

# Chapter 1

## Introduction

### Background

1.1 On 5 December 2006, Senator Lyn Allison, leader of the Australian Democrats, introduced the Cluster Munitions (Prohibition) Bill 2006 into the Senate, also on behalf of Senator Bob Brown, leader of the Australian Greens, and Senators Mark Bishop and Andrew Bartlett. On 7 December, the Senate referred the bill to the Senate Standing Committee on Foreign Affairs, Defence and Trade for inquiry and report by 29 March 2007. On 29 March 2007, the Senate granted the committee an extension to its reporting date to 10 May 2007, which was further extended to 31 May 2007.

### Purpose of the bill

1.2 The stated purpose of the bill is to ensure that innocent civilians in conflict zones are not maimed, killed, or put at risk as a result of Australians possessing, using or manufacturing cluster munitions. In particular, the bill is intended to prevent members of the Australian Defence Force (ADF), whether serving in Australia or elsewhere, and whether serving with the ADF or any other defence force, from being involved in the deployment of cluster munitions.

1.3 The bill would specifically prevent Australian persons from intentionally developing, producing, otherwise acquiring, stockpiling, retaining, transferring or engaging in military preparations to use cluster munitions, container units or sub-munitions. The bill extends to acts undertaken by Australian citizens outside Australia, on board Australian ships and aircraft, and undertaken by the ADF on behalf of another country.

1.4 The offences would not apply to acts undertaken with the intention of clearing unexploded sub-munitions, educating civilians about the dangers of cluster munitions or destroying and decommissioning such munitions. If an offence is committed under the bill, the munition would need to be cleared, removed or destroyed in accordance with Australia's international obligations regarding the explosive remnants of war (ERW).

1.5 Under the bill, the Minister for Defence would be required to table in both Houses of the Federal Parliament a report on stockpiles and a decommissioning plan, within three months of the commencement of the Act. All cluster munitions in the possession of the ADF would be required to be decommissioned within one year.

### Submissions

1.6 The committee advertised the inquiry on its website and in *The Australian* on 12 December 2006, 7 February 2007 and 21 February 2007. The committee wrote to

the Minister for Foreign Affairs, the Hon. Alexander Downer MP, the Attorney-General, the Hon. Philip Ruddock MP, and the Minister for Defence, the Hon. Dr Brendan Nelson MP, on 12 December 2006 to invite them or their departments or related agencies to make a submission. A number of other organisations, commentators, academics and stakeholders were also contacted and invited to make submissions to the inquiry.

1.7 Although the committee agreed that the submissions were sufficiently comprehensive not to require a public hearing, it wanted to allow ample opportunity for people and organisations to respond to matters raised in submissions. It also wanted to seek a direct response from Defence on a number of issues. Consequently, the committee wrote directly to people who had made a submission drawing their attention to Defence's submission and inviting them to comment on it. The committee also placed a number of written questions on notice to Defence (see Appendix 2). The response of the Department of Defence has been included as Appendix 3. Over the course of the inquiry, the committee received a total of fifteen submissions as well as five re-submissions responding to points raised in the Defence submission, which are listed in Appendix 1.

### **Acknowledgement**

1.8 The committee thanks those who assisted with the inquiry.