

PRC-HK Interim Measure Arrangement

DENTONS

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On October 1, 2019, the highly anticipated “Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region” has come into force in Hong Kong. This is groundbreaking because Mainland laws did not previously allow parties to arbitral proceedings in other jurisdictions to apply to the PRC courts for interim measures. This arrangement means that parties to a Hong Kong-seated arbitration administered by designated arbitral institutions including HKIAC, ICC (Asia Office) and CIETAC (Hong Kong) can now apply directly to the PRC courts for an interim measure.

Under the arrangement, parties may apply for interim measures in the PRC courts for property preservation, evidence preservation and conduct preservation. Parties are also given the option to apply to the Intermediate People’s Court of the place of residence of the respondent or the place where the property or evidence is situated. However, it is worth highlighting that once an application is made to a people’s courts, no separate application would be allowed. Parties will therefore need to strategically decide where to make an application to best preserve the status quo in aid of its arbitral proceedings.

Hong Kong has always been one of the top choices for international parties pursuing arbitration, due to its efficiency, transparency and reputation for fairness. With the arrangement, Hong Kong will continue to be the preferred seat for PRC-related arbitrations and we expect to see more institutional arbitrations in Hong Kong in disputes having a Chinese element.

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