



Private CEO Luncheon Panel Briefing

“Opportunities for Cooperation between the Australian and
Japanese Financial Sectors “

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**Australia-Japan
Free Trade Agreement
Financial Services Opportunities**

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Introduction

Ladies and gentlemen, distinguished guests

I'm pleased to be here to talk about the Australia-Japan FTA negotiations and the opportunities that the FTA may create for financial services providers in Japan. I would like first to place the discussion of potential opportunities into the context of the negotiations themselves, why we are engaged in FTA negotiations and how we are progressing.

I would then like to outline some of the key barriers that are impeding enhanced Australian participation and investment in Japan's financial services sector -- the sorts of trade restrictions that the FTA will seek to address.

As many of you know, the decision to proceed to negotiations on a bilateral FTA between Australia and Japan followed the completion of a joint feasibility study undertaken by the Australian and Japanese Governments in December 2006.

The feasibility study concluded that negotiations would begin with all products and issues on the table and that an FTA would be comprehensive, WTO-consistent and concluded through a single undertaking.

There have been three negotiating rounds since negotiations commenced in April 2007. The fourth negotiation round will take place at the end of February in Tokyo.

The feasibility study indicated that an FTA would deliver significant economic benefits for both sides, underpinning both countries' future

prosperity in the same way that the Commerce Agreement (signed by Australia and Japan in 1957) has for the past 50 years.

- Econometric modelling undertaken jointly by the Australia and Japanese governments concluded that in net present value terms over 20 years Australia's and Japan's GDP would increase by around A\$40 billion and A\$27 billion respectively as a result of liberalisation through a comprehensive FTA.
- : For Japan, this is more than the gains it could expect from any other FTAs it has signed or is currently negotiating.

Why Negotiate an FTA with Japan?

There are, of course, many reasons why Japan matters to Australia:

- Two-way trade in goods and services totalled AUD 55 billion in 2006, making Japan Australia's largest trading partner. Japan accounts for 17 per cent of Australia's global exports of goods and services (2006 figures) – almost as much as those to China and the United States combined.
- Japan is Australia's largest market for energy and minerals products. Last year, Japan spent an estimated \$25 billion on Australian energy and minerals products – 2.5 per cent of Australia's GDP. Japan is Australia's largest export market for coal, LNG, aluminium, LPG and copper ore.
- Japan is Australia's largest market for our agricultural exports – estimated at A\$6 billion in 2006. Japan is Australia's largest

market for beef, offal, dairy products, fish, canola, and pet and livestock foods; and it is our second largest market for horticultural products.

- Japanese investment in the mining, manufacturing, services and food sectors has been an integral part of Australia's economic expansion over the last four decades. Japanese companies employ more than 200,000 Australians.
- Japan is also the fourth largest destination for Australian outward investment, which is increasing, even though the volumes are still small at present.
- Comprehensive liberalisation through an FTA would lead to greater trade and investment flows across all sectors of the economy.
- Australian businesses will benefit from enhanced export opportunities to the world's second largest economy and our largest export market by far.
- An FTA will promote greater Japanese investment in Australia integrating Australia more closely with the Japanese market.
- An FTA will help liberalise trade in services. Service industries contribute over 70 per cent of each country's GDP but currently represent only a small portion of bilateral trade. Liberalisation of access arrangements will lead to an increase in bilateral services trade.

Negotiation of an FTA, therefore, provides us with the opportunity to shape our future economic and trade relationship with Japan. It gives us a chance to protect and promote Australia's competitive position in the Japanese market, especially as Japan also negotiates FTAs with other countries. A successful FTA will ensure that our bilateral economic and trade relationship keeps pace with others and that the Australia-Japan relationship continues to grow and achieve its full potential, contributing to the economic well being of both countries.

In addition to widespread economic benefits for Australia, an FTA will add momentum to Australia's regional and multilateral trade liberalisation efforts, provide a framework for closer economic cooperation between Australia and Japan and strengthen the comprehensive nature of the strategic partnership between the two countries.

