

Frequently Asked Questions

General

Trade in Services

1. How to obtain information about seeking CEPA preferential treatments from the Mainland, such as application procedures and requirements?

Trade and Industry Department (TID) provides relevant information and advisory services. TID, in collaboration with other bureaux/departments, collates the following reference materials and disseminates them to the trade via its CEPA website (www.tid.gov.hk/english/cepa/):

- (i) Mainland's general laws and regulations on trade and commerce
http://www.tid.gov.hk/english/cepa/businessinfo/cepa_reference_authority_laws.html
- (ii) Information Database on CEPA Service Sectors (By Service Sectors)
 - Mainland's laws and regulations
 - Information on the respective approving authorities in the Mainland
 - Easy Guide to Investment in CEPA Service Sectors
http://www.tid.gov.hk/english/cepa/tradeservices/trade_services_requirement.html
- (iii) Information Database on CEPA Service Sectors (By Province/Municipality)
 - Hyperlinks with around 170 government websites in the Mainland containing CEPA-related information
http://www.tid.gov.hk/english/cepa/businessinfo/cepa_business.html
- (iv) Information about agreements on mutual recognition of professional qualification concluded under CEPA
<http://www.tid.gov.hk/english/cepa/mutual/mutual.html>
- (v) Frequently asked questions (FAQs)
http://www.tid.gov.hk/english/cepa/overview_faq.html

The trade may make enquiries with TID direct [tel: 2398 5667; email: cepa@tid.gov.hk].

2. Is there information about the implementation of CEPA at the provincial/municipal level on services trade?

Some provincial/municipal governments in the Mainland have put in place facilitating measures for CEPA. For instance, the Guangdong Province, the Beijing Municipality and the Shanghai Municipality have adopted specific trade and investment facilitative measures, including the setting up of CEPA enquiry point, provision of one-stop service and CEPA green channel etc. TID's CEPA website has established hyperlinks to around 170 government websites in the Mainland (http://www.tid.gov.hk/english/cepa/businessinfo/cepa_business.html), including CEPA-related websites of various provincial/municipal governments. Interested parties can use these hyperlinks to visit relevant Mainland websites.

Moreover, HKSAR Government jointly organized CEPA seminars with the Mainland authorities, which aimed to enhance the understanding of the trade on the procedures and requirements for setting up business in the Mainland under CEPA. Information distributed in the seminars can be retrieved at TID's CEPA website (http://www.tid.gov.hk/english/cepa/businessinfo/cepa_reference.html).

3. Is there any channel for companies seeking help from the HKSAR Government if they encounter problems in setting up business in the Mainland under CEPA?

Hong Kong companies or individuals encountering difficulties in setting up operations in the Mainland using CEPA benefits may approach the Trade and Industry Department, Office of the HKSAR Government in Beijing, the Economic and Trade Offices in the Mainland (Guangdong, Shanghai and Chengdu), or the relevant bureaux and departments for assistance. They may also refer their cases to the HKSAR Government through business associations. The HKSAR Government will render assistance to the businesses according to the nature of the problems involved.

Certification of Hong Kong Service Suppliers (HKSS)

1. What are the eligibility criteria for "Hong Kong Service

Suppliers"?

Generally speaking, "juridical persons" (法人) including companies, partnership and sole proprietorship, as well as "natural persons" (自然人), will be able to enjoy CEPA benefits provided that they fulfill the conditions stipulated in Annex 5 to CEPA and Supplements to CEPA. Unless otherwise specified in CEPA, a "natural person" means a permanent resident of the HKSAR whereas a "juridical person" means any legal entity duly constituted or otherwise organized under the applicable laws of Hong Kong and has engaged in substantive business operations in Hong Kong for three to five years.

2. Under Supplement VIII to CEPA, the definition of “Hong Kong Service Supplier” has been relaxed. What does it entail and when will it be implemented?

