



The Royal Australian
Institute of Architects

Australia – Japan
Free Trade
Agreement
(Feasibility
Study)

Submission to the
Department of Foreign Affairs
and Trade

August 2005

SUBMISSION BY

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ABOUT THE RAIA

The Royal Australian Institute of Architects (RAIA) is an independent voluntary subscription-based member organization with approximately 9200 members, of which 5400 are architect members.

The RAIA, incorporated in 1929, is one of the 96 member associations of the International Union of Architects (UIA).

At May 2005 the National Executive of the RAIA is:
Robert Nation (National President)
Carey Lyon (President-Elect)
Warren Kerr (Immediate Past President)
Alec Tzannes (Honorary Treasurer)
Catherine Townsend (Honorary Secretary)

Requests for further information in relation to this submission should be directed to the CEO, David Parken.



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1. CONTENTS

1. CONTENTS.....	4
2. BACKGROUND.....	5
2.1 <i>The Royal Australian Institute of Architects.....</i>	<i>5</i>
2.2 <i>RAIA expertise and knowledge.....</i>	<i>5</i>
3. RAIA COMMENTS.....	6
3.2 <i>Content of this submission.....</i>	<i>6</i>
3.3 <i>Comments in detail.....</i>	<i>6</i>
3.4 <i>Key provisions expected in an FTA with Japan.....</i>	<i>9</i>
3.5 <i>FTA Positive to Australian architectural service exporters ...</i>	<i>10</i>
3.6 <i>Conclusion.....</i>	<i>11</i>
4. APPENDIX: ARCHITECTURAL SERVICES & REGULATION COMPARED.....	12
4.2 <i>Regulation - Australia.....</i>	<i>12</i>
4.3 <i>Regulation - Japan.....</i>	<i>13</i>
4.4 <i>Mutual recognition -Australia (Internal).....</i>	<i>13</i>
4.5 <i>Regulation & Registration Comparison.....</i>	<i>13</i>
5. SOURCES.....	14

2. BACKGROUND

2.1 The Royal Australian Institute of Architects

- 2.1.1 The Royal Australian Institute of Architects (RAIA) has approximately 9000 members of which over 5400 are registered practising architects. RAIA seeks to advance the interests and professional development of the architectural profession in order to provide positive ongoing benefits to the building and construction industry, and the community.
- 2.1.2 RAIA, as a guarantee company, incorporates two subsidiary companies, Archicentre and IBL Ltd, and has interests in an associated company, Architecture Media Ltd, each with its own specialisation contributes substantial research capability and an enormous volume of construction industry experience.

2.2 RAIA expertise and knowledge

- 2.2.1 RAIA promotes responsible and environmentally sustainable design, and vigorously lobbies to maintain and improve the quality of design standards in cities, urban areas, commercial and residential buildings.
- 2.2.2 RAIA has established the highest professional standards. Members operate according to RAIA's Code of Professional Conduct and undertake ongoing continuing education. RAIA's Knowledge Services Unit offers an extensive program at national and state level, continuing to keep members informed about the latest ideas and technology in architecture and the construction industry.
- 2.2.3 RAIA represents the profession on numerous national and state industry and government bodies, advancing the issues and interests of the architectural profession, other building professionals and the construction industry.
- 2.2.4 Particular areas of expertise include:
- quality assurance and continuous improvement
 - industry indicators and outcomes
 - market analysis
 - risk management and insurance
 - marketing and communication
 - policy development and review
 - technical standards
 - environmental sustainability.
- 2.2.5 Through the Practice Services division, RAIA researches, collects and refines best practice information and offers a number of advisory and support services to architects and building industry professionals. Advisory literature related to the practice of architecture is published in hard copy and electronic format, including standard form client and architect agreements, industry standard building contracts and reliable information on environmental matters as they impinge on architectural practice.

3. RAI A COMMENTS

- 3.1.1 RAI A welcomes the opportunity to comment on the issues relevant to the Feasibility Study concerning a free trade agreement (FTA) between Australia and Japan.
- 3.1.2 RAI A has been closely monitoring developments since the announcement that a feasibility study into a possible FTA was to be undertaken.
- 3.1.3 RAI A appreciates that the formalised negotiations on the FTA are still to occur. Consequently, without access to briefings from DFAT officials, and associated requests for comment from DFAT, it is difficult for RAI A to address issues in a detailed fashion. However, the following submission has been provided on the basis of the publicly available information.
- 3.1.4 RAI A would be pleased to provide additional information to DFAT, and support DFAT throughout this process as required.

