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The Chair
Joint Standing Committee on Foreign Affairs, Defence and Trade
c/- Committee Secretary
PO Box 6021
Parliament House
Canberra ACT 2600

[by email to: jscfadt@aph.gov.au]

Dear Joint Standing Committee Members

RE: INQUIRY INTO THE IMPLICATIONS OF THE COVID-19 PANDEMIC FOR AUSTRALIA'S FOREIGN AFFAIRS, DEFENCE AND TRADE

Thank you for the opportunity to make a submission to your inquiry into the implications of the COVID-19 pandemic for Australia's foreign affairs, defence and trade. Civil Liberties Australia (CLA) is particularly concerned about the effect on individual human rights of threats to the global rules-based order as a result of the pandemic.

CLA believes that a national Rights Act (RA) is an important part of the framework needed for Australia to advocate effectively for global rules-based trade. As global trading uncertainty and competition increases, an RA is also a market advantage in attracting trading partners looking for safe goods and services that are ethically produced and environmentally responsible.

Recommendation 1

That the Australian Government take steps to defend and strengthen the system of rules-based trade governance and the individual rights that are integral to it. These steps should include advocating for the international regulation of Artificial Intelligence systems (AI).

Individual human rights have always played an integral role in developing rules-based multilateral trade. Negotiators recognise that increased economic integration, the aim of multilateral trade, will fail unless there is a focus on improving governance among trade partners through labour rights, the protection of public morals and human life, intellectual property, transparency in access to information, privacy, political participation and empowering people to demand their rights, such as through eliminating modern slavery.

As a trading nation and a vulnerable middle power, Australia suffers if uncertainty around international trade governance increases. CLA is concerned that the COVID-19 pandemic has exacerbated three pressure points on rules-based multilateral trade that affect the individual rights integral to it.

First, the dispute between China and the US is evidence of increasing trade tensions, reflected in increasing restrictions and distortions from tariff increases among major traders to significant new subsidies in key sectors.

This new norm for international trade is generally conducted outside the WTO and without regard to the effect of the disputes on third parties. The dispute sets a precedent for an increasingly transactional approach to trade based on short-term advantages that will tempt other states as the cost of COVID-19 to international trade revenue grows.

Second, the sharp decline in world trade accompanying the COVID-19 pandemic has placed pressure on the rules-based order as disrupted supply chains, financial hardship and greater competition for trade opportunities drive increasingly risky behaviour.

Reports of bribery and corruption are on the rise as well as income inequality and worker exploitation. This includes reports of forced labour and debt bondage driven by the increasing demand for personal protective equipment produced in states like Malaysia, Nepal, Bangladesh and Myanmar.

Third, AI systems have proved to be unprecedented accelerators for economic and social integration. However, AI systems are not inherently transparent in how and why they collect information and make decisions, who they are serving when those decisions are made and who is responsible for AI behaviour. There is no international agreement on regulating AI systems.

While AI can raise average incomes and improve global wellbeing, the systems may also disrupt labour markets, raise inequality and discrimination, facilitate exploitation, reduce the right to privacy and freedom of expression and drive non-inclusive growth.

As COVID-19 increases the risk that trading countries become more transactional in their relations, and more prone to risky behaviour, the lack of international agreement on AI regulation increases the risk they pose to good governance and individual human rights.

COVID-19's effect on the global economy is stark. Despite fiscal actions and support packages imposed by central banks and governments at a globally significant cost, most major economies now look set to enter recession or worse. CLA supports strong advocacy by Australia for steps to defend and strengthen rules-based multilateral trade.

Recommendation 2:

That the Australian Government strengthen its position as an advocate for rules-based trade by clarifying its approach to people's rights through a Rights Act (RA).

Our lack of a national RA with clear and enforceable individual human rights related to trade governance is an obstacle at a time when Australia needs clear air to advocate for rules-based international trade. Australia is vulnerable to international accusations of unjust, unfair or unequal treatment without appropriate recourse for victims or consequences for perpetrators. These accusations include:

- that Australia's refugee policy has undermined Australia's claims that its immigration policy is non-discriminatory;
- that Australia's espionage and foreign interference legislation unreasonably weakens the right to freedom of expression; and
- that Australia's cybersecurity and surveillance legislation unreasonably weakens the right to privacy as well as the freedom of the press.

The combination of matters has led to more general accusations of secrecy and a concomitant increase in the perception of risk.

An RA with enforceable rights will help underpin the international understanding of our commitment to people's rights that affect trade governance and provide a means by which citizens can hold executive government and parliaments to account on matters that impact directly on them as individuals.

The right to work, equality, privacy, freedom of expression and inclusion covered in an RA will also underpin Australia's domestic and international approaches to regulating AI.

Recommendation 3:

That the Australian government take advantage of the current uncertain trade climate to promote Australia as "safe, green and ethical" with an RA as part of the collateral.

The nation brand project promised in the 2017 Foreign Affairs and Trade White Paper was integral to the Government's soft power strategy to influence the behaviour and thinking of others. The project focussed on Australia's longer-term challenge to progress from being merely popular to being truly respected.

While the project stalled in 2019, the government now has an opportunity to re-brand to take advantage of the uncertainty that COVID-19 has created in international markets. As pressure builds on trust in the rules-based trading system, Australia can build on its reputation as "safe, green and ethical" to deliver a market advantage for its exports.

A commitment to an RA would be valuable collateral for nation branding as we aim to emphasise Australia's virtues to trading partners who are looking for safe products and services that are environmentally and socially responsible.

Yours sincerely

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President

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Civil Liberties Australia is a not-for-profit association which reviews proposed legislation to help make it better, as well as monitoring the activities of parliaments, departments, agencies and forces to ensure they match the high standards that Australia has traditionally enjoyed and continues to aspire to. We work to keep Australia the free and open society it has traditionally been, where you can be yourself without undue interference from 'authority'. Our civil liberties are all about balancing rights and responsibilities, and ensuring a 'fair go' for all Australians.