

**Singapore Management University**

---

**From the Selected Works of Pasha L. Hsieh**

---

2010

# Cross-Straits Economic Cooperation Framework Agreement (ECFA)

Pasha L. Hsieh



Available at: [https://works.bepress.com/pasha\\_hsieh/32/](https://works.bepress.com/pasha_hsieh/32/)

## SPECIAL REPORTS

### CROSS-STRAITS ECONOMIC COOPERATION FRAMEWORK AGREEMENT (ECFA)

Pasha L. Hsieh & Pei-Lun Tsai \*

On June 29, 2010, representatives of two semi-official organizations, Taiwan's Straits Exchange Foundation and mainland China's Association for Relations Across the Taiwan Straits, concluded the Cross-Straits Economic Cooperation Framework Agreement (ECFA) in Chongqing. The ECFA came into effect on September 12, 2010, and Taiwan and mainland China each submitted an Early Announcement to the World Trade Organization. As the most significant cross-strait agreement since 1990, the ECFA is expected to enhance economic relations between the two sides. Under the ECFA, the Cross-Straits Economic Cooperation Committee was established to deal with negotiations on subsequent agreements on trade in goods and services, investments and dispute settlement. Annexes below include the ECFA's text and important background materials.

Annex 1: Cross-Straits Economic Cooperation Framework Agreement

Annex 2: Background Information on ECFA

Annex 3: Early Harvest List for Trade in Goods and Tariff Reduction Arrangements

Annex 4: Remarks by President Ma: New Inflection Point for Taiwan, New Era for Asia—Choosing Correctly at a Critical Juncture

Annex 5: Remarks by Minister Lai on the Preparatory Consultations for the Economic Cooperation Framework Agreement

---

\* Pasha L. Hsieh is an Assistant Professor of Law at the Singapore Management University. Pei-Lun Tsai is a Ph.D. Student at the School of Law, University of Nottingham. Chinese and English texts of the Cross-Straits Economic Cooperation Framework Agreement (ECFA) and its annexes are available at <http://www.ecfa.org.tw/RelatedDoc.aspx> (last visited Apr. 10, 2012). For a detailed legal and policy analysis, refer to Pasha L. Hsieh, "The China-Taiwan ECFA Geopolitical Dimensions and WTO Law", 14 *J. Int'l Eco. L.* 121 (2011).

## ANNEX 1

### Cross-Straits Economic Cooperation Framework Agreement<sup>1</sup>

*[This translation is for reference only. The interpretation of the Cross-Straits Economic Cooperation Framework Agreement shall be based solely on the authentic copy in the Chinese language.]*

#### Preamble

The Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits, adhering to the principles of equality, reciprocity and progressiveness and with a view to strengthening cross-Straits trade and economic relations.

Have agreed, in line with the basic principles of the World Trade Organization (WTO) and in consideration of the economic conditions of the two Parties, to gradually reduce or eliminate barriers to trade and investment for each other, create a fair trade and investment environment, further advance cross-Straits trade and investment relations by signing the *Cross-Straits Economic Cooperation Framework Agreement* (hereinafter referred to as this Agreement), and establish a cooperation mechanism beneficial to economic prosperity and development across the Straits.

The two Parties have agreed through consultations to the following:

#### Chapter 1 General Principles

##### Article 1 Objectives

The objectives of this Agreement are:

1. To strengthen and advance the economic, trade and investment cooperation between the two Parties;
2. To promote further liberalization of trade in goods and services between the two Parties and gradually establish fair, transparent and facilitative investment and investment protection mechanisms;
3. To expand areas of economic cooperation and establish a cooperation mechanism.

##### Article 2 Cooperation Measures

The two Parties have agreed, in consideration of their economic conditions, to take measures including but not limited to the following, in order to strengthen cross-Straits economic exchange and cooperation:

1. Gradually reducing or eliminating tariff and non-tariff barriers to trade in a substantial majority of goods between the two Parties;
2. Gradually reducing or eliminating restrictions on a large number of sectors in trade in services between the two Parties;

---

<sup>1</sup> Cross-Straits Economic Cooperation Framework Agreement, available at <http://www.ecfa.org.tw/EcfaAttachment/ECFADoc/ECFA.pdf> (last visited Mar. 2, 2012).

3. Providing investment protection and promoting two-way investment;
4. Promoting trade and investment facilitation and industry exchanges and cooperation.

## Chapter 2 Trade and Investment

### Article 3 Trade in Goods

1. The two Parties have agreed, on the basis of the Early Harvest for Trade in Goods as stipulated in Article 7 of this Agreement, to conduct consultations on an agreement on trade in goods no later than six months after the entry into force of this Agreement, and expeditiously conclude such consultations.
2. The consultations on the agreement on trade in goods shall include, but not be limited to:
  - (1) modalities for tariff reduction or elimination;
  - (2) rules of origin;
  - (3) customs procedures;
  - (4) non-tariff measures, including but not limited to technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures;
  - (5) trade remedy measures, including measures set forth in the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, the *Agreement on Subsidies and Countervailing Measures* and the *Agreement on Safeguards* of the World Trade Organization, and the safeguard measures between the two Parties applicable to the trade in goods between the two Parties.
3. Goods included in the agreement on trade in goods pursuant to this Article shall be divided into three categories: goods subject to immediate tariff elimination, goods subject to phased tariff reduction, and exceptions or others.
4. Either Party may accelerate the implementation of tariff reduction at its discretion on the basis of the commitments to tariff concessions in the agreement on trade in goods.

