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

Consolidated Questions and Replies

At the meeting on 12-15 October 1993, members of the Working Party suggested that future meetings of the Working Party might address the issues raised on a thematic basis. For this purpose the Secretariat might reorganize the questions submitted by contracting parties and the replies thereto provided by the representatives of Chinese Taipei. The present document has been prepared in response to this request. The document consolidates the information provided by Chinese Taipei in documents Spec(93)36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 47 and Addenda as well as the responses to follow up questions provided by the representatives of Chinese Taipei at the meetings of the Working Party and includes cross references to the questions and replies reproduced in document L/7189/Rev.1.
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Consolidated Questions and Replies

1. **Tariff system**

1.1. **Tariff structure**

1.1.1. **General**

1. The reply indicates tariffs may be raised/lowered by up to 50 per cent in order to cope with "extraordinary domestic and international economic situations". What type of situations are seen as possibly falling into these categories? [WP2 Australia: Q.3; L/7189: Q.18]

**Reply**

Examples of extraordinary economic situations where the Ministry of Economic Affairs together with the Ministry of Finance may make recommendation to the Executive Yuan to raise or lower tariffs up to 50 per cent are:

(1) Where there is such a sharp increase in international prices of raw materials as to affect domestic production;

(2) where natural disasters or other *force majeure* events result in shortage of supply; and

(3) where commodity prices continuously increase at a rapid pace and thus there is a need for stabilization measures.

2. The reply indicates that tariffs may be raised or lowered by up to 50 per cent in order to cope with "extraordinary domestic and international economic situations". What type of situations would be considered as falling into these categories? Does the Customs Law itself define these? Where does the discretionary authority reside? What is the decision-making process? What information is used therein? How do the actions described relate to GATT Articles XIX and XXVIII? Would actions be taken on an MFN basis? [WP2 Australia II: Q.4; L/7189: Q.18]

**Reply**

The Customs Law does not define "extraordinary domestic and international economic situations". The following are examples:

(1) Where there is such a sharp increase in international prices of raw materials as to affect domestic production;

(2) where natural disasters or other *force majeure* events result in shortage of supply; and

(3) where commodity prices continuously increase at a rapid pace and thus there is a need for stabilization measures.

Adjustment of tariff rates in extraordinary domestic and international economic situations is jointly proposed by the Ministry of Finance and the Ministry of Economic Affairs. The proposal will be reviewed by the Tariff Rates Commission, which consists of representatives from the various relevant government agencies and experts in the relevant fields. The decision of the Commission is to be submitted to the Executive Yuan for approval and to the Legislative Yuan for record after the approval.
The adjusted rates would then be incorporated into the second column (reciprocal tariff rates column) of the Customs Tariffs Schedule and applied to products from all exporting countries which grant reciprocal treatments to the products of Chinese Taipei.

3. Is it to be understood that the lower bilateral tariff rates will be the base for the bilateral tariff negotiations, and if not changed under the process, that they would be incorporated in the MFN-tariff of Chinese Taipei? [WP2 Nordic Countries: Q. 2; L/7189: Q.48]

Reply

The results of the past bilateral tariff negotiations have been incorporated into the reciprocal rate column (the second column) which is the lower tariff rates of the import tariff schedule which applies to all imports from countries or territories providing reciprocal tariff treatment to Chinese Taipei’s exports. In the forthcoming bilateral tariff negotiation, the reciprocal rates will be used as the base. Even if the rates are not changed in such bilateral negotiations, they will be incorporated in the MFN-tariff to be applied after Chinese Taipei’s accession to the GATT.

4. What are the products covered by the bilateral trade concessions negotiated by Chinese Taipei with its trading partners on a reciprocal basis? [WP2 Philippines II: Q.1]

Reply

The results of past bilateral tariff negotiations have been incorporated into the customs tariff schedule. Most recent revision of the customs tariff schedule was promulgated in January 1992. The customs tariff schedule is available at the GATT Secretariat.

5. It has been suggested that on occasions goods imported from some countries are subject to rates of customs duty which are much lower than that specified in Column I of the Chinese Taipei Customs Tariff. Under what circumstances (other than those set out in the reply to Question 233, L/7189) could this occur if the goods are not being imported into an Export Processing Zone and they are not raw materials which are to be directly incorporated in another product destined for export? [WP3 Spec(93)36: Q.7; L/7189: Q.233]

Reply

Currently, Chinese Taipei has two columns of duty rates. For those tariff line items without Column II, the duty rates specified in Column I shall apply. For those with both Column I and II, the rates specified in Column II, which are always lower than that specified in Column I, apply to the imports from the countries or areas that grant reciprocal tariff treatment to Chinese Taipei’s exports. At the current stage, Column II rates apply to goods from 144 countries or areas.

