

Mr Erick Tsang Kwok-wai, IDSM, JP
Secretary for Constitutional and Mainland Affairs
12/F, East Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar,
Hong Kong

11 December 2020

Dear Secretary Tsang,

Greater Bay Area – second BritCham position paper

We previously wrote to you on 30 June enclosing our first position paper on the GBA, covering five key sectors (financial services; logistics; healthcare; education and environment). We subsequently held a very constructive meeting with the Chief Executive, yourself and other colleagues to discuss that paper in early September and have since gone back to the Chief Executive (at her request) with two follow up items, one a short commentary on the enrolment position at international schools and the second a detailed strategy paper in relation to digital healthcare.

In my earlier letter, and in our subsequent meeting, I mentioned that we were working on a second position paper on a number of other key areas/sectors which we hoped to be able to deliver before the end of the year. I now have the pleasure in enclosing this second position paper. This covers the following areas/sectors – Real Estate, Construction and Infrastructure; Information and Technology; SMEs; Retail and Hospitality; Professional Services; Dispute Resolution; and Diversity and Inclusion. As with our first paper, we have included some general commentary together with some specific actionable recommendations for the Government's consideration drawing from the collective broad experience and expertise of our membership. We hope that you will find the paper both informative and insightful, and we would very much welcome the opportunity for a further meeting with the Chief Executive, yourself and other colleagues to discuss.

I am conscious that the Chief Executive expressly referred to the importance of Creative Industries in our September meeting, and the value that our Chamber and our members can bring to Hong Kong (and to the GBA) in that space. We would wholeheartedly agree. For that reason, we are in the process of establishing a Creative Industries sub-committee within the Chamber, with a broad representation across our membership. One of the first tasks of that sub-committee will be to consider how we can work with Government to promote this sector in Hong Kong and the GBA and we will come back to you in due course with our thoughts.

We continue to be extremely encouraged by the business opportunities in the GBA and Hong Kong's role in its development. We were very pleased to see the recent formal appointment of the GBA

Commissioner and the focus on the GBA in the recent Policy Address, particularly the establishment under HKTDC of a one-stop “GoGBA” platform to provide support and information to Hong Kong enterprises – as we mentioned in our previous submission and at our meeting, we think this is a critical first step to creating a fuller understanding of the opportunities in the GBA for the Hong Kong business community, especially amongst the important SME sector.

We look forward to our ongoing dialogue. May I also take this opportunity to wish you and your colleagues our best wishes for the upcoming holiday season.

Yours sincerely,



Peter Burnett
Chairman

cc: Mrs Carrie Lam Cheng Yuet-ngor, Chief Executive of the Hong Kong SAR
Mr Matthew Cheung Kin-chung, GBM, GBS, JP, Chief Secretary for Administration
Mr Edward Yau Tang-wah, GBS, JP, Secretary for Commerce and Economic Development
Mr Tommy Yuen Man-chung, JP, Commissioner for the Development of the Guangdong-Hong Kong-Macao Greater Bay Area

Greater Bay Area – second BritCham position paper

Real Estate, Construction and Infrastructure

Taking direction from the Outline Development Plan for the GBA published in February 2019, which sets out a number of basic principles and key themes to be followed in developing the GBA to reach its maximum potential, we have grouped our input in relation to the sector under the four headings:

Coordinate Development and Plan Holistically

The Hong Kong Government should work closely with its provincial and city counterparts in Guangdong to develop and deliver a coherent development plan which leverages the distinct but complementary leading roles of Hong Kong, Shenzhen, and Guangzhou for closer integration and which also identifies the unique characteristics of the nine Cities and two SARs of the GBA.

Specific Recommendations

- The Hong Kong Government should work with its counterparts to set out a vision for new resilient smart communities for young and old across the GBA, whilst at the same time pursuing green development and ecological conservation. Such a holistic development approach will encourage connections among people and businesses within and outside the GBA, attract a talented diverse global workforce and also retain and enhance the natural environment that leads the way on the global stage. Digital smart technologies should be at the core, with associated healthcare, transport, and other facilities. This will create an integrated urban environment with a positive impact that promotes health and wellbeing for all, with a high-quality of life and high-quality jobs.
- It will be necessary to identify the scale which these communities would need to have to be effective; and to identify the economic and social core for each of the “recipient” communities, clusters and cities. The nine Cities and two SARs’ Governments and planning departments need to commit to a cohesive plan, supported by a team from the private sector and academia to run the process; undertake a land survey, where possible to regenerate urban areas and to design the communities and associated green belt for the locations identified.