### Article 4 Trade in Services

1. The two Parties have agreed, on the basis of the Early Harvest for Trade in Services as stipulated in Article 8, to conduct consultations on an agreement on trade in services no later than six months after the entry into force of this Agreement, and expeditiously conclude such consultations.
2. The consultations on the agreement on trade in services shall seek to:
  - (1) gradually reduce or eliminate restrictions on a large number of sectors in trade in services between the two Parties;
  - (2) further increase the breadth and depth of trade in services;
  - (3) enhance cooperation in trade in services between the two Parties.
3. Either Party may accelerate the liberalization or elimination of restrictive measures at its discretion on the basis of the commitments to liberalization in the agreement on trade in services.

### **Article 5 Investment**

1. The two Parties have agreed to conduct consultations on the matters referred to in paragraph 2 of this Article within six months after the entry into force of this Agreement, and expeditiously reach an agreement.
2. Such an agreement shall include, but not be limited to, the following:
  - (1) establishing an investment protection mechanism;
  - (2) increasing transparency on investment-related regulations;
  - (3) gradually reducing restrictions on mutual investments between the two Parties;
  - (4) promoting investment facilitation.

## **Chapter 3 Economic Cooperation**

### **Article 6 Economic Cooperation**

1. To enhance and expand the benefits of this Agreement, the two Parties have agreed to strengthen cooperation in areas including, but not limited to, the following:
  - (1) intellectual property rights protection and cooperation;
  - (2) financial cooperation;
  - (3) trade promotion and facilitation;
  - (4) customs cooperation;
  - (5) e-commerce cooperation;
  - (6) discussion on the overall arrangements and key areas for industrial cooperation, promotion of cooperation in major projects, and coordination of the resolution of issues that may arise in the course of industrial cooperation between the two Parties;
  - (7) promotion of small and medium-sized enterprises cooperation between the two Parties, and enhancement of the competitiveness of these enterprises;
  - (8) promotion of the mutual establishment of offices by economic and trade bodies of the two Parties.
2. The two Parties shall expeditiously conduct consultations on the specific programs and contents of the cooperation matters listed in this Article.

## **Chapter 4 Early Harvest**

### **Article 7 Early Harvest for Trade in Goods**

1. To accelerate the realization of the objectives of this Agreement, the two Parties have agreed to implement the Early Harvest Program with respect to the goods listed in Annex I. The Early Harvest Program shall start to be implemented within six months after the entry into force of this Agreement.
2. The Early Harvest Program for trade in goods shall be implemented in accordance with the following rules:
  - (1) the two Parties shall implement the tariff reductions in accordance with the product list and tariff reduction arrangements under the Early Harvest stipulated in Annex I, unless their respective non-interim tariff rates generally applied on imports from all other WTO members are lower, in which case such rates shall apply;

- (2) the products listed in Annex I of this Agreement shall be subject to the Provisional Rules of Origin stipulated in Annex II. Each Party shall accord preferential tariff treatment to the above-mentioned products that are determined, pursuant to such Rules, as originating in the other Party upon importation;
  - (3) the provisional trade remedy measures applicable to the products listed in Annex I of this Agreement refer to measures provided for in subparagraph (5) of paragraph 2 of Article 3 of this Agreement. The safeguard measures between the two Parties are specified in Annex III of this Agreement.
3. As of the date of the entry into force of the agreement on trade in goods to be reached by the two Parties pursuant to Article 3 of this Agreement, the Provisional Rules of Origin stipulated in Annex II and the provisional trade remedy measures provided for in subparagraph (3) of paragraph 2 of this Article shall cease to apply.

#### **Article 8 Early Harvest for Trade in Services**

1. To accelerate the realization of the objectives of this Agreement, the two Parties have agreed to implement the Early Harvest Program on the sectors and liberalization measures listed in Annex IV. The Early Harvest Program shall be implemented expeditiously after the entry into force of this Agreement.
2. The Early Harvest Program for Trade in Services shall be implemented in accordance with the following rules:
  - (1) each Party shall, in accordance with the Sectors and Liberalization Measures Under the Early Harvest for Trade in Services in Annex IV, reduce or eliminate the restrictive measures in force affecting the services and service suppliers of the other Party;
  - (2) the definition of service suppliers stipulated in Annex V applies to the sectors and liberalization measures with respect to trade in services in Annex IV of this Agreement;
  - (3) as of the date of the entry into force of the agreement on trade in services to be reached by the two Parties pursuant to Article 4 of this Agreement, the definitions of service suppliers stipulated in Annex V of this Agreement shall cease to apply;
  - (4) in the event that the implementation of the Early Harvest Program for Trade in Services has caused a material adverse impact on the services sectors of one Party, the affected Party may request consultations with the other Party to seek a solution.

### **Chapter 5 Other Provisions**

#### **Article 9 Exceptions**

No provision in this Agreement shall be interpreted to prevent either Party from adopting or maintaining exception measures consistent with the rules of the World Trade Organization.

### **Article 10 Dispute Settlement**

1. The two Parties shall engage in consultations on the establishment of appropriate dispute settlement procedures no later than six months after the entry into force of this Agreement, and expeditiously reach an agreement in order to settle any dispute arising from the interpretation, implementation and application of this Agreement.
2. Any dispute over the interpretation, implementation and application of this Agreement prior to the date the dispute settlement agreement mentioned in paragraph 1 of this Article enters into force shall be resolved through consultations by the two Parties or in an appropriate manner by the Cross-Straits Economic Cooperation Committee to be established in accordance with Article 11 of this Agreement.

