

**For discussion on  
22 March 2021**

**Legislative Council Panel on Administration  
of Justice and Legal Services**

**Recent developments for Hong Kong’s legal and dispute resolution  
services in the Greater Bay Area (GBA), including the GBA Legal  
Professional Examination and other initiatives**

**Introduction**

To assist Hong Kong’s legal and dispute resolution services sector in seizing the opportunities in the development of the GBA, the HKSAR Government has been striving for more liberalisation measures for legal services in the Mainland for the Hong Kong legal and dispute resolution services sector. This paper seeks to inform members the latest development of the Hong Kong legal and dispute resolution services in the GBA, the latest work on developing Hong Kong as the capacity building centre for the GBA and the proposed measures to be taken forward in the GBA. Members are invited to provide comments and suggestions.

**I. The latest development in the GBA**

2. Since the promulgation of the “Outline Development Plan of the Guangdong-Hong Kong-Macao Greater Bay Area” (the “**Outline Development Plan**”) on 18 February 2019, with the strong support and active participation of Guangdong, Hong Kong and Macao, the

development of the GBA has taken substantial steps, and the opening and integrated development of the legal and dispute resolution services also contributed to the progress in the building of the rule of law in the GBA. The HKSAR Government will continue to follow the guiding directions in the Outline Development Plan and leverage the distinctive advantage of Hong Kong's legal system under the "one country, two systems" principle, and proactively take forward the development of the GBA and assist the legal and dispute resolution sector to strive for policy innovation and breakthroughs that are needed for exploring the opportunities.

**A. The GBA Legal Professional Examination (the "GBA Examination")**

3. DoJ has been actively reflecting the views and expectations of the Hong Kong legal sector to the Mainland authorities, including their hope to lower the threshold for legal practitioners to practise in the Mainland apart from the National Unified Legal Professional Qualification Examination. To promote the development of legal services in the GBA and respond to the wishes of the Hong Kong legal sector, the "Agreement Concerning Amendment to the CEPA Agreement on Trade in Services" (the "**Amendment Agreement**") signed between the Mainland and Hong Kong on 21 November 2019 allows Hong Kong legal practitioners to practise in specified areas of Mainland legal matters upon passing a special examination and obtaining GBA practice qualification.

4. To implement the Amendment Agreement, following the decision adopted by the Standing Committee of the National People's Congress on 11 August 2020 regarding the GBA Examination, the State Council

issued on 22 October 2020 the pilot measures for Hong Kong and Macao legal practitioners to obtain Mainland practice qualifications and to practise as lawyers in the nine Mainland municipalities in the GBA (the “**Pilot Measures**”). Hong Kong solicitors and barristers with accumulated practice experience of five years or above are eligible to apply for taking the examination. Upon obtaining a lawyer’s practice certificate (GBA), one can provide legal services in the nine Mainland municipalities in the GBA on specified civil and commercial matters (including litigation and non-litigation matters) to which the Mainland laws apply, and enjoy the same privileges and subject to the same obligations as Mainland lawyers.

5. On 6 November last year, the Ministry of Justice (“**MoJ**”) published a notice providing details on the GBA Examination, including eligibility for the examination, application procedures as well as scope of examination.

6. To promote the examination, DoJ joined hands with the MoJ, the Department of Justice of Guangdong Province and the Legal Affairs Bureau of Macao to co-host a seminar on 19 November 2020. Respective representatives from the MoJ and the Department of Justice of Guangdong Province introduced the relevant examination policies as well as the current position and development opportunities of legal services in the GBA. The seminar attracted overwhelming response with over 700 online participants.

7. Hong Kong legal practitioners have also responded enthusiastically towards the GBA Examination, applicants include barristers, lawyers and legal consultants. According to the Pilot

Measures, the MoJ arranged legal training for applicants from 21 to 27 December 2020, with the training venue changed from Shenzhen to online training due to COVID-19 pandemic. On 6 January this year, the MoJ announced that the examination scheduled to take place on 30 January would be postponed amid COVID-19 pandemic. The examination date and arrangement will be further announced.

