

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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WORKING PARTY ON THE ACCESSION OF CHINESE TAIPEI

Questions and Replies

EUROPEAN COMMUNITIES

The representative of Chinese Taipei has submitted the replies reproduced hereunder to the questions submitted by the European Communities, for circulation to members of the Working Party on the Accession of Chinese Taipei.

1. The Community has noted that initially Chinese Taipei has declared its intention to join the GATT as a developed economy and accept therefore the obligations that this implied. This intention is fully justified by Chinese Taipei's economic development and performance in international trade. In the Community's view accession to the GATT, especially for a developed economy means acceptance of all the GATT disciplines in return for the benefit which accession would bring. Is Chinese Taipei ready to accept these disciplines, in particular in the following fields:

- Binding of the whole of its tariff on a commercially significant level and the application of the MFN principle without exceptions neither for sectors or for trading partners, and

Reply I: Binding or Tariff

Chinese Taipei is not aware of any developed contracting party who has bound the whole of its tariff. Moreover, given the fact that the result of the Uruguay Round negotiations may require tariffication of non-tariff border measures, there is great uncertainty as to the future tariff level of agricultural products currently subject to import restrictions. Meanwhile, the levy of import tariff on wine and tobacco products is suspended under the current monopoly system. There may be a need to reassess the tariff level for such products when the monopoly tax is abolished and the taxation of these products is reverted back to the normal situation. Therefore, Chinese Taipei at this moment is not able to commit to bind all of its tariff at certain level. As to what product is to be bound at what level, the issue will be finally determined after Chinese Taipei has completed its bilateral tariff negotiation with interested parties in conjunction with its accession. Chinese Taipei wishes to emphasize that despite its absence from the GATT community in the past, Chinese Taipei has taken numerous steps on its own initiative to lower its tariff and liberalize its market; Chinese Taipei's trading partners must have benefited from this process.

- Signature of the Codes related to the GATT provisions, in particular the Civil Aircraft Code and the Government Procurement Code. Immediate implementation of these provisions on the date of the accession without transitional periods or exceptions for sectors?

Reply II: Accession to Codes

With respect to the accession to the Tokyo Round Codes, our current position is that we will accede to the Licensing Code, Anti-Dumping Code, Subsidies/Countervailing Code, Customs Valuation Code, and Code on Technical Barriers to Trade upon our accession to the GATT. However, Chinese Taipei will need a transitional period of one and a half years for the Code on Technical Barriers to Trade, and a transitional period of three years for the Licensing Code.

- On Government Procurement Code, Chinese Taipei will improve current procurement practices to meet the various requirements of the Code, including the transparency requirements, and also avoid violation of the MFN principle to the maximum extent possible. Chinese Taipei is prepared to enter into negotiation for accession to this Code two years after our GATT accession.
- Chinese Taipei is not prepared at this moment to sign the Civil Aircraft Code upon our accession, but will assess the possibility of accession on a continuing basis.

Chinese Taipei wishes to note that the Government Procurement Code and the Civil Aircraft Code were negotiated by industrialized countries whose industrial development is well ahead of Chinese Taipei and the Codes were intended to regulate trade between or with such countries. Although Chinese Taipei has committed itself to accede to the GATT as a developed economy, it is at best a marginally developed economy. Chinese Taipei is currently at a critical stage of upgrading its industry and therefore requires a transitional period to help the process.

SPECIFIC QUESTIONS

2. FOREIGN TRADE REGIMES

Question relative to reply 123: Chinese Taipei in its reply to the questions of Hong Kong has indicated that area restrictive trade measures exist mostly for agricultural products (where imports are permitted from the US but not from all other sources) as well as for industrial products such as automobiles and motorcycles.

As far as agricultural products are concerned, Chinese Taipei declared that these are major domestic agriculture products for which free importation is not likely. Therefore the area restrictions will be replaced by a system of tariff quotas.

- Could Chinese Taipei provide a list of these agricultural products that are subject to restrictive trade indicating the amount of imports and their origin?

Reply 2 - 1

The agricultural products subject to area restrictions are as follows:

1. peaches and persimmons: limited to imports from Europe and the United States.
2. bananas, pineapples, guavas, mangoes, lemons and limes, grapes, papayas, plums, lichees, longans, other Mandarins (including tangerines and satsumas), whole ducks, and turkey cuts: issuance of import licenses is suspended except imports from the United States.

