

HONG KONG-MAINLAND PROFESSIONAL DEVELOPMENT PROGRAMME

INTRODUCTION

1. This paper seeks to explain the Professional Development Programme (“the Programme”) which has been successfully organised by the Law Society of Hong Kong (“the Law Society”) since March 2001 for Mainland lawyers and Hong Kong solicitors.

There are two sets of arrangements under the Programme. The in-bound arrangements under which Mainland lawyers are seconded for a period of 4 weeks to individual Hong Kong firms of solicitors (“the In-Bound Programme”) and the out-bound programme through which Hong Kong solicitors are seconded for a period of 2 weeks to law firms in the Mainland. (“the Out-Bound Programme”)

BACKGROUND

2. In collaboration with the All-China Lawyers Association, the Law Society has, for many years, been engaged in organising training by Hong Kong law firms for Mainland lawyers coming from various cities and provinces, mostly from Shanghai, Beijing, Guangdong and Tianjin (“the ACLA Scheme”). Normally, each of the lawyers selected for training would be posted to a firm that offered training facilities in-house. A subsidy in the region of HK\$12,000.00-HK\$15,000.00 a month was usually paid to each Mainland lawyer by the participating firm to cover the expenses of lodging, meals, transport and other incidental expenses during the lawyer’s stay in Hong Kong. The training period usually lasted for 6 months. The All-China Lawyers Association would recommend candidates to the Law Society to come to Hong Kong and join the training scheme and the Law Society would interview the candidates and make the ultimate selection. Six batches, totalling 42 Mainland lawyers have so far received training in Hong Kong firms of solicitors since 1993 under the ACLA Scheme.
3. Firms which had previously participated in the ACLA Scheme generally found that through such exchanges, opportunities often arose to enable them to develop or expand their legal services in the Mainland market. Some of these firms subsequently established “China Law departments” locally in their firms and recruited Mainland lawyers as registered “foreign lawyers” in Hong Kong as a result. Others opened branch offices in the Mainland.
4. Although the ACLA Scheme has proved to be beneficial to both Hong Kong and Mainland lawyers nevertheless it has drawbacks. The relatively large amount of subsidy required to be paid to each Mainland lawyer every month for 6 months has precluded or deterred most of the small and medium size law firms from participating in it. It should be noted

that 90% of the 632 law firms in Hong Kong are of small or medium size comprising 5 partners or less. Furthermore a 6-month turn-around means that the number of lawyers coming from the Mainland to interact with Hong Kong solicitors is much less than the Law Society would like to see.

5. With the implementation of the 10th five-year economic plan, the further opening up of the West Region of China, and China's accession to the WTO, the opportunities for cross-border legal services between Hong Kong and the Mainland will undoubtedly grow substantially in the coming years. Hong Kong solicitors practising under the common law tradition in an open market economy are well equipped to meet the demands locally and internationally for legal services generated by the opening up of the market in goods and services in the Mainland. The Law Society believes that in order to enable Hong Kong solicitors to act timeously and effectively in concert with lawyers in the Mainland in the provision of legal services to these clients and to exploit the opportunities for diversification of Hong Kong legal services to the Mainland market it is essential that exchanges of knowledge and experience on the laws and practices of the Mainland and HKSAR should be strengthened. It is generally considered that collaboration between Hong Kong solicitors and their Mainland counterparts could be intensified through regular exchanges, thereby leveraging the network and relationship already built by the Law Society and its members in the Mainland over the last two decades. The Programme dealt with in this paper is structured in such a way so as to facilitate these exchanges.
6. Over the last three years the Law Society has been conducting active exchanges with provincial law associations situated in the western region and other parts of China. They include law associations in Chongqing, Xian, Chengdu, Tianjin, Fujian, Anhui, Shanxi, Hubei, Hunan, Beijing, Shanghai, Guangzhou, Shenzhen and Hainan. These are just some of the cities and provinces which stand to benefit dramatically from China's entry into the WTO and where the level of demand for legal services will increase substantially over the next few years. It is heartening to see that these exchanges have raised the level of awareness on the part of both Hong Kong and Mainland lawyers of the importance of honing their legal skills in order to maintain their competitiveness in the face of worldwide competition. They have also brought about a greater understanding of their counterparts respective needs, of the differences in working style and culture. From a global point of view, these changes will, no doubt, serve to develop the legal profession and consequently the legal system of the Mainland and reinforce that of Hong Kong.