Build a Spatial Network Supported by Clear Roles and Rapid Transport Networks

Only by leveraging the core strengths of each city, in a complementary rather than competitive way, can the development of the GBA reach its full potential. Each should be celebrated and enhanced for their specific strengths: Shenzhen as a technology innovation hub; Hong Kong for services and finance; Macao for leisure, for example. For this to work effectively, the early design and delivery of a rapid transport network is essential to underpin integrated development.

Specific Recommendations

- On 30 July 2020, the National Development and Reform Commission issued the GBA Inter-City Rail Construction Plan (“GBA Rail Plan”) which master-plans for RMB 471 billion of capital

investment to construct a rail transportation network of 4,700 km by 2025, plus a further 2035 target for a total rail network of 5,700 km in the GBA. Whilst the focus is primarily on inter-city railway, the investment programme under the GBA Rail Plan also intends to catalyse enhancement of in-city rail transportation and the construction of a better quality and more integrated rail transport system throughout the GBA. Hong Kong should leverage its own rail design/operation expertise, along with property and professional services support, including the ability to attract international funding to finance such developments.

- We concur that a *rail first* approach should be used to deliver a planned and integrated rail transport system connecting the nine Cities and two SARs of the GBA. The aim is to reduce travelling time among major cities within the GBA to one hour or less. In this regard, we would suggest that discussions be held with MTRC, its contractors and consultants with regard to them taking a leading role in building a rapid transport network for the GBA, making good use of their world-leading rail & property model, as well as harnessing the skills of leading Hong Kong real estate developers, operating companies and REITs to develop and operate high-quality rail-oriented transit projects for businesses and local residents.

Drive by Innovation and Lead by Reform

China's first 'green finance regulations' will be officially implemented in March 2021 in Shenzhen which we understand will clarify the main responsibilities of financial institutions and enterprises in the field of green finance. There will have some relevance to green buildings. A cohesive plan, underpinned by regulations and incentives, will help establish the GBA as a world leader in energy efficiency through the upgrading of existing buildings and best practice development of new buildings and infrastructure.

Specific Recommendations

- The average age of buildings in Shenzhen is much younger than in Hong Kong and there should be enhanced collaboration between Hong Kong and Shenzhen to establish a modern cross-boundary building code based on the latest best practice, where digital technologies are utilised throughout the whole design and construction process and feed into operations through as BIM, MiC, and DfMA to improve quality, improve performance and reduce cost and thereby provide an additional benefit for the whole life-cycle of projects in the GBA.
- We should seek to develop harmonised detailed and consistent building plans for new buildings across all sectors, in Hong Kong and the GBA more generally, which continue into construction and into the management of buildings that are backed by appropriate regulations for the private and public sectors. These plans should focus on energy and water saving, the use of energy-efficient inputs in construction to lower embodied carbon, the reduction and recycling of waste and designing buildings to last longer or to be disassembled less wastefully. The Chamber has expertise in a number of these areas and, as a first step, we would welcome the opportunity to discuss with the Hong Kong Government the upgrading of our own Hong Kong standards to improve the performance of both new and existing buildings in our city to reduce energy consumption, enable better waste management, improve air flow and quality and ensure the efficient use and recycling of water. It will be essential to have support from the Hong Kong Government in this process through, amongst others, tax incentives and extra plot ratios etc. and for the refurbishment of existing developments.

- For existing buildings, we need to have clear enforcement of property management regulations that are focused on maintenance, waste reduction and recycling and energy saving – for all developments, including residential developments. In this respect, Hong Kong property management businesses may be able to assist with best practice in GBA cities.
- Finally, although we recognise the challenges, we need clarity on land lease renewals after 2047 in Hong Kong and more generally in China so as to encourage the development of long-lasting sustainable buildings.

Build Smart and Resilient City Clusters

The Hong Kong Government should identify those areas where communities and clusters can be created or enhanced to cater for innovation, specialist economies, and provide homes and jobs for both the older and younger populations to take the pressure off the demand for accommodation in the cities of the GBA. This would create a sense of place and community harnessing technology to enable communities to be smart and resilient. With health and wellbeing at the heart, underpinned by the latest digital technology, new communities should include green spaces, sustainable sourcing and low carbon energy, with the ability to exercise easily and the means of preventing ill health and promoting positive health and the provision of new models of healthcare.

Specific Recommendations

- The promotion of the use of digital technology in the design, construction, logistics, operations, maintenance and management of buildings (including the promotion of WELL Building Standards, BEAM Plus and LEED Building Standards) is now particularly important to ensure the health and wellbeing of building occupants. The use of BIM and other construction management and integration technologies should be embraced. This a great opportunity for collaboration across the GBA, by blending Hong Kong's property management skills with Shenzhen's technology expertise. In addition, there is an opportunity to use manufacturing facilities and capabilities in the GBA for DfMA projects in Hong Kong whilst improving the use of automated logistics.
- There should be a greater ability to sell zero-carbon electricity developed on-site to the grid (which is still not always available in Mainland China); power quality and environmental standards need to be strictly enforced.

