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OVERVIEW OF ASNO

Goal

The goal of ASNO is to enhance Australian and international security through activities which contribute to effective regimes against the proliferation of nuclear and chemical weapons.

Functions

The principal focus of ASNO's work is on international and domestic action to prevent the proliferation of nuclear and chemical weapons. Thus, ASNO's work relates directly to international and national security. ASNO performs domestic regulatory functions to ensure that Australia is in compliance with treaty commitments and that the public is protected through the application of high standards of safeguards and physical protection to nuclear materials and facilities. ASNO also works to strengthen the operation and effectiveness of relevant treaty regimes through the application of specialist knowledge to complex policy problems in technical areas, including treaty verification and compliance.

The *Non-Proliferation Legislation Amendment Act 2003* enabled the offices of the national authority for safeguards, the national authority for the Chemical Weapons Convention (CWC) and the national authority for the Comprehensive Nuclear-Test-Ban Treaty (CTBT) to be formally consolidated under a common title, named the Australian Safeguards and Non-Proliferation Office (ASNO). The legislation also enabled the titles of each of the directors of the three national authorities to be combined as the Director General ASNO. These changes confirmed arrangements that had been in place informally for several years.

Nuclear Safeguards Functions

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the centrepiece of the international nuclear non-proliferation regime. Since its entry into force in 1970, the NPT has become almost universal, with 190 Parties. Only three states—India, Israel and Pakistan—remain outside the NPT. A fourth—the DPRK—announced its withdrawal from the NPT in 2003, but the validity of this withdrawal has not been determined.

Under the NPT, non-nuclear-weapon states commit not to acquire nuclear weapons, and to conclude an agreement with the IAEA for the application of IAEA safeguards to all their nuclear material to verify their compliance with this commitment.

The Nuclear Non-Proliferation (Safeguards) Act 1987

The *Nuclear Non-Proliferation (Safeguards) Act 1987* (Safeguards Act), which took effect on 31 March 1987, forms the legislative basis for ASNO's nuclear safeguards activities.

The Safeguards Act gives effect to Australia's obligations under:

- the NPT
- Australia's safeguards agreement and Additional Protocol with the IAEA
- agreements between Australia and various countries (and Euratom) concerning transfers of nuclear items and cooperation in peaceful uses of nuclear energy
- the Convention on the Physical Protection of Nuclear Material (CPPNM).

The Safeguards Act also establishes a system for control over nuclear material and associated items in Australia through requirements for permits for their possession and transport. Communication of information contained in sensitive nuclear technology is also controlled through the grant of authorities.

The safeguards functions of the Director General ASNO are set out in section 43 of the Safeguards Act. These include:

- ensuring the effective operation of the Australian safeguards system
- ensuring the physical protection and security of nuclear material and items in Australia
- carrying out Australia's obligations under Australia's safeguards agreement and Additional Protocol with the IAEA
- carrying out Australia's obligations under Australia's safeguards agreements with other countries and Euratom
- operating Australia's bilateral safeguards agreements and monitoring compliance with the provisions of these agreements
- undertaking, co-ordinating and facilitating research and development in relation to safeguards
- advising the Minister for Foreign Affairs on matters relating to the international nuclear non-proliferation regime and the international safeguards system.

Comprehensive Nuclear-Test-Ban Treaty Functions

Article IV of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) provides that its verification regime shall be capable of meeting the requirements of the Treaty when it enters into force. This requires a substantial program of preparation in advance of the Treaty's entry into force.

To make the necessary preparations, a Preparatory Commission (PrepCom) was established in 1997, made up of CTBT States Signatories and supported by a Provisional Technical Secretariat (PTS). The tasks of the PrepCom include the establishment of an International Monitoring System (IMS) comprising 337 facilities around the world and an International Data Centre in Vienna. The PrepCom must also develop detailed procedures for the operation of these facilities and for the conduct of on-site inspections where concerns are raised about a possible nuclear explosion.

ASNO is Australia's designated national authority for the CTBT. This role is one of liaison and facilitation to ensure that the IMS is established efficiently and relevant domestic arrangements are in place.

ASNO makes a strong contribution on behalf of Australia to the overall work of the PrepCom to develop the CTBT verification regime. ASNO also assists DFAT with efforts to encourage ratification of the CTBT by countries that have not yet done so.

Key CTBT functions include:

- national point of contact for liaison on CTBT implementation
- establishing and maintaining legal, administrative and financial mechanisms to give effect to the CTBT in Australia
- coordinating the establishment of IMS facilities in Australia, and of measures to enable Australia to effectively monitor and analyse IMS and other CTBT verification data
- contributing to the development of Treaty verification, through the PrepCom and its working groups
- participating in development and implementation of Australian policy relevant to the CTBT.

