



Australian Institute of International Affairs

Diplomatic History Series | 2



AN ENDURING CONTRIBUTION?

*Australia's Term on the United Nations
Security Council (2013-2014)*

Michael Bliss

**AN ENDURING CONTRIBUTION?
AUSTRALIA'S 2013-2014 TERM AS AN
ELECTED MEMBER OF THE UNITED
NATIONS SECURITY COUNCIL**

Michael Bliss

*With an afterword by Gary Quinlan AO, former Australian
Ambassador and Permanent Representative of Australia to the
United Nations (2009-2014)*



Australian Institute of International Affairs



© Australian Institute of International Affairs 2021

ISBN: 978-0-6451551-9-8

This publication may be distributed on the condition that it is attributed to the Australian Institute of International Affairs.

Any views or opinions expressed in this publication are not necessarily shared by the Australian Institute of International Affairs or any of its members or affiliates.

Cover image: Russ Allison Loar, “UN Security Council & UN Security Guard”, licensed under CC BY-NC-ND 2.0.

Australian Institute of International Affairs
32 Thesiger Court, Deakin ACT 2600, Australia
Telephone: 02 6282 2133
Facsimile: 02 6285 2334
Website: www.internationalaffairs.org.au
Email: admin@internationalaffairs.org.au

Series Editor: Bryce Wakefield
Editor: Cahill Di Donato



Michael Bliss is a senior Australian diplomat, international lawyer and public servant, with over two decades experience with Australia's Department of Foreign Affairs and Trade. He has served twice at the Australian Permanent Mission to the United Nations in New York – as Legal Adviser in 2001-2004, and as Political Coordinator of Australia's UN Security Council team in 2013-2014. He has also served in Jakarta (2008-2012) as head of the Political and Economic branch, and in senior multilateral and international law roles in Canberra. His work has taken him to every continent, including Antarctica. He has law and commerce degrees from UNSW, and Masters of Law degree from Columbia University in New York, which he attended as a Fulbright Scholar. Michael has taught as a Visiting Fellow at Columbia University and ANU, and published on a range of international law and multilateral issues.

TABLE OF CONTENTS

<u>EDITOR'S NOTE</u>	<u>6</u>
<u>PROLOGUE & ACKNOWLEDGEMENTS.....</u>	<u>7</u>
<u>INTRODUCTION.....</u>	<u>9</u>
<u>SYRIA HUMANITARIAN ISSUES.....</u>	<u>19</u>
<u>SMALL ARMS.....</u>	<u>26</u>
<u>MH17.....</u>	<u>32</u>
<u>POLICING AS INTEGRAL TO PEACE OPERATIONS</u>	<u>42</u>
<u>SANCTIONS.....</u>	<u>47</u>
<u>NORTH KOREA.....</u>	<u>53</u>
<u>HUMAN RIGHTS.....</u>	<u>59</u>
<u>ACCOUNTABILITY.....</u>	<u>62</u>
<u>WOMEN, PEACE AND SECURITY.....</u>	<u>66</u>
<u>PEACEKEEPING AND THE PROTECTION OF CIVILIANS.....</u>	<u>70</u>

<u>PEACEBUILDING</u>	<u>77</u>
<u>AFGHANISTAN</u>	<u>80</u>
<u>COUNTER-TERRORISM</u>	<u>83</u>
<u>A VOICE FOR THE REGION?</u>	<u>86</u>
<u>NAVIGATING THE PRESIDENCY</u>	<u>89</u>
<u>THE WORKINGS OF THE COUNCIL.....</u>	<u>95</u>
<u>DEPARTING THE COUNCIL.....</u>	<u>101</u>
<u>INITIAL ASSESSMENTS</u>	<u>103</u>
<u>AN ENDURING CONTRIBUTION?.....</u>	<u>108</u>
<u>CONCLUSION</u>	<u>112</u>
<u>EPILOGUE.....</u>	<u>113</u>
<u>AFTERWORD (GARY QUINLAN AO).....</u>	<u>116</u>

Editor's Note

Dr. Bryce Wakefield

National Executive Director of the Australian Institute of International Affairs

As a nation that positions itself as a champion of the rules-based international order, few, if any roles can be as important as a seat on the United Nations Security Council. Michael Bliss's account of Australia's experience and achievements on the Council in 2013-2014 is a telling record of the impact a motivated and committed elected member can have, despite the at times very significant obstacles. His account recognises that, while the failures and shortcomings of the Council, so starkly evident during Australia's term, have now become even starker, elected members are demonstrating a greater readiness and ability to contribute and positively influence the Council's work. Based on Australia's experience in 2013-2014, Gary Quinlan's afterword asks the question of whether the Council has a future? Australia is a declared candidate for election for the 2029-2030 term but what kind of Council might we face and what are the dynamics that will affect our role?"

As an organisation that seeks to help Australians know, understand and engage more in international affairs, the Australian Institute of International Affairs was delighted to work with Michael Bliss to publish this important work. The very purpose of the institute's diplomatic history series is to offer insights from seasoned experts who may inform a new generation of diplomats on the nature of diplomacy and the tasks ahead of them. Given that Australia is positioning itself for another term on the security council, that new generation will certainly benefit from Bliss's wisdom and experience.

Prologue & Acknowledgements

As Australia's two-year term on the United Nations Security Council came to an end in December 2014, it became clear that the first assessments of Australia's performance on the Council would be written quickly and in broad brush strokes by media, and the second by the relatively few academics and civil society organisations dedicated to following Security Council developments. These contributions were welcome and necessary. However, none quite captured the view of Australia's contribution from the Security Council table itself, nor the consultations room adjacent to it.

At some point, Ambassador Gary Quinlan AO and I, Australia's Political Coordinator during the Council term, agreed that there was an Australian story still to be told, ideally by a member of the Australian Council team. At some later point, it emerged that I was to be that author. Gary and I agreed that the account should not merely provide a "greatest hits" of Australia's contributions to the Council during its fifth term, but also seek to assess whether, with the perspective of some years, this amounted to "an enduring contribution." A subsequent conversation with Allan Gyngell AO, President of the Australian Institute for International Affairs (AIIA), confirmed that this was the sort of Australian diplomatic history the AIIA was looking to record and publish.

I am grateful for the thoughtful comments and contributions provided by Victoria Coakley, Jeremy Farrall, Richard Gowan, Tanisha Hewanpola, Ian Martin, Adam McCarthy, Gary Quinlan, Richard Rowe, Peter Scott, Lisa Sharland, Haana Singer, Damian White, David Yardley and members of the Security Council Report team in New York to the monograph. These contributions ensured a significantly improved product.

As part of Australia's Council team, I acknowledge the leadership of Permanent Representative Quinlan and Deputy Permanent Representative Philippa King respectively, and the contribution of all members of Australia's Permanent Mission to the United Nations in New York, across the Security Council term. I also recognise the contribution of the DFAT-led interdepartmental team working in Canberra, and that of many officers across Australia's diplomatic network, to realise Australia's Council objectives. I hope that this monograph adequately captures the breadth, depth, quality and intensity of those contributions.

I thank Gary Quinlan for his Afterword, and for his consistent support for this project.

The guidance provided by Allan Gyngell, Bryce Wakefield and the AIIA is gratefully acknowledged, as is the guidance of the review board and the editorial contribution of Cahill Di Donato and Rebecca Penny.

I also acknowledge the generosity of the Australian National University College of Law in providing a visiting fellowship, space to work, and colleagues to encourage me.

This monograph and the views expressed therein are entirely my own and should not be taken to reflect the views of successive Australian governments, nor the Department of Foreign Affairs and Trade. I remain solely responsible for any and all shortcomings.

This monograph is dedicated to the memory of Professor Ivan Shearer.

Michael Bliss, February 2021

Introduction

The end of an elected member's term on the United Nations Security Council (UNSC) comes abruptly. After an intense two years as one of fifteen members of the world's most powerful multilateral body, at the stroke of midnight on 31 December 2014, Australia completed its term and returned to observe the work of the Council from the ranks of the General Assembly. Assessments of Australia's performance came quickly and from a range of quarters. Then-Foreign Minister Julie Bishop assessed that Australia had "performed with distinction," and asserted that its term had been "lauded internationally."¹ Australian media generally agreed. International commentators assessed Australia's contribution to be an example of "what an elected member could do."² For members of the Australian Council team, such recognition was reassuring. All objectives, it seemed, had been achieved.

In the first few months of 2015, Bishop made a major speech on Australia's term.³ Ambassador Gary Quinlan, Australia's Permanent Representative to the United Nations in New York during the campaign and the Council term, the author, and other members of the Australian delegation also spoke at a number of events addressing Australia's contribution to the Security Council.⁴ Lessons learned were collated and internal training on the outcomes conducted. Perhaps the most ringing endorsement came on 30 September 2015, when Bishop announced to

¹ Foreign Minister Julie Bishop, Address to United Nations Association of Australia, 25 March 2015.

² Richard Gowan, "Australia on the Security Council", Lowy Institute Analyses 12 June 2014, <https://www.loyyinstitute.org/publications/australia-un-security-council>, accessed 29 November 2019

³ *ibid*, note 2.

⁴ "Australia's term on the United Nations Security Council: Was it worth it?", Presentation by Gary Quinlan to Australian Institute of International Affairs, ACT Branch, 16 April 2015; similar presentations made to Sydney and Melbourne Branches, <https://www.internationalaffairs.org.au/resource/aiia-act-mr-gary-quinlan-presents-australias-term-on-the-United-nations-security-council-was-it-worth-it/>; Bliss, M. "The United Nations Security Council as International Law Maker: From San Francisco to Syria", Paper delivered to Australian and New Zealand Society of International Law Annual Conference, 2 July 2015, Wellington, New Zealand; Bliss, M. "International Humanitarian Law: Does it help?" remarks to the UN Association of Australia Annual Conference, Australian National University, 22 August 2015.

the UN General Assembly (UNGA) that Australia intended to seek a sixth term on the Security Council, for the 2029-2030 term.⁵

This monograph, published six years after the conclusion of Australia's 2013-2014 term as an elected member of the Security Council, seeks to address three interlinked questions that could not be fully addressed in the period immediately after Australia's term on the Council. Has the Australian contribution during 2013-2014, or at least elements of it, endured? Was it worth it? And finally, should Australia seek re-election to the Council for a sixth term?

These are not straightforward questions to answer. The Council is an executive body. At its best, it works collectively and collegiately. However, there are inherent difficulties in attributing specific developments to particular members, and there are attendant risks in claiming credit or influence for particular outcomes. Further, identifying the precise benefits Australia derived from Council membership is not straightforward – but essential to determining whether membership “was worth it.”

This monograph does not purport to be an objective research piece on the topic. As a member of the Australian 2013-2014 Security Council delegation, the author makes no claim to be an objective or disinterested scholar. However, as a member of the Australian delegation in 2013-2014 and observer of the Security Council since, the author seeks to put forward a participant's view on the questions posed.

The monograph reviews Australia's overall approach to Council membership, then addresses in turn each of the key issues upon which Australia focused during its term. In each case, the monograph first recounts the manner in which Security Council consideration of the

⁵ “Australia to seek seat on UN Security Council in 2029-2030, says Julie Bishop”, Daniel Hurst, The Guardian, 30 September 2015; <https://www.theguardian.com/australia-news/2015/sep/30/australia-to-seek-seat-on-un-security-council-in-2029-30-julie-bishop-says>

issue unfolded during 2013-2014, and then reviews developments over the subsequent six years. The monograph then considers whether these assessments evidence an enduring and significant contribution by Australia – or, at least, a discernible thread of influence on particular issues. The monograph then considers whether the effort to seek Council membership and then contribute as an elected member was worthwhile to Australia’s national interests. Finally, the monograph considers the merits of pursuing a sixth term on the Security Council towards the end of the decade.

The Lead-up to Australia’s United Nations Security Council Membership

Australia’s first-round election win on 18 October 2012 in a challenging three-way contest for two Western European and Other Group (WEOG) seats was the culmination of an intense four-year campaign. As the results were read out in the General Assembly Chamber, the Australian delegation in New York, led by then-Foreign Minister Bob Carr, was euphoric. So too was the small group of multilateral tragics, including this author, watching proceedings live from the Department of Foreign Affairs and Trade (DFAT) headquarters at 3 a.m. Canberra time. The celebrations were brief. The resounding result made clear that the UN member states expected much of Australia as an elected member.

Council membership had become far more demanding in the period since Australia had been last on the Council in 1985-1986. The Council had met at most a couple of times a week and had been deadlocked on almost all issues. Only a handful of resolutions were passed each year. However, since 1992, the Council’s level of activity and breadth of engagement had increased dramatically. By 2012, the Council was actively engaged on over 40 country situations and thematic issues, monitoring the performance of 15 peacekeeping operations involving over 100,000 UN Personnel and numerous Special Political Missions, and overseeing 14 sanctions regimes. In addition, the Council had

established and was overseeing two international criminal tribunals and engaged in a burgeoning array of thematic issues. It was almost constantly in session. During the ten-week lead up to assuming membership, Australia had a dramatic reminder of the breadth and depth of the challenges facing the Council. Early November saw the sudden fall of Goma in the Democratic Republic of the Congo (DRC) with the world's largest UN peacekeeping mission, the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO), failing to protect civilians from attack by the advancing M23 militia, despite being expressly mandated to do so. An outbreak of conflict after rocket attacks on Israel by Hamas forces from Gaza had triggered a concerted Israeli military response, without formal Council comment. Soon after Australia joined the Council in January 2013, Seleka Islamist forces advanced towards the capital of the Central African Republic, Bangui; and in Mali, French forces commenced military action – Operation Serval – against Islamist militants advancing towards the capital, Bamako. In late December and early January, North Korea conducted a missile launch and nuclear test in violation of a raft of binding Council resolutions. All the while, the Syrian conflict continued to metastasize, with ever more devastating consequences.

Australia, therefore, came onto the Council acutely aware of the massive demands and responsibilities of membership and the UN member states' and civil society's high expectations of Australia.⁶ The Australian delegation knew the Council's credibility was in question and that the Council would be judged largely on how it responded to the most significant crises before it. The delegation was also aware that where the Council was unable to discharge its mandate for the maintenance of international peace and security, all 15 members would carry that collective failure.

⁶ See for example "Off the bench: How Australia can make a difference on the UN Security Council for people caught up in conflict", Oxfam, 22 October 2012; <https://www.oxfam.org.au/wp-content/uploads/2012/10/off-the-bench-report.pdf>, accessed 26 November 2019.

The delegation was also aware that relations between Security Council members were strained. Differences over how the Council had dealt with Libya and Syria had accentuated existing fault lines amongst the five Permanent Members (P5 – China, France, Russia, the United Kingdom (UK) and the United States (US), each possessing the power of veto) over questions of sovereignty, intervention and the Responsibility to Protect. Further, the entrenchment of the penholder system whereby leadership on almost every specific country and the thematic issue was self-assigned by one of the permanent three (P3 – France, US and UK) had entrenched P5 dominance and correspondingly was perceived to have further diminished the role of the elected ten members of the Council (E10).⁷ Indeed, one Permanent Representative of a Permanent Member counselled the Australian delegation that the key to elected member success was to identify one or two niche issues and to concentrate on those, rather than seek to engage across the breadth of the Council agenda.⁸

Australia ignored that advice. Having not served on the Council for 27 years, Australia was determined to make the most of this hard-won opportunity. Despite the parlous state of Council dynamics, Australia was convinced that an informed, committed and determined elected member could play a constructive role on the Council in tackling key issues, and on occasion bring the P5 together. Article 24 of the UN Charter made clear that members of the Council represent all UN member states⁹, and that elected members could not therefore pick and choose the issues on which they engaged. Nor would Australia have the opportunity to ease into the role; advice to the Australian delegation

⁷ See for example “The Penholder System”, Security Council Report, <https://www.securitycouncilreport.org/research-reports/the-penholder-system.php>, published 21 December 2018, accessed 15 April 2020.

⁸ Private conversation, December 2012.

⁹ Article 24(1) of the UN Charter states “In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.”

from outgoing member Germany that an elected member “could not afford to take six months to get up to speed” was internalised.¹⁰

Australia identified a range of issues that it would pursue throughout its term. These were honed carefully and promoted relentlessly during the election campaign. These issues included the protection of civilians, humanitarian issues, human rights, regional engagement, sanctions, policing, Women, Peace and Security, and the nexus between security and development. The delegation looked for opportunities to further those objectives and pursued them doggedly. However, as we had been counselled by several prior elected members, a crucial and significant part of Council membership would be responding to rapidly unfolding and unforeseen events. Flexibility and responsiveness would be crucial. This proved to be the case throughout Australia’s term.

Significant effort went into establishing the appropriate structures for Council membership in New York, Canberra and at key posts relevant to the Council’s agenda. Gary Quinlan and Philippa King continued in their positions as Permanent Representative and Deputy Permanent Representative respectively, and between them they lead most of Australia’s engagement in Council meetings. The author arrived quickly from Canberra to take up the position of Political Coordinator, responsible for the overall coordination of Australia’s engagement as a Council member. Most of the officers of the Mission who had campaigned for Australia’s election to the Council stayed on to serve for the Council term. The networks each had built up and the deep subject matter knowledge they had acquired during the campaign, as well as detailed understanding gained of specific country positions and priorities concerning situations on the Council agenda. proved to be invaluable.

¹⁰ Conversation with senior members of Germany’s Security Council delegation, Dec 2012.

Positions for seven additional officers were established for the Australian Permanent Mission in New York and were quickly filled. A three-person media unit was established to boost the Mission's ability to monitor events relevant to the Council in almost real-time and to ensure an active and timely social media presence. To ensure that the mission could pursue its ambitious agenda on sanctions, a three-person sanctions team was also established; something no other elected member had previously done. In addition to the DFAT team, the mission's UNSC team included posted officers from Australian Aid,¹¹ the Department of Defence, and the Australian Federal Police (AFP). Each were to play significant roles in pursuing specific parts of Australia's agenda.

On 01 January 2013, Australia joined a Council that looked quite different from configurations in the immediately preceding years. A number of states with aspirations for Permanent Membership – Brazil, Germany, India, Japan – had served in preceding years, with each seeking to press their credentials in ways not always appreciated by the P5. Further, the Council's decision in 2011 to authorise the use of force in relation to Libya and the actions taken subsequent to that decision, had deeply divided the Council and bled into a number of other issues. With the transition out of the five elected members who had served in 2011-2012, none of the E10 in the 2013 configuration of the Council had been involved in the Council's decisions on Libya. While there was some hope that this might enable a slight improvement in Council dynamics, fissures amongst the P5 remained.

Regardless, the 2013 configuration of the Council looked relatively promising from Australia's perspective. Australia was confident that it could work effectively with each of the elected members in their second year – Guatemala, Morocco, Nigeria, Pakistan, and Togo. The fact that there was not an obvious spoiler amongst these five was welcome. The Australian delegation worked particularly closely with Guatemala on its

¹¹ The Australian Agency for International Development and DFAT were integrated in November 2013.

initiatives related to accountability issues, and Pakistan on its leadership on peacekeeping.

The other four states elected to serve on the Council for 2013-2014 were also countries Australia assessed it could work with productively. Australia had a strong and growing bilateral relationship with the Republic of Korea, particularly on international security issues. Both states saw a real opportunity to further strengthen this relationship during their respective terms. In particular, Australia and the Republic of Korea's strong shared interest in ensuring the Council dealt effectively with the nuclear proliferation threat to the Asia-Pacific region posed by North Korea ensured that they would work closely together on that issue and others. Further, Australia had long worked closely with Argentina across a broad range of multilateral bodies, including as G20 members. Australia assessed there to be considerable overlap in policy approaches to key situations before the Council. The physical proximity of the two countries at the Council table was a reality that had already assisted mutual understanding in many multilateral conference rooms and proved to be a positive factor in the Council. While Australia's relations with Luxembourg had been polite but somewhat brittle during the campaign, each acknowledged the other's commitment and tradecraft. This mutual respect formed the basis for a close partnership on the Council. Australia also assessed that Rwanda's experience emerging from conflict, suffering one of the Council's most visible protection failures, and serving as a major peacekeeper in the region meant it would be an active and effective member of the Council and one with whom Australia could productively collaborate.

In a demonstration of P5 dominance over Council activity, each year, a P5 member assigns responsibility for the Council's "subsidiary bodies" – the sanctions committees, and certain thematic working groups – amongst the elected members. While there is a degree of consultation, the final allocation ultimately rests with the P5. It was the UK which

held responsibility for the allocation of tasks amongst elected members for 2013. The Australian delegation made clear from the outset that it sought a challenging workload - the Al-Qaeda and Taliban Sanctions Committees and the Sanctions Committee on North Korea. In addition, the delegation emphasised its expectation that it would inherit the “pen” on Afghanistan from Germany – one of the few country files for which the pen was not held by the P3. The delegation pointed to Australia’s significant national interest in each of these issues.

A few days later, the Australian delegation was informed that the P5 had agreed that Australia would take on the chair of the Al-Qaeda and Taliban sanctions committees. No other elected state had volunteered for the demanding role. However, it appeared that China was not comfortable with Australia presiding over the Sanctions Committee on North Korea. The role of chairing the Iran Sanctions Committee was suggested instead. Australia readily agreed – the Committee formed a key element of a UN sanctions regime designed to prevent Iran from developing nuclear weapons, a key Australian international security objective. In relation to Afghanistan, despite the fact that Germany had held the pen for 2011-2012, the UK advised that Russia now appeared to want the “pen” for itself. The UK was not sure how Australia might address this development but recommended against a direct approach to Russia.

After a few weeks, with our Council membership soon to commence, Australia still had no clarity on the Afghanistan pen question. Determined to resolve the situation before Australia took its seat, Quinlan took advantage of a chance encounter with Russian Permanent Representative Vitaly Churkin one evening on First Avenue, Manhattan, to resolve the matter. Quinlan noted Australia’s interest and asked Churkin whether there was any truth to rumours that Russia was seeking the Afghanistan pen for itself. Churkin smiled, took a pen from his suit

jacket pocket, and placed it in Quinlan's suit jacket pocket. "You can have it," he said. "I was just making mischief."

In the first few months of 2013, the Australian delegation threw itself into the daunting workload of the Council. Advice previously received about the pace of Council work, the dominance of the P5, and the need for flexibility and responsiveness all proved correct. As a newly elected member, it was clear that Australia needed to be up to speed and ready to contribute across all aspects of the agenda in order to be taken seriously by the P5. In describing the experience of Australia's entry onto the Council, the author took to equating it with "walking into a room in which there were 40 long-running conversations underway and trying to contribute immediately and meaningfully to each one."

This monograph does not seek to comprehensively consider the manner in which the Council addressed the broad agenda it faced across 2013-2014, nor the way in which Australia engaged as an elected member across all aspects of that agenda. Rather it will focus on issues on which Australia sought to play a leading or central role during its term, and assist considerations as to whether Australia can be said to have made an enduring contribution to the Council during that term.