8. The GBA Examination will not only provide better facilitation and opportunities to the Hong Kong legal services sector, but, more importantly, also provide diversified legal services and safeguards to enterprises in the GBA which in turn deepen the connection of the three places. The in-depth participation of the Hong Kong legal services sector in the building of rule of law in the GBA can realise the closer integration of legal services in the GBA, and effectively promote the development of high-end foreign-related legal services such as international trade, cross-border finance, and internet finance in the GBA, thereby enhancing the overall international competitiveness of legal services in the GBA.

9. To better prepare the legal practitioners who have passed the GBA Examination to practise in the nine Mainland municipalities in the GBA, DoJ plans to cooperate with Mainland organs like the Supreme People's Court (the "SPC") to provide practical training courses on Mainland laws for those who have passed the examination. It aims to enhance their practical knowledge on Mainland courts' handling of different areas of civil and commercial matters.

## **B. Wider application of Hong Kong law in Qianhai**

10. To increase development opportunities for Hong Kong legal and dispute resolution services in the GBA, DoJ has been taking active steps to strive for the Mainland's support to adapt the requirement of "foreign-related elements" under Mainland laws<sup>1</sup> and measure of "WOKEs<sup>2</sup> to adopt Hong Kong law and choose for arbitration to be seated in Hong Kong". It means that, when entering into civil and commercial contracts in the GBA, WOKEs will be allowed to agree to adopt Hong Kong law to be the applicable law, and choose Hong Kong as the seat of arbitration. Accordingly, the agreement on adopting Hong Kong law or using Hong Kong as the seat of arbitration will not be considered invalid due to the absence of any "foreign-related elements".

11. As a pilot area for exploring close cooperation between Hong Kong and the Mainland, various innovative measures for early and pilot implementation have been carried out in Qianhai, including pilot measures on legal reform. The initiative to allow "WOKEs to adopt Hong Kong law" received a major breakthrough in Qianhai last year. The "Regulations of the Qianhai Shenzhen–Hong Kong Modern Service Industry Cooperation Zone of the Shenzhen Special Economic Zone" (the "**Regulations**"), as amended and approved in August last year, had been implemented since October last year. Article 57 of the Regulations allows Hong Kong-, Macao-, Taiwan- and foreign-invested enterprises registered in the Qianhai Cooperation Zone to agree on the choice of applicable law in their civil and commercial contracts. This early and pilot implementation measure means that over 11,000 WOKEs registered in Qianhai may agree on the choice of applicable law, including Hong

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<sup>1</sup> In general, unless there is the presence of a "foreign-related element", e.g. one of the parties is a foreign citizen, the governing law of a contract shall be the Mainland law and arbitration of the relevant dispute shall only be conducted in the Mainland.

<sup>2</sup> WOKEs means Wholly Owned Hong Kong Enterprises.

Kong law, when they enter into civil and commercial contracts in the absence of “foreign-related elements”. It adapts the requirement of “foreign-related elements” under current Mainland law such that enterprises in Qianhai may enjoy a wider application of Hong Kong law. This legal measure is expected to trigger the demand for Hong Kong legal services, hence bringing more opportunities for the Hong Kong legal sector to participate in the development of the GBA and integrate into the overall development of the GBA as soon as possible, which will be beneficial to their professional development.

12. DoJ is actively seeking the support of the Central Government in extending the measure to Shenzhen and the entire GBA, as well as in the wider use of Hong Kong as a place of arbitration outside the Mainland in the GBA. Please refer to paragraphs 35 to 36 for details.

### **C. Further liberalisation measures on partnership associations and legal consultants**

13. With the support of the Central Government, Hong Kong law firms benefitted from the Guangdong Province being the first to implement further liberalisation measures for partnership associations in August 2019 (the “**Guangdong Liberalisation Measures**”)<sup>3</sup>, including the removal of the minimum capital injection ratio of 30% by Hong Kong partner firms in partnership associations set up between Hong Kong and Mainland law firms, as well as allowing partnership associations to employ Mainland and Hong Kong lawyers directly in their own name.

