

Monday 16 April 2007

Dear Members of Parliament

I am writing to request your support for the adoption of the draft bill to ban cluster munitions currently being considered by the Australian Senate Committee on Foreign Affairs, Defence and Trade due to the humanitarian threat posed by these weapons.

Landmine Action is a UK based NGO working to protect civilians from the effects of conflict. The organisation was established as the UK branch of the International Campaign to Ban Landmines (ICBL) and is a co-chair and steering committee member of the Cluster Munition Coalition (CMC).

Landmine Action has undertaken extensive research on the humanitarian impact of the use of cluster munitions and produced several publications on the subject. From this research, and that of other organisations, it is clear that the risk to civilians far outweighs any proven military benefit.

Cluster munitions pose an excessive risk to civilians both at the time of use and long after fighting has stopped. Breaking open in midair, cluster munition containers indiscriminately scatter submunitions over a wide area often as large as 3-4 soccer fields. Anyone within the strike area, be they military or civilian is likely to be injured or killed. Many of the large numbers of submunitions released often fail to work as intended and remain on the ground as unstable and potentially lethal explosive remnants of war (ERW).

It is particularly important that the draft bill be adopted at this time as, despite suggestions to the contrary from the Department of Defence, Australia has not demonstrated sufficient commitment to addressing the humanitarian impact of cluster munitions.

- Australia was not amongst the 46 nations that agreed to the declaration in Oslo in February this year, committing to work towards a prohibition on cluster munitions by 2008.
- Australia has not engaged in international negotiations on cluster munitions, choosing only to support a limited discussion mandate within the UN Convention on Certain Conventional Weapons (CCW).
- Protocol V to the CCW, which Australia has ratified, is not an adequate response to the problems caused by cluster munitions as it only addresses the post conflict issues and without a specific mechanism in place, there is no way to enforce compliance to its obligations.
- The government has provided no evidence to substantiate claims that use of an alternative specific weapon system would have posed greater humanitarian risks in a specific situation in any conflict had cluster munitions not been available. Alternatives exist, such as precision-guided weapons, which do not pose a greater risk to civilians. Moreover, any alternative to an attack with cluster munitions that would be illegal due to the indiscriminate nature of the weapon both during and after use would be bound by the same international humanitarian laws of discrimination and proportionality.

Whilst the Department of Defence is concerned that the proposed bill would prevent Australia from obtaining "advanced" submunition capability has any evidence been put forward of the humanitarian protection afforded by these systems? Has a review been undertaken of these potential acquisitions in accordance with the obligations of Article 36 of Additional Protocol I of the Geneva Conventions and if so what were its findings regarding the distinction between military and civilian objects within target areas and evaluations of proportionality in the use of these weapons?

As a military partner, Australia should use its influence to stigmatise the use of cluster munitions and set an example based on its commitment to humanitarian law that such weapons that pose unacceptable risks to civilians should not be used.

Landmine Action asks you support the adoption of the draft bill in the Senate and lobby the Australian government to commit to the actions outlined in the Oslo declaration and engage fully in the process to work towards a prohibition on cluster munitions by 2008.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Simon Conway', with a stylized, cursive script.

Simon Conway
Director, Landmine Action