3. oranges and grapefruits: imports from the United States are free, imports from South Africa are limited in quantity.
4. apples: imports from the United States and Canada are free; imports from other areas are subject to quantitative restriction.
- Could Chinese Taipei give indications on the way that the volume of these quotas will be established and if there will be a distribution between suppliers?

Reply 2-2

The quotas will be distributed in a way consistent with the relevant GATT provisions and through bilateral consultation with the supplier countries. In addition, for a country currently not subject to restriction, its actual import amount will be taken into account; for a country currently subject to restriction, its quota will be established according to the actual import amount from, and the market share of, such country in the previous representative period (i.e. period within which imports were not subject to restrictions) or through bilateral consultations.

In the future, the quotas for each supplier country will be permitted to grow depending on the domestic market condition.

- What are the provisions foreseen for industrial products?

Reply 2-3

Chinese Taipei is currently reviewing the situation with its manufactures of automobiles and motorcycles and will consult with interested supplier countries in order to establish a schedule for liberalization of trade in these sectors.

6. Standards, inspection and quarantine

Question related to answer - 290

Could Chinese Taipei give the justification and the criteria on the basis of which it is decided whether or not an international standard will be followed?

Reply 6

Chinese Taipei's goal is to make domestic standards (NS) conform to international standards and will gradually modify the NS in this direction, except where there is a need for national security, protection of the human health and the life of animals or plants, accommodation of differences in environment, climate, or geography. In making the relevant assessment, the following are taken into account: available scientific and technical information, related processing technology or intended end uses of the product concerned.

7. Foreign Investment Policy

- 1) Does Chinese Taipei apply any measures which are mandatory or enforceable under domestic law or under administrative rulings or compliance with which is necessary to obtain an advantage, and which require:

- a) the purchase or use by an enterprise of products of domestic origin or from domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;
- b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports?

Reply 7-1

- a) There is no such measure except the local content requirement applied to the automobile and motorcycle industries.
 - b) There is no such requirement.
- 2) Does Chinese Taipei apply any measures which are mandatory or enforceable under domestic law or under administrative rulings or compliance with which is necessary to obtain an advantage, and which restricts:
- a) the importation by an enterprise of products used in or related to its local productions, generally or to an amount related to the volume or value of local production that it exports;
 - b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprises;
 - c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production?

Reply 7-2

- a) There is no such measure
 - b) There is no such measure
 - c) There is no such measure
- 3) Does Chinese Taipei apply any measure which is mandatory or compliance with which is necessary to obtain an advantage which requires that an enterprise export a specific products, or a specified volume or value generally or to a specific market or region.

Reply 7-3

There is no such measure.

- 4) If the answers to any of the above questions is in the affirmative, could Chinese Taipei give the principal features of such measures?

Reply 7-4

For passenger vehicles, manufacturers are required to select 4 items to be produced among the 15 mandatory items, namely:

1. Cylinder Block
2. Cylinder Head
3. Crank Shaft or Crank Shaft r/stock finishing
4. Camshaft and Rocker Arm Shy
5. Piston, Piston Pin and Connecting Rod
6. Clutch and Fly Wheel (or Torque Convertor in Auto T/Mission)
7. Transmission Gears
8. Transmission Gear Housing (Including Clutch Housing and Gear Box Housing)
9. Front Axle or rear Axle and Driving Shaft
10. Steering wheel/column/intermedium shaft and Combination Switch
11. Steering Gear Assy
12. Brake System (including FR/RR Brake Assy and Master Cylinder and Vac
13. Front and Rear Door (including Inner/Outer Panel)
14. Dash Panel and FR/RR Floor Assy
15. Engine Hood, FR Fenders and Trunk Lid

For light trucks, manufacturers are also required to select 4 items to be produced among the following 15 mandatory items:

1. Cylinder Block
2. Cylinder Head
3. Crank Shaft or Crank Shaft r/stock finishing
4. Camshaft and Rocker Arm Assy
5. Piston and Piston Pin and Connecting Rod
6. Clutch and Fly Wheel
7. Transmission Gears
8. Transmission Gear Housing (including clutch Housing and Gear Box Housing)
9. RR Axle and Propeller Shaft Assy
10. Steering wheel/column/intermedium shaft and Combination Switch
11. Steering Gear Assy
12. Brake System (including FR/PR Brake Assy and Master Cylinder and Vac)
13. Cabin and Slide Door (including inner/outer panel) and Rear Cargo Box (Pick Up)
14. FR CTR RR Floors Assy or Chassis Frame Assy
15. FR Panel and back Panel for pick up FR panel and Tail Gate for van

