

THE HON T F BATHURST
CHIEF JUSTICE OF NEW SOUTH WALES
LAW SOCIETY OF NEW SOUTH WALES
LAWASIA OPENING ADDRESS
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1. LAWASIA President Mr Isomi Suzuki, Law Society President Ros Everett, and CEO Michael Tidball. Thank you for inviting me to make a few short remarks this morning at this important occasion to mark the relocation to Sydney of the secretariat of The Law Association of Asia and the Pacific.

2. The arrival in Sydney of the Association, which is better known to us simply as LAWASIA, provides a broad range of opportunities for the legal profession in New South Wales. I am certain that the move also presents a variety of benefits for the Association in respect of facilities and support that are being made available by the Law Society, and also through greater access to the legal practices and practitioners in this State. I am confident that the legal profession here in New South Wales, as well as lawyers across Australia, will continue to benefit from LAWASIA's work.

3. It is important that I begin by making brief reference to LAWASIA's history and acknowledging the support that it has received from various bodies throughout Australia. As you are no doubt aware, LAWASIA was founded

nearly 50 years ago at a conference in Canberra. In more recent years, LAWASIA has been based in Darwin, and since 2004 has been hosted in Brisbane by the Queensland Law Society. Can I take this opportunity to express my sincere thanks to Chief Justice de Jersey and the Queensland Law Society for the generous support that they, and others within the Queensland legal community, have provided to LAWASIA over the past nine years. I am sure that Queensland will have a strong ongoing relationship with LAWASIA and will continue to benefit from its work, as all Australian jurisdictions have since its inception. Chief Justice de Jersey's unflagging efforts have been instrumental in the success of LAWASIA to date and I know he will continue that work.

4. The Association boasts over 1,500 individual members from more than 50 countries, with member organisations stretching from New Zealand to Nepal. In welcoming LAWASIA to Sydney, I would like to discuss several of the Association's activities that are of particular interest to me. First, LAWASIA promotes in our region principles that are fundamental to the administration of justice; in particular, the rule of law and the importance of a strong, independent judiciary. I have benefited from seeing firsthand some of the work done by LAWASIA at the Conference of Chief Justices of Asia and the Pacific which I had the pleasure of attending last year. I will return to this shortly.

5. Second, as a key organisation promoting the interests of the legal profession in the Asia Pacific, LAWASIA plays a central role in helping to foster professional and business relationships in our region. In this respect, the scale and pace of growth within Asia has been truly staggering. The rapid transformation of many of our close neighbours has unprecedented consequences for Australia and was the subject of the appropriately titled 2012 White Paper, *Australia in the Asian Century*.¹ What is particularly important is that we are now clearly operating in a global market for legal services and, as such, the rise of Asia is just as significant for the legal profession as it is for other areas of our economy.
6. The growth of Australia's trading relationship with Asia is difficult to fathom. For instance, in 2010-11 China became Australia's largest export market, rising from \$1.6 billion in 1990-91 to over \$84 billion in 2012-13.² It must of course be remembered that legal services are essential to trade. As the now-abolished International Legal Services Advisory Council observed, legal services play a vital role in "supporting and facilitating business [and] forms a critical part of the infrastructure that underpins commercial transactions".³ Recent research suggests that this year the

¹ *Australia in the Asian Century*, White Paper (October 2012) available at <http://pandora.nla.gov.au/pan/133850/20130914-0122/asiacentury.dpmc.gov.au/white-paper.html>

² DFAT, "Australia's Trade Performance 1990-91 to 2010-11" available at <http://www.dfat.gov.au/publications/stats-pubs/australias-trade-performance-1990-91-2010-11.pdf> and DFAT, "Australia's trade in goods and services by top ten partners, 2012-13" available at <http://dfat.gov.au/publications/tgs/index.html>. See also DFAT, "Australia's Trade with East Asia" (2012) available at <http://www.dfat.gov.au/publications/stats-pubs/Australia-trade-with-east-asia-2012.pdf>.

³ International Legal Services Advisory Council, "Submission on Legal Services to the Department of Foreign Affairs and Trade in respect of the Indonesia-Australia Comprehensive Economic Partnership Agreement" (March 2011).

legal industry will post revenue of well over \$20 billion and is expected to reach nearly \$24 billion by 2018-19. In addition, exports will total over \$800 million.⁴ This clearly indicates that growth within our region presents many opportunities for businesses and legal practitioners across Australia.

