰

6.14 Advocates of a NWC argued that such a treaty would bring together states which may be divided over the issue of whether disarmament or non-proliferation is the central issue of the international nuclear security regime. 'Non-proliferation-first' advocates focus on preventing the proliferation of nuclear weapons. 'Disarmament-first' advocates are hesitant to support stronger non-proliferation efforts unless genuine disarmament takes place. It was argued that a NWC bridges this divide by simultaneously addressing non-proliferation and disarmament.¹¹

8 Adjunct Professor Richard Broinowski, *Transcript of Evidence*, 26 March 2009, pp. 52-53; Dr Sue Wareham, *Transcript of Evidence*, 25 March 2009, p. 53; Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 54; Mr Allan Behm, *Transcript of Evidence*, 26 March 2009, p. 54; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 11; Anti-Nuclear Alliance of WA, *Submission No. 75*, p. 13; Friends of the Earth, Australia, *Submission No. 67*, p. 2; Mr Adam Dempsey, *Submission No. 24*, p. 1; Religious Society of Friends in Australia, *Submission No. 17*, p. 2; International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 3.

9 International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 11-14; Uniting Justice Australia, *Submission No. 27*, p. 4.

10 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 35.

11 T Ruff and J Loretz (eds), *Securing our Survival: The Case for a Nuclear Weapons Convention*, 2007, p. 14, *Exhibit No. 23*; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 11; Dr Marianne Hanson, *Transcript of Evidence*, 26 March 2009, p. 64; International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 3; Australian Council of Trade Unions, *Submission No. 58*, p. 2.

- 6.15 A NWC was also advocated as a means to bring states that are not party to the NPT, such as India and Pakistan, into the nuclear non-proliferation and disarmament framework.¹²
- 6.16 Contributors argued that the negotiation of a NWC would fulfil obligations under Article VI of the NPT, which requires states to pursue the negotiation of a treaty on complete disarmament.¹³
- 6.17 The Committee was told that a NWC could play a role in changing societal perceptions of nuclear weapons. A NWC which condemns nuclear weapons and codifies their universal abolition could raise public awareness of the dangers of nuclear weapons, and could have the medium-to-long-term effect of de-legitimising nuclear weapons in both domestic and international communities.¹⁴

Opportunities for the negotiation of a Nuclear Weapons Convention in the short term

- 6.18 Advocates of a NWC argued that there currently exist a number of opportunities to gain support for, and begin the negotiation of, a NWC in the short term. The Committee was informed that:
- an already-existing model NWC provides an excellent starting point for negotiations;¹⁵
 - the successful negotiations of other weapon-abolition treaties provide a convenient template for the negotiation of a NWC; and

12 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9; Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 42; Dr Sue Wareham, *Transcript of Evidence*, 25 March 2009, p. 53; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 13; Women's International League for Peace and Freedom, *Submission No. 65*, p. 12.

13 Adjunct Professor Broinowski, *Transcript of Evidence*, 26 March 2009, p. 53; Medical Association for Prevention of War (Australia), *Submission No. 61*, p. 13; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 12; Women's International League for Peace and Freedom, *Submission No. 65*, p. 12; Uniting Justice Australia, *Submission No. 27*, p. 4; Anti-Nuclear Alliance of WA, *Submission No. 75*, p. 14.

14 T Ruff and J Loretz (eds), *Securing our Survival: The Case for a Nuclear Weapons Convention*, 2007, p. 2, *Exhibit No. 23*; Dr Marianne Hanson, *Transcript of Evidence*, 26 March 2009, p. 64; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, p. 13; Women's International League for Peace and Freedom, *Submission No. 65*, p. 12; Dr Marianne Hanson, *Submission No. 79*, p. 3.

15 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 12; Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 42; People for Nuclear Disarmament, *Submission No. 15*, p. 6; Anti-Nuclear Alliance of WA, *Submission No. 75*, p. 15.

