

2 May 2017

The Hon Stuart Robert MP
Chair
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600

By email: jsct@aph.gov.au

Dear Mr Robert

Parliamentary Inquiry into the Agreement to Amend the Singapore-Australia Free Trade Agreement (SAFTA)

The Law Council of Australia is pleased to have the opportunity to provide this brief submission to the Joint Standing Committee on Treaties.

Trade and investment cannot take place in a legal vacuum. Legal services are an essential enabler of international trade and investment because of the role that lawyers play in identifying and mitigating risk. In the absence of these services, trade and investment is inherently more prone to dispute, unnecessary expense and failure.

Singapore is a very important legal services market for Australian lawyers, who use this market to supply legal services to clients in Singapore and throughout the region. Although Australian lawyers currently enjoy a very good level of access into Singapore, the Law Council is pleased that the Agreement to Amend SAFTA, if ratified, will lock-in existing levels of legal services market access into Singapore.

The inclusion of a 'ratchet mechanism' will also ensure any further liberalisation of Singapore's legal services market is included and guaranteed under SAFTA.

In addition to these commitments to maintain current levels of access under Singapore's domestic law, the Agreement to Amend SAFTA reduces the number of Australian lawyers required to form a Joint Law Venture (JLV) or Formal Law Alliance (FLA) in Singapore. Singapore's domestic laws currently require five Australian lawyers, each with at least five years experience to establish a JLV or FLA, to three Australian lawyers with a combined total of 15 years experience.

However, for Australian lawyers and law firms to see the full benefits of this agreement it is important that both countries remain fully committed to complete implementation of the agreement. Under SAFTA (Annex 4-II(B)), Singapore "reserves the right to maintain or adopt any measure affecting the supply of legal services in Singapore by...all Australian law firms [and] all Australian lawyers".

Singapore currently relies on this reservation to restrict applications for Qualifying Foreign Law Practice (QFLP) licences. QFLP licences allow foreign firms to offer foreign law legal services as well as Singapore law related legal services in "permitted areas of practice". At the time of making this submission, the Singapore Ministry of Law advises that "[t]he QFLP scheme is not open for application currently and there are no details available regarding further rounds of applications."

Finally, the Agreement to Amend SAFTA will increase the number of Australian law degrees recognised by Singapore for the purpose of admission to the Singaporean legal profession. This is an important outcome for Australian law schools that will assist in the internationalisation of the legal sector in both countries. It will also expand people-to-people links that inevitably foster increased understanding and cooperation between the legal professions of both countries.

These are all significant outcomes that demonstrate that SAFTA remains a useful, living agreement that can deliver enhanced market access outcomes for the Australian legal profession.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jonathan Smithers", with a long horizontal line extending to the right across the signature.

Jonathan Smithers
CEO