

From: [REDACTED]
To: [Committee, Treaties \(REPS\)](#)
Subject: submission: Agreement between the Government of Australia and the Government of the United States of America on Access to Electronic Data for the Purpose of Countering Serious Crime
Date: Monday, 14 February 2022 12:57:57 AM

To the committee,

The treaty is incompatible with human rights and does not serve the national interest. The data sought includes all data of all persons not necessarily subject to any particular investigation ie. bulk data collection. I would refer the committee to The Court of Justice of the European Union Case C-311/18 *Data Protection Commissioner v Facebook Ireland and Maximillian Schrems*. As a very short summary of the decision. U.S. policy and law includes Presidential Policy Directive 28 that obviates all practice restrictions so long as signals intelligence personnel are acting in the national interest of the U.S.(not Australia). U.S. law and policy does not grant agents of foreign governments (including Australia) powers to bind the actions of U.S. intelligence agents rendering clauses in the treaty that purport to ensure protections worthless. Signals intelligence agencies may disseminate information if it is consistent with the interests of the United States.

The harms of data localization noted in the Treaty are not in fact noted. Academic arguments simply argue that only U.S. intelligence should be trusted with the sensitive data of private citizens because no other country is free and will only abuse such power, unlike the U.S. Government which I find unconvincing and suspicious. I have seen no arguments against the physical security of sensitive data. The only arguments put forth are ludicrously only about cost in which case we are better off constructing a direct subsea cable and hosting cabinet documents in a regional center like Beijing or an unlocked filing cabinet in a back alley (the cloud.)

The treaty specifies Guantanamo as a reason for limiting data. A place is not a violation of human rights but what occurs there is. The treaty requires an expanded scope of torture and binding clauses that can never be enforced.

What is even more astounding? You haven't even attempted to convince anyone that this is necessary. I never should have watched that 2021 movie *Voyagers* where they seize absolute dictatorial powers under the pretext of protecting the crew against the alien but it turns out Hitler was the one that sabotaged the servers.

Robert Heron

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