

Chapter 3

Penalties and the retention of cluster munitions

3.1 This chapter provides a short overview of the evidence in relation to the bill before considering its penalties and the section 72.39 defence to provide for the acquisition and retention of cluster munitions for training and related purposes.

Views on the bill

3.2 The bill seeks to create offences relating to cluster munitions and explosive bomblets and give effect to the Convention on Cluster Munitions (the Convention).

3.3 All witnesses to the inquiry strongly supported Australia's ratification of the Convention. While they welcomed the bill's objective of enhancing legislative measures to enable Australia to ratify the Convention, they expressed some concerns about particular provisions.

3.4 Most concern amongst submitters was directed to the issue of interoperability or joint military operations with states not party to the Convention reflected in sections 72.41 and 72.42 of the bill. These provisions are the focus of Chapter 4 and Chapter 5 respectively. Other major concerns were raised in relation to section 72.39 regarding the retention of cluster munitions in Australia which is considered in this chapter. Positive obligations in relation to Article 21 specifically and towards achieving the objectives of the Convention more broadly are considered in Chapter 4 whilst the prohibition on investment in cluster munitions production is the subject of Chapter 6.

New offences

3.5 Item 1 of Schedule 1 of the bill inserts a new Subdivision C titled 'Cluster munitions and explosive bomblets' into Division 72 of the *Criminal Code Act 1995* (the Code).¹ The purpose of this Subdivision is to create offences relating to cluster munitions and explosive bomblets and to give effect to the Convention on Cluster Munitions.²

3.6 The bill creates two new offences under section 72.38:

- (1) A person commits an offence if the person does any of the following with a cluster munition:
 - (a) uses it;
 - (b) develops, produces or otherwise acquires it;

1 Division 72 of the Criminal Code deals with explosives and lethal devices.

2 Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010, s. 72.37.

- (c) stockpiles or retains it;
- (d) transfers it to anyone.

(2) A person (the *first person*) commits an offence if:

- (a) the first person assists, encourages, or induces another person to do any of the following acts with a cluster munition:
 - (i) uses it;
 - (ii) develop, produce or otherwise acquire it;
 - (iii) stockpile or retain it;
 - (iv) transfer it to anyone; and
- (b) the other person does the act; and
- (c) the first person intends that the act be done.

3.7 The explanatory memorandum highlights that the proposed subsections do not specify a fault element for the prohibited acts. Section 5.6 of the Criminal Code provides that where a fault element is not specified in relation to the physical element, the fault element is intention.³ The explanatory memorandum notes that the elements in 72.38(2)(a) and (b) ensure that accidental or innocent assistance, encouragement or inducement is not an offence against subsection 72.38(2).⁴

3.8 The government recognises the establishment of offences as meeting the requirements of Article 9 of the Convention on states parties to impose:

penal sanctions to prevent and suppress any activity prohibited to a state party under this Convention undertaken by persons or on territory under its jurisdiction or control.

3.9 The establishment of such offences gives meaning to Article 1 of the Convention which requires that states parties undertake never under any circumstances to use, develop, produce, acquire, stockpile, retain or transfer 'directly or indirectly, cluster munitions of explosive bomblets or assist, encourage, or induce anyone to engage in any activity prohibited to a State Party under the Convention'.

3.10 Submitters such as Act for Peace supported the establishment of criminal offence provisions in relation to the use of cluster munitions and held that the penalties reflect the seriousness of the crimes.⁵

3.11 The explanatory memorandum notes that terms including 'use', 'develop', 'produce', 'acquire', 'stockpile' and 'retain' are used in their plain English sense. The

3 *Explanatory Memorandum, Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010*, p. 7.

4 *Explanatory Memorandum, Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010*, p. 7.

5 Act for Peace, *Submission 17*, p. [1].

term 'transfer' is defined in section 72.45 as having the same meaning as that in the Convention. Article 2(8) of the Convention states that 'transfer' involves:

...in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants.

