

# Opportunities and challenges for Australian providers of international legal services

## Presentation to the Services Summit 2010

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# Challenges: Barriers to entry for Australian lawyers highlighted by APEC Legal Services Initiative

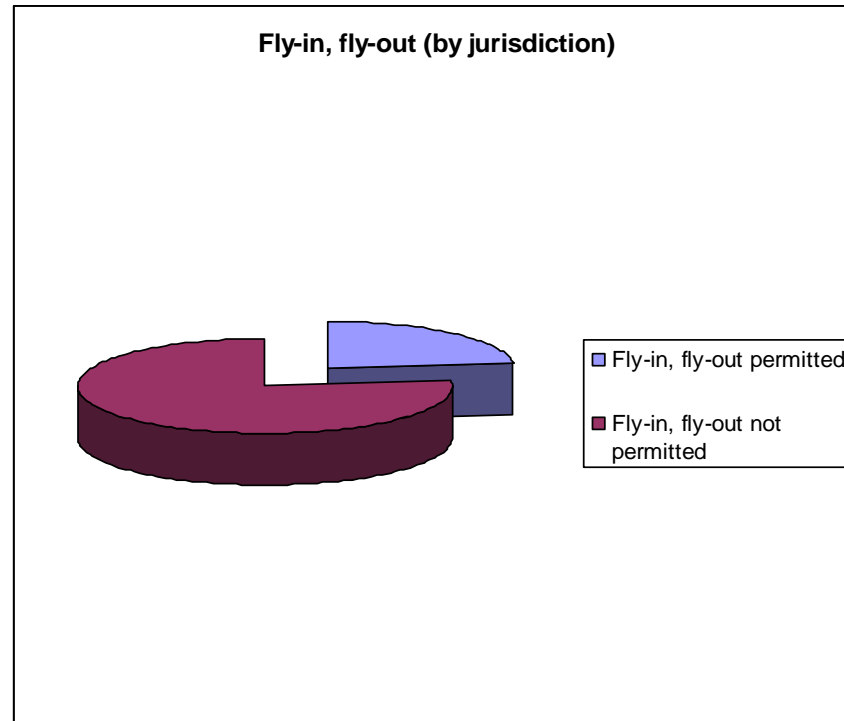
- Responses from 48 jurisdictions in:

- Australia
- Canada
- Chile
- China
- Hong Kong
- Indonesia
- Korea
- Japan
- Papua New Guinea
- The Philippines
- Singapore
- Chinese Taipei
- Thailand
- United States
- Viet Nam



# Fly-in, fly out practice

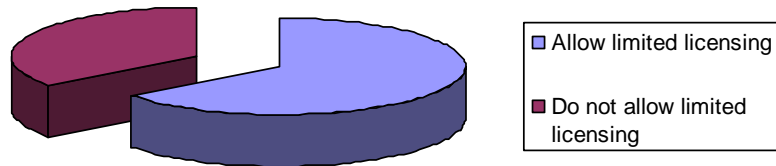
(a type of mode 4)



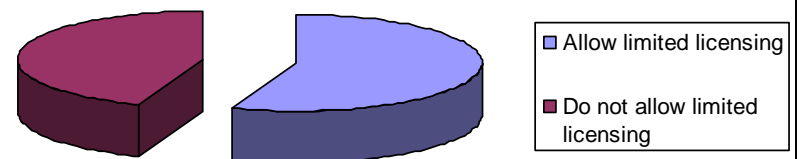
# Limited licensing

(mode 4 – or not seen as a trade issue)

