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## A Two-Edged Sword: The Economy Cooperation Framework Agreement Between the Republic of China and the People's Republic of China

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A TWO-EDGED SWORD:  
THE ECONOMIC COOPERATION FRAMEWORK AGREEMENT  
BETWEEN THE REPUBLIC OF CHINA AND THE PEOPLE'S  
REPUBLIC OF CHINA

*Chi-An Chou*

I.INTRODUCTION

As one of the world's largest economies, the People's Republic of China (PRC or China) has garnered international attention over the past few decades. Neighboring countries in Asia—including Japan, South Korea, and member states of the Association of Southeast Asian Nations (ASEAN)—have expressed great interest in forming better trade relationships with this rising world economic power over the last decade. Recent economic developments and new trade agreements in the region demonstrate that trade between China and its neighboring countries continues to grow. However, despite this regional movement towards forming closer trade relationships with the PRC, the Republic of China (ROC or Taiwan), located only about 150 miles off the coast of China across the Taiwan Strait (Strait), has not developed trade agreements with the People's Republic of China.

Historically, the Cross-Strait relationship between the ROC and PRC has been troubled. In fact, other than the North Korean nuclear threat, the Taiwan Strait is probably the most hyper-sensitive region in East Asia with the most potential for triggering serious international conflict. However, since gaining a new administration in 2008, Taiwan appears to be more actively seeking stability in the region by forging greater economic ties and a better trade relationship with the PRC. In 2009, the Taiwanese government made the astonishing announcement that it intends to make a landmark trade agreement with China. This agreement will be called the Economic Cooperation Framework Agreement (ECFA).

This Comment will examine the proposed ECFA, as well as its far-reaching effects on Taiwan. It will first briefly discuss the relationship between the ROC and PRC, the contents of the ECFA, and the driving forces behind the signing of the ECFA. Following this discussion, the Comment will examine the potential benefits and detriments the ECFA presents to Taiwan. It will identify popular arguments for and against the ECFA in Taiwan, discuss the merits of these arguments, and highlight considerations that are not yet included in this ECFA debate but ought to be. In conclusion, this Comment will discuss whether the ECFA should be signed and, if so, what provisions should be included in the ECFA in order to realize the potential benefits

of the ECFA.

A basic historical knowledge of the relationship between China and Taiwan is essential to understanding the ECFA and the driving forces behind its anticipated signing. Since the ROC government relocated from the Mainland to Taiwan in 1949, China has been divided into two separate sovereigns: the Republic of China and the People's Republic of China.<sup>1</sup> The many international debates about which government actually represented China as a whole caused both sides of the Strait to hold serious discussions regarding this issue. These discussions eventually lead to the 1992 Consensus (Consensus), in which the ROC and PRC agreed that they recognize the existence of only one China but both sides can interpret its definition of "China" differently.<sup>2</sup> This doctrine later became known as the "One China" principle and is recognized internationally.<sup>3</sup> Despite the Consensus and associated efforts to stabilize the region, repeated Cross-Strait crises, including missile tests in waters surrounding Taiwan in 1996, demonstrate that distrust and hostility still exist in the Taiwan Strait.<sup>4</sup>

Seeing this distrust and hostility as an opportunity, the Democratic Progressive Party (DPP) of Taiwan adopted a political platform encouraging Taiwanese localization and independence from China.<sup>5</sup> This apparently patriotic approach to Cross-Strait relations appealed to many constituents in Taiwan, and the DPP captured the presidential election in 2000 and thereafter slowed Taiwan's developing trade relationship with China.<sup>6</sup> The DPP remained in power for the next eight years, during which the Taiwanese government used propaganda to continue building support for the idea of defending Taiwan's autonomy by localization and independence.

Despite the DPP's efforts to localize Taiwan and stay politically and economically independent from China, more and more Taiwanese businesses have transitioned all or part of their operations to China due to

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<sup>1</sup> Government Information Office, Republic of China, *The Republic of China Yearbook*, Chapter 3: History, <http://www.gio.gov.tw/taiwan-website/5-gp/yearbook/ch03.html> (last visited Apr. 15, 2010).

<sup>2</sup> Government Information Office, Republic of China, *The Republic of China Yearbook*, Chapter 7: Cross-Strait Relations, <http://www.gio.gov.tw/taiwan-website/5-gp/yearbook/ch07.html> (last visited Apr. 15, 2010).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; see also, Global Security.org, *Taiwan Strait: 21 July 1995 to 23 March 1996*, [http://www.globalsecurity.org/military/ops/taiwan\\_strait.htm](http://www.globalsecurity.org/military/ops/taiwan_strait.htm) (last visited Apr. 15, 2010).

<sup>5</sup> *Minzhu jinbu dang jiben gangling* [Democratic Progressive Party Official Website], [http://www.dpp.org.tw/history.php?sub\\_menu=2](http://www.dpp.org.tw/history.php?sub_menu=2) (last visited Apr. 15, 2010).

<sup>6</sup> According to statistics put forth by the Bureau of Foreign Trade, trade with China was generally growing at a slower rate than when the KMT was in power. See <http://cus93.trade.gov.tw/FSC3/FSC3020F.ASPX> (last visited Dec. 02, 2009).

its lower costs and large market. In fact, more than two million Taiwanese business persons live in China permanently or semi-permanently.<sup>7</sup> This number is quite significant because the total population of Taiwan is only twenty-three million.<sup>8</sup> After the *Kuo Ming Tang* (KMT) won the 2008 Taiwanese presidential election and regained political control, the government formed a trade agreement with China upon consideration of Cross-Strait investments and large-scale business operations. Serious negotiations with China began in March 2009.<sup>9</sup>

## II. WHAT IS THE ECFA?

The ECFA is essentially an interim free trade agreement (FTA) between China and Taiwan. When members of the World Trade Organization (WTO), to which both China and Taiwan belong, have difficulty signing a comprehensive and complete trade agreement, they often engage in dialogue regarding a general framework agreement. These agreements allow the countries to manifest determination to cooperate with each other and effectively set the agenda for future negotiations.<sup>10</sup> These general framework agreements often identify areas of interest that each side wants included in future negotiations, such as import-export tariffs, non-tariff barriers, intellectual property, investment insurance, dispute resolution, quality control, or exit mechanisms.<sup>11</sup> Because great political distrust still exists between China and Taiwan, the ECFA is an appropriate stepping-stone to a more comprehensive and complete FTA. Under WTO framework, an interim FTA usually becomes a full FTA in approximately ten years.<sup>12</sup>

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<sup>7</sup> Bureau of Foreign Trade, *Dalu taishang jingmaowang* [Mainland China a Taiwanese Network], [http://cweb.trade.gov.tw/kmi.asp?xdurl=kmif.asp &cat=CAT322](http://cweb.trade.gov.tw/kmi.asp?xdurl=kmif.asp&cat=CAT322) (last visited Dec. 11, 2009).