In summary, the Chamber believes the overall objective in this sector should be to establish the GBA as the leader in ESG, design, construction, maintenance, and operation of real estate and infrastructure with a view to developing resilient smart communities. In addition, we should aim to deliver a planned and integrated transport system with rail as the backbone. Finally, there is currently a lack of mutual recognition of qualifications among Hong Kong, Macao and the Mainland for engineers, architects, quantity surveyors, environmental specialists and construction managers. This needs to be resolved. (See further under the **Professional Services** section).

Information and Technology

Information and technology will play a crucial role in the development of the GBA if it is to be successful across all sectors. The key challenges will be in relation to **data** (governance; privacy; security; regulations; sovereignty; and transfer) and the broader development of a truly **digital** environment. The ambition should be to establish Hong Kong as a data exchange hub, promoting open data and secure cross border transfer.

Data

Multi-National Corporations (MNCs) currently draw a distinction between the Mainland and Hong Kong in relation to data storage. At present, they tend to prefer Hong Kong as the hub of their regional business and for the storage of their data. Accordingly, as the GBA is developed, clarity around data will be critical.

Data sovereignty is a key topic of interest. Specifically, there are three areas that we believe require focus:

- *Open data*: Opening up data to organisations for smart city development;
- *Transfer of data*: Transferring data out of, and into, the Mainland;
- *Data privacy*: Closing the gap between the current difference in approach between Hong Kong and the Mainland in terms of the sharing of personal data.

In addition, setting up consistent standards across borders is critical. The Institute for Big Data Governance (IBDG) aims to set up a reliable data governance framework to facilitate the free flow of data in the GBA. The IBDG aims to build Hong Kong as an international data hub, raise the data governance of Hong Kong enterprises to global standards, and build trust in facilitating cross-border data transfers between Hong Kong, the Mainland, and the rest of the world.

The IBDG's principles have been built on a global regulatory foundation, including GDPR, the Mainland's cyber security law and other regulations. These principles apply to pledged and certified members of the IBDG, whose members are Hong Kong-based data controllers (with corporate headquarters in Hong Kong, the Mainland, and overseas) who handle data including personal and government regulated data.

The IBDG principles include data retention and security controls, data processing, data transfer, prevention of personal data breach and the continuous improvement of data governance practices. IBDG has embarked on two initiatives with Hong Kong relating to cross border data transfer. This should be actively supported by the Hong Kong Government. Also, the classification of data is seen as a challenge in terms of transferring data out of the Mainland. This is seen as prohibitive, primarily because of the requirement for a vast majority of firms to self-audit, which imposes the burden of both classifying the data and undertaking a check and balance exercise solely on the organisation. This needs to be reformed and the Chamber would be pleased to contribute its expertise in framing the discussion on how this might be done.

Key Considerations for foreign financial institutions & leveraging Hong Kong's expertise

Foreign financial institutions are now taking advantage of the relaxation of market entry rules. In many cases they can now own 100% of their operations and they are taking advantage of this opportunity. However, managing data remains an issue. The regulations are complex and not easily understood. Data has now assumed an important role in strategic thinking; key areas of concern include:

- The need to understand sovereignty requirements, including, what are the restrictions on taking data out of the Mainland; and on transferring global or Hong Kong-based data into the Mainland.
- The interpretation of cyber security regulations, and the utilisation of cyber security to maintain the integrity of local systems, and of global data and systems.
- The need to ensure adequate data back-up and protection, and the implication for infrastructure including data centres, networks and firewalls.
- The need to ensure the privacy and security of data being moved from Hong Kong to the Mainland. Financial institutions are wary of transferring data into the Mainland because of a perceived increased likelihood of IP theft, loss of control, and data theft, as well as the challenges associated with transferring data out, and underlying concerns on cyber security controls of data within the Mainland.

Key Considerations for logistics firms and other SMEs/B2B start-ups

The logistics market in Hong Kong is too small to provide critical mass; so, Hong Kong firms need to tap the market across the Mainland and potentially in South East Asia. The Mainland market demands the cheapest solution which, in the case of digitally intensive logistics companies, will necessitate the use of locally-based cloud providers (Alicloud etc...). The concern is that these providers lack the level of data security required for Hong Kong operators. Logistics data includes client names, addresses and telephone numbers. Currently, the security provided by Mainland cloud providers is seen as insufficient for such data.

Some Hong Kong firms may wish to offer a SaaS model. From the Chamber's experience, Mainland customers are unwilling to use subscription-based models. They are reluctant to "rent" a solution by making monthly payments without ownership of the IP. They prefer to make a one-off payment to purchase the source code and will provide it to their own teams to develop it further. This is contrary to the expectation of Hong Kong operators.

