What Does Taiwan Need to do to Join the TPP, and to Improve its Credibility on Trade Issues with the United States?

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First I would like to extend my thanks to Larry Diamond and Stanford University for the invitation to this conference, and also for the propitious timing of the event. Just last month I took part in the Taipei American Chamber’s annual “Doorknock” visit to Washington D.C., a weeklong schedule of meetings with major executive branch departments, Congressional offices, think tanks, and other close observers of US-Taiwan economic relations. As a result, I have some fairly fresh insights into my assigned topic. At the same time, I need to make the disclaimer that I am not speaking today as an official representative for the Chamber, though I may cite some published positions taken by the organization. Otherwise, my observations are my own, though obviously shaped by my Chamber experience.

Let me start by saying that the American Chamber in Taipei is increasingly concerned that the Taiwan government has not been making preparations for joining TPP a high enough priority. AmCham has stated in its annual Taiwan White Paper and on other occasions that participation in TPP can only be beneficial to an economy that relies as heavily on international trade as does Taiwan’s. Even more important is the potential devastating effect if Taiwan were to be excluded long-term from this regional trade bloc, especially when major competing countries in global and regional export markets can be expected to be signatories. Taiwan would be frozen out of supply chains as its products grow less competitive in key markets. Attracting foreign direct investment – already a problem – would become even more difficult, and in fact even many of the domestic manufacturers of export products who have not already moved their production offshore would find it necessary to do so, especially to locations within the TPP to reap the advantages. The further loss of jobs and tax revenues would be a big blow.

As a result of those concerns, the Chamber in its 2013 Taiwan White Paper urged President Ma to make accession to the TPP the subject of a national campaign to mobilize widespread public support for this objective. Ma and other administration officials have declared Taiwan’s intent to join TPP, but the president originally set out a 10-year timeframe for that process. In another reference a year ago, he reduced the time to eight years, but even if it is now down to seven years, that seems dangerously long to many members of the business community. Apparently former Premier Sean Chen last month proposed a 2015 target date, and Taiwan’s representative to the United States King Pu-tsung alluded to that comment in some public remarks, but it is unclear whether that revised schedule is official policy.
Certainly the external environment looks more promising than it did just a short while ago. Taiwan is now engaging in FTA negotiations with some other countries with apparent acquiescence by China. And as you know, problems regarding access to the Taiwan market for American beef products were a severe irritant in the U.S.-Taiwan bilateral relationship until recently. Because of that issue, the U.S. side for five and a half years was unwilling to hold the Trade and Investment Framework Agreement or TIFA talks – which ordinarily should be done annually on a routine basis. Here is a cartoon that ran in AmCham’s *White Paper* at the time to illustrate the situation.

Thankfully Taiwan finally took action last year to solve the biggest part of the problem by setting a tolerable level in beef of 10 parts per billion for a previously totally banned feed additive called ractopamine that’s used by nearly all U.S. ranchers. As a result, TIFA talks were resumed this past March. Then-Deputy USTR Demetrios Marantis came to Taipei for the meeting, and both sides said they were quite pleased with the positive and productive discussions. The most concrete result was to establish two working groups – one to cover investment-related issues and the other for technical barriers to trade or TBTs.

Due mainly to personnel shortages at USTR, those working groups were somewhat delayed getting started. But they are now moving forward, mainly through digital video conferences because of the constrained travel budget for USTR. The first investment session was held Sept. 11, and the first TBT discussion is expected to happen at the end of this month and to focus on a Taiwan draft regulation for chemical-product registration. Some chemical manufacturers are worried that it would compel them to reveal confidential proprietary information, in which case they would probably withdraw those products from the market.

The TIFA process and Taiwan’s readiness to be considered for joining TPP are directly related. The U.S. side has made it quite clear that satisfactory progress on the TIFA issues is a definite prerequisite for TPP membership. The U.S. is looking for a concrete demonstration that Taiwan is committed to accepting those high-standard, 21st century provisions that TPP is supposed to represent, and there is no better way to do that than resolving problems on the current TIFA agenda.

