

**Explanatory Materials for the Agreement between
Singapore and the Separate Customs Territory of Taiwan,
Penghu, Kinmen and Matsu on Economic Partnership
("ASTEP")**

Ministry of Economic Affairs

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PREAMBLE

The Agreement between Singapore and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Partnership (also known as “ASTEP” or “the Agreement”) is the first economic cooperation agreement (“ECA”) between Taiwan and a Southeast Asian country. It marks a significant step in Taiwan’s strategy for engaging in regional integration and connecting with Southeast Asia, the Asia Pacific region and beyond.

Taiwan and Singapore (“the Parties”) have a close long-standing economic and trade relationship. According to Taiwan’s Customs’ statistics for 2012, Singapore is Taiwan's 5th largest trading partner, 4th largest export market, 8th largest source of imports and 9th largest source of foreign investment, with a bilateral trade of USD 28.2 billion. Taiwan is Singapore's 8th largest trading partner, 10th largest export market, and 5th largest source of imports.

ASTEP is a high-quality and high-standard agreement with a total of 17 chapters covering a wide range of topics commonly found in FTAs, including trade in goods, cross-border trade in services, rules of origin, customs procedures, Technical Barriers to Trade (“TBT”), Sanitary and Phytosanitary Measures (“SPS”), and intellectual property. The Agreement also encompasses topics not currently covered under the WTO agreements designed to expand the scope of bilateral cooperation, such as E-commerce, investment and competition.

Milestones of ASTEP

1. The Taipei Representative Office in Singapore and the Singapore Trade Office in Taipei issued a joint press release on August 5, 2010, announcing their intent to conduct separate feasibility studies for an economic cooperation agreement (ECA).
2. The Taipei Representative Office in Singapore and the Singapore Trade Office in Taipei issued a joint press release on December 15, 2010, announcing the completion of the respective feasibility studies, which concluded that an economic cooperation agreement would offer significant mutual benefits. Both sides agreed to launch official negotiations.
3. The first round of negotiations was held in May 2011.
4. The Taipei Representative Office in Singapore and the Singapore Trade Office in Taipei issued a joint press release on May 17, 2013 announcing that they had substantively concluded the ASTEP negotiations.

I. Institutional Provisions and Dispute Settlement

1. Both Parties affirm their commitment to abide by the principles of this Agreement: foster a cordial trade relationship, expand regional integration to generate larger economics of scale, and ensure the transparency and fairness of legal procedures. In addition to establishing an institutional point of contact, the Parties shall meet within a year of the date of the Agreement's entry into force, and subject to mutual agreement, may meet biennially or otherwise as appropriate thereafter, to review the implementation of this Agreement; establish related committees and working groups that will ensure effective and timely implementation of designated provisions; and otherwise encourage development of on-going, long-term cooperation between the Parties.
2. The dispute settlement chapter sets out the implementation, interpretation and application of the Agreement's dispute settlement procedures. Its main provisions include the scope of matters eligible for dispute settlement; provisions for mandatory consultation; procedures for mutually-agreed upon mediation; the formation of an arbitral tribunal when consultations fail; procedures for appointing arbitrators, functions of the arbitral tribunal; procedural rules governing arbitral tribunal proceedings; the drafting and implementation of arbitral tribunal reports; and in the case of non-implementation, the suspension of benefits offered as a retaliatory measure to the prevailing party.

II. Chapters Related to Trade in Goods

1. Trade in Goods

(1) Trade Liberalization: Under ASTEP, Taiwan and Singapore strived for a high standard of liberalization as reflected in the tariff (elimination) schedules set forth in the Agreement.

i. Singapore's customs elimination commitment (100% liberalization):

(i) Custom duties on 6 kinds of alcoholic beverages (beer and sam-su) will be eliminated;

(ii) Customs duties on all products imported by Singapore from Taiwan will be eliminated immediately upon the Agreement's entry into force; this represents a higher level of liberalization than what Singapore has currently committed to in the WTO.

ii. Taiwan's customs elimination commitment (99.48% liberalization):

(i) Customs duties on 83.03% of goods imported by Taiwan from Singapore (amounting to 97.75% of Singapore's total export value to Taiwan) will be eliminated;

(ii) Customs duties on other products will be eliminated either by 5 years, 10 years, or 15 years after the Agreement enters into force, or lowered to 80% of the original tariff after 5 years (a 20% preference);

(iii) 40 products, such as rice and rice products, deer velvet, liquid milk, garlic, shelled ground-nuts, red beans, pineapples, mangos, coconuts, longans, dried shiitake, dried day-lily, and other refined sugar (certain sugar products), are excluded from the tariff elimination list.