6. We would be grateful to know if Chinese Taipei agrees that the figures in the memorandum on Chinese Taipei’s trade regime (L/7097) on average effective tariff rates can mask the actual degree of protection due to NTMs by not including "tariff equivalents" for prohibited or restricted items. [WP2: New Zealand Q.2; L/7189: Q.20]

Reply

The method that Chinese Taipei uses in calculating its average effective tariff rates is similar in effect to the weighted average method used by the GATT Secretariat and can therefore serve as an indication of Chinese Taipei’s general tariff level.
7. Concerning the reference in Reply No. 23 to the "average effective tariff rate":

Does the calculation of 11.9 per cent for agricultural products and 4.64 per cent for non-agricultural products include imports into the EPZs or the exempted duties for duty-drawback? [WP2 USA: Q.4; L/7189: Q.23]

Reply

The calculation of effective duty rate is arrived at by dividing the total amount of customs duty collected by the total value of imported goods. The total value of the imported goods is determined by the import trade statistics of the Customs, which include, among others, the imports into the EPZs. The total amount of customs duty collected as used in the calculation of the effective rate is the net proceeds of the customs duty, and therefore the exempted duties for drawbacks are excluded.

8. We note that Chinese Taipei has not contested the fact that the figures on average effective tariffs in L/7097 can mask the actual degree of protection for certain parts of Chinese Taipei's economy due to NTMs. Clearly this particularly affects the figures for the agriculture sector, which is sheltered by the remainder of Chinese Taipei's economy.

New Zealand would therefore be grateful if Chinese Taipei could work with members of the Working Party to provide statistics which better reflect actual levels of protection. [WP3 Spec(93)42: Q.2; L/7189: Q.20]

Reply

It has been Chinese Taipei's practice to calculate its average effective rate on the basis of the total collected duty amount divided by the total value of imported goods. This formula should adequately reflect the actual duty burden of imports. However, if members of the WP consider such a formula is not adequate to reflect the degree of trade liberalization, Chinese Taipei would appreciate its trading partners to provide technical assistance in compiling and processing the relevant statistical data; Chinese Taipei will cooperate fully.

9. Concerning the explanation in Reply 4 to the US questions, dealing with "average effective duty rate" calculations:

We wish to note that the average duty rate of 11.9 per cent given for agricultural products and 4.64 per cent for non-agricultural imports does not constitute an accurate representation of Chinese Taipei's level of market access for such products. There is a downward bias in the calculation, based on the inclusion of duty-free and duty drawback trade in the trade-weighted basis for the calculation. More significantly, the nominal rate assigned to certain products is rarely, if ever used due to quantitative import bans which are relatively common in the agricultural import regime.

Approximately what percentage of the total value of imported goods, as determined by the trade statistics of Chinese Taipei's Customs Bureau, fall into the categories of drawback and duty free? Could we have a figure on the average duty rate for dutiable items only? [WP3 Spec(93)45: Q.II-1-1; WP2 USA: Q.4]

Reply

Chinese Taipei's average nominal duty rate is arrived at by dividing the total of tariff rates with the number of tariff items. This is consistent with the simple averaging method used by many countries. With respect to the average effective rate, it is arrived at by dividing the total of the duties
collected with the total value of imported products. Duty-free and duty drawback trade is not excluded for the following reasons:

(1) Duty-drawback trade

For imported raw materials that are eligible for duty-drawback, it is difficult to know at the time of importation the extent to which such raw materials will be used in the manufacturing of export products. Therefore, when compiling import statistics, it is not possible to exclude that part of the raw materials that will be actually used in the manufacturing of export product after importation. Furthermore, the current duty-drawback practice does not compile statistics of import value related to the drawback amount. Therefore, it is not possible to exclude duty-drawback trade in the calculation of average effective rate.

(2) Duty-free trade

Duty-free trade in the case of Chinese Taipei covers not only those zero-rate items but also the transactions described in Reply 45 of document L/7189/Rev. 1. The current statistics do not separate import value of duty-free items from dutiable items. Therefore, it is difficult to exclude duty-free items from the calculation of average effective rate.

Duty-free items have positive effect on trade liberalization and its exclusion from trade statistics may make the relevant statistics unable to reflect the actual duty burden of the import as a whole.

If members of the working party think that it would be a meaningful exercise, Chinese Taipei would appreciate their assistance in resolving the statistical difficulties that Chinese Taipei encounters in excluding the duty-free and duty-drawback trade from its trade statistics.

10. (1) We would be interested in a more detailed response to Question 29 which asked about future plans for autonomous tariff reduction.

(2) One reason given in Reply 29 for the failure to achieve tariff reductions to the levels intended in the Four Year Plan is labour shortages and a significant increase in wages. It seems to us that Chinese Taipei's continued protection of its relatively uncompetitive agriculture sector is in fact discouraging the reallocation of the needed resources - particularly labour - from agriculture to the more competitive domestic industries. We also note that the slowing of the economy is given as a reason for keeping higher tariffs, in Reply 29, Part (1)(b), yet more consumer imports "resulting from the increase of GNP" since 1987 is given as a further reason, in Reply 29, Part (1)(c). Moreover, while we agree that GNP fell from 1988 to 1990, it rose again in 1991 (see L/7097 Add 1. p.48). We would welcome any further comments Chinese Taipei may wish to make on these points. [WP2 New Zealand: Q.3; L/7189: Q.29]

Reply

(1) Chinese Taipei will further reduce its tariffs when it completes its accession tariff negotiation with interested contracting parties following the request and offer procedure.