### **Article 11 Institutional Arrangements**

1. The two Parties shall establish a Cross-Straits Economic Cooperation Committee (hereinafter referred to as the Committee), which consists of representatives designated by the two Parties. The Committee shall be responsible for handling matters relating to this Agreement, including but not limited to:
  - (1) concluding consultations necessary for the attainment of the objectives of this Agreement;
  - (2) monitoring and evaluating the implementation of this Agreement;
  - (3) interpreting the provisions of this Agreement;
  - (4) notifying important economic and trade information;
  - (5) settling any dispute over the interpretation, implementation and application of this Agreement in accordance with Article 10 of this Agreement.
2. The Committee may set up working group(s) as needed to handle matters in specific areas pertaining to this Agreement, under the supervision of the Committee.
3. The Committee will convene a regular meeting on a semi-annual basis and may call *ad hoc* meeting(s) when necessary with consent of the two Parties.
4. Matters related to this Agreement shall be communicated through contact persons designated by the competent authorities of the two Parties.

### **Article 12 Documentation Formats**

The two Parties shall use the agreed documentation formats for communication of matters arising from this Agreement.

### **Article 13 Annexes and Subsequent Agreements**

All annexes to this Agreement and subsequent agreements signed in accordance with this Agreement shall be parts of this Agreement.

### **Article 14 Amendments**

Amendments to this Agreement shall be subject to consent through consultations between, and confirmation in writing by, the two Parties.

**Article 15 Entry into Force**

After the signing of this Agreement, the two Parties shall complete the relevant procedures respectively and notify each other in writing. This Agreement shall enter into force as of the day following the date that both Parties have received such notification from each other.

**Article 16 Termination**

1. The Party terminating this Agreement shall notify the other Party in writing. The two Parties shall start consultations within 30 days from the date the termination notice is issued. In case the consultations fail to reach a consensus, this Agreement shall be terminated on the 180th day from the date the termination notice is issued by the notifying Party.
2. Within 30 days from the date of termination of this Agreement, the two Parties shall engage in consultations on issues arising from the termination.

This Agreement is signed in quadruplicate on this 29th day of June [2010] with each Party retaining two copies. The different wording of the corresponding text of this Agreement shall carry the same meaning, and all four copies are equally authentic.

Annex I: Product List and Tariff Reduction Arrangements Under the Early Harvest for Trade in Goods

Annex II: Provisional Rules of Origin Applicable to Products Under the Early Harvest for Trade in Goods

Annex III: Safeguard Measures Between the Two Parties Applicable to Products Under the Early Harvest for Trade in Goods

Annex IV: Sectors and Liberalization Measures Under the Early Harvest for Trade in Services

Annex V: Definitions of Service Suppliers Applicable to Sectors and Liberalization Measures Under the Early Harvest for Trade in Services

Chairman Straits Exchange Foundation	President Association for Relations Across the Taiwan Straits
---	---

[Annexes omitted]

## ANNEX 2

### Background Information on ECFA<sup>2</sup>

Cross-Strait Economic Cooperation Framework Agreement  
Leading Taiwan into the World Market  
Mainland Affairs Council, Executive Yuan

#### Helping People Do Business to Improve Taiwan's Competitiveness

The ROC government is promoting the signing of a cross-strait Economic Cooperation Framework Agreement (ECFA) to negotiate tariff concessions on major Taiwan exports to mainland China, raise Taiwan's export competitiveness, and create job opportunities.

Since January 1 this year, the 10 member countries of ASEAN and mainland China have gradually developed into a single free trade market, within which over 90% of the goods traded are granted tariff-free treatment. Japan and South Korea are now in intensive talks with mainland China over free trade agreements, potentially resulting in an even bigger 13-country free trade market composed of ASEAN, Japan, South Korea and mainland China. Without a cross-strait ECFA, Taiwan's exports to mainland China will be subject to higher tariffs. For examples, tariffs levied on Taiwan's petrochemical products, machinery and equipment, and automobiles and auto parts will be respectively 7%, 10%, and 25% higher than those imposed on ASEAN products. This will cause a serious drop in Taiwan's exports.

#### Unfair Trade Treatment Faced by Taiwan

ASEAN Products Zero Tariff → Mainland Market → World Market

Taiwan's Products 7% Tariff (Petrochemical)

10% Tariff (Machinery/Equipment) → Mainland Market → World Market

25% Tariff (Automobiles and Auto Parts)

To prevent this, the government wants to sign an ECFA to reduce tariffs on Taiwan's exports to mainland China with a view to positively facing up to the major challenges posed by regional economic and trade integration.

#### No Easing of Restrictions on Mainland Agricultural Imports

Mainland Agricultural Imports Allowed into Taiwan:

Former KMT Administration: 479 deregulated items

DPP Administration: 936 deregulated items

Current Administration: Zero new items

Under President Ma's administration, Taiwan has not lifted restrictions on any new agricultural import items from mainland China.

<sup>2</sup> Mainland Affairs Council, "Background Information on ECFA", Mar. 2010, <http://www.mac.gov.tw/public/Data/042611402.pdf> (last visited Mar. 2, 2012).

In the past, the former DPP administration lifted restrictions on Mainland agricultural imports to Taiwan without any cross-strait negotiations or accompanying measures. This created a serious impact on farmers' livelihoods. The current administration is now working hard to fix this past damage. Currently, more than 830 Mainland agricultural products are not yet allowed into Taiwan. The government will not further ease restrictions on such imports, nor will it further reduce tariffs on Mainland agricultural imports previously allowed into Taiwan.

### **No Allowing Mainland Laborers to Taiwan**

The ECFA absolutely does not involve opening Taiwan to Mainland labor.

