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**The China-Taiwan
Economic Co-operation Framework Agreement (ECFA):
What it Currently is, and What it Could Potentially Become**

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Introduction

Taiwan is East Asia's fourth largest economy, after Japan, China and South Korea. It also has one of the region's most dynamic and innovative business communities, an impressively educated and skilled workforce, and is plugged into many important micro-level regionalisation processes in the East Asia, e.g. through international production and sub-contracting networks. Yet at the same time, owing to its 'contested sovereignty' predicament, Taiwan continues to face marginalisation from many important new macro-level developments in East Asian regionalism. Taiwan's non-participation in the above regional level developments poses many geo-strategic challenges for Taipei, a situation it now well acknowledges (Dent 2009). However, this situation could change depending on what the initially developed Economic Co-operation Framework Agreement (ECFA) between Taiwan and China could become. Although not a full free trade agreement (FTA), there is a clear intention from both sides to develop it into one, and this must be understood in the broader context of a rapid expansion of FTA activity in the Asia-Pacific and globally since the late 1990s. What kind of FTA that ECFA will become, though, is still uncertain.

Free Trade Agreements in East Asia and the Asia-Pacific

FTA activity has expanded substantially over the last decade or so in the global system, and most notably in the East Asia and Asia-Pacific region. What makes this more significant is that East Asia in particular was devoid of any FTA activity up to the late 1990s except for negotiations on the ASEAN Free Trade Area (AFTA) project (Figure 1). The situation was to radically change thereafter, largely in response to a combination of factors, primarily a faltering WTO-led multilateral trade order, the 1997/98 East Asian financial crisis, and the imperative felt by many East Asian and Asia-Pacific states to enter into the emerging global game of FTA diplomacy. By 2004, 15 FTA projects had been initiated in East Asia (6 concluded) and in the wider Asia-Pacific region a total of 68 projects initiated and 31 concluded. By 2008, a decade on from when the region's new FTA trend took off, 19 FTA projects had been initiated within East Asia (15 concluded) and in the Asia-Pacific a total of 86 initiated projects, 60 of which the negotiations being concluded (Figure 2). This is set against the continued expansion of FTA activity globally. From 1997 to 2008, the number of concluded FTAs in the world more than doubled from 72 to around 200 agreements.

The proliferation of bilateral free trade agreement (FTA) projects has become an important new defining feature of East Asia's regional political economy for various reasons (Dent 2003, 2006, 2010). First, it has introduced a series of new significant international economic agreements between the region's states that are

likely to increase in number and consequently reconfigure and fortify the structure of regional economic relations in East Asia in both technical policy terms (e.g. by creating new regimes that determine future patterns of commerce, or through new co-operative policy linkages introduced) and relational terms (e.g. through establishing new norms of co-operative economic diplomacy). Second, the new FTA trend will further stimulate regionalisation processes through reducing barriers to intra-regional trade and investment, and thus further coalesce the material basis (i.e. technical policy links, intra-regional commerce) of East Asia's regional political economy. Third, an intensifying bilateral FTA trend could found a sub-structural basis on which trade regionalism (e.g. an East Asia wide FTA) and regional economic community-building can be built. Fourth, the proliferation of bilateral FTA projects and the enhanced economic diplomacy interactions these have brought have further highlighted regional **distributions of power and influence in East Asia (e.g. Japan and China using FTA projects to realise regional hegemony aspirations), as well as alignments of economic interest between state and non-state actors, e.g. agricultural trade protectionism in Taiwan, Japan and South Korea (Dent 2006).**

Owing to Taiwan's contested statehood predicament and limited formal diplomatic space, Taipei has only been able to date to sign FTAs with a few Central American states that officially recognise Taiwan as a sovereign entity. These are very minor trade partners for Taiwan, together accounting for around 1 percent of its total trade. Both Democratic Progressive Party (DPP) and Kuomintang (KMT) governments have tried to break out of this FTA diplomatic encirclement but with hitherto little success. In anticipation of WTO accession, the Chen Shui-bian Administration established an FTA Task Force in November 2001, formed between the Ministry of Foreign Affairs and Ministry of Economic Affairs. Around this time it was announced that Singapore, New Zealand, Japan and the US were the most probable candidates for Taiwan's initial FTA partners.¹ However, in June 2002 China's Minister of Foreign Trade and Economic Co-operation, Shi Guangsheng, stated his government's opposition to any of its diplomatic partners signing FTAs with Taiwan, warning that they would encounter serious political troubles, with their trade and economic relations with the mainland being adversely affected. This position was restated in November 2002 at a news conference in Beijing.² Consequently, Singapore withdrew from the idea of entering into FTA talks with Taiwan, and other prospective FTA partners also followed suit. However, Beijing had offered since 2003 the signing of a Comprehensive Economic Partnership Agreement (CEPA) with Taipei based on similar deals struck with Hong Kong SAR and Macao SAR, but this offer was turned down by President Chen Shui-bian.