Syria Humanitarian Issues

The Syrian conflict dominated Australia's term on the Council like no other. Underway for 18 months prior to the commencement of Australia's term, the conflict deteriorated massively and inexorably over the following two years. Estimates of casualties were 50,000 at the start of 2013. By the end of 2014, the estimate was over 200,000. Civilians were deliberately and routinely targeted by government forces and armed extremists. The use of siege, starvation and surrender tactics, the indiscriminate dropping of barrel bombs on civilian areas and, later, the use of chemical weapons, all became defining features of the conflict. The Council regularly received reports on the detention, torture and execution of tens of thousands of individuals perceived to be opposing the regime.

In Australia's first few months as a member, the Council received a series of devastating briefings by UN officials on the situation in Syria. These briefings detailed the appalling extent of International Humanitarian Law (IHL) and human rights violations committed primarily by the Syrian regime and advised the Council that humanitarian access to a significant proportion of the Syrian population was proving impossible. During these briefings, the Council was urged repeatedly to use the full range of its powers to ensure the protection of civilians and to bring an end to the conflict. The vast majority of Council members agreed that the Council should do so. However, there was an overwhelming sense among the P3 that any further Council response on Syria was impossible, given previous vetoes by Russia and China. The prospect of the Council playing any further role on any aspect of the Syrian conflict appeared remote.

For Australia, the thought of spending its term as a bystander to Syria's self-destruction was anathema. The delegation proposed to Canberra

that Australia look for an opportunity to take the lead on seeking to address the dramatic humanitarian consequences of the conflict. Canberra endorsed this approach.

After another briefing by UN officials in April 2013 describing the extent of recent humanitarian suffering, the Australian delegation took the initiative of convening an expert-level meeting. Experts emerged after four hours with “press elements” - some basic points orally agreed by the Council – on the importance of addressing the humanitarian crisis. As the first Council product on Syria in almost 18 months following three vetoed draft resolutions, this was a small but significant indication that some progress – at least on the humanitarian question – might be possible.¹²

Over the next five months Australia, joined by Luxembourg, worked towards a Council product calling for all parties to the armed conflict to abide by their IHL obligations and to ensure humanitarian access to the civilian population. This involved painstaking negotiations, firstly with the P3 and then with the P5, while closely consulting with the Coordinator for Humanitarian Affairs, Valerie Amos, throughout. The text, adopted as a Presidential Statement on 02 October (by consensus, as required for a such a product), was welcomed as a breakthrough in Council engagement on Syria.¹³ The fact that it had been secured against the backdrop of intense US-Russia negotiations on a response to the use of chemical weapons in Syria rendered the result even more remarkable.

However, by early 2014, it was already clear that the exhortations in the Presidential Statement were not having the desired effect. Australia and Luxembourg, together with Jordan, which had just joined the Council, therefore set about securing a Resolution which would reinforce the

¹² Langmore and Thakur note, following interviews of Council participants, that “when Australia picked up the pen on the issue of humanitarian access, it was greeted with scepticism by the P5,” John Langmore & Ramesh Thakur, *The Elected but Neglected Security Council Members*, *The Washington Quarterly*, vol 3 (2016) Issue 2, pp 99-114, published online 25 Jul 2016, <https://journals.sagepub.com/doi/full/10.1177/1354066116669652>, accessed 16 May 2020.

¹³ S/PRST/2013/15, accessible at <https://www.securitycouncilreport.org/un-documents/document/sprst201315.php>

Council's demands that all parties abide by IHL and permit unhindered humanitarian access. Resolution 2139, adopted by the Council on 22 February 2014, realised this. It was a singular achievement – demonstrating that the Council could reach agreement on key aspects of the Syrian crisis and that elected members could break through an entrenched P5 division to lead the Council to consensus on a crucial issue.

When reports from the Office for the Coordination of Humanitarian Affairs (OCHA) in subsequent months revealed that the Assad regime was not complying with the obligations under Resolution 2139 to facilitate humanitarian access, the three co-sponsors decided a further step was necessary. Quinlan was instrumental in bringing the Permanent Representatives of the P5 together around a practical text designed to ensure effective humanitarian access. Resolution 2165, adopted on 14 July 2014 by the Council, declared that “the devastating humanitarian situation in Syria constitute[d] a threat to international peace and security,”¹⁴ and authorised humanitarian actors to deliver assistance across Syria's borders directly to populations in need. In doing so, the Council broke new ground, elevating pressing humanitarian imperatives over the traditional requirement of host-state consent, a central element of sovereignty.

The impact on the ground was immediate. The first convoy of trucks crossed the Turkish border into Syria ten days after the adoption of Resolution 2165.¹⁵ During the period 24 June 2014 – 10 January 2015, cross border humanitarian aid reached almost 1.6 million previously unreachable beneficiaries.¹⁶ While obstacles to access remained, and UN and humanitarian actors were sometimes reluctant to fully utilise its

¹⁴ United Nations Security Council Resolution 2165, preamble.

¹⁵ “First UN convoy delivers cross-border aid to Syria from Turkey,” United Nations Turkey Newsletter, August 2014, <http://www.bmdergi.org/en/cross-border-aid-convoy-arrives-in-northern-syria-from-turkey/>, accessed 01 February 2020.

¹⁶ UNOCHA Fact Sheet: United Nations cross-border operations from Turkey to Syria under UN SCR 2165/2191 as of 9 January; https://reliefweb.int/sites/reliefweb.int/files/resources/20150110_Fact_Sheet_final.pdf, accessed 01 February 2020.

provisions, Resolution 2165 represented an unequivocal statement as to where the international community drew the line of sovereignty in times of massive humanitarian crisis – on the side of the civilian population. Although Australia did not emphasise this point at the time, this was a pragmatic reinforcement of the responsibility to protect (R2P) principle, in the most challenging of contemporary armed conflicts.



Then-United Nations Security Council President and Permanent Representative of Australia to the United Nations Gary Quinlan briefs the press on the Syria Report on the use of chemical weapons in Syria (16 September 2013).

“Security Council President Briefs Press on Syria Report”, UN Photo/Paulo Filgueiras

With such demonstrated practical results, Australia, working with Luxembourg and Jordan, was able to renew the mandate in December 2014 through the adoption of Resolution 2191, and to extend the duration of the mandate to an annual one. Having secured first the Presidential Statement in October 2013, and then three successive Security Council Resolutions across 2014, it appeared that an enduring consensus on the humanitarian dimensions of Syria had been reached. In one of his final statements on the Council, Ambassador Quinlan made clear that Australia expected other Council members to take it forward.

Developments since 2015

Over the five years following Australia's term, the Syrian conflict continued to deteriorate. By early 2020, the almost decade long conflict had seen, by some estimates, over 500,000 killed, more than five and a half million refugees, and 6 million Syrians displaced inside their own country. OCHA assessed there to be 11.1 million Syrians in need of humanitarian assistance.¹⁷ In 2018, eight major human rights organisations assessed that there had been over 85 chemical weapons attacks since 2013, the vast majority carried out by the Syrian government forces.¹⁸

Despite this context, for most of that period, the approach to humanitarian issues in Syria established in 2014 through Resolutions 2139, 2165 and 2191 was upheld. Detailed reports from the field to the Council by OCHA and other actors detailing the positive impact of cross border humanitarian access authorised under Resolution 2165 have been crucial to that record. Comments such as the following by UN Deputy Regional Humanitarian Coordinator for Syria in Gaziantep, Ramesh Rajasingham, in 2017 have been typical. "Representing over a third of all humanitarian deliveries, the role of cross-border operations is absolutely vital. It's a lifeline... Millions of Syrians receive critical life-saving assistance and services as a result of UN Security Council Resolution 2165 (2014)."¹⁹

In the face of the ongoing conflict, cross border humanitarian access has continued to prove essential. In November 2019, UN Under-Secretary-General for Humanitarian Affairs Mark Lowcock told the Council that "millions across northern Syria — including 2.7 million who cannot be reached from within the country — continue to receive support from the

¹⁷ OCHA Humanitarian Update, Syrian Arab Republic, Issue 8, 28 January 2020, p.1 <https://m.reliefweb.int/report/3495373>, accessed 9 May 2020.

¹⁸ <https://www.hrw.org/world-report/2019/country-chapters/syria>

¹⁹ "Millions of Syrians benefit from cross-border operations", OCHA, <https://www.unocha.org/fr/story/millions-syrians-benefit-cross-border-operations>, accessed 21 March 2020.

United Nations cross border humanitarian assistance mechanism, first authorized under Council resolution 2165 (2014).” He continued that “[I]t is through these operations that we have been able to stave off an even worse humanitarian crisis in northern Syria,” he said, noting that “the cross-border mechanism has grown by over 40 per cent in the last year.”²⁰

While the Council consensus achieved in 2014 eventually frayed – with Russia and China abstaining on the renewal resolution 2393 in 2018²¹ – the mechanism of cross border humanitarian access was protected in successive resolutions for nearly five years.

When the time came for a further renewal of the Resolution 2165 mechanism in late 2019, it became apparent, however, that the positions of Russia and China had further hardened.

After difficult negotiations, the presentation of counter-drafts, and Russia and China using their vetoes to block a rollover text, the Council finally managed to adopt Resolution 2504 on 10 January 2020 – the day the mandate was due to expire. Unusually, four of the five Permanent Members abstained – Russia and China because the humanitarian access mechanism remained; the UK and US because it reduced the authorisation of cross border access points from four to two. It was the elected members that ensured some form of humanitarian access remained in place. While the reduction in the scope of the cross-border humanitarian access mechanism contained in Resolution 2504 was disappointing, the fact that the full cross border access mechanism established by Resolution 2165 had been maintained for more than five years was, by any measure, a considerable achievement.

²⁰ “Mandate Renewal for Cross-Border Assistance Mechanism Critical to Help Millions of Syrian Civilians, Top Official Tells Security Council” Summary record of 8664th Meeting SC/14020, 14 November 2019

²¹ Security Council Resolution 2449. See S/PV.8423

At least from the New York perspective, Australia's leadership of Council action on the humanitarian aspects of the Syrian conflict has come to define Australia's term. This appears due to the relative novelty of an elected member assuming a leadership role on a challenging and high-profile issue on which the Permanent Members were deadlocked. The degree of difficulty was high, and the risk of failure acute. Accordingly, as Ralph and Giffins observe, "there was an initial degree of surprise and scepticism amongst Council members that Australia would take such a leadership role."²² They assessed: "It is testament to the negotiating skill of the E3 (Australia, Luxembourg and Jordan) diplomats that they were able to ... [avoid] alienating either the P3 or the P2 (China and Russia)."²³

Ralph and Giffins further note that "insider interviews emphasised the significance of the pragmatic approach taken by the E3 penholders," noting that it was this "pragmatic commitment to practical problem solving that, to the surprise of some Council insiders, enabled the adoption of Resolution 2165." From the perspective of the delegation, there was little doubt that Australia's ability to secure the results on Syria humanitarian issues significantly enhanced Australia's standing, both on the Council and beyond – an outcome which Australia was able to leverage on other initiatives to good effect.

²² Ralph, Jason, & Giffins, Jess, The purpose of United Nations Security Council practice: Contesting competence claims in the normative context created by the Responsibility to Protect, *European Journal of International Relations*, Vol 23, issue 3, pp 630-653, first published on-line 07 October 2016, <https://doi.org/10.1177/1354066116669652> p.17.

²³ Ibid.

Small Arms

For Australia, the issue of “small arms” was an obvious one to highlight during its September 2013 Security Council presidency. As the Global Policy Forum noted in its seminal 2006 report “Small Arms: The real weapons of mass destruction?”, “small arms have a disproportionate impact – while accounting for only one-fifth of the global arms trade, they maim and kill far more than any other conventional weapons. Small arms were the most commonly used weapons - and in some instances, the only weapons - used in the 101 conflicts fought worldwide between 1989 and 1996. They are relatively inexpensive, portable and easy to use, and are effortlessly recycled from one conflict or violent community to the next. Their durability perpetuates their lethality.”²⁴

Despite this reality, the Security Council had never highlighted the issue as a thematic, cross-cutting element of its efforts to maintain international peace and security. Australia believed such a focus was overdue. The proliferation of small arms was an issue of direct relevance to the Indo-Pacific region. Having witnessed up close the conflicts in the Solomon Islands and Bougainville, Papua New Guinea in the 2000s, Australia understood the devastating impact that the uncontrolled flow of small arms into already unstable or fragile states could have. Further, Australia believed that its experience in leading the Regional Assistance Mission for the Solomon Islands provided a recent practical perspective on dealing with small arms that was of broad relevance to the Council’s work. Such a focus would also demonstrate that Australia was making good on its promise during the campaign to highlight regional perspectives on peace and security issues.

²⁴ “Small Arms: The Real Weapons of Mass Destruction”, Global Policy Forum, Integrated Regional Information Network, May 2006, <https://www.globalpolicy.org/component/content/article/204/42564.html>, accessed 21 March 2020.

The Australian delegation also understood the importance of the issue to African states. During its campaign to secure election to the Council, the Australian delegation in New York and Australia's diplomatic missions and special envoys had engaged closely with African states to ascertain their priorities and concerns. The unchecked proliferation of small arms across borders, and the dramatic pressures this placed on fragile states and states already in conflict, came up repeatedly as an issue requiring attention. It was apparent that Secretary-General Kofi Annan's comment in 2006 that "in terms of the carnage they cause, small arms ... could well be described as 'weapons of mass destruction'"²⁵ still resonated strongly with African states. African issues still constituted more than two-thirds of the Council's work, and the proliferation of small arms was a key driver of conflict in most of them.

Australia saw itself as a logical proponent, possessing strong general disarmament credentials, and having played a central role in ensuring a successful conclusion to negotiation and adoption of the Arms Trade Treaty (ATT) in the General Assembly earlier that year. Australia's Permanent Representative to the United Nations in Geneva, Ambassador Peter Woolcott, had chaired the final session of negotiations and pushed hard for all countries to come on board with the final text. When, in the final minutes of the conference, Iran, Syria and North Korea refused to join a consensus – which was a requirement of the rules of procedure of the diplomatic conference for a ATT– Woolcott ensured the issue was quickly taken up in the General Assembly, where the text was adopted by an overwhelming majority of states.

It was against this background of multilateral leadership that Australia put forward the first-ever draft Council resolution on small arms. The text sought to spotlight the devastating impact of the proliferation of small arms on fragile states and states in conflict, to highlight the

²⁵ "Small arms and light weapons – The real weapons of mass destruction", Bonn International Center for Conversion, www.warpp.eu/m5/articles/small-arms-and-light-weapons-the-real-weapoms-of-mass-destruction; accessed 19 March 2020.

capacity of small arms proliferation to undermine international peace and security, and the protection of civilians and Women, Peace and Security agendas; and urged states to consistently implement provisions of arms embargoes and sanctions on regimes relating to small arms. The text expressed the Council's "determination to continue to take practical steps to prevent the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons" and emphasised the role that UN peacekeeping operations should play in assisting states to uphold arms embargoes imposed by the Council.

Importantly, the draft also contained a strong message on R2P, stating that "the misuse of small arms and light weapons has resulted in grave crimes and reaffirming therefore the relevant provisions of the 2005 World Summit Outcome Document regarding the protection of civilians in armed conflict, including paragraphs 138 and 139 thereof regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity."

The Australian delegation did not underestimate the degree of difficulty involved in securing Council adoption of the text. Each of the P5 were amongst the world's top producers of conventional weapons. Of the P5, only France and UK were party to the Treaty. It would be essential to couch references in the draft to the ATT carefully.

While the initial draft attracted support from the majority of Council members, negotiations revealed some significant differences over scope and language. A number of adjustments were made in an effort to secure adoption. Russia expressed its objections throughout the process and privately threatened to veto. However, as it became clear that the Australian delegation was willing to call its bluff, and that China, conscious of the importance African states attached to the initiative, intended to vote in favour, Russia advised the Australian delegation minutes before the vote that it would abstain. On 27 September 2013, with 14 votes in favour and no votes against, Australian Foreign

Minister Julie Bishop, in her capacity as President of the Council, brought down the gavel to declare Resolution 2117 adopted. The relatively uncommon divergence of Chinese and Russian votes did not go unnoticed.²⁶ Indeed, a diplomat from a P3 delegation, when congratulating Australia on securing the resolution, told the author that his delegation “had been trying to split China’s and Russia’s votes for years.”

The Australian delegation built on the achievement of Resolution 2117 throughout the remainder of its term, injecting cross-references to it in multiple country and thematic products.²⁷ In addition, the inclusion in Resolution 2117 of a request for a biennial Secretary-General report to the Security Council ensured an ongoing basis for specific Council attention to the issue.²⁸

Developments since 2015

Following Australia’s departure from the Council, Lithuania was quick to take over the leadership role on small arms, proposing during its May 2015 Presidency a draft resolution which built upon the provisions of Resolution 2117. The initial draft contained new provisions aiming to strengthen UN coordination and action on small arms, promote effective implementation of UN arms embargoes and express support for the ATT. Efforts by African Council members to include references to non-state actors proved contentious. A revised draft was seen as overly ambitious by a number of Council members, and Lithuania had to negotiate strenuously to retain the central elements of its text. Security Council Resolution 2220 was eventually adopted by a bare minimum of nine votes, with six abstentions, on 20 May 2015.²⁹

²⁶ The author received direct comments to this effect from a number of UNSC counterparts.

²⁷ There were references to SCR 2117 in 12 subsequent Council resolutions up until the end of Australia’s term, and a further 31 references in the five subsequent years.

²⁸ SCR 2117, accessible at <http://unscr.com/en/resolutions/2117>.

²⁹ Security Council, UN document S/RES/2220 (2015), accessible at <https://www.securitycouncilreport.org/un-documents/document/sres2220.php>, accessed 22 May 2015.

Perhaps reflecting the challenges encountered in securing Resolution 2220, there has been no subsequent effort to secure a specific Council product on small arms. However, the requirement for a continuing biennial Secretary-General's report on small arms contained in Resolution 2220 continues, providing a platform for further Council consideration.³⁰ Additionally, the substance of resolutions 2117 and 2220 has been taken up in Council consideration of both country and thematic resolutions,³¹ and in informal processes,³² and continue to shape Council consideration of situations where small arms are a feature.

An important development recognised by both Resolution 2117 and Resolution 2220 was the adoption of the ATT.³³ With its entry into force on 24 December 2014, subsequent Council discussions on the use of small arms, including in relation to particular conflicts, have tended to include reference to the provisions and applicability of the ATT.³⁴

However, the Council membership has been far from universally supportive of the ATT. While in each of the years 2015 to 2019 a

³⁰ Para 32 of Resolution 2220 "requests the Secretary-General to continue to submit to the Council on a biennial basis a report on small arms and light weapons, including on the implementation of this resolution, and affirms its intention to consider the report in a timely manner. (Security Council, UN document S/RES/2220 (2015), 22 May 2015). The Secretary General's 2017 Report relies on this provision to ensure an ongoing role, commencing "in its resolution 2220 (2015), the Security Council requested the Secretary General to continue to submit to the Council on a biennial basis a report on the issue of small arms and light weapons, including on the implementation of the resolution"; S/2017/1025, 06 December 2017.

³¹ For example, as Security Council Report noted in its "What's in Blue" Briefing of 15 December 2017 (<https://www.whatsinblue.org/2017/12/small-arms-briefing.php>). Resolutions 2185 and 2220 have been referenced in resolutions on Central African Republic (S/RES/2301); in support a weapons registry and revision of current laws on the importation and possession of arms in Haiti (S/RES/2313); and in reference to the removal and destruction of mines and other explosive devices and with weapons and ammunition management in Mali (S/RES/2295). Resolution 2117 has been referenced in almost 50 subsequent resolutions.

³² For example, Germany, France and Dominican Republic convened, on 08 April 2019, an Arria Formula Meeting on "Building Peace Through Effective Small Arms Control: The Western Balkans Roadmap for the Control of Small Arms and Light Weapons as a Model for Effective Regional Arms Control"

³³ See S/RES/2117, which has the Council "Acknowledging the adoption of the Arms Trade Treaty, taking note of the signature and ratification of the Treaty by some States, and looking forward to the important contribution it can make to international and regional peace, security and stability, reducing human suffering and promoting cooperation."; S/RES/2220 replicated that text.

³⁴ For a detailed consideration of the Council's adoption of SCR 2117 and its interplay with the Arms Trade Treaty, see Tasmin Paige, "Small Arms Trade (Resolution 2117 (2013) and the Arms Trade Treaty)", Chapter 17 in: *Petulant and Contrary: Approaches by the Permanent Five Members of the UN Security Council to the Concept of 'threat to the peace' under Article 39 of the UN Charter*. Leiden; Boston; Brill Nijhoff, 2019

majority of members were either signatory or party to the Treaty, only two Permanent Members, France and the UK, were party. To the surprise of some, China acceded on 20 June 2020. However, neither Russia nor the US have expressed any intention to accede. The Council is unlikely to wholeheartedly embrace the ATT anytime soon.

Australia's record of compliance with its ATT obligations has also come under scrutiny.³⁵ Australia's arms trade practices have become a regular focus of Senate estimates hearings.³⁶ Commentators have queried Australia's commitment to its international obligations as a party to the Treaty.³⁷ Non-Governmental Organisations (NGOs) have claimed that efforts by former Minister for Defence Materiel Christopher Pyne to significantly increase Australia's arms exports did not sufficiently take into account Australia's ATT obligations, and were inconsistent with the leadership role Australia has played on the ATT and small arms agendas.³⁸ Whether or not there is substance to this criticism, the mere fact of this debate has the potential to constrain Australia's ability to continue to assert a multilateral leadership role on small arms issues.

³⁵ "Australian Government under fire over export of weapons system to war crime-accused Saudi Arabia", by D. Welch, K. Taylor and R. Trigger, ABC Investigations, ABC, 20 Feb 2019, 2:29pm; <https://www.abc.net.au/news/2019-02-20/australian-firm-cos-weapons-systems-bound-for-saudi-arabia/10825660>, accessed 20 November 2019.

³⁶ See for example Senate Committee for Foreign Affairs Defence and Trade, 24 October 2018, Hansard record, evidence pp.66-71, <https://parlinfo.aph.gov.au/parlinfo/download/committees/estimate>, accessed 21 April 2020.

³⁷ Susan Hutchison. "Defence exports and the Arms Trade Treaty – is Australia missing in action?" The Interpreter, Lowy Institute, 20 February 2018, www.lowyinstitute.org/the-interpreter/defence-exports-and-arms-trade-treaty, 20 March 2020.

³⁸ "Federal Government accused of contributing to global arms race with defence exports push", ABC News, 29 January 2018, <https://www.abc.net.au/news/aid-groups-lash-coalition-plan-to-become-top-ten-arms-exporter>, accessed 10 April 2020.

MH17

News of the downing of Malaysian aircraft MH17 on 17 July 2014 over eastern Ukraine reached Council members via Twitter during closed consultations on another issue. Confirmation that all 298 on board had been killed followed quickly. Discussions on an appropriate Council response commenced immediately after the consultations concluded. With the circumstances initially unclear, the UK, which had led on the Ukraine issue to that point, put forward to Council members that afternoon the text of a fairly general press statement. The press statement issued by Ambassador Gashana, Rwanda's Permanent Representative and Council President for the month, on behalf of the Council on 18 July 2014 expressed the Council's deepest sympathies and condolences to the families of the victims, called for a full, thorough and independent international investigation into the incident in accordance with the international civil aviation guidelines and for appropriate accountability, and stressed the need for all parties to grant immediate access by investigators to the crash site to determine the cause of the incident.