<sup>8</sup> Government Information Office, Republic of China, *The Republic of China Yearbook*, Chapter 2: People and Language, <http://www.gio.gov.tw/taiwan-website/5-gp/yearbook/ch2.html> (last visited Apr. 15, 2010).

<sup>9</sup> *Yin qiming zhengshi yi yu duian jiechu tan ECFA* [Yin Chi-ming Confirmed That He Had Contact with the Other Side to Talk About ECFA], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/2/7/4/100927425.html?coluid=7&kindid=0&docid=100927425> [hereinafter *Yin ch-ming and ECFA*].

<sup>10</sup> *Shenme shi jingji hezuo jiagou xie yi?* [What is the Economic Cooperation Framework Agreement?], Straits Exch. Found., Mar. 2009, [http://www.seftb.org/mhpage.exe?HYPAGE=/03/03\\_content\\_01.asp&weekid=121&idx=2](http://www.seftb.org/mhpage.exe?HYPAGE=/03/03_content_01.asp&weekid=121&idx=2) [hereinafter *Straits Exchange Foundation*].

<sup>11</sup> *Id.*

<sup>12</sup> Yan Huixin, *Taiwansig.tw, WTO Guifan yu zhengfu liang an jingmao xieding guihua zhi yihan* [WTO Framework and Government Planning Implications of Cross-Strait Economic and Trade Agreements], Mar. 2009, [http://www.taiwansig.tw/index.php?option=com\\_content&task=view&id=1234&Itemid=117](http://www.taiwansig.tw/index.php?option=com_content&task=view&id=1234&Itemid=117) [hereinafter *WTO Specification*].

The purposes and effects of the ECFA, as propounded by its advocates, would help to stabilize and eventually increase Taiwan's presence in the Asian market. The former Minister of Economic Affairs, Yin Chi-min, announced that the ECFA will be geared toward lowering and eliminating export tariffs, opening the service and investment industries, and providing protection on Cross-Strait investments.<sup>13</sup> The president of Taiwan, Ma Yingjeou, identified the following three purposes and effects of the ECFA. First, the ECFA will normalize the relationship between the two sides of the Strait, providing both the PRC and the ROC with a framework for trade and investment under which their businesses can work. Taking sure and incremental steps toward a level playing field will reassure investors and boost their confidence in investing. Second, the ECFA will prevent marginalization of Taiwan, making it easier for Taiwan to make trade agreements with other countries in the world, particularly ASEAN member states. Third, the ECFA will further integrate Taiwan with the established system of world trade.<sup>14</sup> Ma Yingjeou also guaranteed that the ECFA would neither weaken Taiwan's sovereignty nor allow cheap labor and agricultural products from the PRC to gain increased access to Taiwan's market.<sup>15</sup> The merits of these claims will be examined later in this Comment.

### III. WHAT ARE THE DRIVING FORCES BEHIND THE ECFA?

The ECFA was originally called the Comprehensive Economic Cooperation Agreement (CECA).<sup>16</sup>

Although discussion of the CECA did not mature until March of 2009, ECFA had clear and identifiable antecedents: 1) the creation of the Cross-Strait Common Market Foundation in 2000 by the current Taiwanese vice-president, Vincent Siew . . . ; 2) the formal accession of [the People's Republic of China] and [the Republic of China] to the World Trade Organization in 2001; and 3) the signing of the China and

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<sup>13</sup> *Yin qi ming : ECFA Yin qiming : ECFA zheng jin luo mi gu jinxing lian an tanpan ding huai ti taiwan zhengqu quanyi [Yin Chi-Ming: ECFA is in Full Swing]*, TTV NEWS, July 2009, <http://www.ttv.com.tw/news/financeinfo/infoview.asp?newsid=720091550176649RUW0156M3NEYC9P47QU4WXD58RBADO2YA> [hereinafter *ECFA is in Full Swing*].

<sup>14</sup> *Mayingjiu: ECFA xian nong jiagou /kan lanzi zhuang shenmeJ [Maying jiu: ECFA Structure Most Important]*, CAPITAL, Mar. 2009, <https://www.capital.com.tw/News/detail.asp?pp=12&next1=1&ID=%7BED70FB09-234F-4910-AA3B-42D4CF012248%7D&num=J> [hereinafter *ECFA Structure*].

<sup>15</sup> *Id.*

<sup>16</sup> Terry Cooke, *Cross-Strait Matrix: The Economic Cooperation Framework Agreement*, CHINA BRIEF, May 27, 2009, [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=35041&tx\\_ttnews%5BbackPid%5D=7&cHash=f0b872132a](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35041&tx_ttnews%5BbackPid%5D=7&cHash=f0b872132a) [hereinafter *Cross-Strait Matrix*].

Hong Kong Closer Economic Partnership Arrangement (CEPA) in June 2003.<sup>17</sup>

The Cross-Strait Common Market Foundation provided a forum in which Taiwanese and Chinese businesses could communicate on an organizational level and identify mutual needs on both sides of the Taiwan Strait. The accession of Taiwan and China to the WTO also provided an enforceable framework for future trade arrangements between the PRC and the ROC. Lastly, the CEPA provided a unique model for economic cooperation between a country and an independent economic zone, which may have transferability and could be implemented between China and Taiwan.<sup>18</sup>

As the global economy deteriorated, the ECFA concept began to thrive.<sup>19</sup> In mid-February 2009, the Taiwanese National Security Council's Secretary General, Su Chi, publicly announced that the government had decided to sign a Comprehensive Economic Cooperation Arrangement (CECA) with the People's Republic of China.<sup>20</sup> This grasped the Taiwanese public's attention immediately, and many major industry associations expressed support for the initiative.<sup>21</sup> President Ma and the Minister of Economic Affairs soon began an active and comprehensive campaign proposing the concept to the Taiwanese constituency, while the DPP organized themselves and supporters to oppose the arrangement.<sup>22</sup> The campaign in favor of the CECA presented the agreement as "'inevitable' and a virtual *fait accompli*, as a process that could be wrapped up by mid-year, as something that could add nearly 1.4% to Taiwan's GDP, and as a boon to Taiwan's efforts to forge FTAs with ASEAN, the United States, and others."<sup>23</sup>

