###### Report on Western-language Web-Sites, Portals and Databases pertaining to Chinese Law

Prepared with the assistance of Mr. Nicolae Statu

for the Conference on the EURO-CHINESE E-DICTIONARY OF LAW, Peking Feb. 9-10, 2004. Revised after return from Conference.

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Within the initial phase of the EURO-CHINESE E-DICTIONARY OF LAW, the University of Heidelberg is cooperating in developing an appropriate architecture that might be used for this e-dictionary. This architecture is not a pureley technical matter. It has to be compatible with the problem structure, and it has to link institutions, laws, their applications and the particular needs of users. Therefore, it is useful to have a look at the structure of the problem and at the way in which other enterprises were doing similar things to learn from their successes and failures.

What is the Chinese law we speaking about?

We have three distinct legal systems, the PRC, Hong Kong and Taiwan. Hong Kong has seen a relatively stable legal environment and development, but recently has seen some dramatic and contentious shifts in its laws and their application due to the reintegration of Hong Kong into the PRC. Taiwan has seen a rapid expansion of the areas covered by law as well as increases in the independence of courts during the last three decades. The sudden shift in the PRC development strategy from a notion of ‘bourgeois law’ as an obstacle to rapid development to a notion of a stable legalized environment as one of the key conditions for rapid development has led to great efforts to expand the areas covered by law, and to professionalize the handling of law by courts and lawyers. The PRC is using regions or cities as testing ground for new laws. As a consequence different laws might be in force nationally and, for example in Shanghai or Shenzhen. The role of international courts outside any of the areas covered by the Chinese law systems has been steeply increasing. This is true for private contracts between foreign and Chinese entities as well as for challenges for example in the WTO context. In a sense these international bodies become a relevant part of the Chinese legal environment. We thus have three legal areas on the “Chinese” side, each of which being characterized by a high or a very high degree of volatility and internal diversity.

On the European side, we have a number of states with relatively continuous, professionalized and stable legal systems, which come in two big groups, the case-law based Anglo-Saxon system, and the continental system with its high reliance on explicit laws and standardized interpretations. At the same time, we are looking forward to a group of Central and Eastern European states joining whose legal systems are rudimentary and in great flux. The instability of the entire system is greatly enhanced by the fact that European law is superseding local law in a rapidly increasing number of areas, and the local legislatures are trying to keep up with changing their national laws to conform. It is fair to also characterize the European legal situation as highly volatile and full of internal diversity.

To compile any sort of dictionary linking these two realms with their high volatility and internal diversity seems from the outset a hopeless enterprise even if the most sophisticated and adaptable software, and the best informed legal specialists are used to keep the connection between these two moving and changing targets.

At the same time there are elements pointing in the opposite direction. With the accession to the WTO, The PRC, Hong Kong and Taiwan have agreed to make their commercial laws compatible with a unified standard. In addition they have signed various international conventions with the implied assumption that eventually they would change their legal systems and practices to agree with these conventions. We have, in other words, a certain amount of convergence within the PRC, Hong Kong and Taiwan. A similar process is going on in Europe where with the increasing dominance of European and international law the different legal traditions and institutions are gradually giving way to a more unified legal structure, many elements of which in fact coincide with those developed in the PRC, Hong Kong and Taiwan today.

Would it not be reasonable to wait until this process of convergence has more or less run its course, and then compile such a dictionary?

Two arguments speak against this. First, European law offers valuable tools and experiencew for the PRC, Hong Kong and Taiwan to develop their own legal codes. An improved access to European law for Chinese lawyers and legislators would in fact facilitate the transition to a more stable, predictable, and mature legal system in their domains. EU officials including the EU ambassador and the head of the European Chamber of Commerce in Peking expressed strong interest in this particular function of the e-Dictionary, and this not just in the field of commercial law, but also in questions of human rights, the environment, the independence of courts, etc. At the same time, the PRC has seen a surge of contacts with Europe on all levels during the last two decades, ranging from investments to NGOs, from cultural to human rights to non-proliferation dialogues. For all this, access to the legal codes and practices of the PRC, Hong Kong and Taiwan is necessary.

If such an e-Dictionary was to be compiled, it would have to be a useful and updated information source on Chinese law for Europeans in a time of steeply increasing interaction and high volatility of Chinese law, and it would be able to play a proactive role in the development of Chinese law rather than just reflecting changes that have already occurred.

Only an e-dictionary would technically be able to keep pace with such volatile developments. A printed dictionary would be out of date long before the printed edition was on the market. The architecture of such a database must be simple and flexible enough to accommodate these complexities, and allow easy updating and navigation.

