Executive Summary

Of

The Special Committee on Foreign Law School Accreditation

At its December 2010 meeting in San Diego, the Council authorized “the Accreditation Project to go forward promptly with its consideration of the accreditation of law schools outside the U.S. and its territories….” The Council specifically voted to engage key public and private stakeholders, i.e., the Conference of Chief Justices, state bar examiners, legal education representatives and representatives of the legal profession, in our consideration of this significant issue.

During the past year, a Special Committee consisting of Dean John O’Brien, Professor Joan Howland, Professor Martin Burke, former Chief Justice Ruth McGregor, Dean Steve Smith, Professor Peter Winograd, Jerry Hafter and Greg Murphy designed and conducted surveys to elicit the views of the stakeholder groups noted above regarding the pros and cons of expanding the Accreditation Project to include foreign law schools. A survey also was posted on the Section website to enable any interested person to comment. Survey responsibilities were as follows:

Chief Justice McGregor - state chief justices; Professor Peter Winograd - bar leaders represented in the ABA House of Delegates and the National Conference of Bar Presidents, and the National Association of Bar Executives; Dean Steve Smith - law deans; Jerry Hafter and Greg Murphy - state bar examiners; and Professors Joan Howland and Martin Burke - public survey on the Section website. In a number of instances, survey deadlines were extended and reminders were sent to stakeholder groups to complete the surveys. The last survey responses were received in April 2012.

The number of respondents to each survey varied widely as follows: 11 state chief justices; 50 law deans; 8 state boards of bar examiners; 93 bar leaders; and 645 respondents (over 90% law students) on the public survey posted on the Section website.

As detailed in the reports summarizing the survey results from each stakeholder group, there was little support for the expansion of the Accreditation Project to include foreign law schools. Responses favoring expansion of the Accreditation Project were largely based on one or more of the following three rationales: expansion of the Accreditation Project to foreign law schools (a) is an appropriate response to the globalization of the law; (b) would promote the rule of law and strengthen law practice worldwide; and (c) would stimulate expanded intellectual exchange between U.S. and foreign law schools. In addition, a few respondents opined that, if the Council did not move forward in accrediting foreign law schools, some other entity might attempt to undertake that role.

Responses opposing extension of the Accreditation Project were largely based on one or more of the following four rationales: (a) the difficulty of developing appropriate standards and processes, including means of monitoring compliance with academic freedom requirements; (b) the diversion of limited Section resources away from the Section’s primary role of providing...
support for U.S. laws schools and addressing the critical issues currently confronting the Section; (c) the difficulty for foreign law schools to educate foreign law students effectively in the culture, ethics, and values of the American legal system; and (d) the difficulty of modifying the standards to accommodate accreditation of foreign law schools at a time when the Standards Review Committee and the Council are occupied with revision of the existing standards. In addition, many respondents, primarily students, raised concerns about the impact the expansion of the Accreditation Project would have on employment opportunities for U.S. law graduates.

After extensive discussion and review of all the available comments, the committee unanimously recommends that the Council not proceed to undertake accreditation of law schools outside of the U.S. and its territories. The Committee’s recommendation is based primarily on the following three considerations:

(1) Accrediting foreign law schools would divert attention and resources from the Section at a time when the Section and its Council are facing a multitude of pressing issues which have placed significant strain on both the financial and personnel resources of the Section.

(2) It would be difficult, if not impossible, to acculturate students in foreign law schools in the culture, values, and ethics of the American legal system.

(3) A decision to accredit foreign law schools would require the Accreditation Project to engage in the difficult task of developing and implementing appropriate standards and processes, including the means of monitoring compliance with the Standard’s academic freedom and other U.S.-centric requirements. These standards and processes would need to be equivalent to those currently used in accrediting law schools in the U.S. and its territories.

The Committee agreed that, regardless of any decision that the Council makes about the accreditation of foreign law schools, the issue of establishing appropriate standards and procedures for the significant number of foreign lawyers who seek to be licensed in U.S. jurisdictions would remain unresolved.
This is the report on the views of legal education regarding the possibility of the ABA approving law schools outside of the United States. It is based primarily, although not exclusively, on discussions with the deans of ABA law schools. In gathering information I conducted a formal survey of deans; a focus group; and informal conversations with deans, faculty members and those with an interest in international education.

Summary
All three of these sources of information, plus informal discussions with leaders of the Association of American Law Schools, produced the same general result. Generally, the conclusion was that it is inadvisable for the ABA to seek to accredit foreign institutions. A variety of reasons were noted for this conclusion, but the conclusion was unmistakable. The results of the survey are described in greater detail below, but there was overwhelming sentiment that the ABA should not seek to become involved with the accreditation of foreign institutions at this time.

Process
The primary mechanism for assessing the view of legal education was a survey conducted of the deans. A copy of the survey is attached. With the assistance of Peter Winograd, a draft of the survey was tested with a few deans to determine its suitability. As a result of this testing, several changes were made in the survey. The survey was conducted in the early spring, 2012. Approximately fifty deans completed the survey.

A formal focus group was conducted by Bucky Askew and me during the annual meeting of SEALS. Approximately twenty faculty members and deans participated in it. (There were two deans from outside the U.S. who generally supported the ABA beginning accreditation outside the U.S.)

A large number of individual conversations with deans and those interested in international legal education were carried out during the past year. In these informal conversations, of course, the sample is not at all random. Those conversations, however, did give me an opportunity to assess in greater detail some of the responses from the focus group and, later, the survey of deans.
In addition to these conversations, I had informal conversations with a few of the leaders of the AALS. The organization has not taken a formal stand on the question of the accreditation of foreign law schools. Without stating a position for the AALS, I believe that the general conclusions reported below from the deans and others are consistent with the feelings of these AALS leaders.

**Results of the Survey**

To the “summary question” of whether the Council should become an international accrediting agency, 67% of the deans said probably not or definitely not, while 23% said definitely or probably yes. Another 10% responded that they were uncertain. This conclusion was reflected in the focus group and the individual conversations.

In the survey, as well as the other settings, a number of reasons were given for opposition to the accreditation of law schools outside the US:

- The Section of Legal Education and Admissions to the Bar has more important matters to attend to and should not dilute its efforts or divert its attention from these critical matters.

- It is unlikely that the accreditation of foreign institutions could be done effectively.

- The credibility of ABA accreditation within the U.S. would inevitably be threatened by this expansion of activities.

- The standards would have to be changed to reflect the reality of foreign institutions and that would mean that the "tail would be wagging the dog."

- There are important legal assumptions underlying the current accreditation standards (legally protected freedom of expression was the frequently noted example) which are not assumptions that are safely made in all foreign countries.

- Accreditation has within it implicit cultural assumptions, and those assumptions would not apply in many foreign countries. Another cultural issue was that students who attend law school without having been in the U.S. might not appreciate the broader culture (in the US) in which U.S. law operates.

- No matter how well intentioned, such an effort could be seen by foreign countries as an effort by the ABA to impose American standards and American values on legal education elsewhere.

- There is no effective way for accreditation to consider adequately the important informal education that occurs when students interact with legal institutions, lawyers, judges and other legal experts. These informal elements are generally unstated, but nonetheless central to high quality legal education in the U.S.
Those who favored the Council becoming involved with the accreditation of foreign law schools emphasized the following:

- International law is the future of the legal profession and the ABA should face that reality.

- The process would improve the legal profession worldwide.

- The state supreme courts, and other bar-admissions authorities, in the U.S. are facing serious problems in applying the education requirement for admission to the bar. The accreditation of foreign-based law schools might not solve this, but it would assist with the problem.

- If the ABA does not accredit foreign law schools (from a U.S. perspective), someone else will. This might not be done with high quality and could create problems for the ABA in a variety of ways.

Responses to Other Questions

In a series of questions regarding what factors would be important or should guide the Council if accreditation of foreign institutions were undertaken, respondents commonly indicated that the more contact with U.S. institutions, the better. (These are questions B-G.) There was, for example, concern about schools that would be preparing students to come to U.S. to take the bar exam in the U.S. (as opposed to understand U.S. law for working in a foreign country). There was an apparent preference for schools owned and operated by US-based, ABA-approved schools. There was also an apparent preference for requiring some portion of instruction to occur at a location within the U.S.

Taken together, the questionnaire produced somewhat unclear results related to U.S. law students going to ABA accredited law schools outside the U.S. (The JD from these law schools would presumably qualify the graduates to take the bar exams in the U.S.) Some respondents expressed concern that this would simply be “off-shoring” law students who were too weak to be admitted to schools in the U.S. Other respondents felt that the diversity and presence of U.S. law students would contribute considerably to the education of students in foreign countries.

Some respondents raised concerns that U.S. law schools opening branches in foreign countries would create similar risks. That is, it might taint the legitimacy of the ABA Approval as the universally accepted basis for meeting the education requirement for bar admission in the U.S.

About one point there was strong agreement. That is, that should foreign accreditation be undertaken, the ABA should not make changes in or grant waivers of any of the accreditation standards to accommodate foreign-based law schools. Fully 77% of respondents in the survey would oppose such changes or accommodations (17% were neutral and 7% said it did not matter).
The deans made many comments in the formal questionnaire and these are available in the results of the questionnaire which are attached to this report. The comments of the deans were consistent with comments from others with whom I discussed the question.

Several of the results of this process were unexpected. I was surprised by the strong sense that the ABA should not become involved with accreditation of foreign law schools, and that almost no combination of limitations on that accreditation provided sufficient assurance for deans (and others) to favor such accreditation. Even those with strong international interest opposed the ABA undertaking this project. Those deans and faculty members made the point that accreditation is too culturally-based for this to work easily. Some felt it was an inappropriate imposition of U.S. standards on the rest of the world.

I was particularly surprised at the level of emotion these questions generated, especially among deans. There is a significant number, although a minority of the deans, who were suspicious of this process—including some who have been involved with the ABA for a considerable time. These deans generally think that the ABA needs to spend considerable attention to issues within the U.S. legal education system and the current accreditation process. Candidly, a few expressed the opinion that the decision had already been made to move forward with foreign accreditation. Again, this represented a minority of those responding but it did produce an emotional reaction that I did not expect.

Several deans (who have been involved with accreditation and bar admissions) noted the difficulty that many states have had applying the education requirement to bar applicants who have graduated from foreign law schools. They indicated, however, that they did not believe the accreditation of foreign institutions would be a significant solution to this problem. Many graduates from non-ABA-foreign law schools would still seek admission in the US, so bar admissions authorities would still have the question of how to judge their qualifications for admission to the state bar. Several respondents noted, for example, that legal education is at the undergraduate level in much of the world and it is unlikely that existing high quality foreign law schools would change to a graduate model just to receive ABA approval. Even with foreign law school accreditation, therefore, the question of what to do with graduates of non-ABA foreign law schools would remain.