However, during March and April, public debate spawned by the Ma administration's campaign and the DPP's opposition soon led to various adjustments to the CECA concept.<sup>24</sup> One of these adjustments was the abandonment of the name CECA, which was thought to be too reminiscent of China's CEPA with Hong Kong.<sup>25</sup> Given Beijing's sovereignty over Hong Kong, the concern was that a "similarly named trade agreement would erode Taipei's posture of vigorously contested

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

sovereignty vis-à-vis Beijing.”<sup>26</sup> Subsequently, the Ma administration officially changed the name of CECA to the Economic Cooperation Framework Agreement.<sup>27</sup>

After public campaigning and debates in Taiwan, the former minister of economic affairs confirmed earlier this year that the Taiwanese government has been and is still currently in negotiation with the PRC government.<sup>28</sup> In fact, the Ma administration anticipates that the formal signing of the ECFA will occur sometime in the beginning of 2010.<sup>29</sup> Despite efforts by the opposing party and even a call for a referendum by the DPP, the current situation in Taiwan indicates that the signing should proceed on schedule.<sup>30</sup>

#### IV. CONVENTIONAL WISDOM ON WHETHER TAIWAN SHOULD SIGN THE ECFA?

The following Section of this Comment will examine arguments for signing the ECFA, identify popular reasons for opposing the ECFA, propose areas for consideration that are not currently discussed in Taiwan, and suggest that these considerations are indispensable to understanding the comprehensive effect the ECFA will likely have on Taiwan’s future.

##### *A. Arguments for the ECFA*

Benefits to signing the ECFA, as currently discussed and debated in Taiwan, can be roughly classified into three main categories: to promote domestic growth, to prevent marginalization, and to lead to other FTAs.

##### *i. The ECFA will promote domestic growth*

The ECFA will encourage growth in Taiwan’s GDP by increasing Taiwan businesses’ access to China’s low-cost labor force and by opening Chinese markets to Taiwanese products and services. Taiwan’s economy relies heavily on its exports. In fact, 63.49% of Taiwan’s 2008 gross national product is attributed to exports to China, Japan, South Korea, the United States, and other countries.<sup>31</sup> Not only is trade a

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<sup>26</sup> *Id.*

<sup>27</sup> Strait Exchange Foundation, *supra* note 10.

<sup>28</sup> See *Yin Chi-ming and ECFA*, *supra* note 9.

<sup>29</sup> Jingji bu: fei zhengshi zishang yinggai cha bu duo le [Ministry of Economic Affairs: Informal Consultations Should be Almost], MSN NEWS, Nov. 2009, <http://news.msn.com.tw/news1475290.aspx>.

<sup>30</sup> *Id.*

<sup>31</sup> See Strait Exchange Foundation, *supra* note 10.

significant part of Taiwan's economy, but its trade volume with China, its biggest trading partner, is also larger than its trading volume with its next five trading partners combined.<sup>32</sup> The government of Taiwan issued a report early in 2009 through the Strait Exchange Foundation (SEF)<sup>33</sup> estimating that Taiwan's GDP will rise above 1.3% after signing a Cross-Strait economic agreement.<sup>34</sup> Currently, there are over 77,000 investment projects with operations in mainland China.<sup>35</sup> Most of these operating models involve purchasing raw materials from Taiwan or other Asian markets, assembling the components in the Mainland, and then shipping finished or semi-finished products to consumers in Japan, the United States, and other major markets around the world.<sup>36</sup> Under this model, Chinese factories rely on Taiwanese businesses' more advanced technology while Taiwanese businesses rely on China's cheap labor force; together, they feed off the U.S. market. Therefore, Taiwanese businesses stand to benefit from the ECFA because reducing import-export tariffs would allow Taiwanese businesses to take greater advantage of the labor market in China and produce goods at a competitive price.

President Kuo Jinrong of the Taiwan Footwear Manufacturers Association recently illustrated the need for and benefits of the ECFA for his industry. Since Taiwan joined the WTO in 2001, allowing Chinese manufactured shoes to be sold in Taiwan, more than 100,000 workers in the footwear industry have been directly and negatively affected by the fierce competition.<sup>37</sup> In an interview, Kuo suggested that because the Taiwanese government consequently imposed anti-dumping tariffs on Chinese shoes, Taiwanese manufacturers have barely been able to compete with Chinese shoe-makers for the last five years.<sup>38</sup> However, 2009 marks the last year this anti-dumping tax is allowed under WTO

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<sup>32</sup> Bureau of Foreign Trade, Republic of China, Republic of China Import and Export Countries, <http://cweb.trade.gov.tw/mp.asp?mp=1> (last visited Nov. 30, 2009).

<sup>33</sup> The Strait Exchange Foundation is a semi-official organization set up by the Taiwan government to deal with trading and business matters with the People's Republic of China. Although the SEF is technically a private entity, it is founded by the government and controlled by the Executive Yuan. Often, it acts as a liaison in handling Cross-Strait matters. See [www.sef.org.tw](http://www.sef.org.tw).

<sup>34</sup> *Yin Chi-ming: qian ECFA tai GDP jiang zeng 1.374%* [*Yin Chi-Ming: Confirms ECFA will Increase Taiwan's GDP 1.374%*], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/2/7/3/100927349.html?coluid=7&kindid=0&docid=100927349> [hereinafter *ECFA Taiwan's GDP*].

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See *Ta wan jin jibu: ECFA ruoshi chanye jiang you huanchong qi* [*Taiwan's Ministry of Economic Affairs: ECFA will have a Grace Period for Weak Industries*], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/1/8/9/100918981.html?coluid=7&kindid=0&docid=100918981> [hereinafter *ECFA Grace Period*].

