

30 March 2007

Committee Secretary  
Senate Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

National Office  
156 George Street, Fitzroy  
Victoria 3065, Australia  
Telephone: (03) 9289 9444  
Facsimile: (03) 9419 5318

By email: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au)

Dear Secretary,

Please find attached Oxfam Australia's submission for the Senate Foreign Affairs, Defence and Trade Committee *Inquiry into Australia's Involvement in Peacekeeping*.

Oxfam Australia has a distinct perspective on Australia's involvement in international peacekeeping given our role as a humanitarian agency. Oxfam operates in many locations where the Australian government has accepted responsibility for providing peacekeeping assistance.

We hope the humanitarian perspective will be given due weight in future policy decisions regarding Australian peacekeeping as the objectives of peacekeeping and humanitarian assistance often run concurrently.

Yours sincerely,



James Ensor  
Director of Public Policy & Outreach

## **Inquiry into Australia's Involvement in Peacekeeping**

### **Introduction**

Oxfam Australia is a humanitarian and development organisation which works as part of the Oxfam International confederation of 13 organisations and more than 3000 partner organisations. Oxfam Australia works in 26 countries in the Pacific, East Asia, South Asia, Southern Africa and also with indigenous Australians. Oxfam International, collectively, works in more than 100 countries. We take a rights' based approach to our activities which implies the attainment of human rights as the core objective of our organisation.

### **Why are we submitting into this inquiry?**

Oxfam Australia conducts humanitarian relief operations in some of the most dire humanitarian situations in the world and often works alongside Australian peacekeeping operations – most recently in East Timor and the Solomon Islands.

Oxfam's goal in humanitarian operations is to ensure that civilians are able to access the 'protection and the assistance they require, when they require it and for as long as they require it, irrespective of who or where they are or of how they are afflicted'.<sup>1</sup>

However, we do recognise that unarmed non-government organisations, such as Oxfam, are limited in what physical protection they can provide and our relief operations are dependent on a base level of security to ensure staff safety and the safety of the people who benefit from our programmes. In cases where civilians lack the protection they require, our organisation accepts the responsibility to advocate for enhanced protection from relevant duty-bearers. To this end, we welcome the Australian government's strong endorsement of the international principle of the Responsibility to Protect (R2P) and the United Nations Security Council Resolution 1674 endorsing R2P outcomes of the 2005 World Summit.<sup>2</sup>

Oxfam Australia believes this principle, which explicitly articulates state responsibility for protecting civilians from genocide, war crimes, ethnic cleansing and/or crimes against humanity provides a humane and practical policy framework for future peacekeeping operations.

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<sup>1</sup> Oxfam International, *Humanitarian Operational Plan 2007-08*.

<sup>2</sup> World Summit Outcome document, principles 138 – 139. Accessed online: <http://www.un.org/summit2005/documents.html>

### **Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity**

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

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The Australian government, and in particular the Australian Defence Force (ADF) and the Australian Federal Police (AFP) International Deployment Group (IDG), has an integral role to play in ensuring this principle becomes a norm of international relations.

Our intention in writing this submission is to see that the Australian government develops a strategy to implement the principle of the Responsibility to Protect, inclusive of all relevant government departments. Such a strategy would provide a clear policy framework for the deployment of Australian peacekeepers and hence satisfy the objectives of this inquiry.

**1. The policy framework, procedures and protocols that govern the Government's decision to participate in a peacekeeping operation, for determining the conditions of engagement and for ceasing to participate.**

**1.1 Policy framework, procedures and protocols that govern the Government's decision to participate in a peacekeeping operation**

According to the United Nations Department of Peacekeeping Operations (DPKO), all peacekeeping operations 'share certain common aims – to alleviate suffering, and create conditions and build institutions for self-sustaining peace.'<sup>3</sup> Explicit in this definition is the humanitarian imperative to alleviate suffering.

The principle of the Responsibility to Protect (R2P) has recently been established to formalise the humanitarian responsibilities that states have to protect civilians within their borders and abroad. There are three essential components to R2P, summarised as:

1. Sovereign governments have the responsibility to prevent and protect civilians from genocide, war crimes, crimes against humanity and/or genocide.
2. The international community has the responsibility to support sovereign governments to uphold this responsibility.
3. When sovereign governments are unwilling or unable to protect, the international community has the collective responsibility to do so.

