Presentation to the Bogota World Services Congress

Panel 1: "Trade in Services, Economic Growth, Liberalisation Gains and Country Experiences"

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Introduction

I would like to commence my presentation by expressing my thanks to a number of people. Firstly, to the organisers of the Congress for allowing me to present today. Secondly, to the Australian Department of Foreign Affairs and Trade ("**DFAT**") who were originally scheduled to present on this panel and who passed the opportunity to the Australian Services Roundtable ("**ASR**") when they are unable to present. Thirdly, to the ASR who selected me to attend to represent its interest among other members of the ASR. Fourthly, to my partners at Hunt & Hunt who allowed me to escape to undertake the presentations. Fifthly, (and importantly) thank you to my wife and children who provided another leave pass to allow me to present here. I should also explain that unless otherwise expressed, the views expressed are mine and not those of DFAT or the ASR.

Background to Presentation

Before commencing, I should explain a little in relation to the ASR, Hunt & Hunt and my own involvement in the area.

ASR

ASR is the national Canberra-based peak business body for all of the services industries in Australia. ASR members include individual firms as well as business associations. ASR was built in 2001 in the foundations of the earlier Australian Coalition of Services Industries ("**ACSI**") and the subsequent Australian Services Network.

ASR is a member of the Global Services Coalition. The membership of this Coalition has grown rapidly over the last few years as the services sector mobilises and services industry groupings have emerged in a broader range of countries.

Additional details on ASR can be found at www.servicesaustralia.org.au.

Hunt & Hunt

A full service commercial law firm, with over 70 years experience in providing legal and advisory services in the corporate, financial services and property sectors.

Across our legal network we have over 100 partners, with offices in almost every Australian State and Territory capital city, we offer clients depth and breadth of resources.

Hunt & Hunt has specialised expertise in the Asia Pacific region, with offices in Shanghai and Auckland. Hunt & Hunt has held for nearly 10 years one of the 9 licences to practice in China issued to Australian law firms.

We provide clients with a global reach, being the sole Australian member firm of Interlaw, a network of over 65 law firms in more than 75 countries.

Additional details on Hunt & Hunt can be found at www.hunthunt.com.au and additional details on Interlaw can be found at www.interlaw.org.

Other involvement in services reform

In addition the areas described above I also have other involvements which affect this area. These include the following:

(a) a member of the Section Executive of the International Law Section of the Law Council of Australia;

(b) the Chairman of the International Law Section of the Law Institute of Victoria ("**LIV**");

(c) the representative of the LIV on the Services Export Advisory Committee which is a body constituted by the Victorian Government to assist Victorian exporters of services;

(d) a member of the Victorian Committee of Management of the Customs Brokers and Forwarders Council of Australia ("**CBFCA**") which represents the interest of licensed customs brokers and freight forwarders in Australia. I am also the retained counsel for the CBFCA; and

(e) the representative of the LIV on the China Working Group conducted by the Australian International Legal Services Advisory Committee. The China Working Group provides recommendations and assistance to DFAT in its negotiations regarding the proposed Free Trade Agreement between Australia and China.

In all of these capacities I have been involved in forums to reform and improve the market for provision of Australian professional services (especially lawyers which is not surprising). This has arisen both from a policy perspective and in relation to our specific practice.

Australian and Regional Experiences

Please note that much of the information set out in this section 3, together with significant additional information can be found on the ASR website. In particular, attention is drawn to the submission by the ASR to the Inquiry by the Standing Committee of the Australian House of Representatives on Economics Finance and Public Administration into the "The current and future directions of Australia's service industries" dated November 2006 which can be found on the ASR website.

Australian Services Sector Statistics

(a) ABS data

According to the Australian Bureau of Statistics (ABS) data, the services sector accounted for 2004/5 for:

(1) 77.9 percent of Australia's GDP ($554 billion);

(2) 84.1 percent of employment (8,230,000 people);

(3) 60 percent of investment ($71.1 billion); and

(4) 22.8 percent of exports ($35 billion).

In 2004-05, services sector GDP, employment, investment and exports grew at an average annual rate of 3.0 percent, 3.4 percent, 11.7 percent and 3.0 percent respectively. DFAT figures indicate that services exports rose another 4 percent in 2005 to reach a record $37.2 billion.

Services imports in 2005 were $38.5 billion. 3/4 of Australia's services imports are travel and transportation (including outbound tourism). The remainder is insurance and other financial services and a variety of business, professional and technical services.

(b) Gross Domestic Product (GDP)

The services sector accounts for close to 4/5 of the Australian economy. This is high by international standards, the share of services in the national economy having seen a rapid increase over the last 15 years with the shift to a knowledge-based economy. The economy is expected to keep moving in this direction.

(c) Industry Gross Value Added (GVA)

In 2004-05, the service industries' share of Australia's total industry gross value added was 66.8%. In volume terms, GVA for total service industries grew very rapidly by 13.4% between 2000-01 and 2004-05, compared with 10.1% for total goods producing industries. Estimates for 2006 suggest this figure has now risen to closer to 78 percent. The largest activities are property and business services, followed by finance and insurance services and then tourism.

(d) Number of Service Firms

The Australian Trade Corporation estimates that as many as 82 percent of Australian firms are services firms and remarkably, services firms account for 67 percent of the total population of 25,000 Australian firms that export.

But it is only a tiny segment (3 percent) of this vast services sector that is exporting (17,700) firms out of 577,158 services firms in Australia). This point is not made because it is a problem – on the contrary it was only a few years back that services were still thought of as "non-tradeables" – but because it illustrates that potential scope available from which to boost future export performance.