3.2 Content of this submission

- 3.2.1 This submission will:
- focus on the hurdles and barriers, opportunities and threats affecting Australian architects and architectural firms accessing and operating in Japan, and.
 - provide details of the relevant regulatory systems and structures applying to the practice of architecture in both countries.

3.3 Comments in detail

- 3.3.1 The Japanese building and construction sector is an archetypal mature market. Over the course of the past ten or more years, the overall property market has performed well below international (and domestic) historical trends, with strong deflationary pressures on price and property (asset) values. The strength of the deflationary spiral has seen property values over the decade fall by as much as 75% to 80% in a number of key areas, especially across conurbations as Tokyo and Osaka.
- 3.3.2 However, through the course of the past twelve months, a plethora of indicators suggest that the Japanese property market has turned the corner, with land prices in Tokyo for example having risen above headline inflation. Supporting this have been a number of macro factors including low interest rates, a rise in lending figures, an increase in investment returns across most property segments (residential and commercial in particular), growth in rental returns, together with increased foreign investment in Japanese real estate. These factors have provided property investors with renewed optimism over the long-term future growth in property values and future returns from property investment. These circumstances are

suggestive that it may (over the longer term) present opportunities for Australian architects and firms.

- 3.3.3 Overall, the RAIA views a possible FTA with Japan as an important trade policy initiative for Australia. However, the overall cost benefit analysis of the final terms and conditions of the FTA must uphold and reinforce the economic stability and position of the Australian architectural sector.
- 3.3.4 With this in mind, the fact that no deadline applies to the overall process provides ample opportunity for the Australian government, in co-operation with Australian industry, to fully consider and weigh the threats and costs of suggested provisions in a FTA, and measure precisely impacts and affects on Australia's domestic economy and on Australian export providers.
- 3.3.5 Since the 1980s, a small number of Australian architectural firms and architects have been involved in designs principally of commercial offices, hotels and residential housing in Japan. Access to Japanese opportunities has often arisen because of opportunistic strategies and targeting key, prestige projects, rather than of maintaining an ongoing physical office presence. The level of opportunities available to Australian architects and firms has been very limited over the course of the past decade, in large part due to the poor performance of the Japanese real estate market. Australian architectural involvement peaked through the late 1980s, but even then the involvement was limited.
- 3.3.6 Overall, the Japanese architectural market is fairly closed to foreign architects and firms. The reasons are cultural (owing to preference and use of native building techniques and technologies) as well as regulatory barriers and restrictions.
- 3.3.7 The Japanese architectural market has not been an important architectural market for Australian architects and firms. The reasons for this include:
- High compliance costs of addressing the notably different Japanese domestic building standards and requirements;
 - The relative high costs of business entry, and
 - The high operating costs of maintaining a ongoing profitable practice in Japan.
- 3.3.8 Consequently, Australian architects have specifically focused on tendering and providing submissions for prestige property developments and the like as their entry into the Japanese market. Typically, Australian architectural firms enter the market via joint venture arrangements and similar structures that operate on a project-per-project basis.
- 3.3.9 The economic impact of the proposed FTA (both directly and indirectly) on the practice of architecture in Australia is difficult to quantify owing to insufficient information concerning the net

export/import activity between the two countries concerning architectural services. In 2004, RAIA conducted a survey (unpublished) of its members exploring a range of activities concerning export activity. According to the results generated by the survey, Japan was only considered by 2% of responding architects and firms to be a significant market for the export of architectural services over the next five years (2003-04 to 2008-09). By way of comparison, China was viewed by 27% of respondents, followed by Europe (19%) and India (17%) as attractive markets.

