

## **Submission by Rod Barton to the JSCFADT relating to an “Inquiry into international armed conflict decision-making”**

### **Introduction**

The decision to send Australian forces in to an armed conflict is probably the most important decision that a government can make. It risks not only lives but there are also political, economic, humanitarian, legal and other important issues. As we approach the 20<sup>th</sup> anniversary of the 2003 Iraq War it is timely to re-examine the mechanism by which Australia commits forces to international conflicts whether they be for peace-keeping or war.

The decision to join forces with our allies in the Iraq War illustrates the deficiencies in the current process. That war was allegedly fought over Iraq having Weapons of Mass Destruction thereby posing “a threat to world peace”. It is now well documented that at that time Iraq did not have WMD and the government subsequently blamed its involvement on faulty intelligence. However, although intelligence played its role, there were political considerations beyond this, particularly the support for an important ally, the US. Significantly it was the government, i.e. the Cabinet and particularly the Prime Minister, that alone made the decision to involve us in what turned out to be a disastrous and unjust war. The question therefore arises over whether there is a better process by which decisions are made for committing Australian forces to war or, for that matter, to any conflict zone.

This submission will address aspects of the second of the terms of reference of this Inquiry. The submission suggests a means by which most of the factors and consequences of a military deployment to any armed conflict, be it large or small, can be made apparent to the government. Importantly it places some potential checks on any government decision while at the same not removing the responsibility of a government to make such decisions.

### **Proposed Armed Conflict Advisory Group**

Clearly many factors need to be considered before Australian forces are sent overseas to an armed conflict. In theory, cabinet will debate and weigh these factors before deciding on the merits of any deployment. There are two problems with this approach. The first is the probable complexity of the interplay of factors which will often be conflicting. Although expert advice can be taken, it may not be. In any case, it is expecting a lot of Cabinet members with little or no background in such matters to identify and weigh all the factors to decide the best course of action, including what conditions and caveats to place on any deployment.

Secondly, the whole process is somewhat vulnerable to the politics of the day. Much of the objective debate may be lost because of political imperatives especially if the leadership has already decided on what it intends to do.

This submission proposes the formation of an independent Armed Conflict Advisory Group which, with perhaps some exceptions, a government would be required to consult before it commits forces to any armed conflict. Given the proposed mandatory nature of this consultation, the role, composition and operation of the ACAG will be critical to its effectiveness and some brief discussion of this follows:

### ACAG's role

The Group's role would be advisory only. It is proposed that the government, through the Cabinet, would consider the advice from the Group and act accordingly. It is suggested that the government has the responsibility for such matters and therefore solely decides on what parts of the advice to take and not the entire parliament. The latter course might render the process unwieldy. Furthermore, it could potentially delay any decision to a position of irrelevance. If the numbers in the Senate are finely balanced between various factions it is suggested that in many cases this would be the likely outcome.

Although the government may decide to act contrary to all, or part of, the ACAG's advice, it is a **critical feature** of this proposal that the Group's report be made public in a timely manner. With this transparency, the onus will then be on the government to explain to parliament and to the public, why it did not accept the ACAG's expert advice.

### ACAG Composition

Clearly it will be important to select individuals that are not closely affiliated to any political group or that are otherwise constrained because of their current employment. It is therefore envisioned that the ACAG would at least comprise retired senior military officers, retired public servants, appropriately qualified academics, ethicists, and humanitarian workers. Others, for example persons from particular ethnic backgrounds, religious groups and specialists on women's issues relevant to the conflict in question would also be required.

To facilitate ease of operation and achieve the desired result in a timely manner, ACAG should preferably comprise a core leadership panel that would provide guidance to the full membership of the ACAG when it meets. Other members would be on a register of appropriate individuals who can be drawn upon, possibly at short notice, as circumstances demand. The Group would also be allowed to seek the advice of experts such as international lawyers, logistic specialists and others as it sees fit.

### Operation of ACAG

Some standing basic Terms of Reference for the operation of the Advisory Group should be decided by parliament well before any deployment of military operations is envisaged. This avoids the possibility of stacking the TOR for political purposes at the time of a potential deployment. Other Terms of Reference can be added later by the government to suit each particular circumstance.

It is suggested that the standing TOR would include the nature of what the Group should consider in its report. This might include discussion of the pros and cons of the deployment of Australian military to a conflict zone, the term of deployment, the frequency of and nature of reviews of its progress, exit strategies, its legality and the expected outcomes. It is suggested that the Group would **not** provide recommendations: it is the responsibility of Cabinet to weigh the advice given before reaching its decisions.

The TOR should include some reference to a review of intelligence if that is appropriate for the event. It is recognized that highly sensitive material could not be provided to the Group but a declassified version could be made available for its consideration.

A time frame for the completion of the Group's report would be determined by the government on a case-by-case basis. The time frame should not be such that it would interfere with timely and critical decision-making by the government. There should also be some provision for the Advisory Group to be by-passed in certain special circumstances e.g. if Australia came under a sudden direct attack.

Given its likely diverse nature, the ACAG should first meet shortly after the standing TOR have been finalised to allow familiarisation and to develop a sound working relationship. Thereafter it is suggested that the Group meet at least every 6 months during which discussion of developing international situations could take place and how the group might respond if required.

If adopted, many details of this proposal will need to be decided for the ACAG to be independent, objective and effective. These include critical features such as how members are selected, its standing terms of reference, its status (e.g. whether it is a statutory body) and how the group operates in practical terms. This will be a complex matter given the wide range of circumstances by which Australian forces may be deployed to a conflict zone, i.e. from a few military advisors, to a UN peace-keeping operation and to an all-out war. It is suggested that the government establish a consultative committee to decide these matters.

\*\*\*

The proposal, as briefly outlined above, is designed to establish an Advisory Group that would provide expert advice to the government and, by publication of this advice, potentially removes some of the party-political aspects of decision-making regarding sending Australian forces to conflict zones. The author believes, for example, that if such a mechanism existed before the 2003 Iraq War, it would have been politically more difficult for Australia to have joined that conflict. At the same time, this proposal keeps policy and decision-making in the hands of the government where responsibility for such matters lie.

The author of this submission would be pleased to appear before the JSCFADT to elaborate further on his ideas if the committee wishes.

**Rod Barton** is a former Director of Strategic Technology in Australia's Defence Intelligence Organisation. His intelligence career spanned over 30 years with postings to London, Bahrain, Baghdad, New York and Mogadishu. During this time, he worked for the United Nations in Somalia as the Director of Disarmament, Demobilisation and Reintegration of Somali militias and in Iraq as a principal UN weapons inspector. After the 2003 Iraq War he became a special advisor to the CIA in the hunt for the so-called "missing" Iraqi Weapons of Mass Destruction. Rod is an occasional guest lecturer at the ANU and at the University of Sydney, Peace and Armed Conflict Studies. He is the author of *The Weapons Detective: The Inside Story of Australia's Top Weapons Inspector* (Black Inc 2006) and *The Life of a Spy* (Black Inc 2021).

### **Acknowledgement**

The author thanks Dr Eyal Mayroz, Senior lecturer, Peace and Armed Conflict Studies, School of Social and Political Sciences, University of Sydney, for his views on this matter.