

Reform Direction and Development Prospects of Cross-Border Civil and Commercial Litigation in the Guangdong-Hong Kong-Macao Greater Bay Area: Under “the Belt and Road” Initiative

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Abstract: Since the inception of “the Belt and Road” Initiative in 2013, China’s foreign economic and trade engagements have experienced ongoing growth and expansion. In response to the broader cross-border market, the establishment of a multifaceted dispute resolution framework encompassing litigation, mediation, and arbitration has emerged as a crucial undertaking. This framework is designed to address the growing complexity of international cooperation disputes. Among them, litigation is the most credible and the last guarantee of fairness and justice. China’s cross-border civil and commercial litigation (Hereinafter referred to as the CBCC litigation) has developed rapidly under “the Belt and Road” Initiative. However, there are still a series of problems in case filing, service, application of law, proof of foreign laws, and execution of overseas judgments. Due to the national policy of “one country, two systems”, the Guangdong-Hong Kong-Macao Greater Bay Area (Hereinafter referred to as the Greater Bay Area) has gained unique regional advantages and strategic value in the CBCC litigation reform and practice. This research summarises the development status of the Greater Bay Area since “the Belt and Road” Initiative. It identifies three development directions for the modernisation reform of the litigation in the region: high efficiency, legalisation, and internationalisation. In these three directions, the Greater Bay Area has made certain achievements. These achievements prove that China’s CBCC litigation is actively entering the international track, deepening the determination of international cooperation and exposing the shortcomings of the current cross-border judicial practice. China still has considerable space to progress ahead in enhancing the effectiveness of cross-border dispute resolution, integrating reform initiatives into legal statutes, and advancing international judicial collaboration.

Keywords: the Greater Bay Area, “the Belt and Road” Initiative, dispute resolution, the cross-border civil and commercial litigation, opening up

1. Introduction

With the steady progress of “the Belt and Road” Initiative, a diversified cross-border civil and commercial (Hereinafter referred to as CBCC) dispute resolution mechanism is gradually being built in China. Litigation, as the most credible way, cannot be replaced by all kinds of dispute resolution

methods. It enjoys the highest level of trust from the disputing parties and serves as the ultimate safeguard for fairness and justice [1]. In judicial practice, the escalation of legal disputes corresponds to the growing frequency of international exchanges in civil and commercial affairs across various countries and jurisdictions. The contradictions in cross-border investigation and evidence collection, service of judicial documents, recognition and enforcement of judgments, and the limited application of public order reservations in the inter-regional field are becoming more prominent [2]. Ever since the launch of “the Belt and Road” Initiative in 2013, the number of first-instance cases related to the CBCC matters accepted by Chinese courts increased from 14,800 to 27,300 in 2021 [3]. As the development between China and other countries in international economic and trade cooperation, intellectual property right protection, cross-border taxation and other aspects are going to a higher level, new types of cases are continuously emerging, and the difficulty of judgement is also increasing. Simultaneously, China’s CBCC litigation is experiencing a growing sphere of influence, garnering increasing attention both domestically and internationally. Currently, Chinese cross-border litigants have covered more than 100 countries and regions worldwide [3]. The trial efficiency and execution of cross-border litigation not only show the achievements of China’s socialist rule of law construction but also affect the world’s confidence in “the Belt and Road” international economic cooperation platform initiated by China.

The Guangdong-Hong Kong-Macao Greater Bay Area (Hereinafter referred to as the Greater Bay Area) holds a distinctive strategic position in the development of a diverse dispute resolution mechanism within the framework of the “the Belt and Road” Initiative. “One region, two systems, three legal jurisdictions” is a highly generalised description of the Greater Bay Area’s regional characteristics and strategic value. Ever since the inception of “the Belt and Road” Initiative, elevated levels of international economic and trade collaboration have emerged as a pivotal catalyst propelling the modernization reform and judicial practices within China’s CBCC cases in the Greater Bay Area.

In the aftermath of the COVID-19 pandemic, the global landscape is experiencing unprecedented transformations, with nations worldwide in search of novel economic growth drivers [4]. This process will inevitably experience a downturn in economic development, and voices such as anti-globalisation and local protectionism will also rise [5]. “The Belt and Road” Initiative represents China’s endeavour in pursuing multilateral coordinated development, emphasizing the search for shared interests, setting aside disparities, and fostering mutually beneficial cooperation in the contemporary era of socialism. Furthermore, it aims to facilitate dialogue among diverse ideologies, political structures, and economic systems. The modernisation reform of the CBCC litigation promoted by China under “the Belt and Road” Initiative is not only the need for the strategy of opening up but also the “Chinese wisdom” proposed by deepening economic and trade cooperation with countries around the world, restoring economic vitality, and building a more fair and efficient dispute resolution mechanism. This research hopes to take the Greater Bay Area as the cornerstone, the CBCC litigations as the entrance, from the perspective of justice, trying to seek “China’s answer,” which is brought to the world through “the Belt and Road” Initiative.