As information on the flight manifest emerged and it became clear that 38 individuals associated with Australia (citizens, permanent and long-term residents) had died in the incident, the Australian delegation quickly realised that a more robust response than a Council press statement would be essential. Consultation with Canberra confirmed an expectation that Australia secure a strong Security Council resolution condemning the downing and authorising specific action in response. Quinlan, back in Canberra for Council related consultations, participated in a hastily convened meeting of the National Security Committee of Cabinet. Following this, then-Prime Minister Tony Abbott directed the Australian delegation to immediately secure a strong Security Council resolution, to be adopted by consensus, condemning the downing of the aircraft, calling for an immediate cessation of military activity around

and unhindered access to the crash site. The delegation was also instructed to push for a full investigation with the cooperation of all states. In pursuing this result, the delegation would liaise closely with the Netherlands, which had lost 193 of its nationals. Quinlan headed for the airport, ready for a long trip back to New York.

The initial text of a Resolution was drafted by DFAT's legal team in Canberra in a matter of hours, and, with some adjustment by the delegation in New York, was quickly circulated to P3 delegations. P3 Members each expressed reluctance, concerned that this might cut across broader efforts to change Russia's behaviour in Ukraine. Australian Deputy Permanent Representative Philippa King made clear that the delegation had a decision from Cabinet and a firm directive from the Prime Minister and would work to secure a robust resolution regardless. The only decision for the P3 was whether, in the Council consultations, to proffer support or not.

Negotiations between Australia and P5 members commenced soon afterwards. After some brief initial exchanges at expert level, discussions moved quickly to Permanent Representative level – a modality used relatively rarely in Council practice. Ambassador Quinlan arrived back in New York just in time.

The Australian delegation was concerned about the possibility of procedural moves being used to obstruct progress, and assessed that the only way to secure the result the delegation was seeking was to test, and if necessary, expose, Russian intransigence. The delegation put its text “into blue” – presenting it to the Secretariat to prepare for action by the Council – mid-afternoon on Sunday 20 July. Russia quickly put “into blue” a competing, significantly weaker, text, an indication that Russia was serious in its opposition to the Australian text.

The final informal consultations session was convened at 10 p.m. on Sunday 20 July in the Council consultations room. The discussion

demonstrated just how isolated Russia was in its objections to the Australian text, with China signalling it could accept the text. Nevertheless, Ambassador Churkin indicated that Russia was unable to confirm whether it would allow the Council to adopt the text. The consultations were brought to a close at 1 a.m. on 21 July, with Quinlan noting that Australia intended to put its text to a vote later that day. Quinlan then joined Foreign Minister Bishop, who had just arrived in New York, to brief the National Security Council (NSC) by video-link. Quinlan advised that, although Russia had not disclosed its intentions, he assessed it would not veto.

Bishop met Ambassador Churkin later that morning and conveyed in direct terms the impact that the downing of MH17 had had on Australians and her Government's expectation of Russia's support. At the end of that meeting, Churkin indicated that Russia would come on board.



Julie Bishop addresses the United Nations Security Council calling for an international investigation into the downing of Malaysian Airlines Flight MH17 (21 July 2014).

"Security Council Condemns Downing of Malaysian Airliner, Calls for International Probe", UN Photo/Loey Felip

Resolution 2166 was adopted by consensus a few hours later. The text condemned in the strongest terms the downing of Malaysia Airlines

flight MH17 resulting in the tragic loss of 298 lives; conveyed its sympathies and condolences to the families of the victims of the incident; supported efforts to establish a full, thorough and independent international investigation into the incident; recognized the efforts underway to institute an international investigation of the incident; and called on all states to cooperate fully and provide any requested assistance to civil and criminal investigations related to the incident.³⁹

Further, the Security Council expressed grave concern at reports of insufficient and limited access to the crash site; demanded that the armed groups in control of the crash site and the surrounding area refrain from any actions that may compromise the integrity of the crash site; demanded that all military activities, including by armed groups, be immediately ceased in the immediate area surrounding the crash site to allow for security and safety of the international investigation; and insisted on the dignified, respectful and professional treatment and recovery of the bodies of the victims. The Security Council then called on all States and actors in the region to cooperate fully in relation to the international investigation of the incident.

This was the strong and unequivocal resolution Australia had sought, adopted by consensus, in the space of four days. In UNSC terms, as BBC journalist Nick Bryant noted, this was “warp speed.”⁴⁰

Bishop’s statement to the Council immediately following the vote was impassioned and direct. She welcomed the vote as “an unambiguous response from the international community to an utterly deplorable act,” and emphasised that “all states, armed groups - everyone must cooperate with the investigation The message from this Council to those who were responsible for this atrocity is definitive: you will be held to

³⁹ Security Council, UN document S/RES/2166 (2014), accessible at <https://www.securitycouncilreport.org/un-documents/document/sres2166.php>.

⁴⁰ Nick Bryant, BBC News report, 21 July 2014, as extracted in The MH17 tragedy: Weekly Catch-up: The MH17 tragedy, Sam Roggeveen, 26 July 2014, <https://www.lowyinstitute.org/the-interpreter/weekend-catch-mh17-tragedy>, accessed 02 March 2020.

account for your actions We have an overriding objective, to ensure dignity, respect, and justice for those killed on MH17." Her statement was covered globally, and, for Australians, became the defining moment of Australia's Council term.⁴¹

The majority of other Council members swung in strongly behind Australia, using their statements to condemn the incident, and to demand access and accountability. While Russia struck a different tone, urging all states to look at the incident objectively and not to prejudge matters, it did not step back from the consensus it had joined.

The session provided non-Council members an opportunity to express their views. Netherlands Foreign Minister Frans Timmermans outlined his country's strong expectations of the Security Council and expressed his country's strongest support and gratitude for Australia's leadership. Other affected states spoke in similar terms.

The rapid adoption of a robust Security Council Resolution by consensus provided the basis and momentum for further Australian action – negotiations with the Netherlands on a joint response, negotiations with Ukraine over arrangements for Australian personnel to access the crash site, and efforts to ensure those responsible were held to account through the establishment of a Joint Investigation Team by Australia, Belgium, Malaysia, Netherlands and Ukraine (the JIT). The fact that the Security Council had, through adoption of Resolution 2166, required all UN member states to cooperate with any such investigations proved fundamental to those efforts.

⁴¹ Langmore and Farrall note that "this swift response demonstrated to previously hostile Prime Minister Abbott and many of part the domestic political value of Council membership." John Langmore and Jeremy Farrall, "Can elected members make a difference in the UN Security Council? Australia's experience in 2013-2014," *Global Governance* 22 (2016) 59-77, 65.

Resolution 2166 was universally seen as an Australian achievement. As Langmore and Farrall acknowledge, “without Australia’s strong motivation and determination, Resolution 2166 would not have been adopted.”⁴² Australia’s achievement in securing Resolution 2166 was all the more surprising given the broader context of the incident. Russia’s incursion into Ukraine in late February 2014, and its subsequent occupation and annexation of Crimea, had stunned the Council, and the world. It seemed inconceivable to many that a Permanent Member of the Council could act in such a way to acquire control over territory by force. A draft Security Council resolution put forward by the US at the time, and co-sponsored by 42 states, which condemned Russia’s actions had been vetoed by Russia – but it was alone on the Council in its opposition.

Following the Russian veto in the Council, the P3, Australia and Lithuania led Council efforts to secure a condemnation of Russia’s actions in Crimea in the General Assembly. After considerable advocacy, UNGA Resolution 68/262 was adopted on 27 March 2014 with 100 in favour, 11 against, and 58 abstentions. This was a moral victory which demonstrated the extent of Russia’s isolation, but proved no constraint on Russian actions. More than 30 meetings of the Security Council were held on the issue overall, serving to further emphasise Russia’s isolation, but it became increasingly clear that this was a price Russia was prepared to pay for the acquisition of Ukrainian territory. The fact that Russia voted for Resolution 2166, permitting a Council consensus on a robust response to the incident, was striking. This support was also fleeting. The adoption of Resolution 2166 marked the high point of Council cooperation on the MH17 issue – no further Council product has been adopted since.

⁴² Langmore, J and Farrall, J, “Can elected members make a difference in the UN Security Council? Australia’s experience in 2013-14,” *Global Governance* 22 (2016) 59-77, 65.



The author addressing the United Nations Security Council in 2014 on the situation in Ukraine (28 August 2014).

"Council Discusses Situation in Ukraine", UN Photo

Developments since 2015

Resolution 2166 has underpinned international action to secure accountability in respect of the shooting down of MH17 ever since its adoption. In part that is because no further Council pronouncement on the issue has proved possible since. In 2015, Australia and the Netherlands worked with Malaysia – which had by then come on to the Council as an elected member for 2015-2016 - in an attempt to secure Council agreement to establish an ad-hoc international tribunal to hold those responsible for the MH17 incident to account. Russia vetoed that draft on 29 July 2015, bringing an end to the remarkable – and unlikely - consensus that had been secured by Australia a year previously.

The Russian veto made clear that accountability could not be secured through a UNSC-backed mechanism. Foreign Minister Bishop, again participating in the 2015 Council debate, this time as an observer, was scathing in her criticism.⁴³ She emphasised that Russia's use of its veto

⁴³ S/PV.7498, p.15.

power was “an affront to the memory of the 298 victims of MH17 and their families and friends,” and that “the anticipated excuses and obfuscation by the Russian Federation should be treated with the utmost disdain.”⁴⁴ Bishop concluded “Council members may rest assured that there is no end to [Australia’s] determination” to bring those responsible to justice.⁴⁵

While disappointing, the Russian veto did not present a definitive impediment to efforts to seek justice. Relying on the foundation for accountability established by Resolution 2166, Australia, the Netherlands and Malaysia, joined by Ukraine and Belgium, set about devising a process outside the Council to secure accountability.⁴⁶ A JIT was established in The Hague to collect and consider the evidence. Each JIT state contributed personnel and expertise to the investigation effort. Officers from the AFP made a significant contribution to that endeavour.

Meanwhile, officials from the five JIT countries held six successive meetings in various locations – The Hague, Brussels, Kiev, and Canberra – over a two-year period to identify an alternative prosecution mechanism. At the Canberra meeting in June 2017, after three days of intense negotiations, the author, as Head of the Australian Delegation and Chair, gavelled through agreement on the draft outline of an accountability mechanism acceptable to all five states. In a challenging piece of multi-state diplomatic choreography, requiring complex domestic policy and budgetary discussions and decisions in five capitals, over a few weeks all five states were able to take respective decisions to support the proposed mechanism.

On 05 July 2017 – almost three years after MH17 was shot down, and almost two years since Russia had vetoed the proposed UNSC-backed

⁴⁴ Ibid.

⁴⁵ S/PV.7498, p.16.

⁴⁶ For a detailed consideration of the possible accountability options available to and considered by the JIT countries, see Williams, Sarah “MH17 and the International Criminal Court: A Suitable Venue?” [2016] *MelbJIntLaw* 9; (2016) 17(1) *Melbourne Journal of International Law* 21.

mechanism – the Foreign Ministers of the five JIT countries each released press releases announcing that a prosecution mechanism had been agreed upon.⁴⁷ That mechanism provided that prosecutions of those most responsible for the downing of MH17 would be pursued in the Netherlands judicial system, augmented by a transfer of jurisdiction from Ukraine.⁴⁸ In a subsequent announcement, Bishop noted that “the Australian government has full confidence in the quality, impartiality and integrity of the Dutch legal system and commends the Dutch Government’s leadership in seeking justice for MH17.”⁴⁹

On 19 June 2019, the Dutch lead prosecutor announced the indictment of four individuals, noting that more were expected to follow.⁵⁰ On 09 March 2020, the trials of the four indictees commenced in a court located close to Schiphol – the airport from which the MH17 aircraft had departed five years and eight months earlier.

Australia and the Netherlands were also considering the question of state responsibility. On 25 May 2018, Bishop announced that the two countries had informed the Russian Federation that they “[held] it responsible under international law for its role in the bringing down of MH17.” Bishop called on Russia to “enter into negotiations to open up a dialogue about its conduct and to seek reparations.”⁵¹

Although no further Security Council involvement has been sought by the JIT countries since July 2015, the Netherlands has communicated regularly on behalf of the JIT countries, including Australia, to the UN

⁴⁷ See Minister for Foreign Affairs, Julie Bishop MP, Accountability for the victims of MH17, Joint Media Release, 05 July 2017, <https://www.foreignminister.gov.au/minister/julie-bishop/media-release/accountability-victims-mh17>, accessed 01 April 2020.

⁴⁸ Ibid.

⁴⁹ Minister for Foreign Affairs, Julie Bishop MP, MH17: Another step for justice; Media Release, 21 September 2017, <https://www.foreignminister.gov.au/minister/julie-bishop/media-release/mh17-another-step-justice>, accessed 01 April 2020.

⁵⁰ Suspects to be prosecuted for the downing of flight MH17, Government of the Netherlands Press Statement, 09 June 2019, <https://www.government.nl/latest/news/2019/06/19/suspects-to-be-prosecuted-for-the-downing-of-MH17>, accessed 08 February 2020.

⁵¹ The Guardian Australia, 25 May 2018, <https://www.theguardian.com/world/2018/may/25/mh17-australia-and-netherlands-accuse-russia-of-complicity>, accessed 8 February 2020.

Secretary-General and the President of the UNSC, to ensure the Council remains informed of developments.⁵² The communications also serve as an ongoing reminder of the JIT countries' expectation that the Council will continue to oversee the implementation of Resolution 2166 including the obligations it places on all states to cooperate to ensure accountability for those responsible. Finally, the communications serve to underline that, where the Council is unable to take action against a threat to international peace and security, key states will often seek ways to work around it, at the risk of diminishing the Council's standing.

Strong Australian domestic interest in accountability for those responsible for the downing of MH17 persists. Remarks to Parliament on the commencement of the trial on 10 March 2020 reaffirmed strong bipartisan commitment to seeing accountability processes through to their conclusion. More than six years after Australia secured its adoption, Resolution 2166 continues to underpin a vital national interest.

⁵² See for example letters from the Netherlands, on behalf of the five JIT members, to the President of the UN Security Council, 01 and 28 August (S/2014/639), 09 September (S/2014/657) and 16 December 2014 (S/2014/903), 20 July (S/2015/551) and 13 October 2015 (S/2015/708), 28 September 2016 (S/2016/815), 05 July 2017 (S/2017/580), 24 May (S/2018/496) and 25 May 2018 (S/2018/503), 20 June 2019 (S/2019/510).

Policing as Integral to Peace Operations

Australia's initiative in bringing a focus, during its November 2014 Presidency, on policing as an essential part of peacekeeping and peacebuilding was a logical one. Australia had a well-earned reputation for leadership on policing in peace operations in the Indo-Pacific Region – in Cambodia, Timor-Leste and the Solomon Islands. Australia had relied heavily on this expertise during its campaign for Security Council membership. To underline its credentials, Australia had provided Secretary-General Ban Ki-moon a tour of the AFP peacekeeping training facility outside Canberra during his 2011 visit to Australia. A photo of that visit featured prominently in Australia's campaign material.

Australia's objective was to ensure that the importance of policing in peace operations, and the centrality of rule of law to peace-building, was understood and supported.⁵³ The delegation worked closely with the Police Division of the United Nation's Department of Peacekeeping Operations, a broad range of police-contributing countries, and countries which had experience hosting peacekeeping operations with a significant policing contribution, to secure a text which properly highlighted the place of policing in UN peacekeeping.

The draft text that became Resolution 2185, the first ever UNSC resolution specifically on Policing, provided the necessary focus on a hitherto overlooked component of UN peacekeeping. The text resolved “to include, as appropriate, policing as an integral part of the mandates of United Nations peacekeeping operations and special political missions,” recognising the contribution of UN policing as integral to

⁵³ For background on some of the issues facing policing in peacekeeping, see Durch, Willand and Ker, Michelle, “Policing in UN Peacekeeping: Improving selection, recruitment and deployment”, International Peace Institute, 08 November 2013, <https://www.ipinst.org/2013/11/police-in-un-peacekeeping-improving-selection-recruitment-and-deployment>, accessed 16 May 2020.

peacekeeping, post-conflict peacebuilding, security, the rule of law, and development.⁵⁴

Crucially, the draft resolution highlighted “the important role that United Nations Policing can play in supporting host-states to uphold their primary responsibility to protect civilians” as well as to “respect and ensure the human rights of all individuals within their territory.” This also reaffirmed the importance of Women, Peace and Security considerations, and “*encouraged* the increased participation of women police in United Nations peacekeeping operations.” Finally, the Resolution recorded the Council expressing “its intention to consider holding an annual meeting on policing issues with the Heads of United Nations Police Components.”

On 20 November 2014, Foreign Minister Bishop, as President of the Council, opened the meeting and invited briefing on the topic from the Under-Secretary-General of Peacekeeping Operations Hervé Ladsous, and heads of police components of a number of UN field operations. The briefers did not miss their chance to bring a focus to the challenges they faced in the field, and the support required from the Council to implement their mandates. For the Australian delegation, it was particularly pleasing to hear an Australian voice – that of Greg Hinds, a senior AFP officer serving as Police Commissioner of the UN Mission in Liberia (UNMIL) - providing one of the briefings.

Following the briefings, Bishop put the draft resolution to a vote and welcomed the adoption of Resolution 2185 by consensus. In her subsequent statement, she emphasised that Australia “had invested heavily in international police peacekeeping.” The AFP International Deployment Group was “one of the world’s few stand-alone deployable

⁵⁴ S/RES/2185 (2014), accessible at <https://www.securitycouncilreport.org/un-documents/document/sres2185.php>

police peacekeeping capacities, and the first in the world to receive UN recognition for its pre-deployment training.”

Throughout the subsequent open debate, Council members and other UN member states were effusive in their support.⁵⁵ The initiative was welcomed as long overdue, and the interactive nature of the briefing embraced as the sort of discussion the Council needed to have more frequently. Perhaps most importantly, the three police commanders from UN missions confirmed during their statements that the initiative was invaluable, enabling them a direct conduit to Council members for the first time.

Domestic observers were similarly positive, with one commentator noting “Australia’s attempt to promote these issues ... is commendable. The landmark resolution has the potential to leave a lasting legacy.”⁵⁶ The Australian Strategic Policy Institute termed the adoption of Resolution 2185 “a milestone achievement,” noting that “like all resolutions, its success will ultimately depend on implementation. Ongoing engagement by experienced police-contributing countries, such as Australia, will be important to those efforts.”⁵⁷

Developments since 2015

Over the six years since the adoption of Resolution 2185, the place of policing as an essential part of peacekeeping and peacebuilding has become a fixture of UNSC discussion, and an issue of broader UN focus.⁵⁸ Australia’s decision to include in the draft resolution a recommendation for the holding of annual meetings on policing, and its

⁵⁵ “Security Council, Adopting Resolution 2185 (2014), Resolves to Make Policing Mandates, Adequately Funded, Essential Part of Peacekeeping,” SC/11661, 7317th Meeting, 20 November 2014, un.org/press/en/2014/sc11661.doc, accessed 27 May 2020.

⁵⁶ Hunt, Charles, “Credit to Australia as Security Council makes UN policing a priority,” *The Conversation*, 26 November 2014.

⁵⁷ Sharland, Lisa, “The UN Security Council takes up policing,” *The Strategist*, Australian Strategic Policy Institute, 28 November 2014, at www.aspistrategist.org.au/the-un-security-council-takes-up-policing, accessed 19 March 2020.

⁵⁸ See for example Secretary General Ban’s Action for Peacekeeping (A4P) initiative, which developed a Declaration of Shared Commitments on UN Peacekeeping Operations launched during UN Leaders week in 2018.

determination to retain that language despite pushback from those preferring specific authorisation be required for any further debate, paved the way for the establishment of an annual briefing by UN Police Commanders from the field to UNSC member states. As a result, UN Police Commanders from the field have been able to bring the reality of the challenges of UN policing directly to the Council, so enabling more informed decision making and hopefully, improved support. Moreover, the annual debate has taken the form of an interactive discussion within the UNSC open chamber - “an otherwise rare practice in Security Council briefings”⁵⁹ - enabling a useful exchange in public between expert briefers and Council members.

The Council’s engagement with policing as an integral part of UN peacekeeping is now entrenched. Also notable is the fact that, following Australia’s initial advocacy of the issue on policing in 2014, all subsequent Council action on the issue has been led by elected members.

There is undoubtedly a significantly greater understanding of the role and the importance of policing as part of peace operations in the UN Security Council and across the UN system in 2021 than was the case six years previously, and considerably greater engagement on the issue. Security Council consideration of the issue constitutes only one strand of those developments. The Independent High-Level Panel on Peace Operations (HIPPO) report picked up on a number of aspects on policing highlighted in Resolution 2185 in its 2015 report.⁶⁰ Initiatives such as Secretary-General Ban’s Action for Peacekeeping initiative have undoubtedly also contributed. Nevertheless, it seems correct to conclude that Resolution 2185 was an important catalyst.

⁵⁹ Security Council Report, *November 2019 forecast*, posted 31 October 2019, <https://www.securitycouncilreport.org/monthly-forecast/2019-11/un-peacekeeping.php>: accessed 20 November 2019.

⁶⁰ A/70/95-S/2015/446*

It is therefore unfortunate that Australia has been unable to capitalise on the leadership it demonstrated on this issue as a Council member. With the withdrawal of Australia's police element supporting the UN peacekeeping operation in Cyprus in 2017⁶¹ after 53 years of presence, Australia's long record of contribution of police to UN peacekeeping operations effectively came to an end. Although the AFP retains a strong overseas presence, with over 200 AFP officers deployed internationally in FY2018-2019, none were deployed to UN peacekeeping operations. A relatively small contribution of personnel and experience could ensure that Australia's leadership on UN policing, hard-earned in peacekeeping and peace building in the region and globally, is not diminished.

⁶¹ "Australian police withdraw from Cyprus peacekeeping mission after 53 years", 17 July 2017, <https://www.afp.gov.au/news-media/media-releases/australian-police-withdraw-cyprus-peacekeeping-mission-after-53-years>, accessed 20 November 2017.

Sanctions

Australia's commitment to take on a leadership role on Security Council sanctions during its 2013-2014 term arose directly from its experience seven years previously as a result of exposure of the Iraq sanctions "Oil for Food" scandal.⁶² The Independent Inquiry Committee into the UN Oil for Food Program (the Volker report),⁶³ in identifying massive fraud within the program, identified a number of Australian companies, including the Australian Wheat Board, as active participants in this corrupt activity. The Australian Royal Commission that followed exposed further corrupt activity and identified the need for Australia to significantly improve its administration of UN sanctions.⁶⁴

The fundamental overhaul of Australia's domestic administration and enforcement of sanctions that followed these reports created significant expertise in the domestic requirements for effective sanctions implementation. This in turn brought Australia into closer relationship with international bodies and actors in this area, including the UN Secretariat, and led to Australian involvement in the delivery of assistance around sanctions implementation to the Indo-Pacific region.

