

CHAPTER FIVE

AUSTRALIA'S SERVICE EXPORTS TO HONG KONG

Introduction

5.1 On 1 July 1997 Hong Kong ceases to be administered by the United Kingdom and will become a Special Administrative Region (SAR) of the People's Republic of China. Under the terms of the 1984 Sino-British Joint Declaration on the Question of Hong Kong, for 50 years after 1997 Hong Kong is to retain a high degree of economic autonomy and participate as a separate entity in international forums like the WTO and APEC. The principles of the Joint Declaration will be given legal effect by the Basic Law, published in April 1990, that will serve as a constitution for the Hong Kong SAR. Under this framework, known as 'one country, two tier systems', Hong Kong people are to rule Hong Kong, but China will be responsible for its defence and foreign affairs. Hong Kong will retain its common law system, remain a free port and separate customs territory and continue to issue its own currency.

5.2 Despite Hong Kong undergoing a process of political change aimed at introducing a more responsive, representative and accountable form of government, there has been no agreement to date between Britain and China on political arrangements for Hong Kong post-1997. China has declared that it will honour the Joint Declaration and the Basic Law and preserve Hong Kong's stability and prosperity. However, in 1994 it passed a law to dismantle the three tiers of elective government once it resumes sovereignty. In 1993 the Preliminary Working Committee of the Preparatory Committee for the Special Administrative Region of Hong Kong was created and is viewed as China's attempt to prepare for changing the existing political institutions after 1997.

5.3 On 2 October 1996, Governor Chris Patten delivered his final address at the opening of Hong Kong's Legislative Council. In his speech he provided a list of 16 benchmarks against which the world could judge how successfully China implements its goal of 'one country, two tier systems' after it resumes sovereignty of Hong Kong on 1 July 1997.

5.4 Hong Kong's association with China, particularly its southern provinces, has been a factor in Hong Kong's continued economic growth, especially in the service sector. From July next year Hong Kong's future will be tied to regional economic growth and the development of new and continued business links, through personal contacts, comparative advantage and business opportunities.

Hong Kong economy, services and politics

5.5 Hong Kong is a sophisticated and very competitive market with one of the most open, competitive and fast growing service sectors in the world based on its entrepôt role and its general competitiveness. It is a major financial centre, an important centre for regional

headquarters, and the most efficient transport hub in the region. DFAT provided the following most up-to-date estimates on the economy.¹

5.6 By the end of 1995 Hong Kong had a population of 6.3 million with a growth rate of 2.6 per cent; 95 per cent of the population are of Chinese descent,² with 60 per cent of the Chinese born in the colony and 34 per cent in China (1991 census);³ Hong Kong's GDP grew by 4.6 per cent in 1996. Hong Kong has a per capita GDP of US\$25,300, very low tax rates, the eighth highest trade volume in the world, and one of the world's largest foreign exchange and gold markets.

5.7 The major economic problem confronting the economy is inflation which peaked in the first quarter of 1995 at 8.7 per cent but fell to 6.6 per cent in December 1995. The high rate was due to a combination of depreciation of the HK\$ in line with the US\$ depreciation, China's high inflation rate and a rise in global commodity prices.

5.8 Structural and cyclical (in low skilled jobs) unemployment became a more serious problem with unemployment at 3.2 per cent and underemployment at 2.5 per cent in 1995. There were tighter employment conditions in the services industries compared to that in manufacturing and construction, which is in line with the transformation of Hong Kong's economy from a manufacturing to a services based one.

5.9 Over the last decade Hong Kong has moved its manufacturing sector largely offshore to Southern China with the remaining manufactures moving to the high technology end of the field and the services sector accounting for 83 per cent of Hong Kong's GDP and some 72 per cent of the workforce in 1995.

5.10 Currently re-exports have grown to dominate Hong Kong's manufactures trade, accounting for some 83 per cent (US\$144 billion) of total exports in 1995. China is by far the largest re-export market for Hong Kong followed by the USA, Japan, Germany and the UK. However, as China improves its pre-shipping services its re-exporting through Hong Kong is expected to decline and Hong Kong's role as a major centre for trade servicing and financing is expected to become more prominent.

5.11 Not surprisingly Hong Kong earned more from its service exports (estimated at US\$38 billion in 1995) than domestic merchandise exports (US\$30 billion). It is a net service exporter.

5.12 The Hong Kong Government highlighted the future importance of the services sector to the territory with the launch in March 1996 of the 1995 Task Force on Services Promotion's first major report *The Services Sector: Support and Promotion*. The report identified 14 priority service industries and government initiatives to promote them. The priority service industries are:

- air transport services
- banking services

1 DFAT, *Country Economic Brief: Hong Kong*, June 1996, Canberra.

2 Central Intelligence Agency, 1995, *The world factbook 1995*. Washington, Central Intelligence Agency, p. 190.

3 *The statesman's year-book: Statistical and historical annual of the states of the world for the year 1995-1996*. 1995, edited by Brian Hunter. London, Macmillan, p. 673.

- computer and related services
- film entertainment services
- financial markets and fund management services
- import and export trade services
- insurance services
- land transport services
- maritime transport services
- professional services
- real estate services
- telecommunications services
- tourism, convention and exhibition services
- wholesale and retail services.⁴

5.13 China's opening to international trade and market forces has reinforced the traditional links between its economy and that of Hong Kong. Hong Kong's and China's economic and political existence and future are intimately linked. China is the largest export market and source of imports for Hong Kong, while Hong Kong is China's second largest trading partner. They are each other's major investment partners.

5.14 Hong Kong's expanding service role is closely linked with the rapid economic development in the Chinese hinterland. While Hong Kong has been the major gateway to China, particularly Southern China, its future will depend on many factors. Doubts about China's economic outlook, China-US relations, China's accession to the WTO, intellectual property rights, effective economic management, its economic reform process, management of corruption, poor legal safeguards and arbitrary treatment of foreign business people and companies are disincentives to the conduct of business on the Chinese mainland.

5.15 The two official languages of Hong Kong are English and Chinese with English the language of business. Cantonese is spoken by 97 per cent of the population but Mandarin is increasingly used and is the most common language used in administration in the People's Republic of China. The language differences will impact on business dealings and communication flows.

5.16 The real significance of Hong Kong in the Chinese economy may be overlooked as both Hong Kong and China downplay this role in the lead-up to 1997.

5.17 There is much speculation on post-1997 Hong Kong and its future as the gateway to China. DFAT believes this role will continue for the foreseeable future but some of the other rapidly growing coastal centres in China will take on increasingly important roles. It also believes Shanghai will enhance its position as an alternative or at least as an additional gateway.⁵

5.18 Another view is that businesses increasingly will go directly to China because ultimately if the development is in China the problems of doing business on the mainland have to be addressed.

4 DFAT, *Country Economic Brief: Hong Kong*, op.cit. p. 22.

5 DFAT, Submission, p. S242.

5.19 DFAT's view is reinforced by the Hong Kong Trade and Development Council. In December 1995 addressing the *National Trade and Investment Outlook Conference*, Dr Fung, Chairman of the Council said 'We in Hong Kong will be as open for business in 2001 as we are now. Australian business people will pay dearly in lost opportunities if you doubt that...Hong Kong will retain its comparative advantage as the entrepot for southern China...Shanghai would emerge to serve the Yangtse delta region of East China, while Dalian or Tianjin might handle the north...'.⁶

5.20 Dr Hendrichske, an expert on China, suggests Hong Kong '...is under, at least, some kind of threat of being reduced in favour of service providers in other areas of China...'. He said there are two different points of view on how to deal with it. On the one hand, in the longer term China would much rather move Hong Kong to Shanghai because of the geographic advantages of the Shanghai hinterland for China and this was the role of Shanghai pre-1949. On the other hand, China would not want to upset Hong Kong because once it does it upsets foreign investors in general and it would not want to run into problems there. Dr Hendrichske notes China '...has started to make attempts to move things to Shanghai... [but]... obviously it is not going as well as it thought, simply because the whole service industry is much more complicated than it looks...'.⁷ He also suggests that the most likely scenario of the transition of Hong Kong is that it will be incorporated into a larger area, which would include Shenzhen. This has not been made official policy but the Chinese are talking about that.⁸

5.21 The Hong Kong Trade and Development Council representative in Australia suggests business as normal post-1997 but the possibility of a move towards adopting international standards rather than purely British standards.⁹

5.22 The business as normal attitude is also generally reflected in the few comments on this issue made by businesses working in Hong Kong who met with the Committee. Some businesses report that their partners in Hong Kong had conveyed a positive attitude to post-1997, emphasising opportunities in China rather than problems.¹⁰ This reinforces the results of earlier research on Australian businesses in Hong Kong by the Australian Chamber of Commerce (AustCham) in Hong Kong.¹¹

5.23 Others suggested that 1997 is already upon Hong Kong with many Chinese already in significant positions of authority within the territory.