For buses, high trucks and passenger/cargo combined vehicles of gross weight 3.5 to 10 tons, manufacturers are required to select 3 items to be produced domestically among the 15 mandatory items, namely:

1. Piston and Connecting Rod or Connecting rod r/stock finishing
2. Camshaft or Camshaft r/stock Finishing
3. Intake/Exhaust Manifold
4. Clutch Assy
5. Fly Wheel and Fly Wheel/Clutch Housing
6. Brake Assy and Clutch Cylinder or Clutch Cylinder and Brake Cylinder
7. Brake Drum and Rub
8. Propelar Shaft and RR Axle Assy

9. Steering Column
10. Steering Gear Assy
11. Steering Linkage Assy
12. Chassis frame Assy
13. Door Assy (including outer/inner panel)
14. Front Panel and Back Panel
15. Floor Panel

As to buses, high duty trucks and passenger/cargo combined vehicles of gross weight over 10 tones, 2 items among the above 15 are required to be produced domestically.

- 5) Does Chinese Taipei apply any measures which are mandatory or enforceable under domestic law or under administrative ruling or compliance with which it is necessary to obtain an advantage which restrict the granting of construction contracts or public procurement contracts?

Reply 7-5

Chinese Taipei in certain large construction contracts or public procurement contracts has the policy to require offset arrangements.

11. Intellectual property

- 1) Is it possible under Chinese Taipei patent law and practice to obtain, namely for pharmaceutical inventions, a product patent giving protection to the product independently of the process with which it has been manufactured or is the product patent linked to a specific process of production?

Reply 11-1

Under paragraph 1 of Article 142 of the current Patent Law, a patent holder has the exclusive right to make, sell, or use his/her invention. Therefore, a product patent gives protection to the product no matter which process is used in the manufacturing of the product. Paragraph 2 of the same Article provides that if the patented invention is a process, the patent protection extends to the product using the process in the manufacturing. However, if the product is subject to another party's patent, the use of the process invention requires that other party's consent.

The above rules apply to all inventions, including pharmaceutical inventions.

- 2) In its administrative procedures for granting patents, a two-step procedure is applied and an applicant disposes of two months to provide further arrangements or evidence. Is Chinese Taipei prepared to extend this period to four or six months, as of right, as is the practice in the major patent offices?

Reply 11-2

The Operational Key Points for Submission for Supplementary Documents in patent Applications does provide for extension of time for submission of supplementary documents. In case of need, the competent authority will grant extension of time at its discretion upon the applicants petition. Currently there is no plan to revise the Operational Key Points.

3) Are geographical indications and appellations of origin for wines and spirits protected under Chinese Taipei's IPR laws and what are the most important features of such protection?

Reply 11-3

Currently the Trademark Law does not have provisions specifically for protection of geographical indications and appellations of origin for wines and spirits. However, as a general rule, if a manufacturer's use of geographical indications as trademarks has caused confusion to the general consumers as to the geographical origin of the product concerned, the National Bureau of Standard may on its initiative or upon petition by interested parties turn down the application of trademark registration or cancel the existing registration, as the case may be, according to Article 37, Paragraph 1, Subparagraph 6 of the Trademark Law. If appellations of origin are used as trademarks, there will be a violation of Article 37, Paragraph 1, Subparagraph 10 regarding indications of origin. The relevant trademark application will be turned down or the registration will be cancelled. Chinese Taipei believes that the above protection should meet the requirement for protection of geographical indications and appellations of origin contemplated in the draft TRIPs Agreement.

4) Could Chinese Taipei provide a list of the products for which an export licensing system exists? What products will be included in this system in the future?

Reply 11-4

A list of products subject to export licensing requirements in the area of intellectual property protection is attached hereto.

17. Telecommunications

Question related to Reply No. 431

When will third country enterprises be said the "transfer technology to a Chinese Taipei national or enterprise" such as to allow them to provide value-added services in Chinese Taipei under the draft law on telecommunications? Does the draft law define such a transfer of technology? If so, please specify. If not, are there plans to publish such a definition elsewhere?

