

## ECFA -- Its Advantages and Shortcomings

The Economic Cooperation Framework Agreement (ECFA) was signed between Taiwan and China in July of 2010. That was nearly three years ago. The agreement remains the most important formal undertaking taken between the two regions in more than 60 years. The goal of ECFA is to allow both regions to enjoy the fruits of a modicum of direct economic cooperation and development without having to address the more difficult issue of political sovereignty -- something that will presumably be resolved in the future. The fact that the agreement is making slow progress is proof that it is hard to separate a government (sovereign or not) from its economy, especially when *de facto* borders are involved and respected. To remain relevant and consequential in other spheres of legitimate political activity, both domestic and abroad, the governments of Taiwan and China must to some extent exercise control and direction on trade and capital flows. Economic transactions and ownership in any part of the world require a generally agreed upon set of property rights and an impartial system of justice. There can be no secure trade and capital flows without the clear rule of law that naturally involves governments on each side of the Taiwan Straits. ECFA is the result of this conundrum. It is a middle ground, or perhaps a short run bridge, helping to make trade and investment between China and Taiwan freer, safer and more dependable than would otherwise be the case.

There have been approximately eight sets of talks between Taiwan and China between June 2008 and August 2012. By virtue of these talks, 18 separate agreements have been signed on a variety of areas dealing with economic issues. Taiwan has steadfastly adhered to a "three no's" policy -- meaning no unification, no independence, and no use of force. Taiwan and China have elected to use semi-private organizations (or NGOs) to carry out the talks. On the Taiwan side is the Straits Exchange Foundation (SEF) which was established in 1991 and ushered in the Koo-Wang talks that broke the ice between the two sides. On the mainland side is the Association for Relations Across the Taiwan Straits (ARATS) which is also an NGO set up to act as an intermediary between the two governments. The current head of the SEF is Chairman Lin Join-sane (林中森), while the current president of ARATS is Chen Deming (陈德铭). Chairman Lin has traveled to China on numerous occasions recently. In March, 2013 he visited Hunan and Hubei, while in April he visited Xiamen. He is anxious to sign an agreement on cross straits service trade in the near future.

Taiwan has pushed ECFA, along with other agreements that have been made, to bolster Taiwan's development, encourage peaceful and stable cooperation in East Asia, and pioneer new connections with the rest of the world. Seen in this way ECFA is a part of a larger policy of globalizing Taiwan and keeping it from being marginalized with respect to the greater economic and political environment. The agreements have been carefully put together so that they do not contain any sensitive political language. The agreements have been placed before the public in a completely transparent fashion. In addition, the agreements do not reduce in any way the underlying sovereignty of the ROC. This is an important point since many people have been suspicious that the executive branch of the government might be tempted to sacrifice Taiwan's sovereignty for hidden benefits that China might offer to certain special interest groups in order to achieve, as it sees it, a less obstreperous neighbor. Taiwan and China remain at odds on many issues, and sovereignty is the most sensitive of them all. China has made it very clear that any attempt to formalize the independence of Taiwan could precipitate a military response. This has placed

Taiwan on the “horns of a dilemma”. In order to be welcomed into the community of nations with full representation among the 190 countries of the world, Taiwan would need to reunify with China -- something that is not only infeasible, but manifestly unpopular on the island. But, in order to integrate successfully into the world economy and grow as an equal partner, Taiwan needs complete freedom and independence -- something that seems equally unlikely and perhaps even dangerous. The choice Taiwan and Chinese leaders have apparently selected is to seek economic rapprochement without eliminating the underlying political contradictions. Taiwan leaders hope that China will gradually lose its control over its economy and that this will lead to steady democratization and a consideration of the rights of people everywhere to decide their fate. Chinese leaders hope that by providing access to China’s vast markets and economic resources, Taiwan will see the logic of unifying itself with a country that will ultimately rise to the level of a superpower.

Taiwan’s leaders have claimed that their efforts via ECFA are already bearing fruit (no pun intended). By seeking a more positive relation with China, Taiwan tourists can now visit up to 131 countries without first applying for a visa. In the past, these applications could take weeks if not months and were a major cost to be born in travel for business and pleasure. Over 70 of these countries have been added in the last 4 years. Taiwan has also been granted member status in the World Health Assembly, something that would have been impossible in the past. Does this mean that China no longer places barriers to the ROC government’s participation in global activities? Of course, it remains committed to preventing the recognition of the ROC in all world forums. However, ECFA is seen by some in Taiwan as a means of reducing China’s opposition to Taiwan taking part in free trade agreements with other countries. This would be of enormous benefit to Taiwan, since its life’s blood is trade and capital flows. Despite the difficulties of enacting ECFA, the two regions are finding it mutually beneficial to extend reciprocal economic ties where possible. ECFA is merely a stepping stone to a more comprehensive form of cooperation, but an important one nevertheless.

