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TOPICS

THE GREATER BAY AREA INITIATIVE – ARE YOU READY FOR IT ?

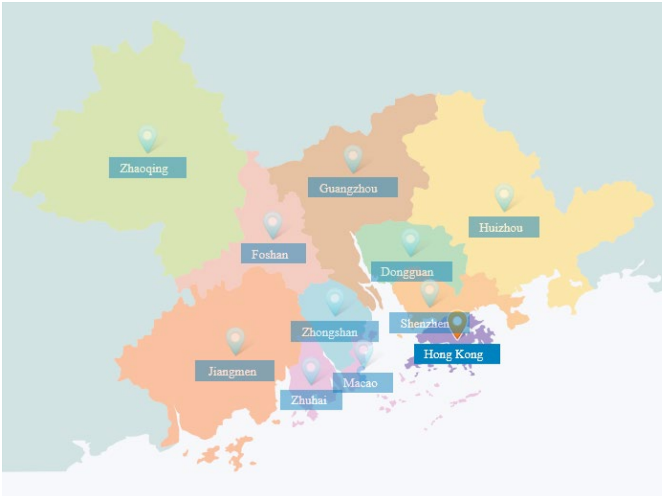
The Greater Bay Area Initiative was officially announced in March 2017 by China's Premier Li Keqiang in his Annual Report. The author has been speaking in seminars and briefings on what the Master Plan of the Initiative is expected to contain and how the Initiative would benefit Hong Kong, the Greater Bay Area and China as a whole. At the time of writing this article, the long awaited Master Plan of the Initiative, which was anticipated to be launched in the first half of 2018, has not been announced yet. It is therefore not sure as to what the Master Plan would say exactly.

However, in the recent months the Central Government has adopted a chain of new policies that are generally regarded as gifts to Hong Kong and part of the Great Bay Area Plan. Firstly in May 2018, the Central Government granted Hong Kong science and technology innovation researches national science funding. This is an "exceptional treat" for scientific research in Hong Kong. In late July 2018, the State Council decided and the Ministry of Human Resources and Social Security cancelled the requirement that people from Taiwan, Hong Kong and Macau have to apply for permission if they are to be employed in the Mainland.

Furthermore, the very first meeting of the Working Group for the Greater Bay Area Initiative has just held in Beijing on 15 August 2018 and the Chief Executive of Hong Kong Carrie Lam Cheng Yuet-Ngor has just returned to Hong Kong, after attending the meeting, bringing the good news that the Central Government gives Hong Kong yet another "gift" in that Hong Kong citizens who are living, studying and working in China will be issued a new residence card which enables them to have access to public services in China. On 19th August 2018, the State Council announced that the new residence card can be applied for from 1 September 2018 and each card is valid for 5 years. All these gifts are considered as part of the "plan" of the Greater Bay Area Initiative although the plan has yet to be officially launched. Instead of guessing what else will be launched, have you, in particular if you are the players of the logistics and transportation industry of Hong Kong, asked yourselves whether you are ready for the implementation of this important Initiative or not? This article examines some aspects of the Initiative which in the author's view are so significant that you, the readers, and the Hong Kong citizens should consider.

The Guangdong-Hong Kong-Macau Bay Area

The Guangdong-Hong Kong-Macau Bay Area, generally called "The Greater Bay Area", comprises the Hong Kong Special Administrative Region, the Macau Special Administrative Region and nine cities in the Guangdong Province, namely Guangzhou, Shenzhen, Zhuhai, Foshan, Zhongshan, Huizhou, Dongguan, Zhaoqing and Jiangmen.



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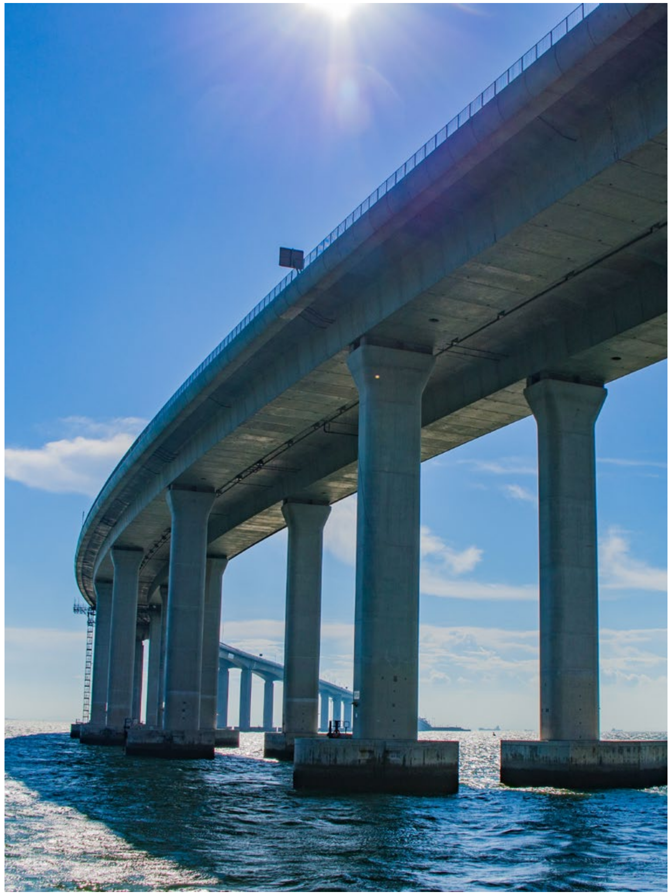
The Greater Bay Area Initiative aims at that in thirteen (13) years' time from 2017, that is, by 2030, the Greater Bay Area is as strong as or will surpass the other greater bay areas of the world such as the New York Bay, the San Francisco Bay, and the Tokyo Bay economically and financially. Furthermore, another aim of the Initiative is that the Greater Bay Area will be developed into a technology innovation hub that can rival the Silicon Valley of the United States.

