

Overview: CEPA's Advantages and Constraints and the CEPA VI Supplement

Norman Leung
Legal Director
Pinsent Masons

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Overview : History and Policy Objectives

- Why has there been a lack of interest?
 - May not be aware of history / policy
 - May see CEPA VI in isolation
 - Incremental benefits
- Historically a Regional Trade Agreement to protect Hong Kong small and medium sized enterprises against China's entry into the WTO
 - Not designed for foreign businesses
 - Must fulfil Hong Kong Service Supplier requirements

Hong Kong Service Supplier Requirements

- Incorporated or established in Hong Kong
- Obtained any relevant licenses
- Nature and scope of Hong Kong services encompasses those to be provided on the Mainland
- Pays Hong Kong profit tax
- 3-5 years substantive business operation in Hong Kong
- Leases or owns business premises in Hong Kong in line with scope of business
- 50% of Hong Kong staff are Hong Kong residents without limit of stay
- If more than 50% of a Hong Kong Company is purchased, Company must continue business for 1 year before it can be a Hong Kong Service Supplier
- **Procedure:** Apply to the TID for a Hong Kong Service Supplier Certificate

CEPA VI Advantages: Trade in Services

- Despite these constraints there are many benefits:
 - The purpose of CEPA has always been to offer Hong Kong Service Suppliers first mover benefits
 - In some sectors (e.g. advertising) CEPA offers no additional benefits beyond the WTO commitments. However, in a number of sectors, CEPA provides WTO-plus benefits
 - Despite China having complied with its WTO commitments on paper, other barriers remain which CEPA may help address

CEPA VI Advantages: Trade in Services

- To take advantage of these benefits you must:
 - Identify the problems your business faces in the PRC (not just under the WTO accession documents, but in terms of practical difficulties)
 - Track the benefits your sector has/may enjoy under CEPA
 - Plan ahead
- An example of how CEPA benefits may be tracked:
 - Banking and Finance

CEPA Banking and Finance - Advantages

Trends in Implementation

- CEPA – [2004] lowered capital requirements and entry requirements for Hong Kong Banks
- CEPA II – [2006] allowed Hong Kong Banks to provide insurance agency business
- CEPA III – [2007] effectively lowered level of operating capital required for RMB Business
- CEPA IV – [2007] lowered capital requirements for investment in PRC banks
- CEPA V – [2008] allowed PRC-incorporated Hong Kong banks to locate data centers in Hong Kong
- CEPA VI – [2009] allows Hong Kong banks to establish “cross-regional” branches in Guangdong

CEPA Banking and Finance - Advantages

WTO

BRANCH SET UP

- Total Assets: US \$20 billion
- Representative Office in China for 2 years

JOINT VENTURES

- Total Assets: US \$10 billion
- Requires a representative office on the Mainland

CEPA 2004

BRANCH SET UP

- Total Assets: US \$6 billion
- No need for Representative Office

JOINT VENTURES

- Total Assets: US \$6 billion
- No need for a representative office on the Mainland

EXAMPLES:

- In March 2004 Wing Lung Bank set up a branch in Shenzhen under CEPA
- Citibank Hong Kong Branch became Citibank (Hong Kong) Ltd. in 2004 to take advantage of CEPA

CEPA Banking and Finance - Advantages

WTO

RMB BUSINESS

- Three years business operation in China
- Individual applicant profitable for two consecutive years

CEPA 2004

RMB BUSINESS

- Two years business operation in China

CEPA Banking and Finance - Advantages

WTO

ADDITIONAL

- No similar provisions

CEPA 2006

ADDITIONAL

- PRC branches of Hong Kong banks can conduct insurance agency business

CEPA Banking and Finance - Advantages

WTO

RMB BUSINESS

- No similar provisions

INVESTMENT

- To invest in a Chinese Commercial Bank - Total Assets: US \$ 10 billion

CEPA 2007

RMB BUSINESS

- Allows consideration of all China branches to determine if the criteria of profitability is satisfied on average

INVESTMENT

- To invest in a Chinese Commercial Bank - Total Assets: US \$ 6 billion

BRANCH SET UP

- “Priority” in opening branches in Guangdong, central-western and north-eastern China

CEPA Banking and Finance - Advantages

WTO

BRANCH SET UP

- Sub-branches can be set up if there is already a regional branch
- Cost to set up branch in Guangdong RMB 100 m.

CEPA 2009

BRANCH SET UP

- Allows “cross-location” sub-branches in Guangdong
- Cost to set up sub-branch: RMB 10 m.
- “Priority” in opening branches in Guangdong, central-western and north-eastern China

Predicting the Future

- Tracking the cumulative benefits of CEPA will show trends in what type of advantages are provided
- Important to also look ahead at what advantages are foreshadowed by the relevant policy documents:
 - Hong Kong General Chamber of Commerce advisory documents
 - Outline of the Plan for the Reform and Development of the Pearl River Delta
- E.g. The HKGCC has advised that, for CEPA VII:
 - the approval process for bank branches should be expedited
 - Hong Kong deposit-taking services should be allowed to set up business operations in the PRC

Pearl River Delta Plan

- The Pearl River Delta Plan
 - Foreshadows more exciting developments
 - Automobile
 - Aircraft
 - Iron and Steel Base
- 2012: Service trade to make up 20% of the total volume of imports and exports for Guangdong
 - 2020: increase to 40%

Planning and Analysis

Accounting	Construction and real estate	Individually owned stores	Mining	Professional qualification exams	Sporting
Advertising	Conventions and exhibitions	Information technology	Management Consulting	Public utility	Storage and warehousing
Air Transport	Cultural entertainment	Insurance	Market research	Rail Transport	Tele-communications
Audio-visual	Distribution	Job intermediary	Medical and dental	Research & Development	Tourism
Banking	Social services for Elderly/Disabled	Job referral agency	Patent Agency	Scientific and technical consulting	Trade mark agency
Building cleaning	Environmental	Legal	Photographic	Securities	Translation & Interpretation
Computer and related services	Freight Forwarding Agency	Logistics	Printing	Management consulting / project management	Transport (road & sea)

Key :



indicates Guangdong pilot and implementation measures under CEPA VI

CEPA VI – Conclusions I

- There are currently many benefits available under CEPA
 - Particularly in

Banking

Rail Transport

Telecommunications

Construction / real estate Transport (road & sea)

Public Utility Securities

- More benefits to come
- But, there are procedures and constraints
- These can be overcome if you:
 - Track the benefits of CEPA
 - Plan ahead

CEPA VI – Conclusions II

- What to take home:
 - Identify the issues
 - Predict the future
 - Be prepared

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