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<sup>3</sup> Trial Measures of the Department of Justice of Guangdong Province on Hong Kong Law Firms and Macao Law Firms Operating in the Form of Partnership Association with Mainland Law Firms in Guangdong Province (2019 Revision).

Since June last year, the measure to remove the minimum capital injection ratio has been extended to the whole of the Mainland.

14. As of 28 February this year, 12 partnership associations have been set up in Guangdong Province to provide Mainland and Hong Kong legal services as well as approved foreign legal services. Six of these partnership associations are set up in Qianhai, Shenzhen, three in Guangzhou, two in Hengqin, Zhuhai and one in Dongguan, among them two were set up after the implementation of the Guangdong Liberalisation Measures.

15. Further, the Central Government has also agreed to allow Hong Kong legal practitioners to be retained as legal consultants by one to three Mainland law firms simultaneously, and to replace the approval requirements with filing procedures. Law firms in Shenzhen and Guangzhou in the GBA have also retained Hong Kong barristers as legal consultants.

**D. Greater Bay Area Youth Employment Scheme and preferential policies for Hong Kong legal practitioners to pursue their career in the GBA**

16. Given Hong Kong's position as a leading centre for international legal and dispute resolution services in the Asia Pacific region, coupled with the recent implementation of liberalisation measures for legal professional services in the GBA, it is imperative for Hong Kong to nurture more legal talent who are familiar with the legal systems of both places. The HKSAR Government is committed to creating more sector-specific job opportunities for young people who aspire to join the

legal profession, and will also support them to work and pursue a career in the Mainland cities in the GBA so that they can understand the latest developments of Hong Kong and those GBA cities and leverage the opportunities in the GBA.

17. The HKSAR Government launched the Greater Bay Area Youth Employment Scheme on 8 January this year. Under the scheme, enterprises with operations in both Hong Kong and the Mainland cities in the GBA, including those in the legal services sector, are invited to offer job vacancies to young people by recruiting locally graduates from universities or tertiary institutions, and deploying them to work and receive on-the-job training in the Mainland cities in the GBA. The scheme will provide 2,000 places and the Government will grant a monthly allowance of HK\$10,000 to enterprises for each graduate employed for up to 18 months. Participating enterprises are encouraged to offer permanent employment to suitable employees after the subsidy period. By encouraging and supporting young legal professionals to grasp the opportunities to work and pursue a career in the Mainland cities in the GBA, Hong Kong will be able to nurture more legal talent who are familiar with the legal matters of the two places.

18. Besides, since the promulgation of the Outline Development Plan, the Mainland cities in the GBA have also introduced preferential policies to attract Hong Kong legal professionals to seek career development in the GBA. For example, since 1 October 2020 financial incentives have been provided to eligible partnership associations registered in Hengqin New District under the “Interim Measures to Support the Law Industry in



Hengqin New District”<sup>4</sup>. For young Hong Kong legal professionals who work and live in Qianhai in their personal capacity, the Administration Bureau of Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone provides those eligible, in accordance with the “Implementation Rules of Measures to Support the Development of Hong Kong and Macao Youths in Qianhai”<sup>5</sup>, with incentive funds such as subsidies for professionals, work allowance, transport allowance and rental allowance. Meanwhile, eligible members of the Hong Kong legal services sector pursuing development in Nansha New Area may apply for financial incentives under the “Implementation Rules of the Measures for Promoting the Development of Modern Service Industry in Guangzhou Nansha New Area (Free Trade Zone)(Revised version)”<sup>6</sup>. For instance, partnership associations registered in Nansha New Area (Free Trade Zone) may apply for settlement rewards.

## **E. Support from the SPC**

### ***The Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR (the “Supplemental Arrangement”)***

19. Having taken into account years of implementation experience and the comments from the arbitration sector, the HKSAR Government and the SPC signed the Supplemental Arrangement on 27 November 2020 to amend the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR (the “**Enforcement Arrangement**”) which came into effect on 1 February

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<sup>4</sup> Zhu Heng Xin Ban [2020] No. 21.