Comprehensive Nuclear Test-Ban Treaty Act 1998

The *Comprehensive Nuclear Test-Ban Treaty Act 1998* (the CTBT Act) gives effect to Australia's obligations as a Party to the CTBT. It prohibits the causing of any nuclear explosion at any place within Australian jurisdiction or control and establishes a penalty of life imprisonment for an offence against this prohibition. The CTBT Act also prohibits Australian nationals from causing a nuclear explosion in any other place.

The CTBT Act requires the Australian Government to facilitate verification of compliance with the Treaty provisions, including the obligation to arrange for the establishment and operation of Australian IMS stations and the provision of data from these. It provides the Government with the authority to establish IMS stations and to make provision for access to them for CTBT monitoring purposes. The CTBT Act makes provision for the Minister for Foreign Affairs to enter into arrangements with the CTBT Organization to facilitate cooperation in relation to monitoring stations under Australian control.

Article IV of the Treaty obliges States Parties to allow CTBT inspectors to inspect any place within their jurisdiction or control in an on-site inspection. The CTBT Act provides comprehensive powers for inspection arrangements, including the right for inspectors to gather information, to collect and remove samples, and to apply a range of monitoring and sensing techniques over a designated area. Access to locations by inspectors is by consent of the occupier of any premises, or by warrant issued by a magistrate.

The CTBT Act was assented to on 2 July 1998, but was not able to enter into effect, absent the entry into force of the CTBT, until amended by the *Non-Proliferation Legislation Amendment Act 2003*. On 11 June 2004, sections 3 to 9, 48 to 50, 62 to 65, 68 to 72, 74, 75 and 78; and Schedule 1 to the CTBT Act came into effect following proclamation by the Governor-General. The proclaimed provisions were to:

- create the offence of causing a nuclear weapons test explosion, or any other nuclear explosion

- provide a framework for the establishment and operation of IMS facilities in Australia, and a legal basis for the functioning of Australia's CTBT National Authority.

Chemical Weapons Convention Functions

The Chemical Weapons Convention (CWC) prohibits the development, production, acquisition, stockpiling, retention and transfer or use of chemical weapons. Its verification regime is based on declaration by States Parties of facilities and activities dealing with particular chemicals, and on confirmation of compliance through on-site inspections.

ASNO is the focal point in Australia for liaison between domestic CWC stakeholders such as declared chemical facilities, the Organisation for the Prohibition of Chemical Weapons (OPCW), and the national authorities of other States Parties.

Through a system of permits and notifications under the *Chemical Weapons (Prohibition) Act 1994* and the Customs (Prohibited Imports) Regulations, ASNO gathers information from chemical industry including traders, universities and research institutions to compile declarations that Australia must submit to the OPCW. ASNO has the right to conduct compliance inspections of relevant facilities in Australia, but such powers are exercised only in exceptional circumstances. ASNO conducts outreach activities, including site visits, to promote compliance and to check the accuracy of information provided by industry.

The OPCW conducts routine inspections of facilities listed in Australia's CWC declarations. ASNO facilitates these inspections to ensure Australia's obligations are met, and to protect the rights of facility operators.

ASNO promotes effective international implementation of the CWC, particularly in Australia's region. It works with the OPCW and other States Parties in the formulation of verification policy and by providing practical implementation assistance and advice.

Key CWC functions are:

- Australia's point of contact for liaison on CWC implementation
- identifying and gathering information on industrial chemical facilities and other activities required to be declared to the OPCW
- preparing for and facilitating OPCW inspections in Australia
- promoting awareness and effective implementation of the CWC, both domestically and internationally
- providing technical and policy advice to Government
- administering and developing related regulatory and administrative mechanisms.



Chemical production facility and ASNO representatives with the OPCW Inspection Team during a routine industry inspection at a declared chemical facility in NSW, May 2011.

Chemical Weapons (Prohibition) Act 1994

The *Chemical Weapons (Prohibition) Act 1994* (the CWP Act) was enacted on 25 February 1994. Division 1 of Part 7 of the CWP Act (establishing Australia's national authority for the CWC, and the position of its Director), and sections 95, 96, 97, 99, 102, 103, and 104 were proclaimed on 15 February 1995. Other provisions of the CWP Act which expressly relied on the CWC came into effect on 29 April 1997 when the CWC entered into force. The final parts of the CWP Act, dealing with routine compliance inspections of Other Chemical Production Facilities, came into effect on 17 August 2000.