(2) The slowing down of the economy mentioned in Reply 29 of L/7189 refers to the growth rate of the manufacturing sector (11.19 per cent in 1987, 3.78 per cent in 1988, 3.09 per cent in 1989, 1.88 per cent in 1990, 7.33 per cent in 1991, and 3.12 per cent in 1992). Increase in the GNP is calculated in US dollar terms and therefore is much higher than being calculated
in NT dollar when taking into account the sharp appreciation of NT dollar in the relevant period. The appreciation of the NT dollar has resulted in the increase of imported consumer products and adversely affected domestic producers. This increase in import competition delayed further autonomous reductions in our import tariff level.

11. We appreciate the information in this Reply but are still interested in a response to our question on here on Chinese Taipei’s intentions and views on applying the ad valorem principle to setting tariffs. [WP2 New Zealand: Q.4; L/7189: Q.33]

Reply

There is no GATT requirement to follow the ad valorem principle in setting tariffs. A combined system of ad valorem duty and specific duty is not uncommon among trading nations. Chinese Taipei however will take into account the views expressed by other countries regarding the method used for applying tariffs.

1.1.2. Industrial products

12. What is the tariff level applied to products of this sector? [WP3 Spec(93)41/Add. 1: Q.II-2]

Reply

Please refer to Chapter 87 of the Customs Import Tariff and Classification of Import and Export Commodities for the tariffs applied to automobiles.

1.1.3. Agricultural products

13. Chinese Taipei applies relatively high rates of duty on imports of agricultural items, even in cases where there is no domestic industry. Why is this the case? [WP2 USA: Q.5]

Reply

Agricultural tariff rates are set at levels sufficient to protect domestic farmers. Tariff rates for most of the products (e.g. corn and soybeans) that Chinese Taipei has little production have been substantially lowered. For those whose tariff rates remain relatively high, tariffs are intended to protect farmers of substitute products, e.g., European pears substituting for local pears. If interested contracting parties have reservations, they are welcome to raise their concerns in the bilateral tariff negotiation to be held in conjunction with Chinese Taipei’s accession.

14. Seafood

Mexico’s main exporting seafood products are shrimps and lobsters.

We notice that you apply relatively high tariffs to these products. Would you consider their reduction? [WP3 Spec(93)41/Add.: Q.III-(B)-1]

Do you have any non-tariff restrictions on shrimps and lobsters? [WP3 Spec(93)41/Add.: Q.III-(B)-2]
Chinese Taipei would appreciate Mexico's delivering a request list for reduction of tariffs, including shrimps and lobsters, in order to facilitate bilateral tariff reduction negotiations at later stage.

Currently, shrimps and lobster can be imported only from cholera-free areas.

15. Honey

We believe that the 45 per cent tariff rate applied to honey is too high, are you thinking to revise it? [WP3 Spec(93)41/Add.: Q.III-(C)-1]

Is there any non-tariff measure applied to honey? [WP3 Spec(93)41/Add.: Q.III-(C)-2]

Reply

Chinese Taipei will review the tariff rate applied to honey in the bilateral tariff consultations with Mexico.

There is currently no non-tariff measure applied to honey.

16. Flowers

The tariffs applied to flowers are relatively high, would you consider lowering them? [WP3 Spec(93)41/Add.: Q.III-(D)-1]

Do you have any non-tariff measure? [WP3 Spec(93)41/Add.: Q.III-(D)-2]

Reply

Chinese Taipei will review the tariff rate applied to flowers in the bilateral tariff consultation with Mexico.

Importation of flowers is subject to the List of Animal and Plant Products subject to Quarantine and other relevant quarantine regulations.

17. Vegetables

Mexico is a competitive producer and exporter of vegetables (HS 07). Therefore, the expansion of the world market is in the best interest for the country.

Are you considering the reduction of tariffs applied to vegetables? [WP3 Spec(93)41/Add.: Q.III-(E)-1]

There are also a number of non-tariff measures. Could you explain them? Could you envisage their eventual elimination? [WP3 Spec(93)41/Add.: Q.III-(E)-2]

Reply

Chinese Taipei would appreciate Mexico's delivering a request list for reduction of tariffs, including vegetables, in order to facilitate bilateral tariff reduction negotiations at a later stage.
Importation of vegetables is subject to the List of Animal and Plant Products subject to Quarantine and other relevant quarantine regulations.

18. **Fruits**

Mexico is also a competitive producer and exporter of fruits such as: avocados, mangoes, citrus (grapefruit, oranges, lemons), strawberries, pineapples, melon, watermelons and walnuts.

Mexico is looking for a reduction of tariffs and a revision of the various non-tariff measures applied to these products. [WP3 Spec(93)41/Add.: Q.III-(F)-1]

**Reply**

Chinese Taipei will review the tariff rates applied to these products in the bilateral tariff consultations with Mexico. With respect to non-tariff measures, Chinese Taipei will apply these measures on a non-discriminatory basis. Given the sensitivity of agricultural imports, Chinese Taipei would require a transitional period.