(e) Small and Medium Sized Businesses

Business and professional services, especially consultancy, legal services, accountancy, communications and the media are among the fastest growing industries in Australia, with the numbers of firms doubling between 1994 and 1998. The vast bulk of these 120,000 odd firms in 1998 had less than 5 employees. But collectively, in 1998, they generated some $34 billion of GDP.

(f) Employment

Services industries already employ 85 out of every 100 Australians and no net new job has been created in any other sector for the last two decades. The largest employer is retail, trade, accounting for 20% of total services employment. Other large employing industries are property and business services, health and community services, education and tourism related activities.

Measuring Australia's Services Exports

DFAT estimates that services exports rose by 4 percent in 2005 to reach $37.2 billion.

(a) Exports of travel services rose by 5 percent to $19.6 billion (travel services include education-related travel services, which make up almost all of "education" services export).

(b) Transportation services exports rose by 2 percent to $8.1 billion.

(c) Short term visitor arrivals rose 5 percent to 5.5 million.

(d) Other services exports were up 1 percent to $9.4 billion, led by architectural and engineering services, legal, accounting and management services, insurance services and R & D services.

Conclusion on measurements

At nearly 23 percent of exports, official estimates of Australia's services exports are now roughly on a par with manufacturers export and outdo Australia's rural exports. But trade in services is known internationally to be notoriously difficult to measure and the above official figures are likely to be significant understatements.

Recent Experiences in Services Exports

Notwithstanding the general perception that the Australian market is dominated by exports in goods (particularly resources), the statistics set out above will support the proposition that services is an extremely important part of the Australian economy. Accordingly, the Australian Government and the Governments of the various states of Australia together with affected professional associations are regularly endeavouring to improve the market for Australia's services overseas. Some examples are below.

Position Under Existing Free Trade Agreements

Australia has concluded Free Trade Agreements ("**FTA**") with New Zealand ("**ANZCERTA**"), Singapore ("**SAFTA**") Thailand ("**TAFTA**") and the United States ("**AUSFTA**"). ANZCERTA has been in place for some time. SAFTA, TAFTA and AUSFTA are of more recent creation.

These FTA recognise the reality that while Australia would prefer multi-lateral trade reform under the GATS and the Doha Round of the WTO, the doubts over the Doha Round have caused all countries to resort to bilateral and regional FTA to achieve significant trade liberalisation.

Each of the SAFTA, TAFTA and the AUSFTA contain Chapters on Services. However, while those Chapters provided some limited liberalisation in trade in services, the majority of the FTA only promised commitments to seek additional liberalisation together with the necessary recognition of educational standards and professional qualifications. There have been some recent gains. For example, the United States has created a new and improved class of working visa for Australian professionals. United States and Australian accountants have agreed to a form of mutual recognition of qualifications. For the legal profession there have been other gains. In February 2007, the United States Conference of Chief Justices passed a resolution urging improved access for Australian lawyers in the US. Australia is in direct negotiations with Delaware for better access to the US. In April 2007, an Australian law firm signed the first joint law venture with a Singapore law firm. In the education services sector many Australian institutions have established operations in Asia.

Current Negotiations for FTA

In addition to existing FTA, Australia is negotiating for a number of prospective FTA with China, Malaysia, the ASEAN Nations (with NZ), Chile, South Korea, the GCC and the Pacific Islands Forum. In all cases, Australia is hoping to enter into comprehensive FTA which cover both trade in goods and services. The intention with trade in services is not only to push for mutual recognition of professional qualifications and educational achievements but also to allow Australian professional services firms to establish their own presences in these partner countries. As an additional matter, Australia would be seeking improved access to visas to enable movement of those providing professional services. However, movement on prospective services liberalisation has been very slow.

Conclusions from the Australian Experience

(a) All Australian Governments (Federal and State), the ASR and all relevant professional associations would prefer that the services sector benefit from a comprehensive multilateral conclusion to the current Doha round of WTO negotiations. However, recognising the reality of the current situation, Australia, like other countries, is investigating various bilateral and regional FTAs and other direct negotiations to improve the market for the export of services through out the rest of the world.

(b) Notwithstanding the intention of Governments and professional associations, it seems to regularly be the case that impediments to trade in goods receive more specific and public attention than issues associated with liberalising trade in services.

(c) There has generally been slow movement in negotiations to improve the market for trade and services. In Australia's experience, even the entry into FTA does not deliver any immediate significant benefits for the marketing services. Immediate benefits seem to mainly apply in respect of investment and trade in goods with some improvements between countries in the grant of visas to enable professionals to work in other countries with whom we have FTA.

(d) There seems to be momentum towards improvement in the market for services export under the AUSFTA and the SAFTA. In particular, the recent moves towards mutual recognition of professional qualifications for the market in legal services in the US are encouraging. However, many of the gains may be seen only as the preserve of larger professional services firms.

(e) In China, for legal services, a number of Australian firms (including my firm) already hold licences to practice in China. Those licences are subject to significant restrictions (for example that we cannot practice with local Chinese firms and cannot hire current practising Chinese lawyers). However, the submissions made as part of the negotiations for the China FTA to allow a new form of Commercial Association in China may provide additional advantages.

(f) The general approach being adopted by professional services organisations is not to seek total and unrestricted improvement to the market for their members overseas. Traditionally, there have been modest requests for improvement in the market place for provision of their services. Typically, additional access may be sought in limited areas of practice and only on a staggered basis.

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