Conclusions

There is substantial opposition among almost all of the groups with whom I consulted to the ABA pursuing or permitting any form of accreditation of foreign law schools. There is suspicion that this would lead to a diminution of the quality of the ABA accreditation process and that it would inevitably lead to changes in the standards for accreditation. At the same time there is a recognition that the question of foreign law school graduates seeking admission in United States jurisdictions does need study and consideration by the Section.

May 14, 2012
REPORT OF BAR ADMISSIONS SUBCOMMITTEE
OF THE SPECIAL COMMITTEE ON
ABA APPROVAL OF FOREIGN LAW SCHOOLS

This is the Report of the Subcommittee of the Special Committee on ABA Approval of Foreign Law Schools appointed to liaison with boards of bar admissions (the “Bar Admissions Subcommittee;” Jerome Hafter and Greg Murphy).

**Bar Admissions Subcommittee Questionnaire.** To gather information from bar admissions authorities on the proposal for the ABA to accredit law schools located outside of the United States which would permit their graduates to sit for admission in U.S. jurisdictions where graduation from an ABA-approved law school is the requirement for admission, the Admissions Subcommittee prepared a Questionnaire covering key issues with this potential ABA activity.

The Questionnaire requested responses to 15 questions concerning bar admissions authorities’ positions on whether the Council should accredit law schools outside the United States for purposes of admission of their graduates to practice in the United States and how the ABA’s adoption of such a procedure might affect the relationship between the ABA and the admitting jurisdictions.

A copy of the Bar Admissions Subcommittee Questionnaire and a Summary of Responses is attached to this Report.

**Distribution and Response**

The Bar Admissions Subcommittee distributed its Questionnaire to the bar admission administrators in each of the 50 states, the District of Columbia and the Commonwealth of Puerto Rico. This distribution was made to the list of administrators maintained by the National Conference of Bar Examiners. The President of the NCBE sent a message to the jurisdictions encouraging them to provide detailed responses. The Questionnaire was initially distributed on October 1, 2011, with a request for response by November 1, 2011. This deadline was later extended to December 15, 2011. On April 1, 2012, the Subcommittee, through the ABA Office, asked jurisdictions that had not responded to do so by April 20, 2012.

The Bar Admissions Subcommittee has received substantive responses from bar admissions authorities in the following seven jurisdictions:

- Alabama
- Florida
- Georgia
- Mississippi
- New York
Pennsylvania
Texas.\textsuperscript{1}

While the responses represent a limited number of states, those states responding answered all the questions submitted. Several provided thoughtful comments on the ABA’s present and potential role in admission of graduates of foreign law schools to the bar.

The seven responses include responses from 5 of the 10 American jurisdictions with the largest number of applicants for admission by bar examination: (1) New York, (4) Florida, (5) Texas, (7) Pennsylvania and (10) Georgia. The seven states providing written responses received approximately 36.1\% of all applications for admission to the bar nationally in the year 2011 (27,934 of 80,261 total applications for admission by examination nationwide). The responding states also include two of the four top states in the number of applications for graduates of foreign law schools applying for admission in 2011: (1) New York and (4) Alabama. Largely because of New York, the responding states, represent 80.5\% of all applications by graduates of foreign law schools for admission to practice in the United States (4,522 of 5,620 such applications in 2011).

In addition to the Questionnaire, the members of the Bar Admissions Subcommittee have appeared before the Board of Trustees of the National Conference of Bar Examiners to discuss the Questionnaire and have discussed the subject matter with bar examiners and bar admission administrators from a number of additional states.

Summary of Responses

Attached to this are the State Responses The Subcommittee recommends that the ABA Council members review responding states’ positions. The following are the Subcommittee’s comments on the responses.

Question 1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

The majority of states responding, answered this question in the affirmative with respect to expanding the ABA’s role in identifying law schools whose graduates should be permitted to sit for bar exams in the U.S. Since New York receives by far the largest number of applications for admission and also admits the largest number of foreign-educated lawyers, its response will be summarized first. In 2011, New York tested 4,427 candidates from 135 countries. In the last five years, it tested 21,984 foreign-educated candidates.

New York’s narrative response to the Questionnaire stated, “First, if the purpose of the ABA extending accreditation to foreign law schools is to make admission to practice in the United States more widely available to foreign-trained lawyers, for our own state we do not see

\textsuperscript{1}In addition to these jurisdictions, two other jurisdictions responded as follows: (1) Rhode Island responded that the subject of admission of graduates of foreign law schools in that state is currently under consideration by the Rhode Island Supreme Court and that the Rhode Island Board of Bar Examiners felt “uncomfortable” in responding while the matter was pending before their highest Court; and (2) the New Mexico Board of Bar Examiners responded that the Questionnaire will be discussed at a meeting of that Board on June 7, 2012.
the need for such accreditation.” New York has its own program to permit graduates from foreign law schools to take the New York bar examination. In addition, since the New York Board of Law Examiners has proposed a rule change to the New York Court of Appeals to require completion of a program of study at a law school in the United States, if the Court of Appeals adopts the rule, ABA accreditation of a law school in a foreign country would not carry with it eligibility to sit for the New York examination. New York commented that graduates of foreign law schools accredited by the ABA would nevertheless be required to complete an LL.M in the United States. New York “question(s) the ability of a foreign law school to duplicate the American law school experience, and particularly to offer a program of legal education that is substantially the same as that offered by ABA approved law school in the United States.” New York also expressed “concerns regarding the ability of the ABA to maintain the values that are critical to both legal education and our society generally, when operating in foreign countries where the culture, legal system and values are different from our own.”

To the extent the ABA’s reputation with the jurisdiction now admitting the largest number of foreign-educated lawyers might be important to the Council, New York said:

The ABA would have to enforce the Standards for Approval of Law Schools in a fair and consistent way. We are concerned that the result will be the weakening of the ABA imprimatur, such that not only will there be questions as to adequacy of foreign programs, but questions might be raised as to the application of the Standards in American law schools as well. This might prompt a re-evaluation of our state’s reliance on ABA accreditation as an educational requirement, and cause us to adopt separate requirements, in addition to the instructional and other requirements that are currently part of our Court’s Rule.

In short, if the ABA were to begin accrediting foreign law schools, New York might reconsider its reliance upon the ABA as an accrediting agency.

However, New York went on to say that that it would be “helpful” if the ABA or other suitable entity “would evaluate foreign programs to determine the substance of course and degree requirements for purposes of determining equivalency with an American program and course of law study.”

Texas, which currently provides that graduation from an ABA-approved law school is a required educational credential for admission, noted that its acceptance of ABA approval of the applicant’s law school is not limited or affected by where the law school may be located. Texas summarized its position on expanding the ABA’s activities to foreign-based law schools as follows:

It would be beneficial for there to be an entity having qualifications in evaluating legal education that could undertake the mission internationally to better ensure bar admissions officials will have more reliable information than is presently available as to the comparability of legal education claimed by foreign-trained applicants.
Texas suggested that the ABA Section would be a suitable agency to perform this service since the ABA Section has “competency in evaluating law schools” and it would be more efficient to marshal resources in a single authority than the status quo in which individual jurisdictions, independently of each other, consider foreign legal education on a case-by-case basis.

**Question 2.** Would your jurisdiction consider admission of applicants based on a JD degree from an ABA accredited law school located outside the United States?

In regard to the question whether their state would admit applicants based on a JD degree from an ABA-approved law school located outside of the United States, the majority of the seven states responding answered in the affirmative. Pennsylvania stated “no” to this question.

**Question 3.** Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA accreditation of any law school located in that country?

Responses to the question of whether there are conditions in certain foreign countries which should prohibit accreditation of law schools from that country were divided between those states (such as Georgia, New York and Pennsylvania) whose position is that ABA approval of law schools should be dependent on general political and human rights conditions in the particular country and other states (such as Alabama, Mississippi and Texas) which take the position that the question should be whether there is academic freedom within the law school itself and whether the law school itself meets ABA standards. This is a question for which no definitive position by bar examiners can be drawn from the Questionnaire responses.

**Question 4.** Is the cultural milieu in the United States an essential element of an American legal education and not capable of being replicated abroad?

A slight majority of the responding jurisdictions indicated that the cultural milieu of the United States is not an essential element of American legal education. New York questioned the ability of a foreign law school to duplicate the American law school experience. New York’s response says in pertinent part: “Our Court has felt that an important part of the education of lawyer occurs from being part of a vibrant law school community operating within the culture and legal system of the United States.”

**Question 5.** Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

---

2 New York’s existing rules have permitted lawyers trained in common law countries, including Canada, the British Isles, Australia, New Zealand, and certain other former British commonwealth nations in Africa, Asia and the Caribbean, who have completed a course of law study substantively and durationally equivalent to the education at an ABA-approved law school, to sit for the New York bar examination and to be admitted to practice without further educational experience in the United States and to allow those from other countries, largely with a civil law education, to do so after taking a prescribed LL.M course with a minimum requirement of 24 credit hours at an American law school. In the past five years, New York has tested 21,984 foreign-trained candidates. This amounts to approximately 5% of all bar examinations in the United States in this period.
Subpart A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?

A slight majority of responding jurisdictions felt that this should be a factor. Florida responded strongly that a foreign law school created solely to educate applicants for U.S. admission would be a “disservice” to ABA-approved law schools in the United States. In contrast, Alabama responded “no” to this question.

Subpart B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA-accredited law schools in the United States?

All of the responding jurisdictions, with the exception of New York which did not comment on this issue, and Texas which answered “no,” felt that reciprocity for graduates for ABA-accredited law schools in the U.S. should be a relevant consideration.

Subpart C. Whether the foreign based law school is owned and operated by an ABA-accredited law school from the United States?

With the exception of Georgia, all of the states responding to this question said that this should not be a factor in approval of the foreign-based law school.

Subpart D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

The responding jurisdictions were nearly equally divided on this question.

Subpart E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

The responding jurisdictions were nearly evenly divided on this question. In practice, whether ABA approval would apply only to law schools in common law countries would have a huge impact on significance of the ABA approving foreign law schools, since a majority of current applications by foreign-trained lawyers are from non-common law countries.

Subpart F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

The responding jurisdictions, with the exception of New York, stated that this should not make a difference to the ABA. New York’s narrative response pointed out that there may be some advantages in having U.S. students in the law school classroom since this could result to a different experience than if all of the students were local nationals.

Subpart G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should
play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?

The responding jurisdictions were divided on this question. Florida, for example, stated that if graduates of a law school cannot practice in the United States due to U.S. immigration laws, this should be given “great consideration” in determining the ABA’s decision to accredit such a law school. On the other hand, Mississippi responded that U.S. immigration laws should play no role in the ABA’s involvement since “that injects political considerations” in the ABA’s role as an accrediting agency.

Subpart H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

All of the responding jurisdictions indicated that waivers of ABA Standards would be a concern depending on what standards are being waived.

Question 6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?

