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*Aotearoa NZ CMC members:* African Pacific Voices NZ, Amnesty International Aotearoa NZ, Aotearoa Lawyers for Peace, Auckland University Students' Association, Campaign Against Landmines, Caritas Aotearoa NZ, Christian World Service, Engineers for Social Responsibility NZ, Global Focus Aotearoa, International Physicians for the Prevention of Nuclear War NZ, National Council of Women NZ, National Consultative Committee on Disarmament, Oxfam NZ, Parliamentarians for Nuclear Nonproliferation and Disarmament NZ, Pax Christi Aotearoa-NZ, Peace Foundation NZ, Peace Foundation Disarmament and Security Centre, Peace Movement Aotearoa, Soroptimist International NZ, Umma Trust, UN Association NZ, UN Youth Association NZ, UNICEF NZ, Women's International League for Peace and Freedom, Aotearoa



27 May 2011

HE Mr Paul O'Sullivan  
Australian High Commissioner to New Zealand  
72 Hobson Street  
Thorndon  
Wellington 6011

Email: [nzinbox@dfat.gov.au](mailto:nzinbox@dfat.gov.au)

**RE: Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010**

Dear High Commissioner:

I am writing on behalf of the Aotearoa New Zealand Cluster Munition Coalition (ANZCMC) to urge Australia to fix its proposed legislation to implement the 2008 Convention on Cluster Munitions.

On 20 January 2011, the ANZCMC made a formal submission to Australia's Senate Committee on Foreign Affairs, Defence and Trade to request that key sections of the Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010 be strengthened and clarified, particularly:

- Section 72.41, which should be amended to ensure that Australians may never assist with activities prohibited by the Convention on Cluster Munitions;
- Section 72.42, which should be deleted as it exempts the military personnel of non-States Parties from the Convention's prohibitions while they are on Australian territory and is therefore inconsistent with the Convention;
- Section 72.39, which should be deleted because, in the view of the ANZCMC, the retention of cluster munitions for training is unnecessary.

The ANZCMC submission also recommended that the proposed legislation be amended to prohibit investment in the development or production of cluster munitions, as New Zealand has done.

As noted in our submission, we went through a similar review process in 2009, when New Zealand introduced legislation to enforce the Convention on Cluster Munitions

domestically. During that process our submission was heard by New Zealand's Foreign Affairs, Defence and Trade Select Committee and several changes were subsequently made that strengthened and clarified key sections of the draft law. On 17 December 2009, New Zealand's Cluster Munitions Prohibition Act was signed into law and New Zealand ratified the Convention on Cluster Munitions on 22 December 2009.

Given our experience in New Zealand, we were therefore very disappointed when Australia's Senate Committee on Foreign Affairs, Defence and Trade reported back on 25 March 2011 and recommended no changes to the Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010. We were surprised that the committee ignored the recommendations made by the ANZCMC and more than two dozen other submitters to improve and strengthen the proposed legislation.

We remain concerned that Australia will have one of the world's weakest national laws implementing the international ban on cluster munitions if the proposed legislation is passed without amendment. It is not too late for Australia to fix the Bill. We urge you to convey our request on to the relevant authorities in Canberra.

We look forward to Australia becoming a State Party to the Convention on Cluster Munitions. It is first, however, crucial that the flaws in Australia's proposed implementing legislation be rectified because effective implementation must be founded on strong law.

We would welcome the opportunity discuss the matter in person and look forward to your response.

Yours sincerely,



Mary Wareham  
Coordinator, Aotearoa New Zealand Cluster Munition Coalition

CC:

- Hon Georgina Te Heuheu, Minister for Disarmament & Arms Control
- Laura Cheeseman, Director, Cluster Munition Coalition

The ANZCMC submission to Australia's Senate Committee on Foreign Affairs, Defence and Trade is available here:

[http://www.aph.gov.au/Senate/committee/fadt\\_ctte/ccab\\_cmp\\_2010/submissions.htm](http://www.aph.gov.au/Senate/committee/fadt_ctte/ccab_cmp_2010/submissions.htm)