Australian Services Roundtable

Securing Australia's Place in the Global Services Economy

Submission to the Mortimer Review

Export Policies and Programs

July 2008

(Thankyou to the Allen Consulting Group and to IBM Australia for kindly providing sponsorship for administrative assistance required for preparation of this submission.)

AUSTRALIAN SERVICES ROUNDTABLE MEMBERS

Accenture
ACILTasman
The Allen Consulting Group
Allens Arthur Robinson
Association of Consulting Engineers
.au Community Domaines
Australia and New Zealand Institute of Insurance and Finance
Australia/China Business Council, NSW
Australia/India Business Council
Australian Communications Alliance
Australian Computer Society
Australian Electrical and Electronic Manufacturers Association
Australian Film Commission
Australian Financial Markets Australia
Australian National University
Australian Tourism Export Council
Business Council of Australia
Cardno ACIL
Centre for International Economics
Commonwealth Bank of Australia
Conformance and Standards Services
Connell Wagner
Corrs Chambers Westgarth
Council for International Trade and Commerce, South Australia
Council for the Humanities Arts and Social Sciences
The Cox Group, Architects
CPA Australia
Creative Leadership Forum
Department of Innovation and Regional Development, Victoria
Design Inc.
Design Institute of Australia
Division of Humanities, Macquarie University
Division of Mathematics and Information Sciences, CSIRO
Education Adelaide
Engineers Australia
English Australia
Environment Business Australia
Gavin Anderson and Company
Graeme Thomson and Associates
Gray Perkins Lawyers
Hassell
Hawker Britton
Hunt and Hunt Lawyers
IBM Australia
IDP Education Australia
Institute for International Trade, University of Adelaide
Institute of Management Consultants
Insurance Australia Group
Insurance Council of Australia
Interactive Entertainment Industry Association of Australia
Internet Society of Australia
Investment and Financial Services Association
JAS-ANZ
KPMG
Law Council of Australia
Law Institute of Victoria
Macquarie Capital
Macquarie Graduate School of Management
Mallesons Stephen Jacques
Media, Entertainment and Arts Alliance
Minter Ellison
Moulis Legal
Music Council of Australia
National Australia Bank
News Limited
Northcote Management
Piper Alderman Lawyers
PricewaterhouseCoopers
Professions Australia
ProFox Pty Ltd
PTW Architects
Qantas Airways
Restaurant and Caterers Association
Riotinto
Royal Australian Institute of Architects
Sage Automation
SAI Global
Smart Internet CRC
South Australian Department of Trade and Economic Development
Stancert Pty Ltd
Standards Australia
Stanley Street Pty Ltd
TAFE Directors Australia
Telstra Corporation
Time Maker Pty Ltd
VHA Global
VIP Home Services
Woodhead
Universities Australia
University of New South Wales

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Services well and truly dominate the modern Australian economy. The services sector generates the vast bulk of Australia's GDP and the services sector employs most Australians. Services innovation and productivity have driven national economic growth for the last 15 years.

Services exports are notoriously difficult to measure, but official estimates put them on a par with manufactures, ahead of agriculture and, consistent with global trends, growing much more rapidly than either.

But if Australian services industries are to reverse their recent apparent decline in global market share, there needs to be not just greater priority given to services, but a distinct paradigm shift in Australian trade policy thinking.

Conventional Australian trade policy was designed for a relatively closed, goods-oriented economy.

By convention, trade policy had nothing much to do with investment flows nor investment or capital markets policy.

By convention, trade policy had nothing much to do with movement of people or immigration policy.

By convention, trade policy had nothing much to do with provision or regulation of the internet.

Those conventions should long ago have been relegated to history, with the conceptual breakthroughs achieved in the thinking – a full 2 decades ago – that led to the WTO General Agreement on Trade in Services (GATS).

The GATS highlighted the fact that services trade does not look even remotely like goods trade.

The closest that services exports ever come to looking anything like conventional goods exports is when services are delivered via the internet and the service itself crosses the border. What the Australian Bureau of Statistics (ABS) measures as services exports also importantly includes services sold to non-residents temporarily visiting Australia and services which Australians sell to non-residents when they travel temporarily to other countries. But an additional important method by which Australian services are currently being delivered offshore, though this is not described by the ABS as services "export" activity, is through Australian-owned affiliates offshore.

Policy makers have struggled to come to grips with all this and, in particular, to accept that "trade", when we come to services, can not be kept analytically or operationally entirely distinct from "investment and capital flows" or even from "people flows".

One consequence is that services trade is still relatively rarely researched and relatively poorly understood. Another consequence is that services exports have far from reached their full potential.

This is a trade policy failure which the new Rudd Government is clearly seeking to redress.

It matters now more than ever before: as the process of globalisation intensifies,all firms focus more on their core strengths, under pressure to enter the global supply chain.

The Australian Services Roundtable calls on this Review to help deliver a more modern trade policy which embraces all the realities of offshore services delivery.

This will require an all-of-government focus on understanding and measuring how the services economy works.

It will require the deployment of a new tool kit and the building of new institutions, globally and at home.

It will require, in a nutshell, a consistent articulated national services export strategy, around which the services sector itself can continue to mobilise.

We need, first, to significantly improve the global competitiveness of many areas of our services sector through competition and innovation policy, reduction of debilitating regulation, skills development, and services infrastructure investment.

Second, we need to open more markets for our services firms offshore – a very complex process compared with good exports – which will require major reform of the way in which government organises itself for this purpose.

Key components of a National Services Export Strategy which addresses both these objectives must include:

On the Home Front

- Continuous rigorous efforts to reduce unnecessary burdens of business regulation
- Significant domestic investment in knowledge economy infrastructure, including education and broadband
- Elevation of Services to the status of a National Innovation Priority

- Introduction of a new outcomes-oriented “Innovate and Compete” taxation incentive specifically for non-laboratory export-oriented innovation in services
- Introduction of a taxation deferment plan for project-based services export activity
- Better coordinated Trade, Investment, Capital market, Taxation and Immigration policies
- A national research effort, in partnership with industry (for example via the proposed ASR Services Stock-take) to understand the drivers and inhibitors of competitiveness in Services
- Funding for the Australian Bureau of Statistics for improved Services Trade and Services Innovation metrics

Supporting Services Excellence

- Setting of aspirational growth targets
- Specially designed domestic interventions to stimulate or support the accumulation of resident pools or “hubs” of globally competitive services expertise, in (*inter alia*):
  - financial services
  - education services
  - ICT services
  - R&D services
  - professional and technical services
  - audiovisual, cultural and entertainment services
  - health and wellbeing and
  - tourism services

New Promotional Tools

- Significant joint government/industry innovation in export promotion, branding and marketing methods to accommodate the unique and complex manner of international services delivery
- Stronger Government presence in support of Australian services tendering into global services supply chains
- More deliberate Government focus on assisting services suppliers to establish commercial presence offshore
- Creation of centralised services export intelligence data banks
- Provision of specialised export training for small and medium sized services firms
- Creation of services exporter networking opportunities, especially for smaller firms

New Negotiating Fora and Vehicles

- A big Australian initiative to ensure immediate commencement post Doha, of critical mass plurilateral, mfn-based, services trade

negotiations, preferably within the WTO but not necessarily located in Geneva
- Cessation of automatic Australian support for a “single undertaking” on joint Services and Goods (Agriculture) negotiations in the WTO
- New international Australian Government advocacy for multilateral and plurilateral negotiations on trade and investment and trade and competition policy
- Explicit Australian Government support for a WTO role in promoting domestic regulatory transparency in member countries
- Priority resource allocation to the APEC Structural Reform Behind-the-Border agenda
- Significant redesign to services trade and investment liberalisation vehicles to achieve priority objectives with respect to behind-the-border regulatory barriers to doing business, including specifically with respect to the currently inefficient bilateral “Free Trade Agreement” vehicle
- Cessation of automatic Australian priority to “comprehensive” bilateral negotiations covering Goods (Agriculture) as well as Services

Organisational Reforms

- Reorganisation of the Department of Foreign Affairs and Trade, Austrade and EFIC, to facilitate dedicated pursuit of a National Strategy for Services Exports
- Appointment of an Associate Secretary for Services Globalisation in the Department of Foreign Affairs and Trade
- Creation of a Standing Inter-Departmental Committee on Services Globalisation
- Creation by the Minister for Trade of a high-level Services Competitiveness Council for industry consultation and awareness raising, including across portfolios
- Creation of a Services Globalisation Unit in the Department of Prime Minister and Cabinet
- Reorganisation of the Department of the Treasury and the Department of Broadband, Communications and the Digital Economy to enable greater attention to Services Globalisation
- Allocation of more significant resources in the Department of Innovation, Industry, Science and Resources to activities to boost competitiveness and international business development of the Services Economy

TABLE OF CONTENTS

1. The Opportunity

Services constitute two-thirds of world gross domestic product (GDP). Services are intrinsically people-intensive industries and, despite rapid growth in labour productivity in services, are also the source of most global job growth over the last decade.

In Australia, services account for 78 percent of GDP and 60 percent of domestic investment. Services employ 8.5 of every 10 Australians, with all net job growth over the past two decades taking place within the services sector. Austrade estimates 82 percent of Australian firms to be services firms, though only 3 percent of them appear to be exporting. Most are small and medium sized and don't appear on the trade policy radar. There is a big opportunity ahead of us as our services industries globalise.

Services exports in 2005, as measured by the ABS, were $37b and growing at about 4 percent a year:

- Tourism $11b
- Passenger Transport $7.5b
- Education $7b
- Finance & Insurance $1.5b

At 23% of total exports, services exports are already larger than rural exports and almost on a par with manufactures exports.

But this is known to be a significant under-statement of actual services exports. Much more work needs to be done to determine the true value of the sector's share of exports.

We know the services sector makes a much larger contribution to exports than its direct share, as services are often integrated with other goods. The ABS data suggests that, on average, about one-fifth of the value of Australia's goods exports is composed of services.

We also know that the Balance of Payments (BoP) data does not measure services exports delivered via offshore commercial presence (branches overseas) or franchises. Recent ABS surveys of Australian-owned foreign affiliates show the BoP is probably picking up less than one third of the actual "exports" of services taking place. Recent EFIC data shows Australia's offshore investment flows now exceed inward investment flows, reinforcing the evidence of significant unmeasured services "export" activity.[1] One source of difficulty around the measurement of services relates to its

---

[1] Importantly, services contributed more than half the companies on the Global100 complied by IBISWorld/EFIC of Australia's top international companies by foreign revenue. Many different service industries are involved including: financial, property, engineering, transport, communications, media and consumer services. Moreover, the world's top companies in many service industries such as engineering, architecture, property management and analytical services have a strong representation from Australian firms.

definition. The term “services” covers a broad range of industries that produce value by providing solutions to customers’ problems. Despite their great diversity, services industries are in fact less heterogeneous than is commonly understood. Services have many important common characteristics, interests and priorities that distinguish them sharply from the goods-producing sectors. These include:

- high labour-intensity
- high knowledge-intensity
- high ICT-intensity
- strong influence from cultural issues
- unique challenges in intellectual property
- difficulties in collecting statistics
- complex and unfamiliar barriers to trade, typically not applied “at the border”
- strong sensitivity to immigration issues
- deep political “sensitivities” with respect to national sovereignty
- comparatively heavy dependence on offshore investment in order to export
- prevalence of government ownership and monopolistic structure
- marked legacy of heavy regulatory intervention
- while this is changing, the strong historical legacy means that services generally are at an earlier phase of the cycle of market liberalisation and globalisation, compared to goods sectors
- special issues facing public/private partnerships in services infrastructure delivery, including offshore
- quite different financial structures for services businesses, compared to goods-based sectors, and hence different sensitivities to tax and financial reporting regulation and to capital markets conditions
- rapidly changing business processes and methods of service delivery.

In addition, the services industries typically provide the essential infrastructure and enabling networks for the goods-producing sectors. Services industries essential to the productivity of the economy as a whole include education, health, energy, water, banking and financial services, telecommunications and transport.

Many goods, moreover, have traditionally been “bundled up” with “product-related” services and many goods-producing processes contain “embedded” value-adding services. In a globalised environment, however, services can become increasingly “unbundled”. Lower value-add services, like goods, become “commoditised” and can and do enter global supply chains.

These and other characteristics of services industries tend to be poorly understood throughout the public policy community. This is hardly surprising, given that the official statistics which inform policy thinking are still published via out-dated and analytically not very useful ANZSIC categories.[2] In exploring issues related to trade in services, it is often analytically useful to draw on the categories in the WTO General Agreement on Trade in Services, namely Communications, Construction and related services; Distribution services; Education services; Energy services; Environmental services; Financial services; Health and social services; Tourism services; Transport services.

In all of these industries, there is a major export growth opportunity for Australia.

Most of these industries are currently, however, facing significant challenges in the global market. There are warning signs of potential decline in Australia's competitiveness, including price sensitive slowdown in in-bound tourism and exports of education and IT services, declining share of Australian services exports in global services trade and widespread knowledge-intensive skills shortages. The services unions and employer firms alike rightly worry that Australia is not attracting its potential share of global work onshore.

These realities need to be addressed jointly by both Government and industry. There is much that industry can do, but it can not do it alone. The role for Government has its origin in the fact that global services markets are more distorted than goods markets because they have a deep history of government intervention, including ownership, and a consequent intense regulatory legacy.

To achieve our shared export objectives, and to design appropriate new policy settings and instruments, we first need to bring about a paradigm shift in Australian trade policy thinking.

