

**NOTIFICATION OF LAWS AND REGULATIONS  
UNDER ARTICLE 63.2 OF THE AGREEMENT**

**THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU**

By means of a communication from its Permanent Mission, dated 2 May 2002, the following notification has been received from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, under Article 63.2 of the Agreement.

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In accordance with Article 63.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the procedures laid down by the Council for TRIPS in November 1995, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu hereby notifies the Council of laws and regulations relating to the field covered by the Agreement, as follows:

- Annex I contains the listing of the main dedicated intellectual property laws and regulations.
- Annex II contains the listing of other laws and regulations.

It should be noted that the English texts of the laws and regulations listed in the annexes are not official translations. Should there be any discrepancy between the Chinese and English texts, the original Chinese texts shall govern, and in all instances of interpretation the Chinese original texts should be consulted.

- Answers to the Checklist of Issues on Enforcement.<sup>1</sup>

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<sup>1</sup> See document IP/N/6/TPKM/1.

**ANNEX I**

**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS**

The Copyright Law.<sup>2</sup>

Date of adoption: 14 May 1928.

Entry into force: 16 May 1928.

As most recently amended on 12 November 2001.

The amendment entered into force on 14 November 2001.

The Copyright Intermediary Organization Act.<sup>3</sup>

Date of adoption: 5 November 1997.

Entry into force: 7 November 1997.

The Illustrated Contents of Each Kind of Works in Paragraph One of Article 5 of the Copyright Law.<sup>4</sup>

Date of adoption: 10 June 1992.

Entry into force: 12 June 1992.

The Regulations Governing Application for Approval of Compulsory License of Musical Works and Royalties for Use Thereof.<sup>5</sup>

Date of adoption: 23 February 1998.

Entry into force: 25 February 1928.

As most recently amended on 19 April 2000.

The amendment entered into force on 21 April 2000.

The Regulations of Copyright Dispute Mediation.<sup>6</sup>

Date of adoption: 11 August 1992.

Entry into force: 13 August 1992.

As most recently amended on 9 June 1999.

The amendment entered into force on 11 June 1999.

The Certain Amount in Items 2 and 3 of Paragraph one of Article 87<sup>bis</sup> of the Copyright Law.<sup>7</sup>

Date of adoption: 24 April 1993.

Entry into force: 26 April 1993.

The Standards for Compensation for Fair Use of Works in Paragraph 4 of Article 47 of the Copyright Law.<sup>8</sup>

Date of adoption: 23 February 1998.

Entry into force: 25 February 1998.

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<sup>2</sup> See document IP/N/1/TPKM/C/1.

<sup>3</sup> See document IP/N/1/TPKM/C/2.

<sup>4</sup> See document IP/N/1/TPKM/C/3.

<sup>5</sup> See document IP/N/1/TPKM/C/4.

<sup>6</sup> See document IP/N/1/TPKM/C/5.

<sup>7</sup> See document IP/N/1/TPKM/C/6.

<sup>8</sup> See document IP/N/1/TPKM/C/7.

The Regulations Governing Registration of Plate Rights.<sup>9</sup>

Date of adoption: 23 February 1998.

Entry into force: 25 February 1998.

The Implementation Rules for Suspension of Release of Copyright or Plate Rights Infringing Goods by Customs Authorities.<sup>10</sup>

Date of adoption: 8 June 1998.

Entry into force: 10 June 1998.

The Trademark Law.<sup>11</sup>

Date of adoption: 6 May 1930.

Entry into force: 8 May 1930.

As most recently amended on 7 May 1997.

The amendment entered into force on 1 November 1998.

The Enforcement Rules of the Trademark Law.<sup>12</sup>

Date of adoption: 30 December 1930.

Entry into force: 2 January 1931.

As most recently amended on 15 September 1999.

The amendment entered into force on 17 September 1999.

The Trademark Official Rates Standard.<sup>13</sup>

Date of adoption: 1 July 1994.

Entry into force: 3 July 1994.

As most recently amended on 1 November 2000.

The amendment entered into force on 3 November 2000.

The Patent Law.<sup>14</sup> (This Law also covers the protection of industrial designs.)

Date of adoption: 29 May 1944.

Entry into force: 31 May 1944.

As most recently amended on 24 October 2001.

The amendment entered into force on 28 October 2001.

The Enforcement Rules of the Patent Law.<sup>15</sup>

Date of adoption: 26 September 1947.