### **Strict Controls, Protection for Vulnerable Traditional Industries**

During the eight-year period of the DPP administration, Taiwan lifted restrictions on over 3,000 items of imports from mainland China without any accompanying measures. This gravely harmed weaker traditional industries in Taiwan. The current administration has guaranteed that it will not allow further harm to these traditional industries. In conducting negotiations, the government will vigorously work to exclude these items from the ECFA and will not allow further reductions of import tariffs on these items so as to prevent any new impact on or damage to these industries. The government will also face up to this fact and devote its full efforts to helping vulnerable industries harmed by policies under the former DPP administration. The government has already earmarked NT\$95 billion over a 10-year period to protect the rights and interests of traditional industries and laborers.

### **Strengthening the Sovereignty of the ROC**

The ECFA is unrelated to the issue of unification or independence, nor does it pertain to sovereignty or involve any political premises or conditions. The agreement will not contain any political language, and it will purely regulate cross-strait economic and trade activities.

Since the new government came into office, Taiwan has signed 12 agreements with the Mainland. These agreements have made cross-strait travel more convenient for the people of Taiwan and greatly reduced transportation costs. At the same time, Mainland imports to Taiwan are subject to even stricter customs inspection and quarantine controls. Mainland tourists visiting Taiwan are still required to go through customs entry and exit procedures, with the customs authority exercising sovereign powers. This demonstrates that no compromises have been made on the sovereignty of the Republic of China.

The sovereignty of the ROC not only has not been undermined, but on the contrary, the improvement in cross-strait relations has expanded Taiwan's international space. For example, the minister of the Department of Health has been invited to attend the World Health Assembly for two consecutive years, and Taiwan has not lost even one of its 23 diplomatic allies. This further proves that Taiwan's sovereignty has grown stronger. What could not be accomplished under the former DPP administration is today possible.

### **High-Level Supervision, Legislative Review**

ECFA negotiations must be subject to a high-level legislative supervision. Before and after the negotiations, the related executive agencies have frequently reported to the Legislative Yuan. After the ECFA is signed, the agreement will definitely be submitted to the Legislative Yuan for review and will only come into effect after passage by the Legislative Yuan.

### **In a Changing World, Taiwan Can't Stand Alone**

Free Trade Agreements Signed among Asian Countries

2000: 3

2008: 58

Regional economic integration is a major global trend. There have been 58 free trade agreements signed among Asian countries. Taiwan and North Korea are the only nations in the region that have not participated in the integration process.

Taiwan is a major trading power. Last year, exports accounted for 63% of Taiwan's GDP, with 40% contributed by exports to mainland China. In fact, mainland China became Taiwan's biggest trading partner in 2003, when the Democratic Progressive Party was in power. Taiwan naturally wants to sign an economic agreement with its biggest trading partner. This is not a question of leaning toward mainland China, nor does it constitute a selling out of Taiwan. This is a necessary economic strategy in competing with other countries.

### **Simultaneously Promoting Economic Agreements with Other Countries**

While negotiating the ECFA with mainland China, the government is also working to sign free trade agreements (FTAs) with other countries. So long as cross-strait relations grow more stable, Taiwan will have a stronger hand in entering the world market and other countries will be more willing to negotiate FTAs with Taiwan.

Taiwan must avoid becoming marginalized. We need to open the main gate and stride forward on the world stage. With confidence and courage, the people of Taiwan can face the new world order and play a leading role in the new era.

### **Safeguarding Taiwan, Advancing in the World**

Cross-Strait ECFA means:

One Help

- Helping People Do Business to Improve Taiwan's Competitiveness

Two Noes

- No Allowing Mainland Laborers into Taiwan, No Expansion of Mainland Agricultural Imports

Three Yeses

- Yes to Tariff Concessions, Yes to Investment Protections, and Yes to IPR Protection

## ANNEX 3

Early Harvest List for Trade in Goods and Tariff Reduction Arrangements<sup>3</sup>

1. Items and Scale 1. The items and scale of the early harvest goods under the Economic Cooperation Framework Agreement (ECFA) are based on the tax regulations and trade information exchanged between the two sides at the first formal negotiations on January 26, 2010.
2. According to mainland China's 2009 customs data on tariff regulations and trade, Taiwan's total exports to mainland China of the 539 early harvest items on the Taiwan list amounted to US\$13.84 billion in 2009, representing 16.1% of Taiwan's total cross-strait exports by value.
3. According to Taiwan's 2009 customs tariff regulations, mainland China's total exports to Taiwan of the 267 early harvest items on the mainland list amounted to US\$2.86 billion in 2009, representing 10.5% of the mainland's total cross-strait exports by value.
4. Comparison of the Early Harvest Lists

Mainland List (Mainland Tariff Reductions)			Taiwan List (Taiwan Tariff Reductions)		
Industry	Items	Amount (US\$1 billion)	Industry	Items	Amount (US\$1 billion)
Petrochemical	88	5.944	Petrochemical	42	0.329
Textile	136	1.588	Textile	22	0.116
Machinery	107	1.143	Machinery	69	0.474
Transportation equipment	50	0.148	Transportation equipment	17	0.409
Other	140	4.997	Other	117	1.53
Agriculture	18	0.016			
Total	539	13.838	Total	267	2.858

5. The ratio of the items and values of the Taiwan and mainland China early harvest product lists is 1:2 and 1:5, respectively
6. Regarding method of tariff reduction, the two sides have adopted different tariff escalations and will reduce tariffs to zero in three years during the two-year implementation period for the early harvest lists:

Mainland's Planned Tariff Reduction Schedule				Taiwan's Planned Tariff Reduction Schedule			
Tariff Escalation	1st Year of Early Harvest Plan (2011.1.1)	2nd Year of Early Harvest Plan (2012.1.1)	3rd Year of Early Harvest Plan (2013.1.1)	Tariff Escalation	1st Year of Early Harvest Plan (2011.1.1)	2nd Year of Early Harvest Plan (2012.1.1)	3rd Year of Early Harvest Plan (2013.1.1)
0	Zero tariff			0	Zero tariff		
5	5%	Zero tariff		2.5	2.50%	Zero tariff	
15	10%	5%	Zero tariff	7.5	5%	2.50%	Zero tariff

<sup>3</sup> Early Harvest List for Trade in Goods and Tariff Reduction Arrangements, available at <http://www.mac.gov.tw/ct.asp?xItem=85851&ctNode=5921> (last visited Mar. 2, 2012).

