

REGIONAL FOCUS & CONTROVERSIES

The Cross-Strait Economic Cooperation Framework Agreement: Deliberation on Economic, Political and Legal Aspects

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After careful deliberation and through rounds of talks, the Chinese mainland and Taiwan signed the Cross-Straits Economic Cooperation Framework Agreement in 2010. This agreement is viewed by many across the straits and around the world as an agreement with great implications not only for economic issues, but also for political interactions between the two sides. Moreover, as the two sides of the ECFA are WTO members, legally, the relevant rules concerning free-trade agreement under the WTO regime are applicable to the ECFA. This article will give a brief analysis on the economic, political and legal aspects of the ECFA.

Keywords

ECFA, Cross-Strait Economic Cooperation, Early Harvest Planning, WTO Framework

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1. Introduction

On June 29, 2010, Mr. Chen Yunlin, Chairman of the mainland's Association for Relations across the Taiwan Straits ("ARATS") and Mr. Chiang Pin-kung, Chairman of the Taiwan-based Straits Exchange Foundation ("SEF") signed the Cross-Straits Economic Cooperation Framework Agreement ("ECFA"). The ECFA is an agreement which aims at institutionalizing economic cooperation across the Taiwan Strait. As a critical legal measure to the future interaction across the straight, it would facilitate and regularize economic cooperation and trade exchanges between two sides.

The idea of a cross-Strait economic pact dates back to April 2005 when Hu Jintao, general secretary of the Communist Party of China ("CPC") Central Committee, and Lien Chan, then chairman of the Kuomintang ("KMT") Party in Taiwan, jointly issued the "common aspiration and prospects for cross-Strait peace and development"¹ in Beijing. In this document, the two parties proposed to jointly promote all-round economic exchanges between the mainland and Taiwan and establish a cross-Strait economic cooperation mechanism. It was confirmed that the consensus will be built into the KMT's policy as a keynote of Premier Ma Ying-jeou's "regional leader campaign."

On December 31, 2008, Hu Jintao delivered a speech at a meeting in commemoration of the 30th anniversary of the "Message to Compatriots in Taiwan."² He put a clear position in this speech that the mainland and Taiwan could sign a "comprehensive economic cooperation agreement" and build a unique mechanism to achieve mutual benefit. Not surprisingly, this proposal was well received by Ma Ying-jeou. "Since to a large extent, our success in the [regional leader] election can be attributed to our party's policy in handling the cross-straight relations, it's quite natural that we will stick to our words," said Mr. Chiang Pin-kung in an interview by *Caijing Magazine*.³ After several rounds of talks, negotiators were finally able to ink the deal in Chongqing,

¹ As a legal mechanism, the Cross-Straits Economic Cooperation Framework Agreement ("ECFA") has at three antecedents: the creation of the Cross-Strait Common Market Foundation in 2000 by the current vice regional leader of Taiwan, Vincent Siew; the formal accession of the two side across the strait to the WTO in 2001; and the signing of Closer Economic Partnership Arrangement ("CEPA") by the mainland with Hong Kong and Macau, respectively. See generally Terry Cooke, *Cross-Strait Matrix: the Economic Cooperation Framework Agreement*, 9 CHINA BRIEF 7 (2009), available at http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35041&tx_ttnews%5BbackPid%5D=7&cHash=f0b872132a (last visited on Jan. 6, 2011).

² Hu Jintao, Chinese President, Address at the ceremony commemorating the 30th anniversary of the announcement of Message to Compatriots in Taiwan (available only in Chinese), available at http://news.xinhuanet.com/newscenter/2008-12/31/content_10586495.htm (last visited on Jan.18, 2011).

³ Hu Caiping, *Jiang Bingkun: ECFA Taiqian Muhou* [Chiang Pin-Kung Talks as an Insider on the ECFA Negotiation] (available only in Chinese), *CAIJING*, July, 5, 2010, available at <http://magazine.caijing.com.cn/templates/inc/chargecontent2.jsp?id=110473226&time=2010-07-05&cl=106&page=1> (last visited on Jan. 28, 2011).