Key Considerations for foreign insurance and health institutions

The primary concern for foreign insurance and health institutions relates to the transfer of data needed for core business tasks, such as underwriting or claims processing. For example, the process whereby a medical insurance policy that has been issued in Hong Kong can be claimed in the GBA or elsewhere in the Mainland. Owing to the lack of transportability of data, it will be necessary for all medical receipts to be physically carried to Hong Kong or workarounds such as uploading into a mobile app from the

consumer. In other countries, such claims can be electronically processed directly with the medical provider.

A health passport would be an attractive proposition, but questions remain, such as: for customers who buy policies in Hong Kong and use their policies in the GBA or the rest of China, how do claims/payments work? Insurance Connect could help in this regard.

Skills

There are a lack of cyber security, data science and programming skills in Hong Kong. The best talent from Hong Kong universities usually migrates to those companies that are established leaders in the digital/data field such as Alibaba, Tencent etc. They may be based in the GBA. This raises the question of whether Hong Kong should look to import international technology talent; and if so, how to pay for such talent; how to help non-Chinese speakers to be successful; should the GBA become a talent pool for Hong Kongers preferring to live in the GBA and commute to Hong Kong; and current 6-month Mainland business visas for foreigners which are inconvenient and expensive.

Specific Recommendations on Data Sharing and Security

- Individual agreements should be made between the nine cities and two SARs within the GBA, outlining key areas of regulation for the sharing and security of data. These agreements would identify key factors such as:
 - Data privacy, including the level of data and security acceptable on both sides, and the nature of personally identifiable information to be collected and shared between the cities and SARs; and
 - data portability, including the ability for individuals to "opt-in" to share data (as is provided under GDPR).
- From a financial services perspective, discussions between PBOC, HKMA, SFC, and other regulators should take place to agree on the issues mentioned above.
- Data sharing should be encouraged so as to ease the carrying on of business. For example, it could facilitate the ability of foreign companies to set up business entities and bank accounts across the GBA, with easier AML/KYC, business entity registration, and digital bank account set up. This would also allow fluid movement across the GBA, especially for executives and employees of foreign entities set up in the GBA. This includes transfers of health records and insurance, and cross border payments.

Other Specific Recommendations on Data

- *Audit*
 - Establish an independent audit body to audit companies to confirm that they have complied with Mainland data regulations, and thereby to facilitate the transfer of data between Hong Kong and the Mainland. This can be done, as an example, through the pilot scheme for data transfer across the GBA (including Hong Kong) by the IBDG.

- *Healthcare*
 - Provide a channel for sharing of medical data, starting with a pilot for less sensitive health data, with an option to opt-in by participants.
 - Work with the regional authorities to create an international healthcare zone, where practitioners that are licensed in Hong Kong can operate.
- *Use of technology*
 - Adopt data tagging technology to optimise data transfer. For example, data can be classified and tagged, so as to differentiate between data that may not leave the Mainland (e.g. audit data/ financial information), and that which can readily be transferred abroad. Technology solutions can “tag” the data, and prevent the tagged data from leaving a geographic area, or retrospectively pull back data if the laws/regulations change. Data can also be aggregated.
 - In addition to tagging, data can also be anonymised enabling the transfer of data whilst maintaining privacy. Anonymisation of data will support the trading of data.
- *Experimental solutions*
 - Create a “sandbox” or testing zone (perhaps in Shenzhen), where foreign firms can operate and experiment with digital solutions without constraint. They can be put into the live environment after agreement with the relevant regulators.
- *Lok Ma Chau “Loop” (LMC Loop)*
 - The LMC Loop is a 100-hectare site between Shenzhen and Hong Kong that has been targeted for development for the mutual benefit of the two cities. This could be an ideal area for the development of testing centres and data centres that transcend China and Hong Kong regulations.
- *GBA bubble*
 - Create a GBA data bubble – a legal agreement to follow each other’s standards. From a network perspective, make Hong Kong exempt from the Mainland’s firewall filters; and create a structure whereby Mainland-based data can be viewed and used within Hong Kong without the current legal and technical constraints that exist. Several institutions, specifically within the legal community, have had to put protocols in place to work around these.
- *Skills*
 - We should learn from firms like SenseTime that encourage Ph.D. and other talents to aspire to join like-minded businesses. Encourage the experience of GBA to be a talent pool for Hong Kong.

Digital Development

There appears to be a wide gap in digital development between Hong Kong and the Mainland. Hong Kong currently lags behind other GBA cities in digital growth and innovation, especially in the case of digital banking and payments. While Hong Kong is starting to move forward with digital banking initiatives, we are of the view that it still falls behind the Mainland's "super apps" that combine banking, cashless payments, digital identity, and social interaction. Some of the key issues are:

- How to improve the "digital native thinking" in Hong Kong; and to share in the digital native thinking that is prevalent in Shenzhen.
- How to learn from the "super app mentality" of the Mainland, such as demonstrated by apps like WeChat and Grab.