5.24 The other unknown in the Hong Kong equation is what will happen in China, and thus Hong Kong, in the succession to Deng Xiaoping. Dr Hendrichske reiterated that China is a closed political system so very little is known about what actually is happening inside that system. Various scenarios exist from the dramatic ones of a power struggle leading to

6 Dr Fung is also Chairman and Chief Executive Prudential Asia; Chairman of the trading group Li & Fung; and the British colony's representative on the APEC Eminent Persons Group. Hiscock, Geoff. Asian Business Editor. 'Stay in Hong Kong, business groups told'. *The Australian*, 6 December 1995.

7 Macquarie University, Transcript, 20 April 1995, p. 118.

8 *ibid.*

9 Hong Kong-Australia Business Association, Transcript, 20 April 1995, pp. 121 & 131.

10 CUT, Transcript, 12 July 1995, pp. 556-557.

11 Taneja, P, March 1994, *Hong Kong and Australia: Towards 1997 and beyond*, Australia-Asia Papers., No. 70, Queensland, Centre for the Study of Australia-Asia Relations, Faculty of Asian and International Studies, Griffith University, pp. 24-25.

China being up for grabs, the scenario of China breaking apart into various provinces, to the 'business as normal' scenario. Dr Hendrischke suggests the stability strategy was the most likely outcome for the next few years because of China's current composition of leadership, economic policies and national goals especially the goal of rejoining with Hong Kong.¹²

Australia's service exports to Hong Kong

5.25 DFAT advised there are about 50 000 Australians residents in Hong Kong, most of them Hong Kong Chinese Australians.¹³ There are some 350 companies which are Australian owned or controlled or have associations in Australia. Around a third of those companies are involved in services.¹⁴

5.26 Australia is the fourth largest community in Hong Kong - behind the British, United States, Japan and Canada - and is very well placed in Hong Kong to take advantage of its growth especially in the service sector.¹⁵

5.27 General details on Australia's service trade with Hong Kong were presented in Chapter 2. Table 5.1 provides the latest export data on service exports to Hong Kong covering the 1992-93, 1993-94 and 1994-95 financial years.

Attractions of the market

5.28 Austrade identified six major features of the Hong Kong market which make it attractive for Australian businesses.¹⁶ Some of these have been touched on above.

5.29 The first is the dynamic nature of the Hong Kong economy and its links to economic developments in China which are outlined above.

5.30 The second is Hong Kong's efficient infrastructure with good transport, communications, financial and business services with a well educated and motivated workforce. Where problems in infrastructure occur or facilities are operating at close to full capacity, such as in the transport sector, high priority is given to their redevelopment or expansion. The most obvious example of this is the construction of the new airport at Chek Lap Kok. Hong Kong has been the world's busiest container port since 1992. A new container terminal (CT-8) was built in 1994 but there are still congestion problems. The construction of container terminal nine (CT-9) was finally endorsed by Beijing in September 1996 and its construction, some 12 months behind schedule, will assist in alleviating capacity

12 Macquarie University, Transcript, 20 April 1995, pp. 102-110.

13 DFAT, Transcript, 29 August 1996, p. 985.

14 DFAT, Submission, p. S243.

15 DFAT, Transcript, 29 August 1996, p. 990.

16 Austrade, Submission, pp. S310-S312.

Table 5.1 Services Exports to Hong Kong 1992-93, 1993-94 and 1994-95

Service	1992-93 A\$ million	1993-94 A\$ million	1994-95 A\$ million
Shipping	19	16	25
Other Transportation	194	231	211
Travel	387	436	514
Other Services			
<i>Official</i>	1	0	0
<i>Non-Official</i>			
Expenditure of foreign govts and foreign govt employees	0	0	0
Expenditure of resident entity employees	8	7	10
Financial services	4	12	11
Insurance services nec	9	7	0
<i>Miscellaneous services</i>			
Agency and advertising services provided to int. trans. operators	34	28	35
Communications	np	np	36
Computer and information services	7	14	11
Professional services	11	14	11
Rental and operational leasing	0	0	0
Technical services	4	8	5
Management fees between related companies	9	3	14
Agriculture, mining, manufacturing and construction services	5	4	8
Trade related services	5	1	7
Other business services	1	2	*
Other services	np	np	3
Personal, cultural and recreational services	*	*	6
Total miscellaneous services	120	114	136
Total Non-Official	139	140	155
TOTAL	740	823	905

Note: np - As a result of the application of confidentiality rules it has not been possible to disclose all the data contributing to the table. Where data has been suppressed an 'np' appears in the table.

*In 1994-95 the 'Other business services' category was combined with the 'Other services' category and a new category of 'Personal, cultural and recreational services' was created.

Due to rounding, column totals may not exactly equal the total of the components.

Source: Australian Bureau of Statistics.

constraints in the port of Hong Kong. The planning is well advanced for container terminals 10 and 11.

5.31 The third is the generally open and accessible nature of the Hong Kong market. However, while tariff and non-tariff barriers are low, it is important to note that Hong Kong is restrictive in terms of importation of labour.

5.32 The fourth is the well established British based legal and business system in Hong Kong which is obviously familiar to Australian exporters. They are also assisted by the strong representation of Australian legal firms in Hong Kong.

5.33 The fifth is the strong network of established Australian and international companies in Hong Kong with whom Australian service exporters already work.

5.34 Finally, Hong Kong can be used as a springboard for China and an important source of information, contacts and introductions for China. As previously discussed business attitudes on the importance of this matter vary.

Difficulties in the market

5.35 As well as the political difficulties mentioned creating uncertainty, seven significant challenges were identified by Austrade for businesses exporting services to Hong Kong.¹⁷ These views were reinforced by comments from business.

5.36 Hong Kong is an extremely competitive market attracting considerable international attention coupled with strong domestic companies able to meet much of the local demand. Many of those local companies have been internationalised or formed through alliances with international companies. For example, Integrated Systems Australia, a company supplying communications and computer engineering skills stated that it would not be able to compete in the Hong Kong market, because Hong Kong is already well equipped with this technology and has high levels of support from the US marketplace.¹⁸

5.37 It is critical to have a market presence for most services. While administrative functions may be located away from Hong Kong, marketing must be *in situ*. Joint ventures and other associations are essential in some sectors, for example the legal sector. Unfortunately high land values and rental costs for both business and residential premises make the Hong Kong market very expensive. Price Waterhouse pointed out that rental costs can be as much as \$16,000 per month.¹⁹ DFAT's view was that 'The major impediment to service exporters is the high cost of establishing and running an operation in the territory'.²⁰

5.38 Hong Kong is also a conservative market where track record carries much weight, as do long term associations. Austrade advised that in many cases the proven service and/or product is selected over the more advanced and innovative. Strong competition is experienced from the extremely important influence and connections of the Chinese business community throughout Asia. The Chinese way of doing things works over generations, not overnight.