The Initiative was first mentioned in 2016 in China's 13th Five Year Plan. In March 2017, Premier Le Keqiang announced it in his Annual Government Report as a strategy that will be pursued with immediate effect. On 1st July 2017, on the 20th anniversary of the setting up of the Hong Kong Special Administrative Region, President Xi Jinping graced Hong Kong with his presence and the Framework Agreement on Deepening Guangdong-Hong Kong-Macau Co-operation in the Development of the Bay Area by the four relevant parties, namely, the National Development and Reform Commission (NDRC) of the Central Government and the respective Government of Guangdong, Hong Kong and Macau was signed in his presence. On 8th October 2017, the Initiative was given a lot of weight by the Chief Executive of Hong Kong in her maiden Policy Address. On 19th October 2017, the Initiative was mentioned in President Xi's speech in the 19th Communist Party's Congress as an initiative that the Central Government is determined to make it successful.

In 2018, the Initiative becomes even more important with the United States threatening China from January to May 2018 to levy tariff on imports from China, and with their levying tariff on China imports since June. As a result of which, China's trade with and exports to the US, and China economy has been inevitably affected. Some way out have to be found quickly. China stands firm in the trade war which seemingly surprised the United States who then started to criticize and attack China's another great Initiative, the One Belt One Road Initiative which involves lots of overseas countries. While the stance of the governments of the overseas countries cannot be guaranteed in the context of the Belt and Road Initiative as that involves diplomacy and international politics, enhancing China's economy by speeding up the development of the Greater Bay Area, which involves mainly territories and local governments within China, are more easily achievable targets. In March 2018, Premier Li once again stressed in his 2018 Annual Report the full support of the Central Government of the Initiative. Later on, Vice-Premier Han Zheng was tasked with the job to lead the development of the Greater Bay Area. Han is also the person-in-charge of the affairs of Hong Kong and Macau. Deploying such a top state leader to lead and oversees the development of the Greater Bay Area is telling and self-evident on how important the Initiative is in the eyes of the Government of China. Thereafter there has been discussion on that a Master Plan for the Greater Bay Area is about to be launched and that it would have been launched had not been the US-China trade war as the war entails review of the plan. In any case, as mentioned, while we do not know the details of the Master Plan yet, it can be inferred from those development in the last few months that Hong Kong, the citizens of Hong Kong and the established status of Hong Kong as an International Financial Centre, an International Maritime Centre and as an up-coming International Trade Centre and International Dispute Resolution Centre are given great weight. Hong Kong is tasked with important duties and missions to accomplish so as to make the Initiative a success.



The Greater Bay Area Strategy provide detailed particulars on the roles to be played by Hong Kong, Macau and the nine cities of Guangdong in developing the Area. It is also part of the One Belt One Road Initiative. Like the Belt and Road Initiative which has its origin in the Tang Dynasty Silk Road on the land and the Ming Dynasty Zheng-he maritime missions to South East Asia, the Greater Bay Area Initiative does not come out all of a sudden. It has a series of predecessor. Since the re-opening of China in 1979/1980, China started the Special Economic Zones Initiative. Shenzhen became the very first special economic zone and Shenzhen is now also one of the nine cities in Guangdong in the Greater Bay Area Initiative. In addition, Zhuhai and Shekou of Guangdong, Shantou and Xiamen were all developed into special economic zones. Many Hong Kong merchants and manufacturers went up to these special economic zones in Guangdong and invested there. They set up factories, employed local people and contributed enormously to the development of all these areas into rich economic regions. Since June 2003 Mainland and Hong Kong entered into the Closer Economic Partnership Agreement (CEPA) which covers, inter alia, the cities of the Greater Bay Area as well. Then there came 2007 when the Pan Pearl River Delta Region Co-operation (Pan PRD) came into existence. This initiative covers Hong Kong and, among other provinces, Guangdong, and therefore includes all the nine Greater Bay Area cities in Guangdong as well in August 2009 we had the launching of the Zhuhai Hengqin Free Trade Zone Initiative. In 2010, Shenzhen started to run its Qianhai Free Trade Zone. Furthermore, in 2012 Guangzhou started its Nansha Experimental Initiative, an initiative which aims at making Nansha a yacht centre and a maritime centre by 2025. The Hengqin Initiative, the Qianhai Initiative and the Nansha Initiative are still alive, kicking and continuing. Guangzhou, Shenzhen, Zhuhai are repeatedly involved in these initiatives. Investors and members of the professional services industry of Hong Kong have been encouraged to invest in Hengqin, Qianhai and Nansha. So what happened to these initiatives? Why the Greater Bay Area Initiative which involves very much the same cites of the Pearl River Delta Region is launched? Is it a duplication?

