

LEGAL SERVICES COUNTRY PROFILE

CHINA

International Legal Services Advisory Council

Attorney-General's Department

Australia

January 1998

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Table of contents

1 General information	1
Official name	1
Population.....	1
Languages.....	1
Legal language.....	1
Political background	1
Form of government.....	1
Economic information	2
Per cent of GNP in services sector	2
Australia-China trade.....	3
Trade prospects	4
2 Basic legal information.....	5
Legal system	5
Sources of law.....	5
Legal development	5
Structure of the legal profession.....	5
Regulation of the legal profession	6
Law-making bodies	6
Law derived from Australia.....	6
Court structure.....	7
Professional legal education.....	8
Primarily trained.....	8
Qualifications for practice	8
Principal universities.....	9
Other domestic training institutions	10
Post-graduate legal courses.....	10
Other domestic legal qualifications.....	10
Practical legal training	11
Foreign legal training	11
Sources	11
Skills obtained	11
3 Legal services market.....	12
Professional associations/law societies/bar associations	12

Local legal firms	12
Local legal firms.....	12
Local lawyers	13
Per cent in international commerce	13
Value of legal services.....	13
Local legal firms involved in international work.....	13
Practice mix	14
Australian and other foreign legal firms.....	14
Australian firms	14
Australian lawyers	16
Local lawyers	16
Foreign legal firms	17
Status of lawyers employed	20
Commercial arbitration	22
Firms/centres	22
Principal coverage	23
Foreign restrictions	24
International instruments	24
4 Market access requirements	25
Foreign lawyer/firm regulation	25
Body responsible	25
Laws & regulations.....	25
Foreign lawyer admission to practice requirements	25
Citizenship	25
Educational qualifications	25
Experience	25
Pupillage period	25
Residency requirements	26
Government approvals	26
Other	26
Admission authority.....	26
Special admission	26
Additional requirements.....	26
Visa restrictions	26
Work permits	26
Regulation of foreign law firms.....	26

Use of firm names	27
Employment of local lawyers	27
Local firm association	27
Government approvals	27
Other.....	27
Restrictions on practice	28
Local law.....	28
Home law.....	29
Foreign law	29
International law	29
Other.....	29
Recent regulatory changes	29
Recent regulatory changes.....	29
5 Australian legal services	30
Australian law firms	30
Prospects for Australian legal services	30
Prospects for Australian legal services	30
Dispute resolution services	30
Centres/firms	30
Legal education and training	31
Overseas students studying law in Australia	31
Overseas students studying in Australia	32
Overall	32
Australian Education Centre representation.....	32
Dollar value of educational services	33
6 References/sources	34

Introduction

The International Legal Services Advisory Council (ILSAC) was established in late 1990 by the Australian Government to assist in improving Australia's international performance in legal and related services. To help achieve this purpose profiles for seventeen countries and economies of the Asia Pacific region have been prepared. The Profiles, which are intended as a guide only, cover Australia, Cambodia, China, Fiji, Hong Kong, India, Indonesia, Japan, Laos, Malaysia, Papua New Guinea, The Philippines, Singapore, South Korea, Taiwan, Thailand and Vietnam.

ILSAC is chaired by the Hon Sir Laurence Street AC KCMG and comprises representation from private legal practice, the Law Council of Australia, commercial dispute resolution centres, education institutions and relevant Government departments and agencies.

This third edition of the Profiles is designed to provide an overview of the legal and related services sector in each country or economy. The information in the Profiles is organised under the following main headings:

1. General information:	key data, legal language, form of government and economic indicators.
2. Basic legal information:	system and sources of law, structure and regulation of the legal profession, law-making bodies and professional legal education.
3. Legal services market:	professional legal associations, local, Australian and foreign law firms, and commercial dispute resolution.
4. Market access requirements:	foreign lawyer admission requirements, regulation and restrictions on foreign lawyers/firms and recent regulatory changes.
5. Australian legal services:	prospects for Australian legal services; Australian dispute resolution services and Australian legal education and training services.
6. References/sources:	list of source material and date of information contained in the profile.

Comments, additional information or corrections, and suggestions for improvement of this Profile would be welcome.

How to order

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1 General information

Official name

People's Republic of China (PRC).¹¹

Population

In 1993, the population was estimated to be 1.189 billion. The population growth rate in 1993 was estimated at 1.1 per cent.²⁹

Languages

The official language is Putonghua (Mandarin Chinese).¹⁸

Legal language

Article 134 of the PRC Constitution provides the following:

'Citizens of all nationalities have the right to use the spoken and written languages of their own nationalities in court proceedings. The people's courts and people's procuratorates should provide translation for any party to the court proceedings who is not familiar with the spoken or written languages in common use in the locality. In an area where people of a minority nationality live in a compact community together, hearings should be conducted in the language or languages in common use in the locality; indictments, judgments, notices and other documents should be written, according to actual needs, in the language or languages in common use in the locality.'

The 1979 Criminal Procedural Law contains no provision dealing directly with the language used in court proceedings. Article 113 only mentions, among other things, announcement and withdrawal of interpreters.⁴⁷

Political background

The People's Republic of China was founded in 1949, after the Chinese Communist Party's triumph in the 1946-49 civil war against the Kuomintang (KMT or Nationalist Party) and almost 30 years of political unrest.³⁸

Form of government

There is one party rule in China. China's central legislature is the National People's Congress (NPC). The NPC is elected for a five year term and elects a permanent standing committee which carries out its functions when the NPC is not in session. The President is the Head of State and is elected by the NPC, as is the Premier. The Premier heads the State Council, the supreme executive authority. The 13 member State Council (comprising the Premier, 4 Vice Premiers and 8 State Councillors) coordinates the activities of all ministries and

commissions and drafts the national plans and the central budget. The Chinese Communist Party (CCP) sets the strategic and policy directions for the Government and controls all administrative, legal and executive appointments. Its seven member Standing Committee is the real focus of power.

- Head of State: State President, Jiang Zemin.
- Head of Government: Premier, Li Peng.
- Ruling Party: Chinese Communist Party.
- Paramount Leader: Deng Xiaoping.^{11/16/30/52}

Economic information

Basic indicators	1990	1991	1992	1993
GDP (US\$ bn)	420	447	510	-
GNP (Rmb bn)	1,768.6	1,975.9	2,393.8	3,138
Real GNP growth (%)	5.2	7.2	12.8	13.4
Inflation (%)	1.6	3.0	5.6	13.0
Exports (US\$ bn)	58	75	85	92
Imports (US\$ bn)	50	66	81	104
Trade Balance (US\$ bn)	8	9	4	-12

Sources: Country Economic Brief August 1993, Department of Foreign Affairs and Trade, February 1994.
The APEC Region—Trade and Investment, Trade Analysis Branch, Department of Foreign Affairs and Trade, November 1993.