The deployment of the ADF and the AFP's IDG on a peacekeeping mission lies firmly within this principle and, therefore, the decision to deploy should be considered within the criteria currently established and debated to activate R2P.

The most commonly recognised criteria are those discussed in the International Commission on State Sovereignty and Intervention<sup>4</sup>:

- a) Just cause – the actual or apprehended large scale loss of life or large scale ethnic cleansing.
- b) Right intention – to avert human suffering. It is best assured through multilateral organisations, supported by victims and regional organisations.
- c) Last resort – all non-military mechanisms have been explored and there are reasonable grounds for believing peaceful means would be unsuccessful.
- d) Proportional means – the scale, duration and intensity proportional to achieve the humanitarian protection objective.
- e) Reasonable prospects – there exists a good chance of success and consequences of the action are not likely to be worse than before.
- f) Right authority – the Security Council is the right authority and has the international mandate for peace and security. Peacekeeping operations should be authorised by the Security Council to avoid unilateral interventions.

The deployment of the ADF on peacekeeping missions must accord with the above criteria to be in line with this emerging principle. This principle ensures the best possible outcomes for civilians under threat, provides a legal/ethical basis for Australian deployment and provides a coherent framework for Australian soldiers which is consistent with international law.

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<sup>3</sup> United Nations Department Of Peace-Keeping Operations (DPKO). Accessed online: <http://www.un.org/Depts/dpko/dpko/info/page3.htm>

<sup>4</sup> International Commission on State Sovereignty and Intervention, *The Responsibility To Protect*, p.xii. Accessed online: [www.iciss.ca](http://www.iciss.ca)

*Recommendation:*

- Oxfam Australia calls on the Australian government to develop a mechanism to operationalise the principle of the Responsibility to Protect. This mechanism would assist the government of the day to reference contextual factors with the R2P criteria stated above and, therefore, take into account non-security and post-conflict aspects of the mission which are critical in complex conflict environments.

## **1.2 Determining the conditions of engagement**

The nature and scale of engagement must be determined through an understanding of the context, the nature of the threat and must be proportional to the threats posed to civilians.

It is also important that government distinguishes between the different types of mission that they may order the ADF to execute. There needs to be adequate public clarification between offensive military operations fought on grounds of national interest and peacekeeping operations which are deployments founded on humanitarian concerns and/or international peace and security. While the humanitarian community is resolved to support international efforts to prevent genocide or ethnic cleansing, including through the use of force; we also perceive a great danger to civilians when governments erroneously justify offensive military operations as 'humanitarian'.

Our experience is that while Australian peacekeeping missions are comprised of professional and dedicated police, military and civilian personnel, there are ambiguities within the policy framework within which they work. This problem is acutely felt by local and international non-government organisations and by community based organisations. Obtaining timely information and clarity on mandates, rules of engagement, division of roles and responsibilities and mission parameters have in various cases been difficult to obtain. This information is necessary for humanitarian organisations to assess programme viability and security protocols.

These issues have been exposed with the Regional Assistance Mission to Solomon Islands (RAMSI), where community organisations in Solomon Islands have expressed concern over the lack of timely and accurate information on RAMSI's mandate and operations.<sup>5</sup>

The report of the Pacific Islands Forum's Eminent Persons Group, *Mission Helpem Fren*, recommends that: "The tenure of RAMSI should be measured by the achievement of tasks rather than be time bound."

In response, RAMSI has developed a Performance Framework and states that it is measuring its achievements against this Framework.<sup>6</sup> However, the Framework notes that "the information to date has largely been provided by the various RAMSI programs themselves."<sup>7</sup> This internal process currently lacks public input into the development of benchmarks or indicators for RAMSI's work, and also fails to offer opportunities for the Solomon Islands community to measure RAMSI's performance against these indicators. The absence of debate on these indicators opens the way for community uncertainty about the longevity of RAMSI's tenure, the motives of those governments supporting the regional intervention, and the apparent contradiction between the mission's calls for accountability from the Solomon Islands Government and its own openness to scrutiny.

