

# Chapter 1

## Introduction and conduct of the inquiry

### Referral of the inquiry

1.1 On 12 December 2002, the Senate established an inquiry into the General Agreement on Trade in Services (GATS) and the proposed Australia-United States Free Trade Agreement (US FTA). The inquiry was referred to the Senate Foreign Affairs, Defence and Trade References Committee for inquiry and report by 27 November 2003.

### Terms of reference

1.2 The Senate referred the following matters to the Committee:

- (1) The relevant issues involved in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development Round of the World Trade Organisation, including but not limited to:
  - (a) the economic, regional, social, cultural, environmental and policy impact of services trade liberalisation
  - (b) Australia's goals and strategy for the negotiations, including the formulation of and response to requests, the transparency of the process and government accountability
  - (c) the GATS negotiations in the context of the 'development' objectives of the Doha Round
  - (d) the impact of the GATS on the provision of, and access to, public services provided by government, such as health, education and water
  - (e) the impact of the GATS on the ability of all levels of government to regulate services and own public assets.
- (2) The issues for Australia in the negotiation of a Free Trade Agreement with the United States of America including but not limited to:
  - (a) the economic, regional, social, cultural, environmental and policy impact of such an agreement
  - (b) Australia's goals and strategy for negotiations including the formulation of our mandate, the transparency of the process and government accountability
  - (c) the impact on the Doha Development Round.

## **Conduct of the Inquiry**

### **Advertisement**

1.3 The Committee advertised the terms of reference in *The Australian* on 18 December 2003. The closing date for submissions was 11 April 2003.

### **Submissions**

1.4 The Committee received 177 submissions, including supplementary submissions. These are listed at Appendix 1. The Committee also received 146 form letters.

### **Public Hearings**

1.5 The Committee held six public hearings, in Melbourne, Canberra, Sydney and Brisbane. A list of these hearings, together with the names of witnesses who appeared, is at Appendix 2.

### **References**

1.6 References made in this report are to individual submissions, not to a bound volume. References to the Committee *Hansard* transcript are to the Official *Hansard* record of the public hearings.

### **Acknowledgements**

1.7 The Committee would like to acknowledge the assistance of the Parliamentary Library in the preparation of this report. The Committee also thanks all witnesses and departmental officers for their valuable contributions, in particular those who provided additional submissions at the request of the Committee.

### **Structure of report**

1.8 The Committee considered that it would be useful to provide a brief introduction outlining the development of the multilateral trading system, the question of trade for development and poverty reduction and the debate about the comparative advantages and disadvantages of the multilateral system as against bilateral trade agreements. Chapter 2 and part of Chapter 6 considers these issues.

1.9 Chapter 3 examines the issue of parliamentary involvement in the treaty-making process. The lack of parliamentary participation in the process of negotiating trade treaties was raised in a number of submissions to the inquiry. There are important differences between trade treaties and treaties dealing with other issues such as human rights and labour standards. Because of the binding nature of the commitments made in trade agreements, and their enforceable dispute resolution mechanisms, the Committee considered that a strong case could be made for greater Parliamentary scrutiny and involvement in the process of making trade treaties.

1.10 The relevant issues in regard to the General Agreement on Trade in Services (GATS) and the proposed Australia – United States Free Trade Agreement (US FTA) are then considered. Chapter 4 contains an introduction to the GATS and an outline of Australia's involvement in the negotiations for liberalisation of services trade from the Uruguay Round to the present. Chapter 5 considers in more detail a number of issues raised in evidence before the committee, including the GATS and public services, the impact of the GATS on governments' right to regulate, and the public consultation processes undertaken by the Department of Foreign Affairs and Trade.

1.11 Chapter 6 considers the proposed US FTA in some detail, setting out the history of and rationale behind the current negotiations and examining the major concerns raised in evidence before the Committee. The general issues include the adequacy of the economic analysis which has been used to justify entering into the US FTA, including the nature of the information published by the Department of Foreign Affairs and Trade; whether bilateral agreements undermine the multilateral trading system; the relationship of the US FTA to Australia's broader foreign policy and security; the question of trade diversion; and the impact on governments' flexibility and the right to regulate.

1.12 Chapter 6 goes on to consider a number of specific issues about which there was a level of public anxiety and which many consider to be under threat as a result of the negotiation of the US FTA. These issues include Australia's Pharmaceutical Benefits Scheme, the quarantine regime, local content rules in the media, investment and dispute resolution, agriculture and rules of origin.

### **Ongoing issues**

1.13 As indicated in the Preface, as the Committee's report was due to be tabled in November 2003 (prior to completion of the negotiations for the US FTA) it has not been possible for the Committee to examine the US FTA in its final form. For this reason, the Committee has recommended that its review be extended and that the Senate refer the details of the US FTA to the Committee for examination and report once the final contents of the proposed agreement are known, and the text has become available for scrutiny. If the proposed December 2003 deadline for conclusion of negotiations is met, it is expected that the draft will become available in early 2004. The Committee's intention is that it will examine and report on the text of the proposed FTA within the same time frame as the US Congress is conducting its own examination of the treaty.