Per cent of GNP in services sector

China's services sector is relatively undeveloped. However, in 1993, the services sector represented 27 per cent of GNP and employed 19 per cent of the total work-force.⁸ The Government hopes to increase this proportion to 33 per cent by the year 2000. Significant expansion of the services sector will depend primarily on the pace and scope of economic reform, given the tight Government controls over areas such as banking, insurance and legal services.^{16/52}

Total two-way trade with Australia (1993 mn. A\$)	5,218.35
as % of total Australian trade	4.17
rank in total Australian trade	6
Value of Australian exports A\$ million	2,293.73
as % of Australian exports	3.6
market ranking in Australian exports	9
% growth (five-year trend)	18.3
Value of Australian imports A\$ million	2,924.62
as % of Australian imports	4.7
market ranking in Australian imports	6
% growth (five-year trend)	25.8

Source: Department of Foreign Affairs and Trade, 'Composition of Trade—Australia, 1993', May 1994.

Australia-China trade

Australia's trade with China continued to increase in 1993. Total trade increased by 24.4 per cent to A\$5.2 billion, reflecting a strong increase in merchandise exports of 22.2 per cent (to A\$2.3 billion) and an increase of 26.2 per cent in imports (to A\$2.9 billion).^{37/52}

Australia has broadly maintained its share of the Chinese market. Major Australian exports to China in 1993 were:

- wool and other animal hair (A\$582 million);
- iron ore and concentrates (A\$469 million);
- aluminium (A\$52 million); and
- coal (A\$50.5 million).

Australia's exports of elaborately transformed manufactures to China have recorded particularly rapid growth, increasing by 125.5 per cent to A\$423.5 million.¹

Major Australian imports in 1993 were:

- clothing (A\$808 million);
- baby carriages, toys, games and sporting goods (A\$252 million);
- textile, yarn and fabrics (A\$233 million);
- footwear (A\$220 million); and
- TV's, VCR's, radios and telecommunication equipment (A\$177 million).⁵²

A substantial part of Australia's exports to Hong Kong end up in China.¹²

Trade prospects

China is a promising market for Australian exporters of manufactured goods and technology, as well as for more traditional primary commodities. Transport, telecommunications, agricultural technology, power systems, mining technology and environmental protection are all high priorities for development in China in the 1990s. China's services sector is also to be expanded and it is prepared to allow some foreign investment.³¹

Chinese economy— current assessment

The Chinese economy continued to grow strongly during the first half of 1993 with GNP rising 14 per cent compared to the same period last year. While inflation accelerated, it was to some extent eased by strong import growth. However, slow export growth and currency depreciation served to open another channel for inflation. Strong domestic demand has resulted in the diversion of tradeable goods from exports, producing a trade deficit of US\$3.5 billion in the first half of 1993.

Signs of unsustainable growth led Beijing to impose a range of measures aimed at giving it greater control over the financial system, and improving its ability to influence aggregate demand and supply. It is too early to gauge the effectiveness of these measures. The next few years will be a crucial period for China's economic development. The key economic issue facing China's leadership is how to liberalise the economy further without an inflationary spiral and another period of overheating causing a shortage of raw materials and infrastructure problems.

China is becoming a major player on the world trade scene with two-way trade likely to approach US\$190 billion in 1993, pushing China to around tenth on the world trade ladder.

Foreign investment is a key element of China's open-door policy and economic modernisation strategy. Foreign investment in China continued to rise sharply during the first half of 1993 with 43,632 projects approved worth US\$58.76 billion (300 per cent greater than for the same period in 1992). The largest foreign investors for the period were Hong Kong, Taiwan, the US, together with Japan, followed by Canada, Germany and the UK. Investment in telecommunications equipment, machinery, chemicals, real estate and construction predominated during the first half of 1993.^{31/38}

Investment demand is continuing to maintain industrial growth and is, partially, offsetting the depressed consumer demand. The Government is expected to direct investment more towards large-scale infrastructure projects in an effort to maintain growth without fuelling inflation. The Government is currently trying to produce a trade surplus by encouraging exports and discouraging imports.

2 Basic legal information

Legal system

System of socialist law based on the civil law model.¹⁵

Sources of law

China's system of law is derived from several systems of law and political thought:

- Marxist-Leninist legal writing and Mao Zedong thought;
- the legal experience based upon the revolution carried out since 1949 under the leadership of the Chinese Communist Party;
- Chinese legal tradition;
- Soviet legal theory and system; and
- Western legislation and legal systems, particularly in areas of foreign-related legislation.¹³

Legal development

During the cultural revolution from the early 1960s to the late 1970s, law making ceased. Since 1979 and the opening up of China to the outside world, there has been a substantial transformation of China's legal system from one suitable to and consonant with an inward-looking centrally dominated system to one applicable to a "socialist market economy". China has concentrated on developing legislation governing foreign investment, including joint ventures and direct investment activities, and covering the ancillary areas of labour, tax, technology and other areas of the law. A national competition law has recently been enacted. A national corporations law was passed by the Standing Committee of the National Peoples' Congress in December 1993 and will come into effect on 1 July 1994.

The Chinese Government has also recently introduced a number of other major pieces of legislation which are central to the new policy of rule by law. Some examples of these reforms are the Administrative Litigation Procedural Law and the formation of new divisions of the People's Court such as the Economic Law and Administrative Law Division in the Supreme People's Court in Beijing and in the Higher People's Courts elsewhere.^{32/39/40/47}

Structure of the legal profession

Up until recently, most Chinese lawyers have worked in State-operated legal offices and have been referred to as State legal

workers.¹⁹ However, in a press conference held by the News Office of the State Council, the Minister for Justice, Mr Xiao Yang insisted that the legal profession was a service industry and its members were social legal workers because they serve society and members of society. Mr Xiao Yang, so rejected as a misunderstanding of the character of the legal profession, the conception of lawyers as state workers or state administration personnel.⁵⁶

According to Mr Xiao Yang, lawyers are those specialised personnel who are qualified or have acquired accreditation as lawyers and work in law and provide legal aid to the whole society. The stipulation in the *Provisional Regulations* of 1980 that lawyers were servants of the state was a necessity of the time, used to raise the social status of lawyers and to develop the legal profession.

Until new policy statements presenting different views are issued, official statements, such as those by the Minister of Justice, may be considered as having an effect tantamount to law, abrogating or qualifying any former principle of law to the extent of any inconsistency.^{13/2/47}

Regulation of the legal profession

The Chinese legal profession is regulated by the *Provisional Regulations on Lawyers in the People's Republic of China*, which was promulgated in August 1980 and entered into effect in January 1982. For three decades prior to that date there was no formal framework governing the admission or duties of lawyers. The 1980 Regulations provide for the organisation, division and function of lawyers in China.

The local Bureau of Justice supervises the operation of legal offices and the qualifications and conduct of individual practitioners.^{13/9/27}

Law-making bodies

Legislative authority rests in the People's Government. The National People's Congress (NPC) is, in theory, the supreme legislative authority. It passes laws and treaties, nominates the executive, approves the constitution and has final authority to interpret legislation. In practice, however, the NPC has simply approved decisions made by the Chinese Communist Party. The local organs of State power with legislative authority are the local People's Congresses at different levels.¹³

Law derived from Australia

In the early 1980s the Senior Partner of Chambers & Company was made a consultant to the State Council's Economic Legislation Centre and provided extensive advice on the Chinese joint venture law, based on the Australian experience.

