



Queensland  
Government

Premier of Queensland

Please quote: 233273/DM11/Policy Systems

20 MAY 2002

Paul McMahon

Ms Julie Bishop MP  
Committee Chairperson  
Joint Standing Committee on Treaties  
Parliament House  
CANBERRA ACT 2600

Dear Ms Bishop

Thank you for your letter, which was received on 2 April 2002, inviting the Queensland Government to provide comment on various proposed international treaties that are being reviewed by the Joint Standing Committee on Treaties. Comments are provided on several treaties and a specific concern raised with the Hague Convention on the Protection of Children.

*Hague Convention on Jurisdiction, Applicable law, Recognition, Enforcement and Cooperation in respect of Parental Responsibilities and Measures for the Protection of Children*

The Queensland Government supports the ratification of this Convention because it will facilitate a more effective response to, and management of, the protection of children. The benefits to children will far outweigh the costs of implementation of the Convention, which is anticipated to be minor in view of the limited application of the Convention.

However, concern is raised about the proposed implementation of the Convention as outlined in paragraphs 14 to 17 of the national interest analysis. Amendment to Commonwealth, State and Territory legislation, to provide for recognition and enforcement of foreign orders and jurisdictional recognition, is required before the Convention can be ratified. Ratification of this Convention has been supported by both the Standing Committee of Attorneys-General (SCAG) and the Community Services Ministerial Conference subject to model legislation to implement the Convention in Australia being agreed. The Queensland Government is currently preparing this model legislation for consideration by both ministerial councils later this year. Despite the agreement to develop model legislation, the Commonwealth introduced legislation to give effect to the Convention into the Commonwealth Parliament in March 2002 without consultation with State and Territory Governments.

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It is assumed that an instrument of ratification will not be deposited by Australia until the model legislation and consequential amendments to State and Territory legislation have commenced. However, the national interest analysis is silent on this. Taking binding action prior to the necessary implementing legislation for States and Territories being in place is likely to cause considerable legal and administrative difficulties. It would constrain the effective implementation of the Convention in Australia.

*Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention)*

The Queensland Government supports Australia's ratification of this Convention. Queensland's higher education institutions and students will benefit significantly. Greater transparency and equity in qualifications assessment and recognition will provide increased mobility for students holding completed or partially completed Australian qualifications. Wider recognition of qualifications derived from Queensland institutions will broaden the market for Queensland's educational services. Greater exposure to global competition for higher education provision should also stimulate education providers to achieve world best practice. The Convention will also facilitate international workforce mobility.

The Queensland Government also supports the proposed federal statement, to be made at the time of ratification (paragraph 18, national interest analysis), which clarifies and confirms that registration boards and profession assessing bodies have responsibility and competence for determining the recognition to be given to qualifications for the purpose of registration to practise a profession in Australia. State legislation underpins this responsibility. The National Office of Overseas Skills Recognition, as the agency responsible for implementing the Convention in Australia, is encouraged to liaise with State registration boards to raise awareness of the Convention.

*International Convention for the Suppression of Terrorist Bombings*

The Queensland Government supports Australia acceding to the Convention. The Commonwealth's Criminal code (Suppression of Terrorist Bombings) Bill 2002 will create new Commonwealth offences to ensure the Commonwealth can comply with the Convention. With regard to the domestic implementation of the Convention, the Queensland Government re-affirms its understanding that Commonwealth legislation to create new Commonwealth offences will be complementary to current State offences and will operate only to the extent that existing State and Territory offences do not establish jurisdiction.

Arising from the Commonwealth-State Summit on Transnational Crime and Terrorism (the Summit) held on 5 April 2002, the Queensland Government is undertaking a review of its legislation relating to terrorism to assess its complementarity and determine what strengthening is required. Based on work to date it is not considered that any amendment to Queensland legislation will be necessary to comply with the Convention. Accession to this

Convention should be viewed in the wider context of other treaties relating to terrorism that the Commonwealth is currently considering and other anti-terrorist response measures as agreed by Leaders at the Summit.

*Agreement to Amend the Agreement between the Governments of Australia and New Zealand Establishing a System for the Development of Joint Food Standards of 1995 (the Agreement)*

With regard to paragraphs 16, 30 and 31 of the national interest analysis, the Queensland Government is concerned that the Agreement does not adequately resolve an anomaly between Australia and New Zealand's regulatory regimes. Australia has a separate regulatory regime for food and for therapeutic goods, whereas New Zealand maintains three separate regulatory regimes for food, therapeutic goods and dietary supplements.

Australia has experienced significant public health and trade difficulties with dietary supplements being a lawful food in New Zealand and, therefore, being able to be imported into Australia under the provisions of the Trans Tasman Mutual Recognition Arrangement. Where these products do not comply with the Australian Food Standards Code, they may not be lawfully manufactured in Australia. This places Australian manufacturers at a disadvantage to their New Zealand competitors. The importation of high caffeine drinks (or energy drinks) from New Zealand to Australia in 1999 to 2001 is a recent example. During this period these drinks were illegal in Australia and thus Australian manufacturers could not produce them.

The Food Regulation Standing Committee has raised with New Zealand the need to review its Dietary Supplements Regulations to ensure their consistency with the new Joint Food Standards Code. It is not known whether New Zealand has made a commitment to undertake such a review. The Agreement does not provide a mechanism for addressing the anomaly associated with the existence of a separate regulatory regime for dietary supplements. Without an efficient means and structure under the Agreement to address this concern, new Food Standards will need to be created to address problems with each dietary supplement product as they arise.

*Agreements with the Arab Republic of Egypt and Uruguay on the Promotion and Protection of Investments*

These Agreements are supported as they mitigate some of the risk factors associated with investment in these countries and should be helpful for accessing additional markets within the respective regions. In relation to the Agreement with Egypt, which Queensland sees as a priority market, the national interest analysis does not comment on the capacity of Egypt's legal and administrative systems to deliver on the undertakings in the Agreement. This factor should be assessed and the outcome communicated to potential Australian investors in Egypt.

*Other Treaties*

Benefits to trade and investment are anticipated from the development of closer economic ties with neighbouring Pacific nations through the *Pacific Agreement on closer Economic Relations*.

The *Protocol amending the Convention between Australia and the United States of America (USA) for Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income* is supported as it is likely to reduce some of the obstacles to the two-way flow of investment between Australia and the United States. The most significant benefit for Queensland arises from the reduction in the royalty withholding tax, which will decrease the cost of items acquired from the USA in relation to technology and intellectual property.

The Queensland Government has no concerns about the remaining treaties tabled on 12 March 2002.

Please contact Debra McLoughlin, Policy Systems, Department of the Premier and Cabinet on (07) 3225 8046 if you require further information.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'P Beattie', written in black ink.

**PETER BEATTIE MP  
PREMIER AND MINISTER FOR TRADE**