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

Questions and Replies to the Memorandum on the Foreign Trade Régime (L/7097 and Addenda)

At its meeting on 6 November 1992, the Council set up a Working Party to examine the application for accession of Chinese Taipei. The Terms of reference of the Working Party are reproduced in document L/7095/Rev.1. Having regard to the timetable agreed at the first meeting of the Working Party, in document L/7097 contracting parties were invited to submit questions in writing concerning the foreign trade régime of Chinese Taipei. Questions submitted by contracting parties in connection with the foreign trade régime of Chinese Taipei and the replies thereto provided by the authorities of Chinese Taipei are reproduced hereunder. Further questions and replies will be circulated in due course.

Delegations wishing to raise additional questions concerning the foreign trade régime of Chinese Taipei might inform the representation of Chinese Taipei (with a copy to the Secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Chinese Taipei to members at the time of the Working Party meeting.
Introduction

1. Page 4, paragraph 6: It is stated that "In general, Chinese Taipei has extended bilateral trade concessions to its trading partners on a reciprocal basis, and by applying the m.f.n. principle". Has Chinese Taipei applied any discriminatory trade measures against any of its trading partners on any product? If so, please list these measures and the reasons and the criteria, if any, for taking such measures. Does Chinese Taipei intend to abolish these discriminatory trade measures when it accedes to the GATT?

Reply 1

Upon accession to the GATT, Chinese Taipei will extend unconditional m.f.n. treatment to its GATT trading partners with limited exceptions for trade in certain agricultural and industrial products. Discriminatory trade measures, if any, will be gradually phased out through bilateral consultations with the contracting parties concerned.

2. Page 5, paragraph 3: It is stated that "Chinese Taipei intends to assume all obligations and rights under the GATT as a contracting party". Does this mean that Chinese Taipei accedes to the GATT as a developed country; namely, Chinese Taipei shall not enjoy the favourable treatment generally accorded to developing countries under the GATT?

Reply 2

Chinese Taipei will, in principle, adhere to the GATT with the rights and obligations of a developed party upon its accession. However, as is well known to the existing contracting parties, being a newly industrialized economy, certain sectors of Chinese Taipei have not been fully developed, and still require protection of some degree. Therefore, Chinese Taipei wishes to be granted a transitional period for making appropriate adjustments or for those sectors to be more developed under limited protection. The length of the transitional period for each type of trade problem or each sector that still requires protection is to be jointly determined by Chinese Taipei and the contracting parties.

3. Chinese Taipei has earlier declared that its intention is to adhere to GATT with the rights and obligations of an industrialized party to the Agreement. However, this is not evident from the Memorandum describing Chinese Taipei's foreign trade régimes. A clear statement to this effect from Chinese Taipei would be welcomed.

Reply 3

Please refer to Reply 2.

4. Page 5, paragraph 3: It is stated that "Chinese Taipei would consider adhering to the agreements and arrangements resulting from the Tokyo Round". Specifically which GATT codes are under consideration? Can
Chinese Taipei provide a firm commitment to adhere to the Tokyo Round Codes?

Reply 4

Chinese Taipei, at the time of its accession, will adhere to the General Agreement, the Codes on Technical Barriers to Trade, Anti-dumping, Subsidies/Countervailing Duties, Customs Valuation and Import Licensing Procedures, but wishes to have a transitional period for those areas that are to be identified by Chinese Taipei. In the transitional period, Chinese Taipei will endeavour to bring its practices in line with the requirements of the Codes. In respect of the Code on Government Procurement and the Code on Trade in Civil Aircraft, Chinese Taipei after careful consideration, is at present not prepared to adhere to these Codes at the time of accession, but will endeavour to bring its practices more in line with the requirements of the Codes.

5. Chinese Taipei's intentions as regards its adherence to the GATT MTN Agreements is not quite clear in the Memorandum. It is expected that Chinese Taipei will adhere to the Codes on Technical Barriers to Trade, Government Procurement, Anti-dumping, Subsidies, Customs Valuation, Import Licensing Procedures, and Civil Aircraft.

Reply 5

Please refer to Reply 4.

6. Page 5, paragraph 1: Please provide specific contents of the assistance to developing countries under an "International Economic Co-operation Development Fund".

Reply 6

The IECDF has offered the following assistance to friendly developing countries:

(1) Loans

The IECDF has approved ten loan applications for developing countries with a total amount of US$144,400,000. Details are as follows:
List of Loans Provided by IECDF (as of 20 November 1992)

<table>
<thead>
<tr>
<th>Country</th>
<th>Project description</th>
<th>Commitment amount (US$ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>Export Processing Zone</td>
<td>9.0</td>
</tr>
<tr>
<td>Panama</td>
<td>Export Processing Zone</td>
<td>7.8</td>
</tr>
<tr>
<td>Ireland</td>
<td>Industry Zone</td>
<td>20.0</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>Free Zone</td>
<td>2.5</td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>Housing Development Project</td>
<td>15.0</td>
</tr>
<tr>
<td>St. Vincent</td>
<td>Development of Infrastructure</td>
<td>8.0</td>
</tr>
<tr>
<td>Malawi</td>
<td>Development of Airline Industry</td>
<td>27.0</td>
</tr>
<tr>
<td>Honduras</td>
<td>Road Maintenance Project</td>
<td>20.0</td>
</tr>
<tr>
<td>Philippines</td>
<td>Manila South Water Distribution Project</td>
<td>20.1</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Small and Medium Enterprises Development</td>
<td>15.0</td>
</tr>
</tbody>
</table>

(2) Special technical assistance

The IECDF has also provided the following fourteen technical assistance grants for project feasibility studies in various developing countries:

(a) Assistance to De La Salle University of the Philippines to establish a vocational training center (Grant of US$300,000).

(b) Shared financing with USAID for "Technical Assistance in Finfish Aquaculture Production". (Grant of US$1,530,000)

(c) Assistance to Inland Department of Thailand to establish a value-added-tax system (Grant of US$250,000).

(d) Assistance to the Commerce Department of the Republic of Venezuela for a feasibility study on the establishment of an Export Processing Zone (Grant of US$350,000).

(e) Assistance to the Republic of Guatemala to carry out a vocational training project (Grant of US$94,000).
(f) Assistance to the Republic of Paraguay for a feasibility study on the development of ferro-alloys (Grant of US$170,000).

(g) Assistance to Papua New Guinea for a feasibility study on the development of an export processing zone (Grant of US$500,000).

(h) Assistance to the Republic of Costa Rica to develop export-oriented small and medium enterprises (Grant of US$1,500,000).

(i) Assistance to Mexico for a feasibility study on the development of an export processing zone in Texas-Tamaulipas (Grant of US$100,000).

(j) Assistance to the Commonwealth of the Bahamas to develop its conch-shell industry through a two-year training program (Grant of US$500,000).

(k) Assistance to Vietnam for a feasibility study on the Highway No.5 Expansion Project (Grant of US$31,200).

(l) Assistance to the Philippines for a feasibility study on the Industrial Zone Development Project (Grant of US$15,840).

(m) Assistance to the Ministry of Finance of the Philippines to improve its taxation information system through computerization (Grant of US$400,000).

(n) Assistance to the Government of Dominica to develop geothermal resources for power generation by Chinese Taipei's experts (Grant of US$700,000).

(3) Other general technical assistance

In the area of other related technical assistance, forty-six training courses have been arranged for the 1991-92 fiscal year. The IECDF received 508 foreign officials to Taiwan for various training. In addition, during the 1991-92 fiscal year the IECDF sponsored the visits of about seventy high-ranking officials from developing countries to Taiwan.

7. Page 7: Please provide an outline of the rules of the Statute for the Encouragement of Investment, and indicate whether these rules are different for foreign capital.

Reply 7

The Statute for the "Encouragement of Investment" has been abolished since 31 December 1990 and substituted by the "Statute for Upgrading Industries" on 1 January 1991.
The Statute for Upgrading Industries consists of four major enforcement rules, including tax benefits, establishment and utilization of development fund, technical assistance, and establishment of industrial areas.

There is no difference in regulating domestic and foreign investors on the enforcement of the Statute for Upgrading Industries. All foreign and domestic investors receive equal treatments except tax benefits that domestic investors do not receive. These tax benefits are described in the Articles 11 and 12 of the Statute for Upgrading Industries as follows:

Article 11

Where a non-resident individual or a non-resident profit-seeking enterprise, having been approved to make investment in the Republic of China under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals, receives dividends distributed by a company located in the Republic of China or profits distributed by a partnership in the Republic of China, the income tax payable thereon by such individual or enterprise shall be withheld at the time of payment thereof by the tax withholder as specified in the Income Tax Law at the rate of 20 per cent of such distribution, and the provisions provided in the Income Tax Law for filing final income-tax returns shall not apply.

Where a non-resident individual, having been approved to invest in Chinese Taipei under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals, holds the position of director, supervisor, or managerial officer of the enterprise in which he invests, the provisions of the preceding paragraph shall apply to the dividends distributed to him by the said enterprise, if he has resided in the Republic of China for managing or administering the enterprise in which he invests for more than 183 days in a taxable year as prescribed in Item 2, Paragraph Two, Article 7 of the Income Tax Law.

Article 12

Where a foreign profit-seeking enterprise, having been approved to invest in Chinese Taipei under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals, has dispatched its directors, managerial officers or technical personnel to Chinese Taipei for performing temporary work such as developing an investment project, plant construction or market surveys, and has had them reside in Chinese Taipei for a period of less than 183 days in aggregate in a taxable year, their salaries paid outside Chinese Taipei by the said foreign profit-seeking enterprise shall not be considered as income source in Chinese Taipei.

The Statute for the Encouragement of Investment was promulgated and enacted in 1960, and has been through several revisions to keep pace with the Chinese Taipei's economic development. The implementation of the
Statute was divided into three phases: the first phase was from 10 September 1960 to the end of 1970. Major elements include tax incentives, the obtaining of industrial lands and the coordination of State-run enterprises. The second phase began from 1 January 1971 to the end of 1980. In addition to tax incentives, the improvement of industrial structure and the acceleration of industrialization were listed as the main goals. The third phase began on 1 January 1981 and closed at the end of 1990. All incentives provided in the Statute are available to Chinese Taipei nationals and foreigners alike without any discrimination.

Chapter I - Economy and Foreign Trade

3. The current economic situation

8. Page 8: the Memorandum notes that the economy of Chinese Taipei is undergoing structural adjustment as a result of a changing domestic environment and international competitiveness. What rôle are the Chinese Taipei authorities playing in this restructuring? In particular, what specific direct and indirect financial contributions are being made available to domestic industry under the 1991 "Six-Year National Development Plan", the "Statute for Upgrading Industries" and the "Statute for the Development of Small and Medium Enterprises"? What is the nature of this assistance, and what are the specific eligibility criteria in each case?

Reply 8

Chinese Taipei's policy under the "Statute for Development of Medium and Small Business" is that all the medium and small enterprises which meet the eligibility criteria will be treated equally.

In the course of economic restructuring to improve the domestic investment environment and international competitiveness, the Government's rôle is to provide tax incentives and financial support to investment activities in the fields of research and development, manpower training, production automation and creation of internationally renowned brands and images. These assistance measures are applicable to all industrial sectors, rather than specific or particular companies or industries.

Investment tax credits and accelerated depreciation are the major tax incentives provided under the Statute for Upgrading Industries.

Any and all companies incorporated in the form of company limited by shares in accordance with the Company Law of Chinese Taipei are eligible for the investment incentives set forth in the Statute for Upgrading Industries.

Under the Statute for Upgrading Industries, the Executive Yuan established a development fund to provide financing to project meeting the following objectives:
(1) investment in important enterprises or projects relating to industrial upgrading or improvement of industrial structure which are beyond the technological capability or financial ability of private investors;

(2) provision of financial facilities to enterprises or projects which are related to industrial upgrading or improvement of industrial structure but with insufficient capital;

(3) provision of loans in line with government industrial policies for assisting the sound development of industries;

(4) the setting aside of an appropriate percentage of the development fund to supply necessary assistance to the development of medium and/or small enterprises;

(5) coordinating actions to further plans initiated by competent authorities for acquiring advanced technologies from abroad, promotion of research and development, training of personnel, pollution control, acceleration of improvement of industrial structure and/or advancing economic development; and

(6) other purposes specifically approved by the Executive Yuan.

9. Page 9, paragraph 4: Will Chinese Taipei's policy of strengthening domestic demand impact primarily on demand for domestic or imported products?

Reply 9

The measures undertaken by Chinese Taipei to strengthen domestic demand do not differentiate between domestic and imported products. As to whether domestic or imported products will enjoy a greater rise in demand is a question of market forces and depends entirely on the competitiveness of the respective products.

10. Page 10, last paragraph: Please list and describe all "other controls and restraints on imports" remaining.

Reply 10

Please refer to Reply 102.

11. In its Memorandum, Chinese Taipei says it intends to diversify the destinations of its exports and the sources of its imports. Could Chinese Taipei indicate how it expects this diversification policy to be implemented?

Reply 11

Chinese Taipei intends to implement its policy to diversify the destinations of its exports and the sources of its imports mainly by taking the following measures:
(1) Diversification of export destinations:

(a) to seek membership in international organizations;

(b) to encourage outward investment;

(c) to train foreign language speakers, especially for those languages that are not commonly used in Chinese Taipei;

(d) to increase representative offices in foreign countries.

(2) Diversification of import sources:

(a) to sponsor trade fairs in Chinese Taipei, in which developing countries are particularly welcome to participate for expanding their markets in Chinese Taipei; and

(b) to collect information for domestic importers on alternative sources of supply for products.

12. Page 12 notes that an urgent task facing Chinese Taipei's policymakers is to diversify export markets and import sources. In addition to membership of GATT, are there specific domestic policy initiatives which Chinese Taipei has implemented, or is planning to implement to achieve this diversification?

Reply 12

Please refer to Reply 11.

13. Page 13, paragraph 2: It is stated that how to rectify trade deficits with Japan is a major challenge for Chinese Taipei. It is a strong belief that trade balance should be looked at in a global context and that it is counter-productive to over emphasize bilateral aspects of trade balance. In particular, the trade deficit of Chinese Taipei with Japan has some relevance with its trade structure that imports raw materials and production facilities from Japan and exports finished goods to other countries. What is the view of Chinese Taipei in this?

Reply 13

Like most of the developed contracting parties of the GATT, Chinese Taipei intends to enter into bilateral consultations with Japan to seek a mutually acceptable solution to the trade deficit problem and at the same time to gradually reduce import restrictions against Japanese imports.

14. Page 13, paragraph 5: Chinese Taipei indicates that it will "carefully monitor the distribution of productive resources such as land, water, energy, and transportation facilities in order to provide sufficient resources for sustained industrial growth". Does Chinese Taipei intend to introduce measures affecting the distribution of productive resources?
What would be the consequences of changes in land distribution on agricultural production?

Reply 14

There will be reallocation of the productive resources to meet the need of further economic development. Some farm land will be shifted to and used by the non-agricultural sector. Although this reallocation may affect agricultural production, it would benefit the overall economic development.

15. Page 13, under (3) (1) and page 14: Can foreign firms compete for the award of infrastructure projects under this programme on the same terms as Chinese Taipei firms? Please describe the procedures for awarding contracts, including publication rules and time allowed for making offers.

Reply 15

Foreign firms are generally welcome to compete for award of infrastructure projects under the Six-Year National Development Plan by themselves, through their agents, or in co-operation with local firms, as the case may be. In cases where foreign firms compete for a project with local firms, all the firms will be treated on the same terms.

The standard procedure for awarding contracts is summarized as follows:

(1) Prepare solicitation documents and issue them by open tender, restricted tender, or negotiation as the case may be. The announcement of an open tender is required to be published in local newspapers for at least two days.

(2) Receive bids and bid-bonds from bidders, and evaluate each bid according to the solicitation requirements. The period between issuance of solicitation documents and the deadline for sending in offers generally depends on the complexity or urgency of a tender and the decision of the procurement entity. If the prescribed period is not adequate to allow suppliers to prepare and submit tenders, the suppliers may request the procurement entity to consider an extension.

(3) In the event of open tender or restricted tender, the award of a contract will, in principle, be made to the bidder whose bid meets the requirements of the tender and whose bid price is not only the lowest one among all acceptable bidders, but also equal to or lower than the government estimate. If such bidder's bid price is higher than the government estimate, he may be given a one-time priority to reduce his price. If the reduced bid price is still higher than the government estimate, all acceptable bidders may be given the opportunity to re-bid at lower prices for possible selection of a successful bidder, whose bid price is the lowest one. In the event that the lowest bid price is higher than the government estimate by 20 per cent or is higher than the budgeted amount, all bids shall be rejected.
In the event of negotiation, the procurement entity will negotiate with a selected supplier on all technical, commercial and pricing matters before reaching agreement to sign a contract, provided that the final price is acceptable and is not only within the budgeted amount, but also not higher than the government estimate by 20 per cent.

16. Could Chinese Taipei please clarify where trade liberalization fits into the direction of future economic policy?

Reply 16

Although Chinese Taipei has pursued and obtained economic development, such development has brought about certain adverse effects. The government therefore adopts two new policies to facilitate the development of a more balanced economy:

(1) implementing a six-year national development plan to raise the overall quality of living and to restructure the economic sectors; and

(2) liberalizing international trade to cure prior trade imbalances.

Chapter II - The foreign trade régimes

1. The tariff system (page 15, item 1)

17. What authority exists to apply fiscal or trade measures to support Chinese Taipei's balance-of-payments (BOP) position, e.g., laws, decrees, regulations? Does this authority include the right to apply quantitative limits on imports?

Reply 17

In order to support its BOP position, Chinese Taipei can apply the appropriate fiscal or trade measures as authorized by the following laws:

Article 11 of the Foreign Trade Act provides that trade may be limited as international treaties, trade agreements, national defense, social securities, culture, hygiene, and environmental/ecologic protection, or as policy requires. Article 6, paragraph 1, Section 4 also authorizes temporary suspension of export to or import from specific countries, provided that trade with such specific countries suffers a long-term and huge deficit. The latter measure shall not be applied unless consultation or negotiation with such countries has been conducted in accordance with laws.

Article 6 of the Statute for Foreign Exchange Regulation authorized the authority in charge of foreign trade to formulate export and import programmes based on the foreign exchange estimates. This provision was introduced in Chinese Taipei's early ages due to the shortage of foreign exchange. However, this provision has never been applied since it was implemented. The Foreign Trade Act is now in force, and Chinese Taipei
adopts therein the policy based on the principle of free trade. It is even less likely that this provision will ever be applied in the near future to restrict exports or imports.

Article 47-1 of the Customs Law authorizes an upward or downward adjustment of customs duty on imported goods within the range of 50 per cent of the statutory-duty rate as provided for in the Customs Import Tariff Schedule in order to cope with extraordinary domestic and international economic situations. Nevertheless, the duration of such tariff-rate adjustment shall not exceed one year.

Both Article 11 of the Foreign Trade Law and Article 6 of the Statute for Foreign Exchange Control include the authority to apply quantitative limits on imports.

18. Please cite the laws, decrees or regulations currently in place that give official authority to administratively alter tariff levels or to apply import or export surcharges or to restrict imports or exports without recourse to legislative approval.

Reply 18

The Law giving official authority to administratively alter tariff level without recourse to legislative approval is Article 47-1 of the Customs Law. It provides for an upward or downward adjustment of customs duty on imported goods within the range of 50 per cent of the statutory-duty rate, in order to cope with extraordinary domestic and international economic situations. Nevertheless, the duration of such tariff-rate adjustment shall not exceed one year.

The decrees authorizing Chinese Taipei's official to regulate imports or exports currently are "Regulations Governing Import of Commodities by Firms", "Regulations Governing Application for Export of Commodities by Firms", "Rules Governing Examination of Export of Commodities", "Rules Governing Examination of Import of Commodities". "The Foreign Trade Act", newly effective on 7 February 1993, however, mandates substitution of its own subsidiary laws for these current measures. The subsidiary laws required by the Foreign Trade Act for implementation are as follows:

(1) the Implementation Rules for the Foreign Trade Act (required by Article 36 of the Foreign Trade Act);

(2) Regulations Governing Import of Commodities;

(3) Regulations Governing Export of Commodities;

(4) the Administration Rules for Exports/Imports of Hi-Tech Products (according to Article 13 of the Foreign Trade Act);

(5) the Regulations Governing Registration and Administration of Exporters and Importers (according to Article 9 of the Foreign Trade Act);
(6) the Administration Rules for Export/Import of Commodities by the Military Agencies (according to Article 12 of the Foreign Trade Act);

(7) the Rules for Applications for Administration of Import Relief Measures (required by Article 18 of the Foreign Trade Act).

All of the said Rules are still in the process of drafting, and expected to be implemented by August 1993 to achieve the objective of free-trade liberalization set forth in the Foreign Trade Act.

19. In what Ministry or Ministries would such authority be vested?

Reply 19

The authority to adjust tariff levels is vested in both the Ministry of Finance and the Ministry of Economic Affairs of the Executive Yuan. The authority for administering the Foreign Trade Act is vested in the Ministry of Economic Affairs.

The types of commodities subject to adjustment, range of duty adjustment, and the dates for commencing and ending said duty adjustment, are jointly decided by the Ministry of Finance and Ministry of Economic Affairs, and submitted to the Executive Yuan for approval. After approval, the Executive Yuan refers the changes to the Legislative Yuan for ratification.

20. Page 15: What are the bases for the calculation of "average" and "effective average tariff" rates? Do these take into account those items the import of which is banned (or for which import licences are not approved)?

Reply 20

(1) The "average tariff rate" indicated on page 15 of the Memorandum on Foreign Trade Régime describes the general picture of the nominal tariff rates of imported goods including the prohibited items.

(2) The "average effective tariff rate" is calculated from the total tariff revenue divided by the total import value. The calculation of effective average tariff rate does not take into account the items which are prohibited from importation into Taiwan, since there are no import record thereof.

21. Page 15: Please provide the current tariff schedule. Please indicate whether any future reductions to the "reciprocal" tariff are foreseen in the "Four-Year Tariff Reduction Plan".

Reply 21

(1) Computer disks containing the current tariff rates, import statistics and non-tariff measures have been provided to the GATT Secretariat by the Board of Foreign Trade, Ministry of Economic Affairs on
1 February 1993 for transmittal of same to the relevant contracting parties for their reference.

(2) To further implement the "Four-Year Tariff Reduction Plan", the Ministry of Finance, in April 1992, established a task force for adjustment of tariff rates. Given the GATT Council's decision to accept Chinese Taipei's accession application and the establishment of the working party on 29 September 1992, Chinese Taipei will review the overall tariff structure in light of the accession tariff negotiation.

22. Add.1, page 5: please provide the current average "reciprocal" duty rate.

Reply 22

The current average "reciprocal" (Column II) duty rate is 8.89 per cent. The average effective rate for 1992 is 5.12 per cent.

23. Page 15: what is the average effective tariff rates on agricultural products? What plans are there to reduce the average effective tariff in imports of agricultural products to the same level as that for non-agricultural products?

Reply 23

The average effective rate on agricultural products (H.S. Chapter 1-24) is 11.9 per cent (the rate estimated according to the product coverage in the Dunkel draft is 5.3 per cent). The average effective rate on non-agricultural products is 4.64 per cent.

The average effective rate on agricultural products is higher than non-agricultural products because agriculture is a special sector. It is common for most countries to have higher-tariff rates for agricultural products. Chinese Taipei will make appropriate adjustments to the rates, in conjunction with its accession negotiation, taking into account the domestic agricultural production and other relevant factors.

24. Is there any plan to reduce the high customs duty rate of more than 30 per cent currently applied to sixty-three industrial and 417 agricultural products?

Reply 24

According to the eight-digit HS Code of Chinese Taipei, there are currently twenty-one industrial products and 413 agricultural products with a duty rate exceeding 30 per cent. Whether or not the duty rate will be adjusted, will be determined in consideration of the domestic production and the development of relevant industries within the territory.
25. The average nominal duty rate in 1992 is 7 per cent. According to Table 16, 6 per cent of Chinese Taipei's tariff items fall between the rate of 31-50 per cent. Has Chinese Taipei any plans to deal with these tariff peaks?

Reply 25

The current (as of 1992) tariff rates that exceed 30 per cent only comprise 5.4 per cent of the total tariff items. Adjustment of the duty rate of said portion of goods will be determined in consideration of the development of relevant industries within the territory.

26. Page 16: Can Chinese Taipei provide details of the Four-Year (1989-1992) Tariff Reduction Plan? What will the average effective tariff rates be for the agricultural and non-agricultural goods at the conclusion of the plan?

Reply 26

The Four-Year Tariff Reduction Plan was made in 1988 for the purpose of speeding-up economic liberalization, expansion of domestic demand, increase of imports and reduction of trade surplus. The detailed schedules are as follows:

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<tbody>
<tr>
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<td>All products</td>
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<td>10.25</td>
<td>9.17</td>
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The above plan was made based on Chinese Taipei's status of economic development at that time and reflects the scale of tariff reduction that Chinese Taipei intended to achieve. The average effective rate indicated above were calculated or estimated from the overall imports. No specific rate has been determined for any particular category of products.

27. Under the Four-Year Tariff Reduction Plan, by 1992 what is expected to be the effective duty rate and the average nominal-duty rate for
agricultural products and for all other products (excluding agricultural products)?

Reply 27

The Four-Year Tariff Reduction Plan was based on the status of economic development in 1988 and reflects the scale of tariff reduction Chinese Taipei intended to achieve. According to the Plan, the average nominal-tariff rate on agricultural products and non-agricultural products in 1992 would be reduced to 19.82 per cent and 5.02 per cent, respectively. The average effective rate indicated in the Plan was calculated or estimated from the overall imports. No specific rate has been determined for any particular category of products (such as agricultural products). The average effective rate for all the products was expected to be reduced to 3.5 per cent.

28. The Chinese Taipei Tariff Reduction Plan calls for the effective average duty to be reduced to 3.5 per cent in 1992. Was this target in fact met by the end of this year? If not, what effective average rate was actually achieved?

Reply 28

By the end of 1992, the effective average duty rate actually attained was 5.12 per cent.

29. In the Memorandum, Chinese Taipei indicated that the 1989-1992 Four-Year Tariff Reduction Plan would reduce the average nominal-duty rate on Chinese Taipei imports to 7 per cent and the effective duty rate to 3.5 per cent by 1992. Apparently, neither level was achieved. Why have the tariff reductions foreseen in its Tariff Reduction Plan not been fully implemented? Does Chinese Taipei plan additional unilateral tariff reduction in order to meet these commitments?

Reply 29

(1) The factors which affected the progress of implementation of the Tariff Reduction Plan are:

(a) The revision of the tariff rates requires legislative approval. The proposal for reduction of the 1990 tariff rates which was contemplated to be implemented in 1991 was submitted to the Legislative Yuan in November 1990 as scheduled. However, as the review of the 1991 Reduction Plan by the Legislative Yuan took much longer time than expected and the promulgation for implementation of the Plan was delayed until the end of 1991. The implementation progress therefore is behind the original schedule.

(b) The condition of domestic industries must be taken into consideration when making tariff reduction. The continuous appreciation of New Taiwan dollar against the United States
dollar in recent years (11 per cent since 1988) has resulted in considerable increase of imports. This factor coupled with the slowing down of the economy, the significant increase of wages and the shortage of labour, has serious impact on domestic industries.

(c) Another factor is the increase of imports of high-value consumer products since 1987 resulting from the increase of GNP in Taiwan. Such change of imports structure has made it difficult to achieve the Plan for reduction of average effective tariff rate.

There are instances where other countries have also failed to meet the scheduled Tariff Reduction Plan. Furthermore, the tariff in the industrialized countries have gone through a longer process to arrive at the present level after years of negotiation under the GATT framework; this process is much longer than that facing Chinese Taipei.

(2) The efforts Chinese Taipei has made in reducing the tariff rates within 1989 through 1992 are as follows:

(a) Average nominal rate:

(i) the average-nominal rate on all products for 1989 was 9.65 per cent which is lower than the scheduled rate of 10.25 per cent;

(ii) the scheduled average nominal tariff rate on all products in 1990 was 9.17 per cent. The draft revision to the tariff rates submitted by the Executive Yuan to the Legislative Yuan in November 1990 for enactment proposed a reduction to 8.89 per cent which is lower than that in the reduction plan. However, the Legislative Yuan did not approve the proposed reduction by the end of the year as expected by the Executive Yuan. The proposed reduction was not approved until the end of 1991 and was implemented in early 1992;

(b) Average effective tariff rate:

the average effective tariff rate on all products for 1989 was 6.28 per cent which was reduced to 5.4 per cent in 1990 and 4.97 per cent in 1991. The rate was slightly increased to 5.12 per cent in 1992.

(3) The Ministry of Finance, in April 1992, established a task force for the adjustment of tariff rates to study on further implementation of the Tariff Reduction Plan and review the overall tariff structure in light of the accession tariff negotiation.

30. The current "Four-Year Tariff Reduction Plan" ended in 1992. Is Chinese Taipei planning another plan to further reduce customs duties?
Reply 30

The Four-Year Tariff Reduction Plan prepared by Chinese Taipei is currently still being implemented. Duty rates will be adjusted after said Plan is completed in consideration of the future international economic situation and the situation of domestic industrial development.

31. There seems to exist a number of industrial products for which a considerably higher-rate of duty item, the average of which is applied. As the Memorandum does not contain a detailed breakdown of tariff rates per product groups, it has not been possible to fully assess the situation. Please provide information about plans for further reductions in these product groups and specific products that are subject to higher duty rates.

Reply 31

Computer disks containing the current tariff rates, import statistics and non-tariff measures have been provided to the GATT Secretariat by the Board of Foreign Trade, Ministry of Economic Affairs on 1 February 1993 for transmittal of same to the relevant contracting parties for their reference.

Whether adjustment in high tariff industrial products is necessary will be determined in accordance with the domestic industrial development situation.

32. Page 15: how are the effective average duty rates calculated? Can Chinese Taipei please list out separately the effective average duty rate for agricultural products, and the rate for all other products (excluding agricultural products)?

Reply 32

(1) Average effective tariff rate = total tariff revenue/total import value.

(2) The average effective rate on agricultural products (Chapters 1-24) is 11.9 per cent. (The rate estimated according to the product coverage in the Dunkel draft is 5.3 per cent). The average effective rate on non-agricultural products is 4.64 per cent.

33. Does Chinese Taipei intend to follow the ad valorem principle in setting tariffs?

Reply 33

Among the total dutiable items, the duties on 7891 items are collected on ad valorem basis (ad valorem duty). Only 40 items are collected on quantity basis (specific duty) and 113 items are collected on a compound basis. In most cases, the duties are levied on an ad valorem basis.
34. Apart from customs tariffs, are there any other border duties or charges of any kind imposed on imports by Chinese Taipei?

Reply 34

In addition to customs tariffs, importers or exporters shall pay a 0.5 per cent ad valorem rate of harbour construction dues.

35. Has Chinese Taipei supplied a tariff schedule and import data that would allow individual contracting parties to develop tariff request lists? If so, does this tariff schedule reflect all of the tariff reductions for 1992 described in this section?

Reply 35

Computer disks containing the tariff rates current as of 1992, import statistics and non-tariff measures have been provided to the Secretariat of GATT by the Board of Foreign Trade, Ministry of Economic Affairs, on 1 February 1993 for transmittal of same to the relevant contracting parties for their reference.

36. Page 15, paragraph 3: Chinese Taipei indicates an extensive lowering of tariffs and the placement of items on the list of permissible duty-free import items. The most recent tariff reduction took place in January 1992. Are the most recent tariff reductions included in the "Customs Import Tariff of Chinese Taipei (January 1992 Revised Edition)? What is the average m.f.n. duty rate at present? What are Chinese Taipei's intentions with propose to tariff bindings upon its accession to the GATT? Which product categories will have tariffs bound between 30 per cent and 50 per cent and what is the rationale for this?

Reply 36

(1) The tariff reduction measures that began to be implemented in January 1992 are already included in the Customs Import Tariff (1992 Revised Edition).

(2) The current average nominal tariff rate under m.f.n. (Column II) is 8.89 per cent and the average effective-tariff rate for 1992 is 5.12 per cent.

(3) The statement to reduce the tariff rate of 94 per cent of tariff items to a level not more than 30 per cent, and to reduce the rate of the rest from 6 per cent of tariff items to a level not more than 50 per cent, as referred to in L/7097, page 16 is a description of the overall tariff structure at the time of delivery of the Memorandum.

The categories of goods to be bound with such tariff rates will be determined in accordance with the result of the tariff concession negotiation.
37. The tariff structure has been lowered in recent years on to a rather low level (the effective average rate being 5.4 per cent in 1990) and well below the 30-per-cent level. Chinese Taipei proposes to bind its schedules upon accession. There is no reason to bind the tariff level for industrial products at a higher level than the applied one.

Reply 37

It may not be appropriate to judge the level of ceiling rate, a nominal rate, on the basis of effective average rates. This is because the latter does not take into account the high tariff associate with products subject to import ban, and thus has no connection with the corresponding level of nominal rates.

38. As regards the customs territory's tariff system, Chinese Taipei said that it will bind 94 per cent of the tariff items at a maximum rate of 30 per cent, and that the ceiling for the remaining 6 per cent will not exceed 50 per cent. Could Chinese Taipei provide a list of items that will not be bound?

Reply 38

Please refer to Reply 36 (3).

39. Page 15: please list the main products which will fall within the 6 per cent of tariff items which will not be bound at a maximum rate of 30 per cent. While applied tariff rates for these items are not to exceed 50 per cent, will they also be bound at a maximum of 50 per cent?

Reply 39

Please refer to Reply 36 (3).

40. Page 15: can Chinese Taipei give some indication of the sectors that are affected by the intention not to bind at the lower ceiling rate?

Reply 40

Please refer to Reply 36 (3).

41. Page 16: can Chinese Taipei please list at the six or eight-digit tariff line level the 6 per cent of its Tariff that it proposes to bind at a ceiling of 50 per cent.

Reply 41

Please refer to Reply 36 (3).

42. Page 16: for at least one product (beef: CCC - 0201.10 00 to 0202.30 90) there are two separate specific tariffs. The lower tariff is applicable to special quality beef. What is the rationale for this? What plans are there to remove this discrepancy?
The definition of high quality beef (HQB) is derived from "Hilton Beef", which is used by the United States, Austria, European Community, Japan and Switzerland in their agreements with other countries. The HQB is mainly consumed in ranking hotels like the Hilton. This grading system can protect consumer interests and is an important criterion to judge beef quality. Beef from any country which can meet the specifications of HQB as specified in the Customs Import Tariff and Classification of Import and Export Commodities can be imported at the preferential tariff rate.

Tariff policy is based on the concerns for upgrading domestic industries, protecting farmers, improving consumers' benefits and development of the overall economy. The determination of tariff rate for imported beef also follows the above principles. Chinese Taipei will review the necessity for adjustment of the tariff rate on beef in conjunction with accession tariff negotiation, taking into account domestic industrial development requirement.

43. Please provide information on the present import régimes for fish products that appears to be very restrictive and any plans to reduce this internationally very high tariff on fish products.

Reply 43

Most of the fish products are permitted to be imported. The restriction on certain prohibited items may be liberalized step-by-step in the future.

For those items that may be imported freely, the import duty may be further reduced in the future.

44. What is the rationale behind the differential tariff on coconut and palm oil? Is there any plan to equalize the tariff on both products?

Reply 44

(1) The commodity Import Duty Code and the tax rate for coconut and palm oil are as follows:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Code</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coconut oil</td>
<td>1511</td>
<td>4.0%</td>
</tr>
<tr>
<td>Palm oil</td>
<td>1513</td>
<td>2.5%</td>
</tr>
</tbody>
</table>

(2) According to domestic industrial usage, coconut oil is used for cooking and Chinese Taipei has domestic coconut oil industry. On the other hand, palm oil is used for industrial purposes and there is no domestic industry. The rates for coconut oil and palm oil are therefore different. At present, there is no plan to equalize the tariff on both products.
45. In addition to imports by firms in the Export Processing Zones (EPZs), does Chinese Taipei grant any exemptions from the application of normal tariff duties on imports?

Reply 45

(1) Imported goods that meet the requirements of Article 26 of the Customs Law are exempted from customs duty.

(2) In addition to the firms within the Export Processing Zone which are exempt from customs duty for the articles imported thereby, imports by the following establishments are also exempt from customs duty:

(a) bonded warehouse - in accordance with the provisions of Article 35 of the Customs Law, when goods arrive at a port in Chinese Taipei, the consignee may, prior to application for import, apply to the Customs for entry into a bonded warehouse. Within the time-limit prescribed for the storage of goods in a bonded warehouse, these goods may be re-exported free of import duty;

(b) bonded factory - in accordance with the provisions of Article 35-1 of the Customs Law, export processing factories may be registered, with due approval of the Customs, as bonded factories under Customs supervision. All imported raw materials to be stored and used in such bonded factories for manufacturing or processing into finished products for export shall be exempted from customs duty, provided, however, that this customs duty exemption shall not apply to certain raw materials. The Ministry of Finance and the Ministry of Economic Affairs jointly announce which raw materials will be subject to duty;

(c) Science-based Industrial Park - in accordance with the provisions of Article 17 of the Statute for Establishment and Management of Science-based Industrial Park, all machinery and equipment for their own end use, raw materials, other materials, fuels and semi-finished products imported by companies in the Science-based Industrial Park shall be exempted from customs duty;

(d) duty-free shop - in accordance with Article 7 of the Regulations Governing the Establishment and Administration of Duty-Free Shops, goods sold by duty-free shops at an airport shall be exempt from customs duty, commodity tax, and the business tax is zero.

46. What type of "duty-drawback" system is currently applied? What are the requirements to qualify for a duty-drawback?

Reply 46

(1) The duty-drawback system currently adopted in Chinese Taipei is that the customs duty paid on raw materials and commodity tax withheld by
the Customs will be refunded at the time the raw materials are
re-exported after processing. In order to simplify the aforesaid
duty-drawback system, the Ministry of Finance since 1984 has lowered
duties on or exempted from duties some 3,917 tariff items and no duty
drawback for such items.

(2) The duty-drawback system requires imported materials to pay import
duty (or record such duty on account). Import duties will be refunded
(or offset the account of duty) after the finished products are
exported. Manufacturers must submit applications and evidence of
import/export to process duty drawback requests with Customs.

(3) Calculation of duty-drawback under the current duty-drawback system is
based on the quantity of raw materials physically incorporated into
the final products; there are no instances in Chinese Taipei's
current practice that may be considered to be as excessive refunds.

47. Are there any future plans to reduce tariff rates further? If so,
what are they?

Reply 47

Please refer to reply 30.

48. Please provide information on the tariff concessions agreed upon
between Chinese Taipei and the United States and how these will be treated
by the accession.

Reply 48

In principle, all the items Chinese Taipei has agreed with trading
partners, through previous bilateral tariff reduction negotiation, have
been included in the current customs import tariff and the results of such
reduction are applicable to all countries and areas covered by the
"reciprocal" rates under Column II.

49. Will Chinese Taipei commit to apply its laws and regulations which
provide for the application of taxes, charges, and tariff surcharges to
imports after accession in a manner consistent with the provisions of the
General Agreement, including Articles III, VI, VIII, and XI?

Reply 49

Chinese Taipei intends to apply its laws and regulations which provide
for the application of taxes, charges and tariff surcharges to imports
after accessions to the General Agreement in a manner generally consistent
with the provisions of the General Agreement. A comprehensive review of
such laws and regulations will be carried out to examine the extent to
which such laws and regulations are not consistent with the provisions of the
General Agreement and efforts will be made to gradually eliminate such
inconsistency. In areas where the domestic industries or sectors still
require protection of some degree or the existing schemes may not be fully
corrected or otherwise modified in the short run, such protection or modification will be reduced or carried out in a progressive manner and in any event at the same speed and scale as other comparable economies.

2. The Customs System

(1) Valuation

50. Can more information be provided on the customs valuation régimes?

Reply 50

Chinese Taipei's valuation of imported goods is made in accordance with the relevant provision of the Customs Law and its Enforcement Rules which are enacted according to the spirit of the Customs Valuation Agreement. Upon accession to the GATT, Chinese Taipei will accede to the Customs Valuation Code.

51. A more detailed description of Chinese Taipei's customs valuation procedures would be appreciated.

Reply 51

Please refer to Reply 50.

52. Apparently, Chinese Taipei's customs authorities do not accept the invoice price or transaction value on some products, including automobiles, as the value for duty purposes. In addition, there appear to be annual changes of the formula for assessing value for duty purposes that seem arbitrary and artificial. Can Chinese Taipei explain how much measures conform with the provisions of Articles VII and X?

Reply 52

The Chinese Taipei customs authority's valuation of imported goods is based on the relevant provisions under the Customs Law which was enacted according to the letter and spirit of the implementing agreement of Article 7 of the GATT (hereinafter referred to as "Customs Valuation Agreement") and the relevant provisions of the Customs Valuation Agreement.

Take 1991 import cases for example. A total of 98.5 per cent of the imported goods paid import duty, based on their transaction value as provided for under Article 1 of the Customs Valuation Agreement. The rest of the imported goods fall into the categories provided for under paragraph 1 of Article 12-1 of the Customs Law (equivalent of subparagraphs 1 to 4 of paragraph 1 of Article 1 of the Customs Valuation Agreement), for which the transaction value of imported goods may not serve as the basic reference for determination of the duty-paying value; the Customs therefore under the law may not accept the invoice price for determination of the duty-paying value.
53. Does Chinese Taipei refer to any lists of representative prices or other published materials to confirm or suggest alteration of invoice prices offered by importers for customs valuation purposes? If so, please describe these materials and the situation in which they would be used for customs valuation purposes.

Reply 53

The Customs of Chinese Taipei does not refer to any lists of "representative prices" or other "published materials" to confirm or suggest alteration of invoice prices offered by importers for customs valuation purposes.

54. Concerning customs valuation of imports on other than acceptance of the invoice price:

(i) under what circumstances, specifically, do Chinese Taipei's customs authorities not accept the invoice price of imports for customs valuation purposes?

(ii) please describe in detail the steps taken by customs authorities to determine that the invoice price is not adequate or accurate?

(iii) please describe specifically how Chinese Taipei's customs authorities arrive at an import valuation other than that offered on the invoice in such cases. Is the process the same for every case?

Reply 54

(1) The Customs will not accept the invoice price if the imported goods fall into either of the following categories:

(a) the transaction value of imported goods may not serve as the basic reference for determining the duty-paying value as provided for under paragraph 1 of Article 12-1 of the Customs Law (equivalent of subparagraphs 1 to 4 of paragraph 1 of Article 1 of the Customs Valuation Agreement); or

(b) the invoice price did not include the cost adjustments as provided for under paragraph 4 of Article 12 of the Customs Law and the importer failed to provide objective and quantifiable information to support the price calculation.

(2) If the Customs has any doubt about the adequacy or accuracy of an invoice, it normally requests the importer to give explanations or provide other evidence to substantiate the invoice validity. If the importer refuses to give explanation or the evidence provided is obviously contradictory to the facts, and further investigation proves that the invoice price is not the price actually paid or payable, then the Customs can determine that the invoice price cannot be accepted as
duty-paying value in accordance with the provisions of Article 12 of the Customs Law (Article 1 of the Customs Valuation Agreement).

(3) In the event that the Customs does not adopt the invoice price provided by an importer, the value will be assessed in the following sequence:

(a) the transaction value of the identical goods as provided for under Article 12-2 of the Customs Law (equivalent of Article 2 of the Customs Valuation Agreement);

(b) the transaction value of the similar goods as provided for under Article 12-3 of the Customs Law (equivalent of Article 3 of the Customs Valuation Agreement);

(c) the deductive value as provided for under Article 12-4 of the Customs Law (equivalent of Article 5 of the Customs Valuation Agreement);

(d) the computed value as provided for under Article 12-5 of the Customs Law (equivalent of Article 6 of the Customs Valuation Agreement);

(e) other reasonable value as provided for under Article 12-6 of the Customs Law (equivalent of Article 7 of the Customs Valuation Agreement).

The aforesaid procedure is applied in every case.

55. Article VII states that customs procedures should not be so cumbersome as to substitute a barrier to import in themselves. Chinese Taipei's custom clearance requires multiple inspections, e.g. by the container yard, the broker, the police, security officials, and, as appropriate, by the bureau for commodity inspection and quarantines, and the Ministry of Health, in addition to inspection by customs officials. Will Chinese Taipei reform its customs procedures to simplify customs clearance by imports and reduce the barrier to imports embodied in its current system?

Reply 55

The Ministry of Finance has already taken a number of measures to simplify the Customs procedures, among which the more important ones are:

(1) application forms have been simplified from over thirty different types to only two;

(2) expanding the scope of imported goods exempt from inspection and random checks and improvement in the collection of intelligence, analysis, and the use of scientific instruments;

(3) establishing a random computerized checking system for physical inspection;
(4) ensuring consistency in tariff classification; and

(5) implementing a system of entry first, taxation later.

Thus, the current customs procedures already have been simplified to a large extent and customs clearance is faster. Furthermore, the Ministry is planning full automation of the customs clearance procedures. At present, the air cargo portion of automation has been completed and is being implemented. The sea cargo automation portion is to be completed in 1994, at which time customs clearance will be even faster.

(2) Classification

56. Page 16:

(i) please describe the reasons for and the nature of the inspections referred to under section 2(3);

(ii) could Chinese Taipei please explain the purpose of adding one more digit to the Harmonized System for inspection purposes?

(iii) would this apply to certain products only and if so what would be the criteria for selecting those products?

Reply 56

The "CD" (controlling digit) code is added to the ten-digit HS tariff line to ensure the correctness of the tariff line use, and has no connection with product inspection.

(3) Unfair trade laws

57. A much more detailed description than has been provided on what measures Chinese Taipei takes to address unfair trade practices is needed. In this regard:

(i) could Chinese Taipei provide a copy of the Implementing Regulation on the Imposition of Countervailing Duties and Anti-Dumping Duties (Implementing Regulation)?

(ii) have there been any amendments to the Implementing Regulation? Are there any other laws or regulations which govern Chinese Taipei's administration of anti-dumping and countervailing duty actions? Please supply, in translation, copies of all relevant texts.

Reply 57

English translation of the Implementing Regulation on the Imposition of Countervailing Duty and Anti-Dumping Duty (the "Implementing Regulation") is provided in the Annex.
(1) The Implementing Regulation has never been amended since its promulgation on 3 July 1984.

(2) The basic laws governing countervailing duties and anti-dumping duties are Article 46, Article 46-1 and Article 46-2 of the Customs Law and Article 19 of the Foreign Trade Act promulgated on 5 February 1993.

(3) English translation of the Customs Law is provided in the Annex.

58. Please describe how an anti-dumping or countervailing duty investigation or action would be initiated under current Chinese Taipei law. Please describe the procedural steps to be followed in conducting anti-dumping and countervailing duty investigations.

Reply 58

Under Article 4 of the Implementing Regulation, the domestic producers of like products to those imported into Chinese Taipei, or commercial, industrial, labour or farm groups, or other relevant organizations formed in accordance with the law, may apply to the Chinese Taipei Government to initiate an anti-dumping and/or countervailing duty investigation proceeding. The procedures of investigation are as follows:

(1) The Ministry of Finance accepts the aforesaid application. If the application is obviously ill grounded or the supplemental information required to be submitted is not submitted within the designated time period, the application will be rejected.

(2) The Tariff Commission of the Ministry of Finance determines whether to initiate an investigation. If an investigation is initiated, the Ministry of Finance and the Ministry of Economic Affairs will separately investigate the dumping or subsidy and injury claims and make relevant determinations. If dumping subsidies and injury are found to exist, the case shall be reported to the Executive Yuan for approval before imposition of anti-dumping/countervailing duties.

59. Are domestic importers, foreign exporters or foreign governments allowed to participate in such investigations? What rights and procedural safeguards exist to protect the interests of domestic importers and foreign exporters?

Reply 59

When the Ministry of Finance commences an anti-dumping or countervailing duty investigation, the Government will notify the government of the exporting country, the exporters or the importers known to the authority in Chinese Taipei (hereinafter the "parties concerned"), and publish the same in the MOF's gazette. During the investigation, the applicant will be requested to fill in a questionnaire and submit relevant information which will be verified by the investigating authority, when appropriate. In addition, the parties concerned or the interested parties will be given appropriate opportunities to make explanations.
The Ministry of Finance determines whether imports are being dumped or subsidized. Since the Foreign Trade Act was implemented on 7 February 1993, the injury determination portion of the anti-dumping/countervailing duty investigation will be made by the Ministry of Economic Affairs in accordance with Article 19 of that Act.

60. Which Ministry or office is responsible for determining whether imports are being dumped or subsidized? What is the standard for determining if a domestic industry is threatened?

Reply 60

The Ministry of Finance is responsible for determining whether imports are being dumped or subsidized. The Ministry of Economic Affairs conducts the investigation of injury under the Foreign Trade Act. In determining whether the relevant industry is injured or is threatened, the following factors are considered: volume of dumped or subsidized imports, effects on domestic prices (including price-undercutting), domestic production, capacity utilization, inventory, sales, market shares, export capacity, sales price, profitability, investment return, and employment.

61. How many cases have been brought against imports alleged to be dumped or subsidized since the Implementing Regulation has been enacted, since 1 January 1990? How many have resulted in the application of anti-dumping or countervailing duties?

Reply 61

There have been twenty-one anti-dumping cases filed against foreign imports since the Implementing Regulation was enacted. Since 1 January 1990, there have been eleven anti-dumping cases. There is only one case which resulted in the levy of antidumping duties. For further details of the anti-dumping cases filed so far, please refer to Reply 62.

