

## **MAC: Executive Yuan Draft Version of Cross-Strait Agreement Supervisory Act Allows Legislative Yuan Full Advance Participation and Full Post Supervision and Meets Cross-Strait Exchange Demands**

June 9, 2014

No. 053

Chairperson of the Democratic Progressive Party (DPP), Tsai Ing-wen, made numerous unfactual misinterpretations regarding the Executive Yuan draft version of the Cross-Strait Agreement Supervisory Act during an Enlarged Policy Meeting before the Legislative Yuan Extraordinary Session today (June 9, 2014). The Mainland Affairs Council (MAC) expresses regrets and hereby issues the following clarification:

1. The government's promotion of cross-strait agreements is aimed to further normalize and institutionalize cross-strait exchanges and enhance mutual understanding between the two sides. The Supervisory Act should therefore be formulated in accordance to the principle that the "cross-strait exchanges must continue and Supervisory Act must be feasible" in order to avoid the Act from becoming a "Failure to Sign Cross-Strait Agreements Act", which would impact cross-strait relations. Therefore, on the basis of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, the MAC has drafted a constitutional, pragmatic and feasible Statute for the Processing and Monitoring of Agreements between the Taiwan Area and the Mainland Area. The draft statute integrates a "four-stage external communication and consultation mechanism" and "national security review mechanism." It also refers to the bill versions proposed by all sides and the precedent of the Legislative Yuan, as well as corresponds to the positioning of

cross-strait relations and the separation of executive and legislative powers principle stipulated in the ROC Constitution.

2. The Executive Yuan draft version specifies that the executive branch shall communicate and consult with the Legislative Yuan and the general public at the four stages of "negotiation issue formation," "operational talks on negotiation issues," "before signing the agreement," and "after signing the agreement." The draft also stipulates that the views of the Legislative Yuan and general public shall serve as important references in the processes of agreement negotiation, signing and implementation. Signed cross-strait agreements shall be submitted to the Legislative Yuan either for review or record as mandated by law, where the Legislative Yuan is allowed full advance procedural participation and full post execution supervision powers.

3. The Executive Yuan draft version also institutes a "national security review mechanism", a procedurally rigorous "impact assessment mechanism" involving the participation of relevant agencies, scholars and experts and mandating impact assessments in a comprehensive range of review areas, including that of defense and military, technology, cross-strait relations, diplomacy and international relations, the economy, employment, society, and information. Relevant government agencies are also required to provide impact assessment reports for review. Following review under the national security review mechanism, the executive branch shall explain impact assessment and response plan to congress, as well as hold public hearings for explanation to involved industries and the general public. After the agreement signing, the executive branch must also propose supporting measures and implementation plans, including industry assistance and remedies. The supporting measures will be

comprehensive and the process transparent.

4. The Executive Yuan version of the bill thus allows congress full advance participation and full post execution supervision powers. It also includes a comprehensive and rigorous impact assessment mechanism, industry response plan and remedial measures, public communication, and a mechanism to monitor review resolutions. Chairperson Tsai's allegations that the Executive Yuan's draft version would make "supervision impossible" and amount to "black box legalization" demonstrate a lack of accurate understanding for facts, to which, the MAC expresses deep regrets.

5. A public opinion survey commissioned by the MAC indicated that the great majority of the public believe that requiring the executive branch to communicate and consult with congress and the public at each stage in the signing of cross-strait agreements and to respect Legislative Yuan procedures of review or recording for future reference, along with measures such as national security review would be conducive to increasing openness and transparency of negotiations and public participation (73.2%), and to improving congressional oversight (73.9%) and national security (72.6%). The Executive Yuan version of the bill was drafted in accordance with public opinion and the government hopes that the legislative process may be completed as soon as possible.