## 7. Impact of Early Harvest Plan on Taiwan's Industries

### 1. Softening the competitive threat Taiwan facing in the Mainland market from ASEAN products

One-fifth of the products on the Mainland list (Mainland Tariff Reductions) include Taiwan products that face intense competition from ASEAN products, both strongly competitive and less competitive items, including plastic materials (PC, PP, etc.), synthetic fiber raw materials like p-Xylene, plastic making machinery, instruments parts, and camera modules.

Taiwan has competitive advantages over ASEAN countries, but high tariffs weaken the competitiveness of Taiwanese products: For example, petrochemical raw materials like vinyl chloride (5.5% tariff), butanol (5.5% tariff), lithium ion batteries (12.0% tariff).

### 2. Opportunity to take market share from Japan and Korea in Taiwan's competitively strong industries

Of the total items on Mainland list (Mainland Tariff Reductions), 17% enjoy a considerable competitive advantage over competing Japanese and Korean products, such as bicycles and components thereof, petrochemical raw materials, machine tools, other polyester non-deformed fabric, and other discharge lamps. Early harvest treatment will make these products more competitive in the mainland market, helping Taiwan to take market share from Japan, Korea and other countries.

### 3. Early entrant market opportunities for Taiwan's agricultural industry and traditional SMEs

Half of the products on the Mainland list (Mainland Tariff Reductions) are in sensitive traditional industries, products made by SMEs, and agricultural products, including automobile parts, water heaters, filters, small home appliances, hand tools, accessories, underwear, shoes, socks, bags and luggage and other products and orchids, bananas, tea and other agricultural products. These products currently face tariff rates of 10% or higher in the mainland.

Including these products under the early harvest plan will help companies to expand in mainland market, develop new market opportunities, increase the scale of Taiwan's industries, and promote industrial development. It will also create new job opportunities since most of these products are in labor intensive industries.

### 4. Protecting Taiwan's agricultural and traditional SME industries

Taiwan list (Taiwan tariff reductions) consists mainly of petrochemical products (plastic materials and miscellaneous chemicals) and industrial machinery and parts thereof. In the bicycle and textile sectors, most items on the list are intermediary components and parts. Apart from mainland products already allowed into Taiwan, nearly half of the products are items that both sides have mutually opened up their markets to.

Regarding Taiwan's sensitive traditional industries, SME-intensive industries and agricultural products, import items controlled by the mainland, and

products subject to anti-dumping duties will not be included on the Taiwan list (Taiwan tariff reductions)

## ANNEX 4

### **Remarks by President Ma: New Inflection Point for Taiwan, New Era for Asia – Choosing Correctly at a Critical Juncture<sup>4</sup>**

At the fifth meeting between Taiwan's Straits Exchange Foundation (SEF) Chairman Chiang Pin-kung and mainland China's Association for Relations Across the Taiwan Strait (ARATS) Chairman Chen Yunlin, held on June 29 in Chongqing, the SEF and the ARATS signed the Economic Cooperation Framework Agreement (ECFA). If the agreement is approved by the Legislative Yuan, it is expected that the ECFA will take effect on January 1 of next year. In addition to having a far-reaching effect on cross-strait relations and further solidifying peace and prosperity on both sides of the Taiwan Strait, the ECFA will also influence the structure of cross-strait economic ties and the nature of competition and cooperation in the Asia-Pacific region. President Ma made the following comments in explaining his observations and thoughts on this situation:

I believe that the signing of the ECFA is extremely important for Taiwan, for cross-strait relations, for the Asia-Pacific region, and even for the entire world. First, the ECFA is a major step for Taiwan in overcoming economic isolation, as it heads off the threat of economic marginalization. Second, the ECFA is a major step forward for the two sides of the Taiwan Strait in economic reciprocity and cooperation. Under a systematized framework, the agreement will help Taiwan generate more business opportunities and increase the number of jobs here. Third, the ECFA constitutes a major step in hastening economic integration in Asia. In the future, the value of Taiwan will become more important in the eyes of the Asia-Pacific region and the global community. Taiwan has a strong chance of becoming a springboard for companies from throughout the world seeking to enter the mainland market.

