



International Legal Services Advisory Council

*to enhance the international presence and improve the international
performance of Australia's legal and related services*

Fourth Triennium Report

Record of Activities and Work conducted by the
International Legal Services Advisory Council (ILSAC)

2001 to 2003

(Including significant activities
in the period April – December 2000,
prior to the reappointment of the full Council)

(www.ilsac.gov.au)

2004

Attorney-General's Department, Canberra



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ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACICA	Australian Centre for International Commercial Arbitration
ACDC	Australian Commercial Dispute Centre
ADR`	Alternate Dispute Resolution
AEI	Australia Education International
AGD	Attorney-General's Department (Commonwealth)
AGS	Australian Government Solicitor
AIC	Australia-India Council
AILDF	Australia Indonesia Legal Development Foundation
AILEC	Australian International Legal Cooperation
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South East Asia Nations
AusAID	Australian Agency for International Development
AUSFTA	Australia United States Free Trade Agreement
CALD	Council of Australian Law Deans
CER FTA	Close Economic Relations Free Trade Agreement
CLE	Centre for Legal Education
DEST	Department of Education, Science and Training
DFAT	Department of Foreign Affairs and Trade
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GLS&MA	Global Legal Services and Market Access (Committee of ILSAC)
GSLP	Government Sector Linkages Program (AusAID)
IAMA	Institute of Arbitrators and Mediators Australia
IBA	International Bar Association
ICA	International Court of Arbitration (of the ICC)
ICC	International Chamber of Commerce
ICDR	International Commercial Dispute Resolution (Committee of ILSAC)
ICSID	International Centre for Settlement of Investment Disputes
ILC	International Legal Cooperation (Committee of ILSAC)
ILE&T	International Legal Education and Training (Committee of ILSAC)
ILSAC	International Legal Services Advisory Council
JTC	Joint Trade Committee
LCA	Law Council of Australia
LPQB	Legal Profession Qualifying Board
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
NADRAC	National Alternative Dispute Resolution Advisory Council
POLA	Presidents of Law Associations in Asia
SAFTA	Singapore-Australia Free Trade Agreement
SLIA	<i>Studying Law in Australia</i>
TAFTA	Thailand Australia Free Trade Agreement
WTO	World Trade Organisation

EXECUTIVE SUMMARY

This report is a record of the work conducted by ILSAC throughout its fourth triennium from 2001 to 2003 as well as the period from 1 April 2000 to 31 December 2000 when the Council operated with a membership of one (the Chairman). The report is submitted by the Council's Chairman to the Attorney-General, the Hon Philip Ruddock MP. It is the record of ILSAC's fourth triennium activities and is publicly available and is accessible from the Council's website www.ilsac.gov.au.

Under its Terms of Reference, ILSAC's goal is to enhance the international presence and improve the international performance of Australia's legal and related services. To meet this goal, a Business Plan was developed by ILSAC and approved by the Attorney-General for the first time during its fourth triennium. Previously, the Council had relied on its Terms of Reference and a detailed Work Program. The Business Plan consisted of six broad objectives, subsidiary aims and strategies, a list of indicative tasks (ie elements of a Work Program for the Council) and desired outcomes. The six broad objectives identified in the Business Plan relate directly to the four subject areas and to the public-private sector coordination and reporting roles identified in the Terms of Reference. An overview of the Business Plan and a review of the Council's performance against the six objectives are discussed at Section 2. A copy of the Terms of Reference and Business Plan are at Appendices II and III.

During its fourth triennium, the full Council met six times and its Committees and Working Groups held meetings as and when needed. The full Council functioned as a plenary body. Most of the work of the Council has been undertaken by Committees or Working Groups that have been given broad or specific tasks by the full Council. These have been the "engines" of the Council in delivering focussed outcomes in the specific areas of interest.

The Global Legal Services and Market Access Committee has been involved in a range of activities aimed at enhancing the international profile and performance of Australia's legal and related service area including contributing to multilateral, regional and bilateral trade negotiations and discussions, including Free Trade Agreements. The work of the Committee has directly contributed to Australia's recognition as a leader in promoting the liberalisation of transnational trade in legal services under the current Doha round of WTO negotiations. Other highlights for the Committee included organising a major conference on *Buying and Selling Legal Services in Asia: Risk and Rewards* and two Australian Legal Services Missions to Singapore and Malaysia.

The establishment and improvement of links between the legal sectors in Australia and countries in the region has been the main focus of the International Legal Cooperation Committee. Of particular note this triennium were the strong links forged with the Ministry of Justice and the developing private legal profession of the People's Republic of China. This Committee has been instrumental in providing advice and support for the *Strengthening Economic Legal Infrastructure* initiative undertaken by DFAT under APEC and in playing a key role in developing links with the legal profession in the region. Links with the Ministry of Justice and Human Rights in Indonesia were strengthened through the support of the Council for the Australia Indonesia Ministerial Forum and its Working Group on Legal Cooperation and with the private sector and non-government legal bodies through ILSAC's Indonesia-Ad Hoc Legal Visits program.

ILSAC's role in supporting the further development of Australia's international legal education and training services is evident in the work undertaken by the International Legal Education and Training Committee. A report and recommendations to the Attorney-General on the *Internationalisation of the Australian Law Degree* was a significant achievement for this Committee. Achieving the recognition of Australian law degrees overseas is another area of work

successfully undertaken by the Council through this committee. The Committee continued to play a key role in annual distribution overseas of *Studying Law in Australia* which is published by the Council of Australian Law Deans.

ILSAC's two Working Groups made important contributions to ILSAC's goal of enhancing Australia's international performance and presence. For example, the Market Access Working Group has provided advice to DFAT regarding market access barriers and the gradual elimination of those barriers in overseas markets of significance to Australia, including Singapore, Malaysia, Chinese Taipei, Korea, China and Japan. The International Commercial Dispute Resolution Working Group coordinated the identification of potential Australian nominees to ICSID panels of Conciliators and Arbitrators thus enhancing Australia's role in ICDR. The ICDR Working Group also initiated the development of a website to promote the capabilities of Australian practitioners in the field of ICDR.

Australian Bureau of Statistics (ABS) data indicates that exports of Australian legal services have increased from \$245 million in financial year 2000/01 to \$277 million in 2003/04 providing an increase of \$32 million over the four year period. This is a pleasing result as all of ILSAC's Committees and Working Groups have directed considerable effort to a range of strategies, activities and research aimed at developing and improving Australia's international performance in legal and related services. Trade in legal services statistical data and a graph are provided at Appendix VIII.

1: REPORT ON THE WORK OF THE COUNCIL

1.1 – Overview

The reconstitution of the International Legal Services Advisory Council (ILSAC) for a fourth term under the Chairmanship of Sir Laurence Street was announced by the then Attorney-General, the Hon Daryl Williams AM QC MP on 1 April 2000. The Council functioned with a Chairman, but without other members, for the balance of 2000 until the new membership for ILSAC's fourth-term was announced on 25 January 2001 by the Attorney-General. The appointments took effect from 1 January 2001 for 3 years.

ILSAC is a part-time advisory council which provides advice to the Attorney-General on issues relevant to international legal services. The Council was first established by the Australian Government in 1990. The Hon Sir Laurence Street AC KCMG QC, a former Chief Justice of New South Wales, was appointed Chairman and has been re-appointed to that position. ILSAC's members are drawn from private and public sector legal practice in Australia, education institutions and relevant Government departments and agencies, and serve in a voluntary capacity.

The Council's Report is entitled a triennial report although a Council of one (the Chairman, Sir Laurence Street) functioned from 1 April 2000 to 31 December 2000 (an additional nine months) under broad terms of reference (adopted at inception, but prior to the development and approval of the Council's Business Plan (2001-03)). A copy of the new Terms of Reference, including Mission and Objectives, for the fourth triennium, is included at Appendix II.

The Council's triennial Business Plan (2001-2003) was forwarded to the then Attorney-General by the Chairman of ILSAC on 6 November 2001 and, after the Federal election, approved by the Attorney-General in January 2002.

ILSAC's outputs fall into the following three areas:

- (i) advice to Ministers, departments and agencies;
- (ii) activities (such as Australian Legal Services Missions to Asia, Conferences or Seminars, study visit programs, etc); and
- (iii) research both published (such as Legal Services Country Profiles and reports); and unpublished (regulation of professional practice, market access barriers, briefs, submissions).

1.2 – Structure and organisation of ILSAC

ILSAC operates both as a full Council (plenary) and through a number of Committees and Working Groups.

The full Council met twice a year – most often in Canberra, but also in other cities convenient to members. The Council meetings usually last three hours. The main purposes of the full Council meetings are to hear reports from the Council's Committees and Working Groups and to discuss and, as appropriate, approve or endorse particular recommendations, proposed advice, activities or research and to obtain briefings on matters of importance or relevance to the Council's mandate or operations. The Council first considered and endorsed the proposed Business Plan for the triennium before it was submitted to the Attorney-General for his consideration and approval.

The Committees and Working Groups are the 'engines' of the Council. Each Committee and Working Group identified a set of priorities having regard to the Council's key function of improving Australia's international performance in legal and related services, its terms of reference and the Business Plan, soon after the commencement of the triennium as practicable. Work programs were then developed and implemented progressively. Having developed priorities and work programs the Committees and Working Groups met as necessary, either physically, by video link, telephone conference or settled matters utilising e-mail or other electronic means.

The full Council held six meetings in the triennium on 8 March 2001 in Canberra, 22 November 2001 in Sydney, 28 June 2002 in Canberra, 8 October 2002 in Canberra, 1 August 2003 in Canberra and 3 December 2003 in Canberra.