The CWP Act gives effect to Australia's obligations, responsibilities and rights as a State Party to the CWC. In particular, the CWP Act:

- prohibits activities connected to the development, production or use of chemical weapons, including assisting anyone engaged in these activities, whether intentionally or recklessly — such offences are punishable by life imprisonment
- establishes permit and notification systems to provide a legal framework for the mandatory provision of data to ASNO by facilities which produce or use chemicals as specified by the CWC, so that ASNO can lodge declarations with the OPCW
- provides for routine inspections of declared facilities and challenge inspections of any facility or other place in Australia by OPCW inspectors to verify compliance with the CWC, and for inspections by ASNO to verify compliance with the CWP Act
- provides for procedures should another State Party seek clarification concerning compliance with the CWC at any facility or other place or by any person in Australia.

Regulations under the CWP Act prescribe procedures and details of other arrangements provided for in the CWP Act. In particular, the Regulations define conditions that are to

be met by holders of permits issued under the CWP Act, and for granting privileges and immunities to OPCW inspectors when in Australia to carry out inspections.

The text of the CWC is reproduced in the Schedule to the CWP Act. The manner in which any powers are exercised under the CWP Act must be consistent with, and have regard to, Australia's obligations under the Convention.

The CWP Act was amended on 6 April 1998. The amendments refine administration of the CWP Act by simplifying compliance obligations for facilities requiring permits, clarifying the legislative basis for Australia to implement some of its obligations under the CWC, correcting drafting errors and improving certain procedures, including those related to secrecy. For consistency, concomitant Regulations were amended on 17 December 1998.

On 4-5 December 2006, two minor technical amendments to the text of the Verification Annex of the Convention accepted by Australia were set out in the Regulations. At the same time, a second amendment to the Regulations took effect to ensure that facilities producing or using highly toxic Part A Schedule 2 chemicals in low concentrations are captured under the permit system prescribed under the CWP Act.

Minor amendments were made to the CWP Act on 10 April 2007, as part of the *Non-Proliferation Amendment Act 2007*. Amendments included repealing subsection 8(2) thereby removing the requirement that approved forms or procedures made pursuant to the CWP Act are disallowable instruments. Approved forms or procedures under the CWP Act specify matters that are essentially administrative in character, and do not fit the definition in section 5 of the *Legislative Instruments Act 2003*.

Other Functions

South Pacific Nuclear Free Zone Treaty

The South Pacific Nuclear Free Zone (SPNFZ) Treaty, (also known as the Treaty of Rarotonga) prohibits the manufacture, possession, stationing and testing of nuclear explosive devices, as well as research and development relating to manufacture or production of nuclear explosive devices, in any area for which the Signatory Parties are responsible. The SPNFZ Treaty also bans the dumping of radioactive waste at sea. Australia ratified the Treaty on 11 December 1986, providing the final trigger for its entry into force. The treaty has 13 full members: Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Samoa.