Several of the jurisdictions indicated that this would not change if the ABA permitted law schools located in other countries to become ABA-approved. Alabama stated that applying ABA accreditation standards to foreign-based law schools would offer “more assurance” regarding the foreign candidate’s suitability. Georgia stated that its current education eligibility standard is graduation from an ABA-approved law school and this would continue if the ABA were to accredit law schools located outside the United States. Florida expressly stated its confidence in decisions of the ABA on accreditation but might be concerned if ABA accreditation was “modified significantly” for foreign-based law schools. As noted above, New York said that ABA accreditation of foreign law schools might ultimately “prompt a re-evaluation of our state’s reliance on ABA accreditation as an educational requirement, and cause [the state] to adopt separate requirements.”

Pennsylvania, expressly stated that its reliance on ABA accreditation as a standard for bar admission would change if the ABA approved law schools outside the United States (Pennsylvania did not further explain this response).

Question 7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

Florida and Georgia pointed out that the ABA should be aware and consider that the character and fitness reviews will be different and harder to conduct for graduates of foreign-based law schools than for applicants who are U.S. citizens. Georgia noted that the National Conference of Bar Examiners (NCBE) presently does character and fitness background examinations for the limited number of applicants from foreign countries and the NCBE would have to agree to do the investigations on the increased number of foreign applicants.
Pennsylvania inquired whether the ABA would require a graduation from an “American style” undergraduate program before entry into an ABA-approved foreign-based law school. This raises the question of how present ABA Standard 502 would be applied to law schools outside the United States where, presumably, a large majority of the students would not have received their bachelor degrees from an American-accredited undergraduate institution.³

Texas raised a question of how ABA approval of some foreign law schools might affect Texas’ present rule allowing attorneys from other countries to be approved on an individual basis if their legal education was “similar” to a U.S. JD program. This leads Texas to question whether ABA approval of certain foreign law schools could cause Texas to abandon this present route to admission for graduates of foreign law schools that do not obtain ABA approval.

The bar admissions authorities did not comment on other issues that have been the subject of comments from other constituencies. For example, areas where the bar admissions authorities did not comment or raise issues include (1) the economic impact on the legal profession in the United States from foreign trained applicants, (2) administrative issues for bar admissions authorities (other than expanded character and fitness reviews), arising from ABA accreditation of foreign-based law schools, and (3) increased expenses that would be involved in accrediting foreign-based law schools and how that expense should be borne among applicants, their law schools, the ABA and bar admissions authorities.

**Clearinghouse Approach to Foreign-Trained Lawyers**

An issue raised by some responding jurisdictions (specifically including New York and Texas), and by other bar admissions officials in discussion of possible ABA approval of foreign-based law schools is whether the ABA Section of Legal Education and Admissions to the Bar or another appropriate institution could perform a role in certifying the credentials of graduates of foreign-based law schools for admission in the United States, which would not involve formal accreditation of those law schools.

The similar procedures in medicine and other professions for handling foreign-educated applicants were discussed in the Report of the ABA Special Committee on International Issues (the “Lacy Committee”) dated July 15, 2009, Section 6, at Pages 18-21.

The procedures followed in medicine and other professions for verifying the credentials of graduates from foreign medical schools and transitioning such graduates to licensure in the United States parallel recommendations which have been made by bar admissions authorities in response to the Bar Admissions Questionnaire, particularly the suggestions from New York and Texas.

It should be noted that the certification program in medicine focuses on verification of the individual applicant’s personal credentials and further testing and education, rather than the

³ The ABA Section’s Standards Review Committee is considering modifying Standard 502 to require an undergraduate degree from either a U.S. or other locally accredited college or university, which would eliminate the need for a unique waiver of this Standard in regard to foreign-based law schools.
credentials of the foreign medical school which he or she attended.\textsuperscript{4} The same individual focus could be applied in regard to foreign-trained law students and lawyers.

Formal written responses received from bar admission agencies and discussions with bar examiners and administrators indicates these authorities would be interested in the ABA's establishing a program to verify credentials for foreign-trained law students and to require further testing and advanced legal education in the United States as conditions of bar admissions.

**Conclusion**

The Subcommittee on Bar Admissions appreciates the assistance of the ABA Staff and the NCBE in conducting the survey, and the time, effort expended by the responding jurisdictions.

SUBCOMMITTEE ON BAR ADMISSIONS OF THE SPECIAL COMMITTEE ON ABA APPROVAL OF FOREIGN LAW SCHOOLS

GREG MURPHY
JEROME HAFTER

\textsuperscript{4} The American Association of Collegiate Registrars and Admissions Officers (AACRAO) now offers law schools a limited certification of credentials from foreign-based law schools.
October 1, 2011

Dear Bar Examiners and Bar Admissions Administrators:

It has been proposed that the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association begin accrediting law schools located outside the United States.

The ABA Council is the national accrediting agency for American law schools. The ABA Council currently accredits 200 law schools located in 49 states, the District of Columbia and the Commonwealth of Puerto Rico. All American jurisdictions now consider graduation from a law school accredited by the ABA Council as fulfilling the legal education requirements for admission to practice law. A number of states require a JD degree from an ABA accredited school as a mandatory requirement for initial admission by examination.

Law schools located outside the United States that might be considered for ABA accreditation could include (a) law schools created solely to prepare students for admission in the United States utilizing an American-styled curriculum, (b) existing foreign-based law schools that may offer an American law studies JD degree program and (c) foreign-based branches of ABA accredited law schools from the United States. It is anticipated that any law school accredited by the ABA Council would be required to meet the same standards as an ABA accredited law school physically located in the United States.

Without going into all the rationale for the proposal to consider accrediting law schools located outside the United States, it is fair to say that those who favor ABA accreditation of law schools located abroad note the integration of the economies of the world, globalization of the legal profession, and all that implies. Proponents also note current rules in some states now permit graduates of law schools located in foreign countries to take the bar examination and be admitted to practice without obtaining a JD degree from an ABA-accredited law school. It is suggested that preparation at law schools complying with ABA standards would better prepare applicants...
for admission in the US than education at foreign law schools not offering an ABA-approved JD program. Further, it has been noted that, as a matter of principle, if American legal education is the best in the world, then the adoption and enforcement of U.S. standards ought to be encouraged abroad.

At this point, we are unable to estimate how many law schools located outside the United States might seek ABA accreditation and how many of their graduates might ultimately seek admission in a U.S. jurisdiction.

Before moving forward with studying the proposal, or beginning a pilot program to inspect one or more foreign-based law schools, the ABA Council is soliciting the reactions and views of bar examiners, bar admissions administrators, and others. Among the questions on which the Council would request your input are:

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?

3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?

4. Is the cultural milieu in the United States an essential element of an American legal education and not capable of being replicated abroad?

5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

   A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?
B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?

C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council's decision whether to accredit law schools located outside the U.S.?

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

8. Please provide your name, jurisdiction and position with your response.
The foregoing are by no means the totality of questions and issues requiring exploration by the ABA Council. We would appreciate your comments on each of the foregoing as you deem appropriate, as well as your identification of and comments upon any other considerations you believe should play a role in the Council's deliberations. We are particularly interested in your thoughts upon the ultimate question of whether the Council ought to proceed with consideration of the possibility of ABA accreditation of law schools located in foreign countries.

You may respond to this inquiry by inserting your responses after each inquiry and returning the document by mail, fax or e-mail to our addresses which appear below our names.

We hope to report to the Council by January 2012 on these matters. Please send any comments you like to us by November 1, 2011, if possible. We sincerely thank you in advance for devoting your valuable time to informing us of your views on this subject.

Gregory G. Murphy
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT 59101
Phone: 406-248-7731
Fax: 406-248-7889
E-Mail: greg.murphy@moultonbellingham.com

Jerome C. Hafter
Phelps Dunbar, LLP
4270 I-55 North
Jackson, MS 39211
Phone: 601-360-9347
Fax: 601-360-9777
E-Mail: hafter@phelps.com
SUMMARY OF STATE RESPONSES

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

   AL  Yes.
   FL  No comment.
   GA  Yes, “given globalization of practice of law.”
   MS  Yes.
   NY  NY narrative response opposes ABA accreditation of foreign law schools as unnecessary for NY which allows graduates of non-U.S. law schools to sit for its bar examination either with or, in some cases, without further legal education in the U.S.
   PA  No.
   TX  TX’s narrative response strongly endorses ABA’s performing this role: “It would be beneficial for there to be an entity having qualifications in evaluating legal education that could undertake the mission internationally to better ensure that bar admission officials will have more reliable information than is presently available as to the comparability of legal education claimed by foreign-trained applicants. The Council certainly has competency in evaluating law schools, and could better inform bar admission officials about foreign legal education in this way. This could be a more efficient marshaling of resources than the status quo in which jurisdictions, independently of one another, tend to consider applicants’ foreign legal education on a case-by-case basis.”

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?

   AL  Yes. (currently allowed)
   FL  No comment.
   GA  Yes.
   MS  Yes.
   NY  No comment.
   PA  No.
   TX  Yes. Under current Texas rules governing admission to the bar, a person holding a JD degree from an ABA-accredited law school is eligible for admission: “This rule does not contain any exclusion concerning the location of the law school.”
3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?

AL  No. Main consideration would be if the law school meet ABA standards.

FL  No comment.

GA  Yes, if the country did not adhere to the Rule of Law.

MS  No. “That injects political considerations.”

NY  Yes. “We have concerns regarding the ability of the ABA to maintain the values that are critical to both legal education and our society generally where the culture, legal system and values are different from our own.” NY would be concerned if the country where the law school is located denied minorities civil rights.

PA  Yes.

TX  The same standards of academic freedom should apply in law schools inside the United States and law schools located elsewhere.

4. If the cultural milieu in the United States an essential element of an American legal education and not capable of being replicated abroad?

AL  No. Alabama now admits South Korean law school graduates who are educated at South Korean law schools with American curriculum.

FL  No comment.

GA  No.

MS  No.

NY  NY’s narrative response states that NY questions the ability of a foreign law school to duplicate the American law school experience: “Our Court has felt that an important part of the education of a lawyer occurs from being part of a vibrant law school community operating within the culture and legal system of the United States.”

PA  Not able to respond without definition of “cultural milieu.”

TX  No, “in most instances.”
5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?

   AL   No.
   FL   Yes. If foreign school is created solely to educate applicants for U.S. admission, this would be a "disservice" to the 200+ U.S. ABA-approved law schools.
   GA   Yes.
   MS   Yes
   NY   No comment.
   PA   No comment.
   TX   No.

B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?

   AL   Yes.
   FL   Yes.
   GA   Yes.
   MS   Yes.
   NY   No comment.
   PA   Yes.
   TX   No.
C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?

AL  No.
FL  No.
GA  Yes.
MS  No.
NY  No response.
PA  No response.
TX  No.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

AL  No.
FL  No.
GA  Yes.
MS  No.
NY  No response.
PA  No response.
TX  Yes.
E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

AL Yes.
FL No.
GA Yes.
MS No.
NY No response.
PA No response.
TX "Probably not."

