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WORKING PARTY ON THE ACCESSION OF CHINESE TAIPEI

Questions and Replies

NORDIC COUNTRIES

The representative of Chinese Taipei has submitted the replies reproduced hereunder to the questions submitted by the Nordic countries, for circulation to members of the Working Party on the Accession of Chinese Taipei. This text and the earlier documentation reproduced in documents L/7189/Rev.1 and L/7097 and Addenda will be considered at the meeting of the Working Party scheduled to take place on 12-15 October 1993.

Before going to the issue at hand "Foreign Investment Policy", I would first like, on behalf of the Nordic countries (Iceland, Norway, Sweden and Finland) to thank the authorities of Chinese Taipei for their answers to our follow-up questions at our latest meeting. Our authorities are now studying them. In addition, we have received some new requests for clarifications concerning the part already covered during the previous meeting. We will come back to these questions when we revert to the first part of the document. I would also at this point mention that the Nordic countries intend to engage in bilateral discussions with Chinese Taipei as soon as possible. Technical preparations for such discussions are under way.

1. In the reply to questions 333 Chinese Taipei has listed certain industries that are excluded from investment by foreign nationals. We would appreciate it if the delegation of Chinese Taipei could describe in more detail the criteria for and give examples of:

- (a) those against public safety and security;
- (b) those against good morals;
- (c) those causing great pollution;
- (d) those having monopoly privilege granted or those that are banned from private investment by laws.

In addition we note that Chinese Taipei does not mention restrictions for foreign investments containing import or export performance requirements or requirements of local production or local content. Could the delegation of Chinese Taipei state whether any limitations of this kind exist.

Reply 1

Examples of industries in which investments by foreign nationals are banned or restricted are as follows:

- (a) Those against public safety and security:
Steel forging (gun barrel forging);

Manufacturing and repairing of other machinery (firearms, weapons manufacturing, arms repairing);

Manufacturing of cutlery hand tools and general hardware (sabre manufacturing); and
Manufacturing of other chemical products (gunpowder, fuse, agents for fire).

(b) Those against good morals:

Other cultural and recreational services (coffeeshops, bars, teashops, taverns, and dancing halls with women attendants).

(c) Those causing great pollution:

Manufacturing of basic chemicals (soda-chloride factories operating with mercuric electrolyzers; Manufacturing of sodium cyanide and potassium cyanide);
Manufacturing of other chemical products (monosodium glutamate factories using fermentation method);

Other oil and coal industries (coking); and

Other basic industry of non-ferric metal (asbestos and its related products, refining metalline cadmium and stearic acid, etc., made with cadmium as a main raw materials, recycling industries of waste metals).

(d) Those having monopoly privilege granted or being banned from private investment by law:

Manufacturing of pesticides and herbicides;

Railway transport;

Telecommunications; and

Ivory processing.

For details of the above, please refer to the Negative List for Investment by Overseas Chinese and Foreign Nationals available at the Secretariat.

There is no export performance requirement nor local content requirement except in the cases of firms established in the EPZs and investment in the automobile and motorcycle manufacturing. Both requirements in such exceptional cases apply to domestic as well as foreign invested firms. The export performance in the case of EPZ is to be lifted when the relevant law is amended. In practice, the authority has been lenient in approving sale to domestic markets exceeding the 50 per cent limitation on EPZ firms. For more details on local content requirements, please refer to Reply 339 of document L/7189/Rev.1.

2. Concerning government procurement, in reply to question 352 Chinese Taipei states that, if the lowest bid exceeds the government estimate by 20 per cent or exceeds the budgeted amount, all bids shall be rejected. Could Chinese Taipei given an explanation of the basis used for the calculations for the government estimate and budget amounts? We would also appreciate an explanation of how the procuring entity shall proceed, if all bids are rejected as a consequence of these procedures. Will it lead to an exclusively domestic bidding procedure? In this context we would also like to mention that we would like to see Chinese Taipei acceding to the GATT Code on Government Procurement.

Reply 2

The government estimate and the budgeted amount are jointly determined by the procuring and accounting personnel and the head or the delegated director of the procuring entity by taking into account past purchase prices, market prices and conditions, the results of cost analysis and/or price

inquiries, and the terms and conditions of the procurement transaction under consideration. If the procurement amount exceeds a certain level, the government estimate has to be approved by the higher authority and the audit authority.