In order to enhance their attractivity as political and economic entities that provide a calculable legal environment, all three governing agencies have made great efforts to facilitate on-line access to the laws and decisions in force in their respective domain.

The PRC government itself has gradually increased public printed and electronic access to its laws and important legal decisions, and has supported efforts to make them accessible in foreign languages, especially English. A number of academic institutions, law firms and professional bodies serving the law community in China as well as in other countries have reacted with publications introducing PRC law, and with electronic ways of making knowledge about it accessible. The bulk of PRC Chinese-language law data is made accessible electronically by the government and its various agencies.

In terms of translations and commentaries of Chinese law into Western languages, above all English, the most important site at present is Isinolaw in Hong Kong (<http://www.isinolaw.com>). It is operated by Dr. Priscilla Leung Mei Fun and a group of university professors from the PRC and HK; it is authorized by the Supreme People’s Court and various other mainland institution as the sole responsible agency for putting the Chinese originals on the web and producing their English translation. Among the PRC scholars involved is Prof. Zheng Chengsi from CASS. Its financing come in part from a subscription fee of 2000 US$/year.

The Hong Kong government had been similarly active. Its Department of Justice maintains the Bilingual Laws Information System, BLIS (\*<http://www.info.gov.hk/justice/new/laws/index.htm>). This is a full text database containing the statutory laws of HK and a selection of relevant constitutional documents. Recently a new section containing treaties and international agreements applicable to HK has been added.

The structure of this database mirrors the “Loose-Leaf Edition of the Laws of Hong Kong” (i.e. Ordinances are assigned a chapter number which corresponds to the number in the Loose leaf edition). For the constitutional documents (e.g. PRC constitution, the basic law of the HK SAR etc.), which do not have chapter numbers in the Loose-Leaf Edition, unofficial numbers are assigned so that the same search capabilities are available.

When amendments are passed and published in the HK Govt. Gazette, these are included as separate entries – with the result that this database mirrors the diachronic evolution of HK laws since June 30th 1997! All amended legislation is marked as such as soon as the amendments are in force and complete updates are done every two weeks.

All entries are both in English and Chinese. For HK ordinances both texts are official. For constitutional documents there is no official English text, but a government-sanctioned translation is included. Chinese text is given not only in both traditional (Big5) and simplified (GB) characters, but also in .gif format, both simplified and traditional (for users who don’t have Chinese enabled browsers)! This database is updated every two weeks. Its use is free.

Taiwan has been very active to make its own law system more transparent and effective, among others things through a decision to put court decisions onto the web. The Taiwan government’s e-presentation, including that of its laws and legal rulings has justly received high praise. A 2002 study of global e-government undertaken by researchers at Brown University (USA) lists Taiwan as best in e-government performance, followed by South Korea, Canada and the United States. Reviewed  were 1,197 national government websites in 198 countries during June and July, 2002. (<http://www.brown.edu/Administration/News_Bureau/2002-03/02-022.html>) (A year later, Singapore came out first). The general point of entry is <http://www.gov.tw/> and <http://www.gov.tw/ENGLISH/> for the English version. In the English version unter “laws and regulations” the focus is on items pertaining to investment in Taiwan, but these items include besides laws also the relevant regulatory governmental bodies involved with foreign investment. The Judicial Yuan has its own website with a large body of laws and decisions online in Chinese <http://nwjirs.judicial.gov.tw/Index.htm>. The laws are in pdf files and can be accessed via <http://npl.ly.gov.tw/www/db/system.jsp?id_1=30&database_name=立法院法律系統&n=17>. The English version (<http://law.moj.gov.tw/Eng/Fnews/FnQuery.asp>) is not restrictred to investment questions, but allows a detailed search through the entire body of laws, offered in English translation. The Supreme Court decisions are available <http://www.judicial.gov.tw/j4e/> with an English translation as well as the Chinese text, which is extremely practical. It is amazing that the main law portals in the US are not aware of the entry point to this website. The only easy place to locate it is in the Internet Guide to Chinese Studies.

These official bodies can draw on state resources and thus depend for their stability only on the political vagaries of the domain to which they belong, and for their quality on the staff they are putting to work. A common problem is the high number of irritating mistakes in all English-language translations. Legally spoken, the translations can of course not be used in court.