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

AL No.
FL No.
GA No.
MS No.
NY NY's narrative response says that the ability of students to learn from each other would be a far different experience when students in classroom are all or primarily non-U.S. citizens.
PA No response.
TX No.
G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council's decision whether to accredit law schools located outside the U.S.?

AL No.
FL Yes. (If graduates cannot practice in U.S., this should be given "great consideration.")
GA Yes.
MS No. "That injects political considerations."
NY No response.
PA No response.
TX No.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

AL Yes. (Depending on what Standards are being waived.)
FL Yes. (Any waivers of accreditation standards would be a "primary concern.")
GA Yes.
MS Yes.
NY Narrative response states that "The ABA would have to enforce Standards ... in a fair and consistent way. We would be concerned that the result will be weakening the ABA imprimatur."
NY No response.
TX Uncertain.
6. **Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?**

**AL**
Although AL presently permits graduates of foreign law schools to take AL bar exam, compliance with ABA accreditation standards would offer "more assurance" regarding foreign candidates suitability.

**FL**
FL has confidence in decisions of ABA on accreditation. FL would have to determine if ABA accreditation was "modified significantly."

**GA**
GA current educational eligibility standard is graduation from ABA-approved law school. This would continue if ABA were to accredit law schools located outside the U.S.

**MS**
No.

**NY**
NY states that ABA accreditation of foreign law schools "might prompt a revaluation of our state’s reliance on ABA accreditation as an educational requirement, and cause us to adopt separate requirements [for admission] in addition to requirements that are currently part of our Court’s Rule."

**PA**
Yes.

**TX**
Probably not.
7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

AL  No further comments.

FL  Character and fitness reviews would be “significantly different” for graduates of foreign-based law schools.

GA  Character and fitness examinations would be more difficult for graduates of foreign law schools. The National Conference of Bar Examiners (NCBE) would have to agree to do investigations for the jurisdictions.

MS  No.

NY  NY’s narrative response indicates that NY considers ABA approval of foreign law schools to be unnecessary since NY has its own program permitting graduates from foreign law schools to take the NY bar exam. “What would be helpful and what we would welcome and endorse would be a program by which the ABA (or another suitable entity) would evaluate foreign programs to determine the substance of course and degree requirements for purposes of determining equivalency with an American program and course of law study. It would be useful to have a clearinghouse that would determine the accreditation status of foreign institutions and whether the degrees they offer qualify graduates for law practice. These are the types of activities that, from our perspective, would be a more useful service to the jurisdictions than the accrediting of foreign law schools.”

PA  PA asks if ABA would require a bachelor’s degree from an American style undergraduate program as a condition for attendance at ABA-approved foreign law schools.

TX  Texas currently has rules allowing qualified, experienced foreign-trained attorneys to be admitted by bar exam if the applicant demonstrates a “similar education” to a U.S. JD program at an ABA-approved law school. One question would be whether ABA-approval of some foreign law schools should obviate this rule for graduates of foreign law schools that do not obtain ABA-approval.
November 1, 2011

Via e-mail: greg.murphy@moultonbellingham.com and hafter@phelps.com

Mr. Gregory G. Murphy
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT  59101

Mr. Jerome C. Hafter
Phelps Dunbar LLP
4270 I-155 North
Jackson, MS  29311

Dear Mr. Murphy and Mr. Hafter:

I am responding to the questions in your letter of October 1, 2011 on behalf of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association. My response to those questions is below.

1. Yes, if this could be accomplished without in any way negatively impacting its current mission domestically.

2. Yes. Our rules governing admission in Alabama currently allow for graduates of foreign law schools to sit for the Alabama bar exam.

3. Political considerations aside, a law school's meeting objective standards should be the main determinant for accreditation. In those countries that tend to limit certain freedoms, accreditation of law schools might help promote the rule of law and create a better appreciation for individual rights and liberties.

4. I do think there is a particular cultural milieu that is part of the education process in American law schools. But in saying that, I do not believe the specific milieu that might be prevalent in American law schools needs to be replicated in foreign law schools in order for graduates of those foreign law schools to successfully complete the bar exam in an American jurisdiction. In Alabama, we have had quite a few south Korean law students to be admitted to the Alabama bar who were graduates from a South Korean law school with an American legal curriculum.
5.  A. No
    B. Yes
    C. No
    D. No
    E. Yes
    F. No
    G. No
H. Yes – it would depend on which standards were being waived.

6. Although Alabama’s rules governing admission currently permit graduates of foreign law schools to take the Alabama bar exam, compliance by a foreign law school with ABA accreditation standards would offer more assurance regarding a foreign candidate’s suitability to take an American bar exam.

7. None that I am aware of at this time.

Thank you for the opportunity to share my thoughts regarding the council’s questions.

Sincerely yours,

[Signature]

Keith B. Norman
Executive Director

KBN/dl

c: Dorothy Johnson
   David Hymer
December 12, 2011

Gregory G. Murphy, Esquire
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT 59101

Jerome C. Hafter, Esquire
Phelps Dunbar, LLP
42/0 I-55 North
Jackson, MS 39211

Dear Mr. Murphy and Mr. Hafter:

In Re: Possible Accreditation of Law Schools Outside the United States

Thank you for giving the Florida Board of Bar Examiners the opportunity to respond regarding the ABA’s consideration of possible accreditation of law schools outside the United States. The Florida Board of Bar Examiners operates as an agency of the Supreme Court of Florida. Among the rules for admission to The Florida Bar, applicants have to graduate from a law school accredited by the ABA to be eligible to take the Florida Bar Examination.

Rule 4-13.4 of the Rules of the Supreme Court Relating to Admissions to the Bar provides for one exception to that accreditation standard, which allows graduates of unaccredited law schools to submit a representative compilation of work product after being admitted and practicing in a U.S. jurisdiction for at least ten years.

The Florida Board of Bar Examiners is charged by the Supreme Court of Florida with ensuring that each person recommended for admission to The Florida Bar has demonstrated minimum technical competence. This is accomplished not only through the administration of the Florida Bar Examination, but also through the graduation requirement from an ABA-accredited institution.
To facilitate your consideration of the Florida Board of Bar Examiners' responses, I have copied the questions from your letter below and will respond following each question for which the board has a response. As an agency of the Supreme Court of Florida, the ultimate decision regarding each of these matters would rest with the Supreme Court of Florida, particularly the first four questions presented.

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?

3. Are there conditions in certain foreign countries that should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?

4. Is the cultural milieu in the United States an essential of an American legal education and not capable of being replicated abroad, even in countries with a culture and legal tradition similar to the United States?

5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

   A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?

   This factor should definitely make a difference in considering accreditation of a foreign law school, especially if the law school is created solely to educate applicants seeking admission in the United States. There are currently 200 ABA-accredited law schools. The ABA should consider whether they would be doing a disservice or a service to the 200 schools they currently accredit by expanding ABA-accreditation outside the United States.

   B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?

   This factor should be considered. It seems appropriate to require that applicants who graduate from ABA-accredited law schools in the United States be deemed to have met the educational requirements for bar admission in that foreign country.
C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?

This is not an important factor, assuming the ABA-accreditation standards are maintained.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

This should not be a factor, assuming the ABA-accreditation standards are maintained.

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

This should not be a factor, assuming the ABA-accreditation standards are maintained.

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

This should not be a factor, assuming the ABA-accreditation standards are maintained.

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?

This factor should be considered. If law school graduates are not going to be able to practice in the United States due to immigration issues, this factor should be given great consideration. While there may not be a guarantee of employment opportunities, as that is market-driven, any potential barriers to entry to the United States should be a primary consideration for the ABA.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

This would be the primary concern of the Florida Board of Bar Examiners. If the ABA standards ought to be encouraged abroad, as you mentioned in your letter, then that standard should not be modified to accommodate foreign-based law schools. If the law schools, either based in the United States or abroad, cannot meet the ABA standards for accreditation, then they should not be accredited.
6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?

This would be the decision of the Supreme Court of Florida. The Supreme Court of Florida in prior decisions regarding educational qualifications expressed confidence in the decisions of the ABA with regard to accreditation. The Court would have to make that determination if the scope of ABA accreditation was modified significantly.

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

Bar admission in Florida is based on meeting the educational qualifications through graduation from an ABA-accredited law school, successful completion of the Florida Bar Examination, and meeting the standard of character and fitness.

The character and fitness examination is completed in large part through a thorough background investigation. Completing a background investigation for applicants from foreign-based law schools would be significantly different than completing the investigations in the United States. The expense of completing these investigations would be much greater for what would likely be a less complete investigation. There would be practical considerations as to the fairness of spreading those costs across all applicants for admission or whether the application fees could or should be different for graduates from foreign-based law schools.

Thank you again for seeking the board’s input. If you have additional questions, please do not hesitate to contact me.

Sincerely yours,

Michele A. Gavagni
Executive Director

MC: The Honorable Alan H. Aronson, Chair

Enclosure: Letter dated October 1, 2011

MAG: ebt
GEORGIA RESPONSE

Dear Bar Examiners and Bar Admissions Administrators:

It has been proposed that the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association begin accrediting law schools located outside the United States.

The ABA Council is the national accrediting agency for American law schools. The ABA Council currently accredits 200 law schools located in 49 states, the District of Columbia and the Commonwealth of Puerto Rico. All American jurisdictions now consider graduation from a law school accredited by the ABA Council as fulfilling the legal education requirements for admission to practice law. A number of states require a JD degree from an ABA accredited school as a mandatory requirement for initial admission by examination.

Law schools located outside the United States that might be considered for ABA accreditation could include (a) law schools created solely to prepare students for admission in the United States utilizing an American-styled curriculum, (b) existing foreign-based law schools that may offer an American law studies JD degree program and (c) foreign-based branches of ABA accredited law schools from the United States. It is anticipated that any law school accredited by the ABA Council would be required to meet the same standards as an ABA accredited law school physically located in the United States.

Without going into all the rationale for the proposal to consider accrediting law schools located outside the United States, it is fair so say that those who favor ABA accreditation of law schools located abroad note the integration of the economies of the world, globalization of the legal profession and all that implies. Proponents also note current rules in a significant number of states now permit graduates of law schools located in foreign countries to take the bar examination and be admitted to practice without obtaining a JD degree from an ABA-accredited law school. It is suggested that preparation at law schools complying with ABA standards would better prepare applicants for admission in the US than education at foreign law schools not offering an ABA-approved JD program. Further, it has been noted that, as a
matter of principle, if American legal education is the best in the world, then the adoption and enforcement of U.S. standards ought to be encouraged abroad.

At this point, we are unable to estimate how many law schools located outside the United States might seek ABA accreditation and how many of their graduates might ultimately seek admission in a U.S. jurisdiction.

Before moving forward with studying the proposal, or beginning a pilot program to inspect one or more foreign-based law schools, the ABA Council is soliciting the reactions and views of bar examiners, bar admissions administrators, and others. Among the questions on which the Council would request your input are:

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency? Yes, given the globalization of the practice of law.