2. Development Status of the CBCC Litigation in China under “the Belt and Road” Initiative

Since “the Belt and Road” Initiative was proposed to cope with the increasingly complex international trade environment, China has insisted on promoting the modernisation of the CBCC litigation. At the 13th NPC of China in 2022, Zhou Qiang, president of the Supreme People’s Court, issued a report on the work of cross-border trials in the people’s courts. As stated in the report, supporting the “the Belt and Road” Initiative’s advancement towards excellence has emerged as the impetus behind China’s civil and commercial litigation in recent years [3]. In practice, the CBCC litigation system involves many subjects, has many influences, requires complex evidence, and goes through tedious

processes. In the draft of “Improving the Foreign-related Civil and Commercial Litigation System” submitted by the National People’s Congress for deliberation, it is pointed out that there are still outstanding problems in the field of case filing, service, application of law, proof of foreign law, and execution of foreign judgments in China [6].

2.1. Case Filing

“Whether to file a case” and “how to file a case” affect the choice of two essential factors. From a judicial point of view, “whether to file a case” involves allocating dispute resolution resources. China is establishing a comprehensive international commercial dispute resolution platform with a “one-stop” approach, highlighting the adaptable deployment of dispute resolution resources and maximizing the strengths of the triad of litigation, mediation, and arbitration [7]. Among the troika, although litigation is the most credible and formal form of dispute resolution, its high requirements for procedural justice often conflict with the efficiency of solving the CBCC disputes, so it has limitations when applied alone [8]. The “one-stop” diversified dispute resolution mechanism seeks to achieve the utmost efficiency in resolving disputes while ensuring the credibility of the judicial process. Within the framework of the “the Belt and Road” Initiative, ten international commercial arbitration institutions and two international commercial mediation institutions have successively become part of the “one-stop” platform in two stages. They carried out exploration and practice activities with their characteristics in Beijing Fourth Middle Court, Suzhou International Commercial Court, Shenzhen Qianhai Court, and other places. These measures exemplify China’s commitment to harnessing the strengths of diverse dispute resolution methods, enhancing the efficiency of the CBCC litigation judgments through information exchange, procedural alignment, and institutional collaboration.

“How to file a case” is a requirement of judicial procedure. In the CBCC cases, it mainly involves the court’s review of the complaint, self-complaint, and application for execution. It is the key sign that the dispute resolution enters the litigation procedure. To promote the filing of cases to be more scientific, professional, and efficient, it is necessary to improve the carrying capacity and professionalism of China’s CBCC judicial forces. The Supreme People’s Court of China has achieved significant milestones in this domain. These include the establishment of the inaugural and secondary international commercial courts located in Shenzhen and Xi’an, the launch of a bilingual website for the International Commercial Court in both Chinese and English, and the advancement of initiatives related to the development of representative cases and foreign-related legal think tanks.

2.2. Service

Compared with domestic litigation, the problems in the service of cross-border litigation text, such as notice of response and copy of the complaint, are more prominent due to its characteristics. Service problems also determine CBCC dispute resolution efficiency bottlenecks [9].

Currently, China’s national judicial assistance management platform has successfully achieved the interconnection of the Ministry of Justice’s judicial assistance system for civil and commercial affairs. This has played a role in improving the efficiency of information networks to a certain extent, and the construction of professional international commercial courts has also helped the effective allocation of judicial service resources. However, to solve the dilemma of cross-border service and break through the bottleneck of efficiency, China also needs to start from the fundamental optimisation of service procedures while increasing the application of alternative service and enriching the means of service. However, China’s CBCC litigation in these aspects remains at the level of the revised draft [10].

2.3. Application of Law

In order to solve the problem of law application in CBCC litigation, China has mainly made efforts in two aspects. The first is adherence to international treaties and conventions. The Chinese People's Courts have consistently enhanced the judicial interpretation regarding the application of international treaties and global norms in cross-border litigation trials, resulting in the compilation of several representative cases. As of October 2022, 36 Chinese judicial cases have been included in the case law database of the United Nations Commission on International Trade Law [3]. Nonetheless, as international economic and trade interactions grow progressively intricate, China must intensify its research efforts and promptly introduce legislative recommendations concerning pivotal forefront matters of international law, including but not limited to intellectual property rights, cross-border data transfers, environmental conservation, and bankruptcy liquidation [11].

