

Open letter to the Defence Minister, Foreign Affairs Minister and Attorney General

Dear Minister Smith, Minister Rudd and Attorney General McClelland

In 2008 you, Minister Smith, signed the Convention on Cluster Munitions for Australia. This important international treaty bans cluster bombs, an indiscriminate class of weapon known to cause significant and long-lasting civilian harm, particularly to children. We wholeheartedly endorse the treaty's aims and congratulate the government on having signed it.

In order to ratify the treaty, Australia must pass legislation to implement the treaty's obligations in our domestic law. However, the proposed legislation, shortly to be debated in the Senate, contains serious flaws which undermine the whole purpose of the treaty.

The treaty contains a clause which allows state parties to continue cooperating in military alliance with countries not party to the treaty. This clause protects troops of state parties if they are inadvertently involved in cluster bomb use during these joint operations. This is necessary and sensible, particularly for Australia, given that our major ally the USA has no intention of joining the ban on cluster bombs.

The problem with the government's proposed legislation is that it goes much further than is necessary to maintain our military alliances. The legislation allows Australian troops to directly and actively assist in the use of cluster bombs. It also explicitly allows non-state parties to stockpile cluster bombs on Australian soil and permits them to transit cluster bombs through Australian ports and airspace. No other ratifying country has provided such a blanket exemption.

These exemptions are unnecessary at best and add little or nothing to our national security. At worst, they run directly counter to the treaty's intent by setting a precedent which explicitly facilitates the ongoing use of cluster bombs.

In a submission to the government, the International Committee of the Red Cross said the abovementioned problems with the proposed legislation "would have the unfortunate consequences of effectively permitting activities that could undermine the objectives of the Convention and contribute to the continued use of cluster munitions rather than further their elimination." We agree.

The goal of the Convention on Cluster Munitions is clear. It aims to eradicate cluster bombs and put an end to the suffering they cause for all time. We therefore seek your support in ensuring that Parliament amends the draft legislation to reflect and fulfil that aim.

Yours sincerely

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