

For discussion
On 16 February 2016

**LEGISLATIVE COUNCIL
PANEL ON COMMERCE AND INDUSTRY**

**PROGRESS ON FURTHER LIBERALISATION
UNDER THE MAINLAND AND HONG KONG
CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT**

PURPOSE

This note informs Members of the Agreement on Trade in Services (the Agreement) signed on 27 November 2015 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 to further open up the services market, thereby basically achieve liberalisation of trade in services between the Mainland 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 liberalisation and further facilitating trade and investment. In December 2014, the Agreement between the Mainland and Hong Kong on Achieving Basic Liberalisation of Trade in Services in Guangdong (the Guangdong Agreement) was signed under the framework of CEPA, enabling early realisation of basic liberalisation of trade in services with Hong Kong in Guangdong.

3. On the basis of the Guangdong Agreement, the two sides continued with discussion in 2015 and on 27 November, signed the Agreement, extending the geographical coverage to the whole Mainland for basic liberalisation of trade in services. The legal text of the Agreement is

available at the Trade and Industry Department's (TID) website concerned at
[http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html].

DETAILS

Framework of the Agreement

4. The Agreement made reference to the framework of the Guangdong Agreement¹. In addition to including new liberalisation measures introduced in 2015, by covering and consolidating commitments relating to liberalisation of trade in services provided in CEPA and its Supplements and also the Guangdong Agreement, the Agreement becomes a stand-alone, subsidiary agreement relating to trade in services under the framework of CEPA.

5. The main text of the Agreement sets out provisions for, among others, national treatment, most-favoured treatment, safeguard measures, exceptions, and investment facilitation; the three annexes of the Agreement set out respectively the specific commitments of the Mainland and Hong Kong in liberalisation of trade in services, and the definition of "Service Supplier" and related requirements.

6. Generally speaking, trade in services can be classified into four modes². With respect to the mode of "commercial presence", the Agreement sets out, in the form of a negative list, the restrictive measures reserved by the Mainland on Hong Kong that are inconsistent with the

¹ For content of the Guangdong Agreement, please refer to this committee's information paper in Year 2014-15 No. CB(1)373/14-15(01).

² The four modes of trade in services 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".

obligation of national treatment under the 134 services trade sectors³. Except for those reserved restrictive measures as well as the horizontal management measures, the Mainland does not impose any particular restrictions for eligible Hong Kong service suppliers, i.e. national treatment applies. 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 liberalisation measures for Hong Kong remain positively listed.

Mainland’s Liberalisation Measures

7. Key contents of the Agreement are summarised as follows:
- Overall speaking, there are 153 sectors which the Mainland has fully or partially opened up to Hong Kong services industry, accounting for 95.6% of all the 160 services trade sectors. In respect of the mode of “commercial presence”, national treatment will be applied to Hong Kong in 62 sectors.
 - In respect of the mode of “commercial presence”, the negative list covers 134 services trade sectors, reserving 120 restrictive measures as inconsistent with the obligation of national treatment.
 - The positive lists covering cross-border services as well as the sectors of telecommunications and cultural services⁴ have newly-added 28 liberalisation measures.
 - The Agreement has liberalisation measures in a number of important sectors. Specific examples are set out in the Annex.

³ According to the World Trade Organization’s services classification system, there are 160 services trade sectors under trade in services.

⁴ There are 26 services trade sectors in total under the telecommunications and cultural services sectors.

- With regard to investment facilitation, for Hong Kong service suppliers in majority of services trade sectors, filing administration is adopted in lieu of prior approval of contracts and articles of association for establishment and change of enterprises.

Hong Kong's Liberalisation Measures

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

9. The Agreement came into effect on the day of signing and shall be implemented as from 1 June 2016.

Conclusion

10. The Central Government announced in 2011 to basically achieve liberalisation of trade in services in the Mainland for Hong Kong by the end of the National 12th Five-Year Plan period. The Guangdong Agreement signed in 2014 achieved this goal in advance in Guangdong in the form of early and pilot implementation and it was the first free trade agreement drawn up by the Mainland with pre-establishment national treatment and in the form of negative list. On the basis of the Guangdong Agreement, the Agreement further enhances the liberalisation in both breadth and depth, including extending the implementation of the majority of Guangdong pilot liberalisation measures to the whole Mainland; reducing the restrictive measures in the negative list; and adding 28 liberalisation measures in the positive lists for cross-border services as well as cultural and telecommunications services. The Agreement will basically achieve liberalisation of trade in services between the Mainland and Hong Kong, enabling both sides to reach a new milestone after the continuous liberalisation of trade in services through CEPA over the years.

11. Hong Kong's favourable position to enjoy the most preferential liberalisation measures of the Mainland is assured by the "Most-Favoured Treatment" provision of the Agreement which specifies that any

preferential treatment the Mainland accorded to other countries or regions, if more preferential than those under CEPA, will be extended to Hong Kong.

PUBLIC CONSULTATION

12. HKSARG attaches great importance to the views of the trade. We have been in close communication with the trade, reflecting their views and demands to the Mainland as appropriate in seeking further liberalisation of the Mainland market for Hong Kong. A CEPA forum was held in Hong Kong on 21 January 2016 to familiarise the trade with the liberalisation measures and implementation arrangements for trade in services under the Agreement. In future we will continue to closely communicate with the trade in pursuance of the effective implementation of the measures under the Agreement as well as for the purpose of exploring with the Mainland more liberalisation and trade and investment facilitating measures.