This included extensive lectures to the drafters of that legislation.¹²

Australian expertise from a private law firm has been obtained to advise on a new Securities Law.²¹ In addition, Australians and, in particular, the Germans were influential in establishing the Patent Law.

Court structure

The general principles of the Chinese judicial system are laid down in Articles 123-135 of the December 1982 Constitution.

People's courts

The Supreme People's Court is the highest judicial organ of the State. It directs and supervises work of the lower courts and its judgments and rulings are final.¹⁸

The Local People's Courts comprise higher courts, intermediate courts and "grass root" courts.

The Special People's Courts include military tribunals, maritime courts and railway transport courts.¹⁴

People's procuratorates

The Procuratorial system is established under, and responsible to, the NPC. It is the supervisory organ of the State.¹⁸

The Supreme People's Procuratorates act for the NPC in examining government departments, civil servants and citizens, to ensure observance of the law. They also prosecute criminal cases.

The Local People's Procuratorates undertake the same duties at the local level. They ensure that the judicial activities of the People's Courts, the execution of sentences in criminal cases, and the activities of departments in charge of reform through labour, conform to the law. They also institute, or intervene in, important civil cases which affect the interests of the State and the people.¹⁴

China has decided to establish district courts in specially approved economic development districts and bonded zones, according to the Supreme People's Court. The establishment of such courts is aimed at providing better legal protection for both domestic and foreign investors in China's growing bonded zones and economic and technology development zones which are mainly concentrated in the coastal cities and are under municipal jurisdiction. Rules governing the establishment of such courts are being discussed by the Supreme People's Court.³³

Professional legal education

Primarily trained

Chinese lawyers are primarily trained locally.¹⁹

Educational and training exchanges occur where a foreign lawyer engages in an internship in a Chinese legal organisation and vice-versa. Foreign lawyers have also undertaken training courses on Chinese legal practice.^{2/9}

The curriculum in major institutions has expanded considerably in recent years. Greater legal education facilities in China and an increase in the number of exchange programs with other countries has resulted in a considerable diversification of legal services.³

Qualifications for practice

To be eligible to practise law in China (except foreign lawyers who are not permitted to practise Chinese law), a person must be a citizen of the People's Republic of China, profess the love of China, support socialism and have the right to vote and stand for elections. To be eligible to be admitted to practise law in China, a person must:

- (a) have graduated from the law department of a tertiary institution and have worked for two years or more in the judicial field, legal education or legal research; or
- (b) have professional legal training or have worked as a Judge or procurator in the People's courts and the People's Procuratorates; or
- (c) have received tertiary education and have worked for three years or more in an economic, scientific or technological field, be knowledgeable in the profession and in laws related to the profession and have undergone professional legal training and have the aptitude for the work of a lawyer; or
- (d) have attained the same level of law practice as the persons listed in (a) or (b) above, possess the cultural level of tertiary schools, and have the aptitude for the work of a lawyer.²⁷

Since 1988, all lawyers have been required to pass a National Bar Examination before being granted lawyers' certification by the Ministry of Justice to practise law. However, because of the growing demand for more qualified lawyers, since 1993, the National Bar Examination, which was originally held once every two years, has been held once a year.

Furthermore, in a press conference held on 16 October 1993, the Minister for Justice, Mr Xiao Yang, announced that a lawyers' Qualification Assessment System shall be set-up, apart from the National Bar Examination, to enable admission of more people to practise law. It was proposed that the

assessment system would consider, for the purposes of granting lawyers' certificates through assessment, those persons who:

- have received systematic legal education and those who have been engaged in legal teaching, research and practise over a long period of time;
- have long been involved in judicial and procuratorial work. They may on their retirement work as lawyers in law firms;
- have obtained law degrees abroad and have been undertaking legal work in some specific line of business in relation to finance, maritime matters, trademarks, patents etc, after receiving legal professional training and practising for a period of time in law firms.^{19/47/48/49}

Principal universities

Universities under the State Education Commission that offer law, include:

- Peking University, Beijing;
- People's University of China, Beijing;
- Wuhan University, Wuhan; and
- Jilin University, Changchun.

Universities under the Ministry of Justice that offer law, include:

- China University of Political Science and Law, Beijing;
- East China Institute of Politics and Law, Shanghai;
- North-West Institute of Political Science and Law, Xi'an; and
- South-West Institute of Political Science and Law, Chongqing.^{19/47}

The following universities also offer law: Fudan University (Shanghai); Xi'an University; South Central Institute of Politics and Law; Tianjin University of Commerce; University of International Business and Economics; Yunnan Institute of the Nationalities; Sun Yat Sen University; Guangzhou University; Hangzhou University; Hua Qiao University; Lanzhou University; Nanjing University; Nankai University; Qinghai Nationalities College; Shandong University; Shanghai University; Shenzhen University; Sichuan University; Xiamen University and Yunnan University.^{4/47}

Other domestic training institutions

In addition to the above universities and institutes which offer a full degree in law, there are schools and colleges which offer short courses at various provincial levels.¹⁹

Post-graduate legal courses

Universities and institutes that offer post-graduate legal courses, include:

- Peking University, Beijing;
- People's University of China, Beijing;
- Wuhan University, Wuhan;
- Jilin University, Changchun;
- China University of Political Science and Law, Beijing;
- East China Institute of Politics and Law, Shanghai;
- North-West Institute of Political Science and Law, Xi'an;
- South-West Institute of Political Science and Law, Chongqing;
- China Academy of Social Sciences, Beijing;
- South Central Institute of Politics and Law, Wuchang, Hubei;
- Xi'an University; and
- Sun Yat Sen University.^{18/19}

A Master of Laws degree requires three years of study (two years course work; one year thesis), while a Doctorate in law requires an additional two or three more years of study.¹⁹ Only Universities with appropriately qualified and highly reputed professors (as identified and approved by the State Education Commission) may admit candidates for doctoral degrees.⁴⁷

Other domestic legal qualifications

There are no other domestic legal qualifications, although there are a considerable number of legal workers, especially Judges, who have no formal training. Many of these have received training after commencing their position.¹⁸

Practical legal training

Graduates must spend a period in a law firm obtaining experience and pass the National Bar Examination which is held annually, before being able to become fully practising lawyers.¹⁸ (See also *Qualifications for practice*.)

Foreign legal training

Sources

In 1984, a Memorandum of Understanding (MOU) between Australia and the PRC was concluded. The purpose of the MOU was to establish a program of exchanges of legal personnel and materials between Australian and the PRC. Persons eligible under the exchange program include judges, lawyers, para-legals, scholars and those working in legally related fields.

Three lawyers from Australia took up placements in Beijing and Shanghai in 1986/87 and two Chinese lawyers visited Australia.