The other aspect is about the accurate application of the applicable law. China's court adheres to the principle of respecting the parties' autonomy and determining the applicable law strictly per the Law on the Application of Foreign-Related Civil Relations. In accordance with Article 3 of the Act, the parties have the option to explicitly designate the governing law for cross-border civil matters through legal provisions. Since 2013, the people's courts have accurately applied extraterritorial laws in 542 cases involving more than 40 countries and regions on six continents. However, in judicial practice, the parties' agreement on the applicable law often appears unclear. Especially under the special national conditions of "one country, two systems" in China, some words such as "Chinese law" and "Chinese Contract law" will also be ambiguous, which leads to the principle of "closest relationship" is still the principle of determining the applicable law adopted by the court in most cases [12]. Therefore, the long-term goal of CBCC litigation in China is to perfect the applicable rules of the applicable law, grasp the balance between the principle of "autonomy of goodwill" and the principle of the "closest relationship", and maintain judicial fairness and justice while ensuring the freedom of the parties' behaviour.

2.4. Proof of Foreign Law

With the increase of CBCC cases, the proof of foreign law has been paid more and more attention in judicial practice. In this respect, China has established a consolidated platform for the examination of foreign laws, consolidating the resources of various foreign law investigation entities and international commercial experts. This concerted effort has been dedicated to addressing the intricate challenge of investigating foreign laws in foreign-related judicial proceedings, yielding significant achievements. As an illustration, amid the COVID-19 pandemic, China systematically gathered and compiled force majeure regulations and cases from nearly 70 significant countries and regions worldwide. Subsequently, seven research reports were formulated and disseminated, offering invaluable assistance in resolving cross-border law application issues in relevant legal proceedings.

Nevertheless, Chinese local courts continue to exhibit a marked inclination towards evading the requirement for foreign law validation, often opting for the application of domestic law in most CBCC litigation cases. In a comprehensive study of a national sample of CBCC cases spanning from 2013 to 2018, it was found that in 81% of these cases, local law was applied [11]. This indicates that the costs of identifying foreign laws remain an essential obstacle to their accurate application. Consequently, China is confronted with a significant journey ahead to enhance the efficiency and precision of verifying foreign law and to systematically delineate the boundaries for the application of foreign and domestic laws.

2.5. Execution of Foreign Judgments

The execution ability and effect of cross-border judgments directly impact judicial credibility. Since “the Belt and Road” Initiative was proposed, promoting cross-border recognition and enforcement of judgments has become essential to China’s law modernisation reform. As of 2022, Chinese courts had successfully concluded 7,313 cases related to the recognition and enforcement of foreign courts’ civil and commercial judgments, spanning engagements with nearly 40 countries [3]. However, this data is insufficient to support an increasingly larger and larger international trading system.

In accordance with China’s Civil Procedure Law, the recognition and enforcement of a foreign judgment by Chinese courts necessitate meeting one of the following two criteria: either adhering to the stipulations outlined in international treaties to which China is a party or adhering to the principle of reciprocity [13]. The constraints arise from China’s participation in a relatively restricted number of international treaties. Consequently, the enforcement of most foreign court decisions must rely on the principle of reciprocity. In other words, the recognition and enforcement of a judgment from a Chinese court will typically be considered only if there exists a prior instance of a similar judgment being recognized and enforced by another sovereign State. At present, China’s interpretation of the principle of reciprocity is still in the exploratory stage. There are many viewpoints, such as no treaty, no exchange in fact, presumed reciprocity and promised reciprocity. In recent years, the cases of people’s courts recognising foreign civil and commercial judgments have gradually increased. The constraint arises because China is presently a signatory to a relatively restricted set of international treaties. Consequently, the assessment of whether to enforce foreign judgments based on the principle of reciprocity is a common challenge encountered by most judges. This implies that the enforcement of a judgment from a foreign court will typically be contemplated only if there exists a prior instance of a Chinese judgment being recognized and enforced by another foreign country. Currently, China’s interpretation of the principle of reciprocity is still in the exploratory stage. There are many viewpoints, such as no treaty, no reciprocity in fact, presumed reciprocity and promised reciprocity. In recent years, the cases of China’s courts recognising foreign civil and commercial judgments have gradually increased. In 2017, the Wuhan Intermediate People’s Court implemented the Los Angeles Court’s judgment according to the principle of reciprocity; in 2016, the Nanjing Intermediate People’s Court enforced the monetary judgment of the Singapore High Court [14,15]. These cases serve as evidence that since the inception of “the Belt and Road” Initiative, China has made progressive strides in its judicial practice efforts pertaining to the enforcement of CBCC judgments. However, it is still impossible to fundamentally break through the bottleneck of cross-border judgment recognition and enforcement without solving the problem of legal interpretation in the principle of reciprocity or further expanding the scope of international treaties that China participates in.