As a result of that experience, Australia recognised the imperative for the Security Council to better conceptualise and utilise sanctions as a crucial component of its Chapter VII toolkit.⁶⁵ Australia identified sanctions as a priority for its Council term, emphasising the need to breakdown the stigma attaching to sanctions amongst member states,

⁶² The author is grateful for the contribution and expertise of Peter Scott, Head of Sanctions team, Australian delegation to the United Nations 2013-2014, to the Sanctions component of this monograph.

⁶³ See http://www.iic-offip.org/documents/IIC_Final_Report_27Oct2005.pdf

⁶⁴ Australian Inquiry into Certain Australian Companies in Relation to the UN Oil for Food Inquiry (the Cole inquiry), accessed at <http://nla.gov.au/nla.cat-vn3667203>, accessed 19 March 2020.

⁶⁵ For a comprehensive account of challenges with the implementation of UN sanctions, published during Australia's term, see "UN Sanctions", Special Research Report, Security Council Report, November 2013, p.16, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/special_research_report_sanctions_2013.pdf, accessed 28 November 2019.

and to bring the focus on individual malign actors. Upon Australia's election to the Council, Australia put in place a dedicated sanctions team as part of its Security Council team in New York.

In January 2013, Australia took on the largest sanctions workload of the elected members, leading the Iran, al-Qaeda and Taliban committees - roles which it retained over the subsequent two years. Through those roles, and through participation in the other sanctions committees, Australia relentlessly sought improvements in Council practice on sanctions.

The delegation's initial engagement with the 14 sanctions committees then in operation, confirmed Australia's view that more effectively implemented Security Council sanctions could significantly strengthen its ability to maintain and restore international peace and security.⁶⁶ The delegation focused on transparency for all stakeholders, encouraged the holding of sanctions committee meetings in the Open Chamber, and convinced the Secretariat to advertise the timing of sanctions committees to the broader membership. Australia sought to strengthen references to sanctions across all Council products,⁶⁷ and also ensured that the Australian delegation was represented by both country experts and sanctions specialists in each sanctions committee – a novel approach which, the delegation judged, improved coherence in approach across regimes.⁶⁸

⁶⁶ Similar language was used in the Compendium to High Level Review of United Nations Sanctions November 2015, based on United Nations document A/69/941-S/2015/432, p.1 (Executive Summary) http://www.hlr-unsanctions.org/HLR_Compendium_2015.pdf, accessed 28 November 2019.

⁶⁷ See for example the language that Australia secured in Resolution 2117 on small arms, OP 2 of which “reminds Member States of their obligation to fully and effectively comply with Council-mandated arms embargoes and to take appropriate measures, including all legal and administrative means against any activity that violates such arms embargoes, and including, in accordance with relevant Council resolutions, through cooperating with all relevant United Nations entities; by making available to relevant sanctions committees all pertinent information on any alleged violations of arms embargoes; by acting on credible information to prevent the supply, sale, transfer or export of small arms and light weapons in contravention of Council mandated arms embargoes ...”

⁶⁸ Australia set out its overall approach to sanctions implementation in its May 2013 wrap up statement – on file with the author.

A further opportunity for Australia to contribute to the strengthening of UNSC sanctions practice emerged in September 2013, with two think tanks commencing a High Level Review of UN Sanctions.⁶⁹ As a sponsor of this endeavour, Australia engaged early to ensure the terms of reference for the review matched Australia's objectives on UN sanctions, and took the lead on a working group seeking to improve implementation of sanctions across the board. This served as a vehicle for Australia to consult broadly with a wide range of stakeholders and establish ideas for a proposed resolution during its second presidency, in November 2014.

In consultations with all Council members, undertaken well in advance of proposed adoption, Australia explained that the most important aspect of the draft was its recognition of sanctions as a collaborative instrument for international peace and security. The draft emphasised the need to provide assistance to enable the subject state and neighbours to give effect to sanctions measures. It did not focus on the more controversial issues of design or conditions for imposing sanctions. Australia noted that the draft reflected the outcome of the broad consultations Australia had undertaken as a participant in the High Level Review.

While the draft resolution circulated by Australia attracted considerable support across the Council, Russia and China were not convinced. Assessing that their respective threats to veto were real, Australia chose

⁶⁹ The two organisations were Compliance and Capacity Skills International and Watson Institute at Brown University. A Security Council Report publication usefully sets out the background to this report as follows: "The High Level Review of United Nations Sanctions has several notable precedents. Much of the early work was state-led, involving the governments of Germany, Switzerland and Sweden: the Bonn-Berlin Process, resulting in the 2001 report, *Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions*; the Interlaken Process, resulting in the 2001 report, *Targeted Financial Sanctions: A Manual for Design and Implementation*; and the Stockholm Process, resulting in the 2003 report, *Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options*. Building on these efforts, the Informal Working Group on General Issues of Sanctions, set up in April 2000, transmitted its final report on 18 December 2006 (S/2006/997). On 30 April 2007, Greece sponsored a symposium at the UN on enhancing the implementation of UN sanctions (S/2007/734). Other studies have been undertaken by civil society actors, such as the white paper by the Watson Institute of Brown University, *Strengthening Targeted Sanctions through Fair and Clear Procedures*, transmitted to the General Assembly and the Security Council on 19 May 2006 (S/2006/331)" Security Council Report, November 2014 Monthly Forecast
Posted 30 October 2014, <https://www.securitycouncilreport.org/monthly-forecast/2014-11/sanctions.php>, accessed 27 November 2019.

not to put the draft forward for action during the Council's open debate on the topic. In their statements to the Chamber during the Council debate on 28 November 2014, both Russia and China made clear their concerns about current Council practice in relation to sanctions remained.⁷⁰ They were unable to support the draft resolution. After a final unsuccessful attempt to secure consensus, Australia withdrew the draft, conscious that a vetoed text could be exploited to undermine existing sanctions regimes.

Despite its inability to secure a resolution on sanctions implementation, Australia assessed that much had already been achieved in holding the debate. Those responsible for sanctions issues within the UN Secretariat concurred, advising the Australian mission that the inability to secure a resolution in November 2014 specifically directing reform would prove not to be an obstacle, and that the vast majority of ideas raised in the draft resolution and Open Debate on sanctions could be implemented within existing authorities.⁷¹

Indeed, in part due to Australia's efforts to lead change, improvement in sanctions administration were already underway. Sanctions committees were engaging more frequently with subject and regional states and more frequently conducting their briefings in public; the Secretariat had made permanent its Interagency Working Group on Sanctions and had increased the profile of sanctions administration. In addition, Australia assessed that the ongoing High Level Review process would ensure that momentum on UN sanctions implementation would be maintained after Australia departed the Council, and afford Australia an on-going role.

Developments since 2015

The assessment that much in the way of sanctions reform could be achieved without adoption of a specific Security Council resolution

⁷⁰ S/PV.7323

⁷¹ The author's and other members' of the Australian delegation conversations with UN Secretariat officials.

proved correct. The subsequent six years saw considerable positive developments in the manner in which the UNSC engaged with sanctions. Transparency initiatives first introduced by Australia have endured – more sanctions committees now report in the Open Chamber and meet with relevant member states particularly affected by the sanctions regimes they oversee. Structures within the UN are better placed to assist sanctions implementation – the Interagency Working Group on UN Sanctions established during 2014 within the Secretariat, which brought together 20 distinct UN agencies and offices in an effort to ensure more effective sanctions implementation, is now a permanent fixture; and the heightened awareness amongst technical assistance providers of the interest in sanctions-related assistance, continues to pay dividends.

After leaving the Council, Australia retained its leadership role on the issue through its participation in the High Level Review.⁷² The result of that Review – the Compendium, with its 150 recommendations for enhancement⁷³ – was launched in New York in November 2015 by Australia⁷⁴ and contained a detailed blueprint to improve implementation of UN sanctions, and to strengthen the capacity for the UN to support states required to implement the changes. To the informed observer, the impact was evident. As Enrico Garisch notes:

“Even before it was published, delegations participating in the drafting of new sanctions resolutions began to draw on the insights and innovations generated during the thematic consultations [conducted as part of the High Level Review]. Their new sanctions language took account of the supporting ecosystem of

⁷² Five countries sponsored the High Level Review – Australia, Finland, Germany, Greece and Sweden. For background on the High Level Review, see: http://graduateinstitute.ch/home/research/centresandprogrammes/international-governance/research-projects/UN_Targeted_Sanctions.html; accessed 28 November 2019; see also Enrico Carisch, Sue Eckert, Lorraine Rickard-Martin; High Level Review of United Nations Sanction Background Paper <http://www.hlr-unsanctions.org/main/background>, accessed 28 November 2019.

⁷³ Full report - A/69/941-S/2015/432

⁷⁴ High Level Review of UN Sanctions Launch, Statement by Katrina Cooper, Senior Legal Adviser, Department of Foreign Affairs and Trade, 05 November 2015, http://www.hlr-unsanctions.org/HLR_Australia.pdf, accessed 28 November 2019.

organizations, the need for greater transparency and inclusion of states not serving on the Council, and the need to more thoroughly brief all UN stakeholders on the nature and purposes of sanctions.”⁷⁵

Australia continued its leadership role: “One year after the release of the Compendium, and thanks to the continued leadership of Australia, an Assessment of Achievements, Challenges and Opportunities resulting from the review’s recommendations commenced.”⁷⁶

While the advances in UN sanctions practice over the six years following Australia’s term can be primarily attributed to the High Level Review process, it would not seem overreach to assess that Australia’s efforts to better integrate sanctions into the UNSC’s work during its Council term have also had an enduring impact.

⁷⁵ Enrico Garisch, “High Level Review of UN Sanctions: The Assessment Report”, IPI Global observatory, <https://theglobalobservatory.org/2017/10/high-level-review-un-sanctions-assessment-report/>, accessed 28 November 2019.

⁷⁶ Ibid.

North Korea

Australia had long been a strong supporter of Security Council action to prevent North Korea's development and proliferation of nuclear weapons, implementing all sanctions regimes imposed on North Korea by the Security Council, and adding its own autonomous sanctions. Shortly after joining the Council, Australia joined the consensus adoption of Resolution 2087, which imposed the most comprehensive sanctions adopted to that point. Although subsequent negotiations over Council pronouncements on North Korea nuclear issues were dominated by US–China bilateral discussions, Australia played a supportive role on the issue throughout its term.

Australia's concerns about the behaviour of the North Korean regime did not stop there. Australia's track record of active engagement in Geneva at meetings of the Human Rights Council on the issue of the human rights situation in North Korea, combined with Australia's membership of the Security Council, provided a unique opportunity to bring global attention to the human rights situation in North Korea, and to ensure that the situation was understood to be a threat to international peace and security, and so deserving of Security Council attention. Australia pursued a concerted campaign over 2013-2014 to secure this outcome.

In early 2013, although not then a member of the Human Rights Council, Australia nevertheless pushed for stronger action by the Human Rights Council on North Korea, including the establishment of a Commission of Inquiry (COI) into the North Korean human rights situation.⁷⁷ The

⁷⁷ Situation of human rights in the Democratic People's Republic of Korea A/HRC/RES/22/13 21 March 2013; *The COI was mandated to "investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea as outlined in paragraph 31 of the report of the Special Rapporteur, including the violation of the right to food, the violations associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, violations of freedom of expression, violations of the right to life, violations of freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other States, with a view to ensuring full*

COI subsequently established by the Human Rights Council, with a mandate to inquire into the “systematic, widespread and grave violations of human rights” in North Korea, was greeted as a breakthrough. The appointment of renowned Australian jurist and former High Court Judge Michael Kirby as COI chair ensured a rigorous process, as well as ongoing close engagement between the COI and the Australian missions to the UN in Geneva and New York.



Michael Kirby, Chairperson of the Commission of Inquiry on Human Rights in North Korea, holds a copy of his report during a news conference at the United Nations in Geneva (17 February 2014).

“Report Launched by Commission of Inquiry on Human Rights in DPRK.” UN Photo

The Commission delivered its report to the Human Rights Council in April 2014.⁷⁸ The report was detailed, comprehensive, and searing in its account of the human rights and IHL abuses to which the people of North Korea were subject. The COI concluded that the North Korean government was perpetrating “unspeakable atrocities” against its own people on a vast scale and committing “widespread, systematic and

accountability, in particular where these violations may amount to crimes against humanity”; see also Erlanger, Steven (March 21, 2013). “U.N. Panel to Investigate Human Rights Abuses in North Korea”. The New York Times; <https://www.nytimes.com/2013/03/22/world/europe/un-panel-to-investigate-human-rights-abuses-in-north-korea.html>. Archived from the original on March 11, 2014. Retrieved 21 November 2019.

⁷⁸ Report of the commission of inquiry on human rights in the Democratic People’s Republic of Korea, A/HRC/25/63; see also Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea; A/HRC/25/CRP.1, 07 February 2014.

gross violations of human rights that amounted to crimes against humanity.” Crimes included “execution, enslavement, starvation, rape and forced abortion.”

Following advance delivery of the Commission’s report, the Human Rights Council in Geneva passed a Resolution on 28 March 2014 which urged the General Assembly to refer the findings of the COI to the Security Council, and for the Security Council to take appropriate action, including referral of the human rights situation to the appropriate international criminal justice mechanism.⁷⁹ Three weeks later, Australia, joined by France and the US, convened an Arria Formula Meeting – an informal meeting of UNSC members held outside the Security Council chamber and consultation rooms⁸⁰ – in New York in order to bring the contents of the report before Council members. Representatives of thirteen Council members attended; Representatives from China and Russia did not. At that meeting COI Chair Michael Kirby and the other commissioners laid out the contents of the report for Council members, making a compelling case for its consideration by the Council. A number of North Korean individuals provided searing testimony of the abuses they had suffered at the hands of the regime. As the session concluded, a number of Council Permanent Representatives expressed support for Security Council action.

Over the following months, Australia worked to bring the matter formally onto the Security Council agenda.⁸¹ The path was not

⁷⁹ A/HRC/RES/25/25

⁸⁰ For background on the Arria Formula, see Security Council Report, “UN Security Council Working Methods: Arria-Formula Meetings”; Posted 17 October 2019, accessed 21 November 2019; <https://www.securitycouncilreport.org/un-security-council-working-methods/arrria-formula-meetings.php>

⁸¹ In a wrap up session on 30 April 2014, Ambassador Quinlan brought the Arria meeting into the Council, stating that “the briefing by the Commission of Inquiry on DPRK established by the Human Rights Council exposed the devastating human rights situation in North Korea, including in the system of gulags that have been in place for decades and in which at the very least 80,000 prisoners – maybe 120,000 – are brutally perishing. The list of crimes against humanity found by the commission is chilling – arbitrary detention; enslavement; rape; torture; sexual violence; forced abortion; infanticide; murder; and extermination. In response to both briefings, many Council members called for accountability, and specifically an ICC referral. In both cases, further Council action is required.”

straightforward. The existing agenda item on North Korea was restricted to nuclear proliferation considerations. A new agenda item would need to be agreed by Council members, and China and Russia would clearly oppose such a move. A procedural vote on inscribing a new agenda item would be required. In such a vote, a majority of nine prevails; the veto does not apply.⁸² Such a mechanism had been rarely used – the previous occasion had been eight years prior, on an issue relating to Myanmar⁸³, and, as Australia canvassed views, it became clear that, whatever their position on the issue at hand, each of the Permanent Members were concerned about the precedent value of its use. On this basis, a number of Permanent Members quietly counselled the Australian delegation not to proceed.

The Australian delegation worked hard to secure the necessary nine votes required to prevail in a procedural vote. In order to lock in and demonstrate the level of Council support for the initiative to place Democratic People's Republic of Korea (DPRK) human rights issues on the Council agenda, on 05 December 2014, Australia sent a letter, co-signed by representatives of ten Council members - Australia, Chile, France, Jordan, Lithuania, Luxembourg, the Republic of Korea, Rwanda, the UK and the US - to the President of the Council (Chad) requesting that the situation in the DPRK be formally placed on the Council's agenda. The letter noted that the grave violations of human rights and IHL were having a "destabilizing impact on the region and the maintenance of international peace and security."⁸⁴

⁸² The use of the procedural vote on the UNSC is governed by Article 27 of the UN Charter and Rule 40 of the Provisional Rules of *Procedure*.

⁸³ For background on the use of procedural votes in Council practice, see Security Council Report, March 2018 Monthly Forecast: In Hindsight: Procedural Votes, Posted 28 February 2018, https://www.securitycouncilreport.org/monthly-forecast/2018-03/in_hindsight_procedural_votes.php, accessed 22 November 2019.

⁸⁴ Letter dated 5 December 2014 from the representatives of Australia, Chile, France, Jordan, Lithuania, Luxembourg, the Republic of Korea, Rwanda, the United Kingdom of Great Britain and Northern Ireland, and the United States of America to the United Nations addressed to the President of the Security Council (S/2014/872).

Despite this clear request, Chad, as President of the Council, let eleven working days pass before convening the meeting. During that period and following considerable work by Australia behind the scenes to ensure a high level of support, the General Assembly adopted Resolution 69/188, by which it decided to submit the Commission of Inquiry report to the Security Council. This development took the wind out of the sails of China and Russia, which, steadfastly opposed to the move, had been arguing that the issue should be left to the General Assembly.⁸⁵

A procedural vote on 22 December prevailed (with China and Russia voting against and Chad and Nigeria abstaining), placing the situation in North Korea on the agenda of the Security Council. This marked the first time the Council had recognised that human rights violations committed entirely inside the territory of a country could nevertheless constitute a threat to international peace and security. Assistant Secretary-General for Human Rights, Ivan Simonovic noted that:

“Rarely had such an extensive charge-sheet of international crimes been brought to the Council’s attention.... The people of [North Korea] have endured decades of suffering and cruelty. They need the Council’s protection, and the cause of justice, peace and security requires its leadership.”⁸⁶

Statements by the ten Council members which had signed the letter to the President of the Security Council were strongly supportive of the initiative.

Placing the issue on the Council’s agenda and securing the debate was an achievement in itself. A carefully planned and coordinated two-year effort reaching from Geneva to Seoul to New York had succeeded.

⁸⁵ Lorraine Sievers and Sam Daws, *The Procedure of the UN Security Council* (4th edition), Oxford University Press, Oxford 2014, Update Website, Chapter 4, Section I, updated on 01 February 2019, accessible at www.scprocedure.org/chapter-4-section-1d, accessed on 18 March 2020

⁸⁶ United Nations Security Council Session 7353 *Meeting, The situation in the Democratic People’s Republic of Korea* S/PV.7353 22 December 2014, p.6.

Australia received considerable plaudits for the result.⁸⁷ In his statement, Permanent Representative Quinlan noted Australia's expectation that the Council would regularly return to assess the situation in DPRK.⁸⁸

Developments since 2015

With Australia's departure from the Council at the end of 2014, the US took over leadership on the DPRK human rights issue and was able to secure the required number of votes (nine) to prevail in the procedural vote necessary to place the issue on the Council schedule for discussion in 2015. Subsequent debates were also secured in 2016 and 2017.

Failure to secure the debate in both 2018 and 2019 on the human rights situation in the DPRK was broadly condemned.⁸⁹ In lamenting the failure to secure the debate, Human Rights Watch reaffirmed that the annual debate "ensures states are given a critical opportunity to discuss Kim Jong-un's continuing authoritarian rule as a threat to international peace and security."⁹⁰

If the Council continues to find it difficult to secure Council attention on North Korean human rights issues, there is a possibility this might slip from the agenda entirely. This would not only constitute a dramatic backward step in efforts to hold North Korea to account for its abuses, but would also signal a refusal, or at least an inability, of the Council to continue to engage in the fundamental human rights issues so central to many of the international peace and security issues on its agenda.

⁸⁷ Ibid.

⁸⁸ United Nations Security Council Session 7353 *Meeting, The situation in the Democratic People's Republic of Korea* S/PV.7353 22 December 2014, p.8.

⁸⁹ For insight into the reasons for this result, see R. King, "New U.S. Ambassador to the UN Should Press for Security Council Discussion of North Korean Human Rights", CSIS 05 September 2019, <https://www.csis.org/analysis/new-us-ambassador-un-should-press-security-council-discussion-north-korean-human-rights>; accessed 22 November 2019

⁹⁰ Param-Preet Singh, "Giving North Korea Abuses a free pass", Human Rights Watch, 09 December 2018, hrw.org/news/2018/12/09/giving-north-korea-abuses-a-free-pass, accessed 10 April 2020.

Human Rights

For Australia, placing the DPRK's human rights situation on the UNSC agenda reflected a conviction that serious human rights concerns were often central to the Council's work and deserved to be treated as such. Ambassador Quinlan set out this view to the Council during Australia's wrap-up statement in April 2014:

“We are at a series of dangerous points - in Ukraine, Syria, the Central African Republic, South Sudan, Darfur, the Middle East Peace Process. Fundamental human rights are intrinsic to each of these crises and are threaded through all the Council's work – from conflict prevention to crisis response and effective peacekeeping focused on the protection of civilians ... While the UN Charter of 1945 remains both our touchstone and our mandate ... we should not forget the achievements of 1948 and 1949 – the Universal Declaration of Human Rights and the Geneva Conventions ... Even then, the connection was obvious.”⁹¹

Unfortunately, more than 70 years later, and despite numerous contemporary references to both human rights and IHL in Security Council products, the connection appeared not to be accepted by all. Through their respective statements across a broad range of issues, it was clear that Russia and China each remained committed to the view that human rights issues – even those arising in the context of armed conflict – were not matters for the Security Council, but rather the exclusive remit of the Human Rights Council. During Australia's term,

⁹¹ Statement on file with author (as wrap up sessions were private meetings, no verbatim record was made by the UN Secretariat).

even efforts to bring the High Commissioner for Human Rights in to brief the Council were routinely, if not always successfully, opposed.⁹²

Secretary-General Ban's "Human Rights Up Front" initiative, which had emerged from UN introspection around its failures to ensure the protection of civilians in the final stages of the Sri Lanka conflict in April/May 2009, sought to reposition human rights as central to the UN's work. The strategy emphasised to the entire UN system the requirement "to take early and effective action, as mandated by the Charter and UN resolutions, to prevent or respond to large-scale violations of human rights or international humanitarian law."⁹³

Australia saw an opportunity to promote the "Human Rights Up Front" approach through a discussion in the Security Council and engaged the Secretary General's Office as to how this might be done. The delegation was surprised to receive a reticent response – this was not the right time; the first step was to secure support within the UN Secretariat, and across the UN system. Given this response, the Australian delegation did not proceed. In retrospect, this may have been an opportunity missed.

