



Law Council
OF AUSTRALIA

*From the Office of
the President*

27 November 2009

Ms Naomi Viccars
Free Trade Agreement Division
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
BARTON ACT 0221

JOHN CORCORAN
president@lawcouncil.asn.au

By email: malaysia.fta@dfat.gov.au

RE: MALAYSIA-AUSTRALIA FREE TRADE AGREEMENT

Dear Ms Viccars,

The Law Council welcomes the recommencement of negotiations of the proposed Malaysia-Australia Free Trade Agreement (MAFTA). In particular, the Law Council welcomes the proposed MAFTA as a mechanism to facilitate the reduction of barriers to trade in legal services between Australia and Malaysia.

MAFTA negotiations paused in 2007 to allow for the finalisation of the ASEAN-Australia-New Zealand Free Trade Agreement. During this 'quiet period' in negotiations the Law Council has continued to pursue opportunities to engage with the key stakeholders in Malaysia in relation to the liberalisation of Malaysia's legal services market. This letter provides an update on the Law Council's activities which may be relevant to the Division in its preparation for the next scheduled round of negotiations in December 2009.

The Law Council entered a Memorandum of Understanding (MoU) with the Malaysian Bar Council (MBC) in 2000. Over the past 9 years the Law Council has developed a strong relationship with the MBC through exchanges of information and mutual participation in conferences and seminars.

On 24 February 2009, the Law Council initiated a Legal Services Roundtable in Kuala Lumpur to be hosted jointly with the MBC. The purpose of this Roundtable was to progress discussions regarding the liberalisation of Malaysia's legal services market. This was the first Roundtable of its kind conducted by the MBC and built on previous meetings and discussions. Attendees included representatives from the Malaysian Bar Council, the Malaysian Attorney-General's Chambers, the Malaysian Ministry of International Trade and Industry, the Bank Negara, the Australian Attorney-General's Department and the Australian High Commission.

Discussion at the Roundtable centred on a draft 'Roadmap' for the liberalisation of the legal services sector in Malaysia, which was prepared by the GATS Committee of the MBC. The Roadmap envisaged a staged liberalising of the Malaysian legal services market through the establishment of joint law ventures between foreign lawyers and Malaysian lawyers. The Roadmap also set out a definition of 'permitted practice areas'.

The Law Council gave 'in principle' support to the Roadmap and provided a written response addressing remaining areas of concern. Following communication from the GATS Committee of the MBC addressing the Law Council's concerns, the Roadmap has now been endorsed by the Executive of the MBC.

The Law Council has been advised by the MBC that it has held several meetings with the Malaysian Attorney-General's Chambers in which the Roadmap has been discussed. According to the MBC, it has been advised by the Minister that he is agreeable to the proposed Roadmap and that the Malaysian Government views the liberalisation of its legal services market as a 'top priority.'

At the LAWASIA Conference, held in Ho Chi Minh City, 9-12 November, I met with Mr Christopher Leong, Chair of the GATS Committee of the MBC. Mr Leong advised that the Malaysian Government has begun drafting legislation to give effect to the Roadmap. I subsequently wrote to Mr Leong on 23 November 2009 to offer the Law Council's assistance in reviewing the Bill before it becomes legislation to ensure that it meets mutual aims. A copy of this letter is **attached**.

The introduction of a Bill to the Malaysian Parliament now expected either later this year or early in 2010. I believe that the mutual acceptance of the Roadmap and the commencement of drafting of legislation represents significant progress towards the liberalisation of Malaysia's legal services market. This progress owes much to the close and effective relationships between the Law Council, the Attorney-General's Department, ILSAC and the Australia High Commission in Kuala Lumpur.

On behalf of the Law Council I wish to express my appreciation of the strong relationship we enjoy with DFAT.

Should you require any further information please contact Mr David Naylor, Policy Lawyer, International on 6246 3717 or david.naylor@lawcouncil.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Corcoran', with a long, sweeping horizontal stroke at the end.

John Corcoran