<sup>38</sup> *Id.*



rules. Kuo further stated that without signing the ECFA, Taiwanese workers will not be able to level the playing field.<sup>39</sup>

In addition, signing the ECFA will likely ensure Taiwan's access to the Chinese market. Former Minister of Economic Affairs Yin (Yin) asserted that one of the reasons the economic crisis of 2009 had such an adverse effect on Taiwan's economy is Taiwan's over-reliance on the U.S. market.<sup>40</sup> As a result of the economic crisis in the United States, U.S. demand for Taiwanese goods decreased. Because Taiwan had no alternative markets, Taiwanese companies were unable to sell their products. With its 1.3 billion population and an increasing GDP per capita, China can provide a viable alternative market to Taiwanese businesses. Former minister Yin also points to the petroleum, machinery, and auto parts industries as primary beneficiaries of the opportunities promised by the ECFA.<sup>41</sup>

*ii. The ECFA will prevent marginalization*

Another promising benefit of signing the ECFA is to avoid marginalization in a rapidly changing Asian economy. On January 1, 2010, ASEAN officially entered into a free trade relationship with China, known as "ASEAN Plus One" (ASEAN+1).<sup>42</sup> This new economic free trade zone includes a population of nearly two billion people.<sup>43</sup> With this new relationship, China has eliminated 90% of import tariffs with Indonesia, Myanmar, Malaysia, Philippines, Singapore, and Thailand. The other 10% of the import tariffs will be eliminated gradually because they deal with industries that are highly sensitive, such as textile and electronics. The rest of the ASEAN member countries will enjoy the same privilege as soon as 2015.<sup>44</sup> In addition, ASEAN also has plans to construct free trade arrangements with Japan and South Korea. Along with its free trade with China, this arrangement is known as "ASEAN

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<sup>39</sup> *Id.*

<sup>40</sup> *Yin Chi-ming: ECFA ru sun zhuquan bu qian* [Yin Chi-ming: Signing ECFA Will Not Lead to Loss of Sovereignty], UNITED DAILY NEWS, July 2009, <http://www.udn.com/2009/7/31/NEWS/NATIONAL/BREAKINGNEWS1/5051478.shtml> [hereinafter *ECFA Sovereignty*].

<sup>41</sup> See *ECFA Taiwan's GDP*, *supra* note 34.

<sup>42</sup> The Association of Southeast Asian Nations includes ten member countries: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. See Ass'n of Southeast Asian Nations, Overview, [http://www.aseansec.org/about\\_ASEAN.html](http://www.aseansec.org/about_ASEAN.html) (stating that ASEAN was established in 1967 with the purpose of accelerating economic growth and social progress in the region).

<sup>43</sup> See Ass'n of Southeast Asian Nations, ASEAN Country Statistics, available at <http://www.aseansec.org/22122.htm> (last visited, Apr. 15, 2010).

<sup>44</sup> Dongxie jia yi chengli di xingsi [Implications of ASEAN Plus One], Nat'l Policy Found., Feb. 2010, <http://www.npf.org.tw/post/3/6916>.

Plus Three” (ASEAN+3).<sup>45</sup>

The ASEAN + 1 and ASEAN + 3 arrangements prevent Taiwan’s businesses from competing effectively in the Asian market, causing its eventual marginalization in the region. In 2010, while most ASEAN goods gain tariff-free access to the Chinese market, most Taiwanese imports into China will still be subject to a 6–14% tariff.<sup>46</sup> Consequently, Taiwanese businesses will be forced to leave China and invest elsewhere to avoid this disadvantage. If allowed to snowball, this problem would hollow out Taiwanese industries and severely damage Taiwan’s competitiveness. With decreased capacity, Taiwan will no longer play an important role in the Asian economy, and will appear as “the wallflower in China’s dance with regional trade partners.”<sup>47</sup> Making matters worse, South Korea, one of the “Plus Three” countries, also has an export-heavy economy and has become Taiwan’s biggest competitor in recent years.<sup>48</sup> Thus, if Taiwan cannot effectively reduce its costs, its role in the Asian economy may be slowly replaced by an ambitious South Korea, which enjoys open access to China and ASEAN member countries. On the other hand, if Taiwan does successfully negotiate the ECFA and therefore levels the playing field, studies show that foreign investments in Taiwan can increase from 29–42%.<sup>49</sup> Should Taiwan also manage to negotiate free trade arrangements with ASEAN, its foreign and domestic investments are projected to increase another 23–37%.<sup>50</sup>

*iii. The ECFA may lead to signing FTAs with other countries*

The ECFA will also make signing FTAs with other countries possible. In the past, Taiwan had strategically focused on signing FTAs with the United States, Japan, Singapore, and the European Union in an attempt to offset efforts from the PRC to marginalize Taiwan.<sup>51</sup> All of these attempts failed, however, due in large part to Beijing’s strong opposition as well as the unwillingness of these countries to take sides in a stressed Cross-Strait relationship.<sup>52</sup> Although Taiwan officially joined the WTO in 2001, Taiwan’s abnormal relationship with China, and

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<sup>45</sup> *ECFA Taiwan’s GDP*, *supra* note 34.

<sup>46</sup> See [www.sef.org.tw](http://www.sef.org.tw).

<sup>47</sup> *Cross-Strait Matrix*, *supra* note 16.

<sup>48</sup> *ECFA Grace Period*, *supra* note 37.

<sup>49</sup> Liangan jingji hezuo jiagou xieyi Q&A [Cross-Strait Economic Cooperation Framework Agreement Q&A], Apr. 2009,

[http://ekm92.trade.gov.tw/BOFT/web/report\\_detail.jsp?data\\_base\\_id=DB009&category\\_id=CAT4010&report\\_id=167668](http://ekm92.trade.gov.tw/BOFT/web/report_detail.jsp?data_base_id=DB009&category_id=CAT4010&report_id=167668) [hereinafter Cross-Strait ECFA Q&A].

<sup>50</sup> *Id.*

<sup>51</sup> *Cross-Strait Matrix*, *supra* note 16; see also Strait Exchange Foundation, *supra* note 10.

<sup>52</sup> Strait Exchange Foundation, *supra* note 10.

China's recent domination in the world economy deter other countries from entering into free trade agreement with Taiwan.<sup>53</sup>

Given the right conditions, however, signing FTAs with other countries in the future is not completely inconceivable for Taiwan. In fact, the government of Taiwan has suggested that signing the ECFA with China may be just what is needed for Taiwan to negotiate more free trade relationships with other nations.<sup>54</sup> The American Institute in Taiwan (AIT) indicates that signing a FTA with the United States is unlikely until Taiwan has solidified and clarified its trade relationship with China.<sup>55</sup> Although there have been no express guarantees that signing the ECFA will lead to an FTA with the United States, many understand AIT's statement to imply that an agreement like the ECFA would greatly increase the likelihood of such an agreement with the United States.

