

TPP provisions a boon for the Australian legal profession

The Law Council of Australia has welcomed the signing of the Trans-Pacific Partnership Agreement (TPP) noting it contains numerous advantageous provisions for the Australian legal profession.

The inclusion of a Professional Services Annex provides a framework to guide parties in further opening their legal services markets. The Annex incorporates the best practice principles, developed by the Law Council, for the regulation of foreign lawyers.

Law Council of Australia President Stuart Clark AM: “It is always possible to identify deeper market access that could ideally be included in free trade agreements. However, the legal services commitments, combined with the on-going improvements envisaged through the Professional Services Annex, makes the TPP a sound living agreement that provides a framework for further liberalisation.”

The Law Council believes the TPP contains a range of positive market access measures for the Australian legal profession including:

- A right to provide legal services on a fly-in, fly-out basis to TPP countries, including a first-time commitment of this kind by Canada to Australia, and the inclusion of eight additional US states not covered by the Australia-United States Free Trade Agreement or General Agreement on Trade in Services under the WTO.

Mr Clark: “Creating market access for legal services providers is crucial if Australian business is to take full advantage of trade agreements. Transnational trade and investment cannot take place in a legal vacuum. Fly-in, fly-out access is an essential element of the business model of law firms operating internationally, regardless of whether they have an on-the-ground presence overseas.”

- Malaysia’s inclusion of legal services market access commitments. This plugs a gap in Malaysia’s commitments under the bilateral Free Trade Agreement with Australia.

Mr Clark: “We have worked with the Bar Council of Malaysia for several years sharing Australia’s positive experience in the liberalisation of trade in legal services and encouraging them to open their legal services market. The recent positive moves on this path by Malaysia are an important first step.”

- Building on existing access to the Vietnamese legal services market under the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) and clarifying AANZFTA commitments.

“We hope that other multi-party agreements currently being negotiated, like the Regional Comprehensive Economic Partnership agreement, will further liberalise trade in legal services,” Mr Clark said.

“Reducing the spaghetti bowl of trade rules across the Asia-Pacific region and beyond should be a priority into the future.”

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