

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.3

Question No. 29

Senator Crossin asked the following question at the hearing on 31 October 2005:

Please provide a copy of correspondence seeking comment on the draft text of the Convention on the rights of people with Disabilities.

The answer to the honourable senator's question is as follows:

On 30 September 2005, letters jointly signed by the Attorney-General's Department (AGD) and the Department of Family and Community Services (FaCS) were sent to relevant Australian Government agencies, State and Territory Governments through the Standing Committee on Treaties (SCOT) officials and the Standing Committee of Attorneys-General (SCAG) officials, and organisations from the disability, human rights, legal and business sectors. The letters advised of progress since the previous round of consultations and plans for ongoing consultation. The template letter is included at **Attachment A**.

On 24 October 2005, subsequent to the release of the Chair's Text, further joint AGD-FaCS letters were sent to relevant stakeholders.

The letters to Australian Government agencies sought general comments on the Chair's text, and also nominated some Departments as having lead agency responsibility for preparing briefings on particular articles of the Chair's Text. The template letter to Australian Government agencies is included at **Attachment B**.

The letters to SCOT and SCAG officials sought a single whole-of-Government response for each State and Territory. The template letter to SCOT and SCAG officials is included at **Attachment C**.

The letters to the human rights, legal, and business groups sought general comments on the text and/or articles of particular interest to their organisation. The template letter to these groups is included at **Attachment D**.

The letters to organisations within the disability sector also advised that the Australian Federation of Disability Organisations would be consulting with them under the terms of the \$50,000 grant approved by the Attorney-General in October 2005. The template letter to disability sector groups is included at **Attachment E**.

(JOINT AGD/FACS LETTERHEAD)

05/13129

30 September 2005

[*Name of Departmental Secretary / SCOT/SCAG Official / Head of Disability/Human Rights/Legal/Business Sector Organisation*]

[*Name of Agency/Organisation*]

[*Address*]

Dear [*Name*]

Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

We write to update you on work underway in the United Nations on a *Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities* (Convention). This letter also advises of the next steps in the process to develop the Convention which will involve widespread and time-critical consultation, and to request that you nominate a contact for this purpose urgently.

As part of a broad consultation process, we are also writing to other relevant Australian Government agencies, State and Territory Governments, as well as stakeholders among the disability sector, human rights, business and legal groups.

Background

An Ad Hoc Committee was established by the United Nations General Assembly in December 2001 to consider proposals for a Convention, and to this point there have been six sessions, the most recent being held from 1 August to 12 August 2005.

Australian Involvement in the Ad Hoc Committee Sessions

Australia has been actively involved in the development of the draft Convention. The Australian Government has sent an official delegation to each session of the Ad Hoc Committee. Delegation members include Australian Government agency representatives and representatives of the Human Rights and Equal Opportunity Commission (HREOC) and the disability sector.

The Attorney-General's Department (AGD) and the Department of Family and Community Services (FaCS) have consulted with other Australian Government agencies, State and Territory Governments, the disability sector, and human rights, legal and business groups. The responses to the consultations have informed the development of the Australian Government's position on its participation in the UN process as well as the briefing of Australia's official delegations.

Outcomes from the Ad Hoc Committee Sessions

The initial meetings of the Ad Hoc Committee examined options for an instrument, and established a working group comprising states, non-government organisations and one national human rights institution to develop a draft text. A first reading of the working group's draft text was completed at the third session. Over the course of the fourth, fifth and sixth sessions, members of the Committee negotiated the text and made various proposals for textual amendment. At the sixth session, the Ad Hoc Committee completed its second reading and recommended that it hold two sessions in 2006 of between 10 and 15 working days each during January and August 2006.

The Committee's draft reports and the Chairs' summaries of discussion on articles negotiated at the fourth, fifth and sixth sessions are available at:

<http://www.un.org/esa/socdev/enable/rights/ahc4.htm> - (fourth session)

<http://www.un.org/esa/socdev/enable/rights/ahc5.htm> - (fifth session)

<http://www.un.org/esa/socdev/enable/rights/ahc6.htm> - (sixth session)

The Next Steps

Chair's Text

At the conclusion of the sixth session, the Chair of the Committee indicated his intention to release a 'Chair's text' during October 2005. The Chair's text will take account of the negotiations to date, and will be the subject of the third reading of the text during the January 2006 meeting. Outstanding issues of difference would be finalised at the August 2006 meeting.