**The EURO-CHINESE E-DICTIONARY OF LAW has to and can rely on the law-giving bodies in the PRC, Hong Kong and Taiwan to provide the digital base records of laws and regulations, court decisions, and legal commentary from their domains. It can be assumed that this source of information is relatively stable. At the same time, the capacity to mediate information on the different law systems with the demands of outside users, their legal understanding, and their often inexistent access to Chinese-language sources is something that is generally not well done by such official or semi-official bodies.**

Contemporary Chinese law is a young and unstable entity. While the degrees differ, this statement is also true for Taiwan, and, more moderatelt so, Hong Kong. For many areas only the most rudimentary laws have been developed; there is little continuity with legal standards and practice just a decade or two ago; it is a young body of laws that disregards all previous history and most of previous doctrine; and the newly developed law and regulations will go through a lengthy process of homogenisation and enforcement.

Technically this has important implications for the EURO-CHINESE E-DICTIONARY OF LAW. It is not necessary to go back to Supreme Court decisions of 1925 or local law of 1750, which is done by US or German law databases and is necessary because these decisions and laws still carry legal weight. But it will be necessary to devise an architecture that facilitates quick adjustments and enlargements in the visible parts as well as restructurings of the legal systematics underlying the internal links. It will also be necessary to make sure that the manpower is available on a longterm basis to maintain the actuality of the database as well as of its internal architecture.

A number of foreign entities have moved in to fill this gap. They try to mediate in terms of providing institutional and legal context, in terms of offering translations and explanations in foreign languages, and in bundling information in accordance with the perceived needs of different groups of foreign customers.

These foreign entities come in a great variety. Quite a few consist of devoted individuals working in an academic context who make the information they need for their research or teaching available on the net, and then are dragged along by the inner dynamics of such a development. These entities have little or no financial support, and depend more often than not on a single individual. They have unstable lifecycles, and many of them die and don’t renew their URL, or become dead building sites on which still useful things may be found. Others are set up by law offices with a specialization in litigation in a Chinese context. The information they provide on the net is focused on the area of their speciality, and while often very useful, contains very little actual legal text of commentary in the foreign language, as these would require substantial investments. The value of these addresses hinges on the interests and economic fortunes of these law firms. Still others are set up by collective bodies such as bar associations or firms established by them to serve the profession by giving quick, professional and reliable legal information. While the last group is widely present in national law systems in the US, Germany, France or other states, and has now led to the development of a Chinese counterpart, run by Peking University, the China law market is not seen as large enough to justify this investment. Generally speaking, picture is not a glorious one. The focused, contextualized, and targeted foreign language information available on the WWW on Chinese law, especially PRC Law and Taiwan law is still far behind the actual developments in all realms, be they economic, political, cultural, social or environmental. At present the best available information is in English, and most of its sources are located in the US.

**No governmental body has as yet decided to reciprocate to the various and very substantial Chinese efforts at making Chinese law accessible, and accessible to foreigners, by supporting a project that would provide focused, contextualized, targeted and continuously updated and refined foreign language information on Chinese law in a stable longterm manner. The EU decision to support a feasibility study for a EURO-CHINESE E-DICTIONARY OF LAW is to my knowledge the first time such a step has been taken.**

On the other hand, various projects are under way to enhance the information of Chinese lawmakers about the laws and regulations in force in various European countries. An example is the German Gesellschaft fuer Technische Zusammenarbeit GTZ in Frankfurt. A list of its law-related China-projects reads like this (http://www.gtz.de/china/english/reform.htm):

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| • • • • • •  •  • • | Preparing economic reform proposals Providing advice in drafting economic and securities law Upgrading judges and legal experts in foreign trade in authorities and enterprises Reforming labor, welfare and administrative law Setting up social security systems Devising strategies for financial system development, banking system reform and capacity building in rural cooperative banks Initiating cooperation amongst small and medium-sized enterprises; promoting chambers and associations Qualifying executives in industry and administration Conducting training courses and workshops on the WTO legal framework and the implications of the PR China's WTO accession for economic reform. |

The specific form this consultancy has taken is to fly German law expeorts in the various field for specialized conferences to Peking to help in mapping out the laws for various areas such as administrative law, WTO accession and the like. Not much public information is accessible on these projects, but interviews with consultants involved showed that actually a rather high degree of interaction exists.

Such efforts would undoubtedly be helped if both sides could rely on the proposed e-Dictionary for terminology and information.