2. The Paradigm Shift Required

Trade Policy has to be thoroughly redefined to take account of Services. There is huge inertia in the system against this. It is very important to recognise this, because without the paradigm shift in trade policy mind set required, any attempt to boost services export performance will be largely doomed to failure. The shift required is summarised in the box below.

The Old Model

In a relatively closed, goods-oriented economy, "trade" was the flow of goods across the border and "trade policy" was about managing that flow.

Trade in "money" and in other "financial instruments" also took place, but the management of capital flows (i.e. the extent to which the national market

[2] We look forward to the rollout of statistical collections according to the new iteration of ANZSIC.

was segmented from the global market) was generally considered beyond the realm of “trade” policy as such.

The same applied to foreign investment. People also crossed borders, but management of that flow was similarly considered to be beyond the realm of “trade” policy.

In that historical paradigm, “export policy”, the topic of this review, was focused on maximising the contribution to GDP growth from net foreign exchange earnings on the current account. It followed that boosting export performance of goods was about:

1) where market failures or positive externalities exist, designing “appropriate” domestic interventions to stimulate or support production, subject to WTO rules on subsidies
2) investment in physical infrastructure
3) export promotion, branding and marketing overseas and
4) trade negotiations, generally of a reciprocal nature, to remove barriers to goods export market access at “offshore” borders

The New Model

In a globalising services economy, the concept of “trade” necessarily becomes extended to cover all economic interaction between residents and non-residents, and ”trade policy” becomes about managing the extent of non-resident participation in every national economic transaction.

Every domestic regulatory regime takes on an international “trade policy” dimension. The notion of “border” becomes much less relevant.

Management of capital market integration is no longer irrelevant to “trade” policy. Nor is management of foreign investment flows. Services are delivered[3] to non-residents via fly in/fly out of both provider and consumer, internet enablement, and commercial presence offshore.

In this more modern trade policy paradigm, the objective of “export policy” is about developing a strategy to maximise Australian residents’ earnings, directly or indirectly, from engagement in global economic activity.[4] This is a very much larger policy task.

A strategy to boost services export performance will look a bit different then from a strategy to grow Australia’s goods exports. The strategy will require

1) designing “appropriate” interventions to stimulate or support the accumulation of resident pools or “hubs” of globally competitive

[3] We use the word “delivered” because the ABS is reluctant to describe all of this as “export”.
[4] The idea of “resident” rather than “national” is imposed, somewhat problematically, by global statistical convention.

services expertise,[5] and in the absence of any WTO rules on subsidies for services

2) infrastructural investment in the knowledge economy (education, broadband, etc.)
3) export promotion and marketing methods which specifically accommodate the unusual manner of services delivery
4) trade negotiations will need to embrace immigration and investment regimes as well as inefficiencies in other countries' micro-economic sector-specific "behind-the-border" regulatory regimes – these differences are such that it can not be taken for granted that the traditional goods-trade negotiating fora and goods-trade liberalisation vehicles will necessarily work for services.

In moving from the old goods-based model to the new services-oriented model, a complete shift in policy mind set is required.

In thinking about exporting a service, it can be helpful to think in terms of exporting a solution.[6] For Australia to brand itself successfully as a services exporter, Australians have to build a reputation for excellence in coming up with solutions. We have to build visible centres of services expertise. We examine these issues in section 3 below.

We also examine, in section 4 below, ways to open up the global market place. This is complicated by the fact that services are delivered internationally in 4 distinctly different ways:

- Mode 1 – Cross-border supply: the service itself flows from the territory of the exporter into the territory of the importer, usually transmitted via telecommunications;
- Mode 2 – Consumption abroad: the services consumer travels temporarily into an exporting country's territory to obtain a service abroad;
- Mode 3 – Commercial presence: a services provider establishes a local presence, including through ownership or lease of premises, in another country's territory to provide a service in that market;
- Mode 4 – Movement of natural persons: the services exporters travel temporarily to the territory of another country to supply a service.

The trade barriers encountered vary with the mode of delivery employed. The major barriers tend to relate to Modes 3 and 4 – i.e. they lie in investment and immigration regimes. But the 4 modes are substitutable and firms tend to use them all; in particular firms avail themselves, in any particular jurisdiction, of the least restricted mode. The GATS identifies the major barriers as:

[5] For example, expertise in financial services, in ICT services, R&D services, logistics and supply chain services, professional and technical services, education services, health and well-being services or tourism services, etc.

[6] Often, of course, that solution has a good attached to it as well.

- Limitations on the number of service suppliers
- Limitations on the total value of services transactions or assets
- Limitations on the total number of service operations or on the total quantity of service output
- Sector specific Economic Needs Tests or limitations on the number of persons that can be employed
- Measures that restrict or require specific types of legal entity or joint venture through which a service may be provided
- Limitations on the participation of foreign capital in terms of a maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment
- Measures which affect nationals differently from foreigners
- Measures which affect established foreign companies differently from established nationally-owned companies

3. Globalising Australian Services

Industry and export assistance programs straddle several government agencies and different levels of federal, state and territory governments. Relatively few of them were designed specifically with services exporters in mind. We do not, in this report, argue their case. Services firms will seek to avail themselves of whatever assistance is available, but none of the existing schemes are of sufficient interest to justify strong ASR support.

What we are looking for is something a bit different.

Typically what services industries require, in order to boost local industry development and export performance, is a "whole lot of little things" across a range of policy portfolios. Many of these are identical across all services sectors. Getting the conditions right to enable development of Australia as a financial services centre, for example, is not dissimilar from what is required to get the conditions right to enable development of an IT services centre, or a regional education hub, or a health or eco-tourism destination. In each case, it requires a whole-of-government approach to building services excellence.

In Attachment 1, "Building a Financial Services Centre", we take one specific sectoral example and explore whole-of-government ways in which Australia might move to support local excellence and expertise in financial services. We hope in so doing to start the process of creating a new "policy template" for services industry development and export policy, in which the fundamental onus is on industry itself to "innovate and compete", within a policy and regulatory environment which is conducive to doing so.

To the extent that government assistance is relevant, we prefer outcome- or performance-based measures which facilitate the process of innovation for the global market. One measure we consider would be helpful in assisting services providers offshore is the introduction of a taxation deferment plan for project-based export activity.

Unlike the regime applying in the WTO with respect to trade in Goods, there are no international trade rules which discipline subsidies or incentives to services industries, whether for production, employment, innovation, environment or any other local or international policy consideration.[7]

The question therefore arises: why, in Australia, has there never been any effort to design any services-specific export facilitation instrument? So much effort has gone, over the years, into designing and redesigning instruments such as EMDG consistent with the rules on trade in Goods, yet no Australian government has ever yet designed and offered the services industries any generic services-oriented export development support.

The explanation lies largely in the Goods-oriented paradigm in which public policy has been locked. It also lies in the fact that apart from one or two sectors creating critical local cultural content, Australia's services industries do not have any history of clamouring for industry assistance nor any current leaning to do so.

But services representatives do look at the Government's almost $16 billion spend on industry support in other, largely declining non-taxation paying sectors and weep! And again, unlike in the services sector, we are clearly witnessing now a vocal call from Australia's carbon-intensive trade exposed sectors for additional protection and support.[8]

In its "Trade & Assistance Review 2006-07", the Productivity Commission noted that Australia's services industries are put at a competitive disadvantage as a result of the industry assistance which the Government still provides to the agricultural and manufacturing sectors.

"While industry assistance has declined greatly over recent decades, assistance provided by the Australian Government remains significant. In 2006-07, the government measures covered in this report provided assistance to industry equivalent to $15.7 billion in gross terms, and $8 billion in net terms. The automotive, textiles, clothing and footwear and dairy industries received the highest rates of assistance within manufacturing and agriculture. Services industries typically attract negative assistance because tariffs inflate their input prices."

Not only has the services sector attracted net negative industry assistance,

[7] This is part of the "unfinished business" of the GATS and is highly likely to remain "unfinished" at the end of the Doha Round.
[8] This submission does not touch specifically on WTO jurisdictional or other trade-related issues associated with allocation of permits under an emissions trading scheme. ASR would however wish to participate in and contribute to any trade-related stakeholder consultation process on this issue.

but the sector has also received relatively less attention on the export promotion front. The Trade portfolio, via Austrade, is already gearing to become more active in the promotion and facilitation of Australian services export (including, importantly, for small and medium sized firms), and ASR welcomes this development. There has been a prolonged policy gap, also, with respect to facilitation of Australian investment in commercial presence offshore. ASR appreciates that the Government has recognised, in its recent reorganisation of Austrade and Invest Australia, that this gap needs finally to be addressed.

No government agency yet offers, however, a coherent "one stop shop" which can help address all the relevant aspects of services export promotion. We recommend, therefore, the establishment of a specific services export promotion mechanism within Austrade which would assist existing and potential services exporters with, *inter alia*, offshore investment, tendering into global services supply chains, and visa facilitation for staff to come to Australia and for Australians to locate off shore.

Our pilot study in South Australia (see Attachment 6) also identified a need to create centralised services export intelligence data banks, to facilitate services exporter networking opportunities (especially for smaller firms), and to facilitate access to specialised export training for small and medium sized services firms.

The ASR also seeks greater equity for services in all existing trade promotion programs. If DFAT continues to find it effective to provide travel assistance to the agricultural sector to participate in overseas meetings, this assistance must also, in our view, be extended to the representatives of the services sector.

Similarly we note that the Department of Agriculture, Forestry and Fisheries provides funding for agricultural sector industry stocktakes through its Industry Partnerships Programme. An equivalent programme should be instituted for the services sector. In Attachment 5 to this report, we reiterate our request of the Federal government to partner with ASR in undertaking a major Services Sector Stocktake.

4. International Trade Diplomacy and Negotiation

Giving services export interests proper priority in bilateral, regional and multilateral trade negotiations is critically important because the potential gains are so large. With respect to Australia, Productivity Commission estimates suggest that the gains from liberalising trade in services could double or even triple the potential gains estimated by DFAT to accrue from liberalising agriculture.

But in ASR's view, the current suite of services trade negotiating mechanisms are unlikely to help us reap these potential gains.

To put it simply, they aren't working. They aren't working multilaterally and, unless certain conditions apply, as set out in the relevant section below, they are, in our view, unlikely to work on a bilateral or regional basis either.

WTO market access outcomes on services to date have been poor. Bilateral "WTO plus" outcomes are rare. To repeat the Trade Minister's recently announced objective of "WTO plus plus" outcomes, Australia will need to drop a lot of old negotiating habits and develop a next generation tool kit.

Interestingly, ASR has found a high degree of common ground on this matter with services export coalitions in our trading partners, whether they be from developed or developing economies. ASR is an active and respected member of the Global Services Coalition and the Financial Services Working Group. In both groups we find that we all want similar outcomes, i.e. harmonisation around better regulatory practice both at home and abroad and fewer investment and immigration barriers.

This business experience suggests that whether it be in the multilateral, regional or bilateral context, concerted services liberalisation has the potential to be genuinely win-win if governments can make the negotiating paradigm shifts required.

4.1 Multilateral Trade Agreements

4.1.1 Doha Development Agenda

Attachment 2 sets out our joint objectives, along with other global services industry coalitions, for the Doha Development Agenda. As our media release of May 2008 makes clear, we are not close to achieving these objectives.

In general, the Doha offers on services are thin and patchy in their sectoral coverage. ASR members, nevertheless, would rather reap what harvest there is than risk losing it altogether.

The Australian services offer, despite its essentially standstill rather than liberalising nature, is among the best offers on the Doha negotiating table and we expect that Australia's revised offer will place it again amongst the most ambitious.[9]

[9] This is appropriate. We want to be world's best practice because it's good for us. Of course we also want our trading partners to shift towards better regulatory practice and offer us some market access. But it only damages us to hold back and wait on them to reciprocate. Australia, in the WTO, is a demander on Agriculture. And a somewhat reluctant party on Manufactures. We aren't bringing much that's new to the negotiating table in these sectors. On Services, we should be signalling big intentions.

We are encouraging the Australian government in its efforts to bring the Doha Round to rapid closure. If this does not prove possible, we will be looking for ways to avoid losing what progress has been made in the services arena, including on a plurilateral basis. And if the Doha Round does come to a rapid conclusion, we are calling on the government to ensure the deal includes a built-in agenda of ongoing critical mass, mfn-based negotiations on services.

The problems associated with the Doha Round have caused us also to think more broadly and more deeply about our multilateral objectives. Australian services exporters, being outward looking, have much in common with Australian agricultural exporters. We each face artificial distortions in overseas markets which are uneconomic even for the communities they claim to protect.

A higher level of transparency of government intervention in the business environment and a deeper focus on independent analysis of the costs and other impacts of this intervention would assist in building constituencies which would be more supportive of local reform.

In the case of services, the interventions and distortions chiefly take the form of inefficient (i.e. opaque, burdensome, duplicative, mutually inconsistent and overlapping) domestic regulations affecting who can participate in services industries and limiting in particular the scope of business for foreigners.

4.1.2 Transparency

The current paucity of WTO services offers from developing countries suggests that before any substantive progress can be made via international negotiations to reform the regulatory environment in these trading partners, a prior step is required to increase the transparency of their regulatory regimes.

The ASR and the New Zealand Services Group have therefore joined forces with the National Farmers Federation and the Federated Farmers of New Zealand to sponsor the Tasman Transparency Initiative to strengthen the WTO.

The initiative, which we have called on the Australian and New Zealand Governments to support, proposes the establishment, inside the WTO Secretariat, of a unit oriented to promoting and facilitating the building, in WTO members, of institutions which will enhance the transparency of barriers to trade and investment in both the goods and the services sectors.

