

A Study on the Korea-China FTA Service Negotiation Strategies: Focused on the Implications from China-Hong Kong CEPA Service Concessions

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1. China-Hong Kong CEPA and Korea-China FTA

In the Closer Economic Partnership Arrangement (CEPA) between China and Hong Kong, broad arrays of concessions have been made in many service sectors. China has employed gradual opening strategy in CEPA as it opened each service sector in phase-by-phase negotiations in annual supplementary agreements. This service negotiation result shows the highest level of openness in service concessions China is ready to accept. The Arrangement thus deserves a thorough analysis before starting the service negotiations of the Korea-China Free Trade

Agreement (FTA). This study analyzes China's service concessions under the General Agreement on Trade in Services (GATS), as well as the service concessions included in the FTAs that China has signed so far, including the CEPA with Hong Kong. The objective is to determine the extent to which the Chinese service sector is opened and to derive implications for the Korea-China FTA negotiations over services.

The Chinese government maintains that the level of openness seen in the CEPA is exceptional and applies only to Hong Kong.

Nevertheless, the Chinese government showed a similar extent of openness in the Early Harvest Program (EHP) of Economic Cooperation Framework Agreement (ECFA) it signed with Taiwan. The fact that the Chinese government was willing to open up its service sector to Taiwan—which has consistently claimed national autonomy and is a member of the World Trade Organization (WTO) on its own rights—implies that it is feasible for China to make similar concessions in FTA negotiations with other countries as well.

2. Negotiation Process and Features of the China-Hong Kong CEPA

A. Annual Supplementary Agreements

The initial concept of China-Hong Kong CEPA was built on the basis of a “Pseudo Free Trade Zone” that Donald Tsang, then Chief Secretary for Administration of Hong Kong, submitted to the central Chinese government in November 2001. Official negotiations began in early 2002 under the central government’s instruction and lasted for one and a half years until the CEPA agreement was finally signed in June 2003. Under Article 3 of the CEPA, both parties agreed to expand the scope of the Arrangement’s application on an incremental basis by signing a supplementary agreement each year. Nine supplementary agreements have been signed so far. The latest one, CEPA X, was signed on June 29, 2012.

B. Guangdong as the Pilot Basis for the CEPA

Another noteworthy feature of the China-Hong Kong CEPA is that it designates the Province of Guangdong in the vicinity of

Hong Kong as the pilot basis for its implementation. After the pilot implementation in Guangdong turns out to be successful, the regional scope of the implementation has been expanded. The pilot basis measure was first introduced into CEPA VI and has consistently appeared in subsequent supplementary agreements. The latest CEPA X, in particular, included the greatest number of pilot measures and also marked the high percentage of the pilot measures in the total service opening measures. At the same time, it designated major cities as the regions for pilot measures where specific service sectors are focused to be developed as their main industries in Guangdong such as Zhenhai and Hengqin. CEPA X, thus, shows a tendency that the pilot basis implementation that has been comprehensively and broadly applied throughout the province of Guangdong is now gaining greater specificity. Also, that the number of pilot-basis measures has increased with CEPA X can be interpreted as the service opening experiments that are newer and greater in numbers are now available in CEPA as the regional scope for each pilot measure is now narrowed and specified.

Table 1. Number and Percentage of Guangdong Pilot Measures in CEPA

	Total Measures	Pilot Measures	Percentage (%)
CEPA VI	29	17	58.6
CEPA VII	29	9	31.0
CEPA VIII	27	8	29.6
CEPA IX	23	7	30.4
CEPA X	37	16	43.2

Source: counted and tallied up by the authors from each agreement.