1.3 – Advice, activities, research by committees and working groups

As identified at 1.2 above, the ‘engines’ of the Council’s operations are the Committees and Working Groups.

1.3.1 – Global Legal Services & Market Access Committee (GLS&MA) (Committee 1)

The Committee held nine meetings during ILSAC’s 4th term. Details are at Appendix V. Members of the Committee were: Mr Tony D’Aloisio (Chair), Sir Laurence Street (ex officio), Mr John Colvin, Ms Elizabeth Hallett, Dr Gordon Hughes, Mr Bruce Johnston, Mr Peter Levy, Mr Russell Miller, Mr Bill O’Shea, Ms Susan Taylor, Mr Brian Wilson, Mr Iain Anderson, Ms Lisa Filipetto, and Mr Lloyd Downey.

The principal outcomes/activities of Committee 1 during the triennium are as follows:

- **ILSAC Conference: *Buying and Selling Legal Services into Asia*** (Sydney, 20 March 2003). Nearly 100 participants attended the conference to hear a range of Australian and international speakers and participate in three Workshops. Feedback from the Conference was very positive. The one day Conference succeeded in imparting a considerable amount of information on legal services markets in Asia to conference delegates, including emerging trends, and business development strategies and techniques for law firms to access the opportunities, as well as providing a forum for exchange of first hand experience as to what has worked and what has not worked.
- **Australian Legal Services Mission to Singapore** (30 May – 2 June 2001). This has also been reported on at a previous ILSAC meeting. This Mission, which was led by the then Australian Attorney-General, the Hon Daryl Williams AM QC MP, involved 17 senior members of the Australian legal profession, plus a market development person and two Mission management staff (one from Austrade and one from AGD/ILSAC Secretariat). The Mission was strongly supported by Austrade and the Australian High Commission in Singapore. Austrade was engaged by ILSAC to manage the Mission, develop and deliver the Mission program with assistance from the Australian High Commission in Singapore, Australian Education International (AEI) and the ILSAC Secretariat. One of the main objectives of the Mission was to lend support and assist the process in obtaining favourable conditions for Australian law firms and for the Australian legal education and training sector under the proposed Free Trade Agreement that was being negotiated at the time. Feedback from Mission participants indicated that Mission objectives were met.
- **Australian Legal Services Mission to Malaysia** (25 – 27 August 2003). The former Attorney-General, the Hon Daryl Williams AM QC MP, led the first Australian Legal Services Mission to Malaysian (fourth to Asia) in August 2003. The total delegation included 17 members from across the legal services sector with Sir Laurence Street AC KCMG QC as Deputy Mission Leader. Austrade was engaged by ILSAC to manage the Mission, develop and deliver the Mission program with assistance from the Australian High Commission in Kuala Lumpur, AEI and the ILSAC Secretariat. The centrepiece of the Mission was the *Legal Dialogue* with the Bar Council of Malaysia. The *Dialogue* included break-out sessions covering three streams – legal profession, including the regulation of foreign lawyers; legal education; and ICDR/ADR. The Mission also met with the Malaysian Attorney-General. Feedback from Mission participants clearly indicate that the Mission was successful in achieving desired outcomes and in particular having a positive impact on influencing the Malaysian Bar Council to consider the adoption of a hospitable foreign lawyer regulatory model.

- **Liberalisation of transnational trade in legal services, including market access advice and comments.** This has been an area of key output of ILSAC and includes advice to Ministers and Departments. Activities are undertaken under three separate strands:
 - (i). Multilateral – advice and comments provided for the General Agreement on Trade in Services (GATS) negotiations under the World Trade Organisation (WTO). ILSAC has had direct input in developing three negotiating proposals tabled by Australia under the GATS, including identifying six guiding principles for liberalisation of transnational trade in legal services. Advice also provided to the Minister for Trade on priority countries to be targeted on GATS requests. Advice provided to DFAT to ensure that meaningful commitments are obtained on legal services from countries acceding to the WTO.
 - (ii). Regional – advice and comments provided promoting the liberalisation of trade in legal services under the Asia-Pacific Economic Cooperation (APEC) liberalisation agenda. This is primarily achieved through contributing to updating Australia’s APEC Individual Action Plan (IAP) and in providing advice and comments in relation to the peer reviews of IAPs of other APEC members.
 - (iii). Bilateral – advice and comments provided for annual and biennial trade talks conducted by DFAT and the Minister for Trade with important trading partners, particularly in the region, including Malaysia, Chinese Taipei, China and Japan (input in relation to FTA’s and similar agreements are identified separately).
- Extensive **legal services market access input into the Singapore-Australia Free Trade Agreement (SAFTA)**. SAFTA negotiations commenced in late 2000 and were concluded in October 2002, involving more than ten rounds of intensive negotiations. Liberalisation of Singapore’s services sector, and legal services in particular, was a key objective for Australia. The outcomes for Australia on legal services involved: (i) concessions on the regulation of Joint Law Ventures (JLVs) and Foreign Law Affiliates (FLAs) between Australian and Singaporean law firms and (ii) the recognition of an additional six Australian university law degrees (to the four already recognised), upon completion of SAFTA and at the first review of the Agreement. This FTA, apart from the Closer Economic Relations agreement between Australia and New Zealand, was Australia’s first with an Asian country. Although Australian law firms have not taken up the regulatory concessions negotiated, this may occur when economic and commercial conditions are more propitious. ILSAC played a significant part in the negotiations on legal services, leading to the successful conclusion of the FTA.
- **Legal services input into the Australia-Thailand Closer Economic Relations Free Trade Agreement (CER-FTA)**. Negotiations for the Australia-Thailand CER-FTA were concluded on 19 October 2003. Although the agreement does not provide specific market access liberalisation for legal or other professional services, Australian legal services exporters advised ILSAC and DFAT that the impediments faced in Thailand were not of such a difficult nature as to be a major issue for trade negotiations. Importantly, Australia-Thailand trade should receive a major impetus from the implementation of this agreement and legal services, as an important business service input, should benefit indirectly as a consequence. For example, over \$700 million of Australia’s current exports to Thailand will benefit from the tariff cuts by Thailand.
- **Ongoing input on legal services into the proposed Australia-United States Free Trade Agreement (AUSFTA)**. The proposal to negotiate a bilateral FTA was announced by Australia and the United States in late 2001. There were five negotiating sessions. Key targets were outcomes in areas including agriculture, industrial goods, government procurement, investment and services. The outlook for gains in the area of professional services, including legal services, is uncertain. ILSAC prepared two legal services negotiating papers and legal services brief for DFAT for the crucial fifth negotiating session in Washington in December 2003.
- Revision and publication of the **Australian Legal Services Export Development Strategy (2003-2006)** in time for the ILSAC Export Conference on 20 March 2003. About 100 copies of the strategy were distributed to Conference delegates. The Strategy sets out a systematic and integrated plan of action to lift Australia’s performance in international legal services. The

initial part of the Strategy identifies individual strategies with corresponding ‘desired outcomes’ under three specific areas. The first area deals with the *trade environment* and identifies strategies designed to achieve regulatory change, including the removal of market access barriers both in Australia and overseas. The second area covers the *sectoral profile and capabilities* and identifies strategies designed to promote Australian legal service providers as well as their domestic and international expertise. The third area covers *market development and export opportunities* and identifies strategies aimed at winning more internationally contestable work.

The latter part of the Strategy includes useful information on the Australian legal services sector, including details of practice size and profitability, latest trade in legal services statistics, and information on export prospects. It also includes an overview of the international legal services market. In addition, the following new features have been included in the current edition of the Strategy: information on Australia’s position on the liberalisation of transnational trade in legal services under the Doha Round of multilateral trade negotiations; current foreign lawyer regulatory position across Australia; and a list of useful websites.

- Revision and publication of the **Australian Legal Services Country Profile – Indonesia**.
- **Other** additional activities: briefing for the Chairman and Attorney-General’s Department on a variety of matters, **practical support for the National Legal Profession initiative** – the Chairman wrote to all State and Territory Attorneys General expressing ILSAC’s strong support for the creation of a National Legal Profession in Australia. On 7 August 2003, SCAG agreed to endorse comprehensive model provisions as a basis for consistent laws to facilitate a truly national legal profession. Input into visit programs, publishing the activities of the Committee and Council and other matters.

Other matters which were considered and progressed but not completed by the Committee in the current triennium were:

- Proposed **Malaysian legal delegation to Australia** (first half of 2004). This activity involves supporting and assisting an inwards delegation from Malaysia to Australia. The visit is anticipated to help strengthen the dialogue successfully initiated by the Australian Legal Services Mission to Malaysia in August.
- Proposed **Australian Legal Services Mission to India**. This is a potentially significant and complex undertaking scheduled for late March 2004. The Attorney-General will not be able to lead the Mission then – instead it will be led by Dr David Bennett AO QC, the Australian Solicitor-General. There appears to be sufficient support for this fairly expensive Mission to India involving around 7 days out of Australia from the Australian legal and related services sector. The Australian High Commission, New Delhi, supports the proposed Mission.
- **Australian Trade in Legal Services Statistics**. This is an important matter on which there has not been a great deal of progress yet. Up-to-date, comprehensive (including ‘foreign affiliates’) statistics are important for trade negotiations, policy development as well as practice development. This matter is one which should receive attention by the Council and Committee – if reconstituted – in the new triennium.