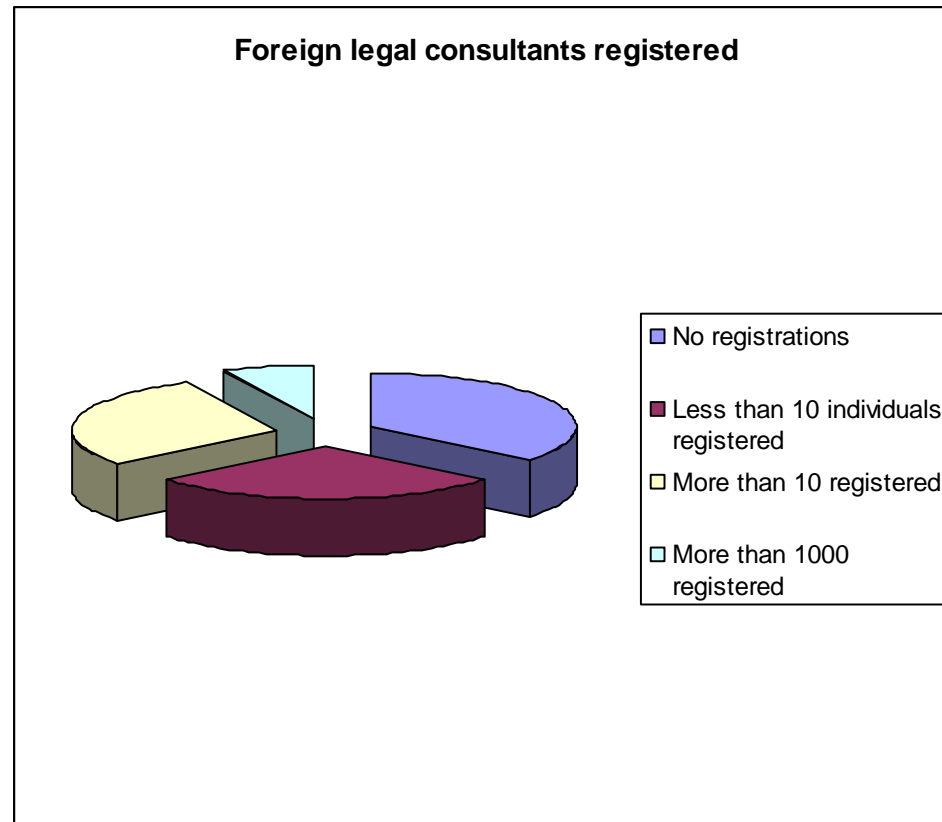
Limited licensing (by jurisdiction)



Limited licensing (by country)