Developments since 2015

Six years after the conclusion of Australia's term, discussion about the appropriate place of human rights issues in the Security Council has persisted and intensified. At one level, the debate is an arid one. Human rights are already integral to much of the Council's work – in conflict prevention, peacekeeping, rule of law, protection of civilians, Women, Peace, and Security and other areas of focus. Interplay between the Council and the Human Rights Council has become increasingly common, and in the views of many, mutually supportive.

⁹² For a nuanced consideration of China and Russia's position on human rights and the Council, see "Human Rights and the Council: An evolving role", Research Report 2016 no.1, Security Council Report, 25 January 2016, securitycouncilreport.org.

⁹³ "Protect Human Rights: Secretary-General", *The United Nations, Peace, Dignity and Equality on a Healthy Planet*, www.un.org/en/sections/what-we-do/protect-human-rights/

In April 2017, the US sought to push the envelope on the question of the place of human rights in the Council by hosting, as President, an Open Debate on the topic. The US concept note observed that “the Security Council [had] never before held a meeting dedicated to and focused exclusively on human rights,” and went on to assert that “human rights violations should be seen as an issue that falls within the Council’s primary responsibility for maintaining peace and security even when they do not have an immediate cross-border impact.” Unable to muster the votes to secure a new agenda item specifically on “human rights”, the US held the meeting under the existing agenda item “Maintenance of international peace and security.”⁹⁴

For some observers, the fact that the US took this issue up directly and encouraged the debate was in itself an advance; for others, it was an opportunity missed. Either way, an earlier observation by a 2016 Security Council Report still held: “There is probably quite a high degree of unrealised potential within the Security Council for having a significant impact on human rights conditions in specific situations around the world.”⁹⁵

⁹⁴ S/PV.7296

⁹⁵ “Human Rights and the Security Council: An evolving role”; Security Council Report, 2016, no. 1, 26/1/16, p.31. This tension on human rights persists across the United Nations system – for an informed account of recent tensions within the Secretariat on human rights issues, see Lynch, Colum, “UN Chief faces international criticism over human rights”, Foreign Policy, 04 February 2020, at <https://foreignpolicy.com/2020/02/04/un-chief-guterres-internal-criticism-human-rights>, accessed 01 May 2020.

Accountability

In campaigning for a Council seat, Australia consistently emphasised its commitment to ensuring those individuals most responsible for the gravest international crimes were held to account. Such accountability was, in Australia's view, essential to the protection of civilians mandate, to upholding IHL, and to living up to the tenets of the R2P.

This emphasis on accountability was also consistent with a long line of Australian support for international justice mechanisms to ensure accountability for those most responsible for war crimes, crimes against humanity, and genocide. Australia had been a strong supporter of the two international tribunals established by the Security Council in the 1990s – the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda. Senior Australian jurists had occupied key roles in each. Australia had also played a central role in negotiations on the Rome Statute for the International Criminal Court (ICC), and, post entry into force, had resisted strenuous efforts to undermine the ICC.

By the time Australia entered the Council, the ICC had been in operation for a decade. The drafters of the Rome Statute had made express provision for interaction between the two institutions, including, as one possible basis for jurisdiction, a referral of a situation to the ICC by the Council. Over that period the Council had utilised that mechanism on two occasions – its referrals of the situation in Darfur in 2005, and the situation in Libya in 2011. In each case, the ICC Prosecutor was required to report on progress to the Council every six months.

These briefings became increasingly fractious during Australia's term. While Australia and the majority of other Council member states spoke in support of the work being done by the Prosecutor pursuant to mandates that the Council had provided, antagonism towards the

Prosecutor from Russia grew. There seemed little prospect that the Council would again refer a situation to the ICC.

The presentation by France to the Council of the “Caesar Report” on 04 April 2014 provided a dramatic test.⁹⁶ The report contained a searing and detailed first instance account, backed by graphic photographic evidence, of horrific torture and executions carried out by the Assad regime in Syria’s prisons.

The most dramatic challenge for Australia during its Council term in relation to accountability and the relationship between the Council and the ICC came from an unexpected quarter. In 2010, ICC Prosecutor Louis Moreno-Ocampo had initiated an investigation into the grave violence that had followed the December 2007 elections in Kenya, a state party to the Rome Statute. In March 2011 Ocampo had announced the indictment of six individuals, including President Kenyatta and Deputy President Ruto for trial before the ICC. Kenya subsequently requested the Council to defer the ICC investigation, relying on Article 16 of the Rome Statute, which requires that no investigation or prosecution can be commenced by the ICC for a one-year period where the Council requests deferral. Receiving insufficient support at that stage, it had not proceeded.

However, the shocking attack by Somali Islamist group Al-Shabab on a major Nairobi shopping mall on 21 September 2013 changed the equation dramatically. Following that incident, Kenya argued strenuously that it needed its political leadership to be completely focused on a pressing issue of national and regional security – the defeat of Al-Shabab. The Council needed to take a decision to defer the ICC action, as Article 16 of the Rome Statute envisaged. Kenya’s African Union partners supported its position.

⁹⁶ Letter dated 02 April 2014 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council, S/2014/244.

As one of three African states on the Council, Rwanda undertook to put forward a draft resolution seeking a Council decision under Chapter VII of the Charter to defer ICC action on Kenya. In subsequent discussions, the seven ICC states on the Council – Argentina, Australia, France, Guatemala, Luxembourg, the Republic of Korea and the UK – along with the US, acknowledged the challenges facing Kenya, but made clear that in their collective view, the very high threshold for the Council to take a decision to defer an ICC investigation had not been met.

The stage was thus set for a fractious Council discussion and vote. After strenuous advocacy in the lead up to the Council session, Kenya assessed that it could rely on seven votes in favour. Two more votes (and no veto) were required for the resolution to pass. Australia was perceived to be a potential swing vote and came under significant pressure at all levels from Kenya and other African states to support the draft resolution to be put forward.

On 15 November 2013, in front of a packed Council chamber, the President of the Council, Ambassador Liu Jieyi of China, put the draft to a vote.⁹⁷ Seven hands went up in favour. Eight members - Australia, the other six ICC members on the Council, plus the US - abstained. The proposal had been defeated. Condemnation from Kenya and its supporters was immediate. Kenya's Permanent Representative, Macharia Kamau, was scathing in his criticism of those Council members who had not voted in favour of a deferral, stating that "reason and law had been thrown out the window." The Council had shown "disdain for Africa" and had "done irreparable damage to the Rome Statute."⁹⁸ Rwanda's Permanent Representative Anastase Gashana was equally cutting, stating: "Let it be written in history that the Council failed Kenya and Africa on this issue."⁹⁹ Ambassador Quinlan later

⁹⁷ S/2013/660

⁹⁸ Ibid.

⁹⁹ Ibid.

assessed the session to be the most difficult of Australia's Council term.¹⁰⁰

Developments since 2015

In the six years since Australia's Council term, the Council has demonstrated no greater ability to play a role on issues of accountability for crimes against humanity, war crimes and genocide. The differences between the Council – or more precisely, Russia and China – and the ICC remain. While there have been significant developments in relation to the Council's referral of the situation in Darfur, with a new government in Sudan announcing its intention to transfer former President Omar al-Bashir to the ICC to stand trial,¹⁰¹ the Council can take no credit for this.

Indeed, as a direct consequence of the lack of progress by the Council, the initiative on accountability issues has been taken up elsewhere. The General Assembly has continued to establish COIs to report on alleged war crimes, crimes against humanity and genocide in a number of situations, and mechanisms have been established to collect and preserve evidence of such violations for use in possible future prosecutions. Australia has been a consistent supporter of and contributor to these mechanisms. As in the case of MH17, these moves underline that, where the Council is unwilling or unable to take up its responsibilities on questions of accountability, other routes to justice will be found – and in such circumstances, the Council's standing and authority will be diminished accordingly.

¹⁰⁰ Conversation with the author.

¹⁰¹ "Omar al-Bashir: Sudan agrees ex-president must face ICC", BBC News, 11 February 2020, <https://www.bbc.com/news/world-africa-51462613>.

Women, Peace and Security

As Australia's campaign for elected membership gathered momentum, the Women, Peace and Security agenda was approaching the end of its first decade. The adoption of Security Council Resolution 1325 in 2000 had proven transformative for the Council's understanding of the gender dimensions of prevention, conflict and post-conflict peacebuilding. It was also the first time the Council expressly recognised the differentiated experiences and needs of women and girls from those of men and boys, and the specific need for the representation of women at all levels of conflict prevention, management and resolution. Resolution 1325 also noted the protection needs of women and girls with respect to sexual and gender-based violence. In the decade since, the Council had considered Women, Peace and Security concerns in a wide range of specific situations and had passed further resolutions building on the foundation of Resolution 1325.

During the campaign, Australia emphasised its commitment to supporting and furthering the Women, Peace and Security agenda if elected. In 2012, Australia's adoption of its first Women, Peace and Security National Action Plan added impetus to that commitment. The National Action Plan articulated Women, Peace and Security lessons from Australia's peacekeeping and peacebuilding experience in the region and beyond, and strengthened international engagement on Women, Peace and Security as a key objective. With a number of Council states focused on the Women, Peace and Security agenda, the question was how to make a meaningful contribution.

Australia's close bilateral relationship at both national and delegation levels with the UK, the penholder on Women, Peace and Security issues, and the US, the penholder on conflict-related sexual violence, proved

vital. At the annual Australia and UK Defence and Foreign Ministers Meeting (AUKMIN) in January 2013, Australia and the UK had declared their determination “to work together to promote women’s rights and prevent sexual violence in our collective efforts to address contemporary global security and humanitarian challenges, including through our UNSC membership.”¹⁰² Australian NGOs made clear their expectation that Australia would follow through on this commitment while on the Council.



On the 19th year anniversary of the adoption of Resolution 1325, Phumzile Mlambo-Ngcuka, Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women addresses the Council (29 October, 2019).

“Security Council Considers Women and Peace and Security”, by United Nations Photo, licensed under CC BY-NC-ND 2.0

In preparing for its presidency of the Council in June 2013, the UK delegation advised other Council members it intended to hold a Ministerial-level Open Debate at which it would seek adoption of a Council Resolution on the prevention of sexual violence in conflict, with a focus on accountability for those responsible for such acts. Australia was able to leverage both its influence with the UK and US to collaborate on the text and its existing relations with P5 Women, Peace and Security experts, to negotiate and secure – for the first and only time

¹⁰² See <http://www.investinaustralia.com/news/aukmin-2013-communicé>

in Council history – explicit reference to the importance of sexual and reproductive health issues. The outcome was Security Council Resolution 2106.

The collaborative approach with the UK on Women, Peace and Security issues continued throughout Australia's term. Soon after becoming Foreign Minister in September 2013, Julie Bishop became a Global Champion for the Prevention of Sexual Violence in Conflict initiative. Australia again worked closely with the UK delegation in advance of the adoption of Security Council Resolution 2122 in October 2013, which focused on measures to strengthen implementation of the Women, Peace and Security agenda, and which gave effect for the first time to the recognition in Resolution 1325 of the need for women's full and equal participation in peace and political processes.

Beyond thematic work on Women, Peace and Security, the Australia delegation sought to promote and broaden attention on Women, Peace and Security issues across the Council agenda. Central to this was the decision to assign responsibility for Women, Peace and Security issues to a specific officer, who reviewed almost all draft Council products early in the negotiation stage to ensure that the Women, Peace and Security dimensions were appropriately addressed. This brought a coherence to Australia's positions on Women, Peace and Security issues across the Council agenda. Australia's consistent focus on women's agency and the necessity of their participation in peace processes, in addition to the protection aspect of Women, Peace and Security,¹⁰³ was well received.¹⁰⁴

¹⁰³ As an example, in delivering the Australian statement following adoption of Resolution 2106, Quinlan concluded "Women are not just victims. They are critical agents in conflict prevention, resolution, rebuilding and reconciliation. Just as we must ensure women's full and effective participation in efforts to address sexual violence through both prevention and protection, we must also to utilize their decisive power to bring about peace. That is fundamental to the Council's work." S/PV/6984, p.11.

¹⁰⁴ Shepherd and True assessed that "a determination to widen the (increasingly narrow) interpretation of the WPS agenda, beyond women as victims to women as critical agents, has characterized Australia's engagement with the WPS agenda from the inception of its campaign." Shepherd, Laura J. and True, Jacqui 2014. "The Women, Peace and Security agenda

In addition to work within the Council on resolutions and debates, Australia relied on its convening power as a Council member to hold events outside the Council to bring attention to particular aspects of the Women, Peace and Security agenda. One such event took place in May 2013, when Australia hosted, with Guatemala and the UN Department of Peacekeeping Operations (UNDPKO), an Arria-Formula meeting on the theme of “Perspectives from the Field: Gender Practitioners in UN Peacekeeping Operations”. The event, in seeking to demonstrate to Council members how Gender Advisors and Women Protection Advisors add value to peacekeeping operations, sought to influence the shape of future mandates.

Developments since 2015

Since departing the Security Council, Australia has continued to contribute to the Council’s consideration of the Women, Peace and Security agenda as a closely engaged non-member.¹⁰⁵ There can be little doubt that Australia’s experience on the Security Council has strengthened Australia advocacy on Women, Peace and Security in other fora since, including as a member of the UN Human Rights Council. It has deepened Australia’s domestic consideration of Women, Peace and Security, including preparation, on-going at the time of publication, of the second Women, Peace and Security National Action Plan.

and Australian leadership in the world: from rhetoric to commitment?”, *Australian Journal of International Affairs*, vol. 68, no. 3, pp. 257 – 284.

¹⁰⁵ See for example statement by the Hon Marise Payne, Australian Minister for Foreign Affairs to the UNSC Open Debate on Women, Peace and Security, 29 October 2020

Peacekeeping and the Protection of Civilians

Despite the fact that the UN Charter makes no express reference to it, in the years after 1945, peacekeeping rapidly became a central tool in the Council's efforts to maintain international peace and security. Central to Australia's pitch for elected membership was the fact that Australia had been a consistent contributor to UN peacekeeping from the outset – Australia led the first-ever UN peace mission, to the Dutch East Indies in 1947, and over 65,000 Australian military, police and civilian personnel had served in UN peace operations over the subsequent seven decades. That contribution had included critical leadership roles of UN peacekeeping missions in Cambodia and Timor-Leste, and leadership of regional peace missions in the Solomon Islands and Bougainville, Papua New Guinea. Australia drew heavily on these experiences in its membership campaign, conscious that, for many UN members, a demonstrated commitment to peacekeeping would be a key factor in decisions as to where to direct their votes.

As Australia campaigned for membership, it was also conscious that demands upon UN peacekeeping had changed dramatically. More UN peacekeepers were deployed on more UN missions than ever before – approximately 120,000 personnel on 16 missions. Those missions were entrusted with increasingly complex “multi-dimensional” mandates. Threats were increasingly asymmetric in nature, with peacekeepers under significantly greater threat from non-state actors using terrorist tactics. Often, there was little peace to keep.

At the same time, Australian contributions of personnel to UN peacekeeping and peacebuilding missions had fallen markedly from the peak of its leadership roles in successive UN missions in Timor-Leste a decade previously. In 2012 Australia came in around 80th in rankings of state contributors of personnel to UN peacekeeping operations. While

Australian military commitments in Afghanistan and Iraq were considerable, in each case these were as part of international coalitions acting on the invitation of and on the basis of collective self-defence of the host country, working alongside, rather than as part of, the respective UN peace operations in those countries. In short, they did not count as UN peacekeeping. If Australia was to demonstrate its contemporary commitment to UN peacekeeping it would need to do more than simply rely on its “proud history” of peacekeeping contributions. Australia therefore decided early in the campaign that its focus should be on the contribution Australia was making on two specific aspects.

The first centred around Australia’s efforts to strengthen implementation by UN peacekeeping operations of their respective protection of civilians mandates. The second aspect was a focus on the provision of “niche contributions.”

Following the genocides in Rwanda and Srebrenica two decades previously, the protection of civilians had been designated a primary objective of the Council. As Australia sought election for the Council, nine of the 16 peacekeeping operations had been assigned a protection of civilians mandate.

Shortly into Australia’s term, the Council was required to address the failure of the largest and most long-standing UN peacekeeping mission, the UN Peacekeeping Mission in the Democratic Republic of Congo (MONUSCO), to protect civilians in late 2012 (despite having a mandate to do so), when the M23 rebel group seized Goma. Australia provided early and strong support to France in its efforts to secure Council agreement to redesign and strengthen the UN’s largest and longest-running peacekeeping mission. Security Council Resolution 2098, adopted in April 2013, established a Force Intervention Brigade

(FIB) within MONUSCO, with a mandate to “eliminate armed groups.”¹⁰⁶



Then-Deputy Permanent Representative of Australia to the UN, Philipp King chairing a Security Council meeting on Bosnia and Herzegovina (11 November 2014).

“Council Discusses Situation in Bosnia and Herzegovina”, UN Photo/Loey Felipe

By November 2013, following decisive offensive action by the FIB, the M23 crossed into Uganda and surrendered. “Robust peacekeeping” had delivered a stunning result, ensuring that, finally, MONSUCO was in a position to deliver on its protection of civilians mandate. As Gareth Evans later noted:

“[in establishing the Force Intervention Brigade], the Council, with Australia’s strong support, took POC a big further step forward with its decision ... [to] establish... a Force Intervention Brigade with an explicit proactive mandate to ‘neutralise armed groups’ – which did then take the necessary decisive action.”

The FIB approach became a possible template for similar complex situations.

¹⁰⁶ Evans, Gareth, “Our Common Humanity: Responding to Humanitarian Crises,” World Humanitarian Day Address to Department of Foreign Affairs and Trade, Canberra, 19 August 2015, <https://www.gevans.org/speeches.html>, accessed 16 May 2020.

Australia continued its focus on protection of civilians across its Council term, ensuring the concept was included and strengthened in peacekeeping and other relevant mandates wherever possible.

Recognition in the UNDPKO and across the Council of the importance of the provision of “niche contributions” to effective peacekeeping strengthened appreciably during Australia’s term. While Australia was not positioned to provide large numbers of personnel to UN peace operations, it could on occasion provide key enablers which could ensure that peacekeepers from other states could be trained to meet UN requirements, could be mobilised quickly, and could operate within a stronger security envelope when on mission. There was a strong appetite from the UNDPKO for such support and, we assessed, some scope for Australian contribution of such expertise.

Australia had the chance to demonstrate this commitment on a number of occasions during its Council term. After the sudden outbreak of conflict in Juba, capital of the world’s newest nation, South Sudan, in mid-December 2013, the Council quickly decided to strengthen the existing peacekeeping operation, the UN Mission in South Sudan (UNMISS), more than doubling its number of personnel from 5,500 to 12,500, and strengthening its protection of civilians mandate. These developments were of direct national interest to Australia, which had 25 defence and 10 police personnel deployed as part of UNMISS. The considerable South Sudanese diaspora in Australia, many in close touch with relatives affected by the conflict, were strong advocates for enhanced Australian engagement.

In consultations a few days later, the UNDPKO advised the Council that, while it had identified contingents to be deployed to the new mission, it was having difficulty finding a way to transport them into theatre. In particular, a large contingent of Bangladeshi troops needed assistance to deploy to South Sudan. The Australian mission acted quickly, relaying the request to DFAT and Defence colleagues in Canberra, and

recommending the Government consider redirecting strategic air lift contribution from Middle East Operations for a short period to assist the UN. A few days later, the Australian mission advised the UNDPKO that Australia could offer Royal Australian Airforce (RAAF) heavy airlift capacity for a defined period. Over the next two weeks the RAAF conducted eight C-17 Globemaster flights and two C-130 Hercules flights, transporting the Bangladeshi contingent and other peacekeeping personnel, as well as 200 tonnes of equipment, into Juba.¹⁰⁷ This was welcomed as a significant contribution to the quick expansion of the UNMISS mission, crucial as the conflict quickly spread across South Sudan.

Australia was also able to use its offensive military capability deployed in Iraq as part of the coalition against ISIS (Da'esh) to support protection of civilians objectives. Following the occupation of Sinjar in northern Iraq by ISIS (Da'esh) forces in August 2014, the group had engaged in horrific crimes against the civilian Yazidi population, including torture, rape, execution, and forced displacement. Thousands of Yazidis had retreated to the Sinjar Mountains, where they were effectively besieged by ISIS (Da'esh) forces. By December, ISIS (Da'esh) announced that it was planning to take the mountain, and massacre the remaining Yazidis taking shelter there. Secretary-General Ban urged countries to do more to help.¹⁰⁸

While there was no specific Chapter VII authorisation from the Council for military action to prevent the impending genocide, Australia and coalition partners assessed that such action was consistent with their collective self-defence of Iraq, undertaken at the invitation of that Government. Over the course of a week from 15 December 2014, Australian FA18 Hornet aircraft joined coalition partners in conducting

¹⁰⁷ Defence completes airlift mission in South Sudan, Defence News 14 January 2014, <https://news.defence.gov.au/media/media-releases/defence-completes-airlift-mission-south-sudan>, accessed 16 May 2020.

¹⁰⁸ "Thousands of Yazidis 'still trapped' on Iraq mountain", BBC News, 12 August 2014, www.bbc.com/news/world-middle-east-28756544

airstrikes on advancing ISIS (Da'esh) forces, and maintaining air combat patrols in support of advancing Kurdish military forces.¹⁰⁹ That collective support enabled the Kurdish forces to rescue the displaced Yazidi from Mt Sinjar, so preventing an imminent massacre of thousands of people.

Developments since 2015

In the five years following Australia's term, Australia's profile in UN peacekeeping remained fairly static. In 2019 the UN Peacekeeping Scale of Assessments placed Australia 11th on the list of financial contributors; the list of countries by number of peacekeepers placed Australia 81st, with a total of 36 personnel deployed. A number of Australian commentators have criticised this low-level engagement in UN peacekeeping.¹¹⁰

Notwithstanding this profile, the Australian Government was keen to participate in the High Level Summits and secured an invitation in both 2015 and 2016 on the basis of specific pledges. These revolved around the provision of niche capabilities, including provision of strategic airlift to UN operations wherever possible (following the assistance provided by the ADF to the UNMISS in 2013 as a template), provision of force protection technological capabilities, and training and capacity building capabilities. While not as high profile as some other commitments made, these niche contributions were welcomed, and could, if and when drawn upon, make a real contribution to quicker deployments, safer operations, and higher standards across UN peace operations.

These contributions will continue to be valuable. However, the challenge ahead for Australia will be how to maintain UN peacekeeping

¹⁰⁹ "Australian air strikes support liberation of Mount Sinjar", Defence News and Media, 22 December 2014, <http://news.defence.gov.au/2014/12/22/australian-air-strikes-support-liberation-of-mountain-sinjar/>, accessed 23 March 2020.

¹¹⁰ See for example Sharland, L. Australia and UN peacekeeping at 70: Proud history, uncertain future, *The Strategist*, 14 September 2017, <https://www.aspistrategist.org.au/author/lisa-sharland>.

skills and experience when Australian military, police and civilian personnel are not regularly deploying to UN peace operations. Continued commitment to provide niche capabilities wherever possible will assist, as would an indication that Australia is considering recommitting to UN peacekeeping, including through deployments to specific missions.