- a NWC has been endorsed by the United Nations, non-NPT states, parliaments and non-government organisations (NGOs).
- 6.19 It was argued that a NWC may proceed in a similar way to other treaties which seek to ban entire categories of weapons, such as the *Convention on Cluster Munitions*, the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* (the APM Convention) and the CWC.¹⁶
- 6.20 Professor Joseph Camilleri submitted that the negotiation of both the *Convention on Cluster Munitions* and the APM Convention shared common characteristics which provide a plan of action for the successful negotiation of a NWC.¹⁷
- 6.21 Associate Professor Tilman Ruff noted that the negotiations of the *Convention on Cluster Munitions* and the APM Convention were initiated outside of official forums such as the UN and did not initially include the major players. Associate Professor Ruff endorsed the view that the successful negotiations of these treaties indicate an opportunity to negotiate a NWC through a similar process.¹⁸
- 6.22 Submitters noted that there has been widespread support for a NWC in the UN General Assembly. In 2008, 127 nations voted in support of a resolution calling for the commencement of negotiations and the early conclusion of a NWC.¹⁹ Further, the UN Secretary-General Ban Ki-Moon advocated a NWC in an October 2008 speech:
- ... NPT parties, in particular the nuclear weapons states, ... could consider negotiating a nuclear weapons convention, backed by a strong system of verification, as has long been proposed at the United Nations.²⁰
- 6.23 Contributors noted that India, Pakistan and China have all supported calls for the negotiation of a NWC. It was argued that this presents a significant opportunity to engage two nuclear armed states which are outside the

16 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 33; Professor Joseph Camilleri, *Submission No. 66*, p. 26; Dr Ben Saul, *Transcript of Evidence*, 26 March 2009, p. 53; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 6, 13; International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 3.

17 Professor Joseph Camilleri, *Submission No. 66*, p. 30.

18 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, pp. 33,43.

19 International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 6, 12; Women's International League for Peace and Freedom, *Submission No. 65*, p. 12; Australian Conservation Foundation, *Submission No. 55*, p. 7; Soka Gakkai International Australia, *Submission No. 39*, p. 2; Mr Stanley Johnston, *Submission No. 23*, p. 6.

20 Medical Association for the Prevention of War (Australia), *Submission No. 61*, p. 13.

NPT framework, as well as a nuclear weapon state that is within the NPT framework.²¹

- 6.24 Associate Professor Ruff noted that the prospect of a NWC has been advocated in parliaments and parliamentary organisations around the world including in the European Parliament and via the Parliamentarians for Nuclear Non-proliferation and Disarmament.²²
- 6.25 Contributors argued that the widespread support for a NWC in the NGO-community provides another opportunity to build momentum for the negotiation of such a treaty. Associate Professor Ruff informed the Committee that there is ongoing support for a NWC from the Middle Power Initiative, a network of non-government organisations that engages with middle-power governments on nuclear security issues. Additionally, submissions to the inquiry noted the support for a NWC from the Mayors for Peace organisation, which has a membership of 2,963 cities across 134 countries.²³
- 6.26 Former US Senator Bob Graham, Chair of the US Congressional Commission for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, suggested that a global agreement with the ultimate aim of abolishing nuclear weapons would gain extensive support:
- I think a world policy that has [the abolition of all nuclear weapons] as its objective and with a strategy of how to get to that objective in steps, would have considerable and growing support around the world and in the United States.²⁴
- 6.27 Submitters to the inquiry suggested that, in light of these opportunities, negotiations for a NWC should commence in the short term and should be a policy priority for the Australian Government.²⁵

21 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 34; International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 6, 11.

22 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 34; Parliamentarians for Nuclear Non-proliferation and Disarmament, *Parliamentary endorsement of the Nuclear Weapons Convention*, Exhibit No. 26.

23 Associate Professor Tilman Ruff, *Transcript of Evidence*, 25 March 2009, p. 34; International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 5; Japanese for Peace, *Submission No. 63*, p. 4;

24 Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 7.

25 International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 6, 14; Australian Psychological Society, *Submission No. 76*, p. 4; Women's International League for Peace and Freedom, *Submission No. 65*, p. 12; Australian Conservation Foundation, *Submission No. 55*, p. 2; Anti-Nuclear Alliance of WA, *Submission No. 75*, p. 14; Religious Society of Friends in Western Australia, *Submission No. 83*, p. 5; Japanese for Peace, *Submission No. 63*, p. 4; Dr Margaret Beavis, *Submissions No. 5*, p. 1.