(2) Trade Remedies: To buffer any temporary economic impact that may result from the implementation of the Agreement, Taiwan secured the

right to adopt countervailing measures, anti-dumping measures, and global safeguard measures in accordance with WTO Agreements, as well as bilateral safeguard measures for a period of three years (with the option of extending these measures for an additional two years).

2. Rules of Origin

(1) To ensure that only goods originating from Taiwan and Singapore receive preferential treatment under the Agreement, and avoid the third-party “free-rider” problem, the Parties under ASTEP establishes rules of origins on the premise they do not create barriers to trade. The customs administrations of the Parties will work together to prevent and penalize when necessary, false reports on the origins of products under the Agreement.

(2) Product Specific Rules (PSR):

In order to obtain preferential treatment for goods of origin, goods must comply with the requirements under the Rules of Origin chapter and satisfy the PSR listed in Annex 4B of the Agreement:

- i. Change in tariff classification: Some products containing non-originating content, such as petroleum engines and adapters, are allowed to be considered originating goods under the Rules of Origin if, after processing, the HS code for the final product differs from that for the non-originating content;
- ii. Regional Value Content (RVC): Some products, take malt (RVC 45) as an example, must increase its imported raw materials value by 45% after processing to be considered as an originating good; or
- iii. For some products, such as tomato sauce, soybean sauce and juice, the relevant PSR is met either as a result of a change in tariff classification or on the basis of the RVC requirement.

- (3) The customs procedures relating to origin:
- i. Under ASTEP, the Parties have adopted a self-declaration system, whereby the exporters or manufacturers shall issue a Declaration of Origin on their own in lieu of having the certificates of origin issued by an official authority. The self-declaration system streamlines customs procedures, reduces costs and time spent on documentation preparation by exporters or manufacturers, and as a result, promotes trade facilitation.
 - ii. In addition, any good with a customs value not exceeding USD 1,000 is exempt from the requirement to provide a Declaration of Origin.

3. Customs Procedures and Cooperation

- (1) Trade Facilitation:

ASTEP promotes trade facilitation between the Parties through promoting exchanges of customs information, establishing a single window, and issuing advance rulings regarding disputes arising from import tariff classification and customs valuation actions.

- (2) Customs cooperation:

The customs administrations of the Parties should exchange information and share experiences on customs matters such as risk management. Each Party shall designate a customs focal point to further cooperation activities and ensure trade facilitation and safety.

III. Chapters Related to Investment and Trade in Services

1. Investment

(1) Investment Promotion:

ASTEP promotes the free transfer and use of capital and profits, while also prohibiting requirements for local content (minimum percentages of domestically-produced content, or for services, rules that require natural persons to be of a particular nationality to occupy senior management or board of director positions in an enterprise). These measures seek to increase investor freedom and decrease unreasonable interference by government authorities.

(2) Investment Protection:

ASTEP: (1) expands investment protections from traditional movable or immovable property to various kinds of investments covering technology, intellectual property, and security; (2) requires expropriation be undertaken only for a public purpose, and with timely, effective, and full compensation; (3) provides fair and equitable treatment, and full protections to investors and their investments; (4) resolves investment disputes between a Party and the investor through international arbitration with objective and reasonable arbitrators that will provide more protection for investors (for the financial services sector, this mechanism is available only for claims relating to expropriation, investment transfers, and denial of benefits).

(3) Investment Liberalization:

Each party should accord to investors of the other Party treatment no less favorable than what it accords to its own investors (National Treatment). However, the parties can carve out exceptions for restricting sectors in specific ways through scheduling of agreed Non-Conforming Measures (NCMs).

2. Cross-Border Trade in Services

(1) Market Access commitments:

- i. The Parties have agreed, in principle, to liberalize all their investment and cross-border services with exception of the measures and sectors enumerated in the NCMs (*i.e.*, “negative list”). Taiwan reserved its right to impose restrictions on 30 service sectors, including transport, telecommunications, and professional services. Singapore reserved its right to impose restrictions on 35 sectors, including transport, business services, and health services. No changes were made to the Parties’ commitments under the WTO for the financial services sector.
- ii. Compared to the Parties’ commitments under the WTO, Singapore further liberalizes integrated engineering services, landscape services, and research and development services. In exchange, Taiwan further liberalizes its telecommunications services, maritime services and environmental services.