7. Similarly, in recent years we have seen an unprecedented number of mergers, alliance arrangements and expanding operations, both outward by Australian law firms and also global firms moving into the Australian market. There has also been a recent push led from within the legal profession for bilateral trade agreements to include measures to ease some of the difficulties associated with moving practitioners between countries, with the goal of facilitating greater access to overseas markets.⁵ What all of this shows is there are many opportunities for the profession in the coming years, and particularly so with respect to growth in our own region. LAWASIA will undoubtedly continue to play an essential role in fostering professional and business relationships between lawyers, business leaders and government representatives in the Asia Pacific.
8. As I mentioned earlier, I also had the pleasure of attending the Conference of Chief Justices of Asia and the Pacific in Singapore late last year. Judiciaries in today's age, like the executive and legislative branches of

⁴ "Food, drink, law and learning: Australia's new export profile", *BRW* (12 November 2013) referring to research conducted by IBISWorld. See summary available at <http://www.ibisworld.com.au/media/2013/11/12/australias-top-5-new-exports/>.

⁵ See, for example, Nicola Berkovic, "Firms want FTA's to ease access", *The Australian* (7 February 2014).

government, no longer operate in isolation. Organisations such as LAWASIA play an important role in facilitating dialogue between judicial officers from a diverse range of countries. Meetings such as last year's conference allow judges to share experiences, discuss reform initiatives and reaffirm the basic conditions that are essential to maintaining a justice system of the highest standard.⁶ Gatherings like those organised by LAWASIA serve an important function in promoting and protecting both the rule of law and the effective administration of justice within our region.

9. LAWASIA's objectives also include increasing general knowledge of the laws of various countries within the Asia Pacific and, where appropriate, promoting greater uniformity between laws. These are goals that I strongly support. I spoke at the Conference of Chief Justices about the importance of legal convergence and the steps that can be taken to encourage it.⁷ The benefits of increased convergence are obvious. A better understanding between countries of their respective legal systems will assist, where possible, in the development of harmonized legal principles and practices, which can in turn lead to greater certainty for those who approach the courts.

10. One example that I would like to refer to briefly is the agreements that the

⁶ See, for example, *Beijing Statement of Principles of the Independence of the Judiciary* released following the 6th Biennial Conferences of Chief Justices of Asia and the Pacific (as amended August 1997) available at [http://lists.lawasia.asn.au/objectlibrary/147?filename=Beijing Statement.pdf](http://lists.lawasia.asn.au/objectlibrary/147?filename=Beijing%20Statement.pdf).

⁷ TF Bathurst, "The Importance of Developing Convergent Commercial Law Systems, Procedurally and Substantially", 15th Conference of Chief Justices of Asia and the Pacific (28-30 October 2013).

Supreme Court has entered into with various foreign courts. These range from memorandums of understanding with courts in Singapore and New York concerning references on questions of law, to memorandums with several courts in China in relation to judicial exchange programs. In addition, in September last year the Supreme Court finalised a memorandum of guidance with the Dubai International Finance Centre Courts regarding procedures for the enforcement of money judgments. These agreements are an important tool in fostering greater uniformity between jurisdictions, particularly in the Asia Pacific. The role that organisations such as LAWASIA perform in bringing together legal professionals, academics and judges from different countries in our region is an essential step in encouraging a better understanding of the laws and legal systems of our close neighbours. These gatherings also have the potential to lead to more formal types of arrangements between countries.

11. Can I congratulate LAWASIA for the work it continues to do in promoting the fundamental values that underpin our legal system, speaking out in relation to human rights issues affecting the legal community, and facilitating professional relationships amongst lawyers in the Asia Pacific.
12. To conclude, former Prime Minister Paul Keating is well known for having once observed that if you don't live in Sydney, you are just camping out. I certainly would not consider repeating that remark – it is impolite and

undoubtedly incorrect. I would, however, say that it is delightful to welcome LAWASIA to Sydney. I am confident that LAWASIA and the legal profession both in this State and across Australia have much to gain from the arrival of the secretariat. I for one look forward to both observing and participating in the broad range of opportunities that will no doubt arise from this association between LAWASIA and the Law Society of New South Wales. I wish you the very best for the work that lies ahead.