Progress in the Negotiations

The negotiations have got off to a very good start although we have no doubt that concluding the FTA will be very challenging. Agriculture, in particular will be very difficult.

At the end of the last (third) round, held in Canberra in November, we had had substantive discussion on all areas of the FTA that might form chapters of the agreement. Twenty sessions were held over four days with exchanges of information or discussion of draft texts. The talks were positive and constructive. Discussion underlined that Australia and Japan have few areas where objectives differ, even if there are different drafting approaches in some areas.

On services, we had productive discussions at the last round covering cross-border trade in services, telecommunication services, financial services and movement of natural persons. Agreement was reached on a good number of issues although some conceptual issues, such as which provisions fit into which of the services and investment chapters, remain to be agreed.

Australia and Japan will exchange initial offers on goods at the next round at the end of this month. We will exchange offers on services and investment at the subsequent round, which is likely to be held in April. The staggered exchange is due to the fact that we have to consult States and Territories fully on services and investment, where there may be regulatory changes at the State and Territory level.

Financial Services

(TEXT)

So far, our negotiations on financial services issues with Japan have largely focussed on the development of text. We have tabled a draft chapter on financial services and had initial discussions with Japan on all substantive provisions of the text.

In broad terms, the chapter aims to build on basic market access, MFN and national treatment commitments covered in the Cross-Border Trade in Services and Investment Chapters so as to ensure that the prudential measures taken by one country to safeguard the stability of its financial system do not unnecessarily restrict market access for companies from the other. We wish to ensure, for example, that asset tests or capitalisation requirements are not excessive by international standards, and that Australian financial institutions would be treated in the same way as Japanese financial institutions would be when it comes to providing new services in Japan (for example, on-line banking products or web-based stock-broking services).

Australia's proposed text aims to ensure that existing levels of market access for Australian financial service providers cannot be reversed in the future and (in addition to MFN obligations) that the benefits of unilateral future liberalisation and reform in Japan flow to Australian financial services suppliers as well as domestic institutions through what some of you familiar with the concept may know as a so-called "ratchet mechanism".

Domestic regulation plays a very important role in underpinning market access and national treatment obligations. Every economy maintains layers of regulations behind the border and these can undermine the market access given in an FTA. Japan's domestic regulations (the so-called "behind the border measures") are a particular focus for us in the services negotiations because Japan has already tackled a lot of overtly discriminatory "market access" border measures affecting services.

A key aim is enhancing regulatory transparency – through treaty-level commitments on licensing processes and procedures relating to the supply of a financial service by financial suppliers (or investors) of one Party to or in the territory of the other party.

Our transparency initiatives therefore not only relate to codification and publication of regulatory or policy requirements, but to developing agreed timeframes for application processes and for the communication in writing of decisions of regulatory authorities together with reasons for the denial of a license or permit in the case of unsuccessful applications to regulatory authorities. We are seeking commitments that national treatment and transparency principles will extend to Japan's self-regulatory organisations which play a significant role in Japan's financial services sector.

We are developing ideas on how a dialogue or consultative mechanism to be established through the FTA would work in practice and how it could best address issues relating to the financial sector and the implementation of commitments that may be agreed through the FTA. This is an important provision, having regard to the on-going nature of financial sector reform in Japan.

Other provisions aim to provide certainty in relation to the transfer and processing of financial information so that both parties' financial institutions are able to conduct their ordinary business in accordance with international obligations such as those, for example, relating to combating money laundering.

Financial Services

(MARKET ACCESS)

In addition to our work on text, we have actively started work in preparation for the market access phase of the negotiations. We are preparing to commence market access negotiations on financial services in late April.

We have undertaken an extensive program of industry consultations on services and I see that I have spoken to a number of you here today. Industry feedback points to the fact that financial services is likely to be an area where preferential liberalisation under an FTA could deliver especially significant benefits to Australian companies.