The exchanges have eventually led the Law Society to enter into agreements with a number of provincial law associations under which the Programme now operates. The instant success of the Programme has triggered requests from a number of other cities to participate in it. The Law Society believes that it is essential that the impetus of the

Programme should be maintained.

THE 4-WEEK IN-BOUND PROGRAMME

7. The Mainland Legal Affairs Committee of the Law Society launched the 4-week In-Bound Programme in March 2001. Up to the present there have been five batches of 12 Mainland lawyers each respectively from Chongqing, Xian, Chengdu, Shanxi and Fujian who have completed or will be completing their respective 4-week secondments in the participating firms of Hong Kong solicitors. Invitations for the sixth and seventh batches of 12 lawyers each from Anhui and Wuhan respectively to take part in the In-Bound Programme will be extended and they are expected to be in Hong Kong later in the second half of this year. Planning is now underway to arrange for additional batches of lawyers from other provinces or cities to join the In-Bound Programme to Hong Kong.

The In-Bound Programme differs from the training scheme previously organised by the Law Society in conjunction with the All-China Lawyers Association. It is short but nevertheless effective for the purposes of strengthening professional ties between Hong Kong solicitors and Mainland lawyers. It provides Mainland lawyers with first-hand information of the law and practice in HKSAR and enables the Hong Kong firms to demonstrate their skills and the Mainland lawyers to appreciate just how the Hong Kong solicitors' firms can collaborate with them in meeting the needs of their Mainland clients.

8. Currently firms participating in the In-Bound Programme provide a subsidy of \$10,000.00 to each Mainland lawyer to cover a proportion of the lodging, meals, transport and other incidental expenses during the 4-week attachment period in Hong Kong. Air-tickets and other costs of participating in the Programme are borne by the Mainland lawyer personally. All solicitors' firms in Hong Kong have been invited to participate in the In-Bound Programme. So far 33 firms of solicitors have committed to offering placements for about 70 lawyers from the Mainland for the 4-week attachments to their firms. The activities other than those arranged by the individual firms to which lawyers were seconded, have so far included visits to, and attendance at, training seminars at the Law Society, the Department of Justice, the High Court, the Magistrates' Courts, the Legislative Council, the Legal Aid Department, the Duty Lawyer Service, the Companies Registry and the Land Registry, the Intellectual Property Department, the Hong Kong International Arbitration Centre, the Stock Exchange of Hong Kong, China Appointed Attesting Officers Association and China Legal Service (HK) Limited. The responses of the participants to the In-Bound Programme are encouraging.

THE 2-WEEK OUT-BOUND PROGRAMME FOR HONG KONG SOLICITORS IN THE MAINLAND

9. Last year the Mainland Legal Affairs Committee of the Law Society organised the first batch of solicitors for secondment to law firms in Chongqing in November/December 2001 under the Out-Bound Programme. This follows the advice of Vice-premier, Qian Qi Chen, that Hong Kong lawyers should find out more about the legal system in China as well as assisting their Mainland counterparts in learning more of Hong Kong's legal system.
10. The Law Society has received support from the Lawyers Association of Chongqing to arrange for the secondment of solicitors to their local firms for the duration of two weeks. Additionally the Law Society has received an offer from the Law Association of Shaanxi which will allow seven Hong Kong solicitors to be seconded to seven individual law firms in Xian for two weeks. Applicants from 15 law firms applied for these seven places. This latest batch of secondments to Shaanxi firms in the city of Xian will be implemented in May 2002. Each of the Hong Kong solicitors will receive a sum of RMB ¥5,000 from the Mainland law firm during the time that he or she is seconded to it to assist in defraying his/her expenses.