Entry into force: 28 September 1947.

As most recently amended on 3 October 1994.

The amendment entered into force on 5 October 1994.

The Integrated Circuit Layout Protection Act.<sup>16</sup>

Date of adoption: 11 August 1995.

Entry into force: 13 August 1995.

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<sup>9</sup> See document IP/N/1/TPKM/C/8.

<sup>10</sup> See document IP/N/1/TPKM/C/9.

<sup>11</sup> See document IP/N/1/TPKM/T/1.

<sup>12</sup> See document IP/N/1/TPKM/T/2.

<sup>13</sup> See document IP/N/1/TPKM/T/3.

<sup>14</sup> See document IP/N/1/TPKM/I/1.

<sup>15</sup> See document IP/N/1/TPKM/I/2.

<sup>16</sup> See document IP/N/1/TPKM/L/1.

The Enforcement Rules of the Integrated Circuit Layout Protection Act.<sup>17</sup>

Date of adoption: 14 February 1996.

Entry into force: 16 February 1996.

The Trade Secret Act.<sup>18</sup>

Date of adoption: 17 January 1996.

Entry into force: 19 January 1996.

The Plant Seed Law.<sup>19</sup>

Date of adoption: 5 December 1988.

Entry into force: 7 December 1988.

As most recently amended on 17 May 2000.

The amendment entered into force on 19 May 2000.

The Enforcement Rules of the Plant Seed Law.<sup>20</sup>

Date of adoption: 27 July 1990.

Entry into force: 29 July 1990.

As most recently amended on 31 January 2000.

The amendment entered into force on 2 February 2000.

The Tobacco and Alcohol Administrative Law.<sup>21</sup>

Date of adoption: 19 April 2000.

Entry into force: 1 January 2002.

The Regulations Governing the Labelling of the Alcohol Products.<sup>22</sup>

Date of adoption: 30 December 2000.

Entry into force: 1 January 2002.

The Optical Disk Management Statute (Optical Law).<sup>23</sup>

Date of adoption: 14 November 2001.

Entry into force: 16 November 2001.

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<sup>17</sup> See document IP/N/1/TPKM/L/2.

<sup>18</sup> See document IP/N/1/TPKM/U/1.

<sup>19</sup> See document IP/N/1/TPKM/P/1.

<sup>20</sup> See document IP/N/1/TPKM/P/2.

<sup>21</sup> See document IP/N/1/TPKM/E/1.

<sup>22</sup> See document IP/N/1/TPKM/G/1.

<sup>23</sup> See document IP/N/1/TPKM/E/2.

**ANNEX II**

**OTHER LAWS AND REGULATIONS**

<p style="text-align: center;"><b>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><b>Copyright and related rights</b></p> <p><u>The Cable Television Broadcasting Law.</u></p> <p>Date of adoption: 11 August 1993. Entry into force: 13 August 1993. As most recently amended on 30 May 2001. The amendment entered into force on 1 June 2001.</p> <p><u>The Enforcement Rules of the Broadcasting and Television Law.</u></p> <p>Date of adoption: 30 December 1976. Entry into force: 1 January 1977. As most recently amended on 18 March 1999. The amendment entered into force on 20 March 1999.</p>	<p>Article 57: A program or advertisement involving rights of a third party shall be transmitted by cable television only after a legal authorisation has been obtained.</p> <p>Article 39: Before a videotape program is distributed or screened, the radio/television program supplying business shall submit a completed form of application together with the Videotape program, pre-screening fee and certification fee to the GIO for pre-screening. In the case of videotape programs not produced in-house, documents certifying the licensing of said programs shall be filled out and submitted along with the videotape.</p> <p>Article 43: If only one audio-visual device is used to broadcast or screen videotape programs, it shall be in accordance with the extent of broadcast/screening rights conferred.</p> <p>Article 45: Any ROC business that produces videotape programs on an OEM basis for export shall submit documentation with GIO for review and approval without subject to the limitation prescribed in Article 41, provided that the documentation indicates that the foreign party has licensed its rights pertaining to the programs to the business and it has been notarised by a government official or a legal notary agency or verified by a pertinent international copyright ownership organisation which is approved by the government.</p>