Through the relevant cases and data information since 2013, the judicial practice of CBCC litigation in China has achieved breakthrough development under “the Belt and Road” Initiative. Nevertheless, a consistent pattern emerges when examining the status of case initiation, service, application of governing law, verification of foreign law, and judgment execution; that is, some innovative attempts have been made, and many achievements have appeared in the practical application level, but some problems based on the legislation level are still unresolved.

Ultimately, the problem at the legislative level stems from the collision of two different values. Many practical samples are needed to seek common ground while reserving differences in the increasingly complex international economy and trade and to explore a dispute resolution system that can meet the interests of both parties. The Greater Bay Area provides a suitable environment for generating these practice samples.

3. The Strategic Position of the Greater Bay Area in the Reform of CBCC Litigation

The Greater Bay Area has a unique strategic position in the process of building a diversified dispute resolution mechanism under “the Belt and Road” Initiative. Precisely, this unique strategic position can be summed up as “one region, two systems, three jurisdictions”.

One region stressed that the Greater Bay Area is situated on the back of the massive economy of China and, at the same time, has its own close economic and social relations due to its natural geographical environment. Since the Ming and Qing Dynasties, the Pearl River Delta region has been essential to South China’s foreign trade. Its import and export business model, developed based on inland shipping and overseas trade, has a long historical foundation [16]. In 2015, in the relevant documents of “the Belt and Road” Initiative, “deepening cooperation with Hong Kong, Macao and Taiwan to build a Greater Bay Area” was first put forward at the national level. Then, the Greater Bay Area was written into the national “13th Five-Year Plan”. Compared with similar world-class bay areas, the Greater Bay Area covers more space than the San Francisco, New York and Tokyo Bay areas combined. The port throughput is five times that of the above three world-class bay areas combined, ranking first globally. This scale creates substantial economic benefits and many CBCC disputes. Therefore, the pilot reform of CBCC litigation in the Greater Bay Area meets the local cross-border economy and trade needs and accumulates valuable experience for deepening the reform.

Since the reform and opening up, the Pearl River Delta region has become a window for the PRC to connect with the world. The proposal of the ‘one country, two systems’ policy has made this docking break through the simple economic exchange and rise to the direct dialogue between the two political systems [17]. From the late 1960s to the 1990s, the rapid development of Guangdong and Hong Kong proved that the two economic systems of planning and marketing can seek common ground while reserving differences and cooperating for win-win results. In the 21st century, especially in the post-COVID-19 era, the dynamics of economic growth are changing. The new driving force of economic development requires deeper cross-border economic and trade cooperation, which also puts forward higher requirements for constructing the rule of law [18]. For a long time, the Greater Bay Area has served as a bridge for cooperation and exchange between the two economic systems, and its tolerance, understanding and depth of cooperation for the two systems within the region are unmatched by other regions. The Greater Bay Area’s advantageous position in “promoting a more elevated level of openness and proactively cultivating a market-oriented, law-based international business environment” has been shaped by the successful implementation of the “one country, two systems” policy over the long term [6].

As an essential innovation of China’s political system, “one country, two systems” covers three jurisdictions in mainland China, Hong Kong, and Macao and represents three distinct legal systems. This gives Hong Kong and Macao a unique identity in settling CBCC disputes. The Hong Kong and Macao have the judicial systems different from the mainland and enjoy judicial power and the power of final adjudication independent of the central judicial authority. Its autonomous judicial and common law systems based on case law make it a preferred choice for many foreign parties [17]. Under this long-term demand, Hong Kong and Macao have also formed a targeted judicial practice framework serving cross-border dispute resolution. With the implementation of China’s deepening opening-up strategy and the further expansion of the scale of “the Belt and Road” Initiative, especially the process of gradually shifting from “introduction” to “going out”, higher requirements have been put forward for the ability of judicial forces in mainland China to solve CBCC disputes. “What China need, which Hong Kong skilled”. As a meeting place of three legal jurisdictions, the Greater Bay Area is where the forces in various fields of socialist legal construction are explored and practised. The creation of the First International Commercial Court in Shenzhen by the Supreme People’s Court of China, the formation of cross-jurisdictional legal aid entities like the DKL joint law firms spanning

the three regions, and the facilitation of legal discussions and research activities by educational institutions in Guangdong, Hong Kong, and Macao all underscore the distinctive strategic significance of the Greater Bay Area as a convergence point for the three distinct legal systems [3].