Under Supplement VIII to CEPA, the Mainland and Hong Kong have agreed to lift the requirement on “the nature and scope of the services provided by a Hong Kong service supplier in Hong Kong should encompass the nature and scope of the services it intends to provide in the Mainland” as set out in Article 3.1.2(1) of Annex 5 to CEPA. The definition of “Service Supplier” and related requirements will be amended as follows:-

1. To amend Article 3.1.2.(1) as:
“The nature and scope of the services provided in Hong Kong by a Hong Kong service supplier who intends to provide services in the Mainland should meet the requirements in Annex 4 and this Annex, and any restrictive requirements applicable to the nature and scope of the business of foreign investment entities in the laws, regulations and administrative regulations of the Mainland shall apply.”
2. To amend Article 6.1.1.(7) as:
“Original or copy of other relevant document(s) substantiating that the Hong Kong service provider engages in substantive business operations in Hong Kong, such as licences, permits, or confirmation letters issued by relevant authorities or bodies in Hong Kong relevant to the nature and scope of business in Hong Kong as required by the laws of Hong Kong, Annex 4 or this Annex.”

The above amendments will be implemented with effect from 1 April 2012.

3. What are the benefits arising from the relaxation in the definition of “Hong Kong service supplier”

Service suppliers in Hong Kong will benefit from the relaxation in the definition of “Hong Kong service supplier” in the following ways –

1. Scope of Services

Currently only service suppliers providing services in Hong Kong which fall under the 44 service sectors covered by CEPA can apply for a HKSS Certificate. With the relaxation in the definition of “Hong Kong service supplier” which will take effect from 1 April 2012, service suppliers in Hong Kong who are providing services outside service sectors covered by CEPA may also apply for the HKSS Certificate provided that they can meet the necessary requirements.

With the implementation of Supplement VIII of CEPA, the total number of service sectors covered by CEPA will be 47. With effect from 1 April 2012, applicants will declare the scope of the services they are currently providing in Hong Kong which will be shown on the HKSS Certificate. If the service currently provided by the applicant falls outside the 47 service sectors covered by CEPA, the applicant may choose one of the following service sectors to be declared in their application forms –

- services related to agriculture, forestry and fishing;
- administrative and support services;
- education services; and
- personal, pet and household services.

2. Enjoy CEPA benefits in the Mainland not limited to services currently engaged in Hong Kong

Under the present arrangements, holders of HKSS Certificates can only apply for CEPA benefits in the Mainland for the service sector it is currently engaged in Hong Kong.

With effect from 1 April 2012, holders of HKSS Certificates can apply to the Mainland authorities to enjoy CEPA benefits available

in service sectors not limited to the service sector it is currently engaged in Hong Kong. As with the current requirements, all applications are subject to the verification by the Mainland authorities and should meet with the requirements laid down in CEPA and its Supplements as well as the laws, regulations and administrative regulations of the Mainland.

3. Documentary requirements for HKSS Certificate Applications

With the relaxation, applicants in most service sectors are required to provide documents to substantiate that it has been engaging in substantive business operations (SBO) in Hong Kong for at least 3 or 5 years and relevant licence, permit required by the laws of Hong Kong. There are certain service sectors where documentary requirements continue to apply due to requirements specified in Annex 5 of CEPA.

4. **Can I use the HKSS Certificate issued on or before 31 March 2012 to apply to the Mainland authorities for the CEPA benefits?**

As the HKSS Certificate carries a validity period of two years, HKSS Certificates issued on or before 31 March 2012 and have not reached the expiry date can be used to apply for preferential treatment under CEPA in the Mainland.

As in the case of all HKSS Certificates, whether they are issued before or after 1 April 2012, after obtaining the HKSS Certificate, the Hong Kong service supplier can apply to the relevant Mainland authorities for enjoyment of CEPA benefits. Pursuant to the powers conferred under Mainland laws and regulations, the Mainland examining authorities, in examining the application for the CEPA benefits, shall at the same time verify the qualifications of the holder of the HKSS Certificate.