



## HONG KONG BAR ASSOCIATION

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Mrs Percy Ma  
 Clerk to Bills Committee on  
 Mainland Judgment  
 (Reciprocal Enforcement Bill)  
 Legislative Council Building,  
 No. 8 Jackson Road,  
 Central, Hong Kong.

15<sup>th</sup> May 2007

Dear Mrs Ma,

### Re: Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill

Further to our letter dated 11th May 2007, I write to draw the Bills Committee's attention to an article by Enzo Chow in the May 2007 Issue of the *Hong Kong Lawyer*.

The article raises at page 34 several interesting issues on the proper construction of provisions of the Bill. I need only to highlight two issues. The first involves the proper construction of clause 3(2), particularly the requirement that the choice of Mainland court agreement should designate Mainland court(s) to the exclusion of courts of other jurisdictions. Would this requirement of exclusivity be satisfied if the designation is in respect of "courts of the Mainland of the People's Republic of China", or "courts of Guangdong Province", or "the Beijing Higher People's Court" (bearing in mind that there are more than one Beijing Higher People's Courts)?

The second issue, which has been briefly touched upon by the deputations on 5 May 2007, is concerned with the situation where the parties to the choice of Mainland court agreement manage to designate exclusively a Mainland court on the scheduled list but, when a dispute arises, that court declines jurisdiction pursuant to

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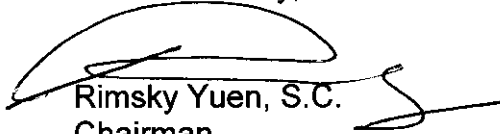
孫靖乾

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Mainland Civil Procedure Code (which seems possible in joint venture cases) and some other court also on the list thereafter accepted jurisdiction and gave judgment. Would that judgment satisfy clause 5 for registration?

The Bills Committee may wish to consider whether to ask the Administration to consider these issues.

Yours sincerely,

  
Rinsky Yuen, S.C.  
Chairman