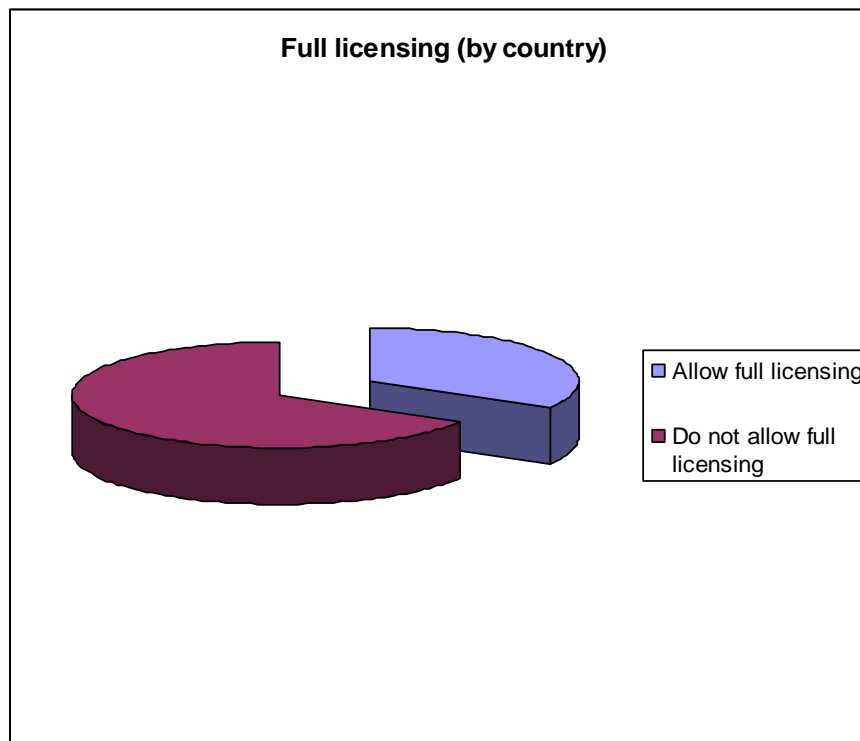


# Limited licensing - limited uptake



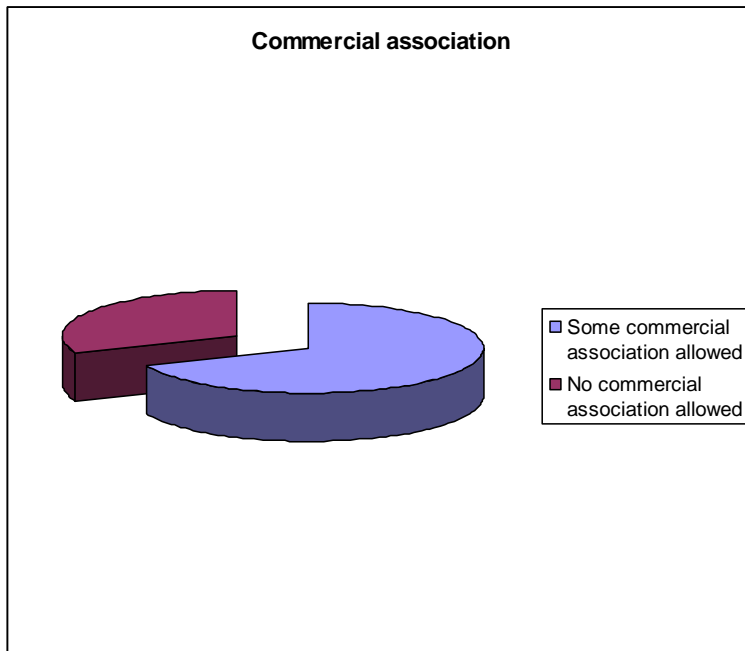
# Full licensing

(mode 4 – or not seen as a trade issue)



# Commercial association

(mode 3 and a way of facilitating modes 1 & 2)



Are trade agreements part of the answer?