(2) For the basic principles for cross-border trade in services, the Parties agreed to incorporate the core provisions of the General Agreement on Trade in Services (GATS) of the WTO, to which both sides are members:

- i. Except for sectors listed in the NCMs, each Party should provide service suppliers of the other Party with the same treatment as that provided to its own service suppliers (National Treatment); neither Party may impose limitations on the number of service suppliers, total value of service transactions or assets, total number of service operations, total quantity of services output, and total number of national persons that may be employed in the form of numerical quotas or impose an economic needs test. Neither party may restrict or require services suppliers to be a specific type of legal entity, nor require service suppliers to establish a local presence in

its territory.

- ii. When requested by the competent authorities of both Parties, the related qualifications, technical standards, licensing requirements, and application process for services suppliers must be as unbiased and transparent as possible, and not amount to unnecessary barriers to trade.

3. The Telecommunications Annex

- (1) Annex 8A of ASTEP (“the Telecommunications Annex”) sets out the obligations of Singapore suppliers to comply with the current laws and regulations of Taiwan when doing business in Taiwan’s telecommunications services market.
- (2) The Telecommunications Annex requires each Party to ensure the transparency of its own laws and regulations to provide a fair and competitive environment, including fair competition and prevention of anti-competitive practices in the telecommunications market; guarantee public accessibility to and the transparency of the criteria by which licenses are granted; and to ensure competitive conditions for interconnection, universal service, operation of independent regulators, and reasonable allocation and use of scarce resources such as frequencies, numbers and rights of way.
- (3) Both Parties also further commit under the Telecommunications Annex to:
 - i. allow other suppliers, for purposes of interconnection, to locate their equipment within the major supplier’s buildings in cases where no other alternatives exist
 - ii. make publicly available the information relating to the interconnection arrangements, except in the case of trade secrets, patents, and other protected intellectual property.

4. Electronic Commerce

Both Parties commit under ASTEP to provide non-discriminatory treatment to digital products transmitted electronically to the other Party and to promote other E-commerce-related matters, including the elimination of customs duties on digital products transmitted electronically and the use of electronic signatures and authentication; promotion of paperless trade administration; cooperation in promoting the use of E-commerce by small and medium enterprises; and prevention of internet fraud by sharing information and experiences on laws and regulations to protect consumers.

IV. Other Chapters Related to Further Liberalization under the WTO Framework

1. Sanitary and Phytosanitary Measures (SPS)

- (1) The SPS chapter aims to protect the life and health of humans, animals and plants, and to provide a comprehensive SPS framework in order to facilitate bilateral agricultural trade.
- (2) The SPS measures adopted by the Parties should be applied in accordance with the WTO SPS Agreement and must not constitute discrimination or disguised restrictions on trade. The measures may be applied only to the extent necessary to protect the life and health of humans, animals or plants, and must be supported by scientific evidence.
- (3) The Parties will communicate and exchange information via the designated coordinator, and may establish Technical Working Groups to resolve bilateral SPS disputes.

2. Technical Barriers to Trade (TBT)

- (1) The Parties endeavor to strengthen cooperation on standards, technical regulations, and conformity assessment procedures on the basis of the WTO TBT Agreement as part of measures to promote trade facilitation. In particular, the Parties should seek to identify initiatives that are appropriate for particular issues or sectors, such as harmonization of technical regulations and standards, alignment with international standards, and establishing accreditation procedures for qualifying conformity assessment bodies.
- (2) The Parties, prior to signing ASTEP, have already signed the following arrangements and agreements for the purpose of eliminating non-tariff barriers: the *Mutual Recognition Arrangement on Conformity Assessment*

between the Bureau of Standards, Metrology and Inspection and the Standards, Productivity and Innovation Board, the Agreement between the Taipei Representative Office in Singapore and the Singapore Trade Office in Taipei on Information relating to Consumer Product Safety, and the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment, all of which have been incorporated into the sector-specific annexes of this Chapter. The Parties will continue to eliminate non-tariff barriers through cooperation between their competent authorities.

- (3) The designated coordinators for each Party shall exchange information, communicate, and coordinate on resolving disputes arising from TBT measures.

