

CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A: Initial Provisions

Article 1.1: Agreement Regarding Trade

The Parties hereby enter into this Agreement regarding trade between Taiwan and the United States.¹

Article 1.2: Designated Representatives

- (a) AIT's Designated Representative is the Office of the United States Trade Representative. TECRO's Designated Representative is the Office of Trade Negotiations, Executive Yuan.
- (b) Responsibilities and obligations of the Parties are to be carried out through their respective Designated Representatives where so indicated. The Parties recognize that their respective Designated Representatives may rely on other authorities of the territories represented by the Parties as relevant to ensure the implementation of the Parties' responsibilities and obligations or to exercise the Parties' rights. The Parties intend that, where authorities of the territories represented by the Parties other than their Designated Representatives maintain executive, regulatory, administrative, or other authority relevant to matters addressed by this Agreement, references in this Agreement to Designated Representatives shall be understood to include those other authorities with respect to such matters.

Article 1.3: Delegated Authority

Each Party, through its Designated Representative, shall ensure that all relevant authorities of the territory that it represents that have been delegated executive, regulatory, administrative, or other authority relevant to the obligations set out under this Agreement act consistent with such obligations in the exercise of that authority.

¹ Taiwan is a member of the WTO under the name of the "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu."

Section B: General Definitions

Article 1.4: General Definitions

For the purposes of this Agreement, unless otherwise provided:

AIT means the American Institute in Taiwan;

central level means:

- (a) for AIT, the federal authorities of the territory represented by AIT; and
- (b) for TECRO, the authorities with jurisdiction that extends throughout the territory represented by TECRO;

customs administration means the competent authority that is responsible under the law of the territory represented by a Party for the administration of customs laws and regulations, and shall refer to:

- (a) for AIT, United States Customs and Border Protection, Department of Homeland Security, or any successor thereof; and
- (b) for TECRO, Taiwan Customs Administration, Ministry of Finance, or any successor thereof;

customs duty includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed on or in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;
- (b) fee or other charge in connection with the importation commensurate with the cost of services rendered;
- (c) antidumping or countervailing duty; and
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas, or tariff preference levels;

days means calendar days, including weekends and holidays;

enterprise means an entity constituted or organized under applicable measures, whether or not for profit, and whether privately owned or owned or controlled by the authorities of the territory represented by a Party or by the authorities of a territory not represented by a Party, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

enterprise of the territory represented by a Party means an enterprise constituted or organized under the measures adopted or maintained by the authorities of the territory represented by the Party;

existing means in effect on the date of entry into force of this Agreement;

financial service means a service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

- (a) direct insurance (including co-insurance):
 - (i) life;
 - (ii) non-life;
- (b) reinsurance and retrocession;
- (c) insurance intermediation, such as brokerage and agency; and
- (d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;

Banking and other financial services (excluding insurance)

- (e) acceptance of deposits and other repayable funds from the public;
- (f) lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;
- (g) financial leasing;
- (h) all payment and money transmission services, including credit, charge and debit cards, travelers checks, and bankers drafts;

- (i) guarantees and commitments;
- (j) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:
 - (i) money market instruments (including checks, bills, certificates of deposits);
 - (ii) foreign exchange;
 - (iii) derivative products, including futures and options;
 - (iv) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;
 - (v) transferable securities; and
 - (vi) other negotiable instruments and financial assets, including bullion;
- (k) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and supply of services related to these issues;
- (l) money broking;
- (m) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;
- (n) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (o) provision and transfer of financial information and financial data processing and related software by suppliers of other financial services; and
- (p) advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, and advice on acquisitions and on corporate restructuring and strategy;

GATS means the *General Agreement on Trade in Services*, set out in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

goods means a merchandise, product, article, or material;

individual means a natural person;

measure includes any law, regulation, procedure, requirement, or practice adopted or maintained by the authorities of the territory represented by a Party;

national means:

- (a) for AIT, “a national of the United States,” as defined in the *Immigration and Nationality Act*; and
- (b) for TECRO, a “national” as defined in the *Nationality Act*;

person means a natural person or an enterprise;

person of the territory represented by a Party means a natural person who is a national or has permanent residency of the territory represented by the Party, or any enterprise of the territory represented by the Party;

publish means to disseminate information through paper or electronic means that is distributed widely and is readily accessible to the general public;

service supplier of the territory represented by a Party means a person of the territory represented by the Party that seeks to supply or supplies a service;

SME means a small and medium-sized enterprise, including a micro-sized enterprise;

TECRO means the Taipei Economic and Cultural Representative Office in the United States;

territory means:

- (a) for AIT,
 - (i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;
 - (ii) the foreign trade zones located in the United States and Puerto Rico; and
 - (iii) the territorial sea and air space of the United States and any area beyond the territorial sea within which, in accordance with customary international law

as reflected in the *United Nations Convention on the Law of the Sea*, the United States may exercise sovereign rights or jurisdiction;

- (b) for TECRO, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu;

trade in services or supply of services means the supply of a service:

- (a) from the territory represented by a Party into the territory represented by the other Party;
- (b) in the territory represented by a Party by a person of the territory represented by the Party to a person of the territory represented by the other Party;
- (c) by a service supplier of the territory represented by a Party, through commercial presence in the territory represented by the other Party; or
- (d) by a national of the territory represented by a Party in the territory represented by the other Party;

value added tax means any tax at the central level, including relevant goods and services tax, that embodies the basic features of a value added tax: a broad-based tax on final consumption collected from, but in principle not borne by, businesses through a staged collection process, without regard to the method used for determining the tax liability;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh, April 15, 1994.