Therefore, in the process of reform of CBCC litigation in China, the Greater Bay Area has been a pioneer in carrying out many reform practices. Drawing upon the distinctive features of these practices, this research concludes that the reform of CBCC litigation in the Greater Bay Area can be categorized into these three developmental trajectories: “high efficiency, legalisation, and internationalization”.

4. The Reform Direction of CBCC Litigation in the Greater Bay Area

4.1. High Efficiency

The efficient reform of CBCC litigation involves two aspects: one is to reduce time cost, and the other is to allocate dispute resolution resources rationally [6].

The Greater Bay Area has made many attempts to reform CBCC litigation service procedures. It has established integration with the Ministry of Justice’s civil and commercial assistance system to create a national online platform for judicial assistance processing. This initiative aims to leverage information technology to streamline the application process, thereby reducing time-related costs at the application level. Regarding cross-border issues, the service of response notice, copies of pleadings, and evidence can take significantly more time than the equivalent type of domestic litigation. Some written materials can be served or obtained on behalf of the relevant party’s cross-border legal counsel, but the transportation time consumed in physical materials or evidence is unavoidable [9]. Therefore, constructing perfect and reasonable online service procedures directly reduces the time cost of CBCC litigation.

The difficulty of CBCC litigation services not only stems from the distance of physical space but also the distance of social relations [19]. In the reform of judicial power and responsibility, civil and commercial litigation in China has experienced the transition from the traditional closed acquaintance society to the modern mobile stranger society [20]. The civil and commercial cases litigation will further expand the scope of social relations, and the legal standard of “guaranteeing litigation documents receiving the service” and the balance of interests between the plaintiff, the recipient and the court are also more complicated [10]. Statistics from Guangdong People’s Court Daily in 2015 showed that 10% of remanded cases were due to faulty delivery [21]. Specifically, there are contradictions between the court and the served, such as low efficiency of physical service, many defects, and insufficient credibility of electronic service. However, the limitation of the announcement service in the cross-border field and the current situation that the recipients are more difficult to contact in cross-border cases aggravate this practical contradiction. Therefore, it is necessary to reform the service system from the legalisation level and reshape the “legitimacy standard” of service. This institutional bottleneck determines the limit to reducing delivery time costs.

Constructing one-stop dispute resolution institutions is an important link to promote the rational allocation of dispute resolution resources [2]. Dispute resolution in China has always faced the dilemma of “more cases, fewer practitioners”. “Fewer practitioners” in a narrow sense refers to the lack of practitioners in service-related fields and can also refer to the lack of all dispute resolution-related resources. Therefore, how to efficiently use limited resources, solve more disputes as much as possible, and improve the capacity of the dispute resolution system has always been one of the difficulties faced by the reform of CBCC litigation in China [22]. In 2018, China established a permanent judicial institution in Shenzhen, known as the First International Commercial Court, with a specific focus on handling international commercial disputes related to the “Maritime Silk Road.” The creation of the “one-stop” dispute resolution platform represents a sequence of pioneering

institutional advancements introduced by the China International Commercial Court. The main principle is to integrate dispute resolution resources, build a platform for resource allocation, and flexibly apply resolution methods according to different dispute demands [23]. Legal aid personnel can advise the parties on how to choose the dispute resolution method according to the implementation of the case, and the integration of the institution also saves a lot of time and workforce for repeated service, collection of evidence, and identification. Simultaneously, the International Commercial Court has undertaken a series of reforms concerning the extraterritorial law identification mechanism and the decision document formulation mechanism, aimed at enhancing the operational efficiency of the “one-stop” platform. Since the initiation of the “Belt and Road” Initiative, the Greater Bay Area’s endeavours to consolidate China’s CBCC litigations into a unified “one-stop” dispute resolution platform exemplify a significant expression of efficient reform and prudent resource allocation.

