

Australia's opposition to a ban on nuclear weapons

FOI documents reveal why Australia refused to endorse an 80-nation statement highlighting the humanitarian impact of nuclear weapons

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KEY POINTS

- Australia refused to endorse an 80-nation [statement](#) delivered at this year's Non-Proliferation Treaty (NPT) [meeting](#) in Geneva in April because it included a reference to a Red Cross [resolution](#) on nuclear weapons with which Australia disagrees and because of concerns that the statement was designed to build support for a ban on nuclear weapons.
- FOI documents show that Australia's opposition to the landmark Red Cross resolution – adopted by the international movement in November 2011 – prompted Australian Red Cross CEO Robert Tickner to seek an explanation from Foreign Minister Bob Carr, who responded to his letter but withheld information about Australia's true position.
- Former prime minister Malcolm Fraser and former foreign minister Gareth Evans were both critical of Australia's decision not to endorse the humanitarian statement. Responding to a letter from Mr Fraser, Prime Minister Julia Gillard explained that Australia did not support it because "a push for a near-term ban on nuclear weapons formed part of the context of the statement's intention".
- Australia considers a ban on nuclear weapons to be incompatible with its continued reliance on US "extended nuclear deterrence", which it claims "has provided security and stability in our region for more than 60 years and [has] underpinned regional prosperity". Australia hopes to steer other nations away from pursuing a ban on nuclear weapons.

Introduction

1. This briefing paper draws largely on declassified documents obtained by the International Campaign to Abolish Nuclear Weapons (ICAN) through freedom of information laws from Australia's Department of Foreign Affairs and Trade (DFAT) (received 27 August 2013) and Department of Defence (received 25 July 2013). They relate primarily to the [Oslo conference](#) on the humanitarian impact of nuclear weapons held in March 2013 and the Non-Proliferation Treaty (NPT) preparatory committee meeting in Geneva in April and May 2013. The author attended both conferences.

Statement on humanitarian impact of nuclear weapons

2. In the lead-up to the NPT meeting in April, South Africa invited all parties to the treaty to endorse a two-page statement expressing deep concern "about the catastrophic humanitarian consequences of nuclear weapons". A total of 80 nations joined the statement; Australia was not among them. Its absence from the list of signatory nations prompted ICAN to hold a protest outside the Australian mission in Geneva with around 70 people from 20 nations. Australia's reasons for refusing to endorse the statement are described below. They reveal a country lacking in genuine commitment to achieving a world free from the very worst weapons of mass destruction, conflicted and constrained by the central role of US nuclear weapons in its security policy.

Australia's objection to Red Cross resolution

3. The FOI documents obtained from DFAT indicate that Australia could have endorsed the humanitarian statement had it not been for the reference to the resolution on nuclear weapons adopted in 2011 by the international Red Cross and Red Crescent movement. The reference in the statement was purely factual, noting that "the 2011 resolution of the Council of Delegates of the International Red Cross and Red Crescent Movement emphasised the incalculable human suffering associated with any use of nuclear weapons, and the implications for international humanitarian law".
4. A diplomatic cable sent from Australia's permanent mission in Geneva to officials in Canberra on 18 April 2013 outlining Australia's plans for the NPT meeting (which had then not yet commenced) noted that South Africa had asked Australia to join the humanitarian statement, but Australia did not intend to join. It stated: "South Africa has made a good faith effort here [to craft a statement that would be acceptable to a wide range of states] and we consider that if not for the reference to the 2011 ICRC [*sic*] Council of Delegates resolution ... we could recommend joining."
5. Specifically, Australia objected to the international Red Cross movement's resolution on the basis that it "refers to the 1996 [International Court of Justice] advisory opinion, the relevance and legal basis of which remain the subject of debate ... we do not want to be seen as endorsing the ICRC's interpretation of the ICJ advisory opinion". An email from

Geneva to Canberra officials on 9 May 2013 – a week after the meeting had concluded – elaborated on Australia’s objection. It argued that the ICJ’s conclusion that use of nuclear weapons would generally be contrary to international humanitarian law “rubs up against our reliance on extended US nuclear deterrence”.