PUBLICITY

13. A media briefing was held by the relevant bureaux and departments right after the signing of the Agreement 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.

ADVICE SOUGHT

14. Members are invited to note the progress on further liberalisation of trade in services under CEPA.

Commerce and Economic Development Bureau
Trade and Industry Department
28 January 2016

Examples of Specific Liberalisation Measures in the Agreement on Trade in Services

Services Sectors	Liberalisation Measures
Legal	<ul style="list-style-type: none">➤ Hong Kong law firms may second Hong Kong lawyers to Mainland law firms to act as consultants on Hong Kong law or cross-border laws.➤ Mainland law firms may second Mainland lawyers to representative offices of Hong Kong law firms in the Mainland to act as consultants on Mainland law.➤ Hong Kong law firms may operate in association in the form of partnership with Mainland law firms in Guangzhou, Shenzhen and Zhuhai.
Accounting	<ul style="list-style-type: none">➤ Hong Kong permanent residents who have obtained the Chinese Certified Public Accountants (CPAs) qualification can be partners of partnership accounting firms in the Mainland, while the Mainland residents shall have the right of control over such accounting firms. When Hong Kong permanent residents who have obtained the Chinese CPAs qualification apply to become partners of accounting firms in the Mainland, 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. Hong Kong permanent residents who are partners of these accounting firms are required to maintain a place of residence in the Mainland and reside in the Mainland for not less than six months every year.

Services Sectors	Liberalisation Measures
Construction, Design and Urban Planning	<ul style="list-style-type: none"> ➤ To expand the pilot scheme of allowing Hong Kong professionals who have obtained Mainland's various construction-related qualifications, including Urban Planner, Supervision Engineer, etc. to register and practise, from Guangdong to Guangxi and Fujian.
Insurance	<ul style="list-style-type: none"> ➤ To encourage Mainland insurance companies to cede their business to Hong Kong insurance or reinsurance companies with RMB as the settlement currency. ➤ To allow Hong Kong insurance brokerage companies to set up wholly-owned insurance agency companies in the Mainland, by fulfilling the same criteria as setting up wholly-owned insurance agency companies in Guangdong (including Shenzhen) at present.
Securities	<ul style="list-style-type: none"> ➤ The “participation in one and holding of one” principle is applicable to the number of Mainland-Hong Kong joint venture securities / securities investment advisory / futures companies that are allowed to be invested in through shareholding acquisition by Hong Kong-funded financial institutions. ➤ To explore ways to promote qualified Hong Kong companies to issue RMB bonds in the Mainland stock exchanges.
Banking	<ul style="list-style-type: none"> ➤ To remove the requirement of minimum years of operation for foreign-funded bank operating institutions established by Hong Kong banks in the Mainland to conduct RMB business. ➤ To harmonise in principle the scope of business that can be conducted by foreign-

Services Sectors	Liberalisation Measures
	<p>funded locally-incorporated banks established by Hong Kong banks in the Mainland with that of Mainland commercial banks.</p>
Transport	<ul style="list-style-type: none"> ➤ To allow Hong Kong airlines to sell tickets and hotel packages in their offices in the Mainland or through their official websites, without engaging Mainland sales agents. ➤ To allow the provision of ground services for air transport in the form of wholly-owned operations, excluding security-related projects.
Telecommunications	<ul style="list-style-type: none"> ➤ To allow Hong Kong service suppliers to set up equity joint venture or wholly-owned enterprise in the Mainland to provide the online data processing and transaction processing services (confined to e-commerce business websites only), multi-party communications services in the Mainland, store and forward services, call centre services, Internet access services (confined to provide Internet access services to users) and content services (confined to application stores). There is no restriction on the proportion of Hong Kong capital in the shareholding.
Culture and Entertainment	<ul style="list-style-type: none"> ➤ For the same Hong Kong service supplier which opens more than 30 stores accumulatively in the Mainland, if the commodities for sale include books, newspapers and magazines, and the above commodities are of different brands and come from different suppliers, the Hong Kong service supplier is allowed to operate on a wholly-owned or equity joint venture basis.

Services Sectors	Liberalisation Measures
	<ul style="list-style-type: none">➤ To allow setting up of wholly-owned entertainment premises in Guangdong.➤ To allow Hong Kong service suppliers to engage in the sales services of amusement game equipment in the Mainland.
Audiovisual	<ul style="list-style-type: none">➤ Chinese language motion pictures produced in Hong Kong and solely imported through the China Film Group Corporation may be distributed in the Mainland by distributors possessing “Operation Licence for Film Distribution” on a quota-free basis, after vetting and approval by the relevant Mainland authority.➤ To allow the dialect version of motion pictures produced by Hong Kong and solely imported by the China Film Group Corporation to be distributed in the Mainland by distributors possessing “Operation Licence for Film Distribution”, after being examined by and obtaining the approval of the relevant authorities in the Mainland, on the condition that standard Chinese subtitles are provided on screen.
Individually Owned Stores	<ul style="list-style-type: none">➤ For individually owned stores set up in the Mainland by Hong Kong permanent residents with Chinese citizenship, the scope of business has included five additional items: wholesale of food and beverage; general guesthouses; other accommodation services; real estate intermediary services; and operation of activities with individually owned real estates.