Conclusion

- At the first meeting of Committee 1 in the current triennium on 28 April 2001, the Committee identified two desirable, key outcomes:
 - (i) **‘Profile/Lift Reputation’**: promote Australian law firms to achieve wider recognition along lines of “as good as US and English law firms” through strategies such as working with the Law Council, AusAID, Austrade and offshore bodies (eg ICC, ADB); undertaking Australian Legal Services Missions; and developing industry capability statements and identifying potential clients;
 - (ii) **‘Lift Export Revenue’**: 20% compound increase each year through strategies to address market access regulatory issues; areas of Australia’s competitive advantage (services

and promotional programs) and domestic legislation (National Legal Profession and national use of federal power).

The Committee and Council have worked with a number of organisations and bodies to achieve wider recognition for the excellence of Australian law firms, including the Law Council of Australia, AusAID, and Austrade, as well as Australian diplomatic posts, representatives of two leading overseas law firms (Linklaters Allen Gledhill, and Jun He Law Firm), financial services providers (Deutsche Bank Asia, and Morgan Grenfell), overseas Bar Associations/Law Societies (Singapore, Malaysia, China), the WTO and APEC Secretariats, but not the Asian Development Bank (ADB) nor the International Chamber of Commerce (ICC). Domestically, through ILSAC's Chairman, ILSAC has made an important contribution to progressing the National Legal Profession initiative in Queensland and South Australia.

Australian Bureau of Statistics (ABS) data for the last four financial years indicates that exports of Australian legal services have increased from \$245 million in 2000/01 to \$277 million in 2003/04 providing an increase of \$32 million over the period. While it is not possible to identify a direct causal relationship between the work of ILSAC and the increase in Australia's legal services exports, the Committee has directed very considerable effort to a range of strategies and initiatives aimed at achieving this result.

In summary, Committee 1 has had a very active three year work program and achieved some important outcomes in improving access for Australian lawyers and law firms to overseas legal services markets and in lifting Australia's international performance in legal and related services.

1.3.2 – International Legal Cooperation Committee (ILC) (Committee 2)

The Committee met three times during ILSAC's 4th Term. Details are at Appendix V. Members of the Committee were: Mr Bruce Johnston (Chair); Sir Laurence Street (ex-officio); Ms Barbara Filipowski, Dr Gordon Hughes, Mr Peter Levy, Ms Suzanne Oliver, Ms Susan Taylor and departmental representatives from DFAT, AusAID, and AGD.

The principal outcomes/activities of Committee 2 during the triennium are as follows:

- **Advice and support for the APEC initiative Strengthening Economic Legal Infrastructure (SELI)** undertaken by the Department of Foreign Affairs and Trade (DFAT) has been a major focus for Committee 2 this triennium. The project to date has involved seminars on commercial law in five APEC economies namely Vietnam and the Philippines (first half of 2002) and Indonesia and Thailand (first half of 2003) and the People's Republic of China (Shanghai 27-29 August 2003). In addition, the Chair of the Committee, Mr Bruce Johnston, participated in a Symposium in Jakarta in July 2002 and subsequently addressed an APEC officials meeting in Thailand in February, 2003. A report *Strengthening Economic Legal Infrastructure in APEC: Supporting Trade, Investment and Economic Development* was commissioned by the DFAT and prepared by the APEC and Regional Trade Policy Branch of DFAT and Allens Arthur Robinson with assistance from the Treasury, the Attorney-General's Department and ILSAC. It was presented at the APEC Ministerial Meeting in Los Cabos, Mexico, on 23-24 October 2002. (The APEC Branch, DFAT, subsequently produced a brochure/booklet incorporating feedback from the Commercial Laws seminars and including papers on various aspects of commercial laws for the October 2003 APEC Ministerial meeting held in Bangkok, Thailand. This publication involved members of ILSAC but not the Council as a whole). The APEC Branch of DFAT has received approval for funding under the Australian Government's APEC Support Program to implement a follow on activity to the Commercial Laws project which will concentrate on enforcement issues. ILSAC and the Attorney-General's Department provided letters of support for this application. The project encompasses an awareness raising report and was followed by two capacity building seminars.
- **Advice and support for the Australia-Indonesia Working Group on Legal Cooperation (WGLC)** and various legal projects conducted by AGD under the Government Sector Linkages

Program (GSLP). The Sixth Australia-Indonesia Ministerial Forum met in Jakarta on 11 March 2003. The Report of the Working Group on Legal Cooperation was presented to Ministers by the Attorney-General, the Hon Daryl Williams AM QC MP, and H E Professor Dr Yusril Mahendra, Minister of Justice and Human Rights, to the Forum. Ministers noted and/or endorsed most of the recommendations of the Working Group.

Since the late 1990's, the Attorney-General's Department has conducted projects with the Indonesian Ministry of Justice and Human Rights funded by AusAID under the Government Sector Linkages Program (GSLP). ILSAC has provided advice and support for these projects. The Department has two current projects a Searchable Electronic Legal Information Data Base Facility and Legislative Drafting: Training and Technical Assistance. An application for funding for a Commercial Laws project has been submitted to AusAID.

- **Encouragement for the development of legal cooperation activities** by AGD with **Thailand, Cambodia and Fiji**. Members were supportive of efforts by the Secretariat on behalf of the Attorney-General's Department to explore possible opportunities for legal cooperation with Thailand and Fiji. The Attorney-General's Department has agreed to provide assistance to Cambodia for some AusAID projects, if requested and as appropriate. There is the potential that a possible future ILSAC might also be invited to provide advice on the implementing of various law related projects in Cambodia.
- **Advice, support, assistance, participation and hospitality** for the **visit by the Minister of Justice, HE Zhang Fusen, People's Republic of China** in 2001 and other incoming visits. ILSAC members provided advice, participated in round tables and assisted with hosting arrangements for the visit to Australia of Minister Zhang. Australia was the first country visited by the Minister following his appointment as the Minister of Justice. The visit was highly successful and created much goodwill by the Minister towards Australia. This was demonstrated by the warmth of welcome extended to the former Attorney-General when he undertook a return visit in July 2003.
- **Support and advice** for the **visit to China by the former Attorney-General, the Hon Daryl Williams AM QC MP in July 2003**. Members showed considerable interest and support for the visit by the Attorney-General and have recommended that such visits take place on a regular basis. Individual members facilitated and were supportive of the participation of colleagues from their offices in China participating in the visit.
- **Planning, implementing, and participating** in two visits under the **ILSAC Australia-Indonesia Ad Hoc Legal Visits program**. ILSAC's Indonesia-Australia Ad Hoc Legal visits program was conducted through Committee 2 and involved a visit program for Indonesian lawyers and or officials with law-related responsibilities to Australia. The funding for the program was provided by AusAID to the Attorney-General's Department. The visits were administered by the Secretariat with the assistance of the Asian Law Centre, the University of Melbourne, and the Asia Research Centre, Murdoch University, in collaboration with the Australia-Indonesia Business Council and Mallesons Stephen Jaques in Perth. Four visits were completed under the program and two of these visits took place in the present triennium. The visitors were Mr Indra Surya, from the Indonesian Capital Markets Supervisory Board (November 1999); Mr Rahmat Soemadipradja of Soemadipradja & Taher (November 1999); Ms Nini Halim, Hutabarat, Halim and Rekan (June 2002); and Ms Wiwiek Awiati, Indonesian Centre for Environmental Law (September 2002).
- **An evaluation of ILSAC's Australia-Indonesia Ad Hoc Legal Visits Program**. The Committee has proposed an evaluation of the visit program. A report which summarises responses from the four visitors and the Secretariat was prepared and incorporates brief written reports from Asia Research Centre, Murdoch University which coordinated the visits to Perth for the visits of Mr Indra Surya and Mr Rahmat Soemadipradja. Additional comments have been provided by the Chair of the Committee, Mr Bruce Johnston, who separately met and interviewed three of the participants. The draft report and Mr Johnston's comments were presented to the final ILSAC meeting on 3 December 2003.

Other matters which were considered and progressed but not completed by the Committee in the current triennium are:

- Proposed **legal exchange initiative with China**. The Attorney-General's Department is seeking to encourage the development of a trial legal exchange program for Chinese lawyers modelled on a program which has been used successfully in the UK for several years. The exchange would be between the Law Council of Australia with the All China Lawyers' Association. The Department is hopeful of negotiating funding for the initiative under AusAID's new governance program with China. The Department was given to understand that the outcome will depend on the goodwill of the PRC Ministry of Commerce. The Minister of Justice and the President of the All China Lawyers' Association both expressed their wish to raise the overall standard of the legal profession in China.
- **Ongoing advice and support** for the Attorney-General's Department application for funding for a proposed commercial laws project with the Ministry of Justice and Human Rights, Indonesia. If funding is approved, this project would be implemented in 2004-05.
- The Committee had recommended seeking opportunities for legal cooperation with countries of the Pacific and East Timor. The Committee **supported proposals for association with AusAID on governance programs with Cambodia**, and research by AGD on possible opportunities with Thailand.

Conclusion

There have been significant developments over the triennium in the field of legal cooperation.

Indonesia

The Memorandum of Understanding and the Working Group on Legal Cooperation provide a formal umbrella for continued legal cooperation activities with Indonesia sanctioned by the Ministers of both countries at the Australia-Indonesia Ministerial Forum. The Australia-Indonesia Ad Hoc Legal Visits have resulted in establishing goodwill towards Australia in the private sector and with a non-Government organisation.

China

The successful visit by the Minister of Justice of the People's Republic of China to Australia and the following return visit by the Australian Attorney-General have engendered goodwill and provide a sound basis for future cooperative activities.