Does the draft law on telecommunications define the "reciprocal treatment" which allows third country enterprises to provide value-added services in Chinese Taipei? If so, please specify. If not, please provide more details.

Reply 17-1

The draft Telecommunications Law does not define "technology transfer" nor "reciprocal treatment." These definitions will not be available until the Ministry of Transportation and Communications makes the relevant rules to govern the granting of permission.

Question related to replies No. 439/441

Could Chinese Taipei submit to the Working group the proposed list of value-added services which can be provided by third country enterprise?

Reply 17-2

The draft Telecommunications Law does not list the value-added services foreign enterprises can provide. However, the value-added services currently provided by nationals are only the following:

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,

The prospective list of the value-added services foreign enterprises may provide in the future will be based on these services.

Question related to reply No. 434

Has the limit of third country holding in an enterprise providing value added services in Chinese Taipei been determined?

Reply 17-3

The limit on foreign shareholding in an enterprise providing value-added services, if there is any, has not been determined.

TABLE 1 TYPES OF PRODUCTS REQUIRING EXPORT PERMITS & INSPECTION

Product CCC No.	8473.30.10.9	8473.30.10.9	9504.10.00	9504.10.00	9504.90.90	9504.90.90	9504.10.00
Name of Product	Computer PC Board (only PC boards with semiconductor chip and computer software within the chip)	Printer PC Board (only PC boards with semiconductors chips containing computer software)	Television Video game PC board (only boards with semiconductor chips containing computer software)	Video games of a kind used with a Television Receiver	Other Articles for Funfairs, Table or Parlour Games for (palmtop electronic games containing computer software)	Other Articles for Funfairs, Table or Parlour Games (cassettes for palmtop electronic games)	Cassettes for Television Video Games
Inspection Standard	Provisional Regulations for Computer Software Export Inspections	ditto	ditto	ditto	ditto	ditto	ditto
Sample Regulations	Obtain 1% of samples, at least 1 no more than 5	ditto	ditto	ditto	ditto	ditto	ditto
Apply for inspection at	111 Regional Offices	ditto	ditto	ditto	ditto	ditto	ditto
Inspection Location	111 Regional Offices	ditto	ditto	ditto	ditto	ditto	ditto
Duration of Inspection	3 Days	ditto	ditto	ditto	ditto	ditto	ditto
Validity of Certificate	1 Month	ditto	ditto	ditto	ditto	ditto	ditto
Units	PC	PC	PC	SET	SET	SET	PC

8471.20.00.00	8471.92.20.10	8471.92.20.20	8471.92.20.30	8471.92.20.90	8524.90.30.00	8524.11.90.00	8542.19.90.00
Digital automatic data processing machines (containing in the same housing at least a CPU and output unit, whether combined or not)	Dot Matrix Printer	Laser Printer	Daisy Printer	Other Printer	Recorded Data Processing System Magnetic Disks (only disks containing computer software)	Other Digital Integrated Circuits (used in computers, printers or TV video games and containing chips with computer software)	Other Monolithic Integrated Circuits (used in computers, printers or TV video games and containing chips with computer software)
ditto	ditto	ditto	ditto	ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto	ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto	ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto	ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto	ditto	ditto	ditto	ditto
SET	SET	SET	SET	SET	PC	PC	PC

8542.20.00	8542.80.90.00
Mixed Integrated Circuits (used in computers, printers or TV video games and containing chips with computer software)	Other Integrated Circuits and Microassemblies (used in computers, printers or TV video games containing chips with computer software)
ditto	ditto
ditto	ditto
ditto	ditto
ditto	ditto
ditto	ditto
ditto	ditto
PC	PC

Note:

1. Items listed in the table should undergo inspection in accordance with promulgations of 19/9/92 Jian Tai (81) Tze No. 089180, 16/9/92 Jian Tai (81) 3 Fa Tze No. 17592, and 1/2/93 Jian Tai (82) 3 Fa Tze No. 01825.
2. General inspections are limited to 3 days but should further inspections be necessary, the time period may be extended to 10 days (13/4/93) Jian Tai (82) Fa Tze 3 No. 06915).
3. Items in the table must be inspected. Any item whose export permit has been stamped "No Inspection" by the permit unit is not bound by these limits. (15/6/943 Jian Tai (82) 3 Fa Tze No. 10708).
4. Location of Export Permit Assessments: Taipei and Kaohsiung Offices of the Institute For Information Industry (from 1st July 1993).