We notice that you apply high-tariff rates to these products as well as some non-tariff measures. Would you be willing to reduce tariffs and remove non-tariffs on such items? [WP3 Spec(93)41/Add.: Q.III-(G)-1]

**Reply**

Chinese Taipei will review the tariff rates applied to these products in the bilateral tariff consultation with Mexico. With respect to non-tariff measures, Chinese Taipei will apply these measure on a non-discriminatory basis. Given the sensitivity of agricultural imports, Chinese Taipei would require a transitional period.

20. **Fruit Juice** (HS 2009: orange and grapefruit juice)

We notice that you apply high-tariff rates to these products as well as some non-tariff measures. Would you be willing to reduce tariffs and remove non-tariffs on such items? [WP3 Spec(93)41/Add.: Q.III-(H)-1]

**Reply**

Chinese Taipei will review the tariff rates applied to these products in the bilateral tariff consultations with Mexico. With respect to non-tariff measures, orange and grapefruit juice can be imported only when they meet the sanitation requirements set forth in the Law Governing Food Sanitation.

21. **Beer**

We would like to ask for a reduction of the 50 per cent tariff rate applied to beer and for the elimination of the non-tariff measure. [WP3 Spec(93)41/Add.: Q.III-(I)-1]
According to the Bilateral Agreement between Chinese Taipei and the United States on Cigarette and Alcoholic Beverage Imports, monopoly tax is levied on such products in lieu of import tariffs, harbour construction dues, commodities tax and business tax. Therefore, there is no separate levy of tariffs for cigarette, beer and wine products imported according to the General Operating Regulation of TTWMB for Importing Foreign Beer, Wine, and Cigarettes. Since January 1987, Chinese Taipei has permitted imports of cigarettes, wine, beer and spirits. Legal importers can apply to the TTWMB for importation of these products and sell them to the domestic market by paying only specific monopoly tax at NT$30/litre for beer and NT$830/1000 sticks for cigarettes. No tariff or other inland sales tax is required; there is no non-tariff barrier.

22. Cigarettes (HS 2402)

We would also like to ask for a reduction of the 50 per cent tariff rate applied to cigarettes and for the elimination of the non-tariff measure. [WP3 Spec(93)41/Add.: Q.III-(J)-1]

Reply

Please refer to supra Reply III-(I)-1.

1.2. Tariff bindings

23. On page 16 of L/7097 Chinese Taipei stated that upon accession to the GATT it "will bind 94 per cent of its tariff items at a maximum rate of 30 per cent. The ceiling for the remaining 6 per cent will not exceed 50 per cent". However in its reply to Question 40 and other similar questions, Chinese Taipei states "The … Page 16 is a description of the overall tariff structure at the time of delivery of the Memorandum". Is Chinese Taipei able to advise whether position on tariff bindings as set out in the Memorandum has changed? [WP2 Australia: Q.4; L/7189: Q.40]

Reply

Four hundred and thirteen agriculture and 21 non-agriculture items, accounting for 5.4 per cent of total tariff lines, are currently subject to duty rates ranging from 30.1 per cent to 50 per cent. However, this is not necessarily related to the duty rates and items that Chinese Taipei is to be bound at the time of accession. As to what items are to be bound at what rate, Chinese Taipei is unable to provide a list before the conclusion of tariff negotiation with interested contracting parties in conjunction with its accession. It, however, should be noted that not all items are to be bound; only those that have been specifically agreed are to be bound. Chinese Taipei's offer to bind tariffs does not take into account the tariffication of current import restrictions, future conversion of wine and tobacco monopoly tax to normal customs duties and internal taxes, or other changes of similar nature or effect, especially in the areas of agricultural products. Tariffication of import restrictions and conversion of monopoly tax and such other changes are to be dealt with separately from the tariff treatment of products currently not subject to import restrictions.

24. On page 16 of L/7097, Chinese Taipei states that upon accession to the GATT "it will bind 94 per cent of its tariff items at a maximum rate of 30 per cent". However the reply to Question 40 and related questions reads somewhat differently as it says the L/7097 information on page 16 "is a description of the overall tariff structure at the time of delivery of the Memorandum". Can Chinese Taipei advise whether its position on tariff bindings as set out in the Memorandum has therefore changed somewhat? [WP2 Australia II: Q.5; L/7189: Q.36-40]
Despite that 413 agricultural and 21 non-agricultural items, accounting for 5.4 per cent of total tariff lines, are currently subject to duty rates ranging from 30.1 per cent to 50 per cent, such fact is not necessarily related to the duty rates and items that Chinese Taipei is to be bound at the time of accession. As to what items are to be bound at what rate, Chinese Taipei is unable to provide a list before the conclusion of tariff negotiation with interested contracting parties in conjunction with its accession. It, however, should be noted that not all items are to be bound; only those that have been specifically agreed are to be bound. Chinese Taipei's offer to bind tariffs does not take into account the future tariffication of current import restrictions, which will be dealt with separately, conversion of wine and tobacco monopoly tax to normal customs duties and internal taxes, or other changes of similar nature or effect.

