

Dear Senators

I refer to paragraph 'h' of the Terms of Reference for enquiry into The Commonwealth's Treaty Making Process; ie,

“• the current processes for public and stakeholder consultation and opportunities for greater openness, transparency and accountability in negotiating treaties;”

The first issue of concern is the inordinate secrecy surrounding negotiations of this nature. Simply because another nation may request secrecy, is no argument for Australia to accede to such a request.

One would hope that any agreement with another nation would only be signed if it was in the best interest of Australia to be a party to such an agreement. Of course, life for the negotiators is much less fraught if their negotiations are conducted in secrecy and they are not subjected to an avalanche of opinion from those sectors of the Australian public upon which any agreement will impinge. But is this a legitimate reason for the negotiations to be conducted in secrecy?

A process without openness and transparency undermines our democracy.

Secondly, a treaty with another nation or nations will most often impinge on our Constitution. As our Constitution can only be amended by the People voting at referendum, adoption by Australia of a treaty that does impinge on the provisions of our Constitution must be subjected to that referendum process. An open and transparent process will enhance the prospect of a treaty meeting the expectations of the Australian public.

Regards

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