The answers are not difficult to find. The Hengqin Initiative, the Qianhai and the Nansha Initiative all focus on one city or one place. Those cities are, unlike Hong Kong, not that well connected with other thriving areas or cities of the world and hence their respective potential have not been explored and developed to their limit and consequently their targets have yet to be attained. The author has investor friends who are concerned about the uncertainties of the operation of those initiatives. They are concerned that if case

disputes arise in their investment in Hengqin, Qianhai or Nansha, and in the relevant investment contracts provide expressly that the laws of Hong Kong govern the contracts and disputes that arise from the contracts be dealt with by Hong Kong Courts, whether the Chinese courts would definitely respect the contractual jurisdiction clause and adjudge the disputes in accordance with the laws of Hong Kong. The concern is not ungrounded because under China's civil law, a plaintiff who is resident in China can go to the Chinese court to commence and pursue proceedings in respect of transactions that took place within China. There are cases in which when the Chinese courts seized jurisdiction of such disputes, Chinese laws instead of the contractual governing laws, that is, Hong Kong laws, were adopted as the governing laws for deciding the disputes.

Then how is the Greater Bay Area Initiative different to all these previous initiatives? It is the first initiative that although involves a region is given high level national attention and status. The Framework Agreement on Deepening Guangdong-Hong Kong-Macau Co-operation in the Development of the Bay Are signed on 1st July 2017 in Hong Kong, stipulated inter alia, firstly, clear division of role and work among Hong Kong, Macau and the nine Guangdong cities in that (1) the nine Guangdong cities are to further develop their manufacturing industries, innovative business, internet and high-tech business, (2) Macau is for leisure and entertainment business and is to be a platform to do business with Portugal and (3) Hong Kong which is already an international city and has been ranked as the world's freest economic city for twenty three consecutive years, is to (a) enhance its existing International Financial Centre status, (b) enhance its International Maritime Centre status, (c) develop into an International Trade Centre, (d) build it up as Asia Pacific's International Legal Centre and Disputes Resolution Centre, (e) develop the logistics and supply chain business, (f) enhance its status as an offshore Renminbi trading centre, (g) enhance its international asset management centre function, and (h) enhance its professional services and high-tech industry.

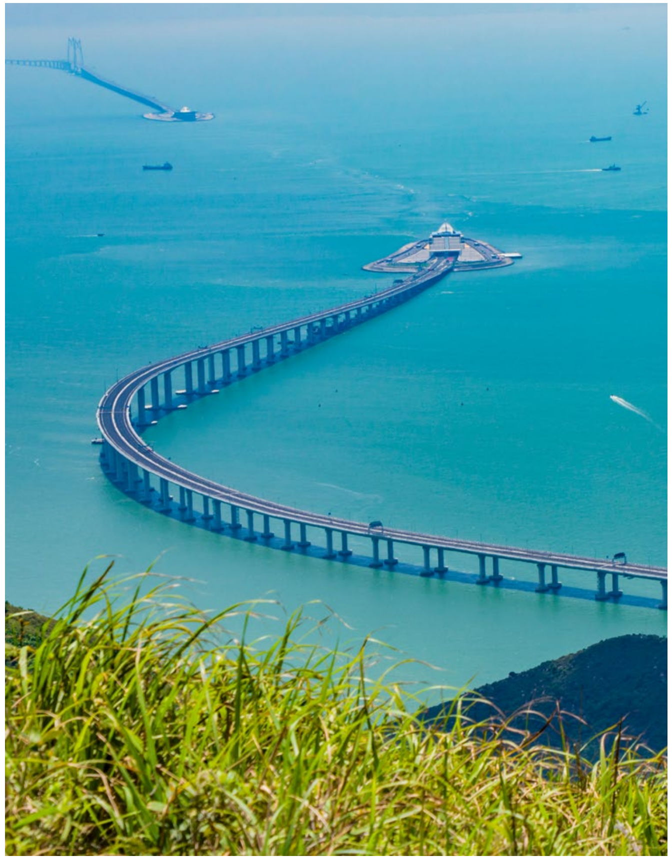
Furthermore, the Agreement contains expressly the instructions to the Greater Bay Area governments from the Central government. Such instructions include (1) that all the relevant governments are to assist and complement each other, (2) competition has to be in proper order, (3) the 9 + 2 places are to merge and integrate into each other's economy, culture, livelihood of the people living there (4) to remove all obstacles that block the attaining of the target of building up a world class cluster of cities that are stronger than the other existing world bay areas, (5) to act as the engine to enhance the economic development of other provinces of China, (6) to be the core hub and fort in the south and south-eastern part of China to help implement the One Belt One Road Initiative, to encourage communication with countries along the Belt and Road routes, (7) to be innovative in planning and implementing new policies to jointly promote Belt and Road infrastructure, (8) to jointly encourage the investors of the Great Bay Area to "go out" and get outside investors to "go into" China by acting as a facilitating platform, (9) to enable free flow of manpower and talents within the Area, and, (10) to speed up the building up the infrastructure to enable arriving at anywhere within the Greater Bay Area in "one-hour".