62. Please provide a listing of countries and products against which such allegations have been made and indicate whether anti-dumping and/or countervailing duties were imposed, and at what level.
<table>
<thead>
<tr>
<th>No.</th>
<th>Appln. date</th>
<th>Closed date</th>
<th>Country</th>
<th>Goods</th>
<th>Duty levied</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aug. 1984</td>
<td>Oct. 1986</td>
<td>W. Germany</td>
<td>Tamaron (Methamidophos)</td>
<td>Nil</td>
<td>Withdrawn by the applicant</td>
</tr>
<tr>
<td>2</td>
<td>June 1985</td>
<td>Aug. 1986</td>
<td>Japan</td>
<td>Phthalic Anhydride</td>
<td>Nil</td>
<td>Rejected due to failure to supplement document</td>
</tr>
<tr>
<td>3</td>
<td>Sept. 1985</td>
<td>Dec. 1986</td>
<td>Indonesia</td>
<td>Plywood</td>
<td>Nil</td>
<td>Case closed at approval of Executive Yuan due to adoption of minimum export price measures by Indonesian Government</td>
</tr>
<tr>
<td>4</td>
<td>March 1986</td>
<td>Aug. 1986</td>
<td>USA, Saudi Arabia</td>
<td>Styrene Monomer</td>
<td>Nil</td>
<td>Rejected due to non-compliance with duty levy requirements</td>
</tr>
<tr>
<td>5</td>
<td>Sept. 1986</td>
<td>Nov. 1986</td>
<td>South Africa</td>
<td>Ferro-Managanese</td>
<td>Nil</td>
<td>Rejected due to failure to supplement document</td>
</tr>
<tr>
<td>6</td>
<td>June 1987</td>
<td>Oct. 1987</td>
<td>USA, Mexico</td>
<td>Carbon Black</td>
<td>Nil</td>
<td>Rejected due to non-compliance with duty levy requirements</td>
</tr>
<tr>
<td>7</td>
<td>July 1987</td>
<td>April 1989</td>
<td>USA</td>
<td>Hepatitis B Test Kit</td>
<td>Nil</td>
<td>Price undertaking by American firms</td>
</tr>
<tr>
<td>8</td>
<td>June 1988</td>
<td>April 1989</td>
<td>Brazil</td>
<td>Nitrocellulose</td>
<td>Nil</td>
<td>Withdrawn by applicant</td>
</tr>
<tr>
<td>9</td>
<td>April 1989</td>
<td>April 1989</td>
<td>Japan</td>
<td>Alpolic</td>
<td>Nil</td>
<td>Rejected due to non-compliance with duty levy requirements</td>
</tr>
<tr>
<td>10</td>
<td>Dec. 1989</td>
<td>April 1991</td>
<td>Korea</td>
<td>Ethyl Acetate</td>
<td>Nil</td>
<td>Rejected due to non-compliance with duty levy requirements</td>
</tr>
<tr>
<td>11</td>
<td>April 1990</td>
<td>May 1992</td>
<td>South Africa</td>
<td>Aluminium plates, sheets and strip</td>
<td>Nil</td>
<td>Price undertaking by South African firms</td>
</tr>
<tr>
<td>12</td>
<td>Sept. 1990</td>
<td>March 1992</td>
<td>Korea</td>
<td>Galvanized steel coil, prepainted galvanized steel coil</td>
<td>Nil</td>
<td>Quantity undertaking by South Korean firms</td>
</tr>
<tr>
<td>14</td>
<td>Aug. 1991</td>
<td>Oct. 1992</td>
<td>Japan</td>
<td>Sodium Dithionite</td>
<td>Yes</td>
<td>Anti-dumping duty levied at 45.76%</td>
</tr>
<tr>
<td>15</td>
<td>Jan. 1992</td>
<td>Pending</td>
<td>Brazil</td>
<td>Nitrocellulose</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
<tr>
<td>16</td>
<td>Aug. 1992</td>
<td>Pending</td>
<td>Brazil, South Africa Korea</td>
<td>Steel plates</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
</tbody>
</table>

(cont'd)
<table>
<thead>
<tr>
<th>No.</th>
<th>Appln. date</th>
<th>Closed date</th>
<th>Country</th>
<th>Goods</th>
<th>Duty levied</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Sept. 1992</td>
<td>Pending</td>
<td>Brazil</td>
<td>Bars and wire rods, hot-rolled, of iron or non-alloy steel</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
<tr>
<td>18</td>
<td>Oct. 1992</td>
<td>Pending</td>
<td>Korea</td>
<td>Polyproplene</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
<tr>
<td>19</td>
<td>Oct. 1992</td>
<td>Pending</td>
<td>Korea</td>
<td>Cold-rolled steel, coil (sheet)</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
<tr>
<td>21</td>
<td>Nov. 1992</td>
<td>Pending</td>
<td>Korea</td>
<td>Polyethylene</td>
<td>--</td>
<td>Submission of further information required</td>
</tr>
</tbody>
</table>

(4) **Customs procedures** (page 16 from 4)

63. Could Chinese Taipei please explain in detail how it plans to simplify its customs procedures?

**Reply 63**

Please refer to Reply 55.

64. It is noted with satisfaction that, according to the Memorandum, Chinese Taipei intends to simplify its customs procedures independently. Could we receive further details of the measures envisaged?

**Reply 64**

Please refer to Reply 55.

65. Could Chinese Taipei provide information on customs procedures, import infrastructure, mechanisms to facilitate import and export distribution of foreign goods, resources available to exporters dissatisfied with customs valuation or related procedures.

**Reply 65**

(1) Customs procedures for imported/exported goods involve:
1. declaration, 2. examination, 3. classification/valuation, 4. levy of duty, 5. clearance, which flow charts are as follows:

Import Goods Customs Procedure Flow-chart:
declaration ---> examination ---> classification/valuation ---> payment of duty ---> clearance
Export Goods Customs Procedures Flow-chart:
declaration --> examination --> classification/valuation --> clearance

The importer/exporter of goods or a retained customs broker delivers the import/export customs declaration in accordance with the relevant regulations and attaches the relevant documents to apply to Customs for the import (export) of goods. After Customs preliminarily reviews the written application, the application will be accepted and registered and a random sample of inspections will be carried out. If no violations are discovered by the inspectors, then the duty amount is determined according to the nomenclature of the goods, the applicable tax rate, and the duty-paying value; the duty payment notice is then issued. After the above procedures are completed, the goods may be cleared. Export goods are not subject to customs duties.

(2) In the case of imports, if the duty-payer disagrees with the tariff classification of its imports, the determination of the duty-paying value, the amount of duties to be repaid or special customs duty, he may request for reconsideration or otherwise seek remedies in accordance with the provisions of Article 23 through 25 of the Customs Law. Because duty payment is not required for the export of goods, no valuation disputes are likely to occur in the case of export.

66. Page 16, Item(4): how is Chinese Taipei simplifying its customs procedures to ensure removal of non-tariff barriers? What is the timetable for removal of these barriers? When will Chinese Taipei be in a position to implement the conventions it lists in this paragraph?

Reply 66

Please refer to Reply 55.

67. Page 16: what is the timetable for Chinese Taipei's implementation of the various customs conventions listed in 11:2,(4)?

Reply 67

Chinese Taipei is not a member of the CCC nor is it a signatory to the other customs conventions at present. It has been Chinese Taipei's goal to become a member of the CCC and a signatory to its customs conventions. It is hoped that the contracting parties of the GATT will assist Chinese Taipei in its effort to participate in the CCC and related conventions. During the time that Chinese Taipei is yet to become a formal contracting party, apart from actively collecting and researching CCC related conventions, Chinese Taipei will make bilateral arrangements with trading partners and endeavour to comply with related conventions. For example, Chinese Taipei has signed the ATA temporary customs clearance approval certificate agreements with South Africa, Singapore, the European Community, and South Korea.
68. It is stated on page 18 of document L/7097 that although Chinese Taipei is not a signatory to the customs conventions it is planning to implement them. As their purpose is to ensure that customs procedures do not constitute barriers to trade, does Chinese Taipei plan to become a party to them in the near future?

Reply 68

Please refer to Reply 67.

69. Imports, where licences are presently required, are classified into various categories. Is there publicly available information that exporters can consult to ensure that all requirements for licensing application have been met? Are there plans to identify specific products that are covered in each of the import classification categories? For example, rice, corps and coconut oil are classified under 121 of Taiwan's Customs Tariff and subject therefore to SOFT licence. However, rice importation further requires approval from the Chinese Taipei Provincial Food Bureau, while coconut oil importation requires approval from the Council of Agriculture Executive Yuan.

Reply 69

Currently, about 30 per cent of tariff line items are subject to import licensing requirements. All the import regulations concerned are listed in the "Custom Import Tariff and Classification of Import & Export Commodities", which is publicly available. The importer can consult the BOFT in order to ensure that the intended importation meets all the licensing requirements.

Chinese Taipei is in the process of developing a "negative list". After the negative list is implemented, the items not in the list will be free from import licensing requirements.

Please also refer to Reply 4.

70. International fish experts classify dried anchovies differently from dried sardines. However, Chinese Taipei's Bureau of Foreign Trade (BOFT) classifies dried anchovies under dried sardines. When categorized under 111 of Chinese Taipei's Tariff book, dried anchovies are controlled by the BOFT and banned for importation. Dried anchovies however, when categorized under 121 are permitted into Chinese Taipei but still subject to BOFT licensing. What recourse does an exporting country have if there is a misclassification of imported goods?

Reply 70

The item Silver Anchovies Small Dried Fish (CCC 03055940111) may be freely imported now. In 1991 it was separated from the item Herring or Other Sardines Small Dried Fish (CCC 03055840120) which is still under import control.
71. Please elaborate on how Chinese Taipei plans to implement the ATA Carnet for the Temporary Admission of Goods.

Reply 71

Please Refer to Reply 67.

72. Will Chinese Taipei be taking steps to improve enforcement of laws against smuggling into Chinese Taipei of agricultural products which are banned or subject to area restrictions?

Reply 72

Chinese Taipei has taken steps vigorously to prevent the smuggling of agricultural products in recent years. If smugglers are caught, they will be punished under relevant laws. All the seized agricultural products are incinerated or buried according to the Regulations for Disposal of Smuggled Agricultural Products. Chinese Taipei will continue to strengthen its enforcement efforts as it deems smuggling prevention an important task.

(5) Other charges and fees

73. Apart from special service charges, are there any other charges and fees imposed on imports?

Reply 73

The charges on imported goods that are within the customs' authority are in accordance with the "Rules for Collection of Customs Fees" provided in the ANNEX; please refer to said regulations for details.

74. Could Chinese Taipei provide detailed information on Harbour Construction Dues (collection authorities, expiration period, etc.)?

Reply 74

The Harbour Construction Dues have been in existence since 1948, the levy of which is required by the Commercial Harbour Law. It is for administrative expediency that the Customs authority has been asked to levy such dues. The nature of the collection authorities, however, should not affect the determination as to the nature of the dues.

Because the proceeds of the Harbour Construction Dues are used for harbour expansion and maintenance which are services rendered by the harbour and other authorities on a continuous basis, there is no pre-determined expiration date for the application of such dues.

75. According to information provided, Harbour Construction Dues payable for goods imported through ports ranges from 1 to 2 per cent rather than the 0.5 per cent mentioned in document L/7097. We should be grateful for clarification of this point.
The Harbour Construction Dues are levied at the fixed rate of 0.5 per cent.

76. Page 17: please indicate under what circumstances Harbour Constructions Dues are due. The description given seems to indicate that these dues are also imposed on imports and exports not relating to shipping: is this correct? Also, please explain how an ad valorem rate of 0.5 per cent is in conformity with Article VIII (1)(a) of the GATT.

The legal basis for levying the Harbour Construction Dues is Article 7 of the Commercial Harbour Law under which the government may levy such dues at the international commercial ports of imports and exports of goods. There is no instance where such dues are imposed on imports or exports not relating to shipping.

Chinese Taipei currently is uncertain about the nature of the levy in the context of the GATT, and therefore is not able to determine its GATT-consistency. Chinese Taipei will, upon accession to the GATT, conduct an investigation to determine the nature of the Harbour Construction Dues.

77. Does Chinese Taipei consider that the Harbour Construction Dues mentioned on page 17 are consistent with Articles II and VIII of the GATT, particularly in light of recent panel cases?

The Harbour Construction Dues are collected according to the Commercial Harbour Act. The levy has been in existence for more than forty years. It is levied by the Customs authority, but this is purely for administrative expediency and does not impact on the nature of such levy. Chinese Taipei currently is uncertain about the nature of the levy in the context of the GATT, and therefore is not able to determine its GATT-consistency.

78. Harbour Construction Dues - does this duty constitute a tax in excess of those applied to like domestic products as set out in Article III? Does Chinese Taipei plan to maintain the imposition of these dues upon its accession to the GATT?

Chinese Taipei currently is uncertain about the nature of the levy in the context of the GATT, and therefore is not able to determine its GATT-consistency.

However, the dues are levied on goods that are imported or exported through international commercial ports, and currently do not apply to local
trade the volume of which is relatively small when taking into consideration the administrative costs associated with such levy.

Chinese Taipei will, upon accession, conduct such investigation and review as set out in Reply 79 hereof to ensure consistency with the relevant provisions of the General Agreement.

79. Please indicate in what way Harbour Construction Dues, assessed at a rate of 0.5 per cent of the value of imports and exports, are consistent with the provisions of Article VIII requiring that customs charges should correspond to the cost of services rendered or of Article III requiring that internal taxes be applied equally to imports and domestic products?

Reply 79

Chinese Taipei currently is uncertain about the nature of the levy in the context of the GATT, and therefore is not able to determine its GATT-consistency. Chinese Taipei will, upon accession to the GATT, conduct an investigation to determine the nature of the Harbour Construction Dues.

80. Products imported by air are subject to a 9 per cent transport cost fee. We should be grateful for a more detailed explanation of the grounds for this fee.

Reply 80

It is not clear what "transport cost fees" refers. In addition to normal customs duties, Chinese Taipei's airport authorities levy only fees associated with airport services such as stripping and storage, etc. Further clarification of "transport cost fees" would be appreciated.

81. What is meant by "special customs services"? What kinds of "services" are concerned?

Reply 81

(1) The fees that Customs collects in accordance with the "Rules for Collection of Customs Fees" are based on the special services they provide, such as transportation of imports and exports. Administrative management fees are added for duty bonding, duty-drawback, and other preferential measures granted to bonded factories and export processing zones and companies that apply for duty-drawback. The determination of the service fee rate is based on a principle of not exceeding necessary costs.

(2) In normal customs clearance procedures, if Customs do not provide special services, then they do not collect any of the fees stipulated in these provisions. For example:

(a) in cases where the Customs are requested by the cargo owners to carry out re-inspection, special inspection of imported/exported
goods or inspections after office hours, a special inspection fee will be charged to the cargo owner at NT$800 per application;

(b) in cases where the Customs are requested by the cargo owners to provide surveillance over the cargo for taking samples of imported goods, a special surveillance fee will be charged to the cargo owners at NT$450 per shift for each application;

(c) after the goods for export have been stored in the customs warehouse, if the cargo owners request the Customs to provide surveillance service for taking samples of the goods, a special surveillance fee will be charged to the cargo owner at NT$450 per shift for each application;

(d) in a case where the goods released from ships (airplanes) or in a restricted areas at the harbour (airport) need to be transferred to another harbour or inland warehouse, container terminals or air cargo consolidation terminals and surveillance during transportation by the Customs is required, a transportation surveillance fee will be charged to the shipping (air freight) companies at NT$450 per application. However, if the cargos are loaded in a container and the Customs takes the initiative to provide transportation surveillance, no surveillance fee is charged.

(3) An administrative fee is levied on the imported materials of bonded factories, and imported materials and semi-finished products of companies in an export processing zone, at the rate of 0.06 per cent of the duty paying value of such materials/products. Importation of materials for export goods is subject to an administrative fee of 0.5 per cent of the amount of duty-drawback.

For details on the other special customs services charges, please refer to the relevant provisions of the Regulations.

82. Page 17, item (5)(b): Special Customs Services - Could Chinese Taipei define what constitute "special customs services" and provide examples? Does Chinese Taipei plan to maintain the imposition of these fees upon its accession to the GATT?

Reply 82

For definition of "special customs fees", please refer to Reply 81. Chinese Taipei at present does not intend to remove these fees upon its accession, but will review the relevant practice to determine whether the fees charged approximate the cost of the special services rendered.

83. More details of the services and the cost incurred that are covered by the "Special Customs Service" is requested in order to assess their compatibility with Article VIII of the GATT.
84. Page 17: please indicate which customs services are considered "special" and which rate applies.

Reply 84

Please refer to Reply 81.

85. Please describe how the flat rate for "special customs services" described in this section operates. Please list the rates and indicate the services for which they are assessed.

Reply 85

Please refer to Reply 81.

86. Page 17 notes that in respect of Special Customs Services a flat rate communicate with the approximate cost of the services rendered may be charged on imports. Could Chinese Taipei please provide a copy of the Ministry of Finance rules governing this service, and details of how services charges are determined? Could Chinese Taipei provide details of what services are included in "Special Customs Services"?

Reply 86

Please refer to Reply 81.

87. Does Chinese Taipei have any warehouse fees, customs charges, or other import charges, surcharges, or fees of any character applied to imports not listed in this section, e.g., a Stamp Tax or Wharfage Fees, Surcharges, etc.?

Reply 87

Imported goods are not subject to any fees, customs charges or other import charges, surcharges, or fees other than those listed in this section, which are levied only on imported goods.

88. Are there any internal taxes levied on imported products apart from customs duties? If no, do they not discriminate against imported products?

Reply 88

Please refer to Reply 89.

89. Please list all internal taxes applied to imports at the time of importation (including monopoly taxes applied by the Chinese Taipei Tobacco Wine Monopoly Bureau) and the rates at which they are applied. Do these rates differ from those applied to domestic goods?
Reply 89

(1) Monopoly tax

(a) Under the present monopoly system, imported tobacco and wine are subject to monopoly tax, instead of customs duty, harbour construction fee, commodity tax and business tax in value-added form.

(b) Monopoly tax levied on domestic tobacco and wine products is assessed on an "ad valorem" basis, which is equivalent to the operating revenue minus all relevant cost and expenses of the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB). Such tax revenue will finally go to the Treasury. The ratio of monopoly tax to the cost (including cost of sales, administrative and selling expenses) is approximately 185 per cent.

Under the present sales tax system, which includes the commodity tax, business tax, etc., the tax on imported tobacco and wines should also be assessed on an "ad valorem" basis. However, in order to accommodate our tobacco and wine monopoly system and to bring national practice in this regard more in line with those of developed countries in Europe and America, the "specific rate" in computing monopoly tax has been adopted. The monopoly tax on imported cigarettes is NT$830 per thousand. Tax on alcoholic beverages will depend on the classification of Customs Import Tariff and on the alcohol content, quality and import price. The tax usually ranges from NT$30 to NT$1,000 per thousand. On average, imported tobacco and wines are subject to monopoly tax at the rate of approximately 120 per cent levied on the cost (i.e. import price).

The Legislative Yuan has decided to repeal the tobacco and wine monopoly system in three years; the implementation plan is being studied by the relevant government authorities. Once the tobacco and wine tax system is repealed, the normal tax system will be structured and applied in a manner consistent with the GATT.

(2) Commodity tax

In accordance with Article 1, and Article 2, Paragraph 1 of the Statute for Commodity Tax, the following seven lines of commodities are to be taxed on an ad valorem basis at the following tax rates (both imported and domestically produced commodities are subject to the same tax rates):

(a) Rubber tyres:

(1) Tires for buses and trucks 10%
(2) Various other rubber tyres 15%
(3) Inner tubes and rubber tyres which are used on manpowered/animal-powered vehicles and farming vehicles are exempt from commodity tax 0%
(b) Cement  
20%

(c) Machine-made cool drinks:

(1) Diluted natural fruit/vegetable juice  
8%
(2) Other beverages  
15%

(d) Flat-glass  
10%

(e) Oil/gas:

(1) Gasoline  
60% (the present rate is 75%)
(2) Diesel oil  
0% (the present rate is 60%)
(3) Kerosene  
50% (the present rate is 60%)
(4) Fuel oil for aircraft  
8%
(5) Fuel oil  
3%
(6) Natural gas  
2%
(7) Dissolvent oil  
10%
(8) Liquefied petroleum gas  
7.5%

* The executive Yuan may increase or decreases the prescribed tax rates by less than 50 per cent thereof, depending on the circumstances.

(f) Electric appliances:

(1) Refrigerators  
13%
(2) Colour television sets  
13%
(3) Air conditioners  
20%
   Central station air conditioning systems  
15%
(4) Dehumidifiers  
15%
   (Dehumidifiers for factory use are exempt from tax.)
(5) Video recorders  
13%
(6) Record players  
10%
   (Portable sets having a size of less than 32 centimetres are exempt from tax.)
(7) Audio recorders  
10%
(8) Stereophonic systems  
10%
(9) Electric ovens  
15%

(g) Vehicles:

(1) Automobiles:

(a) Sedans:

(a) sedans with cylinder volume below 2,000c.c.  
25%
(b) sedans with cylinder volume above 2,001c.c. and below 3,600c.c.  
35%
(c) sedans with cylinder volume above 3,601c.c.  
60%
(b) Trucks, buses, and other vehicles 15%
(2) Motorcycles 17%

(3) Business tax

(a) All imported goods are subject to a 5 per cent business tax.

(b) Both imported and domestic goods are subject to the same tax rate.

(c) Generally, business tax on imported goods is not levied at the time of importation; the tax payment is deferred until the imported goods are sold to their domestic buyers. The business tax levied on imported goods and domestic goods is computed on the same basis. The formula is:

\[
\text{business tax} = \text{the sales amount} \times \text{tax rate} \quad (\text{the existing rate is 5 per cent}).
\]

(d) Imported passenger cars and other goods imported by the one who is not taxed in accordance with the provision in Section I, Chapter IV of the Business Tax Law (i.e. business tax not in value-added form) will be taxed at the time of importation. The tax is computed on the following basis:

\[
\text{business tax} = (\text{taxable value prescribed by the Customs Import Tariff} + \text{customs duties} + \text{harbour construction dues} + \text{commodity tax, if any}) \times \text{tax rate} \quad (\text{the existing rate is 5 per cent}).
\]

(6) Export Processing Zones (EPZs)

90. Page 17: What products and services are currently covered by the export Processing Zones? How are EPZs administered and what is their legislative basis?

Reply 90

(1) The products and services covered by the Zones are: precision machinery, electronics, optical goods, metal goods, plastic goods, machinery goods, furniture, artifacts, electrical appliances, chemical goods, printed matters, sweets, cosmetics, leathers, paper products, toys, yachts, knitted and woven goods, garments, medical equipment, musical instruments, sports goods, consulting services, and trading.

(2) Chinese Taipei's Export Processing Zones are managed by the Export Processing Zones Administration, Ministry of Economic Affairs, pursuant to the "Statute for Establishment and Management of Export Processing Zones".

91. Please cite and provide in translation the laws, regulations or decrees that govern the operation of the EPZs.
Reply 91

The statute for Establishment and Management of Export Processing Zone is provided in the Annex.

92. Page 17, item (5): Export Processing Zones (EPZs) - what other incentives are offered to enterprises located in EPZs? For production sold on the local market, is the customs duty paid on the final product, or on the raw material inputs? How easy is it to get approval to sell production locally in excess of 50 per cent? If the 50-per-cent restriction is "loosened" as suggested in the Addendum, will the incentives extended to enterprises in EPZs be proportionately cut back?

Reply 92

(1) In addition to the incentives listed by Article 13 of the "Statute for Establishment and Management of Export Processing Zones", the EPZ enterprises are also entitled to the incentives provided in the "Statute for Upgrading Industries".

(2) For production sold on the local market, the custom duty is paid on the final product rather than the raw material inputs.

(3) If the production for local sales is within 50 per cent of the yearly production volume, application shall be approved directly by the EPZs administration; however, if the local sale is in excess of 50 per cent, then the application shall be submitted to the "Screening Board for Investment Application" for approval. No application has been disapproved.

(4) If the 50 percentage restriction is loosened as suggested in the Addendum, there will be no changes to the incentives originally granted to the EPZ enterprises.

93. We would also appreciate receiving more information on the status of EPZs. (i.e. will EPZs be eliminated in the future, or are they a permanent feature of Chinese Taipei's trade régime?)

Reply 93

Chinese Taipei currently has no concrete plan to eliminate the EPZs, but is assessing the need to continue the system.

94. Chinese Taipei establishes Export Processing Zones to encourage investment and to expand the export of products and services. What measures are taken by Chinese Taipei to achieve these objectives? In the view of Chinese Taipei would any of these measures amount to export subsidies?
Reply 94

(1) The aims of establishing the export processing zone were to encourage foreign investment, expand export, and offer services. To achieve these aims, Chinese Taipei enacted the "Statute for Establishment and Management of Export Processing Zones" which provides that the investors in the EPZs are entitled to the following incentives:

(a) exemption from the following taxes and duties:

   (i) imported customs duties on the imported machinery and equipment, raw materials, fuels, commodities, components, and samples;

   (ii) commodity tax on the exported or imported products, machinery and equipment, raw materials, components, and samples;

   (iii) deed tax on the newly built standard buildings acquired from the EPZ Administration or the buildings legally acquired from the EPZ Administration;

(b) there is no business tax on the exported goods and their related labour services as well as on the purchased goods by the export enterprises;

(c) being entitled to exemption from taxes or duties in accordance with the preceding paragraphs, the enterprises shall be dispensed with the formalities of the application for tax exemption, guaranty, relevant bookkeeping, and paying tax deposit.

(2) In Chinese Taipei view, the above-mentioned measures conform to GATT requirements, and do not constitute export subsidies.

95. Please describe Chinese Taipei's EPZs, including the following points:

(a) how many EPZs are there, and what is the value of import and export trade conducting from them;

(b) what portion of Chinese Taipei's trade is conducted by the EPZs, and what portion of their output is exported outside of Chinese Taipei;

(c) do EPZ firms have export performance or local content production requirements as a condition of establishment;

(d) how is the Export Processing Zone Investment Screening Board staffed and to which Ministry does it report?

(e) are firms locating in the EPZs exempt from any taxes or other charges other than tariffs;
(f) are the customs duty exemptions applied to capital machinery and other factors of production that are not physically incorporated in exports from the EPZs; and

(g) since 1 January 1990, how many requests for local sales in excess of the 50 per cent of output limit have been received by the Export Processing Zone Screening Board, and how many have been granted? How many requests are pending?

Reply 95

(1) There are three EPZs in Chinese Taipei. The import and export value of the three EPZs for the year 1990 through 1992 are listed below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Import</th>
<th>Export</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>$1,616,831,653</td>
<td>$3,684,414,734</td>
</tr>
<tr>
<td>1991</td>
<td>$1,915,512,502</td>
<td>$4,064,088,625</td>
</tr>
<tr>
<td>1992</td>
<td>$2,118,807,396</td>
<td>$4,315,094,851</td>
</tr>
</tbody>
</table>

(2) The trade value of the EPZs accounted for 2.94 per cent of the nation's total trade in 1992. The percentages of output of the EPZs exported (export/output) are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>97.52%</td>
</tr>
<tr>
<td>1991</td>
<td>96.87%</td>
</tr>
<tr>
<td>1992</td>
<td>96.20%</td>
</tr>
</tbody>
</table>

(3) Under Article 5 of the Statute for Establishment and Management of Export Processing Zones, the products of the manufacturing industries in the EPZs shall be mainly for export. However, a certain percentage of annual production may be allowed to sell in the local market on the condition that they are treated like imported products and are subject to customs duties pursuant to relevant law.

No requirement for local content as a condition of establishment is set in the said Statute.

(4) The EPZ Investment Screening Board consists of representatives of each of the following agencies: Council for Overseas Chinese Affairs, National Taxation Administration, Directorate General of Customs, Foreign Exchange Department of Central Bank of China, Commercial Department of Ministry of Economic Affairs, Industrial Development and Investment Center, Industrial Development Bureau, Board of Foreign Trade, Investment Commission, and Export Processing Zone Administration. The Board meets any time as necessary to consider the investment application in accordance with the law, with the Director General of Export Processing Zone Administration as the convener.

The Board is under the jurisdiction of the Ministry of Economic Affairs.
(5) (a) When goods (including machinery and equipment, material, supplies, fuels and semifinished goods) are transported from foreign countries to export enterprises inside the Export Processing Zones, it is not considered to be an import of goods; so those goods are not subject to business tax and commodity tax.

(b) When domestic enterprises sell machinery and equipment, material, supplies, fuels and semifinished goods to export enterprises inside the export processing zones, it is considered an export of goods. These goods are subject to a zero-rated business tax. If the goods are taxable items within the scope of the commodity tax system, they will be exempt from commodity tax.

(c) When goods are transported from export enterprises inside export processing zones into taxable areas, it is considered to be an import of goods. Those goods must be subject to both business tax and commodity tax according to the tax laws; there is no special rule for exemption.

(d) Export enterprises inside the export processing zones acquiring newly constructed standard factory buildings, or acquiring any building from the administration of EPZs according to relevant laws are exempt from deed tax.

(6) Under Item 1, paragraph 1, Article 13 of the Statute for Establishment and Management of Export Processing Zones, imported machinery equipment, raw materials, fuel, materials, semifinished products and samples are exempted from customs duty.

(7) In terms of application for local sale, there have been only 9 cases in excess of the stipulated 50 per cent of yearly output limit since 1 January 1990 and were all approved. At present there is no application case pending for approval.

96. Page 17: are branches and/or subsidiaries of foreign firms allowed to be located in EPZs under the same conditions as Chinese Taipei firms?

Reply 96

According to the current regulation, no subsidiary or branch of a local or foreign firm may locate in EPZs; however, trading and consulting services can have their subsidiaries or branches established within EPZs. Chinese Taipei is studying the possibility of lifting this restriction.

97. What is the share of the export processing zones in the total volume of foreign trade (goods and services) and what sectors are involved? What percentage of the work force is employed in these export processing funds?

Reply 97

(1) In 1992 the export value of the EPZs accounts for 5.30 per cent of Chinese Taipei's total exports.
(2) For a complete list, please see Reply 90.

(3) In 1992 the work force employed in EPZs accounts for only 0.70 per cent of Chinese Taipei's total labour force.

3. The import licensing system

(1) General description

98. Are there any price controls currently applied in Chinese Taipei? How are these controls applied to imports?

Reply 98

Chinese Taipei has price controls on domestic prices of certain commodities such as gasoline, electricity, sugar, fertilizer, salt, and other necessities; the fare of passenger and cargo transportation as well as the railroad fare are also under price control. These products are supplied by publicly owned enterprises. However there are no price controls applied to imports.

99. Is there any special law set-up to control imports? If so, would Chinese Taipei provide detailed information on its contents and the potential effect as a trade barrier?

Reply 99

The Regulation Governing Examination and Administration of Classification of Import/Export Commodities, the Rules Governing Examination of Import of Commodities, and the Regulation Governing Import of Commodities by Firms are the three sets of regulations controlling imports. Please refer to the Annex for their contents.

Although they may have some effects on trade, their significance has been greatly reduced since the Foreign Trade Act was enacted on 7 February 1993. The Foreign Trade Act declared a free trade policy and mandated the implementation of subsidiary regulations within a prescribed period of time. These subsidiary regulations will establish procedures for imports and exports and convert import licensing regulations to the "negative list". Once the "negative list" is in place, all other products will not need any licensing.

100. Page 17, paragraph 6: the Memorandum indicates that Chinese Taipei has "taken a series of steps to liberalize imports" and indicates that the list provided is not exhaustive. What steps have been taken other than the ones listed? Are any other steps planned?

Reply 100

As indicated in document L/7097, pages 18 through 19, Chinese Taipei will adopt a "negative list" approach, which can eliminate most prior licensing requirements. The negative list is expected to be implemented in the second half of this year.
The Foreign Trade Act, referred to in document L/7097 as the Trade Act, has been enacted. The subsidiary regulations required by the Act currently are under development.

101. Does Chinese Taipei consider that its import licensing system is consistent with the General Agreement?

Reply 101

Chinese Taipei's import licensing system (please see chart below) is divided into non-automatic and automatic licensing sections. The former can be further divided into three groups: (1) some of the controlled items, which cannot be normally imported unless the BOFT grants licences under special circumstances; (2) discretionary licensing items, which are permitted to be imported and the licences to which will be granted if the approval of the required authority in charge has been given; (3) items subject to area restrictions, which are also permitted to be imported and the licences of which are granted if the sources of supply are consistent with area restrictions. The latter, automatic licensing, covers all the items permitted to be imported with licence requirement but not included in the discretionary licensing or area restrictions.

Although Chinese Taipei does consider that its import licensing system is consistent with the General Agreement, it does not cease its efforts to further liberalize the system. As the working party will note Chinese Taipei has enacted the Foreign Trade Act for which implementing regulations and rules are currently being developed.

Furthermore, Chinese Taipei is currently in the process of developing the "negative list" as indicated in document L/7097, page 18. The negative list will consist of products subject to prior licensing. It is the goal of the list to eliminate most prior licensing requirements.

Products not listed in the negative lists can be freely imported without licences. Therefore, the items currently permitted to be imported but are required to be imported with permits/licences will be reduced from 34.4 per cent to lower than 20 per cent of all tariff lines of items. Chinese Taipei will continue to review the list after its adoption of the negative list in order to further its import liberalization.
### Import Licensing System of Chinese Taipei

<table>
<thead>
<tr>
<th>Import control and import permission</th>
<th>Various import regulations</th>
<th>Automatic or non-automatic licensing</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item under control: importation generally is prohibited. (reduced from 242 items to 224 items)</td>
<td>Import Bans: reasons are consistent with GATT Articles XX and XXI.</td>
<td></td>
<td>106</td>
<td>1.16</td>
</tr>
<tr>
<td></td>
<td>Licences are granted only under exceptional cases: restrictions are for related policy and social consideration.</td>
<td></td>
<td>118</td>
<td>1.29</td>
</tr>
<tr>
<td>Items permitted to be imported: importation generally is permitted</td>
<td>Prior licensing</td>
<td>Discretionary licensing</td>
<td>78</td>
<td>0.85</td>
</tr>
<tr>
<td></td>
<td>Area Restrictions</td>
<td>Automatic licensing items</td>
<td>50</td>
<td>0.54</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>Automatic licensing items</td>
<td>2.79</td>
<td>30.53</td>
</tr>
<tr>
<td></td>
<td>No prior licences are required</td>
<td>Automatic licensing items</td>
<td>6</td>
<td>65.63</td>
</tr>
</tbody>
</table>

102. Could Chinese Taipei provide a list by HS number of the products still subject to import bans, import restrictions, licensing (discretionary or automatic), or any other restricting measure, and provide the justification for each such restriction?

**Reply 102**

Please refer to the following Tables in Annex, which are arranged according to the HS number of the products.

1. "Table of Import Control Commodities" and "Table of Import Control Commodities (Non-Automatic Licensing)".
2. Table of Discretionary Licensing Commodities on Importation.
3. Table of Restrictive Area Commodities on Importation.

The tables listed above contain respectively the information of the products subject to each type of controls and justification thereof.

Items which are permitted to be imported, but subject however to the import licensing requirement can be classified into three categories: one, discretionary licensing; second, area restrictions; third, automatic licensing. In other words, items permitted to be imported with licensing requirements but not falling within discretionary licensing or area restrictions are automatic licensing items. Most of the licensing items
are categorized into automatic licensing, which accounts for 30 per cent of the total tariff line items.

Except for the items that can be imported without permits/licences, all the import items require prior licences on importation in Chinese Taipei's current practice. Under such a system, in order to facilitate the customs operation and save the manpower of the customs (without the licence requirement, the customs need to do the screening itself and more manpower will be needed), automatic licensing therefore was established.

Chinese Taipei currently is in the process of developing the negative list as mentioned in document L/7097. It is expected that most of automatic licensing items will be excluded from such a list because the import licence requirement of these items serves no purposes except for administration and management expediency.

103. What is the actual difference between import control and discretionary licensing?

Reply 103

In Chinese Taipei's current practice, there are 224 tariff lines of items under import control (being reduced from 242 items as referred to in document L/7097). Please refer to the "Table of Import Control Commodities" in the Annex.

These items normally cannot be imported for the considerations of national security, public health, environmental conservation, and so on, which are also the exceptions allowed under Articles XX and XXI of the General Agreement. However, some of these controlled items are restricted mainly for the purpose to restructure agriculture and industry. These restrictions may be relaxed under certain circumstances. For example, if the authorities in charge of agriculture or industry deem the importation of these items necessary due to research needs or local demand, these items may still be imported by virtue of the non-automatic licensing system.

For discretionary licensing, please refer to Reply 122.

104. Which Chinese Taipei Ministry is responsible for the administration of the import licensing system, and what criteria are applied to determine whether a product can be imported without permit, or must receive a permit from the Board of Foreign Trade (BOFT) or from a licensing unit authorized by BOFT? Where do importers or foreign suppliers go to obtain these licences? Is there a right of appeal by importers on decisions to deny licences?

Reply 104

The Ministry of Economic Affairs of Chinese Taipei is responsible for the administration of the import licensing system.
Whether a product can be imported without a licence, or must receive a licence from the BOFT (or from an authorized licensing bank) depends on the monitoring policy or administrative purposes. In the "Customs Import Tariff and Classification of Import and Export Commodities" Import and Export Regulations' Code indicates whether the tariff items are subject to the licensing requirement.

Please refer to the 3rd paragraph of Reply 116 for places to obtain import licences.

Importers on decision denying licences have rights to appeal to the Board of Foreign Trade or initiate an administrative remedy proceeding with the competent authorities, such as the Ministry of Economic Affairs, the Executive Yuan, and the Administrative Courts.

105. Please provide exact information on the criteria required by different authorities in order to obtain import licences.

Reply 105

Please refer to the "Rules Governing Examination of Import of Commodities", the "Regulations Governing Import of Commodities by Firms", and other import regulations as contained in the "Customs Import Tariff and Classification of Import and Export Commodities". If the application meets these requirements, the licensing authority will grant import licences within twenty-four hours.

106. On page 17, and in table 17 and page 61. Chinese Taipei refer to a range of import restrictions and import controls (which appear to be import prohibitions). What is the reason for, and natures of, the distinction described on page 17 between "permits"/licences from the Board of Foreign Trade and licences issued by other authorized licensing units such as banks?

Reply 106

The reason for such distinction is to reserve to the BOFT the import licensing authority on certain tariff line items which are governed by more complicated regulations, or more strict restrictions, or subject to quantitative restrictions or are very sensitive. If the licensing of the tariff lines of items is not reserved to the BOFT, the authorized banks may issue the licences instead.

107. It is not entirely clear how licences for imports are granted by the Board of Foreign Trade or, by designates of the Board. It would be helpful to have more information as to whether these are given with a global quota in mind, and how the licences are divided up.

Reply 107

Please refer to Reply 103 and Reply 106.
The import licences are not given according to any quota system except those items listed in the "Table of Commodities subject to Quantitative Restrictions on Imports". Please refer to the Table also for the information about quota allocation.

108. Page 17: please provide a list of the items for the import of which a permit must be obtained from BOFT and a list of the items whose import is subject to approval by the licensing unit authorized by BOFT. Please also describe under what conditions an import permit can be obtained from BOFT or the licensing unit authorized by BOFT. If these are contained in the regulation referred to on page 18 under (4), please provide a copy of these regulations.

Reply 108

As to the items the import licences of which have to be obtained from the BOFT, please refer to the "Table of Commodities Licensed by the BOFT on Importation" in the Annex. As to the items the import licences of which have to be obtained from the authorized licensing banks, please refer to the tariff lines to which the Import and Export Regulation Code 122 are designated in the "Customs Tariff and Classification of Import and Export Commodities" set forth in the Annex.

Please refer to Reply 106.

The procedure of obtaining an import licence is provided for in the "Rules Governing Examination of Import of Commodities" and the "Regulations Governing Import of Commodities by Firms" (named as "Guidelines for Screening Imported Goods" and "Regulations Governing Import Applications" in document L/7097) and other import regulations as contained in the "Customs Import Tariff and Classification of Import and Export Commodities". Please refer to the Annex.

109. Can Chinese Taipei please specify which organizations, other than the Board of Foreign Trade or authorized banks, are involved in each case in approving or declining licences for products that are subject to import controls, discretionary licensing or area restrictions?

Reply 109

In addition to the BOFT and the authorized licensing banks, the Export Processing Zone Administration, and the Science-based Industrial Park Administration are also involved in approving or declining licences for products.

The Council of Agriculture, the Bureau of Industry, the Department of Health, the Bureau of Commodities Inspection, the Ministry of National Defense, and some other agencies may have inputs where appropriate to the approval process. For details please refer to "Rules Governing Examination of Import of Commodities", the "Regulations Governing Import of Commodities by Firms" and the "Customs Import Tariff and Classification of Import and Export Commodities".
110. Of the 34.7 per cent of product groups that require an import permit, how many are dealt with under the automatic licensing system?

Reply 110

Among the current 34.4 per cent of products requiring import licensing, 88.8 per cent are automatic licensing items. Please refer to the Annex in Reply 121.

111. Page 17: does Chinese Taipei plan to simplify or phase out its existing import licensing system? If so how and when?

Reply 111

Chinese Taipei is currently in the process of developing the "negative list" as referred to in the document L/7097 at page 18. The planned "negative list" in principle, will eliminate prior licensing requirements for all tariff line items except less than 20 per cent tariff line items. But Chinese Taipei will continue to review the list annually after the list is implemented in order to further curtail the list in line with its commitment to free trade.

The legal basis of the negative list, the Foreign Trade Act, was promulgated on 5 February and implemented from 7 February 1993. The negative list is expected to be implemented in the second half of this year.

112. Do the licensing restrictions on the 242 tariff line items under control constitute full import bans, or is importation permitted under certain circumstances? Please list the 242 items by HS tariff line, and provide percentages of licenses approved and rejected during a recent representative period. Could Chinese Taipei indicate what reasons were given for rejection of the applications?

Reply 112

The 242 (currently 224) tariff line items under control does not constitute full import bans. Importation of some can still be licensed under certain circumstances.

Generally, the current 224 items can be divided into two types of products. One type is subject to import bans, which are imposed in a manner consistent with Article XX, the "General Exceptions" and Article XXI, the "Securities Exceptions" of the General Agreement. The other types of items are subject to import restrictions which are not within the above two "Exceptions", instead, subject to the non-automatic licensing system as referred to in document L/7097, page 18, paragraph 2. In other words, although normally such products cannot be imported, exceptionally they can if the BOFT grants special import licences after the authority in charge of the said products approves the importation by taking into considerations the demand of the local market, or the need of research and development.
There are about 113 items (currently 106) in the former category, which includes weapons, opium, etc; about 129 items (currently 118) in the latter category. Please refer to the "Table of Import Control Commodities" and the "Table of Import Control Commodities (Non-Automatic Licensing)", which are listed by HS lines and attached in the Annex.

Please refer to the computer disks now available in Secretariat for import statistics of products that are subject to import controls.

The reasons for rejection of the importation of the above items are based on the considerations of hygiene, quarantine, human health, national security, ecological preservation, environmental conservation, and agricultural and industrial restructuring, etc. Please refer to the "Table of Import Control Commodities" in Annex.

113. Page 17: could Chinese Taipei provide a list at six or eight digit level of items subject to import licensing and advise which of these 699 items are subject to:

- quantitative restrictions;
- effective import bans;
- area restrictions;
- any other non phytosanitary restrictions?

Reply 113

Please refer to the "Table of Commodities Licensed by BOFT on Importation" and the following tables in the Annex.

- The items in the "Table of Commodities Subject to Quantitative Restrictions on Imports" are subject to quantitative restrictions. Currently there are twenty-seven items. Most of them are imposed to implement the Montreal Protocol.
- For the recent import records please refer to the computer disks now available in the Secretariat.
- The items in the "Table of Restrictive Area Commodities on Importation" are subject to area restrictions. Currently there are fifty items.

114. Page 18: for those items to which quantitative restrictions apply (such as certain types of fresh fruit). What method is used to allocate quotas? Is any change to the present arrangement anticipated? Does Chinese Taipei propose to introduce global quotas for such items?

Reply 114

Items subject to quantitative restrictions are listed by HS lines in the "Table of Commodities Subject to Quantitative Restrictions on Imports" of Annex. Some of these items are CFC types of products, the quantitative restrictions upon which are to implement the Montreal Protocol, and so the
quotas are allocated according to the Protocol. The others are agricultural products, quotas are usually allocated by quota bidding, which is common in international practice.

In addition to the above two allocation methods, the quotas of certain fresh fruits are allocated in principle according to the import volumes of respective exporting countries in the preceding years. The domestic supply and demand are also taken into consideration.

The import control through quantitative restriction measures is reviewed from time to time by taking into account the domestic agricultural production and supply, as well as the relevant international norms and practices.

Chinese Taipei intends to apply its quota system in a non-discriminatory manner. The issue of global quota will be dealt with in conjunction with the overall adjustment in the agricultural import restrictions, which will be carried out along the outcome of the Uruguay Round.

115. Does Chinese Taipei have plans to liberalize or eliminate its quantitative restrictions including those imposed on Japanese imports? If any, please explain such plans.

Reply 115

The import control through quantitative restriction measures is reviewed from time to time by taking into account the domestic agricultural production and supply, as well as the relevant international norms and practices.

Quantitative restrictions imposed on Japanese imports are initiated to adjust the huge trade deficit with Japan. Chinese Taipei will liberalize such restrictions gradually through negotiations with Japan.

116. Page 18: what is the difference between the following import regulations listed in Chinese Taipei's tariff?

- 111: controlled (licensed by the Board of Foreign Trade (BOFT));
- 121: permitted (licensed by the BOFT);
- 122: permitted (licensed by authorized banks).

Reply 116

Tariff lines of items subject to 111 are under import control, which cannot be normally imported. There are currently 224 items under this category, 118 of which can be applied to the respective authorities and the BOFT for special import licences pursuant to the non-automatic licensing.

Tariff lines of items subject to 121, 122 are goods permitted to be imported with licensing requirements. These items are not under import control, but the importation requires prior licences. They can be grouped
into the following: discretionary licensing items, area restriction items, and automatic licensing items.

If an item is subject to reg. 121, the licence shall be obtained from the BOFT. They are items subject to more complicated regulations, more strict restrictions, quantitative restrictions, or monitoring of sensitive sectors. On the other hand, if an item is subject to reg. 122, the licence shall be obtained instead from the authorized banks.

117. Is the import of an item subject to reg. 111 effectively banned? Have there been any imports during the period 1989-1991 of items subject to reg. 111?

Reply 117

The import of an item subject to reg. 111 is not effectively banned. Some items are still able to be imported under special licences.

Generally, the items subject to reg. 111 can be divided into two types of products. One type is subject to import bans, which are imposed in a manner consistent with Article XX, the "General Exceptions" and Article XXI, the "Securities Exceptions" of the General Agreement. The other types of items are subject to import restrictions which are not within the above two "Exceptions", instead, subject to the non-automatic licensing system as referred to in document L/7097, page 18, paragraph 2. In other words, although normally such products cannot be imported, exceptionally they can if the BOFT grants special import licences after the authority in charge of the said products approves the importation by taking into consideration the demand of the local market, or the need of research and development.

There are about 113 items (currently 106) in the former category, which includes weapons, opium, etc; about 129 items (currently 118) in the latter category. Please refer to the "Table of Import Control Commodities" and the "Table of Import Control Commodities (Non-Automatic Licensing)", which are listed by HS lines and attached in the Annex.

There have been some imports during the 1989-1991 period of items mentioned above, for example, sugar. Please refer to the computer disks now available in Secretariat for details.

118. Page 18: are there any examples of items subject to reg. 121 for which there have been no imports in the period 1989-1991?

Reply 118

Please refer to the "Table of no Imports within Commodities Licensed by BOFT in the Period 1989-91" in the Annex.

119. Of those items permitted to be imported, but for which an import licence is required, for 699 of the items importers must submit a permit application to the Board of Foreign Trade (BOFT). For the remaining 2,194
items, prior applications must be made to licensing units authorized by BOFT. In connection with conversion to a negative list of items requiring import licences, could Chinese Taipei please supply lists of those goods for which importers must apply to BOFT and/or to each of the other authorized units for licences, by HS tariff line?

Reply 119

The negative list is still under preparation. Once such a list is completed, it will be submitted to the GATT Secretariat promptly. It is expected that after the negative list is implemented, the goods requiring import licences will be reduced from 34.4 per cent to lower than 20 per cent of all tariff lines of items.

(2) Non-automatic licensing

120. Please supply, in translation, the laws, regulations, or decrees that authorize import restrictions. Do Chinese Taipei Ministries have any discretion in applying or rescinding import restrictions? If so, please describe.

Reply 120

The following statutes provided in the Annex are relevant to authorization of import restrictions:

(1) Regulations of the Industrial Development Bureau of the Ministry of Economic Affairs for Controlled Substances Pursuant to the Montreal Protocol;

(2) Law Governing Food Sanitation;

(3) Regulations Governing the Quarantine at International Port;

(4) Automotive Industry Development Policy;

(5) Quarantine Restrictions on the Importation of Plants and Plant Products into the Republic of China;

(6) Regulation Governing Examination and Administration of Classification of Import/Export Commodities;

(7) Rules Governing Examination of Import of Commodities;

(8) Regulations Governing Import of Commodities by Firms;

(9) Regulations Governing Examination and Administration of Classification of Import/Export Commodities;

(10) Statute for Agricultural Development;

(11) Foreign Trade Act;
In the legal system of Chinese Taipei, the laws, regulations, or decrees mandated by the Legislative Yuan in principle do not authorize administrative discretion for the implementation of statutes. Therefore, for those import restrictions required by the above statutes, Ministries generally do not have discretion in applying or rescinding them unless the respective statutes explicitly authorize so. This principle can be illustrated by the following examples.

Article 14 of the "Law Governing Food Sanitation" prohibits food additives from importation unless they have been examined and registered (i.e., pre-market approved). The "Quarantine Restrictions on the Importation of Plants and Plant Products into the Republic of China" regulates importation of products by means of quarantine. With regard to those laws and regulations concerning food safety and animal and plant quarantines, the Ministry has no discretion not to apply the import restriction measures to carry out the purpose of the statues.

