

WORLD TOURISM ORGANIZATION (WTO) STATUTES

(MEXICO CITY, 27 SEPTEMBER 1970)

[1979] ATS 15

Documents tabled on 2 March 2004:

National Interest Analysis

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NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

SUMMARY PAGE

World Tourism Organization (WTO) Statutes (Mexico City, 27 September 1970) [1979] ATS 15

Date of Tabling of Proposed Treaty Action

1. 2 March 2004.

Nature and Timing of Proposed Treaty Action

2. The proposed treaty action is for Australia to rejoin (effectively, accede to) the World Tourism Organization (WTO or the Organization). Pursuant to article 5 of the WTO Statutes (Statutes), Australia must formally declare that it adopts the Statutes and accepts the obligations of membership. This declaration will be made in an instrument of accession that will be lodged with the Spanish Government as Depository following the completion of the review by the Joint Standing Committee on Treaties. The Statutes of the WTO will enter into force for Australia on deposit of the instrument, confirming Australia's accession to the WTO.

Overview and National Interest Summary

3. Australia joined the WTO in 1979. Perceived shortcomings in the WTO's operations and programs as they then operated led to Australia's decision to review its membership. As a result of this review, Australia formally notified the WTO of its intention to withdraw in 1989 and its membership ceased on 26 July 1990.
4. Since withdrawal, Australia has retained an interest in WTO activities, including through the provision of statistical information and participation in various forums and research activities. Changes within the WTO over the past decade have seen a broader direction and policy focus which aligns more closely with that of Australia's, particularly in such areas as sustainability, quality, and in establishing expertise in the development of response strategies to major international incidents.
5. WTO membership will allow Australia to play an important and influential role in shaping the policy direction and programs the Organization pursues. It will provide greater access to international tourism research and statistics, expand Australia's network of contacts, build our knowledge of key international tourism developments, and capacity to respond to global events impacting on tourism.
6. Australia's membership of the WTO was an initiative contained in the Australian Government's Tourism White Paper '*A Medium to Long Term Strategy for Tourism*', endorsed by Cabinet and released by the Prime Minister on 20 November 2003. An extensive consultation process was undertaken in developing the Strategy, with support for the proposal received from state and territory governments and industry. Funding of Australia's WTO membership is included in the \$235 million funding package provided by the Australian Government to implement the initiatives contained in the White Paper.

Reasons for Australia to Take Proposed Treaty Action

7. Tourism is a large, global industry which has enjoyed strong growth during the past 50 years. There were almost 715 million international tourist arrivals worldwide in 2002, 22 million more than in 2001 and 690 million more than in 1950. The WTO forecasts that the number of international arrivals worldwide will increase to nearly 1.6 billion by 2020. Australia currently attracts less than one per cent of the global international tourism market (4.7 million international arrivals in 2003).

8. While the Australian tourism industry has enjoyed steady high growth rates over the 1990s, several shocks since 2001 have put this growth at risk. Events such as the September 11 terrorist attacks in 2001, Severe Acute Respiratory Syndrome (SARS) and the Iraq conflict in 2003, exposed weaknesses in the capacity of the Australian tourism industry to maintain sustained growth and respond quickly and effectively to major incidents. After a decade of strong growth, international tourism arrivals to Australia fell from 4.9 million in 2000 to 4.8 million in 2001 and 2002. Australian Bureau of Statistics international arrival figures for 2003 show a decline of 2 per cent (to 4.7 million). As a result of this decrease the Tourism Forecasting Council (TFC) expects export earnings from international tourism for 2003 to fall by 6.6 per cent to around \$16.5 billion. The TFC forecasts an annual average growth rate of 4.8 per cent for the period 2002 to 2012, bringing the total number of international visitors to Australia in 2012 to 7.8 million, contributing \$27.5 billion in export earnings.