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States? Yes.

3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country? Yes, for the reasons given as examples in the question and also if the country did not adhere to the rule of law and provide for an independent judiciary.

4. Is the cultural milieu in the United States an essential of an American legal education and not capable of being replicated abroad, even in countries with a culture and legal tradition similar to the United States? No.
5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country? Yes.

B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States? Yes.

C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States? Yes.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States? Yes.

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems? Yes.

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States? No.

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the
United States, should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.? Yes.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools? Yes.

6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission? The current educational eligibility standard is graduation from an ABA-approved law school. This standard would continue if the ABA were to accredit law schools located outside the United States.

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquires) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States? Yes. Character and fitness investigations could be more difficult for applicants from foreign law schools. Would the National Conference of Bar Examiners be willing to perform these investigations for a number of jurisdictions?

8. Please provide your name, jurisdiction and position with your response.

Submitted by Sally Evans Lockwood, Director, Office of Bar Admissions, Supreme Court of Georgia.

The foregoing are by no means the totality of questions and issues requiring exploration by the ABA Council. We would appreciate your comments on the foregoing, as well as upon any other considerations you believe should play a role in the Council’s deliberations. We are
particularly interested in your thoughts upon the ultimate question of whether the Council ought to proceed with consideration of the possibility of ABA accreditation of law schools located in foreign countries.

We would like your comments on each of the inquiries. You may respond to this inquiry by inserting your responses after each inquiry and returning the document by mail, fax or e-mail to our addresses which appear below our names.

We hope to report to the Council by January 2012 on these matters. Please send any comments you like to us by November 1, 2011. if possible. We sincerely thank you in advance for devoting your valuable time to informing us of your views on this subject.

Gregory G. Murphy  
Moulton Bellingham PC  
27 N. 27th Street, Suite 1900  
Billings, MT 59101  
Phone: 406-248-7731  
Fax: 406-248-7889  
E-Mail: greg.murphy@moultonbellingham.com

Jerome C. Hafter  
Phelps Dunbar, LLP  
4270 I-55 North  
Jackson, MS 39211  
Phone: 601-360-9347  
Fax: 601-360-9777  
E-Mail: hafter@phelps.com
MISSISSIPPI RESPONSE

Dear Bar Examiners and Bar Admissions Administrators:

It has been proposed that the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association begin accrediting law schools located outside the United States.

The ABA Council is the national accrediting agency for American law schools. The ABA Council currently accredits 200 law schools located in 49 states, the District of Columbia and the Commonwealth of Puerto Rico. All American jurisdictions now consider graduation from a law school accredited by the ABA Council as fulfilling the legal education requirements for admission to practice law. A number of states require a JD degree from an ABA accredited school as a mandatory requirement for initial admission by examination.

Law schools located outside the United States that might be considered for ABA accreditation could include (a) law schools created solely to prepare students for admission in the United States utilizing an American-styled curriculum, (b) existing foreign-based law schools that may offer an American law studies JD degree program and (c) foreign-based branches of ABA accredited law schools from the United States. It is anticipated that any law school accredited by the ABA Council would be required to meet the same standards as an ABA accredited law school physically located in the United States.

Without going into all the rationale for the proposal to consider accrediting law schools located outside the United States, it is fair so say that those who favor ABA accreditation of law schools located abroad note the integration of the economies of the world, globalization of the legal profession and all that implies. Proponents also note current rules in a significant number of states now permit graduates of law schools located in foreign countries to take the bar examination and be admitted to practice without obtaining a JD degree from an ABA-accredited law school. It is suggested that preparation at law schools complying with ABA
standards would better prepare applicants for admission in the US than education at foreign law schools not offering an ABA-approved JD program. Further, it has been noted that, as a matter of principle, if American legal education is the best in the world, then the adoption and enforcement of U.S. standards ought to be encouraged abroad.

At this point, we are unable to estimate how many law schools located outside the United States might seek ABA accreditation and how many of their graduates might ultimately seek admission in a U.S. jurisdiction.

Before moving forward with studying the proposal, or beginning a pilot program to inspect one or more foreign-based law schools, the ABA Council is soliciting the reactions and views of bar examiners, bar admissions administrators, and others. Among the questions on which the Council would request your input are:

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?  
   **YES**

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?  
   **YES**

3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?  
   **NO; that injects political considerations.**

4. Is the cultural milieu in the United States an essential of an American legal education and not capable of being replicated abroad, even in countries with a culture and legal tradition similar to the United States?  
   **NO**
5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?  YES

B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?  YES

C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?  NO

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?  NO

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?  NO

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?  NO

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council's decision whether
to accredit law schools located outside the U.S.? **NO:** that injects political considerations.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools? **YES**

6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission? **NO**

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States? **NO**

8. Please provide your name, jurisdiction and position with your response.

The foregoing are by no means the totality of questions and issues requiring exploration by the ABA Council. We would appreciate your comments on the foregoing, as well as upon any other considerations you believe should play a role in the Council’s deliberations. We are particularly interested in your thoughts upon the ultimate question of whether the Council ought to proceed with consideration of the possibility of ABA accreditation of law schools located in foreign countries.

We would like your comments on each of the inquiries. You may respond to this inquiry by inserting your responses after each inquiry and returning the document by mail, fax or e-mail to our addresses which appear below our names.
We hope to report to the Council by January 2012 on these matters. Please send any comments you like to us by November 1, 2011, if possible. We sincerely thank you in advance for devoting your valuable time to informing us of your views on this subject.

Gregory G. Murphy
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT 59101
Phone: 406-248-7731
Fax: 406-248-7889
E-Mail: greg.murphy@moultonbellingham.com

Jerome C. Hafter
Phelps Dunbar, LLP
4270 I-55 North
Jackson, MS 39211
Phone: 601-360-9347
Fax: 601-360-9777
E-Mail: hafter@phelps.com
New York State Board of Law Examiners

CORPORATE PLAZA-BUILDING 3
254 WASHINGTON AVENUE EXTENSION
ALBANY, N.Y. 12203-5195
518-453-5990
FAX 518-452-5729
http://www.nybarexam.org

November 28, 2011

Jerome C. Hafter
Phelps Dunbar, LLP
4270 I-55 North
Jackson, MS 39211

Gregory G. Murphy
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT 59101

Re: Comments on the ABA Proposal to Accredit Foreign Law Schools

Dear Mr. Hafter and Mr. Murphy:

We write with regard to your letter of October 1, 2011 requesting comment on the proposal that the ABA Council of the Section of Legal Education and Admissions to the Bar accredit law schools outside of the United States. Thank you for soliciting our position on the matter. The Board is opposed to the proposal. We offer our thoughts necessarily from the position of a state licensing agency, and specifically, from the perspective of our own state.

First, if the purpose of the ABA extending accreditation to foreign law schools is to make admission to practice in the United States more widely available to foreign-trained lawyers, for our own state, we do not see the need for such accreditation. The educational eligibility rules of our Court of Appeals permit persons who received their legal education in a foreign country to sit for our bar examination, upon meeting certain requirements. For example, in simplified terms, a candidate from a common law country who is educationally eligible for admission to practice law in that country and has completed a program of law study that is substantively and durationally equivalent to the education at an ABA approved law school may sit for our bar examination without further law study. A candidate from a non-common law country who has at least three academic years of law study qualifying them for admission to practice in their country may sit for our bar examination upon successful completion of an LL.M. program meeting defined conditions at an ABA approved law school in the United States, to “cure” the deficiency in their substantive education.

New York, as you know, currently tests the vast majority of foreign-educated candidates who wish to become licensed in the United States. New York is the only state in the United
States in which many of our foreign-educated candidates could qualify to take the bar examination. In 2011, we tested 4,427 candidates from 135 countries. In the last five years, we have tested 21,984 foreign-educated candidates. Given that foreign-trained lawyers have the opportunity to become New York lawyers under our current Rules, and are becoming New York lawyers in large numbers, having the ABA accredit foreign law schools is not necessary.

Our Board has proposed to the Court of Appeals that the Court’s rule regarding eligibility to sit for the bar examination based on study in law school be amended to require that the law school the candidate attended be located in the United States or its territories and that the candidate attended law school here. Assuming the Court adopts this rule, ABA approval of a foreign law school would not carry with it automatic eligibility for the graduates of that school to sit for our bar examination.

It is likely that, if the ABA began to accredit foreign law schools, graduates of those programs would still be required to complete an LL.M. meeting our Court’s requirements, in order to acquire the educational credentials required to take the New York bar examination.

Our Court of Appeals has long valued the enhancement to legal education that follows both from active engagement inside the classroom and participation in the law school programs outside the classroom. Our Court has felt that an important part of the education of a lawyer occurs from being part of a vibrant law school community operating within the culture and legal system of the United States. For that reason, for example, the Court has required that the LL.M. program engaged in by applicants to “cure” a deficiency in their foreign education credentials be conducted at an ABA approved law school in the United States.

We question the ability of a foreign law school to duplicate the American law school experience, and particularly to offer a program of legal education that is substantially the same as that offered by ABA approved law schools in the United States. First, clinical legal education and other live client experiences are valued mechanisms to ensure that graduates are practice-ready lawyers. We question how such experiences could be provided, where the legal system outside the law school does not reflect the substantive teaching within the law school. Pro bono opportunities would likewise not offer the same opportunity to provide legal services to the needy, where the legal services required do not reflect the substantive law and legal skills being taught within the law school. Students at isolated foreign law schools might not have the same opportunities to engage with students at other law schools in co-curricular activities, such as moot court and trial competitions. Most significantly, the ability of students to learn from each other about United States law, legal institutions and the culture of American law practice would be a far different experience when the students in the classroom are all or primarily non-United States citizens.

We also have concerns regarding the ability of the ABA to maintain the values that are critical to both legal education and our society generally, when operating in foreign countries where the culture, legal system and values are different from our own. For example, we are concerned about law schools operating in countries where minorities are denied civil rights, no less equal opportunities. We are concerned that ABA standards will necessarily be compromised where the ABA accredits law schools in countries that do not follow the anti-discrimination
principles that are a part of our legal system and our culture. The same is true as respects principles of academic freedom.

There are political considerations to operating in foreign countries that will necessarily present challenges to ABA accreditation standards and their application.

The ABA would have to enforce the Standards for Approval of Law Schools in a fair and consistent way. We are concerned that the result will be the weakening of the ABA imprimatur, such that not only will there be questions as to adequacy of foreign programs, but questions might be raised as to the application of the Standards in American law schools as well. This might prompt a re-evaluation of our state’s reliance on ABA accreditation as an educational requirement, and cause us to adopt separate requirements, in addition to the instructional and other requirements that are currently a part of our Court’s Rule.

What would be helpful and what we would welcome and endorse would be a program by which the ABA (or another suitable entity) would evaluate foreign programs to determine the substance of course and degree requirements for purposes of determining equivalency with an American program and course of law study. It would be useful to have a clearinghouse that would determine the accreditation status of foreign institutions and whether the degrees they offer qualify graduates for law practice. These are the types of activities that, from our perspective, would be a more useful service to the jurisdictions than the accrediting of foreign law schools.

