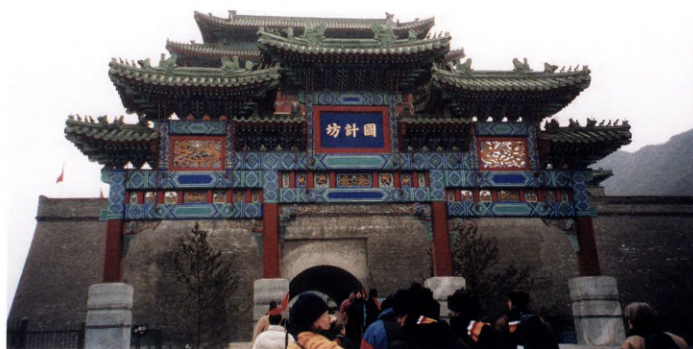


China's call TO FOREIGN LAWYERS

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There is a growing demand for foreign lawyers in China. While there are significant challenges involved in practising in China, there are also numerous benefits.

The Middle kingdom

China is rich with tradition, history and culture. The nation as a whole was brought to the brink of economic and social collapse during the period 1966–1976. This threatened collapse also endangered China's unique legal system, which eventually became a victim of those times. The rights of the individual were forced to give way to the rights of the nation and in this single act, China became completely isolated from the rest of the world.

The "Sleeping Dragon" is awakening

China accounts for just over 10% of the world's population. Over the last decade it has been gradually establishing itself as one of the wealthiest economies in the world. Indeed, by averaging between 8% and 9.8% annual economic growth, it is undisputed that China's economy is now a world heavyweight. It has become a "hunting ground" for large, multi-national corporations, while also acting as a launching pad for a steadily increasing number of national corporations.

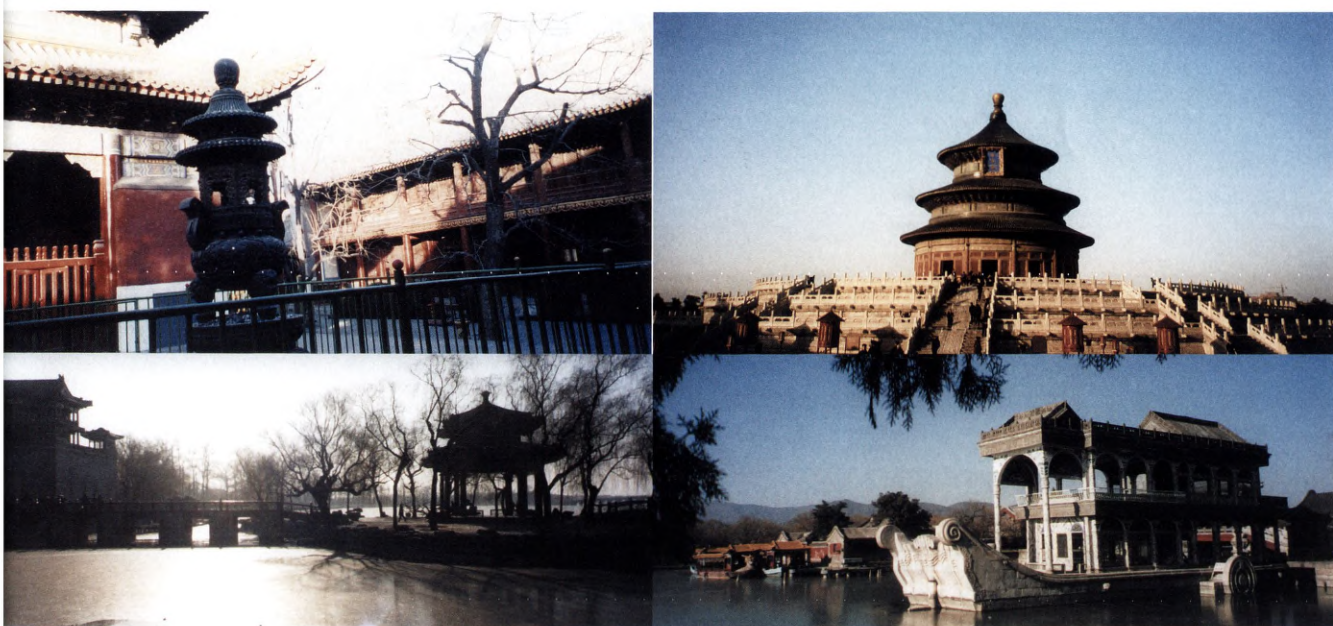
China is predominantly industry-based society, with the industrial sector accounting for over 70% of the country's Gross Domestic Product (GDP) in 2004, yet it has also made its mark on the global financial and securities market. In 1865, Thomas Sutherland, recognising the values of the Chinese market, founded the Hong Kong and Shanghai Banking Corporation (HSBC). The HSBC has now become one of the largest financial institutions on the planet.

