



CHAMBERS OF THE CHIEF JUSTICE

Your Ref:  
Our Ref: 2:192

5 December 2008

Mr Stephen Bouwhuis  
Assistant Secretary  
International Law and Trade Branch  
Attorney-General's Department  
Robert Garran Offices  
National Circuit  
BARTON ACT 2600

Dear Mr Bouwhuis

I refer to your letter of 21 November 2008 directed to the Queensland Director of Courts, Ms Robyn Hill, in relation to a review of the *International Arbitration Act 1974*.

In the body of the discussion paper, a number of questions are posed in relation to possible amendments to the Act. The only question of institutional significance for the Supreme Court of Queensland is question H: "Should the Federal Court of Australia be given exclusive jurisdiction for all matters arising under the *International Arbitration Act*?"

At present, the Federal Court and State and Territory Supreme Courts have concurrent jurisdiction in relation to the enforcement of foreign arbitration agreements in accordance with the New York Convention and in relation to the implementation of the UNCITRAL Model Law and the ICSID Convention in respect of international arbitrations conducted in Australia.

In relation to the possibility that the Federal Court be given "exclusive jurisdiction under the Act, while removing jurisdiction from the State and Territory Supreme Courts", it is said in the discussion paper that an advantage "is that this may lead to more consistent jurisprudence in applying the Act". That is the only advantage suggested as justification for what would be a diminution of the jurisdiction of the Supreme Court of Queensland among others.

The supposed advantage is plainly untenable, given the rule laid down by the High Court in *Australian Securities Commission v Marlborough Goldmines Ltd* (1993) 177 CLR 485, 492.

Question H should plainly be answered in the negative.

Yours sincerely

The Hon P de Jersey AC  
Chief Justice

The Honourable Paul de Jersey AC  
Chief Justice of Queensland