Signing the ECFA may also lead to more free trade with ASEAN member countries. The ASEAN Charter declares that it will be "mindful of the existence of mutual interests and interdependence among [its] peoples and member states", and its purpose is to "maintain peace, security, and stability . . . in the region."<sup>56</sup> Its behavior in the past has shown that ASEAN traditionally upholds these purposes and standards by "following the path of least resistance" in developing trade relationships with other countries. In fact, Surin Pitsuwan, former ASEAN Chairman, has reported that ASEAN will not initiate economic cooperation with both sides of the Strait until both Taiwan and China reach a certain level of consensus as to its trade relationships.<sup>57</sup> Since Taiwan commenced serious talks with China concerning the ECFA, former minister Yin has observed that quite a few ASEAN member countries have expressed willingness to consider free trade negotiations with Taiwan if Taiwan were able to reach a formal trade agreement with China first.<sup>58</sup>

Domestic growth, prevention of marginalization, and initiation of other FTAs are the main benefits that Taiwan believes will come from the ECFA. While the government is actively educating the people about these benefits, the Democratic Progressive Party (DPP), the opposition party in Taiwan, and other pro-independence parties are also advancing

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<sup>53</sup> *Cross-Strait Matrix*, *supra* note 16.

<sup>54</sup> Strait Exchange Foundation, *supra* note 10.

<sup>55</sup> *Cross-Strait Matrix*, *supra* note 16.

<sup>56</sup> The ASEAN Charter pmbl, art. 1, para 1, *available at* <http://www.aseansec.org/publications/ASEAN-Charter.pdf> (last visited Nov. 13, 2009).

<sup>57</sup> Strait Exchange Foundation, *supra* note 10.

<sup>58</sup> *ECFA Grace Period*, *supra* note 37.

arguments against the ECFA, including: a weakening of Taiwan's sovereignty, a threat of stiff foreign competition to Taiwanese laborers and farmers, and overdependence on China. While these popular arguments against the ECFA are not completely without merit, this Comment will offer reasons they are unpersuasive. Following this discussion, this Comment will provide other points of consideration which are critical in evaluating the actual economic consequences of signing the ECFA.

### *B. Popular Arguments Against the ECFA*

The campaign against ECFA coalesces into three popular arguments: (1) the ECFA will undermine the autonomy of Taiwan, (2) Chinese access to Taiwan markets will threaten Taiwanese laborer and farmer employment, and (3) signing the ECFA will lead to overdependence on Chinese markets as a purchaser of Taiwanese goods. None of these arguments are strong, however, and are perpetuated largely through continued fear and misunderstanding of the ECFA.

#### *i. The ECFA undermines Taiwan's autonomy*

Currently, the most common argument against signing the ECFA in Taiwan is that the ECFA will undermine Taiwan's sovereignty. This theory is primarily advanced by the DPP, who contends that, should Taiwan sign the ECFA under the One-China principle, Taiwan will lose its economic independence and autonomy, thereby experiencing a detrimental impact."<sup>59</sup>

The DPP points to the Comprehensive Economic Partnership Agreement (CEPA) signed between China and Hong Kong as proof that signing the ECFA will eventually lead to two separate tariff zones operating under the scope of one People's Republic of China.<sup>60</sup> The CEPA was signed in 2003 in an effort to stimulate Hong Kong's economy and promote trade with the Mainland.<sup>61</sup> After reunification with the Mainland in 1997, Hong Kong was promised economic autonomy for fifty years without interference from the Mainland.<sup>62</sup> Although Hong Kong was able to largely maintain its economic and even political independence after reunification, it sensed the need to establish a closer

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<sup>59</sup> Fandui ECFA Jiu da liyou [Nine Arguments Against ECFA], Jun. 2009, <http://green.csie.ntu.edu.tw/news20090609.htm> [hereinafter ECFA Opposition].

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Information Services Department, Hong Kong SAR Government, Hong Kong Yearbook, Chapter 21: History, 419, <http://www.yearbook.gov.hk/2008/en/pdf/E21.pdf> (last visited Apr. 15, 2010).

economic relationship with China and therefore signed the CEPA six years later. Notably, the CEPA was premised on the notion that it would be carried out in accordance with the “One Country, Two Systems” doctrine required by the rules of the WTO.<sup>63</sup> Hu Jintao, General Secretary of the Chinese Communist Party, has alluded to the CEPA model as a possible mechanism under which the ECFA could be carried out.<sup>64</sup> Many Taiwanese pro-independence politicians, most of whom are DPP members, have interpreted Hu’s statement as China’s scheme to legally treat Taiwan like Hong Kong and create a “One-China economy.”<sup>65</sup> Opponents of the ECFA suggest that once the ECFA is signed, Taiwan’s economy will have to operate under this One-China economy, and consequently lose its right and ability to make its own trading policies and maintain economic independence. This, in turn, will slowly deplete its political autonomy.

The effect of this suspicion is manifested in the evolution of the actual name of the ECFA. The Taiwanese government, in its early considerations of an economic agreement with China, intended to call the agreement the “Closer Economic Partnership Arrangement.” However, when the DPP asserted that this agreement would subject Taiwanese sovereignty to China’s rule, the government changed the name to “Comprehensive Economic Cooperation Agreement” (CECA).<sup>66</sup> Nevertheless, the DPP continued to criticize this CECA as being too similar to the CEPA between Hong Kong and China.<sup>67</sup> After several months, the Taiwanese government again changed the name to avoid further controversies and forestall confusion of the ECFA with the CEPA, this time to the Economic Cooperation Framework Agreement.<sup>68</sup>

While the effect of this DPP-promulgated theory on Taiwan’s constituents is self-evident, the reasonableness of the underlying theory is not. The CEPA is a signed agreement between the central government of a state and a special tariff and economic zone of the same state. There

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<sup>63</sup> ECFA Opposition, *supra* note 59.

<sup>64</sup> *Id.*

<sup>65</sup> Taiwansig.tw, Ma yingjeou weihe ji zhe yu zhongguo qian ding ECFA? [Why is Ma Ying-jeou in a Hurry to Sign the ECFA with China?]ECFA, Apr. 2009, [http://www.taiwansig.tw/index.php?option=com\\_content&task=view&id=1279&Itemid=117](http://www.taiwansig.tw/index.php?option=com_content&task=view&id=1279&Itemid=117) [hereinafter One China Economy].

<sup>66</sup> WTO Specification, *supra* note 12; *Taiwan jingzheng li luntan dui ECFA de zonghe jianyan*, [Taiwan Competitiveness Forum on the ECFA: Comprehensive Suggestions], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/1/5/5/100915560.html?coluid=7&kindid=0&docid=100915560&mdate=0317154248> [hereinafter *Closer Economic Partnership Arrangement*].

<sup>67</sup> Cross-Strait Matrix, *supra* note 16.