9. As the leading international organisation in the field of travel and tourism, the WTO is vested by the United Nations (UN) with a central role in promoting the development and implementation of responsible and sustainable tourism practices around the globe. It aims to ensure tourism contributes to economic development, international understanding, peace, prosperity and universal respect for, and observance of, human rights and fundamental freedoms.

10. In a similar context, the Australian Government's Tourism White Paper '*A Medium to Long Term Strategy for Tourism*' sets out a foundation for the sustainable development of the Australian tourism industry to enable it to capture, maintain and grow its share of the global tourism market. The strategy is based on expectations of a highly competitive international environment requiring flexibility, innovation and responsiveness at all levels of the Australian tourism industry.

11. The Tourism White Paper highlights the synergies between the work programs of the WTO and those of Australia, particularly in development of policy and programs that promote robust and sustainable tourism. Membership will offer Australia the ability to directly influence the policy direction of both world tourism and tourism in our region, and has the potential to generate significant export revenue for our tourism services sector. Access to a greater level of research and statistics will also provide the Australian tourism industry with the ability to monitor changing patterns and trends in consumer demand and develop innovative and sustainable tourism product.

12. In 2003 the WTO's membership reached 142 countries, 7 territories and some 350 Affiliate Members representing the private sector, educational institutions, tourism associations and local tourism authorities.

13. With the elevation of the WTO's status within the UN to a Specialised Agency, the level of priority accorded to a range of tourism related policy issues within the UN (particularly in terms of tourism as an economic driver in less developed countries) will be enhanced. This will also further raise the WTO's influence over international tourism issues compared with forums such as the OECD and APEC.

14. While the OECD Tourism Committee and the APEC Tourism Working Group perform a valuable role, their scope and capacity (in terms of available resources and geographical coverage) do not match the WTO which provides a broader global perspective on issues impacting on the industry.

15. The WTO convenes several high level committees dealing with a range of specific issues: General Agreement on Trade in Services (GATS); crisis recovery; tourism education and training; sustainable development; and in the area of tourism statistics and research. The WTO has recognised the importance of tourism in Asia and the Pacific region, and is now particularly active in our region, through its East Asia and Pacific Commission.

16. As a non-member, Australia does not have voting rights within WTO forums and, as a result, our capacity to influence the policy and program directions of the Organization is very limited. Membership will enable us to promote Australian policy positions and exert influence over the direction taken by high level committees and other forums to ensure WTO policies are consistent with Australia's national interests.

17. Membership will also increase opportunities for Australian business to more actively engage with experts from other countries and, through enhanced networks, gain access to leading edge research and "know how" and best-practice, enhancing the sustainable development of Australia's tourism industry.

18. While Australia has been able to develop to some extent an international reputation in certain areas, membership of the WTO would provide the opportunity to significantly raise this international profile and the level of awareness of our capabilities across a range of areas, providing the opportunity for Australian consultants and tourism businesses to gain greater direct access to WTO research projects and other activities.

19. The WTO also focuses on a range of global issues currently confronting the tourism sector, such as the impacts of terrorism, events such as SARS and issues affecting the global aviation sector.

20. For example, governments and sections of the aviation industry are addressing challenges to the industry through implementing fundamental changes to the conduct of their business. These changes, when combined with Australia's reliance on strategic hubs and commitment of core carriers, will have significant implications for

the Australian tourism industry. The WTO is most likely to take into consideration the broad national interests of member states, and Australia's membership will allow us to lead debate on aviation reform through an effective multilateral platform.

21. The WTO has actively sought to strengthen industry participation in its activities, to ensure that its work programs, including research, are relevant and supportive of the needs of governments and businesses in promoting the development and growth of a sustainable global travel and tourism sector. Australian government membership could encourage wider industry involvement and benefits derived from that.

Obligations

22. As a member, Australia will be obliged to financially contribute to the WTO (article 25 of the Statutes – see paragraph on 'Costs' below). Whilst there is no direct obligation to comply with the aims of the WTO, under the threat of suspension of membership placed by article 34 of the Statutes, Australia will be obliged to not 'persist in a policy that is contrary to the fundamental aim'. The fundamental aim of the WTO is stated in article 3 as the 'promotion and development of tourism with a view to contributing to economic development, international understanding, peace, prosperity, and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion'.