Overseas training of Chinese lawyers is primarily undertaken in the US and generally involves obtaining a Master of Law degree. There are also significant numbers of Chinese students studying law in a range of other European, Australasian and North American countries.¹⁸ In addition, many Chinese scholars undertake internships with foreign law firms.²

UK law firms and chambers are helping familiarise Chinese lawyers with Western legal forms, as well as advising of new laws. In 1989, the English Law Society and the Bar Council, in collaboration with the Overseas Development Administration, launched a scheme designed to introduce leading Chinese lawyers to the British system. Up until November 1993, more than 30 Chinese lawyers, selected by a mixed British and Chinese panel, had taken part in the scheme, spending several months at the offices of solicitors and at barristers' chambers. Similar schemes are taking Chinese lawyers to the US, and a range of other Western jurisdictions.⁴¹

Skills obtained

See *Sources* above.

3 Legal services market

Professional associations/law societies/bar associations

There are two major professional associations in the PRC:

- The China Law Society, whose members are lawyers and persons working in legal areas and generally considered to be lawyers or jurists, academics, government lawyers, procurators, judges etc. It has committees specialising in different branches of law and promotes research, publication as well as the holding of seminars and conferences, in those areas of law; and
- The All-China Lawyers Association, whose members are lawyers practising individually, in government law firms or cooperative law firms.

The China Law Society and the All-China Lawyers Association have branches at local, provincial and municipal levels.⁴⁷

Local legal firms

Local legal firms

China has over 5,100 law firms nationwide and 41 branch offices of foreign law firms in Beijing, Shanghai, Guangzhou, Shenzhen and Haiko.⁵⁰ The staff of typical private law firms varies from approximately 15 to 40 people.

On 11 May 1993, the Ministry of Justice is reported to have removed its control over the establishment of inter-province and inter-city branch offices.⁵¹ In addition, after a trial experimental period, strict examination and the granting of approval, local law firms may also be permitted to set up branch offices overseas.⁵² As of May 1994, only three local law firms had been able to establish overseas branch offices (in the US, Canada and Japan).⁵¹

The *Chinese Legal Daily* expressed the opinion that, while the trend is toward more and more cooperative law firms, the status of lawyers in that form of practice is not high, politically, socially or culturally, and they cannot compete effectively against government-run law firms. The work of the firms is largely non-litigational.⁵⁴

The partnership structure of legal firms is also being considered by the Government at present, as well as the private ownership of firms. There is already a growing number of lawyers operating as a 'single member firm', the first to do so was Mr Li Guo-ji of Shanghai. Sichuan Province has been trying to set up law firms limited by shares.⁵⁵

In 1994, the Secretary-General of the State Council announced the Government's intention to increase the number of private legal agencies.¹⁰

Local lawyers

In February 1994, the Minister for Justice, Mr Xiao Yang, reported that there were 90,000 lawyers in China, an increasing number of whom are entering private practice.^{28/10}

According to Mr Xiao Yang, it is expected that the number of lawyers in China will increase to 150,000 by the end of this century. A relatively flexible assessment system will be implemented as part of the National Bar Examination in order to allow more people to practise law (see *Regulation of the legal profession*). The Government also intends to widen the scope of notary services.¹⁰

Currently, only 20 per cent of lawyers in Chinese law firms hold law degrees and only 0.8 per cent have Masters or Doctorates. It is understood that there is a severe shortage of commercial lawyers with foreign language skills.⁴⁶ In 1994, the Secretary-General of the State Council announced the Government's intention to improve the economic and foreign language skills of lawyers.¹⁰

Per cent in international commerce

In 1987, the majority of Chinese legal work involved advisory services, legal documentation services and civil and criminal cases. Most Chinese lawyers have only limited experience in commercial law at the international level. Foreign legal affairs cases handled totalled 5,320. To develop expertise in this area the Ministry of Justice has concluded a number of legal exchange agreements with foreign countries, including Australia.^{2/9}

The majority of private law firms are multi-business law firms, focusing on certain areas, such as banking and finance, corporate and securities, trade, taxation and real estate. Many of the partners and lawyers have an extensive legal background, with overseas education, training and foreign language skills.⁴⁶

Value of legal services

Information not available.

Local legal firms involved in international work

An increasing number of Chinese law firms are involved in international work. One private partnership in Beijing—the J & H Law Firm—recently announced that it was opening representative offices in New York and Frankfurt.⁴¹ (See also *Practice mix* below.)

Practice mix

The Chinese firms most notably involved in international work include:

- China Global Law Office—established under the China Council for the Promotion of International Trade (CCPIT). The office represents the Bank of China and has close links with the finance ministry;
- Jingtian Associates—a cooperative law firm;
- King & Wood (Jin Du)—a cooperative law firm;²²
- C & C Law Office—established to assist the China International Trust and Investment Corporation (CITIC);
- Great Wall Foreign Economic Law Office—established under the aegis of the Ministry of Foreign Trade and Economic Co-operation (MOFTEC);
- Beijing Foreign Economic Law Office;
- China Legal Affairs Corporation;

(The latter two firms are linked to the Bureau of Justice, the provincial arm of the Ministry of Justice.)

- J & H Law Office;
- L & L Law Office; and
- C & M Law Office (Commercial & Maritime).

(The latter three firms are private firms which are collectively owned.)^{17/46}

Australian and other foreign legal firms

Australian firms

Prior to mid-1992, foreign firms were not permitted to establish full branch offices in China and could only establish consulting companies with representative offices in China offering consultation services to both foreign and Chinese clients. These offices were not allowed to practise Chinese law or perform the functions of a Chinese lawyer. Accordingly, foreign lawyers could not render formal opinions in respect of Chinese law or appear in a People's Court on behalf of clients.

Despite these restrictions, foreign lawyers played an important role in promoting and facilitating Chinese-foreign business contracts and transactions. Foreign lawyers appeared frequently in negotiations and rendered assistance to their clients in drafting contracts and other agreements.

On 1 July 1992, the Ministry of Justice and the State Administration for Industry and Commerce jointly issued the *Provisional Regulations of the Ministry of Justice of the People's Republic of China and the State Administration for Industry and Commerce of the People's Republic of China Regarding the Establishment of Offices in the People's Republic of China by Foreign Law Firms*. Under these *Provisional Regulations* foreign firms are still not permitted to practise Chinese law or hire Chinese lawyers, but are permitted to advise their clients in China on the law of their home jurisdiction, international treaties and internal customary law. The Chief Representative must be admitted to practice in the home jurisdiction, but there is no requirement that this person be resident in China.^{19/46}

Mallesons Stephen Jaques, which has been active in China advising Australian corporations investing in China through its office, Bateson Starr, in Hong Kong and from Australia, was the first Australian firm to be granted a license to establish an office in China.⁴⁵

Australian firms with other forms of representation

Australian law firms provide legal services to China through associates with Chinese Firms, their Hong Kong offices and other ways:

Firms with an associated office in China

- The Australian Legal Group (ALG) (comprising Allen Allen & Hemsley, Arthur Robinson & Hedderwicks, Freez Ruthning, Parker & Parker and Finlaysons) has an established and rapidly expanding China practice, representing both Australian and multinational corporations and Chinese government entities. This practice is currently run out of the ALG's Hong Kong office (Dunstan Styles & Co. in association with Allens Arthur Robinson) by Chinese lawyers fluent in Mandarin, Cantonese and various Chinese dialects. The ALG has also a resident representative in Shanghai, Mr Michael Cripps of ALG China Limited, and an excellent network of contacts in Chinese central and provincial governments as well as the major Chinese law firms and business organisations.²⁸
- Chambers & Company has established a formal association with a leading Chinese law firm, King & Wood (Jin Du) Law Office in Beijing. It was one of the first Australian law firms to establish an active Chinese practice in the mid-1980s and represented the Chinese Government on its first major foreign investment. It continues to represent many Chinese Government ministries and corporations in Australia. The firm has excellent networks to the senior levels of the Chinese Government. It advises on many large projects and investments in China for Australian and

Legal Services Country Profile: China

foreign clients. It has a number of Chinese-qualified lawyers who speak Mandarin.¹²

- Mallesons Stephen Jaques through its office in Hong Kong, Bateson Starr, (established in 1987), in conjunction with its Beijing office, services its clients in relation to China matters.⁴⁵
- Minter Ellison Morris Fletcher, from November 1987 until 31 December 1993, operated a joint venture office with nine other international law firms under the name Interjura Consultancy Services Ltd. As with all law firms established prior to mid-1992, Interjura Consultancy Services Ltd was a consultancy and not a law firm.²⁰ The firm operates in Hong Kong jointly with the major English firm, McKenna & Co, which has recently been granted a licence for an office in Beijing under the *Provisional Regulation*. The firm also has a consultant in Beijing, Mrs Dawn Tan of Oxford Associates Inc., who assists clients in China.⁴⁶

Firms represented in China

- Phillips Fox has a good working relationship with The Punder Group—a German Law firm with a Chinese presence.⁵
- Sly & Weigall are represented in Beijing by Graham & James which operates under the name Graham & James in association with Deacons and Sly & Weigall. Sly & Weigall is also represented in Guangzhou by Deacons which operates under the name Deacons in association with Graham & James and Sly and Weigall.^{19/20}

Other international firms with links to Australia

- Baker & McKenzie has been granted a licence to establish a law office in Beijing. In addition, the firm maintains links to two consultancies; one in Guangzhou and one in Shanghai.²²
- Coudert Brothers has an associated office in Beijing. The contact partner is Mr Bruce Schulberg.

Australian lawyers

There are a number of Australian lawyers who have developed many years of experience in carrying out projects for China.¹⁹

Local lawyers

Not applicable (see *Employment of local lawyers* under *Regulation of foreign law firms* below).

Foreign legal firms

Prior to mid-1992, foreign firms were not permitted to establish full branch offices in China and the following approaches were used in establishing a presence in China:

- registering an office on behalf of a client company under the PRC's rules on the establishment of "representative" or "liaison" offices;
- forming a "consulting company" in the US or Hong Kong which in turn registered a representative office in China; and
- having the firm's lawyers nominated as legal advisers for their client's China representative office.³⁴

When the US and China resumed full diplomatic relations in 1970, Coudert Brothers became the first US law firm to establish an ongoing presence in China. Initially, the presence consisted of frequent visits to Beijing by attorneys living in Hong Kong. A number of other US law firms opened unofficial offices in China during the 1980s, as China-US trade began to increase and US investment there mounted.⁴³ By the mid-1980s, about twelve law firms from the US, European Community (EC) and Hong Kong had established their presence in China in one of the above forms.³⁴

In 1993, foreign law firms with a presence in Beijing, included:

- Baker & McKenzie;
- Coudert Brothers;
- Deacons and Graham & James;
- Gide Loyrette Nouel (associated with Interjura);
- Johnson Stokes & Master;
- Kaye Scholer Fierman Hays & Handler;
- Lovell White Durrant;
- Mannheimer Swartling (associated with Interjura);
- Minter Ellison Morris Fletcher;
- Paul Weiss Rifkind Wharton & Garrison;
- Punder Volhard Weber & Axster;
- Skadden Arps Slate Meagher & Flom; and
- Victor Chu & Co.^{17/26}

Most of these firms were established as representative offices or as a consultancy corporation.¹⁹ Reportedly, the Chinese Government was aware of the existence of "de facto" foreign law firms in China but did not take any measures to either officially authorise them or to force them to close.

The drafting of regulations authorising foreign law firms to open an office in China was commenced by the Ministry of Justice in China prior to 1980.³⁴ On 1 July 1992, the Ministry

of Justice and the State Administration for Industry and Commerce jointly issued the *Provisional Regulations of the Ministry of Justice of the People's Republic of China and the State Administration for Industry and Commerce of the People's Republic of China Regarding the Establishment of Offices in the People's Republic of China by Foreign Law Firms*. Under these *Provisional Regulations* foreign firms are still not permitted to practise Chinese law. That remains the exclusive prerogative of Chinese lawyers and law firms.¹⁹ Five cities are designated as possible sites by the Chinese authorities: Beijing, Shanghai, Guangzhou, Shenzhen and Haikou.* Firms cannot open an office in more than one of these centres.

Twelve overseas law firms from the US, Hong Kong, UK, and the EC were initially authorised to establish offices in Beijing, Shanghai and Guangzhou.¹⁹ A large number of other overseas law firms submitted applications for the establishment of an office in China.²⁷ A licence to open offices in China was recently granted to another 22 foreign law firms. This was the third and largest round of approvals since October 1992 when 12 foreign firms were granted licences. Beijing was the most popular destination, followed by Shanghai and then Guangzhou. Other centres have figured, including Nanjing and Hainan island, but thus far foreign firms have remained in the major commercial centres. At present there are 41 foreign law firms from the US, Hong Kong, Taiwan, Australia and the EC which have been granted licences to establish offices in China.⁵⁰ These include:

Shanghai

Robert Lee & Fong
Philip K.H. Wong, Kennedy Y.H.
Wong & Co
Vincent T.K. Cheung, Yap & Co
Patrick Leong & Man
Clifford Chance
Boughton Peterson Yang Anderson
Sinclair Roche & Temperley
Davis Wright Tremaine Law Office
Kao, Lee & Yap
Alan Lan & Norris Yang

Guangzhou

Gallant Y.T. Ho & Co
Ng & Shun
K.M. Lai & Li

Becker & Poliakoff, P.A.
Masons
Stephenson Harwood & Lo
Deacons
David Y.Y. Fung & Co
Haikou, Hainan
Boris Lui & Co

* Each of the designated cities offers certain advantages. Beijing facilitates close collaboration with the national government. Shanghai is the most prominent financial and trading centre. Guangzhou and Shenzhen are in the Guangdong Province which is adjacent to Hong Kong, where there has been rapid industrial development. The southern island of Hainan, where Haikou is located, is also becoming a target area for foreign investment.