4.2. Legalization

Legalisation emphasises governance according to law. Throughout the development of civil and commercial litigation in the Greater Bay Area, since “the Belt and Road” Initiative was proposed, the direction of the rule of law reform has been reflected in different aspects, both internally and externally. Domestically, the rule of law agenda is centred on translating the outcomes of reform pilot practices into legally grounded measures, thereby advancing the modernization of the socialist rule of law. Externally, legalization efforts prioritize the acknowledgment and implementation of international treaties and global practices in the context of China’s CBCC judgments.

The Framework Agreement on Deepening Cooperation between Hong Kong and Macao to Promote the Development of the Greater Bay Area (hereinafter referred to as the Framework Agreement) issued by the National Development and Reform Commission of China (hereinafter referred to as the NDRC) indicates that the new political agreements, procedures and frameworks concluded between the ordinary administrative regions and the special Administrative Regions of the Greater Bay Area have been de facto authorised by the central government, and have formed a legal mechanism based on the concepts of equality, voluntarism and consultation, similar to the interstate agreements in the United States [24]. This signifies that the Greater Bay Area possesses a degree of self-governing authority within its boundaries. The effectiveness of this power is generated through authorised “new political agreements” between governments. This mandate has become the legislative basis for intergovernmental cooperation in the Greater Bay Area. In addition, the Constitution, the Basic Law, and some normative documents, such as the Outline of the Development Plan for the Greater Bay Area designated by the NDRC, together form the legal basis for the Greater Bay Area to legalise the practical pilot experience [24]. The Greater Bay Area covers two systems and three jurisdictions, and the cooperation agreement for its administrative regions covers different judicial systems. This cross-jurisdictional experience is significant to constructing the rule of law in China’s CBCC litigation [25]. The International Commercial Court launched three batches of “Typical Cases related to the Construction of the Belt and Road” in 2015, 2017 and 2022, respectively, and the cases involved various specific aspects of actual cross-border economic and trade issues. In recent years, these guiding cases have provided many trial bases for CBCC trials. To legislate and standardise the experience of these typical cases and intergovernmental cooperation, forming an effective and feasible legal system is an important manifestation of the legalisation in the reform and development of civil and commercial litigation in the Greater Bay Area.

Simultaneously, the incorporation of international treaties into CBCC judgments is an essential aspect of the Greater Bay Area’s process of legalizing its operations. In CBCC cases, the initial challenge concerning law application pertains to adhering to international treaties and conventions. To address this issue, the People’s Court of China has crafted judicial interpretations regarding the

utilization of international treaties and global practices in cross-border litigation trials. It has summarised several typical cases, but these interpretations still have a large gap regarding the needs caused by the increasingly complicated international economic and trade exchanges. For example, in applying the United Nations Convention on Contracts for the International Sale of Goods (the CISG), the priority application of international treaties appears uncertain due to the legislative blank after establishing the Civil Code. Following the repeal of Article 142 of the General Principles of the Civil Law upon the issuance of the Civil Code, there has been a notable decline in the utilization of international treaties as a legal basis. In the two years since the Civil Code's promulgation, these treaties have been invoked in only three cases. This differs from the annual growth trend and the number of applicable cases before implementing the Civil Code [26]. In the dispute involving the international sale of goods contract between Poland's INDECO Joint-Stock Company and Guangdong Press Metal International Ltd, the court aptly discerned and defined the contractual rights and obligations. It elucidated the respective rights and responsibilities of both parties in accordance with the provisions of the CISG, exemplifying a successful instance of precise application of international treaties [27]. The Supreme People's Court further included this case in the third batch of noteworthy instances related to the "Belt and Road construction." The Foshan Intermediate Court in Guangdong Province presided over the proceedings. This judicial practice within the Greater Bay Area serves as a testament to the evolving trajectory of China's legal system in terms of applying international treaties and global practices.

4.3. Internationalization

The internationalisation of CBCC litigation mainly emphasises giving full play to the advantages of cross-jurisdictional judicial cooperation in the Greater Bay Area, improving the construction of hardware facilities for CBCC litigations, strengthening the ability to detect extraterritorial laws effectively, and enhancing the capacity of cross-border enforcement of judgments.