6. Australian Red Cross had been one of the leading national Red Cross societies in the international Red Cross and Red Crescent movement actively engaging with the issue of nuclear weapons. It contributed to the drafting of the 2011 Council of Delegates resolution, and helped garner the support of a wide range of other national Red Cross and Red Crescent societies. The FOI documents show that CEO Robert Tickner wrote to Foreign Minister Carr on 19 April 2013 seeking clarification about Australia’s position. Mr Tickner emailed the letter to Senator Carr’s principal adviser, James Larsen, stating: “I would be grateful if my note could be conveyed to the Minister and hopefully followed up with the Department at the highest levels.”
7. There was an exchange of emails between Australian officials in Geneva and Canberra about how best to respond to Mr Tickner’s letter. Caroline Millar, who heads the International Security Division at DFAT, wrote to colleagues on 9 May: “I am of the view that less is probably more ... While I appreciate this issue will not go away, I am also keen not to give it too much oxygen.” The Geneva officials noted (also on 9 May) that the draft response “doesn’t draw directly on the issue raised by Mr Tickner, namely that we didn’t join the statement because of the 2011 ICRC [*sic*] Council of Delegates resolution. On balance, we think that this is right.”
8. Dr Helen Durham, who is Director of International Humanitarian Law, Strategy, Planning and Research at Australian Red Cross, wrote several emails to Mr Larsen in early May seeking an update on progress in obtaining a response from Senator Carr. In one email (dated 5 May) she noted that “having details about any potential issues our government has in relation to our work in this area is vital”. Mr Larsen replied on 7 May, outlining “the essence of the position” taken by Australia in relation to the humanitarian statement. However, he omitted to mention Australia’s objection to the Red Cross resolution, despite being aware of this objection.
9. At Mr Larsen’s request, Jeff Robinson from the Arms Control and Counter-Proliferation Branch at DFAT provided further information to Dr Durham on 10 May. He explained: “The ICRC [*sic*] resolution mention within the South African statement was not the primary reason Australia decided not to join the South African statement.” However, the diplomatic cable from Geneva to Canberra dated 18 April clearly indicated otherwise. It stated that Geneva officials could have recommended joining the statement had it not been for the reference to the Red Cross resolution. Moreover, Canberra officials most likely would have accepted such a recommendation judging by Caroline Millar’s email on 9 May in which she said: “we [in Canberra] probably didn’t feel quite as strongly as you at post [in Geneva] that we should not join this ...”

10. Mr Robinson explained on 10 May that a “major concern was the consultation process, or lack thereof”, but “our primary concern” – although not one expressed in the diplomatic cable of 18 April – was “about the South African statement’s object and purpose” (*see below*). He also wrote: “The concern that a number of countries had about the ICRC [*sic*] resolution reference in the South African statement relates to the resolution’s characterisation and selective use of the 1996 International Court of Justice advisory opinion. Australia also has some concerns about this opinion.”
11. The formal reply from Senator Carr to Mr Tickner was sent on 15 May 2013, almost a month after Mr Tickner had made his inquiry and two weeks after the NPT meeting had concluded. Senator Carr wrote: “While there was much to welcome in the South African statement, there were some points which caused Australia and some other like-minded countries difficulty. Unfortunately, the statement was presented to the Australian delegation in its final form, with no opportunity for textual changes to address Australia’s or others’ concerns. Hence, the decision was made not to co-sponsor the statement.” However, Senator Carr’s reply made no reference to Australia’s position on the Red Cross resolution, the primary source of contention.
12. Emails from Australia officials in Geneva and Canberra implied that, had South Africa consulted Australia on the draft text of the humanitarian statement, Australia would have advocated removal of the reference to the Red Cross resolution. Jeff Robinson wrote on 10 May: “we understand there was significant discussion among the South African statement’s own co-authors about whether [a reference to the Red Cross resolution] should have been included ... Australia could have contributed and been part of that discussion if we had been given an opportunity.” Similarly, Paul Wilson wrote on 9 May that some states had “strongly insisted on its inclusion; we could have been part of that discussion, if given the opportunity”.

The leaking of information about Australia’s position

13. Australian Red Cross became aware of Australia’s objection to the 80-nation humanitarian statement before that objection had been put on the public record. Mr Wilson, the deputy head of Australia’s mission in Geneva, expressed concern about this in an email to colleagues on 22 April, speculating that interlocutors from South Africa, New Zealand or Switzerland had “likely” been responsible for disclosing Australia’s position to ICAN, and that ICAN had in turn passed this information on to Australian Red Cross. In an email on 9 May, Mr Wilson wrote that the information had come “most likely via the NZ mission here”. He lamented: “Multilateral relationship-building throws up these situations from time to time.”

Public criticism of Australia’s position by Gareth Evans in Geneva

14. Former Labor foreign minister Gareth Evans, who chaired the Rudd-initiated International Commission on Nuclear Non-Proliferation and Disarmament together with

former Japanese foreign minister Yoriko Kawaguchi from 2008 to 2010, was present during the first week of the NPT meeting in Geneva. At the invitation of the Australian delegation, he provided the keynote address at a side event on 22 April organised by the Non-Proliferation and Disarmament Initiative, which Australia and Japan had jointly established in 2010.

