

OPENING SPEECH BY ASSOCIATE PROFESSOR DORA NEO (DIRECTOR, CENTRE FOR BANKING & FINANCE LAW, NUS) AT THE 1ST ANNUAL SYMPOSIUM ON EU-ASIA FINANCIAL RELATIONS, 18 JULY 2014, RAFFLES HOTEL, SINGAPORE

Building Relationships in Financial Services – GATS, FTAs and the Singapore experience

Good evening Ladies and Gentlemen

It is wonderful to see so many of you here tonight at the historic Raffles Hotel. On behalf of the co-organisers of this event, CEPS, ASIFMA, Afore Consulting, the Sim Kee Boon Institute of Finance at the Singapore Management University and the Centre for Banking & Finance Law at the National University of Singapore, it is my great pleasure to welcome you to this inaugural symposium on EU-Asia Financial Relations. Being a national of Singapore, I am particularly delighted that the first symposium in this annual series is being held here, and I wish our overseas speakers and delegates a very enjoyable stay in Singapore. The co-organisers gratefully acknowledge the co-operation of the Delegation of the European Union in Singapore in the organisation of this symposium. We would also like to thank our sponsors: Moody's, Standard & Poor's Ratings Services, Thomson Reuters, BNP Paribas, PWS and Societe Generale.

We are privileged to have with us a distinguished and influential group of speakers and delegates who potentially have the power to shape the direction of financial relations between the EU and Asia. The particular focus of this symposium is EU-Asian capital markets regulation. On Thursday and Friday, specific matters of current interest will be discussed: (1) The internationalisation of the RMB and the implications for the global financial industry; (2) The extra-territoriality of the EU derivatives market regulations and how this might affect Asian capital markets; (3) Potential reform of asset management regulation in Asian countries to reduce fragmentation; (4) IOSCO and the setting of international standards for the securities sector in the context of Australia's G20 Presidency; (5) The current investment climate in Europe and the prospects for the Euro; (6) The sufficiency of the global prudential rules to counter systemic risks, and (7) Finally, appropriate responses to the fast changing nature of the global commodities markets. In addition to speaker and panel presentations, there will be opportunities for all delegates to share your views as we will break into small group discussion sessions.

Turning to our programme tonight, the keynote speeches will focus our attention on relationships. In the opening keynote speech, Professor Arnoud de Meyer will speak about the future of EU-Asia Relations. In the dinner keynote speeches, Mr Bernhard Faustenhammer and Mr Andrew Naylor will discuss more specifically the relationship between the EU and Singapore by looking at the prospects and challenges of the EU-Singapore Free Trade Agreement (FTA) which was signed in September 2013 but not yet ratified. It therefore seems appropriate for me to offer some observations about the building of trade relationships under the World Trade Organisation (WTO) and FTAs and share the experience of Singapore.

The WTO was formed in 1995, a reflection of the belief that free trade was a powerful driver of economic growth. By that time, the world's trading nations already had almost 50 years of building trading relationships in goods under the General Agreement on Tariffs and Trade (GATT) which came into force in 1948. A newer phenomenon was the rapid increase in trade in services, which was fast becoming the dynamic growth engine of the global economy. This led to the General Agreement for Trade in Services (GATS) which came into force in 1995. Unlike trade in goods, liberalisation of trade in services was regarded with some caution and scepticism. The approach taken in the GATS Agreement has accordingly been one of progressive liberalisation. Each WTO member needs only to liberalise as much as it is comfortable so to do. The most important pillars of GATS are market access and non-discrimination (in the form of national treatment and most favoured nation treatment). The 4 modes of supply are cross border supply (eg supplying advice by internet from abroad to persons in a host country), consumption abroad (eg where a home country person goes abroad and opens a bank account), commercial presence (eg setting up a company in the host state to supply financial services) and presence of natural persons (eg having a financial consultant visit a client in the host country). Members make commitments by sectors and subsectors (there are more than 160 subsectors in the WTO sectorial classification list) and by modes of supply. Countries may decide to offer certain sectors or subsectors for liberalisation and not others. For example, they can make commitments relating to bank deposits and life insurance, but not reinsurance or capital market activities. Within committed sectors or subsectors, members can decide whether to liberalise all 4 modes of supply or just selected modes, and they can liberalise to different degrees.

In the face of this cautious attitude towards liberalisation of trade in services generally, it is not surprising that developing relationships in financial services is even more difficult, as financial services are politically sensitive and strategically important for economic development and financial stability. At the end of the Uruguay Round in 1993, negotiations on financial services remained unfinished and

finalised commitments had to be incorporated over the next few years in the form of protocols to the agreement. Although many countries eventually made commitments in financial services, sectoral coverage was variable. For instance, developing countries tended to take commitments on insurance and core banking services rather than in capital market related services. Stronger commitments were generally made in mode 3 (commercial presence) rather than mode 1 (cross border trade). Even where commitments were made for a mode of supply like commercial presence, this did not necessarily involve major commitments such as a total elimination of restrictions on foreign ownership, but could mean merely committing to relaxing limitations, for instance from requiring 80% local ownership to 70%. In the final analysis, it would probably be fair to say that GATS commitments in financial services did not involve real liberalisation. Many countries merely bound the status quo, and others made commitments below the status quo. The ongoing process of liberalisation of trade in services is now part of the stalled Doha round. Under this new round, WTO members have made offers for further commitments in financial services, but the consensus appears to be that these improvements are not significant and sometimes even below the current more open regulatory framework that in fact exists.

