

For information  
On 18 December 2014

**LEGISLATIVE COUNCIL  
PANEL ON COMMERCE AND INDUSTRY**

**THE MAINLAND AND HONG KONG  
CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT**

**INTRODUCTION**

This note informs Members of a new agreement signed on 18<sup>th</sup> of this month under the framework of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) between Hong Kong Special Administrative Region Government (HKSARG) and the Ministry of Commerce (MoC) for the purpose of basic liberalization of trade in services between Guangdong and Hong Kong.

**BACKGROUND**

2. The Mainland and Hong Kong signed the CEPA in 2003. Thereafter, pursuant to Article 3 of CEPA, the two sides broadened and enriched the content of CEPA and signed ten Supplements between 2004 and 2013, expanding market liberalization and further facilitating trade and investment for the economic cooperation of the two places.

3. The Central Government announced in 2011 the objective of basic liberalization of trade in services between the Mainland and Hong Kong by the end of the National 12th Five-Year Plan period. Since then, the HKSARG has been working with MoC to achieve this goal. From the signing of Supplement VIII in end 2011 to Supplement X last year, the two sides signed a new supplement each year and made steps towards the goal of liberalization of trade in services. At the same time, the two sides have been co-operating closely, striving to achieve basic liberalization of trade in services between Guangdong and Hong Kong by the end of 2014. On 18<sup>th</sup> of this month, the two sides signed the Agreement between the Mainland and Hong Kong on Achieving Basic Liberalization of Trade in

Services in Guangdong (hereinafter referred to as “the Agreement”). The legal text of the Agreement is available at the Trade and Industry Department’s (TID) CEPA website at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\_legaltext.html].

## **DETAILS**

### **Framework of the Agreement**

4. All along, the scope and measures for liberalization under CEPA and its Supplements have been listed positively. The Agreement adopts a hybrid approach of negative and positive listings in further liberalization. The negative list is a more transparent and comprehensive way of listing liberalization commitments. The main text of the Agreement consists of ten chapters and 15 articles which cover, inter alia, provisions for national treatment, most-favoured treatment, safeguard measures, exceptions, and investment facilitation; the annexes of the Agreement set out the specific commitments in trade in services.

5. Generally speaking, trade in services can be classified into four modes of service supply<sup>1</sup>. With respect to the mode of commercial presence, the Agreement sets out, in the form of a negative list, the measures reserved by the Mainland in Guangdong on Hong Kong that are inconsistent with or inapplicable to the obligation of national treatment under the 134 services trade sub-sectors<sup>2</sup>. Except for those inconsistent/inapplicable measures reserved as well as the measures on standards management, the Mainland will not impose any particular restrictions for eligible Hong Kong service suppliers in Guangdong

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<sup>1</sup> The four modes of service supply include –

- (1) from the area of one side into the area of the other side, referred to as “cross-border supply”;
- (2) in the area of one side to the service consumer of the other side, referred to as “consumption abroad”;
- (3) by a service supplier of one side, through commercial presence, in the area of the other side, referred to as “commercial presence”;
- (4) by a service supplier of one side, through presence of natural persons of one side in the area of the other side, referred to as “movement of natural persons”.

<sup>2</sup> According to the World Trade Organization’s services classification system, there are 160 services sub-sectors under trade in services.

Province in terms of market access requirement, i.e. they can enjoy the same treatment as the Mainland enterprises. As for the mode of cross-border supply, consumption abroad, movement of natural persons (collectively known as “cross-border services”), as well as sectors of telecommunications and cultural services, the Mainland’s additional liberalization measures for Hong Kong in Guangdong will remain positively listed.

6. In view that the Agreement has adopted a brand new approach in further liberalization and that the negative list for the mode of commercial presence reflects new measures as well as the measures already covered in CEPA and its Supplements, the two sides agreed to consider the Agreement as a subsidiary agreement under CEPA, instead of a supplement, in order to differentiate it from the previous supplements.

### **Mainland’s Liberalization Measures**

7. With regard to the Mainland’s commitments to Hong Kong in Guangdong’s services market, the Agreement has achieved breakthrough both in terms of depth and breadth. Key liberalization areas are summarized as follows:

- Overall speaking, the Mainland has opened up 153 services trade sub-sectors to Hong Kong services industry, accounting for 95.6% of all services trade sub-sectors in Guangdong. In respect of the mode of “commercial presence”, national treatment will be applied to Hong Kong in 58 sub-sectors;
- In respect of the mode of “commercial presence”, the negative list covers 134 services trade sub-sectors setting out 132 measures as inconsistent with or inapplicable to the obligation of national treatment;
- Measures under the mode of cross-border supply, consumption abroad and movement of natural persons, as well as the sectors of telecommunications and culture are positively listed, covering a total of 27 new liberalization measures;

- Specific examples of liberalization measures can be found in Annex;
- With regard to investment facilitation, the investment projects in the majority of services sub-sectors by a Hong Kong service supplier in Guangdong will be subject to the same authority and procedures as Mainland investment projects, and the establishment of a company and the related contract/articles of association will be subject to filing of record instead of prior approval.

