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Committee Secretary Joint Standing Committee on Treaties Department of House of Representatives Parliament House CANBERRA ACT 2600 AUSTRALIA

Dear Committee Secretary

## Inquiry into the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The adoption of the Optional Protocol to the Convention Against Torture and Other Cruel, and Inhuman or Degrading Treatment or Punishment ("the Optional Protocol") on 18 December 2002 was a significant step in monitoring the implementation of the Convention. We would urge the Australian Government to sign and ratify the Optional Protocol to promote the elimination of torture around the world.

There are 134 parties, including Australia, to the United Nations Convention on Torture as of 21 November 2003. The commitment to protecting persons against torture and other cruel, inhuman or degrading treatment or punishment will be further strengthened by the Optional Protocol. As of 31 October 2003, 21 States have signed the Optional Protocol: Argentina, Austria, Brazil, Costa Rica, Croatia, Denmark, Finland, Guatemala, Iceland, Italy, Madagascar, Malta, Mexico, New Zealand, Norway, Romania, Senegal, Serbia and Montenegro, Sierra Leone, Sweden, and the United Kingdom. Albania has acceded, and Malta is as yet the only State that has ratified the Optional Protocol.

The Optional Protocol seeks to strengthen the Convention against Torture by establishing a system of regular visits by international and national bodies to places where is a high risk of torture and other cruel, inhuman or degrading treatment or punishment. The functions of the Optional Protocol are to be carried out by two main mechanisms.

First, there is to be a Sub-Committee on Prevention of Torture whose members are nominated and elected by State Parties. It will conduct regular visits to State Parties, but these must be notified in advance and the details discussed with the country involved. State Parties must facilitate such visits and allow unrestricted access to information relating to conditions of detention and treatment of persons deprived of their liberty. The Sub-Committee's recommendations as a result of its visit are made confidentially to the country, which has the opportunity to respond to them.

Second, State Parties must set up independent national preventative mechanisms for the prevention of torture at the domestic level. Such mechanisms are to comprise visiting bodies that investigate the treatment of persons in detention. These national visiting bodies may make recommendations for the improvement of detention conditions.

The Optional Protocol uses education, persuasion and consultative monitoring to prevent torture in places where it is most likely to occur. It aims to secure compliance cooperatively, without public denunciation and confrontation. Australia's signature and ratification of this Optional Protocol will be a valuable step towards the protection of persons against the crime of torture.

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