The signing of this agreement also enables us to fulfill four promises that we previously made to the public. Firstly, nothing in the content of the ECFA relates to the opening of Taiwan's doors to laborers from mainland China, nor does it further liberalize imports of mainland agricultural products. Secondly, the content of the agreement proves that it was not signed with only the interests of major enterprises in mind. The ECFA focuses broadly on the interests of the Taiwan economy as a whole, including small- and medium-sized enterprises (SMEs), vulnerable industries, laborers, and farmers. In addition, the agreement will enable 18 more agricultural products from Taiwan to be sold to mainland China, including bananas, oranges, tea, grouper fish, and milkfish. Third, this agreement has forged tariff concessions on various goods and services, and has also liberalized markets. The two sides have also signed a cross-strait cooperative agreement on the protection of intellectual property rights. This is an extremely important step, for it will create more opportunities for Taiwan's cultural and creative industries to develop in mainland China. Meanwhile, the government has included investment guarantees as a topic for discussion in the

---

<sup>4</sup> Office of the President, "New Inflection Point for Taiwan, New Era for Asia—Choosing Correctly at a Critical Juncture", July 6, 2010, <http://english.president.gov.tw/Default.aspx?tabid=1124&itemid=21929>.

next round of negotiations. Fourth, this agreement was negotiated and signed under the principles of equality and reciprocity, as well as “putting Taiwan first for the benefit of the people.” The ECFA has not damaged the nation’s sovereignty, nor has it compromised Taiwan’s dignity.

However, the ECFA is just one among many measures we are taking to further boost Taiwan’s economy. We need to move quickly to take advantage of this opportunity by re-examining various policies and methods that have already served their purpose, and by finding new ways to spark the economy. Taiwan has an extremely advantageous geographical location in East Asia. We are also a nation with lots of outstanding and enterprising people. We are an open society that emphasizes the values of democracy and freedom. Meanwhile, Taiwan features outstanding and diverse educational opportunities. However, in the years prior to our administration taking office, we failed to capitalize on Taiwan’s strengths. We became stuck, making it impossible for us to fulfill our potential. After our administration took office, however, we adopted policies that emphasized deregulation and re-construction. In principle, we have moved in the direction of liberalization. For instance, we have reduced the inheritance tax and business income tax, and expanded public investment. In addition, we have liberalized direct transportation between the two sides of the strait, initiated the “three links,” and opened our doors to mainland Chinese tourists. At the same time, we have signed an agreement with mainland China for direct flights between Taipei’s Songshan Airport and Shanghai’s Hongqiao Airport, and we have signed another agreement with Japan for direct flights between Songshan Airport and Tokyo’s Haneda Airport. So it takes a comprehensive approach to truly help Taiwan break through the barriers facing it and free us of the various restrictions that have been placed upon us. Signing of ECFA is like equipping Taiwan with a pair of wings that will enable our economy to take off.

Amid these circumstances, there are several things we must do to keep Taiwan’s economy moving forward. The first key task is to find a way to strengthen Taiwan’s economy and attract investments from home and abroad. Secondly, we are using laws and regulations as a means to strengthen innovation and integrate the work of our government-related R&D institutions to boost the ability of Taiwan industry to innovate, develop name brands, and provide greater added-value in the service sector. It is also very important that we strengthen the basic building blocks of our economy. The Ministry of Economic Affairs recently identified 10 extremely fundamental industrial technologies that we will rely on over the next five to 10 years to enable us to become an industrial powerhouse. To be sure, the ECFA will play an important role in fueling this work.

Without a doubt, this effort to transform the economy is extremely difficult and immense, and in the process of transformation, some industries may not be able to adapt well. Some may even experience setbacks. The government must make necessary preparations. The Ministry of Economic Affairs and the Council of Labor Affairs are budgeting NT\$95 billion to be used over a 10-year period to provide assistance to industries that could be especially vulnerable to negative impact from the ECFA. These are the preparations we have made to counter the impact of free trade. In other words, this is not only a problem

we will face in dealing with goods from mainland China. In the future, we will face similar challenges as well when we sign free trade agreements or economic cooperation agreements with other nations.

Secondly, we need to strengthen cross-strait cooperation. Mainland China is also in transition, from the world's factory to the world's market. Because the global financial tsunami triggered a worldwide economic downturn last year, and because home appliances now sell briskly in remote areas of mainland China, the whole world is now paying very close attention to mainland China's domestic consumer market, and we certainly cannot allow ourselves to be left out in the cold. Therefore, we plan to instruct our trade promotion agencies, such as the Taiwan External Trade Development Council, to assist Taiwan enterprises in developing markets in the mainland.

Thirdly, we need to establish a global presence. Taiwan's development absolutely cannot and will not solely rely on mainland China. Therefore, we must diversify and manage risks, and seek a global presence. Our geographic advantage attracts foreign companies to invest in Taiwan. Ever since I began talking about signing an ECFA with mainland China, the American Chamber of Commerce in Taipei, the European Chamber of Commerce Taipei, the Japanese Chamber of Commerce and Industry, and many foreign companies have become more interested in investing in Taiwan. Consequently, we can become a platform for multinational enterprises seeking to invest in mainland China.

Our vision is to welcome the world to Taiwan and to send Taiwan out into the world. We expect to change Taiwan's economic role in the Asia-Pacific region through signing of the ECFA and many other supplementary measures designed to build on existing strengths. As for the concrete methods to achieve this, the Executive Yuan will establish a "task force for the promotion of global business" that within three months will formulate a global business promotion plan. Agencies that supervise various industries, such as the Ministry of Economic Affairs, the Ministry of Finance, the Financial Supervisory Commission, and others will work together to launch an all-out effort. Besides recruiting companies from the United States, Europe, and Japan, we also hope that Taiwan companies operating in mainland China will come back and invest in Taiwan. The task force will also regularly examine the results of the recruitment efforts. In addition, a "task force on global economic strategy" will be established under the National Security Council to supervise and follow various work, such as innovation, overtures to foreign firms, and investment. The task force will first hold consultations with related agencies under the Executive Yuan, after which the Executive Yuan will propose concrete projects. These initiatives will be promoted step by step. I am confident that this mechanism will coordinate and integrate our efforts, maximizing the results of this work.