The available resources come in three forms, as websites, portals, or databases. The websites provide information in the form of translation, commentary, or context, and might contain portal features such as links to other websites or databases. The databases are all located and managed in the PRC, Hong Kong and Taiwan. A common problem of portals is their inability to keep up and stay alive. An example is a French website on Chinese law last updated in May 2003 ([www.geocities.com/droitchinois](http://www.geocities.com/droitchinois)), in which some English-language texts have been imported from other web-sites, and of which a large part of the links are now dead. The same is true for the Chinalaw portal managed by Charles Paglee ([http://www.qis.net/chinalaw/](http://www.qis.chinalaw.umdcls1.htm)). It was started in 1998 by five or six first-year law students at the University of Maryland, who had a Chinese background or had studied Chinese. This group has long graduated and their successors now have much trouble keeping it alive. Many old links are dead, important new ones are missing. The best managed and knowledgeable portal is Findlaw. [www.findlaw.com](http://www.findlaw.com). While certainly not concentrated on Chinese law, it contains a very substantial number of important updated links to Chinese law resources. This portal comes with different points of entry defined by the type of interest of the user. These types are: Public, Business, Students, Legal Professionals, and Corporate Counsel. For each of them a particularly relevant subsection of law is selected and contextualized in a manner compatible with the legal knowledge of the user. The “Public” this will be offered information on matter such as accidents, rent contracts, or insurance contracts, the “business user” information on business registration, labor contracts etc.

**This packaging in terms of interest and level of legal knowledge is a possible avenue to take with the EURO-CHINESE E-DICTIONARY OF LAW. Criteria might here be whether the user can handle Chinese-language material, has a scholarly, a lawyer’s, a student’s or a corporate counsel’s interest.**

The links of this portal are not commented. They go to databases and websites. The websites in their turn have a variety of structures. One of them, which is not in Findlaw, has been set up by Prof. Jakoba Hanenburg in Leuven. It starts, I base myself here on a description she was kind enough to provide, with the map, with links to other maps, and is meant to explain the enourmous difficulty of central governance and the big differences in prosperity. This is followed by Dutch translations (partijrecht, staatsrecht, strafrecht, burgerlijk recht) from all party statutes, state laws (all constitutions, organic laws of state institutions, etc. etc. up to the national hymn), criminal law (still incomplete), civil law (the civil law, family law, social law - end of this week 4 or 5 translations of legal material on vagrants and beggars). Follows a bibliography (boekenkast) and a collection of links (webterras). The maps (landkaart) and the collection of links are also useful for non-dutch-readers. In the link collection you will find links to a large array of sinological subjects. In short, this website contains three features, translations of Chinese legal material, links to informational context, and all this in Dutch. The addressee is a student of Sinology with strong interest in Chinese law.

Another website, which one will also not find on Findlaw, is run by a long-term and relatively stable project on bilateral cooperation in the field of law, the German-Chinese Institute of Legal Studies of the University of Goettingen in Germany and Nanjing University. It has offered legal training to a good number of Chinese law students, and has produced an entire series of Chinese translations of works on German law. Its website (<http://www.jura.uni-goettingen.de/kontakte/>)contains a good listing of PRC statutes between 1991 and the end of 2003, but only a very small part has been translated and commented upon in German. It offers no links to other sources of information. Still, it provides competent translation and commentary that might be of use for EURO-CHINESE E-DICTIONARY OF LAW, quite apart from the fact that the scholars and graduates from this institute might be natural partners in such a project.   
 Findlaw points to another website, this one run by a law office with a Chinese specialization. [China Law Frequently Asked Questions](http://www.lehmanlaw.com/FAQ/default.htm) From Lehman, Lee & Xu.

(<http://www.lehmanlaw.com/FAQ/default.htm>). This very useful website starts from a particular question, provides detailed answers, but these are not cross-linked to legal texts.

* An example is Dispute Resolution. The first question is:

