

Dear Senators,

(With regards to the Commonwealth's treaty-making process)

I refer to part (a) of the Terms of Reference: *"the role of the Parliament and the Executive in negotiating, approving and reviewing treaties"*

If no countries wish to openly negotiate with Australia, then there must be limits placed on the extent to which treaties impact Australian law. Protecting sensitive information in negotiations remains a secondary concern until the public can ensure it is not being exploited. Clearly, maintaining secrecy to advance the concerns of favored parties, at the cost of informing the public, is plutocratic (not democratic). Parliament should be granted the power to mandate and bar particular provisions during negotiation, to ensure that parliamentary oversight can be maintained without directly compromising privacy. A simple majority vote should be sufficient for barring or mandating a provision during negotiation.

In approving treaties, the parliament should vote, and require a super majority for the treaty's approval (at least 2/3). It should be beyond all reasonable doubt that partially relinquishing the sovereignty of Australia's elected government to foreign entities is in the best interests of the vast majority of Australians. This condition should be assessed by those with the requisite authority, via the most democratic process available to them. The people have absolutely no reason to prefer an executive decision over that made by a democratic process, except in cases pertaining to war. The executive is corruptible, and, even if well intentioned, unlikely to have an approval rating above 50%.

The review process should be made transparent to parliament (at least). This would enable MPs to monitor the process and infer the motivations of interested parties, before voting to approve any treaty. Let us ensure that any suggestions which fall, suspiciously, on deaf ears are remembered when it comes time to vote. How pointless is democracy if we only choose from the choices we are given?

Further comments:

Australia is engaged in negotiating some frightening international treaties. All of these treaties have pleasant names, crafted to stir up approval from appeals to our most classically liberal values. The people know that trade is the lifeblood of their prosperity, and our collective fascination with freedom is as deeply rooted as it is ill-defined. Free trade sounds like a fantastic idea, and negotiating for the best deals is certainly in Australia's interest. But we must ask: whose freedom does a particular treaty really secure? Who benefits? And most importantly: who will distinguish between the "people's interest" and the "national interest", if not the elected representatives?

Australia fits into a global hierarchy. Obviously, secrecy in treaty negotiations is demanded of us by the mighty. Should the US administration, through its Trans-

Pacific Partnership, wish to enforce an unpalatable constraint on the legislative capacities of our elected government, let it be public knowledge. In my opinion, had our negotiating procedures been structured to advance the interests of Australians, we would have abandoned TPP talks after the mere suggestion of Investor State Dispute Settlement.

Consider the potential impacts of secretly negotiated treaties. Affordable pharmaceuticals, a livable minimum wage, and the sovereignty of an authority which can be lobbied to address injustice within Australia... this will be jeopardised if Australia bends to the TPP. To protect Australia from economic predation we require more open negotiations, and democratic rigor in the approval process.

Australia only benefits from secretly negotiated free trade deals if the all-important “externalities” are excluded from the analysis. On the issues of truly devastating significance, democracy remains a foregone formality.

Sincerely,

Andrew Buckley, BSc

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