



Research and Exploration of Legal Service Issues in the Free Trade Zone Based on the Principle of Development Foundation

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Abstract. Focusing on the purpose of services trade liberalization, this paper first analyzes tourism service trade under the GATS framework and the status of international tourism service trade in China, and introduces and analyzes the experience practices of countries or regions with high degree of tourism service trade liberalization according to the new practices of FTAs in promoting international tourism service trade. On this basis, in view of the new historical starting point of China's current implementation of FTA and FTA, it is proposed that China's tourism service trade should be further opening up, and China's tourism law and regulation system should be improved, in order to be able to promote the liberalization of tourism service trade.

Keywords: International Tourism Services Trade; GATT; Liberalization; Free Trade Zone

1 Introduction

Tourism has become a large-scale, short-lived, off-site way of life and business for people in China and around the world for leisure and vacation. It can be said that tourism service trade becomes an important force to promote the economic development of a country and is a sunrise industry with great development potential ^[1]. According to the World Tourism Barometer released by the United Nations World Tourism Organization in January 2015, citing WTO statistics, world exports of goods and services trade totaled \$23.536 trillion in 2013, while world exports of international tourism totaled \$1.409 trillion in the same year, accounting for 6% of the world's total exports of goods and services trade. It ranks fourth among the top ten export categories in the world and international tourism is located first in the services category of exports ^[2]. It can be seen international trade in tourism services plays an important role in international trade in services and plays an irreplaceable role ^[3].

2 Improvement of China's tourism service trade legislation

2.1 Further Exploration of China's Commitment to Trade in Tourism Services under GATS

China's tourism legislation is basically consistent with the "WTO" commitment. In general, the implementation of "accession" commitments, China's attitude is very positive, by the positive affirmation and evaluation of the members. However, there are also imperfections that should be taken seriously and improved in order to effectively abide by the GATS rules and fulfill China's WTO accession commitments, specifically in the following three aspects: First, in the areas of "commercial presence" and "movement of natural persons", further commitments need to be fulfilled. Second, restrictions on market access should be further relaxed and national treatment implemented. Again, the publication of tourism legislation is enhanced to provide transparency^[4]. The Tourism Law is also the first law in the history of China's tourism development. Due to the long tourism industry chain, the wide range of related industries and the many sectors involved, it is difficult to legislate separately for different types of tourism activities, and only a comprehensive legislative model can be adopted. The Tourism Law consists of 10 chapters and 112 articles, which, in addition to the general provisions and bylaws, make regulations on tourists, tourism planning and promotion, tourism operation, tourism service contract, tourism safety, tourism supervision and management, tourism dispute handling, and legal responsibility, covering the contents of administrative law, economic law and civil law. With regard to safeguarding the rights and interests of tourists, the Tourism Law has established a separate chapter on "Tourists", which implements the protection of tourists by means of specific rights. The first is the right to make independent choices; the second is the right to refuse compulsory transactions; the third is the right to know the truth; the fourth is the right to demand compliance; the fifth is the right to respect; the sixth is the right to request assistance and protection; and the seventh is the right of special groups to obtain convenience and preferential treatment. At the same time, more detailed provisions have been made in other chapters to protect the legitimate rights and interests of tourists.

In terms of protecting the rights and interests of tour operators and their employees: the Tourism Law focuses on balancing the protection of the rights and interests of tour operators. In the event of force majeure, the contract can not continue to fulfill the situation, the travel agency is given the right to change, cancel the contract; in order to solve the problem of the responsibility of the tour operator, for the various situations arising in the tourism activities, the law provides for the principle of fair and reasonable sharing of responsibility, and the establishment of a liability insurance system. In order to protect the legitimate rights and interests of tourism employees, the law specifically stipulates that travel agencies shall sign labor contracts with tour guides, pay labor remuneration, pay social insurance or pay for tour guide services, and shall not require tour guides to make advances or charge tour guides.