In order to inform development of the Australian Government's position prior to the third reading of the text, time critical consultations will be necessary. Consequently, we will seek the views of the relevant stakeholders as soon as the Chair's text becomes available.

Briefings on Draft Articles

The delegation will require a comprehensive briefing on each article of the Chair's text. AGD and FaCS will coordinate this. However, we will be asking agencies to provide input and in some cases to prepare and coordinate briefs. It is proposed that upon receipt of the Chair's text, lead agency responsibility for each article will be assigned to relevant Australian Government agencies. Lead agencies will be responsible for providing a briefing on the particular article using a template to be provided by AGD, and will most likely incorporate input from State and Territory Governments and the disability sector. The briefings will require Branch Head level clearance.

Set out below is a list of the articles in the draft Convention as at the end of the sixth session. Although the names and numbers of the articles may change, it is expected that the overall content of the articles will not change significantly.

Art. No.	Subject of Article	Art. No.	Subject of Article
1	Purpose	15	Living Independently
2	General Principles	15bis	Women with Disabilities
3	Definitions	16	Children with Disabilities
4	General Obligations	17	Education
5	Promotion of Positive Attitudes	18	Participation in Political and Public Life
6	Statistics and Data Collection	19	Accessibility
7	Equality and Non-Discrimination	20	Personal Mobility
8	Right to Life	21	Right to Health and Rehabilitation
9	Equal Recognition before the Law	22	Right to Work
10	Liberty and Security	23	Social Security and Adequate Standard of Living
11	Freedom from Torture	24	Participation in Cultural Life
12	Freedom from Violence and Abuse	24bis	International Cooperation
13	Freedom of Expression, Opinion	25	Monitoring
14	Respect for Privacy		

Nomination of Contact Officer

There will be a short timeframe for consultation and preparing briefings once the Chair's text has been received. We ask that your agency nominate a contact officer. All relevant information will be forwarded directly to the nominated contact officer to expedite the consultations and briefing processes.

It would be appreciated if the nominated contact officer could contact Human Rights Branch – AGD as soon as possible on (02) 6250 5597 or by e-mail. Please also indicate in which articles your agency has an interest.

We will write to your agency again when the Chair's text is received.

Yours sincerely

[signatures]

Matt Minogue
Assistant Secretary
Human Rights Branch
Attorney-General's Department

Ben Wallace
Branch Manager
Disability and Carers Branch
Department of Family and Community
Services

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E-mail: Matt.Minogue@ag.gov.au

Telephone: (02) 6244 7700
Facsimile: (02) 6244 7976
E-mail: ben.wallace@facs.gov.au

(JOINT AGD/FACS LETTERHEAD)

05/13129

24 October 2005

[*Name of Secretary/Nominated Contact Officer*]

[*Name of Agency*]

[*Address*]

Dear [*Name of Secretary/Nominated Contact Officer*]

Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

As foreshadowed in our letter of 30 September 2005, the Chair's Text on the United Nations' *Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities* (Convention) has been released.

Included at **Attachment A** is a copy of the covering letter from the Chair of the UN Ad Hoc Committee explaining how the Text has developed to this point. Also included at **Attachment B** is a copy of the Chair's Text. Alternatively, the two documents can be found at: <http://www.un.org/esa/socdev/enable/>. Some of the names and numbers of the articles have changed from the listing provided in the letter of 30 September 2005.

As we indicated previously, timing for preparations for the next stage of negotiations is very tight – the UN Ad Hoc Committee will meet in January 2006. This letter seeks your agency's:

- Contact officer [*delete if contact officer already nominated*]
- Participation in an inter-departmental committee (IDC) meeting on a date to be arranged
- General comments (if any) on the Convention by Monday 28 November 2005, and
- Brief as lead agency on draft articles within your responsibility by Wednesday 7 December 2005.

These steps are explained further below.

Two-Step Consultation Process

Your assistance is sought in a two-step consultation process. In the first step, we seek your general comments on any draft article in which your portfolio may have an interest. The second step of the process is to prepare briefings on each article of the Chair's Text. We will provide all general comments received from stakeholders among the disability, human rights, legal and business sectors, as well as State and Territory governments and relevant Australian Government agencies to the nominated lead agency for consideration in developing the briefing on each draft article. The briefings will then be compiled by AGD and FaCS into one consolidated briefing package for the Australian delegation.

