

**U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade**  
**Summary of Texts Proposed by the U.S. Side**  
March 2023

To date, in negotiations between the United States and Taiwan held under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), the U.S. side has proposed negotiating texts covering the following trade areas from the negotiating mandate of the U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade:

**Customs Administration and Trade Facilitation**

The U.S. side has tabled proposed text for a chapter on customs administration and trade facilitation (CTF) that streamlines border procedures and cuts red tape. American businesses face challenges exporting their products when there are not clear or efficient import procedures in other customs territories. This chapter establishes clear rules and promotes efficiency by focusing on automation, reducing formalities, and requiring new or improved innovative border procedures. This will make it easier, faster, and cheaper for American companies to trade with Taiwan.

With regard to automation, the proposed text requires online posting of all laws, regulations, and procedures related to the import, export, and transit of goods. Customs forms related to the import, export, or transit of goods will also need to be made available online and be capable of being received electronically, and the text encourages customs authorities to provide the same treatment for supporting documents. In addition, pre-arrival information must be processed and assessed for risk through a single window with a view toward immediate release of goods for which all regulatory requirements have been met. These provisions in the proposed text should reduce time and cost of importing, reduce spoilage especially of perishable goods, and reduce greenhouse gas emissions from idling vessels and trucks.

The proposed text addresses e-commerce, including through provisions that reduce restrictions on express consignment shipments and facilitate the return of goods across borders. It also limits the use of consular transactions for cross-border shipments; reduces formalities for containers; and requires border agencies to accept electronic payment of duties, taxes, and fees, while also encouraging growth in electronic invoicing and electronic invoicing frameworks. These provisions are designed to reduce the cost of trading. They are also intended to encourage the participation of small and medium-sized enterprises in international trade by eliminating the barriers that discourage their participation.

Finally, there are a number of provisions in the proposed text focused on making trade across borders a fair and reliable experience. For example, the text includes penalty disciplines designed to ensure transparency and fairness, standards of conduct for border agents, protections for confidential business information, and procedures for mutual cooperation. The text also calls for enforcement cooperation in order to ensure that the borders are being used for legitimate trade and to facilitate weeding out illicit trade and other customs offenses.

## **Good Regulatory Practices**

The U.S. side has tabled proposed text for a chapter on good regulatory practices (GRPs) with articles that cover a range of rules for rule-making across the full regulatory life-cycle at the central level. Applying GRPs provides persons in the United States and Taiwan, traders, and other interested persons with greater transparency about regulatory processes.

The proposed text stems from the United States' recognition that early information about planned regulatory actions through the use of regulatory agendas allows interested persons to engage with regulatory authorities and gives them more time to prepare to comply. The text also includes core provisions on the transparent development of regulations, meaning publishing draft regulations and allowing adequate time for comments to be considered. Public consultations on draft regulatory measures can contribute to better regulations since regulators do not always have complete information to anticipate the impact and consequences of regulations.

The proposed text includes several articles relating to information that can inform regulatory decision-making. For example, regulatory authorities are to prepare guidance or establish mechanisms on using the best available information and data when planning regulatory actions. Regulators are also encouraged to use appropriate tools and techniques to evaluate proposed measures and to have guidance materials for those carrying out the analysis so that there can be consistency across regulatory authorities.

The proposed text also provides for stakeholders to have the opportunity to request issuance, modification, or repeal of regulations if change is justified due to technological changes, new information, or new standards.

Since regulations can have cross-border impact, the proposed text contains an article on regulatory transparency tools that can expand online access to relevant information, including information about registries of existing laws, the procedural requirements of regulatory authorities, websites where draft regulations are posted and comments accepted, and the acceptability of electronic documentation, where appropriate. The text also reflects the fact that these same types of online resources are beneficial for small and medium-sized enterprises seeking to understand regulatory measures in both the U.S. and Taiwan markets.

The United States and Taiwan both rely on expert advisors to provide advice on planned regulatory actions as a complement to, and not a substitute for, public consultations. The proposed text therefore details transparency requirements relating to the functioning and outputs of expert advisors.

Finally, the proposed text provides for the establishment of a GRP Committee to monitor implementation of the obligations in the chapter and to allow for information sharing and further regulatory cooperation to address issues of mutual interest.

## **Services Domestic Regulation**

The U.S. side has tabled proposed text on development and administration of rules and procedures governing licenses or other authorizations required to supply services (sometimes referred to as “services domestic regulation”). As described in the explanation provided in the negotiating mandate for the U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade, this text builds on the outcomes agreed to by World Trade Organization (WTO) Members in December 2021 in the Joint Statement Initiative on Services Domestic Regulation.

Difficulty in obtaining licenses or other authorizations in a foreign jurisdiction can be a barrier to services exporters, particularly small companies such as professional services firms (architects, engineers, accountants, lawyers, etc.). Even if regulations are promulgated in accordance with the GRP text (described above), there may still be problems in implementation, such as when service suppliers are not told the type of documentation that they need to produce to demonstrate that they meet regulatory thresholds for licensure, or are not given sufficient time to compile and submit such documentation. The aim of the proposed text is to ensure that service suppliers are treated fairly and in a transparent manner when they apply for permission to operate in a given sector and that there is a smooth flow of information between the applicant for a license and the regulator. At the same time, the proposed text does not interfere with the ability of regulators to apply domestic standards to protect important interests such as safety, health and the environment, or to ensure worker and consumer welfare.

