



Secretary

16 March 2001

Ms Jane Vincent
The Secretary
Trade Sub-Committee
Joint Standing Committee on
Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Ms Vincent

ENTERPRISING AUSTRALIA – PLANNING, PREPARING AND PROFITING FROM TRADE
AND INVESTMENT

The Hon Geoff Prosser MP, chairman of the Trade Sub-Committee, wrote to the Attorney-General, the Hon Daryl Williams AM QC MP, inviting this department to make a submission to the Sub-Committee's investigation into "Enterprising Australia - planning, preparing and profiting from trade and investment".

2. Many of the matters raised by the Terms of Reference for the inquiry are outside the scope of this Department's responsibilities. Nevertheless, some of the work on legal services being undertaken through the Standing Committee of the Attorneys-General (SCAG) and the International Legal Services Advisory Council (ILSAC) may be of interest to the Sub-Committee. Legal services play a vital role in supporting and facilitating trade and investment and can be seen as forming a critical part of the infrastructure that underpins commercial transactions locally and internationally. Accordingly, it is important to have a legal system and a legal services market that assists in the smooth flow of cross-border trade and investment within Australia and internationally.

3. The main issue I would like to bring to the attention of the Sub-Committee deals with the regulation of foreign lawyers in Australia. In March 1996 SCAG unanimously agreed that there was a need for a clear statutory indication that there was no barrier to the practice of foreign law in Australia. At that meeting, a draft Model Bill was presented to Ministers setting out two options: a comprehensive framework for the regulation of foreign legal practice in Australia (Option A) and a minimalist option simply stating that there is no bar to the practice of foreign law in Australia (Option B). It is widely accepted that providing access to foreign lawyers to practice their home country law and third country law plays a vital role supporting and facilitating direct foreign investment in the host country.

4. To date, Victoria, New South Wales, the Australian Capital Territory and the Northern Territory have implemented legislation based on Option A. We understand legislation based on Option B has been implemented in South Australia. A copy of the model Bill is attached. It would be highly desirable for all States and Territories to implement the options in the Model Bill to strengthen Australia's negotiation position for gaining access to international markets for Australian professional services providers.

5. To further assist the Sub-Committee's investigations, I have enclosed a copy of the *Australian Legal Services Export Development Strategy 1999 to 2002* developed by ILSAC and a report jointly prepared by ILSAC and the Law Council of Australia on *Transnational Practice for the Legal Profession*. Recommendations and Matters for Future Action in the latter publication (pages 61 to 64) may be of particular interest to the Sub-Committee's investigations.

6. I hope this information is of assistance to the Sub-Committee. If you would like further details on these matters, Ms Philippa Lynch, Assistant Secretary, Office of Legal Services Coordination of this Department will be able to assist. Her direct telephone number is (02) 6250 6611. If needed, further information on ILSAC and an electronic version of the export development strategy is available on the internet at www.law.gov.au/ilsac.

Yours sincerely

ROBERT CORNALL