Geographical jurisdiction

3.12 The explanatory memorandum emphasises that Category B jurisdiction captures the conduct of persons who are Australian citizens or residents at the time of the alleged offence and provides explanation that:

The application of category B jurisdiction would mean that, regardless of where the conduct constituting the offence occurs, if the person engaging in that conduct is an Australian citizen or body corporate, that person would be able to be prosecuted in Australia. The extension of jurisdiction in this way gives effect to the obligation on States Parties under Article 9 to enact penal sanctions to prevent and suppress prohibited conduct undertaken by persons or on territory under its jurisdiction or control.⁶

3.13 Human Rights Watch and Harvard Law School's International Human Rights Clinic (IHRC) supported the establishment of extraterritorial jurisdiction in subsection 72.38(3) which would prevent Australian citizens from escaping liability for violating the Convention's norms.⁷ This provision was also supported by the Medical Association for Prevention of War (Australia) (MAPW) which also welcomed the government's inclusion of explosive bomblets as well as cluster munitions in the bill.⁸

Language – 'never under any circumstances'

3.14 The primary concern of many witnesses in relation to section 72.38 was that the phrase 'never under any circumstances' specified in Article 1(1) of the Convention was not included. They recommended that the phrase preface all offences in section 72.38 in line with the Convention in which states parties undertake 'never under any circumstances' to engage in prohibited activities related to cluster munitions.⁹ Human Rights Watch and IHRC argued that the phrase is significant because it:

emphasizes that the convention's prohibitions are comprehensive and apply during both international and non-international armed conflicts, as well as

6 *Explanatory Memorandum, Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010*, p. 8.

7 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 15.

8 Medical Association for Prevention of War (Australia), *Submission 15*, p. 3.

9 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [3]; Aotearoa New Zealand Cluster Munitions Coalition, *Submission 6*, p. [2]; CBM Australia, *Submission 11*, p. 2; Australian Lawyers for Human Rights, *Submission 19*, p. [2]; Oxfam Australia, *Submission 14*, p. 2; Medical Association for Prevention of War (Australia), *Submission 15*, p. 4; Act for Peace, *Submission 17*, p. [2]; Human Rights Watch and IHRC, *Submission 7*, p. 5.

in situations that do not arise to the level of armed conflict. The phrase underlines the importance of foreclosing exemptions to these restrictions.¹⁰

3.15 The Australian Network to Ban Landmines and Cluster Munitions (ANBLC) argued that by omitting the phrase, the section fails to abide by the spirit of the treaty and 'violates the integrity of the Convention and the integrity of the Australian government'. The ANBLC noted that omission 'has significant ramifications, and impacts upon a number of sections, including 72.41 and 72.42 which are both major concerns'.¹¹ The ANBLC highlighted, moreover, that whilst the explanatory memorandum acknowledges the wording of the Convention, the draft legislation omits this 'vital' phrase.¹²

3.16 The Attorney-General's Department (AGD) responded to concerns about omitting the Convention phrase 'never under any circumstances'. It informed the committee that it was not necessary to include the phrase because the proposed offences in the section 'will apply in all circumstances, unless otherwise specified'. Furthermore, the department argued that:

Inserting words such as 'never under any circumstances' would depart from the standard drafting practice in the *Criminal Code Act 1995* (the Code) and may give rise to questions of interpretation regarding differences in how offences are framed within the Code.¹³

3.17 Mr Greg Manning, First Assistant Secretary, AGD further highlighted that the reading of the offences 'shows that it achieves the same as the words 'never under any circumstances' in that, in clause 72.38(1), there is a blanket prohibition'. He continued:

So the government's position is that it has prohibited everything that is prohibited under the convention. The issue of the amendment to the Criminal Code versus a standalone act would not have changed the nature of the offences as drafted.¹⁴

Adequacy of the penalties

3.18 Penalties of up to 10 years imprisonment for individuals or \$330,000 for bodies corporate apply in relation to section 72.38 offences. Human Rights Watch and IHRC were concerned that the penalties needed to be codified in the bill. They also argued that penalties for bodies corporate which were noted by the Attorney-General

10 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 5. See also, Aotearoa New Zealand Cluster Munitions Coalition, *Submission 6*, p. [2].