<sup>68</sup> *Id.*; Strait Exchange Foundation, *supra* note 10.

was no question at the creation and signing of the CEPA that Hong Kong was then a part of China. Thus, the CEPA had no reason to contemplate any framework for economic cooperation other than the “One China, Two Systems” structure. The ECFA, on the other hand, will be signed between Taiwan and China—two practically separate states with a delicately abnormal relationship of hostility and interdependence. There is no reason to assume the ECFA will require a framework of cooperation that will diminish Taiwan’s sovereignty. In fact, Taipei has indicated that the ECFA will be a purely economic agreement and carry no political implications.<sup>69</sup> In addition, President Ma Yingjue of Taiwan has repeatedly promised that the ECFA will not be signed if Taiwanese sovereignty will be compromised in any way.<sup>70</sup>

*ii. The ECFA threatens Taiwanese farmers and laborers*

The second popular argument against the ECFA is a general protectionist theory put forth by the DPP. This theory suggests that should Taiwan sign the ECFA, over four million people, mainly laborers and farmers, would be directly affected.<sup>71</sup> The basic reasoning behind this theory is provided by the supply-demand model often seen in economics. Under this theory, if the ECFA is signed, it would open the flood gates and allow Chinese laborers free entrance into Taiwan’s market. As the supply of workers increased, the cost of finding workers would decrease, and Taiwanese workers and farmers would have a more difficult time competing in the market.<sup>72</sup> In addition, an increase in Cross-Strait business opportunities would facilitate the transfer of Taiwanese business operations to the Mainland where employers could take advantage of the lower standard of living and cost of labor. If these businesses moved to China, not only would the number of employers in Taiwan decrease, but there would also be an influx of cheap Chinese laborers. This series of events would result in disaster for Taiwanese workers.

While this argument appears sound in theory, proponents of this argument seem to intentionally avoid facts that might calm fears

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<sup>69</sup> *Tai cheng ECFA shi liangan teshu de jingji hezuo xieyi* [Taiwan calling ECFA a Unique Cross-Strait Economic Cooperation Agreement], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/1/8/3/100918353.html?coluid=7&kindid=0&docid=100918353>.

<sup>70</sup> *ECFA Structure*, *supra* note 14.

<sup>71</sup> *Mínjin dang xuancheng ECFA chongji 4,000,000 ren shengji* [DPP Claims That ECFA Will Impact Livelihoods of 4 Million], CHINA REVIEW NEWS, Mar. 2009, <http://www.chinareviewnews.com/doc/1009/2/3/3/100923334.html?coluid=7&kindid=0&docid=100923334>.

<sup>72</sup> *One-China Economy*, *supra* note 65.

regarding excessive Chinese laborers in the Taiwanese market. First, the Taiwanese economy is heavily export-oriented: approximately 60–70% of Taiwan's total GDP is directly related to exportation.<sup>73</sup> Many of these exportation businesses already have factories in China employing Chinese workers. Thus, the Taiwanese labor market is already near saturation and workers are already earning only marginal profits for their labors. Under these conditions, Chinese laborers are unlikely to migrate to a Taiwanese market where the prospect of earning a profit is low while the cost of living is high.

Second, the government of Taiwan has already accounted for the risks of increased Chinese laborers in Taiwan. In early 2009, President Ma, in light of this concern, publicly promised that the ECFA will not open the Taiwanese market and allow Chinese laborers and farmers easy access into Taiwan.<sup>74</sup> In addition, for industries that are especially labor intensive, such as the textile industry, the government promised to include in its negotiations with China provisions protecting these industries and their workers.<sup>75</sup>

*iii. The ECFA could result in overdependence on China*

Finally, some argue that signing the ECFA would lead to Taiwan's overdependence on the Chinese market. This argument is based on the fact that 80% of Taiwan's foreign investments are located in China and 40% of Taiwan's exported goods end up in China.<sup>76</sup> According to data provided by the Council for Economic Planning and Development, R.O.C., Taiwan's exports decreased by 58.6% in the first quarter of 2009.<sup>77</sup> Opponents to the ECFA point to this data and suggest that Taiwan's economy already depends so heavily on China's consumption that if the ECFA is signed it will only increase this dependence on Chinese demand.<sup>78</sup> Opponents of the ECFA also assert that currently, Taishangs and Taiwanese businesses enjoy a competitive edge over Chinese businesses because of their advanced technology and expertise. Once the ECFA opens the Cross-Strait market, these technologies will be learned by Chinese businesses and Taishangs will lose their competitive

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<sup>73</sup> *Closer Economic Partnership Arrangement*, *supra* note 66.

<sup>74</sup> ECFA Structure, *supra* note 70.

<sup>75</sup> *Closer Economic Partnership Arrangement*, *supra* note 66.

<sup>76</sup> ECFA Opposition, *supra* note 59; *see also* Council for Economic Planning and Development, Duiwai maoyi [Trade],

<http://www.cepd.gov.tw/m1.aspx?sNo=0012628&key=&ex=%20&ic=&cd=>

(last visited Apr. 15, 2010) [hereinafter CEPD].

<sup>77</sup> CEPD, *supra* note 76.

<sup>78</sup> ECFA Opposition, *supra* note 59.

advantage.<sup>79</sup> As a result, Taiwanese businesses' advantages will slowly be marginalized and the businesses will increasingly engage in price wars with Chinese businesses in order to survive in China. Over time, this would lead to an inability to effectively compete at a global level, and force Taiwanese businesses to stay in China and rely on its market.<sup>80</sup>

Although the phenomenon described above is conceivable, it is not inevitable. First, using the data from the first quarter of 2009 to suggest that overdependence on the Chinese market has caused Taiwan's exportation decline is misleading. Even if Taiwan's exportation is completely independent from China's market, the global financial crisis of 2009 likely had a comparable, if not worse, effect on Taiwan's exportation figures. In addition, although Taiwan's exportation suffered a serious setback in the first quarter of 2009 (a 58% decrease), its overall export for the year only decreased by 20% as compared to 2008.<sup>81</sup> Considering China's strong performance relative to other countries in the world in 2009, one may wonder whether Taiwan's trading would have bounced back if it had not had more access to the Chinese market.

In addition, although the ECFA will open the Cross-Strait market and therefore expose more of Taiwan's technology to Chinese businesses, Taiwanese companies will likely enjoy that same privilege and tap into technologies developed by the Chinese, as well as technologies developed by countries throughout the world with investments and projects in China. Considering the expertise and international experience developed in the past three decades, it is not hard to imagine that Taiwanese businesses can combine their skills with what is learned in China and thereby stay competitive in the world economy.