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| |  | | --- | | Dispute Resolution | |
| |  | | --- | | [I hear that Chinese courts are biased against foreign parties. Is it worth initiating court action against a Chinese party at all?](http://www.lehmanlaw.com/FAQ/faq/#01)  The short answer is that Chinese courts are not particularly biased towards foreign parties, and yes, it is worth going to court against a Chinese party if one feels that one has a case. Generally speaking, Chinese laws provide equal protection to both domestic parties and foreign parties. That being said, it is true that local protection (favoritism of local parties by the authorities) has not entirely been eradicated. The level of local protectionism often depends on where the suit is brought. The judges in most of the large Eastern cities, such as Beijing and Shanghai, are extremely well educated, informed, and fair.   * [What is a minute?](http://www.lehmanlaw.com/FAQ/faq/#02) * [What functions do minutes serve in judicial practice?](http://www.lehmanlaw.com/FAQ/faq/#03) * [Are minutes part of Chinese Law?](http://www.lehmanlaw.com/FAQ/faq/#04) * [How can minutes become Law?](http://www.lehmanlaw.com/FAQ/faq/#05) * [What are the requirements for lodging a prosecution in court?](http://www.lehmanlaw.com/FAQ/faq/#3) * [In litigation, is evidence obtained by the litigant outside of China acceptable?](http://www.lehmanlaw.com/FAQ/faq/#4) * [How does the court serve litigation documents when the litigant does not have a domicile in China?](http://www.lehmanlaw.com/FAQ/faq/#5) * [Why should I choose arbitration?](http://www.lehmanlaw.com/FAQ/faq/#6) * [What shall be included in an arbitration agreement?](http://www.lehmanlaw.com/FAQ/faq/#7) * [Where can a foreign related dispute be arbitrated?](http://www.lehmanlaw.com/FAQ/faq/#8) * [What is required when submitting an arbitration application with CIETAC?](http://www.lehmanlaw.com/FAQ/faq/#9) * [As we are a foreign invested enterprise, are there specific procedures that apply to us?](http://www.lehmanlaw.com/FAQ/faq/#10) * [How can I enforce my arbitration award?](http://www.lehmanlaw.com/FAQ/faq/#11) * [How can I enforce my award in Hong Kong?](http://www.lehmanlaw.com/FAQ/faq/#12) * [Can judicial documents be served on a foreign company's representative office in China?](http://www.lehmanlaw.com/FAQ/faq/#13) * [According to what principles is the law of procedure for international commercial arbitration applied?](http://www.lehmanlaw.com/FAQ/faq/#14) * [Are their weaknesses with this theory and what other principles are used for determining the law of procedure in arbitration cases?](http://www.lehmanlaw.com/FAQ/faq/#15) * [What regulations are provided for in Chinese law of foreign arbitration procedure?](http://www.lehmanlaw.com/FAQ/faq/#16) * [What are the advantages of adhering to the lex loci principle?](http://www.lehmanlaw.com/FAQ/faq/#17) * [Is the de-localization theory one that should be used in China?](http://www.lehmanlaw.com/FAQ/faq/#18) * [What is the role of the People's Mediation Commission in China?](http://www.lehmanlaw.com/FAQ/faq/#19) * [Does any authority govern the People's Mediation Commissions?](http://www.lehmanlaw.com/FAQ/faq/#20) * [How can the parties enforce the settlement agreements?](http://www.lehmanlaw.com/FAQ/faq/#21) * [Where can one execute the settlement agreement?](http://www.lehmanlaw.com/FAQ/faq/#22) * [Can a settlement agreement be varied or revoked?](http://www.lehmanlaw.com/FAQ/faq/#23) * [Is there a limitation period to bring an action on a settlement agreement?](http://www.lehmanlaw.com/FAQ/faq/#24) | |

**This approach, combined with the broad access categories such as the ones one finds in Findlaw and with cross-links to the legal texts and decisions applicable, might be valuable for the EURO-CHINESE E-DICTIONARY OF LAW. It has the advantage of directly connecting with the potential user, but will require a very intimate contact with such users, such as a law office might have, so as to be able to find out what the often asked questions and problems might be.**

A last feature is the explication of terms. A fair amount of such explanations is available here and there, with the Hong Kong BLIS being an important source. The difficulty is to have these explanations in the jargon familiar to the user, as is done with the questions and answers just quoted. **One of the advantages of the approach to use common language and deal with the realities rather than the abstract principles is the definitely greater user friendliness.** The requirements for the project managers, however, to find knowledgeable and sophisticated collaborators to write this kind of entry are very high and it is much easier to resort to dictionary type entries as one might find them in any Chinese dictionary.

###### The architecture of the projected EURO-CHINESE E-DICTIONARY OF LAW is still under discussion. It is a technical problem only in the second round. At present the core content features defining the functionality and viability for such a database have to be fixed. Decisions will have to be made on big questions such as the nature of this enterprise – is it to be a portal, a database, or a web-site – or a combination of these forms; will there be a differentiation according to different user groups with an subsequent bundling and leveling of the information? Will there be a cross-linking to legal texts in English, in Chinese, or in both, and what will be the criteria or relevance. Which segments are going to show the highest development and/or volatility and therefore have to be designed with a particularly high level of flexibility? There is an important gap to be filled, and there is useful work to be done. But the stunted or aborted projects still present on the WWW landscape show that great management and planning skills are required to make such a EURO-CHINESE E-DICTIONARY OF LAW a reality and a success.