

Interpretation of the essential content of “Supplement X to CEPA”

1. What are the highlights of Supplement X to CEPA?

Highlights of Supplement X to CEPA include:

- For Trade in Services, the market access conditions of 28 service sectors will be further relaxed. At the same time, liberalization measures in duplicating services and after-death facilities services will be introduced, bringing the total number of liberalization measures to 383;
- Under 26 service sectors, the definition of “contractual service providers” is applicable to Macao service suppliers. They are allowed to provide temporary services in the Mainland in the mode of movement of natural persons;
- The role of Guangdong in the area of the Early and Pilot measures will continue to be strengthened. New content will be added to the sectors of legal, technical testing and analysis services, placement and supply services of personnel, social services, maritime transport and road transport, etc., so as to give impetus to full liberalization of Trade in Services. For example, to expand the scope of testing services for the purpose of certification that can be undertaken by Macao testing organizations from food stuff to other areas of voluntary product certification; to remove the restriction on the year of experience required for Macao service suppliers to set up job intermediaries in Guangdong Province; to allow Macao service suppliers to operate elderly service agencies in the mode of wholly-owned private non-enterprises units to provide home care services for the elderly in Guangdong Province and; to delegate the approval authorization in respect of establishment and operation of transport services in Guangdong Province and remove the project establishment requirement;
- For cross-border supply, Macao service suppliers are allowed to provide hospital, sporting and air transport (sales and marketing services for air transport services) in the Mainland, bringing the number of service sectors which allow Macao service suppliers to provide services in the Mainland in the mode of cross-border supply to 6.

2. What is a “contractual service provider”?

According to the stipulation under Supplement X to CEPA, a “contractual service provider” refers to a natural person who holds a Macao Special Administrative Region identity document and enters the Mainland to provide temporary service for the performance of the service contract(s) secured in the Mainland by his/her employer. His/her employer should be a Macao service supplier without commercial presence in the Mainland. The remuneration of a contractual service provider during his/her stay in the Mainland will be borne by the employer. The contractual service provider should possess academic qualification and technical (professional) qualification relevant to the services provided. During his/her stay in the Mainland, the contractual service provider cannot involve in any service activities irrelevant to the contract.

In brief, an employee who holds a Macao Special Administrative Region identity document, as long as he/she possesses academic qualification and technical (professional) qualification relevant to the services provided, can provide temporary service for the performance of the service contract, and he/she needs not apply for the “employment card” in the Mainland.

3. What is “movement of natural persons”?

According to the four ways through which services can be supplied internationally as stated in the stipulations of WTO, the movement of natural persons is known as “Mode 4”. It consists of natural persons (service suppliers) of one Member entering the territory of another Member to supply services, such as an expert professor teaching in a foreign country, providing technical consultation and guidance, or an artist providing cultural and recreational services in a foreign country.

4. Under which service sectors in CEPA, could the contractual service providers assist the Macao service suppliers to provide related services in the Mainland?

As stipulated in CEPA, contractual service providers employed by Macao service suppliers, in the mode of movement of natural persons, are allowed to provide related services in the Mainland under 26 sectors, namely:

- (1) Professional architectural services, (2) Computer and related services, (3)

Real estate services, (4) Technical testing and analysis services, (5) Building-cleaning services, (6) Photographic services, (7) Printing services, (8) Convention services and exhibition services, (9) Duplicating services, (10) Translation and interpretation services, (11) Telecommunications services, (12) Audiovisual services, (13) Construction and related engineering services, (14) Distribution services, (15) Environmental services, (16) Hospital services, (17) Social services, (18) Tourism services, (19) Cultural services, (20) Sporting services, (21) Maritime transport services, (22) Air Transport services, (23) Road transport services, (24) Freight forwarding agency services, (25) Trade mark agency, (26) After-death services facilities.

5. What is the specific liberalization content to continue strengthening the role of Guangdong in the area of the Early and Pilot measures?

To further liberalize the existing commitments, and continue with the Early and Pilot measures in Guangdong, new content will be added to the sectors of legal, technical testing and analysis services, placement and supply services of personnel, social services, maritime transport and road transport, etc., which includes:

To allow Mainland lawyers to work as consultants on Mainland law in representative offices set up by Macao law firms in Guangdong Province

- As a pilot measure in Guangdong Province, to allow Macao law firms and Guangdong law firms to enter into agreement under which Guangdong law firms may second Mainland lawyers to work as consultants on Mainland law in representative offices set up by Macao law firms in Guangdong Province.

To expand the scope of testing services for the purpose of certification that can be undertaken by Macao testing organizations to other voluntary products

- To expand, on a pilot basis in Guangdong Province, the scope of testing services for the purpose of certification that can be undertaken by Macao testing organizations from food stuff to other areas of voluntary product certification.

To remove the restriction on the year of experience required for job intermediaries

- To remove the restriction on the year of experience required for Macao service suppliers to set up job intermediaries in Guangdong Province.

To allow to set up joint venture enterprises to provide online data processing and transaction processing services (confine to e-commerce business websites only)

- To allow Macao service suppliers to set up joint venture enterprises in Guangdong Province to provide online data processing and transaction processing services. Macao service suppliers' shareholding should not exceed 55%.

To allow to set up elderly service agencies

- To allow Macao service suppliers to operate elderly service agencies in the mode of wholly-owned private non-enterprises units to provide home care services for the elderly in Guangdong Province

To delegate approval authorization of certain transport services

- The registration of Macao service suppliers for the establishment of foreign-invested enterprises engaging in international maritime container station, container yard services, and international cargo warehousing services in Guangdong Province is delegated to the transport authorities of prefecture-level or above in Guangdong Province.
- To delegate to the transport authorities of Guangdong Province to approve applications for general water cargo transportation between Macao and Guangdong Province, as well as applications of shipping liners engaging in waterborne transportation between Macao and Guangdong Province for changing relevant records of ships.
- The registration of foreign-invested enterprises operating international ship management services established by Macao service suppliers in Guangdong Province is delegated to the transport authorities of Guangdong Province;

To remove the project establishment requirement for road freight transport and motor vehicle repair services

- To remove the project establishment requirement for Macao service suppliers in respect of their investment in the road freight transport and motor vehicle repair services in Guangdong Province. Such applications would be processed and approved in accordance with the existing national laws and regulations.

6. What are “duplicating services”?

With reference to CPC, United Nations Provisional Central Product Classification, duplicating services (CPC87904) are blue printing, photocopying, mimeographing, photostating, and other duplication services other than printing.

However, Macao service suppliers which provide duplicating services in the Mainland have to comply with the rules and regulations of related services in the Mainland, and could only start the business after getting the approval of operation.

7. What is the scope of business allowed under liberalization of “after-death facilities”?

The newly added liberalization content of after-death facilities services is to allow Macao service suppliers on a wholly-owned or equity joint venture basis to invest in and operate funeral facilities (excluding crematorium) and human ashes storage facilities in the Mainland.

8. What is “cross-border supply”?

Cross-border supply refers to the first of the four ways through which services can be supplied internationally as stated in the stipulations of WTO (Mode 1). It is when a service is supplied from the territory of one Member into the territory of any other Member. Service buyers and service suppliers both stay within their own territory, for example, provision of freight forwarding agency services, or consultation services provided through network or telephone.