Strengthening Economic Legal Infrastructure (SELI)

It is to be hoped that the success of this and subsequent initiatives taken by DFAT and by other APEC members to seek to improve the economic and legal environment has the potential to have a catalytic effect on the region.

1.3.3 – International Legal Education and Training Committee (ILET) (Committee 3)

The Committee held three meetings during ILSAC's 4th term. Details are at Appendix V. Members of the Committee were: Professor Gillian Triggs (Chair), Sir Laurence Street (ex-officio), Ms Suzanne Oliver, Mr Bill O'Shea, Mr Russell Miller, Professor Paul Redmond and Mr Adrian Van Leest.

The principal activities/outcomes of Committee 3 during the triennium are as follows:

- **Internationalisation of the Australian Law Degrees project**. This has been a key initiative of Committee 3 and the report has the potential to have a significant impact on Australian legal education. The report argues that the impact of globalisation on the delivery of legal services requires that strategies be adopted to promote the development of a genuinely international legal education by Australian law schools that prepares Australian and overseas graduates for the provision of legal services in a global market. The report proposes **seven recommendations** and Committee 3 recommends that ILSAC, if reconstituted, play a direct role in taking forward

the next phase of this initiative by establishing a working party or representative committee to monitor and ensure the implementation of the recommendations.

- Input to the **Singapore-Australia Free Trade Agreement (SAFTA)** process where the number of Australian Universities from which law degrees are recognised by Singapore was increased from 4 to 8 with the potential for further increases during periodic reviews of SAFTA. The eight recognised universities are: Australian National University, University of Sydney, University of NSW, University of Melbourne, Monash University, University of Queensland, Flinders University and the University of Western Australia.
- **Recognition of law degrees from 13 Australian Universities by Brunei Darussalam.** This resulted from a joint ILSAC/Council of Australian Law Deans submission to Brunei.
- Assisting in the **publication and distribution of four editions of *Studying Law in Australia (SLIA)***. SLIA is a joint initiative of the Council of Australian Law Deans (CALD) and ILSAC. During ILSAC's current term four editions (9th to 12th editions) were published. Each year around 1200 copies were distributed to up to 90 countries with the assistance of the Attorney-General's Department, AEI, DFAT and IDP Education Australia.
- Providing **briefings for CALD** quarterly meetings on international legal education and training as well as on other relevant international developments.
- Other additional activities include the Committee's contribution towards strengthening the **briefing and participation of the legal education training component in the four Legal Services Missions to Asia**. The Committee developed a visit program for a senior Judge from Brunei in October 2003. The Judges visit is expected to have a positive impact in Brunei towards the recognition of Australian practising certificates and more law degrees. The visit is also expected to result in links between Australia and Brunei in the area of continuing training for Judges.

Other matters which were considered and progressed but not completed by the Committee in the current triennium are:

- Liaising with the CALD Secretariat on **making improvements to the publication *Studying Law in Australia***. A forward looking work program has been developed that could be take up by ILSAC, if reconstituted, to build on preliminary comments received from Department Education Science and Training (DEST) and AEI.
- Negotiating with AEI on **obtaining meaningful statistics of overseas students studying law in Australian Universities**. Initial feedback from AEI indicates that this request can be accommodated. ILSAC is in the process of discussing the possibility of a formal arrangement between DEST/AEI and ILSAC/AGD on ILSAC receiving these statistics on an annual basis. The latest available statistics indicate that over the last two years, the number of overseas students studying law in Australia has grown rapidly compared to the mid to late 1990s. In 2002, there were 1991 overseas students studying law in Australia, while the corresponding number in 2000 was 1108.
- Progressing the initiative on **seeking Malaysia's recognition of law degrees** from the balance 14 Australian University Law Schools. In August 2003, the Secretariat arranged for a consolidated package of applications from the 14 Law Schools to be submitted to the Legal Profession Qualifying Board of Malaysia under cover of two letters - one jointly signed by the Attorney-General, the Minister for Education, Science and Training and the Minister for Trade and the other signed by the chairs of ILSAC and CALD. During the Legal Services Mission to Malaysia, the then Attorney-General, the Hon Daryl Williams AM QC MP raised this recognition issues with the Malaysian Attorney-General. However, the Malaysian AG indicated that he has proposed to the Malaysian government that admission to practise in Malaysia be based on a common Bar examination for both foreign educated and local law graduates. He noted that if the Malaysian cabinet approves his proposal, there would be no need to 'recognise' law degrees from individual law schools. However, he also indicated that if his proposal was

rejected by the Malaysian government, he would give due consideration to the applications received from the 14 Australian law schools.

- Further progressing the **recognition of more Australian law degrees by Brunei**, including the possible **recognition of Australian practising certificates** for the right to practise law in Brunei. Currently, Brunei recognises practising certificates from the UK, Singapore and Malaysian as a basis for admission to practise law in Brunei.

Conclusion

The major achievement of Committee 3 is the completion of the Internationalisation of the Australian Law Degree report. The recommendations, if fully implemented, have the potential to have a significant impact on Australian legal education, particularly in better preparing graduates for the provision of legal services in a global market. It should also provide for a genuinely international legal education in Australia, thus making Australian law degrees more attractive to a greater number of overseas students. The Committee's successful initiatives on increasing the recognition of Australian law degrees overseas is also expected to have a positive impact by the increase in number of overseas students studying in Australia.

The Committee has worked with a number of organisations, including the CALD, AEI, DFAT, and Australian diplomatic posts, during the triennium. The annual publication and distribution of *Studying law in Australia* is one such joint initiative. All these initiatives are partly aimed at increasing the number of overseas students studying law in Australia. Statistics over the past few years indicate that the overseas students studying law are increasing at encouraging rates. For example, from 1108 overseas students studying law in Australia in 2000, the number has increased to 1991 in 2002. This latest figure suggests that this sector is estimated to be worth in the vicinity of \$50 million¹ annually to Australia.

In summary, Committee 3 has had a productive three year work program and achieved useful outcomes that are expected to continue to have a positive impact and lift Australia's international legal education and training sector and services.

1.3.4 – Working Group 1: Legal Services Market Access (WG1)

The Working Group's principal function is to provide advice, comments and research on legal services market access to the Attorney-General's Department and the DFAT. Membership comprised, nominally, all members of Committee 1 and such other persons with particular expertise in a position to assist. The Working Group did not meet physically. Matters for consideration or consultation, including the determination of a position, were circulated and settled by letter, fax or by other means. Due to the confidential or sensitive nature of some of legal services market access matters, advice was provided by the ILSAC Secretariat with clearance and/or approval by either the Chairman of the Council of the Chair of Committee 1.

Detailed advice on legal services market access was provided to DFAT on a range of matters including WTO accessions and bilateral, regional and multilateral trade negotiations, including the WTO request/offer process under the Trade in Services negotiations agenda.

1.3.5 – Working Group 2: International Commercial Dispute Resolution (ICDR) (WG 2)

WG2 seeks to promote and facilitate dialogue between various dispute resolution bodies in Australia with a view to promoting the skills and wider recognition of Australian ADR practitioners internationally.

The Working Group held two meetings during ILSAC's 4th term. Details are at Appendix V. The Group was chaired by Ms Barbara Filipowski and members included Mr Brian Wilson, Mr Ian Govey, Mr Lloyd Downey, and Sir Laurence Street (ex officio).

¹ Based on an estimated amount of \$25,000 per year per student, including course fees and living expenses

Other matters which were considered and progressed but not completed by the Committee in the current triennium are:

- **Establish** a “first point of call” **ICDR website** for Australian and other users of ICDR services. Working Group 2 has expressed interest in a web site being set up to promote Australian capabilities in the field of ICDR – particularly to Australian exporters and others wishing to obtain information on Australia’s capabilities in ICDR. A mock-up of a prospective site was demonstrated to ILSAC members at the meeting held in Canberra on 1 August 2003. Working Group 2 met in Sydney on 4 September 2003 to discuss an issues paper prepared within the Secretariat and to provide comment on the site. In brief, members recommended the registering of the domain name of: <www.icdr.gov.au>. Members agreed that AGD should host the site, with disclaimer, privacy and copyright issues to be the responsibility and to be managed by the Department. It was agreed that there should be links to the major organisations. It was agreed that the material on the site should be clearly categorised and accessible.
- WG2 members **speaking** and **actively participating in local and international forums**
- **Identifying potential nominees** to the **Attorney-General for appointment to ICSID**: ILSAC was invited to identify a small group of people for consideration by the Australian Government for appointment to ICSID Conciliation and Arbitration Panels. WG2 provided the Attorney-General’s Department with a list of possible nominees. (The ICSID Convention was adopted under the auspices of the World Bank in 1965). The Convention enables investment disputes between a State Party and a national of another State Party to be submitted for resolution by arbitration or conciliation conducted under the aegis of ICSID, based in Washington, DC. Under Articles 3 and 12 to 16 of the Convention, ICSID maintains panels of Conciliators and Arbitrators. Panel members are nominated by States party to the Convention and the Chairman of ICSID, and serve for renewable periods of six years. Each party to the ICSID Convention may designate up to four persons who may or may not be nationals, to each Panel. The Chairman of ICSID may designate ten persons of different nationalities to each Panel. Members may be appointed to a dispute panel by the parties to the dispute or, in certain circumstances, by the Secretary-General of ICSID).
- The **encouragement** of the **inclusion of dispute resolution practitioners in overseas legal missions** i.e. Singapore and Malaysia. Mr Robert Hunt, President of the Institute of Arbitrators and Mediators, Australia participated in the mission to Singapore and his successor, Mr Ian Nosworthy took part in the mission to Malaysia. The Chairman of ILSAC, Sir Laurence Street, participated in both missions.
- **Active participation** in **ADR aspects** of the **Ad Hoc Legal Visits program** and contribution to DFAT’s **APEC SELI project**. Ms Wiwiek Awiati who visited Australia through the Ad Hoc Legal Visits Program had expressed a particular interest in learning about Alternative Dispute Resolution and court annexed mediation. The Working Group provided advice and assistance with her program.
- **Support** for the establishment of a peak body and **facilitating Government support** for the **move of ACICA’s** head office to Sydney. ACICA was originally set up by the Victorian Government in 1985 at the suggestion of the Institute of Arbitrators Australia (IAA) as part of an initiative to make Victoria an international financial centre. ACICA has now amended its constitution, signed a Memorandum of Understanding with the Australian Commercial Dispute Centre (ACDC), moved its head office to Sydney with its secretariat services being provided by ACDC, expanded its board by the appointment of directors from leading Australian law firms which has brought financial sponsorship, and approved a new business plan which has two principle objects. These are: (i) to support international arbitration in Australia by the dissemination of information to the corporate world as well as providing information on ancillary services required by international arbitration; and (ii) promote Australia as a venue for international arbitration. The cooperative arrangements with ACDC mean that ACICA may emerge as the peak international commercial arbitration body in Australia while ACDC develops its focus on ADR – principally mediation and conciliation and other services in Australia.