C. Comparing the CEPA to the ECFA

Hong Kong is a separate customs territory that holds membership in the WTO, but it is also subject to the authority of the central Chinese government. This one-country-two-systems arrangement gives Hong Kong a significant level of autonomy in the administrative and legislative realms, as well as an independent judiciary authorized to render final decisions within its jurisdiction. The China-Hong Kong CEPA is also registered as a free trade agreement in the WTO. The CEPA, as an agreement involving two members of the WTO that are separate customs territories, forms part of the international law and is subjected to the rules of other WTO agreements. Some, however, argue that the CEPA is not a full international law for a number of reasons. First, it has its legal basis in the one-country-two-systems arrangement between China and Hong Kong. Second, the CEPA, as its name indicates, is an *arrangement* and not an *agreement*. Third, the party signing the Arrangement on behalf of the Chinese government was not the Minister of Commerce but the Deputy Minister of Commerce. Finally, the Arrangement was put into effect without requiring both parties' ratifications, even though ratification, in general, is a key precondition for international agreements to come into effect. These critics argue that the CEPA is more properly seen as an *interinstitutional arrangement* between the central Chinese government and a local government, which seeks to achieve the economic integration of a region with the means and restraints of domestic policies or legislations. The Chinese government thus stresses that both the CEPA and the ECFA form part of the process toward the final merger of Hong Kong and Taiwan with China.

The road to the complete economic and political merger between Hong Kong and China is

still long and winding. Externally, therefore, the China-Hong Kong CEPA still retains its international characteristics. The China-Taiwan ECFA is not subjected to the one-country-two-systems restraint and stands fully as an *intergovernmental* or *interterritorial* agreement signed between two separate and independent customs territories. Although Taiwan lacks full membership in the United Nations, it is still recognized as a sovereign and autonomous state in some international venues. The ECFA, therefore, retains an even stronger international character than the CEPA.

3. China's Service Concessions in the CEPA

The number of service concessions included in other FTAs signed by the Chinese government ranges between 24 and 66. The FTA with the smallest number of service concessions is the first service package of the China-ASEAN FTA, which did not list 34 service concessions included in China's GATS concession. The China-Chile FTA also contains merely 30 service concessions and falls short of the GATS and the Doha Development Agenda (DDA) concessions. The China-Chile FTA, however, makes nine more concessions than those included in DDA service concession, opening up segments of the service sector that were not previously open under the DDA. Therefore, notwithstanding the small number of service concessions it includes, the China-Chile FTA has achieved a progressive level of openness.

Most FTAs involving China as a signatory provides 44–49 service concessions similar to the number of concessions included by the GATS. The China-Chile FTA has the largest number of DDA-plus commitments, followed

Table 2. Number of Service Concessions in China's FTAs with Other countries

	New Zealand	Chile	ASEAN (1)	ASEAN (2)	Singapore (1)	Singapore (2)	Pakistan	Peru	Costa Rica
GATS-	0	33	38	0	0	0	0	0	5
DDA-	5	3	0	0	0	0	0	0	5
GATS	49	16	10	48	48	47	48	49	44
DDA	6	6	12	10	12	10	10	10	3
DDA+	3	9	2	3	3	6	8	4	3
Sum	62	67	62	61	63	63	66	63	62
Included	57	30	24	61	63	63	66	63	52
Sum of DDA and DDA+ commitments	8	14	13	12	14	15	17	13	7
Rank	8	3	6	7	3	2	1	6	9

Note: The words "GATS-" and "DDA-" do not actually appear in any of the agreements. The number of "included" commitments or service concessions equals the "Sum" minus (GATS- + DDA-).

Source: counted and tallied up by the authors from each FTA.

by the China-Pakistan FTA and the second service concessions package of the China-ASEAN FTA. If we take the number of DDA and DDA-plus commitments as an indicator of the level of a service trade agreement's openness, the China-Chile FTA would be the most open one and the China-Costa Rica FTA the least.

If we, on the other hand, take not only the number of DDA and DDA-plus commitments, but also the overall number of service concessions as an indicator to the level of openness of a service trade agreement, the China-Pakistan FTA is the most open one, followed by the second service concessions package of the China-Singapore FTA, the China-Chile FTA, the first service concessions package of the China-Singapore FTA, the China-Peru FTA, the first service concessions package of the China-ASEAN FTA, the China-New Zealand FTA, and the China-Costa Rica FTA, in that order. While the China-New Zealand FTA is often regarded as one of the most progressive and open international trade agreements that the Chinese government has yet signed, the number of the GATS-plus commitments included in it suggests that it is not as open as is commonly perceived when it comes to the list of service sector concessions.

