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1. GENERAL MATTERS

Since the last newsletter Chairman Tim Bugg and the Secretariat have continued advancing initiatives of priority interest to the Council. These include:

- Achieving positive outcomes on the admission of overseas qualified lawyers and working closely with the Law Admissions Consultative Committee on a longer-term solution
- USA: briefing the Australian Ambassador the Hon Kim Beazley AC and the US Ambassador Jeffrey Bleich on interests in the US. Hosting an ILSAC breakfast for visiting American Bar Association delegation
- EU: briefing the EU Ambassador David Daly on improved access to continental Europe. Meeting with a Law Society of England and Wales delegation to discuss issues of mutual interest
- Attending the Law Council of Australia Executive Retreat to brief on ILSAC's work program
- Chiring, summarising presentations and providing an ILSAC perspective at two sessions of the Law Society of Western Australia and University of Western Australia Law School's Summer School conference, and
- Visiting China to interview applicants for the 4th Australia-China Legal Profession Development program.

Further details on these are included in the **UPDATE ON CURRENT ISSUES** section below.

Ian Govey moves to AGS and John Tucker retires

Ian Govey, the former Deputy Secretary of the Attorney-General's Department, has taken up a new role as the Chief Executive Officer of the Australian Government Solicitor. Ian's strong contribution and guidance over the years has been crucial to the success of ILSAC as the pre-eminent public-private sector forum for Australia's international legal services sector.

John Tucker, the indefatigable inaugural Director of the ILSAC Secretariat retired on 7 January. John established a Secretariat embodying a culture of high quality output and his work has contributed to ILSAC's strong reputation in Australia and overseas.



2. UPDATE ON CURRENT ISSUES

Full exemptions for overseas qualified lawyers (C1 C3)

The NSW Legal Profession Admissions Board (LPAB) granted full academic and practical legal training exemptions to six of seven overseas qualified applicants, with the other applicant required to complete one subject to satisfy admission requirements. While these lawyers were initially required to undertake several additional courses, in excess of 10 for one lawyer, under the Uniform Principles for Admission, ILSAC's direct involvement, with financial assistance from the Law Society of NSW to engage a Senior Counsel, was instrumental in achieving this positive result. The six lawyers who received full exemptions were admitted in February as practitioners of the Supreme Court of New South Wales.

Tim Bugg continues to devote a considerable amount of his time on this issue, including attending meetings of the Law Admissions Consultative Committee (LACC) and working closely with its Chair to include a level of discretion to take account of experience when assessing the suitability of overseas qualified lawyers for admission. There are now in excess of 40 overseas qualified lawyers who have approached ILSAC seeking information on the assessment and admission process.

Tim is in contact with Law Society of NSW discussing the value of holding an information seminar on the LPAB processes for overseas qualified lawyers. He has briefed the Attorney-General, the Chief Justice, and the Secretary of the Attorney-General's Department on developments. We have also briefed the Secretariat of the National Legal Profession Taskforce on ILSAC's concerns on this issue.



Australia - China Legal Profession Development program (C2)

The fourth annual group of ten Chinese lawyers on the four-month development program are now in their work-placements. The program aims to promote a deeper and mutual understanding of the legal systems and institutions of Australia and China. The program's participants include three officials from the Legislative Affairs Office of the State Council as well as seven private sector lawyers from law firms across China.

This year placements are at Macquarie Bank, Mallesons Stephen Jaques, Corrs Chambers Westgarth, Victorian Department of Transport, Minter Ellison, Crown Law Queensland, Blake Dawson, Holman Webb, Clayton Utz and Bovis Lend Lease. ILSAC is grateful for their support in providing placements.

Shanghai World Expo and Legal Services delegation to Beijing (C1 C3 C4)

Preparations are under way for a series of events to showcase Australia's expertise at the Shanghai World Expo on 15 and 16 July. They are:

- a Legal Services Dinner for Australian and Chinese lawyers and business
- an Arbitration forum, and
- a Legal Education event.

The Secretariat will continue to work with the several stakeholders to implement these initiatives. At the same time, the Attorney-General's Department is also making arrangements for a high level official delegation to Beijing to engage with Chinese officials and related stakeholders.

United States of America (C1)

ILSAC has progressed engagement with the US over the quarter and its medium term strategy is to advance:

- improved access for lawyers to California and other priority jurisdictions, and
- the recognition of Australian academic qualifications for eligibility to sit State Bar exams

through engagement with the US Conference of Chief Justices (CCJ), State regulatory bodies and the ABA.

