

## **COX Submission to the Productivity Commission**

### **Cox Architecture Pty Ltd**

Cox Architecture Pty Ltd (COX) is an architectural practice of 300 to 350 people providing architectural, urban design, strategic planning and interior design services through offices in Adelaide, Brisbane, Canberra, Melbourne, Perth and Sydney.

COX has representatives in the Middle East and in Malaysia.

Cox has delivered or is delivering export architectural, urban design, strategic planning and interior design services in:

- Abu Dhabi
- China
- Dubai
- France
- Indonesia
- India
- Italy
- Malaysia
- New Zealand
- Oman
- PNG
- Singapore
- Taiwan
- Thailand
- Qatar

The most significant markets at this point in time are:

- Malaysia
- New Zealand
- China
- Singapore

### **Barriers to establishing business**

In some jurisdictions it is difficult or complicated for us to establish a business.

- In the UAE we cannot set up an architectural practice without employing one engineer or more, depending on the scale of the organization. It must be a multidisciplinary practice with architects and engineers. We do not provide engineering services and this is not a requirement in Australia.
- In the UAE we are required to be sponsored by another party to establish a business, another cost
- In the UAE there are a number of different licence “grades” that a firm is normally expected to progress through, another barrier to trade.

- Substantial fees can be required to establish a practice.
- Different licence structures apply in various jurisdictions in the UAE, further complicating processes and cost

## **Insurance**

Professional indemnity insurance in Australia is not transferable to every other jurisdiction.

- In the UAE and Oman insurance must be sourced locally, another cost and barrier to trade and an added complexity for what we believe is little benefit.
- France and other countries appear to have a completely different professional indemnity insurance system, decennial and project based not practice based, another cost and complexity.

## **Taxation and withholding taxes**

This is a common problem for us in international trade, where substantial withholding taxes can be levied on work undertaken outside Australia.

- Withholding taxes discourage the performance of work outside Australia, which inhibits our ability to serve our clients offshore. Any move to enable the taxation in the country of origin to apply wherever the entity performs the services would assist the free trade of services
- Withholding taxes are taken in the country of origin and the onus is on us to prove the work done in Australia
- Retrieving withholding taxes applied to offshore work performed in Australia can be complex accounting journeys, another cost and time barrier. We are experiencing this in Taiwan, China and India at the moment.
- It is sometimes difficult to obtain the relevant tax receipts
- Other indirect taxes can be an impost on our export of services. We appreciate this is a complex matter, but just as taxes and levies in Australia between states should be level, so should international taxes and levies.

## **Payment barriers**

There are restrictions on the payment of foreign currency which delay payment and add to the cost of payment

- Certain government entities in China still seem unable to convert currency to Australian dollars or American dollars and transfer money to Australia. Moneys are transferred to an agent who then, for a fee, sends the converted currency to Australia. This takes time and costs more money, money the client is usually reluctant to pay.
- In certain instances in the EU there are barriers to the transfer of moneys to Australia for work undertaken in that part of the EU.

## **Professional registration**

Australia has a free and open market. Architects are not required to design buildings in Australia, except for the design of apartment buildings in NSW. This means that any foreign architect or anybody can design buildings in Australia.

- We are required to have local partners in almost every international jurisdiction to sign the architects drawings.
- Mutual recognition changes have improved the landscape, but there still appear to be barriers to registration, such as residency requirements .Residency requirements can be onerous. Whilst there is a logic to residency requirements they do act as a barrier.
- As we understand it there are no mutual recognition agreements with the EU and the USA

## **Intellectual property**

Intellectual property is probably not a significant issue for architects although there have been some blatant breaches of copyright in China. Proof is so difficult and contests seem rare. This is different from the challenges facing the pharmaceutical and other serious product research and development industries.

- We have had instances where our designs have been used by clients in China and Malaysia without permission and without payment for the designs.
- We have discovered that CD's of our drawings are available to buy on the streets of Shanghai
- We have also experienced illegal use of the COX business name in China

## **Movement barriers**

Barriers to movement have been reduced.

- Client demands for instant attendance can be disrupted by the time it takes to obtain a visa in some jurisdictions where a visa is required.
- India and the UAE require a local invitation for a business visa, another cost and time barrier

## **Unreasonable regulations**

Some would say all regulations are unreasonable, but there are regulations that create barriers to work outside Australia.

- These are generally related to business barriers and professional registration
- Regulations in some jurisdictions lack transparency, so compliance becomes a risk

## **Competition practises**

Countries that contractually prefer local services over imported services are also a restraint to trade.

- Some states in Australia encourage local state service provision
- The USA had a buy American first policy that effectively meant we could not practice there

### **Contracts**

Contract law varies from country to country, with consequent differences in contract culture. For example Australian professional services contracts provide for monthly payments rather than milestone payments.

- There would be great value in having international standards for professional services contracts
- Another barrier to trade is the increasing application of Tender Bonds, Collateral Warranties, Decennial Liabilities and other high hurdles.

### **FTA's**

Government goes to great trouble, often over many years, to establish Free Trade Agreements with other countries. But little work is done to explain the possibilities that may flow from these agreements. This is particularly an issue for professional services where the trade "language" is not understood and the opportunities not clear.

- There would be advantage in ongoing government explanation of the opportunities created by each FTA.
- Trade negotiation teams could measure results for say 5 years after the negotiations are complete.

Trust this helps.

Regards,

John