Of course, the United States also stresses that it is only one of the 12 negotiating parties in TPP. The group operates by consensus, and newcomers to the negotiations will need to have the agreement of all existing parties. That provides an opportunity for each one of the 12 to insist on first solving any outstanding bilateral issues they may have with the new candidate.

A compelling reason for Taiwan to accelerate its schedule for TPP is that the organization is expanding faster, and the negotiations are moving forward more smoothly, than most observers thought possible not long ago. Although the Doorknock group found a few skeptics, the
overwhelming consensus among the people we talked to was that with USTR Mike Froman aggressively leading the charge, the administration is committed to completing TPP within the coming months. Of course, that was before the U.S. government shut down and Obama had to cancel his trip to APEC, which possibly have lessened U.S. leverage. But at least at the time of our trip, most experts believed that by the end of this year it is possible to “wrap up” TPP in the sense that the political leaders would reach agreement on major directions and key sensitive issues. The trade negotiators would then have their orders to work out the details to bring it all altogether within another few months. In fact, some U.S. industry organizations are worried that the pace is too fast, and that some of the vaunted high standards will be compromised away to suit the calendar.

It was also impressed on us that the entry into TPP of Japan, as another of the world’s leading economies, was a “game changer” in adding further heft to the organization. And if it was thought that the addition of Japan, never regarded as a champion of trade liberalization, would hamper and slow down the negotiations, those doubts have largely been dispelled. The Abe government, we were told, is latching onto TPP as a means of forcing what it sees as necessary internal reforms to revive Japan’s economic fortunes. Now Korea, seeing that progress and wishing not to be left out, is abandoning its wait-and-see posture about TPP and is actively talking about pursuing its own membership.

Because of these trends, it seems even more crucial for Taiwan to telescope its timeframe and start preparing assiduously for TPP candidacy. If first round negotiations are indeed completed next year, there will immediately be a number of second-round candidates knocking on the door. If Taiwan is not among those included for round two, besides the specter of trade isolation mentioned previously, it will face the prospect in any future bid for accession of even more TPP members that it has to satisfy.

One piece of information passed on to us in Washington was that Taiwan’s own study shows that at least 135 different laws and regulations would need to be revised to meet expected TPP standards. About half of them would require legislative action and many of those would be controversial issues requiring some heavy lifting. As a result, an influential former U.S. government official concluded that Taiwan is currently the least prepared for TPP of the countries, such as Korea and several Southeast Asian nations, considered likely second-round entrants.

One of those laws is the outright ban on pork products containing ractopamine. As I mentioned, the problem with beef has been largely resolved. Although the U.S. government is not 100 percent satisfied since ground beef and offal are still prohibited, the U.S. beef industry is quite happy. Sales of American beef so far this year have tripled in value compared with the
same period of 2012, and U.S. beef now has a 40 percent share of the import market, rebounding from 25 percent last year.

The question now is whether pork will be the new beef. The Taiwan side seems to be digging in, hoping the issue will recede – or that the recent acquisition by Chinese investors of Smithfield, the largest U.S. pork producer, will somehow change the dynamics, since China also does not allow pork with ractopamine. U.S. TIFA negotiators indicated that during the otherwise positive TIFA Council meeting in Taipei in March, a major downside was that their Taiwan counterparts came to the table without even a plan for addressing the pork issue – not even a proposal to commission an authoritative study of the health risks of consuming pork with just trace amounts of ractopamine so as to assure the public of its safety.

The issue is highly political sensitive on both sides. The U.S. views Taiwan’s position as blatantly protectionist and contrary to international standards and scientific evidence. In other words, it is hardly the kind of policy that a responsible trading partner should adopt. The pork lobby is well-connected on Capitol Hill and known for playing hardball. In Taiwan, the politicians are also fearful of hog farmers staging protest demonstrations, hurling God knows what at the Legislative Yuan, and even more so of strident consumer advocacy groups accusing the government of risking the poisoning of schoolchildren.