### **Hong Kong's Liberalization Measures**

8. Following past practice, Hong Kong will not impose any new discriminatory measures on Mainland services or service suppliers in the areas of services covered by the Agreement.

9. The Agreement shall come into effect on the day of signing and be implemented as from 1 March 2015.

### **Conclusion**

10. The Agreement adopts a hybrid approach of positive and negative lists to set out the liberalization measures in Guangdong of the Mainland applying to Hong Kong. The breadth and depth of liberalization surpass the previous measures for early and pilot implementation in Guangdong. Guangdong is a key investment location for Hong Kong enterprises. The fact that Guangdong and Hong Kong achieved ahead basic liberalization of trade in services this year will enable Hong Kong investors to take early advantage of opening up the Guangdong market in various service sectors, thereby deepening the cooperation and enhancing the competitiveness of the services industries of the two places. The framework and content of the Agreement also sets a model for basic liberalization of trade in services nationwide next year.

### **PUBLIC CONSULTATION**

11. HKSARG attaches great importance to the views of the trade. We have been in close communication with the trade, reflecting their views to the Mainland as appropriate in seeking further liberalization of the Mainland market for Hong Kong.

**PUBLICITY**

12. Following the signing ceremony of the Agreement, a media briefing and a trade seminar were held by the relevant bureaux and departments to introduce the Agreement to the media and the trade. Information papers were issued to various trade-related advisory bodies and trade associations. TID maintains a dedicated website to provide the public with the latest information on the Agreement.

Trade and Industry Department  
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**Examples of Specific Liberalization Measures in the Agreement**

<b>Services Sectors</b>	<b>Liberalization Measures</b>
<b>Legal</b>	<ul style="list-style-type: none"><li>➤ Secondment of Hong Kong lawyers by Hong Kong law firms in Guangdong Province to work in Mainland law firms as consultants on Hong Kong law or cross-border laws.</li><li>➤ Secondment of Mainland practising lawyers by Mainland law firms in Guangdong Province to work as consultants on Mainland law in representative offices set up by Hong Kong law firms in the Mainland.</li><li>➤ As a pilot measure in Qianhai, Nansha and Hengqin in Guangdong Province, Hong Kong law firms to operate in association with a Mainland party in the form of partnership.</li><li>➤ To allow Hong Kong service suppliers who have acquired Mainland lawyer qualifications to act as agents in civil litigation cases relating to Hong Kong residents and juridical persons, according to the specific scope of permitted business provided in the “Notice of the Ministry of Justice of the People’s Republic of China” (No. 136).</li></ul>
<b>Accounting</b>	<ul style="list-style-type: none"><li>➤ Eligible Hong Kong residents who have obtained the Chinese Certified Public Accountants (CPAs) qualification can be partners of partnership accounting firms in Guangdong Province, while the Mainland residents shall have the right of control over such accounting firms. When they apply to become partners of accounting firms in the</li></ul>

Services Sectors	Liberalization Measures
	<p>Guangdong Province, the length of auditing experience that they have acquired in Hong Kong is considered equivalent to the length of auditing experience acquired in the Mainland.</p>
<p><b>Construction, Design and Urban Planning</b></p>	<ul style="list-style-type: none"> <li>➤ Regarding the elective courses of continuing education which class 1 registered structural engineers have to take, Hong Kong service suppliers are allowed to complete the courses in Hong Kong or to be taught by teachers sent from the Mainland. The arrangements for taking the elective courses of continuing education are subject to the approval of the Mainland authorities.</li> <li>➤ Regarding the elective courses of continuing education which supervision engineers have to take, Hong Kong service suppliers are allowed to complete all the courses in Shenzhen Municipality.</li> <li>➤ When Hong Kong service suppliers set up construction and engineering design enterprises in Guangdong Province, they are allowed to employ architects and structural engineers registered in Hong Kong (who have not yet obtained the relevant professional qualifications in the Mainland), who may be regarded as key professional and technical personnel, but not registered personnel, in assessing the enterprise qualifications.</li> <li>➤ When foreign wholly-owned or joint-venture urban-rural planning enterprises declare their enterprise qualifications in Guangdong Province, Hong Kong professionals in their</li> </ul>

