

Dr Jeff Baker

21 February 2011

**Senator Bishop
Parliament House
CANBERRA ACT 2600**

Dear Senator

Re: Ratifying the Convention on Cluster Munitions

I congratulate the government on its moves to ratify the Convention on Cluster Munitions which it signed on 3rd December 2008.

As a proud Australian I would like Australia to be a leader in promoting the frame work for a safer and more peaceful world. I therefore feel that rather than watering down the spirit and intent of the Convention on Cluster Munitions we should be strengthening this convention. I also believe that by showing leadership on issues like this we actually strengthen our treaty with the United States of America rather than weakening it.

The convention begins with the words

Each State Party undertakes never under any circumstances to:

- (a) Use cluster munitions;*
- (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;*
- (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.*

I understand the Australian draft legislation plans to remove "under any circumstances". This I believe opens the way for loopholes and exemptions which expressly contradict the convention's intention to "put an end for all time to the suffering and casualties caused by cluster munitions."

My specific concerns are that the draft legislation could result in:-

1. Washing our hands of responsibility

- a. "We didn't authorise the use – our allies did". Ratifying the treaty should mean we are NOT EVER going to use ANY cluster munitions, regardless of what stand any ally of us may take.
- b. We should be prepared to act on a humanitarian basis, not simply on a perceived political basis. In the long run I believe good humanitarian policies are good political policies.

2. **Aiding and abetting the use of cluster munitions.**
 - a. By allowing foreign forces to stockpile and transit cluster bombs in Australia.
3. **Having some "just in case"**
 - a. We currently do not possess live cluster munitions – rather using inert bombs for any training or research. So why should we now specifically leave the door open to acquire them?
4. **Profiting though investment**
 - a. Financing illegal or immoral acts is as bad as actually committing them.
 - b. Therefore our legislation should specifically prohibit the investment of both public and private funds (including superannuation funds) in the manufacture of cluster munitions or their principal component parts.
5. **Avoiding any commitments**
 - a. I understand our daft ratification does not include any of the positive obligations of the original treaty e.g.
 - i. Victim assistance
 - ii. Land clearance
 - iii. Promoting the treaty to countries showing some reluctance to sign the treaty
 - b. Remember that even now some 300 Laotians (40% being children) die every year from the results of cluster bombs dropped some 35 years ago (and they were not officially even in the Vietnam War).

I trust that you can help frame the ratification of this treaty in a way that Australians can be truly proud of, in a way that truly reflects the initial spirit of the treaty and therefore improves Australia's international standing as a nation truly concerned with issues of justice and peace.

Yours faithfully,

Dr Jeff Baker