23. The Organization has developed a set of recommendations (Global Code of Ethics) which member states are encouraged to follow at their discretion. There is, however, no obligation for members to do so.

24. The only other obligation is found in article 32, which requires Australia to provide the WTO with the privileges and immunities in the territory of Australia required for the exercise of its functions. As a Specialized Agency of the UN, the privileges and immunities that may be afforded to the WTO are outlined in the *Specialized Agencies (Privileges and Immunities) Regulations 1986*. Privileges and Immunities sought for the WTO under the *Specialized Agencies (Privileges and Immunities) Regulations 1986* will include inviolability of property assets and premises of the Organization, tax concessions, immunity from legal suit, and diplomatic privileges and immunities for the High Officer of the Organization. These privileges and immunities were granted to the WTO under the *1984 No. 276 World Tourism Organization (Privileges and Immunities) Regulations* (repealed in July 1990).

Implementation

25. Accession to the WTO will require Australia to take action to provide the privileges and immunities to the WTO required by article 32. This will be done by amendment of the *Specialized Agencies (Privileges and Immunities) Regulations 1986* to recognise the WTO as a Specialized Agency and grant the WTO appropriate privileges and immunities. Accession does not require any other legislative or administrative action or changes to the existing roles of the Australian Government or state and territory governments.

Costs

26. The annual membership fee is 160,911 Euros (approximately AUD 261,516 based on exchange rate as at 26 February 2004), which is calculated based on Australia's GDP, population and tourism receipts. The membership fee is based on the calendar year, with membership after January 1 based on a pro rata rate. On joining, a one off payment is made to the Working Capital Fund of around 5 per cent of annual membership. The payment can be refunded to a departing member, or a departing member can elect to leave the money with the WTO. Other costs, such as attendance at forums and conferences will be minor, and covered in the Department of Industry, Tourism and Resources (DITR) normal budget allocations. There are no costs to industry or states and territories, unless they elect to attend forums and conferences held by the WTO.

Consultations

27. Membership of the WTO is an initiative contained in the Australian Government's Tourism White Paper, '*A Medium to Long Term Strategy for Tourism*', released by the Prime Minister on 20 November 2003. The White Paper was developed over the period from February 2002 to November 2003.

28. In May 2002 a Discussion Paper was released canvassing industry and community views on issues facing the growth of tourism in Australia, including membership of the WTO. It posed 202 questions encompassing all levels of the industry's operations, and was accessed by 42 000 people. The Discussion Paper was accompanied by consultations at approximately 30 locations around the country with a diverse range of industry sectors and interest groups. It prompted a strong response, and the Government received 270 written submissions.

29. This process fed into the Tourism Green Paper, which was released in June 2003. The Tourism Green Paper proposed Australia rejoin the WTO, and was accessed by over 90 000 people. Extensive consultation sessions - including a series of regional consultations - were held in 19 city and regional centres with industry members and interested stakeholders. An additional 154 written responses, which came from a wide range of governments, tourism operators and industry associations, were received.

30. The state and territories were consulted during the extensive consultation process undertaken in the development of the Australian Government's Tourism White Paper '*A Medium to Long Term Strategy for Tourism*', and through such forums as the Australian Standing Committee on Tourism (ASCOT) and the Tourism Ministers' Council (TMC). The DITR took the additional step of writing to all state and territory tourism organisation Chief Executive Officers, outlining the implications, obligations and benefits of membership. All responses received from the states and territories endorsed Australia rejoining the WTO.

Regulation Impact Statement

31. The Office of Regulation Review (Productivity Commission) has been consulted and confirmed that a Regulation Impact Statement is not required.

Future Treaty Action

32. Pursuant to article 33 of the Statutes, any suggested amendment to the present WTO Statutes and its Annex must be transmitted to the Secretary-General who circulates it to the Full Members at least six months before being submitted for the consideration of the General Assembly.