11 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [5] and [3].

12 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [3]. See *Explanatory Memorandum*, Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010, p. [1].

13 Attorney-General's Department, *Additional information*, received 28 February 2011, pp. 1–2.

14 Greg Manning, Attorney-General's Department, *Committee Hansard*, 3 March 2011, p. 18.

in his second reading speech but not included in the bill need to be added to the text of section 72.38 to clarify that the legislation applies to corporations as well as people.¹⁵

3.19 Some submitters raised concerns about the fine set for bodies corporate engaged in the development, manufacture and trade in cluster munitions. The Uniting Church of Australia–Synod of Victoria and Tasmania argued that the proposed fine of \$330,000 should be increased to a maximum penalty of at least 1.1 million or three times the revenue value of the weapons produced or traded, whichever is higher.¹⁶

3.20 In relation to concerns regarding the penalties both in terms of adequacy and the fact that they are not codified in the bill, the AGD responded that:

Penalties that apply to bodies corporate are determined by applying the standard formula set out in the *Crimes Act 1914* (the Crimes Act)...When the maximum penalty of 10 years imprisonment is converted to penalty units in accordance with the standard formula, the sentence is converted to 3000 penalty units for bodies corporate, which is equivalent to \$330 000.¹⁷

3.21 AGD also asserted that all the offences in the Code must be read together with the Code's other provisions as well as the *Crimes Act 1914* and that such an approach 'ensures stability and consistency in how penalty provisions are read across all Commonwealth legislation'. The department further noted that:

As a matter of form, and in order to maintain simplicity, the Bill sets out only the penalty of imprisonment, which must be read together with the Crimes Act in order to determine the applicable number of penalty units. Including the penalty units in the Bill would unnecessarily lengthen the Bill.¹⁸

Intent requirement

3.22 For some witnesses, the requirement for a person to intend an act be done in order to be liable for one of the section 72.38 offences sets the threshold for criminal liability too high. Human Rights Watch and IHRC argued, for example that:

Under this standard, individuals would not be liable for conduct if, for example, they were aware their conduct would result in cluster munition use (knowledge) or in a substantial, unjustifiable risk of use (recklessness).¹⁹

15 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 13.

16 Uniting Church of Australia–Synod of Victoria and Tasmania, *Submission 8*, p. 1.

17 Attorney-General's Department, *Additional information*, received 28 February 2011, p. 1.

18 Attorney-General's Department, *Additional information*, received 28 February 2011, pp. 1–2.

19 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 12.

3.23 JSCOT was concerned about preventing 'inadvertent participation in the use, or assistance in the use, of cluster munitions by Australia'.²⁰ According to Human Rights Watch and IHRC, the use of an intention standard in section 72.38 of the bill 'makes it difficult to hold individuals liable for use, production, transfer, and stockpiling of cluster munitions or assistance with these prohibited acts even if they know or should have known that their conduct could lead to one of these activities'.²¹

3.24 Submitters including the Australian Lawyers for Human Rights (ALHR) and MAPW as well as Human Rights Watch and IHRC argued that the section should be amended to support a recklessness standard of intent.²² Invoking JSCOT's recommendation, ALHR held that the bill as it stands might 'relieve of liability a person *who knew or should have known* that their actions could result in the use of cluster munitions or were recklessly indifferent to their potential use'.²³ ALHR argued that the reckless standard be explicitly retained as applicable to the interoperability clause.²⁴ Similarly, CBM Australia supported the removal of subsection 72.38(2) and replacement with the standard of recklessness which it argued more accurately reflected the Convention's purpose.²⁵

3.25 The Uniting Church in Australia–Synod of Victoria and Tasmania argued that the section should be modified to state that '(c) the first person knew, or reasonably should have known, that the act would be done' on the basis that this avoids liability for a person who could not have reasonably known that they were assisting, encouraging or inducing a prohibited act. Such an amendment 'allows for prosecution of those that knew or who were reckless in their actions'.²⁶

3.26 AGD responded to suggestions that a reckless standard be applied by emphasising that the offences in the bill are to be read in light of the standard fault elements set out in the Code:

Under the Code, intention is the standard fault element for any component of an offence that relates to conduct. A person has intention with respect to conduct if he or she means to engage in that conduct. This approach is the most appropriate way to implement in Australia the obligations set out in the Convention. The Guide to Framing Commonwealth Offences, Civil

20 Joint Standing Committee on Treaties, *Report No 103*, Treaties tabled on 12 March and 13 May 2009, 18 August 2009, p. 27.