Enhanced transparency is important because it is the first essential ingredient in managing the political economy of domestic regulatory reform.

4.1.3 Post-Doha Agenda

Whether Doha succeeds or fails, services providers know now that we will need ongoing negotiations in services because the level of ambition for services liberalisation to date has not been (and the evidence is that it will not be) high enough to meet private sector expectations.

ASR is therefore calling on the Government to lead a major post-Doha initiative on Services. The first steps must be reflected in a final Doha agreement on a built-in agenda to recommence immediate negotiations on services market access, and outstanding rules, especially on domestic regulation.

What this means is that we are no longer as firmly committed as we once were to the notion of a single undertaking, i.e. comprehensive negotiations on all sectors simultaneously, with nothing agreed until everything is agreed.

We tend to favour, in future, post Doha, the idea of services-specific negotiations, whether or not the critical mass also exists to get a further round of negotiations under way simultaneously on agriculture or manufacturers.

For critical mass negotiations to succeed, they require the key national players in services to participate. We accept that negotiations might only attract say 30-40 initial players. In any case, to date, less than a third of the WTO members have submitted Doha Round offers on services.

We believe there will, however, be a strong incentive for countries initially outside the agreement to ultimately join in; otherwise they will fail to attract critical investment in services infrastructure. Already the evidence is that countries which have not signed the telecoms reference paper, for example, do not attract telecommunications investment. In our view, an international services agreement that covers the major players would place heavy pressure on non-participants to co-operate or face significant competitive disadvantages. For this reason, we call for any such critical mass negotiations to be based on mfn and to take place under the umbrella of the WTO.

We would however see advantage in shifting the meeting place from Geneva to a location in Asia-Pacific, e.g. Hong Kong.

4.1.4 Investment

The relationship between investment flows and trade flows is complex and evolving, and significantly the policy divide has become blurred.

In goods sectors, inward flows of foreign direct investment are thought of as acting as a substitute for trade. Foreigners are motivated to invest overseas in order to get around tariff and non-tariff border barriers in the host country by servicing the host market from inside. "Pre-establishment" barriers to investment limit this option.

Foreign investment also acts as a complement to trade. Investment may be focused on exploiting comparative advantages in the host economy, boosting bilateral or global export from the host economy. Investment also seems to stimulate export growth, from the home economy, of both goods and services, including via intra-industry trade.

When their domestic clients invest offshore, services providers try to follow them abroad. Often they require a commercial presence in the offshore market to service them effectively, so they also invest. If the policy regime is sufficiently open, foreign investment in goods can breed foreign investment in services. Services providers also look for foreign clients in their own right – and to service them effectively, they need to pursue their own offensive investment interest in achieving commercial presence in that market.

As services activities which traditionally have been government-owned and operated enter the realm of the private market place, they also become attractive to the international market. Foreign participation in these activities requires inward direct (and portfolio) investment.

Investment is of fundamental importance to the way in which services firms do business offshore. Investment doesn't figure on the WTO agenda. But it is not completely absent either.

The Uruguay Round achieved both the Agreement on Trade-Related Investment Measures and the GATS provisions on Mode 3 (Commercial Presence). Services trade negotiators have had to learn a lot about investment issues because most services trade restrictions lie in Mode 4 (immigration regimes) and Mode 3 (investment regimes) and apply horizontally, i.e. economy-wide.

The concept of Commercial Presence/Right of Establishment, when combined with GATS rules on National Treatment, necessarily takes services negotiators into both pre- and post-establishment issues.

ASR supports the idea of multilateral negotiations in Investment taking place in the WTO.

4.2 Bilateral Trade, Investment and Tax Agreements

A number of ASR members have contributed to the Review Questionnaire, outlining their specific commercial experience with individual existing FTAs. Our objective in this section of our submission is to draw out some broad lessons learned on the services front, not only with existing FTAs but also with those under negotiation.

It is probably fair to say that services issues have played a prominent role in Australia's FTA negotiating agenda. The experience, however, is that in FTAs with developing country partners, services and investment liberalisation are not proving much easier to negotiate one-on-one than they are in the multilateral context. In every FTA negotiation in which Australia has been engaged to date, with a developing country partner, services and investment aspects have been exceedingly difficult. This is because services markets typically have very high levels of government intervention, liberalisation of trade and investment in services tends to be highly politically sensitive, and most developing country governments are not displaying the will to undertake the necessary regulatory reforms. It is also our view that more services trade-related capacity building and technical assistance are required to build awareness and understanding of the costs and benefits of liberalisation in trade in services.

The most constructive aspect of the FTA negotiating process with respect to developing countries has been that it allows Australia to undertake a much deeper policy dialogue on services-related matters, including what constitutes regulatory best practice, than is otherwise possible with non-OECD trading partners. Such a policy dialogue should over a period of time be able to facilitate regulatory cooperation and harmonisation, carrying the promise of deeper economic and business integration over the medium term.

Unfortunately, in the context of formal trade negotiation, this has not been Australia's apparent intention. The negotiating intention has been to obtain, and to the extent possible retain, a margin of preference for existing Australian exporting firms. Australia's negotiating mandates have been too narrowly focused on achieving small wins on market access, rather than on achieving deeper microeconomic reforms. Domestic regulatory issues have been largely off the agenda as not part and parcel of bilateral preferential negotiations.

As a consequence, Australia's FTA agenda has been of limited actual value in improving the business environment for enhanced trade and investment in services. The most constructive outcomes have been the establishment of ongoing working groups and committees to examine the possibility for regulatory harmonisation or mutual recognition over time. To be effective, however, panels/committees which are established pursuant to a PTA need to have teeth.

To sum up, the value, as we see it, of bilateral engagement with trading partners, lies simply in establishing a vehicle, which in itself may be of limited utility, that can nevertheless provide a platform to keep chipping away at behind the border barriers, bringing the domestic constituency on board over time, hopefully in time facilitating a staged approach to regulatory reform. We have little consequent interest in the further pursuit of FTAs as currently constructed and call for a new suite of bilateral instruments focused on policy and regulatory micro-economic dialogue.

ASR has been disappointed with the lack of progress made in Geneva to tighten the WTO's own rules covering FTAs. We support fast tracking of the WTO's new Transparency Mechanism for newly signed PTAs.

Given the number of FTAs already under negotiation or proposed, we set out in Attachment 4 a detailed set of principles which we consider should guide negotiations with respect to services trade and investment issues. Importantly, these principles cover trade, investment, capital market, taxation and immigration policies.

We support the development of a negotiating template to reflect these principles, which in our view should apply to all trading partners, with adjustment on a case by case basis to reflect the level of their economic development.

4.3 Regional Architecture – APEC

From a services industry perspective, Australia's key objective in the region should be to free up the regional environment for doing business, so that business can operate relatively seamlessly as if in a single market across the region.

Improving the business environment for services firms requires an intensified regional effort towards harmonisation and mutual recognition of standards and professional qualifications and convergence in other regulatory practices.

This is a two step process. The first step, for the reasons set out above, is to improve the transparency of regulatory and other behind-the-border inefficiencies. Importantly, appropriate domestic and regional institutions need to be built to support this process. The second step, as the inefficiencies are made more visible, and the costs associated with them more obvious, especially to domestic stakeholders, is to build a concerted regional effort to eliminate the most inefficient (discriminatory and non-discriminatory) aspects of these omnipresent regulatory barriers beyond the border.

With respect to the first step, ASR's experience is that targeted strategic technical assistance and the building of research capacity inside our trading partners is the key to unlocking real progress. We are expecting that the new Structural Reform agenda, to be kicked off with an inaugural Ministerial meeting in Melbourne this year, will in the future prove to be a powerful central mechanism for realising our broad objectives in this respect.

With regard to the second step, ASR's repeated experience (as outlined in the previous sections), is that formal international trade negotiations are not necessarily the only or the best international diplomatic vehicle by which regional barriers to trade in services can be addressed.

Our experience in the WTO Doha Round, and with Australia's bilateral FTA agenda, has served to strengthen our conviction that the worst barriers to services trade and investment lie largely outside the traditional trade negotiating arena. For this reason, we see little value in pursuing the traditional concept of a regional FTA.

We are more interested in potential new mechanisms that can address behind-the-border regulatory obstacles to doing business. We are hopeful therefore that the Structural Reform agenda will deliver an intensified micro-economic policy dialogue on regulatory best practice, and a continued redirection of technical assistance towards building sectoral regulatory capacity and public policy research institutions which can assist regional governments to manage the political economy of trade reform.

In most APEC economies, Trade Ministries are the least well informed about what goes on domestically in any particular regulatory regime. In the interests of trade and economic integration, it is time for Trade Ministries to get on top of this issue and start to champion regional regulatory review.

The regional business experience with regulatory red tape is not good. The obstacles to doing business are very considerable. New market entrants cannot necessarily obtain a licence to operate – or, if they can, its scope is often unexpectedly limited and the regulatory compliance obligations unexpectedly expensive. Importantly for services companies (where human capital costs are often 70-80% of total cost), everything to do with recruiting, training and deploying people can be extraordinarily complex.

Regulatory reform is a top priority for business in meeting today's global challenges. The extent to which firms can connect effectively with business elsewhere in the region depends on how familiar the regulatory environment is. Effective connection is critically important for business performance, as the global supply chain model becomes increasingly pervasive. The APEC Structural Reform agenda will hopefully provide a consciously articulated, dedicated policy focus on reducing the region's regulatory burden.

5. Cross-Portfolio Institutional Reform

In ASR's view, federal government policy making and regulatory structures have not adjusted sufficiently to take full account of the implications of globalisation. Many separate government departments and agencies have carriage for aspects of government policy and programs which impact on services trade outcomes. Many regulatory authorities also have responsibility for matters which impact importantly on services trade outcomes.[10] And insufficient coordination or interaction takes place.

The time has come in our view to review the separate mandates of these various agencies, with the purpose of improving economic policy coordination and coherence. Globalisation means that artificial policy separation of the "domestic" and "international" dimensions of national economic performance is not only increasingly difficult but is also likely in any case to lead to increasingly poor policy-making outcomes.

The Trade portfolio has been focused on trade diplomacy and trade promotion. At last, responsibilities for trade promotion have been combined, in Austrade, with on- and off-shore investment promotion responsibilities. Bringing together inwards and outwards investment facilitation within Austrade is a solid step in the right direction in supporting all modes of services trade and coordinating trade and investment facilitation efforts. This constructive institutional reform needs to be complemented by similar coordination and integration of the associated policy making responsibilities.

In particular, the Trade portfolio needs a mandate which allows it to extend beyond a "postbox" approach to services trade policy matters and to assert a much stronger international negotiating perspective vis-à-vis other services-related policy agenciesincluding to ensure that our own regulatory house is truly in order.[11] The fact is that Australia's own barriers to trade in services lie deep inside our borders in our domestic regulatory systems. The barriers we face to doing business offshore are similarly to be found in our trading partners' regulatory regimes. As long as the Trade portfolio and our trade negotiators focus primarily on barriers at the border, the challenges facing Australia's services exporters will not be adequately addressed.

The problems we face would be eased if there existed within the bureaucracy a visible pool of resources dedicated to developing the services economy. The malaise in Australia's services trade performance will only be overcome when international services issues stop being a part-time job for many people, and a single area of government takes high-level responsibility for

[10] As well as the Department of Foreign Affairs and Trade and Austrade, these include the Departments of Treasury, Broadband/Communications, Education, Immigration, Health, Transport/Infrastructure, Innovation/Industry, as well as agencies such as the Tax Office, Intellectual Property Office, Customs and regulatory bodies such as ASIC and the ACCC.

[11] DFAT's recent efforts to establish individual Services Sector Reference Groups have been helpful in bringing all relevant Government agencies together with industry stakeholders to commence a more coordinated approach to facilitating services exports. But much more needs to be done to ensure that all relevant Government agencies are engaged in the trade process and that the necessary mechanisms are in place to obtain industry advice, in a comprehensive and timely way, on impediments to doing business offshore.

creating the right policy environment to improve the sector's export performance.

In order to overcome current piecemeal arrangements, ASR specifically proposes the following:

- Internal reorganisation within the Department of Foreign Affairs and Trade, Austrade and EFIC, to facilitate dedicated pursuit of a National Strategy for Services Exports

- The creation of a new senior position in DFAT, to be termed Associate Secretary for Globalisation and to be located between the Secretary and the Deputy Secretaries

- Creation of a Standing Inter-Departmental Committee on Services Globalisation, chaired by the Associate Secretary, comprising representatives at Deputy Secretary level of all agencies with responsibilities impacting on services trade competitiveness issues

- Creation by the Minister for Trade of a high-level Services Competitiveness Council for industry consultation and awareness-raising, including across portfolios

    – This new institution, to comprise senior representatives from the services sector, would take a holistic approach to understanding the internal and external drivers of Australia's competitiveness in services, hence helping to enlighten Australian services trade diplomacy

- Creation of a Services Globalisation Unit in the Department of Prime Minister and Cabinet

- Reorganisation of the Department of the Treasury and the Department of Broadband, Communications and the Digital Economy to enable greater attention to Services Globalisation

- Allocation of more significant resources in the Department of Innovation, Industry, Science and Resources to activities to boost competitiveness and international business development of the Services Economy

- Creation of a Services Competitiveness Sub-Committee of Cabinet

- A more radical approach, which ASR would also support, would be to create a new Department of Globalisation, which would take carriage of all issues impacting on Australian businesses pursuing offshore revenues in both the goods and services sectors

ATTACHMENT 1: BUILDING A FINANCIAL SERVICES CENTRE

Summary

Australia is already a global financial services centre of some significance.[12] Australia has globally recognised niche expertise in aspects of each of insurance, banking, securities and asset or funds management. Australians are also innovators in consumer credit and mortgage finance, including in the non-bank sector.