Barriers to the negotiation of a Nuclear Weapons Convention

- 6.28 Throughout the course of the inquiry, other contributors argued that there are significant barriers to the negotiation of a NWC. It was argued that:
- there are insufficient verification and monitoring mechanisms to maintain a NWC;
 - there are insufficient mechanisms to enforce a NWC; and
 - the diverse range of political and strategic positions relating to nuclear weapons makes any sort of agreement exceedingly difficult.
- 6.29 Ms Joan Rohlfing of the Nuclear Threat Initiative told the Committee that one of the main barriers to a NWC is a lack of verification and monitoring mechanisms. It was argued that for there to be any real confidence in a NWC, a whole new system would be required to confidently verify the non-production of fissile material, and to verify the dismantling and destruction of nuclear weapon arsenals. Ms Rohlfing suggested that this system would have to be established before a NWC could be successfully negotiated.²⁶
- 6.30 Dr George Perkovich of the Carnegie Endowment for International Peace argued that given the lack of verification and monitoring mechanisms, a NWC (if negotiated in the short term) would rely heavily on its enforcement mechanisms to deter states from breaching the terms of the treaty. It was argued that the currently available enforcement mechanisms of the nuclear non-proliferation and disarmament regime are insufficient. In particular, Dr Perkovich pointed to the lacklustre progress of the UN Security Council in addressing Iran's suspected nuclear-weapon ambitions, and Iran's continued defiance of UN Security Council resolutions. It was therefore argued that improved enforcement mechanisms would have to be established before negotiations on a NWC could begin.²⁷
- 6.31 Ms Martine Letts told the Committee that 'one of the major obstacles of getting to zero [nuclear weapons] is how people think about their security'. Ms Letts argued that there is still a well-entrenched view within some states that nuclear weapons are central to national security. It was

26 Ms Joan Rohlfing, *Transcript of Evidence*, 14 May 2009, p. 9.

27 Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 9.

argued that getting these states to embrace abolition as the ultimate goal, as would be required under a NWC, would be a major challenge.²⁸

- 6.32 Mr Rory Medcalf argued that, in the past, weapon-abolition treaties such as the CWC have been successfully negotiated because countries perceived that they could rely on their nuclear weapon arsenals to counter any threats arising from non-compliance to these other weapon-abolition treaties. Mr Medcalf asserted that in the case of a treaty banning nuclear weapons, such as a NWC, states would not have this fallback position, which in turn would be a major barrier to the successful negotiation of a NWC.²⁹
- 6.33 Some contributors to the inquiry, whilst supportive of such a treaty, suggested that, given the significant barriers to the negotiation of a NWC, such a treaty should be a long-term goal rather than an immediate policy priority for Government.
- 6.34 Witnesses suggested that to pursue the negotiation of a NWC in the short term would expend an enormous amount of political will and would distract from more promising initiatives which are not subject to, and may in fact overcome, those barriers mentioned above.³⁰
- 6.35 Mr Gareth Evans told the Committee:
- ... the notion of even negotiating a starting point [on a NWC] that enough countries are satisfied with to get out and seriously endorse will be a labour of Hercules, extraordinarily time consuming, and there is a real question about what the utility of that approach will be.³¹
- 6.36 The dominant view among these contributors was that Australia should pursue the goal of the complete abolition of nuclear weapons in incremental steps which build confidence between states, with a view towards a NWC once the barriers to its negotiation have been overcome.³²

28 Ms Martine Letts, *Transcript of Evidence*, 11 May 2009, p. 15.

29 Mr Rory Medcalf, *Transcript of Evidence*, 26 March 2009, p. 54.

30 Mr Rory Medcalf, *Transcript of Evidence*, 26 March 2009, p. 54; Ms Joan Rohlfing, *Transcript of Evidence*, 14 May 2009, p. 10; Dr George Perkovich, *Transcript of Evidence*, 14 May 2009, p. 9.