On the other hand, Article 40 of the "Statute for Development of Agriculture" authorizes the Council of Agriculture and the Board of Foreign Trade to determine concurrently the importation of agricultural products. Under this provision, the import restriction is based on the discretion of the two concerned authorities. To the same extent, the "Regulations Governing Import of Commodities by Firms" and the "Rules Governing Examination of Import of Commodities" also authorize the BOFT to adopt proper trade restriction measures. Those measures may be approved by the Executive Yuan, such as the "Automotive Industry Development Policy", may be concurrently designed with other agencies concerned, such as the "Regulations of the Industrial Development Bureau of the Ministry of Economic Affairs for Controlled Substances Pursuant to the Montreal Protocol", or may result from the discretion of the BOFT. No matter which of the above, it is not mandatory but subject to legislative review if necessary.

The main reforming force of the current foreign trade régime of Chinese Taipei is the Foreign Trade Act, which was promulgated on 5 February 1993, and implemented on 7 February 1993. It also authorizes the BOFT to prescribe all the subsidiary regulations either on its own or concurrently with other authorities concerned as required by the Act. Therefore, the BOFT also has discretion in applying the subsidiary regulations subject to legislative review.

121. What is the legal basis of the discretionary licensing procedure applied to four industrial and seventy-seven agricultural products?
The "Rules Governing Examination of Import of Commodities" and the "Regulations Governing Import of Commodities by Firms" and other import regulations as contained in the "Customs Import Tariffs and Classification of Import and Export Commodities" as referred to in document L/7097, page 18 are the legal bases for discretionary licensing.

122. Certain industrial and agricultural products are subject to "discretionary licensing". Can Chinese Taipei explain what this means? What criteria are used to determine whether or not these products will be issued with a licence?

Reply 122

Discretionary licensing, part of the non-automatic import licensing system of Chinese Taipei, is designated for the goods permitted to be imported with the requirement that the authority in charge of the products must approve. When applications for import licences of such products are submitted to the BOFT (or the authorized licensing units) with the approval of the authority in charge of the products, the BOFT (or the authorized licensing units) will then issue the licences. Please refer to the "Table of Discretionary Licensing Commodities on Importation" in the Annex.

The criteria used by BOFT to determine whether or not to issue a licence is contained in the "Rules Governing Examination of Import of Commodities", the "Regulations Governing Import of Commodities by Firms", and the "Customs Import Tariff and Classification of Import and Export Commodities" (attached in the Annex).

123. What are the reasons for subjecting goods to discretionary licensing and area restrictions?

Reply 123

Discretionary licensing effected by Chinese Taipei is to regulate the importation of certain products for the purposes of safeguarding public health, preserving environment, and restructuring agriculture. For the product-specific reason, please refer to the "Table of Discretionary Licensing Commodities on Importation" in the Annex.

On the other hand, area restrictions are imposed to diversify the sources of supply for agricultural development, industry restructuring, and the existing trade imbalance with particular areas. For the product-specific reason, please refer to the "Table of Restrictive Area Commodities on Importation" in the Annex.

124. Could Chinese Taipei provide a list of products subject to discretionary licensing? What is the procedure for obtaining a discretionary licence?
Reply 124

Please refer to the "Table of Discretionary Licensing Commodities on Importation" in the Annex.

The procedure of obtaining an import licence is provided for in the "Rules Governing Examination of Import of Commodities" and the "Regulations Governing Import of Commodities by Firms" and other import regulations as contained in the "Customs Import Tariff and Classification of Import and Export Commodities". Please refer to the Annex.

125. Please describe how an importer or foreign supplier can apply for a non-automatic import licence.

Reply 125

If an importer is registered pursuant to the "Regulations Governing Registration and Administration of Exporters and Importers", it is qualified to apply for a licence on importation of any item of goods. The procedures for automatic and non-automatic licensing are the same. An importer applying for an import license shall follow the procedures set forth in the "Rules Governing Examination of Import of Commodities", the "Regulations Governing Import of Commodities by Firms", and other import regulations as contained in the "Customs Import Tariff and Classification of Import and Export Commodities" of the Annex.

126. Please elaborate on details pertaining to the enforcement of discretionary licensing. Which authorities are responsible for approving the applications? Under what conditions would a licence be granted? Are these currently published?

Reply 126

The BOFT or the authorized licensing banks will issue import licences to any of the discretionary licensing items provided that the submitted applications for import licences have accompanied with the approval documents from the respective authorities in charge of the said products.

The procedure for discretionary licensing items does not differ from any other import licensing procedure, which is provided for in the "Rules Governing Examination of Import of Commodities", the "Regulations Governing Import of Commodities by Firms", and the regulations contained in the "Customs Import Tariffs and Classification of Import and Export Commodities" of the Annex. All these publications are available for the reference of the public.

127. Please describe and explain the relationship of these measures to GATT Article XI.
In principle, there is no quantitative restriction imposed on non-automatic licensing items. This is in conformity with GATT Article XI, Paragraph 1. Although there are a few non-automatic licensing items subject to quantitative restrictions, such restrictions are imposed in a manner consistent with the exceptions allowed in GATT Article XI, Paragraph 2. Please refer to the "Table of Commodities Subject to Quantitative Restriction on Imports" in the Annex for product-specific reasons for quantitative restrictions.

128. Could Chinese Taipei provide detailed lists (on a HS series digit basis) of the six industrial and 123 agricultural products still subject to import control? Are these import controls applied in a non-discriminatory manner? Is there any future plan of import liberalization for these products?

Reply 128

(1) Please refer to the "Table of Import Control Commodities (Non-Automatic Licensing)" in the Annex. Currently, there are only 118 items subject to such restriction.

(2) These import controls are applied in a non-discriminatory manner.

(3) Chinese Taipei is currently in the process of developing the "negative list" as referred to in document L/7097, page 18. The planned "negative list" in principle, will eliminate all prior licensing requirements except for less than 20 per cent of the tariff lines of items, which will still be monitored for the reasons of national security, public order, cultural, educational, public health and environmental protection etc. in line with the spirit of the General Agreement.

129. Page 18: What are the "related policy and social consideration" grounds on which certain industrial and agricultural products are subject to import controls?

Reply 129

Please refer to the "Table of Import Control Commodities (Non-Automatic Licensing)" in the Annex for the product-specific grounds on which 129 items of agricultural and industrial products (currently only 118 items) are subject to import controls.

Generally, the agricultural products are subject to such import controls for the following reasons:

(a) to ensure balanced regional development and to stabilize agricultural prices in the low-income areas;

(b) to assist implementation of agricultural restructuring plans;
(c) to ensure an adequate supply of fresh milk; and
(d) to ensure food safety and sanitation.

Industry products, on the other hand, are subject to such import controls based on the following grounds:

(a) to carry out industrial restructuring programme;
(b) to implement environmental protection;
(c) to co-ordinate with agricultural, sanitary, social, and other policies; and
(d) to comply with the requirements of public order and national security.

130. Page 18, paragraph 2: According to the additional version of this paragraph, "six industrial and 122 agricultural products are subject to import controls on the grounds of related policy and social consideration" and cannot normally be imported. Further information is requested on the nature of these import controls (i.e. are they quantitative restrictions?). If so, how are the respective amounts of the annual import quota levels determined? Can Chinese Taipei describe the operation of the import control system and explain the related policy and social considerations for establishing import controls. Under what conditions can these products be imported?

Reply 130

(1) Currently there are 118 items subject to such import control. Please refer to the "Table of Import Control Commodities (Non-Automatic Licensing)" in the Annex for product-specific information relating to such control. Although normally such products cannot be imported, exceptionally they can if the BOFT grants special import licences after the authority in charge of the said products approves the importation by taking into considerations the demand of the local market, or the need of research and development. Therefore, such import controls do not constitute effective bans. Instead, they are parts of the non-automatic licensing system of Chinese Taipei.

(2) Please refer to the 3rd paragraph of Reply 114.

(3) For the related policy and social considerations please refer to Reply 129.

131. It is mentioned in document L/7097 that there are 123 agricultural products subject to import controls on the grounds of related policy and social consideration, i.e. these products cannot normally be imported. What are these products? What are these import controls? What requirements must be fulfilled in order to import these products?
Please refer for the items of these 123 (currently 113) agricultural products to the "Table of Import Control Commodities" in the Annex.

In order to import these products, an importer must apply to the respective authorities concerned and the BOFT. If the agencies concerned deem an exceptional importation appropriate, the BOFT will grant the licences after the authority concerned approves.

Chinese Taipei will consider adjustments to its import régime for these products, including tariffication depending on the outcome of the Uruguay Round negotiations.

132. Page 18, paragraph 3: According to the Addendum version of this paragraph, "one industrial and eighty agricultural products are subject to discretionary licensing". What are the criteria which govern "discretionary licensing" and automatic licensing? To what extent are discretionary licensing procedures compatible with the provisions of the GATT Code on Import Licensing Procedures?

(1) The object of two licensing systems differ. Discretionary licensing is effected by Chinese Taipei to protect public health, to preserve environment, and to restructure agriculture or industry. Automatic licensing, on the other hand, is imposed to save the manpower of the customs and reduce the work load of the customs because without the licence requirement, the customs need to do the screening itself and more manpower will be needed.

As to the discretionary licensing items, the BOFT will issue import licences to them provided that the applications for import licences have been submitted with the required approval documents from the respective agencies in charge of the said products.

(2) Chinese Taipei will consider joining the Licensing Code upon accession to the GATT and will endeavour to make its practices in line with the Code.

133. Page 13: On what basis does Chinese Taipei apply area restrictions under which certain goods can only be imported from certain areas? What are the goods concerned? From which areas are imports not permitted?

The reasons for area restrictions are to diversify the origin of import and maintain balance of trade with particular areas. Please refer to the "Table of Restrictive Area Commodities on Importation" in Annex for the products, reasons, and areas involved.
134. Page 18, paragraph 4: Area Restrictions - What products are subject to these restrictions? What countries benefit from these market access preferences? What is the basis for these restrictions? Can Chinese Taipei confirm that this practice will cease to exist upon its GATT accession?

Reply 134

Please refer to Reply 133.

Chinese Taipei will adhere to the Licensing Code upon accession to the GATT and will endeavour to make its practices in line with the Code on a progressive basis. Chinese Taipei therefore intends to negotiate a transitional period to have time for adjustment.

135. Page 17-18: Please provide lists of:

(i) the six industrial and 123 agricultural products subject to import controls;

(ii) the one industrial and eighty agricultural products subject to discretionary licensing;

(iii) the thirty-five industrial and nineteen agricultural goods falling under area restrictions;

(iv) what is the position of products banned from international trade by CITES?

Please indicate in what circumstances the products referred to under (i) which cannot "normally" be imported, can be imported. Please explain exactly which are the "grounds of related policy and social consideration" on the basis of which the importation of these products is restricted. Please specifically explain on which ground the importation of wheat flour, which is an internationally traded product, is restricted. Also, please explain what is meant by "discretionary licensing" regarding the products referred to under (ii). Finally, please provides a list of the areas from which the products referred to under (iii) may be imported. Please explain why imports from those areas are allowed, while imports from other areas are not.

Reply 135

Although normally such products cannot be imported, exceptionally they can if the BOFT grants special products approval on the importation.

The products referred to under (i) may be imported under exceptional cases (please refer to the second paragraph of Reply 131). Please refer to the Table of Import Control Commodities (Non-automatic Licensing) for the basis of which the importation is restricted.

The detailed explanation of the "discretionary licensing" system is provided in Reply 101. As for import restricted areas and the reasons for
such restriction, please refer to the Table of Restrictive Area Commodities on Importation. Regarding the ground on which the importation of flour is restricted, please refer to Reply 142.

As for question (iv), according to the Wildlife Conservation Law, protected wildlife includes: (1) endangered species, (2) rare and valuable species, and (3) other wildlife requiring conservation. Any wildlife classified as Conservation Wildlife may not be disturbed, abused, hunted, captured, traded, exchanged, illegally owned, killed or processed, unless under special circumstances permitted in this or related legislation. As such, some of the CITES Appendix II specified are listed as endangered species by Chinese Taipei.

136. Please provide tariff lines of items subject to:

(i) import control on the grounds of related policy and social consideration (six industrial and 123 agricultural products) and specify in each case the grounds for import controls;

(ii) discretionary licensing (four industrial and seventy-seven agricultural products) and specify in each case the grounds for the discretionary licensing;

(iii) area restrictions (thirty-five industrial and nineteen agricultural goods), the reason for these restrictions and what is their nature;

(iv) automatic licensing;

(v) could Chinese Taipei describe the relationship, if any, between the discretionary licensing system and any quantitative restrictions on imports; and

(vi) in respect of (iii) above, please also provide information on these areas in respect of which the fifty-four items can be imported.

Reply 136

(i), (ii), and (iii): Please refer to Reply 135.

(iv) Please refer to Reply 102, paragraph 2. In other words, items subject to reg. 121, and 122, but not under discretionary licensing and area restrictions shall be automatic licensing items. Please refer to the "Customs Import Tariffs and Classification of Import and Export Commodities". Currently about 30 per cent of the tariff goods are automatic licensing.

(v) Most of discretionary licensing items are not subject to quantitative restrictions. For quantitative restrictions on imports, please refer to the "Table of Commodities subject to Quantitative Restriction on Imports" in the Annex.
(vi) Please also refer to the "Table of Restrictive Area Commodities on Importation".

137. Chinese Taipei is currently applying a number of area restrictions. Could Chinese Taipei tell the reasons for these restrictions and the products and areas involved?

Reply 137

Please refer to the "Table of Restrictive Area Commodities on Importation" in Annex for the products and areas involved.

138. On page 17 of document L/7097 there is a reference to another set of licences which restrict the importation of thirty-five industrial products and nineteen agricultural products based on their origin. In other words they may only be imported if they come from certain geographical areas. For the sake of transparency it would be helpful to have information of what products and from where.

Reply 138

Please refer to the "Table of Restrictive Area Commodities on Importation" in Annex for the types of products and areas involved.

139. Why is there regional discrimination on imports of roughly thirty-five industrial and nineteen agricultural products? What are the products and regions concerned? Please describe how restrictions applied to imports for health, sanitary, or environmental reasons are applied to domestic goods to ensure no less favourable treatment for imported goods.

Reply 139

Please refer to the "Table of Restrictive Area Commodities on Importation" in Annex for the products, reasons, and areas involved. The regulations governing domestic products also take into consideration the grounds upon which import restrictions are imposed, and thus there will be no national treatment problem.

140. Could Chinese Taipei provide a detailed list of products whose importation is, in principle, prohibited (eight-digit headings)?

Reply 140

Please refer to the "Table of Import Control Commodities" in Annex.

141. Is there an import prohibition on fresh plums and table grapes other than those coming from the United States and Canada? Is Chinese Taipei considering removing this prohibition? What is the reason for this discrimination?
Currently, both fresh plums and table grapes cannot be imported except for the United States. This arrangement which is not intended to be permanent is to temporarily relieve domestic producers from import competition and at the same time to reduce trade surplus with the United States while the authority is making efforts to reduce production and seeking appropriate solutions for the survival of the domestic producers.

Chinese Taipei will, after its accession to the GATT, deal with the matter according to the GATT provisions, international trade practices and the outcome of the Uruguay Round to the same extent as that of other similarly situated economies.

142. Why does wheat flour fall into the category of products which cannot normally be imported?

Reply 142

Rice and wheat flour are cross substitutes to a large extent. Chinese Taipei is now implementing a programme to reduce rice production. It is therefore necessary to control wheat flour imports. This import restriction is currently under review by the authority in Chinese Taipei.

143. Could Chinese Taipei clarify how the three types of non-automatic licensing mentioned on page 18 (import controls, discretionary licensing and area restriction) relate to the outline of the import licensing system provided in Table 17 on page 61.

Reply 143

Please refer to the first paragraph and Table in Reply 101.

144. Under this heading, Chinese Taipei indicates that the importation of some 264 industrial and agricultural products are subject to various types of import controls, including area restrictions.

(i) Please list, by tariff line item, the products subject to such non-automatic licensing. Indicate the reason for this requirement, e.g., health and sanitary, public safety/security, protection of domestic production or price support system, etc., and whether the licence if granted by the Board of Foreign Trade or an entity (please name) authorized by the BOFT.

Reply 144

Please refer to Reply 135.

145. Could Chinese Taipei provide a full list at the six or eight digit tariff lines level of the industrial and agricultural products which are
subject to quantitative restrictions and specify in each case how these restrictions are implemented?

Reply 145

Please refer to the "Table of Commodities Subject to Quantitative Restrictions on Importation" in the Annex.

146. Why are there import quotas on fresh apples? Does Chinese Taipei intend to eliminate them if it joins GATT?

Reply 146

The quotation system on the importation of fresh apples is to maintain fruit farmers' livelihood and domestic political stabilization, it is based on the average of imports of the years 1984, 1985 and 1986. Chinese Taipei, upon its accession to the GATT, will deal with the matter according to the GATT provisions, international trade practices and the outcome of the Uruguay Round.

147. According to the information provided, chicken meat is subject to discretionary licensing, why? What is the criterion for the granting of such licences? Is it intended to eliminate them when Chinese Taipei joins GATT?

Reply 147

The purpose of import licensing on chicken meat is to control the domestic supply and stabilize the market price.

Import licences are granted when there is a shortage of supply in the market.

The intention of Chinese Taipei is to, adjust its practices to bring them in line with the GATT provisions, international trade practices and the outcome of the Uruguay Round upon its accession to the GATT.

148. What is the rationale behind the import licensing requirement for the importation of fresh young coconuts? Is it used to administer a quantitative restriction? Would Chinese Taipei consider this consistent with the provisions of Article XI? Do you plan to tariffy such restrictions in conjunction with the outcome of the Uruguay Round? If so, at what level and at what guaranteed access quantities?

Reply 148

The reason for the import licensing and import quota for fresh young coconuts is to protect the small but important coconut industry in distant and disadvantaged regions.
The import quota of fresh young coconuts for each exporting country was determined based on the average of imports from the country of 1983, 1984 and 1985.

The authority in Chinese Taipei has made substantial efforts to reduce production of fresh young coconuts in recent years. The current import quota system for fresh young coconuts is generally in line with the provisions of Article XI of the General Agreement.

The authority in Chinese Taipei will tariffy the restriction on young fresh coconuts to the extent as required by the relevant agreement reached at the Uruguay Round.

149. Chinese Taipei prohibits all direct imports from mainland China but is actually conducting indirect trade with China. Could Chinese Taipei provide figures on its overall trade volume with mainland China?

Reply 149

According to the Hong Kong Government's statistics, about 40 per cent of Chinese Taipei's export to Hong Kong has been re-exported to Mainland China and also some Mainland Chinese exports to Hong Kong were resold to Chinese Taipei. This indirect trade volume totalled US$5.79 billion in 1991 and US$7.41 billion in 1992.

150. Page 18: paragraph 5: Please provide the reasons why "Chinese Taipei prohibits all direct imports from Mainland China". Is there any possibility for Chinese Taipei to change this policy along with future progress of various kinds of exchanges with "mainland China" or in the event of the return of Hong Kong to the People's Republic of China? Please explain the current situation of Chinese Taipei's export to "mainland China".

Reply 150

Chinese Taipei's prohibition of direct trade with mainland China (including both export and import) is deemed necessary to protect its security interests. Mainland China's repeated menace of "liberating Taiwan by force" is a constant threat to the peace of Chinese Taipei. The no-contact action taken by Chinese Taipei would thus contribute to a lessening of this danger and is justified under the provisions of Article XXI of GATT.

On 14 March 1991, Chinese Taipei's Executive Yuan (the Cabinet) adopted "Guidelines for National Unification" formulating the process for exchange and unification with mainland China. If mainland China could respect Chinese Taipei as a political entity on equal footing, not reject Chinese Taipei's participation in the international activities, and solve all disputes peacefully by not endangering Chinese Taipei's security and stability, then direct commercial links between the two sides across the strait might be developed.
As mentioned above, direct trade with mainland China is not allowed now by Chinese Taipei. There is possibility, however, for traders to re-export some of Chinese Taipei's exports to mainland China. For example, the Hong Kong Government's statistics show that this kind of indirect export amounted US$6.7 billion in 1991 and US$6.29 billion in 1992.

151. Does Chinese Taipei intend to lift its ban on direct imports from China after both Chinese Taipei and China become contracting parties of the GATT?

Reply 151

Please refer to the second paragraph of Reply 150.

152. Supposing that both Chinese Taipei and mainland China would be admitted to the GATT in the near future, what plans does Chinese Taipei have in mind vis-à-vis its relationship with China as a contracting party? (Request for waiver on certain GATT provisions or inclusion of safeguard provisions, etc.)

Reply 152

Chinese Taipei would not exclude the possibility of invoking relevant waiver or safeguard provisions of the General Agreement if the situation warrants it.

153. Chinese Taipei has been taking discriminatory trade restrictive measures against Japan in such fields as importation of automobiles and agricultural products, government procurement and local content requirements. Does Chinese Taipei intend to abolish all these discriminatory measures against Japan? If so, please provide specific plans and a time schedule to do so.

Reply 153

(1) With respect to importation of automobiles: in consideration of the equal and reciprocal relation between Chinese Taipei and Japan, the ban against sedans with an engine displacement above 3,000 c.c. imported from Japan is planned to be relaxed to an adequate extent in the near future.

(2) With respect to importation of agricultural products: Chinese Taipei is willing to abide by the GATT rules after its accession. Therefore, it will gradually through negotiations eliminate the measures against Japan, which was imposed for the huge trade deficit of Chinese Taipei with Japan.

(3) With respect to government procurement: Chinese Taipei will review the issue in conjunction with its consideration of adhering to the Government Procurement Code of the Tokyo Round.
(4) With respect to local content requirement, the existing local content requirements on automobiles are as follows:

(a) 50 per cent for sedans. Manufacturers are also required to select four items from the fifteen designated major parts and components for domestic production;

(b) 37 per cent for 3.5 ton to 10 ton heavy-duty vehicles. Manufacturers are also required to select three items from the fifteen designated major parts and components for domestic production;

(c) 31 per cent for heavy-duty vehicles of 10 ton and above. Manufacturers are also required to select two items from the fifteen designated major parts and components for domestic production.

(d) 90 per cent for motorcycles. No special requirement on the local production of parts and components.

The above local content requirements are applicable generally to both foreign-invested companies and local companies, which is compatible with the GATT principle of national treatment. The measures will be adjusted after a resolution is reached in the negotiation of the Uruguay Round.

If bilateral negotiations between Japan and Chinese Taipei is successfully concluded, Chinese Taipei will remove the restrictive measures in accordance with the outcome of the negotiation. However, Chinese Taipei would not exclude the possibility of invoking relevant waiver or safeguard provisions of the General Agreement if the situation warrants it.

154. Does Chinese Taipei maintain any other non-tariff barriers to imports other than this licensing system? If so, please describe.

Reply 154

No non-tariff barriers are maintained.

155. Will Chinese Taipei modify its import licensing arrangements on its accession to the GATT to ensure that import licensing does not act as a barrier to trade, nor discriminate between suppliers?

Reply 155

Please refer to the second paragraph of Reply 134.

156. Does Chinese Taipei intend to eliminate the import control measures, or make them consistent with GATT before accession to GATT? If so, what is the specific time-frame to achieve such objectives?
Reply 156

It is expected that in the second half of this year the negative list will be implemented. The negative list now being developed expands the categories of automatic licensing and items which may be imported without licences. Accordingly, fewer items will be left in the automatic licensing category, and fewer items will be subject to licensing requirements. Current planning is to reduce the tariff line items subject to import licensing from 34 per cent to 20 per cent after the negative list is implemented. For further liberation, the negative list will be reviewed every year after it is implemented. Please also refer to the second paragraph of Reply 134.

157. When does Chinese Taipei plan to adhere to the Import Licensing Code? Will Chinese Taipei commit unambiguously to adhere to the Licensing Code at the time of accession to the General Agreement?

Reply 157

Please refer to the second paragraph of Reply 134.

158. Will Chinese Taipei commit to apply its laws and regulations which provide for import prohibitions, import licensing, import permits, or other quantitative limitations on imports after accession in a manner consistent with the provisions of the General Agreement, including Articles XI, XII, XIII, XIX, XX, and XXI?

Reply 158

Chinese Taipei intends to apply its laws and regulations which provide for import prohibitions, import licensing, import permits, or other quantitative limitations on imports after accession in a manner consistent with the provisions of the General Agreement. The relevant provisions of the Foreign Trade Act of Chinese Taipei are generally consistent with the spirits of Articles XI, XII, XIII, XIX and XXI of the General Agreement.

In the area of agriculture, a substantial portion of Chinese Taipei's population is engaged in farming activities which are generally small-scaled and do not derive sufficient income for the farmers. Given this and the great variety of farm products, a sudden opening of the market for farm imports will have serious impacts on the agriculture sector in general and the farmers in particular. Chinese Taipei however is prepared to liberalize trade in agricultural products at the same speed and scale as other similarly situated economies.

In the case of import restriction on automobiles, Chinese Taipei intends to enter into bilateral consultations with the exporting economies to gradually lift the current restrictions in a mutually acceptable manner, or invoke waiver or safeguard provisions of the General Agreement if the situation warrants it.
In other areas where GATT-inconsistent measures are found to exist, Chinese Taipei will make the utmost effort to gradually eliminate such inconsistency at the same speed and scale as other comparable economies.

(3) Automatic licensing

159. Page 18, paragraph 6: The Memorandum indicates that licensing requirements are imposed on certain products for "administration or management purposes". Could Chinese Taipei provide a full description of its licensing régime? What criteria are being used in respect of these licensing requirements? Will this practice continue to apply upon Chinese Taipei's GATT accession?

Reply 159

For detailed description of the licensing system, please refer to the Reply 101 and the "Custom Import Tariffs and Classification of Import and Export Commodities" in the Annex. As to future development, please refer to the second paragraph of Reply 134.

160. Please explain the purpose of this type of licensing. Do imports under these licences receive any special customs treatment? What type of documentation is required in order to receive approval for a licence?

Reply 160

Please refer to Reply 101 for reasons to require import licences. As for documentation required, please refer to the "Custom Import Tariffs and Classification of Import and Export Commodities".

161. It is understood that goods subject to automatic licensing may be imported by any registered importer. What are the requirements for registration as an importer? Is registration granted automatically when basic requirements are met? To which products does this apply, and in each case which agencies are responsible for licensing the importer?

Reply 161

Companies established in accordance with the provisions of the Company Law or Regulations for Commercial Registration, with paid-in capital no less than NT$5,000,000 may register as an importer. When basic requirements are met, registration will be granted automatically. Any companies registered as importer pursuant thereto may engage in the import business regarding products not subject to special regulations. As to the agencies responsible for licensing please refer to Reply 165.

162. Could Chinese Taipei please provide a full list at the six or eight digit tariff line level of the products subject to automatic licensing?
Reply 162

Please refer to the "Custom Import Tariffs and Classification of Import & Export Commodities" in the Annex. If the Regulation Code designated to the item is "121" or "122", the item is permitted to be imported with licensing requirement. Except those falling within the non-automatic licensing system, i.e., discretionary licensing and area restrictions, all the above items subject to reg. 121, 122 are subject to automatic licensing.

(4) Permit Application Procedures

163. Page 18, paragraph 7: The Memorandum states that import permits are valid for six months, but can be extended or renewed upon application. Is an extension or renewal application automatically approved? Could Chinese Taipei provide English versions of the "Guidelines for Screening Imported Goods" and the "Regulations Governing Import Applications"? Will these documents be replaced by the provisions of the "Regulations for Management of Exported and Imported Goods" published in the Trade Bill referred to in the following paragraph?

Reply 163

(1) An extension or renewal application is in general automatically approved.

(2) Please refer to the Annex for "Rules Governing Examination of Import Commodities" and "Regulations Governing Import of Commodities by Firms" (named as "Guidelines for Screening Imported Goods" and "Regulations Governing Import Applications" in document L/7097).

(3) The subsidiary regulations of the Foreign Trade Act will replace the Rules and Regulations referred to in (ii). The Foreign Trade Act was already promulgated on 5 February 1993, and effective on 7 February 1993. The subsidiary regulations are expected to be implemented in the second half of this year.

164. Could Chinese Taipei please provide copies of all the requirements and other import regulations for licensing referred to under section (4) on page 18.

Reply 164

Please refer to the Annex for the following regulations:

(1) Rules Governing Examination of Import of Commodities (named Guidelines for Screening Imported Goods in L/7097)

(2) Regulations Governing Import of Commodities by Firms (named Regulations Governing Import Applications in L/7097)
(3) Customs Import Tariff and Classification of Import and Export Commodities

165. Aside from the Board of Foreign Trade, what other agencies play a rôle in issuing import licences and what are their responsibilities?

Reply 165

The BOFT and the designated licensing banks are responsible for the import licences of the items subject to reg. 121 and 122 respectively. In addition to the BOFT and the designated licensing banks, the Export Processing Zone Administration, and the Science-based Industrial Park Administration can also issue import licences. They are only responsible for the import licensing within their jurisdictions.

166. Do the permit application procedures apply to both automatic and non-automatic licensing?

Reply 166

The permit application procedures are the same for both automatic and non-automatic licensing.

167. Can Chinese Taipei confirm that the proposed conversion of the import licensing system from a comprehensive one to a "negative list" system will be implemented on 1 January 1993?

Reply 167

The Foreign Trade Act, pursuant to which the negative list is under preparation, was promulgated by the Presidential Decree on 5 February 1993 and effective on 7 February 1993. The negative list will most likely be implemented in the second half of this year after all the subsidiary regulations for the Foreign Trade Act are prescribed.

168. Can Chinese Taipei provide details (in draft form if necessary) at the six or eight digit tariff line level of products which may be covered by the proposed "negative list" under the Trade Bill now in legislative process. What are the reasons for the prior licensing requirement in each case? When is it likely that the new legislation will come into effect, what steps will be required to put this legislation into effect, and could Chinese Taipei kindly provide an English language version of the Trade Bill?

Reply 168

The negative list is still under preparation. The planned negative list will be based on the principle that products can normally be imported, and restrictions on importation, as exceptions, shall be limited, prescribed by the Foreign Trade Act. It is expected to be implemented in the second half of this year after all the subsidiary regulations under the
Foreign Trade Act are prescribed. The negative list will be forwarded to the Secretariat of GATT as soon as it is available.

The planned negative list in principle, will eliminate all prior licensing requirements except for a certain percentage the tariff lines of items, which will still be monitored for the reasons of national security, public order, cultural, educational, public health and environmental protection etc. in line with the spirit of the General Agreement.

The Foreign Trade Act was passed in the Legislative Yuan (Chinese Taipei Congress) on 14 January 1993, promulgated by the Presidential Decree on 5 February 1993, and went into effect on 7 February 1993. The English translation of the Act is attached in the Annex.

169. Please discuss current restrictions on the importation and screening of foreign films and Chinese Taipei's plans, if any, to liberalize in this area?

Reply 169

In order to protect domestic films, Chinese Taipei has set the following restrictions on the importation and screening of foreign films:

- the Motion Picture Law, Article 22: the export and import of films must be reviewed and approved by the department in charge under the central authority; and the regulations pertaining to this will be set by the same department;

- by-laws Governing the Execution of the Motion Picture Law, Article 14: the same foreign film shall be jointly screened in no more than six theatres within a special municipality, and in no more than four theatres within a county or city;

- the Film Import and Export Permission Law, Article 6, paragraph 1; a maximum of fourteen copies of a foreign film can be imported.

In line with the trend toward freer trade, and in consideration of both the necessary margin of survival for domestic films and the rights and interests of viewers, the Government Information Office has gradually eased restrictions on the importation and screening of foreign films. In August 1986, the number of copies of foreign films that could be imported was raised from three to four, and then to six in April 1987. The number was again increased to eight in January 1988, and to twelve in June 1990, and further to fourteen in June 1992. The number of theatres that are permitted to jointly screen the same foreign film in a special municipality was increased from four to six in February 1991.

While Chinese Taipei does not foresee a great possibility at the present time for completely removing restrictions on the importation and screening of foreign films, our policy of gradual liberalization in this area remains unchanged.
Future directions

170. Page 18, paragraph 8: The Memorandum states that "in the Trade Bill now in legislative process, Chinese Taipei plans to eliminate, in principle, all prior licensing requirements" with "certain limited exceptions". When will the Trade Bill be passed and licensing requirements eliminated? Will export licence requirements be eliminated as well? What exceptions will be maintained? Could Chinese Taipei provide further details of the contents of the Trade Bill?

Reply 170

(1) The Foreign Trade Act was passed in the Legislative Yuan (Chinese Taipei Congress) on 14 January 1993, promulgated by the Presidential Decree on 5 February 1993, and went into effect on 7 February 1993. The English translation of the Act is attached in the Annex.

(2) Please refer to Reply 180 for the plan of reform for export licensing.

(3) The import licensing will be modified by the negative list, which is still in process of development. The negative list will be based on the principle that importation in principle shall be permitted, restrictions shall be exceptions in line with the letter and spirit of the Foreign Trade Act. The list is expected to be implemented in the second half of this year after all the subsidiary regulations under the Foreign Trade Act are prescribed.

The planned negative list will eliminate all prior licensing requirements except for less than 20 per cent of the tariff lines of items, which will still be monitored for the reasons of national security, public order, cultural, educational, public health and environmental protection etc. as provided in the General Agreement.

171. We would like more information on the Foreign Trade Bill, and in particular to the negative list referred to in page 18.

Reply 171

The Foreign Trade Act was passed in the Legislative Yuan (Chinese Taipei Congress) on 14 January 1993, promulgated by the Presidential Decree on 5 February 1993, and went into effect on 7 February 1993. The English translation of the Act is attached in the Annex.

The planned negative list implementing the free trade principle prescribed in Article 11 of the Foreign Trade Act will eliminate all prior licensing requirements except for a certain percentage of the tariff lines of items, which will still be monitored for the reasons of national security, public order, cultural, educational, public health and environmental protection etc. as provided in the General Agreement.

172. Could Chinese Taipei please confirm that the prior licensing requirements which are to be eliminated under the new Trade Bill refer to
all existing non-automatic and automatic licensing requirements, including import controls, discretionary licensing and area restrictions?

Reply 172

Please refer to Reply 171 and Reply 176.

173. Page 18, future directions: Please indicate where the legislative process on the Trade Bill presently stands, and when the Bill is expected to be enacted and effective. Also, please indicate which exceptions will be maintained and for what reasons. Please provide a copy of the Bill, including the draft "negative list", if available.

Reply 173

Please refer to Reply 170.

174. It is understood that it is Chinese Taipei's plan to eliminate in principle all prior licensing requirements. What is the target date for implementation?

Reply 174

The list is expected to be implemented in the second half of this year after all the subsidiary regulations under the Foreign Trade Act are prescribed.

Please refer to Reply 171.

175. Please elaborate on plans referred to in this section "to eliminate in principle all prior licensing requirements" except those maintained for reasons of "security, public order, cultural, education, public health considerations, and environmental protection". Does draft legislation in this regard exist at this time? When does Chinese Taipei intend to implement such plans?

Reply 175

Please also refer to Reply 168, Reply 174 and Reply 176.

176. It is stated on page 15, Section 5, of document L/7097 that Chinese Taipei plans to eliminate all prior licensing requirements. However, there will be exceptions for reasons of national security, public order, cultural, educational, public health considerations and environmental protection. To this end, Chinese Taipei plans to adopt a "negative list" approach. Please indicate the products that will be included in this negative list.

Reply 176

It is expected that the Negative List will be concluded in the second half of this year. In principle, the products listed in the Table of
Import Control Commodities, Table of Discretionary Licensing Commodities on Importation and Table of Restrictive Area Commodities on Importation will be incorporated into the Negative List.

177. In the Memorandum, Chinese Taipei states that it plans to adopt the "negative list" of goods for which prior licensing is required in order to be imported.

(i) Has this system been adopted yet? What is the status of the Trade Bill that would implement these policies?

(ii) Will Chinese Taipei please name the products that will be on the negative lists, as well as the regulations associated with the proposed negative lists?

(iii) When is the new Trade Bill expected to be enacted? Is a draft of the negative list at a six or an eight-digit level available?

Reply 177

Please refer to Reply 171 and Reply 176 for the status of the Foreign Trade Act and the detailed plan of the negative list.

The negative list as well as the subsidiary legislation mandated by the Foreign Trade Act are in the preparation process. After the process is concluded, Chinese Taipei will forward them to the Secretariat of GATT promptly.

178. Could Chinese Taipei explain what will be the procedures for the yearly review of the negative listing system, and what will be the criteria adopted for reviewing individual items on the negative list?

Reply 178

Chinese Taipei will curtail the negative list according to the schedule for elimination import restrictions delivered upon accession in a manner in compliance with the GATT provisions. As to the negative list items which are not in the schedule, the importation restriction can also be considered for elimination if the restrictive reasons are not existing and the regulations based on are liberated.

179. Which items will be likely to form the negative list under Chinese Taipei's new import licensing system?

Reply 179

Please refer to Reply 176.

4. The export licensing system

180. Are there any plans to reform the export licensing system?
Reply 180

In order to carry out the policy of free trade, Chinese Taipei has taken steps to review the feasibility of eliminating or simplifying the export licensing regulations. The percentage of items that may be exported without licences has increased from 70.35 per cent to 76.84 per cent of all goods. Currently, only 23.16 per cent of goods is subject to export licensing administration. Chinese Taipei anticipates maintaining a number of export licensing requirements in order to enforce certain trade agreements.

In order to simplify the licensing process and make the process more efficient for the items still subject to export licensing, a system of electronic data transmission to effect licensing is under development.

181. A list of products that are subject to export restrictions or export bans should be provided.

Reply 181

Please refer to the "Table of Commodities subject to Export Restrictions" in the Annex.

182. Please indicate which, if any, products are absolutely banned from export from Chinese Taipei, and the reasons for these measures.

Reply 182

Currently there are no products absolutely banned from export in Chinese Taipei. Although ammunition, narcotics, protected wildlife, and high-tech products are subject to export controls, and in principle banned from export, they can still be exported under special export permits granted by the Board of Foreign Trade, provided that the exports are designated for legal applications or meet the relevant provisions of CITES and COCOM.

183. What fees, if any, are associated with acquiring an export license for the items listed in this section?

Reply 183

Generally, there are no licensing fees imposed on applications for export licences. The only exceptions are textile exports. Since textile exporters are required to obtain export quotas for textile exports, imposition of the proper amount of fees for quota allocation can facilitate quota administration.

184. Page 19, paragraph 5: Some products require export licences because of various trade arrangements. What are these trade arrangements? Will these arrangements be maintained?
Please refer to Reply 185.

185. We note the list of bilaterals in the Annex to L/7097 and would enquire whether these include all quantitative restriction arrangements, Voluntary Restraint Arrangements (VRA), Voluntary Export Restrictions (VER) and Orderly Marketing Arrangements (OMA) maintained and implemented by Chinese Taipei? We would also invite Chinese Taipei to briefly describe these arrangements as well as any plans Chinese Taipei may have to eliminate them.

Reply 185

(1) Currently effective bilateral quantitative restrictions imposed on exports with certain countries are listed as follows:

(a) Textile and garment exports: with the United States, Canada, and European Community;
(b) Silk cloth: with Japan;
(c) Machine tools: with the United States.

The above arrangements are not all included in the Annex of document L/7097. The export restriction arrangements concerning steel with the United States referred to in L/7097, page 19 expired in March 1992 respectively.

(2) The contents of the above arrangements:

(a) textile exports to the United States:

The arrangement was entered into in 1990, effective from 1 January 1990 to 31 December 1995, a total of six years. The scope of the said export restrictions covers textiles made of cotton, wool, man-made fibre, blended silk, and other non-cotton vegetable textile fibres. Quantitative restrictions are imposed after bilateral consultation.

(b) textile exports to Europe:

The arrangement was not entered into officially. The practice is that the European Community unilaterally publishes the regulation and quota concerning permissible levels of textile imports from Chinese Taipei after consultation with Chinese Taipei. Both territories held a consultation for extension of the arrangement in December 1992. Subsequently, the European Community published EEC Council regulation 395/92 for the relevant measures and quota. The regulation is effective from 1 January 1993 to 31 December 1995. Quantitative restriction are administered by both Chinese Taipei and the European Community.
(c) textile exports to Canada:

The arrangement was entered into by the Taiwan Textile Federation and Canada. The effective period was from 1 January 1987 to 31 December 1992. Both parties agreed to extend the arrangement to 31 December 1993. The scope covers products of cotton, wool, man-made fibre, silk, and flax. These are divided into two categories: one, garments; the other, textiles. The quantitative restrictions on exports are administered by Chinese Taipei.

(d) silk exports to Japan:

The arrangement was entered into in May 1980, and quotas are normally set through annual consultation. No agreement level was reached in 1986. Therefore, Chinese Taipei continues to apply the 1985 quota (1,750,000 square meters) to control exports.

(e) machine tools exports to the United States:

The arrangement was entered into in 1987, and was effective for five years. Chinese Taipei, pursuant to a bilateral arrangement, agreed to voluntarily monitor the total export quantity of certain machine tool exports to the United States. The arrangement was extended for another two years on 1 January 1992.

186. Under its export licensing system Chinese Taipei has concluded numerous bilateral arrangements (VRA, VER, OMA, etc.). Could Chinese Taipei let us know what percentage of trade is covered by these arrangements? Does Chinese Taipei intend to renew these bilateral arrangements when they expire?

Reply 186

(1) Under the bilateral arrangements concerning textiles and garments: 1992 exports to countries with quota restrictions amounted to US$3,690, about 4.5 per cent of total exports. The outcome of the Uruguay Round will determine the future direction of quota restrictions on textiles and apparel for all Contracting Parties.

(2) Under the arrangement with Japan: 1992 exports to Japan amounted to US$14 million, about 0.017 per cent of the 1992 total exports.

(3) Under the arrangement of machine tools with the United States: 1992 exports to the United States amounted to US$26 million, about 0.032 per cent of 1992 total exports. The arrangement expires at the end of 1993. Chinese Taipei does not intend to renew the arrangement upon its expiration.

The exports under the above three types of arrangements totaled US$3,730 million, about 4.55 per cent of 1992 total exports.
187. Concerning sub-category (1), i.e., licences required to manage textile exports, textile trans-shipment designed to circumvent this system to continue to be a problem. What has been done, and will be done, to deal with this trans-shipment problem? How vigorously enforced, and how enforceable, are the laws regulating exports of and proper labelling of such goods?

Reply 187

The measures Chinese Taipei has taken have produced notable successes and establish a set of strong mechanisms to enable Chinese Taipei to comply with requirements regarding illegal trans-shipment that are expected to result from the Uruguay Round. Chinese Taipei recognizes the serious problems caused by illegal trans-shipments.

For the country-of-origin marking requirements for certain articles in CCC chapters 61 and 62, for example, each product is required to bear an accurate mark of origin. If this is lacking, Chinese Taipei's Customs authorities will not grant clearance to the shipment to enter Chinese Taipei. The mark must be firmly and conspicuously affixed on to the product itself and a marking will not be deemed to be "firmly fixed" if it is merely adhered to the product by means of an adhesive label.

Regarding penalties imposed, beginning in September 1991, manufacturers, exporters found to have exported non-Chinese Taipei origin products to a country imposing quota restraints shall have any quotas already allocated to them rescinded by Chinese Taipei authorities, and their exporter/importer registration shall be cancelled. If the manufacturer/exporter commits an offence under Chinese Taipei law, the case shall be referred to the district attorney for further action.

With respect to exports, Chinese Taipei authorities may freeze or take back any export quota allocated to a manufacturer/exporter and suspend for a period of time the right of the manufacturer/exporter to export, or cancel the registration of an importer/exporter under investigation if full co-operation is not extended by the private sector concerns to Chinese Taipei authorities in conducting investigations of illegally trans-shiped articles.

Chinese Taipei has established a textile importation surveillance mechanism which utilize data on textile products imported from Hong Kong, Indonesia, Malaysia, the Philippines, the Republic of Korea, Singapore, Thailand and Vietnam. The purpose of the mechanism is to monitor the flow of imported textile products from these eight countries and to prevent such imported products from being diverted to illegal trans-shipments via Chinese Taipei.

188. Concerning subcategory (2) in this section, i.e. goods that require export licences for public security and security of domestic supply, please give a complete list, by HS export line item number, of the products covered.
(i) Which Ministries administer these restrictions, what are the criteria for granting export licences for these products, and what procedures must an exporter follow to obtain the licence?

(ii) Does Chinese Taipei ever export these goods, or does the licensing requirement constitute a de facto export ban?

Reply 188

(1) The "Table of Commodities subject to Export Licensing for the Reason of National Security" and the "Table of Commodities subject to Export Licensing for the Reason of Security of Supply" have listed the Ministries in charge and the criteria used for the aforesaid export licensing. Please refer to the Annex.

The procedure for export licensing currently is governed by the "Rule Governing Examination of Export of Commodities", and the "Regulation Governing Application for Export of Commodities by Firms", which are set forth in the Annex. The "Regulation Governing Export of Commodities", one of the subsidiary regulations of the Foreign Trade Act, once implemented, will govern export licensing instead. Please also refer to the "Customs Import Tariff and Classification of Import and Export Commodities" for details of the procedures required.

(2) Current export regulations are maintained mostly for administration purposes. As noted in the Reply 182, controlled products can still be exported under special export permits granted by BOFT under certain circumstances. Please refer to the Tables described in (i) for additional details.

189. Page 19, paragraphs 9, 10, 11 (items 4, 5, and 6): Could Chinese Taipei provide further information on the grounds for requiring and issuing export licences in these instances?

Reply 189

The grounds for items 4, 5, and 6 are elaborated as follows:

(1) Item 4: Endangered species of wildlife are protected pursuant to the "Law Governing Conservation of Wildlife", the "Culture Heritage Preservation Act", and CITES. Exports of any wildlife listed for protection in public notices requires prior approval from the Council of Agriculture to obtain an export licence;

(2) Item 5: In order to protect human life and health, Chinese Taipei upon requests by the importing country strictly monitors the exports of these products to avoid exports of contaminated or poisoned specimens taking place;

(3) Item 6: In cases where agricultural production has been adversely affected by natural disasters, such as typhoons, resulting in shortages in the domestic marketplace, Chinese
Taipei will suspend issuance of export licences for a temporary period, until domestic production and prices are more stable. BOFT co-ordinates such suspensions with agricultural authorities in Chinese Taipei.

190. Concerning subcategory (6), i.e. licences required for agricultural development, please indicate in detail why authorization is needed for these exports?

Reply 190

Please refer to the last part of Reply 189.

191. Page 19, paragraph 12: Chinese Taipei refers to "regulations concerning marking of brand and origin on export products with the purpose of protecting intellectual property rights and consumers' interests". Could Chinese Taipei provide a copy of these regulations?

Reply 191

Please refer to the Annex for the "Chinese Taipei's Measures to Prevent Exportation of Counterfeits and False Marking of Place of Origin".

5. The labelling system for imported products

192. Could Chinese Taipei provide a copy of the Commodity Labelling Law and further details concerning the marking of origin in connection with the importation of textile and garment products?

Reply 192

(1) Please refer to the "Commodity Labelling Law" in the Annex.

(2) Concerning marking of origin in connection with the importation of textile and garment products, the following requirements apply:

(a) any textile product subject to CCC Chapter 61, 62 (excluding 6117 and 6217) shall mark the place of origin in the products themselves; otherwise, no customs clearance will be given;

(b) products permitted to leave Chinese Taipei for processing overseas shall be deemed as domestic products (undergoing an intermediate stage of processing), and are not required to bear a mark of origin, other than that of Chinese Taipei, where the final processing will have taken place.

Please also refer to Reply 201.

193. The labelling system seems to be based on the principle of national treatment. It requires that the net content of packed products be stated and for foodstuffs and pharmaceutical products a quantitative analysis of
the content is required. Are these the only labelling requirements set out in the Commodity Labelling Law?

Reply 193

Commodity Labelling Law:

According to Commodity Labelling Law, Article 8: goods wrapped and sold in the market shall be labelled with the name of the goods, name and address of the manufacturer and the importer, if the goods are imported, the date of manufacture and the expiration date. Please also refer to Commodity Labelling Law, Articles 5, 6, 7, 9, 10 and 12.

Law Governing Food Sanitation:

The labelling requirement for foods, no matter whether it is domestic or imported, shall meet the "Law Governing Food Sanitation". The following items shall be prominently shown:

(1) the name of the food;
(2) the name, weight, quantity, and volume of the contents; if it is a mixture of two or more than two components, they shall be labelled separately;
(3) the name of any food additives;
(4) the name and address of the manufacturing firm; the name and address of the importer shall also be listed if it is an imported food;
(5) the manufacturing date; the expiration date and storage condition shall be labelled if it is notified by the central agency-in-charge;
(6) other requirements as determined from time to time by the Department of Health.

Law of Pharmaceutical Affairs:

The labelling of pharmaceutical products must comply with the Law of Pharmaceutical Affairs. The labelling requirements for imported pharmaceutical products are the same as those for locally-produced ones.

Article 75: the label, package insert or package of pharmaceutical and medical devices shall contain, as approved, the following:

(1) name and address of manufacturer;
(2) name of product and licence number;
(3) date of manufacture or lot number;
(4) contents of active ingredients, dosage and usage;
(5) indications, or performance (for medical devices);
(6) adverse reactions, contra-indications and warnings;
(7) shelf life or expiration date;
(8) other particulars in accordance with current regulations.

Requirement in Section 7 of the preceding paragraph may be exempted for certain products, pursuant to public announcement by the Department of Health.

194. To what extent are departures from the national treatment principle permitted and practised?

Reply 194

The Commodity Labelling Law shall be applied to both domestic and imported goods. In addition, under the Law of Pharmaceutical Affairs, the labelling requirements for imported pharmaceutical products are the same as those of local ones.

195. Page 20: In what respects, if any, is the Commodity Labelling Law inconsistent with the principle of national treatment of imported goods vis-à-vis local goods?