¹ Taiwan Economic News, 14.11.2001.

² Taiwan News, 15.11.2002.

Taipei's only early success was the launch of FTA negotiations with Panama in October 2002, leading to a successful conclusion of talks in August 2003. This first FTA signed by Taiwan's entered into force in January 2004. Panama is an insignificant trading partner for Taiwan, and the economic benefits of the Agreement were far outweighed by the political benefits. This applies to all other FTAs that Taipei had been able to sign up to the end of 2010, namely with Guatemala (2005), Nicaragua (2006), El Salvador (2007) and Honduras (2007). By this time, Taipei was additionally negotiating deals with the Dominican Republic and Paraguay, two other small-scale trading partners. As Figures 1 and 2 show that meanwhile a number of important bilateral and quasi-regional FTA projects had been launched amongst East Asian states, most critically between China and ASEAN, ASEAN and Japan, South Korea and ASEAN, China and South Korea, and Japan and South Korea.

The ASEAN – China Free Trade Agreement (ACFTA) has been the cause of particular consternation to Taiwanese policy-makers and business. The core of the agreement took effect from 1 January 2010³, and has considerable potential to disadvantage Taiwan-based producers exporting to either China or Southeast Asia, especially in key sectors such as electronics, IT, automobile and petrochemical products where close competitive rivalry between all parties exist. This is because import tariffs will still be applied to exports produced in Taiwan but not to those produced inside the ACFTA zone. Although tariff levels in the electronics and IT sectors are relatively low, competition in these industries are so intense that even marginal differences in price can make a significant difference to a firm position. Feasibility studies on creating various and inherently competing regional FTAs are also underway:

- *East Asia Free Trade Area (EAFTA)*: based on ASEAN Plus Three (APT) membership: China, Japan, South Korea and the Association of Southeast Asian Nations (ASEAN) group. Championed by China. Under study, no negotiations yet initiated.
- *Comprehensive Economic Partnership Agreement of East Asia (CEPEA)*: based on East Asia Summit (EAS) membership: APT plus Australia, India and New Zealand. Championed by Japan. Under study, no negotiations yet initiated.
- *Free Trade Area of the Asia-Pacific (FTAAP)*: based on Asia-Pacific Economic Co-operation (APEC) forum membership of 21 economies from the

³ Between China and older ASEAN members (i.e. Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand) by 2010, and between China and newer ASEAN members (i.e. Cambodia, Laos, Myanmar and Vietnam) by 2015.

region, including China and Taiwan. Championed by the United States. Under study, no negotiations yet initiated.

- *Trans-Pacific Partnership (TPP)*: currently under negotiation between nine APEC member economies, led by the United States.

However, there is limited chance of any of these four ‘grand regional’ FTAs being successively negotiated and signed in the medium-term due to various problematic politico-economic issues, e.g. agriculture, intellectual property rights (Dent 2010).

The China–Taiwan Economic Co-operation Framework Agreement (ECFA)

ECFA: Origins and Debates

Prior to becoming President, Ma Ying-jeou had called for a substantive opening up of Cross-Strait economic relations generally. This derived at least partly from concern over Taiwan’s marginalisation from the region’s new FTA trend. Whilst Mayor of Taipei, Ma Ying-jeou stated in October 2003 on the effects of ACFTA that, “Although it will take place seven years from now, still you can see that goods ... in the ASEAN countries can enter the Chinese mainland without tariffs... Taiwan will still have to pay tariffs, which will put Taiwanese businesses at a competitive disadvantage.”⁴ He further stated, “We do not want to be left in the cold when regional integration is taking place.”⁵