25. Concerning the responses to Question Nos. 24 and 25, and 38-41:

Chinese Taipei indicates that 413 agricultural and 21 non-agricultural items, accounting for 5.4 per cent of total tariff lines, are currently dutiable at rates exceeding 30 per cent. In addition, Chinese Taipei has offered to bind items accounting for approximately 6 per cent of tariff items at a level between 30 and 50 per cent ad valorem, but has declined to indicate which ones. Are these lists the same? Does this mean that Chinese Taipei is offering to bind its tariffs at the current applied level? [WP2 USA: Q.6; L/7189: Q.24, 25, and 38-41]

Chinese Taipei states in its response to this question that it does not intend to bind its entire tariff schedule, but only those tariffs that have been specifically requested, and that the "offer" to bind tariffs excludes its intent to apply Uruguay Round tariffication provisions to certain import restrictions currently in place, and the conversion of the current Monopoly Tax System.

We believe these exclusions from the concept of comprehensive tariff bindings are inappropriate. Chinese Taipei should expect to bind its entire tariff schedule and should anticipate the elimination of GATT-inconsistent import barriers currently in place. [WP3 Spec(93)45: Q.II-1-2; WP2 USA: Q.6]
27. The Community has noted that initially Chinese Taipei has declared its intention to join the GATT as a developed contracting party and accept therefore the obligations that this implied. This intention is fully justified by Chinese Taipei’s economic development and performance in international trade. In the Community’s view accession to the GATT, especially for a developed contracting party means acceptance of all the GATT disciplines in return for the benefit which accession would bring. Is Chinese Taipei ready to accept these disciplines, in particular in the following fields:

Binding of the whole of its tariff on a commercially significant level and the application of the MFN principle without exceptions neither for sectors or for trading partners. (WP3 EC: Q.1)

Reply

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

1.3 Tariff quotas

28. Do you have any tariff quotas applied to agricultural products? [WP3 Spec(93)41/Add.1: Q.I-2]

Reply

Currently, the agricultural authority of Chinese Taipei does not impose any tariff quotas.

1.4 Customs system

1.4.1 Classification

29. How can differential tariff treatment be justified for goods under one HS number? Does differential tariff treatment exist for other tariff lines? If so, which ones? Is Chinese Taipei prepared to eliminate the distinctions for these tariff lines? [WP2 Canada: Q.6; L/7189: Q.42]

Reply

The Customs Tariff Schedule uses eight digits to classify import goods. Currently, high quality beef and other grades of beef are classified into different tariff lines and therefore subject to different rates. In the Customs Tariff Schedule, there is no instance where the goods falling within the same classification have different rates.
30. What particular Ministry can a trading partner approach or appeal to if goods it exports to Chinese Taipei are misclassified? [WP2 Philippines: Q.3; L/7189: Q.70]

Reply

The importer of the product involved may submit a petition to the Board of Foreign Trade for review of the alleged misclassification. If the Board sustains the original classification after its review, the importer may initiate an administrative proceeding by filing a petition with the Ministry of Economic Affairs ("MOEA"), which is the authority directly above the Board. The MOEA's decision can be appealed to the Executive Yuan, the highest administrative authority. The decision of the Executive Yuan is in turn subject to the review of the Administrative Court, which is a judicial body established exclusively for review of decisions made by the administrative authorities.

31. We would welcome a commitment from Chinese Taipei to eliminate the discrepancy and reduce tariffs on high quality beef from other suppliers. [WP2 New Zealand: Q.5; L/7189: Q.42]

Reply

There is no intended discrimination in the classification of beef and the determination of tariff rates, which are based on the consideration of industry development. Chinese Taipei is prepared to discuss with interested parties on the classification technique and its application.

1.4.2. Customs procedures

32. What is meant by "excessive refunds"? [WP2 Canada: Q.9; L/7189: Q.46 (3)]

Reply

Excessive refund means the refund amount exceeding the amount of duties levied on the imported raw materials. Under Chinese Taipei's refund system, application for refund shall be accompanied by import declaration form; therefore, it is rather unlikely that excessive refund would occur.

33. Will Chinese Taipei's future bilateral customs agreements be GATT consistent? How are bilateral agreements consistent with GATT Article I? [WP2 Canada: Q.12; L/7189: Q.67]

Reply

Bilateral customs agreements will be made consistent with the rules of the Customs Co-operation Council (C.C.C.) and the relevant conventions, which should be GATT consistent.

As Chinese Taipei is not a member of the C.C.C., it has to resolve the issue through bilateral arrangements. There will be no problem of Article I of the GATT, if all contracting parties enter into bilateral arrangements with Chinese Taipei or when Chinese Taipei becomes a member of the C.C.C.

34. Concerning the operation of the Duty-Drawback System, as outlined in the response to Question No. 46:

Chinese Taipei indicates that it has changed its statutory tariff rates in the context of simplifying its Duty-Drawback System, i.e., by lowering or exempting some 3,917 tariff items from duty. How does this simplified Duty-Drawback System operate in practise? How many items are still eligible for duty-drawbacks? About what amount of duty has been refunded under this system in recent years? [WP2 USA: Q.7; L/7189: Q.46]
The Duty-Drawback System has been simplified by lowering duty on or exempting from duty of 3,917 tariff items, and excluding such items from the application of the Duty-Drawback System. This simplification exercise was carried out in the period of 1984-1991 in conjunction with the amendment of the customs import tariff schedule. All raw materials imported after the announcement of their exclusion from the Duty-Drawback System are not able to apply for duty-drawback when they are re-exported after processing.