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<sup>5</sup> For details, see quotes from NGO, community and women's leaders in *Bridging the gap between state and society – New directions for the Solomon Islands* (Oxfam Australia and Oxfam New Zealand, July 2006).

<sup>6</sup> RAMSI's then Special co-ordinator James Batley, cited in "Private View", *Solomon Star*, 6 June 2006.

<sup>7</sup> RAMSI: *Performance Framework Baseline Report*, November 2005.

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### Recommendation:

- Where Australia is engaged in peacekeeping missions, it ensures that all efforts are made to provide greater clarity about their objectives, to provide indicators which can be used to evaluate mission activities, and to acknowledge the limits to capacity. Increased accountability must be based on a process that supports greater public debate over the intervention's goals and achievements.

### 1.3 Ensuring space for humanitarian engagement

The humanitarian sector is careful to protect the space for humanitarian action because of the benefits for civilian populations and to maintain the security of staff working in dangerous environments; see IASC reference paper paragraph 13 below.

#### IASC Reference Paper – Civil Military Relations in Complex Emergencies<sup>8</sup>

##### Paragraph 13

... [I]t is important to maintain a clear separation between the roles of the military and humanitarian actors, by distinguishing their respective spheres of competence and responsibility. This approach is implicit in and builds on the principles of international humanitarian law, and is crucial to maintaining the independence of humanitarian action. The need for the humanitarians to maintain an actual and perceived distance from the military is especially important with regard to belligerent forces or representatives of an occupying power<sup>9</sup>. Any coordination with a party to an armed conflict must proceed with extreme caution, care and sensitivity, given that the actual or perceived affiliation with a belligerent might lead to the loss of neutrality and impartiality of the humanitarian organization, which might in turn affect the security of beneficiaries as well as humanitarian staff, and jeopardize the whole humanitarian operation in a conflict zone. Thus, *cooperation* – the closer form of coordination - with belligerent forces should in principle not take place, unless in extreme and exceptional circumstances and as a last resort.

A central concept of any operation which claims to be humanitarian is the principle of impartiality. In simple terms, this means that a humanitarian agency will provide humanitarian assistance without prejudice. It will give assistance based on the sole criterion of need and positively discriminate to ensure those most in need receive assistance first. To label activities as humanitarian if they do not aim for this fundamental criterion is to undermine the principle and the precious space that humanitarian action has historically been able to attain for non-political and non-militarised agencies to assist civilians amidst armed conflict.

While peacekeeping operations may, at times, be acting 'neutrally' in conflict and acting in the best interest of civilians vulnerable during times of conflict, they are operating on political orders that are changeable.

This is the distinct difference between humanitarian and military operations – humanitarian agendas do not change before, during or after conflict while military agendas do. Political agendas dictate military orders while humanitarian agendas are independent.

When military actors label the work they do as humanitarian, whether it is creating security for humanitarian operations or through conducting 'hearts and minds' activities aimed at winning the support of the local population, they risk confusing the principles and ethics that fundamentally

<sup>8</sup> IASC – Inter Agency Standing Committee on Humanitarian Affairs (involving the leading UN and non-UN humanitarian agencies; document accessed online: <http://ochaonline.un.org/GetBin.asp?DocID=1219>)

<sup>9</sup> As an example of principles and practical considerations including specifics on permissible and impermissible action when interacting with an Occupying Power, see the "General Guidance for Interaction between United Nations Personnel and Military and Civilian Representatives of the Occupying Power in Iraq" of 8 May 2003.

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protect the unarmed humanitarian work of agencies such as Oxfam. While soldiers and officers themselves may believe their actions to be of a 'humanitarian' nature; the activities are drawn from a political agenda. Even where the military intervention is inspired by humanitarian concerns, as it is in R2P based interventions, the mission is to protect civilians vulnerable to conflict and to secure access for humanitarian assistance, not to do the humanitarian assistance. *Armed peacekeepers do not conduct humanitarian activities themselves and must not be perceived to be doing so by the local population.* There is rising evidence that the use of humanitarian rhetoric by military agencies is indeed having a negative impact upon the space available to do 'humanitarian' activities.