Reply 195

Regarding the issue of national treatment, Article 2 of the Commodity Labelling Law prescribes that goods shall be labelled in accordance with this Law. Other applicable laws shall govern any matters not provided herein or where stiffer provisions are contained in such other applicable laws. Article 6 prescribes that goods shall be essentially labelled in the Chinese language and other foreign languages may be added; provided, however, that this shall not apply to goods to be exported. Furthermore, Article 7 prescribes that when exported goods are converted into goods for domestic sale or are imported and marketed, either Chinese labels shall be added or product literature printed in Chinese shall be attached. As a result, commodity labelling shall be applied to all domestic goods and imported goods in like manner, so that all are treated equally in the domestic marketplace. All imported and domestic goods are subject to the requirements without discrimination. Chinese Taipei's practice conforms with GATT Article III.

196. Page 20, paragraph (5)(3): Please indicate in which cases the "Commodity Labelling Law" and the special laws on the labelling of certain products are not equally applicable to both locally produced and imported commodities.
197. Are the provisions of the "Commodity Labelling Law" equally applied to imports and domestic products? If not, please indicate under what circumstances the law would not be applied equally to imports and domestic goods.

Reply 197

Please refer to Article 195.

198. On page 20 it is noted that "in general" the Commodity Labelling Law applies to both local and imported goods. We would be grateful if Chinese Taipei could provide details on any exceptions covered by the phrase "in general".

Reply 198

Please refer to Articles 2, 6, and 7 of the Commodities Labelling Law in the Annex. These provisions apply to both local and imported goods with no exceptions.

199. In practice it is understood that certain products do require mark-of-origin to be specified on labels prior to importation or on arrival in Chinese Taipei. Could Chinese Taipei please clarify whether this requirement is covered by the Chinese Taipei national standards or by any other regulations which might impose labelling requirements?

Reply 199

The Commodity Labelling Law basically does not require the imported and domestic goods to label mark-of-origin. In other words, labelling of place of origin is voluntary and is totally at the discretion of the manufacturers themselves.

However, there are two special situations, under which labelling of place of origin is necessary: one is exported goods (the Commodity Labelling Law Article 11) and the other is with respect to five domestic electronic appliances: electronic hot plates, electric heaters, window-type air-conditioners, refrigerators, and microwave ovens (the Commodity Labelling Law Article 12).

Also, marks of origin are required for certain imported textile and garment products. Please refer to the 2nd paragraph of Reply 192.

200. Page 20: What is the criteria used for the mark of origin labelling system?
Reply 200

Please refer to Reply 199

201. Page 20, general rules of labelling: Please indicate which textile and garment products are required to bear a mark of origin and on the basis of what criteria are they required to do so. Please also explain what the mark of origin entails (i.e. what information has to be in it). Please if possible provide a copy of the (various) mark(s) of origin.

Reply 201

Scope of imported textile and garment products needed to bear a mark of origin is that of all items listed in Chapters 61 and 62 of our CCC code (6117 and 6217 are excluded), with the following exceptions:

1. babies' clothing accessories;  
2. pantyhose, stockings, socks and other hosiery;  
3. handkerchiefs;  
4. shawls, scarves, mufflers, mantillas;  
5. ties, bow ties and cravats;  
6. garments of non-woven cloth for surgical use;  
7. items for advertisement purposes and samples without commercial value or with a value not exceeding NT$12,000;  
8. items imported for the purpose of repairing in order for future re-exportation, provided the importer of said items has submitted a deposit as a tax guarantee before customs clearance;  
9. items imported for self-used uniform by firms or organizations.

The required origin shall be marked as "MADE IN XXX". The mark shall be in a way conforming to the standard of conspicuousness and adhesiveness. Thus, if a mark is made by stickers, the requirement of adhesiveness is not met.

(2) Certificates of Origin (page 20, item 3(2))

202. Chinese Taipei currently requires imports of certain textile and apparel into Chinese Taipei to be covered by Certificates of Origin (COs). As imports of such textile products into Chinese Taipei are not subject to quantitative restrictions, would Chinese Taipei consider lifting the requirement for CO?

Reply 202

The current stringent requirement of certificate of origin on certain textile and apparel imported into Chinese Taipei is part of many schemes maintained to deal with illegal trans-shipment cases in order to safeguard the legitimate interests of other firms and the proper international image on Chinese Taipei. Authority concerned will periodically examine the effectiveness of using these measures to prevent illegal trans-shipment. If there is sufficient information showing a substantial decrease on the violation, Chinese Taipei will consider to adjust the current practices.
However, Chinese Taipei does not at present consider abolition of this measure.

6. Standards, inspection and quarantine

(1) Standards and inspection (page 20, item 6(1) paragraph 1.)

203. Page 20: Standards, inspection, and quarantine - Could Chinese Taipei elaborate on the policies and practices of the Bureau of Commodity Inspection and Quarantine? Does the Bureau apply scientific methods in its inspection and quarantine practices? Does the Bureau enter into certification or mutual recognition arrangements with inspection/veterinary authorities of Chinese Taipei's trading partners?

Reply 203

The Bureau's policies are to promote the quality of commodities, ensure product safety, protect consumers' interests, and prevent the dissemination of plant and animal diseases and insect pests. These policies are implemented by virtue of the laws and regulations mentioned on page 21 of the Memorandum.

The Bureau has applied scientific methods in its inspection and quarantine practices.

The Bureau has entered into certification or mutual recognition arrangements with the following foreign certification/inspection bodies:

1. State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation;
2. State of Oregon, Department of Agriculture;
3. Underwriters Laboratories Inc., USA (UL);
4. Japan Electrical Testing Laboratory (JET);
5. JMI Institute, Japan (JMI);
6. The Standards Association of Australia (SAA);
7. The Saudi Arabian Standards Organization (SASO);
8. The Swiss Electrotechnical Association (SEV);
9. Swiss Association for Quality Assurance Certificates (SQS);
10. British Standards Institution (BSI);
11. Rheinisch-Westfalischer TUV, Essen, Germany (RWTUV).

The Bureau has also entered into arrangements for mutual recognition of certification with the veterinary authorities of our trading partners.

204. Page 20, paragraph 5: The Memorandum refers to "some deviations due to different custom" in respect of international standards. What are these deviations?
The following are examples of deviations due to different customs:

<table>
<thead>
<tr>
<th>Item</th>
<th>Products involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voltage frequency of power source</td>
<td>Most electrical and electronic equipment</td>
</tr>
<tr>
<td>(110 V/60Hz)</td>
<td></td>
</tr>
<tr>
<td>Dimension of plug, socket</td>
<td>Most connectors for electrical and electronic equipment</td>
</tr>
<tr>
<td>Resolution of NTSC system (525 lines)</td>
<td>Most VTRs, computer monitors, TV sets</td>
</tr>
<tr>
<td>Designation of industrial materials</td>
<td>Carbon steel, aluminium alloy, copper alloy, zinc alloy diecasting etc. (see Table 1 below)</td>
</tr>
</tbody>
</table>

The major difference between some Chinese National Standards (CNS) on the one hand and ISO and IEC Standard on the other hand is the designation for industrial materials. As these materials have been imported and used in this country for a long time, the CNS designations for them are well known in the domestic market. Though the compositions and properties of the materials are the same, ISO designations in such examples differ from CNS designations. Please refer for details to the attached Table 1.

These deviations can be considered as fundamental technological problems as specified in Article 2, paragraph 2.2 of the Standards Code, and in Chinese Taipei's view, they are consistent with the Standards Code. If such deviations are found to be inconsistent with the Standards Code, Chinese Taipei would consider aligning them with international standards.
Table 1

<table>
<thead>
<tr>
<th>Industrial material</th>
<th>Chinese National Standard CNS</th>
<th>Designation</th>
<th>Standard number</th>
<th>International Organization Standard ISO</th>
<th>Designation</th>
<th>Standard number</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon steel</td>
<td>S10C</td>
<td>3828</td>
<td></td>
<td>C10</td>
<td></td>
<td>683/1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S35C</td>
<td></td>
<td></td>
<td>C35</td>
<td></td>
<td>683/10</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S55C</td>
<td></td>
<td></td>
<td>C55</td>
<td></td>
<td>683/11</td>
<td></td>
</tr>
<tr>
<td>Aluminium alloy</td>
<td>1100</td>
<td>2068</td>
<td></td>
<td>Al99.DCdc</td>
<td></td>
<td>209-1-1989</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6061</td>
<td>2068</td>
<td></td>
<td>AlKG15ic</td>
<td></td>
<td>209-2-1989</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6063</td>
<td>2068</td>
<td></td>
<td>AlHgSi</td>
<td></td>
<td>209-2-1989</td>
<td></td>
</tr>
<tr>
<td>Copper alloy</td>
<td>C1100</td>
<td>11073</td>
<td></td>
<td>Cu-ETP</td>
<td></td>
<td>1337-1980</td>
<td></td>
</tr>
<tr>
<td></td>
<td>C2100</td>
<td>4383</td>
<td></td>
<td>CuZn5</td>
<td></td>
<td>426/1-1983</td>
<td></td>
</tr>
<tr>
<td></td>
<td>C2700</td>
<td>4008</td>
<td></td>
<td>Ce2zn30</td>
<td></td>
<td>426/1-1983</td>
<td></td>
</tr>
<tr>
<td>Zinc alloy diecasting</td>
<td>ZDC1</td>
<td>3333</td>
<td></td>
<td>ZnAl4Cu</td>
<td></td>
<td>301-1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ZDC2</td>
<td>3333</td>
<td></td>
<td>ZnAl4</td>
<td></td>
<td>301-1981</td>
<td></td>
</tr>
</tbody>
</table>

205. Concerning standards, inspection and quarantine detailed information of the cases where the Chinese Taipei deviates from international rules would be appreciated.

Reply 205

The major difference between Chinese National Standards (CNS) on the one hand and ISO and IEC Standards on the other hand is the designation for industrial materials. As these materials have been imported and used in this country for a long time, the CNS designations for them are well known in the domestic market. Though the compositions and properties of the materials are the same, ISO designations in such examples differ from CNS designations. Please refer to Table 1 provided in Reply 204 for details.

With regard to inspection and quarantine, Chinese Taipei does not consider there is any deviation from international rules. Should there be any deviation found during our reviewing current procedures, we would bring it into conformity with international regulations concerned.

206. It is understood that most of the standards are similar to or in conformity with international standards such as ISO and IEC but there are some deviations due to different customs. Please elaborate on the term
"customs". How many products are involved? Please list the deviations, specify why such deviations exist and explain whether the deviations are consistent with the Standards Code. For those that are not consistent, would Chinese Taipei consider aligning them with international standards?

Reply 206

Please refer to Reply 204.

207. Page 21: Could Chinese Taipei provide copies of the following laws and regulations:

(a) the Commodities Inspection Law and its Enforcement Rules;
(b) Quarantine Requirements for the Importation of Animals and Animal Products;
(c) Regulation for the Control of Infectious Domestic Animal Diseases and its Enforcement Rules;
(d) Quarantine Restrictions on the Importation of Plants and Plant Products.

Reply 207

The following laws and regulations are provided in the Annex:

(1) the Commodity Inspection Law;
(2) the Enforcement Rules for the Commodity Inspection Law;
(3) Quarantine Requirements for the Importation of Animals and Animal Products into the Republic of China;
(4) Quarantine Restrictions on the Importation of Plants and Plant Products into the Republic of China;
(5) Statute for Prevention and Control of Infectious Livestock Diseases;
(6) Enforcement Rules of Statute for Prevention and Control of Infectious Livestock Diseases.

Note: Items 5 and 6 were named as Regulation for the Control of Infectious Domestic Animal Diseases and its Enforcement Rules in document L/7097.

208. Please provide specific procedures of the commodity inspection measures taken according to the Commodity Inspection Law. How long does it usually take to complete the commodity inspection procedures?

Reply 208

The commodity inspection conducted by Bureau of Commodity Inspection and Quarantine, Ministry of Economic Affairs, is carried out in accordance with the Commodity Inspection Law. The inspection procedure usually contains several steps as follows: receipt of application, sampling, packing inspection, testing, and certification, etc. Details of the procedure can be found in Chapter V, the Commodity Inspection Law and in the Enforcement Rules for the Commodity Inspection Law provided in the
Annex. As for the time required to complete the inspection procedure, it varies from item to item. BCIQ has set up a reasonable time-limit for inspection after sampling. For example, it is three to twelve days for household appliances.

209. Would Chinese Taipei please clarify the requirements for product registration. Do these requirements apply equally to locally manufactured and imported items?

Reply 209

(1) Fertilizers and agrochemicals, whether domestically produced or imported, are required to be registered before their being manufactured, marketed or imported.

(2) With regard to registration on pharmaceuticals and cosmetics, please refer to Reply 221.

(3) Automobiles, motorcycles, chemicals for environmental or sanitary uses, formulas made from microganism for environmental or sanitary uses, toxic chemicals, whether domestically produced or imported, are required to obtain an approval from the Administration of Environmental Protection of Chinese Taipei.

210. The Memorandum notes that "Chinese Taipei National Standards" (CTNS) exist. Are these standards developed taking international standards into account? Do CNS comply with recognized international standards? Why are CNS periodically compared with official standards abroad?

Reply 210

(1) In developing CNS, the National Bureau of Standards (NBS) has taken international standards into account.

(2) To make CNS consistent or compatible with international standards is the basic operating principle for the NBS. As of 10 December 1992, 13,423 standards have been established. Some of them are being revised to comply with international standards. Exceptions have been made for the protection of persons, animals, plants and the environment, as well as for reasons of national security and national development in certain areas of science and technology.

(3) CNS are periodically compared with official standards of other countries so as to keep up-to-date with international developments. There have been 539 CNS compared with such international standards as ISO, IEC and CAC. There were sixty-two standards established and thirty-six standards revised between January and October in 1992 after taking international standards into account.

211. Is the certification scheme of the Chinese Taipei's National Standards (CTNS) open to foreigners? If so, please describe the procedures with which foreigners shall apply for a certification in the CTNS system. If
the scheme is not open to foreigners, does Chinese Taipei have a plan to open this scheme to foreigners? If any, please describe the plan to open this scheme to foreigners? If any, please describe the plan.

Reply 211

Chinese Taipei is preparing a set of rules for applying the Chinese national certification mark system to foreigners, based on the principle of national treatment.

212. Please describe the sanitary and phytosanitary regulations, and their adaptation to international standards.

Reply 212

The sanitary requirements of foods shall meet the "Law Governing Food Sanitation". Standards specified in this Law are applied in a non-discriminatory manner. The international (CODEX) standard set by FAO/WHO is one of the references used when establishing each sanitary standard.

Quarantine regulations are established in accordance with social requirements, disease variations, and international trends. One copy of "Quarantine Restrictions on the Importation of Plants and Plant Products into the Republic of China", "Regulations Governing the Quarantine at International Port" and "The Quarantine Regulations on Imported Fishery Products" are provided in the Annex.

213. Please describe the regulations governing fruit imports, including sanitary and phytosanitary provisions.

Reply 213

The regulation on pesticide residue tolerances is promulgated by the Department of Health based on a positive listing principle. The same criterion is applied for both imported and domestic produce.

The phytosanitary requirements for importation of fresh fruit are regulated as follows:

(1) Fresh fruit is prohibited to be imported from the countries or districts where the Mediterranean fruit fly, mango weevil, Chinese citrus fly, peach fruit fly, cucurbit fly, or guava fruit fly is known to have occurred; however, fresh fruit is allowed to be imported from the Mediterranean fruit fly infestation countries under the approval of BCIQ by using the designated quarantine treatment at origin.

(2) Fresh fruit from a country where there exists the codling moth, apple maggot, plum curculio, peach twig borer, Mexican fruit fly, West Indian fruit fly, Queensland fruit fly or South American fruit fly must be attached with a phytosanitary certificate stating that the
fruit has been thoroughly inspected and found free of the above mentioned insects.

214. Could information be provided on the phytosanitary legislation currently being enacted? What are the contents of the bill, and what requirements must be satisfied by exports of fruit to Chinese Taipei?

Reply 214

There has been a draft on the "Act of Plant Protection and Quarantine" sent to the Legislative Yuan on 1 June 1992. It will not become effective until approved by the legislative body. The main contents of the draft include definitions on plants, plant products, pests and diseases, etc.; powers and responsibilities of the authority-in-charge and plant protection (quarantine) personnel, domestic plant protection measures, quarantine requirements on import/export plants and plant products, and compensation and penalty, etc.

With regard to quarantine on fruit, please refer to Reply 213.

215. Could Chinese Taipei please provide details of standards, testing and labelling requirements which apply to agricultural commodities and processed agricultural products?

Reply 215

At present there are 414 kinds of CNS covering agricultural commodities and processed agricultural products established by the National Bureau of Standards. The details on all these standards cover more than 414 pages but will be separately provided, upon request.

216. Chinese Taipei has developed and applied phytosanitary standards for the importation of dairy breeding stock and potatoes that do not reflect normal international standards for these goods. Please explain why, and indicate if there are plans to re-examine this policy?

Reply 216

The quarantine standards for dairy breeding stock and potatoes are in line with normal international standards.

The major objective of all countries in developing phytosanitary standards is how to be free from dangerous plant diseases or insect pests. The quarantine measures applied by Chinese Taipei to the importation of potatoes stem from the same concern. For instance, the golden nematode (Globodera rostochiensis Wr.) and Tobacco blue mould (Peronospora tabacina Adam) are not known to have occurred in the territory of Chinese Taipei; consequently, for the phytosanitary purpose, Chinese Taipei has to ban the importation of their host plant(s), such as potatoes originating from infected areas.
217. Is Chinese Taipei prepared to apply technical standards, such as phytosanitary requirements for fresh fruit, in a transparent manner based on current, valid science and reasonable probabilities of actual harm?

Reply 217

During the process of developing and revising Chinese Taipei's phytosanitary requirements, it not only refers to relevant international scientific publications, such as "FAO Plant Protection Bulletin", "Review of Plant Pathology", "Review of Agriculture Entomology" etc. but also evaluates the possible harm caused by the invading insect pest(s) or the plant disease(s). In addition, comments of related organization(s) are solicited, if necessary. When a regulation is promulgated by the authority concerned, it will be notified to the related associations as well as the related trading partners to make sure that transparency is achieved in the adoption of our phytosanitary requirements.

All phytosanitary requirements for imported fresh fruit can be found in the book "Quarantine Restrictions on the Importation of Plants & Plant Products into the Republic of China", which is included in the Annex.

218. Regarding imports of agricultural products, please answer the following questions:

(i) The exporters of some States encounter difficulties after foot-and-mouth disease has occurred in their territory. They claim they cannot export to Chinese Taipei until one year after termination of vaccination against the disease. Major countries allow imports to resume after a substantially shorter period. Could Chinese Taipei confirm that it applies a one-year waiting period, and explain why it feels that such a period is necessary?

(ii) Is it correct that apart from obtaining a licence from BOFT or the licensing unit authorized by BOFT, in order to export agricultural products to Chinese Taipei one must also obtain an additional licence (from a body named "Council of Agricultures")? If so, please provide details.

(iii) What are the pasteurization requirements for meat in order to be importable into Chinese Taipei (please include temperatures and number of minutes)?

(iv) Is it correct that there is a general import ban on pot plants?

Reply 218

(1) Although Chinese Taipei is a substantial importer of animal products, it also exports processed pork and other animal products to countries like Japan. Therefore, it has to take into consideration the relevant rules of its export market in making its own rules.
The one-year waiting period after the termination of FMD is considered a minimum for controlling foot-and-mouth disease and is set in the Statute for Prevention and Control of Infectious Livestock Diseases.

(2) It is true that the Council of Agriculture must issue letter of approval for certain agriculture imports. BOFT examines the COA letter when issuing import licences on such products.

(3) There is no pasteurization requirement for meat products. However, the thermally processed canned meat products shall be commercially sterile. Other processed ready-to-eat meat products shall be free from pathogens, and their microbial limits are coliform: 10 MPN/g, E. coli: negative.

(4) There is no general ban on pot plants; only some of the pot plants are prohibited to be imported due to plant quarantine requirements.

Since soil is a favourable habitat for some infectious pests, Chinese Taipei, Japan, the United States and other countries prohibit the importation of plants with soil. Besides, as the infectious burrowing nematode has never occurred in Chinese Taipei, pot plants from the countries or districts where the pest is known to have occurred are not allowed to be imported. However, thirty-nine kinds of plants, including Orchid and Family Cactaceae., are the exceptions to this rule, because they are not the host plants of the pest.

219. Import system for alcoholic beverages, in particular wine:

(i) Are there any discriminatory measures on grounds of origin or sanitary or phytosanitary conditions affecting entry?

Reply 219

Imports of alcoholic beverages are not subject to phytosanitary requirements. Since 15 March 1993, Chinese Taipei has liberalized all restrictions on alcoholic beverages originating from all GATT contracting parties, except that importation of alcoholic beverages from Japan is still not allowed.

220. The Memorandum states that export and import commodities subject to statutory inspection are inspected according to CNS.

(i) What commodities are subject to statutory inspection?

(ii) Can Chinese Taipei state categorically that all its safety and phytosanitary inspection requirements applied to imports are equally applied to domestic goods?

(iii) Please describe how standards and statutory inspections are applied to domestic products and to imports.
Reply 220

(1) Commodities designated and promulgated by the Ministry of Economic Affairs, pursuant to Article 2 of the Commodity Inspection Law, are subject to statutory inspection and are published in the "Customs Import Tariff and Classification of Import and Export Commodities, Supplement" which is provided in the Annex.

(2) All our safety inspection requirements are equally applied to imported and domestic goods. However, the phytosanitary inspection of imports and that of domestic goods are different because they mainly deal with different types of plant diseases and insect pests; therefore, the requirements cannot be the same.

(3) Pursuant to the Commodities Inspection Law, standards and statutory inspections are equally applied to domestic products and to imports.

Reply 221

The requirements for registration of imported pharmaceuticals, cosmetics, and medical devices are the same as for domestic. The translations of "Requirements for Imported Drug Registration" and "Law for the Control of Cosmetic Hygiene in the Republic of China" are provided in the Annex. Requirements and approval standards for importing the above mentioned products in Chinese Taipei do not exceed those imposed by health authorities of United States, Japan, or the European Communities.

Reply 222

Yes, domestic Hi-fi and stereo equipment are required to be inspected for safety purposes in the same manner as required for imports. The requirements are published in the "Provisional Standard for Hi-Fi and Stereo Equipment" provided in the Annex.

Reply 223

Are domestic food products subjected to inspections in the same manner as imports?
The sanitary requirement for food products, whether domestic or imported, follow the same standards as set forth in the Law Governing Food Sanitation. Domestic producers and processors bear the primary responsibility for complying with the Law Governing Food Sanitation. Their products are statutorily inspected by the local health authorities.

Imported foods are inspected at the port of entry by the Bureau of Commodity Inspection & Quarantine, Ministry of Economic Affairs. While being sold on the local market, they are statutorily subject to the inspection of the local health authorities.

Regarding quarantine, the items subject to statutory inspection are stated in Article 18 of the "Regulations Governing the Quarantine at International Port". In order to maintain effective quarantine and to protect public health, domestic goods are also inspected. Once goods are found contaminated by toxigenic *vibrio cholerae*, they shall be destroyed.

224. Please describe how importers or foreign exporters of food products go about satisfying domestic requirements for safety and purity listed in this section of the Memorandum? How does this process differ from that applied in the case of domestic food products?

Reply 224

Please refer to Reply 223.

225. Please describe Chinese Taipei's regulations for determining acceptable levels of pesticide residue as they are applied to domestic and imported produce. Is Chinese Taipei prepared to adopt international standards in the application of pesticide residue requirements and to apply any requirements equally to domestic and foreign produce?

Reply 225

The regulation on pesticide residue tolerances is promulgated by the Department of Health based on a positive listing principle. The same criterion is applied for both imported and domestic products. The international (CODEX) standard set by FAO/WHO is one of the references when establishing the pesticide residue tolerance.

226. Considering that Chinese Taipei applies inspection and quality assurance norms in accordance with latest international guidelines, would Chinese Taipei have any difficulty in adhering to the TBT Agreement (Standards Code)?

Reply 226

Chinese Taipei in principle is prepared to adhere to the Standards Code upon accession but wishes to have a transitional period to rectify its
existing practices found to be inconsistent with the provisions of the Code.

227. Will Chinese Taipei commit unambiguously to adhere to the TBT Agreement (Standards Code) at the time of accession?

Reply 227

Chinese Taipei intends to adhere to the GATT Standards Code but wishes to have a transitional period to rectify its existing practices found to be inconsistent with the provisions of the GATT Standards Code.

(2) Quarantine

228. Could Chinese Taipei provide copies of the various laws and requirements concerning quarantine mentioned on page 21 of document L/7097.

Reply 228

Please refer to Reply 207.

229. Could Chinese Taipei please clarify the rôle of the Council of Agriculture and other organizations responsible for quarantine and health regulations in decisions on licensing imports?

Reply 229

Please refer to Reply 109.

230. In what manner are the criteria for quarantine and treatment prescribed for imports in the laws and regulations listed in this section applied to similar domestic animals, plants, and by-products in Chinese Taipei? What Ministry or Ministries administer such requirements for domestic goods?

Reply 230

Among the four quarantine laws and regulations listed in page 21 of the Memorandum, (c) is applied to both domestic and imported products, while (a), (b) and (d) are only applied to imports. This is because the target diseases and pests concerned for imports and domestic products are different.

The quarantine requirements are established by the Council of Agriculture, the Executive Yuan and administered by local agencies as follows: (a) Department of Agriculture and Forestry, Taiwan Provincial Government, (b) Bureau of Reconstruction, the Municipal Government of Taipei, and (c) Bureau of Reconstruction, the Municipal Government of Kaohsiung.

231. Facilities for the administration of Chinese Taipei's quarantine procedures for imports at the ports appear inadequate to deal with the
volume of imports or to ensure proper storage of perishable goods. In addition, quarantine requirements are changed in some cases without advanced notices.

(i) How does Chinese Taipei intend to improve and/or simplify these situations? Will Chinese Taipei commit to establishing a fixed period of advanced notice for quarantine regulations, e.g. three months, except under emergency circumstances?

Reply 231

Chinese Taipei has set up various kinds of quarantine facilities at the ports to improve the quarantine administration. It is planning to acquire new facilities to deal with the increasing volume of imports. Although the amending of quarantine requirements usually results from unexpected quarantine information, Chinese Taipei will consider establishing a fixed period of advanced notice for quarantine regulations, except under emergency circumstances. In addition:

(1) Chinese Taipei will continue to simplify quarantine procedures;

(2) quarantine is called upon usually under emergency circumstances. Chinese Taipei has no intention whatsoever to cause inconvenience or damage to importers/exporters. It intends as mentioned above to establish a fixed period of advanced notice for quarantine regulations where necessary and administratively possible.

232. Are there provisions in the procedures for the development of Chinese Taipei's quarantine restrictions allowing for comment by import suppliers prior to implementation? If not, would Chinese Taipei be willing to develop such provisions?

Reply 232

It is normal to receive comments and put into consideration when developing or revising quarantine restrictions. Chinese Taipei's authority normally would consult with quarantine specialists and, when necessary, solicit comments from related associations or organizations.

7. Trade Agreements

233. Does Chinese Taipei grant preferential tariff treatment to the imports from any country of customs territory? If so, to which countries and customs territories and under what conditions?

Reply 233

Presently, Chinese Taipei does not provide preferential tariff treatment to any countries or customs territories other than its two-column system. If such treatment is to be granted in the future under the framework of the GATT, such as GSP, screening criteria will be established;
exporting countries will be requested to provide a list of products, in respect of which they wish to benefit from such preferential treatment.

Apart from bilateral agreements entered into with South Africa and the United States exempting them from a portion of the customs duties for certain ground equipment, Chinese Taipei currently has not granted preferential tariff treatment to any country or customs territory.

234. What portion of Chinese Taipei's imports are currently subject to preferential tariff rates, e.g. non-m.f.n. tariffs, under free trade agreements and or preferences?

Reply 234

Please refer to Reply 233.

235. Chinese Taipei has concluded a number of preferential trade agreements. Could Chinese Taipei provide figures on the proportion of foreign trade covered by these arrangements together with the corresponding trade flow statistics? Will these arrangements terminate or will they be extended "erga omnes" when Chinese Taipei accedes to GATT?

Reply 235

(1) Chinese Taipei does not establish or maintain statistics on the proportion and the volume of trade flow of this kind.

(2) Chinese Taipei will, after accession to GATT, practice in accordance with relevant GATT provisions.

Chapter III - Other policies affecting foreign trade

1. Industrial Policy

236. Would Chinese Taipei provide more information regarding the operation of its science-based industrial park i.e. under what kind of arrangements or through what means are the latest research and development facilities made available to local enterprises?

Reply 236

The Science Park Administration may conclude a co-operation arrangement with appropriate educational or academic institutions through which the Administration may make education of needed personnel, R & D of renovated technology, and exchange of the uses of technicians and machinery facilities available to enterprises.

Within the Park, there are National Tsing Hua University, National Chiao Tung University, Tsu-Chian Industrial Institute Foundation, Industrial Technology Research Institute, all of which are capable of exchanging relevant technologies with enterprises in the Park. They may,
through various ways, exchange the uses of facilities and technologies with one another.

237. Page 22, paragraph 2: Reference is made to the "Statute for Upgrading Industries". Could Chinese Taipei provide a copy of this Statute for review? What steps were taken "to encourage" industrial and high technology development? What are the "incentives" mentioned in this paragraph?

Reply 237

(1) English translation of the "Statute for Upgrading Industries" is provided in the Annex.

(2) Companies limited by shares incorporated under the Company Law of Chinese Taipei are eligible for the incentives provided under "the State for Upgrading Industries". The Statute adopts tax exemption/reduction as the principal measures to stimulate the industrial and technological development, and grants the tax credit benefits to investments in research and development, manpower training and production automation.

(3) The "incentives" mentioned in the referenced paragraph include the following:

(a) those generally available to all industries: accelerated depreciation (see Article 5 of the Statute), tax credit (see Article 6 and 7), and development of industrial zones (see Chapter V);

(b) those specifically applicable to hi-tech industries are shareholders' tax credit (see Article 8) and in the event of a shortage of supply of industrial zones, hi-tech industries will be granted priority.

238. In the context of its industrial policy, in 1990 Chinese Taipei promulgated a "Statute for Upgrading Industries" and in February 1991 "Statute for the Development of Small and Medium Enterprises". Could Chinese Taipei provide a copy of these statutes and indicate the amount of resources allocated to these industrial promotion measures?

Reply 238

Both the "Statute for Development of Medium and Small Business" and the "Statute for Upgrading Industries" are provided in the Annex.

During the year of 1991, the estimated amount of tax exemption/reduction was approximately US$125,000,000 based on the Statute for Upgrading Industries.

According to the Statute for Development of Medium and Small Business, the authority of Chinese Taipei shall, in principle, provide necessary
assistance to medium and small business through the Medium and Small Business Fund. The total amount of the fund is US$480,000,000, which will be endowed through government budget. At present, assistance worth approximately US$120,000,000 has been provided. The Fund started its operation in 1992.

239. Concerning the "Statute for Upgrading Industries" promulgated on 29 December 1990:

(i) please describe the provisions of this Law in greater detail, in particular listing the incentives available. Please provide a copy, in translation, of this Law;

(ii) please describe in more detail how Chinese Taipei intends to create a "favourable environment" for the development of industries deemed desirable for each stage of development, particularly for the current high-tech and high-value-added industries, in addition to the science-based park?

(iii) what other publicly-funded projects, in addition to the Science-Based Industrial Park, have been undertaken or have been planned for the future?

**Reply 239**

(1) Please refer to the Statute for Upgrading Industries (English translation of the Statute is provided in the Annex), especially its Chapter II on tax benefits for incentives offered by the Statute.

(a) incentives generally available to all industries are among others, accelerated depreciation (see Article 5 of the Statute), tax credit (see Articles 5, 6 and 7) and development of industrial zone (Chapter 5);

(b) incentives specifically apply to hi-tech or high value-added industries is shareholders' tax credit (see Article 8), and in the event that industrial zones are in short supply, hi-tech or value-added industries will be given priority.

(2) Measures taken by Chinese Taipei to promote the development of hi-tech or high value-added industries are as follows:

(a) to create a favourable investment environment by use of measures set forth in the Statute;

(b) to enhance the development of industrial areas, to ease the acquisition of land requirements for factory construction by investors and to satisfy the long-term industrial land requirement of domestic industry;

(c) to provide support to research institutions for development of "generic technology" and to make the results of such research available to private sector at reasonable cost;
(d) to carry out long-term and medium-term training programmes to produce highly qualified technical personnel so as to upgrade domestic industrial level;
(e) to implement the Six-Year National Development Plan to provide the necessary infrastructure for further development.

(3) Currently, in addition to the Science-Based Industrial Park, there is no publicly funded project having been undertaken or planned for the future under the "Statute for Upgrading Industries."

240. Please indicate which, if any, industrial commodities currently benefit from domestic income and price supports, or from other domestic subsidies which might affect trade.

Reply 240

Currently, no industrial commodities benefit from domestic income and price supports or from other domestic subsidies which might affect trade.

241. Does Chinese Taipei offer any official trade credit or export credit guarantees to finance Chinese Taipei's exports? If so, at what terms?

Reply 241

Chinese Taipei used to offer export credits with preferential interest rates, e.g. the scheme of pre-export loans, during the 1950s and 1960s. It was abolished in 1974. The Export-Import Bank of the Republic of China (Ex-Imbank), a specialized bank established under the Export-Import Bank of the Republic of China Act", is responsible for both export-import financing programmes and export insurance schemes. The programmes and schemes include:

(1) 181-360-day export credits: Ex-Imbank supplies working capital loans to local export firms in case the payment under the export contract to be effected from 181 days to 360 days from the execution date of export contract. Providing collateral or other repayment assurances is required. Currently, Ex-Imbank charges interest at the rate of 7 per cent per annum for NT dollar loans and at 0.75 per cent above LIBOR for United States dollar loans.

(2) Medium and long-term export credits: Ex-Imbank provides deferred payment export credits, with tenure over one year, to exporters of Chinese Taipei or foreign importers for the shipments of machinery and equipment, turnkey plants capital goods, etc. The amount of down payment by the foreign importers shall not be less than 15 per cent of the f.o.b. contract value. Ex-Imbank charges interest at the fixed rate between 6.5-7 per cent per annum for NT dollar loans and 6-7.25 per cent per annum for United States dollar loans.

(3) Fixed Rate Relending Facility: Ex-Imbank provides overseas commercial banks on a fixed interest rate basis for relending to their clients who wish to purchase manufactured goods from Chinese Taipei.
Ex-Imbank offers at the fixed interest rates of 5.5 per cent, 6 per cent and 6.75 per cent per annum respectively according to maturity.

242. Does Chinese Taipei offer confessional loans, tax credits, or other inducements for investment that are tied to export requirements for the investing enterprise?

Reply 242

Chinese Taipei does not offer any concessional loans for the investment stated above. However, the Ex-Imbank provides an overseas investment financing programme which finances domestic firms seeking overseas investments. This financing programme does not provide a more favourable interest rate in comparison with rates offered by other banks with respect to any other types of commercial loans. However, the Ex-Imbank, equipped with specialized knowledge in such financing, is better able than other commercial banks to finance overseas investment approved by the Investment Commission of Chinese Taipei. Such financing is not in any way conditional upon or tied to export requirement.

243. Are there any other programmes that facilitate or enhance exports through grants or bounties, or other measures that promote increased exports? If so, please specify which products are eligible for such benefits.

Reply 243

There is no such programme in Chinese Taipei currently.

244. The Ministry of Finance is vested with responsibility to "support the development of agricultural, industrial and commercial sectors". How is this accomplished? What specific financial policies and activities are implemented in support of the development of these sectors.

Reply 244

In order to achieve optimum economic outcomes, the Ministry of Finance, the highest competent authority that regulates banking activities pursuant to the Banking Law, has improved our financial system, by which domestic savings can be effectively channelled into agricultural, industrial and commercial sectors, and hence generate the desirable efficiency in terms of capital allocation. To support development of the three major sectors of the economy - agriculture, industry, and commerce, the Ministry of Finance, for example, has legislated the formation of the Farmers Bank, Chiao Tung Bank and the Medium Business Bank of Taiwan under the authority of the Banking Law. These financial institutions, equipped with specialized knowledge to deal with particular sectors of the economy, are better able to provide medium and long-term financing for those sectors.
245. Please describe production subsidies available in Chinese Taipei. What industries are afforded subsidies and what form do these subsidies take? What are the criteria under which industries are granted subsidies and under what conditions are subsidies discontinued?

Reply 245

Please refer to Reply 8.

246. Would Chinese Taipei provide detailed information on its fiscal and financial assistance to export companies?

Reply 246

In Chinese Taipei's view, the fiscal or financial assistance granted to export companies does not constitute an export subsidy that falls within the preview of Articles VI and XVI of the General Agreement. The financial assistance granted to export companies is set out in Reply 241.

247. Do these export companies benefit from any domestic export subsidies? Does Chinese Taipei have any intention to join the Agreement on Subsidies and Countervailing Duties?

Reply 247

Export companies do not benefit from any export subsidies. As stated in the Memorandum on Foreign Trade Régime, Chinese Taipei will, upon accession to GATT, adhere to both the Anti-Dumping Code and Subsidies Code.

248. Textiles: Does Chinese Taipei have any subsidies in this sector. Please provide information on what Chinese Taipei does in the area of combating circumvention.

Reply 248

Textile subsidies: All the measures for upgrading industries and developing the economy are provided for in the "Statute for Upgrading Industries", which does not provide for any subsidies specifically for textiles.

Combating Circumvention: Chinese Taipei has adopted several major policy initiatives to prevent illegal textile trans-shipment. These measures fall into two categories:

(1) Administrative regulations:

   (a) country-of-origin marking requirements for certain imported textile products;

   (b) penalties for circumventing the administration of the Custom Territory of Chinese Taipei's quota system, or unlawful utilization of export quotas;
(c) suspension of applications for conducting overseas processes in Vietnam;
(d) strengthened measures for facilitating the investigation of alleged illegal trans-shipment;
(e) special customs requirements for textile products imported from Hong Kong, Vietnam and Macao;
(f) textile importation surveillance mechanism.

(2) Formation of Ad Hoc Committee for Investigating Textile Trans-shipment

To enhance its capacity to investigate illegal textile trans-shipment, BOFT established the Textile Audit Task Force in January 1992 as the Ad Hoc Committee for Investigating Textile Trans-shipment (hereinafter referred to as the "Ad Hoc Committee"). The Ad Hoc Committee has an expanded mandate. It is an inter-ministerial organization with members drawn from the following agencies:

- the Bureau of Investigation, Ministry of Justice;
- the Directorate General of Customs, Ministry of Finance;
- the National Tax Administration, Ministry of Finance;
- Board of Foreign Trade;
- Taiwan Textile Federation.

249. Would Chinese Taipei provide detailed information on its import ban and control on automobiles from certain countries? Does it have any future plans to liberalize automobile imports?

Reply 249

Please refer to the "Table of Restrictive Area Commodities on Importation" in the Annex for the area restrictions on sedan, station wagon, other passenger cars, and trucks, etc. In principle, the importation of automobiles is going to be open without limit or by means of a quota bidding system for all countries with certain exceptions.

The principles for import ban and control on automobiles are as follows:

(1) At present, only sedans manufactured in North American and European (exclusive of East European) countries and the light trucks and station wagons made in European and American countries may be imported. Import of heavy-duty trucks is fully liberalized.

(2) However, except for the sedans with engine displacement of 3,000 cc or less made in Japan, import ban over other sedans with engine displacement above 3,000 cc made in Japan will be gradually liberalized starting from 1994.

The import ban, if any, as currently applicable to areas other than Japan will be phased out gradually, or relieved by means of quantitative restrictions in accordance with the principle of equality and reciprocity.
250. Would Chinese Taipei provide the list of countries and products against which it is actually conducting anti-dumping investigations? Does it have any intention to joint the Anti-Dumping Code?

Reply 250

Please refer to Reply 62.

251. Please report on the status of the China Steel Rebates, which rebates to exporters the difference between Chinese Taipei steel prices and world steel prices. Are there any other subsidies provided to users and/or producers of steel products which may affect export capability?

Reply 251

There are two domestic selling prices for CSC-steel products: the domestic price and the indirect export price.

Basically, the selling price of CSC's steel products are fixed by taking into considerations market conditions, exchange rate fluctuation, import duty, and the c.i.f. price of imported foreign product in competing with the domestic down-stream steel industry. The domestic price applies solely to the downstream products destined for domestic consumption, while the indirect export price applies to all the downstream industries engaged in export processing activities rather than certain selected enterprises or industries.

The price difference between the "indirect export price" and the "domestic price" corresponds to the amount of import duties on the corresponding imported steel products. The price difference has been greatly reduced following the continuous adjustment of import duty rates. The "indirect export price" is used to equalize the competitive positions of the down-stream industries using CSC's steel products with those using imported steel products. The system is similar in effect to a system of duty-drawback which is GATT-consistent. Therefore, the "indirect export price" shall not be considered as a "subsidy" or "rebate." It is worthy to note that in a 1986 countervailing duty case filed against Chinese Taipei exports to the United States using CSC's steel, the United States investigative authority did not consider CSC's pricing practice as a subsidy.

In addition, CSC has adopted a "quantity discount" system in accordance with the customary practice in the market to offer different discount rates to customers according to the quantities of CSC steel products they purchase. Such practice is in line with private producers' practices.

252. Please describe the current relationship between the central authorities in Chinese Taipei and enterprises engaged in manufacturing aerospace products or providing aviation services, including the following information:
What is the extent of official Chinese Taipei investment, ownership and other forms of control or involvement in these enterprises, directly or indirectly through mechanisms such as loan guarantees?

Reply 252

The policy of Chinese Taipei in respect of the aerospace industry is to encourage the private sectors' participation in the industry. However, it does not provide loan guarantees as an incentive. The Government currently does not have joint venture with private sectors or otherwise participate in investment organized by the private sectors in the area of aerospace products, unless such investment is based on commercial considerations.

Except for the 29 per cent government shareholding, the equity capital of Taiwan Aerospace Company comes from banks and private investors. The government investment in this company is based on commercial grounds. Government participation normally would not exceed 50 per cent of the equity holding of the relevant sectors. The intention is not to have majority control over the venture.

Concerning Chinese Taipei's recent joint venture agreement with British Aerospace to build aircraft with partners in Chinese Taipei:

(i) Please describe in detail the provisions of the agreement, including its purpose, how the joint venture is structured, the nature of Chinese Taipei enterprise participation in the joint venture, and the relationship of the executive authority, either directly or indirectly, to this joint venture and its establishment.

Reply 253

Taiwan Aerospace is a private company and its joint venture agreement with British Aerospace is purely a commercial arrangement outside the influence of the government. Chinese Taipei's participation in the joint venture company is limited to a 29 per cent equity shareholding. The authorities of Chinese Taipei are not in a position to reveal the content of the joint venture agreement, as it is a private document containing business confidential information privileged to the parties directly involved.

When civilian or military entities in Chinese Taipei purchase imported aerospace products, do the central authorities, either directly through control of official purchases or indirectly through another entity require "offsets" e.g. domestic purchases, countertrade, as a condition for the purchase? Please describe Chinese Taipei policy with respect to such "offsets" and list the types of such commitments currently required.
Reply 254

With regard to the "industrial co-operation" issue, currently for major procurement projects of the government and government-owned enterprises for aerospace products and associated equipment, the Committee for Aviation and Space Industry Development is authorized to sign an "Industrial Co-operation Agreement" with the foreign supplier on the condition that the foreign supplier shall provide a credit line in an amount equal to a certain percentage of the total purchase price as a commitment for technology transfer and purchase of domestic aerospace products. This type of industrial co-operation agreement is performed by the foreign supplier without being subject to contractual or statutory penalties.

Private enterprises are also encouraged to adopt the industrial co-operation concept, but they are not forced to do it. For details, please refer to the Aeronautics and Space Industries Development Programme provided in the Annex.

255. Will Chinese Taipei state categorically that it will adhere to the Code on Trade in Civil Aircraft at the time of accession to the GATT?

Reply 255

After careful consideration, Chinese Taipei for the time being is not prepared to accede to the Code, but its practices will take into account the Code requirement.

256. It is understood that the central authorities intend to use procurement for the Chinese Taipei Power Company's "Dragon Gate" Nuclear Power Project to develop domestic nuclear services and component manufacturing industries. In this regard, will the Chinese Taipei central authorities or the Chinese Taipei Power Company require foreign vendors to offer "offsets" e.g. required domestic purchases, countertrade, technology transfer, investment, subcontracting, or buy-back purchases, or a requirement to participate in a "credit pool" as a condition for the procurement?

Reply 256

The industrial co-operation requirement is used principally for improving the operation stability, safety, and long-term maintenance capability of nuclear power plants and for enhancing the domestic manufacturing capability of certain parts and components as well as safety analysis capability.

2. Agricultural Policy

257. Page 9: Agricultural employment is cited as representing 12.3 per cent of total employment in 1990. What proportion of the work force is currently engaged full-time in agricultural production?
According to the statistics of the Manpower Resource Survey, agricultural labour force represented 12.8 per cent of the total employment in 1990. Those who are regularly engaged in agricultural production are classified as agricultural labourers regardless of whether or not they are occasionally engaged in non-agricultural production. The statistics for those who are engaged full-time in agricultural production is not available.

258. It is noted on page 22 that four million people still depend on agriculture for their living and on the same page that in 1990 only 35.2 per cent of total farm family income was derived from farming. This suggests that the agricultural labour force includes a large number of part-time farmers. Could Chinese Taipei please provide a breakdown of the agricultural labour force into full-time and part-time farmers and agricultural labourers, according to proportion of income earned from agriculture?

Reply 258

The statistical data of full-time and part-time farmers is not available. But Chinese Taipei does have the statistics of full-time and part-time farms. According to the following statistics, 30.5 per cent of the farms have their income mainly from farming.

<table>
<thead>
<tr>
<th>Total farm families</th>
<th>860,634</th>
<th>100.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time farm families</td>
<td>114,100</td>
<td>13.2%</td>
</tr>
<tr>
<td>Part-time farm families (1)</td>
<td>149,568</td>
<td>17.3%</td>
</tr>
<tr>
<td>Part-time farm families (2)</td>
<td>599,966</td>
<td>69.5%</td>
</tr>
</tbody>
</table>

Note: (1) refers to the farm families whose income mainly derives from farming.
(2) refers to the farm families whose income mainly derives from non-farm sources.

Source: Agricultural Censuses of Taiwan, Fukien District of the Republic of China, DGBAS, Executive Yuan.

259. Chinese Taipei describes the importance of structural adjustment in the development of its prosperous, internationally competitive economy on pages 4-14 of document L/7097. It notes the importance of the shift of resources from the agricultural to the manufacturing and services sectors as especially important in this process. In its statement of 6 November 1992, Chinese Taipei cited labour shortages as a particular constraint to future economic growth. Chinese Taipei also noted on page 4 of L/7097 that it has benefited greatly from trade liberalization by contracting parties and its determination to co-operate with contracting parties to "defend an open trading system based on competition". Chinese Taipei acknowledges on page 22 that most of its agricultural products are no longer internationally competitive.
(i) In view of Chinese Taipei's overall economic and trade policy direction, what policy programme does Chinese Taipei have or intend to implement to promote the application of the principle of international competition to this agricultural sector and, specifically, to reduce protection of this sector to levels comparable with other sectors of its economy, particularly in order to foster the structural adjustments it has stated will be required to maintain future economic growth?

Reply 259

Chinese Taipei will liberalize agricultural trade, in accordance with the relevant GATT rules including agreements reached in the Uruguay Round. As already stated, Chinese Taipei will not expect special and differential treatment in the agriculture sector. Chinese Taipei will be happy to enter into negotiations with its trading partners on the terms and conditions of the liberalization of its agriculture sector.

260. Chinese Taipei indicated its intention to adopt a more market-oriented agricultural policy. The Integrated Agricultural Adjustment Programme is currently operated with an aim, inter alia, to avoiding the adoption of market-distorting measures and gradually phasing out price supports. In this context, please provide details on its implementation.

Reply 260

Chinese Taipei is currently implementing an integrated agricultural adjustment programme with the aim of adjusting the agricultural structure in the light of the overall economic development. During the course of adjustment, some farmlands will be transferred to the non-agriculture sectors. As for the adjustment in the price-support policy, Chinese Taipei will after its accession to the GATT deal with the matter according to the outcome of the Uruguay Round.

261. Could Chinese Taipei please provide a list of the "market-distorting measures" referred to on page 23?

Reply 261

Chinese Taipei considers quantitative restriction, area restriction and price support scheme to be potentially market distorting as referred to on page 23, but wishes to emphasize that such measures even when causing market distortion may be important instruments for social and other non-economic policies. Chinese Taipei will, as stated in the Memorandum, avoid the adoption of market-distorting measures which are not otherwise justified.

262. In the context of possible future measures and the reduction of market-distorting measures, how does Chinese Taipei intend to treat consumer as well as producer subsidies now in existence?
Chinese Taipei does not provide consumer subsidies for agricultural products, and will bring its producer subsidy programme in line with the result of the Uruguay Round, after its accession to the GATT. As previously stated, Chinese Taipei intends to accede to the Subsidies Code upon accession.

263. Page 23: More information is required on what precisely is meant by Chinese Taipei's willingness to adopt an agricultural régime which allows for gradual liberalization and gradual reduction of tariffs.

The average nominal tariff rate of agricultural products (Chapter 1-24) was reduced from 34.82 per cent in 1986 to 21.63 per cent in 1992.

Chinese Taipei has been making efforts to liberalize its foreign trade for many years. It lifted the import bans on cuttle fish and watermelon seeds in 1992, and saury, pumpkin seeds, canned chicken meat and canned garlic bulbs in 1992. The policy of Chinese Taipei is to continue its trade liberalization.