According to the computer data printouts of the Directorate-General of the Customs for the fiscal year of 1992 (from 1 July 1991 to 30 June 1992), there are approximately 1,192 items that are still eligible for and have records of duty-drawback.

The amount of duty refunded is NT$28.6 billion in 1984, 4.2 billion in 1991, and 4.1 billion in 1992. This is a clear indication of the effectiveness of the simplification programme.

35. Is the withdrawal or refusal of duty-free status for raw materials based on standard criteria (eg. domestic availability)? Could a complete description of the criteria be provided? Are there products that have not qualified for duty exemption on an ongoing basis for an extended period? Could Chinese Taipei provide a recent list of products not eligible for duty exemption? [WP2 Canada: Q.8; L/7189: Q.45 (2)(b)]

Reply

Products not qualified for duty exemption are with zero rate or very low-tariff rates. The reason why these products need not go through the bonding exercise is to simplify the Customs administrative procedure. Such products include linseed and gypsum.

36. Could Chinese Taipei provide a comprehensive list (by HS numbers) of those products not eligible for duty exemption? [WP3 Spec(93)37: Q.4(a); L/7189: Q.45(2)(b)]

Reply

In order to implement the automation of the Customs and accelerate the custom clearance, the required list (by HS number) of the raw materials not eligible for duty exemption is under rearrangement. After it finalizes the process, Chinese Taipei will submit the list to the Secretariat promptly.

37. Chinese Taipei has indicated that products not qualified for duty exemption have zero rates or "very low" tariff rates. What qualifies as a "very low" tariff rate in this circumstance? What rate qualifies and what conditions must be take into account? [WP3 Spec(93)37: Q.4(b)]

Reply

Raw materials not qualified for duty exemption are products of which duty exemption has been cancelled by the authority through public announcement. Tariff rates below 5 per cent or the tariff burden accounting for less than 1 per cent of the f.o.b. price of the product will be deemed as "very low" rate and be listed by the relevant authorities as not qualified for duty exemption in order to simplify the Customs procedure.
1.4.3 Other charges and fees

38. The response to this question discusses the GATT-consistency issues raised in Question 49, but does not identify the industries or sectors which may require protection. Could these be specified? [WP3 Spec(93)37: Q.5(a); L/7189: Q.49]

Reply

A preliminary review of the current taxes, charges, and tariff surcharges of Chinese Taipei reveals that there exist no GATT-inconsistent practices which are for the purposes of protecting domestic industries.

39. Could Chinese Taipei provide a comprehensive list of all existing taxes and other charges which are applied on imported goods only? [WP3 Spec(93)37: Q.5(b)]

Reply

There are no existing taxes and other charges which are applied on imported goods only.

1.4.4 Export processing zones (EPZs)

40. What factors make it attractive to produce goods in the EPZ’s for the domestic market? Are there inverted tariffs or special subsidies?

What are the criteria which Chinese Taipei uses to assess applications to sell production in excess of 50 per cent on the domestic market?

Could Chinese Taipei provide more information on the cases where production in excess of 50 per cent is sold domestically? [WP2 Canada: Q.14; L/7189: Q.90-97]

Reply

EPZ products which entered the domestic market account for only 3 per cent to 4 per cent of the value of EPZ’s total production. EPZ firms are not particularly interested in selling to the domestic market, in part because import tariffs on their products are assessed on the products themselves rather than their raw materials.

The administrative authority of Chinese Taipei has decided to lift the 50 per cent limit on local sales. It, however, requires some time to complete the legislative process for amendment to the relevant laws. In practice, the EPZ Authority normally would grant permission to domestic sales in excess of 50 per cent of the production.
Information on cases of this kind is set out as follows:

<table>
<thead>
<tr>
<th>Time</th>
<th>Company Name</th>
<th>Product Name</th>
<th>Domestic Sales Production %</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 July 1990</td>
<td>Ann-Chi Co. Ltd.</td>
<td>Crystal Oscillator</td>
<td>90</td>
</tr>
<tr>
<td>28 August 1990</td>
<td>EMME System Corp.</td>
<td>Grade PCB Assembly Module &amp; Electronics Tester</td>
<td>100</td>
</tr>
<tr>
<td>25 September 1990</td>
<td>EMME System Corp.</td>
<td>Grade PCB Assembly Module &amp; Electronics Tester</td>
<td>100</td>
</tr>
<tr>
<td>29 January 1991</td>
<td>V-Star Electronics</td>
<td>Restaurant Automation System &amp; Voice Synthesizer</td>
<td>100</td>
</tr>
<tr>
<td>21 January 1991</td>
<td>Ann-Chi Co. Ltd.</td>
<td>Crystal Oscillator</td>
<td>90</td>
</tr>
<tr>
<td>19 September 1991</td>
<td>Aker Technology Co. Ltd.</td>
<td>Crystal Oscillator</td>
<td>90</td>
</tr>
<tr>
<td>29 December 1992</td>
<td>Ann-Chil Co. Ltd.</td>
<td>Crystal Oscillator</td>
<td>90</td>
</tr>
</tbody>
</table>

41. Why is it feasible for service industries to locate in EPZ’s? Why can’t subsidiaries or branches of firms locate in EPZ’s? [WP2 Canada: Q.15; L/7189: Q.96]

Reply

Trading and consulting companies are allowed to have branches or subsidiaries in the EPZs to assist the investment of multi-national firms in the EPZs.

