

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
SUPPLEMENTARY BUDGET ESTIMATES 2016-17

Finance Portfolio
18 October 2016

Department/Agency: Department of Finance

Outcome/Program: 2/2.5

Topic: National trade obligations and WTO agreement's effect on procurement

Senator: Xenophon

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Question:

Senator XENOPHON: Could you please take on notice the basis upon which you say we will be breaching various national trade obligations by having the current procurement policy we have that does not take into account the economic stimulus values, the tax receipts and the social and economic benefits of buying local?

Senator Cormann: Mr Sheridan gave evidence to that effect, and I am happy to take that on notice.

Senator XENOPHON: What clause in what agreement are we prevented—

Senator Cormann: I am happy to take it on notice.

CHAIR: I think the minister has agreed to take it on notice.

Senator XENOPHON: And what effect will the WTO agreement on procurement that this government seems to be plunging towards signing have in relation to the whole issue of procurement?

Senator Cormann: I will take that on notice, too.

Answer:

Australia's international trade obligations on Government Procurement include provisions regarding national treatment and non-discrimination, which prevent procuring entities of Parties to these obligations from treating suppliers less favourably on the basis of degree of foreign affiliation or ownership, or the origin of their goods or services. Taking into account the economic stimulus values, the tax receipts and the social and economic benefits of buying local in determining procurement outcomes would be inconsistent with the national treatment and non-discrimination obligations. The below table includes the relevant references from Australia's international agreements.

Australia-Chile Free Trade Agreement <i>Article 15.4: National Treatment and Non-Discrimination, paragraphs 1 and 2.</i>
Australia and New Zealand Government Procurement Agreement <i>Clauses 2 (c) and 4.</i>
Australian-United States Free Trade Agreement <i>Article 15.2: General Principles – National Treatment and Non-Discrimination, paragraphs 1 and 2.</i>
Japan-Australia Economic Partnership Agreement <i>Article 17.3: National Treatment and Non-Discrimination, paragraphs 1 and 2.</i>
Korea-Australia Free Trade Agreement <i>Article 12.3: General Principles – National Treatment and Non-Discrimination, paragraphs 1 and 2.</i>
Singapore-Australia Free Trade Agreement <i>Chapter 6, Article 3: National Treatment, paragraphs 1 and 2.</i>
Thailand-Australia Free Trade Agreement <i>Article 1503: Procurement Principles.</i>

The World Trade Organization Agreement on Government Procurement (WTO GPA), contains similar provisions regarding national treatment and non-discrimination to the agreements to which Australia is already a Party. The relevant provision is referenced in the table below.

World Trade Organization Agreement on Government Procurement (WTO GPA) <i>Article IV — General Principles – Non-Discrimination, paragraphs 1 and 2.</i>
