



**Australian Government**  
**Department of Foreign Affairs and Trade**

File Number: 16/2258

26 February 2016

Mr David Sullivan  
Secretary  
Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Mr Sullivan

I am writing to correct Elizabeth Ward's testimony at the Senate Foreign Affairs Defence and Trade Legislation Committee Additional Estimates Hearing on 11 February 2016.

In the context of questions about the Trans-Pacific Partnership (TPP) Agreement's Government Procurement Chapter, Ms Ward was asked whether hospitals are exempt from the Government Procurement Chapter, and what monetary thresholds apply. The discussion is referenced on page 103 of the proof Hansard (attached).

The Department of Foreign Affairs and Trade has since been informed by the Department of Finance that whether a foreign company could raise a complaint about a Launceston hospital awarding a food contract to a small local business would depend on whether the value of the procurement was above the relevant threshold, which is A\$614,000, and whether the procurement had followed the relevant procurement rules in Tasmania that implement TPP. A complaint could not be raised simply because a local supplier had won the contract. Public hospitals in all Australian States except New South Wales and Queensland are covered by the TPP's Government Procurement Chapter. Australia has a monetary threshold of 355,000 SDR (approximately A\$614,000, calculated on 1 January 2016) for procurement of goods and services by sub-central government entities.

I would appreciate if you could pass on to the Committee my sincere apology on behalf of Ms Ward.

Yours sincerely

Handwritten signature of Patricia Holmes in blue ink.

Patricia Holmes  
A/g First Assistant Secretary  
Office of Trade Negotiations

**Ms Ward:** This is the first time we will be doing this particular arrangement, which is why we need to promulgate a new law in support.

**Senator WHISH-WILSON:** I know it sounds simplistic, but in my home town of Launceston if the hospital wanted to give a food contract to a local small business would that be subject to potential complaint by a foreign supply services company if the tender is given to a local business?

**Ms Ward:** No.

**Senator WHISH-WILSON:** It will not be, unless it is a state government owned—

**Ms Ward:** No, hospitals are exempt.

**Senator WHISH-WILSON:** They are exempt, are they? What other institutions are exempt?

**Ms Ward:** I would need to take that on notice.

**Senator WHISH-WILSON:** If you could please, thank you.

**Senator GALLACHER:** Is there a monetary value that is exempt, as there is in America? The American states have a monetary value that they do not have to abide by.

**Ms Ward:** That is correct; that is the arrangement in the United States.

**Senator GALLACHER:** What about here?

**Ms Ward:** We do not have a monetary value. We do have, however, a policy that gives preference to SMEs; it gives preference to small- and medium-sized enterprises for procurement purposes.

**Senator WHISH-WILSON:** Ms Ward, will this detail be available to us through the JSCOT process? Will we be able to have a look at that?

**Ms Ward:** It is available already online; however, I can take these on notice and provide them to you.

**Senator WHISH-WILSON:** I will save you the time. I will find them if they are online.

**Ms Ward:** Thank you.

**Senator WHISH-WILSON:** Senator Wong, were you going to ask about the national interest about the Migration Act and section 140GBA—issues around labour movement?

**Senator WONG:** I have got a lot of questions.

**Senator WHISH-WILSON:** I will leave it to Senator Wong. I have some questions, but I will leave them to you.

**Senator WONG:** I may not ask the same ones as you, Senator Whish-Wilson.

**Senator WHISH-WILSON:** I am sure you will do a very good job. I have some broad-brush questions about the national interest analysis. What was the cost? Was it done internally within DFAT?

**Ms Ward:** Yes.

**Senator WHISH-WILSON:** What was the cost of the preparation of the national interest analysis?

**Ms Ward:** I could probably work it out in terms of time of my team.

**Senator WHISH-WILSON:** I would be interested to know because, as you know, there is ongoing debate about whether it should be outsourced to someone independent.

**Ms Ward:** The national interest analysis is a requirement of the government agencies in tabling a treaty and it is a requirement of the government to prepare this document.

**Senator WHISH-WILSON:** I would like that requirement changed so that we can outsource it to the Productivity Commission or someone independent. I am just trying to get an idea of what it would cost to get the independent analysis done of a deal like this. If you could assist me with how much time and resources you put into that, that would be very useful.

**Senator GALLACHER:** The World Bank did an analysis.

**Senator WHISH-WILSON:** Part of an analysis, yes. We will get to that later. Can you tell us how long it took to conduct the national interest analysis roughly? I suppose if you are providing the time and resources, I can work that out as well.

**Ms Ward:** I will take it on notice.

**Senator WHISH-WILSON:** You have had to do several trade deals recently. Did it take you longer than others trade deals? Could you give me an indication on that as well.

**Ms Ward:** This is the only one I have done recently, but I am not aware.