

Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR: Amendments proposed for Arbitration Ordinance

The Government will introduce legislative amendments to the Arbitration Ordinance (Cap. 609) to fully implement the Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region (Supplemental Arrangement) signed between the Government of the Hong Kong Special Administrative Region (HKSAR) and the Supreme People's Court of the People's Republic of China on November 27, 2020.

The purpose of signing the Supplemental Arrangement is to amend the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR (Arrangement) which came into effect on February 1, 2000, and bring it more fully in line with the current practice of international arbitration. The Supplemental Arrangement amends the Arrangement in the following aspects:

- (a) express inclusion of the term "recognition" when referring to enforcement of arbitral awards in the Arrangement for greater certainty;
- (b) express provision to clarify that a party may apply for preservation measures before or after the court's acceptance of an application to enforce an arbitral award for greater certainty;
- (c) aligning the definition of the scope of arbitral awards with the prevalent international approach of "seat of arbitration" under the New York Convention; and
- (d) removal of the previous restriction of the Arrangement, allowing parties to make simultaneous applications to both the courts of the Mainland and the HKSAR for enforcement of an arbitral award.

It is not necessary to enact new legislation or amend existing legislation in Hong Kong to implement the above Amendments (a) and (b), while the implementation of Amendments (c) and (d) will require necessary amendments to the Arbitration Ordinance. The implementation of the Supplemental Arrangement in full will be conducive to the promotion of the development of Hong Kong's legal and dispute resolution services. Hong Kong's status as an international legal hub for legal, deal-making and dispute resolution services will be further enhanced.

The relevant Arbitration (Amendment) Bill 2021 will be gazetted this

Friday (February 19) and introduced into the Legislative Council on February 24, 2021. The Bill will also update the Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) and make minor textual amendments to the Arbitration Ordinance.