On February 18, 2019, Chinese government released the Outline of the Development Plan for the Greater Bay Area. Since then, the development of Guangdong, Hong Kong, and Macao has provided new opportunities for judicial cooperation and protection. As the "Belt and Road" Initiative continues to advance, and international economic and trade cooperation grows in complexity within the framework of "two systems" and "three jurisdictions," leveraging the benefits of judicial cooperation in the Greater Bay Area is imperative. It serves not only the purpose of dispute resolution but also contributes to fostering high-quality integrated development within the Greater Bay Area and bolstering the region's overall competitiveness. Due to its strategic geographic location, Guangdong Province has consistently held a significant role in China's judicial activities related to Hong Kong and Macao. In 2012, Guangdong Province handled approximately four-fifths of the country's total civil and commercial cases involving Hong Kong and Macao. In 2015, Guangdong Province concluded 9,040 first-instance civil and commercial cases involving foreign countries, Hong Kong, Macao, and Taiwan. In 2016, Guangdong Province processed 835 cases related to the service of judicial documents from Hong Kong, constituting 42 percent of all cases involving the service of Hong Kong-Macao judicial documents in China [28]. These statistics show that cross-jurisdictional judicial cooperation within the Greater Bay Area has a solid practical basis.

Since the inception of "the Belt and Road" Initiative, the Supreme People's Court of China has established the inaugural International Commercial Court in Shenzhen and the subsequent International Commercial Court in Xi'an; Additionally, the International Commercial Court has introduced a bilingual website, available in both Chinese and English; Establish the international commercial Expert Committee system, employ 47 expert committee members from 22 countries and Hong Kong, Macao, and Taiwan, and build a first-class international legal think tank [3]; In 2018, the Shenzhen International Court of Arbitration merged with the Shenzhen Arbitration Commission,

and in 2021, it incorporated the name “Greater Bay Area International Arbitration Center.” This move underscores the commitment to enhance collaboration with Hong Kong and Macao and to establish a globally recognized international arbitration center; A unified platform for the investigation of extraterritorial laws has been established, bringing together a number of institutions for the proof of foreign laws [12]; Significant improvements have been made to the cross-border litigation online service mechanism, offering cross-border litigants a range of multilingual litigation services, including online filing guidance, inquiries, entrusted witness services, as well as registration and filing assistance. For example, Guangdong courts have promoted the “All Online platform”, enabling overseas litigants in 1,743 cases from 15 countries and regions to handle entrusted witness procedures online, significantly reducing litigation costs [28]. At the same time, the government continues to promote the National Judges Academy and Hong Kong and Macao universities cooperation programs to strengthen cross-border legal personnel training. These practical action results show the determination of the international development of CBCC litigation in the Greater Bay Area under “the Belt and Road” Initiative and prove that the reform has made breakthrough progress in hardware facilities.

Simultaneously, another internationalisation problem facing civil and commercial litigation is applying applicable law. When parties choose to apply extraterritorial law based on the principle of their own choice, the intricate challenge of correctly identifying and precisely applying it becomes more pronounced. [29]. As per Article 3 of the Law on the Application of Foreign-Related Civil Relations of the People’s Republic of China, parties have the prerogative to explicitly designate the governing law for foreign-related civil matters in accordance with legal provisions. In the typical cases emanating from the “Belt and Road” construction issued by the Supreme People’s Court, there are instances where legal investigation agencies are entrusted with the task of identifying pertinent provisions within Singaporean laws implicated in disputes and subsequently applying them with precision. With the increase of CBCC cases, the investigation of extraterritorial law has been paid more and more attention in judicial practice. A statistical survey on the People’s Court of Shenzhen Qianhai Cooperation Zone shows that between 2015 and 2020, among the CBCC cases tried by the court, the proportion of foreign-related cases due to main factors accounted for as high as 96.1% of the sample data [30]. It is evident that disputes stemming from trade and economic integration in the Greater Bay Area are intricately linked to the cross-border movements of market participants. Therefore, the problem of applying applicable laws to complex foreign-related entities is more prominent in the Greater Bay Area. The principle of close association remains the most frequently employed criterion by the Qianhai Court to determine the application of the governing law [30]. As of 2020, it has been applied more than three times as often as the principle of autonomy of will. This also leads to the Qianhai court’s actual judicial practice of applying law, which is still dominated by domestic law. This situation does not promote the optimal utilization of the distinctive judicial benefits of cross-jurisdictional cooperation within the Greater Bay Area. It also fails to address the challenges associated with identifying and applying extraterritorial laws, deviating from the prevailing trend in China’s private international law development regarding foreign civil and commercial matters. Therefore, there is still massive room for growth in applying applicable laws in the Greater Bay Area.