Australian financial services providers deliver their services to non-resident customers via all 4 modes of delivery on an increasingly complementary basis.[13] To encompass the full array of modern services activity, the concept of a "centre", traditionally understood to be geographically located on Australian soil, needs to be broadened to ensure an enlightened policy focus which also encompasses business opportunities to be reaped via commercial presence offshore.

The fact that export data on mode of delivery is still unavailable considerably complicates formulation of an appropriate policy framework. Nevertheless, the available data suggests that when Mode 3 (commercial presence offshore) is taken into account, Australia's strongest financial services "export" performance has registered in insurance services, followed by banking, followed by asset management. All of these financial services exports could be considered, however, to be performing well below potential – all have strong business growth opportunities, especially in emerging markets in Asia.

Funds management, in particular, has the potential to bring new work to Australian shores. Industry projections suggest there will be, for example, US$2 trillion just of mutual fund assets in Asia by 2011. The financial services attached to these capital investments would be in the order on average of over 2%. The biggest growth opportunities are projected to lie in China, Taiwan, Korea, Japan, India, Indonesia, Vietnam and the Middle East. The Australian financial services sector must rise to the challenge of meeting this emerging demand or risk becoming marginalised in what is set to be the biggest period of wealth creation the Asian region has yet seen.

The Australian Services Roundtable calls on the Federal and State Governments to help industry to maximise Australia's share in these new emerging markets.

As for other services sectors, a new suite of innovative export-oriented policies and programs will be required. So will a whole-of-government approach to

---

[12] ASR adopts the WTO GATS classification of "Financial services", namely all kinds of insurance, banking, securities and asset management. See Annex 1 for details, including CPC classification.

[13] As set out in the main report; Mode 1 is cross-border (electronic); Mode 2 is sales onshore to non-residents; Mode 3 is commercial presence offshore; Mode 4 is fly-out to service customers offshore.

ensuring competitiveness via regulatory and taxation reform, education, training and immigration and knowledge economy infrastructure. Most importantly, ASR calls on government to ensure that the domestic regulatory environment is neutral with respect to services mode of delivery.

1. Present Performance

Sydney and (to a somewhat lesser extent) Melbourne already have a significant place among the financial capitals of the Asia-Pacific region. Sydney would generally be considered to be among the top 10 financial centres in the world. Sydney and Melbourne would both register in the top 5 in Asia. Financial services, including wholesale and retail banking, general insurance and infrastructure and property financing would generally register among the relatively faster growing of Australia's services exports, especially when Mode 3 delivery of services (i.e. delivery via commercial presence offshore) is taken into account. Australia's insurance industry ranks 2nd in the region after Japan's.

Australia's expertise in financial and related ancillary services has strengthened considerably since the introduction of compulsory superannuation requirements for all Australian employees, a policy shift which stimulated rapid development of an innovative funds management industry focused initially on servicing the extensive local market. Over the last 5 years, during a period in which information technology has revolutionised the way in which financial investments are packaged and distributed, Australia has emerged with the largest pool of managed investment assets in Asia and the 4th largest in the world.

Combined with our geographic location and time zone, robust regulatory environment, general cost competitiveness and multi-lingual skills base, this rapid growth in the scale and efficiency of our own local market has significantly enhanced Australia's competitive advantage in doing business in financial services in Asia.

Australia has recognised high value-add capabilities in asset management services design and delivery. Australian funds managers have proven track records in innovation in fund design, infrastructure funding, property trusts, financial planning, investment platforms, hedge funds, and retirement savings. Australia is a world leader in Real Estate Investment Trusts and Infrastructure Investment Funds. Australia's actuaries are acknowledged as world class.

Importantly, this expertise is not just at the big end of town – we are talking about a range of firms, including many nimble small and medium-sized boutique players.

Despite these apparent strengths, Sydney's relative position among the top 10 financial centres in the world has dropped a notch over the last year.[14] As in other services sectors, there is recent evidence that our relative export performance is under par. This means that, as is the case with other services sectors, at a minimum, closer policy attention is called for.

And there is clearly work to be done if Australia is to fully reap its potential, even with respect to funds management. The fact is that more funds are still sent offshore to be invested in offshore-domiciled assets, and managed by non-Australian residents, than the reverse. Australia's net export performance in funds management is poor.

The question is sometimes asked: to what extent, and how, in building a centre, does activity for the local market matter? One reason it matters relates to the fact that every step in the local service supply chain needs to be competitive, in order for the entire sector to be competitive internationally. This is true at both the low and the high value-added end. Our local industry super funds have millions of members and generate strong ancillary and commoditised support services, such as custodial and report keeping services. The depth of our local market has also permitted specialisation in all sorts of sophisticated new products. This is where Australia's unique comparative advantage lies: in the clever product-development team in the middle office.

2. Big New Opportunity

Meanwhile, something extraordinary is happening with respect to wealth creation throughout East Asia (and, more recently, in South Asia), creating huge emerging retail interest in savings and new markets for wealth (including sovereign wealth and pension) management skills into existence. New pension systems are being built from the ground up.

Australia would seem well positioned to take advantage of this big new opportunity and to build its reputation in all kinds of financial services, but especially in wealth and asset management. Some industry estimates predict growth of 14 percent in financial assets in the region over the next few years, far outstripping rates of growth in Europe or North America. China's mutual fund assets are set to increase by 75 % and India's by 100 % over the next 5 years. These Asian markets are increasingly seeking global equity management expertise.

The export opportunity is right in front of us and industry and government should be acting in partnership to harness it now. There is no question that Australia has the required expertise. But the competition is strong. Other countries are also positioning themselves to provide funds management and

---

[14] The City of London's Global Financial Centres Index (March 2008) rated Sydney at no. 10 in March 2008. Hong Kong is rated 3rd and Singapore 4th.

ancillary services to the global funds management industry. Luxembourg, Ireland, Singapore, and Dubai to name just a few.

We need to ensure Australia really has the capability and the will to match this competition. The export market is never easy. Australia's past experience on the banking front is sufficient testimony to that fact. Local market inertia is always strong. But in a globalising world economy, it's ultimately a recipe for stagnation.

3. Policy Focus

Past tradition is for Federal and State Governments to focus on inward foreign investment attraction and in particular on attracting regional headquarter functions to Australia. This approach to services industry development involves attracting into Australia Mode 3 commercial presence of foreign services firms – in order, presumably, not so much to service the local market as to generate net Australian-resident Mode 1 (and also Mode 2 and Mode 4) services exports.

Attracting regional headquarter work to Australia is part of, but potentially only a small part of, what is required to really build Australia as a financial services centre. The time has come to think bigger.

The time has come to aspire to much higher levels of Mode 1, 2 and 4 financial services exports (e.g. management from Australia of businesses offshore, management in Australia of assets flowing into Australia from offshore, outsourcing by foreign firms established here to boutique Australian firms, and consultancy and advisory services delivered offshore on a fly in/fly out basis), but also explicitly to promote Mode 3 financial services activity from Australia, i.e. facilitate Australian commercial presence offshore, preferably on a 100% ownership basis. This critical ingredient has not previously been sufficiently on the policy radar.

Initial surveys of 100% Australian-owned offshore affiliates were undertaken by the ABS in 2005 to try to get a grasp on Mode 3 services delivery offshore. The results suggested that the official data on services exports as measured by the Balance of Payments has probably been measuring less than one third of Australia's actual delivery of services offshore. This is especially the case for insurance services.

Commercial presence is formally required, in many regulatory jurisdictions, for delivery of the full range of financial services to both the wholesale and retail markets. While our trade policy should be firmly geared to removing offshore regulatory impediments of this kind, and while it is true that electronic computerised data transmission has reduced significantly the need for geographic closeness to market, a degree of co-location with the client will likely remain of some marketing importance at least for certain retail markets.

Since the election, the Government has recognised the need for policy shift in this direction and has begun the process of combining in one organisation the trade promotion functions of Austrade with both inward and outward investment promotion responsibilities.

This is a critical first step in expanding Australian financial services business offshore and in promoting Australia as a regional and global financial services centre. (And a regional and global every other kind of services centre.) But it is only a beginning. To identify what else needs to be done, we need to put some definition around what we mean by a financial services centre.

3.1 What is a financial services centre?

The idea of a services industry "centre" emerges from the notion that there are economies which arise from agglomeration of services activities, such as information signalling and spillover and access to expertise. For non-laboratory forms of innovation, clustering is also thought to help build the appropriate culture. As in all services sectors, realising these economies is all about building relationships.

Financial services are high value-added knowledge-intensive services which tend to be generated through complex services supply chains, packaged with a range of enabling and support services such as legal, accountancy, computer, software development and IT services, custodial, compliance and risk monitoring services, education and training services, portfolio administration services, actuarial services, platform delivery systems and investment performance research and reporting services.

The idea of a services "centre" implies a physical agglomeration in a geographic location of all aspects of this knowledge-intensive services supply chain, allowing efficient relationships to be built. The "centre" attracts all the players, including the back and middle office; but most importantly, the centre thrives and builds by encouraging a focus on the highest value-added activities. In funds management, for example, that means the innovative design process itself: the ultimate objective in the "centre" is not only to advertise, sell, distribute or manage the funds from that location, but to design and create ("manufacture") the package. The location of this specific activity (the one to which ultimately the most valuable niche expertise is attached) is a function not only of quality of life and culture of innovation, but also, very importantly, of regulation as well as taxation and incentives.

The task of promoting a services "centre" located in Australia is therefore more complex than the single idea of helping a niche Australian services firm export into a global services supply chain, though that activity must also be part of the equation. Building a hub means ensuring the whole supply chain can operate effectively from or through the hub in all 4 modes of service delivery. And that we attract the highest value-added, most innovative expertise. Because services industry reputation ultimately depends on talent.

Let's take funds management as an example. Australian funds managers have proven themselves to be effective innovators. The local market itself stimulates an active ongoing culture of innovation. We have demonstrated expertise in the highest value-add activities. But we are failing, for regulatory and taxation reasons, to export Australian-domiciled funds. Ultimately, for the reasons outlined above, the domicile really matters. We are cutting an innovative export industry off at the knees.

The main body of this report sets out a series of policy recommendations for the services sector as a whole, all of which are fully applicable to financial services exports. This attachment focuses on a selected number of additional issues specific to building a financial services centre. It should be read in conjunction with the report itself. This submission is not the place to elaborate in detail, so we confine ourselves to the use of a few noteworthy examples.

3.2 Taxation

The Taxation Review currently underway needs to ensure that Australia's tax regime is globally competitive and is not unduly prejudicing our financial services export performance. A number of uncertainties and complexities in the existing system are currently adding to the industry's compliance burden and hence impacting on cost competitiveness.

Example(Funds Management): *Non-resident investors are naturally reluctant to invest in vehicles to which any regulatory risk might attach, e.g. which might turn out to attract host country tax rather than allow all income and capital gains to be taxed in their own home jurisdictions. Investors are therefore likely to choose funds domiciled in the most transparent, most user-friendly, no-surprise jurisdictions with which they have familiarity, where regulatory irritants are minimal and where investors are given the benefit of the doubt. This means that even where all the creative thinking has been done in Australia, Australian funds managers currently have a marketing incentive to pay the costs associated with choosing Dublin or Luxembourg as domiciles for their funds. This does not suggest that current Australian policy settings are as smart as they should be! Tax policy settings should be oriented to growing, not stunting local expertise.*

3.3 Regulation

We need regular regulatory review processes to ensure our systems of financial services governance are genuinely up to date and consistent with global best practice. This includes prudential regulation. Importantly, we need to ensure that the regulatory environment is neutral with respect to business choice of mode of services delivery.

Anecdotal evidence and emerging academic literature suggests that most services firms, across every services sector, use all 4 modes of delivery.[15] Government intervention is emerging globally as a key factor determining the choice of mode at any particular location. Consequently, one of our key objectives for the Doha Round is to ensure that services trade is freed up in all 4 modes.

In the view of the Australian Services Roundtable, it is important that Australia's regulatory environment be similarly neutral with respect to the choice of international business model employed. Where it is not neutral, distortions and costly inefficiencies are created as industry is forced into a preference for one delivery mode over another.

The Australian Government seems to have internalised this policy principle when dealing with protectionist barriers offshore. We must remember to apply the same policy principle when reviewing our own domestic regulatory arrangements. We are especially concerned that our regulatory arrangements should not continue to prejudice Mode 3 delivery of services offshore.

Example (Insurance): *Australian prudential regulations may be prejudicing the relative ability of Australian general insurers to achieve commercial presence offshore, compared with competitors based in other jurisdictions such as Europe.*

A competitive disadvantage is created, for example, when the minimum capital requirements in Australia are significantly higher than those of our competitors. Due to lower capital requirements, lower economic capital is needed to maintain a multiple of the minimum capital at a target level. As a result entities regulated in favourable jurisdictions can "pay up" for assets offshore, whilst maintaining an adequate return on capital (in monetary terms). Australian firms tend, as a result, to be cut out of the competition for commercial presence in Asia. Prudential regulation in Australia also tends not to cover Mode 1 imports of insurance on a "level playing field" basis.