17 *ibid.* pp. S313-S315.

18 Integrated Systems Australia, Transcript, 12 July 1995, p. 452.

19 Price Waterhouse, Transcript, 7 August 1995, pp. 840-841.

20 DFAT, Submission, p. S250.

5.39 High inflation and salaries costs are also a problem, especially since there are controls on the number of staff that can be brought in from Australia.

5.40 With low unemployment there is high mobility of local staff and it is not unusual for staff to change jobs annually, creating ongoing pressure for training new staff or to increase salaries to retain existing staff.

5.41 A difficulty raised by others was that although Hong Kong is reported to be the second-least corrupt country in Asia, there are concerns that this is changing and may change dramatically under China's rule.²¹

5.42 The Attorney-General's Department also raised some concerns about piracy of copyright material in Hong Kong, at least for major products. It said 'The situation in Hong Kong, because of its proximity, is greatly dependent on what happens in China'.²²

Australia's competitive advantages

5.43 Overall Australian service exporters possess a number of comparative advantages when operating in the Hong Kong market.

5.44 Austrade²³ suggested there is a general recognition of Australian high business standards and that our businesses are on a par with those in the USA and European nations.

5.45 Australia is increasingly being seen as part of the Asian region. However, Clough Ltd commented that while we have to push on that basis, Australians should not try to become Asians, because Australians simply aren't. There are a great variety of cultures in Asia and Australia should try to add its western culture to those that are there and get the best of both worlds.²⁴

5.46 As some businesses now have long track records in Hong Kong, Australia is being recognised as being in Hong Kong for the long run. For example, Leightons Asia Ltd has been in Hong Kong for 20 years and Maunsell Consultants Asia Ltd has been there for 25 years.

5.47 Many of the international companies operating in Hong Kong are managed by Australians, reporting to Australia and provide valuable conduits into Hong Kong and Chinese business.

5.48 There are an increasing number of Hong Kong decision makers educated in Australia with obvious intangible benefits to Australia in a society where 'connections' are all important.

5.49 There are many residents who have taken out Australian citizenship and residency and have maintained their business links with Hong Kong. To the year ended 30 June 1996 some 6160 persons who resided in Hong Kong were granted Australian citizenship. Australia

21 Harris, Margaret, 'Corruption the big fear in Hong Kong', *Sydney Morning Herald*, 24 August 1994.

22 Attorney-General's Department, Submission, p. S371.

23 Austrade, Submission, pp. S316-S318.

24 Clough Ltd, Transcript, 12 July 1995, p. 444.

is being seen as an ideal base country from which to do business in Asia especially into China.

5.50 By international standards Australia and Hong Kong have good geographic proximity with direct air services operating daily to most capital cities. Western Australia is in the same time zone as Hong Kong and Australia's eastern states generally are only two hours ahead of Hong Kong time.

5.51 For service exports delivered in Australia, such as education, Australia is recognised as an attractive, clean and safe environment.

5.52 As well, many service exporters, from several sectors, report that their services are cost competitive.

5.53 The major difficulties that Australian service exporters face from a competitive viewpoint are the traditional links with their competitors, particularly British, American and other European companies. Further difficulties exist with Hong Kong customers and their relatively low awareness in the Hong Kong market of the specific capabilities of Australian business. While 1997 may see the British connection wane, there will undoubtedly be stronger competition from China.

Specific sectors - impediments, competitiveness and prospects

5.54 Further specific details on impediments and competitiveness are more appropriately addressed by sector.

International education

5.55 Australia has been exporting education services for about ten years and the Hong Kong education market was essentially opened by Austrade. Hong Kong has been Australia's largest market for overseas students. There were 12,144 Hong Kong students studying in Australian institutions in 1995. Most of these are full-fee paying private students. This includes students located both onshore and offshore through twinning arrangements with Hong Kong universities and distant learning programs. Monash University's crude estimate of Australia's direct earnings from international education in Hong Kong is about \$160 million. In 1995-96 about 60,700 visas in total were issued for overseas students to study in Australia, an increase of 18 per cent over the previous year.

5.56 A breakdown of students by sector is shown by Table 5.2. Higher education and other post-secondary students account for some 80 per cent of the numbers and so were the focus of attention. The fields of study of Hong Kong students in Australian higher education institutions in 1995 are shown in Table 5.3. Monash University in 1994 reported that 88.7 per cent of the fee paying students are doing undergraduate courses and go to four or five

Table 5.2 Number of Hong Kong Students Enrolled by Sector 1991-1995

Table 5.3 Fields of Study of Hong Kong Students in Australian Higher Education Institutions 1995

Table 5.4 Hong Kong Students Studying Internationally at University or Higher Education Level

Australian universities - the University of New South Wales (UNSW), Monash University, Royal Melbourne Institute of Technology (RMIT) and Curtin University of Technology.²⁵

5.57 Table 5.4 provides a comparison of the number of Hong Kong students studying at overseas universities. It highlights Australia's principal competitors, its important role in the sector and the 117 per cent growth Australia experienced from 1990-1995 compared to 45 per cent growth for Hong Kong students studying at US universities for the same period.

5.58 A number of factors have given Australia a competitive advantage in the delivery of education services and assisted market establishment share:

- English language speaking in a region where the language of business is English;
- close proximity;
- in the same time zones;
- recognised as having a good overall standard if not a world leader in quality; and
- being a safe destination.²⁶

5.59 In addition to the competitive advantages Australia enjoys, others factors cited by DEET specifically for international education are: student access to medical services at a reasonable rate; the opportunity for students to work up to 20 hours a week during their course; costs are very competitive; partnerships between training providers and the commercial, industrial and public sectors; Australia's strong network of high level employment, education and training contacts in the region; Australia's linguistic diversity and commitment to enhance linguistic capacity; and a balanced regulatory environment and safeguards to ensure students get what they paid for. DEET stated that no other competitive nations give that assurance.²⁷

5.60 There are difficulties faced by education exporters into the Hong Kong market. DEET identified three major difficulties.²⁸

5.61 First, the Hong Kong Government has expanded the number of domestic higher education places which has reduced the immediate demand for overseas university courses and resulted in the number of students leaving Hong Kong falling in 1993. DEET also reported that data showed a decline in student movement out of Hong Kong but there was a surge in about the last two to three years. In a declining market, Australia has maintained a better market growth than the other three major competitors in Hong Kong.²⁹ IDP noted while the big competitor in Hong Kong is the Hong Kong institutions themselves, their new university, the Hong Kong University of Science and Technology, will hit its limit of 7000 students in about two years and it expects the Hong Kong market then to pick up.³⁰

5.62 Second, Australian institutions still face major competition from the USA at university level, and at the postgraduate level particularly, with the quality of Australian university education not rated as highly as that for the USA, UK and Canadian institutions. The US, UK and some other European countries have been seen as the benchmark countries.

25 Monash University, Transcript, 17 May 1995, p. 241 and Exhibit No 31, p. 3.

26 DEETYA, Transcript, 29 August 1996, p. 1045.

27 DEET, Transcript, 13 June 1995, pp. 374-379; and DEET, Submission, pp. S582-S584.

28 DEET, Submission, p. S590.

29 DEET Transcript, 13 June 1995, p. 404.

30 IDP Education, Transcript, 13 June 1995, p. 409.

Monash University attributes this to the tradition of American universities offering technical and research assistant positions to postgraduate students and waiving fees for those students. Australia does not do this.³¹ In addition, DEET stated that countries in the region, such as Malaysia and Singapore, are now positioning themselves as exporters of education and training services to all the growth centres which Australia is targeting. The competition is getting wider.³²

5.63 Finally, Australian education and training providers commonly lack, or are unable or unwilling to raise capital for investment in Hong Kong. This may be due to uncertainty about the situation post-1997.³³

5.64 DEET also referred to difficulties experienced with state government authorities or institutions and professional institutions in Australia allowing graduates to stay on for the extra year to gain the full professional accreditation. It noted difficulties in gaining internship places for medical graduates as a particular problem.³⁴

5.65 The Committee recommends that:

19. the Department of Employment, Education, Training and Youth Affairs work with State and Territory Government authorities and professional institutions in Australia to ensure that overseas graduates undertaking courses in Australia are able to stay on for the extra time needed to gain full accreditation.