If there is one bright spot, it is the unlikelihood that USTR will totally halt the TIFA process over pork the way it did for beef. Hopefully the lesson was learned that the suspension of TIFA talks for so long brought too high a cost. It was unfair to all the other sectors of the American business community whose issues were held hostage to the interests of one commodity. On the other hand, it strikes me as improbable that the United States would agree to initiatives beyond TIFA – including TPP entry or a potential bilateral investment agreement or BIA – as long as Taiwan remains intransigent regarding pork.

If pork is number one on the list of trade irritants, there are many others. USTR goes into great detail in the Taiwan section of its annual National Trade Estimate Report. For the purposes of this discussion, let me cite the main items that AmCham focused on during our Doorknock conversations:

1. The sometimes opaque nature of the foreign investment approval process in Taiwan. In particular, private equity firms have encountered difficulty in gaining approval when deals involve taking listed companies private. The approval process may become so long and drawn out that the would-be investor withdraws the application, or the application may be rejected without a clear explanation being offered. This issue will be discussed by the TIFA investment working group, and could certainly be covered by a BIA. The continued necessity for the whole foreign-investment approval process, which was
adopted at a time when Taiwan had tight foreign exchange controls, is something that would be worth reviewing.

2. The strong U.S. push to remove restrictions on cross-border data flows versus efforts by Taiwan’s Financial Supervisory Commission (FSC) to promote data localization. The FSC has called on foreign banks to submit plans to return all data processing to Taiwan, and a similar discussion is starting with life insurers. Considering that the freedom of cross-border data flows was a major item insisted on by the U.S. in its KORUS FTA with Korea, it seems unwise to move in the opposite direction if American support will be sought for Taiwan’s TPP membership. Incidentally, this issue is only one of several pursued by the FSC in recent years that have caused consternation within the financial services industry, both domestic and multinational. But the recent appointment of a new FSC chairman and vice chairs offers hope that the regulator will pay more attention in future to ways to develop the industry.

3. The tendency by some government agencies to adopt unique-to-Taiwan regulations that ignore standard international practice and place a heavy burden on multinational companies selling across many markets. Some such issues, including certain labeling regulations, will be taken up by the TBT working group. For example, a current regulation requires the importer of products packaged and sold as multipacks – such as socks – to open the package, label each individual item, and then reseal it. This may seem trivial, but it adds substantially to the cost and convenience of doing business. The AmCham White Paper contains numerous additional examples. The regulators are often well-intentioned, seeking to devise the best possible law or regulation. But when they cherry-pick by copying one provision from the EU and combining it with another from Japan and one from ASEAN, the regulation as a whole may lack coherence. And multinational companies may find it unduly burdensome to have to meet unique standards for a market of only 23 million people.

4. Concern by U.S. pharmaceutical companies that proposed new National Health Insurance policies on drug reimbursement threaten to make many original drugs uncompetitive in the local market. Seven rounds of price cuts over the past decade have already made drug prices in Taiwan among the lowest in the world. That may help assure the continued solvency of Taiwan’s single-payer government-run health insurance program, but it discourages manufacturers from launching innovative new drugs in Taiwan for fear that the price levels will be benchmarked by other, bigger markets. That means less availability for doctors and patients of new and advanced treatments. The medical device industry has similar concerns that market access is effectively being restricted for new and innovative products, both by pricing policies and by the long period needed for product registration. Given the short lifecycle in this fast-changing industry, new products have less business opportunity.

5. A longstanding issue regarding the inability of chiropractic doctors trained and licensed in the United States to be recognized in Taiwan as professional practitioners. To make
matters worse, the chiropractors are sometimes harassed by the health authorities and their offices raided.