Offensively, significant opportunities for Australian investment fund managers have been identified.

- For example, the Japanese pension business is worth around US\$2 trillion while mutual funds are worth between US\$700 and 900 billion. IFSA estimates that if Australia secured management of five per cent of these funds (pension business and mutual funds) it

would result in a revenue stream in the order of US\$300 million per annum.

A number of our banks are investigating new opportunities in banking, securities broking and wealth management activities in Japan, particularly as Japan seeks to shift a greater share of its savings to managed investments rather than continue to place assets in low-interest bearing savings accounts. There are also significant opportunities, as we have heard today, in managing REITS and other listed property trusts.

We have had a broad range of market access concerns drawn to our attention by industry in these and other areas. Some specific issues include the following (which I should add is not a comprehensive list, but is indicative of the range of issues that industry has suggested could be addressed through the FTA):

- Japan's licensing regime is more difficult than it needs to be, and Australian businesses would benefit from improved arrangements in accessing licences. For example in some cases, it is not possible to apply for a licence from overseas and the company must set-up in Japan first before submitting an application. Licensing can be a slow and complex process taking up to 2 years for approvals in some cases.
- There are unnecessary restrictions on provision of certain banking and securities services in combination. Licensing applications for a range of multiple business activities may not be streamlined or dealt with through a single application.

- Restrictions on derivatives business are unnecessary and burdensome compared to comparable jurisdictions.
- Banking licenses are restrictive relative to other international markets and do not allow for a broad range of operations without undue cost. Compliance costs are unnecessarily high – especially for retail banking.
- For banks and other regulated financial institutions, regulatory measures that impose a requirement to adopt locally based risk management mechanisms discriminate against those entities which have centralised risk management processes in Australia.
- There are difficulties in obtaining regulatory approvals for distribution of new financial products, especially investment products.
- “Firewall” regulations impose unnecessary restrictions on sharing of information within financial services groups (even among affiliates which share the same clients).
- Unnecessarily restrictive access for Australian fund managers (especially for non-resident companies) to the Japanese Government Pension Investment Fund (GPIF).
- Prescriptive and onerous requirements for funds managers to employ specified categories of qualified personnel to undertake various funds management mandates.

- Unnecessary requirements that pension fund managers must be sponsored by Japanese trust banks to engage in investment activities.
- Improved recognition of Australian financial services qualifications in Japan – particularly for funds management professionals is something that we would like to address.
- Possible mutual recognition of certain types of investment products regulated in one jurisdiction but not the other.
- Mutual recognition of prospectuses.

We will aim to address as many of these barriers as we can by seeking the removal or the amelioration of onerous of regulatory barriers.

Where feasible we will seek to secure preferences for Australian service providers and we will advocate the development of regulation that might achieve Japanese policy objectives in ways which do not discriminate against Australian providers.

The FTA provides an opportunity not only to lock in beneficial market access and national treatment conditions for each other's financial institutions, but to create the architecture for future growth and bilateral cooperation in the financial services sector more generally.

Most importantly we want to hear your views on what barriers affect the development of your business in Japan – we can only succeed in creating improved opportunities for Australian financial services providers in Japan if we have your support in identifying those barriers and explaining

how they impede the development of a truly modern international financial services sector in Japan. Given that we are rapidly moving towards market access negotiations NOW IS THE TIME TO LET US KNOW ABOUT THE ISSUES THAT AFFECT YOU.

DFAT would welcome submissions on any issue of concern to you – or you should feel free to contact myself or other members of the Japan FTA Task Force.

Clearly there is much work still to be done but we hope that the FTA will lead to better integration of our financial services sectors, better market access opportunities for Australian financial service providers and, through the crucial role that financial services play in the overall bilateral trading relationship, to generate additional capacity for continued growth into the future.

Thank you.