

## Preface

The WTO's General Agreement on Trade in Services (GATS) and the proposed Australia-US Free Trade Agreement (US FTA) are two of the more significant trade agreements to have engaged Australia's interest. This Report provides an analysis and assessment of the current state of play with both treaties. It is to be seen as part of the transparency and accountability requirements of the parliament.

In this inquiry, the Committee has had to deal with the dynamic nature of negotiations for both GATS and the US FTA. The collapse of the WTO ministerial talks at Cancun (September 2003) has severely impeded the progress of the Doha round of multilateral trade negotiations in general and the GATS in particular. On the home front, Australia has been involved in four rounds of talks with American negotiators, with a critical round of negotiations scheduled for December 2003.

This report, therefore, is far from being the last word on the outcomes for Australia. It does, however, seek to provide a comprehensive overview of the issues thrown up by the GATS and the US FTA, and to highlight both the pitfalls and opportunities that confront Australia as it presses forward on these two fronts.

The GATS – perceived by many as a powerful instrument of economic globalisation – has been the source of community concern about the extent to which the opening up of the Australian market to foreign service providers will impact upon Australia's sovereignty. Fears have been expressed that commitments to GATS will restrict the capacity of governments to regulate the services sector for the purposes of environmental protection, preservation of cultural interests, quarantine, financial practices, health and safety standards, and the pursuit of domestically significant policies. In particular, there is a concern that the GATS will undermine governments' capacity to deliver and control core public services.

The Committee has sought to examine these issues in detail and to provide a balanced account of the costs and benefits associated with the GATS. The Committee is generally satisfied that Australia has approached the GATS negotiations in a prudent manner. In identifying those services that will be invited into the domestic market, Australian negotiators have taken particular care to address the prominent concerns of the community. This is not to say that we have perfect knowledge about future developments under GATS, nor that proposals will not emerge that will re-kindle anxieties.

The Committee will continue to monitor Australia's progress in the WTO's Doha round, and urges the government to attend carefully to the matters raised in this Report when framing its negotiating strategies.

The US FTA has attracted some controversy, with economic modellers arriving at differing assessments of its benefits, and with the politics of agriculture, national identity and welfare animating much of both the public debate and the negotiating process itself. The FTA has received strong backing from Prime Minister Howard and US President Bush, who have asked their negotiators to have the draft agreement settled by the end of 2003.

The Committee notes that Australia has been very much the initiator of the present US FTA proposal, in contrast to its past reluctance to embrace bilateral trade agreements with America when the 'hub and spokes' proposal was floated. Now however such an agreement is promoted as a means of 'harmonising' Australia's trade and security arrangements with the US.

An Australia-US Free Trade Agreement would encourage a much greater integration of the American and Australian economies, with important ramifications for inter-country investment flows. As usual, negotiating access to agricultural markets has proven a difficult task. For the Americans, Australia's strict quarantine regime is regarded as a disguised trade barrier militating against a range of products, from chicken meat to stone fruits. For Australian farmers, some of America's tariffs and quotas are hugely protectionist. As well, domestic US farm subsidies make it even more difficult for Australian producers to compete.

Again, regulatory issues were prominent among the concerns expressed to the Committee by witnesses, including fears that Australian environmental and investment controls might be challenged, diluted or dismantled in favour of corporate interests. This inquiry has highlighted fears that Australia's Pharmaceuticals Benefits Scheme may be caught up in the FTA negotiations. US negotiators have also stated that, while existing Australian media local content rules could be accommodated in an FTA, the future delivery of cultural product in digital form was a different matter.

Because the report of the Committee's inquiry into GATS and the US FTA was due to be tabled in November 2003, it has not been possible for the Committee to examine the US FTA in its final form. The Committee has therefore recommended that the Senate refer the details of the FTA to the Committee for examination and report once the detailed contents of the proposed FTA are known.

As well as examining specific features of the two Agreements, the Committee has also explored more general aspects of international trade. For example, it has considered the role of trade in poverty reduction and economic development; the impact of bilateral trading agreements on multilateral trade arrangements; and questions of trade creation and diversion.

Perhaps of greater importance is the Committee's consideration of how best to ensure that major trade agreements are negotiated in a way that ensures transparency and the ability of citizens to have an effective input into the shaping of them. America's constitutional arrangements provide for Congress to have a significant role both in initiating trade agreements, and in agreeing to the final treaty. Australia's approach is quite different, with the executive government able to initiate and sign off on a trade

deal with very little input from the parliament. Apart from a review of the finalised agreement by a parliamentary committee (which can comment on the treaty but not amend it), parliament's main role is *after the event*, when it must vote on any changes to domestic law that the new trade treaty requires.

In the Committee's view, much of the public's uncertainty and suspicion regarding trade deals could be dispelled by proper levels of parliamentary scrutiny. To that end, the Committee has recommended a formalising of the treaty-making process whereby parliament is directly engaged in scrutiny of the proposed agreement, and in monitoring closely the associated negotiations. As well, the Committee has made recommendations to government concerning the level of independent advice and research that should precede and accompany treaty-making.

Trade treaties are not small undertakings. They have the potential to affect citizens directly and immediately; they can result in important structural and institutional changes; they seek to bring about long term efficiencies in the way our country develops and how competitive we are as a nation; and they can bind future governments in unpredictable ways that can affect our national interest. For these reasons governments must optimise the transparency of the treaty-making process, consult widely in the formulation of negotiating strategies, and remain fully accountable to the parliament for the outcomes that flow from any agreement.

Hopefully, this report will make an enduring contribution to the way in which our nation embraces trade reform. At a time of increasing criticism of trade agreements by interest groups, an effective parliamentary role not only strengthens our democracy but should also reassure sceptics and believers alike that the national interest will be properly served.



Senator the Hon Peter Cook

Chair

