



1 April 2004

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Website

<http://www.servicesaustralia.org.au>

New Members

Association of Consulting
Engineers Australia

Bovis Lend Lease

Freehills Pty Ltd

Insurance Australia Group

International Law Briefing
Committee of the Law
Institute of Victoria

Diary Dates

5 April - Sydney

5-7.30pm

Government Procurement;
Implications of the AUSFTA

hosted by

Corrs Chambers Westgarth

6 April - Canberra

2-5pm

Department of Foreign
Affairs and Trade Debrief on
AUSFTA; Services and
Investment

20 April - Melbourne

12.30-2.15pm

Business Priorities in APEC

hosted by

Minter Ellison

May (tbc) - Sydney

Intellectual Property;
Implications of the AUSFTA

hosted by

Abbott Tout Solicitors

WTO Doha Round is not dead

By Peter Walsh Chairman,
Australian Services
Roundtable (Standards
Australia)

“Cautious optimism” on the possibility of the Doha Round of the World Trade Organization (WTO) getting back on track was the collective view of the participants at a meeting of the Worldwide Services Coalition (WSC) held in Geneva on 22 and 23 March 2004. The Australian Services Roundtable (ASR) was represented by its Chairman, Peter Walsh (Acting Chief Executive, Standards Australia) and on the first day by Daniel Moulis (Partner, Freehills, Sydney).

The other WSC member organizations at the meeting included representatives of the European Services Forum (25 participants), the US Coalition of Services Industries (9), the Japan Services Network (4) and the Hong Kong Coalition of Services Industries (1) as well as one observer from Canada.



The main meeting was preceded by a meeting of the Financial Leaders Working Group Insurance Evaluation Team (FLWGIET) that operates independently under the aegis of the WSC. As a consequence a substantial number of the participants were from the insurance and finance sectors. The FLWCIET works towards liberalising the insurance industry worldwide recognising that effective insurance and financial arrangement can benefit all industries especially in developing countries where there are often severe restrictions on foreign participants. It is hoped that some of the insurance and finance sector member of the ASR will join this high-powered working group.

The principal purpose of the meeting was to meet with a number of the Ambassadors to the WTO and/or their senior colleagues responsible for services especially from countries that have not submitted offers on Services under the Doha Round. In addition to meeting representatives from Saudi Arabia, Chile, the Philippines, Brazil, Egypt, Botswana, India, China and

Nicaragua, the WSC met with a number of senior WTO Secretariat officials and Chairs of WTO Committees as well as hosting a dinner for the Ambassadors to the WTO from the countries represented in the WSC. David Spencer the Australian Ambassador to the WTO attended and addressed participants at the dinner.

While services were on the minds of all participants at this WSC meeting, it became very evident that many WTO members were not disposed to consider services until there is some progress made on agriculture, the principal reason for the lack of progress at the WTO Ministerial Meeting in Cancun last September.

There was cautious optimism that some progress will be made by July 2004 in the area of agriculture by developing a framework agreement that is an interim step towards a more substantial step over the subsequent 12 months or so. If this framework on agriculture materialises, there is a view that greater attention will be given to services in the WTO recognising that services

represent 80% of GDP in developed countries and 50% in developing countries, although services represent lower percentages to trade often owing to restrictive regulations and other non-tariff measures. What was also recognised at the WSC meeting was the value that vibrant and effective services add to other industries including agriculture.

The next meeting of the WSC is tentatively scheduled to be held in Beijing at the end of June 2004 in conjunction with a Conference and Exhibition on Services.

AUS FTA: Parliamentary Inquiry

Two separate Parliamentary inquiries into the AUSFTA are underway.

The first Inquiry takes place in the Commonwealth Parliament's Treaties Committee.

The second takes place in the Senate Committee into the AUSFTA.



The Australian Services Roundtable has been invited to make a written submission to the Treaties Committee with a deadline of 13 April. A number of Roundtable members are also making separate submissions.

AUS FTA: Music Industry

By Richard Letts
Executive Director
Music Council of Australia

While many members of the Roundtable may see the AUSFTA as beneficial to their interests, the cultural sector does not.

A few media commentators colour the sector's position as some sort of weakness or laziness in dealing with market forces. This is nonsense.

Consider the situation with television. Australian TV stations can rent a highly produced American sitcom for, say, a sixth of the cost of producing one locally.

The US product does not come this cheap because of US government intervention.

It's just the result of the size and power of the US market.

Production costs are recouped in the US and the product is essentially dumped abroad.

How would other service industries deal with that "market force"?

The media warriors snarl that the Australian industry should pull itself together and go get 'em. But while some 70% of drama on Australian TV comes from the US, only 4% of US free to air television time is given to non-US programs of any type. Again, this is not due to US government intervention, but because of the inward-looking US market. And it's within that 4% that Australia would have to compete with productions from the rest of the Earth.

Since the situation is not a consequence of US regulations, we have never been able to see how the FTA could win us greater access to the US market. Our negotiators did suggest that the US might impose foreign content requirements. That would have been one of the few

amusing moments during the whole process.

The other, free trader, option is for the Australian government to vacate regulation of TV. It can be expected that market forces would then pretty much obliterate Australian production. There would be no drama programs "telling our own stories with our own voices", as the catchcry goes.