- **Liaison with the National Alternative Dispute Resolution Advisory Council (NADRAC)** and its members. (The Chair, Ms Barbara Filipowski is a member of NADRAC as is also Mr Ian Govey).

Other matters which were considered, are in progress or are proposed include:

- **Final development and launch of ICDR website** with arrangements in place for **ongoing maintenance** and input of relevant information.

Conclusion

It is proposed that the ICDR website, once it becomes operational, will help to promote Australia as a location for international commercial dispute resolution and the skills of the Australian practitioners.

As a result of the developments with ACICA there is now reasonable hope that perceptions of rivalry between leading arbitration and ADR bodies will lessen. In the light of the changes to the constitution of ACICA, the rationalisation of principal functions between ACICA and ACDC, the improved financial operation of ACICA through an expanded board and major Australian law firm support, the Attorney-General approved a one-off subvention to ACICA of \$25,000 in June 2003. The subvention is to enable ACICA, a non-profit body, to consolidate its operations and develop its profile in international commercial dispute resolution in accordance with the aims of the Centre.

2: PERFORMANCE AGAINST BUSINESS PLAN

2.1 – Overview

The Council's Business Plan provides a framework and greater specificity to the Council's Terms of Reference. Under the Council's Mission, which is *to enhance the international presence and improve the international performance of Australia's legal and related services*, the Business Plan included six objectives (reproduced below) and for each objective, a range of indicative tasks and desired outcomes. The Council's Terms of Reference and Business Plan are included at Appendices II and III.

The six key objectives for the Council are:

1. Enhance the international profile and performance of Australia's legal and related service area.
2. Create greater awareness and understanding in the Asia-Pacific and other regions of Australia's legal system as well as facilitate the establishment and improvement of links between the legal and related services sector in Australia and countries in the region and elsewhere.
3. Explore opportunities for enhancing Australia's role in ICDR.
4. Support further development of Australia's international legal education and training services.
5. Improved coordination of public and private sector activities aimed at promoting Australia's international capabilities in legal and related services.
6. Provide reports and advice to the Attorney-General and other Ministers, as appropriate, and provide advice and reports to government as and when significant issues are examined.

ILSAC's triennial Business Plan (2001-2003) was forwarded to the then Attorney-General by the Chairman of ILSAC on 6 November 2001 and, after the Federal election, approved by the Attorney-General in January 2002.

2.2 Performance against Business Plan

The Council's performance in meeting the six key objectives are summarised below.

Objective 1: *Enhance the international profile and performance of Australia's legal and related service area.*

The following desired outcomes identified in the Business Plan under this objective occurred during ILSAC's 4th Triennium: improved opportunities for Australian lawyers in China, Cambodia, Chinese Taipei and Singapore, an increase in the export of legal services, Western Australia implementing hospitable foreign lawyer regulations with Queensland expected to follow, and marked progress towards the establishment of a national legal services market.

The Global Legal Services and Market Access Committee has directed a considerable effort to a range of strategies and initiatives aimed at achieving Objective 1. The Committee contributed to developing three negotiating proposals on legal services that were tabled by Australia at the WTO. These have enabled Australia to initiate and chair a friends group on legal services under the WTO to further promote the liberalisation of transnational trade in legal services and assist in conducting meaningful and detailed discussions on the legal services liberalisation agenda and assist developing countries in particular in coming terms with the areas of importance to transnational lawyers. Australia is now recognised by its trading partners, particularly in the WTO, as playing a leading role in promoting the liberalisation of transnational trade in legal services.

The Council coordinated input to DFAT on WTO accession negotiations by countries, including China, Chinese Taipei, Cambodia, Tonga, Nepal, Russia, Vietnam, Kazakhstan, Samoa, Algeria, Saudi Arabia, Lebanon, Sudan and Libya. The Council's input has enabled Australian negotiators to gain improved offers of legal services commitments from many of the countries of significance to Australian lawyers and law firms, thereby having a direct and positive impact on gaining beneficial access to overseas legal services markets. Greater detail of offers on legal services commitments by acceding members would be made public as and when the acceding members gain membership to the WTO. Advice and support to Australian negotiators on improving access for Australian lawyers and law firms through free trade agreements such as the Singapore-Australian Free Trade Agreement (SAFTA) and the then proposed FTA's with Thailand (TAFTA) and the USA (AUSFTA) has also contributed to achieving Objective 1, through gaining more hospitable regulation for Australian lawyers, particularly through SAFTA.

The Australian Legal Services Missions to Singapore and Malaysia have contributed significantly to enhancing the profile and expertise of Australian lawyers and law firms in both Singapore and Malaysia. The Missions have also contributed significantly in initiating important on-going bilateral links, including an exchange of visits aimed at both strengthening cooperation in activities across the sector and conducting continued detailed discussions on improving market access for foreign lawyers.

ILSAC's *Buying and Selling Legal Services in Asia* conference of March 2002 in Sydney, was also aimed directly at enhancing the capabilities of, and providing briefing to, Australian law firms to assist them in more productively engage in the export of legal services. The conference was well attended and feedback received indicated that it was successful.

ILSAC's activities have directly contributed to Australian lawyers' better and improved access to important legal services markets overseas. ABS data for the last four years indicates that exports of Australian legal services have increased from \$245 million in financial year 2000/01 to \$277 million in 2003/04 providing an increase of \$34 million over the four year period.

Objective 2: Create greater awareness and understanding in the Asia-Pacific and other regions of Australia's legal system as well as facilitate the establishment and improvement of links between the legal and related services sector in Australia and countries in the region and elsewhere.

Closer links were developed with China through the visit by the Minister for Justice of the People's Republic of China through a range of meetings with all sectors of the profession. These links were reinforced through advice and support for the visit to China by the former Attorney-General, the Hon Daryl Williams AM QC MP. Advice has been received from the Australian Embassy and the Ministry of Justice that the Chinese place considerable importance on these visits and exchanges.

Members hosted and participated in round table discussions for visiting members of the legal profession of overseas countries. These round table discussions provided opportunities for exchanges of information and the promotion of a greater understanding of legal systems in the Asia-Pacific region.

Links with Indonesia were reinforced with the support for the inaugural meeting of the Working Group on Legal Cooperation (WGLC) formed under the Australia-Indonesia Ministerial Forum. Sixty seven leading representatives of the Indonesian legal profession met with the 36 Australian representatives including ILSAC members who took a leading role in discussions on commercial law, arbitration and alternative dispute resolution and fostered the developing links in legal education. ILSAC also hosted and oversaw the study tours to Australia of two Indonesian lawyers under the Australia-Indonesia Ad Hoc Legal Visits program. Members advised on the custom built programs designed to meet the objectives of the visitors and to provide as much opportunity for exchange of views and increase the understanding of both the visitors and the hosts of the other's country and legal system. ILSAC's Indonesian Legal Services Country Profile was also revised during this triennium.

Over the triennium members advised the Department of Foreign Affairs and Trade (DFAT) on the implementation of the *Strengthening Economic Legal Infrastructure* initiative of APEC. This initiative involved a series of seminars in Vietnam, Thailand, the Philippines, China and Indonesia. This initiative led to the development of a report on legal infrastructure in the Asia-Pacific region and the strengthening of commercial laws in the APEC region and were widely distributed through APEC countries by DFAT. ILSAC also advised and participated in a follow-on activity on the Enforcement of Commercial Laws in the APEC region and provided advice to DFAT for a seminar held in Kuala Lumpur which attracted a wide representation from countries within the region.

Other links were also fostered through presentations and participation in various international fora.

As noted above under Objective 1, the legal services Missions have contributed significantly to initiating and developing important on-going bilateral links, including an exchange of visits aimed at both, strengthening cooperation in activities across the sector.

Objective 3: *Explore opportunities for enhancing Australia's role in International Commercial Dispute Resolution (ICDR).*

During the fourth triennium, the ICDR Working Group provided support for the move of ACICA's head office to Sydney. The cooperative arrangements with ACDC mean that ACICA may emerge as the peak international commercial arbitration body in Australia while ACDC develops its focus on ADR.