15. Professor Evans argued – with the Australian and Japanese disarmament ambassadors alongside him on the podium – that the two countries should reconsider their stance on the humanitarian statement initiated by South Africa. He described it as having “optical significance and momentum” and urged governments to “stand on the right side of history”. He criticised Australia for “quibbling” over the consultation process and the reference to the Red Cross resolution.

Correspondence between Malcolm Fraser and Julia Gillard

16. On 24 April former Australian prime minister Malcolm Fraser wrote to Prime Minister Julia Gillard concerning Australia’s failure to sign the humanitarian statement. “I see from the list [of signatories] that a number of diverse countries did sign onto the resolution which included Indonesia, Malaysia, the Philippines, Singapore and New Zealand from our own part of the world,” he wrote. “Was there any particular reason why Australia failed to support this action?”
17. Ms Gillard responded to Mr Fraser’s letter on 6 June, offering two reasons for not having endorsed the statement. First, it “was presented to a number of countries as a finalised statement without an opportunity for input”. Second, “We understand that a push for a near-term ban on nuclear weapons formed part of the context of the statement’s intention. The Australian Government supports the exploration of legal frameworks for the eventual abolition of nuclear weapons ... but we need to be realistic and see abolition as a longer-term goal.”

Australia’s opposition to a ban on nuclear weapons

18. Earlier joint statements on the humanitarian impact of nuclear weapons had been delivered by Switzerland at the NPT preparatory committee meeting in May 2012 on behalf of 16 nations and in the UN General Assembly’s First Committee on 22 October 2012 on behalf of 35 nations. Those statements, unlike the South African-led statement at the NPT meeting in April 2013, had called on all states to “intensify their efforts to *outlaw* nuclear weapons and achieve a world free of nuclear weapons” (emphasis added). According to Australia’s diplomatic cable of 18 April 2013, South Africa had “pulled back from this formulation [with language about outlawing nuclear weapons] in order to broaden the base of support for this statement”.
19. The Australian cables state that certain nations, presumably US allies, had “expressed their concerns to us about the statement because of concern that the humanitarian

consequences agenda is being led by those connected to the delegitimation agenda (i.e. delegitimation of not only use but also possession) ... We are more sanguine: we consider that the humanitarian consequences debate and the step-by-step approach [as advocated by Australia] ... are compatible.” However, Australia subsequently changed its position – perhaps having realised the inadequacy of its objection to the Red Cross resolution – and began arguing that its “primary concern” with the statement was in fact the motivation to advance a ban.

20. A cable sent on 29 April from Australian diplomats in Geneva to Canberra officials describing the events of the first week of the NPT meeting stated: “The NGOs were clear. The purpose of the humanitarian agenda was to reinvigorate domestic debates about nuclear weapons, leading to the near-term negotiations of a treaty banning them ... For this reason, many (mostly US allies) balked at the statement because of the inherent contradiction of pursuing the outlawing of the possession of nuclear weapons while relying on extended nuclear deterrence.”
21. Paul Wilson from the Geneva mission wrote in an email to colleagues on 9 May that “clearly we do not support” negotiation of “a near-term ban treaty”. He questioned the “efficacy” of such an approach, and argued that, even if it worked, “there is a contradiction between driving a pre-elimination ban and continuing to rely on extended US nuclear deterrence ‘as long as nuclear weapons exist’” (the quoted phrase is from the Defence White Paper 2013). A DFAT briefing paper dated 23 May 2013, with the title “Nuclear weapons convention and humanitarian consequences”, stated that “the US guarantee of extended nuclear deterrence has provided security and stability in our region for more than 60 years and [has] underpinned regional prosperity”.

Australia’s reliance on US nuclear weapons

22. Documents obtained by ICAN from the Department of Defence in July 2013 provide additional information about Australia’s position on nuclear weaponry. Ministerial “talking points” issued on 29 February 2012 stated: “Australia’s security benefits from extended nuclear deterrence under the US alliance ... As the effectiveness of extended deterrence and the reliability of the US nuclear stockpile are intertwined, Australia has an interest in a safe, secure and reliable US nuclear stockpile.”
23. A ministerial briefing dated 11 May 2012 argued that US extended nuclear deterrence “provides a stable and reliable sense of assurance and has over the years removed the need for Australia to consider more significant and expensive defence options”. Defence talking points dated 26 April 2013 described the potential role of Pine Gap (an ostensibly US-Australian defence facility in Central Australia) in a nuclear war: “Successive Australian governments have acknowledged that joint facilities, such as Pine Gap, could be targeted in conflict ... The Government does not intend to speculate on hypothetical scenarios but will continue to regularly consider its judgements concerning Australia, including the risk of nuclear attack.”