Security advisers for humanitarian agencies cited this as a critical problem in Afghanistan where the death toll of aid workers was the highest in the world in 2006:

Even more dangerous are press statements by the International military, indicating that one of the aims of their large scale operations is to provide space for the Humanitarian community to work in. Statements like these endanger NGO staff in the field as the insurgents may then link NGOs to military operations.<sup>10</sup>

The government, the ADF and the AFP IDG must be clear in its use of language and understanding of humanitarianism not to blur this distinction thereby undermining the work of humanitarian agencies and endangering the staff and beneficiaries of humanitarian programmes.

### *Recommendation:*

- The Australian government ensures that the design, activities and terms of engagement of peacekeeping missions enhance the fundamental principle of distinction between combatants and non-combatants as laid down in international humanitarian law and that the ADF avoids humanitarian rhetoric in describing its operational capabilities.<sup>11</sup>

### **3. The coordination of Australia's contribution to a peacekeeping operation among Australian agencies and also with the United Nations and other relevant countries.**

As stated previously, Oxfam Australia believes that the Australian government should develop a mechanism which ensures that R2P becomes a bedrock principle for determining if and how we are involved in international peacekeeping. In accordance with this principle we believe that the 'right' authority for peacekeeping missions lies within the United Nations Security Council. Therefore, we do encourage the Australian government to play a constructive role through contribution of funds, technical assistance and troops to critical missions which serve humanitarian purposes and which have warranted sanction from the UN Security Council.

Furthermore, Oxfam sees regional missions with delegated Security Council authority or support, such as the trilateral agreement in East Timor and RAMSI in the Solomon Islands, as holding great potential for overcoming resource gaps and domestic political circumspection for peacekeeping outside the home region.

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<sup>10</sup> While it is desirable that peacekeepers create space for humanitarian operations, it is not desirable for them to advertise this as an objective in the local context. In the case of Afghanistan, it has resulted in the targeting of humanitarian workers.

Afghanistan NGO Security Advisors' commentary, June 20, 2006, Accessed online: <http://ngosecurity.blogspot.com/2006/06/afghanistan-ngo-security-advisors.html>

<sup>11</sup> For further clarification see IASC Reference Paper on Civil Military Relations (<http://ochaonline.un.org/GetBin.asp?DocID=1219>); principle 14:

...the emphasis on distinction should not be interpreted as a suggestion of non-coordination between humanitarian and military actors. The particular situation on the ground and the nature of the military operation in a given situation will play a determining factor on the type of coordination that may take place. Possible features of civil-military coordination include the sharing of certain information, a careful division of tasks, and when feasible and appropriate, collaborative planning.

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In supporting such regional missions, Oxfam believes the government should establish a framework by which it is able to provide non-troop assistance to regional missions that are outside our region. A case-in-point is the current crisis in the Darfur region of Sudan. Despite a regional African Union Mission in Sudan (AMIS) having delegated authority for peacekeeping since 2004, it has been plagued for the duration of its mission by funding shortfalls, expertise, resource gaps and inadequate troop numbers. The Australian government, despite offering in-kind assistance in the early stages of this mission, has not provided funding or technical expertise in support of this critical mission. AMIS is now widely discredited due to poor performance. Questions must be asked about whether the international community has adequately supported this mission and, if not, whether it has contributed to its failure.

Oxfam Australia has made enquires of DFAT and AusAID and it does not appear that the Australian government has any administrative mechanism by which it can provide funding support to non-UN regional peacekeeping missions where the ADF is not directly involved. Recognising the Australian government's resource constraints and regional obligations, dire humanitarian crises such as those in the Darfur region of Sudan deserve special attention from the Australian government as a responsible member of the international community.

### *Recommendation:*

- The Australian government builds capacity and develops administrative mechanisms to proactively support peacekeeping missions that are not under UN command and control and/or do not involve the Australian Defence Force. Particularly those in Africa which have taken an extreme toll on civilian populations.