Example (Banking): *The 4 pillars policy may be prejudicing the participation of Australian banks in competing successfully for work offshore; it may also be putting them at a disadvantage in acting as lead banker for local transactions by Australia's largest corporations. Our banks are increasingly exposed to import competition.*

The Australian Services Roundtable has no debate with a robust competition policy; competition is the critical ingredient ensuring efficiency and productivity in the Australian economy.[16] But proper judgement of market contestability

[15] This is a new insight, it being previously thought that any one services industry typically used only one mode, e.g. education, health and tourism have tended to be seen as exported chiefly via mode 2, but this is no longer so.
[16] Similarly important for a public policy perspective, for all infrastructural services, including financial services, is ensuring universality of service provision.

requires first and foremost an accurate identification and definition of the relevant market. The fact is that Australia is no longer a closed economy. Australia is an open, fast globalising services economy and the relevant market place is the global one. Corporate scale must be judged on a global, not a local basis. And Australian Banks are dropping relatively on any international scale. Australia's largest Bank, the Commonwealth Bank of Australia, is one fifth the size of the largest Chinese Bank and one third the size of the largest European Bank. The National Australia Bank is 77th out of the top 100 in the world.

In global banking, scale is an increasingly relevant factor. Other factors such as quality of assets and good management being held equal, credit ratings and funding costs do depend significantly on scale.[17] *No Australian bank has sufficient scale to be lead banker in the recent larger transactions or proposed transactions on the part of our largest companies. It would be difficult for Australian banks to take the lead in any M&A transaction among the larger Australian companies, say the ASX top 50.*

It is our view that it would be easier to build Australia as a financial services centre if Australian banks were able to grow. Our banks have important niche expertise, for example in agricultural banking. But they need to expand to a position where they can afford sufficient foreign acquisitions to externalise this local experience and grow a dedicated foreign clientele.

Size, we know, is not everything. Singapore is a successful financial centre without there being any large global Singapore banks. But Singapore offers advantages on the tax front that Australia can not offer. If our banks do not have scale, the fact is they must offer other special qualities; they must be more agile and more innovative; they must have better people skills and better IT capability, they must have more supportive export promotional programs and a dedicated government effort to facilitate market access. We discuss each of these issues below.

3.4 Talent

As is the case in so many other service sectors, Australia needs a top level elite academic financial services institution. We need to attract the right staff, create the right curricula, generate and retain the graduate body; and we need to start now. At present, Australia retains fewer Asian graduates than we otherwise could if we had an Industry/Government international post-graduate strategy that would allow Australian firms to more easily employ these graduates or redeploy them in the region.

We also need to attract more skilled migration to Australia to help address the evident professional skills shortages.

---

[17] Westpac's promotional material indicates, for example, that a merger with St George Bank would deliver a shift from an A to an AA rating and reduce funding costs appreciably. It also enables, according to the promotional material, lower unit costs, as back office functions such as wholesale manufacture become combined.

3.5 Infrastructure

High quality, internationally cost-competitive broadband network access is a prerequisite in facilitating innovation and export in all of Australia's industries, and financial services is no exception.

3.6 Export Programs

As in all services sectors, building awareness of Australian-brand capabilities offshore is extremely important. In financial services, advertising the robustness of our regulatory system is essential. This must include promotion of the Australian taxation system itself as transparent, predictable and risk free.

There is scope for the design of new ground-breaking "innovate and compete" export incentives for financial services providers, in banking, insurance and funds management. The R&D tax concession is largely irrelevant for non-laboratory innovation in fast moving services markets such as asset management. And the Export Market Development Grant Scheme was designed with goods exporters in mind and is constrained in its design by the rules imposed by the WTO Subsidies Agreement. The time has come to think seriously about what Australia could be doing to encourage innovative services exporters across all 4 modes of delivery.

3.7 International Trade, Investment and Tax Negotiation

The Prime Minister has signalled that this Government will give priority to reducing the barriers to trade in financial services, including on a bilateral basis. But as with other services sectors, overcoming the barriers to trade in financial services presents a trade policy challenge of the highest order. There is little evidence that our trade negotiators really have the detailed understanding of the industry required. Nor any fluency with the business or regulatory language. There has been too great an onus on industry representatives to learn the trade policy jargon and too little effort in the other direction. The Treasury needs to accept a much higher level of responsibility and to be much more fully engaged than in the past.

3.7.1 Nature of the Barriers

As with other services sectors, the barriers to trade lie in investment and immigration regimes and in an array of often opaque domestic regulatory requirements. Specifically, the barriers take the form of border protection which limits commercial presence (e.g. through foreign equity caps and requirements for joint ventures) or limits visa access for foreign personnel and behind-the-border licensing, regulatory recognition and other regulations which constrain the operations and scope of business of foreign providers. Barriers also lie in the application of prudential controls and of professional (e.g. actuarial) standards and recognition of Australian trained professionals (e.g. actuaries).

3.7.2 WTO

Australia chairs the Financial Services Working Group in the GATS. There is room for considerably more public advocacy and business consultation with respect to the work of this group. There are insufficient processes of regular consultation with or reporting back to industry on developments in financial services in the WTO.

The new Financial Services Reference Group, recently convened by DFAT, has the potential to fill this gap but it requires more active Treasury engagement – including, for example, joint chairmanship. The Group should meet more often, at more senior levels, and should pursue an active two-way consultation agenda. It could usefully facilitate more regular feedback to government from the Financial Services Leaders Working Group, to which the Australian Services Roundtable belongs, along with other core members of the Global Services Coalition.

We would like to propose a possible Australian initiative to re-examine the GATS definition of financial services to ensure it is up to date, including fully inclusive of all funds management related services.

Post Doha, we would encourage the Government to become a more active champion for the addition of Investment to the multilateral negotiating agenda in the WTO. Australia should also be an active champion for the addition of Competition Policy to the negotiating agenda in the WTO. The Australian Services Roundtable was disappointed that the then Australian Government did not take a proactive position, at the Cancun WTO Ministerial meeting, to ensure that these two services-oriented issues secured their place in the Doha Development Agenda. This was a significant lost opportunity for Services, which we would like to see rectified.

3.7.3 APEC

The new Structural Reform agenda in APEC is of deep interest to all services providers, but it has special resonance for the financial services sector for the very simple reason that the Treasury has responsibility for it. This should provide the Treasury with another mechanism for broad and inclusive stakeholder consultation on business priorities for reform in the Asia-Pacific region. There is no evidence to date, however, that the Treasury is taking proper advantage of this local opportunity. The first Ministerial Meeting, in Australia, in August, risks coming and going without strong industry awareness.

With some limited exceptions, APEC’s work on Services generally, on Financial Services specifically, and on Investment is largely unfamiliar to the local financial services industry.

3.7.4 Free Trade Agreements (FTAs)

The main report sets out our basic requirements for the design and content of FTAs, noting that the FTA instrument has to date been a clumsy and inefficient mechanism for services trade and investment reform. We call for a new suite of trade policy tools more suited to, and more specifically applied to, the services sectors. We draw attention to our support for Services and Investment instruments, unencumbered by Goods trade issues. With respect to financial services, we add specifically:

- Any Services Chapter should always be supplemented by a separate chapter or annex on Financial Services, which should specifically cover funds management as well as banking, insurance and securities.
- Preferably, an FTA annex on Financial Services should go beyond the GATS to specifically cover aspects of mutual regulatory recognition, at least with respect to securities. At a minimum, mutual recognition issues should be negotiated on a simultaneous time frame to any FTA.
- The financial services market access commitments should always be based on a negative list; this is extremely important in new areas, such as funds management, where industry does not want to trigger any clawback of market access, via a specific request for positive listing of a market access binding.
- Where developing country trading partners resist the inclusion of robust Chapters on Investment, complete with solid market opening commitments, Australia should pursue an FTA architecture which preserves the GATS structure and hence provides services providers with a higher degree of certainty that WTO plus commitments on Mode 3 commercial presence will be included in the FTA.
- Australia should always include specific Mode 4 commitments with respect to skilled personnel in every FTA, whether or not by way of a Chapter on Movement of Natural Persons.
- Any Government Procurement Chapter should specifically cover commitments on Financial Services and cover all State entities and State Owned Enterprises which purchase financial services, including Sovereign Wealth funds and Central Banks.

3.7.5 Double Taxation

Just as the inclusion of an Investment Chapter of an FTA has tended to replace and override the requirement for a "Bilateral Investment Treaty", we consider that taxation should similarly become an integral part of any bilateral trade negotiation. At the very least, FTA negotiations should not commence until a Double Taxation Treaty is either in place or simultaneously being negotiated with a particular trading partner. Where negotiating resources are scarce, industry priorities with respect to Double Taxation Treaties should take priority over geopolitical priorities with respect to FTAs. Bilateral Tax agreements should give explicit coverage to managed funds to ensure they are able to access tax treaty benefits.

Annex: Definition of Financial Services

GATS Services Sectoral Classification List (MTN.GNS/W/120)

7.	FINANCIAL SERVICES	CORRESPONDING CPC
A.	<u>All insurance and insurance-related services</u>	812**
a.	Life, accident and health insurance services	8121
b.	Non-life insurance services	8129
c.	Reinsurance and retrocession	81299*
d.	Services auxiliary to insurance (including broking and agency services)	8140
B.	<u>Banking and other financial services</u> (excl. insurance)	
a.	Acceptance of deposits and other repayable funds from the public	
b.	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction	8113
c.	Financial leasing	8112
d.	All payment and money transmission services	81339**
e.	Guarantees and commitments	81199**
f.	Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:	
	- money market instruments (cheques, bills, certificate of deposits, etc.)	81339**
	- foreign exchange	81333
	- derivative products incl., but not limited to, futures and options	81339**
	- exchange rate and interest rate instruments, inclu. products such as swaps, forward rate agreements, etc.	81339**
	- transferable securities	81321*
	- other negotiable instruments and financial assets, incl. bullion	81339**
g.	Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	8132
h.	Money broking	81339**
	management, all forms of collective investment management, pension fund management, custodial depository and trust services	81323*
j.	Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	81339** 81319**
k.	Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	8131 8133
l.	Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	8131

ATTACHMENT 2: GLOBAL SERVICES COALITION OBJECTIVES FOR THE DOHA DEVELOPMENT AGENDA

The Australian Services Roundtable is an active core member of the Global Services Coalition (GSN). Our joint position with respect to the WTO Doha Development Agenda is best summarised in the two media releases set out below:

1. Media Release setting out GSN objectives for the Services Text

2. Media Release expressing GSN disappointment with the draft Services Text released in May 2008

1. GSN Objectives

"We are aware that the WTO Council on Trade in Services in Special Session has authorized its Chairman, Ambassador de Mateo, to prepare a text stating the level of ambition for the services negotiations, and dates for new services offers. We believe the text should signal convincingly that the goal is to obtain the maximum number of bindings and new offers in as many of the key service sectors and subsectors as possible. We would like to suggest that this text embrace the following elements:

- Services negotiations should be driven by the same level of ambition and political will as reflected in the modalities for agriculture and NAMA, given that services is one of the three market access pillars of the DDA.

- The text should report on the progress to date in services, particularly with regard to the commercial value and quality of existing offers. In addition, it should describe the progress made toward advancing liberalization in key service sectors in the plurilateral negotiations. It should also report on the progress to date on rule-making issues especially with respect to domestic regulation.

- New services offers shall be submitted that (a) bind current market access and national treatment conditions already in place and (b) provide new market access commitments that will go beyond current market conditions to remove trade impediments and expand opportunities for new trade flow.

- To the maximum extent possible, the offers should do the following:

    - Remove foreign equity restrictions

- Remove restrictions on the form of establishment
- Remove prohibitions on supplying services crossborder
- Remove restrictions on movement of natural persons
- Remove nationality requirements
- Ensure that no competitive advantages are provided to government entities or entities otherwise subsidized, sponsored, or endorsed by a government.
- Contain commitments on regulatory transparency

- The offers should cover modes and sectors under discussion in the plurilateral negotiations. We believe that Members of whom requests for liberalization have been made are now, thanks to the plurilateral process, fully aware of the nature of these requests and should be positioned to respond to them positively.

- Consideration could be given to mutually agreed transitional periods so as to introduce regulatory frameworks where necessary.

- These new services offers shall be submitted within 30 days of the adoption of Ag/NAMA modalities.

- The text should acknowledge the interest of developing countries and make a specific reference to liberalization in sectors of their export interest. We believe that the Doha round aim of development will be better served by a strong rather than a weak services package; services liberalization will bring tangible benefits to developing countries, in particular in the infrastructure services of the economy, provided that the conditions are ripe for the investors. The text however must avoid formulations that might encourage WTO Members to offer liberalization in one sector as a means of avoiding liberalization commitments in other sectors.

- Without in any way prejudicing the future level of ambition, the text should support early introduction of domestic regulation disciplines that would commit all WTO members to make their regulatory process at least more transparent. The text should recognize the need for an on-going agenda of further negotiations in this area.

- Finally, there is a need, including if credibility with business is to be rebuilt, for a visible mechanism to facilitate and showcase developments in services. We strongly support the organisation of a "signalling" conference, convened by the WTO Director-General with Ministers of the Members engaged in the plurilateral negotiations. The purpose of the conference should be to allow Ministers to indicate specifically how they plan to respond to the above elements in their new services offers. The signalling conference should be convened at the time of the adoption of modalities for Agriculture and NAMA, in order to reestablish and take advantage of linkages among the three sectors.

- Subsequent to the signalling conference, there should be an evaluation process by which offers can be analyzed. In the absence of other benchmarking instruments, the extent to which offers satisfy plurilateral requests could provide one means by which to evaluate their quality."

