

The Senate

Standing Committee on
Foreign Affairs, Defence and Trade

Non-Proliferation Legislation Amendment
Bill 2006

February 2007

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Chapter 1

Introduction

Background

1.1 Senator the Hon. Ian Campbell, then Minister for the Environment and Heritage, introduced the Non-Proliferation Legislation Amendment Bill 2006 into the Senate on 6 December 2006. On 7 December 2006, the Senate referred the bill to the Senate Standing Committee of Foreign Affairs, Defence and Trade for examination and report by 8 February 2007.

1.2 The bill principally amends the *Nuclear Non-Proliferation (Safeguards) Act 1987*. This Act gives effect to Australia's international obligations as a party to the Nuclear Non-Proliferation Treaty (NPT), the International Atomic Energy Agency's (IAEA) Safeguards Agreement and the Convention on the Physical Protection of Nuclear Material.

Purpose and effect of the bill

1.3 The purpose of the bill is to:

- satisfy new requirements of the amendments to the Convention on the Physical Protection of Nuclear Material;
- regulate, with respect to nuclear safeguards, the decommissioning of a nuclear facility to ensure that Australia is able to meet its international obligations to the International Atomic Energy Agency;
- make penalties for the most serious offences in the Safeguards Act consistent with penalties under comparable Commonwealth non-proliferation legislation; and
- extend the geographical jurisdiction for various non-proliferation offences in the Safeguards Act.

1.4 The Second Reading Speech noted that the bill 'will demonstrate Australia's ongoing commitment to the physical security of nuclear facilities, material and related information, and the application of nuclear safeguards to such items'. To this end, the bill:

- creates new offences under the Safeguards Act relating to trafficking nuclear material into or out of Australia or a foreign country and interfering with the operation of a nuclear facility;
- updates existing penalty provisions for several offences under the Safeguards Act;
- extends the geographical jurisdiction of offences by an Australian citizen or resident anywhere; and

- requires a permit for the decommissioning of a nuclear facility and a corresponding offence under the Safeguards Act for failing to obtain a permit.

Submissions

1.5 The committee advertised the inquiry on its website and in *The Australian* on 12 December 2006. The committee wrote to the Minister for Foreign Affairs, the Hon. Alexander Downer, on 12 December 2006 to invite him or the Department of Foreign Affairs and Trade to make a submission. A number of organisations and stakeholders were also contacted and invited to make submissions to the inquiry. The committee received submissions from the Australian Safeguards and Non-Proliferation Office (ASNO) within the Department of Foreign Affairs and Trade, Friends of the Earth (FoE) and the Medical Association for the Prevention of War (MAPW).

Acknowledgments

1.6 The committee thanks those who assisted with the inquiry.

Chapter 2

Background

2.1 This chapter gives an overview of Australia's nuclear non-proliferation obligations under international treaties and outlines its current non-proliferation legislation. It then details the July 2005 amendments to the international Convention on the Physical Protection of Nuclear Material to which the bill is a response.

The Treaty on the Non-Proliferation of Nuclear Weapons

2.2 The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was negotiated in the mid-1960s between the United States, the Soviet Union and the Eighteen Nation Committee on Disarmament. The NPT came into force in 1970 and currently has 189 States Parties. The Treaty sets down the obligation of nuclear weapons states 'not to transfer' nuclear weapons and not to assist any non-nuclear weapon state 'to manufacture or acquire such weapons or devices' (Article 1). It also defines the responsibilities of non-nuclear weapons states not to receive or manufacture nuclear weapons (Article II) and to apply International Atomic Energy Agency (IAEA) safeguards to all nuclear activities carried out within their territories (Article III).¹ Australia became a Party to the NPT in January 1973 and signed a Safeguards Agreement with the IAEA in July 1974.²

The Convention on the Physical Protection of Nuclear Material

2.3 Australia also has international obligations to safeguard nuclear material under the Convention on the Physical Protection of Nuclear Material. The Convention sets standards for the international transport of nuclear material used for peaceful purposes. It defines serious offences involving nuclear materials which parties to the Convention must make punishable. This includes 'the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material' without lawful authority (Article 7(1a)) and a threat 'to use nuclear material to cause death or serious injury to any person or substantial property damage' (Article 7(1e)). The Convention also specifies certain levels of physical protection needed during international transport of nuclear material (Articles 3 and 4 and Annex 1).³ This requires Australia and the other signatories to the Convention to 'take appropriate steps within the framework of its

