



Australian Government

Department of Foreign Affairs and Trade



**SUBMISSION TO THE JOINT STANDING COMMITTEE ON
ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS'
INQUIRY INTO THE APPLICATION OF THE UNITED NATIONS
DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES IN
AUSTRALIA**

INTRODUCTION

The Department of Foreign Affairs and Trade (DFAT) welcomes the opportunity to make a submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs' inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples (the UNDRIP) in Australia.

The UNDRIP was adopted by the United Nations (UN) General Assembly in 2007 and formally supported by Australia in 2009. It recognises the urgent need to respect and protect the inherent rights of Indigenous Peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources. It promotes the full and effective participation of Indigenous Peoples in all matters that concern them, and the ability of Indigenous Peoples to pursue their own priorities in economic, social, and cultural development.

DFAT leads Australia's international engagement on the UNDRIP primarily through the multilateral human rights system, working closely with the National Indigenous Australians Agency (NIAA) as the lead for domestic implementation. This submission outlines DFAT's experience in upholding the norms and standards of the multilateral human rights system and the promotion of the UNDRIP, current engagement with First Nations Australians in accordance with the UNDRIP, and the contribution of a First Nations foreign policy to implement the Uluru Statement from the Heart and the UNDRIP.

The Government has committed to reflecting Australia's full identity - our modern diversity and the rich heritage of Australia's First Nations people - in our international engagement. This means embedding the perspectives, experiences, and practices of First Nations Australians across our foreign policy, trade and development agendas to address shared regional and global challenges and bring practical benefits to First Nations Australians.

This work is now underway and will build on strong foundations. This includes the 2015 *Indigenous Peoples Strategy* which provided a framework for DFAT to work with its partners to advance and promote the wellbeing of Indigenous Peoples around the world, including encouraging First Nations Australians to apply for DFAT-funded opportunities and develop people-to-people links with the international community. In May 2021, DFAT also released the *Indigenous Diplomacy Agenda* which aims to elevate Indigenous issues across DFAT, including in multilateral engagement and foreign, trade & economic, development and corporate policies.

Upholding norms and standards and the promotion of the UNDRIP

Since 2009 Australia has been a strong supporter of the UNDRIP internationally. It is critical that the international system upholds and protects the UNDRIP norms and standards to ensure Indigenous Peoples, including First Nations Australians, continue to enjoy their right to the full

enjoyment of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

DFAT promotes the UNDRIP internationally as the universal framework for the rights of Indigenous Peoples. We advocate for references to the UNDRIP in resolutions at the UN Human Rights Council and the UN General Assembly. We deliver statements in the UN that affirm Australia's support for the UNDRIP and put forward proposals for further action by international actors. For example, at the 76th UN General Assembly, held in September 2021, we called upon the UN Special Mandate Holders on Indigenous issues to focus more on economic rights for Indigenous Peoples, as investing in economic rights can amplify efforts to advance wellbeing, and social and cultural interests.

DFAT advocates for the right of Indigenous Peoples to participate in the UN under Articles 18 and Article 41 of the UNDRIP as part of Australia's continued support to Indigenous Peoples in their call to establish a unique category for their participation in the UN system. We are providing a written submission to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on self-determination, self-identification and the ability of Indigenous Peoples to select their own representatives in accordance with their own procedures. Our submission recognises that not all States have representative bodies for Indigenous Peoples and the need to support the voices of all Indigenous Peoples around the world, including those with and without formal representation. We will seek to take these ideas forward in an upcoming workshop in Geneva on the topic, and other relevant forums in future. Australia, through DFAT, is also a key financial contributor to the UN Voluntary Fund for Indigenous Peoples, having contributed USD 165,834 in total between 2018 and 2021.

Australia plays an active role on Indigenous issues in the UN system – including through the UN Permanent Forum on Indigenous Issues (UNPFII) and Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). In an increasingly contested geostrategic environment, the integrity of UN Indigenous bodies is increasingly vulnerable and being eroded by countries who do not recognise Indigenous Peoples or support the UNDRIP in full. A number of Australian civil society leaders are calling for a review of the UNPFII to address the rules of procedure, the opacity of the selection process for members, and the lack of its influence within the UN system.

Our work with other actors within the UN system, including Canada and New Zealand and through the Group of Friends of Indigenous Peoples, is critical to supporting the realisation of the UNDRIP. During the 77th UN General Assembly High Level Week in September 2022, DFAT organised a roundtable discussion on "Embedding an Indigenous Approach to Foreign Policy". The roundtable, chaired by Foreign Minister Wong and co-hosted by New Zealand Foreign Minister Mahuta and Canadian Foreign Minister Joly, provided an opportunity to exchange views and experiences between likeminded countries on how to bring Indigenous perspectives into foreign policy. We also engage across our diplomatic network to share learning and experiences with countries as diverse as Colombia and Vietnam and organisations like the Sami Parliament and Arctic Circle Assembly to learn from their own unique experiences and address common challenges.

Engagement with First Nations Australians in accordance with the UNDRIP

Right to participation in decision-making (Article 18)

DFAT engages with First Nations Australians on matters that affect them. For example, key positions related to Indigenous Peoples in international forums are regularly tested with networks established by First Nations Australians, such as the Indigenous Peoples Organisations (a network of 280 organisations that engage with the UN system), and the Indigenous Network for Investment, Trade and Export. When COVID-19 restricted the ability of First Nations representatives to attend, Australia provided daily updates to First Nations networks for both the 2021 and 2022 sessions of the UNPFII.

We also actively support the appointment of First Nations Australian experts to the UNPFII and EMRIP, and their attendance at key meetings. For example, we recently advocated for the re-appointment of Dr Hannah McGlade to the UNPFII and are supporting her travel to the upcoming Expert Group Meeting on Truth and Reconciliation in Chile in November 2022.