Let’s now take a quick look at some of the political considerations surrounding TPP entry for Taiwan. Externally, a major question must be what attitude China will adopt and whether it will be necessary for Beijing to give the green light before Taiwan can be admitted. On that point, officials in Washington have a pat answer, quoting Mike Froman’s testimony during his confirmation hearing that TPP membership is open to all APEC members willing to commit to the high standards of the trade agreement – and that this stipulation applies to Taiwan the same as to any other APEC economy. Officials say they have recited this formula to PRC counterparts many times without any objection in response.

Also noteworthy is that Beijing recently has significantly softened its rhetoric about TPP, and has accepted Taiwan negotiating FTAs with New Zealand (already signed) and Singapore (still pending), both TPP members. Further, China may not wish to been seen as obstructing TPP entry for Taiwan if that would undermine the Kuomintang’s chances in the next presidential election. If despite all this China still seeks to discourage current TPP parties from approving Taiwan’s admission to the pact, the best way for Taiwan to counter that pressure may be to make such an attractive offer for its TPP accession that other countries find it hard to decline.

Within Taiwan, there have recently been hopeful indications that a reform element within government is gaining traction. The replacement of FSC Chairman Chen Yuh-chang and subsequent greater flexibility in the financial sphere was one good sign. Another was the imaginative Free Economic Pilot Zone scheme developed by Council for Economic Planning and Development Minister Kuang Chung-ming, which includes virtual zones for qualifying enterprises – for example in financial services and medical services – which could spur healthy innovation. The idea is to start on a limited basis, demonstrate the value of deregulation, and then enlarge the scope to cover the country as a whole.

But does President Ma have the political capital to expend? Even before the current Wang Jin-pyng affair, his popularity was low and he nears lame duck status. Also, it is clear that the government would need to do a more effective job of mobilizing public opinion to sell TPP than it has in the past. Too often it has allowed special interests to dominate the public discourse and media attention, leaving arguments unvoiced on how a particular policy would benefit the common good. That happened with beef. It happened more recently with the cross-Strait trade in services agreement. The government cannot afford to let it happen again with TPP. The administration needs to emphasize the overall national interest and assure sectors that may be adversely impacted by TPP that government assistance will be provided.
The position taken by the opposition Democratic Progressive Party will also be crucial. It will have to resist the temptation to oppose for the sake of opposing, and try to quiet supporters from the adversely affected sectors – for example, agricultural groups. For the DPP the key question ought to be how to rebalance Taiwan’s economy to reverse the trend of greater and greater dependence on the Chinese market. The strategic opportunity to achieve that rebalancing through TPP should far outweigh any other consideration for the opposition.

Before closing, I would also like to point out that while this presentation pointed out a number of difficulties in the Taiwan market that could be impediments to TPP entry, U.S. companies on the whole regard Taiwan as a good place in which to do business. Their wish is to enable Taiwan to reach its potential, and also to prevent its economic marginalization by being left out of TPP.

Some concluding points:

- First, the biggest obstacle to Taiwan’s entrance into TPP is existing Taiwan regulatory practices. What is mainly required is the political will to take on the challenge. The top leaders need to issue clear directives to the working levels in the bureaucracy.
- Second, Taiwan should start now to revise laws and regulations that are contrary to the TPP spirit and to move speedily to make progress on TIFA items. It also needs to lay the groundwork for eventual accession with other TPP member economies.
- Third, once this round of TPP is concluded and the text of the agreement is made public, Taiwan should proceed to scrutinize it in detail to determine where it needs to make changes, and then go full-speed ahead to promote its candidacy.
- Finally, Taiwan deserves TPP consideration and its participation would be in the best interests of the U.S. After all, Taiwan is America’s 11th largest trading partner, a vital partner with U.S. technology companies in global supply chains, and a vibrant force for democratic values in the middle of East Asia.

Thank you for your attention.