At this point, I would like to urge the Legislative Yuan to speedily screen and pass the ECFA, firstly because the ECFA requires the amendment of various laws, and secondly because it is a policy of material significance. A policy that fundamentally redefines how our enterprises will deploy their resources—in mainland China, Asia, and the entire world—needs to be reviewed by the legislature, which represents the will of the people. We plan to arrange for

Premier Wu to go to the Legislative Yuan to report on the ECFA. He will clearly explain to everyone how we plan to proceed and what the benefits will be for us. We hope that this arrangement will enable our parliamentarians to fully understand that the moves we are making to integrate into the global economy are beneficial to Taiwan, and that this is the correct decision at this critical point in time. We also hope that legislators will fully support the ECFA. I especially hope and welcome lawmakers from the opposition parties to exercise rational oversight, and welcome them to offer their opinions on the ECFA. If our legislature carries out its oversight role in a rational and speedy manner, both our business sector and the general public will be able to enjoy the benefits brought by the agreement. We also hope that during the course of the review special attention will be given to the method of the review, as this will impact the willingness of our trading partners to work with us to forge free trade agreements or economic cooperation agreements in the future. Having finished with our preparatory work, we hope that the legislature will now review the ECFA in a speedy manner, enabling this agreement to be an important first step in creating a golden decade for Taiwan.

## ANNEX 5

### **Remarks by Minister Lai on the Preparatory Consultations for the Economic Cooperation Framework Agreement<sup>5</sup>**

President Ma has emphasized more than once that the highest guiding principle of the government's Mainland policy is "putting Taiwan first for the benefit of the people." Many of our friends in the media and the general public have heard me explain this position: "putting Taiwan first" means adhering to Taiwan's identity in the process of cross-strait exchanges and negotiations. "For the benefit of the people" means that the fruits of institutionalized cross-strait negotiations shall be shared jointly by all the people instead of certain business groups. "Putting Taiwan first for the benefit of the people" is not just political rhetoric. It is a policy commitment, one in which the government will act on its words. In the specific content of the Economic Cooperation Framework Agreement (ECFA), including the text itself and the early harvest list, it is apparent that the government's negotiation team has worked hard to protect Taiwan's economic identity and has been attentive in securing the interests of farmers, workers, small and medium enterprises as well as major industries.

#### **Putting Taiwan First: Agreement Text Protects Taiwan's Economic Identity**

##### **1. Inclusion of the "consideration of the economic conditions of both sides" in the text is a safety valve installed by the government to safeguard Taiwan's interests**

The specific meaning of "consideration of the economic conditions of both sides" is that the government will carefully attend to the fact that broad differences of economic scale exist between the two sides and this situation must be prudently considered when both sides implement the ECFA. Taiwan will not fully ease the current restrictions on more than 2,000 agricultural and industrial import items from mainland China, ensuring that sensitive local industries in traditional or relatively weak sectors are not affected after the signing of the ECFA. At the same time, the government will not further open Taiwan up to Mainland agricultural imports. The government also will not further reduce tariffs on the 1,415 Mainland agricultural import items already admitted.

Therefore, the ECFA cannot and will never lead to the so-called "one China market" that the opposition parties have raised doubts about through repeated distortions. The situation in which "over 90% of Mainland goods can be imported tariff-free within 10 years after the signing of the ECFA," as the opposition parties fear, also absolutely will not happen.

##### **2. Termination clause enables unilateral termination of the Agreement without the consent of the other side**

---

<sup>5</sup> Mainland Affairs Council, "Remarks by Minister Lai on the Preparatory Consultations for the Economic Cooperation Framework Agreement", June 24, 2010, <http://www.mac.gov.tw/ct.asp?xItem=85683&ctNode=5921>.

The termination clause that opposition parties are so concerned about has always been part of the government's plan. During a Legislative Yuan interpellation, I also emphasized several times that it is normal for termination clauses to be included in the economic agreements signed by other countries.

Under the "termination" clause, any one party to the Agreement will be able to notify the other party in writing to initiate consultations between the two sides within a certain period of time. If the consultations fail to produce a consensus, the Agreement can be terminated within a specified period after one party notifies the other. In short, after the ECFA is signed, any one side can terminate the Agreement if deemed necessary, without requiring the consent of the other side.

### **3. In accordance with the basic principles of the WTO, the substantive content of the ECFA is an economic agreement signed between two WTO full members as equals**

The ECFA is a cross-strait agreement rooted in the basic principles of the World Trade Organization (WTO), negotiated and signed considering the unique cross-strait relationship.

Many friends are concerned that signing the ECFA will undermine Taiwan's identity. We take this opportunity of announcing the main content of the Agreement to report to you all with the utmost confidence: There is no need to worry. The ECFA will be reciprocally negotiated under the framework of the Straits Exchange Foundation (SEF) and the Association for Relations Across the Taiwan Straits (ARATS). Moreover, the basic spirit of the entire Agreement text accords with the basic principles of the WTO; in terms of its substantive content, the Agreement is an economic agreement signed by two WTO members.

1) The preamble of the Agreement begins with: "In accordance with the basic principles of the World Trade Organization..." This means that the two sides are both WTO members and that the rights of both sides as WTO Full Members will not be eliminated or limited due to the signing of the ECFA.

2) The schedule of commitment in the early harvest list on trade in services is presented mainly in a format commonly used among WTO members.

3) The Agreement maintains the right to utilize WTO global safeguard mechanisms. Terms on the trade in goods exemplify WTO trade relief measures, including the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards, and other measures used among WTO members. The Agreement also will stipulate safeguard measures for both sides.

