

## 5. MFAT CONSULTATION ON GATS

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The purpose of this report is to advise the Council that the Ministry of Foreign Affairs and Trade has posted on its website a consultation document, which lists GATS requests made by and to New Zealand. MFAT has invited comments on the approach New Zealand should take in the next stage of the negotiations.

### BACKGROUND

The General Agreement on Trade in Services (GATS) is an agreement signed in 1994 under the World Trade Organisation (WTO) which administers the agreement. The current round of GATS negotiations began in January 2000. At the WTO Ministerial Conference in Doha in November 2001, WTO Trade Ministers agreed on a timeframe for the services negotiations: 30 June 2002 for the submission of members' initial requests for further commitments and 31 March 2003 for the submission of initial offers in response to these requests. Once initial offers have been provided, a new phase of negotiation begins. Negotiations are concluded when all members indicate that they can accept the eventual package. Negotiations are scheduled to conclude in January 2005.

In December 2002 the Council wrote to the Ministers of Trade and Local Government expressing concerns regarding the GATS process:

1. The Council believes that it is inappropriate that local authorities be constrained by an agreement to which local government is not a party.
2. The Council believes public policy regarding the regulation, funding and provision of essential services should be made democratically by governments at the national and local level.
3. That Council believes that no restrictions should be placed on local government's rights regarding achieving social and environment ends in procurement.
4. The Council requests that the Government support the clear exclusion of public services at central and local levels from the GATS, including local government community services, environment and water services.
5. The Council requests that the Government oppose any proposals which would reduce the right of local government to regulate services, including the application of a "least trade restrictive" test to regulation.
6. The Council requests that the Government seek to eliminate the ability of WTO trade rules to overturn nation-state laws and practices that protect health, the environment, development and human rights.
7. The Council requests that the Government seek:
  - an amendment to the schedule, for example entering a reservation in the horizontal commitments to exclude local government; or
  - a carve out for local government by amending the GATS; or
  - an interpretation or clarifying declaration by WTO members that local governments are exempt from GATS
8. The Council requests that the Government commission an independent retrospective review on the WTO's impact on development, democracy, environmental sustainability, health, and human rights.

Since December other local authorities in New Zealand (eg North Shore) and internationally have passed resolutions supporting the Christchurch City Council position.

## **COUNCIL SUBMISSION ON REQUESTS**

On 3 February 2003, the Ministry of Foreign Affairs and Trade posted on its website a consultation document, which lists GATS requests made by and to New Zealand. MFAT invited comments on the approach New Zealand should take in the next stage of the negotiations. Comments must be submitted by 28 February 2003.

MFAT is seeking comment on the submission of initial offers: conditional offers in response to the requests. In this offer phase a member indicates where they may be prepared to consider further commitments in response to the requests received. Although requests are exchanged on a bilateral basis, WTO members are required to make offers on a multilateral basis - the same offer to the entire WTO membership. This means that there is no requirement for reciprocity within the GATS, nor for a member to make a positive response to any specific bilateral request (MFAT 2003).

Given the Council's advocacy in this area it is appropriate that it make a submission. However, it should be noted that no invitation was extended directly to Council by MFAT – it is by chance that the Council became aware of the posting on the website. The government received the 'requests' from other countries for GATS commitments in June 2002. It has taken six months to invite comment – and allowed less than a month for feedback (or given the Council processes two days for comment).

There have been requests from 18 "trading partners". The requests have been analysed and a draft submission (attached) prepared for the Council's approval.

**Recommendation:** That the Council make a submission to MFAT regarding GATS requests made by and to New Zealand.