- 3.3.10 A conservative estimate of the current annual market size of the Australian architectural design and related services sector is approximately AUD\$870 million. (Productivity Commission, 2000, RAIA 2005) Over a third of Australian architects work as sole practitioners, and a further third work as directors or partners in small firms or as employees in small firms (Productivity Commission, 2000, RAIA 2004).
- 3.3.11 While recognising the significant potential of an FTA between the two countries, there remain significant regulatory barriers and difficulties affecting Australian architects and architectural business entering the Japanese market, particularly on a ongoing, long-term basis. These involves issues such as ownership restrictions, joint venture provisions, licensing provisions, administrative and bureaucratic complexity, and national treatment and repatriation of profits.
- 3.3.12 Consequently, RAIA's view is that any FTA with Japan should be structured to be an overall net positive for Australian architecture with the potential to further open a mature and sophisticated building and construction sector to Australian architecture professionals.

3.4 Key provisions expected in a FTA with Japan

- 3.4.1 A significant amount of work has been undertaken through APEC to compare and review the practice of professional services (including architecture) across APEC member countries, and to develop ‘mutual recognition’ of architects registered in each member country. A summary of the Japanese architectural professional system has been prepared and submitted to the APEC review. RAI A refers DFAT to the APEC process, and in particular the submission received from the Japanese Ministry of Construction that outlines and details the regulatory system applying to Japanese architects particularly the categorisation of the *Kenchikushi* under the Japanese architect registration system. (The submission can be found at www.dfat.gov.au/apec/prof_services/japan_arc.html)
- 3.4.2 In terms of progressing a FTA with Japan, RAI A encourages the Australian government to address and negotiate for the inclusion of the following key provision. Japan must provide for a reduction in the number of barriers encountered by Australian architects and architectural firms when accessing the Japanese architectural market. This includes removing unnecessary access impediments imposed on Australian architects by business licensing requirements, standards or other regulations in Japan.
- 3.4.3 A clear example, can be found per Japan’s *GATS Revised Conditional Offer*, dated June 2005. RAI A provided a written submission to DFAT per Japan’s request. RAI A refers DFAT to that original submission. In it, RAI A made the following comments:

Sector or sub sector Engineering services and integrated engineering services, e) f) 1 (a) & (b), & 2, page 25

Per clause (a), the offer states that in relation to the limitations of market access and limitations on national treatment, the Japanese propose “None except that commercial presence is required”.

The Japanese appear to have modified their position, for in the Revised Offer they limit market access to ‘*Kenchikushi*’ qualified architects, one of three internal tiers of classification. In order to agree to such an arrangement, RAI A suggests it is necessary for Japan to agree that Australian architects are classified as at least the same tier of classification as ‘*Kenchikushi*’ qualified architects.

In reference to the phrase ‘commercial presence is required’, the Offer contains no definition or example detailing what that may mean and/or reference to ratios (eg 50% of foreign equity etc).

Per clause (b), it appears unusual that the Japanese would request the unrestricted ‘opening-up’ of markets to non-Architects, therefore effectively diluting the efficacy of the architectural

sector.

3.4.4 RAI A fully supports the principle that a possible FTA should consider and wherever possible resolve a number of cross-sectoral and sectoral issues, such as:

- minimum capital requirements,
- restrictions on wholly foreign-owned enterprises and other foreign ownership restrictions,
- licence and market access restrictions,
- intellectual property rights,
- responsibilities and variations in implementing laws between central and state/provincial levels of government,
- transparency in decision-making processes, and
- the repatriation of funds and national treatment.

3.4.5 In seeking to move towards mutual recognition of Japanese and Australian architects, appropriate provisions need to be incorporated that ensure the high technical skills sets required for practice as an architect in Australia are preserved.

3.4.6 RAI A believes that Australian firms and service providers would benefit from more liberal access to the Japanese architectural market where supply through commercial presence and movement of providers to Japan is currently quite restricted. Importantly, Australian firms in these areas are not so large as to provide a significant challenge to their Japanese counterparts.

3.5 FTA Positive to Australian architectural service exporters

3.5.1 Given the difference in the magnitude of economic growth of the two countries, a future FTA, as it affects architectural practice, should not have a significant impact within Australia.

3.5.2 However, Japanese registered architects are clearly at a numerical advantage to Australian architects. Australia has over 11,000 registered architects, while Japan has 290,000 architects. To reflect these numbers by population, Australia has 1 architect for every 2015 residents, whilst Japan has 1 registered architect for approximately 438 residents. (COAC, *Architectural Practice Around the World*, 2002) Consequently, allowance for provisions such as mutual recognition, will be viewed as a significant concern by the Australian architectural sector.