Chinese Taipei is amending its Implementing Regulation for the administration of EPZs to allow for the establishment of branch offices in the EPZs.

42. The response to Questions 94 and 95 concerning tariff and tax exemptions on goods conveyed into the EPZs appears to indicate that such exemptions are given for goods not directly incorporated in the export product, and that direct taxes on the profits from the exports of these firms are also exempted (under the terms of the Statute for Upgrading Industries).

Both these practices appear to be in conflict with the provisions of the Subsidies Code and may constitute countervailable practices. Has Chinese Taipei given any thought to these considerations? [WP2 USA: Q.13; L/7189: Q.94 and 95]

Reply

The purpose of EPZs is to create tariff-free zones for production factors, where imports are not subject to normal tariffs and therefore exports using imported materials need not go through the administrative procedure for refund of tariffs. The whole system is to remove the administrative
complications associated with the levy of tariffs so as to ensure that tariffs or administration thereof would not constitute a source of trade distortion. This is consistent with GATT spirits. It is generally accepted that all tariffs levied on imported items which contribute to the production of the export products shall be refunded or exempt in order to neutralize the tariff elements and therefore avoid trade distortion. The limitation on tariff refund or exemption to the extent of goods directly incorporated in the export products, which is also the rule followed by some countries (including the United States) in their import/export administration, is for administrative expediency, rather than based on the theory that refund or exemption of tariffs on imported items not directly incorporated into the export products would unduly increase the exporters' competitiveness and shall not be allowed.

In EPZs, the situations that give rise to the need for simplifying the refund procedure do not exist, as their products are primarily for export. (Even in the case of sale to the local market, it is treated as an import like foreign products and subject to the same tariff treatment.) It is therefore not necessary to limit exemption or refund to the extent of products directly incorporated into the export products of EPZs. It shall be noted that under the Tokyo Round Subsidies Code refund or exemption to the extent exceeding that prescribed in the Illustrative List only creates a rebuttable presumption of subsidy. As all export products from EPZs do not receive "undue" benefits from the tariff exemptions, the relevant practices of Chinese Taipei in this respect shall not be considered as a subsidy. The draft Subsidies Code of the Uruguay Round in its item (i) of Annex I-Illustrative List of Export Subsidies has eliminated the requirement of "physically incorporated in the export product".

The exemption of corporate income tax for EPZ firms was abolished together with the abolition of the Statute for Encouragement of Investment at the end of 1990. The current tax exemption granted to EPZ firms also applies to firms not located in the EPZs that meet the requirements set forth in the Statute for Upgrading Industry (therefore not specific subsidy) which does not condition the granting of tax exemption upon exports (therefore not export subsidy).

43. Chinese Taipei has indicated that EPZ firms benefit from tax exemptions in accordance with the "Statute for Upgrading Industry". What percentage do they represent out of the total amount of industries which benefit from such exemptions? [WP3 Spec(93)37: Q.7; L/7189: Q.90-97]

Reply

Around 41.6 per cent of the EPZ firms benefit from tax exemption granted by the "Statute for Upgrading Industries".
NON-TARIFF MEASURES

2. Non-tariff measure

2.1 Quantitative restrictions

1. We note that computer disks detailing imports by Chinese Taipei are now available from the Secretariat. Nevertheless can Chinese Taipei provide a table summarizing imports during the period 1989-1992 of items subject to Regulation 111? [WP2 Australia: Q.9; L/7189: Q.117]

Reply

A table summarizing imports during the period 1989-1992 of items subject to Regulation 111 is attached hereto (Annex I).

2. Among the items subject to Regulation 121, "Permitted (Licensed by the BOFT)", are certain meat and poultry cuts, certain rices, rice starch for which there has not been any imports over the period 1989-1992. Is Chinese Taipei able to advise under what circumstances may such items be imported? How will this change on the accession of Chinese Taipei to the GATT? [WP2 Australia: Q.10; L/7189: Q.118]

Reply

There has not been any import of the products in question over the period 1989-1991 due to the fact that there may have been no import application for the products or that no permits have been issued on the grounds of chronic overproduction in the related sectors. In future, the licensing requirement for such items will be adjusted in line with the GATT provisions as follows:

(1) In order to safeguard food security and to stabilize prices, some items will remain subject to import ban;

(2) for those less sensitive items, Chinese Taipei will apply such liberalizing measures as opening up the market gradually, or apply import quota and allowing a minimum access, or applying tariffication and tariff quota;

(3) Chinese Taipei will discuss the scope and pace of such liberalization with interested contracting parties in the bilateral trade negotiations.