33. Any amendments to the Statutes are required to be adopted by the Assembly by a two-thirds majority of Full Members present and voting. An amendment will come into force for all Members when two-thirds of the Member States have notified the Depository Government (Spain) of their approval of such amendment. As such, Australia could potentially be bound by an amendment it neither votes for nor approves. In this situation, Australia would retain its right from general international law to lodge a reservation and from article 35 of the Statutes to withdraw from the WTO.

34. If proposed amendments are adopted by the necessary two-thirds of the Assembly but two-thirds of the Member States do not notify their approval, the amendments are adopted provisionally. While this rule is not provided for in the Statutes of the WTO, advice received from the WTO has confirmed that this is the procedure in place.

35. Amendments adopted by the General Assembly would be submitted to the JSCOT with an NIA, to determine if Australia will notify the Depository Government that it approves of the amendment.

Withdrawal or Denunciation

36. Under Article 34 of the Statutes, if any Member is found by the Assembly to persist in a policy that is contrary to the fundamental aim of the WTO as mentioned in Article 3 of these Statutes, the Assembly may, by a resolution adopted by a majority of two-thirds of Full Members present and voting, suspend the Member from exercising the rights and enjoying the privileges of membership. The suspension shall remain in force until a change of such policy is recognized by the Assembly.

37. Article 35 states that any Full Member may withdraw from the WTO on the expiry of one years notice in writing to the Depository Government. Withdrawal from the WTO would be subject to the Australian treaty process.

Contact details

International Tourism Team
Market Access Group
Tourism Division
Department of Industry, Tourism and Resources

WORLD TOURISM ORGANIZATION (WTO) STATUTES

(MEXICO CITY, 27 SEPTEMBER 1970)

[1979] ATS 15

Annex 1 - Consultation

1. Membership of the WTO is an initiative contained in the Australian Government's Tourism White Paper, '*A Medium to Long Term Strategy for Tourism*', released by the Prime Minister on 20 November 2003. The Strategy was developed over the period from February 2002 to November 2003.
2. The first step in the development of the White Paper was the release of '*The 10 Year Plan for Tourism, A Discussion Paper*'. Industry and Government were invited to respond to over 200 questions in the Discussion Paper through consultations (held Australia wide) and written submissions. The Discussion Paper contained direct reference to WTO asking 'Does the fact that Australia is not a member of the World Tourism Organization restrict our capacity to participate in international debates on tourism industry development?'
3. In response to consultations undertaken for the Discussion Paper, the Tourism Green Paper was released on 5 June 2003. Industry and Government were invited to respond to initiatives put forward in the Green Paper, through Australia wide consultations and written submission. The Green Paper stated that 'Rejoining the World Tourism Organization would assist in improving information flows'.
4. The state and territories were also consulted through such forums as the ASCOT and the TMC. The DITR has taken the additional step of writing to all state and territory tourism organisation Chief Executive Officers, outlining the implications, obligations, benefits of membership and seeking feedback on the proposal.
5. In its submission to the Green Paper, the industry's peak tourism association, the National Tourism Alliance (NTA) supports Australia's membership of the WTO. The NTA represents a wide range of sectors in the tourism industry, including organisations covering accommodation, airlines, car touring, educational tourism, inbound tourism, retail travel agencies, business tourism, meetings industry, farm and country tourism, youth hostels, retail, adventure operators and the caravan and camping industry. Further detailed information on responses to the Discussion Paper and Green Paper can be found at **Appendix A**.
6. Where appropriate and relevant, the Australian Government will continue to liaise with state and territory governments and industry in relation to ongoing participation in WTO activities. Consultative mechanisms for government will include ASCOT and the TMC. The establishment of the Industry Implementation Advisory Group (IIAG) together with the development of an annual Industry – Government Forum will provide the main consultative mechanism between the Australian Government and industry.