DFAT also engages with Indigenous organisations through the DFAT-NGO Human Rights Forum. This includes engagement with the Coalition of Peaks that represents 50 Indigenous community-controlled peak and member organisations in Australia.

DFAT supports and facilitates responses to UN concerns in Australia, such as those raised by the Committee on the Elimination of Racial Discrimination (CERD). DFAT will also facilitate a visit by the EMRIP to Australia in 2023 which follows a civil society request for the EMRIP to provide advice on the implementation of the UNDRIP in relation to the contemporary removal of Aboriginal children.

Right to improvement of economic and social conditions (Article 21)

The Government is taking measures to support the inclusion and empowerment of Indigenous businesses in international trade and to reaffirm the importance of Indigenous rights (inclusive trade, sustainable development, cultural knowledge, and the protection of the integrity of Indigenous cultural products) in future international trade agreements.

Australia is a founding participant of the regional Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA). The first of its kind, the arrangement seeks to expand business networks for Indigenous businesses and entrepreneurs across the region, including for micro- small- and medium-sized enterprises, Indigenous women and Indigenous youth. Prospective areas of cooperation under the IPETCA may include: enhancing digital skills and e-commerce opportunities; export counselling; promoting access to finance; supporting Indigenous public procurement mechanisms; and, valuing and protecting Indigenous knowledge. IPETCA reaffirms member economies' commitments to important international instruments such as the UNDRIP.

In 2020 DFAT supported the UN Global Compact Network Australia to produce *"The Australian Business Guide to implementing the UNDRIP"* to provide practical guidance for businesses to support the implementation of the UNDRIP. This guide supports businesses to undertake human rights due diligence, assess actual or potential adverse impacts on First Nations Australians' rights, and take action to address these impacts, in accordance with the UNDRIP.

Australia continues to advocate for Indigenous economic empowerment to be embedded into the Asia-Pacific Economic Cooperation's (APEC) inclusive growth agenda, and to deliver capacity-strengthening activities in APEC that benefit Indigenous businesses and entrepreneurs. DFAT has delivered a pilot capacity-strengthening project on Growing Indigenous Businesses through Trade

for Indigenous entrepreneurs in 2021 (including 20 participants from nine economies including Australia).

DFAT works with IP Australia to support negotiations at the World Intellectual Property Organization (WIPO) for a multilateral agreement for the protection of traditional knowledge, traditional cultural expressions and genetic resources, and their relationship to the intellectual property system. We have secured commitments in several of our free trade agreements (FTAs) recognising the importance of genetic resources, traditional knowledge and traditional cultural expressions, including the Australia-UK FTA, Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), Regional Comprehensive Economic Partnership (RCEP) and ASEAN-Australia-NZ FTA (AANZFTA).

In line with the Indigenous Procurement Policy, DFAT spent AUD 9.865 million with over 40 Indigenous businesses in the 2021-22 financial year. DFAT is working to expand our engagement with Indigenous businesses, including through international development partner industry engagement.

Culture

DFAT has celebrated our First Nations People on the world stage through our international public diplomacy programs for more than 30 years. A significant number of public diplomacy activities have focused on sharing Australia's First Nations cultural diversity across our diplomatic network. DFAT in Canberra and at Post have been embracing and celebrating NAIDOC activities including the sharing of Indigenous culture, knowledge and expertise. DFAT engages with Aboriginal and Torres Strait Islander individuals, organisations and reputable cultural institutions and partners to ensure economic and other benefits flow directly to Australian First Nations people and communities.

The Blue Pacific Village booth, which was delivered during the 2022 Pacific Islands Forum in Suva, is a recent example of where Australia's First Nations cultural diversity has been profiled internationally. The purpose of the Village was to celebrate 50 years of Pacific regionalism through art, culture and heritage to reflect the resilience, strength, solidarity and cultural diversity of the Blue Pacific region. Australia's booth was themed "Australia in the Pacific: Sharing Culture, Sharing Connections". It highlighted Australian Indigenous diplomacy and sought to listen to Pacific views on First Nations foreign policy and Indigenous Australian diplomacy in the Pacific. A Brisbane-based Aboriginal cultural business, Tribal Experiences, provided daily cultural performances as part of this initiative.

DFAT works closely with the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the Office for the Arts to facilitate international engagement on the repatriation of cultural heritage items (ROCH program) and has also been involved in the Intergovernmental Committee for Promoting the Return of Cultural Property (ICPRCP).

First Nations Foreign Policy: DFAT's contribution to implementing the Uluru Statement from the Heart and application of the UNDRIP

In line with the commitment to implement the Uluru Statement from the Heart in full, DFAT is facilitating work to embed First Nations perspectives, voices and experiences into Australia's foreign policy. An Ambassador for First Nations People will head an Office of First Nations Engagement within DFAT and lead development of a First Nations Foreign Policy Strategy.

Reflecting the commitment to shared decision making, this Ambassador position has been open to a public [expression of interest](#) process, enabling qualified and interested individuals to apply.

A key role of the Ambassador will be to work with First Nations communities, leaders and advocates to listen and engage directly on how Australia's international engagement can contribute to Indigenous community and economic development, support First Nations businesses and exporters, deliver practical action on climate change, build connections across the Indo-Pacific region and protect Indigenous rights around the world.

As set out in the terms of reference for the Ambassador, Australia is committed through this role to establish international First Nations dialogues on Voice, Treaty and Truth with likeminded countries to share experiences and knowledge of reconciliation processes and other First Nations issues, as well as to actively communicate domestic lessons and best practices on First Nations issues, particularly throughout the Pacific region.