21 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 12.

22 Australian Lawyers for Human Rights, *Submission 19*, p. [2]; Medical Association for Prevention of War (Australia), *Submission 15*, p. 4; Human Rights Watch and IHRC, *Submission 7*, p. 12.

23 Australian Lawyers for Human Rights, *Submission 19*, p. [12].

24 Australian Lawyers for Human Rights, *Submission 19*, p. [12].

25 CBM Australia, *Submission 11*, p. 2.

26 Uniting Church in Australia–Synod of Victoria and Tasmania, *Submission 8*, p. 6.

Penalties and Enforcement Powers states that the standard fault elements in the Code should apply unless there is a reason to depart from these.²⁷

3.27 AGD further emphasised that the government had been guided by the prohibition in the Convention. The department noted that whilst the Convention itself does not refer to standards of fault given that it proscribes state rather than individual behaviour, the government considered 'that a reasonable interpretation of the Convention is that a fault element of intention should be imported into the meaning of Article 1'.²⁸ AGD stressed that care has been taken to ensure that the bill's offences reflect the language of Article 1 as closely as possible, 'in order to ensure that all conduct that is prohibited by the Convention is the subject of a criminal offence under Australian law'.²⁹

Section 72.39

3.28 Defences to the offences set out in section 72.38 are listed in sections 72.39 to 72.42 of the bill. Subsection 72.39(2) provides that the Defence Minister may authorise specified members of the ADF or other specified Commonwealth public officials to acquire or retain specified cluster munitions for one or more of the following purposes:

- (a) the development of, and training in, cluster munition and explosive submunitions detection, clearance or destruction techniques;³⁰
- (b) the development of cluster munition counter-measures;³¹
- (c) the destruction of munitions.³²

3.29 This authorisation to acquire or retain a limited number of cluster munitions for destruction or certain purposes creates with it a defence under subsection 72.39(1) for a person who acts in accordance with such an authorisation. In other words, section 72.38 offences are not applicable in relation to the acquisition or retention of a cluster munition authorised under proposed section 72.39(2).³³ A defendant bears an evidential burden in relation to subsection 72.39(1) as set out in subsection 13.3(3) of the Code. This subsection of the Code states that a defendant who wishes to deny criminal responsibility by relying on any exception, exemption, excuse, qualification

27 Attorney-General's Department, *Additional information*, received 28 February 2011, p. 2.

28 Attorney-General's Department, *Additional information*, received 28 February 2011, p. 2.

29 Attorney-General's Department, *Additional information*, received 28 February 2011, p. 2.

30 Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010, ss. 72.39(2)(a).

31 Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010, ss. 72.39(2)(b).

32 Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010, ss. 72.39(2)(c).

33 The Minister (currently the Minister for Defence) may delegate this authorisation power to the Secretary of Defence or a Senior Executive Service employee in that department. Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010, ss. 72.39(5).

or justification provided by the law creating an offence bears an evidential burden in relation to the matter.³⁴

3.30 Section 72.39 gives effect to paragraphs 6 and 7 of Article 3 of the Convention. Article 3(6) permits states parties to retain or acquire a limited number of cluster munitions and explosive submunitions for the development of, and training in, cluster munition and explosive submunitions detection, clearance or destruction techniques, or for the development of cluster munition counter-measures. The article qualifies, however, that the amount of explosive submunitions retained or acquired 'shall not exceed the minimum number absolutely necessary for these purposes'. In accordance with this provision, the explanatory memorandum states that the bill empowers the Minister for Defence to authorise the retention or acquisition of a 'limited number' of cluster munitions for this purpose.³⁵ Article 3(7) permits the transfer of cluster munitions to another state party for the purpose of destruction.