5.66 DEET said the Hong Kong student market largely has been boosted by:

- the Australia Education Centre (AEC) in Hong Kong, now operating under the Australian International Education Foundation (AIEF) banner, which provides an initial point of contact and source of information on study opportunities for Hong Kong students;³⁵
- the prominent and active role played by Australia's numerous alumni in Hong Kong;
- the ready recognition of Australian qualifications in Hong Kong, though Deakin University notes some difficulties with recognition of its education courses by the Hong Kong civil service;³⁶
- the Education and Training Counsellor appointed to the Australian Embassy in Beijing who provides a contact point on education, training and workforce developments in both China and Hong Kong; and

31 Monash University, Transcript, 17 May 1995, p. 248.

32 DEET, Transcript, 13 June 1995, p. 397.

33 DEET, Submission, p. S588.

34 DEET, Transcript, 13 June 1995, p. 396.

35 Australian College of English, Submission, pp. S51-S52; and ELICOS, Submission, p. S163.

36 Deakin University, Transcript, 17 May 1995, pp. 262-264.

- the fact that there are no regulatory barriers to the export of education and training services to Hong Kong - foreign institutions operate under the same rules as apply to local suppliers.

5.67 DEET noted that legislation governing the establishment of educational institutions by foreigners in Hong Kong was introduced into the Legislative Council in November 1995 and is not expected to have any effect on mainstream Australian education providers.³⁷

5.68 In Hong Kong there is substantial delivery of education and training by Australian institutions. Professional bodies such as accountants and engineers have very strong professional development programs in Hong Kong.³⁸

5.69 DEET said opportunities exist for broadening Australia's export of education and training services to Hong Kong. These are through developing innovative linkages between Australian and Hong Kong universities, technical colleges and private sector training providers; developing nursing education programs; providing distance learning for the upgrading of professional qualifications and workforce skills; and providing English language schools to counter falling English language skills in Hong Kong.³⁹ ELICOS noted that in Hong Kong there has been a national deterioration of the English language proficiency of its Hong Kong Chinese due to the push towards returning to Chinese as the medium of instruction in schools. This has meant a greater need for students entering Australian institutions to undertake English language preparation.⁴⁰

5.70 Furthermore DEET noted there are likely to be significant opportunities in China, and ultimately Hong Kong as a result of the Education Law now being considered by the National People's Congress of the People's Republic of China. The draft law includes increases in education expenditure at all levels and a commitment to the recognition of foreign qualifications in accordance with the international treaties to which China is a signatory.⁴¹

5.71 Universities are also modifying their approaches to better capture market share. Over the past year or so there has been a considerable restructuring of administrative arrangements for their international activities. UNSW, while acknowledging the value of the AEC for some universities, underlined the importance of developing its own relationships and local presence, noting that its Unisearch Ltd has a shelf company in Hong Kong.⁴² VUT noted that it also is having to look at the need for a more permanent presence in Hong Kong and the question of libraries and facilities for students.⁴³ Similar comments were made by Monash University, which stressed the importance of a presence in the market even with the introduction of new technologies, such as the information superhighway, improving communication between academic staff and students.

37 DEET, Submission, pp. S588-S589.

38 DEETYA, Transcript, 29 August 1996, p. 1047.

39 DEET, Submission, p. S589.

40 ELICOS, Submission, p. S162.

41 DEET, Submission, p. S589.

42 Unisearch, Transcript, 14 September 1995, p. 856.

43 VUT, Transcript, 17 May 1995, p. 216.

5.72 Some concern was expressed about negative aspects of competition between individual Australian universities in overseas markets. Based on the evidence presented, the Committee is not entirely convinced the undesirable effects of internal competition between Australian universities in the international arena are being effectively addressed.

5.73 Through the partnership between the Australian Government and the education and training community under the umbrella of the Australia International Education Foundation, much work has gone into building a strategic vision.⁴⁴ DEETYA acknowledged that over the past eighteen months, as part of the dialogue with institutions, particularly universities:

...there is a recognition that the effect of some fairly aggressive competition amongst themselves offshore was not, in fact, an increase in their own market share at an individual institutional level, but a loss of market share to competitors such as Britain and the US where they were much more...gentlemanly in terms of positioning themselves and, to some extent, more culturally sensitive in the sense that many of the regional markets in which we [Australia] work really react quite adversely to fairly crass mercantilist approaches to [the] selling of education. Some of the approaches our universities were taking do not connect very well with many of our regional neighbours.⁴⁵

5.74 The Committee recommends that:

- 20. all organisations involved in international education, work to promote a cohesive Australian identity overseas and ensure that competition between Australian providers is not damaging Australia's reputation as a quality education service provider.**

Legal services

5.75 Boyd et al and later D'Aloisio suggested there are three strategies which Australian law firms are pursuing overseas. These are: providing services to overseas clients doing business in Australia; working for Australian clients conducting business overseas principally into East Asia through provision of local law and business services and value added legal services in areas of particular expertise and know-how such as infrastructure, resources, telecommunications, privatisation, corporatisation, dispute resolution etc; and recently, a move more directly into the export of legal services and business services principally into East Asia rather than just following Australian clients there.⁴⁶ Sly & Weigall (which became Deacons Graham and James in late 1995) identified opportunities for work

44 DEETYA, Transcript, 29 August 1996, p. 1040.

45 *ibid.*

46 Boyd, Don (National Chairman, Sly & Weigall, now Deacons Graham & James), Przybylski, Martin (Member National Board, Sly & Weigall) and Sidhu, Sunteea (Solicitor, Sly & Weigall Sydney Office), 'Australia's participation in the international trade in legal services: Practitioner's view'. Paper presented to the International Trade in Services Conference, Brisbane, 12-13 July 1995, Unpublished; and D'Aloisio, Tony, Chief Executive Partner, Mallesons Stephen Jaques. 'Australian lawyers and the law firms overseas: Building on the competitive edge'. Paper presented to the Law Council of Australia 29th legal Convention, Brisbane, 27 September 1995, Unpublished.

for Japanese clients since Japanese lawyers have not travelled out of Japan.⁴⁷ D'Aloisio noted, however, that even though law firms have local associations and networks overseas, this may primarily be to attract inward investment to Australia.⁴⁸

5.76 Australia's international legal and related services activities are facilitated by the International Legal Services Advisory Council (ILSAC), a part time advisory council, which provides a consultative forum for private and public sector interests on issues related to international legal services. ILSAC was established by the Federal Government in 1990.

5.77 Hong Kong operates under the Common Law system like Australia and this provides some advantage for Australia.

5.78 ILSAC advised that in Hong Kong the major Australian firms generally associate themselves with local firms and practise Australian law as well as local law. There are no Australian firms established as foreign firms in Hong Kong.⁴⁹

5.79 ILSAC also reported that the UK and Australia are the main overseas study destinations for legal training for students from Hong Kong.⁵⁰ However Hong Kong is not expected to provide relatively increasing numbers of students to study law in Australia based on the present enrolment pattern.⁵¹ The resumption of Chinese sovereignty over Hong Kong in 1997 will see a shift in interest to Chinese law and Chinese legal education.⁵²

5.80 As well as the practical obstacles to operating in Hong Kong previously mentioned, ILSAC, AGs and DFAT noted the following restrictions.