With regard to the protection of tourism resources: the Tourism Law proposes that tourism development should follow the principle of unifying social, economic and ecological benefits, and that tourism resources should be reasonably utilized in accordance

with the law under the premise of effective protection. Tourism utilization of natural and human resources must strictly comply with the provisions of relevant laws and regulations, meet the requirements of resource and ecological protection and cultural relics safety, respect and maintain local traditional culture and customs, and preserve the regional wholeness, cultural representativeness and geographical specificity of the resources, as well as take into account the needs of military facilities protection. The government shall strengthen supervision and inspection of resource protection and tourism utilization conditions.

In terms of safeguarding tourism safety: the Tourism Law establishes an all-round responsibility system in which the government is uniformly responsible, departments are supervised in accordance with the law, tourism operators are specifically responsible, and tourists are self-protected: firstly, it establishes a system of ex-ante prevention, including tips on the safety risks of tourist destinations, flow control, and the safety assessment, warnings, and training of tourism operators; secondly, it establishes a system of ex-ante safety management, including the government's supervision of safety and rescue, the tourism operators' reporting and assistance, and tourists' compliance with safety regulations, etc.; and thirdly, the establishment of an emergency disposal system after the event, including the responsibility of the government and tour operators to dispose of the situation, and the obligation of tourists to cooperate and bear the costs in accordance with the law.

With regard to the improvement of the tourism management system: the Tourism Law stipulates that the State Council shall establish and improve the comprehensive coordination mechanism for tourism, and shall carry out comprehensive coordination of the development of the tourism industry. Local governments at or above the county level are required to strengthen the organization and leadership of tourism work, and specify the relevant departments or institutions for the overall coordination of tourism development and supervision and management in their administrative regions.

In terms of strengthening tourism development planning: the Tourism Law further clarifies the main body for the preparation of tourism development planning, the content requirements, and the connection between tourism development planning and the overall land use planning, urban and rural planning, environmental protection planning, as well as the planning for the protection and utilization of other natural resources and humanities resources, and requires that the development of the tourism industry be included in the planning of the national economy and social development.

In terms of improving the mechanism for the development of the tourism industry: the Tourism Law further clarifies the responsibilities of governments at all levels in promoting the development of the tourism industry. Liberalization of Tourism Services Trade in FTAs - A Perspective from Shanghai Pilot Free Trade Zone

2.2 "GATS+" Features

At a time when the WTO Doha Round negotiations have stalled, regional and bilateral FTA negotiations led by developed economies are surging ahead. In order to better comply with the trend of trade liberalization, China has also started to actively, and steadily negotiate regional and bilateral FTAs^[5]. Information from the official website

of the Ministry of Commerce shows that China has signed 14 regional and bilateral free trade agreements. Information from the official website of the Ministry of Commerce shows that China has signed 14 regional and bilateral free trade agreements.

In terms of the level of services liberalization commitments, compared to China's commitments in multilateral trade arrangements, China has made significant improvements in regional and bilateral free trade arrangements^[6], i.e., it has what academics refer to as "GATS+" characteristics. On the one hand, China's trade in services in accordance with GATS to take the "positive list" approach to prudent control of the pace of opening. According to statistics, the regional services trade liberalization commitments signed by China externally cover 10 of the 12 major service categories under the GATS definition, involving 100 specific sectors, accounting for 62.5% of the total number of service sectors. On the other hand, China has introduced some "innovative" elements to the multilateral services liberalization mechanism in regional and bilateral services liberalization mechanisms^[7].