The differences between the Greater Bay Area Initiative and the previous initiatives in the area are therefore obvious and eye-catching. Hong Kong has a lot of sacred missions to perform. For the first time, a strategy for a region is given the national strategy status. That President Xi witnessed the signing of the Framework Agreement, that the initiative is repeatedly included in Premier Li's Annual Report, and that Vice-Premier Han Zheng took charge of the implementation of the

initiative are all telling. The Agreement laid down clearly the respective duties and roles played by Hong Kong, Macau and the nine Guangdong cities in the Belt and Road initiative as well, namely, to participate actively in it, and that Hong Kong is not only a "super-connector" as had been described previously. Destructive price cutting competition within the Area should not continue. The Agreement also expressly requires Hong Kong to merge with Mainland China's economy and culture. Most importantly, it expressly provides for close supervision by the Central Government in that (1) there will be regular meetings of the four governments every year to discuss and remove obstacles and differences in view and to put forward suggestion to the relevant departments of the four parties for consideration, agreement and implementation, and, (2) the nine Guangdong cities, Hong Kong and Macau must jointly build up a daily mechanism in developing the Area.

Are the Hong Kong people ready for the Initiative and for discharging the duties imposed on them and for performing the roles assigned to Hong Kong under the Initiative? How much do the Hong Kong people, Hong Kong's financial industry players, Hong Kong's maritime, transportation, port and logistics industry players, Hong Kong's traders, and Hong Kong's legal professional services players know about the nine cities in Guangdong and the Initiative? How much guidelines and guidance from the Government on the Initiative have been given thus far? While Hong Kong is to perform the roles given to it and to contribute, what has Hong Kong benefited from it thus far and how will Hong Kong benefit from it in future? The author would ask the readers to ask themselves all these questions and their answers would indicate how much they are ready for the Initiative.

The Hong Kong high speed rail that links up the Mainland is said to commence its service on 23 September 2018. The Hong Kong-Zhuhai-Macau Bridge is about to be put into operation as well (so, the hardwares are in place). However, do all these hardwares suffice in enabling the people of Hong Kong to know what the Initiative is about and perform their role under it? In the author's view, Hong Kong is ready in many aspects for the Initiative. This is in particular in the case of Hong Kong as an International Financial Centre in the Area and to enhance its status as an offshore RMB Trading Centre. Indeed Hong Kong has been playing such role for years and has been the platform for providing financial facilities for Chinese investors who "go out" to the world under the Belt and Road Initiative. None of the nine Guangdong cities are international financial centres thus leaving Hong Kong the only place that can play the financial centre role.