Peacebuilding

As a member of the Council, Australia had a front row view of the interaction between the Council and the UN's peacebuilding architecture during 2013-2014. Established in 2005 to fill what then-Secretary-General Kofi Annan had identified as a "gaping hole in the UN's peacebuilding capacities", the institutions established – the Peacebuilding Commission (PBC), the Peacebuilding Support Office and the Peacebuilding Funds – had failed to deliver as intended.¹¹¹

Australia contributed to UN peacebuilding throughout its term, supporting efforts to ensure timely horizon scanning to improve the quality of Council decisions, participating in Security Council visits to countries on the Council's agenda, and providing political support for the work of individuals undertaking peacebuilding efforts on behalf of the UN Secretary-General. However, Australia's experience on the Council confirmed its view that there was scope for the peacebuilding architecture - and, more importantly, for peacebuilding perspectives - to have a significantly greater influence on Council decision making, and for there to be greater collaboration between the Council and the PBC.

Developments since 2015

The Advisory Group of Experts appointed by the Secretary-General to conduct the 2015 review of peacebuilding was blunt in its conclusions. "For many UN member states and UN organisation entities alike, peacebuilding is an afterthought: under-prioritised, under-resourced and undertaken only after the guns fall silent."¹¹² The report introduced the

¹¹¹ "Sarah Hearn, Alejandra Kubitschek Bujones, Alischa Kugel, The United Nations Peacebuilding Architecture" Past, Present and Future, NYU Center on International Cooperation, May 2014, cic.nyu.edu/sites/default/files/un-peace-architecture.pdf, accessed 14 April 2020; For a detailed assessment of the state of the UN's peacebuilding architecture, see Cedric de Coning and Eli Stannnes (Eds.), *UN Peacebuilding Architecture: The First Ten Years* (New York: Routledge, 2016).

¹¹² The Challenge of Sustaining Peace, Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture, peaceoperationsreview.org/wp-content/uploads/2015/07/united_nations-challenges-sustaining-peace.pdf

concept of “sustaining peace”, noting this needed to cover “the arc leading from conflict prevention, through peacemaking and peacekeeping, and on to post-conflict recovery and reconstruction.”¹¹³

Australia was not an obvious candidate to lead the inter-state process and spearhead the comprehensive change agenda set out in the Advisory Group report. Australia had not served on the PBC since its establishment, nor had it played a significant role on any of the PBC’s country configurations. However, during its Council term, Australia had demonstrated the skill and tenacity needed to oversee complex negotiations and successfully chaperone politically sensitive texts to consensus. Moreover, Australia’s recent national experience with Coalition operations and regional missions such as the Regional Assistance Mission to Solomon Islands (RAMSI) equipped the delegation to speak with policy insight and experience regarding the importance of peacebuilding approaches to the recovery of fragile states from conflict.

In 2015 Australia was selected by the General Assembly to lead, with Angola, the process of securing two substantively identical resolutions – in the General Assembly and in the Security Council – to significantly reform the UN’s approach to peace building. This was a diplomatic challenge of significant proportions.

The two resolutions adopted on 27 April 2016 – General Assembly Resolution 70/682 and Security Council Resolution 2282 - were received as landmark texts; the most comprehensive ever on peacebuilding.¹¹⁴ The resolutions achieved the following: First, they entrenched “sustaining peace” as the central concept around which peacebuilding efforts must be based. Second, they broadened the understanding of what sustainable peace meant in practice, away from

¹¹³ Ibid, p.7

¹¹⁴ The Peacebuilding Commission and the Security Council: From Cynicism to Synergy?, Security Council Report, 22 November 2017, p.7, <https://www.securitycouncilreport.org/research-reports/the-peacebuilding-commission-and-the-security-council-from-cynicism-to-synergy>, accessed 16 April 2020.

post-conflict contexts and to take in preventative efforts (a matter of considerable sensitivity amongst many member states concerned with issues of sovereignty). Third, they emphasised the importance of women's leadership and participation in preventing and resolving conflict and sustaining peace. Finally, they provided a foundation from which the peacebuilding institutions could be revitalised and through which peacebuilding could be mainstreamed as a core goal of all United Nations activity. Australia's Permanent Representative from 2015-2019, Gillian Bird, and her team received considerable kudos not only for the outcome but for the careful, inclusive and even-handed process that they had followed to get there.

The broad notion of sustaining peace has since become central to the UN reform agenda of Secretary-General António Guterres.¹¹⁵ The concepts have resonated beyond UN headquarters, and in ways that directly supported Australia's national interests. Mostly, this has taken the form of increasing the effectiveness of the UN as a whole in the ways it delivers assistance, but it has also had regional impacts. In 2017 the PBC took up the situation in the Solomon Islands, a rare engagement with a Pacific country. When President Manasseh Sogavare of Solomon Islands went to New York in June 2017 to engage the PBC on its post-conflict transition, he expressed his country's gratitude to RAMSI. As the RAMSI mission wound down, Sogavare proposed partnership with the Commission to sustain peace.¹¹⁶ From Australia's perspective, the transition following the conclusion of the RAMSI mission to the UN's "sustaining peace" framework was a welcome and appropriate outcome.¹¹⁷

¹¹⁵ The Peacebuilding Commission and the Security Council: From Cynicism to Synergy? Security Council Report, 22 November 2017, <https://www.securitycouncilreport.org/research-reports/the-peacebuilding-commission-and-the-security-council-from-cynicism-to-synergy>, accessed 16 April 2020.

¹¹⁶ Prime Minister Manasseh Sogavare, Solomon Islands; Statement to UN Peace Building Commission, 07 June 2017, www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/pbc-solomon-islands_-_pm_statement.pdf, accessed 16 April 2020.

¹¹⁷ Final Evaluation: UN Peace Building Fund project Solomon Islands, Phase II, 31 October 2019, <https://reliefweb.int/report/solomon-islands/final-evaluation-un-peace-building-fund-project-solomon-islands-phase-ii>, accessed 12 May 2020.

Afghanistan

As penholder, Australia played an active leadership role in the Council on Afghanistan issues during a historic juncture in its political and security transition. There was an array of interests amongst Council members – a number, including the US, UK, and Australia, had significant forces deployed to the North Atlantic Treaty Organisation (NATO)-led coalition in Afghanistan. Others - China, Russia and, in 2013, Pakistan - were keen to assert geographic, strategic and historical interests.

Australia managed to secure successful mandate renewals for the UN Assistance Mission in Afghanistan (UNAMA) in March 2013 and 2014, working to strengthen the promotion of human rights (particularly of women) and ensure continued focus on governance, health, protection of children and the fight against corruption. In advocating for the significantly greater focus in these resolutions than in previous years for strong Women, Peace and Security references, the delegation was able to advise counterparts that these were included on direct instructions from “the top”- Prime Minister Julia Gillard in 2013, and Foreign Minister Bishop in 2014.

With the determination, including from the Afghan government itself, that Afghanistan should take the lead on security following the country's first-ever democratic transition of power, in late 2014, the Council again considered Afghanistan. Australia's challenge as penholder was to secure a Security Council resolution which provided appropriate acknowledgement of the agreement between NATO and the Government of Afghanistan to wind up the International Assistance Mission for Afghanistan (ISAF), and the establishment of a follow-on mission – Resolute Support, the NATO-led non-combat mission which followed ISAF - without cutting across that separate arrangement.

Security Council Resolution 2189, adopted on 14 December 2014 by consensus, provided the Council's political support for the Resolute

Support mission – the NATO-led non-combat mission which followed ISAF. The route to adoption was brevity. The draft resolution Australia put forward contained only four operative paragraphs. Operative paragraph 1 made clear that the Council’s role remained a supporting one:

*“Underscor[ing] the importance of continued international support for the stabilization of the situation in Afghanistan and of further enhancing the capabilities and capacities of the Afghan National Defence and Security Forces in order for them to maintain security and stability throughout the country, and in this regard, welcom[ing] the agreement between NATO and Afghanistan to establish the post-2014 non-combat Resolute Support Mission, which will train, advise and assist the Afghan National Defence and Security Forces at the invitation of the Islamic Republic of Afghanistan.”*¹¹⁸

On this occasion, Australia had wanted the Council to step back rather than step up. But unanimous international support for resolutions on Afghanistan, even brief texts such as Resolution 2189, was nevertheless seen as vital in bolstering the young Afghan government at home and abroad, and in exerting pressure on the Taliban towards the negotiating table.

A frequent additional responsibility of Australia’s role as penholder on Afghanistan was a sombre one - the issuance of press statements on behalf of the Council deploring attacks by Al-Qaeda and other actors on Afghan civilians and civilian objects. They were a relentless reminder of the limits to Council and NATO influence in the long-running conflict, and of the human cost of that conflict, borne overwhelmingly by civilians as Afghan military targets became increasingly difficult for a desperate Taliban to assail. Australia’s swift work to produce

¹¹⁸ Security Council, UN document S/RES/2189 (2014), accessible at <https://www.securitycouncilreport.org/un-documents/document/sres2189.php>

unanimous Security Council resolutions on these incidents was appreciated by Afghan officials in particular, always keen to ensure that such violence was never normalised or allowed to pass without universal condemnation.

Developments since 2015

Since departing the Council, Australia has been a regular contributor to the quarterly Council open debates on Afghanistan, including on mandate renewals, and has continued to support the sanctions regime. In May 2021, Australia, US, and NATO forces announced their respective withdrawals from Afghanistan. The broader story of Australia's twenty years of engagement in Afghanistan is for others to cover. However, it seems reasonable to assess that, while Australia's principal lines of engagement on Afghanistan ran through Kabul, Washington and Brussels, Australia's success in managing the Afghanistan file on the Council strengthened each of these relationships, and Australia's overall interests in Afghanistan and the region.

Counter-Terrorism

When Australia took up its role as an elected member in January 2013, it had engaged closely with the Council and the UN Secretariat on counter-terrorism issues for over a decade. Australia had swiftly enacted domestically the demanding requirements of Security Council Resolution 1373, adopted immediately after the September 11, 2001 attacks. Australia had then provided considerable assistance to regional states to build their capacity to implement their obligations under that new framework. As Australia came on to the Council, Mike Smith, a senior Australian official serving as head of the UN Secretariat's Counter-Terrorism Executive Directorate and charged with leading efforts to assist Resolution 1373 implementation, emphasised to the delegation the opportunity that elected membership provided to pursue Australia's counter-terrorism objectives.

The counter-terrorism challenge morphed in dramatic ways across Australia's Council term. The emergence of Da'esh in Syria and Iraq, its dramatic seizure of Iraqi territory and declaration of a "caliphate" in northern Iraq, the influx of foreign terrorist fighters into Syria and Iraq, and the increasingly brazen actions of Al-Qaeda aligned and inspired groups, including Al-Qaeda in the Islamic Maghreb, Boko Haram in West Africa, and Al-Qaeda in the Arab Peninsula, required the Council to strengthen the existing counter-terrorism framework considerably. Australia sought to contribute to that objective as a Council member wherever it could. Australia's role as Chair of the Al-Qaeda/ISIS Sanctions Committees enabled it to strengthen implementation of those sanctions regime globally, including through working cooperatively with the Ombudsperson charged with monitoring the sanctions regime for listing individuals and groups associated with Al-Qaeda. This cooperation ensured the list was independently reviewed, so strengthening the credibility of the overall regime.



Former Australian Prime Minister Tony Abbott and Former American President Barack Obama at the 2014 Security Council Summit on Foreign Terrorist Fighters (24 September 2014).

“Security Council Summit on Foreign Terrorist Fighters”, UN Photo/Mark Garten

Australia’s close bilateral relationships with the UK and the US on counter-terrorism issues enabled the delegation to work closely with both throughout Australia’s Council term. That cooperation contributed to the Council’s adoption by consensus in August 2014 of Security Council Resolution 2170 on Syria and Iraq. This resolution, a UK initiative, condemned the systematic and widespread of IHL and human rights law abuses, including the indiscriminate killing of civilians by armed extremist groups, particularly the so-called Islamic State of Iraq and the Levant (ISIL) and the Al-Nusra Front.

Security Council Resolution 2178 on Foreign Terrorist fighters, a US initiative, was adopted at a Leaders Level Summit, a month later, attracting 120 co-sponsors. Through these actions, the Council designated foreign terrorist fighters as threats to international security for the first time,¹¹⁹ and significantly extended the counter-terrorism framework it had established under Resolution 1373 following the 11 September 2001 terrorist attacks. It was then-Prime Minister Abbott,

¹¹⁹ See Bilkova, Veronica. (2018). Foreign Terrorist Fighters and International Law, *Groningen Journal of International Law*, vol 6(1), 1-23.

attending his first UN Leaders Summit, who raised his hand for Australia; he acknowledged the direct link to Australia's national interest in his subsequent statement.

On 19 November 2014, Foreign Minister Bishop, presiding over the Council during Australia's second Presidency, gavelled through a detailed Presidential Statement which laid out specific practical guidance for states in the implementation of these new counter-terrorism obligations.¹²⁰ Minister Bishop pointed out that the Presidential Statement just adopted emphasised a range of practical steps states needed to take to strengthen their respective counter-terrorism efforts, including stronger liaison with INTERPOL, and enhanced monitoring by airlines of passenger information. Briefing the Council in his capacity as Chair of the Al-Qaeda Sanctions Committee, Quinlan emphasised the dimensions of the challenge. ISIL activity was funded primarily from its control of oil fields in territory it had occupied in Northern Iraq – to the tune of US \$1.6 million per day. The other principal terrorist actor in the conflict, the Al-Nusra Front, financed its activities primarily through kidnapping for ransom activities. Over 15,000 foreign fighters had come from more than 80 countries, generating fresh, transnational social and operational networks. Over 60 states took the floor in support of the Australian initiative.

¹²⁰ S/PRST/2014/23

A Voice for the Region?

A key part of Australia's pitch for election was that it would be able to bring to the Council perspectives and experience from the Indo-Pacific region. The subtext was that by virtue of its geography and role in the region, Australia could add value to the Council's work in ways that the other states seeking election for the two WEOG seats – Luxembourg and Finland – could not. While not naïve about China's determination to keep most issues of international security in the Indo-Pacific away from the Council, Australia was confident that there would nevertheless be scope for Australia to add value on at least some regional issues as they arose.

In the years immediately prior to Australia's term, the Council had authorised and overseen peacekeeping and peacebuilding activities in Timor-Leste and had endorsed the Association of Southeast Asian Nations (ASEAN) leadership on conflict prevention in relation to Thailand and Cambodia's border dispute over the Preah Vihear Temple. However, this represented an unusually high level of Council engagement in Australia's region.

In remarkable timing, Timor-Leste came off the Council agenda on 31 December 2012, the day before Australia took up its seat as an elected member. There had been an assumption that Australia would be able to lead Council consideration of the peacebuilding dimensions of Timor-Leste's transition. Ongoing support for Timor-Leste's aspirations would need to take place through other UN, as well as bilateral, channels.

Australia managed to find other ways to ensure a regional dimension to its Council membership. Early in its term, the delegation contributed to an Arria-Formula Meeting convened by Pakistan and the UK on threats to international security posed by climate change. Joining as briefers, then-Australian Foreign Minister Bob Carr and then-Prime Minister of

Kiribati, Anote Tong, sent a video message from Kiribati, emphasising the magnitude of international security threats that climate change posed for Pacific partners.

While the initiative was welcomed by some, a number of Pacific representatives criticised the format – outside the Council, and with no formal product – as evidencing a lack of ambition on the part of the Council. These representatives made clear that, as a Pacific partner, Australia should highlight the impact of climate change as a threat to international peace and security in formal Council proceedings during its term. In response, the delegation recalled Germany’s experience two years earlier. Facing stiff opposition to a draft Council resolution it had proposed declaring climate change to be a threat to international peace and security, Germany had had to settle for a relatively anodyne Presidential Statement.¹²¹ It was clear to Australia that, less than two years later, there was little scope to secure meaningful Council engagement on climate change. Nor was that necessarily a bad outcome – casting climate change as primarily a security issue at that time could have undermined more productive and inclusive consideration in the General Assembly.

Developments in Myanmar had long been of concern to Australia. The UK, having used a procedural vote to place Myanmar on the Council agenda in 2006, had consistently sought to ensure that the Council remained engaged. As a Council member, Australia supported these efforts, recognising the benefits of Council attention as transition unfolded. The delegation also noted in discussions the role that ASEAN was playing in addressing the challenges faced by one of its own. Despite these Council discussions, and Secretary-General Ban’s

¹²¹ The statement noted merely that “possible adverse effects of climate change may, in the long run, aggravate certain existing threats to international peace and security.” S/PRST/2011/15*, 20 July 2011.

personal efforts, it became apparent to Australia that any capacity to influence Myanmar's transition lay closer to home.



The United Nations Security Council met for the first time on 17 January 1946 at Church House in London, United Kingdom. The first session was presided over by Australia's Ambassador, Norman Makin, who was the first president of the Council.

Photo supplied by author.

Perhaps Australia's most significant contribution to regional issues arose not from bringing Council attention to specific country situations, but through its efforts to ensure cross-cutting thematic issues – protection of civilians, policing as a central part of peacekeeping, small arms, and Women, Peace and Security – were appropriately included in new and updated mandates. These were all issues upon which Australia had gained expertise through its regional peacekeeping and peacebuilding efforts, and which were of continuing relevance to the region. While not bringing the Council to the region in a comprehensive way, Australia had managed to bring its regional experience to the Council.

Navigating the Presidency

At 10 a.m. on 03 September 2013, in the Council consultations room, Ambassador Quinlan gavelled the meeting open, becoming the first Australian President of the Security Council in 27 years. His first act as President for the month of September was to draw the attention of the other 14 Ambassadors to envelopes placed in front of them. Each contained a card featuring a photo of the first-ever meeting of the UN Security Council, held on 17 January 1946 in London, with Ambassador Norman Makin of Australia presiding. Although Australia was not a Permanent Member, and had been away for some time, it had been there from the beginning. In addition, the 14 other Permanent Representatives each received a specially commissioned indigenous painting, on the theme of “meeting place”, evoking the shape of the Council’s horseshoe table.

The Council then adopted its programme of work for the month, agreed previously among Political Coordinators. The fact that Australia’s presidency fell in September was significant. This meant that it would have the privilege of determining the focus of, and presiding over, a special session of the Council during High Level week, with leaders and ministers of Council member states participating. Australia planned to use that opportunity to seek the first-ever Security Council resolution on small arms. The delegation knew that this was ambitious, and anticipated difficult negotiations.

The broader context was challenging. Ten days previously, the world had seen the shocking footage of a chemical weapons attack on Ghouta, Syria, in which over a thousand people had died. Previously, President Obama had set a clear red line for Syria, intimating that the US would respond to any use of chemical weapons by the Assad regime by any means necessary. President Macron of France and Prime Minister

Cameron of the UK had quickly expressed their respective governments' support for a robust response. Tellingly, none of these leaders publicly committed to seeking UN Security Council endorsement for such action.

Seen in the context of ongoing rancour around the actions of the then UK Government in the lead up to the 2003 invasion of Iraq, the fact that UK parliament consideration of the issue on 29 August resulted in a clear vote against the UK joining the US in an attack on Syria without Security Council authorisation was perhaps inevitable. Certainly, it undermined the positions of both the US and France. As Australia took the Presidency, the next steps were unclear. But the prospect of Australia presiding over the Council at precisely the time that at least two Permanent Members used force against another UN member state without specific Council authorisation was a distinct and concerning possibility. The parallels to Iraq 2003 were too evident to ignore.

To further complicate matters, an Australian federal election had been called for 07 September 2013. Beyond that date, the delegation did not know who would form the next Government, and indeed, whether there would be a Government in place at all during the second half of Australia's Presidency. In the interim, caretaker provisions requiring consultation with both Government and Opposition on proposed responses to major developments added further complexity. The delegation was certainly in no place to advise the UN Secretariat or Council colleagues who would preside over the Council during Leaders Week.

The final days of Australia's September 2013 Presidency were as dramatic as the beginning. With the Australian election having resulted in a change of Government, newly sworn-in Foreign Minister Julie Bishop represented Australia at the UN General Assembly Leaders week in the final week of that month. Her intensely packed program provided an excellent opportunity for her to introduce herself to many

leaders and counterparts. The final day of the program concluded with her presiding over an open session of the Security Council - the first Australian Foreign Minister to do so for decades. After the adoption of Australia's resolution on small arms, Foreign Minister Bishop left the Chamber, rushing to JFK Airport for a long flight to Jakarta to join Prime Minister Abbott on his first overseas trip, to meet his Indonesian counterpart. Quinlan took over as President. All fourteen other Council representatives were represented by their leader or Foreign Minister. There was one further item on the agenda.

Throughout September, uncertainty persisted as to how the US and France would respond to the use of chemical weapons in Ghouta, outside Damascus. As President of the Council, Quinlan was advised by both the US and Russia that bilateral discussions were underway.

Both US Ambassador Power and Russian Ambassador Churkin urged Quinlan, in his role as Council President, to contain the intense Council interest in the bilateral discussions, and to provide the US and Russia with space to seek a solution. If and when a solution was found, the Presidency's careful choreography of the vote would be crucial. There would be no scope for re-opening any text upon which the US and Russia had agreed. The other members of the Council would receive the draft only shortly before action was taken. Any elected member concerns about a lack of transparency would need to be handled carefully. Quinlan subsequently used a scheduled discussion on the Middle East as a chance for all Council members to register their views but avoided convening formal talks that may have led to a hardening of positions.¹²²

At the request of Russia and the US, Australia convened a closed Council consultations meeting late on 26 September. Russia and the US

¹²² For a detailed account of developments in the lead up to Council adoption of UNSC 2118, see Richard Gowan, "Australia on the Security Council", Lowy Institute Analyses 12 June 2014, <https://www.lowyinstitute.org/publications/australia-un-security-council>, accessed 29 November 2019.

jointly tabled a draft resolution requiring the dismantling of Syria's chemical weapons program. The draft established for the first time that the use of chemical weapons by anyone, anywhere, was contrary to international law – effectively proclaiming, through a Chapter VII resolution, the treaty-based prohibition contained in the Chemical Weapons Convention to be customary international law. The draft resolution required Syria to accede to the Chemical Weapons Convention. A unique joint UN-Office of the Prevention of Chemical Weapons mission would monitor Syria's compliance, overseeing the mandatory removal and destruction of their stockpile and facilities, some of which would be carried out on a custom-fitted ship on the high seas.

As President, Quinlan noted that, if adopted, the resolution would be historic, underscoring that the Council remained able to address the most challenging of threats to international peace and security. He indicated his intention, as Council President, to submit the draft as a Presidential text with unanimous co-sponsorship of all 15 Council members, unless a member had a fundamental objection to that course of action. The move raised the stakes, ramping up pressure on those members who were yet to indicate agreement to the draft text.