# There are lots of regional trade agreements...

MATRIX OF TRADE AND ECONOMIC INTEGRATION ARRANGEMENTS AMONGST CEPEA COUNTRIES<sup>1</sup>

|                   | Australia                   | Brunei Darussalam                    | Cambodia           | China              | India            | Indonesia                  | Japan                      | Korea                      | Lao PDR             | Malaysia                    | Myanmar            | New Zealand                          | Philippines            | Singapore                  | Thailand                   | Vietnam                |
|-------------------|-----------------------------|--------------------------------------|--------------------|--------------------|------------------|----------------------------|----------------------------|----------------------------|---------------------|-----------------------------|--------------------|--------------------------------------|------------------------|----------------------------|----------------------------|------------------------|
| Australia         |                             | FTA with ASEAN (R)                   | FTA with ASEAN (R) | FTA (R) BIT (R) TA |                  | FTA with ASEAN (R) BIT     | FTA (R)                    | TA                         | FTA with ASEAN (R)  | FTA with ASEAN (R) FTAs (R) | FTA with ASEAN (R) | FTA                                  | FTA with ASEAN (R) BIT | FTA with ASEAN (R) FTA     | FTA with ASEAN (R)         | BIT                    |
| Brunei Darussalam | FTA with ASEAN (R)          |                                      | AFTA               | ACFTA BIT (R)      | NETA (R)         | AFTA                       | CEP with ASEAN (R)         | FTA with ASEAN (R) BIT     | AFTA                | AFTA                        | AFTA               | FTA with ASEAN (R) Trans-Pacific SEP | AFTA                   | AFTA Trans-Pacific SEP     | AFTA                       | TECA AFTA              |
| Cambodia          | FTA with ASEAN (R)          | AFTA                                 |                    | ACFTA              | NETA (R)         | AFTA                       | CEP with ASEAN (R)         | FTA with ASEAN (R)         | AFTA                | AFTA                        | AFTA               | FTA with ASEAN (R)                   | AFTA                   | AFTA                       | AFTA                       | ASTA                   |
| China             | FTA (R) BIT (R) TA          | ACFTA BIT (R)                        | ACFTA              |                    | NETA (R)         | ACFTA BIT                  | BIT                        | FTA BIT                    | ACFTA BIT           | ACFTA BIT                   | ACFTA              | FTA (R) BIT                          | ACFTA BIT              | ACFTA FTAs (R) BIT         | ACFTA BIT (R)              | ACFTA BIT              |
| India             |                             | NETA (R)                             | NETA (R)           | NETA (R)           |                  | NETA (R)                   |                            |                            | NETA (R)            | NETA (R)                    | BIMSTEC NETA (R)   |                                      | NETA (R)               | NETA (R)                   | BIMSTEC NETA (R)           | NETA (R)               |
| Indonesia         | FTA with ASEAN (R) BIT      | AFTA                                 | AFTA               | ACFTA BIT          | NETA (R)         |                            | CEP with ASEAN (R) EPA (R) | FTA with ASEAN (R)         | AFTA                | AFTA                        | AFTA               | FTA with ASEAN (R)                   | AFTA BIT (R)           | AFTA BIT                   | AFTA BIT                   | AFTA                   |
| Japan             | FTA (R)                     | CEP with ASEAN (R)                   | CEP with ASEAN (R) | BIT                |                  | CEP with ASEAN (R) EPA (R) |                            | BIT                        | CEP with ASEAN (R)  | CEP with ASEAN (R) EPA      | CEP with ASEAN (R) |                                      | CEP with ASEAN (R) EPA | CEP with ASEAN (R) EPA BIT | CEP with ASEAN (R) EPA     | CEP with ASEAN (R) BIT |
| Korea             | TA                          | FTA with ASEAN BIT                   | FTA with ASEAN (R) | FTA BIT            |                  | FTA with ASEAN (R)         | BIT                        |                            | FTA with ASEAN NETA | FTA with ASEAN BIT          | FTA with ASEAN (R) |                                      | FTA with ASEAN (R) BIT | FTA with ASEAN (R) FTA     | FTA with ASEAN (R) BIT (R) | FTA with ASEAN (R) BIT |
| Lao PDR           | FTA with ASEAN (R)          | AFTA                                 | AFTA               | FTA ACFTA          | NETA (R)         | AFTA                       | CEP with ASEAN (R)         | FTA with ASEAN (R) BIT     |                     | AFTA                        | AFTA               | FTA with ASEAN (R)                   | AFTA                   | AFTA                       | AFTA                       | AFTA                   |
| Malaysia          | FTA with ASEAN (R) FTA (R)  | AFTA                                 | AFTA               | ACFTA BIT          | NETA (R)         | AFTA                       | CEP with ASEAN (R) EPA     | FTA with ASEAN BIT         | AFTA                |                             | AFTA               | FTA with ASEAN (R) FTA (R)           | AFTA                   | AFTA                       | AFTA                       | AFTA BIT               |
| Myanmar           | FTA with ASEAN (R)          | AFTA                                 | AFTA               | ACFTA              | BIMSTEC NETA (R) | AFTA                       | CEP with ASEAN (R)         | FTA with ASEAN (R)         | AFTA                | AFTA                        |                    | FTA with ASEAN (R)                   | AFTA                   | AFTA                       | AFTA BIMSTEC               | AFTA                   |
| New Zealand       | FTA                         | FTA with ASEAN (R) Trans-Pacific SEP | FTA with ASEAN (R) | FTA (R) BIT        |                  | FTA with ASEAN (R)         |                            |                            | FTA with ASEAN (R)  | FTA with ASEAN (R) FTA (R)  |                    | FTA with ASEAN (R)                   | FTA with ASEAN (R)     | FTA with ASEAN (R) CEP     | FTA with ASEAN (R) CEP     | FTA with ASEAN (R)     |
| Philippines       | FTA with ASEAN (R) BIT      | AFTA                                 | AFTA               | ACFTA BIT          | NETA (R)         | FTA BIT (R)                | CEP with ASEAN (R) EPA     | FTA with ASEAN (R) BIT     | AFTA                | AFTA                        | AFTA               | FTA with ASEAN (R)                   |                        | AFTA                       | AFTA                       | AFTA                   |
| Singapore         | FTA with ASEAN (R) FTA      | FTA Trans-Pacific SEP                | AFTA               | ACFTA FTAs (R) BIT | NETA (R)         | AFTA BIT                   | CEP with ASEAN (R) EPA BIT | FTA with ASEAN (R) FTA     | FTA                 | AFTA                        | AFTA               | FTA with ASEAN (R) Trans-Pacific SEP | AFTA                   |                            | AFTA                       | BIT                    |
| Thailand          | FTA with ASEAN (R)          | AFTA                                 | AFTA               | ACFTA BIT (R)      | BIMSTEC NETA (R) | AFTA BIT                   | CEP with ASEAN (R) EPA     | FTA with ASEAN (R) BIT (R) | AFTA                | AFTA                        | AFTA BIMSTEC       | FTA with ASEAN (R) CEP               | AFTA                   | AFTA                       |                            | AFTA BIT (R)           |
| Viet Nam          | BIT FTA with ASEAN (R) TECA | AFTA                                 | AFTA               | ACFTA BIT          | NETA (R)         | ACFTA                      | CEP with ASEAN (R) BIT     | FTA with ASEAN (R) BIT     | AFTA                | AFTA BIT                    | AFTA               | FTA with ASEAN (R)                   | AFTA                   | AFTA BIT                   | AFTA BIT (R)               |                        |