With the above in mind, the Ma Ying-jeou Administration has agreed to Beijing’s long-held proposal to negotiate a Cross-Strait FTA type agreement. Preliminary discussions on the matter had begun by late 2008 amidst and by the end of 2009 four rounds of preliminary talks had been held between Taiwan and China. There are various sensitive economic, political and security issues in play. By March 2009, the government decided to change the name of the project to Economic Co-operation Framework Agreement (ECFA), as the one initially designated – the Comprehensive Economic Cooperation Agreement (CECA) – sounded too similar to the pacts Beijing had signed previously CEPAs with Hong Kong SAR and Macao SAR.⁶

In defence of his ECFA policy, President Ma Ying-jeou stated in February 2009 that, “If we do not do this now, we will regret it tomorrow. It can prevent us from being marginalized and is part of our internationalization efforts as we pursue similar trade agreements with other trading partners.”⁷ The Ma Government’s

⁴ Taipei Times, 14.10.2003.

⁵ Ibid.

⁶ Straits Times, 02.03.2009.

⁷ Taiwan Central News Agency, 27.02.2009.

main supporting advocates of the ECFA are Taiwan's trading firms and business associations. In the same month, Tsai Lien-sheng, Secretary General of the Chinese National Federation of Industries expressed the view that if Taiwan did not sign an ECFA that, "we are going to be marginalized. We cannot compete with paying a much higher duty when other countries have agreed to much lower or zero duties... The exports of Taiwan will be harmed severely, and foreign capital will be less interested in investing in Taiwan."⁸ There is an implicit reference here to Taiwan's position in East Asia's IPN activity, and the increasingly integrated links between trade and investment in those key industries (i.e. ICT and electronics) on which the Taiwan economy depends so heavily. Meanwhile, Hsieh Jun-hsiung, Executive Manager at the Petrochemical Industry Association of Taiwan, reminded observers that Taiwan currently exports around half its petrochemical products to China, and that China imposes a 6.5 percent tariff on petrochemical imports from Taiwan and a 6 percent tariff on their counterparts from South Korea. If the proposed China – South Korea FTA is concluded then this would put Taiwanese firms at a further significant disadvantage. Hsieh went so far as to state that, "If Taiwan keeps the status quo on this, about half of our products will be unsellable soon."⁹ Ma himself followed up on this point a week later, commenting that, "Our petrochemical, electronics components, textile and machine tool exports will be subject to 6.5 percent tariffs on the mainland, while ASEAN members' products will be exempted from such duties... Being excluded from economic agreements in the region could cost the island 114,000 jobs and see a fall in gross domestic product growth of 1 percent," he added, citing a February 2009 ECFA related study produced by the Chung-Hua Institution for Economic Research (CIER).¹⁰

Later in July 2009, the CIER produced a more substantive report on ECFA that concluded the agreement could boost Taiwan's GDP by 1.65 to 1.72 percent and by a greater amount if services and investment were included. The report further estimated that FDI would increase by US\$8.9 billion in seven years and around 260,000 jobs would be created as a result of the agreement. Furthermore, the CIER report predicted that Taiwan's exports could increase by around 5 percent and imports from mainland China by around 7 percent, but still leaving Taiwan in a healthy surplus position with China.¹¹ The DPP, however, accused the Ma Administration of tampering with the report's results, claiming the assessment formulas had been subject to political influence.¹² During the previous Chen Shui-bian Administration, a study made by MOEA estimated that an operational US – South Korea FTA (USKFTA) could reduce Taiwan's trade with the United States

⁸ Washington Post, 21.02.2009.

⁹ Ibid.

¹⁰ Taiwan Central News Agency, 27.02.2009.

¹¹ Taipei Times, 30.07.2009; The Economist, 06.08.2009.

¹² Taipei Times, 31.07.2009.

by up to US\$2 billion a year and trigger the loss of 20,000 jobs at home. The same report stated USKFTA could lead to a significant redirection of US investment away from Taiwan to South Korea.¹³ Furthermore, in a recent survey conducted amongst 1,019 Taiwanese and foreign businesses showed that if an ECFA were signed, 29 to 42 percent of these firms would increase their investments. More generally, if Taiwan were kept out of the longer-term East Asian economic integration process, 26 to 35 percent of Taiwanese and foreign businesses would subsequently reduce their investments in Taiwan, and if Taiwan were engaged in this process then 23 to 37 percent would actually increase their investments in Taiwan.¹⁴ In the financial sector, Chairman of Chinatrust Bank, Lo Lien-fu, called in February 2009 for restrictions on direct investments by domestic financial institutions in China to be lifted as part of the ECFA, stating that Taiwan's financial industry firms were suffering as a result of limited access to the mainland Chinese market.¹⁵ Some Taiwanese scholars have also argued that a precondition of starting ECFA negotiations should be Beijing dropping its opposition to Taiwan being able to simultaneously initiate FTA talks with other trade partners. This could be a substantial benefit to Taiwan if Beijing was open to such an idea, and is discussed in the concluding part of this section.¹⁶