In a packed Security Council chamber, with leaders or foreign ministers in every other Council seat, Quinlan put the draft resolution to a vote. 15 hands went up. As co-sponsorship of the text by all 15 Council members had been secured just before action, the text was adopted as a Presidential Resolution. It was a rare good moment for the Council on Syria and reflected well on the Presidency. As Gowan later observed, "Australia thus played an instrumental role in guiding the Security Council through an existential crisis."¹²³

¹²³ Richard Gowan, "Australia on the Security Council", Lowy Institute Analyses 12 June 2014, <https://www.lowyinstitute.org/publications/australia-un-security-council>, accessed 29 November 2019

English alphabetic order ensured that Australia had a second opportunity to preside over the Council, in November 2014. As detailed above, Australia was able to use this to good effect, securing Resolution 2185 on policing, a Presidential Statement on counter-terrorism including foreign terrorist fighters, and an engaging open debate (if not a resolution) on the importance of Security Council sanctions to the achievement of its mandate to maintain international peace and security.

Australia's term as President for November 2014 also meant that it had the privilege of presiding over the annual Finnish Workshop, designed to ensure that the five states elected to serve on the Council for the following two years "hit the ground running." This free-flowing, interactive discussion over two days between Council Ambassadors and Political Coordinators is generally recognised as one of the most candid interactions the Council has all year. Quinlan took to the role as Chair with gusto, relying on the informal setting to push the Council to reflect on its shortcomings and ways it could improve its effectiveness.

As President, in addition to guiding discussions, Australia had the opportunity to select the keynote speaker at the Finnish Workshop, usually a highly respected contributor on matters of international peace and security. To Quinlan's thinking, Gareth Evans, having established and led the International Crisis Group after his distinguished stint as Australian Foreign Minister in the Hawke and Keating Governments, and being one of the drivers of the R2P doctrine, was an obvious candidate.

Evans delivered a highly informed and occasionally pointed address entitled "Five Challenges for the UN Security Council," which set out for Council members how they could, and must, improve its performance.¹²⁴ Evans did not miss the opportunity to emphasise the

¹²⁴ "Five Challenges for the UN Security Council", Address to the UN Security Council 12th Annual Workshop for Newly Elected Members hosted by Government of Finland, Greentree Foundation, Manhasset, New York 13 November 2014, geevans.orgspeeches/speech558.html, accessed 02 March 2020.

need for the Council to properly embrace the R2P principle, and for Permanent Members to commit to restraint on the veto in situations of mass atrocity. He concluded on the issue of Council reform:

“I simply don’t think it is wise for any Council member to assume that, as currently structured and managed, its legitimacy, credibility and authority is destined to continue indefinitely. ... For all its supreme international authority, this is an institution whose foundations are a little more fragile than they seem.”¹²⁵

On the drive back into Manhattan the following day, Quinlan observed that, in terms of showcasing to partners and other Council members Australia’s ability to engage in the contemporary issues of international peace and security at the highest level, these had been a successful couple of days.

¹²⁵ *ibid.*

The Workings of the Council

Reform of Council membership

The question of Council reform arose repeatedly throughout Australia's election campaign. Interlocutors were keen to understand Australia's position on expansion of the Council, on achieving geographical balance, and on whether there should be any extension of the veto power.

Australia's response to inquiries about its expectations and intentions on Council reform during the campaign had been carefully honed. Australia supported limited expansion of both permanent and non-permanent categories to a total membership of no more than 25, so as to ensure more equitable geographic representation, but opposed any extension of the veto. This position held up in most situations.

Australia was conscious that, while many states were seeking Council reform, there was little real likelihood of movement in the foreseeable future. Each aspirant to Permanent Membership was firmly opposed by a sizeable regional state. UN Charter requirements for amendment posed a formidable hurdle. Whatever their public positions, the P5 had little to gain from permitting such expansion of the Council. The status quo was unlikely to change any time soon.

During the final year of Australia's campaign for election, a development in the General Assembly reinforced how difficult reform to even the Council's working methods, let alone its membership, could be. In May 2012 a group of small states –the so-called Small five (S5 - Costa Rica, Jordan, Liechtenstein, Singapore, Switzerland) – put forward a draft General Assembly resolution seeking improvement in the working methods of the Security Council. The group had first emerged in 2005, following adoption of the World Summit document,

as a voice from the General Assembly for UNSC reform. Its previous attempts to secure a resolution on Council working methods had not succeeded.

The S5 asserted that the improvements contained in its 2012 General Assembly draft resolution would aid the transparency, and so the credibility of Council decision making, and improve interactions between the UNSC and UNGA. Importantly the draft, was effectively a call to the Council to uphold Pillar III of the R2P doctrine.

Australia joined a significant number of states in supporting the S5 draft, and the objectives of its proponents. Delivering the Australian statement Ambassador Quinlan explained that “[Australia] believes a resolution such as this would send a clear and very necessary message from the UN membership, that we all have a genuine interest in Security Council reform, and a clear view on what direction that reform should take.”¹²⁶

The P5 were quick to dismiss the draft, viewing it as an intrusion into Council prerogatives. Considerable efforts were made to ensure the S5 were unable to gather the votes necessary to prevail in the General Assembly. Those efforts created sufficient uncertainty around the draft that Switzerland, on behalf of the S5, withdrew it from consideration shortly after introducing it to the General Assembly on 19 May 2012.

Despite this defeat, a number of S5 members took forward its Security Council working methods agenda under the umbrella of a new grouping of 25 states – the Accountability, Coherence and Transparency (ACT) Group. This group became increasingly vocal in its advocacy across Australia’s term. While Australia did not formally join the group, the

¹²⁶ The Intergovernmental Negotiations on Security Council Reform: Proposal of the S5 for Working Method Reform, Statement by H.E. Gary Quinlan, Ambassador and Permanent Representative of Australia to the United Nations: <https://dfat.gov.au/international-relations/international-organisations/un/unsc-2013-2014/national-statements/Pages/security-council-reform-proposal-of-the-s5-for-working-method-reform.aspx>, accessed 11 February 2020.

delegation worked closely with it on a range of working methods issues over the course of 2013-2014. It proved to be a useful alliance on working methods issues generally, but particularly in the debate about appropriate parameters around the veto.

Restraint on the veto

While the veto looms large over the work of the Council, it has been used relatively infrequently in recent decades. During Australia's term, the veto was used only twice - in 2014 on each occasion, by Russia and China in relation to a proposal to refer the situation in Syria to the ICC, and by Russia in relation to a draft resolution condemning its aggression against Ukraine. However, the threat of the veto, express or implicit, loomed large in negotiations across a range of topics, and was wielded to shape draft resolutions in ways not often visible outside the Council.

With the situation in Syria dramatically worsening throughout 2013-2014, and threat or use of the veto used by Russia and China to block most Council action, calls for Permanent Members to commit not to use the veto in situations of mass atrocity strengthened significantly. During a Council wrap-up session on 29 May 2014, Ambassador Quinlan made the case for restraint forcefully:

“... There can be no question that the Council's continuing inability to halt the conflict in Syria has seriously undermined our credibility. Last week – in the fourth year of the conflict, with more than 162,000 dead and half the population displaced – the Council failed to refer the situation in Syria to the International Criminal Court because of vetoes cast by two Permanent Members. Use of the veto in such circumstances inevitably diminishes the Council's credibility, and highlights the need for restraint on the use of the veto in mass atrocity situations. More broadly, the Council's ability to ensure accountability for the most

serious international crimes is a primordial measure of our effectiveness.”¹²⁷

Initiatives on restraint on the veto in relation to situations of mass atrocity championed by France and Mexico, and from the ACT group, made some headway during Australia’s term. Secretary-General Ban and High Commissioner for Human Rights Zeid Ra’ad Al Hussein lent their strong support. However, even against the backdrop of the ongoing atrocities in Syria, China, Russia and the US each made clear they were not willing to make such a commitment.

Working methods

Beyond questions of Council reform and use of the veto, the broader issue of working methods of the Council is not one that attracts significant attention outside UN headquarters.¹²⁸ While various elected members had made working methods reform a central part of their Security Council agendas, Australia was not inclined to take on a broad working methods reform agenda during its term. Nevertheless, the delegation engaged consistently on working methods discussions, seeking to improve the practical operation of the Council where it could.

Australia’s primary focus in this area revolved around greater transparency in relation to the work of the Council. As a long-term observer of the Council, Australia was conscious of how difficult it was for non-members to follow its work. Australia’s initiatives in bringing reports of sanctions committees into the Chamber, its support for monthly public wrap up sessions, and its decision to conduct briefings for the UN member states both before and after its Presidencies were all designed to open up Council activity. Australia held regular meetings

¹²⁷ Statement on file with author (as wrap up sessions were private meetings, no verbatim record was made by the UN Secretariat).

¹²⁸ For a detailed account of developments in Security Council working methods, see Christian Wenaweser, *Working Methods: The Ugly Duckling of Security Council Reform*, in *The UN Security Council in the 21st Century*, von Einsiedel, Malone and Ugarte (eds), Lynne Rienner Publishers, 2016.

throughout its term for NGOs engaged on Council matters, both in Canberra and New York, and provided regular detailed briefings for both non-Council WEOG states, and, less frequently, ASEAN member states.

The Australian delegation frequently used the monthly wrap up statements to lay out in public Australian positions on particular priorities, seeking to identify the underlying positions which had motivated its actions on particular situations. In doing so, Australia was able to turn what was seen by most as a basic monthly summary session into a platform to articulate its broader approaches and motivations. The delegation used specific wrap up statements to focus Council attention on Australian priorities – including sanctions, POC, accountability, human rights, and Women, Peace and Security. This proved to be a useful way to explain how we were pursuing Australian priorities in a coordinated and coherent manner to the broader UN membership. The fact that a number of other Council members began to do likewise appeared to be recognition of the utility of this approach.

Another dimension of Australia's approach to working methods was reliance on Arria-Formula Meetings to advocate on protection of civilians and human rights issues. Australia hosted four such meetings during its term – in June 2013 and July 2014, when it provided a platform for the Human Rights Council established Independent COI into Syria to report directly to Council members; in April 2014, (joined by France and the US), providing an opportunity for the COI into North Korea human rights situation established by the Human Rights Council to address Council members; and in May 2014 (with Chile) on the protection of Internally Displaced People. Only France used the mechanism more often during that period.

Developments since 2015

Of the various contributions Australia made to the Council's working methods during its term, by far the most controversial was its decision to use the procedural vote mechanism to place the North Korea human rights situation on the Council agenda. This appears to have had considerable impact on Council practice. The procedural vote, used only twice in the decade prior to Australia's reliance upon it, was used on 12 occasions in the five subsequent years, including on Ukraine, North Korea and Myanmar.¹²⁹ To the extent that this greater willingness to use procedural voting has loosened the Permanent Member stranglehold on what gets on to the Security Council agenda, and diminishes the circumstances in which the veto can be wielded, this can be counted as an enduring contribution by Australia.

¹²⁹ UN Security Council Working Methods: Procedural Vote, 7 March 2020, <https://www.securitycouncilreport.org/un-security-council-working-methods/procedural-vote.php>, accessed 10 May 2020.

Departing the Council

Australia's term coincided with one of the busiest periods of Council activity ever. Over the two years, the Council met 785 times in formal meeting or consultations format, passed 110 resolutions and 74 Presidential Statements, and issued 224 press statements. Half of the resolutions passed invoked Chapter VII of the Charter and its enforcement measures. The Council considered almost 50 separate agenda items. Sanctions Committees met more than 300 times. The Australian delegation took part in every one of these meetings.

This set of statistics tells only part of the story. It does not capture the import of the various situations considered, the number of lives in the balance, the situations in which Council action had the desired impact in the field, and the situations to which it was unable to respond effectively, or at all. While the Council was more active than ever and was able to arrive at a consensus more often than not on the issues before it, the Council's inability – or, in some cases, refusal – to make a definitive difference in respect of the most devastating conflicts before it weighed heavily on the Australian delegation.

It was against this background that, in the traditional final wrap up session of Australia's term, on 23 December 2014, Quinlan struck a sombre note in reflecting on Australia's experience on the Council:

"It was the most revered UN Secretary-General, Dag Hammarskjöld, who famously said that the United Nations was not created to take humanity to heaven, but to save it from hell," he reminded the other 14 council members. "In the past two years of Australia's term on the

council, heaven was never within reach, but there were many days when it seemed we were already deep in hell."¹³⁰

Assessments from fellow Council members during that final scheduled session of Australia's term were positive and congratulatory about Australia's contribution – perhaps unsurprisingly, given the public nature of the discussion. However, it seemed not all Council members were disappointed to see Australia depart. On the same day a senior Russian diplomat, after failing to dissuade Australia from pursuing a procedural vote to place the DPRK human rights issue on the Council agenda, observed to the author that Australia seemed intent on “slamming the door behind it as it left the Council.” We did not deny the charge.

¹³⁰ Implementation of the note by the President of the Security Council (S/2010/507), S/PV.7352, p.22, 23 22 December 2014; <https://undocs.org/en/S/PV.7352>. Quinlan's statement during this session provides a concise account of Australia's achievements, as assessed by the Australian delegation, *and is annexed to this monograph*.

Initial Assessments

As briefly noted in the introduction, early assessments of Australia's term as an elected member were strongly positive. In an interview with the ABC in late December 2014, UK Permanent Representative Mark Lyall Grant judged that Australia had had more impact than any other elected member in the five years he had been at the UN. He observed: "Australia stood up for what it believed in. It stood up for its values and its interests... I think Australia has been bold [in] standing up for what they believe and being prepared to say it straight."¹³¹ Gowan assessed that, while "most temporary members of the Security Council have very little impact ... Australia has surprised and impressed other diplomats at the UN by being more proactive and much more effective in their two years on the Council than most other states had managed."¹³² He further noted that "with the Presidency of the G20 and more importantly with the stint on the Council, Australia has shown that it is able to play with the biggest powers... We weren't sure if Australia would have that level of ambition or that level of competence, to be frank, two years ago."¹³³

Gowan had earlier made public assessments of Australia's performance at the three-quarter mark of Australia's term. Writing for the Lowy Institute in June 2014, he assessed that "Quinlan and his staffers [had] demonstrated a distinct skill for diplomatic brinksmanship" and "had repeatedly stood up to an assertive Russia on issues from Afghanistan to the small-arms trade and Syrian aid." Australia had demonstrated "the tactical dexterity to play with the P5."¹³⁴ Australia had "acquitted itself well, bringing extra rigour and professionalism to the debates in New York and always nudging the big players in the direction of a better

¹³¹ Lisa Millar, "UN Security Council: Australia's time at the top table comes to an end after two-year term", Australian Broadcasting Corporation, 01 January 2015, <https://www.abc.net/news/2015-01-01/australias-time-on-un-security-council-comes-top-an-end>, accessed 30 March 2020.

¹³² Richard Gowan, *Australia in the UN Security Council*, The Lowy Institute for International Policy, June 2014, p.1.

¹³³ Ibid.

¹³⁴ Ibid.

approach. In the process, Australia has solidified its reputation as a good international citizen and a serious country. For that reason alone, Australia's return to the Council can be counted a success."¹³⁵

Particularly gratifying for Australia was advice that a number of Council colleagues – including Ambassadors from Argentina, China, Guatemala, Jordan, Nigeria and South Korea – had praised the “professionalism, commitment and hard work of the Australian diplomats.”¹³⁶ Also noteworthy were comments from a number of Council members that part of Australia's success had been due to the delegation's nuanced understanding of China, and ability to negotiate effectively with the Chinese delegation.

While these positive international assessments were welcome, it was by no means a given that the Australian term would be seen as a success from a domestic perspective. During the campaign, the perception that Australia was ambivalent about membership was often raised by other diplomats – a perception no doubt fuelled by Australia's competitors. This was understandable. As the Opposition, the Liberal-National Coalition had first opposed Prime Minister Rudd's decision in March 2008 to seek election for 2013-2014 term and had then adjusted its position to one of opposing the decision to seek election in a timeslot that left relatively little run-up to the election. Following the September 2013 Australian federal election, it was unclear how that prior position would influence the incoming Government's interest in and ambitions for Australia's membership of the Council.¹³⁷

Foreign Minister Bishop's visit to the United Nations for Leaders' Week two weeks after her appointment, during which she presided over the

¹³⁵ Ibid.

¹³⁶ Langmore, J and Farrall, J, “Can elected members make a difference in the UN Security Council? Australia's experience in 2013-14”, *Global Governance* 22 (2016) 59-77, 72.

¹³⁷ For a view on the question of attitudes to the UN from the conservative side of Australian politics, see Nadin, Peter, *The Liberal Party's conflicted relationship with the UN*, *The Interpreter*, 26 March 2015, <https://www.lowyinstitute.org/the-interpreter/liberal-partys-conflicted-relationship-un>, accessed 01 May 2020.

Council, made clear that she recognised the utility of the Council on some issues of direct national interest. However, from New York, it was difficult to tell whether there was residual ambivalence to Australia's Council role in Canberra. In reviewing Peter Hartcher's new Lowy Institute Paper "Adolescent Country", the BBC's Nick Bryant noted that Prime Minister Abbott, in his September 2014 address to the UN General Assembly, "took no credit for the impressive work of the Australian mission, a ripe example of Australian internationalism."¹³⁸

Following the conclusion of Australia's term, Foreign Minister Bishop was keen to confirm her positive assessment. In her 2015 address to the United Nations Association of Australia, Bishop was effusive, stating that the term had been "one of the finest manifestations of Australian values on the global stage and the prosecution of those values for the betterment of all."¹³⁹

With the exception of the MH17 issue, Australian media displayed little interest in Australia's term.¹⁴⁰ Much to the frustration of the Australian delegation in New York, when Australian media outlets did report on the Council, they would often run wire stories verbatim, neglecting to advise their readership that Australia was currently a member. The fact that Quinlan, unlike most of his counterparts, was not authorised to engage the media scrum directly outside the Council chamber meant a key opportunity to promote Australia's perspectives to international media outlets was missed.

Informed Australian observers at think tanks such as the Lowy Institute and the Australian Strategic Policy Institute and NGOs such as Oxfam

¹³⁸ Bryant, Nick, "Australia's Provincial Reflex", *The Lowy Institute Papers*, 05 November 2014

¹³⁹ See footnote 1.

¹⁴⁰ As Langmore and Farrall observed, "the resolution on MH17 was the only occasion during the two years of Australia's term when its activity on the Council generated widespread Australian media attention". Langmore, J and Farrall, J, "Can elected members make a difference; in the UN Security Council? Australia's experience in 2013-14", *Global Governance* 22 (2016) 59-77, 65; Sophie Morris noted in July 2014 that "[the Australian Council delegation's] activities, their incremental diplomatic triumphs and setbacks, had rated barely a mention in news back home", Morris, S "Security Council ties that bind," *Saturday Paper*, 26 July 26 -1 August.

and Human Rights Watch followed Australia's membership closely, but their informed commentary reached a relatively narrow domestic audience. The publication of relatively informed positive assessments of Australia's term in all the major Australian print media outlets in early January 2015 was therefore as welcome as it was unanticipated. Even *The Australian* newspaper stated: "Australians can take considerable satisfaction from the strong assertion of our international strategic interests during our two year term as a temporary member of the UN Security Council"¹⁴¹ – quite a turnaround for one of the main cheerleaders of opposition to Australia's campaign.

In early 2015, Australia received from other states in New York and their capitals, and from domestic observers, variations on two key questions. What enabled Australia to perform strongly? And was it worth it?

In preparing a "lessons learned" document for Government, members of the delegation in New York and of the Council taskforce in Canberra quickly identified some key factors to answer the first question. The delegation, the taskforce in Canberra, and colleagues at posts were all highly motivated, and determined Australia make the most of the opportunity. The necessary resources had been provided to the Permanent Mission in New York, in Canberra and at posts. Crucially, additional resources provided to Australia's posts in Africa enabled us to play a constructive and informed role on African issues – some 60% of the Council's agenda – as they emerged.

A central factor was Australia's ability to leverage its strong relationships with each of the P3 for information, access and influence. The delegation was frequently able to convince the P3 penholder of an issue to include Australia's proposals into a zero draft before others had seen a text. Australia's coordination and structures enabled us to ensure

¹⁴¹ Editorial, *The Australian*, 02 January 2015, p.11

coherence in our approaches across country situations and thematic issues. The delegation worked closely and productively with Canberra – 101 video conferences were held between the delegation in New York and the UNSC taskforce in Canberra during the term – so ensuring we were “joined up” across the Council agenda. Crucially, the delegation was given sufficient latitude to be agile and responsive, and to take initiatives where opportunities arose.

Also important was the fact that Australia had identified during its campaign for election to the Council a central unifying theme - the protection of civilians - and displayed commitment to this theme throughout its term. This was the thread that brought coherence to Australia’s efforts across a range of apparently disparate issues – the response to the shooting down of MH17, humanitarian responses in Syria, insistence of adherence to, and accountability for serious violations of, IHL and human rights law, more effective controls on small arms, improvements in sanctions implementation, the pursuit of practical efforts to improve the mandates and effectiveness of peacekeeping operations, and improved understanding of the importance of policing in peacekeeping and peace building operations.

An Enduring Contribution?

There are no agreed metrics by which to assess whether an elected member has made an enduring contribution to the Security Council. Some possible indicators may be whether an elected member has led the Council on particular issues, whether it has brought new issues and practices to the Council that have then been taken up and championed by others in subsequent years, or whether it has secured results, individually or in partnership with other elected members, on particular issues which have eluded the Permanent Members. Australia could point to evidence that it has done all of the above. Its efforts on MH17, Syrian humanitarian issues, small arms, sanctions, policing as part of peacekeeping, the Women, Peace and Security agenda, and on the human rights situation in North Korea would each qualify. To differing degrees, Australia's contribution on each issue has positively influenced, and in some cases driven and defined, subsequent Council action.

There is, however, a more compelling and ultimately more important measure: Has an elected member contributed in a way that demonstrates that the Security Council can still function, can still discharge its mandate and can still operate as the drafters intended, despite the ever-present threat of the veto? By this measure, Australia succeeded, at least in part.

Observers of the Council have noted that, in the six years since Australia left the Council, elected members were notably more active, more frequently taking initiatives and more effectively shaping Council decisions than in the previous decade.¹⁴² In reflections upon his departure as Executive Director of Security Council Report in 2018, Ian

¹⁴² Conversation with senior member of Security Council Report, March 2018.

Martin summarised this increasing activism by elected members as follows:

“The trend towards diminished space for the contribution of elected members has been increasingly resisted in the past few years and has begun to be somewhat reversed. Amid the Council’s greatest failure, to bring an end to the conflict in Syria, elected members became penholders on the humanitarian situation from 2013; made efforts—ultimately unsuccessful—to find consensus after an April 2017 chemical weapons attack and to save the Joint Investigative Mechanism of the Organization for the Prohibition of Chemical Weapons and the UN; and in February 2018 negotiated a call for a month-long ceasefire.”¹⁴³

He went on to detail further initiatives by elected members regarding Yemen, Afghanistan and Israel/Palestine. Martin concluded that “in the immediate future, it is the quality and determination of [the] ten elected members on which some incremental improvement in (the Council’s) performance most depends.”