5.81 Foreign lawyers who wish to advise on Hong Kong law are required to register with the Hong Kong Law Society and to successfully complete examinations in the territory to obtain a practising certificate. The 1994 amendments to regulations governing foreign lawyers prescribe residence in Hong Kong for at least three months immediately before admission; or the intention of residence for at least 3 months after admission; or ordinary residence in Hong Kong for at least seven years; or presence in Hong Kong for at least 180 days of each of at least seven years. DFAT said in practice, Australian lawyers usually join with companies already established and practise law which is not specific to Hong Kong, and they have not found these requirements discriminatory or problematic.⁵³ Another view was put by Sly and Weigall. It stated that Hong Kong is a closed shop, the right of Australians to practise Hong Kong law is one issue but it would be desirable to be able to practise international law in your own right.⁵⁴

47 Sly & Weigall, Transcript, 7 August 1995, pp. 818-819.

48 D'Aloisio, Tony, op.cit. p. 13.

49 International Legal Services Advisory Council, *Legal services country profile: Hong Kong*. 2nd ed, Attorney-General's Department, Canberra, March 1995, pp. 13-14.

50 ILSAC, op.cit. p. 11.

51 International Legal Services Advisory Council, International Legal Education and Training Committee. December 1995. *Australian international legal education and training: Directions, issues and opportunities*. AG's Dept, Canberra, December 1995, p. 12.

52 ILSAC, op.cit. p. 81.

53 DFAT, Submission, p. S249; Attorney-General's Department, Submission, p. S364; and ILSAC, op.cit. pp. 17-19.

54 Sly & Weigall, Transcript, 7 August 1995, p. 820.

5.82 Foreign law firms wishing to establish in Hong Kong may practise their home country law or international law. Individual lawyers and foreign firms also are required to register with the Law Society. In 1994 Hong Kong amended its laws to allow foreign law firms to practise in Hong Kong under the names of their parent overseas firm. The new law contains safeguards requested by the Law Society so that foreign firms are prevented from setting up in Hong Kong 'fronts' or franchises without real commitment to practise in the territory.⁵⁵

5.83 Another factor which ILSAC said may impact on Australian lawyers was the Government's localisation policy. In the judiciary, the Hong Kong Government Legal Department and in private practice, there is an increasing trend to employ local lawyers, particularly those with Mandarin language skills.⁵⁶ It also appears harmonisation of the People's Republic of China and Hong Kong law will occur through legislative reform, legal education and socialisation on both sides of the border.⁵⁷

5.84 In looking at legal services generally both Boyd et al and D'Aloisio have drawn a number of conclusions on competitiveness which appear to be applicable in the case of Hong Kong.

5.85 They suggested that in the case of inward investment to Australia, the dominance of Australian law firms is clearly evident and unlikely to be challenged significantly.⁵⁸ However, D'Aloisio believed pressure could be exerted in the future as a result of the oversupply of lawyers in developed countries, the globalisation of the law, relaxation of rules of entry for foreign lawyers into Australia, and the entry of international accounting firms to provide legal and business services.⁵⁹

5.86 In the case of outbound investment and export of legal services they suggested Australia has done reasonably well but D'Aloisio noted that to date the earnings and profits from those operations are underwhelming.⁶⁰ Sly and Weigall confirmed this view pointing out that their Asian offices tend to be fairly revenue neutral⁶¹ and similar comments were made by Boyd et al.⁶² D'Aloisio noted that Australian legal firms have competitive disadvantages with respect to UK and US firms. They are new on the international stage, they are associated with Australian law rather than UK or US law which seems to be dominating international transactions, and they are not assisted by a strong export capital market into the region from Australia.⁶³ D'Aloisio also noted that Australian firms and lawyers do not have a natural or overwhelming competitive edge for East Asia and if anything they start off behind the major UK and US firms. Even in areas where Australian firms have a competitive edge in local law services and value added services following Australian clients, there are several areas of risk.⁶⁴

55 DFAT, Submission, p. S249; and ILSAC, op.cit. p. 20.

56 ILSAC, op.cit. p. 22.

57 ILSAC, International Legal Education and Training Committee, op.cit. p. 25.

58 Boyd, Don et al, op.cit. p. 26; and D'Aloisio, Tony, op.cit. p. 16.

59 D'Aloisio, Tony, op.cit. pp. 7-8.

60 Boyd, Don et al, op.cit. p. 26; and D'Aloisio, Tony, op.cit. pp. 13 and 18.

61 Sly & Weigall, Transcript, 7 August 1995, pp. 820-821.

62 Boyd, Don et al, op.cit. p. 11.

63 D'Aloisio, Tony, op.cit. p. 12.

64 *ibid.* p. 18.

5.87 In the case of local law offices D'Aloisio identified a number of barriers to entry such as:

- most Australian law firms do not have an international perspective which makes it difficult to achieve the necessary degree of long term commitment;
- Australian firms do not have the capital to sustain long term investments and therefore pressures to be profitable exist from the start;
- major investment is needed to train and skill lawyers to deal with new jurisdictions and/or if local lawyers are used, additional training is needed in the way the firm operates; and
- difficulties of competition with local law firms. Boyd et al stated that Hong Kong offices are used for China work.⁶⁵

5.88 In relation to the value added legal services, D'Aloisio said changes to be met in building a competitive edge are gaining experience in operating in the region and the fact that many projects are awarded on a risk basis with no payment unless the project is successful. Australian firms need more capital to make that sort of investment.⁶⁶

5.89 Sly and Weigall indicated the need to improve our legal studies to take account of foreign legal codes and said several law schools are embarking on programs that are quite commendable. There also needs to be better links between language courses and legal courses.⁶⁷

5.90 There are a number of initiatives which would assist the competitiveness of legal firms in their drive overseas. These include:

- completing the process of a national profession with 'one ticket' to practice anywhere in Australia;
- providing legal structures (eg, incorporation) which allow firms to raise the necessary capital for the investment now necessary to remain at the cutting edge - it is considered 'archaic' and contrary to all of the microeconomic reform agenda to keep law firms tied to partnership structures;
- reducing where possible input costs such as practising certificates, levies, compulsory professional indemnity insurance, which could put firms at a price disadvantage;
- where possible when involved in international transactions insisting on Australian law as the governing law and on Australian disputes resolution centres for resolving disputes; maintaining the pressure for countries to open up practice to foreign lawyers; and

65 Boyd, Don et al, op.cit. p. 10.

66 D'Aloisio, Tony, op.cit. pp. 16-17.

67 Sly & Weigall, Transcript, 7 August 1995, pp. 824-825.

- research initiatives on marketing matters.⁶⁸

5.91 ILSAC was optimistic about the prospects for Australian legal services in both the Hong Kong and China legal markets. It said the Hong Kong and China legal markets are very active. Project finance appears to be booming, as are other related areas. The new airport and other infrastructure projects in the region have brought about high levels of business interest. Lawyers are becoming increasingly aware of Hong Kong as a base for the region. However, ILSAC was concerned about the possible impact of the Hong Kong Government's localisation policy.⁶⁹ Similar views were expressed by both Boyd et al and D'Aloisio.

Accountancy

5.92 Most of the major Australian accountancy firms, for example Coopers & Lybrand, KPMG Peat Marwick, Price Waterhouse, have established operations in Hong Kong. Activities cover the entire range of accountancy practice.

5.93 The regulatory framework for the accountancy profession is relatively straight forward but has one problem. It is governed by the Professional Accounts Ordinance, Chapter 50 of the Laws of Hong Kong. Australian accountants who are Certified Practising Accountants (CPA) or Chartered Accountants (CA) are recognised as members of an approved institute or accounting body by the Hong Kong Society of Accountants and can therefore register as a 'professional accountant'. However, to act as an auditor a 'professional accountant' must obtain a practising certificate issued by the local body. To do so requires residency of not less than 180 days in the previous twelve months.⁷⁰ The Accountancy Market Access Committee set up under the auspices of DFAT under the WTO/GATS to address access barriers to trade in accountancy services, describes this as the major impediment to access in Hong Kong.⁷¹ This requirement exists for all foreign accountants in Hong Kong and a similar reciprocal requirement is applied in Australia.