Shenzhen

Hastings & Co

Siao, Wen & Leung

Beijing

Coudert Brothers

Adamas

Denton Hall Burgin & Warrens

Lovell White Durrant

Baker & McKenzie

Graham & James

Charles-Henri Leger

Livasiri & Co

Mallesons Stephen Jaques

Punder, Volhard, Weber & Axster

Paul, Weiss, Rifkind, Wharton & Garrison

Allen & Overy

Shearman & Sterling

McKenna & Co

Law Office of Donald Paragon

Woo, Kwan, Lee & Lo

Chu and Lau

Vivien Chan & Co

Foreign law firms also provide legal services to China through a variety of alternative arrangements, including those:

- based in Hong Kong which use the centre to provide legal services to China and to handle other international business, for example, Sullivan & Cromwell;
- in alliance with Hong Kong-based firms, which have a licence to open an office in China. In the UK, this route has been taken by Gouldens which recently announced a formal association with Alan Lam & Norris Yang (which has been granted a licence for a branch office in Shanghai) and a lawyer from Gouldens has been posted to Hong Kong; and
- which already that have some representative presence in Beijing but have decided against upgrading this to a branch office(s) so that they can open in another city. Baker & McKenzie, in addition to its licensed office in Beijing, has established two consultancies; one in Guangzhou and one in Shanghai.³⁴

Status of lawyers employed

Local lawyers

Chinese lawyers are generally not employed in the offices of foreign law firms. Chinese lawyers cannot act as representatives of a foreign legal entity and appear before a Chinese court. Foreign firms may retain a Chinese lawyer to act on behalf of a client or to assist with a project. Generally, Chinese lawyers function as assistants to foreign lawyers.² (See also *Employment of local lawyers*.)

Foreign lawyers

With the increased number of foreign law firms establishing consultancies or full offices approved under the July 1992 *Provisional Regulations*, the number of foreign lawyers in China is expected to increase rapidly.¹⁹ Most foreign law firms establishing branch offices in China are, however, being cautious about staffing, hence commencing operations with one or two resident lawyers and expanding only as demand increases.⁴³

Principal home countries

The home countries for most of the foreign firms are the US, UK, Hong Kong and other EC countries.¹⁹

Practice mix

Although, officially, foreign lawyers are not allowed to give advice on Chinese law, the work of foreign law firms does

include providing opinions to foreign clients on Chinese law. It is mainly related to:

- business and investment issues;
- sales and supply contracts;
- technology transfers;
- loan transactions;
- balancing foreign exchange;
- trade mark, patent, company name and copyright matters;
- arbitration and other forms of dispute resolution; and
- tax planning.

Foreign legal firms are permitted to advise on matters related to third country law; for example, in the case of business transactions between China, the client's home country and a third country. Chinese entities have also requested advice regarding investment in China. Chinese organisations have access to the services of foreign law firms or consultants.^{2/27}

It is reported that there has been a significant change in the nature of business by US law firms in China over the past decade. Initially, the practice consisted almost exclusively of advising US investors about joint ventures, often to develop factories, hotels, mines or offshore oil concessions, and the deals were usually not very large or sophisticated. By 1986-7, US law firms began to advise Chinese companies which encountered problems overseas, often the result of difficulties with anti-dumping legislation in the US. Subsequently, they also began to represent Chinese parties involved in foreign litigation and arbitration. The American Arbitration Association and its Chinese counterpart are currently in the process of establishing a joint facility in New York to resolve commercial disputes by non-judicial means. By 1993, Chinese deals tended to be larger and more sophisticated than in the past, and they could also involve Chinese companies venturing overseas or foreign companies targeting the purely domestic Chinese market.

Since 1993, the most significant new area to emerge has been in securities business, reflecting China's enormous desire for foreign capital to assist its economic growth and development. Another major activity of US law firms at present is project finance, as China attempts to upgrade, expand and modernise its infrastructure, especially in the priority areas of energy, telecommunications, electronics and transportation.⁴³

Foreign law firms have, in the past several years, represented Chinese parties appearing in litigation concerning anti-dumping investigations, product liability and commercial disputes before the national courts in countries where foreign law firms are licensed to practise locally. Foreign firms have also been engaged by Chinese clients to participate in arbitration

proceedings administered by the International Chamber of Commerce (ICC), Stockholm Chamber of Commerce (SCC), Japan Commercial Arbitration Association (JCAA), London Court of International Arbitration (LCIA), American Arbitration Association (AAA) and other major arbitration institutions in the world.³⁴

It is reported that the daily activities of foreign firms in China include finding partners for foreign investors, preparation for negotiation, documenting investment projects, negotiations with Chinese partners and contracting with various government authorities.³⁴

Examples of the involvement of Australian law firms in legal services in respect of China, include Phillips Fox's major role in the listing of a Hong Kong company (Guangdong Corporation Limited) on the Australian Stock Exchange.⁴⁴

Many Australian law firms have developed Chinese language skills. For example, Minter Ellison Morris Fletcher regularly drafts Chinese joint venture contracts in Chinese using a Chinese word processing system and employs lawyers who are fluent in Mandarin.⁴⁶

Commercial arbitration

The judicial process in China emphasises mediation rather than litigation for resolving civil disputes. Consequently, mediation organisations have formed a comprehensive network; as at February 1994 there were 10.2 million mediators in 1.02 million committees.¹⁰ During 1993 mediation organisations handled 5.86 million civil cases, registering a 92 per cent success rate.¹⁰

Because of the emphasis on mediation, Chinese lawyers used to be reluctant to litigate. However, with civil disputes on the rise, particularly economic disputes between Chinese and foreign parties, attitudes are changing. Chinese lawyers are now more forthcoming in advising their clients to litigate in a Chinese court or to invoke arbitration and the last few years have witnessed an increasing number of PRC litigations and arbitrations.³⁶ In 1993, 416,159 civil and business cases were judicially resolved, representing an 11.2 per cent rise over 1992.¹⁰

Firms/centres

China has a reasonably well-developed and active system of arbitration. Although (as mentioned above) the Chinese tend to prefer negotiation and mediation as a means of resolving disputes, there is an increasing reliance on formal arbitration proceedings. There are two Commercial Arbitration Commissions in China for arbitration involving foreign parties:

- China International Economic and Trade Arbitration Commission (CIETAC) of the China Council for the Promotion of International Trade (CCPIT).

- CIETAC was established in 1956, when it was known as the Foreign Trade Arbitration Commission (FTAC). In 1980 it was renamed the Foreign Economic and Trade Arbitration Commission (FETAC), and in 1989 it became the China International Economic and Trade Arbitration Commission, as it is known today. CIETAC handles cases involving parties from more than 30 countries and regions across the world.³⁵ The Commission is located at:

**1 Fuxingmen Wai Street
Beijing
Telephone: 866-118**

(Note: Sub-commissions are located in Shanghai and Shenzhen.)

- China Maritime Arbitration Commission (CMAC) of CCPIT.

