

UNION INTERNATIONALE DES AVOCATS

INTERNATIONAL ASSOCIATION OF LAWYERS
INTERNATIONALE ANWALTS-UNION



UNION INTERNACIONAL DE ABOGADOS
UNIONE INTERNAZIONALE DEGLI AVVOCATI

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RESOLUTION ON MULTIDISCIPLINARY PRACTICES

The Union Internationale des Avocats (UIA), at its General Assembly meeting, held in New Delhi, India, on November 3, 1999, hereby adopts the following UIA-RECOMMENDED MINIMUM STANDARDS FOR MULTIDISCIPLINARY PRACTICES:

THE UNION INTERNATIONALE DES AVOCATS,

INSISTENT ON maintaining the independence of Lawyers for the proper functioning of the system of justice in countries around the world;

DESIROUS OF protecting clients' interest in confidentiality and independence;

NOTING the position of the Council of the Bars and Law Societies of the European Union (CCBE) on integrated forms of cooperation between Lawyers and persons outside the legal profession as adopted by a majority of the members of the CCBE at its plenary session in Lyon, France on November 27, 1998; and the resolutions of the International Bar Association (IBA) on the subject of Multidisciplinary Practices adopted at its Annual Meeting in Vancouver, Canada, on September 13, 1998;

APPLAUDING the accounting and auditing professions' efforts to maintain the independence of accountants and auditors in order to ensure an effective and transparent system of financial reporting, integrity in commerce and corporate governance around the world, a need recognized by the UIA in its resolutions on Corporate Governance and Auditors Independence adopted on November 26, 1996;

RECOGNIZING that trends in communication, transportation and economic globalization have engendered interest in forms of integrated cooperation between Lawyers, Accountants and Other Professionals, and that such integrated forms of cooperation, where allowed, may answer the needs of certain types of clients, provided minimum standards are maintained to ensure independent legal advice;

UNDERLINING that delay in adopting and upholding internationally such minimum standards will harm clients' interests and result in severe distortions of competition between lawyers in countries where multidisciplinary practices are not regulated and those where multidisciplinary practices are subject to regulatory standards or are not permitted;

HEREBY ADOPTS the following minimum standards for lawyers in multidisciplinary practices, where such practices are permitted, and recommends that all bars, law societies and governments of countries which permit multidisciplinary practices implement standards providing at least these minimum protections for clients and ensure means to enforce them:

UIA-RECOMMENDED MINIMUM STANDARDS FOR MDPs

DEFINITIONS

For the purposes of these Minimum Standards for MDPs:

- "Lawyers" means attorneys, barristers, solicitors and their equivalents in any country, whose profession is to render legal services.
- "Other Professionals" means accountants, auditors and other regulated professionals, as well as professionals not regulated in some countries such as consultants in tax, management techniques, information technology, human resources management and engineering.
- "MDP" means any multidisciplinary practice (and not only a multidisciplinary partnership) or mixed services firm, where Other Professionals cooperate with Lawyers and where the Other Professionals have a substantial and continuing economic incentive related to, or interest in the financial results of, the Lawyer's practice or that of the Lawyer's firm (other than an interest as a creditor in the ordinary course of business), or control the Lawyer's firm directly or indirectly, or use the same name as that used by the Lawyers to describe their firm.
- "Conflict of Interest" has the meaning and exceptions determined by applicable law in each jurisdiction.
- "Privilege" means any legally available privilege protecting the confidentiality of the information confided by the client to the Lawyer or the advice rendered by the Lawyer to the client, or the work-product of the Lawyer on behalf of the client.

Standard 1: PROFESSIONAL CONDUCT

- 1.1. Lawyers practicing in an MDP must ensure that both the Lawyers and the Other Professionals practicing in the MDP acknowledge and undertake to respect each other's ethical rules. If the Other Professionals do not have ethical rules established for their own professions, then a code of conduct must be agreed upon on a contractual basis, the contents of which must be compatible with the ethical rules of the legal profession.
- 1.2. If the ethical rules applicable to the Lawyers in an MDP do not permit the representation of a client in a given matter to commence or continue, or do not permit the disclosure to anyone of information relating to a client matter, the Lawyers must ensure that both the Lawyers and the Other Professionals in the MDP do not commence or continue the representation on that matter or disclose the information as the case may be.

Standard 2: INDEPENDENCE

A Lawyer practicing in an MDP must ensure that his or her independent professional advice is not controlled or improperly influenced by Other Professionals practicing in the MDP, since Lawyers render valuable services to their clients, hence to society, only when the independence of their professional advice is maintained. Such independence would be impaired or compromised, to the detriment of the public, should they become dependent, financially, technologically or otherwise, on the Other Professionals in the MDP in which they practice. Therefore, Lawyers practicing in an MDP must ensure that conditions which preserve the independence of the Lawyers are observed by the MDP, including, inter alia, a contractual prohibition for the Other Professionals to practice law.

Standard 3: INFORMING THE PUBLIC

In order to maintain the right of the public and clients to be informed and to be able to freely select a Lawyer without undue influence (such as tying practices), Lawyers practicing in an MDP must identify themselves prominently as such. Lawyers practicing in an MDP must ensure that the MDP discloses to applicable regulatory authorities, clients and potential clients the nature and scope of the relationships between the Lawyers and the Other Professionals in the MDP to the extent that information may be relevant to verification of compliance with ethical rules applicable to the Lawyer or to the selection of the Lawyer by the client.

Standard 4: ADVERTISING

Lawyers practicing in an MDP must ensure that neither the MDP, nor the Other Professionals in that MDP, advertise the services of the Lawyers practicing in that MDP in a manner inconsistent with the rules applicable to the legal profession in the jurisdiction(s) where the advertisement is published or broadcast.

Standard 5: CONFLICTS OF INTEREST

- 5.1. Conflicts of Interest affecting one Lawyer in an MDP (or any Other Professional practicing in the MDP) must be imputed to all other Lawyers and Other Professionals practicing in the MDP.
- 5.2. Conflicts of Interest must be avoided by Lawyers practicing in an MDP with respect to all clients of that MDP wherever located, by refusing the representation of the client or clients generating the Conflict of Interest.
- 5.3. Indirect or positional Conflicts of Interest must be avoided whenever they might adversely affect or limit the representation of the client by the Lawyer.
- 5.4. Any deviation from Rules 5.1. to 5.3. requires the informed consent of the client after appropriate consultation regarding the possible effect of the deviation.
- 5.5. Any person in an MDP who determines Conflicts of Interest with respect to Lawyers in that MDP must be (i) a Lawyer, and (ii) independent from any controlling influence, financial or otherwise, of any person not licensed as a Lawyer.
- 5.6. A Lawyer practicing in an MDP must ensure that no Other Professional in the MDP is or becomes the statutory or public auditor, or their equivalents in any country, of a client of the Lawyer and if an auditor in the MDP is the statutory or public auditor of a client, a Lawyer in that MDP cannot represent that client.

Standard 6: PRIVILEGE

Lawyers practicing in an MDP must ensure that no Other Professionals practicing in an MDP hold themselves out to the public as benefiting from the Privilege extending to the Lawyers in that MDP, or as sharing with them the Privilege, unless so permitted by operation of law. In addition, Lawyers practicing in an MDP must take such action as may be necessary (including resigning from or refusing an engagement) to safeguard the Privilege. Under no circumstance and for no reason may the Privilege as it relates to a Lawyer practicing in an MDP be compromised by any legal or ethical obligations of any Other Professionals who practice in that MDP.