5.94 A firm of CPAs is eligible for registration if all partners are registered 'professional accountants' and all partners who reside in Hong Kong are practising certificate holders.⁷²

5.95 The WTO Working Party on Professional Services is assessing regulations relating to professional services to ensure that they are not used as barriers to trade. Regulations in accountancy are being considered first and cover mutual recognition of qualifications, licensing, establishment criteria and residence requirements.⁷³

5.96 Price Waterhouse did not consider the recognition of qualifications as a problem. Rather, it believed the problem is more whether one is dealing internationally or with the local Chinese. While English is the basic language of business in Hong Kong, in the later

68 Boyd, Don et al, op.cit. pp. 20-25; D'Aloisio, Tony, op.cit. p. 20; and Sly & Weigall, Transcript, 7 August 1995, pp. 829-830.

69 ILSAC, op.cit. p. 22.

70 ASCPA, Transcript, 17 May 1995, pp. 286-287; ASCPA, Submission, pp. S90-S91; and DFAT Submission, pp. S248-S249.

71 ASCPA Submission, p. S87.

72 *ibid.* p. S91.

73 DFAT, Submission, p. S787.

case one has to have a Chinese national speaker and an ability to liaise with them. With China coming in there will be more dealings with Beijing so a lot of Price Waterhouse's local people have to learn Mandarin because they only speak Cantonese.⁷⁴

5.97 The Australian Society of Certified Practising Accountants (ASCPA) also has a secondary role in accounting education. This arises because the Hong Kong Society of Accountants does not recognise overseas educational qualifications, such as Australian undergraduate degrees as entry into the profession, but does recognise CPAs and CAs for that purpose. As a result in October 1996 the ASCPA reported it had some 4500 members resident in Hong Kong. The ASCPA accredits the Australian education institutions for accounting education and monitors their performance. Universities operating in Hong Kong for which ASCPA has accredited courses are the University of Southern Queensland, Monash University, Curtin University, Charles Sturt University and Victoria University of Technology.

5.98 ASCPA's membership is growing at a rate of 15 per cent per annum in Asia compared with only 5 per cent per annum in Australia. It said its major competitors for membership and education services in priority order are Canada, the UK and the USA, though the UK is diminishing in importance and the USA is getting more active.⁷⁵

5.99 ASCPA also noted that it is trying very hard to get into the China market because of the potential of that market for the export of Australian accounting education and so as to promote and protect the interests of its existing membership in Hong Kong.⁷⁶

Insurance

5.100 Australian companies are mainly active in life insurance in Hong Kong. National Mutual Asia, a listed company in Hong Kong, is one of the two largest life insurance providers in Hong Kong with a market share of around 30 per cent. AMP has been operating in Hong Kong for about three years as a provider of insurance, particularly life insurance, and has achieved good market share. Colonial Mutual entered the Hong Kong insurance market in 1990 in a joint venture. QBE Insurance Group has a presence in Hong Kong in general insurance since the mid 1980s through a wholly owned subsidiary, QBE Insurance (Hong Kong) and its joint venture, Hong Kong & Shanghai Insurance.⁷⁷

5.101 DFAT reported that to enter the insurance market in Hong Kong the government insurance authority assesses applicants on the grounds of minimum capital requirements, financial strength, solvency margins, sales record and company history. Australian firms achieved significant market share in Hong Kong and have not found it difficult to meet the requirements to operate there.⁷⁸

5.102 AMP generally confirmed that view but noted that Hong Kong regulators had only allowed it to establish a branch in Hong Kong when it would rather have established a

74 Price Waterhouse, Transcript, 7 August 1995, pp. 833-834 and 841.

75 ASCPA, Transcript, 17 May 1995, pp. 273-275.

76 *ibid.* p. 273.

77 DFAT, Submission, pp. S243-S244.

78 *ibid.* p. S248.

subsidiary. It found this difficult to understand as AMP would be prepared to offer guarantees to any subsidiary.⁷⁹

5.103 DFAT stated Australian firms are watching current discussions in the Legislative Council about the introduction of a compulsory pension scheme to improve welfare services for the growing elderly population of the territory and are well placed to win business in this area.⁸⁰

Banking

5.104 DFAT advised that the ANZ, Commonwealth, National, Westpac and several smaller banks such as the Advance Bank have representative offices in Hong Kong. All claim to be writing good business in what is an expensive and competitive market. The National Bank of Australia (NAB) obtained its full licence in early 1995 and plans to be active in retail banking and trade finance. The banks also operate in niches outside the retail sector.⁸¹ ANZ advised it operates through its subsidiary ANZ Grindlays and facilities include foreign currency term loans, trade finance, loan syndications, bid performance bonds and bank guarantees, merchant banking services, full branch banking facilities, private banking services etc. ANZ established itself in Hong Kong in 1978 but Grindlays was there in 1970.⁸²

5.105 DFAT noted the larger banks use their Hong Kong base to launch operations into China and other destinations in Asia, while the smaller banks are catering to the retail banking needs of the large expatriate communities in Hong Kong and are also involved in commercial and trade deals including inwards investment into Australia.⁸³ ANZ confirmed that historically Hong Kong has been the gateway for investment into China, though ANZ now has a full branch in Shanghai.⁸⁴

5.106 DFAT reported restrictions on overseas bank operations in Hong Kong relating to capital requirements, foreign ownership and number of offices.⁸⁵

5.107 To register as a licensed bank an overseas investor must have a minimum assets base of US\$16 billion (A\$23 billion); to register as a restricted licensed bank an investor must have a minimum capital base of HK\$100 million (A\$18 million); and to operate as a deposit taking company the minimum capital requirement is HK\$25 million (A\$4.5 million).

5.108 Foreign banks cannot establish as wholly-owned subsidiaries due to a licensing requirement that the applicant should be predominantly beneficially owned by Hong Kong interests. However, foreign banks may acquire an interest, including a controlling interest, in a local bank which has unlimited rights to set up branches.

5.109 Overseas banks granted licenses after 1978 have limitations on the number of offices they can establish - a customer office, a regional office, and one back office in a

79 AMP, Submission, p. S144.

80 DFAT, Submission, p. S243.

81 *ibid.*

82 ANZ, Submission, pp. S345-S346.

83 DFAT, Submission, p. S243.

84 ANZ, Submission, p. S346.

85 DFAT, Submission, p. S247.

building separate from its branch office in Hong Kong. 'Office' includes any automated teller machine or similar terminal device that provides facilities to the customer of the bank.

5.110 The March 1996 package of initiatives (see paragraph 5.12) designed to strengthen Hong Kong's position as an international financial services centre includes banking. The banking measures include the introduction of a real time gross settlement system and increased bank liquidity via an expansion of the secondary market for assets. Australian banks have in the past been able to meet requirements and operate successfully in Hong Kong.