- The Commission is located at:

**1 Fuxingmen Wai Street
Beijing
Telephone: 801-334 ext 1811²**

Principal coverage

- CIETAC handles disputes arising from:
 - joint ventures, cooperative management, co-production or joint exploration of natural resources involving Sino-foreign investment, transfer of technology, financing and loans, foreign investment in China, leasing, etc;
 - foreign trade (including materials processing, component assembling and compensation trade) and/or from commission for sales and purchase; and
 - transportation, insurance, storage of goods and other disputes related to foreign trade.
- CMAC handles disputes arising from:
 - salvage services, collisions between vessels, chartering vessels agency services, carriage by sea under contracts of affreightment, bills of lading or other shipping documents, marine insurance and other disputes relating to maritime transport.²

According to the *China Daily*, China has decided to establish courts in special economic zones to handle the increasing numbers of business disputes. It was reported that this move is

aimed at better protecting investors in the country's booming regions of Shenzhen, Xiamen, Zhuhai, Hainan and Shantou along coastal China.²⁴

Foreign restrictions

Article 12 of the CIETAC Arbitration Rules, of 12 September 1988, allows parties to be represented in arbitration proceedings by a "representative" who may be Chinese or a foreign citizen.³⁴ Foreign lawyers are allowed to appear before CIETAC tribunals if they have been authorised by the parties engaging them. In CIETAC arbitrations, parties are permitted to select counsel of their choice and the language of arbitration is Chinese. In practice, however, communications between CIETAC's Secretariat and foreign parties are all conducted in English.³⁴ Furthermore, foreigners have been appointed as arbitrators on CIETAC.¹⁸ CIETAC has appointed four foreigners as arbitrators in Beijing.²²

The Arbitration Rules of CMAC permit parties to arbitrations and conciliations before this body to be represented by foreign lawyers.¹³

International instruments

China became a signatory to the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1965* (ICSID) on 9 February 1990. It is understood that the Convention came into force in China in February 1993.

China became a party to the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)* on 22 January 1987. The Convention became enforceable in China on 22 April 1987.

China has not adopted the *UNCITRAL Model Law on International Commercial Arbitration (1985)*.^{21/27} However, it has served as a guide when the Chinese arbitration rules were amended in 1988, and reportedly will be referred to when the rules are further amended and a Chinese arbitration law separate from the Civil Procedure Law is drafted.

4 Market access requirements

Foreign lawyer/firm regulation

Body responsible

Article 19 of the *Provisional Regulations of the Ministry of Justice of the People's Republic of China and the State Administration for Industry and Commerce of the People's Republic of China Regarding the Establishment of Offices in the People's Republic of China by Foreign Law Firms*, provides that the Ministry of Justice is the government authority in charge of foreign law offices, and exclusively administers, supervises and examines the business activities of foreign law offices established by foreign law firms within the territory of China on a uniform basis. The Ministry of Justice authorises provincial and municipal Departments (Bureaux) of Justice, in the place where the foreign law office is located, to administer, supervise and examine the business activities of foreign law offices in accordance with these Provisions.³⁴

Laws & regulations

On 1 July 1992, the *Provisional Regulations*, were jointly issued by the Ministry of Justice and the State Administration for Industry and Commerce.^{19/27}

Foreign lawyer admission to practice requirements

Although admission to practise law in China is limited to Chinese citizens, the *Provisional Regulations* envisage that foreign lawyers nominated by a licensed foreign law firm may practise foreign law in China.¹⁸

Citizenship

Admission to practise Chinese law is limited to Chinese citizens who support the socialist system and have acquired suitable education in law and practical experience.⁹ (See also *Special admission*.)

Educational qualifications

Not applicable.

Experience

Not applicable.

Pupillage period

Not applicable.

Residency requirements

Not applicable.

Government approvals

Not applicable.

Other

Not applicable.

Admission authority

Not applicable.

Special admission

On 9 January 1994, the Vice Minister of Justice, Mr Wang Julu, announced at a press conference that from 1994, residents from Hong Kong, Macau and Taiwan may be permitted to sit for the National Bar Examination. Whether they can actually practise as Chinese lawyers within or outside China and deal with Chinese legal affairs will depend upon the corresponding policies, rules and regulation which are being formulated.⁴⁹

Additional requirements

Visa restrictions

Three month visas are generally available on request at diplomatic offices where the foreigner has an invitation from a business or institution. Visas for longer periods are generally only available after negotiation with the appropriate authorities within China.¹³

Work permits

The availability of work permits to private foreigners is restricted. Work permits for longer than three months are usually only available after negotiation with the appropriate authorities within China.¹³

Regulation of foreign law firms

Although admission to practise law in China is limited to Chinese citizens (see also *Market access requirements*), the *Provisional regulations* allow the setting up of offices of foreign law firms in China. Foreign law firms may apply for a license to open a full branch office in China if their country gives reciprocal rights to Chinese law firms (Article 6—*Provisional Regulations*).¹⁸ The licensed foreign law firm may, however, only practise the law of its home jurisdiction.²⁸

Use of firm names

Prior to the introduction of the *Provisional Regulations* in July 1992, foreign law firms could only operate as consulting companies and the names of the firms generally reflected this, for example, Deacons Consulting Company Limited, Beijing Office.¹⁹

Following the changes, authorised foreign law firms are allowed to use their firm name, but generally are required to indicate from which jurisdiction the firm originates.¹⁹ Article 10 of the *Provisional Regulations* states that the name of the foreign law office shall be: “(name of the law firm), (name of the city where the office is located) Office”.

Employment of local lawyers

Chinese lawyers are prohibited from being employed in foreign law offices (Article 17—*Provisional Regulations*).¹⁸ This is because they cannot act as representatives of a foreign legal entity and appear before a Chinese court. Foreign firms may retain a Chinese lawyer to act on behalf of a client or on a project basis. In most cases, Chinese lawyers function as assistants.² (See also *Foreign legal firms—Status of lawyers employed*)

Local firm association

Prior to the introduction of the *Provisional Regulations* in July 1992, formal associations between foreign and local law firms were not permitted. Since the changes, no government policy on foreign firm associations with Chinese firms is known.¹⁹

Government approvals

Foreign law offices intending to establish a law office in China must submit a written application to the Ministry of Justice (Article 7—*Provisional Regulations*). Documents required for applications are outlined in Article 8—*Provisional Regulations*.

Within thirty days from the date of the Certificate of Approval, the applicant must apply for registration at the State Administration for Industry and Commerce (Article 9—*Provisional Regulations*). As foreign firms are only allowed one office in China they are required to re-register with authorities in that city.

Administration of foreign law offices is conducted by the Ministry of Justice and by local level Bureaux (Article 19—*Provisional Regulations*).¹⁸

Other

The regulations only permit licensed foreign law firms to maintain a branch office in one of the designated cities: Beijing, Shanghai, Guangzhou, Shenzhen and Haikou.

Foreign Law firms are not permitted to provide legal services in the guise of a consultative or commercial company or any other form (Article 3—*Provisional Regulations*).

The term of residence of a foreign law office is five years. This may be extended if approval is given (Article 11—*Provisional Regulations*).