In further liberalizing the agricultural trade, Chinese Taipei will take into account the results of the Uruguay Round.

264. Page 22: How is Chinese Taipei gradually opening the agricultural market?

The average nominal tariff rate for agricultural products (Chapter 1-24) was reduced from 34.82 per cent in 1986 to 21.63 per cent in 1992, down 40 per cent.

In 1991 Chinese Taipei lifted the import bans on ten products such as cuttle fish products and melon seeds. In 1992, it lifted the import bans on fourteen products, including gaury products, pumpkin seeds, canned meat of fowls, and canned garlic bulbs. Efforts to liberalize agricultural trade will continue.

In liberalizing the agricultural trade, Chinese Taipei will take into account the results of the Uruguay Round.

265. Can Chinese Taipei confirm that it applies no subsidies to exports of agricultural or processed agricultural products?

Chinese Taipei does not provide any export subsidy for any agricultural product.
266. Does Chinese Taipei grant export subsidies for agricultural products? If so, please describe these programmes.

Reply 266

Chinese Taipei does not provide any export subsidy for agricultural products.


Reply 267

Expenditures by Chinese Taipei's central authorities to support domestic agricultural prices during 1989-1992 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Expenditure (unit: NT$ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>10,143</td>
</tr>
<tr>
<td>1990</td>
<td>16,694</td>
</tr>
<tr>
<td>1991</td>
<td>18,060</td>
</tr>
<tr>
<td>1992</td>
<td>15,811</td>
</tr>
</tbody>
</table>

268. Please provide more information about the systems of price support and subsidies in the area of agricultural production.

Reply 268

The agricultural products which benefit from domestic price supports are rice, soybeans, corn and sorghum. There is no export subsidy for the said products.

The range of products which benefit from domestic price supports is smaller than that of developed countries. Chinese Taipei has been a substantial importer of soybeans, corn, sorghum and wheat. Such imports account for 95 per cent of the domestic needs. The grain imports of Chinese Taipei have contributed greatly to the world agricultural trade.

269. Page 7: Can more information be provided on agricultural policy, such as:

(i) Nature and extent of existing agricultural support (price support, guaranteed purchase prices, export subsidies, subsidies on inputs) and a list of the products which are subject to any of these or other types of support?

(ii) What are the future plans for liberalization of agricultural policies?

(iii) Are tariff and non-tariff barriers applied in an m.f.n. manner?
(iv) Is there a timetable for phasing out existing agricultural price support arrangements?

Reply 269

(1) Purchase price guarantees are the main price support measure in Chinese Taipei. Currently, this system applies to only rice, corn, soybeans and sorghum. There is no export subsidy for any agricultural product.

(2) The policy of Chinese Taipei is to further liberalize its agricultural sector. The speed and scale of the liberalization will depend upon the outcome of the Uruguay Round negotiation in relation to agricultural trade.

(3) All the tariff measures in Chinese Taipei are in conformity with the principles of m.f.n. The non-tariff measures which are not consistent with the m.f.n. rules will be dealt with along the line of the outcome of the Uruguay Round.

(4) Chinese Taipei will phase out the agricultural price support measures in line with the outcome of the Uruguay Round.

270. Could Chinese Taipei explain what effect, if any, a price support programme will have on exported products.

Reply 270

Chinese Taipei does not consider that the price support programme has effects on its exportation. Take the four products mentioned above for example, no encouragement of exportation is made through export subsidy or other similar means. Instead, the above-mentioned products are mainly sold for domestic consumption. Nonetheless, since domestic demand cannot be satisfied by its own production, Chinese Taipei imports soybeans, corn, sorghum and wheat in large quantities. The imports account for 95 per cent of its domestic needs. The grain imports have contributed greatly to the world agricultural trade.

271. Can Chinese Taipei please provide details of its programme for phasing out agricultural price supports (page 23).

Reply 271

There are price supports for rice, corn, soybeans and sorghum. The price support programme for rice has been operated since 1974. The price supports for corn, soybeans and sorghum have been operated since 1984.

In many contracting parties there exist many different price support programmes for their agricultural products. The range of farm products of Chinese Taipei which receive benefits from the domestic price support scheme is smaller than that of the developed countries. In the future,
Chinese Taipei will bring its practices in line with the outcome of the Uruguay Round, after its accession to the GATT.

272. Page 22-23: Please explain the functioning of the price support programme and list the products supported. Also, please list the products for which border measures are taken and explain the content of these measures. Please mention which phasing out measures have already been finally decided upon.

Reply 272

Under the price support programme, the Government purchases agricultural products from farmers at guaranteed prices. The guaranteed price is set at 120 per cent of the production cost of the relevant product. But the amount of such purchase is limited. The purpose of the price support programme is to maintain the prices of the relevant agricultural products at such a level as to support farmers' income.

The agricultural products which benefit from domestic price supports are rice, soybeans, corn and sorghum. There is no export subsidy for the products mentioned above. The purpose for the rice programme is to maintain a comfortable rate of self-sufficiency in rice and to maintain farmers' income. The price supports for soybeans, corn and sorghum are directed at complementing the plan to reduce rice acreage and more efficient use of farm land rather than increase in the production of such products. A rice crop substitution programme has been implemented since 1984. The planted area of rice has decreased by 36.3 per cent, from 646,000 hectares in 1983 to 411,000 hectares in 1992. During the same period, production has decreased by 33.6 per cent, from 2.48 million metric tons to 1.65 million metric tons. The reduction in rice output is remarkable. The range of products which benefit from domestic price supports is much smaller than that of the developed countries. Also, Chinese Taipei has been a substantial importer of soybeans, corn, sorghum and wheat. Such imports account for 95 per cent of our domestic needs. The grain imports of Chinese Taipei have contributed greatly to the world agricultural trade.

Chinese Taipei has already stated its intention to move toward a direct payment method of support in line with Uruguay Round outcomes.

With regard to those products for which border measures are taken, please refer to Reply 135.

273. Page 23, paragraph 2: "Chinese Taipei set up price support programmes and introduced a certain number of border measures for a few products". What is the nature of the price support programmes (i.e. do they utilize direct subsidization or supply management techniques) and border measures referred to in the Memorandum?
Reply 273

Please refer to Reply 272 for information on price support programmes and Reply 135 for information on border measures.

274. Please provide details on the current programme of price support and border measures governing agricultural products with a view to achieving food self-sufficiency objectives. How do the measures and their associated mechanisms work?

Reply 274

The agricultural products which benefit from domestic price supports are rice, soybeans, corn and sorghum. There is no export subsidy for the products mentioned above. To increase farmers' income and to maintain stable food supply, the authority of Chinese Taipei has implemented a price support programme for rice. The price support programme is operated by the provincial Food Bureau. The total amount of the purchase is 4,800 kg. per hectare per year, of which 2,800 kg. are purchased at guaranteed prices. The prices for guaranteed purchase and supplementary purchase for Japanica rice are NT$19 and NT$16.5 per kg., respectively. The prices for guaranteed purchase and supplementary purchase for Indica rice are NT$18 and NT$15.5 per kg., respectively. Other crops which are currently eligible for the guarantee-price purchase are soybeans, corn and sorghum. These price support programmes are also operated by the Provincial Food Bureau. The range of the products which benefit from domestic price supports is smaller than that of the developed countries.

The aim is to maintain self-sufficiency in certain selected foodstuffs rather than in all foodstuffs. Chinese Taipei has been a substantial importer of soybeans, corn, sorghum and wheat. Such imports account for 95 per cent of the domestic needs. Chinese Taipei's grain imports have contributed greatly to the world agricultural trade.

275. Concerning Chinese Taipei's internal and external measures to support agricultural production:

(i) Please indicate which agricultural commodities currently benefit from domestic income and price supports, or from other domestic subsidies which might affect trade, e.g. corn, sorghum, wheat, chicken, rice, and sugar.

(ii) Please describe in detail how Chinese Taipei's domestic price support and subsidy system for agricultural products works. In particular, please identify enterprises or offices of the central or provincial authorities that intervene to support the domestic sales price of agricultural commodities, and describe their operations.

Reply 275

(1) The agricultural products which benefit from domestic price supports are rice, soybeans, corn and sorghum. There is no price support for
raw sugar, wheat and chicken. The range of the products which benefit from domestic price supports is smaller than that of the developed countries. Chinese Taipei has been a substantial importer of soybeans, corn, sorghum and wheat; such imports account for 95 per cent of the domestic need. The grain import of Chinese Taipei has contributed greatly to the world agricultural trade.

(2) The average farm size in Chinese Taipei is very small. The average size of farms is less than one hectare. The small farming system tends to bring about high cost of production. Rice is the staple food in Chinese Taipei, and wheat is not commonly produced because of natural constraints.

To increase farmers' income and maintain a stable food supply, the authority in Chinese Taipei has implemented a price support programme for rice. The price support system consists of two elements: the guaranteed price purchase, and the supplementary purchase. The purchases are operated by the Provincial Food Bureau. The total amount of purchase is 4,800 kg. per hectare per year, of which 2,800 kg. are purchased at a guaranteed price. The prices of the guaranteed purchase and the supplementary purchase for Japanica rice are NT$19 and NT$16.5 per kg., respectively. The prices are guaranteed and the supplementary purchase for Indica rice are NT$18 and NT$15.5 per kg., respectively. The total amount of such purchases is one-third of the total production.

The guaranteed-price purchase of domestically produced food crops is an important complementing measure for the Rice Crop Substitution Programme. Crops currently eligible for the guaranteed-price purchase are soybeans, corn and sorghum. Apart from reducing the rice acreage, this diversification programme is also aimed at improving crop rotations and to make better use of farmlands and natural resources. This programme is also operated by the Provincial Food Bureau. The importation of soybeans, corn and sorghum has been much liberalized, and their current tariff rates are 1.5 per cent, 1 per cent, and 1 per cent respectively. The total production area of these crops has been kept at 90,000 hectares and the total production amounted to 500,000 M.T. in 1992, which was about 6.6 per cent of the total imports (7,500,000 M.T.) of the same year.

276. Page 23, paragraph 7: The Memorandum states that Chinese Taipei is "gradually phasing out price supports". When will price supports be completely abolished? Will price supports be replaced with other types of support? Is Chinese Taipei aiming at self-sufficiency in the food sector? If no, how does it specifically plan to achieve this goal considering that it is prepared to gradually phase out price supports?

Reply 276

(1) Price supports will, after Chinese Taipei's accession to the GATT, be gradually phased out according to the GATT provisions and the outcome of the Uruguay Round negotiation.
Chinese Taipei is studying various GATT-consistent alternatives to replace the price-support scheme.

Self-sufficiency and stable supply in major foodstuffs is one of the main aims of most countries' agricultural policies. Chinese Taipei is no exception. Chinese Taipei's intention is to maintain self-sufficiency on certain selected products.

277. Please describe the market access conditions applied by Chinese Taipei to the imports of coffee and bananas.

Reply 277

Fresh bananas can be imported only from the United States. This import arrangement was made to assist the domestic structural adjustment. Chinese Taipei will deal with the matter according to the relevant GATT rules, international trade practices and the outcome of the Uruguay Round negotiation, after its accession to the GATT.

Coffee may now be freely imported into Chinese Taipei.

278. Has Chinese Taipei set any definitive plan to reduce the self-sufficiency rates of products which currently have high rates, particularly rice and sugar?

Reply 278

Chinese Taipei has carried out a rice crop substitution programme since 1984 to reduce the planted area of rice, which the planted area of rice was reduced from 646,000 hectares in 1983 to 411,000 hectares in 1992, down 36.3 per cent. Rice production was reduced from 2,485,000 metric tons to 1,650,000 metric tons in the same period, down 33.6 per cent. The result of the programme is significant.

The production of sugar has been reduced. The planted area of sugar was reduced from 98,662 hectares in 1981/1982 to 62,338 hectares in 1991/1992, down 36.8 per cent. Sugar production was reduced from 727,557 metric tons to 476,890 metric tons in the same period, down 34.5 per cent. It is expected that sugar imports will increase in the future.

279. Would Chinese Taipei provide the list of agricultural products, such as fruits, for which barter trade is conducted, and the trade volume of such barter trade?
Reply 279

Until to the end of 1992, there was barter trade for fruits between Chinese Taipei and South Korea. The products and trade volumes from 1990 through 1992 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Bananas exports</th>
<th>Apples imports</th>
<th>Pears imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>14,832 MT</td>
<td>5,148 MT</td>
<td>2,750 MT</td>
</tr>
<tr>
<td>1991</td>
<td>15,310 MT</td>
<td>2,817 MT</td>
<td>611 MT</td>
</tr>
<tr>
<td>1992</td>
<td>8,793 MT</td>
<td>3,705 MT</td>
<td>1,040 MT</td>
</tr>
</tbody>
</table>

The private sector may, in its own discretion, conclude barter-trade arrangements with foreign trading partners, but these are private transactions and are not, in any way, encouraged or required by relevant authorities of Chinese Taipei.

280. Do the organs or enterprises of the central or provincial authorities that purchase agricultural commodities as part of the price-support system engage in exports of these products? If so, please list them, and indicate whether these products are then donated or sold? Please indicate the prices at which such products are sold on the world market. Are these prices subsidized?

Reply 280

(1) Chinese Taipei does not provide any export subsidy for farm products. The purpose of price support for rice is not for export. In the past, small amounts of rice were occasionally exported, but the sales were made for the reason of stock adjustment and conducted on a commercial basis.

(2) Taiwan Sugar Company contracts with farmers to grow sugarcane and purchases all their sugarcane at a guaranteed price. The funds for supporting the guaranteed price were accumulated from the earnings of sugar exports in the past. There is no subsidy from the Government. At present, sugar production is not self-sufficient, and Chinese Taipei has to import sugar from external sources.

281. It is understood that Chinese Taipei has established a system to compensate farmers for damages suffered because of agricultural imports under an administrative order approved by the Executive Yuan. How is this compensation determined and applied? What procedures are followed for deciding these issues? What products have triggered recourse to this compensation? What levels of compensation have been granted, and in what form?
The Council of Agriculture of Chinese Taipei promulgated the "Regulations Governing Relief and Aid for Major Agricultural Products Damages by Importation" on 20 May 1989. The major domestic agricultural products and their substitutes eligible for relief under the Regulations are to be designated and publicly announced by the C.O.A. When the producers of the major agricultural products and their substitutes have suffered "serious injury" as a result of any of the following circumstances, the C.O.A. may provide relief and assistance to such farmers:

(1) imports of the agricultural products concerned is liberalized as a result of trade negotiation or policy change;

(2) the quantity of agricultural products imported during the "injury period" has increased by 20 per cent or more as compared with the average import of the past three years;

(3) foreign imports of the agricultural products concerned has benefited from subsidies or other unfair trade practices.

The serious injury mentioned above, means that the prices of the major agricultural products concerned at the places of origin, fall below the direct production costs. The definition of "serious injury" is very strict. There has been no relief granted since 1989.

282. Please list the agricultural imports banned by Chinese Taipei, and indicate the likely GATT justification for these measures.

Agricultural imports banned by Chinese Taipei are those listed in the "Table of Import Control Commodities" but not listed in the "Table of Import Control Commodities (Non-automatic Licensing)". The justifications for the import ban are set out in the Table.

Most of the agricultural products now can be freely imported. Certain import restrictions will be gradually phased out in conjunction with the domestic structural adjustments in order to meet GATT requirements as well as the results of the Uruguay Round negotiations.

283. Please describe any other import restrictions applied to maintain these income and production supports, or to insulate domestic production from import competition. Please describe any plans Chinese Taipei has to assess import "levies" or "donations" against imported feedgrains, soybeans or wheat. Please describe the planned application of seasonal tariffs and quotas that have been discussed as substitutes for Chinese Taipei's current methods of agricultural import protection.
The draft "Food Administration Law" does contemplate imposition of import variable levies or import charges. Due to divergences in opinions of different interest groups, the draft law is still pending at the Legislative Yuan, and the variable levies have never been implemented.

Some of the import restrictions will be lifted gradually by way of increasing import quotas or applying tariff quotas. For those products whose production has significant seasonal variations, different tariffs will be imposed in different seasons. These trade liberalization measures are commonly used by some other GATT members, for the time being. Chinese Taipei will reform its agricultural trade régime in line with the outcome of the Uruguay Round negotiations.

284. Page 23: What is the status of the draft Food Administration Law presently in the Legislative Yuan? Does the Draft Law propose the imposition of levies on grain imports, the proceeds of which would be used for domestic agricultural support programmes? Does Chinese Taipei proposes to enact this draft Law?

Reply 284

Due to divergences in the public opinions on the variable levy on imported grains, the draft "Food Administration Law" is still pending at the Legislative Yuan. The administrative branch of Chinese Taipei is not in a position to predict the outcome of this draft Law.

285. Would Chinese Taipei provide detailed information on border measures which it has introduced for agricultural policy objectives? Does it consider the measures consistent with current GATT provisions and the Draft Final Act? Would it provide the list of agricultural products concerned?

Reply 285

Please refer to Reply 135 for information on border measures.

Chinese Taipei border measures are generally consistent with the relevant provisions of the General Agreement and international practices. If the draft Final Act is finally adopted at the conclusion of the Uruguay Round, Chinese Taipei, will, after its accession to the GATT, make appropriate adjustments to bring its measures in line with the relevant part of the Final Act.

286. Does Chinese Taipei consider its price support programme for agricultural products consistent with the current GATT provisions and the draft Final Act of the Uruguay Round?

Reply 286

The price support policy of Chinese Taipei is generally consistent with the provisions of the General Agreement. If the draft Final Act of
the Uruguay Round is finally adopted, Chinese Taipei will, after its accession to the GATT, make appropriate adjustment to bring its price support system in line with the relevant part of the Final Act.

287. Is Chinese Taipei prepared to implement reforms of the agricultural price support systems in the context of its accession to the GATT and possible participation in the Uruguay Round?

Reply 287

Chinese Taipei will make appropriate changes to its agricultural price support systems according to the outcome the Uruguay Round negotiations, after its accession to the GATT.

288. In page 26 of document L/7097, there is an expression of willingness to support the objectives of the agriculture negotiations of the Uruguay Round. We would welcome a more detailed explanation of whether the specific dispositions of the agricultural text would be supported. In particular, comprehensive tariffication, and reduction of tariff and non-tariff measures within the specified transition period.

Reply 288

Chinese Taipei supports the goal of the Uruguay Round to liberalize agricultural trade. For the interests of the small farms, however, the steps towards liberalization should be carried out gradually. Chinese Taipei will, after its accession to the GATT, deal with the agricultural trade issues according to the outcome of the Uruguay Round negotiations.

289. Page 23: Will Chinese Taipei undertake to show the same commitment to implementing expected Uruguay Round Agreements, especially with respect to agriculture, as other contracting parties?

Reply 289

Chinese Taipei will implement expected Uruguay Round Agreements as other contracting parties after accession to the GATT, if such Agreements are finally adopted.

4. Foreign exchange policy

290. Chinese Taipei has stated that it is ready to comply with the provisions of Article XV of the GATT regarding its foreign exchange restrictions in the context of its accession.

(i) What restrictions are applied by Chinese Taipei on foreign exchange transactions?

(ii) What changes to present policies and practices would, in Chinese Taipei's view, be necessary to bring the exchange régime into conformity with Article XV?
Reply 290

(1) (a) All current account transactions are now free from foreign exchange control.

(b) Non-trade related inflow/outflow of capital is not subject to restrictions up US$5 million per individual; there is no restriction when the remittance is related to an outward/inward investment project approved by the competent authority.

(c) There are no discriminatory currency practices or multiple currency practices; the foreign exchange rate is determined by the market.

(2) In Chinese Taipei's view, its current currency practice is fully consistent with the requirements of Article XV.

291. Page 23, paragraph 9: Monetary and Foreign Exchange Policy - could Chinese Taipei provide additional information on the criteria used to allow companies and individuals to purchase foreign exchange?

Reply 291

Companies set up under the laws of Chinese Taipei can purchase freely the required foreign exchange for imports or for invisible trade settlements through the authorized foreign exchange banks without any restriction.

No restriction has been imposed on the demand for foreign exchange for overseas investment approved by the authorities concerned. Moreover, each company and adult can purchase foreign exchange up to US$5 million each year, without Central Bank approval and without restrictions on the use of the funds purchased.

292. Page 24, paragraph 5: reference is made to "increased foreign exchange financial facilities for the importation of machinery and equipment". Were these facilities extended to any other sectors? How is foreign exchange regulated?

Reply 292

The Central Bank of China appropriated US$200 million and US$600 million in 1973 and 1979, respectively, for refinancing bank loans to manufacturing enterprises, principal export industries, and technology intensive industry for the importation of machinery and equipment. These facilities were not extended to any other sectors.

293. Page 24, paragraph 6: Reference is made to "efforts to liberalize banking interest rates so that the market mechanism can fully decide interest rates". When will this occur?
Since the Banking Law was amended and became effective in July 1989, the provision of this Law on the fluctuation limit for banking interest rates was deleted; thereafter, banks are free to decide their own interest rates based on the market situation.

294. Page 25, paragraph 3: The Memorandum states that "if companies and individuals set permission for long-term investment or direct investment" they can purchase or sell foreign exchange in the amount "approved by the Investment Commission of MOEA". Is it easy to get permission to exceed established exchange controls? Does Chinese Taipei anticipate abolishing the limit on non-trade-related capital flows at any time in the future?

The liberalization of capital account transactions is Chinese Taipei's established policy. Over the past few years, Chinese Taipei has taken a number of steps to implement this policy. For instance, in October 1992, Chinese Taipei further increased the ceiling for both outward and inward remittances from US$3 million to US$5 million per individual per year. Chinese Taipei will continue efforts to liberalize its foreign exchange practices.

295. Page 25: Please provide a list of the banks and institutions that are permitted to participate in the call for a loan market, and explain what rules apply to the granting of such permission.

Authorized foreign exchange banks and foreign banks are free to take part in the Chinese Taipei foreign currency call loan market, and they can make any transactions as long as their quotations are matched and the transaction amount is within their credit lines.

296. Page 25, paragraph 5: It is stated that "Chinese Taipei also allows banks to operate forward foreign exchange transactions to facilitate merchandise trade ...". Since 1 November 1991 when banks began to be allowed to operate forward foreign exchange transactions, how and in what aspects has merchandise trade been facilitated? Is the operation of forward foreign exchange transactions not subject to any regulations? There is a view that a great number of regulatory measures taken by the competent authorities have virtually nullified the effective operation of forward foreign exchange transactions. What is the view of Chinese Taipei on this?

Many countries have relaxed the restrictions on the forward foreign exchange market on a gradual basis. Chinese Taipei has followed a similar course. In November 1991, forward foreign exchange transactions were reinstated, subject to the following requirements:
(1) transactions should be trade-related;

(2) banks should charge a deposit guarantee of not less than 7 per cent of the contracted amount, to prevent their taking on too large a delivery risk;

(3) the forward period of 180 days can be extended once, for a total maximum period of 360 days.

The above requirements will be gradually phased out as market conditions permit.

297. Are investments in the services sector also subject to Investment Commission screening and authorization? Are there any restrictions on the acquisition of majority control in specific service sectors? What is the nature of the conditions generally imposed on investments in the automotive and motorcycle manufacturing sectors?

Reply 297

According to the Statute for Investment by Foreign Nationals, all foreign nationals investing in any industries, including services sectors, should be screened and approved by the Investment Commission, MOEA.

In addition, according to Article 50 of the Statute for Investment by Foreign Nationals and the Negative List for Investment by Overseas Chinese and Foreign Nationals, the local equity requirements of some services industries are limited as follows:

(1) the securities industry, whose foreign capital cannot exceed 40 per cent of total equity;

(2) other financing (leasing) industries, whose foreign capital can not exceed 90 per cent of total equity; and

(3) air cargo agency services industries whose foreign capital cannot exceed thirty percent of total equity.

The existing local content requirements on automobiles are as follows:

(1) 50 per cent for sedans. Manufacturers are also required to select four items from among the fifteen designated major parts and components supplied by domestic producers;

(2) 37 per cent for 3.5 ton to 10 ton heavy-duty vehicles. Manufacturers are also required to select three items from among fifteen major parts and components designated for domestic production;

(3) 31 per cent for heavy-duty vehicles of 10 ton and above. Manufacturers are also required to select two items from fifteen major parts and components designated for domestic production.
(4) 90 per cent for motorcycles. No special requirement on the local production of parts and components.

The above local content requirements are applicable to all companies, whether foreign or domestic, and thus are compatible with the principle of national treatment. Adjustment to these measures, if any is needed, will be made following the conclusion of the Uruguay Round.

5. Financial policy (pages 26-28, item 5)

298. With regard to financial markets, could Chinese Taipei provide copies of the pertinent legislation, including:

(i) a list of the statutes, ordinances and amendments establishing the separation between banking activities and activities relating to securities;

(ii) the legislation relating to the commercial presence of foreign banks, securities firms and insurance companies (subsidiaries, branches, representative offices, acquisition of domestic firms and equity investment in domestic firms).

Reply 298

(1) Under Article 45 of the Securities and Exchange Law and Article 28 of the Banking Law, financial institutions may operate concurrently securities business with approval by the Ministry of Finance.

(2) (a) The Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks, which provides rules for setting up branches by foreign banks, as attached in the Annex.

In regard to foreign subsidiaries of banks, the Banking Law provides that any single person shall not hold shares in a bank in excess of 5 per cent of the total issued shares of the bank, nor shall related persons hold shares in excess of 15 per cent in aggregate, unless the approval of the Ministry of Finance has otherwise been obtained. Domestic or foreign banks therefore cannot set up a subsidiary bank in Chinese Taipei basically. Up to now, financial institutions and foreigners are generally prohibited from holding equity of new banks established after 1990.

(b) Other administrative regulations regarding commercial presence and commercial activities include, among other things, "Regulation Governing the Standards for Incorporation of Securities Firms", and "Regulation Governing Securities Firms".

(1) Money, banking and securities (page 27, item 5 (2))

299. A description of existing regulations concerning foreign ownership in general would be appreciated.
The Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks, which provides for the procedure and requirements for setting up branches by foreign banks, as attached in the Annex.

With regard to subsidiaries of foreign banks, the Banking Law provides that a single person shall not hold shares in a bank in excess of 5 per cent of the total issued shares of the bank, nor shall persons related to the shareholder hold shares in excess of 15 per cent in aggregate, unless the approval of the Ministry of Finance has been obtained. Domestic or foreign banks therefore cannot set up a subsidiary bank in our territory basically. Up to now, financial institutions and foreigners are generally prohibited from holding equity of new banks established after 1990.

Foreign banks permitted to set up branches in Chinese Taipei are as follows:

1. Citibank N.A.
2. American Express Bank Ltd.
3. Bank of America NT & SA
4. Bank of California, N.A.
5. Bank of New York
6. Bankers Trust Company
7. Chase Manhattan Bank
8. First National Bank of Boston
9. Chemical Bank
10. Corestates Bank N.A.
11. Northwest Bank Minnesota, N.A.
12. Royal Bank of Canada
13. The Bank of Nova Scotia
14. Toronto-Dominion Bank
15. Canadian Imperial Bank of Commerce
16. Dai-Ichi Kangyo Bank
17. Bangkok Bank Ltd.
18. Metropolitan Bank & Trust Company
19. International Bank of Singapore
20. The Development Bank of Singapore
21. The Hongkong & Shanghai Banking Corp. Ltd.
22. The Standard Bank of South Africa Ltd.
23. Australia & New Zealand Bank
24. National Australia Bank
25. Westpac Banking Corp.
27. Standard Chartered Bank
28. Union Bank of Switzerland
29. Banque Indosuez
30. Banque Nationale de Paris
31. Banque Paribas
32. Crédit Lyonnais
33. Société Générale
34. ABN-AMRO Bank
35. Internationale Nederlanden Bank N.V.
36. Deutsche Bank AG
37. Bank of Tokyo

The present requirements for setting up new branches by foreign banks are prescribed in Articles 3, 5 and 6 of the Guidelines.

According to Article 25 of the Banking Law, unless the approval of the Ministry of Finance has otherwise been obtained, a single person shall not hold shares in a bank in excess of 5 per cent of the total issued shares of the bank, nor shall related persons hold shares in excess of 15 per cent in aggregate. Domestic or foreign banks therefore cannot set up a subsidiary bank in Chinese Taipei.

The business scope that foreign banks can engage in are prescribed in Article 12 of the Guidelines.

Applications from foreign banks for branch license is reviewed and approved on a case-by-case basis taking into consideration the banking strength and needs of the applicant bank. Although under Articles 8 and 9 of the Guidelines, foreign banks may apply for setting up only one branch in either Taipei or Kaohsiung city, the Ministry of Finance may grant more branch licenses to a bank if the market requires so. The Ministry of Finance, for example, has approved Citibank to set up Taipei, Kaohsiung, Hsin-Chu, Taichung, Tainan and Taoyuan branches. In cases where an application is made under paragraph 2 of Article 3 of the Guidelines, the Ministry of Finance may give approval for the establishment of the same number of branches as those of the merged foreign bank in the same location, notwithstanding the restriction provided in paragraph 1 of that
Article. Because of said rule, Bank of America was able to set up two branches in Taipei city. In order to further harmonize and liberalize our regulatory rules for foreign banks, Chinese Taipei is in the process of revising the Guidelines.

In so far as the existing GATT contracting parties are concerned, there is no discrimination in granting to foreign banks branch licenses on the basis of the country of origin except in the case where the country of the said foreign bank imposes less favourable treatment to the banks of Chinese Taipei in that country.

301. It is stated that the requirements for setting up new branches by foreign banks have been relaxed. What are the criteria currently in force for approving such establishments? Are these criteria publicly available? Please explain the existing requirements for setting up new branches by foreign banks. Does Chinese Taipei intend to further relax these requirements? If so, please describe the plans.

Reply 301

Articles 3, 5 and 6 of the Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks regulate the establishment of branches by foreign banks. The Guideline aforesaid has been forwarded to the GATT Secretariat.

In order to further the policy of liberalization, Chinese Taipei is in the process of revising the Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks.

302. It is understood that Chinese Taipei has embarked on a liberalization of the banking sector and is now allowing foreign bank branches to expand their activities. We would like to know whether there is a limitation on the number of branches that a foreign bank can establish.

Reply 302

Applications from foreign banks for branch license is reviewed and approved on a case-by-case basis taking into consideration the banking strength and needs of the applicant bank. Although under Articles 8 and 9 of the Guidelines, foreign banks may apply for setting up only one branch in either Taipei or Kaohsiung city, the Ministry of Finance may grant more branch licences to a bank if the market requires so. The Ministry of Finance, for example, has approved Citibank to set up Taipei, Kaohsiung, Hsin Chu, Taichung, Tainan and Taoyuan branches. In cases where an application is made under paragraph 2 of Article 3 of the Guidelines, the Ministry of Finance may give approval for establishment of the same number of branches as those of the merged foreign bank in the same location, notwithstanding the restriction provided in paragraph 1 of that Article. Because of said rule, Bank of America was able to set up two branches in Taipei city. In order to further harmonize and liberalize our regulatory rules for foreign banks, Chinese Taipei is in the process of revising the Guidelines.
303. Page 26: Chinese Taipei indicates that it is interested in liberalizing market access for foreign financial firms. Does this imply that, for example, existing restrictions on foreign financial institutions will be lifted? Will this include the removal of foreign liability limits on domestic and foreign banks? Also, will restrictions on private banking activities of foreign banks be lifted thus permitting Chinese Taipei residents to open accounts in branches outside of Chinese Taipei?

Reply 303

Liberalization and internationalization of financial sectors are global trends on which Chinese Taipei's financial policy reforms are based. In keeping with these policies, Chinese Taipei has relaxed limitation on access to the domestic market in the recent years. The efforts made by Chinese Taipei in liberalizing its financial régime will not necessarily result in complete deregulation. It is legitimate for a government to adopt regulatory measures to maintain stability of the financial market, to ensure soundness of banking operations, to protect depositors' interests, and to implement monetary policies. Chinese Taipei does not forbid opening accounts abroad in person. However, in order to ensure that foreign banks' branches in Chinese Taipei limit their activities to doing authorized banking business only and to protect interests of the domestic depositors, the foreign banks' branches in Chinese Taipei are not allowed to liaise with foreign financial institutions for the purpose of opening overseas accounts for the residents in Chinese Taipei.

The question about private banking activities will be answered after the term of "private banking activities" has been defined more clearly.

In order to control money supply and maintain price stability, the Central Bank of China (CBC) set ceilings on the foreign liabilities of authorized foreign exchange banks in June 1987. Since then, the CBC has increased the ceilings seven times to meet the actual situation of banks' operations. The most recent adjustment was made on 10 February 1993. It raised the ceiling to US$19.6 billion. Apparently, the authorized foreign exchange banks' normal operations are not deterred. In fact, the CBC of Chinese Taipei is prepared to review this measure periodically in order to gradually relax it.

304. Page 27: please indicate the legal form under which foreign securities firms can establish in Chinese Taipei. Please indicate the conditions for such establishment. Please indicate the scope of operations which foreign securities firms are allowed to carry out in Chinese Taipei and the conditions laid down for such operations. Please name the foreign securities firms which have been allowed to set up branches and representative offices in Chinese Taipei.

Reply 304

Foreign securities firms are allowed to invest in the local securities firms in Chinese Taipei and/or to establish branches in Chinese Taipei to operate securities business. The Securities and Exchange Commission of
Chinese Taipei grants approvals to foreign securities firms for their local branch licence applications based mainly on the reciprocity principle, international securities experiences, financial standards, memberships of designated foreign exchanges, and compliance records.

Up to the present, Merril Lynch and Shearson Lehman have established their Taipei branches. As well, representative offices registered are as follows: S.G. Warbur Securities Limited, Baring Securities Limited (Britain based), Deutsche Bank Capital Market (Asia) Limited, Standard Chartered Securities Limited, Jardine Fleming Securities Limited, W.I. Carr (Far East) Limited (Hong Kong based), Morgan Stanley & Co. Incorporated and Goldman, Sachs & Co. (America based).

305. Please specify the criteria for granting foreign securities firms access to the market?

Reply 305

Please refer to Reply 304.

306. Securities - what are the conditions for establishing a foreign securities firm in Chinese Taipei?

Reply 306

Please refer to Reply 304.

307. Please specify the conditions and requirements for foreign security firms to set up new branches. Does Chinese Taipei intend to relax these conditions and requirements? If so, please describe the plans.

Reply 307

Please refer to Reply 304.

308. With respect to banking and securities, please describe any restrictions on market access or "national treatment" as defined in Articles XVI and XVII and in the Understanding on Commitments in Financial Services of the Draft General Agreement on Trade in Services.

Reply 308

- Banking

Chinese Taipei has unilaterally liberalized its financial market and provided market access for foreign banks. Citibank, for example, has been approved to set up Taipei, Kaoshiung, Hsin Chu, Taichung, Tainan and Taoyuan branches.

Branches of foreign banks have been allowed to be engaged in such businesses as receiving savings deposits, trust and short-term bills,
brokerage and dealings. Chinese Taipei will continue to progressively implement its financial liberalization policy.

- Securities and future sectors

(1) Securities firms: with respect to each individual securities firm, the total number of shares held by all its foreign investors shall not exceed 40 per cent of its total issued and outstanding shares. Each overseas Chinese or foreign shareholder may not hold shares greater than 10 per cent of the total issued and outstanding shares of a securities firm and such persons are allowed to invest in only one securities firm.

(2) Securities investment trust enterprises: the total number of shares held by foreign investors shall not exceed 49 per cent of the total issued and outstanding shares of the Securities Investment Trust Enterprises (SITE). Each overseas Chinese or foreign national and his affiliate(s) may not hold shares greater than 25 per cent of the total issued and outstanding shares of a SITE.

(3) Future brokerage firms: where overseas Chinese and/or foreign nationals become shareholders of a futures brokerage firm through investment, the total number of shares held by all foreigners shall not exceed 40 per cent of the total issued and outstanding shares of the future brokerage firm. Each overseas Chinese or foreign national may not hold greater than 10 per cent of the total issued and outstanding shares of a future brokerage firm, and shall be limited to make investment in only one future brokerage firm.

(3) Insurance (page 28, item (3))

309. Please provide more detailed information concerning the operation of foreign insurance companies as well as regulations concerning the establishment of foreign subsidiaries.

Reply 309

The Insurance Law and its subsidiary regulations have been translated into English and provided in the Annex.

In accordance with paragraph 5 of Article 137 of the amended Insurance Law, the criteria used to grant approvals to foreign insurance firms and the rules governing administration of these firms are to be set out in "The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations" which is still being promulgated by the Ministry of Finance.

310. Could Chinese Taipei provide the legislation relating to possible restrictions affecting foreign insurance companies, in particular in the reinsurance sector.
The Insurance Law and its subsidiary regulations have been translated into English and provided in the Annex.

In accordance with paragraph 5 of Article 137 of the amended Insurance Law, the criteria used to grant approvals to foreign insurance firms and the rules governing administration of these firms are to be set out in "The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations" which is still being promulgated by the Ministry of Finance.

In accordance with Article 6 of "The Central Reinsurance Corporation Act", any surplus for reinsurance in excess of retention from the ceding companies both at home and abroad must first be offered to the Central Reinsurance Corporation.

Chinese Taipei will, based on resolutions of the General Agreement on Trade in Services reached during the Uruguay Round, continue to liberalize the insurance market.

311. With respect to the insurance sector it would be interesting to have information regarding market access by foreign providers.

To meet the need for liberalization and internationalization, the "Insurance Law" was amended and the "Criteria for Establishing Insurance Companies" was prescribed on 1 June 1992. Applications for setting up new insurance companies by locals were accepted between 3 June and 2 December 1992. The said criteria allow qualified foreign insurance companies to invest in the new insurance companies with shareholding up to 49 per cent. The criteria for opening the market to foreign insurance enterprises and establishment of approval guidelines are still in the process of being promulgated by the Ministry of Finance. Where the rules are in place, foreign insurance enterprises (not limited to the United States insurance enterprises) will be able to file applications for establishing operations in Chinese Taipei.

312. This section indicates the development of several public insurance programmes, e.g. "Civil Servants' Insurance", "Labors' Insurance" and "Farmers' Insurance" administered by the central authorities. How are these insurance programmes made available to consumers in Chinese Taipei?

The insurance programmes mentioned belong to social insurance, rather than commercial insurance, and therefore are not opened to any kind of commercial insurance company.

313. Why are foreign insurance firms prohibited from investing in real estate? Please describe other restrictions on insurance activities by foreigners and foreign insurance firms on Chinese Taipei.
Reply 313

Investment in real estate by foreign insurance firms is prohibited by Articles 18 and 19 of the Land Law. Article 18 of the Land Law provides that foreign nationals who may obtain or create his right on a lot of land in the Republic of China are limited to those whose home country grants the same treatment to nationals of Chinese Taipei pursuant to a treaty or the laws of the said country.

To meet the requirements for liberalization and internationalization of insurance business, the Insurance Law had been amended and the "Standards for Establishment of Insurance Companies" were already promulgated on 1 June 1992. The said Standards allow qualified foreign insurance firms to invest in new insurance companies with share-holding up to 49 per cent. Foreign insurance companies are basically accorded the same treatment as domestic companies in scope of operations once a licence has been granted.

314. Please specify the conditions and requirements for foreign insurance firms to set up new branches. Does Chinese Taipei intend to relax these conditions and requirements? If so, please describe the plan.

Reply 314

In accordance with paragraph 5 of Article 137 of the amended Insurance Law, the criteria used to grant approvals to foreign insurance firms and the rules governing administration of these firms are to be set out in "The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations" which is still being promulgated by the Ministry of Finance.

Chinese Taipei will, based on resolutions of the General Agreement on Trade in Services reached during the Uruguay Round, take gradual steps to promote the liberalization of the insurance market.

315. Page 10 (L/7097/Add.1): it is stated that twenty-two United States insurance companies are now operating through their branch offices in Chinese Taipei. Please indicate which Chinese Taipei authority has given them permission to do so. Please also indicate which rules are applied in giving such permission. Also, please give information as to whether non-United States insurance companies have sought permission and if so, why they were refused. Finally, it was indicated in the China Post of 24 November 1992 that the insurance market would be opened to non-United States insurance in the second half of 1993. Please state whether a final decision has been made on this issue.

Reply 315

The operation of American insurance companies is approved by the Ministry of Finance.

With respect to opening the insurance market, approval granted to United States insurance companies to establish branches and operate in
Taiwan is based on "Guidelines for the Screening and Approval of the Establishment of a Branch or an Additional Branch of United States Insurance Companies".

The Government has suspended issuances of licences to local parties for establishment of new insurance companies since 1962. Prior to opening the market to local parties, approval has not been given to foreign insurance companies, other than to United States companies to establish branch offices in Taiwan.

To meet the need for liberalization and internationalization, the "Insurance Law" was amended and the "Criteria for Establishing Insurance Companies" was prescribed on 1 June 1992. Applications for setting up new insurance companies by locals were accepted between 3 June and 2 December 1992. The said criteria allow qualified foreign insurance companies to invest in the new insurance companies with shareholding up to 49 per cent. The criteria for opening the market to foreign insurance enterprises and establishment of approval guidelines are still in the process of being promulgated by the Ministry of Finance. Where the rules are in place, foreign insurance enterprises (not limited to the United States insurance enterprises) will be able to file applications for establishing operations in Chinese Taipei.

316. What are the proposed criteria for access by foreign insurers under the liberalization package? What is the likely timeframe for the reform?

Reply 316

To meet the need for liberalization, the Insurance Law was amended and the "Criteria for Setting Up Insurance Companies" was promulgated on 1 June 1992. The said criteria allow qualified foreign insurance companies to invest in a new insurance company with a shareholding up to 49 per cent.

Please also refer to Reply 314.

317. Page 28 of the Memorandum notes that Chinese Taipei is drafting an amendment to its current Insurance Law which, inter alia, would have the affect of liberalizing its insurance market. Could Chinese Taipei advise whether the proposed amendments would allow easier access for offshore insurance companies to set up business in Chinese Taipei?

Reply 317

Please refer to Reply 314.

318. Page 28: when will the amendment to the Insurance Law be passed and what criteria will apply for local and foreign insurance companies seeking licences? Does Chinese Taipei plan to maintain its policy of restricting foreign insurance companies access to its market by requiring participation in the form of joint ventures (where foreign ownership does not exceed 49 per cent or 39 per cent if there is only one foreign partner)? What assurance can authorities provide that all foreign insurance companies will
be provided equal access to insurance licences regardless of their country of origin?

Reply 318

The "Insurance Law" was amended on 26 February 1992. According to one of its subsidiary regulations, the "Criteria for Establishing Insurance Companies", foreign insurance companies can acquire licences without being discriminated against. Under this Criteria, qualified foreign insurance companies can invest in a new insurance company with shareholding up to 49 per cent.

The Ministry of Finance is preparing draft criteria for granting approvals to foreign insurance firms and the draft rules governing administration of these firms. The draft criteria and rules are expected to apply to all foreign companies without discrimination, regardless of their countries of origin.

319. Please describe any restrictions on market access of "national treatment" as defined in the Understanding on Commitments in Financial Services of the Draft General Agreement on Trade in Services for the following insurance sub-sectors:

(i) direct insurance (life and non-life);
(ii) reinsurance and retrocession;
(iii) insurance intermediation;
(iv) insurance auxiliary services.

Reply 319

Chinese Taipei will, based on resolutions of the General Agreement on Trade in Services reached during the Uruguay Round, continue to take steps to gradually liberalize its insurance market.

(1) Foreign and domestic insurance companies are equally treated in the life and non-life insurance operation.

(2) The foreign insurance companies sanctioned by the competent authority can engage in the business of reinsurance with the same treatment accorded to domestic insurance companies.

(3) Insurance Intermediation is provided for in Article 163 of the amended Insurance Law, which reads:

"An insurance agent, broker, or surveyor shall not start practising until he has registered with the competent authority, posted a bond or obtained liability insurance, and obtained a practice license."
The insurance agent, broker, or surveyor referred to the preceding paragraph or other individuals or juristic persons shall not engage in insurance business or introduce insurance business on behalf of insurance enterprises that have not been approved by the competent authority."

(4) According to the "Regulations Governing the Administration of Insurance Agents, Brokers and Adjusters", foreign and domestic insurance companies are treated equitably.

6. Fiscal policy (page 29, item 6, paragraph 3)

320. Please list all domestic taxes that are applied by central and local authorities to imports or importers, and on the point of sale that these taxes are assessed (a) for imports and (b) for domestic articles.

Reply 320

Commodity tax:

(1) Imported commodities subject to commodity tax are taxed at the time of importation by the customs office.

(2) The commodity tax for domestically-produced goods is imposed on the manufacturer when the product is released from the factory.

Computation of commodity tax:

(a) Imported goods
Commodity tax = (taxable value prescribed by the Customs Import Tariff + customs duties + harbour construction dues)* tax rate

(b) Domestic goods
Commodity tax = (ex-factory price / (1 + tax rate)) * tax rate
(This equation applies to the cases where the manufacturer sells its products through wholesalers or the manufacturer is paid to manufacture the taxable commodities for others).
Commodity tax = (ex-factory price / (1 + tax rate + 12 per cent promotional expense)) * tax rate

Business tax:

(1) All imported goods are subject to a 5 per cent business tax.

(2) Both imported and domestic goods are subject to the same tax rate when they are sold to their domestic buyers.

(3) Generally, business tax on imported goods are not levied at the time of importation; the tax payment is deferred until the imported goods are sold to their domestic buyers. The business tax levied on imported goods and domestic goods is computed on the same basis. The formula is:
business tax = the sales amount * tax rate (the existing rate is 5 per cent)

(4) Imported passenger cars and other goods imported by the one who is not taxed in accordance with the provision in Section I, Chapter IV of the Business Tax Law (i.e. business tax not in value-added form) will be taxed at the time of importation. The tax is computed on the following basis:

business tax = (taxable value prescribed by the customs Import Tariff + customs duties + harbour construction dues + commodity tax, if any) * tax rate (the existing rate is 5 per cent)

321. Are personal or corporate income taxes, or capital gains taxes applied or exempted with any distinction as to the origin of the income, i.e. is income derived from import operations taxed differently than income from domestic economic activity?

Reply 321

Income derived from import operations is not taxed by Chinese Taipei differently than income from domestic economic activity.

1. Individual income tax, which is levied according to the territorial principle, does not make any distinction between income derived from import operations and domestic economic activity.

2. For profit-seeking enterprises income tax, local profit-seeking enterprises are liable to tax on their worldwide income. Foreign profit-seeking enterprises with a fixed place of business in Chinese Taipei are taxed on Chinese Taipei sourced income, at the same rates and in the same manner as local enterprises. Foreign profit-seeking enterprises without a fixed place of business are subject to withholding tax on Chinese Taipei sourced income.

3. According to the Income Tax Law, corporate income tax or capital gains tax is applied or exempt without any distinction as to the origin of the income.

322. Please list all domestic excise-type taxes (e.g. value added, business turnover, liquor, tobacco, etc.) applied to domestic and to imported goods in Chinese Taipei, and at what point of sale such taxes are applied.

Reply 322

- Commodity tax:

(1) Imported commodities that are subject to commodity tax are taxed at the time of importation by the customs office.

(2) The commodity tax for domestically produced goods is imposed on the manufacturer when the product is released from the factory.
- Business tax:

(1) All imported goods are subject to a 5 per cent business tax.

(2) Both imported and domestic goods are subject to the same tax rate.

(3) Generally, business tax on imported goods are not levied at the time of importation; the tax payment is deferred until the imported goods are sold to their domestic buyers. The business tax levied on imported goods and domestic goods is computed on the same basis. The formula is:

\[
\text{business tax} = \text{the sales amount} \times \text{tax rate (the existing rate is 5 per cent)}
\]

(4) Imported passenger cars and other goods imported by the one who is not taxed in accordance with the provision in Section I, Chapter IV of the Business Tax Law (i.e. business tax not in value-added form) will be taxed at the time of importation. The tax is computed on the following basis:

\[
\text{business tax} = (\text{taxable value prescribed by the Customs Import Tariff} + \text{customs duties} + \text{harbour construction dues} + \text{commodity tax, if any}) \times \text{tax rate (the existing rate is 5 per cent)}
\]

323. Page 28, fiscal policy: please give information on the status of the announced review of taxation of (imported) alcoholic beverages. Please provide specific information on the current taxation of foreign whiskeys, including the way in which it is determined which rate applies, especially regarding the United States and the European Communities produced whiskeys. Is this taxing system, in the opinion of Chinese Taipei, in conformity with GATT, specifically Article III thereof? Will this system be altered, and if so, when and how? In connection with the issue of taxation of (imported) alcoholic beverages, please give information on the announced review of the restrictions on advertising for spirits.

Reply 323

According to our national sales tax system, the tax burden of imported alcoholic beverages should include 50 per cent customs duty, 0.5 per cent harbour construction fee, 120 per cent commodity tax and 5 per cent VAT type business tax (or sales tax). When the tobacco and wines monopoly system is in place, the monopoly tax on imported tobacco, wine and spirits is in lieu of the above-mentioned taxes. Since the voluntary announcement in January 1991 with regard to the liberalization of the import of foreign distilled spirits, Chinese Taipei taking into account the practices of the developed countries in the United States and Europe, has changed the monopoly tax on imported products from ad valorem tax to "specific tax". At present, the monopoly tax of Scotch whiskeys and Irish whiskeys is NT$440 per litre, and NT$198 per litre for other whiskeys.
The prevalent monopoly tax levied on domestic alcoholic beverages is assessed on an "ad valorem" basis, which is equivalent to the operating revenue minus all operating expenses of the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB). The monopoly tax will finally go to the Treasury. Domestic products have an average monopoly tax rate of approximately 185 per cent over their cost (including cost of sales, administrative and selling expenses), and the average monopoly tax on imported spirits is approximately 120 per cent over the cost (i.e. import price). Compared with domestic spirits, there is no discrimination whatsoever in the treatment of any imported spirit.