However, as regards enhancing the logistics and transportation business and to take the lead in such role in the Greater Bay Area by virtue of Hong Kong's established International Maritime Centre status, by that Hong Kong's award winning airport is famous for its excellent services internationally and by that the Hong Kong airport is building its third runway; there are concerns about that unless the Hong Kong Government and the Guangdong Government together are to move quickly to give clear guidelines on that disruptive price competition that the ports and container terminals in the Guangdong cities in the Area have been subjecting the Hong Kong ports and container terminals to, there will not be much luck for the ports and container terminals of Hong Kong to thrive under the Initiative. Of the nine Guangdong cities involved at least two of them, namely, Shenzhen and Guangzhou, have container terminals and port that have been in very keen competition with the Hong Kong port and terminals. These two ports are two of the busiest ports not only in China but also in the World by reference to the number of containers they handle each year. Hong Kong had been the world's busiest port for some years but the throat cutting price competition by the Mainland ports had rendered the Hong Kong port in a disadvantageous position. It is time for the Hong Kong Government and the Guangdong Government to jointly and quickly work together to comply with the instructions given to them by the Framework Agreement, namely to see to the removal of such obstacle of price competition as soon as possible. Otherwise, it is inconceivable how the role of Hong Kong as the leader in maritime, transportation and logistics in the Area is to be performed. Furthermore, whether a place is an international maritime centre or not is assessed by references to the recognition that the world's maritime industry gives it. Hong Kong has an established cluster of maritime services, the members of which have been working extremely hard all along, with not much assistances from the government and no subsidies from the government, and have earned the accolade and status of being an international maritime centre of the world as a result. It is therefore disturbing to find that there are cities in Guangdong who ignore the clear division of labour under the Framework Agreement and continue to allege that they are international maritime centres or international economic centres and that they will play such roles under the Greater Bay Area Initiative. This is contrary to the spirit and intention of the Agreement and is an obstacle to Hong Kong and Guangdong working jointly to make the Initiative a success. Therefore, despite that the Hong Kong port, maritime sector, the transportation and logistics sector are willing and ready, absent the co-ordination and agreement between the Hong Kong Government and the Guangdong Government and the corresponding actions taken by both governments, and absent guidelines and assistances provided to such industries of Hong Kong, these industries of Hong Kong are not ready to participate in the Initiative.

Turning to performing the role of the trade centre in the Greater Bay Area, the trading sector of Hong Kong are more than happy to take the role. However, firstly, the role is connected with the above mentioned logistics and transportation business and, secondly, the ever changing international trading environment. Hong Kong has been an important entreport for Mainland China. It has a thriving transshipment business as well. Mainland China is the second largest trading partners of Hong Kong. However, if the goods manufactured in Guangzhou, Shenzhen, Zhuhai, Foshan, Dongguan, Jiangmen, Huizhou continue to be exported directly from the port of Shenzhen and Guangzhou, it is difficult to see how Hong Kong's entreport trade and transshipment business will boom. Hong Kong has little manufacturing industry. However, the nine Guangdong cities of the Area are big manufacturing powerhouses.

According to the government's statistics, Guangzhou, Shenzhen, Zhuhai, Dongguan, Huizhou have over the years created a number of new energy industry cluster and established a new energy car production base. They have also built a national level new energy, environmental protection and energy saving industrial base. Shenzhen, Dongguan, Foshan, Zhongshan have successfully also built a national high-tech industrial base to support low carbon economy in Shanghai, Jiangmen and Zhaoqing. Shenzhen is also famous because Tencent, a world leading internet services trader and provider, and Huawei, a world leading mobile phone manufacturer, are head-quartered in Shenzhen. It exports (about 47% of which derived from the high-tech sector) accounted for 39.2% of all of Guangdong's exports and 10.8% of China total exports. Zhuhai manufactures electronic equipment, electrical appliances, electrical energy, petro-chemical and precision machinery. Dongguan is famous for manufacturing furniture, textiles, garments and electrical machinery. One fifth of Dongguan's 2017 exports are to the United States. Guangzhou is famous for its high-tech industry. The total value of Guangzhou's 2017 exports accounted for 13.7% of the total value of all of Guangdong's exports. Zhaoqing is important to Hong Kong as the 2016 value of its exports and import trade with Hong Kong accounted for 20% of the total for that year. Huizhou's primary export markets are Hong Kong, Korea and the United States. All these seem to give Hong Kong a lot of opportunities under the Initiative. However, situation has changed a lot since the United States government threatened in January 2018 to levy heavy tariff on China imports and then since March 2018 raised the tariff on steel and aluminum by 25% and 10% respectively, in April the US government started to levy a 25% tariff on a list of 1,300 Chinese goods which has a value of USD50 billion, comprising mostly sophisticated technology that China targeted for its "Made in China 2025" plan. China responded by levying a 25% tariff on a list of 106 American imports. In June, the Trump administration released a list of 1,100 Chinese products and subject them to a 25% tariff. China responded by a list of USD50 billion worth US products. On 4th July the Trump administration implemented tariffs on a further USD34 billion of Chinese goods imports. On 10th July, a further list of USD200 billion of Chinese imports and subject them to a 10% tariff after public hearings which will be held in August. The Hong Kong trading houses, traders and trading associations are worried about the situation as all these affect adversely the trade of Hong Kong, including the entreport trade and the transhipment business. Such worry is well grounded as there is no sign that the trade war will end shortly. Although the Hong Kong government has implemented measures to support local trading companies when necessary but if ultimately the situation is to remain unchanged or worsens for a year or two, it is difficult to see how Hong Kong's trade will thrive and boom under the Initiative when the manufacturing industry of the nine cities in Guangdong are affected adversely.