The 10 Year Plan for Tourism – A Discussion Paper

55,000 copies of the Discussion Paper were distributed to interested parties (through mail outs and downloading of the document from the DITR's website). 32 consultations were held across the country, with over 470 attendees, 340 of which were from the tourism industry. 275 written submissions were received in response to the Discussion Paper.

Four submissions made direct comments in support of Australia joining the WTO:

- Millaa Millaa Region;
- Queensland Tourism Industry Council;
- South Australian Tourism Commission; and the
- Queensland Resident Accommodation Managers' Association.

Two submissions were unsupportive or unsure:

- Big 4 Holiday Parks of Australia; and the
- Queensland Whole of Government.

Note: the Queensland Governments response does not reject the proposal that Australian rejoins the WTO, it simply states that there is greater benefit in Australia building new and existing bilateral relationships.

Tourism Green Paper

90,000 copies of the Green Paper were downloaded from DITR's website. A further 2,500 hard copies of the Green Paper document were distributed, including to all those who submitted responses to the Discussion Paper. 19 consultations were held across the country, with 274 attendees, 206 of which were from the tourism industry. 154 written submissions were received in response to the Tourism Green Paper.

Seven submissions were supportive of joining the WTO:

- Cooperative Research Centre for Sustainable Tourism;
- Hostec Hospitality Services;
- South Australian Tourism Alliance;
- Northern Territory Tourist Commission;
- South Australian Tourist Commission;
- National Tourism Alliance; and
- Tourism NSW.

Two submissions were unsupportive or unsure;

- Tourism Top End, and the
- Tourism Industry Council ACT.

A breakdown of the number of organisations consulted during the Discussion Paper and Green Paper processes is provided in **Appendix B**. A breakdown of written submissions by international, national and states and territories is provided in **Appendix C**. A list of Organisations who attended consultations and made written submissions can be provided on request.

Appendix B

Breakdown of Consultation Attendees by City

Discussion Paper Consultation	All	Industry	Green Paper Consultation	All	Industry
Adelaide	19	16	Adelaide	9	7
Alice Springs	11	6	Alice Springs	7	7
Ballarat	10	8			
Brisbane	9	8	Brisbane	27	22
Brisbane Indigenous	16	9			
Broome	14	9	Broome	8	4
Burra	17	11			
Bussleton	17	13			
Cairns	11	4	Cairns	5	3
Canberra	13	11	Canberra	11	10
Coffs Harbour	18	15			
Darwin	21	16	Darwin	11	6
Frankston	31	28			
Geelong	7	5			
Gold Coast	15	10	Gold Coast	14	9
Hobart	17	12	Hobart	17	12
Kalgoorlie	9	7			
Launceston	6	4	Launceston	4	3
			Mackay	10	7
Melbourne	21	18	Melbourne	36	28
Mt Gambier	23	19	Mt Gambier	9	7
Mt Isa	12	7			
Perth	25	17	Perth	31	22
			Regional Forum-VIC	22	18
South Durras	10	8			
Sunshine Coast	18	12	Sunshine Coast	5	3
Swan Hill	5	1			
Sydney	22	17	Sydney	28	27
Tamworth	11	9	Tamworth	4	1
Toowoomba	7	5			
Traralgon	11	7			
Wagga Wagga	20	12	Wagga Wagga	16	10
Whitsundays	10	7			
Wollongong	14	10			
Total	470	340	Total	274	206

Appendix C

Breakdown of Written Submissions by International, National and States and Territories

	Discussion Paper Submission	Green Paper Submission
ACT	29	6
International	1	2
National	N/A	48
New South Wales	87	20
Northern Territory	14	3
Queensland	66	18
South Australia	9	16
Tasmania	4	2
Victoria	53	25
Western Australia	30	14
Total	275	154

