

2019/CTI/WKSP4/011

Session: I

## Scheduling Approaches in Free Trade Agreements – Hong Kong, China's Experience

Submitted by: Hong Kong, China



Workshop on Optimizing Investment Measures in the Asia-Pacific Region Shanghai, China 11-12 April 2019

## Scheduling Approaches in Free Trade Agreements – Hong Kong, China's Experience

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# Interface between Investment and Trade in Services

- Traditional Investment Promotion and Protection Agreements (IPPAs) or Bilateral Investment Treaties (BIT)
  - Scope: trade in services covered?
  - Obligations: liberalisation (market access) covered?
- Overlapping of IPPA and trade in services under free trade agreements (FTAs).
- Recent FTAs tackle such interface issues within the agreements, e.g. the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

## Four Modes of Supply of Services

- Mode 1: cross-border supply
- Mode 2: consumption abroad
- Mode 3 : commercial presence Investment
- Mode 4: presence of natural persons

#### Hong Kong, China's Experience

- In the following presentation:
  - Share Hong Kong, China's experience in the different scheduling approaches for specific commitments in FTAs which cover the liberalisation of investment with respect to commercial presence.

## **Key Features of HKC's FTAs**

#### **Examples of Elements in Hong Kong, China's FTAs -**

Goods	Services / Others	Horizontal Issues
<ul> <li>Trade in Goods</li> <li>Rules of Origin and Origin Procedures</li> <li>etc.</li> </ul>	<ul> <li>Cross-Border Trade in Services</li> <li>Establishment</li> <li>Financial Services</li> <li>Movement of Natural Persons</li> <li>etc.</li> </ul>	<ul> <li>General Definitions</li> <li>Transparency</li> <li>Institutional Provisions</li> <li>Dispute Settlement</li> <li>General Provisions and Exceptions</li> <li>etc.</li> </ul>

### Scheduling Approaches for Specific Commitments

- Positive GATS type
- Negative NAFTA type
- Hybrid combination

- Positive Listing HKC's FTAs with:
  - > ASEAN
  - > Chile
  - > Georgia
  - > Macao

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Other Shimmen Services Advertising services (CPC E71)	None     None     None     None     Unbound except as indicated in Horizontal Commutatorits	None     None     None     None     Unbound except as indicated in Historical Commitments	
Market research and public openion polling services (CPC 864)	Unbound     None     None     Unbound except as indicated in Horizontal Commitments.	Unbound     Unbound     None     Unbound except as indicated in Horizontal Commutatorists	
Management countling services (CPC 865)	None     None     None     Unbound except as indicated in Horizontal Commitments.	None     None     None     None     None     None     Unbound energy as indicated in Horizontal Commitments	
Services related to management committing (CPC 886)	Noise     Noise     Noise     Noise     Noise     Usbound except as indicated in Horizontal Commitments.	None     None     None     None     None     Horspootsl Commitments	
Technical testing and midyos services (CPC 8676)	None     None     None     None     None     Unbound except as indicated in Horizontal Commitments	None     None     None     None     Unbound encept as indicated in Hestzontal Commitments	
Services sacidental to agriculture and forestry diese are familied to the provision	None     None     None     None     None     None     None	None     None     None     None     None     None     None	

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Extract from HKC-Chile FTA

- Negative Listing HKC's FTAs with:
  - Australia (except financial services)
  - Member States of the European Free Trade Association (EFTA)
  - New Zealand

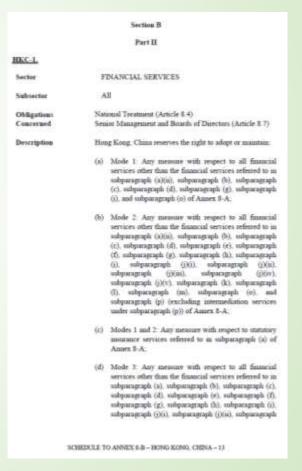
I-HKC-2		
Sector	BUSINESS SERVICES Professional Services	
Industry Classification	CPC 8671 Architectural services	
Obligations Concerned	National Treatment (Articles 7.4 and 12.4) Local Presence (Article 7.5)	
Measures	Section 13 of the Architects Registration Ordinance (Cap. 408)	
Description	Cross-Border Trade in Services, and Establishment and Related Provisions	
	To be registered as a Registered Architect, a person has to have one year's relevant experience in Hong Kong, China before the date of his or her application for registration; and to be ordinarily resident in Hong Kong, China.	



- Negative Listing Features:
  - Annex I existing non-conforming measures (NCMs)
    - subject to ratchet
  - Annex II reservations
    - liberalised or not in the applied regime

- Hybrid Listing HKC's FTA with:
  - Australia (financial services)

Modes of supply: 1) Mode	1 2) Mode 2	3) Mode 3
Sector or subsector	Terms, limitatious and conditions in relation to Article 8.3 (Market Access)	Existing non-conforming measures not subject to Article 8.4 (National Treatment), Article 8.5 (Most-Favoured- Nation Treatment) or Article 8.7 (Senior Management and Boards of Directors)
	Section A	Section B - Part I
SECTOR-SPECIFIC COMM	HTMENTS	
Insurance and Insurance-rela	ded Services	
(a) direct insurance (including co-insurance); (i) life (ii) non-life	None other than that statutory insurances must be purchased from an insurer authorised in Hong Kong, China.     None other than that statutory	Obligations Concerned: National Treatment (Mode 3) (Article 8.4) Senior Management and Boards of Directors (Article 8.7)
	insurances must be purchased from an insurer authorised in Hong Kong. China.	Measures: Paragraph 3.5(a) of the Authorization Guideline (GE1 published by the Insurance Authority.
	None other than that only an incorporated company authorised by the Insurance Authority (IA) or an association of underwriters approved by	Description: The chief executive appointed by the authorised insurer shall normally reside in Hong Kong. China.



- Hybrid Listing Features:
  - Section A: MA positively scheduled
  - Section B Part I: existing NCMs
    - subject to ratchet
  - Section B Part II: reservations
    - liberalised or not in the applied regime

## Scheduling Approaches for Specific Commitments

- Irrespective of scheduling approaches and their different presentations, all are capable of making commitments of high quality.
- In the end, it is the ambition level of an FTA party which is the most critical.

## Thank you