Specific Recommendation on Digital Development:

- The Hong Kong Government should sponsor "innovation initiatives" to improve digital development in Hong Kong. Several commercial practices in Hong Kong have not developed beyond the days of paper ledgers. A specific example is the requirement for a "security chop" or a wet signature in the setup of a new company, or the opening of a high net-worth bank account. This phenomenon should be modernised in the plans for a digital future.

SMEs

Hong Kong incorporated companies face a structural and legal impediment to full participation in the development opportunities of the GBA in that they are considered "foreign" entities from the perspective of the Mainland authorities. Whilst large companies may have the resources to manage this barrier, SMEs in particular frequently do not have the financial and management bandwidth. Large companies are, for example, able to deploy resources to set up Mainland subsidiaries as "Wholly Foreign-Owned Entities" (or post-January 2020 as "Foreign Funded Enterprises"). For many Hong Kong SMEs this is simply not a feasible option:

- They have limited or no management capability in the GBA outside Hong Kong.
- They cannot afford to maintain "trapped" capital in a Mainland subsidiary.
- They cannot afford the expenses of maintaining a separate Mainland subsidiary, particularly in the start-up phase.

We recommend, therefore, as part of the medium-term planning for the development of the GBA, that the HKSAR Government should set up a review of the access permissions for Hong Kong SMEs to establish whether and how these might be streamlined to allow SMEs direct access to the Mainland opportunity without the necessity to incorporate subsidiaries under Mainland regulations.

Specific Recommendations

There are five areas where the Hong Kong Government could focus to improve the viability of local businesses to participate in the GBA economy:

- Bolster the Hong Kong Government's information systems and platforms so that there is a single source of validated information written specifically for SMEs in mind to assist them with how they might access the GBA business opportunity;
- Develop appropriate protocols with Mainland authorities for sharing and recognition of validated information from Hong Kong. Currently, Hong Kong requires businesses to submit multiple versions of the same or similar information, often in hard copy, to different local departments with filings requiring "certification" (e.g. certified true copy) before they are accepted. The Mainland authorities often have similar levels of complex registration and filings with additional attestation requirements creating an environment of cost, complexity and protraction for Hong Kong businesses in approaching GBA opportunities. We recommend that a review is undertaken of the business registration requirements on both sides of the border to establish whether an alignment between document filings could be achieved with the objective of establishing a "Mutual Recognition of Business Filings".
- Expand the banking pilot program in the GBA to include Hong Kong-based business entities. Currently, the pilot program is for Hong Kong residents to obtain a Mainland personal bank account in the GBA. An expansion to include qualifying SMEs could improve the ease of doing business while strengthening the financial connectivity in an existing framework.
- Allow for Hong Kong businesses to have the ability to issue letters of invitation for business travel visas, at least for employees into the GBA. This would create a more efficient method for Hong Kong businesses to have access to the GBA for their staff. Current requirements place an onus on Mainland clients to sponsor visa applications for people from Hong Kong. This can lead to a piece-by-piece/project-by-project approach to visa approvals/issuance, meaning multiple visas are needed where a set term multi-entry visa could suffice. The alternative of introducing a "GBA Business Travel Card" for qualifying SMEs would also be a feasible option.
- Enable Hong Kong businesses direct access to on-line business resources in the Mainland, for example, WeChat and Mainland-hosted websites. Hong Kong entities are currently required to employ a "local agent" within the Mainland to have access to domestic business resources. This creates additional cost and complexity and introduces ownership risk as the "agent" is regarded as the legal owner of Mainland hosted content and resources.

Hong Kong SMEs need greater inclusion and recognition within the GBA, otherwise, opportunities will be limited and growth may be channelled away from Hong Kong.

Retail and Hospitality

In relation to the sector, as with many others, the challenge is to reap the benefits of the GBA initiative for the betterment of Hong Kong-based companies. This includes driving tourism within the GBA; enabling the distribution of products into the GBA from Hong Kong; and enhancing the ability to open up new retail outlets in the GBA. All of these have challenges. In addition, in the critical F&B space, Hong Kong would benefit considerably from the customers travelling into Hong Kong from other areas in the GBA, better access to ingredients from the Mainland and fewer barriers to entry for opening branches in other GBA cities from a Hong Kong base.