Foreign law firms are directly liable for their offices' taxes and debts in China (Article 14—*Provisional Regulations*).

Foreign law firms must abide by Chinese law, allow no act which endangers China's national security, public or social interest and must not infringe the lawful rights and interests of citizens and legal persons (Article 4—*Provisional Regulations*).

In accordance with principle of reciprocity, if the home country of a foreign law firm permits Chinese law firms to establish offices within the territory of such country, such foreign law firms may establish offices within China (Article 6—*Provisional Regulations*).

Restrictions on practice

Prior to July 1992, no foreign law firms could legally operate at all in China, other than as consultancies. Only those firms approved by the Ministry of Justice since July 1992 are permitted to practise foreign law in China. The scope of permissible activities of licensed foreign law offices is outlined in Article 15 of the *Provisional Regulations*. Foreign law firms are not allowed to practice Chinese law. Foreign firms may advise foreign entities on investment and other transactions relating to China and advise Chinese entities on their activities abroad.^{18/19}

Local law

According to the *Provisional Regulations* (Article 15) foreign firms are allowed to:

- advise on their home country law and international treaties, international commercial law and practices;
- represent clients or Chinese law firms on legal matters in the firms' home countries; and
- retain PRC law firms to handle local legal matters on behalf of clients.

Foreign law firms are not allowed to:

- engage in “acting as an agent in Chinese legal matters”;
- explain Chinese law to clients; and

- engage in other activities not permitted to be engaged in by foreigners under Chinese law.

Home law

See *Local law* above.

Foreign law

Foreign lawyers nominated by the licensed foreign law firm can give advice on foreign law and international conventions in China.¹⁸

International law

See *Foreign law* above.

Other

Foreign lawyers cannot appear in Chinese courts on behalf of clients, only Chinese lawyers are permitted to appear. Foreign lawyers have, however, been permitted to act for foreign clients in conciliation and arbitration proceedings. For example, the CIETAC Arbitration Rules, permit a party to “confer” with the Commission through a foreign attorney.⁹

When foreign lawyers participate in court proceedings in China, they typically retain the services of a PRC law firm to assist with Chinese legal aspects of the case. Mediation conducted by the China’s People’s Court, and outside the court in cases of dispute, is deemed to be one of the main characteristics in China’s litigation. Therefore, foreign lawyers, though not permitted to appear in a court as lawyers, are finding this alternative dispute resolution (“ADR”) suitable.³⁴

Recent regulatory changes

Recent regulatory changes

See *Foreign lawyer admission to practice requirements* regarding reforms to the admission of foreign lawyers.

5 Australian legal services

Australian law firms*

(*Australian law firms and lawyers providing services see 3—*Legal services market*)

Prospects for Australian legal services

Prospects for Australian legal services

Against the background of increasing interest of Chinese corporations in investing or establishing representative offices in Australia, opportunities exist at present for Australian law firms to assist these companies.

Also, following the successful listing of the Guangdong Corporation, another Hong Kong based Chinese property developer has recently released details of an \$8.75 million float on the Australian Stock Exchange which may present further opportunities.

The long term prospects are more promising as China becomes more integrated into the world economy and international pressure is brought to bear on the standardisation of China's legal system.²

Dispute resolution services

Centres/firms

The Australian Centre for International Commercial Arbitration (ACICA) provides services on the settlement of international commercial disputes of all kinds to the region. The Institute of Arbitrators Australia, which controls ACICA, has as its main objectives the education and training of arbitrators and their grading, the nomination of arbitrators to arbitrate domestic disputes, and the promotion of arbitration as a means by which commercial disputes can be resolved. ACICA has entered into arrangements with the International Centre for Settlement of Investment Disputes (ICSID) in accordance with the provisions of the ICSID Convention.

ACICA has concluded a co-operation agreement and is in regular communication with CIETAC and the China Maritime Arbitration Commission (CMAC) in Beijing.

ACICA is a member of the Council of Asia Pacific Commercial Dispute Resolution Centres and has close relationships with the ICC Court of Arbitration in Paris.

The panel of international arbitrators maintained by ACICA includes persons from the PRC and similarly the arbitral panel maintained by CIETAC in the PRC includes persons representing Australia.

For further information on ACICA²⁵ contact:

**The Secretary General
ACICA
Level 1
22 William Street
Melbourne Vic 3000
Telephone: (03) 9629 6799
Facsimile: (03) 9629 5250**

The Australian Commercial Disputes Centre (ACDC) provides consulting, training and dispute resolution services both domestically and internationally. It concentrates on mediation, expert appraisal and determination. ACDC has entered into arrangements with the ICSID in accordance with the provisions of the ICSID Convention.

ACDC is the LCIA Registry for the whole Asia Pacific region including the PRC. LCIA's services are available to all involved in international commercial activity. It is open to any party to elect to have his/her dispute determined under the internationally recognised LCIA Arbitration Rules or UNCITRAL Rules. LCIA Rules are available in Chinese text.

ACDC is also a member of the Council of Asia Pacific Commercial Disputes Centres.

For further information on ACDC²³ contact:

**The Chief Executive Officer
Australian Commercial Disputes Centre
Level 5
50 Park Street
Sydney NSW 2000
Telephone: (02) 9267 1000
Facsimile: (02) 9267 3125**

Legal education and training

Overseas students studying law in Australia

Undergraduate/post-graduate

In 1993, there were 12 (1992: 13) Chinese students recorded as studying law (undergraduate and post-graduate) at Australian (public & private) Universities.⁷

Short courses

Not known.

Overseas students studying in Australia

Commonwealth-funded higher education institutions

In 1993, there were 3511 (1992: 4565) Chinese students recorded as studying at Australian publicly-funded tertiary institutions.⁷

Overall

There is active interest from Chinese students in studying in Australia. In October 1992, the Australian Government announced changes to entry arrangements for students from China which imposed more stringent criteria on all applicants except post-graduate and Government sponsored students. Chinese authorities prohibit direct recruitment activity by overseas educational institutions. There are also some variations in the way regional authorities handle exit permit applications. It is important that any marketing activity avoids transgression of Chinese regulations. Chinese educational institutions are developing linkage programs with Australian institutions.³¹

Qualifications recognised

Most Australian law schools will recognise a Chinese law degree for the purposes of admission to graduate programs.

Chinese law degrees are not recognised for admission to practice purposes. Chinese lawyers or law graduates in Australia would be required to complete at least 75 per cent of an Australian law degree to cover the areas of knowledge required for admission to practice in Australia. As Chinese lawyers already have an undergraduate law degree from China, the Australian law degree undertaken is at the graduate level (three years full-time), where available.¹⁹

Australian Education Centre representation

International Development Program of Australian Universities and Colleges Ltd (IDP)⁶ China Representative

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50 Liangmaqiao Road
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Legal Services Country Profile: China

Department of Employment Education and Training (DEET)
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Mr Laurie Fisher
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21 Dongzhimenwai Dajie
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Facsimile: (86 1) 532 5585

Dollar value of educational services

Information not available.

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