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- 1 Treaty on Non-Proliferation of Nuclear Weapons, <http://www.nawcwpns.navy.mil/~treaty/NPT.html> (accessed 21 December 2006).
 - 2 Nuclear Non-Proliferation (Safeguards) Bill 1986, Bills Digest 86/94, Legislative Research Service, Department of the Parliamentary Library, <http://www.aph.gov.au/library/pubs/bd/1986/1986bd094.pdf> (accessed 21 December 2006).
 - 3 Nuclear Non-Proliferation (Safeguards) Bill 1986, Bills Digest 86/94, Legislative Research Service, Department of the Parliamentary Library, p. 2. <http://www.aph.gov.au/library/pubs/bd/1986/1986bd094.pdf> (accessed 21 December 2006).

national law and consistent with international law'.⁴ The Convention was opened for signature in 1980 and entered into force on 8 February 1987. Notably, the original document did not address the protection of nuclear facilities and deals only in a limited way with the domestic use, storage or transportation of nuclear material.⁵

Nuclear Non-Proliferation (Safeguards) Act 1987

2.4 The *Nuclear Non-Proliferation (Safeguards) Act 1987* gives legislative effect to Australia's non-proliferation obligations under the NPT, under the Safeguards Agreement with the IAEA and under the Physical Protection Convention.⁶ Part II of the Act provides for a system of permits for the possession and transport of nuclear material (section 16), the establishment of a facility (section 16A) and the authority to communicate information relating to nuclear technology (section 18). Section 13 allows the Minister for Foreign Affairs to grant a permit for a person to possess nuclear material. Section 14 makes Ministerial approval for a permit contingent on the Director General of Safeguards in the Australian Safeguards and Non-Proliferation Office (ASNO) being satisfied that 'appropriate procedures' and 'adequate physical security' can be applied to the nuclear material.⁷

2.5 Part III of the Act deals with offences and corresponding punishments. Division 1 of Part III lists general offences. These include:

- the possession of nuclear material without a permit (section 23);
- a breach of duty to ensure the security of nuclear technology (section 25A);
- unauthorised communication of information (section 26);
- communication of information that prejudices the security of nuclear material (section 26A)
- establishment of a facility without a permit (section 28A);
- false or misleading statements to a Minister, Director or Agency inspector (section 30);
- obstruction of an Agency inspector (section 31); and
- unauthorised access to areas where access is restricted under permit (Section 31A).

Division 2 of Part III lists offences relating to the Physical Protection Convention. These include:

4 Article 3, Convention on the Physical Protection of Nuclear Material.

5 Department of Foreign Affairs and Trade, *Submission 1*, pp. 1–2.

6 See Christine Gallus MP, Second Reading Speech, *House Hansard*, 26 June 2003, p. 16 467.

7 *Nuclear Non-Proliferation (Safeguards) Act 2006*, pp. 20–21.

[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/EDC54558C2461D27CA256F71004C2A49/\\$file/NuclearNonProSaf1987.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/EDC54558C2461D27CA256F71004C2A49/$file/NuclearNonProSaf1987.pdf)

- stealing nuclear material (section 33);
- demanding nuclear material by threats (section 34);
- use of nuclear material causing injury to persons or damage to property (section 35);
- threat to use nuclear material (section 36); and
- threat to commit an offence under Section 33 (section 37).

2.6 Under the *Australian Protective Services Act 1987*, protective service officers can arrest without warrant people whom they suspect on reasonable grounds of committing offences under the Safeguards Act.⁸

Non-Proliferation Legislation Amendment Bill 2003

2.7 A number of provisions in this bill relate directly to legislation introduced with the passing of the Non-Proliferation Legislation Amendment Bill 2003 (sections 25A, 26A, 28A and 31A). The bill was introduced into the House of Representatives on 26 June 2003 and assented to on 12 December 2003. The purpose of the bill was to strengthen the Safeguards Act and amend the *Comprehensive Nuclear Test-Ban Treaty Act 1998* (CTBT Act) in anticipation of the enforcement of the Comprehensive Nuclear Test Ban Treaty's (CTBT) ban on nuclear weapons tests. Australia's CTBT Act makes it an offence punishable with life imprisonment to cause a nuclear weapon test explosion or any other nuclear explosion.⁹

2.8 The bill made several amendments to the Safeguards Act. It inserted Section 16A allowing the Minister to grant a permit for a nuclear facility, Section 28A making it an offence to establish a nuclear facility without a permit and the offences under Sections 25A, 26A and 31A (see paragraph 2.4). The Bill also amended the CTBT Act to enable key provisions of the Act to be proclaimed prior to the entry into force of the CTBT.¹⁰

2.9 In 2003, the Senate Foreign Affairs, Defence and Trade Legislation Committee inquired into the Non-Proliferation Legislation Amendment Bill 2003. In

8 Peter Prince, *Non-Proliferation Legislation Amendment Bill 2003*, Bills Digest No. 35, 2003–04, Parliamentary Library, p. 4
<http://parlinfoweb.parl.net/parlinfo/Repository/Legis/Billsdgs/WPFA60.pdf> (accessed 3 January 2007).