4. Implications of the CEPA for the Korea-China FTA

A. Examples of Designing Service Concessions from China-Hong Kong CEPA

The China-Hong Kong CEPA is important, first, because it provides useful lessons for the Korean government to prepare for the service FTA negotiation with China. Korean negotiators of the FTA with China may first consider adopting the annual supplementary agreements similar to the ones seen in the CEPA to open up the service sectors of Korea and China on an incremental basis. Second, Korean negotiators may also suggest the pilot basis measures similar to the one applied to Guangdong under the CEPA and expand the measures that proved to be successful on the pilot basis to wider scope of regions afterward. B. Strategic Suggestions for the Korea-China FTA Service Negotiation

This study analyzes the service concessions included in the FTAs previously signed by the Chinese government and suggests the effective negotiating strategies and the possible sectors of service concessions based on such analysis. First, considering the level of openness in the Korea-China FTA, there are four possible negotiating strategies. First, adding a few more service concessions to those of WTO or increasing

the liberalized measures in already opened sectors to a slightly greater extent. The second strategy involves opening up, just like in CEPA, new service sectors which has not listed in the WTO service concessions. The third strategy involves the inclusion of major areas of services (e.g., finance, telecommunication, collaboration over the production of audiovisual media, electronic commerce, and government procurements) into the agreement as a chapter basis, as Korea has attempted in its FTAs with the United States and Singapore and Comprehensive Economic Partnership Agreement with India. The fourth involves complete negative list of service concessions. The first strategy, if chosen, would merely amount to a WTO-plus service agreement not much distinguished from the service agreements that other states have sought to negotiate with China. The chances of adopting the fourth strategy of complete negative concessions are quite slim. The possible strategies are listed here in the ascending order of openness, and Korea would thus benefit most from the fourth strategy if its goal is to open up the Chinese service sector and take the chance to dominate the Chinese service market in advance. Korean negotiators, however, need to be realistic and keep in mind the fact that the Chinese government included a few GATS-plus commitments in either the updated DDA concessions or other FTA service concession packages.

At present, it would be the most viable option for Korean negotiators to combine elements of the second and third strategies, while angling for gradual and increasing opening of the Chinese service sector in the future. In other words, the Korean government needs to place its negotiating strategy for the service trade agreement with China somewhere between the second and third options.

C. Possible Service Sectors to be Opened in the Korea-China FTA

This study sought to identify possible service sectors likely to be included in the Korea-China FTA based on an analysis of the service concessions in the China-Hong Kong CEPA and other FTAs that China has ever signed. In general, China includes 62–67 service opening measures in each of its trade agreements and even makes attempts to stay within this range of numbers by subtracting certain GATS or DDA commitments from agreements in case of containing relatively larger numbers of DDA or DDA-plus commitments. This tendency indicates that the Chinese government is hesitant to increase the overall number of service concessions in a given trade agreement beyond the mid-60s level. The Korean side can thus improve the prospects of its success by selecting the key areas of services that require concessions and including them in the priorities in service negotiations with China.

Areas of services that the Chinese government has included as DDA or DDA-plus commitments in its FTAs with other states, and has also repeatedly conceded in the supplementary agreements of the CEPA with Hong Kong, are the areas of services that China is likely to be more willing to open up as GATS-plus commitments. These include such areas of professional services as law, architecture, engineering, integrated engineering, urban planning, medicine, and dentistry, as well as computer technology and related areas, research and development, real estate, market research, management consulting, manpower management and supply, science or technology consulting, building maintenance, and printing. Other areas of services that the Chinese government favors as DDA or DDA-plus commitments and has repeatedly opened up in the supplementary agreements for the CEPA, include construction and related engineering, distribution, environ-

mental maintenance, banking, health-related social services, tourism, entertainment and sports, maritime services, aviation and related services, and on-land transportation.

There are also certain areas of services that the Chinese government has not included in the GATS or other FTAs but has included in the CEPA with Hong Kong. These include co-production of films and TV dramas, nursing and care-giving services at convalescent hospitals, and other forms of social services via organizations tending to the recovery of people with disabilities. Considering the rising income level and the aging population of China, the Korean government can benefit by opening up these culture- and aging-related segments of the Chinese service sector early on under its FTA with China. 