In striking this important balance, the proposed text requires that laws and regulations be transparent and that regulators be independent of the industry that they oversee. The proposed text further provides that regulators would inform applicants of the requirements to obtain a license, to provide applicants a fair opportunity to demonstrate that they meet those requirements, and to make a decision on whether to issue a license in a reasonable period of time. The proposed text also prohibits licensing rules from discriminating on the basis of gender.

Given the complexity of supervision and regulation of the financial services sector, a special set of rules is designed to preserve the ability of regulators overseeing that sector to protect the stability of the financial system.

In recent years, there has been rapid growth in the ability to apply for licenses online, streamlining the process for both applicants and regulators. The proposed text encourages regulators to continue experimenting with new technologies to make the application process easier, especially with an eye to reducing unnecessary administrative burdens on small and medium-sized businesses.

Notably, the proposed text goes beyond the existing WTO rules by requiring this high degree of fairness and transparency in all sectors in which foreign service suppliers are permitted to operate, rather than limiting the obligations to an arbitrary set of sectors covered by formal WTO commitments that become outdated and may not reflect the reality of the marketplace.

Taiwan, like the United States, maintains a broadly open market for services, and its regulators are well-regarded. When the agreement is concluded, the disciplines set forth in the proposed text will set the highest standard of any rules on services domestic regulation agreed

internationally to date, and they therefore will set a new benchmark for others in the region and around the world.

### **Anticorruption**

The U.S. side has tabled proposed text for a chapter on anticorruption consisting of seven articles and covering a wide range of topics. This text includes high anticorruption standards to prevent and combat bribery and other forms of corruption. It expands on the framework in the United States-Mexico-Canada Agreement by including provisions addressing money laundering, the recovery of proceeds of corruption, denial of entry for foreign public officials, and additional protections for people who report corruption.

The proposed text also includes provisions to address priorities and initiatives of the Biden-Harris Administration. It recognizes the importance of preventing and combating bribery and corruption in the context of labor law implementation and enforcement and provides for strong obligations to fight corruption related to abusive practices in the recruitment of migrant workers. With a view toward enhancing efforts to combat environmental degradation, the proposed text also recognizes the importance of preventing and combating bribery and corruption in the context of strengthening environmental governance and enforcement.

The proposed text recognizes obligations under the *United Nations Convention against Corruption* and domestic laws. It also includes provisions recognizing obligations to conduct public procurement in a transparent and impartial manner under the *WTO Agreement on Government Procurement*.

Provisions to prevent and combat bribery in the proposed text include obligations to adopt or maintain measures to establish as criminal offenses the bribery of public officials, embezzlement, and money laundering. Additionally, the text includes requirements for the maintenance of books and records to prevent the hiding of corruption, disallows the tax deductibility of bribes, requires measures for the seizure of assets derived from corruption, and permits denial of entry to foreign public officials who have engaged in corruption. The text also requires the adoption of procedures to report corruption and to protect people who report corruption, including protection for external auditors.

To promote integrity among public officials, the proposed text requires measures for the training of public officials, transparency and accountability of public officials, and the reporting by public officials of any conflicts of interest and acts of corruption. Additionally, the text mandates procedures for the possible removal of public officials who are charged or convicted of corruption, along with measures to prevent opportunities for corruption for members of the judiciary.

As combatting corruption requires the active participation of segments outside of the public sector, the proposed text requires measures to promote the participation of enterprises, civil society, non-governmental organizations, worker organizations, and community-based organizations through public information and education programs, public awareness, and the dissemination of information concerning bribery and corruption.

Finally, the proposed text includes provisions related to the affirmation of effective enforcement measures.

### **Small and Medium-Sized Enterprises**

The U.S. side has tabled proposed text for a chapter on small and medium-sized enterprises that recognizes the fundamental role of small and medium-sized enterprises, including micro-sized enterprises (SMEs), in maintaining the dynamism and competitiveness of the economies of the United States and Taiwan and the integral role of the private sector in promoting SME cooperation.

The text proposed by the U.S. side promotes ongoing cooperation between the relevant authorities in the United States and Taiwan, under the auspices of AIT and TECRO, to increase SME trade and investment opportunities, subject to the availability of resources, through exchange of information and best practices in areas such as promoting SME participation in international trade and improving SME access to capital and credit, training programs, trade education, trade finance, trade missions, and trade facilitation. The text also aims to enhance cooperation among SME support centers, promote the participation of SMEs in digital trade, and help SMEs adapt to changing market conditions.

The proposed text includes a focus on activities to promote SMEs owned by underserved and underrepresented groups, including women, indigenous people, youth, and minorities, as well as start-ups and agricultural and rural SMEs.

The proposed text establishes provisions promoting online, publicly accessible information resources useful for SMEs trading, investing, or doing business in the United States and Taiwan. This information would include customs regulations and procedures, technical regulations, foreign investment regulations, business registration procedures, intellectual property rights, and other information.

The proposed text also contemplates a periodic SME Dialogue that is inclusive of SMEs owned by diverse, underserved, and underrepresented groups in the United States and Taiwan. Among other things, this Dialogue could consider small business trade opportunities and challenges between the United States and Taiwan. It is envisioned to be an important mechanism for ensuring that SMEs in the United States and Taiwan will continue to be heard and their views considered in the future.