<sup>5</sup> Shen Qian Hai Gui [2019] No. 7.

<sup>6</sup> Sui Nan Kai Shang Wu Gui Zi [2020] No. 2.

2000. The Supplemental Arrangement amends the Enforcement Arrangement, *inter alia*, by re-defining the scope of application of the Enforcement Arrangement by way of following the seat of arbitration approach and removing the previous restriction of the Enforcement Arrangement in order to allow parties to make simultaneous applications to both the courts of the Mainland and Hong Kong for enforcement of an arbitral award, so as to bring the Enforcement Arrangement more fully in line with the current practice of international arbitration.

20. The signing of the Supplemental Arrangement can clarify and further refine the arrangement for enforcement of arbitral awards between Hong Kong and the Mainland, promote the establishment of a diversified dispute resolution mechanism based on wide consultation, joint construction and shared benefits, and provide high-quality, effective and efficient judicial and legal services and safeguards for the development of the GBA.

***Other policy support***

21. Last November, the SPC promulgated the “Opinions of the Supreme People’s Court on Supporting and Guaranteeing the Building of Shenzhen into a Pilot Demonstration Area of Socialism with Chinese Characteristics”<sup>7</sup>, pledging its support for building a market-oriented, law-based and internationalised business environment by, *inter alia*, “innovating the adjudication of cases involving foreign elements, Hong Kong, Macao and Taiwan, and optimising the system for people from

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<sup>7</sup> Fa Fa [2020] No.39, paragraphs 15 and 16.

Hong Kong and Macao to serve as specially invited mediators and assessors”.

22. Between January and November last year, courts in Guangdong Province concluded 4,063 foreign-related civil and commercial cases of various nature and 9,721 civil and commercial cases of first instance concerning Hong Kong and Macao. Among them, cases concerning Hong Kong accounted for about a quarter of the country’s total cases<sup>8</sup>. In December last year, the courts of Guangdong Province appointed 90 senior retired judges, commercial lawyers and legal experts from Guangdong, Hong Kong and Macao, including 25 Hong Kong lawyers and legal experts, to serve as specially invited mediators in the mediation of cross-boundary commercial disputes in the GBA in the courts of Guangdong Province<sup>9</sup>. The enhanced collaboration among members of the judiciaries and legal professions of the three places helps facilitate experience sharing and extend the influence of the GBA’s rules for resolving cross-boundary commercial disputes.

23. With the continued rise in Hong Kong-related cases in the Mainland cities in the GBA expected, allowing more Hong Kong mediators and assessors to participate in such cases can, by leveraging their strength of familiarity with Hong Kong laws and business practices. DoJ will continue to explore with the SPC ways to improve the system of Hong Kong people serving as specially invited mediators and assessors to support Mainland courts so that they can play an even more important role in resolving disputes concerning Hong Kong.

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<sup>8</sup> Higher People’s Court of Guangdong Province:  
<https://mp.weixin.qq.com/s/jsWpDf2X7vBH0K6cG6Rngg>.

<sup>9</sup> Ibid.

## **F. Establishing the GBA Mediation Platform**

24. With the development of the GBA, we anticipate a rapid increase in the demand for dispute resolution services. To enhance the confidence of mediation users within the GBA, and to strengthen Hong Kong's role as a leading centre for international legal and dispute resolution services in the Asia Pacific region, the DoJ and the relevant government legal departments in the Mainland and Macao endorsed the proposal to set up a GBA Mediation Platform at the second Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference (the "**Joint Conference**").

25. The GBA Mediation Platform shall be an authoritative platform for high-level exchange and cooperation among the legal departments of the three governments of Guangdong, Hong Kong and Macao, established to facilitate the use of mediation and discharge the role of a standard-setting body with a view to promoting the wider use of mediation within the GBA.