Here, we get into arguments of value. Some won't care about this. Others see it as fundamental to our needs as a country.

I can write with expertise mainly for the music sector. The Music Council has considered the situation and has decided that it cannot support the FTA. This is not a judgement about the FTA as a whole. The Council does not regard itself as competent to make that assessment. It is a judgement only about the effects of the FTA in the cultural sector.

Here are some of the main concerns:

A potato is a potato whether grown in Australia or the US.



But only Australia can produce Australian culture. It is unacceptable that the terms of our cultural life should be decided by the trade ambitions of a foreign country.

There are aspects of our cultural life that need government support to survive or thrive. This government has publicly stated so.

Prior to this FTA, the government's freedom to intervene in support of culture was absolute. It is seriously curtailed by the FTA.

Australian culture therefore loses as a result of the FTA. There is no gain at all for culture.

(The FTA does include some changes in intellectual property rights which (only) some think desirable, but for which the FTA was unnecessary and possibly counterproductive.)

Because of an Australian back-down in the last days of negotiations, the structure of the cultural component of the FTA was upended. There was no consultation with the sector and to our knowledge

no-one has investigated the possible consequences, which are unknown. Such an investigation is fundamental in a negative list agreement.

The Annex II treatment of new media, crucial to the future of Australian audio and audiovisual production, is extremely unsatisfactory, requiring compliance with extremely restrictive criteria in which definitions are open to dispute, and requiring consultations with the stakeholders including the US. Presumably, if an Australian government action departed from the US position as revealed in the consultations, we could be subject to heavy retaliation, as has been seen in other countries. The threat alone could be enough to inhibit desirable action.

There would be a cap on Australian music quotas on radio where previously there was none. The Australian recording industry is dominated by foreign companies. Radio broadcasters are hostile to the quotas and furthermore are themselves vulnerable to foreign takeovers. The proven need for the quotas could become more urgent.

The FTA also abandons the right to require Australian content quotas on community radio, the locally controlled alternative. There is a global movement to extricate culture from trade treaties. The basic premise is that it is not a commodity to be treated like any other. An international agreement is being formulated in UNESCO. The basic premise is consistent with Australia's policies until January this year. If Australia signs the FTA, it is difficult to see how it any longer can give support.

AUSFTA:

FIRB reform

By Jane Drake-Brockman

The outcome on investment involves significant and welcome reform to the FIRB.

All US investment in new businesses is now exempt from screening.

The threshold for acquisitions by US investors has been raised in nearly all sectors from AUS \$50 million to AUS \$800 million. A work programme will be initiated to try to further limit the kinds of investment



transactions, such as passive investments, that are subject to review.

The Government has retained the right to screen all investments by US Governments and all investments in urban land (including residential) and media. Investment in telecommunications, transport (airlines, airports, shipping) defence (CSL) will continue to be screened after the \$50million threshold.

There has been a strong expectation within the business community that the Government will implement these reforms on a non-discriminatory basis, ie they would apply to inward investment from all destinations, not only the United States.

This approach would be most consistent with Australia's interests in a fast globalising world economy.

Disappointingly, this expectation seems increasingly unlikely to be met.

The FIRB has long been considered Australia's only negotiating coin in the international investment

arena. It now appears likely the Government will try to retain what coin it can by implementing these reforms on a discriminatory preferential basis.

This would allow the Government to offer similar concessions to other trading partners in subsequent bilateral agreements.

But it would significantly reduce the positive economic benefit associated with the FTA outcome.

The negotiating outcome on Government Procurement, subject to the extent to which the Australian State Governments choose to opt in to the Agreement over the next couple of weeks, will also impact importantly on Australia's investment regime, in particular the use of investment performance requirements.

Beijing Services Convention

The first ever Services Industries Convention & Expo will be held in Beijing from 30th June - 3rd July 2004. International participation is being actively

sought from Australia as well as from Europe and the United States.

On 30 March, IBSA hosted an Australian Services Roundtable luncheon meeting in Sydney for a visiting Chinese team from the Beijing Municipality accompanied by the China Council for the Promotion of International Trade to discuss potential Australian involvement, including the possibility of holding an Australia/China Service Industries Dialogue in the margins.

The Expo and Convention is jointly sponsored by the National Development and Reform Commission, the Ministry of Commerce, the China Banking Regulatory Commission and the Beijing Municipality, with support from the China National Tourism Administration and CCTV.

The four themes for this first event are

- **Financial services and e – finance**
- **Logistics**
- **Tourism**
- **Professional services**

More detail available from services@tesol.com.au



**Australian Services
Roundtable**

NEWSLETTER

Join the Roundtable

The Australian Services Roundtable is the peak industry body representing the services industries in Australia.

The Roundtable covers financial services (banking, insurance, securities), the professions (consultants, accountants, lawyers, engineers, architects), health, education, environment and energy services, logistics, tourism, computer and IT, telecommunications, transport, standards and conformance, audio-visual, media, entertainment, cultural and other business services.

The Roundtable aims to identify the domestic regulatory obstacles to international competitiveness and highlight the need for domestic policy reform. ASR is contributing actively to strategies for negotiating services trade and investment issues in the global, regional and bilateral arenas.

To find out more about the Roundtable, attend events, or enjoy Membership Benefits, contact the Roundtable Executive Director.

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