Specific Recommendations

- *Driving Tourism within the GBA*
 - This will be best achieved by providing appropriate offerings e.g. initiatives with hotels, retailers etc. to drive people to visit other parts of the GBA.
- *Sending Products to the Mainland China*
 - It would help Hong Kong-based brands if they could be given an allowance (for example, 200 items per month per brand) on the number of products they can gift to key influencers and celebrities throughout the GBA for product promotion purposes without being subject to standard tax rates. These items would not be for commercial use, only for marketing and promotion. Once consumers purchase the products, either in-store or online, the goods would be subject to normal commercial tax rates.
- *Opening up new retail outlets in the GBA*
 - The Mainland is daunting for many brands. Both local and international brands may have multiple stores in Hong Kong, and on T-Mall in the Mainland but no physical presence in the Mainland. Gone are the days of brands geographically opening multiple physical stores in the Mainland; brands are now more cautious in the Mainland, and start slowly with online and pop-up stores. The markets in Shanghai and Beijing are too far away from Hong Kong – the GBA is more attractive due to geographical proximity (convenience of travel) and the use of Cantonese. However, support to help open a store or an F&B outlet in GBA would be very helpful. In that regard, we would suggest that a “toolkit” to help retailers open in GBA would be very valuable, which could include information, advisory and financial support including:
 - Information on the location of the new multi-use sites coming online and the spaces available; and on the retail landscape. Organised delegation visits to cities in the Mainland to see new developments, meet with local government officials and learn of opportunities first-hand could be helpful.
 - In addition, financial support would be welcomed. This could take the form of rent rebates, subsidised fit-out cost or funding to enable retailers to develop a GBA strategy and initial marketing.

- *Movement of People*
 - Business visas used to be for twelve months; now it is down to six months. This should be extended and the cost brought down.
- *The Level of English*
 - In Guangdong, the level of English is still quite low compared to Hong Kong. It would help if there was an investment in English language skills in order to broaden the talent pool in Guangdong. This could be an opportunity for Hong Kong to support with education and training.
- *Food and Beverage (F&B)*
 - It is currently relatively straightforward to import food into Hong Kong, but not easy to move food from Hong Kong across to the Mainland, due to various restrictions and regulations in Guangdong. There should be greater alignment of food & beverage regulations between Guangdong and Hong Kong so as to make it easier to take goods from Hong Kong into the Mainland. This should include restaurant design regulations - in Hong Kong it is possible to have a hub kitchen to supply smaller outlets, but in Guangdong the regulations for a central kitchen are very different. Food labelling requirements are also very different in Guangdong. This needs to be altered in order to make the GBA more attractive.
 - It would help F&B business if it was easier to apply for training visas for employees in the Mainland to come to Hong Kong for training.
 - In terms of buying ingredients from the Mainland, this needs to be encouraged not only to help Hong Kong's GBA neighbours, but also to reduce the costs of importing from more distant and expensive countries. To some degree, this comes down to local perception about food standards in the Mainland and also the aforementioned regulatory differences. There needs to be a big PR effort explaining food standards to give Hong Kong people the confidence to consume produce from the Mainland.

Professional Services

One of the stated objectives of the Outline Development Plan is to deepen the implementation of liberalisation measures for service sectors of Hong Kong and Macao under the respective Closer Economic Partnership Arrangements (CEPA) with the Mainland. Consistent with this objective, Guangdong, Hong Kong and Macao should work together in establishing professional services institutions, and further the development of professional services such as law, accountancy, medicine, engineering, architecture, consultancy, testing and certification, IP and construction.

The GBA will require a deep pool of professional services practitioners in order to develop the region. Facilitating Hong Kong professionals to live and stay in the GBA can be encouraged via incentives; for

example, filing one single tax return, flat and uniform, preferential tax rates for individuals, incentives for immigrating family members to the GBA, subsidies for buying properties.

Under CEPA, signed as early as 2003, Hong Kong service suppliers enjoy preferential treatment in entering into the Mainland market in various service areas. However, often that involves sitting qualifying examinations in the Mainland. In addition, there are hurdles such as the percentage of shareholding in partnership associations and market access.

Recently in October 2020 China's State Council has released the details regarding the pilot scheme that allows Hong Kong admitted lawyers to take a special qualifying examination and after passing, to practise civil and commercial law, including appearing in courts, in the nine Mainland cities of the GBA. That may open considerable opportunities to members of the Hong Kong legal profession.

The announcement by the Chief Executive in the recent Policy Address of the launch of a Mainland Enterprises Partnership Exchange and Interface Programme to promote co-operation between Hong Kong's professional services sector and Mainland enterprises is most encouraging. Such co-operation may raise the professional standards in the GBA and enhance market penetration by Hong Kong professionals.