#### **4. Lessons learnt from recent participation in peacekeeping operations that would assist government to prepare for future operations – learning from the region.**

Recent peacekeeping operations in Bougainville, East Timor and Solomon Islands have raised important questions about the integration of the Australian peacekeeping deployment with the forces of other nations. As detailed in Oxfam's 2006 report "Bridging the Gap", this issue has been sharply posed with the Regional Assistance Mission to Solomon Islands (RAMSI).<sup>12</sup>

The 2005 report of the Pacific Islands Forum's Eminent Persons Group, *Mission Helpem Fren*, recommended:

Given the desirability of it being a regional exercise, the Pacific representation in both the policing and civilian component should be strengthened where possible.<sup>13</sup>

In addition, although the treaty establishing RAMSI specifies that the Special Coordinator and the head of the Participating Police Force (PPF) are Australian, the Eminent Persons Group report also states:

The leadership of the Participating Police Force should also be shared with Pacific Islanders and the special skills of Pacific Islanders derived from their cultural background should be utilised more.

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<sup>12</sup> Oxfam: *Bridging the gap between state and society – New directions for the Solomon Islands* (Oxfam Australia and Oxfam New Zealand, July 2006).

<sup>13</sup> Eminent Persons Group: *Mission Helpem Fren- A Review of the Regional Assistance Mission to Solomon Islands*, Pacific Islands Forum Secretariat, Suva, May 2005, Recommendation 10, p 6.

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Although RAMSI is supposed to be a regional mission, as of mid-2006, 94 per cent of civilian advisors in the Solomon Islands came from Australia and New Zealand, with very few civilian staff from other Pacific Island countries.

Oxfam believes greater representation from amongst the member states of the Pacific Islands Forum is an area for significant reform of missions in neighbouring small island states.

Experience of recent deployments validates the importance of drawing on wider Pacific input in any regional peacekeeping intervention: one of the key lessons from the Truce Monitoring Group and Peace Monitoring Group in Bougainville (1997-2003) was the cultural distinctions made between the New Zealand / Pacific Islands and Australian personnel, and the importance of linguistic and cultural training and awareness. For example, the deputy leader of the Truce Monitoring Group, an Australian, has noted:

The NZ Military was heavily weighted with Maori who had an instant and close empathy with the Bougainvilleans. The predominance of Maori officers and soldiers was a deliberate and very effective choice. The TMG under New Zealand leadership went out of the way to associate itself with Bougainvilleans and make them feel welcome in and around headquarters.<sup>14</sup>

Although there is currently some pre-departure cultural and language training for Australian police and military forces, there is a need to increase the resources allocated to this vital preparatory work and in the long-term a cultural shift within the ADF and AFP to foster mutual respect in the communities where they work.

The perception that Australia is "running its own show" rather than co-operating with regional allies can raise questions about the legitimacy of the mission and pose increased threats to the security of mission personnel, as well as non-government humanitarian workers. Should the concerns around the limited regionalism of missions not be adequately addressed, there is a risk that this could act to undermine the sustainability of changes that have been achieved to date.

Given Australia's economic, political and military capacities in the region, it is inevitable that Australia will be called upon to play the predominant role in peacekeeping operations in neighbouring small island states. But that very economic and military weight reinforces the need that peacekeeping forces are carefully integrated into regional initiatives, at political level as well as on the ground.

The issue has been alluded to by PNG government minister Bart Philemon, who has stressed the problem with Australian heavy handedness in relation to the proposed deployment of police to Papua New Guinea through the Enhanced Co-operation Program (ECP):

Given some of the aspects of our relationship and our history, if not handled sensitively - for example, (if) Australia is overly intrusive - Australia's intervention could well be counter-productive. Let me be frank - there are some people in Papua New Guinea who take the view that if Australia is insisting that we do something, even if it's in our interests, then in order to demonstrate our independence, Papua New Guinea should do the opposite.<sup>15</sup>

Given the large number of overseas personnel taking up positions in deployments like the Solomon Islands, there is potential to draw more active involvement of personnel from Pacific island countries to support the process of peacekeeping and rebuilding. The absence of meaningful numbers of Pacific Islanders in the civilian state-building elements of the RAMSI operation could be remedied.