Thank you again for the opportunity to provide these comments. We hope that you find them useful in evaluating this proposal.

Sincerely,

John J. McAlary
Executive Director
Jerome C. Hafter (3347)

From: Brignola, Gicine P. [Gicine.Brignola@pabarexam.org]
Sent: Monday, December 12, 2011 9:04 AM
To: 'jhafter@ncbex.org'
Cc: 'greg.murphy@moultonbellingham.com'
Subject: PA responses to ABA inquiry on foreign accreditation

Dear Mr. Murphy and Mr. Hafter:

The Pennsylvania Board of Law Examiners reviewed the questions posed regarding the ABA becoming an accrediting agency of foreign law schools at its December meeting. Below are the board’s responses.

Sincerely,
Gicine P. Brignola

Gicine P. Brignola, Esquire
Executive Director
Pennsylvania Board of Law Examiners
601 Commonwealth Avenue, Ste. 3600
Harrisburg, PA 17120
717-231-3350

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

   No.

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?

   No.

3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?

   Yes, but who would define academic freedom?

4. Is the cultural milieu in the United States an essential of an American legal education and not capable of being replicated abroad, even in countries with a culture and legal tradition similar to the United States?

   The board struggled with what factors would be considered in defining “cultural milieu.”

5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

   A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?

12/12/2011
No response.

B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?

Yes. The board considered this a threshold issue.

C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?

No response.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

No response.

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

No response.

F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

No response.

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?

No response.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

No response.

6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?

Yes.

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquiries) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

The board questioned if these foreign schools would require a bachelor’s degree in the American style as well.

12/12/2011
8. Please provide your name, jurisdiction and position with your response.

See above.
November 21, 2011

Gregory G. Murphy
Moulton Bellingham PC
27 N. 27th Street, Suite 1900
Billings, MT 59101

Jerome C. Hafer
Phelps Dunbar, LLP
4270 I-55 North
Jackson, MS 38211

RE: ABA Foreign law school accreditation

Dear Mr. Murphy and Mr. Hafer:

The Board of Law Examiners met on Friday, November 18, 2011 and briefly discussed your letter of October 1, 2011 concerning the proposed accreditation of law schools located outside the United States.

The following general comments in response to your request, are offered in the hope that they may be of assistance to the Council:

1. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

   It would be beneficial for there to be an entity having qualifications in evaluating legal education that could undertake the mission internationally to better ensure that bar admission officials will have more reliable information than is presently available as to the comparability of legal education claimed by foreign—trained applicants. The Council certainly has competency in evaluating law schools, and could better inform bar admission officials about foreign legal education in this way. This could be a more efficient marshaling of resources than the status quo in which jurisdictions, independently of one another, tend to consider applicants’ foreign legal education on a case-by-case basis.

2. Would your jurisdiction consider admission of applicants based on a JD degree from an ABA-accredited law school located outside the United States?

   Under the current rules governing admission to the bar of this jurisdiction a person holding a juris doctor degree from an ABA-accredited law school would be eligible, and the rule does not contain any exclusion concerning the location of the law school.
3. Are there conditions in certain foreign countries which should make accreditation of a law school located in that country impossible from the outset? For example, if the country does not adhere to traditions of academic freedom and freedom of expression, should that prohibit ABA-accreditation of any law school located in that country?

Our Board and its staff recognize the merits of academic freedom. If accreditation could be affected if a law school within the United States did not adhere to traditional notions of academic freedom, then that principle should apply with respect to accrediting law schools located elsewhere.

4. Is the cultural milieu in the United States an essential of an American legal education and not capable of being replicated abroad, even in countries with a culture and legal tradition similar to the United States?

Probably not, in most instances.

5. Should any of the following factors make a difference to the Council in considering accrediting law schools located outside the United States:

A. Whether the law school was created solely to prepare students planning to seek admission in the United States versus being part of an established foreign law school also educating students to practice in the local country?

No.

B. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the United States?

No.

C. Whether the foreign-based law school is owned and operated by an ABA-accredited law school from the United States?

No.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the United States?

Yes.

E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

Probably not.
F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the United States?

No.

G. Whether the immigration laws of the United States, as they may affect the ability of graduates of foreign-based law schools to practice in the United States, should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?

No.

H. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

Uncertain.

6. Would the eligibility of law schools located outside the United States to achieve ABA accreditation affect the use by your jurisdiction of graduation from an ABA accreditation standard as a condition for bar admission?

Probably not.

7. Are there implications for the admitting jurisdictions and bar admissions authorities (not mentioned in your responses to the previous inquires) that should be considered by the ABA Council before the ABA considers accreditation of law schools located outside the United States?

This jurisdiction currently has rules allowing qualified, experienced foreign-trained attorneys to be admitted to our bar exam if the applicant demonstrates a substantially similar legal education to a U.S. J.D. program at an approved law school. One implication, or issue, concerns whether ABA accreditation of certain foreign law schools would be sufficient to obviate current rule provisions for foreign-trained attorneys who do not hold an ABA-accredited J.D.
8. Please provide your name, jurisdiction and position with your response.

Julia Vaughan, Executive Director
Texas Board of Law Examiners

Please contact me at 512-463-8929 if you need additional information. Thank you.

Sincerely,

[Signature]

Julia E. Vaughan,
Executive Director

cc: John Simpson, Board Chair
May 15, 2012

REPORT TO THE COUNCIL

ACCREDITATION OF FOREIGN LAW SCHOOLS:

OVERVIEW OF RESPONSES TO THE SECTION WEBSITE SURVEY

J. Martin Burke, University of Montana School of Law

Joan S. Howland, University of Minnesota Law School

The Special Committee on the Accreditation of Foreign Law Schools developed surveys as a means of eliciting relevant comments from key stakeholder groups on the issue of whether to expand the Accreditation Project to include foreign law schools. In addition to the surveys prepared for state chief justices, state bar examiners, law deans, and bar leaders, a general survey was posted on the Section website. Any interested individual could complete this survey. Deadline for submission of the Section website survey was April 6, 2012. More than 95% of the six hundred and forty-five (645) respondents were law students. The graphs and summaries on the following pages provide an overview of the responses from the website survey. As noted in the graphs and summaries, a majority of the survey respondents expressed opposition or deep concern regarding expansion of the Accreditation Project to include foreign law schools.
### Have you taken this or a similar survey regarding the accreditation of foreign law schools within the last 60 days?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes, I have taken a similar survey within the last 60 days</td>
<td>8</td>
<td>1%</td>
</tr>
<tr>
<td>2</td>
<td>No, I have not taken a similar survey</td>
<td>637</td>
<td>99%</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>645</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

### What is your occupation?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Practicing Attorney</td>
<td>23</td>
<td>4%</td>
</tr>
<tr>
<td>2</td>
<td>Law Student</td>
<td>612</td>
<td>95%</td>
</tr>
<tr>
<td>3</td>
<td>Legal Educator</td>
<td>6</td>
<td>1%</td>
</tr>
<tr>
<td>4</td>
<td>Judge, Justice</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>5</td>
<td>Interested in Legal Education</td>
<td>4</td>
<td>1%</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>645</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>
A. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitely yes</td>
<td>80</td>
<td>12%</td>
</tr>
<tr>
<td>2</td>
<td>Probably</td>
<td>99</td>
<td>15%</td>
</tr>
<tr>
<td>3</td>
<td>Uncertain</td>
<td>73</td>
<td>11%</td>
</tr>
<tr>
<td>4</td>
<td>Probably not</td>
<td>138</td>
<td>21%</td>
</tr>
<tr>
<td>5</td>
<td>Definitely not</td>
<td>255</td>
<td>40%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>645</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:
Overwhelmingly, respondents answered “No.” The primary reason was the depressed U.S. job market for attorneys. This response is not surprising considering that 95% of the respondents are law students. A small minority of respondents were positive or somewhat positive about the Council becoming an international accrediting agency. They cited the globalization of the economy and, in turn, of law and law practice as reasons for supporting the expansion of the Council’s Accreditation Project to include accreditation of foreign law schools. Some also saw benefits in terms of: 1) the development of the law in other countries; 2) expanded opportunities for U.S. law students to study at foreign law schools; and 3) greater collaboration between U.S. and foreign law schools. In addition, a small number noted the strength of some foreign law schools.

How important, in your opinion, is each of the following as the Council considers whether to begin accrediting law schools outside the U.S.: (Respond to items B through K)

B. Whether the law school was created solely to prepare students planning to seek admission in the U.S. versus being part of an
established foreign law school also educating students to practice in the local country?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>251</td>
<td>39%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>181</td>
<td>28%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>91</td>
<td>14%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>44</td>
<td>7%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>70</td>
<td>11%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>637</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:

The respondents overwhelmingly opposed accrediting foreign law schools. The respondents indicated that it made no difference if a law school was created solely to prepare students planning to seek admission to the bar in the U.S. versus being part of an established foreign law school also educating students to practice in the local country.

The negative comments generally reflected the following sentiments: 1) the U.S. job market is already glutted and it is unwise to deepen the pool of job seekers; 2) there are already too many accredited law school; 3) such a move would lead to the “Caribbean Medical Degree model” and lead to poorly trained applicants to US bar exams; and 4) if a student wishes to practice in the U.S. they should attend law school in the U.S.

A few respondents were cautiously supportive. These respondents indicated that accrediting “well-regarded, established” law schools might be appropriate. Some respondents stipulated that accreditation should only be considered for a foreign school that had a strong relationship with a U.S. law school so that it would be easy to facilitate student exchanges. Some respondents also believed that accrediting foreign law schools would help foster international contacts and the globalization of the legal practice. Other respondents indicated that, if foreign law school graduates could sit for U.S. bars, U.S. law school graduates should be
given reciprocity.

Very few respondents were in favor of either option. One believed that accreditation of foreign law schools would “make it easier for U.S. students to work abroad/study abroad and then return home. Another respondent commented, “…if an established law school abroad were to seek to meet U.S. standards, I think this would reflect positively on current ABA schools.”

C. Whether the foreign-based law school is a branch of (owned and operated by) an ABA-accredited law school in the U.S.

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>196</td>
<td>31%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>194</td>
<td>30%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>101</td>
<td>16%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>58</td>
<td>9%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>88</td>
<td>14%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>637</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:
The comments were mixed with some expressing the opinion that ownership by an ABA law school would make a difference and would ensure quality. Others, who apparently oppose any accreditation of foreign law schools, indicated that this factor would make no difference. Some expressed concern that some U.S. schools might open foreign branches simply as a money-making proposition. Others were concerned that “fourth tier” law schools would try to open foreign branches when instead they should focus on strengthening their domestic program. Others expressed the belief that the branch idea undercuts diversity of legal education. One respondent noted that a foreign branch would just provide another target for terrorism. Again, a number of respondents pointed to the “glut” of lawyers already in the U.S. as a reason for opposing accreditation of
foreign law schools even if those schools are branches of ABA-approved schools.