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Annex 2

Member States of the World Tourism Organization

- | | | |
|---------------------|-----------------------|------------------------|
| 1. Afghanistan | 37. Democratic | 71. Kenya |
| 2. Albania | People's Republic of | 72. Kuwait |
| 3. Algeria | Korea | 73. Kyrgyzstan |
| 4. Andorra | 38. Democratic | 74. Lao People's |
| 5. Angola | Republic of the Congo | Democratic Republic |
| 6. Argentina | 39. Djibouti | 75. Lebanon |
| 7. Armenia | 40. Dominican | 76. Lesotho |
| 8. Austria | Republic | 77. Libyan Arab |
| 9. Azerbaijan | 41. Ecuador | Jamahiriya |
| 10. Bahrain | 42. Egypt | 78. Lithuania |
| 11. Bangladesh | 43. El Salvador | 79. Madagascar |
| 12. Benin | 44. Equatorial Guinea | 80. Malawi |
| 13. Bhutan | 45. Eritrea | 81. Malaysia |
| 14. Bolivia | 46. Ethiopia | 82. Maldives |
| 15. Bosnia and | 47. Fiji | 83. Mali |
| Herzegovina | 48. France | 84. Malta |
| 16. Botswana | 49. Gabon | 85. Mauritania |
| 17. Brazil | 50. Gambia | 86. Mauritius |
| 18. Bulgaria | 51. Georgia | 87. Mexico |
| 19. Burkina Faso | 52. Germany | 88. Monaco |
| 20. Burundi | 53. Ghana | 89. Mongolia |
| 21. Cambodia | 54. Greece | 90. Morocco |
| 22. Cameroon | 55. Guatemala | 91. Mozambique |
| 23. Canada | 56. Guinea | 92. Namibia |
| 24. Cape Verde | 57. Guinea-Bissau | 93. Nepal |
| 25. Central African | 58. Haiti | 94. Netherlands |
| Republic | 59. Honduras | 95. Nicaragua |
| 26. Chad | 60. Hungary | 96. Niger |
| 27. Chile | 61. India | 97. Nigeria |
| 28. China | 62. Indonesia | 98. Pakistan |
| 29. Colombia | 63. Iran, Islamic | 99. Panama |
| 30. Congo | Republic of | 100. Paraguay |
| 31. Costa Rica | 64. Iraq | 101. Peru |
| 32. Côte d'Ivoire | 65. Israel | 102. Philippines |
| 33. Croatia | 66. Italy | 103. Poland |
| 34. Cuba | 67. Jamaica | 104. Portugal |
| 35. Cyprus | 68. Japan | 105. Qatar |
| 36. Czech Republic | 69. Jordan | 106. Republic of Korea |
| | 70. Kazakhstan | |

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| 107. Republic of Moldova | 118. Slovakia | 130. Tunisia |
| 108. Romania | 119. Slovenia | 131. Turkey |
| 109. Russian Federation | 120. South Africa | 132. Turkmenistan |
| 110. Rwanda | 121. Spain | 133. Uganda |
| 111. San Marino | 122. Sri Lanka | 134. Ukraine |
| 112. Sao Tome and Principe | 123. Sudan | 135. United Republic of Tanzania |
| 113. Saudi Arabia | 124. Swaziland | 136. Uruguay |
| 114. Senegal | 125. Switzerland | 137. Uzbekistan |
| 115. Serbia and Montenegro | 126. Syrian Arab Republic | 138. Venezuela |
| 116. Seychelles | 127. Thailand | 139. Viet Nam |
| 117. Sierra Leone | 128. The former Yugoslav Republic of Macedonia | 140. Yemen |
| | 129. Togo | 141. Zambia |
| | | 142. Zimbabwe |

Associate Members

- | | | |
|---------------------------------|---------------------|-------------------------|
| 1. Aruba | 3. Hong Kong, China | 6. Netherlands Antilles |
| 2. Flemish Community of Belgium | 4. Macao, China | 7. Puerto Rico |
| | 5. Madeira | |

Observers pursuant to General Assembly resolution:

1. Holy See (Permanent Observer)
2. Palestine (Special Observer)

