

# Chapter 1

## Introduction

### Background

1.1 On 26 May 2010, the Autonomous Sanctions Bill 2010 (the bill) was introduced into the House of Representatives. By resolution of the Senate, the provisions of the bill were referred to the Foreign Affairs, Defence and Trade Legislation Committee on 26 May for inquiry and report by 15 June. On 15 June, the Senate granted an extension of the time to report to 26 August 2010.

1.2 On 19 July 2010, the Governor-General prorogued the 42<sup>nd</sup> Parliament and dissolved the House of Representatives. After due consideration, the committee reported to the Senate that it had resolved not to continue its inquiry into the provisions of the bill. On 30 September, the bill was reintroduced in the House of Representatives and on the same day the Senate referred the provisions of the bill to the committee for inquiry and report by 18 November 2010. The Senate granted an extension until the end of the first sitting period in February 2011 (3 March 2011).

1.3 The Senate Standing Committee for the Scrutiny of Bills considered the bill and raised a number of concerns,<sup>1</sup> which are discussed in chapter 3. When recommending the proposed legislation for inquiry and report, the Selection of Bills Committee identified the domestic privacy implications of the bill as an issue for consideration.<sup>2</sup> This matter is also discussed in chapter 3.

### Purpose of the bill

1.4 The purpose of the bill is to establish a framework for the implementation, enforcement and administration of autonomous sanctions. Autonomous sanctions are 'punitive measures, not involving the use of force, which a government imposes as a matter of foreign policy—as opposed to an international obligation under a UN Security Council decision'.<sup>3</sup> The latter measures are referred to as 'UN sanctions'.

1.5 According to the Explanatory Memorandum (EM), autonomous sanctions are intended to:

- limit the adverse consequences of a situation of international concern (for example, by denying access to military or paramilitary goods, or to goods, technologies or funding enabling programs of proliferation concern);

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1 Senate Standing Committee for the Scrutiny of Bills, *Tenth Report of 2010*, 24 November 2010, pp. 388-400.

2 Senate Selection of Bills Committee, *Report No 11 of 2010*, 30 September 2010, paragraph 2(c) and Appendix 3.

3 Explanatory Memorandum, p. 1.

- influence those responsible for giving rise to the situation of international concern to modify their behaviour to remove the concern (by motivating them to adopt different policies); and
- penalise those responsible (for example, by denying access to international travel or to the international financial system).<sup>4</sup>

1.6 Autonomous sanctions may be applied to specific governments, individuals or entities, or specific goods and services that are responsible for, or involved with, a situation of international concern. According to the EM, these measures may be supplementary to, or independent of, UN Security Council sanctions. Autonomous sanctions are 'likely to play an increasing part in responses of like-minded countries to situations of concern'.<sup>5</sup>

1.7 The proposed legislation aims to expand the range of autonomous sanctions that Australia can implement to ensure that such measures match the scope and extent of those implemented by like-minded countries. The bill is also intended to create a flexible administrative framework to enable timely responses to situations of international concern.<sup>6</sup>

1.8 The bill is modelled on the *Charter of the United Nations Act 1945* (Cth) (UN Charter Act), which establishes a framework for the implementation, enforcement and administration of UN sanctions. This is intended to harmonise the administration of autonomous and UN sanctions and simplify compliance.<sup>7</sup>

### **Conduct of the inquiry**

1.9 The committee advertised the inquiry on its website and in the *Australian* on 5, 9, 16 and 30 June, 14 July, 11 August and 13 October 2010. It wrote to relevant ministers and departments calling for written submissions and also contacted a number of other organisations, commentators and academics inviting them to make submissions to the inquiry. The committee received six submissions which are listed at Appendix 1. The committee agreed that, based on these submissions, a public hearing was not required.

### **Acknowledgements**

1.10 The committee thanks all those who assisted with the inquiry.

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4 Explanatory Memorandum, p. 1.

5 Explanatory Memorandum, p. 1.

6 Explanatory Memorandum, p. 2.

7 Explanatory Memorandum, p. 2.