

**Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill
A check list of follow-up actions required of the Administration
(Position as at 7 June 2007)**

| Date of meeting | Follow-up actions required | Administration's response |
|------------------------|--|---|
| 29 March 2007 | Provide a table showing how the clauses in the Bill correspond with the relevant provisions of the Arrangement | Annex I to LC Paper No. CB(2)1641/06-07(01) |
| | Provide a copy of the judicial interpretation on the procedures for implementing the Arrangement to be promulgated by the Supreme People's Court for Members' reference | Response awaited |
| | Provide relevant provisions of the Hague Convention on which clauses 3 and 4 of the Bill were modeled | Annex II to LC Paper No. CB(2)1641/06-07(01) |
| | Provide a paper on the rules governing the jurisdiction of courts on the Mainland, including how a case could be transferred from one court to another court | Annex III to LC Paper No. CB(2)1641/06-07(01) |
| | <u>Clause 3</u> Review the drafting of clause 3(1) and 3(2) in view of members' concern that the phrase "designating a court" could be construed to mean "a specified court" | LC Paper No. CB(2)2114/06-07(01) |
| 24 April 2007 | <u>Forum shopping</u> Provide a paper to explain whether or not the Bill, if enacted, would affect the application of common law rules in Hong Kong, e.g. the rules that governed the prevention of forum shopping | LC Paper No. CB(2)1827/06-07(01) |
| 30 April 2007 | <u>Long title</u> <u>Clause 2(1) - Definition of "Mainland judgment"</u> Review the drafting of the clauses, i.e. whether the words "civil or" should be deleted | LC Paper No. CB(2)2091/06-07(01) |
| | <u>Clause 2(1) - Definition of "recognized Basic People's Court"</u> (a) review whether reference should be made to clause 25(1) in the definition; and (b) consider the need to stipulate in the Bill that the list of recognized Basic People's Court would take effect upon publication of it by the Secretary for Justice in the Gazette under clause 25 | LC Paper No. CB(2) 2091/06-07(01) |
| | <u>Clause 2(1) - Definition of "specified contract"</u> (a) clarify the scope of the definition; (b) explain how the definition could achieve the legislative intent; | LC Paper No. CB(2) 2091/06-07(01) |

| Date of meeting | Follow-up actions required | Administration's response |
|-------------------|---|---|
| | <p>(c) provide examples on the types of contracts that could be included and excluded from the definition;</p> <p>(d) advise whether a Mainland court would classify a contract entered into between a container truck driver and a container truck owner involving in cross border transportation as an employment or a commercial contract;</p> <p>(e) in relation to (d) above, advise whether a Hong Kong court could retry the case and challenge the ruling of the Mainland court, if a judgment debtor had applied for the registration of a Mainland judgment to be set aside on the ground that it was an employment contract; and</p> <p>(f) consider whether the exclusion drafting approach or a more user-friendly approach should be adopted for the definition</p> | |
| | <p><u>Clause 2(2)</u></p> <p>(a) review the drafting of clause 2(2); and</p> <p>(b) consider whether the meaning of an expression of the law of the Mainland (e.g. any court, court document or court procedure etc.) used in the Bill should more appropriately be defined under clause 2(1)</p> | <p>LC Paper No. CB(2) 2091/06-07(01)</p> |
| | <p><u>Clause 3</u></p> <p>(a) review the expression "designating a court", as the Administration had previously advised that the expression should mean "a court" or "courts" so designated; and</p> <p>(b) advise the consequences if the court so designated did not have jurisdiction over the case, e.g. it had no real and substantial connection with the case</p> | <p>LC Paper No. CB(2)2114/06-07(01)</p> |
| <p>5 May 2007</p> | <p><u>Submissions</u></p> <p>(a) provide a copy of the submission received from the International Chamber of Commerce - Hong Kong, China in 2002; and</p> <p>(b) provide a composite response to the views given by the deputations</p> | <p>LC Paper No. CB(2)2057/06-07(01)</p> <p>LC Paper Nos. CB(2) 2091/06-07(02) and CB(2)2114/06-07(01)</p> |
| | <p><u>Clause 3</u></p> <p>(a) review the drafting of the expression "designating a court" in clause 3 of the Bill, which was different from the expression used in Article 3 of the Arrangement; and</p> | <p>LC Paper No. CB(2)2114/06-07(01)</p> |

| Date of meeting | Follow-up actions required | Administration's response |
|-----------------|--|-------------------------------------|
| | (b) provide information on the provisions relating to the choice of forum in a jurisdiction agreement and the choice of arbitration tribunal in an arbitration agreement | |
| 14 May 2007 | <p><u>Clause 3</u></p> <p>(a) advise whether the policy intent of clause 3(1) and 3(2) was that when a specific court or courts in a jurisdiction had been chosen to have exclusive jurisdiction, judgment delivered by a specified court(s) or any other courts in that jurisdiction would be enforceable in the other jurisdiction and whether the drafting of clause 3(1) and 3(2) had reflected the policy intent;</p> <p>(b) advise whether the policy intent of clause 3(1) and 3(2) was to require a chosen court to determine a particular dispute or any disputes arising from a contract and whether the drafting of clause 3(1) and 3(2) had reflected the policy intent (paragraph 8 of the Bar Association's submission refers (LC Paper No. CB(2) 1767/06-07(01); and</p> <p>(c) provide information on whether parties to a contract would usually specify a particular court or any court to have exclusive jurisdiction</p> | LC Paper No. CB(2)2114/06-07(01) |
| | <p><u>Clause 18</u></p> <p>(a) clarify whether or not clause 18 complied with the requirements stipulated in Article 9 of the Arrangement; and</p> <p>(b) advise whether the Administration would consider to include a safeguard in clause 18 so that the registration of judgment given by a court which had no real and substantial connection with the dispute would be set aside</p> | LC Paper No. CB(2)2114/06-07(01) |
| | Provide statistics on the number of arbitration cases handled by the Hong Kong International Arbitration Centre, the number of Mainland arbitral awards enforced and not enforced in Hong Kong, and the reasons for these awards not enforced in Hong Kong | LC Paper No. CB(2)2114/06-07(01) |
| | Advise whether the policy intent of the Arrangement was to allow contracting parties to apply a choice of court agreement made after commencement of the Bill to previous and future specified contracts and whether the Bill had reflected the policy intent | LC Paper No. CB(2)2114/06-07(01) |