If all bids are rejected, as a result of the lowest bid exceeding the government estimate by 20 per cent or exceeding the budgeted amount, the procuring entity will re-open the bidding procedure rather than turning to domestic bids.

3. Document L/7097, page 31, states that "Chinese Taipei also lifted its exclusive right to operate petrol filling stations allowed their importation and free selling of wine, beer and cigarettes by private companies and approved". The reply to question 373 states, however, that the Taiwan Tobacco and Wine Monopoly Bureau has the monopoly in the production and trading of tobacco products and alcoholic beverages, we would appreciate if the delegation of Chinese Taipei could clarify what the present state is.

We would also appreciate if Chinese Taipei could give the figures of the imports that are carried out through monopolies or companies having exclusive rights.

Reply 3

Under the current wine and tobacco monopoly system, the monopoly applies to production, manufacturing, and distribution of wine and tobacco products. According to Article 28 of the Statute for Provisional Application for Wine and Tobacco Monopoly in the Taiwan Province, the TTWMB enjoys the import monopoly of wine and tobacco products. In order to reconcile the monopoly system and the need for liberalizing wine and tobacco imports, after January 1987 and April 1991 respectively for tobacco and wine products, importers have been allowed to freely import wine and tobacco products under the name of TTWMB and sell such products through the TTWMB approved distributors. Therefore, although the TTWMB legally enjoys import monopoly, the sale of wine and tobacco products in domestic market has been opened for free competition among private parties.

The figures of imports for the recent fiscal years are provided in the attached table.

(Unit: %)

	FY 1991	FY 1992	FY 1993
Cigarettes	16.12	18.76	19.09
Beer	3.85	3.99	4.68
Grape Wine	17.58	17.28	16.44
Wine Cooler	35.63	30.61	40.40
Liqueur	6.30	5.98	5.12
Whiskies	77.00	83.37	95.86
Brandy	34.29	25.87	31.68
Other spirits	0.93	1.12	1.42
Weighted Average	3.46	3.66	4.62

- Note:
1. Imported wine and tobacco products include imports by the TTWMB and private traders as well as seized contraband wine and tobacco products.
 2. Whiskies have been able to be imported freely since 1 April 1991.
 3. Brandy, Rum, Gin, Vodka, and other liqueurs have been able to be imported freely since 1 September 1992.

4. Concerning Intellectual Property Rights Protection we note with satisfaction that a number of improvements have been introduced in Chinese Taipei during recent years to improve intellectual property protection and that Chinese Taipei seems ready to take obligations in this field that are in line with those envisaged in the TRIPS-text of the Draft Final Act. It seems, however, from what we have experienced during recent years that the present problems Chinese Taipei faces on this field are on the enforcement side rather than on the IPR legislation itself. At present, we do not have additional questions on this subject, but will follow the development closely.

Reply 4

Chinese Taipei appreciates the comments made herein.

5. Concerning the Telecommunication Policy we would appreciate if the Chinese Taipei could give an estimate when the amendment to the Telecommunications Act will be passed by the Legislative Yuan.

We would also like to get a more precise definition of what Chinese Taipei includes in its definition of VANs (Value Added Networks).

Reply 5

The draft amendment to the Telecommunication Act was forwarded by the Executive Yuan to the Legislative Yuan in April 1992. It is now pending the latter's review. It is difficult at this moment to predict when the amendment will be passed by the Legislative Yuan.

According to the current Regulations Governing Telecommunication Value-Added Network Business, VANs refer to telecommunication services by affiliating computer equipment for storage, on-line searching, and processing information through the basic network facility provided by the DGT. Specifically, this type of service covers (1) information storage and on-line search, (2) data processing, (3) remote exchange (access), (4) word processing and editing, (5) voice mail, (6) electronic mail, (7) electronic bulletin, (8) electronic data interchange, and (9) other business approved by the Ministry of Communication. Under the current Telecommunication Act, foreign nationals may not operate business of this type.