Arguments against the proposed ECFA, largely championed by DPP officials and affiliates, have been based on a combination of economic and political factors (Zhao and Tong 2009). Amongst the most vocal has been DPP Chairwoman, Tsai Ing-wen, who warned in March 2009 that China will only offer Taiwan any economic benefits from an ECFA deal in return for political benefits.¹⁷ Former vice premier, Wu Rong-yi meanwhile commented on Taiwan's FTA policy predicament that, "The roads are all blocked and there is only one path left, but it leads to a trap", and concurred with Tsai that there must be some potentially dangerous political motivations could lie behind Beijing's desire for an agreement with Taipei.¹⁸ Kenneth Lin, a National Taiwan University professor, in addition argued that Taiwan's economic sovereignty could be severely compromised by ECFA by its removal of policy instruments devised to protect Taiwan's own self-determined path of development and engagement in the international economic system.¹⁹

¹³ Taipei Times, 01.07.2007.

¹⁴ Taipei Times, 26 Feb 2009.

¹⁵ Taiwan Economic News, 05.02.2009.

¹⁶ This idea has been championed by Chen Po-chih, Chairman of Taiwan ThinkTank, who stated that, "Taiwan should follow the lead of the World Trade Organization, which admitted China and Taiwan almost at the same time... Talks with China on an ECFA should be held in step with negotiations on free trade agreements (FTAs) with other nations." (CNA Thursday, 05.03.2009).

¹⁷ Radio Taiwan International, 07.03.2009.

¹⁸ Taipei Times, 04.03.2009.

¹⁹ Ibid.

Other critics of the ECFA have focused on its effects on Cross-Straits and regional economic exchange, as well as estimated effects of Taiwan's non-participation in other FTAs. Some have highlighted studies that indicate Taiwan's omission from ACFTA would only have a negative 0.2 percent impact on Taiwan's GDP, while being left out of a wider APT membership FTA would only have a less than 2 percent negative impact, and an EAS based regional agreement only a 2.23 percent impact. Moreover, China and ASEAN located Taiwanese companies are already able to participate in ACFTA and other such agreements where they have an operational presence in relevant FTA markets. Furthermore, while China import tariffs on Taiwanese remain a significant barrier, approximately 40 percent of these enter tariff-free into China's markets.²⁰ Some observers also make the point that the real challenge to Taiwan petrochemicals sector will not come from the trade diversion effects of other FTAs but rather from China's recently publicised plans to construct nine large refining complexes, a strategy devised to convert China from a net petrochemical importer to a net petrochemical exporter after these plants are completed.²¹ An ECFA would only, therefore, make Taiwan more exposed to China's rising competitive threat in this sector. Taiwan's labour and social welfare groups are also concerned over the wider damaging effects of Chinese industrial competition on Taiwanese jobs and welfare levels.²² There is also the risk that an ECFA would deepen Taiwan's already substantial dependence on China as an economic partner, and how Beijing could potentially extract various forms of leverage over Taipei from this situation.

Preliminary Positions before Negotiation

At the time of ECFA negotiations, conventional trade barriers between both sides were comparatively high for two relatively high-tech exporting economies. China maintained tariff rates of around 5 to 15 percent on imports from Taiwan, and meanwhile Taiwan operated bans or quota restrictions on nearly 2,200 industrial and agricultural imports from the mainland, almost a quarter of its total tariff lines. Prior to the talks, MOEA announced that ECFA would have chapters on trade in goods and services, investment, and economic co-operation measures on intellectual property, customs, technical standards, e-commerce, and avoidance of double taxation (MOEA 2009). This is quite a basic FTA model, and one that was arguably more aligned to that China has hitherto used rather than Taiwan, whose other agreements have generally included chapters on intellectual property *rights*, competition policy, government procurement, financial services or other sector-specific areas such as telecommunications. Taiwan has drawn substantially on the

²⁰ Taipei Times, 16 Mar 2009.