#### V. CRITICAL CONSIDERATIONS TO THE EVALUATION OF THE ECFA

Although the aforementioned arguments against signing the ECFA are not entirely without merit, they should not be the focal point in the ECFA debate. In fact, it would not be an exaggeration to say that these arguments capitalize on Taiwanese constituents' fear of involuntary reunification with China and their desire to maintain autonomy. Some of the aforementioned arguments therefore only superficially address possible consequences of signing the ECFA.

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Ministry of Finance, Republic of China, Woguo dui zhuyao guojia (diqu) chukou zongzhi ji nian zeng lu [China's Major Countries (Regions) and the Annual Growth Rate of Exports], <http://www.mof.gov.tw/ct.asp?xItem=55233&ctNode=1774&mp=6> (last visited Apr. 15, 2010).



This Comment will now advance considerations that address material economic consequences of signing the ECFA. The first of these considerations is whether there will be actual harm to Taiwan's domestic market and whether the degree and extent of this harm can be accurately evaluated. If not, Taiwan is taking a risk in signing the ECFA. The second consideration is whether the ECFA can achieve its proposed result of sufficient tariff reduction and lead to signing FTAs with other countries. These considerations—as opposed to the ones discussed above—are the considerations that should temper an over-optimistic attitude about signing the ECFA.

A. *Negative Consequences of the ECFA to Taiwanese Domestic Markets Are Difficult to Evaluate*

Although signing the ECFA may greatly benefit Taiwanese businesses, it could also harm the Taiwanese market. In mid-2009 the Taiwanese government reported that the ECFA will likely create 12,000–26,000 job opportunities while only eliminating 8,000–10,000 jobs.<sup>82</sup> As will be explained, such an estimate is likely to be incomplete or misleading as it focuses only on data associated with tariff reductions. In addition, the ECFA may cause an industrial hollow out in Taiwan. Although it is difficult to predict the exact consequences of a hollow out in Taiwan, it is clear that there will be fewer job opportunities.

As mentioned previously, the problem with the 8,000–10,000 job loss estimate is that it ignores the overall effect of the ECFA. Former Minister Yin has described the ECFA as an egg with three yolks: reducing tariffs, opening service industries, and increasing Cross-Strait investment opportunities.<sup>83</sup> Although all three objectives are integral parts of the ECFA, the model used by the government to calculate job losses, the Global Trade Analysis Project (GTAP), only processes data associated with tariff reduction.<sup>84</sup> Therefore, the number of job losses estimated by the government can be interpreted as job losses due to the effects of tariff reduction only. The resulting miscalculation of job losses would have a disproportionate effect on small and medium sized businesses. Many of these businesses provide services to the domestic market. Although exportation makes up 60% of Taiwan's total GDP, almost 70% of Taiwan's businesses are service-oriented and primarily

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<sup>82</sup> Cross-Straight ECFA Q&A, *supra* note 49.

<sup>83</sup> *ECFA is in Full Swing*, *supra* note 13.

<sup>84</sup> Bureau of Foreign Trade, Republic of China, Liangan jingji hezuo jigou xieyi zhi yingxiang pinggu baogao [Impact Assessment of the Economic Co-Operation Framework Agreement Between the Two Shores], <http://ekm92.trade.gov.tw/BOFT/OpenFileService> (last visited Nov. 18, 2009) [hereinafter GTAP].

serve the domestic population.<sup>85</sup> Of these service providers, most are retailers, wholesalers, food industries, and lodging industries operating on a small scale and often run by family members.<sup>86</sup> If the ECFA opens the Taiwanese market to the Chinese, the Chinese will likely encounter very few barriers to entry into Taiwanese markets, as the cost of capital to set up service-oriented operations is low, and the culture and language between China and Taiwan are similar enough that doing business in Taiwan will not be difficult. Although this may also present opportunities to Taiwanese business persons, it is important to remember that these service industries currently provide over 20% of employment opportunities available in Taiwan.<sup>87</sup> Therefore, any underestimation on the predicted number of job losses advanced by the government will have disastrous consequences for the service sector of the Taiwanese labor market.

In addition to its inability to take into account the effects of opening service industries and Cross-Strait investments, the GTAP model confines its predictions only to a short period of time following the signing of the ECFA. In a report generated by the Bureau of Foreign Trade, the government explained that the GTAP model assumes that there will be no price adjustments after the signing of the ECFA and that Cross-Strait competition will be limited to a competition in price but not in quality.<sup>88</sup> With these assumptions in place, the government's prediction of 8,000–10,000 job losses is at best only a short-term evaluation of the effects that tariff reduction may have on Taiwanese unemployment.

The ECFA may also harm Taiwan's domestic market by causing industrial hollow outs in Taiwan. This hollow out effect has been largely overlooked. Industrial hollow out may take two forms. The first of these is foreign acquisition of Taiwanese enterprises. For example, Taiwan currently has very large international semiconductor and integrated circuit (IC) companies that supply global demands. These Taiwanese companies are currently much more competitive than their Chinese counterparts because of their advanced technology in design and application. Their clients are often large international corporations based in the United States or Europe. If the ECFA opens the market for these

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<sup>85</sup> *Closer Economic Partnership Arrangement*, *supra* note 66; see also Ministry of Finance, Republic of China, Ni de xiao shengyi yu [Your Small Business and the ECFA], Nov. 2009, <http://www.mof.gov.tw/ct.asp?xItem=28826&CtNode=131&mp=1> [hereinafter EFCA and Small Business].

<sup>86</sup> CEPD, *supra* note 76.

<sup>87</sup> ECFA and Small Business, *supra* note 85.

<sup>88</sup> GTAP, *supra* note 84.

Taiwanese companies, not only will they have a share of the Chinese market, but they will also have the opportunity to establish the foundation for the IC and semiconductor industries in China. As these companies move into China, learn the Chinese market, and form close ties with other Chinese industries, their value and appeal to their foreign clients will increase dramatically. Once Taiwanese companies are well established in China and the Chinese semiconductor and IC markets mature, foreign clients could consider buying these Taiwanese companies. These potential buyers will have no use for Taiwanese companies as middlemen and will have no incentive to share profits with them. On the contrary, they would have increased incentives to buy out the Taiwanese companies and save on costs. If this happens, the predicted employment opportunities for Taiwanese employees will be undercut.