6. Concerning the adherence to GATT-codes

From the Nordic side we would, at this juncture, support those delegations that have expressed their wish to see Chinese Taipei adhere to both the Code on Government Procurement and Civil Aircraft.

Concerning the aerospace industry Chinese Taipei states that it will request for a transition period for this sector to adapt to foreign competition. However, it is not clear whether this transition period is in relation to the disciplines on subsidies in general and the Subsidies Code or the disciplines in the Code for Civil Aircraft.

Reply 6

The transition period required is in relation to the discipline on subsidies. Chinese Taipei does not intend to sign the Code for Civil Aircraft.

Questions related to the first part of the document

7. In the reply 43 (The Tariff System) Chinese Taipei states that the imports of certain fish products may be liberalized in the future and that the duties may be further reduced. Do you have any concrete plans concerning the liberalization and duty reductions that you could report?

Reply 7

Although Chinese Taipei currently has a preliminary plan for liberalization of imports of certain fish products and further reduction of duties in the future, it at this stage has no concrete plans to report.

8. In the reply 78 (Other Charges and Fees) Chinese Taipei states that the GATT-consistency of the Harbour Construction Dues is not clear but that an investigation to this effect will be conducted. It would be interesting to know how, if started, the investigation has proceeded and whether any preliminary observations are at hand.

Reply 8

The investigation has proceeded; Chinese Taipei would like to express its view on the GATT-consistency of the Harbour Construction Dues when the issue has been thoroughly reviewed and finalized.

9. Concerning the Import Licensing System we note that import licences are granted by the Board of Foreign Trade and by authorized licensing units. Does Chinese Taipei have any plans to simplify the system in the sense that licences could be obtained from one authority only?

Some of the products are subject to import licensing in order to enable Chinese Taipei to restructure its industry and agriculture. Could you specify those products and what is their share of the total amount of products subject to licensing?

Reply 9

The current system requires only one licence either from the Board of Foreign Trade or the designated banks as prescribed in the "Customs Import Tariffs and Classification of Import and Export Commodities". There is no case where the import licence shall be obtained from two issuing agents. However, before the Board of Foreign Trade or the designated banks issue the licences in certain cases consent letters issued by other authorities, such as the Council of Agriculture, or the Industry Development Bureau, may be required. Consent letters from other agencies are required because the Board of Foreign Trade in some cases may not have the authority and needs to co-ordinate with the authority in charge of the specific products to complement the relevant regulations or policies. Since in most cases only one consent letter is sufficient, obtaining consent letters before applying for import licences is not as burdensome as it appears.

Under the new system, the procedure will be simplified with a Negative List. Under the new system, importation of some of the products that currently require consent letters from other agencies no more needs a licence from the Board of Foreign Trade and can directly go through the Customs just with the said consent letters. Those commodities will be listed in the "Table of Commodities Subject to the (Customs) Delegated Examination".

As to the products subject to import licensing for industrial and agricultural restructuring, please refer to the tables of non-automatic licensing items in the Annex to L/7189. The dollar value of such products relative to the total value of the products subject to import licensing is about 7.89 per cent.

10. In the reply 193 on the Labelling System for Imported Products you cover foods and medicines. In document L/7097/Add. 1 you mention, however, also cosmetics and "some other products" for which special legislation is applied. Could Chinese Taipei specify what are these "other products" and describe what are the labelling regulations for cosmetics and those "other products"?

Reply 10

The "some other products" referred to in document L/7097/Add. 1 for which special legislation is applied are pesticides, feedstuff, veterinary medicines, and poisonous chemicals.

The labelling requirements for cosmetics are set out in Article 6 of the Law for Control of Cosmetic Hygiene, which reads as follows (the English translation of the law having been provided to the Secretariat):

The label, leaflet and packaging shall in accordance with the regulations of the central health authority, bear the manufacturers' name and address; product name; licence or approval number; ingredients; purpose of use; method of use; weight or volume and lot number or ex-factory date. Certain products designated by the central health authority are required to be labelled with the preservation method and shelf life.

The above said labelling requirements, however, may be contained on the leaflet if the size of the product is too small for such information to be labelled on the container or packaging. Locally manufactured cosmetics shall mainly use Chinese language in labelling, leaflet and packaging. For imported cosmetic products, the leaflet and label shall be translated into Chinese and shall include the importer's name and address.