Lead Agency Responsibility for Briefings

The delegation to the next session of the Ad Hoc Committee will rely on briefings on each article as their instructions for negotiations. Lead agency responsibility for each article has been assigned to an Australian Government agency on the basis of that agency's portfolio responsibility or primary expertise and familiarity with the subject matter of the article. Lead agencies are asked to provide briefing on the article using the template provided at **Attachment C**. Briefings will need to consider the views of State and Territory Governments (who may ultimately be responsible for implementation), and key stakeholders such as the disability sector. The briefings will require Branch Head level clearance.

Your agency has been nominated as lead agency for Article [*insert number of article*] which relates to [*insert subject of article*]. (Please advise us urgently if you do not agree with this nomination). It may be helpful to review the previous draft article and briefing on education which related to the earlier draft. They are included for your information at **Attachment D** and **Attachment E** respectively.

Negotiations at the seventh and eighth sessions will seek to finalise the text for presentation to the UN General Assembly. The Chair of the Ad Hoc Committee has requested that the text be considered on the basis of what would be acceptable rather than preferable. Briefing should therefore focus on:

- whether the text would be acceptable
- if there is text that would be unacceptable, and
- if so, that you provide instructions for the necessary changes that would allow the delegation to negotiate an acceptable text.

For your information, a full listing of the agencies assigned lead agency responsibility for each article is included at **Attachment F**. The first column contains the number of the article in the Chair's Text with the corresponding number of the article in the previous draft included in brackets. The lead agency listing contains an additional column which lists agencies that we consider would have an interest in the draft article.

Timeframe

Our letter of 30 September 2005 indicated that the timeframe for the consultation and briefings processes would be extremely tight. The seventh session of the Ad Hoc Committee will be held in January 2006 in New York. Given the holiday season and the Christmas closedown period, sufficient time will need to be allowed to:

- consider and disseminate general comments to the agencies responsible for preparing the briefings
- prepare the briefings
- forward the briefings to the delegation for consideration, and
- clarify any questions the delegation may have about issues raised in the briefings.

Consequently, the general comments sought in the first step of the consultation process are required by **Monday 28 November 2005**.

The lead agency briefings sought in the second step of the consultation process are required by **Wednesday 7 December 2005**.

Please provide your comments and briefings by e-mail.

AGD can also provide you with electronic versions of any documents included in the Attachments. If there are any further queries, AGD can be contacted on (02) 6250 5597.

Yours sincerely

[*signatures*]

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(JOINT AGD/FACS LETTERHEAD)

05/13129

24 October 2005

[*Name of SCOT/SCAG Official*]

[*Name of Agency*]

[*Address*]

Dear [*Name of SCOT/SCAG Official*]

Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

As foreshadowed in our letter of 30 September 2005, the Chair's Text on the *Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities* (Convention) has been released. We now seek your comments on the draft text.

Included at **Attachment A** is a copy of the covering letter from the Chair of the UN Ad Hoc Committee explaining how the Text has developed to this point. Also included at **Attachment B** is a copy of the Chair's Text. Alternatively, the two documents can be found at: <http://www.un.org/esa/socdev/enable/>. Some of the names and numbers of the articles have changed from the listing provided in the letter of 30 September 2005.

In order to brief the Australian delegation prior to the third reading of the text, the Australian Government is proceeding with a comprehensive consultation process involving stakeholders from the disability, human rights, legal and business sectors, as well as State and Territory governments and relevant Australian Government agencies.

We request State and Territory governments provide a whole-of-government comment on relevant draft articles of the Chair's Text. A list of the SCOT and SCAG Officers within your jurisdiction who have been approached in this process is included for your reference at **Attachment C**. You may wish to liaise with the relevant [SCAG/SCOT – *delete as appropriate*] officer in your State prior to submitting a final response.

Your response will be considered in developing the briefings on each article. These briefings will form a comprehensive briefing package for the Australian delegation to the January session of the Ad Hoc Committee.