2.3 China (Shanghai) Pilot Free Trade Zone Tourism Services Trade Opening

China has followed the rule of gradual progress in the trade of tourism services, specifically in the opening of travel agencies. Before China's accession to the WTO is for foreign investors to set up travel agencies, etc. is subject to strict restrictions. After WTO accession, the implementation of China's commitment to "higher entry barriers + foreign joint ventures, cooperative travel agencies", and later to "remove restrictions on access and allow the establishment of wholly foreign-owned travel agencies" stage, but for foreign travel agencies still follow the WTO commitment "shall not operate the business of mainland Chinese residents traveling abroad, as well as the Hong Kong Special Administrative Region, Macao Special Administrative Region, and Taiwan travel business". Since the establishment of Shanghai Pilot Free Trade Zone (FTZ) to better promote the liberalization of trade in services, China has taken the initiative to open some market areas and remove some restrictions, such as allowing foreign travel agencies to conduct outbound tours for Chinese citizens in the FTZ^[8]. On April 14, 2014, the first Sino-foreign joint venture travel agency registered in the Shanghai Free Trade Zone, Mediterranean Cruise Travel, was approved for establishment, breaking the monopoly of domestic travel agencies on the outbound tour business market for mainland residents and qualifying for outbound tour business except for Taiwan, injecting new vitality into the opening of the tourism market^[9].

2.4 Tourism-specific legislation - International Tourism Promotion Law

One of the major recent legislative initiatives in improving tourism legislation in China is the introduction of the Tourism Law of the People's Republic of China (hereinafter referred to as "Tourism Law") in 2013^[10]. The promulgation and implementation of the law means that China has a basic tourism law, which is of far-reaching significance to the tourism industry and the tourism legal system. However, in the development of international tourism services trade, relying only on the Tourism Law is not enough, and the author suggests that a special law on international tourism services trade can be

considered. The establishment of a special law on international tourism services trade is conducive to enhancing the cultivation of international tourism brands, improving the level of international tourism hospitality, and attracting more foreign tourists to inbound tourism.

3 Entry Facilitation Visa Policy

Since 2013, China has implemented a 72-hour visa-free transit policy for citizens of 45 countries at ports of entry in North, Shanghai, and Guangzhou. But this policy, which is hot in application and expected to be good, is pre-emptively cold in actual implementation. There are various reasons for this, such as insufficient publicity, lack of attraction for transit tourists, and complicated procedures. However, from the perspective of deepening the reform and expanding the opening policy, and with reference to the successful experience at home and abroad, China can accelerate the study and implementation of the visa-free entry policy and other visa facilitation policies by country, by region and by category of personnel under the premise of ensuring national security, and the signing of the Pilot Free Trade Zone and the Free Trade Agreement can accelerate the promotion and implementation of the policies.

3.1 Analysis of the current situation and problems of China's visa facilitation policy for inbound tourists

Problem analysis of the facilitation visa policy for inbound tourists.

- (1) We lack a visa-free policy for transit through our seaports.
- (2) Group visa-on-arrival and 72-hour visa-free transit policy. In addition, the current group visa-on-arrival rule requires 5 or more people to apply.
- (3) The number of countries or regions with visa waivers in China is low.

3.2 Improvement of visa facilitation policy for inbound tourists

Visa-free transit policy also applies to cruise ships.

The cruise industry has formed a new economic growth point with its own consumption and the drive to related industries. Shanghai's cruise ship economy is at the forefront of the country's development. According to statistics, the number of cruise ship visitors entering and leaving Shanghai port in 2010 was 340,000, ranking first in China.

Expanding the scope of visa-free countries and special visa facilitation policies.

Paris, Tokyo, Hong Kong and other world famous tourist cities, the annual number of inbound tourists are more than ten million, compared with them, the number of inbound tourists in Shanghai is a large gap. Hong Kong has a visa waiver policy ranging from 7 to 90 days for about 170 countries or regions. Japan has visa waivers for 61 countries or regions.

4 Conclusion

Tourism is an important part of the service trade industry, it does not have the high profile of the financial services industry, it seems to be relatively simple but involves a very wide range of aspects, very strong linkage, and requires a relatively high level of service environment and standards to continuously apply the growing material and spiritual needs of people. Tourism has become a large-scale, short-lived, off-site way of life and business for people in China and around the world. More importantly, with the development of world politics and economy toward multipolarity and liberalization, the share of trade in services in the world economy is becoming more and more important. The new wave of "free trade" led by developed economies has become the trend of future economic development. For China, a large developing country, following the trend of liberalization of trade in services is a necessity for domestic economic development and participation in competition.

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