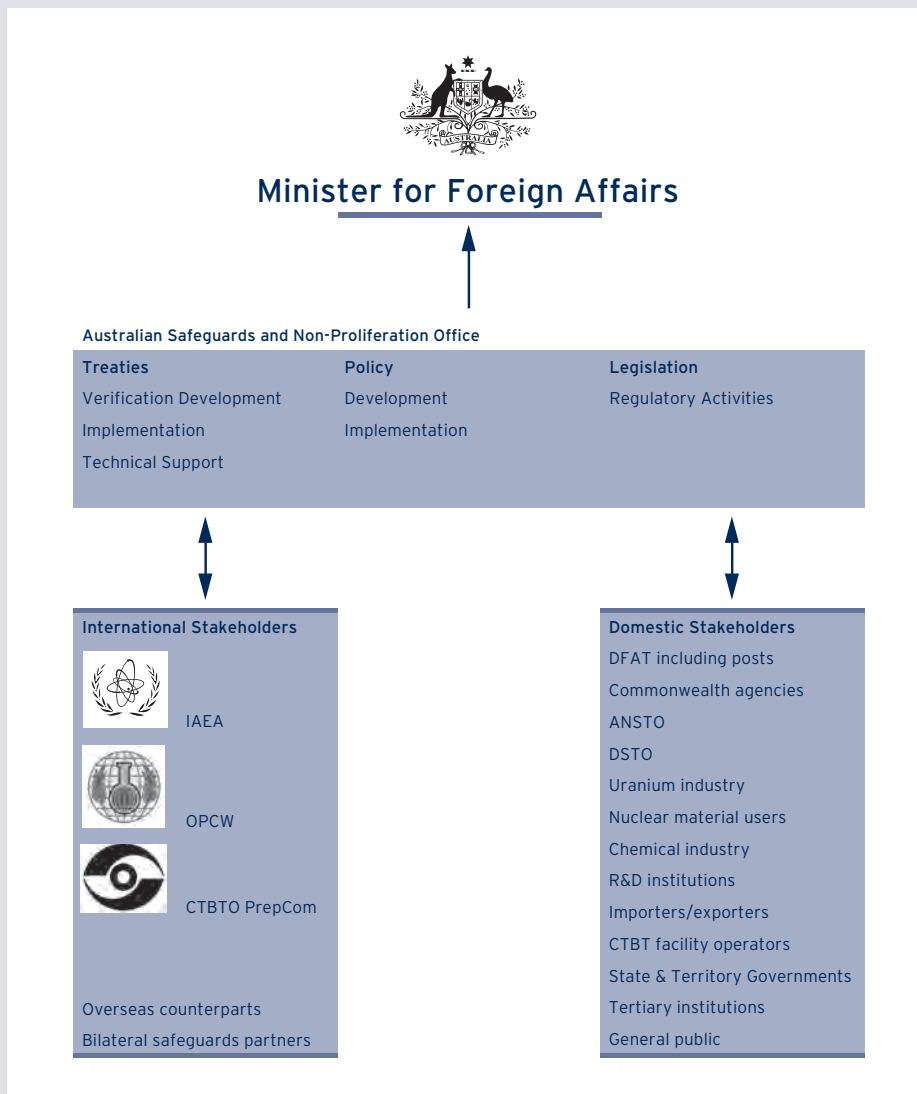
The SPNFZ Treaty has three protocols. Under Protocol 1 the US, UK and France, are required to apply the basic provisions of the Treaty to their respective territories in the zone established by the Treaty. Under Protocol 2, the US, France, UK, Russia and China agree not to use or threaten to use nuclear explosive devices against any party to the Treaty or to each others' territories located within the zone. Under Protocol 3, the US, France, UK, Russia and China agree not to test nuclear explosive devices within the zone established by the Treaty. France and the United Kingdom have ratified all three protocols. Russia and China have ratified the protocols relevant to them, Protocols 2 and 3. The US is the only NWS yet to ratify the SPNFZ protocols; however, these have been submitted to the US Senate for advice and consent prior to ratification.

South Pacific Nuclear Free Zone Treaty Act 1986

The *South Pacific Nuclear Free Zone Treaty Act 1986* (SPNFZ Act), which came into force in Australia on 11 December 1986, gives effect to Australia's obligations, responsibilities and rights under the Treaty. The SPNFZ Act also establishes the framework for SPNFZ Treaty inspections. Safeguards Inspectors appointed under the Safeguards Act are also inspectors for the purposes of the SPNFZ Act. These inspectors are to assist SPNFZ Treaty inspectors and authorised officers in carrying out Treaty inspections and to investigate possible breaches of the SPNFZ Act.

Operating Environment

FIGURE 3: ASNO'S OPERATING ENVIRONMENT



Outcomes and Outputs Structure

FIGURE 4: ASNO'S OUTCOMES AND OUTPUTS STRUCTURE

Outcome 1: Australian and international security protected and advanced through activities which contribute to effective regimes against the proliferation of nuclear and chemical weapons.		
Output 1.1	Operation of Australia's national system of accounting for, and control of, nuclear material, items and facilities.	
Output 1.2	Protection of Australia's nuclear facilities, nuclear material and nuclear items against unauthorised access and sabotage. Internationally agreed physical protection standards applied to Australian Obligated Nuclear Material overseas.	
Output 1.3	Nuclear material and associated items exported from Australia under bilateral agreements remain in exclusively peaceful use.	
Output 1.4	Contribution to the development and effective implementation of international safeguards and the nuclear non-proliferation regime.	
Output 1.5	Regulation and reporting of Australian chemical activities in accordance with the Chemical Weapons Convention, and strengthening international implementation of the Convention.	
Output 1.6	Development of verification systems and arrangements in support of Australia's commitments related to the Comprehensive Nuclear-Test-Ban Treaty	
Output 1.7	Contribution to the development and strengthening of other weapons of mass destruction non-proliferation regimes.	
Output 1.8	Provision of high quality, timely, relevant and professional advice to Government.	
Outcome 2: Knowledge about Australian's efforts to prevent the proliferation of weapons of mass destruction enhanced through public advocacy.		
Output 2.1	Provision of public information on the development, implementation and regulation of weapons of mass destruction non-proliferation regimes, and Australia's role in these activities.	



Ambassador and Permanent Representative to the United Nations in Geneva and to the Conference on Disarmament, Peter Woolcott (second from the right) chairing expert discussions on a possible Fissile Material Cut-off Treaty assisted by ASNO's Malcolm Coxhead.