Negotiations at the seventh and eighth sessions will seek to finalise the text for presentation to the UN General Assembly. The Chair of the Ad Hoc Committee has requested that the text be considered on the basis of what would be acceptable rather than preferable. The whole-of-government comment should therefore focus on:

- whether the text would be acceptable

- if there is text that would be unacceptable, and
- if so, that you provide instructions for the necessary changes that would allow the delegation to negotiate an acceptable text.

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- consider and disseminate general comments to the agencies responsible for preparing the briefings
- prepare the briefings
- forward the briefings to the delegation for consideration, and
- clarify any questions the delegation may have about issues raised in the briefings.

Consequently, general comments on the draft text are required by **Monday 28 November 2005**.

Please forward your response to:

Human Rights Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600

AGD can also provide you with electronic versions of the documents included in the Attachments. If there are any further queries, AGD can be contacted on (02) 6250 5597

Yours sincerely

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05/13129

24 October 2005

[*Name of Contact Officer*]

[*Name of Human Rights/Legal/Business Sector Organisation*]

[*Address*]

Dear [*Name of Contact Officer*]

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As we indicated previously, timing for preparations for the next stage of negotiations is very tight – the UN Ad Hoc Committee will meet in January 2006. We now seek your comments on the draft text.

Included at **Attachment A** is a copy of the covering letter from the Chair of the UN Ad Hoc Committee explaining how the Text has developed to this point. Also included at **Attachment B** is a copy of the Chair's Text. Alternatively, the two documents can be found at: <http://www.un.org/esa/socdev/enable/>. Some of the names and numbers of the articles have changed from the listing provided in the letter of 30 September 2005.

In order to brief the Australian delegation prior to the third reading of the text, AGD and FaCS are consulting stakeholders from the disability, human rights, legal and business sectors, as well as State and Territory governments and relevant Australian Government agencies. Briefings will take stakeholder comments into account and will form a comprehensive briefing package for the Australian delegation to the January session of the Ad Hoc Committee.

We seek your comments on articles of the Chair's Text of particular interest to your organisation.

Timeframe

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05/13129

24 October 2005

[*Name of Contact Officer*]
[*Name of Disability Sector Organisation*]
[*Address*]

Dear [*Name of Contact Officer*]

Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

As foreshadowed in our letter of 30 September 2005, the Chair's Text on the *Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities* (Convention) has been released.

As we indicated previously, timing for preparations for the next stage of negotiations is very tight – the UN Ad Hoc Committee will meet in January 2006. We now seek your comments on the draft text through participation in national disability sector consultations.

We are pleased to advise that the Attorney-General has approved a grant of \$50,000 to the Australian Federation of Disability Organisations (AFDO) to undertake nationwide consultations with the disability sector on the Chair's Text. Community consultations conducted by People With Disability Inc (in consultation with AFDO and the National Association Community Legal Centres) and funded by the Attorney-General's Department last year resulted in a report on the national consultations which was extremely valuable to the Australian delegation to the UN Ad Hoc Committee.

Again, we seek from the disability sector a single submission on the Chair's Text. AFDO will be contacting you soon to invite you to participate in the consultation process.

Included at **Attachment A** is a copy of the covering letter from the Chair of the UN Ad Hoc Committee explaining how the Text has developed to this point. Also included at **Attachment B** is a copy of the Chair's Text. Alternatively, the two documents can be found at: <http://www.un.org/esa/socdev/enable/>. Some of the names and numbers of the articles have changed from the listing provided in the letter of 30 September 2005.

In order to brief the Australian delegation prior to the third reading of the text, AGD and FaCS are consulting stakeholders from the disability, human rights, legal and business sectors, as well as State and Territory governments and relevant Australian Government agencies. Briefings will take stakeholder comments into account and will form a comprehensive briefing package for the Australian delegation to the January session of the Ad Hoc Committee.

The contact details for AFDO are as follows:

Ms Maryanne Diamond
Chief Executive Officer AFDO
247 Flinders Lane
Melbourne VIC 3000

Ph: (03) 9662 3324
TTY: (03) 9662 3724
Fax: (03) 9662 3325
E-mail: maryanne.diamond@afdo.org.au

The Human Rights Branch (AGD) can also provide you with electronic versions of the documents included in the Attachments. If there are any further queries, AGD can be contacted on (02) 62505597.

Yours sincerely

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