Chinese Taipei's Legislative Yuan has in principle resolved to abolish the tobacco and wine monopoly system in three years, and is now being reviewed by our relevant authorities. Once the system is changed, the current monopoly tax will be abolished, a normal tax system for tobacco and wines will be adopted, and various domestic taxes, except for customs duty, will be equally applied to both domestic and imported products.

Chinese Taipei has voluntarily opened its market for foreign distilled spirits. To facilitate the sale of imported spirits, special permission is granted to importers to advertise "new brand" spirits in magazines for a period of one year, so that the importers would be in a better competitive position vis-à-vis the TTWMB, which never makes advertisements or promotion. As for the proposal by the United States and the EC countries to lessen the restrictions on educational advertisement on appropriate ways of drinking and danger of over-drinking, Chinese Taipei will work out feasible measures, taking into account the systems adopted by developed countries.

324. Concerning the application of the monopoly tax on tobacco products and alcoholic beverages:

(i) Please describe the structure of this tax as it is applied to domestically produced and to imported products. Do the rates applied to domestic and imported products differ? If so, why?

(ii) Why is there such a large disparity in the rates of this tax applied to different types of tobacco products and distilled liquors? On what basis are these rates developed and applied? What office determines the rates developed and applied? What office determines the rates of the monopoly taxes?

(iii) What is the official relationship between the Chinese Taipei Tobacco Wine Monopoly Bureau, provincial authorities, and the Ministry of Finance? Does the Bureau have the right to create its own reserves for use as working capital? If so, please indicate the size of these reserves. If not, who provides the Bureau with its working capital? At what interest is money loaned to the Bureau? Please outline the financial arrangements between the Bureau and public and private banking institutions.
(iv) What portion of the revenues from this tax in a recent representative period were collected from application to imports and what portion from application to similar domestic goods? How does this proportion relate to the market share held by imported and domestic goods? For what are the revenue collected used?

Reply 324

1) Monopoly tax levied on domestic tobacco and wine products is assessed on an "ad valorem" basis, which is equivalent to the operating revenue minus all relevant cost and expenses of the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB). Such tax finally goes to the Treasury. The ratio of monopoly tax to the cost (including cost of sales, administrative and selling expenses) is approximately 185 per cent.

Under the present sales tax system, the tax on imported tobacco and wines should be also assessed on an "ad valorem" basis. However, in order to accommodate the tobacco and wine monopoly system and to bring national practice in this regard more in line with those of developed countries in Europe and the United States, the "specific rate" in computing monopoly tax has been adopted. The monopoly tax on imported cigarettes is NT$830 per thousand sticks. Tax on alcoholic beverages ranges from NT$30 to NT$1,000, depending on the classification of customs import tariffs adopted by the United States and EC countries and on the alcohol content, quality and import price. On average, imported tobacco and wines are subject to a monopoly tax at the rate of approximately 120 per cent to be levied on the cost (i.e. import price).

According to tax regulations, the import and sale of tobacco and wines should be subject to a customs duty, harbour construction fee, commodity tax and business tax, etc. Since imported products are levied on the customs duty and harbour construction fee, they have a heavier tax burden than domestic products. However, in the present monopoly system, the monopoly tax is levied in lieu of other related taxes and duties as mentioned above.

(2) The import of cigarettes has been liberalized by our Government according to the CCNAA-AIT Agreement on Beer, Wine and Cigarettes; the monopoly tax on imported cigarettes is assessed at NT$830 per thousand sticks.

In January 1991, the Government voluntarily announced the liberalization of importation of foreign distilled spirits. In consideration of the wide variety of the quality and grade among the products, imported distilled spirits are classified into five categories. And, on each category is levied a monopoly tax separately at a different "specific rate" in order to be more transparent and fair.
The monopoly tax on each category of tobacco and wine products is evaluated and calculated by the TTWMB by reference to the cost, quality, grade and other relevant factors, and finally will be determined by the Ministry of Finance.

(3) The TTWMB is a publicly-owned enterprise. Its capital comes from government investment. Its annual budget and audit must be reviewed by the legislative bodies of both the central and provincial governments and be audited separately by the Ministry of Audit. Its working capital comes mainly from depreciations, reserves and loans from financial institutions.

Because of its funding practice, the TTWMB has deposit and loan transactions with public and private banks. The loan interests charged on the TTWMB by those banks are determined in consideration of various capitals, costs and prior transactions, or the situation in the capital market.

4) The monopoly tax on our domestic tobacco and wines is assessed on an "ad valorem" basis. In the 1992 fiscal year, for example, the total monopoly tax levied on foreign tobacco and wine products imported through agents is NT$5,843 billion and that on domestic products is NT$48.741 billion. The ratio is respectively 10.70 per cent and 89.30 per cent, whereas the market shares for imported cigarettes and alcoholic beverages is 18.76 per cent and 3.66 per cent, respectively.

The said other tax revenue, the monopoly tax on tobacco and wine is one of the Government's current revenue items in the budget, and will be used by the Government for general purposes.

325. Page 29 comments on taxation policies in Chinese Taipei but does not mention its commodity tax régime. Could Chinese Taipei explain the basis for the imposition of the commodity tax régime and give details of the products which are currently subject to the tax?

Reply 325

(1) Computation of commodity tax:

(a) Imported goods
Commodity tax = (taxable value prescribed by the Customs Import Tariff + customs duties + harbour construction dues) * tax rate

(b) Domestic goods
Commodity tax = [ex-factory price/(1 + tax rate)] * tax rate (if the manufacturer sells its products through wholesalers or if the manufacturer is paid to manufacture the taxable commodities for others)

Commodity tax = (ex-factory price (1 + tax rate + 12 per cent promotional expense)) * tax rate
(2) Tax scope

In accordance with Article 1 and Article 2, paragraph 1 of the Statute for Commodity Tax, the following seven lines of commodities are to be taxed on an ad valorem basis at the following tax rates (both imported and domestically produced commodities are subject to the same tax rates):

(a) Rubber tires:
   (1) Tires for buses and trucks 10%
   (2) Various other rubber tires 15%
   (3) Inner tubes and rubber tires which are used on man-powered/animal-powered vehicles and farming vehicles are exempt from commodity tax

(b) Cement
   20%

(c) Machine-made cool drinks:
   (1) Diluted natural fruit/vegetable juice 8%
   (2) Other beverages 15%

(d) Flat-glass
   10%

(e) Oil*/gas:
   (1) Gasoline 60% (the present rate is 75%)
   (2) Diesel oil 50% (the present rate is 60%)
   (3) Kerosene 50% (the present rate is 60%)
   (4) Fuel oil for aircraft 8%
   (5) Fuel oil 3%
   (6) Natural gas 2%
   (7) Dissolvent oil 10%
   (8) Liquefied petroleum gas 7.5%

* The Executive Yuan may increase or decrease the prescribed tax rates by less than 50 per cent thereof, depending on the circumstances.

(f) Electric appliances:

   (1) Refrigerators 13%
   (2) Colour television sets 13%
   (3) Air conditioners 20%
   Central station air conditioning systems 15%
   (4) Dehumidifiers 15%
   (Dehumidifiers for factory use are exempt from tax)
   (5) Video recorders 13%
   (6) Record players 10%
   (Portable sets having a size of less than 32 centimetres are exempt from tax.)
   (7) Audio recorders 10%
   (8) Stereophonic systems 10%
   (9) Electric ovens 15%
g. Vehicles:

Automobiles:

(1) Sedans - sedans with cylinder volume below 2,000 c.c. 25%
- sedans with cylinder volumes above 2,001 c.c. and below 3,600 c.c. 35%
- sedans with cylinder volume above 3,601 c.c. 60%

(2) Trucks, buses and other vehicles 15%

Motorcycles 17%

326. In addition to tariffs, Chinese Taipei also imposes a commodity tax on some items (which are mostly luxury goods). We understand that the tax is levied on both imported and domestically produced items. What is the purpose of levying a commodity tax?

Reply 326

The purposes of levying a commodity tax are:

(1) to collect revenue to finance government expenditures;
(2) to meet the requirements of financial, economic, or social policies such as energy saving, pollution prevention, etc.

327. There is a luxury tax, ranging from 2 per cent to 120 per cent. On ten kinds of products, including for instance alcoholic beverages, oil and cement. What is the exact tax on these items? Why are oil and cement considered luxuries? Is wine specifically included among alcoholic beverages?

Reply 327

A. There is a commodity tax in Taiwan, the tax is in essence an excise tax, not a tax on luxuries, and the actual rates applied range from 2 per cent to 75 per cent. The taxable items and tax rates are as follows:

1. Rubber tyres:
   (1) Tyres for buses and trucks 10%
   (2) Various other rubber tyres 15%
   (3) Inner tubes and rubber tyres which are used on man-powered/animal-powered vehicles and farming vehicles are exempt from commodity tax.

2. Cement 20%

3. Machine-made cool drinks:
(1) Diluted natural fruit/vegetable juices 8%
(2) Other beverages 15%

4. Flat-glass 10%

5. Oil/gas

(1) Gasoline 60% (the present rate is 75%)
(2) Diesel oil 50% (the present rate is 60%)
(3) Kerosene 50% (the present rate is 60%)
(4) Fuel oil for aircraft 8%
(5) Fuel oil 3%
(6) Natural gas 2%
(7) Dissolvent oil 10%
(8) Liquefied petroleum gas 7.5%

*The Executive Yuan may increase or decrease the prescribed tax rates by less than 50 per cent thereof, depending on the circumstances.

6. Electric appliances:

(1) Refrigerators 13%
(2) Colour television sets 13%
(3) Air conditioners 20%
   Central station air conditioning systems 15%
(4) Dehumidifiers 15%
   (Dehumidifiers for factory use are exempt from tax.)
(5) Video recorders 13%
(6) Record players 10%
   (Portable sets having a size of less than 32 centimetres are exempt from tax)
(7) Audio recorders 10%
(8) Stereophonic systems 10%
(9) Electric ovens 15%

7. Vehicles:

(1) Automobiles:

   a. Sedans: (a) sedans with cylinder volume below 2,000 c.c. 25%
   (b) sedans with cylinder volume above 2,001 c.c. and below 3,600 c.c. 35%
   (c) sedans with cylinder volume above 3,601 c.c. 60%

   b. Trucks, buses and other vehicles 15%

   (2) Motorcycles 17%
B. The purposes of levying a commodity tax are:

1. to collect revenue to finance government expenditures;
2. to meet the requirements of financial, economic, or social policies such as energy saving, pollution prevention, etc.

C. Presently, liquors (including wine) are suspended from commodity tax as they are now subject to monopoly tax.

328. Concerning the application of the commodity tax to imports:

(i) Please supply a list of the products, by tariff line, subject to the commodity tax indicating the level of the tax applied.

(ii) In the case of fruit juices, please supply the definition used to determine coverage of the commodity tax for this product. Why does Chinese Taipei differentiate in the application of this tax between fruit juices derived from fresh fruit and those derived from fruits in other forms?

(iii) What plans does Chinese Taipei have for this tax? Will it be reduced or phased out? If so, please indicate on what schedule its elimination is planned.

Reply 328

(1) Please refer to Reply 89.

(2) In accordance with subparagraph 1, paragraph 1, Article 8 of the Statute for Commodity Tax, machine-made diluted natural fruit/vegetable juice (including domestic and imported juice) is subject to an 8 per cent ad valorem tax. According to paragraph 2 of the same Article, pure natural fruit juice, concentrated fruit juice, syrup, and natural vegetable juice which meet the National Standards are exempt from commodity tax. We have considered that the above-mentioned pure natural fruit juice, etc. are not diluted with water, and are healthier for consumers. Since their production costs are higher, the commodity tax is exempted to encourage their production or importation.

(3) Chinese Taipei respectively in 1986 and in 1990 substantially reduced the tax rates of and the items that are subject to commodity tax. For the time being, however, Chinese Taipei has no plan to further reduce the commodity tax rates or to phase it out.

329. In 1990, Chinese Taipei changed the point of application of the commodity tax on domestic products from the wholesale price to the ex-factory price, effectively reducing the cost of the tax to domestic purchasers. The commodity tax is collected on the duty-paid value of the import, however, significantly raising the base value of the tax as applied to imported products.
Please describe in detail Chinese Taipei's reasoning in applying this tax to the ex-factory price of domestic products and the duty-paid value of imports. How are these two points of sale equivalent? What portion of the revenues of the commodity tax are generated by imports, and what portion by application to domestic goods?

Reply 329

(1) Concerning the reason why we changed the point of application of the commodity tax from the wholesale price to the ex-factory price for domestically produced commodities:

(a) in accordance with subparagraph 1, paragraph 1, Article 2 of the Statute for Commodity Tax, the taxpayer for locally manufactured taxable commodities are the respective manufacturers or producers rather than wholesalers, therefore, the wholesale price is replaced by the ex-factory price in calculating the commodity tax base;

(b) most countries use the ex-factory price to calculate their excise tax or commodity tax;

(c) it is for administrative expediency that commodity tax on domestically produced commodities is based on the ex-factory price.

(2) In regard to applying commodity tax to the duty-paid value of import products: some other countries in the world apply excise tax or commodity tax to imports; they all calculate their tax base by adding customs duties to CIF prices for imports.

(3) As regards to how to make these two points of sale equivalent, many countries in the world have different tax bases for domestic goods and imported goods in calculating excise tax or commodity tax; their tax bases are ex-factory prices for domestic goods and CIF prices for imported goods. There is no way to make these two-points of sale equivalent unless the retail price is used as a tax base. However, since Chinese Taipei's commodity tax is a tax levied at the manufacturing level, the ex-factory price is used to calculate the commodity-tax base.

(4) As regards the revenues of commodity tax that are generated by imported and domestic goods: the tax revenue generated by imports accounts for 27.23 per cent of the total revenue of commodity tax in the fiscal year of 1992.

330. It is noted that national treatment is granted to foreign residents and foreign companies in respect of tax rates and tax payments. Is national treatment granted in other areas of business operations e.g. admission of staff and investment opportunities?
331. Does Chinese Taipei impose any other internal taxes on imports?

Reply 331

Except for commodity tax, Chinese Taipei also imposes business tax on imports.

7. Foreign investment policy

332. Where investment is concerned, could Chinese Taipei provide copies of the legislation on direct investment and give us a list of the sectors in which restrictions are applied? Could Chinese Taipei provide information concerning, more specifically, the regulations and measures intended to encourage direct foreign investment?

Reply 332

The legislation on foreign direct investment are the "Statute for Investment by Foreign National" and the "Negative List for Investment by Overseas Chinese and Foreign Nationals", which are provided in the Annex. Chinese Taipei welcomes and encourages foreign investments in Taiwan, especially in the high technology industries (including telecommunications industry, information industry, consumer electronic industry, aerospace industry, medical and health care industry, pollution control industry, high-level material industry, semiconductor industry, special-purpose chemicals and pharmaceutical industry, and precision equipment and automation industry). With respect to the legislation designed to encourage foreign direct investment in Chinese Taipei, please refer to the following regulations:

1. Articles 15 and 16 of the "Statute for Investment by Foreign Nationals"; and
2. Articles 11 and 12 of the "Statute for Upgrading Industries".

333. Page 29, paragraph 4: it is stated that "Chinese Taipei has adopted a liberal and open policy towards direct foreign investments in Chinese Taipei". Please explain the scope and nature of the "liberal and open policy towards direct foreign investments". Does this statement mean that there are no restrictions on direct foreign investments in Chinese Taipei?

Reply 333

To promote economic liberalization and internationalization of the territory, Chinese Taipei amended the "Statute for Investment by Foreign Nationals" on 26 May 1989, and formulated a Negative List showing these areas not open to direct foreign investment. As a result, various industry sectors which were previously prohibited or restricted for investment by
foreign nationals have been liberalized significantly. For the detail of those prohibited or restricted industries, please refer to the Negative List for Investment by Overseas Chinese and Foreign Nationals" provided in the Annex. However, based on the consideration of national security and economic development, the following categories of industries are currently excluded from investment by foreign investors:

(1) those against public safety and security;
(2) those against good morale;
(3) those causing high rate of pollution; and
(4) those having monopoly privilege granted or those that are banned from private investment by laws.

Chinese Taipei encourages foreign direct investment to promote the development of the domestic economy and to upgrade the country's industrial structure. Chinese Taipei has amended and promulgated two rules in this regard: "Statute for Investment by Foreign Nationals" and "Statute for Upgrading Industries". The former rule provides specific rights to foreign nationals who invest in the territory; the latter rule provides incentives (i.e. tax breaks and accelerated depreciation) and national treatment to foreign nationals who invest in the territory.

Upon accession to the GATT, Chinese Taipei will ensure that its investment laws and regulations conform with relative GATT Articles and the outcome of the Uruguay Round negotiations.

334. Chinese Taipei has a relatively open foreign investment régime, but some industries are "off limits" to foreign investors. Could Chinese Taipei provide details of those sectors/industries from which foreign investors are excluded, and the basis on which these sectors/industries have been excluded?

Reply 334

Please refer to the "Negative List for Investment by Overseas Chinese and Foreign Nationals", provided in the Annex.

335. Is foreign equity investment in domestic enterprises permitted (if no, under what conditions? What is the maximum percentage, etc.)? What is the legislation on the acquisition of local enterprises by foreign companies?

Reply 335

All qualified foreign investors can freely invest in Chinese Taipei. The criteria for foreign investment approval are set forth in the "Statute for Investment by Foreign Nationals". Limitations on foreign shareholding apply certain cases listed below:

(1) financial leasing: foreign shareholding not to exceed 90 per cent;
336. Please describe the documentation required in the process for foreign investment approval.

Reply 336

(1) The Investment Application Form (one original copy and nine duplicate copies).

(2) Documentation of certification for foreign investors (Certificate of nationality for natural person and certificate of incorporation for juridical person).

(3) If an attorney is appointed by the foreign investor, the following documents are required:

(a) a certificate of authorization issued by the investor and authenticated by the representative office of Chinese Taipei located in the applicant's country or in a nearby country, or by the Embassy or Consulate of the applicant's country in Chinese Taipei, or by a notary public in the applicant's country if there is no representative office of Chinese Taipei in the applicant's country;

(b) a copy of the Census Record of the Attorney;

(c) a photostat of the Residence Permit issued by the Government, if the attorney is an alien residing in Chinese Taipei;

(d) a seal or signature card of the Attorney.

(4) Investment plans (including a roster of investors, description of the composition of total capital investment, plant construction plans, schedule of projected production and sales, and loan contract).

337. Please describe the "necessary regulations" and other "measures" referred to in this section that have been taken by Chinese Taipei to encourage direct foreign investment.
Reply 337

It has been Chinese Taipei’s policy to encourage foreign direct investment. To provide better investment environment to foreign as well as domestic investors, the government has promulgated the "Statute for Investment by Foreign Nationals" and the "Statute for Upgrading Industries". The former statute is to provide necessary protection to foreign investment in Chinese Taipei, and the latter, which applies to domestic as well as foreign investors, is to encourage investment in the more important sectors.

(1) To handle the process of foreign investment application and to protect foreign investors in the territory, the Investment Commission deals with the necessary regulation according to the "Statute for Investment by Foreign Nationals".

(2) To encourage foreign direct investment in the territory, the Investment Commission was established in the Ministry of Economic Affairs to deal with the affairs of all foreign investors.

(3) If a foreign investor is found to be qualified to invest in the territory, the investor can then receive national treatment under domestic business regulations and obtain tax deductions or exemptions.

338. Does Chinese Taipei believe there is a connection between the recently experienced slump in new foreign direct investment in Chinese Taipei and the possibility that Chinese Taipei is not keeping up with other economies in the region in reducing barriers to foreign investment?

Reply 338

In recent years, the decrease in direct foreign investments in Chinese Taipei was due to the appreciation of the NT dollars, the shortage of labour, the soaring price of real estate, the rising awareness of environmental protection and the comparative advantage of neighbouring developing countries in terms of lower labour cost and real estate price, as well as the global economic recession. All these point to the fact that labour-intensive industries with low value-added no longer meet the need of Chinese Taipei's development. Therefore, to maintain the momentum for continued economic development, it is necessary to transform our industrial structure and attract high tech, but environmentally friendly industries to invest in Chinese Taipei so as to achieve industrial upgrading. In practice, the government is making efforts in:

(1) setting up a financial and economic coordination committee to assist major investments;

(2) simplifying administrative procedures for investment, extending the scope of items which Chairman of the Investment Commission (of MOEA) has been fully authorized to approve investment applications (80 per cent of the application falls into this category), and shortening the time needed for ratification by its
higher authority from previous three to six weeks to five to ten days;

(3) developing Chinese Taipei as a regional operation centre (or multiple profit centre) for multinational companies in the Asia-Pacific region.

Chinese Taipei is now strengthening its process of privatization of State-owned enterprises, promotion of economic internationalization and liberalization and protection of intellectual property rights. These efforts are in full accord with the United Nations' World Investment Report regarding attracting investment by international companies. Business Environment Risk Intelligence S.A. (BERI) of the United States and the famous British financial magazine Euromoney both ranked Chinese Taipei's investment environment as one of the tops. Therefore, we have reasons to believe that Chinese Taipei's overall investment environment is one of the best in the Asia-Pacific region.

With the highly ranked current investment environment, Chinese Taipei's government is taking a series of effective measures to further improve the process of liberalization, internationalization and systematization, such as overall review of obsolete investment regulations, simplification of administrative procedures and the implementation of the Six-Year National Development Plan. It is well known that the Asia-Pacific region has maintained high economic growth. Multinational companies could take full advantage of this development and set up regional operation centres in Chinese Taipei for their expansion in the Asia-Pacific market.

339. Could a more detailed description of the foreign investment policy be given, particularly in relation to the trade related investment measures that will be considered contradictory to commitments under coming Uruguay Round obligations.

Reply 339

In principle, all applications of foreign investment that meet the "Statute for Investment by Foreign Nationals" and other related laws would be approved. However, based upon the consideration of national security and economic development, the government imposes local content requirements, manufacturing requirements, and local equity requirements on foreign investments as follows:

(1) local content requirements:

(a) small and middle-size cars: 50 per cent of each vehicle's value must be supplied locally and four of fifteen critical component parts have to be manufactured domestically;

(b) heavy trucks weigh between 3.5 tons and 10 tons: 37 per cent of each vehicle's value must be supplied locally and three of fifteen critical component parts have to be manufactured domestically;
(c) heavy trucks weigh 10 tons above: 31 per cent of each vehicle's value must be supplied locally and two of fifteen critical component parts have to be manufactured domestically; and

(d) motorcycles: 90 per cent of each vehicle's value must be supplied locally has to be manufactured domestically but no other restrictions on domestic-made component parts.

(2) Manufacturing Requirements: according to the "Statute for Investment by Foreign Nationals," the following industries are excluded from investment by foreign nationals:

(a) those against public safety and security;

(b) those against good morale;

(c) those causing great pollution; and

(d) those having monopoly privilege granted or those that are banned from private investment by laws.

Most industry sectors are allowed for investment by foreign nationals except very few industries that are prohibited or restricted. For details of those prohibited or restricted industries, please refer to the "Negative List for Investment by Overseas Chinese and Foreign Nationals" provided in the Annex.

(3) Local equity requirements: please refer to Reply 335.

340. Does Chinese Taipei intend to ratify the Agreement on Trade-Related Investment Measures negotiated under the Uruguay Round?

Reply 340

The Chinese Taipei current investment policy is guided by the principle of internationalization and liberalization. Chinese Taipei is prepared to follow the relevant GATT rules, including the results of the Uruguay Round on Trade-Related Investment Measures.

(1) Inward investment (page 29, item 7 (1))

341. The Memorandum suggests that the Investment Commission appears to be the ultimate authority where foreign investments are concerned. Please outline the criteria and assessment process used by the Investment Commission to screen inward investment proposals by foreign firms.

(i) What are the guidelines and considerations which go into an investment decision by the Investment Commission? Is such a decision final or is there judicial or administrative recourse for investment proposals not approved by the Investment Commission?
(ii) What laws and regulations address expropriation in Chinese Taipei? What provisions and assurances against expropriation are available to investors? In the event of expropriation, what provisions exist for prompt and adequate compensation?

(iii) May foreign investors employ managers, administrators and technicians of their choice, regardless of nationality, in their enterprises?

(iv) If disputes arise between investors and the authorities in Chinese Taipei, can such disputes be taken to binding international dispute settlement?

Reply 341

(4) If the home country of the investor concerned has entered into an investment guarantee agreement with Chinese Taipei, the dispute will be resolved according to the investment dispute settlement provision of the agreement. Under such circumstances, the foreign investor and the authority of Chinese Taipei shall enter into consultation to find a mutually acceptable way to resolve the dispute. If the parties fail to reach a solution in such consultation, then the parties may agree to take the dispute to binding international dispute settlement bodies like the International Chamber of Commerce and have the dispute arbitrated according to the procedural rules of such bodies. The arbitral award of such dispute settlement bodies will be treated as final and irrevocable and the legal basis for resolution of the dispute.

342. It is understood that foreign nationals may invest directly in most industries upon approval by the Investment Commission. What are the industries in respect of which foreign investment would be disallowed? Apart from the "exclusion industry list", is approval to invest automatic?

Reply 342

All foreign nationals can invest in all kinds of industries, except those industries included in the "Negative List". For the details of those restricted or prohibited industries, please refer to the "Negative List for Investment by Overseas Chinese and Foreign Nationals" provided in the ANNEX. Foreign parties who wish to invest in any of the non-excluded industries still need to apply to the Investment Commission for approval. Approval is normally given taking into account Chinese Taipei's national security as well as the public safety and security.

343. It is understood that direct foreign investment is prohibited in fifty-four industries in Chinese Taipei, and that another fifty-five are subject to limits on the amount of ownership foreigners may hold. There are said to include agricultures, mining, oil and natural gas drilling, cigarette and liquor manufacture, petroleum refining, electricity generation, shipping, banking, securities trading and leasing. We also understand that foreign invested firms may not float bonds in the domestic market.
(i) Please specify what product sectors are excluded and which are restricted from foreign investment?

(ii) Would Chinese Taipei please give the reasons for such restrictions and for excluding foreign firms from raising money through the issuance of bonds?

(iii) Are there any similar type of barriers applied to domestic investors in these areas?

(iv) Please describe any other restrictions in place on joint ventures or other equity investments in Chinese Taipei. Is technology transfer required? Do the restrictions differ if the investment is in the service area? Please explain.

(v) Does Chinese Taipei intend to liberalize any of these restrictions?

Reply 343

(1) According to the Statute for Investment by Foreign Nationals, the following categories of industries are excluded from investment by foreign investors:

(a) those against public safety and security;
(b) those against good morale;
(c) those having high rate of pollution; and
(d) those having monopoly privilege granted, or those that are banned from private investment by laws.

In addition, investments in public utility industries, financial and insurance industries, news media and publication industries, and any other industries that are provided in the relevant laws and regulations as such are restricted. (For more detailed information, please refer to "Negative List" for Investment by Overseas Chinese and Foreign Nationals provided in the Annex).

(2) The reasons for above-mentioned restrictions are fully explained in the "Negative List" for Investment by Overseas Chinese and Foreign Nationals.

(3) For industries which are prohibited, such as gun-barrel forging and elephant tusk processing industry, the same prohibitions on investment are also applied to domestic investors.

At present, no domestic investors is allowed to invest in petroleum refining and electricity generation with one exception: a naphtha cracker may be allowed up to a certain refining capacity.
(4) There are no other restrictions either on joint ventures or other equity investments, nor is there a technology transfer requirement in manufacturing and service industries.

(5) The Investment Commission is considering making appropriate changes to foreign investment laws and regulations as Chinese Taipei's development needs change.

344. The Memorandum notes that except for auto and motorcycle manufacture, there are no local content requirements for foreign companies.

(i) Please describe the local content requirements for foreign companies in the automobile and motorcycle manufacturing sectors.

(ii) Are there any regulations affecting the sourcing of raw materials, semi-manufactures, parts or other imports for domestic companies?

(iii) Are there requirements related to bank financing, insurance, production incentives or other financial considerations that encourage domestic firms to purchase from local suppliers in order to attain specified or minimum local content levels?

Reply 344

(1) The local content requirements in automobiles and motorcycles are as follows:

(a) for small automobiles: 50 per cent, plus local manufacture of at least four items to be selected from the fifteen designated major parts/components;

(b) for large autos (3.5T to 10T): 37 per cent, plus local manufacture of at least 3 items to be selected from the fifteen items of designated major parts/components;

(c) for large autos over 10T: 31 per cent, plus local manufacture of at least two items to be selected from the fifteen items of designated major parts/components;

(d) for motorcycle industries: 90 per cent, without designating any specific items for local manufacture.

The local content requirements are applicable to both foreign invested companies and domestic companies. These local content requirements conform to national treatment principles.

(2) Except for the local content requirements stated above, no restrictions are enforced on the sourcing of raw materials, semi-manufactures, parts or other imports for domestic companies.
On industrial products there are no requirements related to bank financing, insurance, production incentives or other financial considerations that encourage domestic firms to purchase products from local suppliers in order to attain specified or minimum local content levels.

345. Does Chinese Taipei apply any export performance requirements to foreign firms that invest in Chinese Taipei? Is there an export requirement required or requested of firms to qualify for tariff-duty exemption for imports of machinery and equipment, etc., by firms investing in Chinese Taipei, other than those in effect in the EPZs?

Reply 345

There are no export requirements that apply to foreign firms in Chinese Taipei, other than those in effect in the EPZs.

346. Many investment destinations in the region have been moving away from screening investments and moving toward prior or post notification. Why does Chinese Taipei continue to screen foreign direct investment?

Reply 346

The Government of Chinese Taipei has adopted a liberal and open policy towards foreign direct investment in Taiwan recently. Besides, to the best of our knowledge, only Japan has moved toward prior or post notification to foreign investment since 1992. Other countries in Asia have not moved away from screening foreign investments.

Chinese Taipei will continue to review its investment policies as development change.

347. Chinese Taipei imposes local employment requirements on investments in the Hsinchu Science Park. Why are such restrictions in place? Are there plans to liberalize these restrictions?

Reply 347

Chinese Taipei plans to abolish the local employment requirements on investment in the Hsinchu Science-based Park by deleting Articles 3(3) and 29 from the Statute for Establishment and Management of Science-based Park. The proposed amendment to the Statute has been forwarded to the Legislative Yuan for legislative approval.

348. There are no remittance restrictions on income and profits derived from foreign investments in Chinese Taipei. Would Chinese Taipei's foreign exchange controls have the effect of nullifying the benefits which might otherwise accrue?
There is no remittance restrictions on income and profits derived from foreign investment in Chinese Taipei for investment projects approved by the Investment Commission. Chinese Taipei does not consider its foreign exchange controls to have the effect of nullifying the benefits which might otherwise accrue.

8. Government procurement (page 30, item 8)

349. What is the present legislation concerning central authorities procurement and what are the principles and criteria applied at local authority level (provinces, municipalities, counties)?

Reply 349


350. Does Chinese Taipei consider that its present practice is consistent with the General Agreement?

Reply 350

The present practice of Government procurement in Chinese Taipei is generally consistent with the provisions of the General Agreement. Under the Six-Year National Development Plan, Chinese Taipei is progressively opening extensive new procurement opportunities to trading partners.

351. With regard to Government procurement, what proportion of the purchases made by central authorities, State enterprises and provincial and municipal authorities are overseas purchases?

Reply 351

Chinese Taipei has no statistics on the proportion of the purchases made by central authorities, State enterprises and provincial and municipal authorities. However, an internal report of the Ministry of Economic Affairs reveals that the aggregate overseas purchase of the ten State enterprises under the supervision of the Ministry and the central authorities accounts for 40.75 per cent of their total purchases.

352. Would a more detailed description be provided concerning the following aspects related to the procurement practices:

- the "Law of Audit" and its provisions related to procurement;
- detailed information on "standard operating procedures" applied by the Central Trust (CT);
detailed information on the criteria applied when deciding whether the procurement is done domestically or as overseas purchase;

- a list of entities/authorities covered by the procurement legislation;

- information on the magnitude of procurement of goods and of services.

Reply 352

(1) The Law of Audit is a set of auditing rules and regulations enacted by the legislative branch of Chinese Taipei. The primary purpose of the Law is to establish government-wide rules and regulations on the receipt, disbursement, and application of public funds and properties. Among these rules and regulations, only Articles 59 and 60 are related to government procurement, and they are translated as follows:

Article 59:

On acquiring procurement contracts and construction contracts, and selling of government properties, procurement entities shall follow the legal requirements concerning open, selective, and single tendering procedures, and inform the auditing authorities in a designated period of time for their sending auditors to audit the procedures, provided that the contract value is estimated to equal or exceed the threshold amount prescribed by the Ministry of Audit. Auditors shall demand the entities to cure any illegal actions or any non-conformance with the contractual or regulatory requirements. The said threshold amount and the auditing procedures shall be established in other laws.

Article 60:

In the event that the type of cost-plus-fee contract is used for procuring goods or construction services, the allowable costs and fees shall be specified in the contract. Auditing authorities may audit the actual cost incurred by the contractor and report the audit finding to the procurement entity.

(2) The standard operating procedures of the Central Trust of China on handling centralized procurement of foreign goods are summarized as follows:

Step 1: Receive from a procurement entity the purchase request and the commercial terms and technical requirements for such purchase.

Step 2: Prepare solicitation documents and issue them by open tender, restricted tender, or negotiation as demanded by the procurement entity.
Step 3: Receive bids and bid bonds from bidders, transmit bids to the procurement entity for evaluation, and co-evaluate commercial terms with the procurement entity.

Step 4: Work with the procurement entity to determine the successful bidder. In the event of open tender or restricted tender, the award of a contract will, in principle, be made to the bidder whose bid meets the requirements of the tender and whose bid price is not only the lowest one among all acceptable bidders but also equal to or lower than the government estimate.

If such bidder's bid price is higher than the government estimate, he may be given a one-time priority to reduce his price. If the reduced bid price is still higher than the government estimate, all acceptable bidders may be given the opportunity to re-bid at lower prices for possible selection of a successful bidder whose bid price is the lowest one. In the event that the lowest bid price is higher than the government estimate by 20 per cent, or is higher than the budgeted amount, all bids shall be rejected.

In the event of negotiation, the procurement entity will negotiate with a selected supplier on all technical, commercial and pricing matters before reaching an agreement of signing a contract, provided that the final price is acceptable and is not only within the budgeted amount but also not higher than the government estimate by 20 per cent.

Step 5: Issue a notice of award to, demand a performance bond from, and act as a procurement agent to sign a contract with the successful bidder, and release bid bonds to unsuccessful bidders.

Step 6: Co-operate with the procurement entity on contract administration matters, such as payment, insurance, shipment, contract amendment, and dispute settlement. The procurement entity is solely responsible for inspection and acceptance of the goods.

Step 7: Close the purchase and release the performance bond as the contract has required.

(3) Chinese Taipei does not have decisive criteria for determining whether a procurement is done domestically or as an overseas purchase. Although industrialization policies of the government authorities or the availability of the required supplies from domestic sources may sometimes be criteria for some procurement to be done domestically, most of the domestic procurement do not absolutely prevent purchases from overseas. In fact, procurement entities may solicit overseas supplies either by a domestic tender or by an overseas tender. The
The major distinction between these two types is the currency used: in a domestic tender, bids are solicited in the domestic currency from local parties, but they may involve overseas supplies as well as domestic supplies; in an overseas tender, bids for overseas supplies may be submitted in foreign currencies.

(4) The present legislation concerning government procurement applies to all government entities at every level, including central and regional governments, and government-owned enterprises. Chinese Taipei, at the time it wishes to negotiate adherence to the GATT Government Procurement Code, will submit for the Code signatory countries' consideration, a list of entities/authorities which it intends to offer for coverage under the Code.

353. Could Chinese Taipei please explain the legislative or administrative basis for the current practise of area restrictions on public tender for overseas purchases, and provide copies of those documents?

Reply 353

The current practise of area restrictions in certain public tenders is based on Chinese Taipei's overall trade policy, including national security considerations.

354. Page 30: Please explain in more detail the rules on government procurement, and please specifically answer the following questions:

(i) the pertinent text in the Memorandum seems to imply that in each case in which an open tender is used (either voluntarily or because it is prescribed), foreign companies can inscribe, is this correct?

(ii) are foreign companies able to inscribe in restricted tenders?

(iii) are foreign companies involved if the negotiation route is taken, and if so, in what way?

(iv) how long is the period between publication of open and restricted tenders and the deadline for sending in offers; is there a statutory minimum or a minimum in the guidelines mentioned?

(v) please provide date on the actual amount of overseas government procurement in the past five years, also in percentages of total government procurement.

Reply 354

General rules on government procurement

The present legislation concerning government procurement is contained in the Law of Audit, the Implementation Rules of the Law of Audit, and the
Statute Governing Contract-awarding for Construction Service, Procurement of Goods, and Sale of Government Property. Such legislation applies to all government entities at every level. Rules of the main therein concerning government procurement include the following:

(1) Open tenders shall be used as the general procurement procedure unless the condition of a purchase meets a certain criterion for using restricted tenders or negotiation. In the case of negotiation, the criteria used by Chinese Taipei for determining the procurement procedure are generally similar to the conditions set forth in the GATT Government Procurement Code for using single tendering, and only one eligible supplier is selected to respond to the negotiation. In case of restricted tender, the criteria for determining the procurement procedure are similar to that of the negotiation but two or more eligible suppliers are selected to respond to the negotiation.

(2) In the event of open tender or restricted tender, the award of a contract will, in principle, be made to the bidder whose bid meets the requirements of the tender and whose bid price is not only the lowest one among all acceptable bidders but also equal to or lower than the government estimate. If such bidder's bid price is higher than the government's estimate, he may be given a one-time priority to reduce his price. If the reduced bid price is still higher than the government's estimate, all acceptable bidders may be given the opportunity to re-bid at lower prices for possible selection of a successful bidder whose bid price is the lowest one. In the event that the lowest bid price is higher than the government's estimate by 20 per cent or is higher than the budgeted amount, all bids will be rejected.

In the event of negotiation, the procurement entity will negotiate with a selected supplier on all technical, commercial and pricing matters before signing the contract, provided that the final price is acceptable and is not only within the budgeted amount but also not higher than the government estimate by 20 per cent.

(3) Bid Bond, performance bond, and advance payment bond are required for bidding, contract-awarding, and advance payment respectively.

Replies to specific questions

(1) Foreign companies may on a case-by-case basis, directly or indirectly bid for open tenders for overseas purchase. In the case of domestic tenders, purchase may be of locally produced goods or imported goods or both. Only local parties, including foreign company's agents may participate in the open tender and must submit their bids in New Taiwan dollars.
In the case of restricted tenders, foreign companies may be invited to participate in the tender, if the procurement entity considers that their products meet the requirements.

When a foreign company is the only source for a particular product, the foreign company would be invited to negotiate with the procurement entity on technical specifications and commercial provisions before signing the contract.

Notice of open tenders is published in local newspapers for at least two days; the following information is provided in the notice:

(a) products to be purchased;

(b) time-limit for submission of offers and qualification of the bidders; and

(c) places where further information is available. The deadline for submission of offers is to be determined by the procurement entity, based on the urgency and complexity of the particular case. For instance, the deadline for a complicated case may be longer; and for an urgent and simple case, the time-limit may be short. In general, the time-limited is usually 3-4 weeks. There is no statutory maximum or minimum period of time for tendering offers; in cases where the time is not sufficient to prepare the documents, the interested suppliers may request an extension of the deadline.

The provisions of the Law of Audit and other relevant laws of Chinese Taipei concerning government procurement apply to both of overseas purchase and domestic purchase. Among them, no differences exist.

Please refer to Reply 352.

355. Could Chinese Taipei give a more detailed description of its public procurement practices? In particular:

(i) If a purchase is in excess of the amount prescribed by the Ministry of Audit, i.e. conducted by open tender, does this mean that any supplier, foreign or domestic, may bid on the procurement?

(ii) What factors may affect the ability of foreign suppliers to respond to such tenders? Are there registration requirements, certification requirements, costs or charges associated with submitting bids or preference levels affecting the selection of bidders or bids?

(iii) What procedures are followed in determining who the successful bidder might be? How are quality and technical merit factored into the decision process? Who makes this determination for official agencies and enterprises?
Please describe the terms and procedures for tendering and accepting bids, and for determining successful bidders for procurement made under restricted tender or negotiation. Can all public tenders use offsets as a condition of the contract award? Under what conditions can a public entity impose offsets in a tender?

Reply 355

1) In terms of source of origin and currency required by each procurement entity, current government procurement in Chinese Taipei can be divided into three types: foreign procurement, domestic procurement, and mixed procurement. Each type has the following characteristics:

- **foreign procurement**: only foreign suppliers may bid on this type of procurement. Bids are solicited in foreign currencies.

- **domestic procurement**: only domestic suppliers may bid on this type of procurement of domestic supplies or imported supplies. Bids in domestic currency are solicited.

- **mixed procurement**: both foreign suppliers and domestic suppliers are welcome to bid on this type of procurement. Bids for foreign supplies are solicited in foreign currencies, and bids for domestic supplies are solicited in domestic currency.

2) Although there are no specific factors applying to all tenders, most procurement entities sometimes use one or more of the following factors as mandatory requirements for a foreign supplier: source of origin for the goods, experience record of the supplier, financial status of the supplier, location of established branch office or designated agent in Chinese Taipei, business registration certificate in home country, and tax payment certificate in home country. Some procurement entities have registration systems for the suppliers which may respond to an open tender.

No specific certification requirements apply to foreign suppliers on all tenders. Some solicitations may require a foreign supplier to bid in conjunction with a domestic supplier holding a certain certification. Some solicitations may require foreign suppliers to present a certificate such as quality certificate issued by the bidder's home country authorities or Chinese Taipei Government authorities to support the specification of the equipment offered. Solicitation documents for an open tender are available to interested suppliers at a fee. Charges associated with submitting a bid will be borne by the bidder itself. There are no rules of preference levels affecting the selection of bidders or bids, except the bid price. In principle, the successful bidder shall be a bidder who meets the solicitation requirements and whose bid price is the lowest one among all acceptable bidders, provided that its bid price is acceptable to the procurement entity. Please refer to the flow chart illustrated at the end of this reply.
The award of a contract will, in principle, be made to the bidder whose bid meets the requirements of the tender and whose bid price is not only the lowest one among all acceptable bidders but also equal to or lower than the government estimate. If such bidder's bid price is higher than the government estimate, he may be given a one-time priority to reduce his price. If the reduced bid price is still higher than the government estimate, all acceptable bidders may be given the opportunity to re-bid at lower prices for possible selection of a successful bidder whose bid price is the lowest one. In the event that the lowest bid price is higher than the government estimate by 20 per cent or is higher than budget amount, all bids shall be rejected.

Quality and technical merit can be factored into the decision process by implementing a scoring system and threshold score into the evaluation process to evaluate whether a bid is acceptable or not. However, procurement entities normally do not implement such evaluation criteria except for big or complicated projects. Using the above-mentioned procedure, the procurement entity itself selects the successful bidder, or under the supervision of its higher authorities and/or Ministry of Audit.

The above procedure in determining who is the successful bidder is illustrated in the flow chart at the end of this reply.

Under a restricted tender, solicitation documents will be provided to two or more eligible suppliers selected by the procurement entity. Each supplier shall submit its bid to the procurement entity within a designated time-limit. Evaluation of the bids will follow the same procedure illustrated in the flow chart to determine a successful bidder.

Under a negotiation procurement, solicitation documents will be provided to only one eligible supplier selected by the procurement entity. The supplier shall submit its bid to the procurement entity as soon as possible. The procurement entity will negotiate with the supplier on all technical, commercial and pricing matters before signing the contract. Public tenders normally do not use offsets as a condition of the contract award. However, a public entity might impose technology transfer or local content as offsets in a tender pursuant to an industrialization policy issued by relevant government authorities.
Flow Chart of Contract-Awarding

If the bid meet all solicitation requirements

Yes

Ranking all acceptable bidders by bid price

If the lowest bid price is below the Government estimate (a so-called ceiling price)

Yes

If the reduced price is below the Government estimate

Yes

Determine the bidder of lowest re-bid price

No

All acceptable bidders re-bid price reduction

1. No further price reduction is available; and
2. The final re-bid price is not only less than the Government estimate times 120%, but also less than the budget amount; and
3. Approval of higher authorities and Ministry of Audit, if applicable

At procurement entity's option to select any way to go

If the Re-bid price is below the Government estimate

Yes

Reject all bids

Award of Contract
356. Could Chinese Taipei provide further details about domestic procurement operations, in particular the workings of its General Welfare System Organization which we understand operate a commissary system of procurement?

Reply 356

(1) Domestic procurement operations follow the same procurement procedures as that for foreign procurement, such as open tender, restricted tender, or negotiation. However, only domestic suppliers may bid on a domestic procurement where domestic supplies or imported supplies paid for in domestic currency are solicited.

(2) As to the work of the General Welfare System Organization, please refer to Reply 379.

357. Are there other criteria for determining the procurement procedure i.e. by open tender, restricted tender or negotiation apart from the cost of the purchase?

Reply 357

The cost of a purchase does not exclusively govern the determination of procurement procedure. Unless the condition of a purchase meets a certain criterion for the use of restricted tender or negotiation, open tender shall be used. In the case of negotiation, the criteria used by Chinese Taipei for determining the procurement procedure are generally similar to the conditions set forth in the GATT Government Procurement Code for the use of single tendering. In the case of restricted tenders, the criteria are similar to those for negotiation, except that the number of selected suppliers shall be two or more.

358. Under the current Law of Audit, only government procurement exceeding the amount of NT$50 million (about US$1.92 million) is subject to open tender, while the minimum price under the Agreement on Government Procurement is equivalent to SDR 130,000. In this regard, does Chinese Taipei have any plan to lower its ceiling?

Reply 358

The threshold amount of NT$50 million does not exclusively govern the determination of procurement procedure by open tender. Unless the condition of a purchase meets a certain criterion for the use of restricted tender or negotiation, open tender shall be used. Chinese Taipei is willing to adhere to the threshold requirement of the GATT Government Procurement Code once Chinese Taipei has acceded to that Code.

359. Would Chinese Taipei give a brief description of the standard operating procedures of the Central Trust responsible for handling centralized procurement of foreign goods above the prescribed amount?
The standard operating procedures of the Central Trust of China on handling centralized procurement of foreign goods are summarized as follows:

(1) Receive from a procurement entity the purchase request and the commercial terms and technical requirements for such purchase.

(2) Prepare solicitation documents and issue them by open tender, restricted tender, or negotiation as required by the procurement entity.

(3) Receive bids and bid bonds from bidders, transmit bids to the procurement entity for evaluation, co-evaluate commercial terms with the procurement entity.

(4) Work with the procurement entity to determine the successful bidder whose bid meets the solicitation requirements and whose bid price is not only the lowest one among all acceptable bidders but also equal to or lower than the government estimate. If such bidder's bid price is higher than the government estimate, he may be given a one-time priority to reduce his bid price. If the reduced bid price is still higher than the government estimate, all acceptable bidders may be given an opportunity to re-bid at lower prices for possible selection of a successful bidder whose bid price is the lowest one. In the event that the lowest final price is still higher than the government estimate by 20 per cent or is higher than the budgeted amount, all bids shall be rejected.

(5) Issue a notice of award to, demand a performance bond from, and sign a contract with the successful bidder, and release bid bonds to unsuccessful bidders.

(6) Co-operate with the procurement entity on contract administration matters, such as payment, insurance, shipment, contract amendment, and dispute settlement. The procurement entity is the one solely responsible for inspection and acceptance of the goods.

(7) Close the purchase and release the performance bond upon completion of the project as the contract requires.

360. In case of international open tender handled by the Central Trust of China, are there any circumstances pursuant to which certain foreign companies could not participate in the tender? If so, would Chinese Taipei provide detailed information on the circumstances and criteria involved?

Reply 360

In case of international open tender handled by the Central Trust of China, all foreign suppliers are generally welcome to participate in the tender. Restrictions may, however, be applied to some suppliers who have
been prevented from participation in procurement programmes due to previous default records, or to suppliers from certain areas to which Chinese Taipei applies area restrictions.

361. Page 30: Are there any countries the companies of which are restricted from bidding for some or all international project or procurement tenders? If so, which countries?

Reply 361

The procurement entities in Chinese Taipei generally apply worldwide tendering policy to international projects and procurement tenders. Restrictions may, however, be applied to suppliers from areas subject to Chinese Taipei's area restrictions.

362. Page 30: Are there published guidelines for the procurement of defence equipment?

Reply 362

The Ministry of Defense has a set of guidelines for procurement of defense equipment, currently there is no English translation available. Chinese Taipei will provide such a translation upon accession to the GATT Government Procurement Code.

363. Page 30: Are any sectors other than defence excluded from the arrangements for such international tenders?

Reply 363

In addition to defense, educational institutions, government owned enterprises and local governments may conduct their international procurement without going through the Central Trust of China and issue independent bids for such procurement.

364. Page 30: Do all or some domestic project or procurement tenders permit the supply for imported equipment or technology as part of the bid? If some do, what guidelines are there on which tenders permit the use of imported equipment or technology? For those domestic tenders for which the use of imported technology or equipment is permitted, are there any countries the equipment of technology of which cannot be used in some or all cases?

Reply 364

Procurement entities in Chinese Taipei do not have guidelines for offering imported equipment and technology and generally do not restrict the supply of them as part of the bid. Exceptions may, however, be applied by relevant government authorities to some cases from time-to-time for reasons of national security or development considerations pursuant to a
industrialization policy, or due to political concern or trade imbalance concern.

365. Is regional procurement subject to the same set of rules and guidelines?

Reply 365

The procurement procedures which apply to regional procurement are, in substance, the same as those of the rules and guidelines described, except that regional authorities may procure foreign goods without using the Central Trust of China as a consolidated procurement channel.

366. Does Chinese Taipei plan to introduce any changes to government procurement policy?

Reply 366

After careful consideration, Chinese Taipei for the time being is not prepared to sign the Government Procurement Code, but will endeavour to bring its practices more in line with the requirements of the Code.