The Law Society considers that such secondments will assist Hong Kong solicitors to gain first hand information on the law and practice of their counterparts in the Mainland and to identify areas of collaboration in the future development of legal services in Hong Kong and in Mainland China. Planning is underway to co-ordinate and organise with other provinces and cities in the Mainland for more batches of the Outbound Programme.

THE PROFESSIONAL DEVELOPMENT PROGRAMMES

11. Solicitors in Hong Kong are facing challenges to their law practices. They must find new markets where their innate skills and national identity are a built-in advantage. That market is in the Mainland of China and it is there that the Law Society has directed its efforts to build up a working rapport with local lawyers. Much time, effort and money has already been expended on the development of the In-Bound and Out-Bound Programmes but the momentum must be maintained and the programmes expanded so that a greater number of lawyers both from Hong Kong and the Mainland can benefit from a better understanding of each other's legal systems and forge professional links for the mutual benefit of each other and their clients.

June 2002

香港與內地律師專業發展計劃

序言

1. 此文旨在介紹香港律師會「律師會」為內地律師及香港事務律師自二零零一年三月起成功舉辦的香港與內地律師專業發展計劃（「該計劃」）。

「該計劃」包括兩部份安排。「內展」部份為內地律師提供到個別香港律師行接受為期四週的專業培訓（「內展計劃」），而「外展」部份，則安排香港律師到內地律師事務所作為期兩週的考察學習。（「外展計劃」）。

背景

2. 律師會多年來與中華全國律師協會合作，參與安排由香港律師行為內地律師舉辦的培訓。內地律師來自全國各省、市，其中大多來自上海、北京、廣東及天津等沿海地區（ACLA計劃）。一般來說，每位被挑選受訓的律師會被安排到一家可提供內部培訓設施的律師行，該律師行會發給每名受訓內地律師約港幣一萬二千至一萬五千元的每月津貼，以照顧其在港的住宿、膳食、交通及其他開支，訓練期多為六個月。中華全國律師協會會向律師會推薦參與訓練計劃的人選，而律師會會對每位候選人進行面試，並作出最後決定。自一九九三年至今，已有四十二名內地律師在ACLA計劃下分六批到香港的律師行受訓。
3. 曾參與ACLA計劃的律師行，一般都發現這些交流活動能為他們帶來機會，發展或擴大其在內地的法律服務。部份參與的律師行最後更在其香港辦事處成立「中國法律部門」，並聘請內地律師在港登記為「非香港律師」提供涉及國內事宜的法律服務。更有些律師則在內地開設辦事處。
4. 雖然ACLA計劃已證明對香港及內地律師均甚具益處，但計劃亦有其弊端。由於參與律師行須要持續六個月每月為每位內地律師付出一筆為數不少的資助，令大部份中小型律師行望而卻步。須知道香港的六百三十多所律師行中，有百份之九十為中小型（包括五位合夥人或以下），而且六個月的訓練期，使到來香港與本地律師交流的內地律師數目，比律師會期望的為低。
5. 隨著中國推行第十個五年計劃、西部大開發，以及中國加入世界貿易組織等，無可置疑會令香港及內地間的跨境法律服務需求在未來大幅增加。在一個奉行普通法的開放式市場經濟執業的香港律師累積了充份的經驗，足以面對因為內地商品及服務市場開放所產生的本地及國際法律服務需求。律師會相信，要令香港事務律師能更適時地、有效地與內地律師合作，為這些客戶提供法律服務，並把握機會將香港法律服務多元化以發展內地市場，實應加強內地與香港特區間的法律知識與經驗的交流。業界均認為香港與內地律師可通過定期交流加深合作，並可利用律師會與內地律師協會在過去二十年建立的網絡及關係，將合作范疇擴大。「該計劃」就是為了進一步發展這些交流而設計的。

6. 過去三年間，律師會一直與位於中國西部及其他省市的律師協會舉辦積極的交流活動。當中包括重慶、西安、成都、天津、福建、安徽、山西、湖北、湖南、北京、上海、廣州、深圳及海南等律師協會。這只是其中一些將會深受中國加入世貿而受惠的省市，而這些地方的法律服務需求相信在未来數年亦會大幅攀升。令人振奮的，是這些交流活動令香港與內地律師均警醒到要磨練好法律技巧的重要性，以維持自己的競爭力來面對來自全球的競爭對手。這些交流亦使雙方律師更加明瞭對方的長短，以及大家的工作方式及文化差異。從一個全球性的角度看，這些轉變無疑能幫助法律行業及內地法律制度的發展，並強化本港的法律制度。