<p style="text-align: center;"><b>TITLE</b> <b>DATE OF ADOPTION AND ENTRY</b> <b>INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><u>The Motion Picture Law.</u></p> <p>Date of adoption: 18 November 1983. Entry into force 20 November 1983. As most recently amended on 14 November 2001. The amendment entered into force on 16 November 2001.</p>	<p>Article 25: When applying for the review of a motion picture, a completed application shall be submitted along with a certificate of copyright in the case of a domestic or domestically-produced motion picture, or certificate of distribution rights in the case of a foreign motion picture.</p>
<p><u>The Enforcement Rules of the Motion Picture Law.</u></p> <p>Date of adoption: 15 September 1984. Entry into force: 17 September 1984. As most recently amended on 9 January 2002. The amendment entered into force on 11 January 2002.</p>	<p>Article 36: If the copyright or right of distribution is transferred, the transferee shall submit the screening license and agreement of transfer to the central authority in charge and apply for a new license.</p>
<p><b>Trademarks</b></p> <p><u>The Fair Trade Law.</u></p> <p>Date of adoption: 4 February 1991. Entry into force: 6 February 1991. As most recently amended on 26 April 2000. The amendment entered into force on 28 April 2000.</p>	<p>Article 20: Regulation on imitation of symbols, trademark, and well-known foreign trademark without registration.</p>
<p><u>The Principles for Handling Cases Governed by Article 20 of the Fair Trade Law.</u></p> <p>Date of adoption: 20 March 1999. Entry into force: 22 March 1999.</p>	<p>Operation guidelines for practices related to Article 20 of the Fair Trade Law.</p>
<p><b>Geographical indications</b></p> <p><u>The Enforcement Rules of the Tobacco and Alcohol Administrative Law.</u></p> <p>Date of adoption: 30 December 2000. Entry into force: 1 January 2002.</p>	<p>Article 45 of the Tobacco and Alcohol Administrative Law and Article 19 of these Rules govern the disposal of the winery products that are confiscated for bearing false or misleading marking of year, age, or geographical indication.</p>

<p style="text-align: center;"><b>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><u>The Commodity Labelling Law.</u></p> <p>Date of adoption: 22 January 1982. Entry into force: 22 January 1982. As most recently amended on 26 April 2000. The amendment entered into force on 28 April 2000.</p> <p><u>The Trademark Law.</u></p> <p>Date of adoption: 6 May 1930. Entry into force: 8 May 1930. As most recently amended on 7 May 1997. The amendment entered into force on 1 November 1998.</p> <p><b>Protection of undisclosed information</b></p> <p><u>The Trade Secret Act.</u></p> <p>Date of adoption: 17 January 1996. Entry into force: 19 January 1996.</p> <p><b>Prevention of the abuse of intellectual property rights</b></p> <p><u>The Fair Trade Law.</u></p> <p>Date of adoption: 4 February 1991. Entry into force: 6 February 1991. As most recently amended on 26 April 2000. The amendment entered into force on 28 April 2000.</p>	<p>Article 8: If the goods placed on the market are packed, the following material facts shall be included thereon:</p> <p>(1) name of the goods; (2) name and address of the manufacturer and the importer if the goods are imported.</p> <p>Article 37 of this Law denies the registration of a trademark design that is likely to mislead the public as to the true place of origin of the goods.</p> <p>Trade secrets are protected under a number of different laws, including the newly enacted Trade Secret Act, the Criminal Code, the Patent Law and the Fair Trade Law. The Trade Secret Act was enacted in accordance with the Agreement on Trade-Related Aspects of Intellectual Property Rights to provide protection for valuable materials, techniques and devices, which are not patentable or copyrightable.</p> <p>Article 45 of this law reads: “The provisions of this law shall not apply to the proper exercise of the right(s) under the Copyright, Trademark Law or Patent Law”. This provision does not prevent the regulation of anti-competitive practices which involve abuse of intellectual property rights, such as imposing undue restrictions on the contractual licenses to restrain trading counterparts’ business activities or mass mailing warning letters to trading counterparts of its competitors.</p>