9 Peter Prince, *Non-Proliferation Legislation Amendment Bill 2003*, Bills Digest No. 35, 2003–04, Parliamentary Library, p. 7
<http://parlinfoweb.parl.net/parlinfo/Repository/Legis/Billsdgs/WPFA60.pdf> (accessed 3 January 2007).

10 Peter Prince, *Non-Proliferation Legislation Amendment Bill 2003*, Bills Digest No. 35, 2003–04, Parliamentary Library, p. 2
<http://parlinfoweb.parl.net/parlinfo/Repository/Legis/Billsdgs/WPFA60.pdf> (accessed 3 January 2007).

its report on the bill, the committee noted concerns that the insertion of section 26A could prevent information about nuclear activities being released in the public interest. It also cited concerns that the provision could be made 'to restrict information flows and intimidate potential whistle blowers'.¹¹ In response, Dr Andrew Leask of the Australian Safeguards and Non-Proliferation Office, Department of Foreign Affairs and Trade emphasised that the amendment was designed to protect only information which could prejudice the physical security of a nuclear facility. He argued that whistleblowers retained the avenues of an internal complaint or either of Australia's two nuclear regulators. Dr Leask also argued that the amended section 31A relating to unauthorised access would not make 'any impact at all on lawful, legitimate protest'.¹² As Chapter 4 notes, the Committee's majority report cited Dr Leask's arguments. However, separate dissenting reports from Labor Party and Democrat Senators held strong reservations about the provisions' potential to limit the right to protest and the role of whistleblowers. An amendment to the Explanatory Memorandum satisfied Labor Senators' concerns on this matter (see Chapter 4).

Amendments to the Physical Protection Convention—8 July 2005

2.10 On 8 July 2005, delegates from 89 countries agreed on changes to strengthen the Physical Protection Convention. The amended Convention makes it legally binding for States to protect nuclear facilities and material on peaceful domestic use, storage and transport. The amendments strengthen requirements for the protection of nuclear material and nuclear facilities against criminal or terrorist attack.¹³ There were four main amendments to the Convention:

- a new Article 2A established a series of fundamental principles to be applied to protect nuclear material against theft and sabotage and to rapidly recover any missing or stolen nuclear material;
- an amendment to Article 5 strengthen cooperation among States in the event of actual or threatened theft of nuclear material or sabotage of nuclear material;
- the creation of new offences under Article 7 of the Convention relating to the trafficking of nuclear material and the sabotage of nuclear facilities with the intent to cause death, injury or damage by exposure to radiation;

11 Provisions of the Non-Proliferation Legislation Amendment Bill 2003, Senate Foreign Affairs, Defence and Trade Legislation Committee, September 2003, pp. 3–4.

12 Provisions of the Non-Proliferation Legislation Amendment Bill 2003, Senate Foreign Affairs, Defence and Trade Legislation Committee, September 2003, pp. 5–6.

13 Australian Safeguards and Non-Proliferation Office, Department of Foreign Affairs and Trade, 'Amendments to the Convention on the Physical Protection of Nuclear Material, National Interest Analysis' http://www.aph.gov.au/house/committee/jsct/20june2006/treaties/cppnm_nia.pdf (accessed 3 January 2007).

- new Articles 11A and 11B dealing with extradition and mutual legal assistance in relation to offences under Article 7 of the Convention that stipulate states cannot refuse to extradite or provide mutual legal assistance for an offence under Article 7 on the sole ground that it is a political offence under domestic law.¹⁴

2.11 In a statement to the Convention, the Australian Safeguards Non-Proliferation Office supported the proposed amendments:

The Australian Government is committed to addressing international concerns about nuclear terrorism, smuggling and sabotage, and to protecting people and the environment from any impacts associated with such activities. The amended Physical Protection Convention aims to address these issues more comprehensively than the existing convention. Australia has played a leading role in developing these changes, and to encourage universal adherence should be among the first to ratify and implement them.¹⁵

2.12 In its submission to this inquiry, DFAT highlighted that 'Australia has always taken a broad view of its obligation under the Treaty on the Non-Proliferation of Nuclear Weapons...[and] many of the provisions of the amended Convention already apply...through the Safeguards Act'.¹⁶ DFAT also noted that in order to fully implement the amendments and ratify the Convention, 'further requirements strengthening domestic security and counterterrorism arrangements' are necessary. The Non-Proliferation Legislation Amendment Bill was drafted for this purpose.

