



16 June 2008

Committee Secretary  
Joint Standing Committee on Treaties  
Department of the House of Representatives  
PO Box 6021  
CANBERRA ACT 2600

**BY FACSIMILE: (02) 6277 2219**

Dear Committee Secretary

**Proposed Ratification of the United Nations *Convention on the Rights of Persons with Disabilities***

The Public Interest Advocacy Centre (**PIAC**) welcomes and applauds the Government's commitment to swift ratification of the *Convention on the Rights of Persons with Disabilities* (**the Convention**). PIAC also welcomes the opportunity to again contribute to the consultation process.

PIAC strongly supports ratification of the Convention by the Australian Government without reservations and without delay. PIAC considers that Australia's role in the drafting and consultation process provided significant opportunity for Australia to consider the implications of ratifying the Convention during the development process. The involvement in this process will also enable Australia to bring further, valuable expertise to the Convention's implementation through the possibility of putting forward a representative to sit on the Committee.

While PIAC supports ratification of the Convention without reservation, we wish to endorse and reiterate two recommendations made by the Australian Federation of Disability Organisations (**AFDO**). PIAC agrees with the AFDO submission recommending that the Australian Government lodge statements of interpretation or declarations stating that:

- (1) the broader definition of disability that is contained in the *Disability Discrimination Act 1992* (Cth) be adopted, rather than the definition contained in the Convention; and
- (2) that Article 12 of the Convention, which relates to recognition before the law and legal capacity, be interpreted as permitting and even requiring substitute decision-making arrangement (as a last resort and subject to effective legislative safeguards).

In relation to point (1) above, PIAC considers that a definition of disability in which an impairment is seen as being inherent to the person and where the disability is said to occur when a person with an impairment interacts with their environment to be unfairly restrictive. PIAC prefers an impairment-based definition of disability, such as the definition found in the *Disability Discrimination Act 1992* (Cth).

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In relation to point (2) above, PIAC considers that the correct interpretation of Article 12 is that substitute decision-making may take place, but only as a last resort and only in appropriate circumstances. We consider this to be clear from the safeguards set out in Articles 12.2-12.5.

PIAC looks forward to participating in the consultation process regarding ratification of the Optional Protocol to the Convention.

If you have any questions about these matters, please contact me or A/Senior Solicitor, Jessica Cruise through the contacts details provided below.

Yours sincerely

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