Ms Helen Stylianou
Services Trade and Negotiations Section
Department of Foreign Affairs and Trade
R.G. Casey Building
John McEwen Crescent
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ANZ Submission on Trade in Services Agreement Negotiations

Dear Ms Stylianou

ANZ is pleased to provide a submission on the ongoing negotiations on the Trade in Services Agreement (TISA).

ANZ strongly supports the TISA negotiations and believe that they represent a significant opportunity not only for lowering barriers to trade for current Parties to the negotiations, but can also set important targets for further liberalisation in the future by nations currently not a Party to the negotiation.

The Asia-Pacific region has the capacity to be a driver to global economic growth. Further liberalisation of goods and services trade is central to ensuring that potential growth is realised. ANZ also believes that there is a particular potential for further liberalisation in the services sector, which to date, has remained unrealised.

ANZ welcomes further discussion on the potential for services trade liberalisation in the Asia-Pacific region and would be pleased to provide additional information if required.

Yours sincerely

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ANZ in the Region

ANZ has the largest presence of any Australian bank in Asia, is the largest Australian investor in Asia and is one of the fastest growing banks in the region. ANZ has a heritage spanning more than 176 years, employs more than 49,000 people, and operates in 33 countries worldwide with representation in Australia, New Zealand, Asia Pacific, Europe, America and the Middle East. We are one of the 20 largest listed banks globally by market capitalisation with over 10.6 million customers globally.

ANZ supports the aim of negotiating a Trade in Services Agreement (TISA) outside of the auspices of the World Trade Organisation (WTO) amongst the "Really Good Friends of Services" group, with the ultimate aim of either bringing the TISA agreement under the WTO or expanding its membership to include a broader section of Australia's trading partners.

Current Parties to the negotiations are limited to three key nations of the 33 countries in which ANZ operates – Republic of Korea, Japan and Hong Kong. However ANZ recognises the significant potential benefits which may from the Agreement in the long-term if membership is expanded to include a broader range of countries in which ANZ operates.

The Growing Importance in Services Trade in Asia

There has been recognition at the WTO level for many years that the shape of global trade flows are changing. Instead of the traditional import of raw materials and export of finished goods envisaged by many Free Trade Agreements (FTAs), trade is now dominated by specialist businesses importing and exporting intermediate products. These intermediate products become components in many different finished goods. This 'Factory Asia' phenomenon has resulted in a new trading dynamic across our region based around complex and interwoven supply chains.

Service industries have become more important as a result. Cross-border manufacturing and assembly processes need specialist support to facilitate and simplify cross-border transactions and logistics. Liberalisation in the services sector is more than just a business opportunity for the Australian services sector; it also underpins the smooth running of supply chains across our trading partners.

Access to capital and financial services has particular importance. With the exception of China and India, Asian capital markets are shallower than even North African capital markets[1]. The continued economic and productivity growth across Asia requires access to capital and financial services to finance and support trade and build capability.

[1] Hodges, G. (2013) "The Financial Sector's Role in Asia-Pacific Growth" in Financial Regulation and the G20, Lowy Institute, accessed at: http://www.lowyinstitute.org/publications/financial-regulation-and-g20

Barriers to Services Trade across the Region

While many of the barriers to services trade which impact ANZ do not occur in those nations currently participating in the TISA negotiations, we support the ambition to broaden the reach of TISA at a later date. The inclusion of commitments to eliminate regulatory barriers, or to set standards which may later be incorporated into broader agreements, would significantly lower the cost and barriers to ANZ doing business in the region.

Market Access

Foreign equity caps and market access restrictions for financial institutions are common across the Asian region. While the current parties to the TISA negotiations have relatively liberal market access laws in relation to commercial banking, there are a number of considerations which may be included in the TISA as a standard baseline.

- Foreign Equity caps

Foreign equity caps are the primary barrier to accessing Asian banking markets. Such caps exist in many forms across the Asia Pacific region, and vary in their severity. In China, there is a 20 percent cap on foreign ownership of a domestic bank and a restriction of holding an interest in only two domestic banks, while Indonesia has recently implemented a 40 percent cap for new shareholders/entrants. ANZ would request the Government to pursue commitments from TISA Parties for the same level of access to be given to Australian banks in foreign markets as is provided to foreign banks in the Australian market. Such a clause would not only eliminate any foreign equity caps in existence for future TISA signatories, but would also overcome concerns currently held in many jurisdictions across the Asian region that equivalency of financial market access does not currently exist.

- Limits on Bank Licences

The Thai Government, as part of its Financial Sector Master Plan, restricted applications for banking licences until 2014. Similarly in China, restrictions exist on foreign banks applying for more than one main branch at a time and one sub branch per city at a time. Such limitations on applications and issuances of bank licences for foreign banks prevent new entrants to the market from quickly establishing scale in order to compete with established market participants.