Facilitating the unhindered circulation of civil and commercial judgments within the Greater Bay Area and bolstering the enforcement capabilities for cross-border judgments are imperative facets in the ongoing process of internationalizing civil and commercial litigation within the Greater Bay Area. [31]. The execution effect of the judgment directly affects the credibility of China’s cross-border judicial force. Simultaneously, as the strategic focus of China’s opening to the outside world gradually changes from “importing” to “going out”, the execution of overseas judgments in China also appears more frequently. The legal foundation for China’s recognition and enforcement of

foreign judgments is established in Chapter 27 of the Civil Procedure Law. Foreign judgments must align with international treaties that China has ratified or meet the principle of reciprocity to be eligible for recognition and enforcement [13]. With China's signing of the Hague Judgment Convention in 2019, there has been a breakthrough in international convention guarantees for recognising and enforcing civil judgments in other countries. In recent years, Chinese court cases have showcased China's readiness to acknowledge and execute foreign judgments on a reciprocal basis. For instance, the Nanjing Intermediate People's Court acknowledged the enforcement of the judgment from the Singapore High Court in the case of Kolmar Group AG v. Jiangsu Textile Indus. This underscores China's commitment to recognizing foreign judgments when reciprocity is established [15]. However, the Chinese court did not give a complete answer on the recognition scale of the reciprocity principle. Presently, applicants seeking the enforcement of a foreign judgment must take into account several factors, including the establishment of evidence of actual reciprocity, the conclusiveness of foreign court judgments, the efficacy of foreign judgments, variations in judicial practices within different jurisdictions, procedural justice, and considerations of public interest [13]. These practical concerns are difficult to address in a way that "sends positive signals". China's judiciary still has a long way to prove its ability and credibility to enforce foreign-related judgments.

5. Conclusion

China's modernization reform of CBC litigation is aligned with the strategy of furthering international openness and addressing the practical demands stemming from the progressively intricate cross-border economic and trade interactions. Therefore, this reform should be comprehensive pragmatic, and cover the whole process of judicial practice reform. With its unique strategic position of one country, two systems and three legal systems, the Greater Bay Area has played a critical leading role in addressing these issues. The CBCC reform practice in the Greater Bay Area under the "Belt and Road" Initiative reflects three significant directions: high efficiency, legalisation and internationalisation. The Greater Bay Area has shown rich development achievements in various approaches but also exposed some limitations. Among them, reforming the efficiency of the litigation process has achieved remarkable results. Nonetheless, the enhancement of trial efficiency primarily stems from expediting the proceedings. Some institutional bottlenecks affecting efficiency are still unresolved. For example, the legality of some cross-border service methods is unclear, which will cause conflicts between efficiency and procedural justice in the long run. Various valuable practical experiences in reforming the rule of law are still in the draft stage, and the enforcement is insufficient. The coverage of signed and acknowledged international treaties is restricted, necessitating the enhancement of judicial interpretation regarding the application of these treaties. In terms of internationalisation, the construction of hardware institutions has achieved remarkable results, and the establishment of institutions has given full play to the geographical advantages of cooperation and exchange among the three places. But soft power still needs to be strengthened. The enhancement of soft power is intricately linked to the application of law in the trial process and the effectiveness of judgment enforcement.

The CBCC litigation reform process is closely related to the development process of China's opening-up strategy. The two complement and guarantee each other. The deepening of international openness is both the practical necessity and the driving force behind the development of CBCC litigation. In contrast, the CBCC litigation maintains the order of the open market, development prospects and international confidence. Since the inception of the "Belt and Road" Initiative, the establishment of diverse dispute resolution mechanisms in China has led to a flourishing of cross-border mediation and international arbitration. The CBCC litigation is the most authoritative part of this mechanism and the last line of defence for fairness and justice. It determines the credibility of the entire dispute resolution agency. The current high efficiency, rule of law, and international

development direction of the Greater Bay Area can signal that China's CBCC litigation is actively entering the international track and deepening international cooperation. However, whether this signal can be maintained and whether it can have a positive practical impact on cross-border exchanges still needs to be tested by the effect of judicial practice. The deepening development of the "Belt and Road" Initiative is China's answer to the complex globalisation trend in the post-COVID-19 era. However, whether this answer can provide a long-term and practical reference for the world still needs to be proved by China in the process of constantly solving practical problems in litigation of CBCC cases. Further improving the efficiency of cross-border dispute resolution, strengthening reform practices to become legal provisions, deepening international judicial cooperation, and actively participating in the negotiation of international treaties to formulate and improve the judicial interpretation will remain the development focus of China's cross-border judicial development direction for a long time to come.

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