

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

**SIGNING OF AGREEMENT BETWEEN THE MAINLAND AND
HONG KONG ON ACHIEVING BASIC LIBERALISATION OF
TRADE IN SERVICES IN GUANGDONG IN 2014**

INTRODUCTION

A new agreement signed on 18 December 2014 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. Details are set out below.

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 in 2013, 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 December 2014, 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 supply¹. 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-sectors². Except for those inconsistent/inapplicable measures reserved as well as the horizontal management measures, the Mainland will not impose any particular restrictions for eligible Hong Kong service suppliers in Guangdong Province in terms of market access requirement, i.e. they can enjoy the

¹ 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”.

² According to the World Trade Organization's services classification system, there are 160 services sub-sectors under trade in services.

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 in 2014 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 in 2015.

ENQUIRIES

11. For enquiries on issues related to CEPA, please contact the relevant sections in the Trade and Industry Department with details listed below:

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