Turning to the role to be the Area's Legal Services Centre and Dispute Resolution Centre, similarly Hong Kong is ready to take the lead and play the role. The laws and legal system of Hong Kong are different to those of Macau and Guangdong. Under the One Country Two System policy Hong Kong continues to maintain its common law system, continues to be governed by the rule of law, continues to have an independent and transparent judiciary, continues to adopt English law (with whatever new law that the Hong Kong Legislative Council passed and the Hong Kong courts made, together with the Basic Law). Our legal system, law, legal talents (judges, solicitors, barristers and arbitrators) are second to none and is leading in Asia. Hong Kong is also famous for its arbitration. We adopt the most international arbitration procedural laws and have the most up-to-date arbitration substantive law which is, in some aspects, more advanced and flexible than those of England. Hong Kong has both the

hardware and software to be the legal services centre and dispute resolution centre of the Greater Bay Area. All these should be capitalized and recognized by the Macau and Guangdong cities under the Initiative. That said, Hong Kong legal profession and practitioners of arbitration await the governments of the Greater Bay Area to adopt measures to require contracts entered into in transactions and deals concluded or performed in the Area or under the Initiative to be subject to Hong Kong Arbitration. The maritime legal profession and the Department of Justice of Hong Kong have been promoting Hong Kong arbitration and Hong Kong dispute resolution service for years. Yet without guidelines from the top and the governments, and without the mentioned governmental measures, no matter how ready the Hong Kong legal profession and dispute resolution services providers are, the idea would not work and the dispute resolution services would not be required.

One of the targets of the Greater Bay Area Initiative is to merge Hong Kong into Mainland's economy and culture and vice versa, and to facilitate free flow of employment and free flow of people in the Area. The cancellation of the requirement to apply for permission to work in China and the issuance of Residence Card to people from Hong Kong who live, work and/or study in China all help remove some barriers between the people of Hong Kong and those of Guangdong. However, it should be appreciated that the youngsters of Hong Kong give a lot of weight to the values of Hong Kong that they treasure and are used to. It may be the case that some of them would be adventurous enough to go up and work in the Guangdong cities but not until they are sure that the values of Hong Kong are appreciated and accommodated in the Area, they may continue to have concern in "going up" to work in the Area.

The author has a lot of hope in the Greater Bay Area Initiative. The Initiative brings a lot of opportunities to Hong Kong, though at the same time challenges. Hong Kong is ready to take up the roles assigned to it but guidelines and assistances from the Government must be provided as soon as possible to enable the citizens and the above mentioned industry players to know where exactly they stand and what will happen to their business under the Initiative and to render them in the position where they would be ready for the Initiative.

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DEVELOPMENTS IN HONG KONG AVIATION

Hong Kong is the world's busiest hub for air cargo. In July 2018, the airport handled 433,000 tonnes of cargo and recorded a 9% increase in transhipment year on year.

The volume of cargo handled is projected to increase with the rise in e-commerce, greater connectivity and income growth in the region. To meet the growing demand for air freight, in 2015 the Executive Council approved the project to construct a third runway, enabling the airport to handle 8.9 million tonnes of cargo annually. Construction began in 2016 and the runway is expected to be open in 2022.

To complement the expansion of the airport, the Airport Authority ("**AA**") has earmarked land on Airport Island for the development of a "premium logistics centre" aimed at capturing fast-growing segments like cross-border e-commerce and temperature controlled cargo. In June 2017 the AA announced the right to develop and manage the centre premium at Kwo Lo Wan in the South Cargo Precinct of Hong Kong International Airport ("**HKIA**") has been awarded to a joint venture led by Cainiao Network. The centre will have an estimated gross floor area of 380,000 square metres, making it the third-largest warehouse in Hong Kong, and is scheduled to begin operations in 2023.

However, concerns have been expressed as to whether sufficient airspace in the Pearl River Delta area will be made available to accommodate the increase in air traffic capacity. Legco's Subcommittee to Follow Up Issues Relating to the Three-runway System at the Hong Kong International Airport reported in November 2017 that the development of Hong Kong airport was fully supported by the PRC's State Council and point to the signing of the "Joint Statement on Supporting the Sustainable Development of Air Navigation Services and Airspace in the PRD Region" in May 2017 as a further step towards managing this issue.

Questions remain however in relation to Hong Kong's ongoing dominance of the regional airfreight industry in light of the Greater Bay Area ("**GBA**") project. Within the GBA there are several international airports and no clear division of services between them. The competition, rather than cooperation, between the airports looks set to continue as several mainland airports (including Shenzhen and Guangzhou) are currently undergoing significant capacity upgrades.