Cosmetics containing poisonous or potent drugs shall bear the name and content of the drugs as well as a caution regarding its usage.

The labelling requirements for pesticides are set out in Article 23 of the Implementing Rules of the Law Regulating Pesticides, which reads as follows:

Except that the chemical ingredients, the names of the foreign pesticides manufacturing companies or factories, and the pesticides mainly for export may be labelled in foreign language, the labelling of pesticides shall include the following information in Chinese:

1. The permit number of the pesticides;
2. the name of the pesticides, which shall be based on the ordinary name given by the central competent authority in public notice; if there is any brand name, the ordinary name shall be put in parenthesis under the brand name with typeface not smaller than the brand name;
3. the names and addresses of the pesticide manufacturer and seller;
4. formula, physical and chemical character, effective ingredients and their weights, net weight or volume per pack;
5. method of use and scope of application;
6. caution regarding its usage and preservation;
7. shelf-life;
8. method to prevent or relieve from being poisoned;

9. date of manufacturing and lot number; if repackaged, name of each of the repackaging factories and respective repackaging dates; the dates shall not be illegible or unrecognized;
10. the number of days between the date of use and the date of harvest;
11. label with language "pharmacies for agricultural use"; highly poisonous pesticides shall bear language to that effect and conspicuous warning signs;
12. method for disposing of the waste container.

The above items cannot be printed in typeface smaller than size number five.

The "ordinary name" referred to in sub-paragraph two of paragraph one shall not be used for trademark name or logo application.

The ingredient weight referred to in sub-paragraph four of paragraph one shall be expressed in percentage term; net weight or volume per pack shall be expressed under the metric system. The weight shown shall be that approved by the central competent authority and may not be changed without authorization.

Labelling for pesticides with the permit of the same serial number shall have the same type and colour.

The labelling of feedstuff is provided for in Article 14 of the Law Regulating Feedstuff which reads as follows:

Feedstuff or its addition shall be labelled before sale on the package or container in Chinese language or ordinary symbols with the following:

1. name and address of the manufacturer or distributor;
2. product type, classification and name;
3. ingredients;
4. principal raw materials used;
5. net weight;
6. registration number of the manufacturing or import license;
7. date of manufacturing, processing or repackaging;
8. other items as required in the public notice issued by the central competent authority.

11. In the replies on Standards, Inspections and Quarantines Chinese Taipei explains in Reply 204 its view on the difference between CNS and ISO and IEC standards. Our authorities would appreciate if a more elaborated answer could be provided as the reasoning does not give a clear answer why these differences are needed.

Reply 11

Among the examples given in Reply 204 to illustrate the deviations due to different customs, the first and second ones deal with electric power system which was transferred to Chinese Taipei from Japan when Chinese Taipei was governed by Japan before the Second World War. The third example deals with TV system which was transferred from the United States and therefore is a NTSC system. As to the fourth example, the technology in manufacturing steel, iron, and copper products are primarily imported from Japan; while those in manufacturing aluminum and zinc products are imported from Japan. Therefore, the designations of raw materials for such production also follow that of the countries

where the manufacturing technologies originated. The ISO apparently is aware of these differences and has made efforts to make designations consistent. For instance, in the case of aluminum, Chapter two of the ISO 6362-4 is designated as A199.5 (1050A), A199.0 (1200), A1Mg0.73i (6063).

12. In the Reply 309 you mention that "The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations" will, when enacted, set out the criteria to grant approval for foreign insurance firms. We would appreciate an outline of those regulations and criteria.

Reply 12

The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations was made to implement the government's policy to open the domestic market to foreign insurance business in addition to the United States companies on the basis of reciprocity. The Ministry of Finance held a public hearing in June this year to solicit comments on the draft Regulations from local representatives of foreign insurance business. A second public hearing of this kind was held on 31 July this year.

After the two hearings, the Ministry of Finance feels that there is a need to substantially restructure the initial draft, and at this moment it is not able to provide a definitive outline to members of the Working Party. The Ministry of Finance plans to complete the Regulations by the end of 1993 and will provide members of the Working Party an outline when the structure of the Regulations become more definite.