26. The GBA comprises three different legal systems: the Mainland, Hong Kong and Macao. To facilitate and promote the effective use of mediation in the GBA, the GBA Mediation Platform will explore the promulgation of a set of unified qualification, accreditation and other relevant standards for mediators in the GBA, and facilitate the establishment of a local panel of qualified GBA mediators in each of the three places. It will also study the formulation of best practices for

mediation rules applicable to cross-boundary disputes and best practices for mediators' code of conduct.

## **II. Developing Hong Kong as the capacity building centre for the GBA**

27. Hong Kong's legal and dispute resolution professionals are highly reputable and with extensive experience in training. They are crucial in the process of establishing a legal framework and a rule of law system in the GBA that align with international standard, as well as the development of Hong Kong as the capacity building centre for the GBA.

### *Capacity building activities in different legal areas*

28. DoJ has been proactively liaising with different local and international legal related bodies to organise a series of activities to promote Hong Kong as a regional capacity building centre for international law and dispute resolution. In 2020, despite the intervening COVID-19 pandemic, DoJ continued to cooperate with various organisations and successfully organised a number of events, including:

- (a) In October 2020, DoJ co-organised the online conference entitled "CISG as a Tool for Global Trade – Theory and Practice" with the United Nations Commission on International Trade Law ("UNCITRAL") and the Asian Academy of International Law ("AAIL"). Renowned local and overseas scholars and experts were invited to speak and

discuss the role of the United Nations Convention on Contracts for the International Sale of Goods as a tool for global trade;

- (b) In November 2020, DoJ organised the online Hong Kong Legal Week 2020 showcasing to the international community our strengths in the provision of legal, deal-making and dispute resolution services, and facilitating continuous exchange and cooperation with other jurisdictions. Major events of the Hong Kong Legal Week 2020 included the Inaugural Rule of Law Congress, the 14<sup>th</sup> Annual Generations in Arbitration Conference, the Mediation Conference 2020, the 2<sup>nd</sup> Hong Kong Mediation Lecture and the Sports Dispute Resolution Conference. Renowned experts and scholars from home and abroad were invited to discuss, among others, legal, mediation and arbitration issues, with a view to enhancing local and international awareness of related issues with a series of flagship events.

29. DoJ continued to participate in various events in the first quarter of 2021, for example:

- (a) In January, DoJ supported the online forum entitled “The Role of Hong Kong Maritime Arbitration in China’s International Shipping and Trade” jointly organised by the Hong Kong Maritime Arbitration Group, Dalian Maritime University, Shanghai Maritime University, East China

University of Political Science and Law and Ningbo University;

- (b) In February, the Secretary for Justice delivered a keynote speech at the Award Ceremony of the Second CIETAC Cup for Investment Arbitration. The event attracted more than 30,000 viewers from over 10 countries and regions including the Mainland, Australia, Germany, Korea, the Netherlands and the United States to watch on multiple platforms<sup>10</sup>;
- (c) In March, the Secretary for Justice delivered a speech at the 18<sup>th</sup> Willem C. Vis (East) International Commercial Arbitration Moot.

30. “One country, two systems and three jurisdictions” is a potential and unique feature in the GBA. The legal sectors in the three jurisdictions should acquire a better understanding of their counterparts and enhance coordination and cooperation in order to jointly provide necessary support to the development of the GBA. In recent years, with a view to strengthening the exchange and collaboration between the legal sectors in the three places, DoJ has been actively exploring with organs in the three places the possibilities to create exchange platforms at different levels and for different aspects.

### ***Legal exchange and cooperation in the GBA***

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<sup>10</sup> The China International Economic and Trade Arbitration Commission:  
<http://www.cietac.org/index.php?m=Article&a=show&id=17435>

31. To facilitate legal exchange and cooperation, DoJ signed the “Framework Arrangement on exchange and mutual learning in legal aspects” with the Higher People’s Court of Guangdong Province (the “**Framework Arrangement**”) in September 2019, pursuant to which the parties agreed to promote and facilitate legal exchange and collaboration between courts of Guangdong Province and relevant Hong Kong legal organisations through setting up projects. A series of exchanges have been carried out, such as:

- (a) DoJ co-organised the “2019 Seminars on Adjudicating with Common Law Concepts” series with the Intermediate People’s Court of Shenzhen Municipality, in which Hong Kong’s judges or senior legal practitioners spoke to Mainland judges on the development of Hong Kong law in civil and commercial matters. Hong Kong’s legal profession was also invited to attend one of the seminars held on 8 September 2019 in Shenzhen on the comparative study of the contract laws of the Mainland and Hong Kong;
- (b) On 2 to 3 November 2019, DoJ participated in the 4<sup>th</sup> Qianhai Legal Intelligence Forum and co-organised the mock hearing under the “2019 Seminars on Adjudicating with Common Law Concepts” series with the Intermediate People’s Court of Shenzhen Municipality;
- (c) On 6 January 2020, DoJ participated in the inaugural “Greater Bay Area judicial case seminar in Guangzhou” organised by the Higher People’s Court of Guangdong Province. Judges, lawyers, experts and scholars from



Guangdong, Hong Kong and Macao participated in the seminar. The seminar featured mock trials based on the same set of facts and conducted according to different modes of trial of the three places, thereby facilitating better understanding of the respective legal system of the three jurisdictions as well as strengthening the collaboration among the legal and judicial sectors of the three places.

32. Moreover, with a view to jointly promote the work to build the rule of law in the GBA, DoJ maintains close contact with the legal departments of Guangdong and Macao and conducts regular exchange on various legal issues and relevant work related to the GBA. In September 2019, DoJ together with the Department of Justice of Guangdong Province and the Office of the Secretary for Administration and Justice of the Macao Special Administrative Region held the first Joint Conference in Hong Kong. They agreed to establish a joint conference mechanism among the legal departments of the GBA and work together to formulate a series of measures that are conducive to promote mediation in the GBA<sup>11</sup>. The second Joint Conference was held online on 11 December last year to follow-up on the relevant work.

33. To strengthen Hong Kong's status as a regional capacity building centre for international law and dispute resolution, DoJ will continue to liaise with the relevant organs of Guangdong and Macao to promote legal exchange and collaboration between the three places, hence facilitating the training to be provided to practitioners in the three places (as well as

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<sup>11</sup> Please refer to paragraphs 24 to 26 regarding promotion of mediation in the GBA.

other legal jurisdictions) on specific areas of international law and dispute resolution.

### **III. Measures proposed to be taken forward in the GBA**

34. Leveraging Hong Kong's unique advantages under the "one country, two systems" principle, DoJ will strive for the early and pilot implementation of more innovative measures in the GBA to support the development of Hong Kong's legal and dispute resolution services therein, to assist the legal profession to capitalise on the opportunities in the GBA, and to consolidate Hong Kong's position as a leading centre for legal, deal-making and dispute resolution services in the Asia Pacific region. DoJ proposes to take forward the following key measures in the GBA:

#### **A. Allowing WOKEs in the GBA "to adopt Hong Kong law and choose for arbitration to be seated in Hong Kong"**

35. As mentioned in paragraphs 10 to 11 of this paper, the adoption of Hong Kong law by WOKEs has achieved a breakthrough in Qianhai as over 11,000 WOKEs registered there are allowed to agree on the choice of applicable law, including Hong Kong law, when they enter into civil and commercial contracts despite the absence of "foreign-related elements". This represents an adaptation of the requirement of "foreign-related elements" under Mainland law. As the development of the GBA continues to take root, it is believed that more WOKEs will invest in the GBA, resulting in a corresponding rise in the number of cases concerning Hong Kong. Since the choice of Hong Kong law by WOKEs has shown to be feasible in Qianhai, we believe that such a

measure will achieve the same effect in the GBA. DoJ will continue to seek the support of the Central Government in extending the relevant measure from Qianhai to Shenzhen and the whole GBA in due course, providing further investment-facilitation measures to enterprises and in particular Hong Kong investors.