In addition, the impact of the Zhuhai-Macau-Hong Kong bridge is set to cause both opportunities and uncertainty. Reportedly, HACTL, the private operator of the biggest air cargo terminal in Hong Kong is poised to take advantage of the new link to Hong Kong by opening a new inland cargo depot in the Zhuhai Free Trade Zone. It has also been suggested that Zhuhai airport could act as a fourth runway for HKIA. However, for the bridge to act as an effective facilitator of trade, and as an effective solution for HKIA's current capacity restraints, there will need to be agreements in place for streamlined and harmonised customs procedures across each of the three separate customs regimes which provide robust answers to the current differences in currency, language, working practices and customs policy. It also requires cooperation in the management of cross border-traffic. In the latest report of Legco's Panel on Transport in May 2018, it was reported that the arrangements between Hong Kong and Macao were still under discussion, with the tentative proposal being that Hong Kong goods vehicles will only be permitted to access the logistics facilities at the Macao Port and not the city area.

In summary, Hong Kong's position as a world-leading airfreight hub remains although it faces a series of regional challenges.

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PROVISION OF EVEHICLE CHARGING STATIONS IN HK AND DISPOSAL OF THE RETIRED BATTERIES – CHALLENGES OF GREENING HK'S URBAN LOGISTICS

The number of Electronic Vehicles (EVs) has grown exponentially in Hong Kong in recent years, with the city boasting 11,039 EVs at the end of October 2017, up from under 100 in 2010. Government incentives and increasing environmental awareness are behind this surge but Hong Kong's insufficient infrastructure has struggled to keep up.

Government incentives

In 1994, the Hong Kong Government launched tax exemptions for EVs, waiving the First Registration Tax for all electric vehicles purchased. In 2017, these tax exemptions were capped at HK$97,500 on private vehicles which prompted Tesla's sales to drastically dip and the company to reduce its Hong Kong operations.

On February 2018, the government announced the details of the new arrangements for First Registration Tax. First tax registration on Electric Private Cars will continue to be waived up to HK$97,500 until March 2021 but a new *"One-for-One Replacement"* scheme was launched, allowing private car owners who scrap their current car to be eligible for tax concessions on a new private electric car up to HK$250,000. First tax registration on electric commercial vehicles and motor cycles will still be waived.

The Hong Kong Government is hoping to promote the use of EVs. However, there are two logistical challenges that restrict further growth: the number of charging stations and the disposal of retired batteries.

eVehicle Charging Stations in HK

As at the end of June 2018, there are 1,970 EV chargers for public use, including 739 medium chargers, located throughout Hong Kong. This public charging network serves as supplementary charging facilities and EV owners should charge their EVs by using charging facilities at their workplace or home.

EV charging facilities must comply with the relevant requirements of the Electricity Ordinance (Cap. 406) and its subsidiary Regulations. New building developments that wish to have car parks which are *"EV charging-enabling"* must also comply with strict technical guidelines from the Development Bureau.

Perhaps one of the most restrictive guidelines is that every car parking space in the concerned car park must be fit with EV charging facilities, regardless of the types of vehicles they serve.

This is in contrast to other jurisdiction such as the UK. The UK's Transport Secretary has just announced plans to increase the amount of electric chargers available to motorists. With plans to install charging points as standard in new homes and offices as well as new street lighting which could include charging points for off-street parking.

Disposal of Retired Batteries

The battery is the single most expensive part of an EV and will normally need to be replaced after eight to ten years. Under the Waste Disposal Ordinance, licensed collectors of waste car batteries must deliver the waste to licensed reception facilities. EV's use lithium batteries and there are currently only three licensed facilities in Hong Kong permitted to treat this type of waste battery which are in Yuen Long Industrial Estate, Sheung Shui and Fanling.

Unlike traditional car batteries, EV batteries still have 70 to 80 percent residual energy storage capacity after retirement and so can be repurposed. In 2016, the Environmental Bureau of Hong Kong launched a year-long competition aimed at identifying practical and innovative second-life applications for car batteries. The winning team's plan was to supplement the diesel generators operated by residents on Po Toi Island with a solar power system using retired EV batteries to store excessive energy generated during the day, and supply electricity at night. This would reduce costs by 37.5% compared to using lead acid batteries and the reduced carbon footprint of the project would be 55,964kg in a 60-year cycle.

In Hong Kong, EV suppliers are willing to assist customers in recovering waste EV batteries for proper treatment but there is no legislation enforcing this. In the EU, the Batteries Directive applies the principle of Producer Responsibility so the producers of the batteries are responsible for the costs of collection and recycling of batteries.

This year China rolled out new rules to make manufacturers of electric vehicles responsible for setting up facilities to collect and recycle spent batteries. Additionally, China has launched a pilot programme to set up recycling outlets, with battery-makers, used-car dealers and scrap merchants to jointly build regional recycling networks. Consumers can then sell retired batteries or trade-in for new units within this network.