A second way industrial hollow outs may occur is if smaller businesses leave Taiwan after losing to Chinese competition. Certain industries in Taiwan are composed of one dominant corporation with smaller enterprises. For example, China Steel is the largest steel maker in Taiwan, owning half of the Taiwanese market. The rest of the market consists of many other smaller companies, none of which compares to China Steel in scale or influence.<sup>89</sup> The ECFA will likely not have an adverse effect on China Steel due to its size and well-established position in the Taiwanese market. However, if the other smaller steel companies lose out to the Chinese competition, they will likely move their operations somewhere cheaper, perhaps to China or ASEAN member countries. This is most likely to occur in industries that once consisted of a few state-owned enterprises, like the steel and petroleum industries. If this small business glut actually occurs, employment opportunities within these smaller companies will diminish.

Despite the predictions made and the arguments discredited above, it is extremely difficult to calculate the effects of an industrial hollow out in Taiwan. Whether the hollow out is caused by foreign acquisitions of Taiwanese companies or Taiwanese companies leaving the market, the GTAP does not accurately process the effects of a possible hollow out. Consequently, the Taiwanese government has not yet provided any data on possible effects of industrial hollow out and has thus underestimated the effect the signing of the ECFA could have on employment opportunities for Taiwanese laborers.

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<sup>89</sup> See generally REPORTLINKER, METALS AND MINING IN TAIWAN (Dec. 2009), <http://www.reportlinker.com/p0169003/Metals-and-Mining-in-Taiwan.pdf> (describing the nature of the Chinese steel industry).

*B. The ECFA May Not Achieve All of Its Objectives*

In addition to considering unexpected harms caused by the ECFA, its effectiveness in achieving its proposed results should also be examined. Some propose that the ECFA will increase free trade and reduce, if not eliminate, tariffs.<sup>90</sup> The Taiwanese government also suggests that signing the ECFA will lead to signing FTAs with other nations.<sup>91</sup> However, the likelihood that the ECFA will actually achieve both of these objectives is questionable.

The ECFA may fail to increase free trade and reduce tariffs if a finalized FTA is not established under the WTO framework. The most significant benefit that will purportedly result from signing the ECFA is promoting Cross-Strait trade by reducing and eliminating tariffs while protecting infant or labor-sensitive industries.<sup>92</sup> This will only occur if it is so determined under a finalized FTA. Under the WTO framework, the ECFA will probably be considered an interim FTA. Interim FTAs usually become fully developed FTAs within ten years under this WTO framework.<sup>93</sup> However, FTAs are normally signed between two independent states. Since, under the WTO's "One China" principle, the ECFA technically governs only one state, the fact that the ECFA resembles other interim FTAs does not guarantee that a complete FTA will develop within ten years. In addition, even assuming that the ECFA will lead to a FTA with China, the actual terms of the final agreement may not necessarily benefit Taiwan as much as Taiwan hopes. Lastly, since the beginning of 2009, Taiwan has repeatedly conveyed to its populous that Taiwan must sign the ECFA with China and Taiwan will do all that is necessary to ensure that the ECFA is signed by 2010.<sup>94</sup> When one party to a negotiation has already revealed its bottom line, as Taiwan has done here, that party leaves itself little bargaining power and leverage at the negotiation table. Thus, Taiwan will have little power to ensure that a final FTA, if one does develop, will be abundantly favorable to Taiwan.

In addition to eliminating or reducing tariffs, another projected benefit of signing the ECFA is that it will lead to signing other FTAs with other nations; however, this is not certain. Although China has not indicated whether it will encourage or allow Taiwan to sign FTAs with other countries after signing the ECFA, the reasons China previously

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<sup>90</sup> *ECFA is in Full Swing*, *supra* note 13.

<sup>91</sup> Strait Exchange Foundation, *supra* note 10.

<sup>92</sup> *ECFA is in Full Swing*, *supra* note 13.

<sup>93</sup> WTO Specification, *supra* note 12.

<sup>94</sup> *Cross-Strait Matrix*, *supra* note 16.

opposed Taiwan signing FTAs with other countries still exist. The PRC has indicated that the ECFA is purely an economic agreement.<sup>95</sup> If the ECFA carries no political implications, the difficulties in signing FTAs with other countries that currently challenge Taiwan will still exist after the ECFA is signed. Former minister Yin stated that Taiwan has had difficulties signing FTAs with other countries primarily because of China's opposition.<sup>96</sup> Because China sees Taiwan as a part of its territory, it will consistently object to Taiwan making trade agreements with other states. Although signing the ECFA means further Cross-Strait trading and economic cooperation, it does not mean that China has or will change its perception and interpretation of the "One China" principle. Therefore, it is dangerous to assume that just because Taiwan will now sign a framework agreement with China, China will suddenly let Taiwan sign FTAs with other nations.

## VI. CONCLUSION

The purpose of this Comment is not to reject signing the ECFA, but rather to scrutinize unfounded existing fears surrounding the signing and provide additional considerations that caution against an over-optimistic attitude towards the ECFA. Having potentially negative impacts on Taiwan's domestic market does not automatically discount the potential benefits the ECFA can bring. Indeed, every FTA carries potential costs in addition to its benefits. The ECFA does present many opportunities to Taiwanese businesses. However, just as the actual harms to Taiwan are hard to predict, the long-term benefits of the ECFA are just as murky. Furthermore, while the ECFA presents a few uncertainties about Taiwan's future, the effect of not signing the ECFA will certainly harm Taiwan's ability to compete in the Asian economy. In addition, considering President Ma's recent statement that signing the ECFA is imminent and certain,<sup>97</sup> whether the ECFA should be signed may not be as important of an issue as how the ECFA will actually be framed and negotiated. If, during the actual negotiations of the ECFA, provisions may be included that prevent Taiwanese industrial hollow out and guarantee the freedom to sign FTAs with other states, the ECFA's proposed benefits to Taiwan will be more likely to materialize.

<sup>95</sup> *ECFA Grace Period*, *supra* note 37.

<sup>96</sup> *Yinqiming: ECFA you zhu he taguo qian FTA* [Yin Chi-ming: *ECFA Will Help Taiwan to Sign FTAs with Other Countries*], CHINA DAILY NEWS, Aug. 2009, <http://www.cdns.com.tw/20090806/news/jdxw/010000002009080520224859.htm>.

<sup>97</sup> *Gongkai xia zhan tie: Mma yao Tsai yingwen tan ECFA "jiang hang hua"* [An Open Invitation of Ma to Tsai Ying-wen to Talk About ECFA], CHINA DAILY NEWS, May 2009, <http://www.chinareviewnews.com/doc/1009/1/2/5/100912501.html?coluid=7&kindid=0&docid=100912501>.