31 Hon Gareth Evans AO QC, *Transcript of Evidence*, 26 February 2009, p. 9.

32 Mr Rory Medcalf, *Transcript of Evidence*, 26 March 2009, p. 54; Dr Carl Ungerer, *Transcript of Evidence*, 26 March 2009, p. 57; Dr Marianne Hanson, *Transcript of Evidence*, 26 March 2009, p. 64; Professor John Langmore, *Transcript of Evidence*, 25 March 2009, pp. 51-52; Senator Bob Graham, *Transcript of Evidence*, 26 March 2009, p. 7; Professor Joseph Camilleri, *Submission No. 66*, p. 30.

6.37 Ms Joan Rohlfing endorsed this view:

... trying to negotiate such a treaty at this particular point in time would expend enormous and precious political capital and not result in the kind of urgent, near-term, concrete steps that we need to take to reach that ultimate goal and to make progress towards that ultimate goal. So I would much rather see the world community focused on trying to achieve the near-term steps, developing consensus on those steps and a set of milestones that you can measure progress against over the next decade rather than starting at the end point.³³

6.38 In light of the evidence presented in this section, the Committee is of the view that a NWC would be a key piece of any international treaty framework that bans nuclear weapons. The Committee considers that the negotiation of a NWC should be pursued as an important goal of the international nuclear non-proliferation and disarmament regime.

Towards the negotiation of a Nuclear Weapons Convention

6.39 Throughout the course of the inquiry the Committee received a wide range of proposals on how to progress towards the negotiation of a NWC. The majority of these proposals refer to issues explored in other areas of this report including:

- the need for improved verification and monitoring technologies and processes;³⁴
- pursuing incremental steps such as the entry-into-force of the CTBT, the negotiation of an FMCT and the de-alerting of weapons;³⁵
- engaging with states through alternative channels to progress disarmament issues, including through supporting meetings of NWFZ states and regional forums;³⁶ and

33 Ms Joan Rohlfing, *Transcript of Evidence*, 14 May 2009, p. 10.

34 Mr Rory Medcalf, *Transcript of Evidence*, 26 March 2009, p. 54; Professor John Langmore, *Transcript of Evidence*, 25 March 2009, p. 51; Professor Joseph Camilleri, *Submission No. 66*, p. 31.

35 International Campaign to Abolish Nuclear Weapons, *Submission No. 70*, pp. 13-14; International Physicians for the Prevention of Nuclear War, *Submission No. 42*, p. 5.

36 Associate Professor Michael Hamel-Green, *Transcript of Evidence*, 25 March 2009, p. 14; Dr Ben Saul, *Transcript of Evidence*, 26 March 2009, p. 53; Mr Nic Maclellan, *Submission No. 36*, p. 9.

- ensuring the Government has the appropriate diplomatic apparatus to thoroughly engage on nuclear security issues.³⁷

The Committee has examined these issues in their respective sections of this report and has made recommendations on how they can be addressed.

- 6.40 In terms of how these goals can be related to the negotiation of a NWC, the Committee considers that Australia should make it clear to the international community that it pursues all nuclear non-proliferation and disarmament measures with a view to the eventual negotiation and entry-into-force of a universally adhered to treaty that achieves the complete abolition of nuclear weapons.
- 6.41 Professor Joseph Camilleri outlined an immediate step that can be taken by the Australian Government and the Australian Parliament to achieve this aim:

The first strategic step ... is for the Australian Government and Australian Parliament to [make] a clearly articulated statement that ... should ... commit Australia to the eventual universal adoption of a legally binding convention outlawing all nuclear weapons. This fundamental objective should be articulated in a formal resolution of Parliament, at the UN General Assembly and at all available formal and informal international, regional and global gatherings, and with particular vigour at the 2010 NPT Review Conference.³⁸

- 6.42 The Committee considers that through supporting incremental steps that improve nuclear security and by advocating the final vision of the complete abolition of nuclear weapons, Australia can play a leading role in the negotiation of a NWC.

Recommendation 8

The Committee recommends that the Australian Government make clear in international fora its support for the adoption of a Nuclear Weapons Convention.

³⁷ Professor Joseph Camilleri, *Submission No. 66*, p. 33.

³⁸ Professor Joseph Camilleri, *Submission No. 66*, pp. 25-26.

Recommendation 9

The Committee recommends that the Australian Government allocate research and consultation resources to the development of a Nuclear Weapons Convention with a clear legal framework and enforceable verification.