<p style="text-align: center;"><b>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><b>Civil judicial procedures and remedies</b></p> <p><u>The Code of Civil Procedure.</u></p> <p>Date of adoption: 26 December 1930. Entry into force: 28 December 1930. As most recently amended on 9 February 2000. The amendment entered into force on 11 February 2000.</p> <p><b>Provisional judicial measures</b></p> <p><u>The Code of Civil Procedure.</u> Part II, Chapter 1, Section 3, Subsection 6 and Part VII.</p> <p>Date of adoption: 26 December 1930. Entry into force: 28 December 1930. As most recently amended on 9 February 2000. The amendment entered into force on 11 February 2000.</p> <p><b>Special requirements related to border measures</b></p> <p><u>The Foreign Trade Act.</u></p> <p>Date of adoption: 5 February 1993. Entry into force: 7 February 1993. As most recently amended on 15 December 2000. The amendment entered into force on 17 December 1999.</p>	<p>This Code provides civil judicial procedures and remedies as required by Articles 42 through 48 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.</p> <p>This Code provides provisional judicial measures in accordance with Article 50 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.</p> <p>Articles 15, 17.1, 17.2, 28 and 30 of this Act provide the main legal basis for border measures of intellectual property rights. Based on these provisions, the Board of Foreign Trade, MOEA, may take the following actions against a company suspected or convicted of dealing in counterfeit products:</p> <ol style="list-style-type: none"> <li>1. Upon a final court decision, to revoke the company's export permit or to levy a fine ranging from NT\$30,000 to NT\$300,000.</li> <li>2. A company's export permit can be suspended for up to one year if the company is indicted by a public prosecutor.</li> </ol>



<p style="text-align: center;"><b>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><u>The Regulations Governing Export of Commodities.</u></p> <p>Date of adoption: 19 July 1993. Entry into force: 21 July 1993. As most recently amended on 12 July 2000. The amendment entered into force on 14 July 2000.</p>	<p>These Regulations cover export commodities and the specific intellectual property rights attached to such commodities. Article 15<sup>bis</sup> and 15<sup>ter</sup> provide the legal basis for the establishment of the Trademark Export Monitoring System. Articles 20, 21 and 21<sup>bis</sup> provide the legal basis for the export monitoring measures implemented on the copyrighted products.</p>
<p><u>The Trademark Export Monitoring System.</u></p> <p>Date of adoption: 13 September 1994. Entry into force: 1 October 1994. As most recently amended on 25 November 1995. The amendment entered into force on 27 November 1995.</p>	<p>Under the monitoring system, trademark holders provide the BOFT with a description of their mark, goods exported under the mark, and a list of all parties which have been granted the right to use the mark. The BOFT inputs the information into a computer database, and then forwards it to Customs offices via a central computer network. Customs then uses this information to check if exported goods infringe on registered trademarks.</p>
<p><u>The Regulations Governing Import of Commodities.</u></p> <p>Date of adoption: 14 July 1993. Entry into force: 16 July 1993. As most recently amended on 9 August 2000. The amendment entered into force on 11 August 2000.</p>	<p>Article 4 of these Regulations governs the administration of import commodities with intellectual property attached thereto.</p>
<p><u>The Computer Software Export Monitoring System.</u></p> <p>As most recently amended on 1 October 1999. The amendment entered into force on 3 October 1999.</p>	<p>The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu has put in place what may be the world's only export control system designed to stop exports of infringing software and compact discs through an elaborate inspection and monitoring system.</p>

<p style="text-align: center;"><b>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION</b></p>
<p><u>The Customs Law.</u></p> <p>Date of adoption: 5 May 1967. Entry into force: 7 May 1967. As most recently amended on 10 October 2001. The amendment entered into force on 2 November 2001.</p> <p><b><u>Criminal procedures</u></b></p> <p><u>The Code of Criminal Procedure.</u></p> <p>Date of adoption: 28 July 1928. Entry into force: 30 July 1928. As most recently amended on 12 January 2001. The amendment entered into force on 14 January 2001.</p> <p><b>Any administrative procedures and remedies not covered above</b></p> <p><u>The Code of Administrative Court Proceedings.</u></p> <p>Date of adoption: 17 November 1932. Entry into force: 19 November 1932. As most recently amended on 28 October 1998. The amendment entered into force on 30 October 1998.</p> <p><u>The Law of Administrative Appeal.</u></p> <p>Date of adoption: 24 March 1930. Entry into force: 26 March 1930. As most recently amended on 14 June 2000. The amendment entered into force on 14 June 2000.</p>	<p>Article 61 of this Law prohibits the imports of objects which infringe on patents, trademarks and copyrights.</p> <p>This Code provides intellectual property right holders with criminal procedures in accordance with Article 61 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.</p> <p>This Law provides intellectual property right holders with administrative remedies in accordance with Article 49 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.</p> <p>This Law provides intellectual property right holders with administrative remedies in accordance with Article 49 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.</p>