Controversy over Japan's failure to sign humanitarian statement

24. Australia was not the only country to be criticised for its failure to endorse the humanitarian statement at the NPT meeting in April 2013. The news of Japan's refusal to sign the statement – on the basis that it considers the use of nuclear weapons to be acceptable in some circumstances – made headlines domestically at the time of the NPT meeting and again on 9 August, the 68th anniversary of the US atomic bombing of Nagasaki, when Nagasaki's mayor described the decision as a betrayal of the “expectations of the global community”. This prompted the Japanese prime minister, Shinzo Abe, to defend the government's decision not to sign, stating that it would have been inconsistent with Japan's reliance on US extended nuclear deterrence.

Oslo conference on the humanitarian impact of nuclear weapons

25. The NPT meeting in Geneva in April/May 2013 came less than two months after the Norwegian government hosted a landmark conference in Oslo on the humanitarian impact of nuclear weapons, attended by 128 governments (including Australia) and representatives from major UN agencies and the International Red Cross and Red Crescent Movement. At the invitation of the Norwegian government, ICAN coordinated the participation of non-government organisations. The conference was the first-ever intergovernmental conference convened specifically to address the humanitarian impact of nuclear weapons.
26. The five nuclear-weapon states recognised under the NPT – the US, Russia, Britain, France and China – issued a joint statement just days before the conference began announcing that they would collectively boycott it. They described it as a distraction from other initiatives aimed at promoting nuclear non-proliferation. A declassified Australian government briefing to Foreign Minister Carr dated 6 March 2013 stated: “The [nuclear-weapon states] had concerns, which we shared, that the conference would be used as a platform to advocate a convention banning nuclear weapons.”
27. The objective of the conference, according to the [website](#) of the Norwegian foreign ministry, was to “present a facts-based understanding of the humanitarian impacts of nuclear weapon detonations and to facilitate an informed discussion of these effects with stakeholders” including states, the UN and civil society. Presentations covered “preparedness and first-line response as well as the medium- and long-term humanitarian, developmental and environmental effects”.
28. Dr Robert Floyd, Director General of the Australian Safeguards and Non-Proliferation Office within DFAT, led Australia's delegation at the Oslo conference. Australia made no official statements, although it had the opportunity to do so during each of the three substantive sessions and the concluding session. Dr Floyd explained in an email to ICAN on 13 March why Australia had chosen not to speak at the conference: “Australia

fully endorsed the aim of the conference to have a fact-based discussion on the humanitarian consequences of nuclear weapons. We therefore did not consider it appropriate to make a political statement at such a conference and in addition participants were discouraged by the organizers ... from doing so.”

29. However, the following 50 states made statements and other interventions during the conference: Algeria, Argentina, Austria, Brazil, Canada, Chile, Colombia, Cook Islands, Costa Rica, Cuba, Ecuador, Egypt, Germany, Guatemala, India, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kuwait, Kyrgyzstan, Malaysia, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Paraguay, Peru, Philippines, Sierra Leone, South Africa, Sri Lanka, Sudan, Sweden, Switzerland, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, Venezuela and Zambia. Australia could have chosen to contribute substantively to the conference, presenting new evidence or its analysis and response to the evidence on humanitarian dimensions of nuclear weapons presented, as many other delegations did.

Undermining humanitarian initiatives to ban nuclear weapons

30. The FOI documents from DFAT obtained by ICAN suggest that, in coming months and years, Australia intends to work to undermine the efforts of “progressive states” and “their civil society partners” to advance a treaty banning nuclear weapons. A diplomatic cable from the Australian mission in Geneva to Canberra officials dated 6 June 2013 described the NPT meeting held a month earlier as an “unhappy affair”, and argued that achieving a consensus outcome at the month-long NPT review conference in 2015 would be “challenging”. Australia expressed concern that failure in 2015 could prompt nations to pursue negotiations for a nuclear weapons ban.

31. The cable implied that Australia intends to engage in humanitarian-based discussions about nuclear weapons in order to help dissuade other nations from pursuing a ban: “Lest it give traction and momentum to proposals counterproductive to effective nuclear disarmament, we consider that we need to engage more actively with the humanitarian consequences discourse.” Australia is concerned that the humanitarian discourse has the potential to shift attention away from the nuclear-weapon states and Iran and place pressure on US allies, such as Australia, that subscribe to extended nuclear deterrence. It plans to “engage more actively with, not reactively to, this revived (not new) issue” of the humanitarian impact of nuclear weapons and use it to promote its own agenda, namely, maintenance of the nuclear weapons status quo. These declassified exchanges between government officials clearly demonstrate that Australia’s talk of nuclear disarmament is insincere and hollow.

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