²¹ Ibid.

²² Taiwan Church News, 15.03.2009.

US's FTA model on the past, and has a preference for including such commercial regulatory aspects in its agreements given the interests and high developed level of most Taiwanese businesses. In the end, the initial ECFA that was negotiated was a sub-FTA arrangement, having only 'partial scope' (in WTO-speak) coverage of goods trade liberalisation and very basic provisions on other related areas.

In addition, it was announced that ECFA would contain 'Early Harvest' provisions, modelled to some extent on those used in ACFTA, that would introduce liberalisation initially on less politically sensitive commodity products and the gradually move to more sensitive products using phase-in schedules. The MOEA confirmed that safeguard measures such as anti-dumping duties would also be incorporated into the agreement²³, and that the ECFA "will not touch on unification, independence and political issues" (MOEA 2009: 8). Regarding its wider impact, the MOEA stated that an implemented ECFA would "improve the basis of promoting Taiwan's opportunities to enter into bilateral FTAs with other countries and participate in regional economic and trade co-operation" (pg. 27), although no reference is explicitly made to Taiwan's position *vis a vis* regional FTAs or regional groupings. In addition, and with regard to regionalisation, the MOEA believed that the agreement will "promote Taiwan in becoming a global centre of innovation [and] an Asia-Pacific hub of economy and trade" (pg. 27).

ECFA Negotiated, and its Future

Preliminary talks on ECFA started in 2009. A feasibility study was then produced in January 2010 with full talks commencing the same month. The initial ECFA agreement was concluded and signed in June 2010, and then came into force in Sept 2010. To restate, ECFA is currently a sub-FTA arrangement but with plans to expand negotiations, and hence the agreement itself, to cover a wide range of areas and trade coverage. As President Ma stated in March 2011, "*Taiwan is only a quarter to a third of the way through opening its economy to the Chinese mainland. There is still much work to be done*". The fact that the initial agreement was brokered in just a few months of full talks is telling: FTAs of average complexity usually take around two years to negotiate (Dent 2010). Moreover, the core text of the agreement is only seven pages long. By contrast, FTAs signed by many Asia-Pacific countries typically run to well over 100 pages or more. The FTA chapters on intellectual property rights usually brokered by the US alone normally run to twice the current length of ECFA.

The centerpiece of ECFA is currently the 'Early Harvest' tariff liberalisation component involving 539 Taiwan product lines and 237 China product lines.

²³ The MOEA later confirmed in October 2009 that special industry adjustment programmes worth NT\$30 billion will be introduced to help firms adversely affected by the ECFA. Central News Agency, 16.10.2009.

There are typically around 10,000 product lines for trade partners to potentially negotiate on, so ECFA only presently covers around 8 percent of the total. In addition, ECFA's services liberalisation covers 11 sectors in China (including accounting, banking, healthcare, insurance) and 7 sectors in Taiwan (including banking and cinema). Furthermore, PRC investors are allowed to take 10 percent stakes in Taiwan's technology companies.

So what are the future plans for ECFA? There is a stated commitment in the agreement text to "gradually reduce or eliminate tariff and non-tariff barriers to trade in a substantial majority of goods", and a similar commitment on future services trade. There has been talk from both sides of including investment-protection, dispute-settlement and more substantive economic co-operation provisions in future 'ECFA 2' negotiations but nothing is certain yet. The newly formed Cross-Straits Economic Co-operation Committee, established in Feb 2011, will to oversee this process, though of course its work has just begun and it will take some time for ECFA to become a full FTA, if indeed this is the desired objective. China will most likely want to push for a free trade agreement that complies to its usual FTA model, with relatively simple trade and investment rules and limited provisions on commercial regulation. The Taiwan government will probably be open to this approach. Despite considerable pressure from the Taiwanese business community to push for an FTA that include the kind of NAFTA-style provisions Taiwan secured with Central American nations, it would be politically risky to broker too much of an economically integrative agreement with mainland China at this stage. Both Beijing and Taipei are also likely to agree on economic co-operation provisions covering areas such as science and technology, and human resource development. Taipei has also wasted no time trying to use ECFA as a platform on which to revitalise its FTA policy, targeting Singapore as an early possible partner. It remains to be seen, however, how Taiwan's key trade partners respond to such approaches. This greatly depends on China's own reaction.

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