

WORLD TRADE ORGANIZATION

RESTRICTED

S/WPPS/W/7/Add.13

9 August 1996

(96-3166)

Working Party on Professional Services

Original: English

COMMUNICATION FROM HONG KONG

Response to the questionnaire on the accountancy sector

The following communication is circulated at the request of Hong Kong.

I. GENERAL

1. ***What are the professional titles of accountants in your country? Are these professional titles protected? Please specify how.***

Members of the Hong Kong Society of Accountants ("Society") are registered under the Professional Accountants Ordinance as *professional accountants*. A professional accountant shall be designated as an Associate or a Fellow of the Society, as the case may be, and be entitled to use the initials "A.H.K.S.A." or "F.H.K.S.A." after his name. Only a professional accountant holding a practising certificate issued by the Society may be described as a *Certified Public Accountant (CPA)* and is allowed to perform statutory audits in Hong Kong. The Professional Accountants Ordinance has special provisions guarding against the unauthorised use of these professional titles.

2. ***How is the accountancy sector regulated in your country: by law, professional self-regulation, a combination of both?***

The accountancy sector in Hong Kong is regulated by professional self-regulation under the provision of the Professional Accountants Ordinance.

3. ***Are there any provisions to protect company names, whether national or foreign, in your country?***

There are provisions in the Professional Accountants Ordinance and the Professional Accountants By-laws guarding against the use of the designation "Certified Public Accountant" by individuals or firms. Only professional accountants holding a practising certificate issued by the Society may use this designation and only CPAs may register with the Society a firm of certified public accountants. The above also apply in the case of corporate practices (Please refer to the answer for Q.21). For international or foreign firm name, please refer to the answer for Q.33.

4. ***What are the professional bodies in your country? Are they recognised by law as a regulatory or disciplinary body for the accountancy profession in your country, or are these functions fulfilled by other institutions (please specify)?***

The Hong Kong Society of Accountants is the only statutory body responsible for the licensing and regulation of the accountancy profession in Hong Kong. The applicable laws and regulations are the Professional Accountants Ordinance, the Professional Accountants By-laws and the Disciplinary Committee Proceedings Rules.

5. ***How many members do these professional bodies have? What is the estimated proportion of those:***

At 30 April 1996, the Society has 10,816 members. Append below is the estimated proportion of members engaged in different business sectors:-

in public practice	—	3,432	(31.7%)
in industry or commerce	—	5,223	(48.3%)
in the public sector	—	756	(7%)
in education	—	226	(2.1%)
unoccupied	—	26	(0.2%)
others	—	1,153	(10.7%)

6. ***What is the scope of activities regularly practised by accountants in your country?***

The following are activities regularly practised by accountants in Hong Kong:-

- statutory audit
- public sector audit (including government, non-profit making organisations and quasi-government organisations etc.)
- other audit (including partnership, special purpose and other non-statutory audits)
- accounting
- insolvency practice
- tax advice
- tax representation
- consulting, business and corporate advisory services; and other company secretarial, share registration services etc.

7. ***Which of these activities are regulated in your country?***

The following are regulated activities in Hong Kong:

- statutory audit
- public sector audit (specific accounts only)
- insolvency practice (part only, please refer to Q.8).

8. ***Which of these activities are reserved by law to accountants, shared by accountants with other professions (please specify), or even forbidden to accountants in your country, e.g. by full prohibition or by not allowing cumulation of certain activities which are considered incompatible or mutually exclusive?***

Statutory auditing service is reserved by law to CPAs. A provisional liquidator appointed under section 228A of the Companies Ordinance in Hong Kong must be a professional accountant

or a solicitor. Save with the above-mentioned, all other activities mentioned in Q.6 may be performed by accountants in Hong Kong.

II. QUALIFICATION REQUIREMENTS

9. *What are the qualification requirements for these activities in your country in terms of university/higher education degree, practice and professional exam? Specify the number of years required for each element, and the differences according to the activities (audit, insolvency, tax, etc.) covered by the qualification.*

To qualify as a professional accountant, a person should:

- (a) at least be twenty-one years of age;
- (b) be of good character;
- (c) have either completed the HKSA/ACCA (Hong Kong Society of Accountants/Chartered Association of Certified Accountants) Joint Examination Scheme or be a full member of an overseas institute recognised by the Society for membership admission purpose; and
- (d) have acquired three to five years' practical experience (not necessarily local experience) depending on educational background.

To become a CPA, a person should have a period of not less than four years of full-time approved accounting experience of which at least one year is post-qualifying experience i.e. acquired after becoming a member of a body accepted by the Council of the Society or after registration as a professional accountant with the Society. A substantial proportion of the approved accounting experience must be in auditing and at least one year of such experience must be gained in Hong Kong within three years prior to the date of application. In addition, the applicant should have passed examinations on Hong Kong Company Law and Taxation.