這些交流活動最終促成律師會與一些省律師協會達成協議，並根據協議推行「該計劃」。「該計劃」的初步成效，引致其他省市均要求加入。律師會相信維持「該計劃」的動力是十分重要的。

內地律師來港之四星期「內展計劃」

7. 律師會的內地法律事務委員會於二零零一年三月推出四星期內展計劃後。至今，已有五批(每批十二位)來自重慶、西安、成都、山西及福建的內地律師到港，並已完成他們在香港律師行的四週暫調訓練。我們將會邀請第六及第七批，分別來自安徽及武漢的十二位律師參與內展計劃，預期他們會於下半年抵港。現在我們正計劃安排更多其他省市的律師分批到港參與內展計劃。

內展計劃與律師會和中華全國律師協會先前舉辦的訓練計劃並不相同。內展計劃時間較短，但在加強香港及內地律師的專業聯繫上有一定的效用。它能夠為內地律師提供有關香港特別行政區的法律及執業事務的第一手資料，並讓香港律師行展示他們的運作和管理方面的做法，使內地律師可理解到香港的事務律師行如何能與他們合作，以迎合兩地客戶的需要。

8. 現時，參與內展計劃的律師行向每位內地律師提供港幣一萬元的資助，以協助他們應付在港四週的衣、食、住、行等部份開支。機票及其他參與計劃的支出則由內地律師自行負責。所有香港的事務律師行都有被邀請參加內展計劃，至今，共有三十三間事務律師行承諾會接受共七十位內地律師在其辦事處接受四週駐港駐所培訓。除了各律師行自行替內地律師安排的工作和活動外，其他活動還包括到訪及出席律師會的培訓研討會、參觀律政司、高等法院、裁判署、立法會、法律援助處、當值律師服務、公司註冊處及土地註冊處、知識產權署、香港國際仲裁中心，香港交易所、中國委託公證人協會及中國法律服務(香港)有限公司。內展計劃各參加者的反應令人鼓舞。

香港事務律師到內地的兩星期「外展計劃」

9. 二00一年十一月至十二月期間，律師會的內地法律事務委員會根據外展計劃的構思，安排首批香港律師借調到重慶律師事務所學習。副總理錢其琛曾建議，香港律師在協助內地律師了解香港司法制度之餘，亦應進一步了解中國的司法制度，這借調計劃就是應錢副總理的意見而舉辦的。
10. 律師會得到重慶律師協會的支持，安排本港律師分別借調到重慶市多家律師事務所，為期兩週。另外，律師會亦收到陝西省律師協會的邀請，安排七位香港事務律師借調到西安的七家律師事務所作為期兩週的考察。申請到西安律師事務所考察的律師分別來自十五間香港律師行。百關借調安排亦已在二零零二年五月實行，而獲選借調的七位香港律師每位獲內地律師事務所發放五千元人民幣，協助他們應付借調到當地期間的各種支出。

律師會認為這類借調活動會有助香港事務律師取得有關內地法律及執業情況的第一手資料，並更了解雙方未來可以合作的法律服務範疇。我們正計劃與其他內地省市統籌及安排更多批內地律師參與外展計劃。

律師專業發展計劃

11. 香港事務律師正面對著不少挑戰。他們需要開拓新市場，發揮他們的經驗技能等優勢，而這市場正是在中國大陸，因此律師會過往一直著力與當地律師建立合作夥伴關係。我們已投資很多時間、人力及金錢在內展及外展計劃上，但我們亟需要維持計劃的動力，以令更多香港及內地律師能受惠，令他們對各自的司法制度有更深入的了解，並建立起專業聯繫，為兩地法律界及其客戶帶來更大裨益。

香港律師會
內地法律事務委員會
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