Evidence

3.31 Many witnesses raised concerns about section 72.39 regarding the domestic retention of cluster munitions. Notwithstanding the fact that Article 3(6) of the Convention allows for limited numbers of cluster munitions to be retained for various measures, submitters raised questions about the need to retain any live cluster bombs in Australia. ANBLC for example stated:

Australia does not presently possess cluster bombs and thus would need to acquire them. This is an unnecessary and undesirable step to take. A number of countries have formally recognized that live cluster bombs are not necessary for training purposes and have decided in favour of no retention.

Available, sophisticated technology also allows for research and development tests to be carried out without the use of live cluster munitions. These tests provide an accurate and predictable study enabling analysis of the correct angle of contact, the distance to object and other necessary data. Live cluster bombs are not necessary and should not be retained.³⁶

3.32 Human Rights Watch and IHRC as well as Union Aid Abroad–APHEDA questioned the necessity of retaining live submunitions and noted that no UN-accredited clearance organisation is known to use live submunitions for training purposes.³⁷ ALHR took a similar view recommending a prohibition on the retention of

34 *Explanatory Memorandum*, Criminal Code Amendment (Cluster Munition Prohibition) Bill 2010, pp. 8–9.

35 *Explanatory Memorandum*, Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010, p. 1.

36 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, pp. [7–8]. See also, Aotearoa New Zealand Cluster Munitions Coalition, *Submission 6*, p. [3].

37 Human Rights Watch and IHRC, *Submission 7*, p. 11; Union Aid Abroad–APHEDA, *Submission 12*, p. [4].

all live cluster munitions whilst the Cluster Munition Coalition argued that the section should be deleted because retention of cluster munitions for training 'is unnecessary'.³⁸ Citing the position of a number of countries who have chosen not to retain cluster munitions including Afghanistan, Angola, Austria, Colombia, Honduras, Moldova, Montenegro, Norway, Portugal, and Slovenia, Human Rights Watch and IHRC argued that implementation legislation should not include a clause explicitly allowing retention.³⁹

3.33 ANBLC raised concern that the inclusion of this provision would set a precedent for similar provisions by other countries and that it 'could open the way to abuse which again flies in the face of the spirit and intent of the treaty'.⁴⁰ The organisation noted that abuses of the retention clause took place under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Land Mine Treaty) with countries retaining operational quantities of mines.

3.34 As an alternative, other submitters including Act for Peace, suggested that the section should at least specify the number of munitions allowed to be retained in accordance with Convention Article 3(6) which emphasises that the amount 'shall not exceed the minimum number absolutely necessary'.⁴¹ Aotearoa New Zealand Cluster Munitions Coalition (ANZCMC) and ANBLC also raised concerns that there was no specific limit on the number of cluster munitions and submunitions to be retained or any reporting requirements established in accordance with Article 3(8) of the Convention.⁴² Human Rights Watch and IHRC argued that if Australia was not willing to forgo the option of permitting retention of cluster munitions in legislation, at least such safeguards should be established in legislation.⁴³

3.35 A number of submitters, therefore, held the view that section 72.39 should be either deleted or that the number of live cluster munitions to be retained in Australia be specified in the bill with an assurance of annual reporting on their planned and

38 Australian Lawyers for Human Rights, *Submission 19*, p. [3]; Cluster Munition Coalition, *Submission 22*.

39 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 11.

40 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [8].

41 Act for Peace, *Submission 17*, p. [2].

42 Aotearoa New Zealand Cluster Munitions Coalition, *Submission 6*, p. [3]; Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [8].