Telecommunications

5.111 The telecommunications industry in Hong Kong is characterised by high quality, rapid growth and a deregulated environment for local services. However, while there has been some liberalisation of international services, the dominant international provider, Hong Kong Telecom International, has a monopoly on the carriage of international telephone traffic until year 2006.⁸⁶

5.112 Telstra said it has bid for a number of opportunities in Hong Kong and been successful.⁸⁷

5.113 Telstra also reported that at the moment there are no major impediments to its bidding, either in identifying the opportunities or bidding for them.⁸⁸ This reinforced DFAT's comments.⁸⁹

5.114 Telstra said in going overseas it is trying to draw on the expertise and capability it has developed in the domestic network and reproduce that core business offshore. It identified its comparative advantages as: already operating in a highly deregulated open environment so it understands how to operate competitively; operating a very extensive domestic network, being Asia's largest integrated carrier outside the People's Republic of China and unlike most carriers in the region it is experienced in providing both a domestic and international service; unlike some of the larger foreign carriers having a partnership philosophy in which it believes it understands how to deal with partners; and possessing a range of technological and innovative solutions to a whole range of telecommunications problems. Telstra believes it is generally accepted that there are virtually no telecommunications challenges it has not already solved and that it cannot take abroad.⁹⁰

Engineering

5.115 DFAT stated that Australian firms are among the most active in providing design and construction consultancy in Hong Kong with Australian firms being some of the longest in the Hong Kong market. Companies operating there include Leightons Asia Ltd, Maunsell, Clough Ltd, Barclay Mowlem, Fletcher Construction, Pioneer, Mott Connell and Kinhill. Both Leightons Asia Ltd and Maunsell Asia Ltd are involved in the new airport. Maunsell Consultants Asia Ltd, established and headed by an Australian with Australians on the Board

86 Telstra, Transcript, 20 April 1995, pp. 162-163; and DFAT, Submission, pp. S249-S250.

87 Telstra, Transcript, 20 April 1995, p. 163.

88 Telstra, Transcript, 20 April 1995, pp. 162-163, & 170; and Telstra, Submission, p. S184.

89 DFAT, Submission, p. S250.

90 Telstra, Transcript, 20 April 1995, p. 169.

and throughout the company, is the largest engineering consultancy in Hong Kong and probably Asia.⁹¹

5.116 The Institution of Engineers, Australia (IEA) advised that it has about 1700 members in Hong Kong. In October 1994 an agreement was ratified between the Hong Kong Institution of Engineers, and the IEA on the reciprocity of corporate members between the two bodies. Both bodies now have engineering course accreditation under the Washington Accord - Australia since 1989 and Hong Kong since 1994. The IEA is seeking to have its Hong Kong group linked in more with the Hong Kong Institution of Engineers.

5.117 Clough Ltd did not point to any particular difficulties of working in the Hong Kong market.⁹²

5.118 Maunsell Pty Ltd said:

...There are effectively no trade barriers in Hong Kong at all, [but] plenty of cultural barriers...The hardest part is just getting involved in whatever economy you are going to be doing business in and that is just part of the learning curve...But in Hong Kong more recently if you do not speak Chinese that is just as hard...They are rapidly swinging over to a Chinese language commercial economy...⁹³

5.119 The comparative advantages of Australian engineers operating in the Asian region were described by Clough Ltd as Australian engineers being so good - technically very competent; 25 per cent cheaper than their peers from the US, Japan or Europe; they are adaptable, mix with the locals, learn the language and are not frightened to get their hands dirty; and Australia is a non-threatening country - the Europeans suffer from a hangover of their colonial past, the Japanese suffer from the hangover of the war, the Americans suffer from being big and powerful and people think they are going to take over.⁹⁴

5.120 ERM Mitchell McCotter reported that it is exporting environmental planning and engineering services to Hong Kong for projects in environmental assessment, acoustics and solid waste management. It works through its affiliate the international Environmental Resources Management Group which has a well-established office in Hong Kong. It said its services are very competitive in the Hong Kong market as there is a rapidly growing environmental awareness and significant shortage particularly of experienced personnel. The only problems experienced are the costs of short-term accommodation for expatriate employees and the relative slowness of clients in paying for consultancy services.⁹⁵

Medical and health services

5.121 DFAT reported that demand for high quality health and health support services in Hong Kong is high and growing.⁹⁶ Australian service exporters are involved in general health areas; alternative health suppliers and consultants; Australian hospitals are recognised

91 DFAT, Submission, p. S244.

92 Clough Ltd, Transcript, 12 July 1995, p. 443.

93 Maunsell Pty Ltd, Transcript, 3 October 1995, p. 953.

94 Clough Ltd, Transcript, pp. 443-444.

95 ERM Mitchell, McCotter, Submission, p. S6.

96 DFAT, Submission, p. S248.

as having a high level of expertise in specialist areas such as liver and heart surgery and crano-facial reconstruction; Monash and La Trobe Universities have offshore nursing education with Victoria Institute of Technology offering alternate medicine courses - acupuncture; and Fletcher Construction built a new hospital which was fitted out by the Australian company, Medircraft.

5.122 Like other sectors the health sector is fairly open. Medical registration and recognition of qualifications follows Commonwealth practice with medical qualifications recognised from the UK, Australia, New Zealand, Singapore and Ireland. DFAT expects the Medical Council and the Medical Association of Hong Kong to continue British Commonwealth practices post-1997. After full registration as members of the Medical Council, Australian doctors are eligible to provide medical services in Hong Kong, dentists are required to sit an examination before joining the Dentist Council, and nurses and midwives are required to apply for exemptions and/or sit examinations with assessment on a case-by-case basis. A knowledge of the dominant local language, Cantonese, is necessary for employment in most hospitals.⁹⁷

5.123 DFAT said prospects for exports are limited, except in some specialised areas such as organ transplant, due to the high standards of the Hong Kong medical system. However, there are no restrictions on people leaving Hong Kong for medical treatment at present.⁹⁸ International Medical Assistance Programs confirmed the limited demand, with strong competition from the UK and USA and the likely continuation of this situation post-1997.⁹⁹

Some keys to success

5.124 Austrade identified five factors which have contributed to the success of Australian businesses operating in the Hong Kong market.¹⁰⁰ The importance of these factors have been attested to by the forgoing discussion on several service sectors.

5.125 Hong Kong offers no room for complacency, management must be prepared to commit to the market and be there for the long haul. Establishing long term relationships which are important in the Chinese culture is the key to success.

5.126 In the service sector people are the critical ingredient and being able to replicate that service with the right staff. Austrade stressed that the right people who are comfortable in the role and prepared to establish long term relationships as well as networking are particularly important in the Hong Kong market.

5.127 As in any market, a business offering a niche service/product will succeed if the appropriate niche market is identified.

5.128 Alternatively, bringing a strength to an existing local partner is one of the most cost effective means of entering the market. Austrade reported that local companies are receptive to new ideas, technology and expertise that will give them a competitive advantage.

97 *ibid.*

98 *ibid.*

99 International Medical Assistance Program, Submission, p. S198.

100 Austrade, Submission, pp. S320-S321.

5.129 Finally, Australia is at the forefront in adopting ISO standards and companies which can demonstrate ISO endorsement have a marketing edge. This arises because international standards are gaining rapid acceptance in Hong Kong over a traditional adherence to British standards. The importance of this issue was stressed by Standards Australia.¹⁰¹ The Committee encourages business and government to recognise the five factors which contribute to success in the Hong Kong market.

5.130 The Committee recommends that:

21. Australia encourage the adoption of international standards (ISO) in Hong Kong with a view to promoting freer interchange in services between Australia and Hong Kong.

5.131 Another factor which stands out is the increasing need for exporters to develop Mandarin language skills, the language of administrators in China. With Hong Kong now the second most service-oriented economy in the world after the United States, and the major gateway to China, language skills, especially in Mandarin are an important key to business success.

5.132 Another key to success is APEC. DFAT noted APEC provides another arena for:

...the liberalisation of trade in services, as well as for the facilitation of services trade and economic cooperation in specific service sectors. APEC also provides another forum to press Australia's specific market access concerns regarding trade in services with individual APEC members.¹⁰²

5.133 According to DFAT, in its supplementary submission of August 1996, Hong Kong's draft IAP (Individual Action Plan) under APEC 'is ambitious and comprehensive' and:

...includes a committee to review and relax all rules and regulations that may restrict market entry or reduce competition in Hong Kong's service industries. It also includes specific liberalising commitments in the areas of professional services, telecommunications, financial services, construction, education, environmental, distribution tourism, health and transport services. Hong Kong has indicated it will be looking to improve its draft IAP before it is finalised in November [1996] and Australia has been encouraging Hong Kong to improve commitments in financial services, telecommunications and legal services.¹⁰³

5.134 As noted in Chapter 2, paragraph 2.51, the outcome of the Eighth APEC Ministers Meeting in Manila in November 1996 saw Hong Kong give a commitment to reduce trade in service barriers especially in the area of professional qualifications.