D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td></td>
<td>171</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td></td>
<td>160</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td></td>
<td>114</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td></td>
<td>87</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td></td>
<td>102</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>634</td>
</tr>
</tbody>
</table>

Summary of Comments:

Most of the respondents repeated the sentiments that accrediting foreign law schools was not an appropriate or advisable role for the ABA. However, a few respondents indicated that, if the ABA were to accredit foreign law schools, it would be advisable for students to spend a semester to a year of their study at a U.S. law school. Some of these respondents indicated that the opportunity to have skills training at a U.S. law school would be invaluable. Other respondents indicated that students from foreign jurisdictions should be required to spend some time at U.S. law schools as a way to improve their English language skills and to help them understand American legal culture and traditions. One respondent indicated that students from common law jurisdictions should not be required to spend any portion of their legal education in the U.S.
E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>218</td>
<td>34%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>138</td>
<td>22%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>124</td>
<td>20%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>61</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>93</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>634</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:
The comments reflect some confusion regarding the question. Many respondents focused on whether the curriculum emphasized common law or civil law rather than focusing on the legal context in which a law school operates and in which the foreign law students were raised. Among those respondents who apparently understood the purpose of the question there was some belief that this factor should be important. Others, pointing to Louisiana and Puerto Rico, suggested that it should not make a difference. Many of the respondents indicated a blanket opposition to the accreditation of foreign law schools and, therefore, said this factor made no difference.
F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>122</td>
<td>19%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>137</td>
<td>21%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>156</td>
<td>24%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>102</td>
<td>16%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>122</td>
<td>19%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>639</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:

Most of the respondents reiterated their opposition to accrediting foreign law schools. Several respondents commented that, if U.S. students were to be given the opportunity to earn a JD overseas, the “medical degree mill” phenomenon would be repeated within legal education. A few, however, qualified their criticism by noting that, if foreign law schools were held to ABA standards, U.S. students who graduated from these institutions would likely have received a good legal education and would be qualified to make positive contributions to the U.S. legal profession. Responding to the specific question, many of the respondents indicated that, if the ABA were to accredit foreign law schools, it would be advisable for the law schools to have a majority of foreign nationals in order to give overseas students, rather than U.S. students, the opportunity to receive an education that would prepare them to take U.S. bar exams. Some respondents indicated that, in order to encourage a “positive cultural exchange,” it would be beneficial to have a balance of both U.S. and foreign nationals.

G. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards (e.g., requirements regarding
curriculum content and qualifications of faculty) to accommodate foreign-based law schools?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>377</td>
<td>60%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>106</td>
<td>17%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>91</td>
<td>14%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>12</td>
<td>2%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>44</td>
<td>7%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>630</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:
Respondents overwhelmingly stated there should be no changes in the ABA Standards or waivers of particular standards. Some even suggested more stringent standards. A few thought that there could be changes or waivers so long as the school was held to standards that were equivalent to the existing ABA Standards.
H. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>314</td>
<td>50%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>150</td>
<td>24%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>81</td>
<td>13%</td>
</tr>
<tr>
<td>4</td>
<td>Not very Important</td>
<td>25</td>
<td>4%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>64</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>634</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:
The issue of reciprocity (i.e., if the ABA accredits foreign law schools and allows those schools’ graduates to take the bar in U.S. jurisdiction then foreign jurisdictions should provide U.S. law school graduates with the same opportunity) elicited varied opinions. Most of the comments in response to this question emphasized, once again, that the ABA should not accredit foreign law schools and, therefore, reciprocity is a non-issue. The majority of the remainder of the responses, however, indicated that, if the ABA were to accredit foreign law schools, reciprocity should be granted. Many respondents believed that the granting of reciprocity might open up opportunities for U.S. law school graduates. Others thought reciprocity would “streamline” the ability of lawyers to practice internationally.
I. Whether the immigration laws of the U.S., as they may affect the ability of graduates of foreign-based law schools to practice in the U.S., should play a role in the Council's decision whether to accredit law schools located outside the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very important</td>
<td>188</td>
<td>30%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat important</td>
<td>148</td>
<td>23%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>122</td>
<td>19%</td>
</tr>
<tr>
<td>4</td>
<td>Not very important</td>
<td>68</td>
<td>11%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all important</td>
<td>107</td>
<td>17%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>633</td>
<td>100%</td>
</tr>
</tbody>
</table>

Summary of Comments:

Generally, the comments indicated that the impact of immigration laws on a graduate’s ability to practice in the U.S. should play an important role. Many respondents noted potential exploitation of students who might think that, by attending an ABA-approved law school, they could practice in the U.S. Others noted that the graduates of foreign law schools would not necessarily seek to practice in the U.S. but would work on matters involving U.S. law and U.S. clients in their own countries. Some noted that it wasn’t important for the ABA to concern itself with the immigration matter - that was a matter the student needed to worry about. Those opposed to accrediting foreign law schools found this factor to be unimportant.
J. As you consider whether the ABA Council should go forward with accrediting law schools outside of the U.S., what are the most important factors (Pro and/or Con) for the Council to consider?

Summary of Comments:
A broad range of responses was received with regard to this open-ended question. Factors noted included: academic freedom; ensuring competency of foreign lawyers; necessity of an in-depth understanding American culture and thus the importance of some part of one’s legal study being in the U.S.; nature of the country in which the school is located and the educational culture of that country; opportunity to develop global legal standards; danger that there will be greater outsourcing of legal jobs; reciprocity; benefit to be gained by “flattening the world” from a legal perspective; adequacy of facilities and faculty; dilution of ABA standards; adding diversity to profession; cultural considerations; ability to ensure compliance with highest standards; and too many accredited laws schools and too few jobs.

K. Are there implications not mentioned in your responses to the previous inquiries that should be discussed in the consideration of possible accreditation of law schools located outside the U.S.? (Feel free to include suggestions to the Council regarding any of aspects this issue.)

Summary of Comments:
Most of the comments repeated opposition to accrediting foreign law schools and repeated the arguments expressed in responses earlier in the survey. One respondent indicated that the ABA should only consider accrediting law schools in a foreign country “that respects human rights.” Another respondent commented that, “The standards of any potential international accreditation should be VASTLY higher than for U.S. accreditation.” In a similar vein, one respondent suggested creating a new accreditation agency, “the International Bar Association,” which would develop standards and accredit overseas programs. Another respondent commented that by accrediting foreign law schools, U.S. law students would have expanded opportunities for studying abroad for a semester or a year while earning their degree from a U.S.-based accredited law school. Another respondent indicated that, as a result of accrediting foreign law schools, the U.S. might be able “to export the Anglo-American legal forms, if not systems generally” which would strengthen “U.S. dominance in international business.” There were at least two comments which took the exact opposite position. A few respondents, however, mentioned that distance education programs, developed by U.S. law schools, might be a way to provide a quality legal education to foreign nationals. Another respondent suggested that the Council conduct a test using a law school in a country friendly to the United States.
Report to the Council

Accreditation of Foreign Law Schools:

Survey Responses of State Chief Justices

Ruth V. McGregor

State supreme courts determine the requirements for admission to practice law in each state. In addition to requiring that an applicant demonstrate good character, most supreme courts require that a person seeking permission to take a state’s bar examination be a graduate of an ABA-accredited law school. As a result, state courts have a direct interest in matters related to accreditation of law schools.

Recognizing the need to respond to the growing interest in transnational practice, the Conference of Chief Justices (the CCJ) has adopted resolutions urging, for instance, that states consider permitting graduates of an Australian University who currently practice law to sit for the bar examination, CCJ Resolution 7, February 7, 2007; that the ABA Section on Legal Education and Admissions to the Bar consider developing and implementing a program to certify the quality of legal education offered in other common-law countries, CCJ Resolution 8, February 7, 2007; and that the highest court in each state consider adopting a rule permitting the temporary practice of foreign lawyers, CCJ Resolution 6, January 30, 2008.

The Council’s Special Committee on the Accreditation of Foreign Law Schools, aware of the continuing interest of state supreme courts in issues related to the admission of foreign lawyers to the practice of law in this country and to the impact that accrediting foreign law schools could have on state supreme courts, requested responses from all members of the CCJ. In addition, committee member Ruth McGregor attended one meeting of the CCJ and Bucky Askew attended two additional meetings expressly to explain the Council’s Accreditation Project and to request that state chief justices respond to the issues raised. Working with the National Center for State Courts, we sent a survey to all CCJ members, with follow-up contacts to request responses. Eleven members of the CCJ responded.

Summary of Responses

Responses of state chief justices are attached to this report. As described below, the chief justices did not express any clear consensus. In addition, the small number of responses makes drawing reliable conclusions difficult.

As we did with other groups of responders, we first asked the chief justices to indicate their view as to the basic issue under consideration:
2. A. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitely yes</td>
<td>2</td>
<td>18%</td>
</tr>
<tr>
<td>2</td>
<td>Probably</td>
<td>3</td>
<td>27%</td>
</tr>
<tr>
<td>3</td>
<td>Uncertain</td>
<td>2</td>
<td>18%</td>
</tr>
<tr>
<td>4</td>
<td>Probably not</td>
<td>2</td>
<td>18%</td>
</tr>
<tr>
<td>5</td>
<td>Definitely not</td>
<td>2</td>
<td>18%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>11</td>
<td>100%</td>
</tr>
</tbody>
</table>

As is evident, the chief justices are evenly split on the basic question of whether the Council should accredit foreign law schools. We then asked a series of questions designed to identify factors that could influence a responder’s attitude toward accrediting foreign law schools.

A large majority of responders attached importance to whether a law school was created solely to prepare students for admission in the United States rather than as part of an established foreign law school; to whether the foreign law school is located in a culture based on Anglo-American law rather than civil law or some other legal system; and to whether the Council would have to make changes to or grant waivers of accreditation standards in order to accommodate the foreign law school. A small majority of responders regarded whether the foreign law school is a branch of an ABA-accredited law school in the United States as an important factor.

Complete responses to these questions are as follows:
4. In considering the question of whether to begin accrediting law schools outside the U.S., how important is each of the following matters? (B. - I.)