10. *Are there any pre-conditions to meet to start the professional education: minimum age, particular diploma or title, prior education, registration with a professional body, payment of a fee, other (please specify)?*

Anyone who wishes to sit the professional examinations is required to join the Society as a Registered Student.

A person who wishes to be registered as a Registered Student with the Society should at least be 18 years old and a holder of a General Certificate of Education (English) with 2 Advanced Level passes and 3 Ordinary Level passes (including English and Mathematics), or equivalent. A holder of a recognised degree or diploma is also eligible for student registration.

A person who is over the age of 21 but does not meet the minimum entry requirement may join the Society as a MSER (Mature Student Entry Route) Candidate to take the MSER examinations which comprises 2 papers, i.e. Accounting Framework and Management Information. (*These two papers are respectively equivalent to Papers 1 and 3 of the Society's professional examinations for registered students.) On successful completion of the two papers, the candidate will be automatically transferred to the main Register of Students and will be awarded exemption from Papers 1 and 3 of the Society's professional examinations.

Registered Students are required to pay an annual subscription, and exemption and examination fees.

11. *What are the subjects to be covered by the education: accounting, audit, tax, general law, economics, ethics, information technology, other (please specify)?*

The Society runs a Joint Examinations Scheme with the Chartered Association of Certified Accountants of the UK. The examination syllabus covers 14 papers as follows:

Stage 1 --- Foundation Stage

Module A

- 1 Accounting Framework
- 2 Legal Framework

Module B

- 3 Management Information
- 4 Organisational Framework

Stage 2 --- Certificate Stage

Module C

- 5 Information Analysis
- 6 Audit Framework

Module D

- 7 Tax Framework
- 8 Managerial Finance

Stage 3 --- Professional Stage

Module E

- 9 Information for Control and Decision Making
- 10 Accounting and Audit Practice
- 11 Tax Planning

Module F

- 12 Management and Strategy
- 13 Financial Reporting Environment
- 14 Financial Strategy.

Although the Society and ACCA operate a Joint Examination Scheme, the two bodies are completely separate in respect of membership admission policy. While students who have completed the Joint Examination are eligible for membership of both the Society and ACCA, they will have to apply to each of the two bodies separately and have to satisfy respective conditions (e.g. practical experience) imposed by the two bodies for membership admission purpose.

III. TECHNICAL STANDARDS AND ETHICS

- 12. *In relation to which activities do national standards exist (audit, accounting, insolvency, other)? Please specify their main policy objectives.***

National standards exist for auditing and accounting. The main policy objectives are to provide locally enforceable standards of accounting and auditing which are consistent with international standards.

- 13. *Which body or institution develops these standards and monitors their implementation? What are the consequences of a breach of the standards (for the professional, for clients, etc.)?***

The Society develops accounting and auditing standards and monitors their implementation. The consequences of a breach of the standards by members of the Society depend on the seriousness of the breach and can include reprimands, suspension of practising certificate, suspension of membership or exclusion from membership.

The consequences of material breaches of accounting standards by clients will usually be a qualified audit report.

- 14. *Are the international standards developed by IFAC (International Education Standards and Guidelines, International Standards on Auditing) and IASC (International Accounting Standards) recognised or used in your country? If yes, please explain how. If no, please explain why.***

The Society is a member of IFAC and IASC and undertakes to use its best endeavours to ensure, to the extent possible under local circumstances, that international accounting and auditing standards are complied with in Hong Kong. Currently, all Hong Kong accounting and auditing standards are in material respects in compliance with international standards. In addition, it is the Society's policy to use international standards as a base for the development of future standards in Hong Kong.

- 15. *In relation to which activities does a particular ethical code exist (audit, accounting, insolvency, other)? Please specify its main policy objectives.***

The ethical code comprises ethical statements and guidelines issued by the Society and covers general principles applicable to all professional accountants as well as specific statements and guidance applicable to auditing, management consulting, taxation, insolvency as well as accounting and general responsibilities of members not in practice. The main policy objectives are to develop a set of locally enforceable ethical provisions which are meant to promote and maintain a high standard of professional conduct and to give guidance to our members on various aspects of professional ethics.

- 16. *Which body or institution develops this code and monitors its implementation? What are the consequences in case of breach of the ethical code by a professional or a firm?***

The Society develops the code of ethics and monitors its implementation. The consequences of a breach of the code depend upon the seriousness of the breach and can include reprimands, suspension of practising certificate, suspension of membership or exclusion from membership. These sanctions apply to firms alike.