101 Standards Australia, Submission, p. S66.

102 DFAT, Submission, p. 789.

103 DFAT, Submission, pp. S788-S789.

5.135 The Government should continue to press for the easing of restrictions on the establishment of foreign legal, accounting and medical practices in all multilateral, regional and bilateral trade forums, including APEC.

5.136 The Committee recommends that:

22. **the Australian Government maintain pressure through multilateral and bilateral channels for Hong Kong to open further its domestic market to Australian service providers.**

Australian service activities in China

5.137 Some Australian service providers are operating in the mainland China market, particularly Southern China. It is useful to consider some of the constraints on their operations because of the economic links between Hong Kong and China and some of the possible attitudes and influences which may arise post-1997.

5.138 DFAT stated that major problems are presented by Chinese Government regulatory barriers, the uncertainty of regulations, the excessive number and scope of the rules of law; the poor quality of business infrastructure; concerns about repatriation of profits; the availability of finance; and life style problems for Australian staff.¹⁰⁴

5.139 In commenting on the provision of legal services in China, Boyd et al noted:

Despite the existence of a general prohibition against foreign service providers in China...Chinese authorities have recognised the need to permit the entry of foreign professionals such as lawyers and accountants to advance development, and accordingly, to a limited extent have done so.¹⁰⁵

5.140 Some of the regulatory obstacles imposed on legal offices established by foreign firms in China include:

- the requirement for foreign offices to report to the Ministry of Justice in some detail as to the derivation of their income;
- the provision to provide the government with full tax details of all their employees which is not required of domestic firms;
- a prohibition from employing their own staff, rather they must go through a state owned organisation and pay the organisation their employees' salaries; and
- a restriction on the availability of accommodation for foreigners to prescribed areas.¹⁰⁶

5.141 After 25 years working in Asia and dealing with a lot of Chinese business people, Clough Ltd said it found China very different. Clough Ltd outlined the difficulties of

104 DFAT, Submission, p. S246.

105 Boyd, Don, et al, p. 13-14.

106 *ibid.* p. 13.

operating in China from an engineering firm's viewpoint. It said it had about half a dozen contracts in China but most of them were for offshore construction which it dealt with in a very defined way and all of the work was over the horizon, so nobody actually sees it. Those contracts have been successful but it believes work is much more difficult on the mainland. Clough Ltd said:

...We went onshore in a small defined way to test the waters, set up a company, see what the tax rules were, see if we could assess how you could work. We worked for American oil companies who had joint ventures with the Chinese government. In that way we are not dealing with 100 per cent Chinese companies or corporations. So in a way you are protected under their umbrella. My feeling is I would stay like that for a few years until I was more confident that I could rely on the people who we are dealing with...¹⁰⁷

5.142 A major difficulty Clough Ltd noted with the China market is identifying who has power and authority in the Chinese hierarchy and the nature of that power and authority.¹⁰⁸ As a result, relations with Beijing is always a big question mark. There are also some instances of graft and corruption unlike Clough Ltd has previously encountered. Clough Ltd said there are tremendous opportunities in China but it found it a very difficult market.

Conclusion

5.143 The exact direction and extent of changes in Hong Kong post-1997 remain unclear. While Hong Kong and China are inextricably linked economically, the greatest source of uncertainty and potential instability regarding Hong Kong's future is obviously China.

5.144 The new Government of the Special Administrative Region will have significant economic and social accomplishments to work with when it takes over on 1 July 1997. By the end of this financial year, three months before the handover, Hong Kong will have almost HK\$150 billion in fiscal reserves.¹⁰⁹

5.145 In the negotiations for the transfer from British to Chinese sovereignty the Joint Liaison Group has made substantial progress. Agreement has been reached on:

- the preservation of Hong Kong's autonomy in international economic affairs;
- the continued application of many international rights and obligations;
- many bilateral arrangements with other countries covering matters like air services, investment promotion and protection and the surrender of fugitive offenders;
- the localisation of many laws;
- the validity of a number of major contracts straddling 1997;
- the establishment of a Court of Final Appeal in Hong Kong;
- the continuity of the Judiciary;
- the future of the military estate;

107 Clough Ltd, Transcript, 12 July 1995, p. 442.

108 *ibid.* p. 441.

109 Address by the Governor, Rt Hon Christopher Patten at the opening of the 1996-97 session of the Legislative Council, 2 October 1996, Hong Kong, p. 15.

- the funding of the airport; and
- the issue of travel and identity documents.¹¹⁰

5.146 There is still a significant amount to complete and this includes the transfer of government, legal matters, immigration issues and economic issues, for example Air Services Agreements.¹¹¹

5.147 The form the resolution takes on these issues will be critical to the future direction, prosperity and stability of Hong Kong. As noted in paragraph 5.2, China in 1994 passed a law to dismantle the three tiers of elective government once it resumes sovereignty. The 1984 Sino-British Joint Declaration on the Question of Hong Kong signed by Britain and China and the Basic Law which incorporates the undertakings given in the Joint Declaration include a high degree of autonomy in all matters except foreign affairs and defence. Adherence to the undertakings is fundamental to providing a stable and prosperous environment in which business can operate. The Committee is conducting an inquiry into Hong Kong's transfer to Chinese sovereignty.

5.148 The Committee recommends that:

- 23. Australia maintain a high profile in ensuring that the principles of the Joint Declaration and the Basic Law are upheld in Hong Kong after 1 July 1997 to enable trade and investment in Hong Kong to continue with confidence.**

5.149 Hong Kong's role as a gateway to China appears unlikely to be challenged in the short term. Given the very significant difficulties of doing business in China, Australia should take advantage of any factors which make that situation easier. However, in the longer term the most likely scenario appears to be that Hong Kong will become one of several entry points to the China market.

5.150 The Hong Kong market is already extremely competitive but is expected to become even more so due to further competition from domestic service providers and from countries in the region such as Malaysia, Singapore, Taiwan and Korea positioning themselves as service exporters.

5.151 Future opportunities provided by the Hong Kong market for most sectors are positive and the associated opportunities provided in respect of third markets, especially China, are very important to Australia.

5.152 While some Australian service providers such as the engineering sector have long track records in Hong Kong, many service exporters are fairly recent players, for example the education sector has only been there for about ten years. Australia's service exports to Hong Kong are modest, however, they are important in some niche areas, particularly in the engineering and higher education sectors. A substantial component of services in the accounting, legal and banking sectors for example, are serving the needs of other Australian businesses in Hong Kong, China and other parts of Asia.

110 *ibid.* pp. 17-18.

111 *ibid.* p. 18.

5.153 Australian business and government attitudes regarding Hong Kong's economic future are generally optimistic. There is no suggestion of withdrawal from the market by Australian business.

5.154 While there are some constraints on service exporters due to regulations and standards, the more significant difficulties relate to the costs of operation in Hong Kong, economic conditions in the territory, and to cultural factors. As in all Chinese based markets, relationships are the critical factor to successful operation in Hong Kong. Australian service exporters have been relatively successful in forging such relationships.

5.155 The development of Mandarin language skills will be important in maintaining and developing relationships with the new administration following the transfer of Hong Kong to Chinese sovereignty in 1997. In Hong Kong today both English and Cantonese are the official languages. Hong Kong's past economic success has been built with the use of the English language. English language for government and business remains a principle advantage of doing business in Hong Kong. If its use declines following 1 July 1997 it will change the business character of Hong Kong.