

LAW SOCIETY MANAGING PARTNERS LUNCHEON July 1 2011

In 2007-08, the Australian legal services market generated income of \$18 billion, and contributed \$11 billion to the Australian economy.

The sector now employs close to 100,000 people, with NSW having the largest number of practitioners and large firms in the country.

Demand for Australian legal services and expertise continues to grow, particularly in Asia. At the same time, Australian firms maintain a strong presence in overseas locations, and continue to develop partnerships with large overseas firms.

The growth of the sector has proven to be resilient, despite the Global Financial Crisis.

The International Legal Services Advisory Council's third biennial survey found that the total value of Australia's legal exports was \$709 million in 2008-09, representing growth of 5 per cent on 2006-07 figures, despite the impact of the GFC on the global economy.

Since 2004-05, however, this represents 31 per cent growth in total income from exports.

History shows that one of the factors that drove the growth of the Wall Street and Magic Circle law firms was their proximity to the 20th century's main flows of capital.

The entrance of major international firms into Australia in recent years, including Norton Rose, Clifford Chance and Allen & Ovary, is a testament to the growing size and quality of the Australian market – and the way it is strategically placed to take advantage of the shift in capital flows to China, India and other Asian countries.

And it not as if Australian law firms don't have practice in cross-border transaction. Many of you have developed strong international networks over the past 20 years and are now reaping the benefits.

Some international firms have chosen to be competitors but many of you will have formed partnerships with other global players who want to tap into the Asia-pacific. It is the changing nature of world trade and capital flows that make an Australian joint-venture so logical for these firms.

The continuing strength of the Australian economy -- particularly the resources sector – also makes doing business here far more attractive than in Europe, with its myriad financial challenges.

It also hasn't hurt that the Australian legal system is so highly regarded. Australian judges, for example, have been going to China for more than 30 years. Or recently retired chief justice made frequent trips there and welcomed many Chinese lawyers and judges to his court.

And many of firms represented here today would have welcome young Chinese lawyers who have been part of

a Federal Government program to foster legal links with the world's most populous country.

COAG national legal profession reforms

Implementation of the COAG national legal profession reforms can only enhance the potential for growth in the Australian market. A single, national regulatory system will reduce red tape and compliance costs for law firms, enhancing their interstate mobility. At the same time, consumers of legal services will have consistent rights and remedies across the country.

A single regulatory regime will also make it easier for foreign lawyers and law practices to practise seamlessly in the Australian market.

Some have commented in the past that they have to contend with eight different jurisdictions. Unfortunately, we have not created one jurisdiction just yet, with Western Australia and South Australia not participating in the new scheme at this stage.

However, the National Law contains recognition provisions which will authorise practice for WA and SA practitioners in the participating jurisdictions. We expect reciprocal arrangements to create a seamless practising environment for Australian lawyers.

Specific features of the reforms, designed to enhance Australia's international competitiveness include the

establishment of the National Legal Services Board, as the single point for the registration of foreign lawyers

This will do away with jurisdictional points of entry with different processes and requirements provisions enabling the conditional admission of foreign lawyers which will allow them to practice in Australia either for a particular period of time, or for practice only in a specified area of the law.

This gives more discretion to authorities to consider experience and expertise equivalent to academic and practical legal training requirements.

Naturally, NSW is seeking for the National Legal Services Board to be established in Sydney. After all it is the epicentre of the Australian legal services market. I suspect many of you have lawyers in your practice that have been drawn to the Emerald City.

These reforms build on existing rules that allow foreign lawyers to practice on a “fly-in, fly-out” basis without registration for certain periods.

The reforms are designed to boost Australia’s reputation in the international market, and encourage reciprocal arrangements that will enhance Australia’s export potential.

Commercial Arbitration

In 2008 a PriceWaterhouseCoopers survey “International Arbitration: Corporate attitudes and

practices” revealed that 73 per cent of corporations prefer to use arbitration to resolve their cross-border disputes rather than transnational litigation, and they saw arbitration as a means to successfully preserve business relationships.

International arbitration is emerging as the preferred choice for resolving commercial disputes and is an expanding market.

There is an opportunity for Australia to establish itself as a regional centre for international arbitration in the Asia-Pacific region, especially since Australia has forged strong business relations with its neighbours, operates under a legal system that is proudly independent from government and has a strong arbitration culture and expertise.

NSW is committed to ensuring that Sydney is well placed to share in the booming market in commercial dispute resolution and is proud to be jointly funding the Australian International Disputes Centre in conjunction with the Commonwealth Government, the Australian Centre for International Commercial Arbitration and the Australian Commercial Disputes Centre.

The Centre opened in August last year and provides world-class facilities and services for international and local arbitrations and mediations and other ADR hearings.

NSW is also committed to ensuring that modern and appropriate laws are in place to encourage the resolution

of disputes outside of the formal court process. Reforms to arbitration laws at both State and Federal Laws have created an international best practice framework for arbitration in Australia.

Last year the Federal Government passed the International Arbitration Amendment Act to increase the effectiveness, efficiency and affordability of international commercial arbitration.

State and Territory Governments also agreed last year on a new model commercial arbitration bill for domestic commercial arbitrations, based on the UNCITRAL Model Law on International Commercial Arbitration. The new model bill is in place in NSW and provides business with up to date domestic arbitration laws.

The regularity and certainty that is conducive of efficient commerce will be fostered by uniform national laws that reflect accepted international practice.

In addition, the ability of Australian courts, arbitrators and practitioners to deal with international arbitrations will be strengthened and enhanced by their experience with domestic arbitration.

The new Australian International Disputes Centre, together with consistent and modern commercial arbitration laws of both the States and the Commonwealth, places Australia on a competitive footing with other major international dispute centres such as China, Hong Kong, Singapore and Malaysia.

The opportunity is there to become a destination of choice, a recognised regional centre and a source of expertise for international commercial dispute resolution.

Conclusion

NSW is committed to working with the legal profession to capitalise on opportunities for growth in overseas markets, and boost NSW's reputation as a place to do legal business in the Asia region.