43 Human Rights Watch and International Human Rights Clinic, *Submission 7*, p. 12.

actual use, the type and quality retained, and recipient state parties if the state transfers cluster munitions.⁴⁴

The government's position

3.36 In response to suggestions that live cluster munitions were not required for training purposes, Defence argued that such stocks need to be retained for a number of reasons:

The ADF requires the ability to access cluster munitions that they may find as explosive remnants of war in their current areas of operation as well as those that may potentially be used against the ADF in future conflicts. The ADF requires this access so that it may develop counter-measures and train its personnel in detection, clearance and destruction techniques, as permitted by Article 3(6) of the Convention. The ADF requires access to live cluster-munitions for the development of counter-measures of a technical nature. ADF explosive ordnance technicians need to be trained in neutralising bomblets. An explosive ordnance technician is unable to complete training with simulated bomblets.⁴⁵

3.37 Defence further noted that the ADF uses both simulated and live cluster sub-munitions in the development of counter-measures and training in cluster munitions and explosive submunitions detection, clearance and destruction techniques. These simulated cluster munitions are made specifically for practice purposes and do not contain an explosive fill. However, Defence emphasised that as some cluster sub-munitions are not available in simulated form, live cluster munitions are also used.⁴⁶ Defence concluded that:

Retention of cluster munitions samples enables the ADF to familiarise explosive ordnance disposal personnel with these munitions, to protect ADF personnel against cluster munitions attacks, and to conduct both battlefield and humanitarian clearance operations.⁴⁷

3.38 In terms of a current stock, Defence stated that it does not have operational stocks of cluster munitions and that live cluster sub-munitions are not part of Defence's operational weapons inventory and are not in either numbers or

44 Australian Network to Ban Landmines and Cluster Munitions, *Submission 3*, p. [8]; Aotearoa New Zealand Cluster Munitions Coalition, *Submission 6*, p. [3]; Uniting Church in Australia–Synod of Victoria and Tasmania, *Submission 8*, p. 1; CBM Australia, *Submission 11*, p. 2; Afghan Landmine Survivors' Organization, *Submission 13*, p. 2; Medical Association for Prevention of War (Australia), *Submission 15*, p. 6; Union Aid Abroad–APHEDA, *Submission 12*, p. [4]; Oxfam Australia, *Submission 14*, p. 3; Act for Peace, *Submission 17*, pp. [5–6].

45 Department of Defence, *Additional information*, received 2 March 2011, p. 3.

46 Department of Defence, *Additional information*, received 2 March 2011, p. 3.

47 Department of Defence, *Additional information*, received 2 March 2011, p. 4.

configuration, suitable for operational use by the ADF.⁴⁸ It also noted that training and counter-measure samples are not held with any of Defence's operational munitions.⁴⁹

3.39 Defence responded to concerns regarding domestic retention of cluster munitions by highlighting that section 72.39(3) of the bill states that regulations may prescribe the requirements relating to an authorisation by the Minister, such as the requirement in Article 3(6) that the amount retained or acquired 'shall not exceed the minimum number absolutely necessary for these purposes'.⁵⁰

3.40 In relation to a reporting regime, Defence noted that consistent with Australia's approach to other international agreements, the reporting obligations contained in Article 3(8) and Article 7 of the Convention 'do not require legislative implementation, and can be implemented through administrative means'.⁵¹ Defence assured the committee that the samples of cluster munitions that it retains for training and other purposes as permitted by the Convention will be subject to reporting.⁵²

Committee view

3.41 The committee accepts that Defence requires access to cluster munitions for training and other legitimate purposes as specified in section 72.39 of the bill and Article 3 of the Convention. Whilst it appreciates the concerns of submitters that Australia should retain only the minimum number absolutely necessary for such purposes, the committee recognises that the bill already states that regulations may prescribe the requirements relating to the Minister's authorisation such as the requirement in Article 3(6). Moreover, it accepts that reporting in relation to domestic acquisition and retention of cluster munition is to be implemented through administrative means and that this approach is consistent with that in relation to other international agreements.

48 Department of Defence, *Additional information*, received 2 March 2011, p. 3.

49 Department of Defence, *Additional information*, received 2 March 2011, p. 4.

50 Department of Defence, *Additional information*, received 2 March 2011, p. 4.

51 Department of Defence, *Additional information*, received 2 March 2011, p. 4.

52 Department of Defence, *Additional information*, received 2 March 2011, p. 4.