In conclusion, Hong Kong's regulatory environment remains unfavourable to the promotion of EVs and with reform encouraged in the areas of tax incentives, technical regulations for power-charging points and the recycling and repurposing of batteries.

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TRANSPORT AND LOGISTICS INVESTMENT RISK IN ASEAN: OPPORTUNITIES OF DISPUTE RESOLUTION AND ARBITRATION IN HK

The ten-nation strong Association of Southeast Asian Nations (ASEAN)[1] is collectively the 7th largest economy in the world and ASEAN trade volumes are predicted to increase by 130%, hitting an estimated value of US$5.6 billion, by 2023[2]. However, logistical networks such as roads, railways and ports in the region are the channels through which trade materializes. If the trading infrastructure isn't in place or if it's inadequate, then this will affect the project growth.

To achieve the vision of the ASEAN Economic Community (AEC), the ASEAN Master Plan on Connectivity (MPAC) aspires to unite the region as a single market where people, products and money can move between countries without restrictions. Therefore, investment in improving and developing its intra-regional connectivity by transportation and communications networks is pivotal.

Connectivity by road and rail networks in the Greater Mekong Subregion could open up the markets in India and China. Indonesia and the Philippines offer a network of ports and maritime transport routes to Australia and the United States. Improvement in airport connectivity will open up new markets and facilitate trade and travel.

However, whilst considerable investment is necessary to make these changes possible, prevailing conditions can impede the appetite for risk, especially for foreign direct investors. For example:

> The large sums of funding involved can mean that infrastructure projects are plagued by mismanagement, bureaucracy, and corruption.

> Political uncertainties, recently highlighted by the 350km Kuala Lumpur-Singapore high-speed rail (HSR) which looks set to be postponed as part of cost-cutting moves to slash the Malaysian government's financial debt.

> Restrictions for foreign ownership may result in messy corporate divorces as relationships via joint venture structures or alliances with local companies are terminated.

> A lack of robust and transparent legal framework for investment. Risk areas that influence the investment climate include the legal differences between the jurisdictions which makes recognition of contracts or judgments difficult, a weak rule of law, disputes over land tenure, changing regulations without business knowledge (particularly around customs), not to mention local 'red tape'.

> Transport and logistic projects at the mercy of tsunamis, flooding, earthquakes and hurricanes in the most natural disaster-prone region in the world.

1 At present, the Association of Southeast Asian Nations (ASEAN) comprises Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

2 Spire Research

The increase in transport and logistics investments will necessarily bring about a growing number of commercial contract disputes, both in quantity and complexity. However, the diversity in legal systems and law across ASEAN states can be a challenge for any international businesses. Realistically, foreign investors may not necessarily want to have these disputes settled in national courts and the most attractive recourse is to one of the two nearby arbitration power houses – Singapore (SIAC) or Hong Kong (HKIAC).

The benefits of arbitrations in Hong Kong are well ventilated and include:

> Hong Kong is a signatory of the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards, meaning arbitral awards seated in Hong Kong are enforceable in 150 different countries, including all ASEAN countries.

> The timing of the rendering of awards from the start of arbitration is relatively quick, usually between 12 to 18 months.

> If there is a need for an urgent decision, HKIAC provides an emergency and expedited arbitration procedures where a decision can be made in 15 days for Hong Kong.

> It offers an internationally respected judiciary.

> Some may say that it is marginally cheaper than arbitrations in Singapore.

> Hong Kong has recently amended its laws to explicitly permit third party funding (The Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017).

Singapore has traditionally been perceived as the regional service centre for ASEAN disputes. However, Hong Kong has recently asserted itself with the long-awaited ASEAN-Hong Kong Free Trade Agreement (AHKFTA) 2017. The benefits of the AHKFTA is predicted to bring more and better access to the ASEAN markets, create new business opportunities and further increase the trade and investment flows between Hong Kong and ASEAN[3]. The Agreement is expected to come into force on 1 January 2019 at the earliest, subject to the completion of the necessary approval procedures. This is a highly significant development as ASEAN and China concluded a free trade agreement (FTA) in 2010 which excluded Hong Kong, and diminished it as a hub for trade between China and ASEAN.

3 According to Mr Edward Yau, Hong Kong's Secretary for Commerce and Economic Development

Capitalising on AHKFTA, the Belt and Road initiative and the ASEAN Master Plan on Connectivity, Hong Kong can now bolster its position as the base for mainland Chinese enterprises (and, other foreign companies) which plan to explore the ASEAN market.

More trade increases the possibility of disputes. Leveraging off its reputation as an international legal centre, Hong Kong could be busier than ever as a service centre for managing arbitrations and cross-border disputes.

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