Australian Services Roundtable
BRASSCOM (Brazil)
Canadian Services Coalition
Coalition of Service Industries
European Services Forum
Financial Leaders Group
Hong Kong Coalition of Service Industries
International Financial Services London
Japan Services Network/Keidanren
Taiwan Coalition of Service Industries
Trinidad and Tobago Coalition of Services Industries
Wellington Regional Chamber

2. GSN Disappointment (May 27, 2008)

"In response to the release of the Doha Round services text yesterday by the Chairman of the WTO Council for Trade in Services in Special Session, the Global Services Coalition issued the following statement:

The Global Services Coalition is disappointed with the services text issued yesterday by the Chairman of the WTO Council for Trade in Services in Special Session. At this point in the negotiations, a text is needed that provides political guidance on the level of ambition in the Doha Round services negotiations. This version illustrates that members are still 'consulting' and demonstrates how little progress has been made in the services negotiations.

Critical components (operative language calling for new market access and bindings of existing market access) still remain in brackets – highlighting that it is only provisional or subject to further discussion.

It is well established in the Doha Declaration and subsequent Ministerial declarations that the purpose of this Round is to stimulate world trade, economic development and prosperity for all. This objective will be fulfilled by commitments to liberalization, including binding current levels of market access and, especially, providing new market access opportunities. Thus the

Global Services Coalition believes the bracketed language must be made an integral part of the final services text.

As the Global Services Coalition has said since the outset of the Doha Round, agriculture, non-agricultural market access (NAMA), and services are the three pillars of market opening in the Round. The three are inextricably linked, and the Round will only be brought to a successful conclusion when there is substantial progress in all three. The language of the Chairman's draft, reflecting current divisions among WTO members, diverges significantly from the recently released texts on Agriculture and NAMA, both of which set the stage for strong binding obligations. With the services negotiations lagging so far behind the Ag and NAMA negotiations, the right framework for a balanced outcome has not been set.

For services, the ultimate objective is substantial liberalization of trade; the Global Services Coalition looks forward to a Ministerial-level signalling conference that will clarify and reinforce the commitments which WTO members, including those who have advocated a substantial outcome on services, will need to make. WTO members' real intentions for services market-opening must be clearly stated, to pave the way for substantive and detailed discussions on balancing the three pillars.

Two-thirds of world economic output is generated by the service sector, and countries at all levels of development will benefit from ready access to efficient, competitive services. A successful conclusion to the Round, especially against the current background of global economic uncertainty, will send a very positive signal not only to traders and investors but also to consumers and workers around the world."

Australian Services Roundtable
Barbados Coalition of Service Industries
BRASSCOM (Brazil)
Canadian Services Coalition
Coalition of Service Industries
European Services Forum
Financial Leaders Group
International Financial Services London
Hong Kong Coalition of Service Industries
Japan Services Network/Keidanren
Trinidad and Tobago Coalition of Services Industries
Wellington Regional Chamber (New Zealand)

ATTACHMENT 3: THE IMPORTANCE OF DOMESTIC REGULATORY TRANSPARENCY

1. Relevance of Regulatory Regimes to International Trade in Services

The history of many services industries (apart from, for example, the professions, which tend to be self-regulated) has tended to be one of a high degree of government intervention, including government ownership and control. This is in direct response to a widespread perception of market failure in many services activities. Some services activities have typically been seen as constituting "public goods" justifying government service delivery – for example health, education, urban bus transport or water supply (which in most countries are still seen as legitimate pubic services) or banking (which in most countries is now in the realm of the private sector). Other large infra-structural services, like telecommunications, energy distribution, airlines or shipping, have similarly tended historically to be seen as "natural monopolies" with capital resource requirements beyond the means of the domestic private sector.

Typically all these services activities have consequently been highly regulated, usually to specify an appropriate standard of public service delivery and to ensure that the various public policy objectives are met. For example, banking and insurance are everywhere subject to stringent prudential controls, telecommunications is typically subject to "universal service" requirements, etc.

In much of both the developed and developing world, over the past two decades, many of these services activities have been reformed; many have been privatised or at least opened up to private investment and competition, allowing a huge range of new services activities to enter the realm of the market place, including potentially the global market place. Sometimes the regulatory regimes governing these activities have not kept up with the rapid pace of change in the global business environment. Very often the regulatory regimes continue to restrict foreign access to domestic services activities. Sometimes this is intentional and sometimes accidental. Sometimes it is an appropriate step in the sequencing of competition policy reforms. Sometimes the regulatory regime is perceived by foreign services providers as a discriminatory obstacle to market penetration. And hence a target for inter-governmental trade and investment negotiations. Sometimes the regulatory regime is perceived by domestic entrepreneurs as an obstacle to domestic competitiveness and hence to export opportunity. And hence a target for domestic regulatory reform.

In essence, therefore, it is chiefly the nature and structure of these various domestic regulations which determine – and limit – the extent of foreign access to services markets. For this reason, the barriers to trade in services are often described as domestic regulatory barriers which exist "beyond" or "behind" the border. Behind the border regulatory barriers are typically less transparent and less obvious than barriers at the border.

2. Handling regulatory issues in the context of trade negotiations

The rules for international trade in services are set by members of the WTO and are contained in the General Agreement on Trade in Services (GATS). Under the Agreement, individual WTO members make specific undertakings on the degree of access foreign service providers will enjoy in their market, and whether they are treated differently from local service providers. The GATS is different to other WTO Agreements, in that there is no one rule to which all Members must adhere. Under GATS, each WTO member makes their own individual offers of commitments on opening up their markets to competition from foreign service suppliers.

Most importantly, there is nothing in the GATS which forces governments to deregulate. Indeed the GATS explicitly recognises the right of governments to regulate and to fund all public services such as water supply, public health and public education. The nature and extent of GATS commitments are strictly a matter of choice for WTO member governments.

In the case of bilateral negotiations, most trading partners are seeking to achieve new commitments in Market Access and National Treatment which go beyond existing GATS schedules. The box below illustrates some relevant sorts of constraints.

Market Access

(1) Limitations on the number of service suppliers (e.g. numerical quotas, monopolies, exclusive service suppliers)
(2) Limitations on the total value of services transactions or assets in the form of numerical quotas or the requirement of an Economic Needs Test
(3) Limitations on the total number of service operations or on the total quantity of service output
(4) Sector specific Economic Needs Tests or limitations on the number of persons that can be employed
(5) Measures that restrict or require specific types of legal entity or joint venture through which a service may be provided
(6) Limitations on the participation of foreign capital in terms of a maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

National Treatment

(7) Measures which affect nationals differently from foreigners (e.g. taxation/incentive measures, local content requirements, other performance requirements)
(8) Measures which affect established foreign companies differently from established nationally-owned companies

3. The Importance of Ensuring Best Practice Regulation

Whether or not trading partners are requesting domestic regulatory reforms in local services sectors, it is important to realise that overly restrictive or inefficient domestic regulation is not only a barrier to imports but can also act as a key constraint to the export of local services. For any domestic services industry to be internationally competitive, domestic regulation of that sector needs to be world's best practice. Where domestic regulation is unduly burdensome and costly, potential local services exporters will be prejudiced vis-à-vis foreign suppliers, as will local exporters of all goods in which services are increasingly heavily embedded.

Regulatory reform in the services sector therefore tends to improve the business environment for both domestic firms and foreigners. Interestingly, services trade liberalisation tends to be win-win rather than win-lose. The evidence is that domestic services sector tends to grow, rather than decline, when the sector is opened up to increased competition. This is unlike the situation in goods markets, where trade liberalisation may lead to a decline in former heavily protected industries.

4. Principles for best practice in services trade regulatory regimes

Every services industry is affected by government decisions on who can do business and how business must be conducted. If a country's regulatory house is not in order, domestic competition will be impaired and export potential will be prejudiced. In such cases, international services negotiations could result in easier access by foreigners to markets in which domestic suppliers remained restricted in their terms of entry or operations. The trade liberalisation challenge, therefore, is to remove barriers to doing business facing all entrants, domestic and foreign, not just to foreign suppliers. Domestic reform – and sometimes deregulation – is often an essential prerequisite to the removal of discrimination against foreign services suppliers.

There is strong international evidence of links between regulatory reform and productivity growth. Productivity is boosted by a focus on reforming those regulations that are overly prescriptive, poorly targeted, mutually inconsistent, duplicative, difficult to enforce or unduly costly or resource intensive for business to comply with. Industry self regulation similarly needs ongoing critical evaluation and assessment. Governments need also to try to introduce a degree of separation between policy-maker, regulator and compliance enforcer. It is important to ensure also that there is a degree of harmonisation of regulatory practice between central, provincial and local administrative levels and wherever possible among close regional trading neighbours.

The policy issues associated with services trade regulation are often among the hardest issues on the domestic political agenda. Competition policy, foreign investment policy, immigration policy, the recognition of standards and qualifications in other countries, and the management of public funding in sectors like health, education and transport infrastructure are some of the key issues. All countries have a strong economic interest in getting these regulatory issues right. Getting it right ultimately requires benchmarking the domestic regulatory system with relevant international practice. The first step in the reform process is to increase the transparency of the regulatory regimes.

5. Benefits of Reforming Regulatory Restrictions to Services Trade

Relative to the goods sectors, the services sector is by far the most heavily protected sector globally, burdened with the highest degrees of entrenched politically sensitive government intervention. While tariffs have come down in goods trade, a wide range of opaque impediments to international business continues to distort world trade and investment in services. It follows that the global benefits to liberalisation in services will far exceed the gains from liberalisation in other sectors.

A recent estimate in a study commissioned by the United States Coalition of Services Industries (USCSI) suggests that full services sector liberalisation could result in global welfare gains equalling $1.7 trillion. This is more than double the potential gains from liberalisation of trade in industrial goods, and 31 times the projected gains from liberalisation of agriculture. These modelling results make sense given that a strong services sector enables financial, technological, and infrastructure development economy-wide, which in turn facilitates greater investment and trade also in the agricultural and manufacturing sectors.

ATTACHMENT 4: OBJECTIVES FOR FTA – SERVICES RELATED CONTENT

The Australian Services Roundtable considers that bilateral preferential trade agreements are inefficient and largely inappropriate mechanisms for services and investment trade liberalisation because they do not focus sufficiently on barriers to trade which are located behind-the-border. We consequently call for development of a new suite of services- and investment-focused liberalisation instruments. Our views are set out in the main body of this submission.

ASR submits, however, that a bilateral trade agreement is more likely to enable Australian services providers to do business in that bilateral market if the following principles and architectural design features apply.

We offer this perspective as an input to a possible future Australian services negotiating template.

Principle 1: Services-only Agreements

This is largely untested to date and we are keen for the Australian Government to take an initiative and pilot a new Services-only approach to bilateral trade negotiation.[18] We remain open to any new evidence as it might emerge but to date we have identified no reason from a services perspective not to pursue a services-only arrangement.

We consider that our new proposed approach would allow Australia to experiment with innovative approaches to services-related negotiation and policy dialogue with our trading partners.

We prefer to see initial experimentation take place on the basis of services economy-wide agreements, rather than agreements that might focus on an individual services sub-sector, in order to ensure that maximum opportunities for cross-sectoral negotiating trade-offs are retained.

This proposed new style of Agreement should be oriented to promoting domestic regulatory transparency and pro-competitive policy settings.

[18] Our interest originates in our experience to date with "comprehensiveness" in trade agreements, which in the Australian lexicon has largely been code for "inclusive of agriculture". Too often, potential focus on commercial interests in services has seemed to us to have been hostage to higher priority focus on agriculture. There is abundant evidence in both the WTO context and the PTA context that "comprehensiveness" has in Australian usage not meant for example "inclusive of investment", "inclusive of competition policy", "inclusive of government procurement" or even "inclusive of all 4 modes of services delivery". Nor has the fact that Australia has sought to ensure that "everything is on the table" at the outset of negotiations meant that Australia has pushed to incorporate "everything" in a final deal.

It would need as a minimum:

- to provide a high, GATS-plus, degree of transparency as well as MFN and national treatment for all services sectors across all 4 modes of supply

- to increase market access for all services sectors across all 4 modes of supply, including via disciplines on domestic regulation (for example a "necessity test"), e.g.

    - commercial presence requirements should be eliminated, except where essential for consumer protection
    - citizenship and permanent residency requirements for licensing or certification requirements should similarly be eliminated
    - barriers affecting the temporary entry of professionals should be eliminated; visa procedures for services providers and investors should be simple and expeditious

- to incorporate all the design features detailed below:

    - most favoured nation clause[19]
    - ratchet clause
    - liberal "rules of origin" for both corporations and natural persons
    - negative lists of market access commitments
    - cultural carve-out
    - no provision for emergency safeguards
    - separate chapters on services sectors of specific regulatory complexity, including as a minimum financial services and telecommunications and sectors of specific export interest such as education and tourism

- to facilitate more rapid progress on mutual recognition of professional qualifications

- to promote other aspects of domestic regulatory harmonisation and mutual recognition

- to ensure implementation of disciplines and consultative procedures on

    - technical barriers to trade in services (regulatory standards of all kinds)
    - intellectual property right infringement
    - competition policy

---

[19] It is important to register that a so-called "MFN clause" in a PTA is by definition very much weaker than the MFN principle as applied in the WTO. Incorporated in a Services chapter of a PTA, it does no more than oblige Australia, for example, to give that specific trading partner the same preference we might give in a subsequent PTA with another trading partner. In the WTO the principle obliges Australia to extend the benefit of any liberalisation to all WTO members.