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<sup>14</sup> Rhys Puddicombe, deputy leader of the Truce Monitoring Group and senior negotiator in the Peace Monitoring Group, cited in Monica Wehner and Donald Denoon: *Without a gun – Australians' experiences monitoring peace in Bougainville 1997-2001* (Pandanus, Canberra, 2001).

<sup>15</sup> Steve Lewis: "Police return to duties in PNG", *The Australian*, 23 March 2006.

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There is significant experience from within the region – particularly from Samoa and Fiji - in high demand areas like finance and public sector reform which are key features of RAMSI's work in the Solomon Islands. Experienced staff from Forum member countries regularly take up overseas positions in the Secretariat of the Pacific Community, SOPAC or the Forum Fisheries Agency, partly as a contribution to regional development. RAMSI should be considered more often as a similar posting for island staff, with Australian or New Zealand personnel temporarily backfilling positions in Suva, Port Vila or Nuku'alofa while island staff bring their unique understanding of Melanesia and the 'Pacific way' to their work in Honiara.

### *Recommendations:*

- The government increases representation and participation from amongst the member states of the Pacific Islands Forum for regional peacekeeping missions.
- The government increases resources for linguistic and cultural training and awareness for soldiers to build a long-term cultural shift in peace-keeping missions towards mutual respect between peacekeepers and local communities.

**Key Recommendations**

Summary recommendations taken from the body of text above:

1. Oxfam Australia calls on the Australian government to develop a mechanism to operationalise the principle of the Responsibility to Protect. This mechanism would assist the government of the day to reference contextual factors with the R2P criteria stated above and, therefore, take into account non-security and post-conflict aspects of the mission which are critical in complex conflict environments.
2. Where Australia is engaged in peacekeeping missions, it ensures that all efforts are made to provide greater clarity about their objectives, to provide a public timeframe for activities, and to acknowledge the limits to capacity. Increased accountability must be based on a process that supports greater public debate over the intervention's goals and achievements.
3. The Australian government ensures that the design, activities and terms of engagement of peacekeeping missions enhance the fundamental principle of distinction between combatants and non-combatants as laid down in international humanitarian law.
4. The Australian government builds capacity and develops administrative mechanisms to proactively support peacekeeping missions that are not under UN command and control and/or do not involve the Australian Defence Force. Particularly those in Africa that take an extreme toll on civilian populations.
5. The government increases representation and participation from amongst the member states of the Pacific Islands Forum for regional peacekeeping missions.
6. The government increases resources for linguistic and cultural training and awareness for soldiers to build a long-term cultural shift in peace-keeping missions towards mutual respect between peacekeepers and local communities.

## **Appendix 1.**

### **Terms of Reference**

On 8 November 2006, the Senate referred the following matter to the committee for inquiry and report by 16 August 2007:

The changing nature of Australia's involvement in peacekeeping operations and the implications for the Australian Defence Force, AusAID, the Department of Foreign Affairs and Trade and the Australian Federal Police and other departments and agencies likely to be called on to assist a peacekeeping operation, with particular reference to:

1. the policy framework, procedures and protocols that govern the Government's decision to participate in a peacekeeping operation, for determining the conditions of engagement and for ceasing to participate;
2. the training and preparedness of Australians likely to participate in a peacekeeping operation;
3. the coordination of Australia's contribution to a peacekeeping operation among Australian agencies and also with the United Nations and other relevant countries; and
4. lessons learnt from recent participation in peacekeeping operations that would assist government to prepare for future operations.

The Committee is seeking views from a wide cross-section of the Australian community on Australia's involvement in peacekeeping operations.

The purpose of this letter is to invite you or your organisation to make a written submission to the Committee. There is no requirement to address the full terms of reference and you may choose to comment only on the terms of reference that are of interest to you. If your organisation would like to participate in the inquiry, the Committee would welcome a written submission.

The closing date for submissions is by March 2007 though earlier lodgement would be appreciated. Submissions should be sent to:

The Secretary  
Senate Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

For further information, contact:  
Committee Secretary  
Senate Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Phone: +61 2 6277 3538  
Fax: +61 2 6277 5818  
Email: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au)