Greater demand for Australia's ICDR/ADR services internationally was achieved through ILSAC's involvement in identifying a small group of people for consideration by the Australian Government for appointment to ICSID Conciliation and Arbitration Panels. The considerable work in initiating and progressing the development of a proposed "first point of call" ICDR website in the future for Australian and other users of ICDR services was another of the Council's activities that has contributed to achieving the desired outcomes identified in the Business Plan at Objective 3.

Objective 4: *Support further development of Australia's international legal education and training services.*

The International Legal Education and Training Committee's successful initiatives for the fourth triennium include the Internationalisation of the Australian Law Degree report and joint initiatives such as the annual publication and distribution overseas of *Studying Law in Australia*. Increased opportunities internationally for Australia's legal education and training service providers were obtained through Brunei's recognition of law degrees from 13 Australian law schools and successful high level representations to Singapore on recognition of law degrees under SAFTA.

Statistics indicate that overseas students studying law are increasing at encouraging rates. For example, in 2000 there were 1108 overseas students studying law in Australia. This rose to 1991 students in 2002. This latest figure suggests that this sector is estimated to be worth in the vicinity of \$50 million annually to Australia.

Objective 5: *Improve coordination of public and private sector activities in promoting Australia's international capabilities in legal and related services.*

A number of Council activities contributed to achieving this objective. These include:

- the updating and wide circulation of the Australian Legal Services Export Development Strategy (2003-2006);
- developing links and making representations to ABS on making improvements to the collection of statistics on trade in legal services;

- close liaison with Government departments and agencies as well as relevant private sector bodies, including peak bodies, in taking a coordinated approach in progressing issues impacting on legal services, including legal education and training services and ICDR;
- significant contributions to coordinating private and public sector input to the DFAT managed APEC initiative on *Strengthening Economic Legal Infrastructure* in Vietnam, the Philippines, Indonesia, Thailand and China;
- support for the establishment for a peak Alternative Dispute Resolution body in Australia; and
- providing briefings to the Council of Australian Law Deans.

Objective 6: *Provide reports and advice to the Attorney-General and other Ministers, as appropriate, and provide advice and reports to government as and when significant issues are examined.*

The Council provided reports and significant pieces of advice to the Attorney-General and other Ministers as well as departments and agencies during its fourth term. These include advice and reports on:

- the liberalisation of trade in legal services under the GATS, including identifying priority countries;
- detailed priority interests of Australian lawyers and law firms in Singapore, Thailand and the USA in the context of FTA negotiations;
- market access and legal education and training interests in Malaysia, Chinese Taipei, China and Japan to be raised in bilateral talks;
- the national legal profession initiative and the adoption of consistent hospitable foreign lawyers regulations across Australia;
- the APEC *Strengthening Economic Legal Infrastructure* initiative;
- the activities to be undertaken by the Working Group on Legal Cooperation under the Australia-Indonesia Ministerial Forum; and
- the internationalisation of Australian law degrees.

PART 3: APPENDICES

APPENDIX I

MEMBERS OF ILSAC TERMS OF APPOINTMENT 2000 - 2003

CHAIRMAN

The Hon. Sir Laurence Street, AC KCMG QC (re-appointed 24 January 2001 to 31 December 2003)

MEMBERS

Mr John Colvin (appointed 24 January 2001, resigned 28 March 2002)

- Chief Executive Officer, Blake Dawson Waldron, Sydney.

Mr Tony D'Aloisio (re-appointed 24 January 2001 to 31 December 2003)

- Chief Executive Partner, Mallesons Stephen Jaques, Sydney.

Ms Barbara Filipowski (appointed 24 January 2001 to 31 December 2003)

- Secretary & General Counsel, Sydney Ports Corporation and member of the National Alternative Dispute Resolution Advisory Council (NADRAC).

Ms Elizabeth Hallett (re-appointed 24 January 2001 to 31 December 2003)

- Partner, Deacons, Sydney

Dr Gordon Hughes (appointed 12 August 2002 to 31 December 2003)

- Partner, Blake Dawson Waldron, Melbourne

Mr Bruce Johnston (appointed 24 January 2001 to 31 December 2003)

- Partner, Allens Arthur Robinson, Melbourne

Mr Russell Miller (appointed 12 August 2002 to 31 December 2003)

- Partner, Minter Ellison, Canberra

Mr Peter Levy (re-appointed 24 January 2001, resigned 11 April 2002)

- Secretary-General, Law Council of Australia, Canberra.

Ms Suzanne Oliver (appointed 24 January 2001 to 31 December 2003)

- Senior Lawyer, Attorney-General's Department, Northern Territory, Darwin. (formerly Dean, Faculty of Law, Business and Arts, Northern Territory University).

Mr Bill O'Shea (appointed 24 January 2001 to 31 December 2003)

- Managing Partner, Hunt & Hunt, Melbourne.

Ms Susan Taylor (appointed 24 January 2001, resigned 20 March 2003)

- Partner, Freehills, Melbourne.

Professor Gillian Triggs (appointed 24 January 2001 to 31 December 2003)

- Co-director, Institute for Comparative & International Law, Faculty of Law, University of Melbourne, Melbourne.

Mr Brian Wilson (re-appointed 24 January 2001 to 31 December 2003)

- Partner, Clayton Utz, Sydney.

CO-OPTED MEMBER

Professor Paul Redmond (coopted for duration of Council's current term - 31 December 2003. He was the chair of ILSAC's Legal Education and Training Committee during ILSAC's third term.)

- School of Law, University of New South Wales

NOMINATED REPRESENTATIVES OF:

- Attorney-General's Department.
- Department of Foreign Affairs and Trade.
- Department of Education, Science and Training.
- Australian Trade Commission (Austrade).
- Australian Agency for International Development (AusAID).

TERMS OF REFERENCE

1 Mission and Objectives

To improve the international performance of Australia's legal and related services, particularly in such areas as international trade involving these services and the globalisation of legal practice, international legal cooperation, international legal education and training and international commercial dispute resolution, by:

- supporting the development of Australia's legal and related services of international relevance or potential, including the development of a strategic vision which reflects the longer term collaborative, commercial and other opportunities available to Australia and the important linkages between sectoral activities;
- helping to ensure that government policies affecting legal and related services and their development and international performance are well informed and appropriately coordinated; and
- promoting and facilitating the efficient collection, analysis and dissemination of information bearing on the sector's international performance.

2 Function

(a) Advisory Council

The function of the part-time advisory Council to Government is:

- (i) to provide a high level consultative forum for key sectoral interests and relevant Government departments and agencies to coordinate, support and promote the development internationally of Australia's legal and related services, including the development of a strategic vision;
- (ii) to monitor and review domestic and international developments bearing on the performance internationally of providers of legal and related services; and
- (iii) in accordance with an agreed business plan, to advise the Attorney-General and other Ministers, as appropriate, on measures to improve the international performance of Australia's legal and related services, including possible initiatives at the domestic and international levels, to prepare research and other material, and to undertake or support appropriate activities consistent with its mission and objectives.

(b) Secretariat

The advisory Council is supported by a Secretariat. The functions of the Secretariat are:

- (i) to promote improved cooperation and information exchange between providers of legal and related services and relevant Government departments and agencies, including through the development of informal networks and contributions to relevant conferences and seminars;
- (ii) to provide a coordinating focus for information relevant legal and related services and a central point for enquiries on Australia's international capabilities;
- (iii) to undertake research and prepare papers for consideration by the Council, including coordination of inputs from other sources as appropriate;
- (iv) to manage the Council's work program and projects; and
- (v) to provide other secretariat support to the advisory Council as required.

3 Operation

The advisory Council normally meets biannually, with its committees or working groups meeting as required. The Council's work program is to accord with a business plan that is subject to approval by the Attorney-General.

4 Reporting

The advisory Council reports to the Attorney-General, and other Ministers as appropriate, at least once annually.

Mission: To Enhance the International Presence and Improve the International Performance of Australia's Legal and Related Services

1. Objective: *Enhance the international profile and performance of Australia's legal and related service area.*

Aims/Strategies	Indicative Tasks (as resources permit)	Desired Outcomes
<p>i. As the peak public-private sector consultative forum for Australia's international legal services sector facilitate the improvement of the sector's performance internationally.</p>	<p>a. Monitor, conduct research and review domestic and international developments, including the impact of information technology and knowledge management, in legal and related services.</p> <p>b. Provide advice to government on:</p> <ul style="list-style-type: none"> – policy and program coordination relevant to international legal services; – legal services market access barriers or impediments; – overseas developments in regulation impacting on transnational and other legal services; – other matters relevant to Australia's international performance in the field of legal and related services. <p>c. Provide input to bilateral, regional and multilateral trade negotiations concerning legal services.</p> <p>d. Develop and/or support activities to promote the export of legal services (eg. Australian Legal Services Missions, Export Seminar, etc)</p> <p>e. Promote greater liberalisation of legal services markets domestically (eg. through professional bodies) and internationally (eg. through WTO, APEC, etc), including the adoption of the 'limited licensing' model by a greater number of countries.</p> <p>f. Promote in Australia, the benefits internationally, in having a national legal services market regulated by uniform legislation in respect of foreign lawyers.</p>	<ul style="list-style-type: none"> • Improved opportunities internationally, through greater access in liberalised markets, for Australia's legal and related service providers. • Earnings and/or balance of trade in legal and related services exports showing an upward trend. • Increased demand internationally for Australian legal and related services. • Trend towards increased participation by Australian firms in providing transnational legal services. • Western Australia and Queensland moving towards enacting foreign lawyer legislation consistent with the model provisions endorsed by the Standing Committee of Attorneys-General. • Discernible progress towards the establishment of a national legal services market.