- government procurement
- e-commerce

- to establish formal processes for ongoing regulatory and policy dialogue[20]

- to cover bilateral taxation issues or to be accompanied by a separate up to date bilateral tax agreement

- to ensure ready remittance of profits

Principle 2: "Living" Agreements

Trade and investment negotiations on Services issues are difficult, politically sensitive matters. We are realistic about the prospects for progress on the market access front, especially with developing country trading partners.

Our joint objective is not generally, in any case, to secure a preference for Australian services providers. Our objective is to ensure that doing business in the global market is as seamless as possible with doing business at home and vice versa. Our objective is to achieve a higher degree of regulatory familiarity and user friendliness in our prospective export growth markets.

We have an interest in ensuring that regulatory settings do not constitute a barrier to our ongoing investment in the services economy. Ultimately this means we are interested in establishing ongoing processes for policy and regulatory dialogue, including on a services sub sector basis.

Principle 3: Caution in departing from the GATS Architecture with respect to Investment and People Movement

There have been two schools of thought with respect to how to handle Services Mode 3 (commercial presence) in a bilateral agreement which also covers Investment. The two basic models are:

- A GATS-style chapter (or set of chapters) on Services which covers all modes of delivery including Mode 3 plus a chapter on Investment which updates/replaces/attempts to go beyond traditional bilateral investor protection agreements (BITs)

- A NAFTA-style chapter on Services Mode 1 alone (often called a chapter on Cross-Border Trade in Services), extracting Mode 3 and putting it into what then looks like a more ambitious Investment chapter. Aspects of Modes 2 and 4 are similarly

[20] Our objective is not necessarily to seek preferential regulatory waivers for Australian business. What we are seeking is a shift in our trading partners to better overall regulatory practices and hence a better environment overall for doing business.

extracted and put (hopefully) into a chapter on temporary movement of natural persons (whether they are employed in services or goods producing sectors).

In theory, the NAFTA-style approach might be preferred, despite its greater departure from the GATS architecture, because it is more ambitious on the goods front, attempting to cover investment and people movement for goods producers as well.[21] This approach seems more likely, therefore, to achieve WTO-plus outcomes for goods producers.

In recent years, the Australian Services Roundtable has argued that what matters is not necessarily the architecture but rather the quality of the liberalising content achieved. And the jury has still been out on whether the architecture might affect the liberalising quality of the contents.

The architecture might not be likely to impact on quality, for example, in the case of an agreement with another OECD country, such as for example the Australia/Japan FTA. But because that agreement will set an example in the APEC region, we need to pay close attention.

Our experience, meanwhile, in relation to the Australia/New Zealand ASEAN FTA negotiations, is that when dealing with developing country trading partners, the architecture may indeed significantly influence the quality of the liberalisation achieved.

The fact is that all WTO members ultimately have to accept that disciplines on trade in services are part and parcel of the negotiating environment. And they have to accept that all 4 modes of delivery are relevant. So developing countries which are otherwise unwilling to engage on non-WTO issues such as Investment (for example India) are obliged to accept that they must engage at least on Mode 3 (commercial presence) for services providers. Services providers are more likely to achieve new and reaffirmed commitments with respect to commercial presence if the GATS architecture is retained. The proof of this pudding will be the AANZFTA.

Commitments on People Movement are as sensitive as Investment. But all WTO members, including the developed country members, ultimately can not avoid some discipline with respect to Mode 2 and Mode 4.

Where decisions are made to depart from the GATS architecture with respect to the coverage of Investment issues, we support the broadest possible definition of Investment and we note that the bulk of the Australian Services Roundtable membership remains wary of inclusion of Investor/State dispute settlement provisions.

[21] Some also argue that the NAFTA-style approach is to be preferred because it is more commonly associated with a negative list approach to scheduling of market access commitments. This argument is spurious because the GATS-style architecture can also be associated with negative listing of commitments, as Japan's hybrid approach has demonstrated.

Principle 4: Negative Lists for Scheduling of Market Access Commitments

In the PTA context, the Australian Services Roundtable prefers the use of a Negative List approach to scheduling of commitments. The idea here is that everything is freed up unless it is specifically listed in an Annex of Non Conforming Measures, which sets out those policies and measures which will not be liberalised (will therefore be "grandfathered" under the Agreement).

Negative listing obliges trading partners to take a deeper look than the WTO requires at whether one's own regulatory house is in order. Very importantly for the business community, even where no regulatory reform results, this regulatory stocktake can lead to a significant improvement in transparency.[22]

But from a business point of view, the most important reason for preferring a Negative list approach is as follows.

As we see it, an explicit services "request" of a trading partner, especially for a commitment to the status quo in a particular sector, can draw undesirable attention to our potential commercial interests in that particular sector and may hence cause the trading partner to reconsider the status quo and increase the restrictiveness of current regulatory settings. This concern explains in large part the reluctance, often under-appreciated by our trade negotiators, of services industries to come forward with specific bilateral market access "requests". Use of a template requiring a negative list approach would help to eliminate this negotiating risk.

The Negative list approach can be considered to be "GATS plus" in that it departs from the problematic "request/offer" approach which is currently in use but which has failed to date to deliver significant market opening outcomes in the WTO. In our view, the "offer" should in any case come first, being supplemented by "requests" where the offer is deemed insufficient; this would be more in keeping with the approach used in goods trade negotiation.

We accept that a hybrid approach might be constructive in specific instances of regulatory harmonisation, e.g. a positive list might be useful in cases of regulatory harmonisation or mutual recognition.

[22] Strictly this could be true for both a Negative and a Positive list approach to scheduling of commitments in that the Positive list approach (or even uncertainty over which approach will finally be agreed) tends to shift the burden of undertaking the stocktake to the demandeur. Transparency only arises in this case, however, if the government undertaking the stocktake makes it publicly available. This has not transpired to date in the case of the regulatory stocktake which DFAT has undertaken for the Australia/China FTA negotiations.

Principle 5: Cultural Carve-out

Within the negative list approach, there must also be a second Annex which allows for listing of sectoral policies and measures where full flexibility is retained to adjust policy settings in a more protective direction in future. Consistent with the GATS, the Australian Services Roundtable is committed to exclusion of cultural content policies from international trade negotiation. We do not advocate carve outs for any other services sector interest.

Principle 6: Incorporation of "GATS Plus" Design Features

(a) Most Favoured Nation Clause

The Australian Services Roundtable attaches importance to the inclusion of an MFN clause in any PTA chapter on Services. The idea here is that the two trading partners agree that if either of them agrees, e.g. in the context of a subsequent PTA negotiation with another country, to liberalise services further on a bilateral basis, then that liberalisation is extended automatically also to this particular trading partner. Importantly, use of such a clause should help significantly to retain a degree of multilateral discipline. It means that in a subsequent PTA negotiation, countries can only give what they are also prepared to extend to other PTA partners. ASR considers that such a clause could powerfully be extended also to the goods sectors.

(b) Ratchet Clause

The idea here is that, if in the future either trading partner agrees to liberalise, unilaterally, a measure which has been exempted from the liberalising provisions of the agreement, then that liberalisation becomes automatically bound for that particular PTA partner. Importantly, use of this mechanism should encourage over time removal of more of the "water" between actual and bound regulatory practice.

Principle 7: Liberal "rules of origin"

The benefits of the PTA must not be denied to any foreign firm or natural person from any third country which is established in or resident in either trading partner. Any denial of a PTA benefit to any established firm or resident natural person could potentially reduce Australia's relative attractiveness as an investment and migration destination.

Principle 8: No legitimacy to "Emergency Safeguard Measures"

This is a matter of current controversy in the WTO Doha round of negotiations. A number of developing countries have signalled, in the context of various different PTA negotiations currently underway, that they wish to include a services safeguard clause.

Consistent with ASR's position with respect to the WTO, all developing country attempts to achieve any legitimacy whatsoever for the notion of a safeguards clause for services must be resisted with vigour, including in the bilateral context. Australia must avoid establishing any precedent of acceptance for such an idea.

ASR is prepared to provide detailed supplementary argumentation on this matter to the Mortimer review.

Principle 9: Remittance of Profits and Double Taxation

The PTA should always be accompanied by a Double Taxation Agreement, without which the commercial benefits of the PTA will not be realised.

The PTA must eliminate any obstacles to profit remittance to Australia.

Principle 10: Preparation for regional "Docking/Merging" and "Multilateralising" of PTAs

Australia is now an apparently willing contributor to the proliferation of PTAs. Given the Government's prior commitment to the multilateral system, this is naturally a matter of both policy and business concern. In our view, it no longer makes sense for Australia to enter into any additional specific PTA without prior detailed consideration of the modalities for potential multilateralisation.

As a first step in developing a coherent strategic plan which makes sense to the business community, we consider that the Minister for Trade should convene a public conference on this topic. The Australian Services Roundtable looks forward to an explicit opportunity to contribute in detailed debate with stakeholders on this increasingly vital topic.

Multilateralisation should be an ambition for goods as well as services, notwithstanding the likelihood of it being more readily achievable with respect to services, where an improved overall regulatory environment (and the consequent attraction of investment) is the ultimate shared objective.

ATTACHMENT 5: SERVICES STOCKTAKE PROPOSAL

EXECUTIVE SUMMARY

The Australian Services Roundtable (ASR) is seeking Government assistance to undertake a sector-wide Stocktake of services industry perspectives on the opportunities and challenges facing Australian services exports, commencing in the financial year 2007/08.

The Services Stocktake will gather valuable, currently unavailable business data on services export activity together with new insights into the current state of Australia's services export culture and the drivers of Australia's competitiveness in services. It will supplement official statistics and aim to throw new light on the nature and extent of services.

The Stocktake will be facilitated by ASR's four Services Industry Focus Groups, each chaired by a services industry leader and by its new Services Association Forum. There will be important inputs from business via ASR's own work, and from university researchers working in the area.

The Stocktake process will consist of extensive business surveys and consultation, commissioned research from several academic specialists, integration and analysis by ASR, and broad dissemination of outcomes.

The Stocktake results would be available to support government and business decision-making from 2008-09 and be widely disseminated in 2008-09 and 2009-10 via high-level public/private dialogues.

The Stocktake will feed into the services industry's own strategic export planning.

The Stocktake results will feed through to Government in a variety of important ways, including via researched and coordinated industry input and submissions for trade negotiating and other trade policy purposes. The guiding motivation is to enhance Australian services export performance.

The Australian Services Roundtable invites the Minister for the Service Economy to consider, along with other relevant Ministers, entering into a partnership with the services industries by offering a grant totalling $1.05 million, to be applied over three years commencing in 2007-08, which will leverage ASR's own resources and enable the peak industry body in the sector to achieve an early roll out of its proposed Services Stocktake project.

1. Why Services Matter

In Australia, the services sector accounts for 78 percent of GDP, 60 percent of domestic investment and employs 85 of every 100 Australians. 82 percent of Australian firms are services firms, yet only 3 percent of them are exporting. Most are small and medium sized enterprises.

In 2005, Australia recorded services exports of more than $37 billion or about 23 percent of total national exports. Services exports are growing by about 4 percent a year.

The services sector, in fact, makes a much larger contribution to exports than its direct share, as services are often integrated with other goods. On average the ABS data suggests that about one-fifth of the value of Australia's goods exports is composed of services.

ASR believes that these statistics under-represent the true value of the export market for the Australian services sector. Much more work needs to be done to determine the true value of the sector's share of exports.

Ensuring that Australia's services trade interests are taken fully into account in bilateral and multilateral trade negotiations is an important objective both for Government and for industry because the potential gains are so large.

According to one estimate, cutting global services trade barriers by half would be worth about US$250 billion in additional annual global services exports. Full services sector liberalisation could result in global welfare gains of US$1.7 trillion. That is more than double the potential gain from liberalisation of barriers to trade in industrial goods and 31 times the projected gains from liberalisation of global agricultural trade.

Looking at the potential gains specifically for Australia, earlier Productivity Commission estimates suggested that the gains from liberalisation of trade in services could amount to double or even triple the potential gains which DFAT estimates suggested might accrue from agriculture.

2. Services Trade Needs More Focus

With growing community and political consciousness of the central role which services will play in Australia's economic future, **Government policy** needs to fully reflect the value of the services sector.

The Board of ASR strongly urges the Government to interact more closely with representatives of the services sector by forming an industry partnership which will ensure that a stronger policy research base can be developed to better inform development of a national trade strategy for services, and policies on services competitiveness generally.

The Australian Services Roundtable's principal role is to provide a focal point for high-level interaction between the Federal Government and its agencies, on the one hand, and services industries, on the other, in regard to *issues common to all our services industries*. The ASR plays an integral role in pulling the sector together and providing one voice to Government on these issues, including trade negotiations, innovation, labour market structure, technology infrastructure, private/public sector interaction and other high-level drivers of services productivity and competitiveness.

As part of its role, the ASR is an active member of the ABS' International Trade in Services User Group, contributing to the direction for official statistics. Through this forum, the ASR is aware of the developments and gaps in the official statistics, both for international trade in services and for measurement of domestic service flows.

The business case for Government support of any proposed ASR research activity lies partly in the Government's own increasing need for services-related business information and partly in the Government's evident need for a more consistent, more high profile partnership and interaction with services industry champions.

Opportunities for services exports and the need for improved competitiveness in domestic markets also need more attention across the **private sector**. Increased consciousness within business of the impact of globalisation in an increasing percentage of services markets is essential. ASR's Stocktake will be an important input to business strategic planning by helping draw attention to evolving market realities, changing business perceptions and attitudes, and providing hard data to which business can respond.

A number of leading businesses and services industry associations are already joining in this work through their participation in ASR. It is expected that many more will join the process over the course of the Stocktake project.