2.13 In its report of 9 October 2006, the Joint Standing Committee on Treaties supported the amendments to the Convention 'as a framework to facilitate the increased cooperation between States in the protection of nuclear materials'. The Committee recommended that binding treaty action be taken.¹⁷

14 Australian Safeguards and Non-Proliferation Office, Department of Foreign Affairs and Trade, 'Amendments to the Convention on the Physical Protection of Nuclear Material, National Interest Analysis'
http://www.aph.gov.au/house/committee/jsct/20june2006/treaties/cppnm_nia.pdf (accessed 3 January 2007).

15 Australian Safeguards and Non-Proliferation Office, Department of Foreign Affairs and Trade, 'Amendments to the Convention on the Physical Protection of Nuclear Material, National Interest Analysis'
http://www.aph.gov.au/house/committee/jsct/20june2006/treaties/cppnm_nia.pdf (accessed 3 January 2007).

16 Department of Foreign Affairs and Trade, *Submission 1*, p. 2.

17 Joint Standing Committee on Treaties, 'Amendments to the Convention on the Physical Protection of Nuclear Material', 9 October 2006,
<http://www.aph.gov.au/house/committee/jsct/20june2006/report/chapter3.pdf> (accessed 17 January 2007).

Chapter 3

Provisions of the Bill

3.1 The provisions of the bill are to implement Australia's commitment to international measures which increase the physical protection of nuclear material and facilities. In particular, the bill is intended to meet the new requirements of the July 2005 amendments to the Convention on the Physical Protection of Nuclear Material (Physical Protection Convention). As noted in Chapter 2, the amended Convention makes it legally binding for States to protect nuclear facilities and material on peaceful domestic use, storage and transport. To this end, the bill makes amendments to the *Nuclear Non-Proliferation (Safeguards) Act 1987*, the *Comprehensive Nuclear Test Ban Treaty Act*, the *Chemical Weapons (Prohibition) Act 1994*, the *Australian Federal Police Act 1979*, the *Extradition Act 1988* and the *Mutual Assistance in Criminal Matters Act 1987*.¹

3.2 Most of the bill's amendments are made to the *Nuclear Non-Proliferation (Safeguards) Act 1987*. This Act gives legislative effect to Australia's international nuclear non-proliferation obligations, establishes a system of permits for the possession and transportation of nuclear material and provides a legislative basis for the Australian Safeguards Office.² The bill inserts a new subsection 13(3)(da) into this Act stating that a permit to possess nuclear material may be granted provided 'that measures are taken that are consistent with Australia's obligations under the Physical Protection Convention'. The bill also amends this Act to:

- introduce new offences and increase penalties for various offences under the Part III of the Act;
- extend the geographical scope of jurisdiction for various offences under Part III; and
- require a permit to decommission of a facility.

New offences under the Nuclear Non-Proliferation (Safeguards) Act 1987

3.3 The bill introduces three new offences and imprisonment penalties under the Safeguards Act.

- Under a new section 29A, a person found guilty of decommissioning a facility without a permit faces an imprisonment penalty of five years (see paragraph 3.7).

1 The last two Acts address extradition provisions in Articles 11A and 11B of the amended Physical Protection Convention. (see paragraph 2.12)

2 Nuclear Non-Proliferation (Safeguards) Bill 1986, Bills Digest 86/94, Legislative Research Service, Department of the Parliamentary Library, <http://www.aph.gov.au/library/pubs/bd/1986/1986bd094.pdf> (accessed 21 December 2006).

- Under a new section 34A, a person commits an offence if s/he carries, sends or moves nuclear material into or out of Australia or a foreign country. A person found guilty of this offence faces an imprisonment penalty of 10 years.
- Under a new section 35A, a person found guilty of interfering with the operation of a nuclear facility—and who does so intending or knowing that the act will cause injury or damage to property—faces an imprisonment penalty of 20 years.