What is the structure of ECFA?

(i) There is a **preamble**. This states that the negotiating parties agree to the principles of equality, reciprocity, and progressiveness. The last of these is not so clear in English, but perhaps means that efforts should be made to produce growing and lasting benefits to both sides. The preamble also recognizes that WTO principles should be respected. Thus, tariffs should be gradually lowered or eliminated and opportunities for freer trade and investment should be expanded across the Taiwan Straits.

(ii) **Article 1** states that the objectives of ECFA should be to

--- strengthen trade

--- liberalize trade and make investment safe and fair

--- cooperation should be expanded by means of a mechanism

(iii) **Article 2** discusses that means of achieving the objectives above

- gradually reducing tariffs and non-tariff barriers on many goods
- gradually reducing barriers to trade in many types of services
- promoting bilateral investment and investment protection
- promoting industry exchanges and cooperation

(iv) **Article 3** looks specifically at trade in goods between the two regions

--- an agreement should be reached within 6 months on reducing tariffs on the so-called “early harvest” goods. These agreements have been reached already and form an important part of the early benefits from ECFA.

--- the agreement should involve how to reduce tariffs, rules of origin, customs rules, non-tariff measures, and the acceptance of the WTO rules on trade safeguards

--- goods will be divided into three groups: those eligible for immediate reduction in tariffs, goods whose tariffs will be gradually reduced, and exceptions.

--- either party can accelerate the tariff reductions etc.

(v) **Article 4** deals with trade in services

--- like Article 3, an agreement should be reached within 6 months on reducing tariffs on the so-called “early harvest” of trade services. Much of Article 4 reads as Article 3, but rather than tariff reduction, a reduction in barriers to trade in services is discussed.

(vi) **Article 5** deals with investment and the text reads much like Articles 3 and 4. The exact text in English is as follows:

*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.*

(vii) **Article 6** deals with economic cooperation. This includes such things as intellectual property rights protection and cooperation; financial cooperation; trade promotion and facilitation; customs cooperation; e-commerce cooperation; 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; promotion of small and medium-sized enterprises cooperation between the two Parties, and enhancement of the competitiveness of these enterprises; promotion of the mutual establishment of offices by economic and trade bodies of the two Parties.

(viii) **Article 7** discusses the implementation of the “early harvest” tariff reductions on goods. In this article ECFA mentions Annex I which is an attachment to the agreement. It contains a list of goods that are in the “early harvest” group. Annex I is long and complicated, so I will merely show this in the class. There are also rules of origin on products which are contained in Annex II.

(ix) **Article 8** deals with the “early harvest” group of services traded and contained in Annex IV. Once again early compliance with the reduction in barriers to trade is stipulated, with some exceptions.

(x) **Articles 9 - 16** deal with administration of the accord, including such things as exceptions, dispute settlement, institutional arrangements, document formats, annexes, amendments, entry into force, and termination.

Finally, the agreement is signed by the chairman of the SEF and the president of the ARATS.

### Here is what Wikipedia says about ECFA (although it is dated).

The government of the People's Republic of China uses its influence on neighboring economic powers to prevent them from signing free-trade agreements (FTAs) with Taiwan. Instead, under the leadership of the Kuomintang, Taipei was motivated to sign the ECFA with mainland China partly in hope that once it has this agreement the PRC will stop pressuring other countries to avoid such agreements with Taiwan. The ECFA has been compared with the Closer Economic Partnership Arrangements mainland China signed with the Special Administrative Regions: Hong Kong and Macau.

The deal is thought to be structured to benefit Taiwan far more than mainland China. The "early harvest" list of tariff concessions covers 539 Taiwanese products and 267 mainland Chinese goods. The advantage to Taiwan would amount to US\$13.8 billion, while mainland China would receive benefits estimated at US\$2.86 billion. Mainland China will also open markets in 11 service sectors such as banking, securities, insurance, hospitals and accounting, while Taiwan agreed to offer wider access in seven areas, including banking and movies.

Financial reforms were kicked off on January 16, 2010 with the signing of three Memoranda of Understanding between Taiwan's Financial Supervisory Commission Chairman Sean Chen and three counterpart agencies in Beijing for Banking, Insurance and Securities. The FSC is hoping that Taiwan will get more leniency in the hurdles set by the Chinese government for foreign players. These hurdles have limited the growth of these foreign players relative to their local peers.

Some questions to consider:

- #1. Why did Taiwan's leaders decide to pursue ECFA?
- #2. Why would ECFA be beneficial to the two parties?
- #3. What is the basic structure of ECFA?
- #4. Has ECFA been very successful?
- #5. Some people in Taiwan think ECFA is not a good thing. Why?
- #6. Should Taiwan continue to get closer to China economically?