- Branch location and expansion

Another key market access impediment is the requirements placed on new banks for mandated rural representation and financial literacy programs. For instance, in India a new commercial banking licence is predicated on the requirement that the licensee will establish at least 25 per cent of their branches in places with a population of less than 10,000. In Indonesia, there are regulatory requirements and expectations to lend to the higher-risk small-medium enterprise sector, especially in country areas.

ANZ is committed to financial literacy and currently operates a series of highly successful financial literacy programs which are being rolled out across the Asia region, and continues to build the financial literacy and capability of residents in every country in which we operate. However, mandated branch locations and lending targets represent a barrier to banks seeking to enter a new market or for existing entities to expand.

Regulatory Harmonisation

In addition to obvious barriers to market access for financial services in the Asia region, the Government could also use TISA negotiations as an opportunity to set benchmarks on the following 'behind the border' regulatory barriers which impact both the financial services sector and the broader services sector.

- Data protection, privacy and storage

Data privacy, storage and information privacy laws are an area of significant divergence between nations. For example, Singapore demands that data is held in an on-shore data centre, precluding the use of cloud computing technology while Australia, following a review by the Australian Prudential Regulation Authority, has allowed the limited use of such technology. Indonesia and Taiwan have also indicated their intention to pass laws on cloud computing which demand in-country data retention and storage. Strictures from regulatory authorities inhibit organisations' ability to gain the full benefits of new technologies.

- Regulator and Prudential Supervision

Regulatory oversight and prudential standards differ greatly across jurisdictions in the Asian region. As noted by the International Monetary Fund, Asia does not have a highly integrated financial system[2] as institutional arrangements for prudential and regulatory supervision are delegated to a range of different authorities by each Government across the region.

A clear example of the range of difference regimes in existence are the regulations on bank failure and the treatment of creditors that currently exist across the Asia region. For instance, Australia has a specific resolution and insolvency scheme for banks, a depositor preference scheme and, currently, an ex post guarantee for deposits up to $AUD250,000. In Hong Kong and India, commercial banking institutions are treated under standard insolvency and liquidation laws, common to all institutions and not specific to banking institutions. Japan and Korea do not have

[2] Lim, Ramchand, Wang and Wu, (2013) "Institutional Arrangements for Macroprudential Policy in Asia" IMF Working Papers, accessed at: http://www.imf.org/external/pubs/ft/wp/2013/wp13165.pdf

a depositor preference scheme, while China's depositor preference covers only retail deposits. The depositor preference guarantee of Japan and Indonesia are pre-funded, while China has a Government funded regime.

This lack of integration can also be seen through the disparate application of the Basel III requirements across the region.

The Global Financial Crisis and subsequent tightening of regulations and commercial banking requirements have also resulted in many regulators in Asia forcing foreign banks to form local subsidiaries rather than use a domestic branch model. This represents a significant impediment to foreign banks' ability to run a truly multinational model which does not delineate between assets from different nations and rather, allow the pooling assets from different nations to achieve the greatest efficiencies and lowest costs possible.

Other Regulatory and Public Policy Considerations

- Cross-border people movements

A key element of ANZ's ability to expand successfully into the region has been the development of our staff's 'Asian capabilities' by training Australian staff in our Asia-based operations. Laws and regulations which inhibit the cross-border movement on staff can hamper ANZ's development in the region. For instance, Indonesia currently has restrictions on the temporary entry of banking staff and the requirement that work permits for foreign bank personnel are first approved by Indonesia's Central Bank. Similarly, the failure of many nations to commit to mutual recognition of qualifications and licensing for professionals also represents a significant barrier on people movement for many professionals.

- Land titling

The lack of clear and enforceable land titles systems in many countries in which ANZ operates can significantly undermine our ability to provide low-risk credit. Even in some nations where a land titles registration system exists, enforcement and transparency is low. A basic condition for a competitive and open banking system is the existence of a strong, transparent and enforceable land title system.

- Timetable for further liberalisation

ANZ holds a clear preference for commitments for the immediate liberalisation of financial services in countries in the Asia-Pacific region. However, we understand that while the banking sector requires additional banking inflows for further growth and capital deepening, liberalisation in financial services is often a highly political process. ANZ's experience in Thailand has shown the benefits of countries adopting a clear timetable for future liberalisation. This enables companies to undertake preliminary investigations, establish a non-operating local presence and develop networks in the lead time until market access barriers are lowered.

Conclusion

ANZ endorses and fully supports the TISA negotiations as a means to set a standard for global trade in services. Liberalisation and regulatory harmonisation in the services, particularly financial services, underlies the further expansion of international trade and has the potential to build the foundation for the next wave of trade-led growth. ANZ's direct interests in the TISA negotiations are limited to our operations in three of the member nations but ANZ is hopeful that TISA will set a high standard of liberalisation for our region and other nations to accede to in the future.