Australia needs a better developed, more robust understanding of what currently drives competitiveness in the services sector, and its consequent export-readiness and actual participation in trade. ASR's Stocktake will be a major step in filling this gap in understanding.

3. Proposed ASR Services Stocktake

The primary focus of official statistics is to provide data for compilation of Australia's Balance of Payments. As such, the official statistics could be considered to be constrained by the international standards governing this framework when trying to put them to other analytical uses. The ABS is aware of this constraint and has been actively seeking funding to improve the quality of the official statistics and to extend the statistics to cover the provision of services by Australian-controlled businesses resident in other economies(also referred to as ‘Foreign Affiliates Statistics’).

Other than these arrangements and the arrangements established by ASR itself, there are no institutional arrangements in place anywhere in Australia (including no appropriate government programmes) which are focused on improving the range of information available on sector-wide ‘whole-of-services’ matters.

There exists, as a result, no national programme of policy research underway which would help determine the main directions of development in the services sector as a whole.

The Australian Services Roundtable has been doing what it can to draw on the resources of all of its members to address this missing piece in the public institutional landscape.

The time has come for the ASR’s collaborative work to be taken to the next level via the Stocktake process, involving:

- **a landmark cross-sectoral business survey**
- **focused research by academic specialists in the area and**
- **analysis by ASR to draw this research together into deliverables that will make a meaningful difference for both Government and for services industries**

The Australian Services Roundtable aims to coordinate a concerted effort on the part of services firms and services organisations, assisted by academic research partners, to take stock of their current position in domestic and international markets and together analyse the challenges and opportunities ahead.

The proposed ASR Services Stocktake will focus on the factors affecting competitiveness of Australia’s services industries and in particular the resulting outlook for Australia’s services exports. The Services Stocktake will examine the factors influencing all four modes of export delivery.

The Stocktake will generate information which is needed for ongoing industry submissions to Government, especially for the purposes of trade policy formulation. It will build on the information available in the official statistics and be an important complement to the ABS intentions to measure foreign affiliates statistics. The Stocktake will offer an invaluable means of improving the regularity and depth of services industry input to Government for trade negotiation purposes. Services industry input to Government is much more fragmented and irregular than is the case for the other major sectors. The Stocktake results will enable services industry input to Government of a more consistent, more accurate and more policy relevant nature.

SERVICES STOCKTAKE DELIVERABLES

Business Stocktake Reports on the competitiveness of and outlook for Australia's services exports

Industry-based services trade data

High profile public/private services sector dialogue

Government access to ASR's Services Industry Focus Groups

New, better coordinated industry inputs to Government policy processes

Key inputs to business decision-making on export and growth strategies

The Australian Services Roundtable has drawn attention to the need in Australia for a coordinated "whole of services" approach to key issues affecting competitiveness of the sector. As the peak body advocating the common interests of the services sector, the ASR will establish four new Services Industry Focus Groups as mechanisms to enable closer business study of a variety of cross-sectoral policy issues which the membership has identified as of immediate policy priority. The work of these Focus Groups will be pulled together to culminate in an overall Stocktake of Australian services industry trends. Further details of the Stocktake process are provided in Section G below.

4. An Invitation to Partner with ASR

The Australian Services Roundtable's resources are not sufficient to ensure early commencement and timely completion of this important work.

The Australian Services Roundtable is therefore inviting the Minister for the Service Economy, along with other relevant Ministers, to partner with industry by making a 3 year grant commencing in 2007-08 to leverage ASR's own resources and ensure completion of the Services Stocktake project within this timeframe.

The Australian Services Roundtable would also welcome a temporary or rotating secondment to the ASR Services Stocktake Secretariat of an officer from the Trade, Innovation or Deregulation portfolios and is pleased to invite consideration of that initiative by the relevant Ministers.

5. Funding the Partnership

The overall budget for the 3-year Stocktake project is estimated at around $1.8 million.

This will be applied to:

- ASR business survey
- Academic research partner projects (likely 3)
- ASR analysis
- Public/private sector dialogues
- Other activities to disseminate project outputs

ASR members will be able to contribute an estimated $0.75 million of the total amount in cash and in-kind contributions, representing a significant proportion of ASR's own budget.

To enable the full programme to be undertaken as soon as possible, ASR is therefore seeking a grant from Government of $350,000 per annum for three years totalling $1.05 million over 2007-10.

6. Implementing the Stocktake

The Stocktake will be undertaken through 4 main streams of activity.

- Australian Services Roundtable member and public events are already designed to facilitate policy networking and interactive sharing of perspectives across all of the services sub-sectors and between the small-and medium-sized and larger Australian firms. These events will provide important input to the Stocktake.

- ASR will survey business data, attitudes and perceptions in regard to globalisation of services industries, complementing official statistics and studies by government agencies.

- Some university-based expert research groups will be commissioned to commence planned studies of a small number of key issues including use of the various modes of services export delivery by Australian firms, services innovation processes and Australia's place in newly-emerging services industries such as new media and the digital economy generally.

- The ASR Secretariat will synthesise research outputs to produce project deliverables.

These activities will be managed by the ASR Secretariat, in collaboration with Government sponsors and organised through four new ASR Focus Groups and a Services Associations Forum within ASR. Each Group will be chaired by a services industry 'champion' and relevant Government officials will be invited to participate. The issues covered by each group are outlined below.

EXPORT FOCUS GROUP

(Strategic Opportunities and Behind-the-Border Challenges)

This Group will identify barriers to Australian services exports, as experienced by firms in the potential export business, focused on delivery via Modes 1, 2 and 4, both on a country-by-country basis and globally. The Group will survey business perspectives on why and how identified barriers amount to 'barriers', how such barriers affect the outlook for services exports and how such barriers might best be addressed, including by the business community itself. The Focus Group findings will assist in preparing coordinated submissions to Government in the context of multilateral and bilateral agreements affecting trade and investment in services. This Group will act as a clearing house for export market intelligence, in collaboration with Government agencies and offer opportunities, especially for small- and medium-sized firms, for business networking including into offshore supply chains.

INVESTMENT FOCUS GROUP

This Focus Group will focus on all Mode 3 issues affecting market access and national treatment, including capital controls, foreign equity limits, investment screening, asset requirements and prudential controls, repatriation of profits and capital, performance requirements, discriminatory taxation arrangements, legal and documentary obstacles, licensing requirements, restrictions on management and staff transfers and government procurement practices. This Group will also co-ordinate ASR input into the work of the International Financial Services Working Group.

COMPETITIVENESS FOCUS GROUP

This Focus Group will focus on issues in the domestic regulatory environment affecting competitiveness, import competition and export readiness, including competition policy, skills shortages, enabling infrastructure investment and transparency and harmonisation of regulation within the federal system. This Group will consider means of enhancing productivity across the services industries, including via education and training, ICT infrastructure and promotion of Public/Private Partnerships as a means of improving productivity in services delivery.

TRENDS IN SERVICES FOCUS GROUP

This Group will oversight and coordinate the complete Services Stocktake, including preparing the associated analytical and statistical outcomes. The Group will oversight management of outsourced research including any successful ARC Linkage project applications which enjoy Stocktake support. Identified business research priorities include three separate multi-year projects currently being developed with Macquarie University, the University of Adelaide and the Australian

National University on topics relevant to each of the above Focus Groups, but which to date ASR has not had sufficient resources to "seed". This Group will support ASR's participation in the ABS User Group on Trade in Services Statistics.

SERVICES ASSOCIATION FORUM

At the membership's request, ASR is simultaneously establishing an internal ASR Services Association Forum which will specifically provide opportunities for all services sector industry bodies (31 are already ASR members) to co-ordinate their views and jointly present them to Government on a regular basis. This Forum will provide a useful additional conduit through which to both gather information and disseminate Services Stocktake results.

7. Mutual Benefits

The Australian Services Roundtable is a 100 percent industry funded organisation. The proposed Federal Government grant will allow the Australian Services Roundtable to make an immediate start on the full proposed range of business stocktaking activities. The deliverables will be of enormous benefit to both services firms themselves and a wide variety of Federal and State government agencies.

Even in the OECD countries, services statistics are notoriously difficult to compile accurately. Australia is no exception in facing difficulties in compiling high quality services statistics. Even as the ABS works to improve and extend the scope of the official collections, it is essential, for good policy formulation, to supplement the official services export data with industry-driven business survey work. ASR is already experienced in successfully partnering with the Office of Trade in the South Australian Department of Trade and Economic Development to undertake services exporter business survey analysis. Based on the survey results emerging in the State context, ASR is confident that the proposed Services Stocktake will deliver a key new national resource of services export-related information.

The Stocktake will also facilitate a better response rate to Government calls for coordinated services sector input and submissions across the full range of services trade-related issues.

This is of critical importance to a healthy ongoing process of trade policy formulation because Government evidently needs to understand better what the Australian services industries really need to meet the challenges of globalisation and to maximise the benefits of negotiated offshore market opening.

The fact is that services exports are "different". The barriers they face behind-the-border are often extremely opaque. Services are also traded "differently". Their delivery is deeply tied up with cross-border people movement and with international investment flows. The bilateral trade agreements Australia is negotiating on services frequently raise new conceptual issues for which there is no global precedent. The Department of Foreign Affairs and Trade is pushing the envelope in this area – but often without an adequate industry research base to draw upon.

Through this invitation to partner in the Services Stocktake, the Australian Services Roundtable is offering the Minister for Trade an important opportunity to interact with services sector champions to improve national understanding of all of these matters.

In responding positively to the efforts that industry itself has made to bring the services sector closer to the forefront of trade policy attention, the Government will be taking an important step forward in securing a place in the global economy for Australia's most people intensive, most skills intensive, most knowledge-intensive modern emerging industries.

This would be widely recognised as a significant step to open up a new partnership with the services sector:

- A partnership to assist the business community continue to identify the drivers of competitiveness for the future and to deliver the results of its research to government attention.

- A partnership to facilitate more effective interaction between the bulk of the Australian business community and the Minister for Trade.

- A partnership for positive services outcomes in international trade and investment negotiations.

- A partnership to deliver gains in services sector innovation, productivity and competitiveness.

- A partnership to enhance Australia's services export performance.

Annex: Key Questions about the Stocktake

Question 1: Why does Government need the Stocktake?

The services industries have a unique identity and perspective, despite their diversity, and in many contexts need to be considered as a group for policy-making purposes. Government requires a "whole of services" position on today's key policy themes:

- Competitiveness
    - Labour market – skills/education/training/Mode 4
    - Innovation and Productivity
    - Means of delivery of public services
    - Access to enabling infrastructure, e.g. broadband capacity
- Services exports

- Export barriers (Modes 1 & 2)
- Offshore investment (Mode 3)
- Positioning Australia as a services economy
- Improving the range of statistics
- Trade and Investment negotiating positions

Industry data and perspectives on these issues need to be assembled to fulfill the needs of:

- government policy-making – government needs a consolidated sectoral view on these issues and better understanding of the potential impacts of policy
- industry strategic planning – services industries generally need a better understanding of how they will be affected by ongoing globalisation of the services sector and what they should be seeking from government policy to assist in their response to globalization.

There needs to be a better ongoing process of policy coordination between the services sector and government.

Australia needs a coordinated national approach to services strategy, focused on achieving and maintaining international competitiveness. National strategy needs to be formulated on the basis of detailed and accurate information and in close consultation not only with industry but also across every relevant portfolio and level of government.

In addition, community consciousness of services' current and future role in the economy needs to be raised through dissemination of the outputs from the proposed research work and as a consequence, increasing the profile of the official statistics which the Stocktake complements.

Question 2: Why is ASR the right organisation to undertake it?

Over the past four years ASR has established a solid base of membership, a network of partnerships, including the media and international sister organisations, and effective working relationships with Federal and State policymakers. ASR increasingly makes a substantial contribution to public policy on key issues affecting the services sector and provides input to strategic decision-making for its members.

The Australian Services Roundtable offers a mechanism by which industry can partner with the Federal Government to improve the services policy research base and deepen and broaden industry stakeholder consultation on the factors driving innovation, productivity and international competitiveness in Australia's services sector.

ASR has the required:

- organisational structure
- existing good coverage of the services sector,
- deep understanding of Government policy requirements
- ability to consolidate industry data and opinion
- ability to mobilise substantial inputs in-kind by companies and industry associations in parallel with Government funding.

Attitudinal and perception-based information is a useful complement to the official statistics to assist in the interpretation of those data for policy purposes, but does not fall naturally within the frameworks under which the official statistics are collected. The ASR is well-placed to conduct this research, and has a well-developed relationship with the ABS to ensure the maximum utility for understanding the official statistics as well as providing a rich information set in its own right.

Question 3: How will the Services Stocktake be undertaken?

The Stocktake will

- be driven by ASR Focus Groups coordinated by ASR Secretariat, liaising with Departmental sponsors (via a steering group)
- focus particularly on attitudes, perceptions, non-quantifiable issues not captured by official statistics
- source data from services businesses themselves, official statistics and from academic researchers
- undertake a major survey – a combination of quantitative questionnaires and qualitative interviews
- include input from a new Services Associations Forum within ASR
- operate under the guidance of each of ASR's member-driven Focus Groups (Exports, Investment, Competitiveness, Services Trends)
- provide comprehensive analysis and presentation of results,
- provide appropriate action recommendations for industry and government on future co-ordination of policy-making for the sector

The key output will be a Stocktake Report for use by Government and industry. ASR will disseminate the results directly and through its member associations.

The strategic goal is enhancement of Australia's services export performance.

An important by-product of the project will be a more visible high-level partnership with government that the sector has historically lacked.