While credit for such subsequent action is due to those elected members themselves, there is a consistent view amongst informed observers that Australia provided an important and necessary example of how elected members could have influence and impact.¹⁴⁴ A comment from a senior member of Security Council Report during a briefing for aspiring elected members in 2018 was affirming: “Australia showed E10 members that there was a way of carving space on an issue and playing a substantive role at a time when the elected members were feeling

¹⁴³ Martin, Ian, In Hindsight: What’s wrong with the Security Council? Parting Reflections of Executive Director Ian Martin, Security Council Report April 2018 Monthly Forecast, posted 29 March 2018; https://www.securitycouncilreport.org/monthly-forecast/2018-04/in_hindsight_what's_wrong_with_the_security_council.php, accessed 1 June 2020.

¹⁴⁴ Farrall et al refer to Australia’s efforts on North Korea human rights as one of three examples of how elected members have demonstrated their ability to have influence on the Council. Farrall J, Loiselle M-E, Michaelsen C, Prantl J, and Whalan J (2020). Elected member influence in the United Nations Security Council. *Leiden Journal of International Law* 33, 101–115, <https://doi.org/10.1017/S0922156519000>

particularly sidelined by the Permanent Members.” In doing so, Australia made a necessary contribution to a more effective Council – at a time when multilateralism was fraying, with some determined to pull on the loose threads.

For those inclined to a broad view of Australia’s national interest – one that acknowledges that those interests include an effective multilateral peace and security architecture which underpins the rules based international order, with the Security Council at its centre – this trend is answer enough to the question: was it worth it?

And for those who, contrary to the conclusions of the 2017 Foreign Affairs White Paper, remain wedded to a narrower view of Australia’s national interests – one which focuses primarily on bilateral relationships and regional dynamics, and leaves short shrift to the value of multilateral engagement? Was it worth it? Australia’s active and engaged membership of the Council directly served Australia’s national interest, including in ways that could not have been anticipated. This was true in relation to MH17, Australia’s interests in the Middle East and Afghanistan, its interests on counter-terrorism, sanctions, IHL, human rights, the protection of civilians, and Women, Peace and Security, amongst other issues.

Reporting from Australia’s diplomatic posts in key capitals in early 2015 confirmed that the successful term had strengthened key bilateral relationships.¹⁴⁵ Australia’s standing was enhanced, its interests better understood and its abilities more appreciated. Counterparts in London, Paris, and Washington expressed a greater appreciation of Australia’s ability to contribute to international peace and security. For others,

¹⁴⁵ States also made their assessments public. For example, the 2015 AUSMIN Communique notes “the United States welcomed Australia’s strong contribution during its term on the United Nations Security Council (UNSC) and our shared efforts to reach constructive and practical solutions to international peace and security issues. Both countries are continuing to work closely to tackle serious challenges before the Council, including the ongoing conflict and humanitarian crisis in Syria, protection of civilians in conflict zones, effective implementation of sanctions, countering the international terrorist threat and regional weapons proliferation.”

Australia was now a known quantity. Dividends in the multilateral sphere were quick and evident – for example, those working to secure Australia's first term on the Human Rights Council found Australia's performance on the Security Council had assisted perceptions of Australia's suitability for election. The positive perceptions of Australia's 2013-2014 term should assist the case for election to the Council next time, as long as Australia continues its record of broad and positive multilateral engagement in the interim.

Conclusion

The broad assessment that Australia “performed with distinction” on the Council during its 2013-2014 term, and the recognition that, as a Council member, Australia was able to pursue and further fundamental national interests, would seem to have answered the question as to whether it is worth doing again strongly in the affirmative. The 2017 Foreign Policy White Paper stated that:

“[a]s the world’s peak body for responding to threats to international peace and security, the United Nations Security Council helps support Australian interests. We are seeking election to the Council as a non-Permanent Member in 2029–2030 because we believe elected members can enhance its effectiveness, as Australia did when we were on the Council in 2013–2014.”¹⁴⁶

Australia’s fundamental national interest in upholding and strengthening the rules-based international order requires it to step up to serve on the institution at the centre of it, the Council, at regular intervals. This is even more the case in the current geopolitical climate, with the very concept of that order under assault, and with traditional partners distracted or less willing to play their traditional role in that endeavour. The fact that Australia has demonstrated its ability to make a significant – and enduring – contribution to influencing and shaping the work of the Council underlines that imperative and responsibility.

¹⁴⁶ Foreign Policy White Paper 2017, p.81, <https://www.dfat.gov.au/sites/default/files/2017-foreign-policy-white-paper.pdf>.

Epilogue

As this monograph was being finalised, the global dimensions and dramatic consequences of the COVID-19 virus had become shockingly apparent. Across the world, states had realised that this presented a health, economic, political, social and security challenge of dimensions not seen since the UN's inception. There was, unquestionably, scope for the Security Council to play a role. Indeed, a number of commentators pointed back to September 2014, when the Council had assumed a central role in the fight against Ebola, declaring for the first time that a health crisis constituted a threat to international peace and security, supporting the establishment of an international "health keeping mission" to support the three West African countries most affected, and mobilising actors and funds. The US delegation had led the charge on, and an additional 133 states had co-sponsored, Security Council Resolution 2177, the highest number for any Security Council resolution.¹⁴⁷

However, by mid-April 2020, despite this precedent and more than a month after the World Health Organisation had identified the COVID-19 virus as a pandemic requiring global cooperation, the Security Council remained silent. For much of that time, the Council had not been able to agree on its remote working modalities in circumstances where its host city, New York, was overwhelmed by the virus, and the UN Headquarters building had been closed. When the Council eventually turned to the substantive issues, intense disagreement between China and the US over their respective perspectives on the crisis impeded Council action. It seemed that the Council would fail spectacularly at the point where it was most needed. Gareth Evan's observation five years previously that the Council was "an institution whose foundations

¹⁴⁷ Resolution 2177 was adopted on 18 September 2014 by consensus.

were a little more fragile than they seemed,”¹⁴⁸ appeared more apt than ever.



Australian Foreign Affairs Minister Marise Payne addresses the General Assembly electronically amidst the COVID-19 Pandemic (12 March 2020).

“General Assembly Holds Special Session in Response to COVID-19 Pandemic”, UN Photo/Loeys Felipe

It was affirming to see that the initiative and determination to ensure that the Council could bring its authority and convening power to the issue came from elected members. Nine of the ten elected members banded together to put forward a draft resolution which would deal the Council into this most global of crises, taking the initiative from feuding Permanent Members.¹⁴⁹ Although not in the end successful due to a US veto, the fact the collective effort by elected members was made was nevertheless important.

This move provided further demonstration that elected members could take action, individually or collectively, on key issues of international peace and security, including where P5 dynamics are impeding action.

¹⁴⁸ “Five Challenges for the UN Security Council”, Address to the UN Security Council 12th Annual Workshop for Newly Elected Members hosted by Government of Finland, Greentree Foundation, Manhasset, New York 13 November 2014, [gevans.org/speeches/speech558.html](https://www.gevans.org/speeches/speech558.html), accessed 02 March 2020.

¹⁴⁹ International Peace and Security and Pandemics: Security Council Precedents and Options, Security Council Report, 05 April 2020, <https://www.whatsinblue.org/2020/04/international-peace-and-security-and-the-covid-19-pandemic-security-council-precedents-and-options.php>, accessed 09 May 2020.

In fact, the future standing and credibility of the Council will increasingly depend on it. To the extent that Australia's initiatives on the Council six years previously have provided a guide as to how elected members might play a greater role, and on occasion take the initiative on critical issues of international peace and security, this is perhaps the enduring contribution that matters most.

Afterword

Gary Quinlan AO

*Former Australian Ambassador and Permanent Representative of
Australia to the United Nations (2009-2014)*

The tenth anniversary of Syria's catastrophic civil war was in March 2021. Hundreds of thousands dead; nearly two-thirds of a population almost the size of Australia's displaced; millions of refugees; systematic torture on an industrial scale; the targeting of civilians, including medical workers, as a military tactic; forced depopulation and the siege and starvation of cities; the use of chemical weapons; and the diversion of humanitarian aid for military purposes.

When asked by the media if the Security Council had failed the people of Syria, UN Secretary-General António Guterres said:

“... It is clear that if a war lasts ten years, the international security governance system that we have is not effective ... the mechanisms of governance that we have should be more able to intervene when we have dramatic situations like these going on for so long.”

Syria reflects the geopolitical reality in which the Security Council operates. The Council has always been hostage to relations between the major powers and the strategic currents in which they pursue their national interests.

Russia, generally with China's support, has emphatically defended the Assad regime, including by a series of vetoes which have prevented any serious political intervention, sanctions, arms embargo, or referral to the International Criminal Court, despite what are the worst crimes against humanity this century. It agreed to the historic Presidential Resolution providing for the elimination of Syria's chemical weapons in September

2013 only in order to prevent the bombing that President Obama had threatened, which could have changed the military situation and led to Assad's ultimate defeat. It agreed to the Australian-initiated resolutions which mandated cross-border humanitarian access against Syria's wishes because it could see that the Council's inaction on Syria threatened its legitimacy – so important to Russian foreign policy because its permanent membership with veto power gives Russia the ability to stare down the United States.



Gary Quinlan gavelling the adoption of Resolution 2118 on chemical weapons in Syria (27 September 2013).

Photo supplied by author.

Syria has been a singular failure. As has Ukraine. Russia's annexation of Crimea was the first such violation of territory in Europe since World War II, although Russia's military adventures against Georgia in 2008 and the so-called 'frozen conflicts' on its periphery resulting from Russia's covert military intervention reflect the same strategic calculus. The Council held almost forty meetings on Ukraine – Australia was a leading participant – but the Russian (and Chinese) veto prevented action.

Yet, while failing on Syria and Ukraine, the Council did make notable progress during Australia's term on other conflicts where immediate action was needed and where the direct interests of the major powers were not threatened. Military intervention in the Democratic Republic of Congo (DRC), Mali and the Central African Republic (CAR) were all a new high water mark in 'robust peacekeeping' where UN forces were for the first time mandated for offensive operations.

Contemporary conflict is mainly inter-ethnic, inter-communal, sectarian. When Australia joined the Council there was more conflict in more countries, across a wider swathe of the world, affecting a larger number of people, than since World War II. These were mainly internal conflicts. Wars between states have declined dramatically. These internal conflicts are more complex and more violent. International law is more violated now than at any time since it was developed. Accountability is very hard to establish, let alone implement. Civilians are deliberately targeted; they are eight times more likely to be killed in conflict than combatants. And huge numbers of people are displaced and require humanitarian assistance. There are now around eighty million people displaced globally, a doubling in the last decade and several times higher than those displaced in World War II. Thirty million are refugees.

Almost seventy per cent of the Security Council's work on peace and security is in Africa. Nine of the current thirteen UN Peacekeeping Operations (PKOs), and over eighty per cent of the UN's one hundred thousand peacekeepers, are deployed there in situations where the threat is asymmetric and where there is no peace to keep; where human rights violations, even mass atrocities, are rampant; and where humanitarian workers and the civilian components of peacekeeping missions are often primary targets.

In such situations there is no alternative to robust peacekeeping. It was the UN's failure to protect civilians – so tragically during the Rwandan

genocide and in Bosnia – that was behind this shift to more kinetic peacekeeping. The failure of peacekeepers in the DRC in late 2012 to protect civilians against armed groups – even though it was explicit in their mandate – necessitated a strong response if UN peacekeeping was to hold on to any legitimacy. The combat operations mandated in early 2013 in the DRC recaptured territory seized by armed groups and effectively defeated the main one, M23. In Mali, with the involvement of French troops and critical US military and intelligence enablers, the Al-Qaeda and Islamist forces were pushed back, although much of the north is still seriously contested and Mali remains the most dangerous peacekeeping operation. In CAR, the Council was slow to react at first and only narrowly avoided genocide.

Peacekeeping itself has become not just more dangerous but more complex. Societies emerging from conflict have on average only around ten years before they fall back into it. Peacekeeping operations are seldom short-lived and they contain a civilian component to start rebuilding societies, especially re-establishing police and judicial functions and key institutions, meeting basic development needs, and often organising elections. The relationship between peacekeeping and peacebuilding – between security and a functioning political, institutional, judicial, community and economic ecosystem – is vital. But peacekeeping cannot produce a political solution to conflict; this requires a broader peace process which typically takes years. On the Council Australia pressed for a more integrated strategy with the then relatively new Peacebuilding Commission (PBC). Major reviews of both peacekeeping and peacebuilding in 2015 have helped to clarify and align these roles.

Peacekeeping is inevitably an evolving task – including as the nature of conflict itself changes - and success varies greatly between missions. To strengthen the Council's capacity, during our term Australia acted to fill several gaps in the Council's toolkit. Our resolution on the role of

policing in peacekeeping was a first and has helped reshape peacekeeping mandates. Our resolution on curbing the trade in small arms as a driver of conflict was another first, building on our leadership of the Arms Trade Treaty Conference earlier in 2013. We led on Afghanistan and the resolutions managing the transition from the NATO-led combat mission to Afghan security control. We failed – Russia objected – to secure a resolution on reforming the implementation of UN sanctions, but our preparatory work, including a high-level review on sanctions, has had a continuing influence. We led the effort to have the human rights situation in the DPRK placed on the agenda against Russian and Chinese objections (this required only a procedural vote, the first in a decade, on which no veto is possible).

Australia came to the Council determined to make a difference. And the emphatic vote we secured at our election seemed to reflect high expectations of us. Although generally aligned with the P3 (US, UK, France), we were not always. We were more often aligned with France and the Africans on African peacekeeping than sometimes with the US and UK. Our early call for urgent action on CAR initially put the UK (and to a lesser extent, France) offside. On our resolution to secure an international investigation and accountability on the shooting down of MH17, the P3 initially counselled against a resolution which they feared would cut across their political efforts on Ukraine, doomed in any case given Russian opposition. When we said we would proceed anyway, they quickly came in behind us. The US was initially sceptical of our efforts on Syria but came on board when Russia showed interest.

Was Council membership worth it? Yes. Is the Security Council itself worth it? Yes. The Council remains a necessary - if not sufficient - part of the global system. It is imperfect and in need of reform, but it is an indispensable part of that system because it does a job that needs to be done in a world where conflict remains endemic. And where the major

powers need an instrument to help maintain a measure of global order which does not rely on them alone.

The UN emerged because the world – led by the United States – saw no alternative after the thirty most violent years in human history, with almost one hundred million dead in two world wars. Its primordial role under the Charter is the maintenance of international peace and security, and the Council is the instrument. Its creation depended on a unique compact – based on the veto power – to induce all the then five major powers to participate. The League of Nations had failed because the US did not join; because the world's main aggressors – Japan, Germany, Italy – withdrew when the League condemned them; and because France and Britain, initially supporters, opted for appeasement over the League in the 1930s.

Today, the international system is more fractured since at least the end of the Cold War. The era of the so-called liberal rules-based world order, which was effectively guaranteed by the US, is over and it's unlikely that any single power could shape a global order in the same way again. The US under President Trump threw away its leadership of the global multilateral order and its rebuilding under President Biden will be in a world that is already different. Authoritarianism is more pervasive, democracy in retreat. China has emerged as the world's second super-power and the US/China fault line will be a decisive factor for decades. Russia, seeking to regain the pre-eminence it had before the Cold War ended, is revanchist and a spoiler. France and the UK are no longer the major global powers they had been; although they successfully use the Council for global diplomatic leverage, and France in particular, is crucial to peacekeeping in Africa. This is a world in which the pace and impact of technological change – the fastest in human history – is increasing the power of states against each other, as well as against their own citizens. The nature of conflict itself is changing dramatically. So called 'grey conflict' threatens the resilience of the critical infrastructure

and the digital economy which underpins national defences. Disinformation is a weapon.

COVID-19 has accelerated these pre-existing global trends. The post-COVID world will be more unstable and less resilient. It is already a world in which great power competition is the dominant dynamic in international relations. And where strategic opportunism rather than the rules is more easily becoming the norm. COVID-19 itself has been the most disruptive event globally since World War II yet has revealed a dangerous lack of global leadership. The US, G20 and G7 were all missing in action and the Security Council, which took a lead in helping mobilise a global response to the Ebola crisis in 2014, was deadlocked for over three months on whether to support the Secretary-General's call for ceasefires in conflict zones during the crisis.

This is a bleak outlook but reflects a world in which the Security Council – hopefully reformed – needs to play a significant role. The Council was created to deal with bleakness. As the third Secretary-General, Dag Hammarskjöld, famously said:

“The UN was not created to take humanity to heaven, but to save us from hell.”

It's a truism that if the UN didn't exist, we would have to invent it, but the fact is it would be impossible to do so. There is zero chance that one hundred and ninety three countries, four times the number at the founding San Francisco Conference in 1945, could today negotiate and agree to bind themselves to a document as ambitious and revolutionary in international relations as the UN Charter.

The Council still has unique global legitimacy. It is the only international body legally mandated to authorise the use of force – even if that has been seriously tested by the major powers themselves. It has the power to create law binding on all UN members. It creates and

consolidates international norms, including on protection of civilians, R₂P and gender-based violence. It has created tribunals to hold individuals liable for internationally defined crimes. It has influential subsidiary bodies on counter-terrorism, non-proliferation and children in armed conflict.

The Council will inevitably be defined by its failures, but despite increasingly toxic differences among the P5, most of its work is agreed among its members - except when the majors see their vital interests at risk. Its peacekeeping remains essential, including when humanitarian crises result from conflict. Its support for peacebuilding is increasingly important; its peacekeeping role is the pre-condition. Its accountability functions are under attack from Russia and China but even when executive action fails (often through the veto), it does give many abuses essential exposure in the most highly publicised global forum. Innovations like robust peacekeeping and targeted sanctions have made it more effective. Its mediation efforts, which are extensive, and often behind the scenes, fill a void. Its thirty-odd Special Political Missions, now with a renewed focus on conflict prevention, likewise. And so do the large cohort of people involved in conflict mediation daily.

The P5 themselves guard their Council membership. The US approach under President Trump amounted to self-harm, but the Biden administration's approach looks to be more strategic and intelligent. Permanent Council membership, with a veto to wield, gives each of the P5 a powerful role in how the world tries to govern itself. For Russia and China, it confers equality with the US in this effort and the ability to prevent or constrain things they don't like. France and the UK derive a status they would probably not otherwise have. Both are dynamic and shrewd members who help – although not always – to keep the Council on course. China has invested in peacekeeping and now has the largest number of deployed peacekeepers among the P5. It's worth noting that,

however toxic the political differences among them, the P5 are seldom as united as when their oligopoly in the Council is questioned.

The Council can never be everything the world needs to maintain peace and security. Ultimately, the only anchor for international security will be a new equilibrium among the major powers, but that is unlikely anytime soon. Following the change in US administration in 2021, French President Macron called for a P5 summit to recreate ‘some convergence’ between the permanent members to overcome the breakdown in trust among the P5 which over the last two decades has been so damaged from fundamental differences over Kosovo, Iraq, Libya, and Syria. But there are no signs of serious interest, yet.

Much of the multilateral system needs reform – the WTO, WHO, and IMF pre-eminently. The Security Council, too. While the Council’s purpose – peace - is unassailable, its legitimacy and authority are increasingly strained, especially in a world where the rules are under unprecedented challenge and when the major powers themselves violate them.

The Council’s membership reflects the world of 1945 and needs to be expanded through some mix of new permanent and/or semi-permanent members and more elected countries; the trick will be to do this while preserving a capacity for executive action. The veto should not be extended to new members and renewed efforts to curb its use – above all in mass atrocity situations – should be adopted, as France has proposed. The Council should continue robust peacekeeping where required, but the military burden should be more equally shared by wealthier UN members who increasingly prefer to simply pay the budget than risk the deaths of their own personnel. In any case, substantial new funding and access to up-to-date technology for peacekeepers are needed. There should be a more serious integrated effort on peacebuilding, including with regional bodies and the development banks. As difficult as it is, there should also be a major effort towards

better anticipation and prevention of conflict. Development of R₂P, including the boundaries under which it would operate when military intervention is needed, should be a priority. And there should be more effort to prepare for the rapidly changing nature of conflict and the impact on future Council operations.

During our term, Australia was a determined and strategic Council member reflecting our commitment to what we think the Council should be. And our term has been identified as an exemplar for how an elected member can make the kind of difference needed. But an active contribution, no matter what successes, is not enough to shift the dial fundamentally. That requires a wider and sustained effort, especially among the Council's elected members. There have been a few signs of this since our term but the Council is hostage to the change in elected membership every two years and is ultimately subject to the state of political relations among the P5.

Still, it is possible to make some progress. Elected members must not lose their nerve and be prepared to stand up to the P5, all of them. And they need to build strong coalitions of interest among themselves to give more heft to their efforts, and to protect their flanks.

This worked for Australia in securing progress on the humanitarian dimensions of the Syrian crisis. More crucially, that success reflected the fact that the P5 needed someone else on the Council to take the lead since their political stalemate meant none of them could. Syria was the world's worst humanitarian crisis and threatened the Council's legitimacy in the eyes of other UN members, the rest of the multilateral system, crucial NGOs, and the international community generally. The press statement we engineered through the Council in April 2013 was the Council's first comment on Syria in over a year and a half; the Presidential Statement in October, the most comprehensive of its kind ever; and the three resolutions authorising cross-border humanitarian access, the first time the UN had authorised the direct delivery of

assistance across a country's borders without state consent. The fact the P5 were forced to respond to an elected member initiative of such ground-breaking dimensions, and ultimately to embrace it in their own interests, is an important lesson for elected members.

Australia has announced its candidacy for the 2029-30 Council term - a confident statement about the value we place on the Council in the light of our 2013-2014 term. Australians have always been among the strongest supporters of the UN and seventy per cent of those polled supported our candidacy for 2013-2014 as important to our national interests. In a world which is so badly disordered, a new activism by Middle Powers like Australia to salvage multilateralism is now needed. Serious efforts to make the Security Council more contemporary and fit-for-purpose should be a significant part of this effort. The need is compelling, and urgent.

2

AN ENDURING CONTRIBUTION?

BLISS

As Australia took up its role as an elected member of the United Nations Security Council for 2013-2014, the challenges ahead were all too apparent. Dynamics between the five permanent members were particularly tense. Options for elected members to make a serious contribution appeared more limited than ever. The Council was unable to find consensus on how to address the most pressing threats to international peace and security.

As Political Coordinator for Australia's Security Council delegation across the Council's 2013-2014 term, Michael Bliss had a unique insight into the workings of the Council, into Australia's contributions, and into the relationships and diplomacy that underpinned the outcomes achieved. This monograph, published six years after Australia's fifth Council term concluded, seeks to contextualise Australia's work during its term, and to track how those contributions have endured and resonated in subsequent years.

As a senior officer of Australia's Department of Foreign Affairs and Trade, a specialist in multilateral affairs, an experienced diplomat and international lawyer, and an unrelenting optimist, Bliss is well placed to tell this recent story of Australian diplomacy. In doing so, he makes a compelling case that it is in Australia's interests to seek to again "serve with distinction" as an elected member on the Security Council, in 2029-2030.



**Australian Institute
of International Affairs**

