

**Statement of Hong Kong Bar Association (“HKBA”)**

**on Hong Kong Special Administrative Region (“HKSAR”) as a Centre for Dispute Resolution**

The HKSAR is and continues to thrive as one of the world’s most important financial centres with a global reputation for both cross-border deal making and international dispute resolution.

The HKSAR has a common law system under the ‘one country two systems’ principle. Its arbitration law under the Arbitration Ordinance (Cap 609), based on the UNCITRAL Model Law, is modern and user-friendly, whilst the HKSAR’s strong and independent judiciary adheres to the rule of law. These are no doubt important features of the framework which drives the current success of the Hong Kong International Arbitration Centre (“HKIAC”). As attested to by the HKIAC’s most recently released statistics, 2020 represented a bumper year with more arbitration filings than at any time in the past decade (total amount in dispute for the year’s filings: HK\$68.8 billion), and with the HKIAC administered arbitrations representing a 20% increase over the previous year.

The HKIAC’s success and popularity in promoting the HKSAR as a regional seat for international arbitration is ably supported by the two limbs of the HKSAR’s legal profession with world-class expertise and specialisation in arbitration services reposed in both the solicitors profession and the independent Bar.

The firm pro-arbitration stance of the Hong Kong Courts, from the lowest to highest appellate tier, is clearly demonstrated in the case law. This can be seen in e.g. the resisting of attempts by parties to an arbitration agreement to avoid contractual obligations by seeking to have their disputes litigated through the Courts, or in readily dismissing challenges to arbitral awards on anything other than the very limited procedural grounds recognized under Hong Kong law.

In addition, it is of particular significance that the Government of the HKSAR and the Secretary for Justice are wholeheartedly committed to the development and improvement of the HKSAR’s status as an alternative dispute resolution services hub.

One instance of this is the setting up of a system for e-arbitration and the eBRAM International Online Dispute Resolution Centre, of which the HKBA is a supporting organisation.

Another striking example is the unique initiative comprising the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR (“Arrangement”) entered into between the HKSAR Government and the Supreme People’s Court on 21 June 1999, which provides for reciprocal enforcement of arbitration awards between the Mainland and the HKSAR. The HKIAC reports that the Arrangement has motivated parties to choose the HKSAR as the seat and the HKIAC as the institution for resolution of disputes that have Chinese elements.

And now this beneficial and highly successful Arrangement has recently been further supplemented and increased via a Supplemental Arrangement entered into on 27 November 2020 which has taken into account the experience built up under the Arrangement so far, together with further input from legal professionals and the arbitration sector. The new initiatives, due to be implemented by legislative amendment in early 2021, include matters such as interim preservation measures in aid of applications for award enforcement and the permitting of simultaneous award enforcement in the Courts of both the Mainland and the HKSAR.

The HKBA, its dispute resolution professionals and the legal and arbitration community as a whole have welcomed this new initiative as further enhancing and ensuring the HKSAR's continued status and its reputation as a leading international dispute resolution services hub.

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