B. Whether the law school was created solely to prepare students planning to seek admission in the U.S. versus being part of an established foreign law school also educating students to practice in the local country?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>6</td>
<td>60%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>10</td>
<td>100%</td>
</tr>
</tbody>
</table>
### 6. C. Whether the foreign-based law school is a branch of (owned and operated by) an ABA-accredited law school in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>10</td>
<td>100%</td>
</tr>
</tbody>
</table>

### 8. D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>4</td>
<td>40%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>10</td>
<td>100%</td>
</tr>
</tbody>
</table>
10. **E.** Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>4</td>
<td>40%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>10</td>
<td>100%</td>
</tr>
</tbody>
</table>

12. **F.** Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>4</td>
<td>40%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>10</td>
<td>100%</td>
</tr>
</tbody>
</table>
14. G. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>4</td>
<td>44%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

16. H. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>
18. I. **Whether the immigration laws of the U.S., as they may affect the ability of graduates of foreign-based law schools to practice in the U.S., should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?**

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td></td>
<td>0%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>5</td>
<td>56%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

We also invited responders to provide any comments that explained those factors they regarded as important to deciding whether the Council should accredit law schools. The responders mentioned several factors, the most common being a concern that any accredited program should approximate the legal education available in the United States and should involve some emphasis upon American legal and constitutional culture.
This report presents the views of bar leaders regarding the possibility of expanding the ABA accreditation process to include law schools located outside the United States. With the assistance of Dean Steven Smith, who was responsible for gathering the views of law school deans, a survey was drafted and sent in early February, 2012 and again two weeks later to bar leaders represented in the ABA House of Delegates, the National Conference of Bar Presidents (NCBP), and the National Association of Bar Executives (NABE). Although there were some unique questions in this survey, most also appeared in the version that was sent to deans. The initial deadline of February 15 was extended to March 1, and a total of 93 responses were received. Each of the questions appears below with a bar graph depicting the short answers that were selected, followed by a brief summary/commentary reflecting open-ended text responses. The bar leaders’ responses to items numbered 2 through 18, while generally more negative than positive, did not display the emotion noted in the report from deans. However, the nearly one hundred responses to items 20 and 21 combined did demonstrate a strong negative trend. It is thus appropriate to conclude that, as was the case with other groups surveyed, and as noted in the separate Executive Summary issued by the full Committee, bar leaders expressed relatively little support for expansion of the accreditation process to include foreign law schools.

### 2. A. Should the Council, as a matter of mission and policy, become an international as well as a national accrediting agency?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitely yes</td>
<td>15</td>
<td>16%</td>
</tr>
<tr>
<td>2</td>
<td>Probably</td>
<td>17</td>
<td>18%</td>
</tr>
<tr>
<td>3</td>
<td>Uncertain</td>
<td>17</td>
<td>18%</td>
</tr>
<tr>
<td>4</td>
<td>Probably not</td>
<td>24</td>
<td>26%</td>
</tr>
<tr>
<td>5</td>
<td>Definitely not</td>
<td>20</td>
<td>22%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>93</td>
<td>100%</td>
</tr>
</tbody>
</table>
Twenty-two text responses were received. Significant points favoring international expansion included: (1) Maintaining the centrality and relevance of the ABA in legal education requires that it be at the center of accreditation internationally, not the “ostrich with its head in the sand.” (2) We need to be less insular in determining where future American lawyers will come from; it is far better for lawyers educated elsewhere to get their education at a school that meets minimum ABA accreditation requirements. (3) Current trade negotiations may permit foreign lawyers to practice in the United States in any event. (4) It is easier and more efficient for the ABA, rather than individual jurisdictions, to undertake the task of evaluating foreign law schools. The importance of applying the same standards/requirements to both foreign and domestic law schools was also noted.

Significant points opposing international expansion included: (1) International accreditation would distract the Council from its primary function and would be far beyond its normal focus at a time when American legal education is facing substantial challenges. (2) There is an inadequate knowledge base to evaluate schools in other countries. (3) Foreign accreditation would generate more foreign-trained applicants for admission in American jurisdictions, but it will be difficult or impossible to evaluate the character and fitness of such individuals.

4. In considering the question of whether to begin accrediting law schools outside the U.S., how important is each of the following matters? (B. - I.) B. Whether the law school was created solely to prepare students planning to seek admission in the U.S. versus being part of an established foreign law school also educating students to practice in the local country?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td></td>
<td>42</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td></td>
<td>21</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>91</td>
</tr>
</tbody>
</table>

Nine text responses were received, noting, inter alia, that: (1) If foreign law schools are accredited, they should be preparing students for admission in the countries where they are located and countries other
than the United States. Foreign accreditation should support the improvement of legal education quality around the world. (2) We should encourage the broadening of foreign curricula to include U.S. law, rather than just focusing on the issue of U.S. bar admission. (3) We must insist on a traditionally thorough, diverse, and broad-based curriculum as a foundation for an expanded foreign accreditation process – vs. the risk of “diploma mills” preparing for outsourcing of legal work from the United States at low rates.

6. C. Whether the foreign-based law school is a branch of (owned and operated by) an ABA-accredited law school in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>28</td>
<td>31%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>30</td>
<td>33%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>16</td>
<td>18%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>7</td>
<td>8%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>10</td>
<td>11%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>91</td>
<td>100%</td>
</tr>
</tbody>
</table>

Eight text responses were received, noting: (1) A link to an ABA-accredited law school would tie the foreign-based school more closely to the common-law tradition and should be a positive consideration although not a prerequisite. (2) Such a link should result in a better understanding of the Standards by school officials and would make ABA evaluation easier. One responder simply indicated that “U.S. schools should be primarily in charge of training U.S. lawyers.”
8. D. Whether the JD degree program at the foreign-based law school requires some significant portion of the instruction to occur at a location in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>22</td>
<td>24%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>28</td>
<td>30%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>16</td>
<td>17%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>15</td>
<td>16%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>11</td>
<td>12%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>92</td>
<td>100%</td>
</tr>
</tbody>
</table>

Four text responses were received. Two cited the importance of “cultural competency,” noting that it is hard to imagine students preparing to practice in the United States without being immersed in our culture and language, and having formal training in U.S. law. One felt this was irrelevant as long as the school meets the Standards.

10. E. Whether the legal system of the country where the law school is located is based on Anglo-American common law versus civil law or other legal systems?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>37</td>
<td>41%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>23</td>
<td>25%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>14</td>
<td>15%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>9</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>8</td>
<td>9%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>91</td>
<td>100%</td>
</tr>
</tbody>
</table>

Seven text responses were received. One responder stated: “The common law tradition is absolutely vital to preparation for the practice of law in the United States. It is so completely interwoven with our
traditions of constitutional liberty and limited government that lawyers who are not trained in a country where that is part of the tradition are not adequately prepared to practice law in the U.S.” Four responders noted that there is a civil law jurisdiction (Louisiana) in the United States.

12. F. Whether the student body at the law school is composed exclusively of foreign nationals versus containing primarily or significantly students from the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>16</td>
<td>17%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>18</td>
<td>20%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>27</td>
<td>29%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>18</td>
<td>20%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>13</td>
<td>14%</td>
</tr>
</tbody>
</table>

Eight text responses were received, and they were mixed. Two indicated that nationality is irrelevant (one saying that, “either way, it [the expansion of accreditation] is bad”); one stated that a foreign law school primarily training foreign nationals would not adequately prepare a student to practice in the United States; and one suggested that a primarily-U.S. student body would alleviate concerns about evaluating character and fitness.
14. G. Whether the ABA Council makes changes in, or grants waivers of, any of its accreditation standards to accommodate foreign-based law schools?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>55</td>
<td>63%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>22</td>
<td>25%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>7</td>
<td>8%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>88</td>
<td>100%</td>
</tr>
</tbody>
</table>

Eighteen text responses were received, and they were overwhelmingly negative with regard to the granting of waivers and/or modifications to the Standards. One noted that any granting of waivers would have to be fair with regard to treatment of U.S. law schools that are not yet accredited. Although a couple of responses suggested that “reason-based” waivers covering matters not previously envisioned might be acceptable, there was also concern about this evolving into two tiers of accreditation.

16. H. Whether the country where the law school is located grants reciprocity in bar admission to graduates of ABA accredited law schools in the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>38</td>
<td>42%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>26</td>
<td>29%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>11</td>
<td>12%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>7</td>
<td>8%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>8</td>
<td>9%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>90</td>
<td>100%</td>
</tr>
</tbody>
</table>
Seven text responses were received; four strongly supported the need for reciprocity.

18. I. Whether the immigration laws of the U.S., as they may affect the ability of graduates of foreign-based law schools to practice in the U.S., should play a role in the ABA Council’s decision whether to accredit law schools located outside the U.S.?

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Very Important</td>
<td>21</td>
<td>23%</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat Important</td>
<td>17</td>
<td>19%</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>21</td>
<td>23%</td>
</tr>
<tr>
<td>4</td>
<td>Not Very Important</td>
<td>13</td>
<td>14%</td>
</tr>
<tr>
<td>5</td>
<td>Not at all Important</td>
<td>18</td>
<td>20%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>90</td>
<td>100%</td>
</tr>
</tbody>
</table>

Seven text responses were received. Two indicated there would be no point to accrediting foreign schools if their students were not eligible to come to the United States; three suggested that the immigration laws should be irrelevant to foreign school accreditation. One responder stated that “it would be amusing if the U.S. immigration laws express a preference for foreign-trained lawyers in the face of our current law school graduate glut.”

20. J. As you consider whether the ABA Council should go forward with accrediting law schools outside of the U.S., what are the most important factors (Pro and/or Con) for the Council to consider?

SEE #21, BELOW
21. K. Are there implications not mentioned in your responses to the previous inquiries that should be discussed in the consideration of possible accreditation of law schools located outside the U.S.? (Feel free to include suggestions to the Council regarding any aspects of this.)

Sixty-five text responses were received to #20, and thirty-two to #21; the number of negative comments substantially exceeded positive ones. Those in favor largely focused on the desirability of improving the quality of legal education abroad, thereby producing better-trained foreign lawyers who are admitted to practice in the United States and promoting the rule of law worldwide. There were references to the globalization of law practice, the need to have an organization set standards in this context for legal education, and the concern that, if the ABA does not get on board, some other entity will fill the gap. One responder suggested that the ABA might consider adopting an alternate method of “evaluating and certifying” foreign law schools using criteria that could differ in some respects from those applied in the United States “without reaching the point of accreditation.”

Negative comments focused on concerns that the cultural base (including, e.g., academic freedom) underpinning the Standards is not present in many countries; that a foreign accreditation effort would distract the ABA from its primary domestic process, which some responders believe is presently in need of attention; that there are inherent problems abroad that will make uniform application of the Standards impossible (e.g., the lack of clinics/externships involving application U.S. law); and that monitoring foreign law schools from the United States will impose substantial costs -- in terms of finances, staff, and volunteers -- on the process.

As noted above, a review of the large number of free-response comments to summary items 20 and 21 substantially supports the overall conclusion that there is relatively little support from bar leaders for expanding the ABA’s accreditation role to include foreign institutions.
22. L. Please indicate which group you fall into (check as many as apply):

<table>
<thead>
<tr>
<th>#</th>
<th>Answer</th>
<th>Response</th>
<th>%</th>
</tr>
</thead>
</table>
| 1  | House of Delegates                  | 66       | 80%
| 2  | Board of Governors                  | 9        | 11%
| 3  | National Conference of Bar Presidents | 18      | 22%
| 4  | National Association of Bar Executives | 12     | 14%