

For Discussion

On 11 January 2005

Working Group on Closer IT Partnership with Mainland China

Wish list of CEPA3

According to the normal procedure, the Central Government and the HKSAR Government will start a new round of CEPA discussion in every January. To follow the official's working schedule, members of the working group (WG) agreed to work out a wish list of CEPA 3 as the first deliverable of the WG. The wish list will be submitted to HKSAR government in early 2005.

As discussed at the first WG meeting, the draft of the wish list would include the industry's aspiration raised through the group discussion of the Digital 21 Strategy Workshop held by "IT matters for Hong Kong" on 4 December 2004. Moreover, WG members are also invited to share their business experience on Mainland China market, and give input to the draft wish list tabled at the first meeting.

The relevant input and comments are consolidated as below:

Opportunities

1. Custom applications development / software development projects

- Export of Hong Kong developed applications with substantial and unique value added functions. It is hard to compete with Mainland local-made software on price only.
- Standardization of Mainland subsidiaries' backend applications, such as financial reporting, process-based software programs.
- Other development projects also include web-based applications such as Intranet solution, multimedia, EDI, e-commerce, training, games and information security.

2. E-government projects of Mainland governments

- Export of some HKSAR Government applications to Mainland's local governments via the Hong Kong IT industry for customization and packaging. The prerequisite for opening such opportunity is that HKSAR Government giving up some of its intellectual property rights (IPR).

3. Skillful IT manpower

- Hong Kong IT professionals' added value on skills, such as English capability, international exposure, and management skills can be exported to Mainland.
- 4. IT supports to those Chinese companies expanding in Hong Kong**
 - For example, HKSAR Government may require these Mainland companies seeking IPO in Hong Kong to set up a hosting center here for better business control, hence creating opportunity for local IT industry.
 - 5. Systems and network integration projects**
 - With CEPA II, companies in Hong Kong can render services related to systems integration after obtaining qualification certification in accordance with the provisions of the relevant regulations and rules of the Mainland.
 - 6. Cross borders customers**
 - Provision of tailor-made services to the subsidiaries or branch offices of HK companies, which are located in Mainland.
 - 7. Outsourcing industry**
 - As the Mainland is one of the major players in outsourced software development, more and more projects are outsourced to China independent software vendor (ISV). Currently only 6% of Hong Kong software development is outsourced to Mainland companies, and opportunities for Hong Kong IT industry are arising from joint bidding of overseas / Hong Kong IT projects together with Mainland ISV.

Difficulties

- 1. High cost**
 - Costs of initial investment, Hong Kong developed products and Hong Kong manpower are much higher when compared to Mainland China's.
- 2. Policy uncertainty**
 - Frequent policy changes and cumbersome processes add to the cost of doing business in Mainland China.
- 3. High tax rate**
- 4. Copyrights protection**
 - “Recognition” of IPR amongst Mainland solutions provider varies, thus

partnership are deterred and IP originated from Hong Kong companies being copied and resold easily.

5. Most IT companies are small in size and difficult to compete in opportunities in Mainland China.

6. Decrease in competitive advantage

- Mainland’s IT skills are catching up. Hong Kong has less advantages in competing on skills only.

7. Certification / recognition of qualifications

- Hong Kong service suppliers have to apply for computer information system integration qualification certification in accordance with the provisions of relevant Mainland laws, regulations and rules, which are unfamiliar to Hong Kong, IT companies.

Comments on draft Wish List

Draft list	Comment by members
1. Establishment of Telecom Special Zone	<ul style="list-style-type: none"> ▪ This is not very practical at this stage for the full-fledge implementation of the proposal. ▪ This point should be revised in order to gain a foot-hold first and take more pragmatic approach in achieving the desired end results.
2. Zero import tariff for “Hong Kong-Made Software”	<ul style="list-style-type: none"> ▪ This is certainly one of the most important and practice request to be included in the CEPA 3 agenda for IT.
3. Permanent accreditation agencies be allowed to set up branches offering certification services to help Hong Kong companies bidding for national government procurement projects	<ul style="list-style-type: none"> ▪ This has already been set into motion. There is really no need to beat on it further. ▪ The issue, which remains to be addressed, is the implementation and the continuous refinement of mechanism based on practice.
4. Establish a cross-certification mechanism for IT professionals	<ul style="list-style-type: none"> ▪ Same as above. ▪ This issue should be left to the IT professional bodies. The recognition of such qualification (be it Hong Kong or

	<p>Mainland qualifications) by government and the employers in Hong Kong is the most important.</p> <ul style="list-style-type: none"> ▪ Cross certification of IT professionals in various disciplines.
<p>5. IT talent be allowed to work freely within the PRD – which will require restrictions on taxation, customs and other barriers be eliminated</p>	<ul style="list-style-type: none"> ▪ Please refer to <ol style="list-style-type: none"> 1) proposal submitted to Beijing on the personal income tax issue by Hong Kong Computer Society, and 2) information on tax exemption arrangement published by HKTDC ▪ Based on informed source, this issue will be included in the CEPA3 discussion for all sectors and not just for IT.
<p>6. Set up an arbitration mechanism to help Hong Kong companies settle copyright disputes in Mainland</p>	<ul style="list-style-type: none"> ▪ Such mechanism is already in place. It is not very practical to set up another mechanism for Hong Kong. ▪ Expand collaboration between relevant officials in Hong Kong and Mainland China in the following areas: <ol style="list-style-type: none"> 1) Increasing public awareness of IPR and the importance of respecting IPR 2) Sharing best practices in the development of an effective legal infrastructure for the protection of IPR that is consistent with international standards set forth in TRIPs 3) Strengthening cooperation between enforcement agencies including through greater information sharing on trends in IP-related crime and enforcement best practices and, where possible, through cross-border cooperation in the investigation and prosecution of IP-related offenses. Consideration should be given to the formation of a cross-border enforcement task force comprised of officials from both Hong Kong and the Mainland China. ▪ Expand public/private sector communication and collaboration in the protection of IPR, including through broad reach education campaigns and increased partnership in IP-related enforcement.
<p>7. Allow Hong Kong</p>	<ul style="list-style-type: none"> ▪ It is highly unlikely that such restriction can