2. Objective: *Create greater awareness and understanding in the Asia-Pacific and other regions of Australia’s legal system as well as facilitate the establishment and improvement of links between the legal and related services sector in Australia and countries in the region and elsewhere.*

Aims/Strategies	Indicative Tasks (as resources permit)	Desired Outcomes
i. Facilitate a greater understanding of Australia’s laws, legal system and legal institutions in the region and more widely. ii. Promote in Australia a greater understanding of the laws, legal system and legal institutions in countries in the Asia-Pacific region and elsewhere. iii. Support legal cooperation activities, in both the private and public sectors, between Australia and countries in the Asia-Pacific region and other significant areas.	a. Encourage and facilitate study visits to Australia by senior members of the legal profession or from the legal and related services sector of the Asia-Pacific region and targeted countries. b. Support, where appropriate, international legal cooperation activities undertaken by private and public sector bodies. c. Support and/or attend meetings of the Australia-Indonesia Ministerial Forum Working Group on Legal Cooperation (WGLC). d. Develop and/or participate in Legal Services Missions to targeted countries. e. Improve and maintain up-to-date information on ILSAC through its internet web-page.	<ul style="list-style-type: none"> • Greater understanding in the Asia-Pacific region and elsewhere of Australia’s legal system and institutions. • Greater understanding in Australia of the legal systems in the Asia-Pacific region and elsewhere. • Increased contact and stronger links between Australia and the Asia-Pacific region and elsewhere in law and legal related services.

3. Objective: *Explore opportunities for enhancing Australia’s role in International Commercial Dispute Resolution (ICDR).*

Aims/Strategies	Indicative Tasks (as resources permit)	Desired Outcomes
i. Contribute to the development of Australia’s reputation in ICDR/ADR skills and services in the Asia-Pacific region and internationally.	a. Promote and facilitate dialogue between the various dispute resolution bodies in Australia with a view to promoting the skills of Australian ADR practitioners internationally. b. Promote awareness within the financial services industry of the capacity of Australian ADR practitioners to assist with the initiative of establishing Australia as a regional business/financial headquarters	<ul style="list-style-type: none"> • Greater demand for Australia’s ICDR/ADR services in the region and internationally. • Wider acceptance of the benefits, or a move towards the establishment, of a peak ICDR/ADR coordinating body in Australia.

4. Objective: *Support further development of Australia's international legal education and training services.*

Aims/Strategies	Indicative Tasks (as resources permit)	Desired Outcomes
<p>i. Contribute to the enhancement of the international profile and capabilities of Australia's international legal education and training institutions and services.</p> <p>ii. Promote and/or undertake, within available resources, initiatives likely to increase recognition of Australian legal qualifications overseas.</p>	<p>a. Support bilateral, regional and multilateral negotiations on the recognition of legal qualifications.</p> <p>b. Maintain and expand links with the Council of Australian Law Deans (CALD) and provide briefings on ILSAC activities and research, particularly in the area of international legal education and training.</p> <p>c. Develop ideas and strategy on 'internationalising' Australian law degrees. Obtain CALD's cooperation at an early stage.</p> <p>d. Support and participate in activities of the Department of Education Training & Youth Affairs (DETYA)/Australia Education International (AEI), IDP Education Australia Ltd and similar bodies in promoting Australia's legal education and training capabilities internationally.</p> <p>e. Support the continued annual publication and distribution overseas of <i>Studying Law in Australia</i> and expansion or revision of its content and layout.</p>	<ul style="list-style-type: none"> • A more internationally competitive legal education and training sector in Australia. • Increased opportunities internationally for Australia's legal education and training service providers. • Greater recognition of Australian law degrees internationally (eg: in Singapore, Brunei). • Increase in the number of countries from which students utilise Australia's legal education and training services. • Maintenance of, or an increase in the proportion of overseas students studying law or legal studies in Australia, including those enrolled in Australian institutions offshore. • Increased Australian academic research, study, or student interchange in the field of law in overseas countries.

5. Objective: *Improved coordination of public and private sector activities aimed at promoting Australia's international capabilities in legal and related services.*

Aims/Strategies	Indicative Tasks (as resources permit)	Desired Outcomes
<p>i. Create wider awareness of Australian government policy and progress relating to the legal and related sectors.</p> <p>ii. Create wider awareness in government departments and agencies of Australia's capabilities and international activities in the legal and related sectors.</p> <p>iii. Promote improvements to the collection and quality of statistics on international trade in legal and related services.</p>	<p>a. Update and publicise the Australian Legal Services Export Development Strategy.</p> <p>b. Undertake research on legal services issues or matters, as resources permit.</p> <p>c. Expand, develop and maintain a network of links important to the legal and related services in Australia and elsewhere.</p> <p>d. Make representations to the Australian Bureau of Statistics and other relevant agencies, on the range, depth and frequency of data needed in international trade in legal and related services.</p>	<ul style="list-style-type: none"> • Better coordinated and more effective activities in promoting Australia's legal and related services. • Better informed decision making in government departments and agencies. • Availability of detailed, relevant and up-to-date statistical information on international trade in legal and related services.

6. Objective: *Provide reports and advice to the Attorney-General and other Ministers, as appropriate, and provide advice and reports to government as and when significant issues are examined.*

Aim/Strategy	Indicative Tasks (as resources permit)	Desired Outcomes
<p>i. Provide advice and reports to the government on issues relevant to international legal and related services, including international legal education and training services.</p>	<p>a. Provide reports to keep the Attorney-General informed about the activities and work of ILSAC.</p> <p>b. At the end of the current term (ie. December 2003), provide a triennial report to the Attorney-General and other Ministers covering ILSAC's activities and achievements.</p>	<ul style="list-style-type: none"> • Government receives relevant and timely advice on issues relevant to international legal and related services. • The government and other bodies adopt policies that assist in improving Australia's international performance in legal and related services.

SUB-COMMITTEE AND MEMBER STRUCTURE

C1 Global Legal Services and Market Access Committee*

Chair: Mr Tony D'Aloisio

<u>Members:</u> Ms Elizabeth Hallett	Mr Bill O'Shea
Mr Bruce Johnston	Dr Gordon Hughes
Mr John Colvin	Mr Peter Levy
Mr Russell Miller	Ms Susan Taylor
Mr Brian Wilson	Mr Bruce Gosper/Ms Lisa Filipetto (DFAT)
Mr Lloyd Downey (Austrade)	Mr Ian Govey (AGD)

Secretariat Contacts: John Tucker (02 6250 5666) / Arjuna Nadaraja (02 6250 6212)

C2 International Legal Cooperation Committee*

Chair: Mr Bruce Johnston

<u>Members:</u> Ms Barbara Filipowski	Ms Suzanne Oliver
Mr Peter Levy	Ms Susan Taylor
Dr Gordon Hughes	Mr Paul Griffiths (AGD)
Ms Sue Connell (AusAID)	Department of Foreign Affairs & Trade

Secretariat Contact: Sandra Purser (02 6250 6749)

C3 International Legal Education and Training Committee*

Chair: Professor Gillian Triggs

<u>Members:</u> Ms Suzanne Oliver	Mr Adrian van Leest (AEI/DEST)
Mr Bill O'Shea	Professor Paul Redmond (Co-opted member)
Mr Russell Miller	

Secretariat Contact: Arjuna Nadaraja (02 6250 6212)

WG1 Market Access Working Group*

(to comprise of all members of C1, Prof Gillian Triggs, and co-opted expertise depending on the market access matter on hand)

Secretariat Contacts: John Tucker (02 6250 5666) / Arjuna Nadaraja (02 6250 6212)

WG2 International Commercial Dispute Resolution Working Group*

Chair: Ms Barbara Filipowski

Members: Mr Brian Wilson
Mr Ian Govey (AGD)

Secretariat Contact: Sandra Purser (02 6250 6749)

* *The Hon Sir Laurence Street, AC KCMG QC, as Chairman of ILSAC, is an ex officio member of all Committees and Working Groups*

**FULL ILSAC COUNCIL MEETINGS
COMMITTEE AND WORKING GROUP MEETINGS**

Full Council meetings were held on:

17th ILSAC Meeting – Thursday 8 March 2001 in Canberra
 18th ILSAC Meeting – Thursday 22 November 2001 in Sydney
 19th ILSAC Meeting – Friday 28 June 2002 in Canberra
 20th ILSAC Meeting – Tuesday 8 October 2002 in Canberra
 21st ILSAC Meeting – Friday 1 August 2003 in Canberra
 22nd ILSAC Meeting – Wednesday 3 December 2003 in Canberra

**Global Legal Services & Market Access Committee (GLS&MA) (Committee 1)
Meetings were held on:**

Thursday 26 April 2001 in Sydney
 Monday 6 August 2001 via video conference
 Wednesday 5 September 2001 via teleconference
 Wednesday 24 October 2001 via teleconference
 Tuesday 18 December 2001 via video conference
 Thursday 28 February 2002 via teleconference
 Tuesday 7 May 2002 via teleconference
 Wednesday 14 August 2002 in Sydney
 Wednesday 19 March 2003 in Sydney

**International Legal Cooperation Committee (ILC) (Committee 2)
Meetings were held on:**

Tuesday 14 August 2001 via video/teleconference
 Monday 11 March 2002 in Sydney
 Friday 20 June 2003 in Melbourne

**International Legal Education and Training Committee (ILET) (Committee 3)
Meetings were held on:**

Wednesday 5 September 2001 via teleconference
 Friday 7 June 2002 in Melbourne
 Monday 21 July 2003 via teleconference

Working Group 1: Legal Services Market Access (WG1)

WG1 did not meet during this period because work was completed through the circulation of papers as intended at the commencement of the Council's fourth term.