367. Does Chinese Taipei have the firm intention to become a signatory to the GATT Government Procurement Code when it accedes to GATT?

Reply 367

Please refer to Reply 366.

368. Will Chinese Taipei intend to negotiate adherence to the Government Procurement Code after accession?

Reply 368

Please refer to Reply 366.

9. State Enterprises (page 31, item 9)

369. What is the State enterprises' share of gross domestic product? Can you supply a list of State enterprises and indicate the sectors in which they operate?

Reply 369

The contribution of the State enterprises to gross domestic product is about 8 per cent of the fiscal year 1992 (from 1 July 1991 to 30 June 1992). The State enterprises are classified into the following categories by major industry:

(1) Energy industry:

    Taiwan Power Company;
Chinese Petroleum Corporation.

(2) Agriculture-fertilizer industry:
Taiwan Sugar Corporation;
Taiwan Fertilizer Company;
Kaohsiung Ammonium Sulfate Corporation;
Taiwan Agricultural & Industrial Development Corporation.

(3) Metal-mining industry:
China Steel Corporation.

(4) Heavy industry:
China Shipbuilding Corporation;
Taiwan Machinery Manufacturing Corporation;
BES Engineering Corporation;
Tang Eng Iron Works Corporation.

(5) Petrochemical industry:
China Petrochemical Development Corporation;
Taiwan Salt Works.

(6) Paper-manufacturing industry:
Chung Hsin Paper Corporation.

(7) Tobacco Products & Alcoholic Beverages Industry:
Taiwan Tobacco and Wine Monopoly Bureau.

370. On page 31 of the Memorandum it is noted that Chinese Taipei maintains an "open" and competitive environment for business and investment.

(i) In this context, could Chinese Taipei advise whether there are any State monopolies and provide details of any which do exist?

(ii) If Chinese Taipei has any State monopolies, could it provide an indication when these monopolies will be disbanded?

Reply 370

(1) Please refer to Reply 371.
(2) Liberalization and internationalization are established economic policies of Chinese Taipei Government. We will nullify the State enterprises' monopoly rights gradually, tailored to the level of economic and social development.

371. Page 31: There is reference that certain government companies have monopolistic rights to import certain products and raw materials. It would be helpful to have more information on this.

Reply 371

(1) State enterprises under the auspices of the Ministry of Economic Affairs:

(a) Chinese Petroleum Corporation:

With a view to ensuring the best interests of the people, to maintain national security, and to accelerate the country's economic development, Chinese Petroleum Corporation (CPC) is authorized to monopolize the supply and sales of gasolines, diesel, fuel oil, natural gas, and LPG. CPC is also the only enterprise that is authorized to import crude oil, refined products and liquified natural gas and export refined products. Its crude oils are all purchased directly from oil producers on term basis of long-term supply contracts. The export and import of refined products are conducted through open tenders to oil companies. The private sector is not allowed to import crude oil or refined products. However, private sector marketing and operation of retail outlets is permitted for other petroleum products, such as lubricating oils and petroleum solvents. In addition, Chinese Taipei has granted approval for the construction of a US$2 billion petroleum cracking facility to be operated by Formosa Plastics Company, a private company. Construction of this facility is expected to begin soon.

(b) Taiwan Power Company:

Taiwan Power Company (TPC) is the unique supplier of electric power throughout Taiwan and Penghu Island. TPC which purchases coal, uranium, and equipments for power generation transmission and distribution from overseas or domestic suppliers through open tender. TPC has no exclusive right to import any raw materials or products. Chinese Taipei Government does not preclude other public and private enterprises from establishing self-sustained power generation facilities. Any surplus power generated from these facilities may be sold to TPC.

(c) Taiwan Sugar Corporation:

The main products of Taiwan Sugar Corporation (TSC) are sugar and its related products, such as molasses and alcohol. TSC is the sole producer of sugar in Taiwan. Besides, TSC has diversified
its production into many other fields, such as bagasse pulp, animal feed, hog raising, edible oil, and so on, which are in competition with products of private enterprises and importers. The operating natures of sugar and alcohol are as follows:

(a) Sugar

According to the Regulation of Taiwan Canesugar Industry Administration, all the cane sugar for domestic consumption is produced and supplied by TSC, except for non-centrifugal sugar (brown sugar) which is manufactured and sold by private firms.

(b) Alcohol

Since TSC is the sole producer of sugar in Taiwan, it is also the sole producer of alcohol which is the by-product of sugar. According to the Taiwan Provincial Tobacco and Wine Monopoly Regulation, TSC's alcohol is sold exclusively to the Taiwan Tobacco and Wine Monopoly Bureau, and denatured alcohol is sold to licensed industrial users.

Concerning the international trade in sugar, the import of sugar is allowed only under approved import licenses issued by the Government. As Chinese Taipei's sugar production was insufficient to satisfy domestic consumption in the past few years, the government allowed TSC to import sugar starting from 1990. TSC is Chinese Taipei's only sugar exporter, but the quantity is small.

(d) Taiwan Fertilizer Company

The main products of Taiwan Fertilizer Company (TFC) are fertilizers and chemical products.

The chemical fertilizers which TFC produces are urea, calcium superphosphate, ammonium sulphate, calcium ammonium nitrate, and various compound fertilizers. These fertilizers are mainly used for domestic consumption, with only a very small quantity export. Other companies, both private and public, also producing and selling fertilizers.

In addition to fertilizers, TFC also produces chemical products, such as liquid ammonia, nitric acid, melamine, and sulfamic acid, of which the liquid ammonia and nitric acid are for domestic sales only. The melamine is not only for domestic sales but also for export. As for sulfamic acid, it is for export only. The domestic sales of chemical products are directly made to the customers by TFC, and the export is through trading companies or directly sold to customers. The fertilizer and chemical products business are not monopolies.
TFC produces liquid ammonia in Chinese Taipei, but its production does not meet the local demand. Under authorization issued by the Industrial Bureau, Ministry of Economic Affairs, all liquid ammonia imports are subject to centralized purchases and sales by TFC, except the import for treatment of waste acid gas. The procurement of liquid ammonia is held by open tender.

(e) Taiwan Salt Works

According to the Law of Salt Administration and its by law, the permissions of the Ministry of Economic Affairs are required for production, sales, distribution, stocking, import, and export of salt. Chinese Taipei has delegated the performance of these activities to Taiwan Salt Works, with two exceptions:

(a) Private Alkali-Chloro producers are permitted by the Ministry of Economic Affairs to import industrial salt only for their own uses.

(b) Sales of edible salt, salt for farmer uses and food processing (for domestic sales) are entrusted to Taiwan Food Bureau.

(f) China Steel Corporation

China Steel Corporation (CSC) is an integrated steel manufacturer, whose major steel products include hot-rolled and cold-rolled coils and sheets, plated, bars, rods, electrical sheets, and electrolytic galvanized sheets. CSC's production and sale of steel products is intended to meet the domestic demand as a first priority. Most of CSC's steel products are sold to domestic down-stream industries, including pipe, construction, automobile, shipbuilding, machinery, and bolts and nuts manufacturing.

Around 15 per cent to 20 per cent of CSC's total sales are for exports to North-East and South East Asian countries. Apart from steel products, CSC also produces some aluminium products, including plates, sheets, coils, and foils. CSC's aluminium products are predominately sold to domestic downstream industries such as beverage cans, electrical appliances, packaging, auto spare parts, construction materials, and machinery. Under government's policy of economic liberalization and internationalization, import tariffs have been reduced tremendously and repeatedly. Currently, Chinese Taipei is one of the few steel-producing countries without any protective restraint against steel imports. Competition in Chinese Taipei's steel market is very keen.

There are numerous private steel mills in Chinese Taipei. Using 1991 as an example, Chinese Taipei's steel consumption reached 15.7 million MT, among which CSC's domestic shipments accounted
for 4.36 million MT. As a result, CSC's domestic market share was merely 27.8 per cent.

(g) China Shipbuilding Corporation

The main products of China Shipbuilding Corporation (CSBC) are ships. CSBC does not have any monopoly in Chinese Taipei shipbuilding market. The scopes of CSBC's procurement are material and equipments for shipbuilding, ship-repairing, and other contracted projects.

Such materials and equipments are procured and fabricated for sale's purpose. For the major equipments of new shipbuilding project, for example, the procurement are normally made by restricted or negotiated tender. According to MAKERS' LIST which is a part of the shipbuilding contract, shipowners have the right to select their preferred makers from the maker's list. This is consistent with worldwide shipbuilding practice.

(h) BES Engineering Corporation

BES Engineering Corporation (BES) is a construction company. BES imports equipment for civil construction, equipment for building construction, equipment for mechanical and electrical work, instrument, and raw materials. BES advertises on an open-tender basis purchase through newspaper announcements. BES has no monopoly position for these imports.

(i) Taiwan Machinery Manufacturing Corporation

The main business operations of Taiwan Machinery Manufacturing Corporation (TMMC) comprise designs, manufacture, construction, repair, procurement and sales of diesel engines, boilers, water conservation machinery, sugar machinery, cement machinery, rolling stocks; shipbuilding, conveying and hoisting equipment; incinerators and pumps; the manufacture of tin plates, steel and iron castings, forged products and rolled products; and fabrication and welding.

Almost all of TMMC's products are produced to meet customers' required specification.

Completed products or equipment are sold and delivered directly to the customers. TMMC's sales are primarily in the domestic market. TMMC possesses no monopoly rights in business and trade.

(j) China Petrochemical Development Corporation

The main products of China Petrochemical Development Corporation (CPDC) are caprolactam, acrylonitrile, dicalcium phosphate, acetic acid, and sodium tripolyphosphate. Chinese Taipei’s market for these five products is open. The tariff on these
products is low and there is no subsidy for imports or exports. The market is very competitive.

CPDC principal imports are propylene, cyclohexane, cyclohexanone, methanol, sulphur, and phosphate rocks. The procurements are made solely on the basis of commercial considerations. There are no constraints on imports.

(2) Public enterprises under the auspices of the Provincial Government of Taiwan Province:

(a) Chung Hsin Paper Corporation

Chung Hsin Paper Corporation manufactures and markets paper products for domestic consumption. Most of the sector's raw materials like pulp, used newspaper, coating clay, and paper-making machinery and spare parts are purchased from the international market through open tenders. The domestic market share of newsprint, writing/printing paper are about 30 per cent and 10 per cent, respectively. Chung Hsin Paper Corporation does not have any monopoly right.

(b) Tang Eng Iron Works Corporation

Tang Eng Iron Works Corporation imports equipment and raw materials for steel and stainless steel making. Its main products are steel, stainless-steel, casting, machineries, structures, vehicles, and railway rolling stocks. Production is sold directly to the customers. For the time being, it has no surplus quantity to export. It has no monopoly right.

(c) Taiwan Agricultural & Industrial Development Corporation

The main products of Taiwan Agricultural & Industrial Development Corporation are agricultural machinery and flour. The Corporation has been involved in international trade indirectly. Based on customers' specific requirements, the Corporation consigns the Taiwan Supply Bureau to import the requested products. The Corporation purchases wheat through the Taiwan Flour Millers Association. It has no monopoly right.

(d) Kaohsiung Ammonium Sulfate Corporation

The products of Kaohsiung Ammonium Sulfate Corporation include sulfuric acid, ammonium sulfate, and nitric acid. Nitric acid is the only exported item. Concerning the import of products and raw materials, Kaohsiung Ammonium Sulfate Corporation does not have any exclusive import rights.
(e) Taiwan Tobacco and Wine Monopoly Bureau

According to the Taiwan Provincial Tobacco and Wine Monopoly Regulation, the Taiwan Tobacco and Wine Monopoly Bureau produces and sells tobacco products and alcoholic beverages. The Bureau also imports foreign brand cigarettes, wine and distilled spirits for resale. Strictly speaking, the Bureau continues to possess the monopoly rights for these products. Since 1987, however, sales of foreign brand cigarettes, wine and beer have been permitted through private trading companies. The Bureau's main items of trade are as follows:

(a) tobacco, manufactured tobacco, and related products;

(b) alcoholic beverages;

(c) alcoholics;

(d) alcohol for medical use;

(e) tipping paper, cigarette paper;

(f) decoction vessels, brewing vessels;

(g) machinery and parts for wine-making, and brewery machinery.

372. Page 31: Please list the products and raw materials regarding which monopoly positions and/or exclusive rights to import exist. Please also describe the content and time schedule of the privatizing programme named.

Reply 372

Please refer to Reply 373 for import monopoly and/or exclusive rights to import. Please refer to Reply 373 for privatization plan.

373. Concerning the operation of State enterprises, the following clarifications are requested:

(i) What part of imports to Chinese Taipei are carried out through monopolies or exclusive rights granted to State enterprises and which products are covered by these import practices?

(ii) What changes have taken place since the privatization programme was launched in 1987 and when is the programme expected to be terminated?

(iii) How are State enterprises encouraged to make purchases or sales solely in accordance with commercial considerations?
(iv) How is it guaranteed that State enterprises follow the principle of non-discrimination in their imports and exports?

Reply 373

(1) (a) According to the Classification of Import & Export Commodities of Chinese Taipei, Chinese Petroleum Corporation is given the monopoly to import crude oil, refined products and liquified natural gas and export refined products.

(b) According to the Classification of Import and Export Commodities of Chinese Taipei, Taiwan Sugar Corporation is given the monopoly to import and export sugar.

(c) In compliance with government's agricultural policy, under the authorization of the Bureau of Industry Development, Ministry of Economic Affairs, all liquid ammonia imports are monopolized by Taiwan Fertilizer Company for centralized purchases and sales, except for the import of waste acid gas.

(d) According to the Law of Salt Administration and its by-law, the right to import and export salt is exclusively given to the Taiwan Salt Works, except that private producers of Alkali-Chloro are permitted by the Ministry of Economic Affairs to import industrial salt only for their own uses.

(e) According to the Taiwan Provincial Tobacco and Wine Monopoly Regulation, Taiwan Tobacco and Wine Monopoly Bureau has the monopoly in the production and trading of tobacco products and alcoholic beverages.

(2) The Government of Chinese Taipei has a firm policy to privatize publicly-owned enterprises and has had the necessary statutory framework in place for implementing the privatization programme.

The present policy of Chinese Taipei is to privatize publicly-owned enterprises with the exception of those enterprises which directly involve national security and defense, as well as certain public utilities.

Since 1989, the Ministry of Economic Affairs of Chinese Taipei has implemented its privatization programmes as follows:

- In 1989, 2.3 per cent of China Steel Corporation's outstanding shares were offered for sale to the public;

- In 1991, 4.53 per cent of China Steel Corporation's outstanding shares and 20 per cent of China Petrochemical Development Corporation's outstanding shares were offered for sale to the public;

- In 1992, 13 per cent of China Steel Corporation's outstanding shares were offered for sale to the public;
- In January 1993, 9 per cent of BBS Engineering Corporation's outstanding shares were offered for sale to the public.

In addition, by the end of June 1993, Chinese Taipei will offer three further issues of 51 per cent, 60 per cent, and 40 per cent of BES Engineering Corporation's, Taiwan Machinery Manufacturing Corporation's and China Petrochemical Development Corporation's outstanding shares, respectively.

After that, the Ministry will continue to privatize China Steel Corporation and China Shipbuilding Corporation through further stock offering to the public.

Concerning the privatization of the other four companies, including Taiwan Power Company, Chinese Petroleum Corporation, Taiwan Fertilizer Company, and Taiwan Salt Works, the Government has placed them on the second "wave". The details of the privatization programmes and schedules for stock offering are being developed.

In line with the process of privatization, the government attach great importance to promoting fair competition among business and improving operational efficiency. To minimize economic dislocation and internal resistance, the privatization programmes must proceed cautiously and on a step-by-step basis. Nevertheless, Chinese Taipei will continue making efforts to further privatize publicly-owned enterprises.

(3) The State enterprises have full discretion in making purchasing and sales decisions. Being profit-seeking enterprises, they must bear their own losses. Under such circumstances, such enterprises would normally be guided by commercial considerations in making business decisions. Chinese Taipei does not oversee individual day-to-day transactions or business operations.

(4) The State enterprises are profit-seeking enterprises. They must bear their own losses, and therefore normally are guided by commercial considerations in making business decisions.

374. Please provide a list of those State enterprises and provincial enterprises (together with information on exclusive rights) that enjoy a monopoly position or have an exclusive right to import certain products and raw materials.

Reply 374

(1) According to the Classification of Import & Export Commodities of the R.O.C., Chinese Petroleum Corporation has the monopoly right to import of crude oil, refined products and liquified natural gas and export of refined products as well.

(2) According to the Classification of Import & Export Commodities of the R.O.C., Taiwan Sugar Corporation is authorized to monopolize the import and export of sugar.
(3) In compliance with the Government's agricultural policy, under the authorization issued by the Bureau of Industrial Development, Ministry of Economic Affairs, all liquid ammonia imports are authorized to Taiwan Fertilizer Company for united purchases and sales, except the import for treatment of waste acid gas.

(4) According to the Law of Salt Administration and its bylaw, the Government assigns the responsibility exclusively to the Taiwan Salt Works, for trading in salt except that private Alkali-Chloro producers are permitted by the Ministry of Economic Affairs to import industrial salt only for their own uses.

(5) According to the Taiwan Provincial Tobacco and Wine Monopoly Bureau Regulation, the Bureau has the monopoly in the production and trading of tobacco products and alcoholic beverages.

375. What is the legislative basis for provincial enterprises? Will sub-national entities comply with Article XVII, and if so, how will this be enforced?

Reply 375

The provincial enterprises, 51 per cent or more of the equity of each enterprise, are owned by the Provincial Governments of Taiwan. The Provincial Assemblies have the right to review or amend the provincial enterprises' annual budgets, setting overall operating expenses and personnel costs. Chinese Taipei, after accession to the GATT, will take all reasonable measures as may be available to it, to ensure their compliance with the GATT relevant principles.

376. Please list the ten publicly-owned and other provincial enterprises that engage in international trade referred to in this section, and indicate what products they produce or trade. Please describe in some detail the nature of their operations, both in international trade and in the domestic market. Which of these enterprises have trading monopolies, and in which products?

Reply 376

Please refer to Reply 371.

377. Are the State enterprises and provincial enterprises required to be responsible for their own profits and losses?

Reply 377

State enterprises and provincial enterprises are, in general, responsible for their own profits and losses and therefore, their operations have to be guided by commercial considerations. However, public utilities, such as electricity and water are subject to government regulation, under which prices are reviewed and set periodically.
378. Please list other publicly-owned or controlled enterprises in Chinese Taipei that engage in trade, and indicate whether they enjoy a monopoly position, including products and raw materials for which they have exclusive import rights. Are there any publicly-owned or controlled or provincial enterprises that are not engaged in international trade?

Reply 378

(1) The Procurement Department of Central Trust of China is a non-exclusive procurement agent of central government entities and some of the State enterprises to solicit offers and products from foreign sources. As a procurement agent, the Procurement Department of Central Trust of China does not import products in its own name for, or at the purpose of reselling to its principals. In fact, it is the obligation of the principals to import the products in their own name. At this moment, the Procurement Department of Central Trust of China does not see any of its principals as an import monopoly of a product for any of the products solicited through it.

The Trading Department of Central Trust of China acts as agent for government organizations, public and private enterprises to export/import products. Although some of the products are exported/imported in its own name, the Trading Department of Central Trust of China is a non-exclusive exporter/importer.

(2) Taiwan Supply Bureau

(a) The business activities in the TSB are managed by its Supplying, Trading and Warehousing Departments. The Bureau shares these responsibilities with private enterprises, therefore, is not a monopoly organization.

(b) The Trading Department in the Bureau mainly serves as an agent for purchasing commodities, either from local suppliers or from overseas for all provincial government organizations and enterprises. Previously, all provincial and local government organizations had to procure foreign goods through the TSB if the purchases exceeded a certain value. As of 26 September 1990, the Executive Yuan issued a new regulation allowing local and provincial governments the option of procuring foreign goods directly or continuing to do so through the TSB.

(c) The Bureau is not involved in setting the specifications or the terms for purchasing merchandise. These are defined by the purchasing agency; the Bureau merely manages the purchase through an open tender, restricted tender or negotiation. Once the purchase is made, the Bureau does not involve itself in the details of the purchase.

(d) In summary, the Taiwan Supply Bureau has no monopoly over business activities but only functions as an agent for local and provincial government organizations.
379. Please describe the origins and current operational status of the publicly-owned and operated "exchange" retail stores. Also, please indicate:

(i) Who has access to these stores and approximately what portion of Chinese Taipei's population is eligible to shop there?

(ii) How are the prices of goods sold in these stores determined and who decides what products will be sold?

(iii) Do these outlets import goods on their own behalf?

(iv) How do importers have equal access to this distribution system and how does their treatment differ from that accorded domestic producers?

Reply 379

(1) There is approximately less than 10 per cent of Chinese Taipei population eligible to shop at those publicly-owned retail stores, such as the stores of the General Welfare System Organization and the Military Welfare Organization. Those eligible people are the public officials, their families, or the families of the dead public officials, the military personnel or their families, or the families of the dead military officers.

380. Please indicate any private concerns that enjoy a trade monopoly sanctioned by the central authorities and describe their trade prerogatives and operations.

Reply 380

Chinese Taipei does not sanction any trade monopoly to private concerns. Neither does Chinese Taipei accord any special treatment to private enterprises in the area of trade or production.

381. Does Chinese Taipei accord any other special treatment to such enterprises, e.g. in the area of trade or production?

Reply 381

Chinese Taipei does not accord any such special treatment to such enterprises.

382. What import and/or export measures are applied by Chinese Taipei to support the operations of publicly-owned or controlled entities, provincial enterprises, or private concerns that enjoy a monopoly in trade sanctioned by the central authorities?

Reply 382

Please refer to Reply 374.
383. Will Chinese Taipei commit to notify, after accession, all these enterprises and report on their activities as required by Article XVII?

Reply 383

Liberalization and internationalization are the established policies of Chinese Taipei. As described in the Memorandum, Chinese Taipei has been encouraging State enterprises to make purchases or sales solely in accordance with commercial considerations. Chinese Taipei, after its accession, will duly notify all these enterprises and report on their activities as required by Article XVII.

384. Page 31, paragraph 6: it is stated that "Chinese Taipei allowed the importation and free selling of wine, beer and cigarettes by private companies". Is the importation of these products made in a non-discriminatory manner? Does this mean that there are no restrictions on the selling of these three products? Is the sale of those products made in a non-discriminatory manner?

Reply 384

Because of the Agreement Between the American Institute in Taiwan and the Coordination Council for North American Affairs Concerning Beer, Wine and Cigarettes, Chinese Taipei has allowed the importation of beer, wine and cigarettes from certain trading partners since 1 January 1987. Importers may apply to Taiwan Tobacco and Wine Monopoly Bureau (TWMB) for importation of beer, wine or cigarettes produced by the countries and areas identified by Board of Foreign Trade, MOEA. Only retailers with TWMB's permission may sell the above products.

385. Does Chinese Taipei consider the current functioning of State enterprises consistent with the current GATT provisions and the draft Final Act?

Reply 385

Liberalization and internationalization are established economic policies of Chinese Taipei. Our State enterprises will, after accession, exert their best efforts to comply with the provisions of the GATT. Chinese Taipei's relevant practices will take into account the Draft Final Act depending on the outcome of the Uruguay Round.

386. Why are Chinese Taipei publicly-owned enterprises exempt for five years from the Fair Trade Law, implemented in February 1992? How can this be justified in light of the provisions of Article III (national treatment) and Article XVII (commercial consideration)?

Reply 386

(1) Article 46, paragraph 2 of the Fair Trade Law provides that publicly-owned enterprises are not subject to the Law for a period of five years from the date of its promulgation, when specifically approved by
the Executive Yuan. The reason for such a rule is that publicly-owned enterprises have been important instruments in the implementation of national economic policies and they may not be able to adjust in a short time to a free market which is the basic assumption of the Fair Trade Law. Also, the government's current plan is to privatize the publicly-owned enterprises. A transitional period is required for the privatized enterprises to adjust to a competitive environment.

(2) Article 46, paragraph 2 does not conflict with the principle of national treatment as provided in Article 3 of the General Agreement. The Fair Trade Law equally applies to domestic as well as foreign enterprises; it is not a law specifically for protection of domestic industries. The stipulation to exempt publicly-owned enterprises from the application of the Fair Trade Law subject to the Executive Yuan's approval is to provide an adjustment period for the publicly-owned enterprises and complement the privatization plan, rather than to discriminate against foreign enterprises. The Fair Trade Commission of Chinese Taipei does not consider Article 46, Paragraph 2 of the Fair Trade Law to be inconsistent with Article III of the General Agreement.

(3) Article XVII of the General Agreement requires that State enterprises falling within the definition of Article XVII, sub-paragraph 1(b) to make any relevant purchases or sales solely in accordance with commercial considerations. Article 46, Paragraph 2 of the Fair Trade Law permits that specific conducts of publicly-owned enterprises rather than the enterprises themselves would not be subject to the Fair Trade Law for a period of five years, when approved by the Executive Yuan. It, however, does not say that state enterprises need not follow commercial considerations in the relevant purchases or sales.

In other words, Article 46, Paragraph 2 of the Fair Trade Law does not exclude the application of Article XVII of the General Agreement. Furthermore, what have been approved by the Executive Yuan under Article 46, Paragraph 2 are supplies of materials at preferential prices to specific users. So far, no approvals involving imports and/or exports have been granted.

387. Does Chinese Taipei have any plans to eventually privatize its enterprises owned by the central and provincial authorities?

Reply 387

Privatization of enterprises owned by the central and provincial authorities is a firm and long-term policy of the Government of Chinese Taipei. The enterprises that are to be privatized at the first stage are as follows:

(1) Enterprises owned by the central authorities:

(a) Chinese Petroleum Development Corporation;
(b) China Steel Corporation;
(c) Taiwan Machinery Manufacturing Corporation;
(d) BES Engineering Corporation;
(e) China Ship Building Corporation;
(f) Yanming Marine Transport Corporation.

(2) Enterprises owned by the provincial authorities:

(a) Chung Hsin Paper Corporation
(b) Tang Eng Iron Works Corporation
(c) Taiwan Agriculture and Industrial Development Corporation
(d) Kaohsiung Ammonium Sulfate Corporation.

10. Fair Trade Law

388. How does the Fair Trade Law relate to the Implementing Regulation on Anti-Dumping and Countervailing Duties? Does this Law address imports in any way?

Reply 388

The legal basis for the Implementing Regulation on Anti-dumping and Countervailing Duties ("Anti-Dumping/Countervailing Duties Regulation") is Article 46-2, Paragraph 3 of the Customs Duty Law. The purpose of such legislation is to prevent domestic industries from being injured by foreign dumped or subsidized imports. As to whether dumped or subsidized imports are also subject to the Fair Trade Law, it is the position of the Fair Trade Commission of Chinese Taipei that the Law applies only to specific conducts of business entities. Given the great variety of market activities and of the elements constituting a market conduct, a conduct may be composed of several elements and the composition of each conduct may be different. It is therefore essential to deal with the matter on a case-by-case basis, to determine whether a particular import should be subject to the Fair Trade Law. The nature and purposes of the Anti-Dumping and Countervailing Duties Regulation are quite different from those of the Fair Trade Law.

389. Since the Implementing Regulation in Imposition of Countervailing Duties and Anti-Dumping Duties was enacted, how many cases has Chinese Taipei investigated and finalized so far?

Reply 389

Please refer to Reply 62.
11. Intellectual property rights protection

390. Could Chinese Taipei outline what steps, if any, it has taken since 1985 to bring its intellectual property rights (IPR) legislation into conformity with international covenants and agreements, and whether these steps have provided more effective enforcement of IPR?

Reply 390

(1) Concerning patents:

We have extended patent protection to chemicals and pharmaceuticals since 1986. The latest proposed amendments to the Patent Law, submitted to the Legislative Yuan at the end of 1992, are prepared along the lines of the GATT TRIPs Agreement.

(2) Concerning trademarks:

Following international trends and to meet the needs of domestic economic development, the Trademark Law and its associated regulations have been amended four times since 1972. The most recent amendments have taken into consideration the legislation of other developed economies, the Paris Convention and the draft GATT TRIPs Agreement. Furthermore, when the Implementing Regulations take effect, the National Bureau of Standards will adopt Nice Agreement-International Classification on Products for product classification.

(3) Concerning copyright:

The blueprint for the new Copyright Law amended and implemented in June 1992 in Chinese Taipei is the Bern Convention. Therefore, the new Copyright Law basically has been in conformity with the standards of the Bern Convention. As the new Copyright Law enhanced the standards of protection and substantially increased applicable penal sanctions, the new Law has set a strengthened standard for the protection of copyrights.

391. Chinese Taipei recently agreed to implement a number of administrative, legislative, and judicial measures to improve the protection and enforcement of intellectual property rights. Please describe the measure to be taken and give a status report on their implementation.

Reply 391

Please refer to Reply 390 for legislative efforts made.

Please refer to Reply 394 for judicial measures taken.

Please refer to Reply 395 for administrative efforts.

392. More detailed information on the reform programme concerning the protection of intellectual property rights should be provided.
Please refer to Reply 391.

393. More detailed information on the reform programme concerning the protection of intellectual property rights should be provided.

Please refer to Reply 391.

394. Please describe Chinese Taipei's current system for the enforcement of intellectual property rights. How is the enforcement of these rights administered at the border, i.e. on imports and exports?

(1) Providing IPR training programmes for judges, prosecutors and other law enforcement officials:

Judges and Public Prosecutors' Training Institute which is under the jurisdiction of the Ministry of Justice (MOJ), is responsible for providing the training programmes for future judges and public prosecutors as well as other legal personnel. Each year, the successful candidates of the judicial examinations for judges and public prosecutors are required to receive one and a half year training programme at the Institute before being assigned of responsibility. Introduction to the Intellectual Property Law is one of the major courses of the training programme, in order to further the understanding of the current trend and development of intellectual property laws; seminars in that regard among the incumbent public prosecutors from various districts have constantly been held by MOJ.

(2) Co-ordinating the relevant agencies in enforcing the intellectual property laws:

Adequate protection of intellectual property necessitates various efficient measures, one of which is to strengthen the knowledge of the enforcement officials and to solidify their determination to implement the laws fairly and effectively.

To co-ordinate all the agencies involved, the Public Prosecutors' Office attached to Taiwan High Court has given five consecutive seminars since 1 July 1992 to the representatives from relevant government agencies including Customs, Government Information Office (GIO), Board of Foreign Trade (BOFT), and the National Police Administration.

(3) Promulgating directives with respect to enforcing intellectual property laws:
To improve IPR protection, the MOJ has given the following administrative directives to be followed by the public prosecutors:

(a) To establish a special public prosecutors' office to deal with IPR infringement cases.

(b) To handle complaints of IPR infringement expeditiously and to recommend severe sentencing, especially imprisonment of over six months, wherever the circumstances warrant, such a recommendation in order to avoid the commutation of jail sentence. Furthermore, judgements imposing sentence, not sufficient to deter infringement, shall be appealed to the Appellate Court.

According to the Article 41 of the Criminal Code, there are the following three conditions that must be met for a prison sentence to be converted to a fine: (a) the original sentence must not be more than six months; (b) the maximum statutory penalty for the offence is not more than three years imprisonment; and (c) the defendant suffers from a physical, mental or educational infirmity which renders incarceration inappropriate.

A sentence of no more than two years imprisonment may be suspended from not less than two years nor more than five years from the date of the decision provided that: (a) there has been no prior sentence of imprisonment or more severe punishment; or (b) in cases where there has been a prior prison sentence the defendant has gone five years without being sentenced to imprisonment.

Cases involving offences for which the maximum statutory penalty is less than three years, imprisonment cannot be appealed to the Supreme Court. Therefore, because most copyright and all patent infringement penalties are less than three years, they cannot be appealed to the Supreme Court.

(c) Public prosecution: with limited exceptions, prosecutors cannot initiate an investigation of patent or copyright infringement or prosecute an infringer except upon complaint from an injured party. Once an injured party files a complaint, however, a prosecutor must commence an investigation. As a practical matter, parties often file complaints directly with the police who then work with a prosecutor to obtain a search warrant to conduct a raid and seize evidence. Once evidence has been seized, the prosecutors' office must conduct its own investigation to determine whether to indict the defendant.

On the other hand, Article 94 of the current Copyright Law provides: if the defendant is a person who makes an offence
specified in Articles 91, 92, and 93, an occupant shall be punished with imprisonment for not less than one year and not more than seven years. In addition thereto, a fine of not more than 450 NT dollars may be imposed. Also, investigation and indictment may be initiated without the victim's complaint. The MOJ has directed that Article 94 be followed strictly if the public prosecutor regards the defendant as such an offender. Therefore the charge cannot be dropped even a settlement has been reached by the complaint and the offender. The MOJ also suggests that appeal be considered if the public prosecutor is dissatisfied with the court's ignorance of his legal opinion.

(d) Where the issuance of a search warrant and seizure of infringing goods is appropriate, the prosecutors are required to supervise judicial policemen in the conduct of these seizures and to issue warrants promptly so that evidence can be preserved. This will help to ensure the proper disposition of infringing goods until a verdict is given.

(e) Although the Code of Criminal Procedure authorizes the prosecutor the right not to prosecute, if he considers it appropriate not to prosecute a case involving one of the offences specified in Article 61 of the Criminal Code, after having taken into consideration the provisions of Article 57 of the Criminal Code, and some of the intellectual property infringement cases may satisfy the conditions, the MOJ has directed that the discretion be exercised very carefully in dealing with intellectual property criminal cases.

(4) Sentencing by the Courts:

By a letter dated on 21 April 1992, to the courts at all levels, the Judicial Yuan encouraged judges in their trial of IPR infringement cases, to impose heaviest penalties on the infringers in accordance with the relevant laws, in order to deter IPR infringements.

(5) Establishing the Special IPR Courts:

The Judicial Yuan has established special divisions for IPR infringement cases in district courts for Taipei, Taichung, Tainan and Kaohsiung. Special prosecutors have also been designated by the prosecution offices to be responsible for IPR infringement cases. Additionally, on-the-job training courses in IPR protection have been provided to judges and public prosecutors at the Judicial Yuan and MOJ to help them understand more about the legal aspects involving IPR.

395. In the area of intellectual property law enforcement, are any additional measures to be taken to ensure that infringements of
intellectual property rights are effectively discouraged, since the existing measures do not appear to be having a sufficiently deterrent effect on certain commercial-scale counterfeiting activities aimed at third-country markets (in the watch-making sector, for example)?

Reply 395

To enhance the protection of IPR and to eliminate counterfeiting, our Government on 15 April 1992, issued an Action Plan for enforcing and protecting intellectual property through 31 December 1994. In the Action Plan, the Government laid down a framework to improve intellectual property protection including: upgrading the level and standards of protection, applying stiff administrative measures, strengthening judicial enforcement, and extensively educating the public.

To co-ordinate and supervise inter-agency enforcement for the protection of intellectual property rights, an Inter-Agency Co-ordination Task Force for IPR Protection was established. The Task Force, chaired by the Minister of Economic Affairs, holds regular meetings to initiate new IPR protection programmes and to review the results of actions taken under the Plan.

It is Chinese Taipei's belief that in order to have effective protection for intellectual property, it must first educate its nationals to duly respect intellectual property rights. Equally important, vigorous enforcement sends a signal of the government's determination in facilitating a better environment for intellectual property protection. Chinese Taipei is determined to enjoy a reputation as a country that respects intellectual property rights.

396 Does Chinese Taipei have legislation in place concerning the protection of industrial designs, semiconductor chips, or trade secrets? Is such legislation in development? What are its provisions?

Reply 396

The industrial design law and the integrated circuit layout protection law are currently being drafted along the lines of the TRIPs Agreement requirements.

397. Please provide information in detail on Chinese Taipei's current system for protection of intellectual property rights with regard to computer programme and foreign well-known marks.

Reply 397

(1) A trademark search system has been developed to improve the trademark examination process.

(2) Efforts have been made to increase the awareness of the public concerning protection of intellectual property rights.
As early as 1985 when the copyright law was amended, Chinese Taipei has listed computer programmes as copyrightable subject matter. They are treated as if they were literary works.

The Copyright Law, amended and promulgated in June 1992, continues the protection of this subject matter and further provides that the protection term is 50 years and that the granted rights are also the same as those for literary works, in general.

398. Are there any bilateral agreements (or draft agreements) with third countries or groups of third countries providing protection that goes beyond the protection granted to Chinese Taipei nationals? If so, will this protection be automatically extended to other countries? What will be (or is, if any already exist) the content of these texts?

Reply 398

No such bilateral agreements have been signed by Chinese Taipei with third countries.

Chinese Taipei has initialled a bilateral agreement for protection of copyrights with the United States in July 1989. The basic principle of that agreement is national treatment; therefore, the agreement does not grant copyright protection for American works than for the Chinese Taipei's of domestic works.

399. Please describe the provisions of bilateral and multilateral agreements to which Chinese Taipei subscribes concerning the protection and enforcement of intellectual property rights. Will Chinese Taipei provide copies of these agreements?

Reply 399

Chinese Taipei initialled a bilateral copyright agreement with the United States in July 1989. The contents of the agreement include protected persons, the protected categories of works, the duration term of copyrights, the exclusive rights enjoyed by the author, and so forth. Basically the standard of protection in that agreement is the same as the Berne Convention. For example, the duration term for copyrights is at least fifty years. In some cases, standards of protection are even higher than those in the Berne Convention; for example, computer programmes are stipulated to be a protected work in the agreement. The agreement is provided in the Annex.

400. What are the details of the agreement between the American Institute and Chinese Taipei on Audiovisual Works and on copyright?

Reply 400

(1) On the protection of audiovisual works, please refer to the Agreement between CCNA and AIT on the Protection of Audiovisual Works provided in the Annex.
(2) On the protection of motion picture copyrights, the following measures have been taken:

(a) according to Article 20 of the Motion Picture Law, in the application for exhibition permits for foreign motion pictures, the applicant is required to submit certificates to prove the granting of the distribution right by the copyright owner;

(b) according to the current Copyright Law, imported motion pictures have to be screened by the Government Information Office and obtain an exhibition permit before filing a copyright registration application. Foreign motion pictures that are not imported shall also apply for the issuance of Copyright Registration Certification for Foreign Motion Pictures.

In addition, Chinese Taipei initiated an agreement for copyright protection in July 1989 with the United States, which has not yet officially been signed by both parties. This agreement is primarily a blueprint closely tied to the Berne Convention. It is composed of 22 Articles with two more in the Appendix. The contents are outlined as follows:

- Article 1 provides for "the protected person," i.e., those who are to be protected by both parties to the agreement.

- Article 2 provides for the various kinds of works being protected.

- Article 3 provides for the definition of a "published work."

- Article 4 provides that the enjoyment and exercise of copyright protection shall not be subject to any formality and provides for a presumption in Court cases that the name on a work is the author or copyright owner.

- Article 5 provides that the term of protection shall be no less than the life of the author plus fifty years after his/her death.

- Article 6 provides that the translation right shall be protected.

- Article 7 provides that the author shall have the exclusive right of authorizing the reproduction of literary and artistic works.

- Article 8 provides that the author shall have the exclusive rights of public performance or public communication and provides for the definition of these rights.

- Article 9 provides that the author shall have the exclusive right of authorizing public broadcasting.

- Article 10 provides that the author shall have the exclusive right of authorizing public recitation.
Article 11 provides that the author shall have the exclusive right of authorizing adaptation.

Article 12 permits compulsory licensing of musical works.

Article 13 provides for the principles of fair use.

Article 14 provides that infringing copies of a work shall be liable to seizure.

Article 15 provides that either party to this agreement may prohibit the circulation of any work or reproduction when necessary.

Article 16 provides for ex-post facto (retroactive) protection.

Article 17 provides that the standards provided in the agreement are the minimum standards.

Article 18 provides that unrecognized judicial entities shall also have the right of filing suit for prosecution.

Article 19 provides that both parties to the agreement shall adopt such measures as are necessary under their domestic laws, to ensure the application of the terms of this agreement.

Article 20 is a consultation clause which provides that the parties consult periodically in order to review the operation and application of this agreement.

Article 21 and 22 provide for the effective date and termination clause.

The two Articles in the Appendix provide for the conditions for a transitional system of compulsory licences for translation rights.

401. We have noted Chinese Taipei's often stated intention to give better protection to intellectual property and to sign the text of its legislation on the existing international conventions or recently negotiated texts, such as the draft TRIPs Agreement (document MTN.TNC/W/FA, 20 December 1991, Annex III). According to the information provided, the Chinese Taipei authorities are in the process of revising the Laws on Patents and Trade marks and drafting new laws on integrated circuit topographies and on industrial designs and models. What progress has been made with the work scheduled under the timetable established in the Action Plan of April 1992?

Reply 401

(1) The proposed amendments to the Patent Law were submitted to the Legislative Yuan at the end of December 1992, for approval. The proposed amendments to the Trademark Law were submitted to the

(2) The draft of the Integrated Circuit Layout Design Law is now being reviewed by the Ministry of Economic Affairs.

(3) The Industrial Design Law is now being studied by the National Bureau of Standards. The aforesaid drafts are prepared along the lines of the TRIPs Agreement.

402. Does Chinese Taipei intend to adopt the results of the Uruguay Round Negotiations in the area of trade-related Intellectual Property Protection (TRIPs)? Does Chinese Taipei consider the provisions of the General Agreement and the proposed TRIPs Agreement sufficient to establish intellectual property relations with other GATT contracting parties and/or members of that Agreement?

Reply 402

The amended Patent Law and amended Trademark Law adopt the relevant regulations of the draft TRIPs text and are awaiting passage by the national legislature. Other proposed laws (such as the integrated circuit layout protection law and the industrial design law) are still in the drafting stage but will also comply with the TRIPs Agreement. In the area of copyright, Chinese Taipei's current Copyright Law is generally consistent with proposed TRIPs Agreement, and will further improve framework for protection of copyright, needed, taking into account the finalized TRIPs Agreement.

Other ways to further strengthen Chinese Taipei's intellectual property relations with GATT contracting parties and/or members could include Chinese Taipei's becoming an official member of the World Intellectual Property Organization (WIPO) and Chinese Taipei's becoming a signatory to intellectual property related treaties.

(1) Copyright protection

403. Please describe the provisions of Chinese Taipei's new Copyright Law, which was implemented in June 1992. Why is protection limited to works copyrighted after 1965? What steps is Chinese Taipei taking to strengthen enforcement of its Copyright Laws?

Reply 403

The new Copyright Law implemented in June 1992 was a substantial amendment to the original law: the number of provisions has been increased from the original fifty-three to the present 117. Basically the provisions are in conformity with the standards set in the Berne Convention. The main amendments are:
(1) Expansion of the Scope of Protected Works. The protected objects were expanded to include artistic crafts, architectural works, images shown on computer screens, data bases, typeface, etc. Computer programmes which were protected under the old Copyright Law continue to be protected under the new law.

(2) Extension of the Duration of Copyright. The duration of copyrights is extended from thirty years to fifty years.

(3) Enlargement of various copyrights. The author's morale rights were incorporated in the new law, including the right of public release, the right of integrity and the right of attribution. Furthermore, the foreign works' translation rights which were not provided in the old law were included in the new law.

(4) Adoption of the principle of national treatment for protection of foreign works. A foreigner whose home country has a reciprocal relationship with Chinese Taipei, will no longer be required to register his or her work(s) for protection. The foreigner's work is protected at the time the work is completed; the same standard applies to domestic works. Foreigners whose countries have reciprocal relationship with Chinese Taipei enjoy full national treatment.

(5) Provisions of effective legal remedy for copyright infringement. For example, the criminal penalty is increased to as much as 7 years of imprisonment, and detailed rules are provided for filing applications to customs for seizure of suspected infringing copies.

(6) Under the Copyright Law before 1985, copyrights attached when the works were registered; under the Copyright Law after 1985, copyrights attach upon creation of the works. Therefore, the works completed before 1985, but not yet registered, should not be protected from 1985. However, the old implementing rules provided that the works which have been published for no more than twenty years may still be protected by registration; therefore, Chinese Taipei's copyright protection is limited to the works created after 1965.

In recent years, Chinese Taipei has placed special emphasis on enforcement of intellectual property rights. Furthermore, after the Copyright Law was amended and implemented in June 1992, Chinese Taipei has adopted the following measures to strengthen the enforcement measures:

(1) Seminars for public prosecutors and policemen:

After the new Copyright Law was enacted and implemented, the Ministry of Justice and the National Police Administration under the Ministry of Interior have held numerous seminars for public prosecutors and policemen who are in charge of the enforcement to discuss how to strengthen enforcement procedures.
The principal purpose of these seminars was to ensure that proper attention was given by public prosecutors and the police to copyright infringement cases.

(2) Increasing public awareness of intellectual property protection:

As the new Copyright Law made substantial changes to the previous version, the Copyright Committee under the Ministry of Interior has sponsored over 100 seminars and/or presentations since June 1992 on the new Copyright Law to the general public. The purpose of the seminars for the general public was to give more visibility to the need for protection of IPR and to raise the public's awareness of the benefits of IPR protection to Chinese Taipei's economy.

404. Could Chinese Taipei please clarify when it proposes to make amendments to its Copyright Law to make it more compatible with the Bern Convention?

Reply 404

Chinese Taipei amended and implemented the new Copyright Law in June 1992. The new Law is basically in conformity with the provisions of the Bern Convention. The key results of the new Copyright Law are as follows:

(1) Expansion of the scope of copyrightable subject matters. The copyrightable subject matters are broadened to cover artistic and crafted works, architectural works, images shown on computer screens, data bases, typeface and so forth.

(2) Extension of the protection term: the duration term of copyrights was extended from the original term of thirty years at least to the present fifty years.

(3) Recognition of various morale rights of the author: the new Law, including the rights of public release, the right of integrity, and the right to indicate the author's name. Further, the foreigner's translation rights which were not given in the old law was included in the new law.

(4) Adoption of the principle of national treatment for foreign works: a foreigner whose home country has a reciprocal relationship with Chinese Taipei will no longer be required to register their works in order to be protected. The foreign work is protected at the time the work is created; the same as for the work of a national. The foreigner whose home country has a reciprocal relationship with Chinese Taipei would enjoy full national treatment in Chinese Taipei.
(5) Provision of effective legal remedies for copyright infringement. The criminal penalty is increased to as much as seven years of imprisonment. Detailed rules are provided to authorize Customs to seize infringing goods and to establish procedures for their confiscation.

405. Chinese Taipei does not protect the transmission of copyrighted material on cable TV stations within its territory. What steps are being taken to improve this situation?

Reply 405

The Government Information Office (GIO) has set as its priority target a crackdown on those cable TV stations which transmit copyrighted programmes without authorization. The GIO not only severs their cable connections but also tries to track down their transmitting equipment. Those who are found to infringe copyrights as part of doing business are referred to prosecuting authorities in accordance with Article 94 of the Copyright Law.

The GIO is studying and assessing the feasibility of legitimizing cable TV stations by bringing them under regulation. Full consideration has been given to copyright protection in the GIO draft of temporary regulations governing cable TV stations.

According to the Copyright Law of Chinese Taipei, the copyrighted material may be given the right of public broadcast. Therefore, if the cable TV stations within the territory transmit such material, then the copyright holders may be given judicial remedies. In other words, Chinese Taipei does protect transmission of copyrighted material on Cable TV stations within its territory.

406. What other copyright legislation is contemplated or has been proposed by Chinese Taipei? How will this legislation improve copyright protection in Chinese Taipei and how will its provisions be enforced?

Reply 406

In addition to the new Copyright Law enacted and implemented in June 1992, Chinese Taipei has promulgated the following seven implementing regulations:

(1) the Implementing Rules of the Copyright Law;

(2) the Regulations for Approval of Application for Compulsory Licence of Translation;

(3) the Regulations for Approval of Application for Compulsory Licence of Musical Works;

(4) the Standards of Royalty Rates for Use in Public Interest Activities;
The Illustration of the Contents of Various Works in Paragraph 1 of Article 5 of the Copyright Law;

the Organization Charter of the Copyright Examination and Mediation Committee;

the Regulations for Mediation of Copyright Disputes.

Furthermore, the Minister of Interior is working on the drafting of the Statute for the Copyright Intermediary Organizations. The above-mentioned laws and regulations should adequately facilitate the enforcement of the Copyright Law and be helpful in establishing a sound framework for copyright protection. Chinese Taipei enforces these laws and regulations with the same aggressiveness as that in the enforcement of the new Copyright Law.

Trademark protection

407. Please describe the protection provided by Chinese Taipei's Laws for Trademarks. Please include reference to the provisions of the amended Trademark Law sent to the Legislative Yuan in June 1992. When is this legislation expected to be implemented?

Reply 407

According to the draft of the revised Trademark Law of the Chinese Taipei:

(a) whoever files a trademark application shall meet the requirement of distinctiveness (Article 5) and comply with the conditions stipulated in Article 36 and Article 37;

(b) any person may file, and during the publication period, an opposing view with the Government office in charge of trademark matters. (Article 46);

(c) if the registration of a trademark is in violation of any of the provisions of paragraph 5 of Article 31, Article 36, paragraph 1 of Article 37 or paragraph 2 of Article 42, an interested party may request the government office in charge to conduct a review for invalidation of the registration (Article 52);

(d) under any circumstances stipulated in Article 31 that occur after the registration of a trademark, the office in charge shall, on its own initiative, or upon application by an interested party, cancel the registration;

(e) the owner of the right of exclusive use of a trademark may seek protection and compensation for damages against anyone who infringes or may have the intention to infringe the owner's exclusive right, and may further request that such infringement cease (Article 61 to Article 67).
The amended Trademark Law was submitted to the Legislative Yuan for approval on 25 June 1992. It will be implemented after the three readings at the Legislative Yuan.

408. It is reported that Chinese Taipei's National Bureau of Standards applies its standards for trademark registration inconsistently, making it difficult for foreign persons and firms to secure trademark protection and to prosecute infringers. Could Chinese Taipei respond to this comment?