36. Furthermore, DoJ will also actively strive for the wider use in the GBA of Hong Kong as a place of arbitration outside the Mainland and the relaxation of the “foreign-related elements” requirement under Mainland law. By allowing contracting parties the right to choose Hong Kong as the seat of arbitration and giving them more options for dispute resolution, such a move will help to build a market-oriented, law-based and internationalised business environment, further attracting investment by Hong Kong or foreign enterprises in the GBA.

**B. Furthering cooperation between the Mainland and Hong Kong on mutual recognition of and assistance in insolvency procedures**

37. Over the years, stakeholders have indicated there exists an urgent need for establishing a mechanism for mutual cooperation on corporate insolvency (enterprise bankruptcy) between the two places to ensure orderly liquidations and to better protect the stakeholders’ interests. In view of this, DoJ has been actively discussing with the SPC to explore the establishment of a framework for cooperation on mutual recognition of and assistance in such matters.

38. In June 2020, DoJ consulted this Panel on the key features of a suggested framework for cooperation. The Panel and representatives of

the Hong Kong Bar Association<sup>12</sup> who attended the meeting upon invitation welcomed the strengthening of cooperation in this regard between the two places.

39. DoJ is striving to reach a consensus with the SPC on implementing a framework for cooperation on insolvency matters as soon as possible, and is exploring to first launch cooperation in pilot area(s) in the GBA which have the closest economic relationship with Hong Kong, such as Shenzhen. The establishment of a framework for cooperation on insolvency matters will help enhance Hong Kong's competitiveness as an international commercial and investment centre, strengthen Hong Kong's position as a regional hub for insolvency and debt restructuring and further enrich the content of mutual legal assistance in civil and commercial matters between both places.

### **C. Refining the Arrangement for Mutual Service of Judicial Documents in Civil and Commercial Proceedings between the Mainland and Hong Kong Courts**

40. The Arrangement for Mutual Service of Judicial Documents in Civil and Commercial Proceedings between the Mainland and Hong Kong Courts (the "**Arrangement**") was signed in January 1999 and took effect in March of the same year. It was the first mutual legal assistance arrangement in civil and commercial matters signed between the HKSAR and the Mainland, and its purpose is to facilitate mutual service of judicial documents in civil and commercial proceedings between both places. Under the Arrangement, mutual service of judicial documents in

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<sup>12</sup> The Law Society of Hong Kong sent no representative to the meeting. However, in the past, many lawyers pointed to a pressing need for cooperation with the Mainland on insolvency (liquidation) matters.

civil and commercial proceedings can be effected between Mainland and Hong Kong courts. According to the SPC, the number of cases of mutual service of documents between the two places under the Arrangement increased from 359 in 1999 to 2,382 in 2020, representing an increase of more than five times, and totalling over 29,000 cases during the 20-year period<sup>13</sup> .

41. To enhance the efficiency and increase the success rate of service, and to better facilitate the parties involved, both places have agreed to pursue discussions on possible refinements of the Arrangement and explore the possibility to strengthen or increase the modes of service. Given the close connections between Hong Kong and Guangdong Province in various areas, Guangdong Province has been handling the largest share of such cases. It is believed that the refined Arrangement can enhance the efficiency of service of judicial documents between Hong Kong and the Mainland cities in the GBA can be enhanced upon refinement of the Arrangement.

#### **IV. Advice Sought**

42. We invite members' comments and suggestions on the recent development and proposed measures on Hong Kong's legal and dispute resolution services in the GBA. DoJ will suitably convey the relevant comments and suggestions gathered through various channels to the relevant Mainland authorities, so as to strive for further opening up of the GBA and the Mainland markets for Hong Kong's legal and dispute resolution sector and to consolidate Hong Kong's advantages as a leading

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<sup>13</sup> The SPC's press conference held on 22 January 2021 on the "Report relating to the implementation of mutual legal assistance in civil and commercial matters between the Mainland and the HKSAR": <http://www.court.gov.cn/zixun-xiangqing-285241.html>

centre for international legal and dispute resolution services in the Asia Pacific region.

**Department of Justice**

**March 2021**