In other words, the ECFA mandates safeguard measures for both sides and maintains Taiwan's right to apply global safeguard measures, embodying in spirit the fact that both sides are WTO Full Members. This differs considerably from the Closer Economic Partnership Arrangement (CEPA) signed between

Hong Kong and mainland China on the “one country, two systems” basis. The CEPA eliminates the application of WTO safeguard measures and treats trade issues between the two sides as internal affairs of one country; in comparison, Taiwan and mainland China have an equal relationship under the ECFA.

4) A special provision clearly states full protection of Taiwan’s rights as a WTO member. In Chapter V of the Agreement, there is a special provision clearly stating that no stipulations of the ECFA can impede any one side from adopting measures consistent with WTO norms. This means that we can continue to adopt any WTO rules favorable to Taiwan and that the signing of the ECFA will not prevent the application of WTO provisions.

#### **4. No one China market and no timetable for a one China market**

As for the trade in goods, Taiwan worked hard to secure consent from the Mainland side that, in the future, after consultations on the trade in goods begin, there will be no deadline set for completing the consultations. In other words, after signing the Agreement, the government can prudently check on it and move forward in a gradual, orderly manner. Consultations with the other side on opening up the trade in goods and reducing tariffs can be carried out in a way allowing consolidation at every step and in accordance with the conditions of our industries and market needs. We can control the initiative. There is no timetable and there will be no forming of a one China market.

#### **Working for the benefit of the people and the interests of farmers, workers, and SMEs**

1. The early harvest list is entirely irrelevant with the movement of natural persons. Taiwan absolutely will adhere to the position of not opening up to Mainland workers, and it will not allow certified Mainland professionals to do business in Taiwan. The employment opportunities of blue-collar and white-collar workers in Taiwan will be protected.

2. Due to Taiwan’s vigorous efforts as well as the goodwill of the other side, all agriculture and fishery products have been excluded from the Mainland’s early harvest list, meaning that Taiwan will not admit any new types of agricultural imports from the Mainland. At the same time, Taiwan will not further reduce tariffs on the 1,415 agricultural import items previously admitted. Taiwan’s agricultural industry will not be further affected by the signing of the ECFA. Furthermore, the Taiwan negotiation team has been paying equal attention to offense and defense, winning inclusion of 18 Taiwan agriculture and fishery products in the Taiwan early harvest list. In the future, these items can be exported to the Mainland tariff-free, benefiting farmers in central and southern Taiwan.

3. Taiwan SMEs will benefit from the early harvest list.

Most of the 539 early harvest list items winning tariff concessions from the Mainland side were specially sought by Taiwan in consideration of SME interests. According to the statistics compiled by the Ministry of Economic Affairs (MOEA), at least 23,000 SMEs will enjoy direct profits. These businesses

have a combined Mainland export value of US\$2.77 billion per year and employ at least 426,000 people. (See chart below)

### Initial Estimates of Taiwan SMEs Directly Benefiting from the ECFA Early Harvest List for Trade in Goods

Item	Unit	Data
Number of SMEs likely to benefit	Companies	22,725
Estimated amount of exports to the Mainland by the said SMEs	US\$1 billion	2.77
Number of people employed by the said SMEs	People	426,000

Notes:

1. According to the statistics compiled by the Small and Medium Enterprise Administration, MOEA, in 2009, there were 1,232,025 SMEs in Taiwan and they employed a total of 7,793,000 people. Of this total, there were 141,146 SMEs in the agricultural, fishing and manufacturing industries, with a total employment of 2,648,000 people.
2. Figures in the chart represent the lowest values based on initial estimates.
3. Based on trade ratio principles, the total value of Taiwan goods granted tariff concessions by the Mainland side is 4.8-times greater than that of Mainland goods enjoying tariff concessions from Taiwan.

Generally speaking, Taiwan is benefiting more than the Mainland. Taiwan's early harvest list is of considerable scale in terms of item number, amount, and ratio of goods covered to total trade with the other side. Moreover, it goes much further than the Mainland's early harvest list. The 539 Taiwan goods covered under the early harvest list represent double the amount of the 267 Mainland items included. The Taiwan items have a total export amount of about US\$14 billion, or 4.8-times more than trade covered by the Mainland's early harvest list. The figure of US\$14 billion accounts for about 16.1% of Taiwan's total exports to the Mainland, while the US\$3 billion figure represents 10.8% of the Mainland's exports to Taiwan. The ratio and scope of Taiwan items included in the early harvest list under the ECFA is therefore far higher than the Mainland's ratio of 2.12% under its early harvest list signed with the ASEAN Plus One countries. (See chart below)

### Comparison of Early Harvest List Goods Under the Cross-strait ECFA

Item	Number of Mainland Tariff Concessions to Taiwan	Number of Taiwan Tariff Concessions to the Mainland	Ratio
Number of early harvest goods	539	267	2:1
Value of early harvest exports to the other side (US\$1 billion)	13.83	2.86	4.8:1
Ratio of said export value to total exports to the other side (%)	16.1%	10.5%	1.5:1

### Conclusion

The entire Economic Cooperation Framework Agreement makes evident that the government's negotiation team has upheld Taiwan's economic identity. Faced up to the massive scale of the Mainland economy, we have worked hard to include the safety valve to "safeguard Taiwan and protect the people" in the negotiation process. In facing up to the fact that mainland China is the world's factory as well as a world market, the signing of the ECFA is a proactive initiative to participate in the international trend of regional economic integration and to refuse the isolation from the world. Through this proactive participation, we have changed our external environment and advanced into the world market. At the same time, "in opening the door, we also are keeping an eye on the house." The future of Taiwan's economic development absolutely lies in our hands.