With less than satisfactory progress in the multilateral trading arena, the spotlight has turned to free trade agreements as the main engine for trade liberalisation. This was a trend that started independently in the early 1990s. More than 500 of such agreements have been notified to the WTO, but many more exist, in various stages of completion and negotiation. Some FTAs, especially the early ones, may just cover goods, however, most agreements have now been expanded to include also trade in services. Between the EU and Asian countries, an FTA is in force with Korea and one has been concluded with Singapore, which you will hear more about tonight. The EU had initially sought to engage ASEAN (the Association of South East Asian nations) as a group, but later changed its mind and decided to pursue agreements with selected individual ASEAN countries instead. Negotiations are still taking place with other ASEAN countries such as Malaysia, Thailand and Vietnam, and also with non-ASEAN Asian countries such as India and Japan.

FTA partners can give more to specific counterparts than what they were prepared to do under GATS, as there is less danger of the free rider problem that exists under GATS. In the area of financial services, there might be a divergence of interests between FTA partners as to whether to include such services in their agreement and how much to liberalise. FTA partners with well established financial services industries and that are net exporters of financial services would be the main proponents of including such services in their FTAs. But if the other FTA partner lacks capacity and competence in the area of financial services, there would be little scope for striking reciprocal bargains within the same sector.

Advantages for the other FTA partner must then be sought in other sectors. Relationships between partners with equally well developed financial services industries might not be easier to navigate either, possibly due to regulatory differences. The EU and USA are currently negotiating the TTIP (Transatlantic Trade & Investment Partnership). A few days ago, it was reported in the Financial Times that the US had decided to exclude co-operation in financial regulation from the TTIP as this would complicate the regulatory landscape. There is, however, pressure from the EU and the financial services community to include financial regulation as part of the deal. The EU reportedly threatened to exclude any discussion on financial services from the TTIP altogether unless the US agreed to include financial regulation in the deal.

Let me now say a little about Singapore's FTA experience. Singapore has been very active in this field. Singapore has in force 14 FTAs in its own right, 6 FTAs in force as a member of ASEAN, and a good number others signed but not yet in force, or under negotiation. Singapore's financial sector commitments vary from agreement to agreement. I'll just observe that sometimes, significant concessions have been given by Singapore. This was the case under the US-Singapore FTA, which was the first between US and an Asian country. Singapore's generous commitments included making it easier for US banks to access its traditionally heavily regulated retail banking sector. Such substantial liberalisation has not been surpassed or replicated in Singapore's later FTAs. This treatment enjoyed by the US is probably due to a combination of its bargaining power and strategic importance as an FTA partner, and the fact that it corresponds with Singapore's own desire to open up its financial services sector.

I'll move on to the more general matter of relationship building and patterns of engagement revealed through Singapore's FTA experience. Japan, one of Singapore's FTA partners, has been relentlessly pursuing a policy aimed at promoting economic partnerships. Japan has individual FTAs with 7 of the 10 ASEAN countries, and also an FTA with ASEAN as a group. Despite Japan's ability to reach agreement on trade in services with 7 of the 10 ASEAN members individually, negotiation of the services component of Japan's agreement with ASEAN as a group is not yet concluded and the agreement currently covers only trade in goods. This again highlights the greater difficulty faced in services negotiations generally, let alone negotiations in financial services. In addition to Japan, Australia and New Zealand each have agreements with ASEAN as a group as well as with a few ASEAN member countries individually. The cases of Japan, Australia and New Zealand reflect the general approach taken by non-ASEAN countries that are interested in trading with ASEAN countries to start

off by pursuing bilateral FTAs with individual ASEAN Member States as a precursor to a wider ASEAN+ agreement.

The success of an incremental approach is also illustrated by the TPP or Trans Pacific Partnership, the ambitious trade agreement currently being negotiated between the US and 11 other countries throughout the Asia Pacific Region (including Brunei, Japan, Malaysia, Singapore and Vietnam). What many may not realize is that the TPP will be an enlarged version of the P4 (Trans-Pacific Strategic Partnership) which was first entered into between Singapore, Chile and New Zealand and which was later expanded to include Brunei. The EU is not part of the TPP negotiations. But it may have further opportunity to build trade relations in services with selected Asian countries under the new Trade in Services Agreement (TISA) currently being negotiated with 50 participants representing 70% of the world's trade in services. In addition to the EU, TISA participants include the US and countries from different parts of the world. Asian countries such as Japan, Hong Kong and Korea are participants, but none of the ASEAN countries are involved. This fast growing web of overlapping FTAs, some of which are potentially huge, must be managed carefully to avoid regulatory confusion. If this can be done, the incremental building of relationships as shown in the Singapore FTA experience augurs well for the EU's future engagement with ASEAN, that largest trading group in Asia. In particular, the EU has already started engaging with individual ASEAN members. This approach also offers hope that the multilateral trading system might be revived and built upon the foundation that has been laid by the growing number of free trade agreements that have been concluded globally, thereby bringing greater benefits to all.

I wish you a very pleasant evening and an enjoyable and fruitful symposium.

Thank you.