3. Government Procurement

- (1) Both Taiwan and Singapore are signatories to the WTO Government Procurement Agreement ("GPA").
- (2) In addition to the Parties' commitment under the WTO GPA, Parties commit under ASTEP to further liberalize their respective government procurement market:
 - i. Each Party commits to lowering its monetary thresholds from NTD 6 million to NTD 4.61 million for suppliers of the other Party to participate in tenders related to the procurement of property, rights, and services by its central government authorities;
 - ii. Singapore adds 26 additional services, such as integrated engineering services, computer maintenance and repairing services, sewage services, and refuse disposal services, to its government procurement services list;
 - iii. Taiwan adds four additional government procurement markets by expanding the designated list of special municipalities, Taipei City

and Kaohsiung City, to include; New Taipei City Government; Taichung City Government; Tainan City Government; and Taoyuan County government (effective from the date of its upgrade to a municipality). The monetary threshold remains the same. (Singapore has no local government).

- iv. According to estimates from 2012's government procurement statistics, the impact of increasing the scope of Taiwan's government procurement market amounts to approximately NTD 40 million additional procurement opportunities for Singapore in Taiwan.

V. Chapters Related to Cooperation Issues

1. Competition

The objectives of this chapter are to promote fair market competition, diminish obstacles to competition, and prohibit unfair competition practices (*i.e.*, anti-competition conduct) such as monopolies, anti-competitive mergers and acquisitions, and concerted actions. The core strategy for the implementation of this Chapter is to enhance communication, mutual understanding, cooperation, and the efficiency of law enforcement between the Parties' competition-related competent authorities. The highlights include:

- (1) Each Party shall notify the other Party when it considers that an enforcement activity is liable to substantially affect the other Party's trade interests;
- (2) Each Party shall make available to the other Party information or documents exchanged in relation to any consultation conducted pursuant to this chapter on the basis of confidentiality;
- (3) Either Party may seek bilateral consultations where matters may affect trade or investment between the Parties.
- (4) With regards to public enterprises and designated monopolies, the Parties shall ensure that no measure is adopted or maintained that distorts trade.
- (5) Neither Party may have recourse to any dispute settlement procedures provided under ASTEP for disputes arising from or relating to this chapter.

2. Intellectual Property Cooperation

Under the WTO framework, the objectives of this chapter are to enhance the

exchange of information related to the protection and use of intellectual property between the Parties, and establish more concrete and specific methods of cooperation. The forms of cooperation suggested include:

- (1) Exchanging the latest publicly available information regarding IP rights;
- (2) Exchanging experience and information on intellectual property education and awareness to facilitate, among other things, exploitation of industrial property by the Parties' small and medium-sized enterprises;
- (3) Promoting discussion on the operation of collective management organizations ("CMOs") and e-filing systems;
- (4) Jointly collaborating or inviting the other Party to attend seminars to exchange hands-on experiences;
- (5) Encouraging dialogues between the intellectual property academies of both Parties; and
- (6) Jointly collaborating on intellectual property-related developments and other bilateral international cooperation matters.

CONCLUSION

The benefits of signing ASTEP include:

- 1. Economic benefit:** ASTEP's trade liberalization provisions provide each Party with new market access, promote bilateral investment, increase consumer welfare, and bring other economic benefits. Because Singapore is an important gateway into Southeast Asia, ASTEP provides a particularly valuable market access avenue for Taiwan into this key region.
- 2. Industrial cooperation:** ASTEP strengthens the cooperation and interactions between Taiwan and Singapore and increases opportunities for engagement between both sides' industries. Taiwan can accordingly improve the competitiveness of its industries, and attract investments from Singapore, which will in turn help create more job opportunities in both markets.
- 3. Cross-government cooperation:** ASTEP sets up communication platforms for the authorities of Singapore and Taiwan to discuss, study, and collaborate on issues of mutual interest under a legalized framework.
- 4. Systematic regime:** ASTEP is binding on both Parties' governments. It not only provides a more comprehensive legal environment for trade and investment but also allows businesses, organizations, and people of both sides to enjoy the trade benefits and legal protections the Agreement confers.
- 5.** ASTEP is a high-standard, "WTO-plus" trade liberalization agreement. Its signing exemplifies Taiwan's determination to undertake meaningful and comprehensive trade liberalization. The conclusion of this Agreement is part of Taiwan's regional and global initiatives to conclude and participate in ECAs in Asia and elsewhere, and to enter into Regional

Trade Agreements (RTAs) with other countries in the future.