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re: Export Control Bill 2019 and related bills Commonwealth Inquiry

Dear Committee

Sovereignty of First Nations Peoples requires the Committee's relevant consideration of unceded Custodial Responsibilities pertaining to all contexts associated with the Export Control Bill 2019 and related Bills as part of this Commonwealth Inquiry.

This Committee's Commonwealth Inquiry is asked to proactively and broadly use the United Nations Declaration on the Rights of Indigenous Peoples, UNDRIP, to accordingly word and properly implement this Bill and related Bills into Law Making so that the greatest remediation is afforded the Aboriginal Torres Strait Islander First Nations Community's Indigenous aspirations to continue the ongoing exercise of Custodial Responsibilities of operating On Country and thereby Looking After People On Country.

The Committee is requested to Please receive the following Submission and associated Requests for Recommendations in this Commonwealth Inquiry into the Export Control Bill 2019 and related Bills, and as a general relevant consideration in all future Committee and Parliamentary dealings.

1.1 Requested Recommendation (1.1) : The Committee is asked to recommend that the Commonwealth Parliament, Parliamentarians and Delegated Officers adopt the UNDRIP to word and implement the Provisions of these Bills into Law and Regulations which will afford the greatest 'postMabo', postUNDRIP, remediation for First Nations Peoples to express and exercise Our Inherent Custodial Responsibilities in these particular export, as well as general, postcolonial contexts.

2. More specifically referring to information from the Explanatory Memorandum in relation to these Bill's Provisions concerning accredited properties, registered establishments, approved arrangements and export licences referred to at Clause 375 in relation to providing a simplified outline of Part 1 of Chapter 11 of the Bill and the reference there to Part 1 of Chapter 11 of the Bill providing for matters in relation to applications under Chapters 3 (accredited properties), 4 (registered establishments), 5 (approved arrangements) and 6 (export licences) of the Bill.

2.1 Requested Recommendations :

2.2 The Committee is asked to Recommend that the Commonwealth Parliament, Parliamentarians and Delegated Officers in setting out that an application must comply with certain requirements and the obligations of the person making the application to provide additional and corrected information, that the

broadest First Nation conciliatory remediations be provided by the Secretary in making a decision on such applications, the timeframes for doing so and the powers the Secretary may exercise when making such decisions.

2.3 The Committee is asked to Recommend that the Chapter 11 simplified outline include a legislative reference to the UNDRIP to assist the reader to understand the UNDRIP's application to substantive clauses of Part 1 of Chapter 11 without being comprehensive, thereby still preserving the intention that the reader will rely on the substantive clauses of the Bill to which this outline relates.

2.4 The Committee is asked to Recommend that Clause 377 'Requirements for applications' make Provision for the manner of the application approved by the Secretary to include the ability to make an application electronically, or by other extended Time communication processes, in recognition of the remoteness of some Aboriginal Communities where First Nation Owners seek to exercise engagement with this legislation.

2.5 This Submission notes that the ability to seek a review of decisions associated with these Bills as Law is consistent with the Government's policy that an administrative decision that is likely to affect the interests of an individual should be reviewable on its merits unless to do so would be inappropriate, or there are factors justifying the exclusion of merits review.

The Committee is asked to Recommend that Reviews including examples, where:

the decision is in favour of the person affected by the decision;  
the decision is procedural as opposed to substantive;

the decision is procedural (such as a notice of a proposed decision) and there are urgent or serious circumstances which justify reducing procedural fairness obligations;

the decision is mandatory and the decision-maker does not have discretion whether or not to make the decision;

the decision is made upon request of the person affected by the decision;

the decision sets objective criteria that will apply to a specified group of people under the Bill;

the decision is not made by the Secretary (or a delegate or subdelegate of the Secretary);

internal review would unnecessarily add to the administrative burden in administering the Bill, or be contrary to the purpose of the provision; or

the decision is integral to maintaining the integrity of the export control regime;

are all tempered with the utmost reconciliatory remediations for First Nations Peoples according to the expanded principles now espoused by the UNDRIP and expounded in postcolonial, postMabo, Parliamentary, Legal and Community based expressions.

#### Glossary:

‘Sovereignty’ as referenced with Respect to Elder Uncle Kevin (Passed On) Gilbert’s ‘This Time a Treaty’ scroll and related matters;

A Legal context to a remedial approach exists at Paragraph 73 of the Federal Full Court Judgement:

<http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/1995/1624.html>