<p>business to hold majority shareholding in Mainland-HK joint venture, especially Internet culture business units (Internet Content Providers)</p>	<p>be removed in the near term. In addition, this issue is not just for IT sector but for all culture and media related industries.</p> <ul style="list-style-type: none"> ▪ Currently under the CEPA provision, Hong Kong companies are allowed to set up Sino-foreign JVs with up to 50% shareholding with no geographic restrictions
---	--

Additional input

1. Engaging Hong Kong's IT industry be included in the Mainland China's ICT development

- Lobby for inclusion of Hong Kong in IT and technology development related strategy at national policy level (e.g. State Council), for industries like wireless, electronics, software export, etc.

2. "National treatment" for Hong Kong business

- Lobby for treating Hong Kong companies as Mainland China local companies, not only in terms of tax but also in terms of purchase / procurement preference.

Initiatives should be taken by HKSAR Government in order to develop closer IT partnership with Mainland China

1. Repositioning

- Identify Hong Kong's position on the national ICT roadmap with developing our own domain expertise, and to map out tailor-made marketing strategies for IT industry.

2. Facilitating Hong Kong IT industry to participate in Pan-PRD eGovernment projects

- Promote Hong Kong solutions to Pan-PRD and obtain introduction to Pan-PRD governments for eGovernment work and for (often government-sponsored) enterprise informatization work.
- Share Hong Kong's eGovernment experience with the Mainland authorities.
- Set up company certification scheme.

3. Encouraging Hong Kong developed products in selling into Mainland China

- Other financial support, HKSAR government shall provide more training and services to the industry on how to package, market and open up sales channel in Mainland China market.
- 4. Promoting and exploring business opportunities in Mainland China market**
- Promote overseas and Mainland China delegation with prior notice
 - Promote and emphasize Hong Kong's advantages, such as language capability, analytical skills and international exposure, etc., to overseas / Mainland China markets.
- 5. Re-establishment of IT as a core area in the HKSAR Government R&D and industry development program**
- 6. Hong Kong as the designated center of IT activities**
- HKSAR Government shall lobby the Central Government to endorse Hong Kong as the center of certain IT activities by hosting annual world wide/ key Chinese IT conferences / forums / trade fair in Hong Kong.

Annex 1

Proposal from Hong Kong Computer Society to Hong Kong / Macau Office and the HKSAR Government on personal income tax for Hong Kong resident working in Mainland China

个人所得税政策和有关法规的修订

目前的法规要求香港特区居民与外国人一样，当每年在中国内地停留 183 天或以上，按时间的比例缴纳中国规定的个人所得税。事实上，这政策在对一些雇佣关系不在内地的人员，执行上是存有实际的行政困难，同时也会给香港和内地发展更紧密经济关系做成一些不必要的障碍。

建议在香港特区注册、依法存续的公司，其具香港特区居民资格的雇员，不管在内地停留的天数，免除他们在内地报税和直接缴纳所得税的要求。进一步建议此类雇佣关系在香港的人员，可在港按香港特区的税律缴纳的所得税，可按呈报并可核实在内地停留的天数，按比例由特区政府统一把该部份的个人所得税拨缴中央。

此修订有以下的好处：

1. 可令香港特区的居民，用人机构更灵活地掌握决定往内地出差和在香港工作的时间分配；不会因 183 天的时限，做成特区和内地融合和交流的障碍。
2. 避免了香港特区居民和用人机构有法要守但又难守，内地税务部门有法要执行但又难以执行的几难局面。

For Discussion

On 11 January 2005

Working Group on Closer IT Partnership with Mainland China

REVISED Wish list

- Zero import tariff for “Hong Kong-Made Software” / National treatment for Hong Kong business under “PRC Government Procurement Act”
- Establishment of Telecom Special Zone phase by phase. Suggested liberalization measure in phase 1: landing right of local Fixed Telecommunications Network Services operators in Shenzhen
- Allow Hong Kong digital entertainment companies to obtain majority share holding rights in Mainland-Hong Kong joint venture
- Engaging Hong Kong’s IT industry be included in the Mainland China’s ICT development
- “National treatment” for Hong Kong business
- Tax relaxation?
- Expanding collaboration between relevant officials in Hong Kong and Mainland on the matter of IPR protection.

Initiatives should be taken by HKSAR Government

- Permanent accreditation agencies be allowed to set up branches offering certification services to help Hong Kong companies bidding for national government procurement projects
- Promotion of Mainland IT professional certification to Hong Kong employers
- Facilitating Hong Kong IT industry to participate in Pan-PRD eGovernment projects
- Encouraging Hong Kong developed products in selling into Mainland China
- Promoting and exploring business opportunities in Mainland China market
- Hong Kong as the designated center of IT activities by hosting more annual world wide / key Chinese IT conference / forum / trade fair in Hong Kong