Meeting with Australian Ambassador to the US, the Hon Kim Beazley AC

Tim Bugg and Ian Govey met with Mr Beazley on 23 January to brief him on ILSAC and Australia's market access interests in the US. Mr Beazley indicated that the Embassy will assist in advancing the profession's initiatives in the US.

Meeting with US Ambassador Jeffrey Bleich

Tim Bugg, Ian Govey and Arjuna Nadaraja met with Ambassador Bleich on 9 February to brief him on the profession's interests in the US. The Ambassador was very supportive and agreed to assist in improving the two-way mobility of lawyers, particularly between Australia and his home State of California.

ILSAC Breakfast - American Bar Association (ABA)

ILSAC hosted a breakfast for the visiting International Law Section of the ABA on 10 February attended by the ILSAC

Chair, several members and invited guests, including Professor Gillian Triggs and Justice Michael Slattery. The ABA delegation was interested in ILSAC's work and was keen to maintain links, including exchanging information and possible participation at ABA meetings. The delegation proposed ILSAC consider providing input to the ABA's *Ethics 20/20 Commission*.

ILSAC will build on the momentum generated through these meetings and the LCA's continuing work in the US to engage with California, the CCJ and the ABA to progress Australia's strategic interests.

European Union (C1 C2)

On 16 March ILSAC Chair and members met a Law Society of England and Wales delegation. Matters discussed included:

- concerning trends in the admission of foreign qualified lawyers in both Australia and the UK
- priority markets for Australia and the UK
- the impact of China's economic activity worldwide and associated opportunities for law firms, and
- the Law Society offer to assist in initiatives to increase the mobility of lawyers between the EU and Australia.

The Australian Minister for Trade and his EU counterpart are keen to promote increased trade in services between Australia and the EU. ILSAC is keen to build on this developing momentum and support from the highest official levels by working with the Department of Foreign Affairs and Trade and the Law Council of Australia to advance the interests of the profession in the EU.

ILSAC Statistics Survey (C1)

The date for completion of the Third ILSAC Legal Services has been extended to the end of April 2010 to allow maximum responses from survey participants.

The Statistics Survey is important for providing a profile of emerging markets, critical areas of practice and the modes of services delivery that are most useful for service exporters. ILSAC encourages all legal and related services exporters to participate in the survey.

The Chairman and Secretariat are continuing efforts to get compliance by those yet to complete the survey.

Legal Education Symposium (C3)

ILSAC is organising a Symposium with the theme ***With what should Australian law graduates be equipped to lead the world in legal practice?*** It has been tentatively scheduled for 1 October 2010 to be held in Canberra.

Speakers and participants will be from academia, judiciary, profession (local and international), legal professional bodies, admitting authorities and ILSAC.

APEC Legal Services Initiative: draft **Best Practice Principles** released (C1)

Following the successful **APEC Legal Services Initiative** workshop in Singapore last year, draft *Best Practice Principles for the Regulation of Foreign Lawyers and Transnational Law Practice* were developed by the ILSAC Secretariat and released to participants for consideration and comment.



We expect the Best Practice Principles to be finalised over the next few weeks and finally endorsed officially by APEC members. The ILSAC Secretariat will continue to play a coordinating role in finalising the Principles. When finalised, the Principles would be a guide for all countries considering adjusting or implementing foreign lawyer regulations.

India - Bar Council of India visit and other developments (C1 C2 C3)

Bar Council of India (BCI) Visit

Sunila Srivastava of the Secretariat met with BCI officials in Delhi, India in December. The BCI has affirmed its continuing interest in a visit to Australia. The visit is now proposed for May, August, or September. At this stage there will be a split delegation, with:

- one group focussing on legal education and inspection of Australian law schools currently seeking recognition of their law degrees as a basis for admission to practise in India, and
- one group to focus on market access.

The Secretariat will confirm the date of the visit as soon as confirmation is received from the BCI and continue to work with the Law Council of Australia (LCA), Law Schools and other interested parties in organise the visit.

Lawyers Collective v Bar Council of India and Others; and recent application to ban foreign firms (Balaji)

On 16 December 2009, the High Court of Bombay affirmed its earlier decision that the *Advocates Act 1961* covers any legal work regardless of whether it is before the Court or only advice. This suggests that there is no foreign lawyer regulatory mechanism in India.