... but they tend to lack ambition on legal services.

MATRIX OF TRADE AND ECONOMIC INTEGRATION ARRANGEMENTS AMONGST CEPEA COUNTRIES: COMMITMENTS IN FORCE ON LEGAL SERVICES<sup>1</sup>

|                             |                   | Commitments favouring this country |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|-----------------------------|-------------------|------------------------------------|-------------------|----------|-------|-------|---------------|-------|-------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                             |                   | Australia                          | Brunei Darussalam | Cambodia | China | India | Indonesia     | Japan | Korea | Laos PDR      | Malaysia      | Myanmar       | New Zealand   | Philippines   | Singapore     | Taiwan        | Vietnam       |
| Commitments by this country | Australia         |                                    |                   |          |       |       |               |       |       |               |               | PTA           |               |               | PTA           |               |               |
|                             | Brunei Darussalam |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | Cambodia          |                                    | AFTA<br>ACFTA     |          | ACFTA |       | AFTA<br>ACFTA |       |       | AFTA<br>ACFTA | AFTA<br>ACFTA | AFTA<br>ACFTA |               | AFTA<br>ACFTA | AFTA<br>ACFTA | AFTA<br>ACFTA | AFTA<br>ACFTA |
|                             | China             |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | India             |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | Indonesia         |                                    | AFTA              | AFTA     |       |       |               |       |       |               | AFTA          | AFTA          | AFTA          | AFTA          | AFTA          | AFTA          | AFTA          |
|                             | Japan             |                                    |                   |          |       |       |               |       |       |               |               | SEA           |               |               |               |               |               |
|                             | Korea             |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | Laos PDR          |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | Malaysia          |                                    | AFTA              | AFTA     |       |       | AFTA          | SEA   |       | AFTA          |               | AFTA          |               | AFTA          | AFTA          | AFTA          | AFTA          |
|                             | Myanmar           |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | New Zealand       | PTA                                | Tier-Plus/SEP     |          |       |       |               |       |       |               |               |               |               |               | Tier-Plus/SEP | SEP           |               |
|                             | Philippines       |                                    |                   |          |       |       |               |       |       |               |               |               |               |               |               |               |               |
|                             | Singapore         | PTA                                | Tier-Plus/SEP     |          |       |       |               |       |       |               |               |               | Tier-Plus/SEP |               |               |               |               |
|                             | Taiwan            |                                    | AFTA              | AFTA     |       | AFTA  | AFTA          |       |       | AFTA          | AFTA          | SEP           | AFTA          | AFTA          |               |               | AFTA          |
|                             | Vietnam           |                                    | AFTA              | AFTA     |       | AFTA  | AFTA          |       |       | AFTA          | AFTA          |               | AFTA          | AFTA          | AFTA          |               |               |



So what?