Reply 408

Inconsistent application of standards for trademark registration is a common problem encountered by many countries. However, the National Bureau of Standards has adopted several measures to facilitate the examination process and maintain consistency:

1. the Trademark Examining Manual and Standards are amended every year in order to comply with international as well as domestic requirements;

2. the Director of the Trademark Department conducts meetings once a week to improve consistency among trademark examiners;

3. cases involving difficult issues are brought up and discussed at internal meetings every two months so as to maintain consistency.

The standards are applied without prejudice to the nationality of the applicant. Any trademarks which meet the legal requirements stipulated in the Trademark Law can be registered. Statistics have been made publicly available for many years which demonstrate an increasingly higher approval rate in Chinese Taipei for trademark applications filed by foreign applicants.

409. Does Chinese Taipei have current plans to strengthen enforcement of its Trademark Laws to better protect traders and investors? If so, please describe them.

Reply 409

The Anti-Counterfeiting Committee (ACC) of the Ministry of Economic Affairs is responsible for the enforcement of anti-counterfeiting efforts involving trademark and patent protection enforcement. To support its operations, the Committee has directed the work of the IPR Enforcement Supervisory Task Force since July 1989. This Task Force, consisting of members from different police units, has conducted regular enforcement activities throughout the island.

For those exports which are suspected of violating the Trademark Law, the ACC will, after being informed by customs, make further investigation of these cases. If the initial suspicions are confirmed, the ACC will refer those cases to the Court directly for prosecution. Once the court finds the defendants guilty, the ACC request to notify the Board of Foreign
Trade (BOFT) to impose punitive measures according to the degree of seriousness of the offenses. For the less serious cases, the Board will temporarily suspend or cease issuing export permits to the company or companies involved for not more than one year. For more serious cases, the company's registration certificates will be revoked.

In addition to the above scheme, protection of trademarks and enforcement of the Trademark Law is a part of Chinese Taipei's plan to further strengthen the protection of intellectual property rights, as set out in detail in the Action Plan prepared by Chinese Taipei in 1992. Please also refer to Reply 391.

(3) Patent protection

410. Could Chinese Taipei clarify more precisely what amendments are being considered to the Patent Law and when these changes are likely to be enacted? In particular, would the proposed changes to the Patent Law include a change in product coverage to incorporate foodstuffs and new animal and plant varieties?

Reply 410

(1) The amendments to the Patent Law are prepared along the lines of the GATT TRIPs Agreement; the important points are:

(a) the patentability of foods, beverages, habit-forming articles and microorganisms;

(b) the adoption of priority rights system along the line of the Paris Convention;

(c) the extension of the patent terms for agricultural chemicals, pharmaceutical and their manufacturing processes; and

(d) importation as an exclusive right conferred to the patentee.

The proposed amendments take into account the GATT TRIPs Agreement, Article 31(b), under which compulsory licensing will be subject to the following conditions:

(a) national emergency;

(b) non-commercial use for promoting the public interest; and

(c) the proposed user has made efforts to obtain authorization from the patentee on reasonable commercial terms and that such efforts have not been successful within a reasonable period of time.

The above-mentioned amendments were submitted to the Legislative Yuan in late December 1992, and are expected to be enacted in 1993.
(2) In the proposed Patent Law amendments, patent protection is extended to foodstuffs and beverages. Currently new varieties of plants are protected by the Plant Varieties Protection Law and this is, in Chinese Taipei's view, consistent with the GATT TRIPs Agreement.

411. Please describe current law and policy in Chinese Taipei on compulsory licensing?

Reply 411

According to Article 67, paragraph 1, of the current Patent Law, when "a patented invention has not been put into practice, or has not been properly put into practice, in this country within a four-year period from the commencement of the term of patent right, the patent office may upon the request of any interested party, grant special permission to such party for putting it into practice". For further information on current law on compulsory licensing, please refer to Section 5 of the Patent Law.

412. Reportedly, Chinese Taipei is preparing amendments to its current Patent Law to be submitted to the Legislative Yuan? Please describe the proposed amended provisions and give a status report on their transmittal to the legislature.

Reply 412

Please refer to Reply 410.

413. Patents:

(i) Does the draft revised law provide for a minimum of twenty-years protection from the date of the application?

(ii) Does it provide for the possibility of obtaining an additional term of protection for patented inventions subject to a marketing authorization procedure (as is or will be the case in certain countries such as the United States, Japan, the European Community and the EFTA countries)? If so, what would be the term?

(iii) Does it provide for the patentability of certain categories of inventions still excluded from protection (such as micro-organisms or food product inventions)?

(iv) Does it maintain the compulsory licence régime and, if so, for what reasons and under what conditions?

(v) Does it provide for abandoning the concept of local working of a patented invention and accept that importation is equivalent to exploitation?
(1) The proposed amendments to the Patent Law provide protection for a period of twenty years commencing on the date of filing for an invention patent.

(2) According to the proposed amendments to the Patent Law, "If in accordance with the provisions of other laws and regulations, a permit is required to work a patented invention, and the application for such a permit has taken more than two years from the patent publication date, the patentee may apply for an extension of the patent term according to the time taken to complete the permit application procedure, provided that such a period is more than two years. The extended term shall be no more than five years and the patent term can be extended only once".

(3) The draft amendment to the Patent Law does provide for extension of protection to food product inventions and micro-organisms.

(4) Consistent with the draft GATT TRIPs Agreement, Article 31(b), an Article of the proposed amendments states that the compulsory licensing is subject to the following conditions:

   (a) it is necessary to meet a national emergency;
   
   (b) it is for non-commercial use for the purpose of promoting public interest;
   
   (c) the proposed user has made efforts to obtain authorization from the patentee on reasonable commercial terms and such efforts have not been successful within a reasonable period of time.

(5) The proposed amendments delete from the current Patent Law the following provision: "the patented article to be manufactured abroad and the product imported into this country shall not be deemed proper working".

414. Has the Patent Law been amended as foreshadowed?

Reply 414

Please refer to Reply 407.

415. Trade marks:

   (1) Does the draft revised law provide protection for well known marks in the sense of Article 6bis of the Paris Convention for the protection of industrial property and for marks with a reputation in the sense of Article 16, paragraph 3 of the draft TRIPs Agreement?
(ii) Are there special requirements concerning the use of other signs or wording, alongside a protected mark, in a manner which might result in the dilution of the distinctive impact of the protected mark (for example, when these signs or wording end up by usurping the place of the protected mark in the mind of the consumer)?

Reply 415

(1) (a) To define the scope of the legal protection for well-known marks, the authority of Chinese Taipei has taken into account the administrative court's decisions to interpret the meaning of Article 37, paragraph 1, subparagraph 6, of the current Trademark Law. In the light of different legal requirements, the said subparagraph was prescribed more broadly in subparagraphs 6 and 7 under the draft revised Trademark Law. The scope of the protection for well-known marks therefore is better defined and broadened.

(b) In practice, the above-mentioned Article has been applied in accordance with Article 6bis of the Paris Convention, i.e., even when those goods are not similar to those in respect of which a trademark is registered. However, when the use of the trademark suggests a possible connection between those goods and the owner of the registered trademark, and it is determined that the interests of the owner of the registered trademark will likely be damaged by such use, the trademark will not be registrable.

(c) According to the Trademark Law, there are no special requirements for the above-mentioned situation. However, the legal conditions for using a trademark must be set out in Article 6. The said trademark has to meet the requirement of "distinctiveness" in accordance with Article 4.

416. Industrial designs and models:

(i) What type of procedure does the draft law provide for?

(ii) Is it intended to regulate, within the context of this procedure, the special case of designs and models created in the textile and garment trade?

(iii) What term of protection would be provided?

Reply 416

The Industrial Design Law is currently being studied by the National Bureau of Standards.

417. As far as trade secrets are concerned, what are the results of the feasibility study of a draft codified law that would incorporate, among other things, provisions of the draft TRIPs Agreement?
With respect to the protection of trade secrets, the Department of Commerce under the Ministry of Economic Affairs is considering either to enact a new law or to suggest that related government agencies amend the existing laws to achieve this goal. No matter which option is adopted, it is anticipated that the protection of trade secrets in Chinese Taipei will meet the requirements of the draft TRIPs Agreement.

13. Small and medium enterprise policy (page 33, item 13)

418. Could Chinese Taipei provide detailed information on its assistance to small and medium enterprises, in particular on its financial support policies?

Reply 418

The assistance provided to small and medium enterprises are generally set out in Reply 420.

The financial support policies provide the needed financing to small and medium enterprises, to assist in their carrying out plans to improve production efficiency, develop new products or upgrade existing products, purchase new machinery and equipment and invest in research and development. The loans are provided through the Medium and Small Business Banks, with the involvement of the Medium and Small Business Administration of the Ministry of Economic Affairs in assessing credit risks and evaluating the specific plans for which financing is required.

419. Are there any financial supports such as subsidies granted to small and medium enterprises in Chinese Taipei? If any, please provide the scope and nature of such supports.

Reply 419

At present, there are no financial subsidies granted to small and medium enterprises in Chinese Taipei. Chinese Taipei offers only loans from the Medium Business Bank of Taiwan and other commercial banks.

In addition, Chinese Taipei provides special loans for small and medium business to encourage investment in activities such as, pollution control, computerization, and equipment automation.

420. Please elaborate on how access to production resources such as land, capital and labour are made available to medium and small enterprises by Chinese Taipei with a view to improving their investment environment?

Reply 420

Access to production resources such as land, capital and labour are made available in the following manners:
- Land: the Industry Development Bureau, MOEA, assists medium and small enterprises (MSE) in acquiring land on which to establish factories. At present, a total of 140 industrial areas amounting 30,761 hectares have been developed.

- Capital: the Data Processing Center in the Ministry of Finance prepares statistics on MSEs and classifies them by capital range. This classification facilitates the provision of credit by the specialized banks or under the credit guarantee fund system.

- Labour: to meet the requirements of small and medium enterprises, the Employment & Vocational Training Administration and the Manpower Planning Department provide training and planning of human resources in addition to offering specialized or on-the-job training programmes.

421. Page 33, page 11: It is stated that "... Chinese Taipei is making great efforts in research and technological development. ... Eight key technologies to support the development of above-mentioned new and promising industries are: ...". Please describe the policy and specific measures to support these "new and promising industries".

Reply 421

Please refer to Reply 422.

14. Science and technology policy

422. How does Chinese Taipei support research and technological development in the areas and technologies identified as "promising" and deserving of "major focuses of attention"?

Reply 422

In order to meet Chinese Taipei's industrial science and technology requirements, the Ministry of Economic Affairs (MOEA) has given top priority to funding scientific research and development. Investment in this type of research and development has increased yearly, with fiscal year 1991 seeing more than NT$13.6 billion being allocated, an increase over fiscal year 1990 of 10.79 per cent (see Figure 1).

Spending was allocated according to the nature of the research. In 1991, more than NT$7.5 billion was allocated for research and development representing 55.10 per cent of the total. In second place was applied research with funds totalling more than NT$5.6 billion, or 41.25 per cent of total spending; basic research received more than NT$400 million, or 3.65 per cent of total spending (see Figure 2). When compared to fiscal year 1990 applied research funding has diminished, with spending for research and development and basic research having increased.
In addition, the MOEA has contracted with non-profit seeking research institutes to develop "Generic Technology" required by the "promising" industries, and then license such technology to the "Promising industries" with royalties calculated on the basis of the fair market price of the technology.

The "Promising" industries may also enjoy tax incentives as set forth in Chapter II of the Statute for Upgrading Industries, in particular Article 8 of the Statute.

423. Chinese Taipei identified biotechnology as a field for special development, yet has refused to extend patent protection in this area and appears to have no plans to do so. This will certainly retard development of Chinese Taipei's biotechnology industry. Has Chinese Taipei reconsidered its policy in this matter?

Reply 423

In the proposed patent law amendments, patent protection is extended to cover micro-organisms.

424. Please outline the benefits provided to firms that locate in Science-Based Industrial Parks. Are there provisions that could affect trade? Do these parks enjoy the same customs exemptions as the EPZs?

Reply 424

According to the Statute for Establishment and Management of Science-based Industrial Parks, the incentives provided are:

(1) A Science-Based Industrial Park enterprise may, within two years of the date on which it begins to market its products or render services, select a fiscal year in the four-year period beginning on the said date, from the first day of which a continuous five-year period of exemption for the profit-seeking enterprise income tax (business income tax) shall commence.

(2) When corporate expansion is carried out, the enterprise may enjoy a four-year period of exemption for the business income tax on the newly added facilities, or apply 15 per cent of the cost of newly added production or processing equipment as credit against the enterprise income tax for the year in which the expansion takes place; if taxable income from the newly added facilities in that year is less than the applicable credit, the credit may be applied to the business income tax imposed on income from the newly added facilities over the following four years.

(3) The aggregate of the profit-seeking enterprise income tax and other relevant taxes shall not exceed 20 per cent of the total income of the enterprise in the relevant taxable year.
(4) No import duties are levied on machinery, raw materials, supplies and partially processed goods imported by a Science-Based Park enterprise for its direct end-use, and the importer is not required to file for exemption from import duties.

(5) No commodity or business taxes are levied on goods and services exported by Science Park enterprises.

(6) Science Park enterprises are exempted from the deed tax when building or acquiring factory space and other related buildings, according to Article 14 of the Statute.

(7) Machinery and equipment, raw materials, materials, fuel and semi-finished products sold to Science Park enterprises by suppliers outside the park are considered as exported materials/products.

(8) The Science Park Administration may exempt an enterprise from rent for use of land for a period not exceeding five years, if it considers that such enterprise will result in a substantial contribution to the industrial development of Chinese Taipei.

17. Telecommunication policy (page 34, item 17)

425. What is the present legislation concerning telecommunications? Exactly how is this legislation being amended (please distinguish between basic telecommunications and value-added telecommunications)?

Reply 425

The Telecommunications Act is currently the only legislation for telecommunication business in Chinese Taipei. Under the Act, public communication services are exclusively operated by the Directorate General of Telecommunications (DGT) under the auspices of the Ministry of Transportation and Communications (MOTC).

To follow the world-wide trend of liberalizing the communication sector, Chinese Taipei is now in the process of amending the Telecommunications Act to clearly separate the regulatory and operational functions of DGT so as to create a more competitive environment.

The draft amendment to the Telecommunications Act has been approved by the Executive Yuan and submitted to the Legislative Yuan for passage.

According to the draft amendment, telecommunications enterprises are classified into two categories: Category I and Category II.

Those in Category I are enterprises which install basic switching and transmission networks for the operation and provision of telecommunications services. Category I will be exclusively operated by a State-owned corporation, Chinese Telecommunication Corporation (see Article 13 of the amended Act).
Category II covers enterprises which operate and provide value-added services via basic telecommunications facilities. Category II will be open for private investment, domestic as well as foreign, subject to the requirement of obtaining a licence which will be granted by the MOTC.

Business scopes for Categories I and II enterprises will be proposed and submitted by the Directorate General of Telecommunications (DGT) to the MOTC for approval. Such business scopes will be reviewed and, when necessary, revised every six months depending on the then current technological development and market demand.

426. Page 34, telecommunication policy: which telecommunication services can be provided in free competition in Chinese Taipei? Can foreign-owned companies operate in the Chinese Taipei VANs market without any limitations?

Reply 426

Value-added services can currently be provided only by domestic vendors permitted and licensed by the Ministry of Transportation and Communications (MOTC). The said value-added services refer to information storage and retrieval, remote transaction, word processing-and-editing, voice store-and-forward, videotext store-and-forward, electronics bulletin board, electronic data interchange (EDI), and others permitted by the MOTC.

Presently, foreign-owned companies cannot operate VANs market in Chinese Taipei. However, the draft amendment to the Telecommunications Act, which is now pending at the Legislative Yuan, would allow foreign-owned company to provide value-added services subject to the following two conditions:

(1) the foreign VANs operators will introduce and transfer advanced hardware/software technology and know-how to nationals or corporate bodies in Chinese Taipei; and

(2) the Government of the foreign party's home country grants reciprocal treatment to nationals or corporate bodies in Chinese Taipei.

427. Could Chinese Taipei give more detailed information on the liberalization programme of this sector?

Reply 427

The liberalization programme is embodied in the draft amendment to the Telecommunications Act now pending at the Legislative Yuan. The main elements of this programme are as follows:

Telecommunications enterprises will be divided into two categories: Category I and Category II.
Those in Category I are enterprises which install basic switching and transmission networks for the operation and provision of telecommunications services. Category I will be exclusively operated by a State-owned corporation, Chinese Telecommunications Corporation (see Article 13 of the amended Act).

Category II covers enterprises which operate and provide value-added services via basic telecommunications facilities. Category II will be open for private investment, domestic as well as foreign, subject to the requirement of obtaining a licence which will be granted by the MOTC.

Business scopes for Categories I and II enterprises will be proposed and submitted by the Directorate General of Telecommunications (DGT) to the MOTC for approval. Such business scopes will be reviewed and, when necessary, revised every six months depending on the then current technological development and market demand.

428. Is the Directorate General of Telecommunication a public entity or is it a private enterprise?

Reply 428

The Directorate General of Telecommunications (DGT) was established according to the Statute for the Organization of the Directorate General of Telecommunications, which is a subsidiary statute of the Telecommunications Act. The DGT is a body under the Ministry of Transportation and Communications (MOTC) and is considered a part of the Government.

429. What are the conditions for procurement of equipment by Chinese Taipei's telecommunications facilities? Are there any restrictions on the purchase of imported equipment by the Chinese Taipei PTT? Are purchases by the Chinese Taipei PTT considered to be official procurement by the central authorities and subject to regulations for this type of procurement?

Reply 429

Preference is given for the purchase of locally manufactured equipment in accordance with the "Regulations Governing the Management of Supplies and Materials of Government-Owned Enterprises".

On the purchase of imported equipment, tenders are, in principle, open to international competitive bidding. However, in cases where the purchase is linked to a previous purchase, a specific foreign supplier may be designated as the sole supplier of required equipment. Generally, one of the conditions for awarding a contract is a technology transfer.

The purchases by PTT are considered to be official procurement and are subject to the regulations governing such procurement.

430. Can private citizens or private companies import telecommunications equipment with a view to using them in Chinese Taipei?
Private parties may import telecommunications equipment with a view to using them in Chinese Taipei, provided that (i) prior government approval must be obtained for radio equipment which is subject to applicable technical regulations and standards, and that (ii) type-approval by the DGT shall be required for the terminal equipment, self-provided by the subscriber to be connected with the public network.

431. Please outline the provisions currently under consideration that would permit foreign telecommunications providers to participate in the provision of value-added and other non-reserved telecom services. What limitations on market access and "national treatment", as defined in Articles XVI and XVII of the draft GATS, would Chinese Taipei plan to retain?

Reply 431

The amended Telecommunications Act, which is under review by the legislature, states in its Article 13 that a foreign party wishing to operate value-added services shall meet the following requirements:

1. the foreign party will introduce and transfer advanced technology and know-how in hardware and software to the nationals or corporate bodies in Taiwan; and

2. the Government of the foreign party's home country grants reciprocal treatment to the nationals or the corporate bodies of Chinese Taipei.

The aforesaid Act also provides in its Article 13 that the licence will be granted within two (2) years after the effective date of the aforesaid Act for international value-added services and within four (4) years for domestic value-added services.

In contrast to the value-added services, the basic network services are to be operated and provided exclusively by a State-run enterprise. (Article 12)

432. Which services are classified by the Directorate-General as "reserved" services?

Reply 432

All services except value-added services are classified by the Directorate General as "reserved" services.

433. What branches of telecommunications will remain within the public monopoly (reserved areas)?
Reply 433

At the initial stage of the implementation of the liberalization plan, all services except value-added services will be operated by the State. The reserved areas will be gradually narrowed down through the six-month review contemplated in the amended Telecommunications Act.

434. What degree of foreign participation would be allowed in the provision of "non-reserved" services? Would companies with more than 50 per cent foreign ownership be allowed to operate?

Reply 434

Currently, foreign participation is not allowed in the provision of "non-reserved services" (value-added services). Such restriction will be lifted when the amended Telecommunications Act comes into effect. The extent of foreign participation has not been determined.

435. Does the Directorate-General currently provide all telecom services?

Reply 435

Yes, it currently provides public telecommunications services in Chinese Taipei.

436. Would Chinese Taipei give a brief description of the stage of development of its mobile (page, cellular, telepoint) network?

Reply 436

Radio Paging Service:

The single-tone radio paging service was launched in 1976. The digit-display radio paging service followed later. As of June 1992, the total number of subscribers are around 1 million, representing about 5.1 per 100 people. In July 1992, the character-display radio paging service was introduced.

Cellular Mobile Telephone Service:

The portable cellular mobile telephone service was put into operation in July, 1990. At the end of June 1992, the whole area booked a total of about 300,000 subscribers; the average density of subscribers is 1.4 per 100 population.
Self-provision of private internal network is allowed only for data communication via leased circuits. Self-provision of private external network is not allowed.

438. To what extent does the Directorate-General control the supply of subscriber equipment?

Reply 438

The Directorate General does not control supply of subscribers' equipment, but it verifies the type of the terminal equipment self-provided by the subscribers for the purpose of ensuring that such terminal equipment is compatible with the public telephone network in order to avoid damage to the network.

439. Please outline any provisions currently in place that are inconsistent with the provisions of the Annex on Telecommunications of the draft GATS with respect to the provision over the telecommunications network of any of the services listed below.

Reply 439

No foreign party is permitted to provide telecommunication services except private telecommunication which is approved by the Executive Yuan on a case-by-case basis.

440. Can any more detailed advice be provided on the reforms planned for the telecommunications sector?

Reply 440

Service liberalization:

Telecommunications enterprises are divided into two categories: Category I and Category II.

Those in Category I are enterprises which install basic switching and transmission networks for the operation and provision of telecommunications services. Category I will be exclusively operated by a State-owned corporation, Chinese Telecommunications Corporation (see Article 13 of the amended Act).

Category II covers enterprises which operate and provide value-added services via basic telecommunications facilities. Category II will be open for private investment, domestic as well as foreign, subject to the requirement of obtaining a licence which will be granted by the MOTC.

Business scopes for Categories I and II enterprises will be proposed and submitted by the Directorate General of Telecommunications (DGT) to the MOTC for approval. Such business scopes will be reviewed and, when
necessary, revised every six months depending on the then current technological development and market demand.

Structural changes of the DGT:

The existing DGT will be reorganized by splitting into two organizations, the new DGT and a State-owned telecommunications corporation. The former will be responsible for prudential supervision and regulation, and the latter will be established to operate Category I services exclusively and meanwhile participate in the competition in Category II services.

441. Please provide more detailed information to the proposed amendments to the Telecommunications Law. What enhanced services will foreign providers be permitted to offer in Chinese Taipei? What restrictions will apply?

Reply 441

The proposed amendment to the Telecommunications Act now pending at the Legislative Yuan would permit a foreign party wishing to provide value-added (enhanced) services in Chinese Taipei subject to the following conditions:

(1) the foreign providers can introduce and transfer advanced hardware/software technology and know-how to the citizens or corporate bodies in Chinese Taipei; and

(2) the Government of the foreigner's home country grants reciprocal treatment to the citizens or corporate bodies of Chinese Taipei.

In addition, issuance of licences by the MOTC will commence within two (2) years for international value-added services and four (4) years for domestic value-added services after the effective date of the Act.

Permissible types of the said value-added services will be proposed and submitted by the Directorate General of Telecommunications (DGT) to the MOTC for approval. Such types will be reviewed and when necessary, revised every six (6) months depending on the then current technological developments and market demand.

Other services not referred to in the Memorandum on the Foreign Trade Régime

442. For the services sectors listed below, please respond to the questions that follow, as appropriate:

Professional services

Legal services: Home Country Law

Legal services: Foreign legal consultants

Accounting and auditing
Tax preparation and bookkeeping
Architectural services
Engineering

**Business services**

Computer services
Real estate services
Rental/leasing of equipment
Advertising
Market research and public opinion polling
Management consulting
Auxiliary mining and oilfield services
Employment agencies/executive placement services

**Audio visual services**

**Construction services**

**Distribution**

Wholesale trade
Retailing
Franchising

**Educational services**

Audit education

**Environmental services**

**Health-related and social services**

Hospitals and other Health Care Facilities

**Tourism and travel-related services**

**Transportation**

Land transport
443. Please describe any limitations on market access, as defined by Article XVI of the Draft General Agreement on Trade in Services, for the provision of these services on a cross-border basis, or through commercial presence, consumption abroad, or movement of personnel.

Reply 443

For service sectors mentioned in Question 442, Chinese Taipei has the intention to bring its relevant laws, regulations and practices in line with the requirements of the GATS after its accession to the GATT, when the GATS becomes mandatorily binding on contracting parties. A list of limitations on market access will be prepared and provided, when Chinese Taipei participates in the negotiation of initial commitments for each of sectors concerned.

444. Please describe any limitation on "national treatment", as defined in Article XVII of the Draft General Agreement on Trade in Services, for the provision of these services on a cross-border basis, or through commercial presence, consumption abroad, or movement of personnel.

Reply 444

For service sectors mentioned in Question 442, Chinese Taipei has the intention to bring its relevant laws, regulations, and practices in line with the requirements of the GATS after its accession to the GATT, when the GATS becomes mandatorily binding on contracting parties. A list of limitations on national treatment will be prepared and provided, when Chinese Taipei participates in the negotiation of initial commitments for each of the sectors involved.

445. Please list any laws, measures or international agreements which afford treatment to any GATT Party that is inconsistent with the provisions of Most-Favored-Nation Treatment.

Reply 445

For the service sectors mentioned in Question 442, a preliminary survey by Chinese Taipei reveals that there are no laws, measures or international agreements which afford treatment to any GATT contracting party that is not consistent with the principle of most-favoured-nation treatment. Chinese Taipei will revisit the issue, when it participates in the GATS negotiation.

446. Please describe current regulations governing the temporary entry of managers, executives and specialists transferred on an intra-company basis to a branch, subsidiary or affiliated company in Chinese Taipei.
Reply 446

(1) **Temporary Visa**

A temporary entry visa does not allow a foreign national to work in Chinese Taipei. The duration of stay on a temporary visa varies from two weeks to two months normally; however, only visas with a two month duration of stay may be extended up to a maximum of two times. As a matter of fact, many foreign companies need to post one or more managers or specialists in Chinese Taipei before the establishment of their branches or representative offices; therefore, current regulations allow these foreign legal entities to obtain work permits for these employees to perform their duties under sub-contracting or a sales agreement. Such application shall be made by the local counter-party.

(2) **Work Permit**

A branch, subsidiary or affiliated company must obtain work permits for its managers, executives, and specialists of foreign nationality before their arrival in Chinese Taipei. Any entry prior to the issuance of the work permit will normally require the employee to leave Chinese Taipei to obtain his resident visa based on the work permit. The resident visa for a first time applicant will only be issued by the representative offices of Chinese Taipei overseas. Please refer to Reply 459 for the requirements for application for a work permit.

447. For the professional services listed above, does Chinese Taipei have procedures for evaluation or recognition of foreign educational background or foreign licensing procedures?

Reply 447

Chinese Taipei currently does not have set policies in this regard. It will, however, review the situation in conjunction with the Uruguay Round negotiation with respect to negotiation in trade services, and will establish the necessary procedures for evaluation or recognition of foreign educational background or foreign licensing procedures, when such are mandatorily required by GATT law.

448. Please describe the regulations governing legal, accounting and engineering services provided by foreign professionals. What restrictions apply on services provided by foreigners in the following sectors: management consulting, technical testing and analysis, manufacturing, energy, scientific and technical consulting.

Reply 448

Chinese Taipei does not impose any specific limitations on foreigners engaging in management consulting. There is currently no specific
limitation on foreigners engaging in technical testing and analysis, manufacturing, energy, scientific and technical consulting.

449. In foreign legal consulting, does Chinese Taipei permit foreign legal consultants to enter into partnership with and to employ locally licensed lawyers?

Reply 449

Chinese Taipei currently does not have a policy on foreign legal consultants. It, however, will review this possibility in conjunction with the Uruguay Round negotiation with respect to negotiations of trade in services.

450. In audiovisual services, please describe the limitations on entry and distribution of foreign films e.g. restrictions on the number of prints per foreign film title that can be imported and the number of cinemas per municipality which may show foreign films. Please clarify if there are any restrictions on the quantity or share of air-time for foreign-made television programmes.

Reply 450

The Publication Law imposes no limitations on the quantity of imported audio cassettes and phonograph records.

Article 19 of the Broadcasting and Television Law stipulates that "self-produced programmes shall not be less than 70 per cent of all broadcasting and television programmes". However, no restrictions are imposed on the time of broadcast.

Concerning restrictions on the number of prints per foreign film title that can be imported and the number of cinemas per municipality which may show foreign films:

(1) Chinese Taipei has set the following restrictions on the importation and screening of foreign films in order to protect domestic films:

Article 22 of the Motion Picture Law stipulates:

"The export and import of films must be reviewed and approved by the department in charge under the central authority; and the regulations pertaining to this will be set by the same department."

Article 14 of the Bylaws Governing the Execution of the Motion Picture Law also stipulates that "the same foreign film shall be jointly screened in no more than six theatres within a special municipality, and in no more than four theatres within a country or city."
Clause One of Article Six of the Film Import and Export Permission Law stipulates that "a maximum of 14 copies of a foreign film can be imported".

(2) In line with the trend toward freer trade, and in consideration of both the necessary margin of survival for domestic films and the rights and interests of viewers, the Government Information Office has gradually eased restrictions on the importation and screening of foreign films. In August 1986, the number of copies of foreign films that could be imported was raised from three to four, and then to six in April 1987. The number was again increased to eight in January 1988, and to twelve in June 1990, and further to fourteen in June 1992. The number of theatres that are permitted to jointly screen the same foreign film in a special municipality was increased from four to six in February 1991.

(3) It is not likely that restrictions on the importation and screening of foreign films will be completely lifted at the present time, but our policy of gradual liberalization in this regard remains unchanged.

451. Page 28: Which banking activities (including criteria for entry to the industry, establishment of branches and business scope) do foreign institutions face a different regulatory régime to local institutions? Is there planned reforms to remove any discrimination in this instance?

Reply 451

The scope of banking activities permitted to foreign banks in Chinese Taipei are being liberalized. Moreover, foreign banks are accorded better treatment than national treatment in certain operations such as pre-export loans in foreign currencies. In order to further harmonize and liberalize our regulatory régime for foreign banks, we are in the process of revising the Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks.

452. Page 28: Which insurance activities (including criteria for entry to the industry, establishment of branches and business scope). Do foreign institutions face a different regulatory régime to local institutions? Is there planned reforms to remove any discrimination in this instance?

Reply 452

Please refer to Reply 308 and Reply 309.

453. What is the present legislation relating to freight forwarding, for each mode of transport?
Reply 453

The rules for regulating sea freight forwarding business are set out in the "Rules Governing Sea Freight Forwarding Business".

The rules for regulating air freight forwarding business are set out in the "Rules Governing Air Freight Forwarding Business".

454. Page 34, transport policy: Please indicate what restrictions remain on the performance by foreign companies on services in the following areas: domestic air transport, inland transport (including freight forwarding and trucking) and (local and international) sea transport, regarding all sectors named, please answer regarding the restrictions referred to applying to transport from, to and inside ("cabotage") Chinese Taipei. Please also answer regarding combined transport.

Reply 454

In principle, foreign companies may provide transport services between Chinese Taipei and other countries. Foreign companies are not permitted to provide cabotage services due to the following two rules:

- Article 4 of Shipping Industry Act provides that:

  "Unless otherwise permitted by the government, non-Chinese Taipei vessels may not provide services for passenger/cargo transport between ports of Chinese Taipei".

- Article 5 of the Ship Act provides that:

  "Unless otherwise specially permitted by the Government or in case of emergency, non-Chinese Taipei vessels may not enter ports other than those that have been declared by the Government to be international commercial ports".

There is currently no single set of rules regulating combined transport.

Land transportation at present is not open for investment by foreign parties. However, Chinese Taipei recognizes the need to lift restrictions, and is in the process of amending the Highway Law to allow inland trucking operation related to intermodal transport. The proposed amendment has been forwarded to the Legislative Yuan. When the legislative process is completed, a foreign party may file application to establish and operate trucking business related to import/export sea container transport, provided that its home country grants reciprocal treatment to operators of Chinese Taipei.

With respect to domestic air transport, Article 61 of the Civil Aviation Law provides: "Foreign aircraft or foreign civil air transport enterprise shall not, with or without remuneration, provide to carry passengers, cargo, and mail between two points inside the territory of
Chinese Taipei, or operate general aviation within the territory of Chinese Taipei.

455. Page 34: What plans are there to permit foreign companies to participate in the domestic freight forwarding and road transport industries?

Reply 455

Foreign companies may participate in the domestic freight forwarding business by establishing branch offices in Chinese Taipei according to the Rules Governing Sea Freight Forwarding Business and the Rules Governing Air Foreign Forwarding Business, provided that the same treatment is reciprocally given in the foreign companies' home countries.

Chinese Taipei is observing very closely the development of the Uruguay Round with respect to negotiations on trade in services, particularly inland transport and tourism. Chinese Taipei will take the draft GATS into account when reviewing its relevant laws and regulations and, if necessary, make appropriate adjustments.

456. What is the time-frame within which the ATA Carnet system will be introduced?

Reply 456

Please refer to Reply 71.

457. Maritime Transport Services - does Chinese Taipei plan to phase out its restrictions on ocean shipping and port auxiliary services, and remove limitations on access to port facilities and onward transportation with regard to freight forwarding? Does Chinese Taipei plan to remove the limitations placed on foreign firms operating in this sector? What are the existing restrictions regarding the use of foreign ships for exports to and from Chinese Taipei? Will these restrictions be lifted?

Reply 457

Ocean Shipping:

Foreign companies may provide shipping (cargo/passenger) services between Chinese Taipei and other countries. According to Article 4 of the Shipping Industry Act and Article 5 of the Ship Act, non-Chinese Taipei vessel may not provide cabotage services between ports of Chinese Taipei or enter the ports other than those that have been declared by the Government to be international commercial ports, unless otherwise specially approved by the Government.

Article 4 of the Shipping Industry Act and Article 5 of the Ship Act are set out in Reply 454.
Sea freight forwarding business:

Non-Chinese Taipei nationals or legal entities may engage in the ocean freight forwarding business by establishing subsidiaries in Chinese Taipei according to Article 6 of the Shipping Industry Act and Article 4 of the "Rules for Regulating Ocean Freight Forwarding Business."

Foreign vessels' access to port facilities:

Foreign vessels may provide shipping services between Chinese Taipei and other countries. However, out of the concern for the special relation between Chinese Taipei and Chinese Mainland, under Article 30 of the "Statute Governing the Relations between People of the Taiwan and Mainland Areas", foreign ships may not navigate directly between the Taiwan Area and the Mainland Area; there is also a prohibition from using foreign ships to operate liner services covering that between Taiwan Area and Mainland Area via a third area.

Future trend:

Chinese Taipei is observing closely the Uruguay Round discussions with respect to trade in services and will, upon accession to the GATT, investigate the GATS-consistency of current practices and make necessary adjustments to bring the practices in line with the outcome of the Uruguay Round if there is such a need.

458. What is the legislation relating to computer reservation systems (CRS)?

Reply 458

The legislation relating to computer reservation systems (CRS) is embodied in the "Regulations Governing Data Communication Services" promulgated in April 1989.

Currently, the computer reservation system (CRS) is exclusively operated by the Directorate General of Telecommunications (DGT) for the provision of airlines' reservation service only.

459. Could Chinese Taipei clarify the situation concerning the revision of rules concerning work permits for foreign personnel.

Reply 459

(1) Government Authorities

Though there is no precise demarcation of jurisdiction between white-collar and blue-collar workers, the Ministry of Economic Affairs ("MOEA") generally has the jurisdiction over the white-collar and skilled workers, while most of the unskilled workers fall under the jurisdiction of the Council of Labor Affairs ("COLA"). All work permit application processes will be co-ordinated through one agency,
the Investment Commission of MOEA, for permits under MOEA jurisdiction and excluding those for companies established in the Export Processing Zone.

(2) Specific requirements

Permits under MOEA jurisdiction are governed by the new regulations named, "Regulations Governing the Approval and Administration of Employment of Foreign Specialists and Technical Personnel by Public and Private Enterprises, and at Ranking Executives of Overseas Chinese and Foreign-Invested Enterprises" (the "Regulations"). Employers and Employees must meet the specific requirements under the Regulations.

(a) Employers

The Investment Commission will approve a work permit application only if both employer and employee comply with the requirements provided by the Regulations. A company established for over one year is not subject to capitalization requirement, a liberalization from the past rules, but must meet either of the following requirements:

- income for the previous year or average annual income over the previous three years exceeds NT$10 million, decreasing from the NT$30 million required previously;

- total exports and imports for the previous year or average annual income over the past three years exceeds US$1 million or US$0.4 million for commission revenue;

- for a local company established for less than one year, the minimum capital requirement is NT$5 million, a reduction from the NT$20 million amount previously required. For the Chinese Taipei branch of a foreign company, the minimum capital requirement is NT$2.5 million, a reduction from the previous amount of NT$4 million.

Employers must still submit a business plan which reveals the need for a foreigner. The authorities will reject an application where the need is insufficient to justify the foreigner's assuming the rôle.

A special discretionary provision allows the employer an exemption from all the above provisions if the employer can demonstrate that it can make a substantial contribution to Chinese Taipei's economic development or in other special circumstances.

(b) Employees

The Amendment distinguishes among "managers", "technicians", and "professionals". As described below, managers of Foreign Investment-Approved companies and of branches of foreign companies are treated preferentially under the Amendment.
A "professional" is defined as someone who deals with promotion, marketing, training, management, and other related research and development. Given that a "professional" may have managerial responsibilities, there will inevitably be overlap and confusion in distinguishing between "managers" and "professionals" in some cases.

A "technician" is defined under the Amendment as someone who qualifies under any one of the requirements below:

- obtains a special license issued by the appropriate authority;
- installs, maintains, or provides instruction concerning imported machines and equipment;
- inspects goods bought by foreign companies or assists in the development of manufacturing skills;
- upgrades manufacturing skills or research and development;
- provides design, operating skills, and know-how required by the manufacturing or service, industry in Taiwan; or
- provides after-sales service for goods or services provided in Taiwan.

(c) Exemptions

For persons in the following categories, the Regulations requirements are relaxed although the foreigners involved must still apply for a work permit.

Managers - Employers and employees are exempt from the capital, income, and employee background requirements noted above in the cases of managers.

Managers of branches of foreign companies and of local companies which receive Foreign Investment Approval are exempt - a major improvement over the old rules and a change eagerly supported by the foreign business community.

A local company which sought to hire a foreigner as its manager would have to apply with all of the amendment requirements that govern ordinary foreign workers.

(d) Temporary employees

The Regulations provide that companies hiring technical workers for periods of no more than six months due to urgent need are not subject to restrictions on capitalization, employee education and experience, and the number of foreigners to be hired. In addition, applications for such employment may be submitted as late as the day
following assumption of duties by the employees concerned. Once the six-month period expires, however, it may not be extended.

460. Other Services - what restrictions apply on services provided by foreigners in the following sectors: computer and related services, construction management, architectural services, engineering services.

Reply 460

A preliminary survey of these sectors indicates that there are currently no special restrictions on services provided by foreigners in the sectors mentioned. When a particular service requires the provider to hold certain professional qualifications, pursuant to the laws and regulations of Chinese Taipei, such professional qualifications shall either be obtained in Chinese Taipei or be recognized or otherwise accepted by the authorities in Chinese Taipei before the service-provider can operate.

461. Environmental Consulting - please indicate whether foreign firms offering environmental consulting services are subject to restrictions or limitations.

Reply 461

There are no special limitations on foreign environmental consulting firms offering environmental consulting services in Chinese Taipei.

18. Multilateral economic cooperation (page 34, item 18)

462. Are imports of CFCs and halons restricted and subject to an import licensing system?

Reply 462

Imports of CFCs and halons are restricted and subject to an import licensing system. Chinese Taipei has reiterated its intention to achieve the objectives of the Montreal Protocol. Chinese Taipei authorities have circulated to the Montreal Protocol parties detailed information concerning controls imposed upon and timetables for phasing out products controlled under the Montreal Protocol.

Chapter IV. - Trade laws and regulations, organizations, and publications

463. Are all laws, regulations, requirements, decrees, etc. affecting trade published prior to implementation and in a manner allowing traders to be aware of them? Where does Chinese Taipei publish such information? Where can importers and exporters ... or exports without further legislation; or (3) to regulate other border controls without additional legislation.

Reply 463

(1) When the competent authorities are drafting trade laws or regulations, they would normally consult with and seek advice from the relevant
associations and experts in the relevant fields. Public hearings will be held by the Legislative Yuan when they are considered necessary. For example, the Ministry of Economic Affairs offered opportunities for trade associations and academic experts to provide comments on the draft "Statute for Upgrading Industries", and the Ministry of Interior circulated five drafts of and held public hearings on proposed amendments to Chinese Taipei’s Copyright Law.

(2) The review proceedings and debates at the Legislative Yuan will be recorded and published in the Official Gazette of the Legislative Yuan. Press releases summarizing the proceedings and debates will also be provided. Upon approval by the Legislative Yuan and signature by the President, final legislation is published in the Presidential Official Gazette. Translations of the final legislation are often provided by the relevant executive agencies or by private firms operating in Chinese Taipei.

(3) Trade laws, regulations, and decrees, when amended or newly made, will be published in the Official Gazette of the relevant Ministry, e.g. the Ministry of Finance Gazette, and the Ministry of Economic Affairs Gazette. With respect to changes in the licensing requirement and regulations, letters will be sent to the banks authorized to issue import/export licences and the relevant trade associations for relaying to their members, in addition to posting public notice on the bill board of the Board of Foreign Trade.

(4) With respect to import quotas and import licensing regulations, importers/exporters may consult the Customs Tariff and Classification of Import and Export Commodities or the Board of Foreign Trade.

(5) For information on administrative authority to regulate border control, please refer to Reply 18.

464. Please specify key elements and working mechanisms contained in the "Guidelines for Screening Imported Goods" and the "Regulations Governing Import Application" operated by the Ministry of Economic Affairs.

Reply 464

Please refer to the ANNEX for "Rules Governing Examination of Import Commodities" and "Regulations Governing Import of Commodities by Firms" (named as "Guidelines for Screening Imported Goods" and "Regulations Governing Import Applications" in document L/7097).

465. Please describe the procedures Chinese Taipei’s executive and legislative authorities will need to take to approve Chinese Taipei’s accession to the General Agreement, e.g. Will approval of the Legislative Yuan be necessary for Chinese Taipei to become a GATT contracting party?
Chinese Taipei's executive authorities are keeping in very close communications with the legislative authorities on all aspects of Chinese Taipei's accession to the GATT. Whether the accession will require the approval of the legislative authority is now under review and can be ultimately determined only at the conclusion of the accession negotiation when the negotiation result may be assessed in the light of the competence of the legislative authority.

466. Please supply, in translation, the following key laws and regulations:

(i) the Customs Law;
(ii) text provisions contained in the Customs Import Tariff and Classification of Import and Export Commodities;
(iii) the Enforcement Rules for the Customs Laws;
(iv) the Implementation Regulations on the Imposition of Countervailing Duties and Anti-dumping Duties;
(v) Guidelines for Screening Imported Goods;
(vi) Regulations Governing Import Applications;
(vii) The Basic Rules for Screening Exported Commodities;
(viii) Measures for Management of Exporters and Importers;
(ix) Regulations Governing Export Applications;

Reply 466

The above laws and regulations are provided in the ANNEX.

467. What are the key elements and principles of the draft Consumer Protection Law? What is the timetable for enacting it into enforceable law?

Reply 467

The key elements and principles of the draft Consumer Protection law are as follows:

(1) Legislative principles:

(a) to protect constitutional rights to life and property;
(b) to have a consumer protection law that contains substantive rules as well as a declaration of basic consumer protection principles;
(c) to use the law to supplement the deficiency of other laws in respect of consumer protection;

(d) to maintain appropriate balance of interests between the business sectors and consumers; and

(e) to take into account foreign experiences in light of circumstances unique to Chinese Taipei.

(2) Key elements:

(a) to declare the principle that the Government and the business sectors have obligations to protect consumers and the consumers are expected to act responsibly;

(b) to provide substantive rules for regulating standard contracts and special types of contracts (e.g. mail orders, door-to-door solicitation and hire purchase);

(c) to provide measures to ensure the health and safety of consumers;

(d) to ensure that adequate and accurate product information is provided to consumers;

(e) to provide for administrative supervision: there will be a consumer protection commission established at the central government level, and consumer service centres at the local level, and there will be rules for the competent authority to deal with hazardous products;

(f) to provide rules for settling consumer disputes: complaint, mediation and consumer litigation; and

(g) to impose administrative penalties on violators.

The draft law completed its first reading at the Legislative Yuan on 27 November 1991, and is awaiting the second and the third reading to complete the required legislative process.

468. Non-application of the Agreement:

Upon its accession to the GATT, does Chinese Taipei have any intention to invoke Article XXXV against certain contracting parties? If so, what criteria would be applied in selecting those countries?

Reply 468

Chinese Taipei is currently studying the issue of whether or to what extent Article XXXV will be invoked. No official position has yet been taken by the Government. Chinese Taipei, however, recognizes that invocation of Article XXXV shall be limited, as it is basically contrary to
the free trade spirit of the GATT, and will invoke Article XXXV only when it considers its security, economic or non-economic, to be threatened.

Statistical data

469. Could Chinese Taipei disaggregate the data in the first column of Table 13 on page 58 into agricultural and, separately, raw industrial material imports?

Reply 469

(1) Chinese Taipei does not disaggregate the data into agricultural and raw industrial material imports.

(2) Please also refer to the import sections of the Standard and Characteristic Classification of Export and Import Commodities, which is set forth in the Annex.

470. Could Taipei provide an update on the statistics quoted in page six through eleven for 1991 and 1992?

Reply 470

ANNEX

I. Table

1. Table of Commodities Licensed by the BOFT on Importation
2. Table of Commodities Subject to Export Licensing for the Reason of National Security
3. Table of Commodities Subject to Export Licensing for the Reason of Security of Supply
4. Table of Commodities Subject to Export Restriction
5. Table of Commodities Subject to Quantitative Restriction on Imports
6. Table of Discretionary Licensing Commodities on Importation
7. Table of Import Control Commodities
8. Table of Import Control Commodities (Non-automatic Licensing)
9. Table of No Imports Within Commodities Licensed by BOFT in the Period of 1989-91
10. Table of Restrictive Area Commodities on Importation
11. Table of Standard and Characteristic Classification of Import Commodities

II. Law, Regulations or Agreements

A. Those that have been sent already:

1. Aeronautics and Space Industries Development Program
2. Banking Law
3. Business Tax Law
4. Bylaws Governing the Execution of the Motion Picture Law
5. Commodity Labelling Law
6. Customs Law
7. Employment Service Act
8. Enforcement Rules of Statute for Prevention and Control of Infectious Livestock Diseases
9. Fair Trade Law
10. Foreign Futures Trading Law
11. Foreign Trade Act
12. Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks
13. Implementing Regulation on the Imposition of Countervailing Duty and Antidumping Duty
14. Income Tax Law
15. Insurance Company Establishment Criteria
16. Insurance Law
17. Negative List for Investment by Overseas Chinese and Foreign Nationals
18. Provisional Standard for Hi-fi and Stereo Equipment
19. Quarantine Requirements for the Importation of Animals and Animal Products
20. Quarantine Restrictions on the Importation of Plants and Plant Products
21. Regulation Governing Examination and Administration of Classification of Import/Export Commodities
22. Regulations Governing Application for Export of Commodities by Firms
23. Regulations Governing Export of Commodities
24. Regulations Governing Import of Commodities
25. Regulations Governing Import of Commodities by Firms
26. Regulations Governing Registration and Administration of Exporters and Importers
27. Regulations Governing Relief and Aid for Major Agricultural Products Damages by Importation
28. Regulations Governing the Quarantine at International Port
29. Regulations of the Industrial Development Bureau of the Ministry of Economic Affairs for Controlled Substances Pursuant to the Montreal Protocol
30. Rules for Collection of Customs Fees
31. Rules Governing Examination of Export of Commodities
32. Rules Governing Examination of Import of Commodities
33. Rules Governing Procuring Goods of Foreign Origin
34. Rules Governing the Approval and Administration of Foreign Specialist and Technical Personnel Employed by Public or Private Enterprises and Ranking Executives Employed by Overseas Chinese or Foreign National Invested Enterprises
35. Rules Governing the Implementation of the Customs Law
36. Statute for Agricultural Development
37. Statute for Commodity Tax
38. Statute for Development of Medium and Small Businesses
39. Statute for Establishment and Management of Export Processing Zones
40. Statute for Foreign Exchange Regulation
41. Statute for Investment by Foreign Nationals
42. Statute for Prevention and Control of Infectious Livestock Diseases
43. Statute for Technical Cooperation
44. Statute for Upgrading Industries
45. The Central Reinsurance Corporation Act
46. The Commodity Inspection Law
47. The Enforcement Rules for the Commodity Inspection Law
48. The Motion Picture Law
49. The Patent Law
50. The Securities and Exchange Law
51. The Trademark Law

B. Those to be sent by the end of March:

1. Agreement between CCNAA and AIT on Protection of Audiovisual Works
2. Automotive Industry Development Policy
3. Bilateral Copyright Agreement with the United States in July 1989
4. Law for the Control of Cosmetic Hygiene
5. Law Governing Food Sanitation
7. Requirements for Imported Drug Registration
8. Rules for the Administration of Securities Investment Trust Enterprises
9. The Copyright Law
10. The Law of Audit
11. The Quarantine Regulations on Imported Fishery Products
12. The Regulation Governing the Standards for Incorporation of Securities Companies