Balaji matter - a writ appears to have been filed in the High Court or Madras seeking orders to ban the activities of foreign law firms in India. We are seeking further details prior to deciding what action, if any, we should take.

Foreign Education Institution Bill (C3)

The Foreign Educational Institution (Regulation of Entry and Operation) Providers Bill was introduced to Parliament in India in March. If passed, foreign universities would have a right to establish campuses and offer degrees in India.

Legal Services Mission to India and Symposium

It is proposed that a Mission would take place in late 2010 or early 2011. The focus would be to demonstrate where and how Australian law firms can add value, particularly in the areas of business and investment, including investment into and out of India. It is expected that a Symposium with law firms and businesses from both Australia and India participating would be a key element of the Mission.

Free Trade Agreement negotiations and Market Access: China, Japan, Korea, Malaysia, ASEAN (C1)

China

FTA negotiations: ILSAC continues to work closely with the Department of foreign Affairs and Trade in seeking a right for Australian law firms to work in China in closer commercial association with Chinese law firms.

Japan

The Secretariat met with officials from the Japanese Ministry of Justice in Canberra on 13 January to discuss legal services interests, including onerous domestic regulatory requirements in Japan that operate as a significant disincentive for Australian law firms to establish in Japan and for Australian lawyers to register as foreign lawyers to work in Japan. The Ministry officials indicated that they were working on initiatives to implement improved conditions.

They were very interested in our National Legal Profession initiative as some of the delays in the registration of Australian lawyers in Japan arise as a result of the different regulatory processes and requirements that exist across Australia.

Korea

FTA negotiations: seeking a right to establish branch offices and work in commercial association with local law firms in Korea and legal services on a fly-in, fly-out basis.

Malaysia

FTA negotiations: seeking the implementation of the Bar Council of Malaysia 'roadmap' on legal services liberalisation and binding that market opening under the FTA.

ASEAN

The Australia-New Zealand-ASEAN FTA (AANZFTA) entered into force on 1 January 2010, but Cambodia, Indonesia and Laos are yet to join as parties to the FTA.

ILSAC committee meetings (C1 C2 C3 C4)

International Legal Cooperation (C2) - 26 November 2009

Matters discussed by the Committee included:

- a review of the Australia-China Legal Profession Development Program (including greater involvement from legal academics, the profession, and large law firms)
- proposed visit by the Bar Council of India delegation, and the proposed legal services mission
- potential Guest-of-Government visits from dignitaries of Indonesia and China, and
- the Shanghai World Expo.

C2 and the Secretariat will continue to develop the concept for future programs in consultation with the LCA. Chairman Tim Bugg will meet with the Large Law Firm Group, and Duncan Bentley will liaise with CALD about the program.

Executive Committee Meetings - 11 December 2009 and 11 February 2010

Chair provided updates on ongoing activities. Initiatives discussed included:

- ILSAC work made a difference in facilitating positive outcomes on the admission of overseas qualified lawyers. Discretion to take experience into consideration is crucial
- organising legal events at the Shanghai Expo, and
- support for the Legal Education Symposium, including from key stakeholders.

Sydney: International Dispute Resolution (C4)

On 3 March the Commonwealth Attorney-General and his NSW counterpart unveiled plans to fit out Australia's first international dispute resolution centre in Sydney.



4. MEETING AND OTHER CRITICAL DATES

Meeting and Other Critical Dates		
Full Council Meetings	16 or 23 June 2010 and September	Canberra
Executive Committee Meetings	15 April 2010 (1.00 – 1.30pm)	Teleconference
Shanghai World Expo 2010	15-16 July 2010	Shanghai
Bar Council of India visit to	One week in May – September 2010	Three to four cities
Legal Education Symposium	1 October 2010	Canberra

5. CONTACTS

ILSAC Executive Committee		
Chairman	Mr Tim Bugg	
Deputy Chairman	The Hon Andrew Rogers QC	
Committee 1	Mr Brian Wilson	
Committee 2	Dr Gordon Hughes	
Committee 3	Professor Duncan Bentley	
Committee 4	Ms Bronwyn Lincoln	
China Working Group	Mr Robert Milliner	
India Working Group	Ms Kerry Ryan	
Secretariat		
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