Specific Recommendations

- With the development of the GBA, pilot schemes should be introduced and broadened for other Hong Kong qualified professionals such as architects, structural engineers, doctors, as in the recently launched pilot scheme for the legal profession, to obtain Mainland practice qualifications through qualifying examinations. They should be permitted to register as qualified professionals in the GBA.
- In addition to qualifying examinations being made available to enable individual professionals to practice, restrictions and capital requirements for Hong Kong qualified professional firms to form associations or joint ventures with the Mainland's professional services firms should be lifted or relaxed to encourage market access and create a level-playing field.
- Measures relating to partnership associations should be liberalised to provide a one-stop shop of cross jurisdictional services in the GBA. The liberalisation measures should include the removal of the minimum capital injection ratio by Hong Kong partners in the partnership associations.
- Foreign exchange controls should be relaxed to encourage Hong Kong professional services firms to enter the market. At present, there are concerns that profits made in the GBA cannot be taken out by Hong Kong investors.

In relation to safety and environmental standard, it would be important to harmonise these across the GBA, and adopt best practice. The Hong Kong Government could also look at ways professionals in Hong Kong can assist their counterparts in Guangdong and Macao to raise the standards for safety in the construction of the planned transport system. Hong Kong's safety standards need improvement, but the available statistics suggest that Hong Kong has much to offer Macao and Mainland China in this regard.

The recognition of Hong Kong professionals in the GBA is particularly important in the construction/construction-related sector. In order for the Hong Kong construction industry to benefit from the opportunities presented by the GBA made in the "Outline" plan, some regulatory changes will be needed. In particular, there is currently a lack of mutual recognition of qualifications between Hong Kong, Macao and the Mainland for construction professionals, including engineers, architects and lawyers. The Hong Kong Government should work with their affiliates in Macao and Guangdong to ensure that professionals in Hong Kong who have obtained appropriate qualifications can provide construction and engineering services to Mainland entities directly. In this way, the GBA will be able to leverage the advantages of Hong Kong in professional services for construction to support the delivery of the planned projects. We welcome the proposal by the Chief Executive for a new registration system with the Mainland Authorities to enable Hong Kong architectural and engineering related consultant firms on the HK Government approved lists and related registered professionals to provide professional services for development projects in the GBA.

Company Secretarial Systems and Accounting Standards

IFRS is the international language of business. With the internationalisation of the enterprises within the GBA and to prepare them to access the world's markets, options should be made available such that financial statements can be prepared under IFRS so that various stakeholders could quickly understand the financial performance of these entities. The preparation of IFRS financial statements would create a great opportunity for GBA companies to get onto the international platform without the duplication of efforts of preparing financial statements under two standards.

Similarly, the adoption of a set of uniform, simplified company secretarial systems, to ease the establishment of companies registering in the GBA and engaging in various commercial activities would be beneficial.

Specific Recommendations

- Allow Hong Kong accountants to provide bookkeeping services (in GBA consultancy companies) in order to satisfy the need in the GBA for accountants proficient in IFRS, and to be exempt from obtaining the Mainland's accounting qualification certificate (or introducing a "fast track" certification system). Consider allowing a certain portion of their work experience in Hong Kong towards the fulfilment of the working period in Mainland China if they are practicing in the GBA.
- Encourage the use of IFRS for GBA companies for statutory filing purposes and introduce a uniform, simplified company secretarial system to simplify the process of establishing a permanent establishment presence in the GBA.
- Assist the movement of the people to support the nature of many cross-border projects through fast track visa processing and policies; and a GBA working passport (e.g. APEC card).
- Personal Health data passporting – fast track the assistance in receiving treatment and equivalent advice across borders.

Dispute Resolution

Hong Kong is already a renowned and mature centre for dispute resolution through arbitration, mediation and other means and benefits from a considerable pool of local and international talent with experience of working in the region and internationally. Moreover, Hong Kong benefits from being a common law jurisdiction through 'One Country, Two Systems' offering a system familiar to many international investors and market participants.

The Chamber welcomes the recent proposal by the Hong Kong Secretary for Justice for a legal change that will allow Hong Kong businesses in Shenzhen and Guangzhou to choose Hong Kong as the applicable jurisdiction in commercial deals and use Hong Kong for any potential arbitration of disputes. Logically, Hong Kong should strive for recognition as the main seat of capacity and excellence for dispute resolution in the GBA, particularly for contracts and projects involving Hong Kong or international parties even if they have invested in the GBA through PRC registered corporates.

Hong Kong can, and should, play an important role in the resolution of disputes that arise in relation to GBA projects, such as the rapid transport network. Hong Kong is home to some of the world's leading lawyers and law firms and these professionals could assist where their services are needed in the GBA construction projects. The primary obstacle to Hong Kong professionals doing so is the prohibition on Chinese parties to China-based projects choosing Hong Kong law and Hong Kong arbitration. Relaxation of this would allow Hong Kong to achieve its full potential as a dispute resolution centre – and also for Hong Kong to be the GBA hub for internationally-recognised training and standards in dispute resolution. If Hong Kong is to truly play a part in GBA dispute resolution, then greater freedom for parties to choose their applicable law and to choose Hong Kong as the location for dispute resolution will be necessary in the GBA. This should also further encourage international investment into the GBA as Hong Kong's legal system is trusted and understood internationally.