Another attraction for investors is the country's manufacturing capacity. China is an ideal consumer's market – its large population amounts to a potential client basis of just over 1.2 billion.

In order to maintain its position as such a prize for investors, China has long recognised the need to establish a legal system responsive to its economy: specifically, a judicial system facilitating China's original entry into, and continued expansion in, the international arena.

It is true, however, that for all its efforts, China's legal system remains fluid within a process of constant reform and update. At present, there are approximately 150,000 domestic and foreign lawyers in China. These lawyers must cater for the country's population of 1.2 billion, as well as for the numerous foreign traders constantly accessing China and its economy. Clearly, there is a significant disparity, and hence an inadequacy, between the number of legal professionals and the number of persons requiring access to appropriate legal services (at a brief and common glance).

Domestic Chinese lawyers are limited in their ability to cater for the needs of the market. Some of the most apparent barriers are language, culture and international expertise. Outbound investors (export focused investors) and inbound investors (import and domestic focused investors) require their lawyers to be familiar with and conversant in multiple international jurisdictions. Domestic Chinese lawyers do not yet have adequate access to such training. Unsurprisingly, foreign lawyers have become very competitive in these fields, such that, regarding outbound investors, foreign lawyers arguably monopolise this market.



The People's Communist Party has instituted barriers to protect the growth of its domestic legal industry. It was not until 1992 that foreign law firms were permitted to establish private, representative offices in China. Today, there are between 130 and 140 foreign law firms with such offices in mainland China.

Despite having access to the Chinese market, foreign lawyers are restricted in areas of practice. They are not permitted to perform litigious services, nor to interpret or give legal advice regarding Chinese legislation. Foreign law firms are not permitted to employ local lawyers, and foreign lawyers cannot hold a local practising certificate. However, the large, and growing, number of outbound focused investors ensures that most foreign law firms can still maintain sustainable levels of practice and profit within China.

Expanded Chinese legal environment

Post-revolution, in 1978, the 3rd Plenary Session of the 11th Central Committee of the Communist Party of China convened to analyse the cause of the revolution, and to institute measures to ensure like disasters would be forestalled. The meeting resolved that:

"There has to be sufficient democracy before correct centralization can be conducted...we had been striving for centralization in the absence of democracy...over the past period. There is too little democracy...To guarantee the people's democracy, it is necessary to strengthen the socialist legal system and institutionalise and legalize the democratic system so to ensure the stability, continuity, and maximum authority of this system as well as the law."

Hence, the Legal Construction Project was born, and since that time, China has been tirelessly rebuilding its fragmented legal system without pause.

A key catalyst to China's legal reforms was its entry into the World Trade Organisation (WTO) in 2001. At this time, China anticipates that a developed and open legal market will be attained by 2010. This agreement to open the legal market to foreign lawyers, fulfilling an entry condition to the WTO, ensures that foreign lawyers within China can expect that in the near future they will be able to compete with few protective barriers between themselves and their Chinese colleagues.

Endless opportunities

China is an exciting place to be for young, international lawyers. First are the undeniable economic benefits. Further, entrance into the Chinese legal market also offers an opportunity for up-and-coming lawyers to develop within an already unique, and developing judicial system.

However, such "passive" advantages are not the only possibilities that are offered. Indeed, an ambitious young lawyer would have the chance not only to work within a newly and constantly developing legal structure, but also to assist in its creation, through initiatives such as advising government officials or running test cases within the judicial system. The opportunity clearly exists for an era of young, skilled lawyers to pioneer their own styles of practice within a legal system which will eventually come to govern one of the largest economies of the present and the near future.