Lengthened penalties under Nuclear Non-Proliferation (Safeguards) Act 1987

3.4 The bill also lengthens the maximum term of various imprisonment offences under Part III of the *Nuclear Non-Proliferation (Safeguards) Act 1987*. It contains five provisions to lengthen existing imprisonment penalties in the Act.

- Under section 23 (1), the maximum imprisonment term for a person found guilty of possessing nuclear material without a permit will be lengthened from 'not more than five years' to 'not more than ten years'.
- Under section 26(1), the maximum imprisonment term for a person found guilty of communicating information about nuclear technology (as defined in section 4(1) of the Act) will be lengthened from 'not more than two years' to 'not more than ten years'.
- Under section 26A(1), the imprisonment penalty for a person found guilty of communicating information that compromises the security of nuclear material will be lengthened from two years to eight years.
- Under section 31(1), the maximum imprisonment term for a person found guilty of obstructing or hindering an Agency inspector in the performance of a duty under the Act will be lengthened from 'not more than six months' to 'not more than two years'.
- Under section 35, the maximum imprisonment term for a person found guilty of using nuclear material to cause serious damage to any person or substantial damage to property will be lengthened from 10 years to 20 years.

Extending the geographical scope of jurisdiction for offences under various Acts

3.5 The bill also amends the *Nuclear Non-Proliferation (Safeguards) Act 1987* to broaden the geographical scope of jurisdiction for various offences under Part III of the Act. These amendments are based on category B of section 15.2 of the *Criminal Code*. This section defines an offence as occurring wholly or partly in Australia or wholly outside Australia when the person is a citizen or resident of Australia.³ The bill's purpose in extending geographical jurisdiction is to strengthen Australia's ability

3 The Criminal Code, section 15.2, p. 39.

to act against the proliferation of nuclear and chemical weapons.⁴ The bill amends subsections of the *Nuclear Non-Proliferation (Safeguards) Act 1987* dealing with:

- the possession of nuclear material (subsection 23(2));
- a breach of duty to ensure security of associated technology (subsection 25A(3));
- unauthorised communication of information (subsection 26(5));
- communication prejudicing security of nuclear material or associated item (subsection 26(5));
- the making of false or misleading statements in relation to the Act (subsection 30(3)); and
- unauthorised access to areas to which access is permitted under permit (subsection 31A(4)).

3.6 The Bill also amends section 8 of the *Comprehensive Nuclear Test-Ban Treaty Act 1998* and sections 5(1) and 12 of the *Chemical Weapons (Prohibition) Act 1994* to extend geographical jurisdiction based on Section 15.2 of the Criminal Code.

Permit to decommission a facility

3.7 The bill inserts a new section 16B into the *Nuclear Non-Proliferation (Safeguards) Act 1987* to allow the Minister to grant a written permit to decommission the whole or part of a nuclear facility. Under this subsection, the Bill requires that the permit to decommission a facility must be approved by the Director of Safeguards (as per subsection 12(2) of the Act). The Director must also be satisfied that appropriate safeguards could be applied during the decommissioning and that adequate physical security could be applied to nuclear material during the decommissioning.⁵ The bill also inserts a new section 29A that makes it an offence for a person to decommission the whole or part of a facility without holding a permit.

Bringing Australia's legislation into line with the Physical Protection Convention

3.8 The Explanatory Memorandum (EM) makes clear that a key purpose of these amendments is to ensure consistency of Australian legislation with the amended Physical Protection Convention (see chapter 2). The bill's amendments relate to the substance, the terminology and the timing of Convention's amendments. The EM notes that:

- the new section 34A relating to offences carrying, sending or moving nuclear material 'is inserted only to ensure consistency of Australian legislation with the language of the amended Convention';

4 *Explanatory Memorandum*, p. 6.

5 See paragraphs 16B(1)(b) and 16B(1)(c)

- the bill's amendment to section 36 of the *Nuclear Non-Proliferation (Safeguards) Act 1987* to punish threats to use nuclear material to cause damage 'to the environment' is '[c]onsistent with the requirements of the amended Physical Protection Convention';⁶
- the bill repeals the Act's definition of 'nuclear facility' in section 32 to be replaced by 'an express definition using the words of the amended Convention'.⁷ The new section replaces the term 'nuclear material' with the term 'nuclear facility' and provides a definition of what constitutes a nuclear facility.