Specific Recommendations

The above issue has already been identified in detail by the Department for Justice ("DoJ") as can be seen from their paper sent to LegCo for discussion on 25 March 2019.

(<https://www.doj.gov.hk/pdf/ajls20190325e2.pdf>)

The following issues identified in the DOJ the paper should be promoted in particular:

- Seeking the removal in the GBA of restrictions on Mainland parties (including, in particular, Hong Kong and foreign-owned entities and joint ventures) choosing non-Mainland law (i.e. Hong Kong or other law) to apply to their contracts, thus allowing Hong Kong or other international law to apply if agreed.
- Seeking the removal in the GBA of restrictions on Mainland parties opting for arbitration or other dispute resolution outside the Mainland, thus allowing all parties who so wish to choose to resolve disputes in Hong Kong (whatever the substantive law of the contract).
- Promoting Hong Kong as a centre for capacity building and excellence in dispute resolution.

Diversity and Inclusion

Talent attraction and retention will be to the success of the GBA. In that context, gender diversity has received growing attention globally. According to a recent report, gender parity has great economic potential and could unlock 12 trillion USD to the global economy, but that will require all stakeholders to work together with support from government and business. In Hong Kong, women on boards, as one measure of gender parity, is still only at 13.8%, and trails many other countries in APAC except for Japan and South Korea.

Three other important communities in Hong Kong in relation to Diversity and Inclusion (“D&I”) are LGBTQ+, ethnic minorities and older work talent. This year there were 66 companies in Hong Kong participating in Pink Friday and many of them are global financial institutions, law firms and consulting firms. The 2016 Hong Kong Government census report revealed that around 8% of the population in Hong Kong is categorised as ethnic minorities, including a large number of Filipinos, Indonesians, Indians, Nepalese and Pakistanis, with an increasing number of ethnic minority children being born in Hong Kong. Persons in Hong Kong aged 65 and above in the labour force more than doubled between 2006 and 2016, which is both from choice and necessity as people are living longer and healthier and, according to the World Economic Forum, Hong Kong holds the highest life expectancy in the world at 84 years, beating Japan.

Talent attraction and retention

The GBA will need to attract and retain talent from within both the GBA and globally in order to be successful and compete with other international technology and innovation hubs. To do this, D&I considerations should be built into immigration, employment, social security and taxation policy between the jurisdictions making up the GBA (to allow for free movement of talent within it) and also collectively and externally facing (to attract talent from outside the GBA).

Specific Recommendations

- A consistent and transparent approach to the following areas of policy would assist in attracting and retaining talent in the GBA:
 - Recognition of same-sex marriage and civil partnerships for the purpose of eligibility for dependents’ visas, joint assessment for tax, employment benefits and inheritance rights (all now recognised in Hong Kong as a result of recent judicial review cases) – to attract and retain talented employees who are in non-heterosexual relationships.
 - Introduction of shared parental leave rights for anyone who is a parent, irrespective of gender, sexual orientation, whether they have adopted, had a child through surrogacy or naturally – to attract those who wish to parent more equally and those choosing to have a family in a non-traditional way.
 - Introduction of anti-age discrimination legislation – to present a more welcoming front to older talent in the technology and innovation sectors (which have traditionally been focused on younger/ graduate talent).

- Consideration of initiatives to promote women on boards of companies formed in the GBA – to attract more women and those motivated by working for companies interested in gender equality.
- Consideration of more regular rotation of Non-Executive Directors – to help break patterns of unconscious bias and lack of diversity in Board appointments by forcing a reconsideration of candidates on a regular basis.

Growing local talent through focus on STEM

In addition to attracting and retaining talent, the GBA should focus on building up its own home-grown technology and innovation talent pool by having a strong focus on STEM subjects at primary school through to university. Traditionally, STEM subjects have attracted fewer female and ethnic minority students, which has led to a lack of diversity in STEM-related sectors, especially at the senior leadership level.

Specific Recommendation

- Increase interest in STEM subjects at school and university in the GBA (especially for female and ethnic minority students) through, for example:
 - Introducing “golden hellos” to STEM subject teachers (especially female and ethnic minority teachers), so that the best teaching talent is attracted to working in the GBA and the teachers serve as positive role models for studying STEM subjects.
 - Consider university grants for those studying STEM subjects to attract more students to these subjects at the higher education level which should, in turn, lead them to consider jobs in technology and innovation after graduation.

December 2020