17. *Are there restrictions on marketing, solicitation, advertising?*

Yes. There are restrictions on marketing, solicitation and advertising by practising members and firms. Principally, these are as follows:

- a) a CPA or a CPA firm may not advertise their services;
- b) cold-calling and direct mailing are prohibited;
- c) a CPA may not give commissions, fees or rewards to third parties (other than his own employees or another CPA) for the introduction of a client;
- d) other publicity is permitted subject to certain guidelines.

18. *Are there restrictions on fee-setting (minimum/maximum levels imposed, indicative scale, etc.)?*

There are no restrictions on fee setting except that percentage and contingency fees are not permitted for auditing or similar work nor in respect of preparation of tax returns.

IV. LICENSING REQUIREMENTS AND PROCEDURES

19. *Apart from the qualification requirements, what are the licensing requirements for individuals in your country?*

A person qualifies to be registered with the Society as a professional accountant if he is either a full member of an overseas institute by examination which is recognised by the Society for membership purpose, (a list of these overseas institutes is found in the Notes of the application form), or has passed the Society's professional examinations. Membership applicants are also required to comply with the approved accounting experience requirement of 3-5 years depending on one's academic qualification.

To qualify for a practising certificate, one must be a member of the Society, be ordinarily resident in Hong Kong, pass examinations on Hong Kong Company Law and Taxation, and have not less than four years' full-time audit experience, (30 months in case of post-qualification experience), at least one year of which must be gained in Hong Kong within three years from the date of application. Not less than one year of such full-time audit experience shall have been acquired after the applicant has become a member of the Society or an overseas institute which is recognised by the Society for membership purpose.

20. *Are there any conditions imposed to be eligible for membership of the relevant professional body(ies)? Please specify.*

Apart from those indicated in Q.19, there are no other conditions imposed on the eligibility of a person for membership of the Society.

21. *Are there specific licensing requirements for professional firms?*

Only professional accountants may register a firm of CPAs with the Society. Basically CPA firms should be run by CPAs, but professional accountants who are not CPAs may be admitted as partners of a CPA firm subject to certain rules, e.g. the number of "non-CPA partners" is restricted to not exceeding one-third of the total number of partners of a CPA firm.

"Non-CPA partners" are not permitted to sign audit reports as they do not hold practising certificates.

22. *Can an application for licensing be filed at any time of the year or are there specific dates to respect? How long does it take to complete the whole licensing procedure? Please specify in case of differences between individuals and firms.*

An application for the registration as a professional accountant or a CPA firm or for the issue of a practising certificate can be filed at any time of the year. Such applications will be considered by the Society's Registration and Practising Committee which meets at least once every three months. It normally takes six weeks to complete the whole licensing procedure depending on the date of submission of an application. The above applies to individuals and firms alike.

23. *Are there differences in terms of licensing requirements and/or procedures, according to the activities covered by the licence (audit, insolvency, etc.)? Please specify. What kind of documentation is necessary/accepted? Are documents issued in other countries acceptable? Please specify.*

A licence i.e. a practising certificate is only required for the provision of auditing services. Details of the necessary documents in support of such applications can be found in the Notes of the application form. There is no discrimination against documents issued in other countries.

24. *What happens when the licensing conditions are no longer respected by the individual or the firm?*

There are provisions in the Professional Accountants Ordinance empowering the Council of the Society to remove the name of a professional accountant or a CPA firm from the register of the Society and to cancel a practising certificate.

V. RECOGNITION OF QUALIFICATIONS

25. *Are there any possibilities for taking account of qualifications acquired by foreign professionals in another country? Are there bilateral agreements with other countries in this respect?*
26. *Are there any automatic recognition or mutual recognition agreements between your professional bodies and their counterparts in other countries? If so, please specify the main characteristics of such agreements; if not, please explain why.*
27. *Where possibilities of taking account of foreign qualifications exist, is a full local examination or a local training exceeding 12 months required? Please specify. Is a local licence always necessary to practice a regulated accountancy activity? Please specify when this is not the case.*
28. *What are the accreditation/licensing requirements imposed on foreign professionals authorised to practice in their home country? May certain (regulated) activities be carried out on the basis of a foreign licence?*

[Secretariat Note: The following text responds to questions 25 to 28 inclusively:]

There are no bilateral agreements, automatic recognition nor mutual recognition agreements (MRAs) between the Society and other overseas accountancy bodies. However, full members of overseas accountancy bodies recognised by the Society for membership purpose may register

as members of the Society provided that they were qualified through examinations and satisfy the Society's practical experience requirements.

