



HONG KONG BAR ASSOCIATION

Secretariat: LG2 Floor, High Court, 38 Queensway, Hong Kong
 DX-180053 Queensway I E-mail: info@hkba.org Website: www.hkba.org
 Telephone: 2869 0210 Fax: 2869 0189

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

15th 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

香港大律師公會

香港金鐘道三十八號高等法院低層二樓

Chairman 主席：

Mr. Rimsky Yuen, S.C.

Vice Chairmen 副主席：

Mr. Clive Grossman, S.C.

Mr. Paul Shieh, S.C.

Hon. Secretary & Treasurer

名譽秘書及財政：

Ms. Lisa Wong, S.C.

Deputy Hon. Secretary

副名譽秘書：

Mr. Keith K.H. Yeung

Administrator 行政幹事：

Ms. Dora Chan

袁國強

郭兆銘

石永泰

黃國瑛

楊家雄

陳少琼

Members 執行委員會委員：

Mr. Anthony Chan, S.C.

Mr. Peter Duncan, S.C.

Mr. Joseph Tse, S.C.

Mr. Leo Remedios

Mr. Anthony Ismail

Mr. Stewart Wong

Mr. Andrew Mak

Mr. Michael Liu

Mr. P Y Lo

Mr. Lawrence Ng

陳健強

鄧樂勤

謝若瑟

李美度士

石善明

黃繼明

麥業成

廖建華

羅沛然

吳港發

Mr. Richard Khaw

Mr. Frederick Chan

Mr. Gary Soo

Mr. Norman Hui

Ms. Audrey Campbell-Moffat

Mr. Edwin Choy

Ms. Elaine Liu

Mr. Jenkin Suen

Mr. Robin Egerton

許偉強

陳慶輝

蘇國良

許文恩

金貝理

蔡維邦

廖玉玲

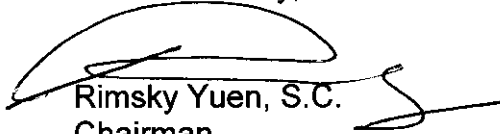
孫靖乾

艾家敦

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