Summary

3.9 If passed, the effect of the Non-Proliferation Legislation Amendment Bill 2006 will be threefold. First, it will introduce three new offences under the Safeguards Act relating to decommissioning a nuclear facility without a permit, trafficking nuclear material and interfering with the operation of a nuclear facility. Second, the bill increases various imprisonment penalties for offences under the Act. Third, the bill also extends the geographical scope of jurisdiction for various offences which will mean that Australian citizens residing overseas will be imprisoned if found guilty of these offences. These amendments strengthen Australia's regime for domestic security in the use, storage and transport of nuclear material and assist in multilateral efforts to this end.

6 *Explanatory Memorandum*, p. 8.

7 *Explanatory Memorandum*, p. 7.

Chapter 4

Main findings

Criticism of the bill

4.1 The committee received two submissions criticising the bill, one from the Medical Association for the Prevention of War (MAPW) and the other from Friends of the Earth (FoE). Both submissions highlighted concerns that the legislation would impact unfairly on legitimate protest activity. Both cited the Greenpeace action in December 2001 which involved unauthorised entry into Lucas Heights. The MAPW argued that 'the 46 persons involved in the Greenpeace action had a clear intent to do no harm and posed no risk to anyone, but could be subject to extended prison sentences if such legislation were to be applied inappropriately'.¹ The FoE reiterated the concerns it made to the 2003 Senate inquiry (see paragraph 2.9) that Greenpeace's actions 'potentially involve the offence of obstructing or hindering an Agency inspector in the performance of a duty or function or exercise of a power'.²

4.2 Chapter 2 noted Labor Senators' initial concern with the impact of the Non-Proliferation Legislation Amendment Bill 2003 on the right to protest and the role of whistleblowers. However, the government subsequently took account of these concerns and made a change which made clear that section 26A of the Act was 'not intended to displace the requirements of recklessness or intention which are defined in Division 5 of the *Criminal Code Act 1995*'. This satisfied Labor Senators that 'legitimate protest activity and the communication of legitimate protest information would not be at risk of being inadvertently scooped up by new section 26A'.³

4.3 MAPW's submission supported the Bill's measures to minimise risks of nuclear and chemical weapons proliferation, and to extend jurisdiction of the legislation as widely as practical. It noted that the alignment of Australian law with the 2005 Convention is 'commendable'. However, the Association had the following criticisms and recommendations to make on the substance of the Bill:

- the specification of maximum penalties is 'inappropriate and inconsistent with the potential extreme seriousness of such crimes';
- permits to decommission facilities should require not only ministerial approval but also parliamentary scrutiny;
- the Bill's definitions should make unqualified the amount of radiation or radioactive material, or that the qualifying term 'significant' is defined 'such as to cover potential exposures of multiple individuals';

1 *Submission 3*, p. 3.

2 *Submission 2*, p. 1.

3 Senator Chris Evans, *Senate Hansard*, 28 November 2003, p. 18367.

- the period for which decommissioning work already commenced be exempt from full requirements be shortened from 6 months to 1 month; and
- non-proliferation measures in the absence of disarmament measures are unlikely to succeed. Existing safeguards measures and institutional arrangements are inadequate for preventing proliferation. The MAPW argued that '...Australia should join the large majority of governments in the General Assembly that call for multilateral negotiations leading to an early conclusion of a nuclear weapons convention'.⁴

Conclusion

4.4 The Non-Proliferation Legislation Amendment Bill 2006 is a strong response to Australia's new obligations under the amended Physical Protection Convention. It reflects the active role that Australia took in negotiating the July 2005 Amendments to the Convention. The system of permits and the list of offences under the *Nuclear Non-Proliferation (Safeguards) Act 1987* already include elements of some of the new offences required by the amendments. The bill responds further to the amendments by increasing prison penalties and extending the geographical scope of jurisdiction for offences under the Safeguards Act. It also contains three new offences relating to the decommissioning of a nuclear facility without a permit, trafficking nuclear material and interfering with the operation of a nuclear facility.

4.5 The committee acknowledges the concerns of the FoE and the MAPW. However, it believes the bill in its current form adequately meets Australia's new international obligations under the 2005 Convention to protect nuclear facilities and material for peaceful domestic use, storage and transport. The committee strongly supports continued Australian engagement in multilateral efforts on disarmament and non-proliferation.

Recommendation 1

4.6 The committee recommends that the Senate pass the bill.

**SENATOR DAVID JOHNSTON
CHAIR**

4 *Submission 3*, pp. 4–5.

Appendix 1

Public submissions

1. Department of Foreign Affairs and Trade
2. Friends of the Earth, Australia
3. Medical Association for Prevention of War (Australia)