We recognise the qualifications offered by 14 overseas accountancy bodies. We have attempted to negotiate MRAs with some of these bodies but our entry academic qualification, which is not "graduate entry", has put such negotiations to a quick stop. We have not approached other overseas accountancy bodies as there is little demand for such MRAs to be negotiated.

As we are having an overall review of our accreditation programme which will begin in 1999 (and which will require graduate entry), we have reserved our position until the new system is to be put in place.

Individuals admitted as members of the Society by virtue of recognised foreign qualifications are required to sit and pass examinations on Hong Kong Company Law and Taxation if they wish to take out a practising certificate and perform statutory audits in Hong Kong. Only holders of a valid practising certificate issued by the Society may perform statutory audits in Hong Kong.

VI. REGULATIONS GOVERNING THE ESTABLISHMENT OF A COMMERCIAL PRESENCE

29. *Are there any restrictions on the form under which one can establish (partnership, incorporation, other)? Please specify.*

At present, a public accounting practice in Hong Kong may be established in the form of a sole-proprietorship or partnership CPA/PA firm by registering with the Society.

In July 1995, the Legislative Council of Hong Kong passed legislation enabling audit practices in Hong Kong to incorporate. The legislation has not yet taken effect pending the appointment of an effective date while the rules and regulations are to be prepared, which is expected to be finalised soon. Under the provisions of the new legislation, only members of the Society will be eligible to be directors and shareholders of a corporate practice; all directors must be shareholders and vice versa; the directors and shareholders may not themselves be corporations; not less than two-thirds of the directors and members of a corporate practice must be CPAs, and not less than two-third of the voting shares must be beneficially held by CPAs. However, in the case of a sole practitioner corporate practice, one of the shareholders may, with the permission of the HKSA Council, be a person who is neither a CPA or a member of the Society. In such cases, the other shareholder, who must be a CPA, must hold all the shares except one and the non-member shareholder must hold the remaining share in trust of the CPA shareholder. Another condition laid down for corporate practices is that every corporate practice is required to take out Professional Indemnity Insurance.

30. *Are there restrictions on foreign direct investment and ownership, including restrictions applying to not locally qualified individuals or firms? Please specify.*

Regulations governing the establishment of a commercial presence as detailed in answer to Q.29 above apply to both local and foreign individuals and firms. There is no restriction on financial links with foreign firms or international firms/networks.

31. *Is there a requirement of a minimum number or percentage of local directors, managers or staff (please specify)?*

No rules of the said nature apply to managers or staff. However, the majority of partners or directors of a CPA practice need to be local although non-resident partners or directors are permissible.

32. *Are there restrictions on the ability of locally established firms to develop international relations (membership of an international network, association with foreign firms, etc.)? Please specify.*

No.

33. *Is the use of international or foreign names restricted for firms?*

No, but only those foreign/international firms which are under the jurisdiction of an accountancy body recognised by the Society for membership purposes are allowed to register in Hong Kong and an official letter of consent from the existing international or foreign firms giving their authorization for the proposed local partners to register the firm name in Hong Kong is required.

VII. REGULATIONS GOVERNING THE ENTRY AND TEMPORARY STAY OF NATURAL PERSONS FOR THE PURPOSE OF SUPPLYING ACCOUNTANCY SERVICES

34. *Is the entry and stay of professionals subject to labour market tests or any other restrictions? Please specify.*

[and]

35. *Is there any procedure facilitating the temporary entry and stay of professionals to supply accountancy services? Please explain.*

An employment visa is required for foreign individuals who are not UK citizens or who are not Hong Kong residents to enter and stay in Hong Kong for the purpose of supplying accountancy services.

36. *Are there any restrictions on hiring of local professionals by foreign firms and professionals? Please explain.*

No.

VIII. NATIONALITY/RESIDENCY REQUIREMENTS

37. *Is a condition of nationality/citizenship imposed to practice certain activities, to start an education, to obtain a licence, to become member of a professional body, etc.? Please specify.*

No.

38. *Is a condition of establishment, prior residency or residency imposed to practice certain activities, to obtain a licence, to become member of a professional body, etc.? Please specify the conditions and the definition of establishment, residency, etc. when relevant. Is it possible to have a professional establishment in more than one country?*

No residency requirements are required for membership of the Society. However, a CPA is required to be ordinarily resident in Hong Kong. A person shall be treated as ordinarily resident in Hong Kong if he has been present in Hong Kong for not less than 180 days in the preceding 12 months from the date of application for a practising certificate. In so far as the licensing requirements in Hong Kong are met, it is always possible for a foreign accountancy firm to establish an accountancy practice in Hong Kong. There are many international accountancy firms having an establishment in Hong Kong.