<b>Services Sectors</b>	<b>Liberalization Measures</b>
	<p>employment, who have obtained Mainland's registered planner qualification through mutual recognition, can be regarded as essential registered personnel during the assessment.</p>
<b>Technical testing and analysis</b>	<ul style="list-style-type: none"> <li>➤ To allow testing organizations in Hong Kong to cooperate with designated Mainland organizations to undertake testing of products for the China Compulsory Certification (CCC) System designed and prototyped in Hong Kong, as well as processed or manufactured in the Guangdong Province under the “audio and visual apparatus” category of the CCC System; and testing of products manufactured or processed in Hong Kong or Mainland under the area of voluntary certification. These testing organizations have to be accredited by the accreditation body of the Government of the Hong Kong Special Administrative Region (i.e. the Hong Kong Accreditation Service) to be competent in performing testing for the relevant products.</li> </ul>
<b>Air transport</b>	<ul style="list-style-type: none"> <li>➤ Hong Kong airlines are allowed to sell air tickets and hotel packages in their office or through their official websites, without engaging Mainland sales agents.</li> </ul>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>➤ To encourage Guangdong insurance companies to cede their business to Hong Kong insurance or reinsurance companies with Renminbi as the settlement currency.</li> <li>➤ To encourage Hong Kong insurance companies to continue expanding the scale of their outward reinsurance business placements</li> </ul>



<b>Services Sectors</b>	<b>Liberalization Measures</b>
	<p>to the Mainland (including Guangdong Province) reinsurance companies.</p> <ul style="list-style-type: none"> <li>➤ To allow Guangdong insurance companies that fulfil regulatory requirements to appoint Hong Kong insurance companies to provide Renminbi insurance policies selling services in Hong Kong.</li> </ul>
<b>Securities</b>	<ul style="list-style-type: none"> <li>➤ In line with national treatment, the “participation in one and holding of one policy” is applicable to the number of Mainland-Hong Kong joint venture fund companies that are allowed to be invested in through shareholding acquisition by Hong Kong-funded financial institutions.</li> <li>➤ Relaxing the qualification requirements for Hong Kong shareholders in Mainland-Hong Kong joint venture futures companies</li> </ul>
<b>Banking</b>	<p>For Hong Kong’s banking sector, except for the restrictions reserved in ten areas, the Mainland authorities will provide more relaxations and policy certainty. For example, the relaxations include but are not limited to:</p> <ul style="list-style-type: none"> <li>➤ Removal of the minimum years of operation and profit requirements for foreign-funded bank operating institutions in Guangdong to conduct renminbi business;</li> <li>➤ Removal of the requirement to set up representative office or business operation before establishing foreign-funded bank operating institutions, consumer finance companies and money brokerage companies;</li> </ul>

<b>Services Sectors</b>	<b>Liberalization Measures</b>
	<ul style="list-style-type: none"> <li>➤ Removal of the minimum quantitative requirement in respect of the operating capital to be allocated by Mainland-incorporated banks to their branches in Guangdong;</li> <li>➤ Harmonization of the scope of business that can be conducted by foreign-funded locally-incorporated banks established by Hong Kong banks in Guangdong with Mainland commercial banks.</li> </ul>
<b>Tourism</b>	<ul style="list-style-type: none"> <li>➤ The number of travel agents set up on a wholly-owned basis operating outbound group tours for Mainland residents on a pilot basis to destinations beyond Hong Kong and Macao (excluding Taiwan) is restricted to 5.</li> <li>➤ No restriction is imposed with regard to the number of Mainland-Hong Kong joint venture travel agents operating outbound group tours for Mainland residents to destinations beyond Hong Kong and Macao (excluding Taiwan).</li> </ul>
<b>Telecommunications</b>	<ul style="list-style-type: none"> <li>➤ To allow Hong Kong service suppliers to set up joint ventures or wholly-owned enterprises in the Guangdong Province to provide multi-party communications services within the Mainland. There is no restriction on the proportion of Hong Kong service suppliers' shareholding.</li> <li>➤ To allow Hong Kong service suppliers to set up joint ventures or wholly-owned enterprises in the Guangdong Province to provide store and forward services. There is no restriction on the proportion of Hong Kong service suppliers'</li> </ul>

<b>Services Sectors</b>	<b>Liberalization Measures</b>
	<p>shareholding.</p> <ul style="list-style-type: none"> <li>➤ To allow Hong Kong service suppliers to set up joint ventures or wholly-owned enterprises in the Guangdong Province to provide call centre services. There is no restriction on the proportion of Hong Kong service suppliers' shareholding.</li> <li>➤ To allow Hong Kong service suppliers to set up joint ventures or wholly-owned enterprises in the Guangdong Province to provide Internet access services (to provide Internet access services to users within the area of Guangdong Province only). There is no restriction on the proportion of Hong Kong service suppliers' shareholding.</li> <li>➤ To allow Hong Kong service suppliers to set up joint ventures or wholly-owned enterprises in Guangdong Province to provide content services (application stores). There is no restriction on the proportion of Hong Kong service suppliers' shareholding.</li> </ul>
<b>Entertainment</b>	<ul style="list-style-type: none"> <li>➤ To allow setting up of wholly-owned entertainment premises in additional pilot areas in Guangdong Province.</li> <li>➤ To allow engagement in the sales services of amusement game facilities.</li> </ul>