

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TABLING STATEMENT

Standing Committee on Public Accounts

Report No. 11, 2004

**The General Agreement on Trade in Services (GATS) with
special reference to the Australian Capital Territory**

**Tabled by
Jon Stanhope MLA
Chief Minister**

May 2005

Government Response to Report No. 11 of 2004 of the Standing Committee on Public Accounts – The General Agreement on Trade in Services (GATS) with special reference to the Australian Capital Territory

Mr Speaker I am pleased to present the Government's response to Report No. 11, 2004 of the Standing Committee on Public Accounts inquiry into the General Agreement on Trade in Services (GATS) treaty.

The continued development of global free trade has attracted much attention, provoking passionate comments both for and against. The focus on trade will not fade given the ongoing GATS negotiations and more bilateral free trade agreements under consideration. To a very large extent, in Australia, the central player in debate regarding trade is the Commonwealth Government. It is the Commonwealth Government that actually negotiates international trade agreements. It is the Commonwealth Government that commits Australia to multilateral agreements such as GATS or bilateral agreements, such as the Australia-United States Free Trade Agreement.

The Public Accounts Committee report highlights the importance of early consultation regarding the commitments being considered in trade agreements. The Government agrees that consultation is a vital ingredient in developing fair and robust agreements. Commonwealth Government consultation with States and Territories has not always been ideal. The ACT Government has, and will continue, to push the Commonwealth to conduct consultation on treaty issues in a timely and comprehensive manner.

The Government also notes the important role played by Parliamentary committees in providing the Australian people a voice regarding trade and other international agreements. At the federal level in the past eighteen months this has included the Commonwealth Parliament's Joint Standing Committee on Treaties and a Senate Select Committee on the Australia US Free Trade Agreement.

The Committee raised concerns regarding the Australia United States Free Trade Agreement. I am pleased to say that the Government had already raised many of the concerns the Committee mentioned prior to the publication of the Committee's Report. Of course the Assembly will be aware that the Australia US Free Trade Agreement entered into force on 1 January this year.

Mr Speaker, I commend the Government Response to the Assembly.

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GOVERNMENT RESPONSE

Standing Committee on Public Accounts

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Tabled 5/5/05

Government Response

Report No. 11, 2004, of the Standing Committee on Public Accounts – The General Agreement on Trade in Services (GATS) with special reference to the Australian Capital Territory

Background

The GATS is an international treaty, administered by the World Trade Organisation (WTO), that provides a framework of rules for international trade in services. The GATS is intended to promote economic growth and development through expanding international services trade. Under GATS, WTO members can negotiate commitments to open specific service sectors to foreign competition and to afford foreign suppliers the same treatments as domestic suppliers.

The latest round of GATS offers and negotiations commenced in January 2000. Australia has received requests to liberalise service sectors. In turn Australia has made requests seeking the removal of market access barriers and regulatory measures that currently discriminate against Australian service exporters.

The Commonwealth Government Minister for Trade has stated that Australia will not accept any requests to liberalise public health, public education or the ownership of water. The Minister has also stated that the outcome of negotiations will not stop the delivery of social and cultural policy goals. The ability to screen foreign investment proposals will also be retained.

Australia's liberalisation offers are non-binding and can be amended or withdrawn at any time during the negotiations. Offers will not become binding until formally agreed upon at the conclusion of negotiations. The current negotiations are scheduled to conclude in 2005 but progress has and continues to be slow.

Committee Recommendation 1

The ACT Government recommend to the Commonwealth that it take to the World Trade Organisation a proposal to amend the dispute settlement process to ensure that environmental and social expertise informs the decision making.

Government Response

The ACT Government has an ongoing interest in ensuring that the administration of trade agreements allows for a full consideration of all relevant matters. The Government has, and will continue to, press the Commonwealth Government, as the opportunity arises during the ongoing GATS negotiations, to ensure that WTO dispute settlement processes are appropriate.

Australian regulatory decisions are already capable of challenge in the Australian legal and administrative system. The ACT Government does not anticipate that the GATS will substantially impact on the way domestic regulation can be challenged.

Committee Recommendation 2

The ACT Government not support the liberalisation of any new service sector until the following have occurred:

- (1) The ACT Government recommend to the Commonwealth that they:**
 - (a) Commission comprehensive independent research into the social and economic impact on all proposed trade agreements, including regional impacts and publish it for public debate before negotiations begin; and**
 - (b) Undertake more thorough consultation, which commences early in the negotiation process, with state, territory and municipal governments, with an agreed timeframe in relation to the sector agreements and any proposed bilateral trade agreements.**
- (2) The ACT Government provide an adequate process for informing the members of the ACT Legislative Assembly and the ACT public about treaties and trade agreements.**

Government Response

Throughout trade agreement negotiations the Commonwealth consults with States and Territories. Such consultation occurs through Minister and senior officer level discussion and more formally through the Commonwealth, States and Territories Standing Committee on Treaties (SCOT). State and Territory comments include consideration of the social, economic and regional impacts of proposed trade deals.

On 26 November 2003 the Senate Foreign Affairs, Defence and Trade References Committee released a report on the GATS and AUSFTA negotiations. The Committee noted concerns that commitments to GATS could restrict the capacity of governments to regulate the services sector or deliver and control core public services. After examining the issues in detail the Committee was generally satisfied that Australia's approach to GATS negotiations was prudent. The Committee particularly noted that Australian negotiators had taken particular care to address the prominent concerns of the community.

Commonwealth consultation with States and Territories has not always been conducted in an ideal manner. The level and quality of consultations has varied significantly across recent various trade negotiations. The ACT Government has, and will continue to, push the Commonwealth Government to undertake consultation in a timely and comprehensive manner.

Public consultation regarding treaties is the responsibility of the Commonwealth and is generally coordinated by the Department of Foreign Affairs and Trade and other relevant Commonwealth agencies. The Commonwealth's Joint Standing Committee on Treaties (JSCOT) also provides the public with an opportunity to comment on

treaties. Consistent with the *Administration (Interstate Agreements) Act 1997* the ACT Government will continue to keep the Assembly informed of any negotiations that require a legislative response by the ACT.

Committee Recommendation 3

The ACT communicates the concerns raised about the AUSFTA to the Commonwealth Government urgently.

Government Response

Many of the concerns regarding the AUSFTA, raised by the Committee's report, had already been raised with the Commonwealth by the ACT Government prior to the publication of the Committee's report.

Legislation enacting the AUSFTA passed through the Commonwealth Parliament in August 2004 and the agreement took effect on 1 January 2005.

The ACT Government made submissions to both the JSCOT and the Senate Select Committee on the AUSFTA. The submissions expressed a range of reservations about the AUSFTA including potential impacts on the Pharmaceutical Benefits Scheme, government regulation for protecting the environment, foreign investment review arrangements, Australian content rules for new forms of media and possible uneven distribution of benefits between States and Territories.

Information on the JSCOT and Senate Select Committee on the AUSFTA inquiries can be found through the following links:

<http://www.apl.gov.au/house/committee/jsct/usafta/report.htm>

http://www.apl.gov.au/Senate/committee/fretrade_ctte/index.htm

The Government notes the importance of forums such as SCOT and Senate Committees for allowing States, Territories and the public an opportunity to comment on treaties before they are finalised.