3.5.3 In general terms, the regulation and professional management of the architectural profession in Japan is similar to the Australian system, with the basic provision that foreign architects operating in Japan must meet relevant education requirements, and work in conjunction with a Japanese registered architect, or firm or

equivalent. Mutual recognition would need to remove or else reciprocate the latter restrictions.

- 3.5.4 RAlA believes the impact of a FTA will be most evident concerning issues such as temporary entry of skilled professionals, export of educational services (architecture for example), mutual recognition of registration, skills and experience.

3.6 Conclusion

- 3.6.1 At face value, RAlA supports in principle the conclusion of a FTA with Japan. However, calculating the net benefit for Australian architecture will be difficult to determine until the scope and extent of the Japanese Offer is tabled for consideration.

4. APPENDIX: ARCHITECTURAL SERVICES & REGULATION COMPARED

- 4.1.1 There are approximately 11,600 registered architects in Australia, of which approximately half are members of the RAIA.
- 4.1.2 Architects provide a significant and wide range of services in the building design and construction sector. The range of services include: building design, building site analysis, construction project management and feasibility services, planning management, contract documentation and administration, energy conservation, and town planning.
- 4.1.3 Architects operate across a wide range of building and construction segments such as in the provision of residential housing, commercial buildings, industrial facilities, hospitals, schools, tourist facilities such as hotels and resorts, sporting facilities such as sports centres and stadia, and in heritage and conservation.
- 4.1.4 Table 1 illustrates the services offered by Australian architectural firms.

Table 1: Project work undertaken by Australian architectural firms

	<i>All Firms</i>
Residential (construction value up to \$500,000)	11%
Residential (construction value over \$500,000)	14%
Alterations and Renovations	7%
Commercial (e.g. offices, shops)	22%
Industrial (e.g. warehouses, storage)	5%
Health (e.g. hospitals, nursing homes)	12%
Education (e.g. schools, universities)	14%
Tourism (e.g. hotels / motels, theme parks)	3%
Heritage / conservation / restoration	4%
Recreation (e.g. sports centres, pools)	2%
Other	6%
Total	100%

Source: RAIA, 2003, *Architectural Office Profile & Financial Benchmarking Report*

4.2 Regulation - Australia

- 4.2.1 Each Australian state and territory operates a statutory certification system regulating the architectural profession.
- 4.2.2 An architect's board operates in each state and territory which oversees the regulation of architects. To practice while describing oneself as an architect, a person must:
- have a recognised academic qualification in architecture or a pass in the National Program of Assessment (NPrA), or a pass in the relevant Registration Board Prescribed Examinations where offered;

- have a period of training through experience followed by successful completion of the AACA Architectural Practice Examination (APE); and
- apply for registration to the Architects' Board in the State or Territory in which registration is sought. (Architects Accreditation Council of Australia Inc.)

4.3 Regulation - Japan

4.3.1 Architects in Japan are required to be licensed (registered) as per the provisions of the *Kenchikushi Law*, the *Kenchikushi Law Enforcement Order and Regulations*. This includes a licensing regime requiring:

- a professional degree in architecture;
- a period of practical training or internship; and
- successful completion of relevant examinations. (COAC, 2002)

4.4 Mutual recognition -Australia (Internal)

4.4.1 At present, mutual recognition of Australian architects applies across all Australian states and territories, inclusive of New Zealand architects.

4.5 Regulation & Registration Comparison

4.5.1 In broad terms, both countries operate similar regulatory frameworks applying to architects, reflecting the federal government structure of both countries, and the linking of educational and professional training requirements for licensing or registration.

4.5.2 The similarities are illustrated in table 2.

Table 2: Chinese & Australian Registration Minimums

Requisites	Australia	Japan
Architectural qualification/proof of equivalent	YES	YES
Academic record	YES	YES
Proof on Internship/experience	YES	YES
Successful completion of examinations	YES	YES
Have title recognized	YES	YES
Registration/ licensing	YES	YES

Source: COAC, 2002, *Architectural Practice Around the World*

5. SOURCES

COAC (Architects' Association of Catalonia) (2002), *Architectural Practice Around the World*

Productivity Commission, (2000), *Review of Legislation Regulating the Architectural Profession*, Report No. 13,

RAIA, (2003), *Architectural Office Profile & Financial Benchmarking Report*

_____, (2004), *2004 Membership Survey Report*