**Working Group 2: International Commercial Dispute Resolution (ICDR) (WG 2)
Meetings were held on:**

Thursday 3 May 2001 via teleconference

Thursday 4 September 2003 in Sydney

APPENDIX VI

ILSAC PUBLICATIONS

FREE PUBLICATIONS

ILSAC Brochure

This is an overview of the International Legal Services Advisory Council (ILSAC)

Australian Legal Services Export Development Strategy 2003 to 2006

To develop, support and implement an effective export development strategy over a three year rolling period for Australia in international legal services, particularly in the markets of the Asia-Pacific region.

Australian Legal Services Mission to Singapore 30 May to 2 June 2001 – Mission Brochure

The Mission brochure provides a brief overview of Australia's Legal Services Sector and profiles of the Attorney-General, the Attorney-General's Department, ILSAC, Australian Trade Commission, Australian law firms, University Law Schools and International Commercial Dispute Resolution parties who participated in the Mission.

Australian Legal Services Mission to Malaysia 25 to 27 August 2003 – Mission Brochure

The Mission brochure provides a brief overview of Australian Legal Services Sector and profiles of the Attorney-General, Attorney-General's staff, Chairman of ILSAC, Attorney-General's Department and ILSAC Secretariat, Australian Trade Commission, Australian Law Firms, Australian University Law Schools, Professional Associations and Commercial Dispute Resolution parties who participated in the Mission.

Australian Legal Services Mission to Malaysia 25 to 27 August 2003 – Legal Dialogue Papers, Reports and other relevant documents including Evaluation Report.

This report provides the Mission's objectives and anticipated outcomes, the Mission program, briefings by Austrade and Australian Education International (AEI) in Kuala Lumpur, an address by the Attorney-General, papers presented by the Australian Delegation, Reports of law firms and professional associations, Legal Education and Training Report, Alternative Dispute Resolution Report, Mission report (Austrade) and Evaluation Report.

PUBLICATIONS FOR SALE

A list of ILSAC publications that are available for sale is shown on the ILSAC web site:

<http://ag.gov.au/ilsac>.

STATISTICS – AUSTRALIA’S TRADE IN PROFESSIONAL LEGAL SERVICES**Table A****AUSTRALIA : TRADE IN PROFESSIONAL AND TECHNICAL SERVICES
(1999/00 - A\$ millions)**

Type of Service	Credits	Debits	Balance
Engineering services	497	493	4
Legal services	194	58	136
Research and development	231	99	132
Advertising, market research, polling	110	129	-19
Business & management consultancy	79	101	-22
Accounting, auditing & tax	51	18	33
Surveying	12	7	5
Architectural services	6	not published	not available
Other technical services	268	174	94
Total	1448	1079	369

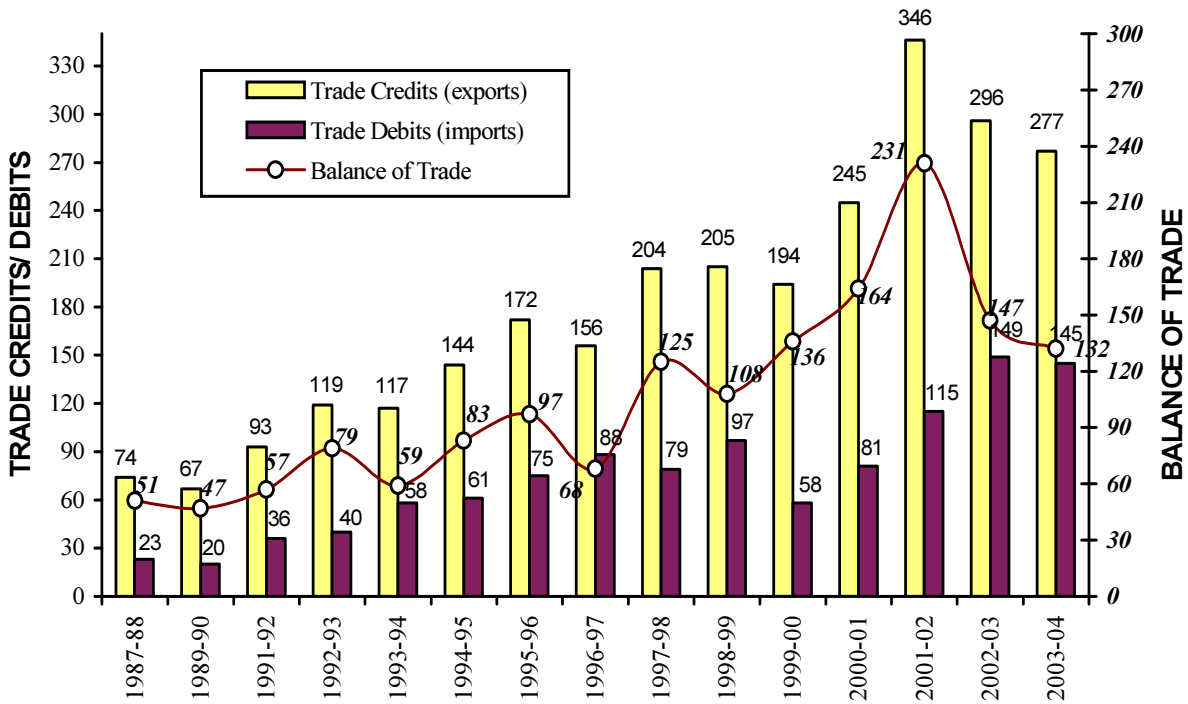
Source: ABS Cat 5302.0

Table B**AUSTRALIA : TRADE IN PROFESSIONAL LEGAL SERVICES
(A\$ millions)**

Financial Year	Credits	Debits	Balance
1987-88	74	-23	51
1989-90	67	-20	47
1991-92	93	-36	57
1992-93	119	-40	79
1993-94	117	-58	59
1994-95	144	-61	83
1995-96	172	-75	97
1996-97	156	-88	68
1997-98	204	-79	125
1998-99	205	-97	109
1999-00	194	-58	136
2000-01	245	-81	164
2001-02	346	-115	231
2002-03	296	-149	147
2003-04	277	-145	132

Source: ABS Cat 5302.0

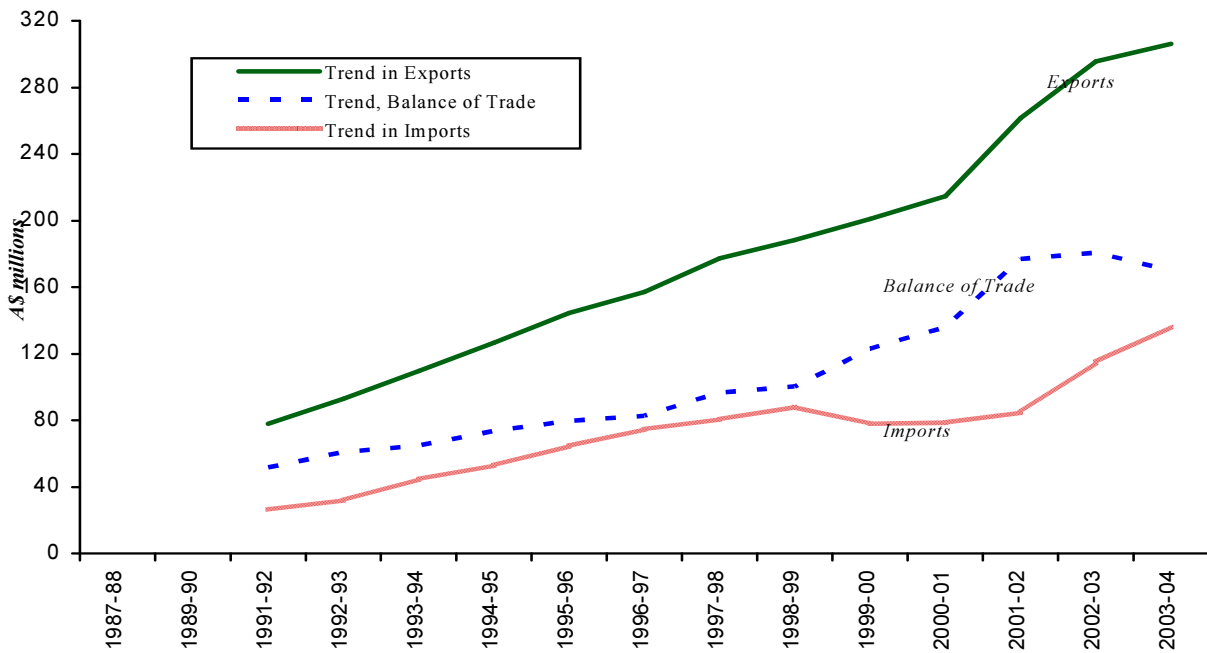
Chart A**AUSTRALIA: TRADE IN PROFESSIONAL LEGAL SERVICES***(A\$ million)*



Source: ABS Cat 5302.0

Chart B

TREND* - TRADE IN PROFESSIONAL LEGAL SERVICES



Trend based on three period moving average.
Source: ABS Cat 5302.0

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