3. Chinese Taipei's reply confirms that items subject to Regulation 111 normally cannot be imported. It also notes that such items can be imported 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 etc. Would Chinese Taipei advise the contracting parties of the criteria against which the "authority in charge" makes such decisions and the laws and/or regulations in which such criteria are set out? [WP2 Australia II: Q.12; L/7189: Q.117]

Reply

The authorities in charge other than the BOFT have full discretion in granting such approval. The considerations taken into account included the shortage of domestic production (like sugar), the need of experiment (like wheat flour), and the need of fruit barter trade with Korea (like pears), which has been suspended.
The relevant laws and/or regulations for such discretion are the Statute for Agricultural Development, and the Rules Governing Examination of Import of Commodities.

4. It is acknowledged that computer disks detailing Chinese Taipei imports have been made available from the Secretariat. Nevertheless, can Chinese Taipei provide a table which summarizes imports during the period 1989-1992 of items subject to Regulation 111? [WP2 Australia II: Q.13; L/7189: Q.117]

Reply

A table summarizing imports during the period 1989-1992 of items subject to Regulation 111 is attached hereto (Annex I).

5. Among the items subject to Regulation 121, "permitted (Licensed by the BOFT)" are certain meat and poultry cuts, certain rices, rice starch for which there has not been any imports over the period 1989-1992. Is Chinese Taipei able to advise the circumstances under which such items may be imported? How would this system be changed in order for accession of Chinese Taipei to the GATT? [WP2 Australia II: Q.14; L/7189: Q.118]

Reply

There has not been any import of the products in question over the period 1989-1991 due to the fact that there may have been no import applications for the products or that no permits have been issued on the grounds of chronic overproduction in the related sectors. In future, the licensing requirement for such items will be adjusted in line with the GATT provisions as follows:

(1) In order to secure food supply and to stabilize prices, some items will remain subject to import ban;

(2) for those less sensitive items, Chinese Taipei will apply such liberalizing measures as opening up the market gradually, or apply import quota to allow a minimum access, or applying tariffication and tariff quota;

(3) Chinese Taipei will discuss the scope and pace of such liberalization with interested contracting parties in the bilateral trade negotiations.

6. One of the stated reasons for the application of "discretionary licensing" is "restructuring agriculture". What are the objectives of such restructuring? Where are these objectives set out (in law or regulation)? [WP2 Australia II: Q.16; L/7189: Q.123]

Reply

The objectives of the restructuring are to continue the development of the important sectors and to maintain balance in the domestic demand and supply.

According to Article 40 of the Statute for Agricultural Development, agricultural products shall be subject to the advance approval of the central competent authority. The Statute also authorizes such agency to take effective measures when imports caused or threatened to cause injury to domestic agricultural production.
7. Could Chinese Taipei provide details of the "agricultural restructuring plans" and "industrial restructuring programme" referred to in its reply to this question? [WP2 Australia II: Q.17; L/7189: Q.129]

Reply

As a result of Chinese Taipei’s efforts in opening up its market by gradually reducing the number of industrial products subject to import control, currently there are only six industrial products subject to such control. Five of such products are plastic waste, and the remaining one is carburettor for LPG. The reasons to maintain such control are only for environment protection and public safety, not for industrial restructuring. Therefore, industrial restructuring is no longer a reason for imposing import control on industrial products.

As to the agricultural restructuring, a copy of the Agricultural Integrated Adjustment Plan has been made available at the Secretariat.

8. Please indicate how "agricultural restructuring" requires Chinese Taipei to maintain import bans and quantitative restrictions that have sustained the current structure of production and trade in these commodities. [WP2 USA: Q.17]

Reply

The current farm size in Chinese Taipei is small and therefore the agricultural production is relatively less efficient than it can possibly be. Import bans and quantitative restrictions are required for Chinese Taipei to carry out plans to increase the farm size and production efficiency. Moreover, the population in the agricultural sector accounts for 20 per cent of the total population of Chinese Taipei. Import bans and quantitative restrictions are required to gain time for gradual reduction of the farming population.

9. We would be interested in trade data for products which have been liberalized through lifting of specified import bans. [WP2 Australia II: Q.21; L/7189: Q.263]

Reply

The statistics for the 10 products which have been liberalized (they are cuttlefish products and melon seeds products) are as follows:

<table>
<thead>
<tr>
<th>Type</th>
<th>Trade volume</th>
<th>Value (NT$1,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuttlefish</td>
<td>772</td>
<td>25,236</td>
</tr>
<tr>
<td>Melon Seeds</td>
<td>17,152</td>
<td>345,329</td>
</tr>
</tbody>
</table>

For the other 14 agricultural products that were not liberalized until the end of 1992, the relevant statistics are not available at this stage.

10. What are the further liberalization intentions for the agricultural sector? [WP2 Australia II: Q.22; L/7189: Q.264]
As a result of sharp increase in wage rates and the great appreciation of New Taiwan Dollar, the agricultural sector is facing increasing difficulties. Further liberalization of agricultural trade will take into account the result of the Uruguay Round and the adjustment need of the agricultural sector.

11. We would be interested in provision by Chinese Taipei of a concrete and time-limited plan for removal of import restrictions for agricultural products in the "Table of Import Control Commodities" and for the liberalization mooted in Reply 283. [WP2 Australia II: Q.26; L/7189: Q.282 and 283]

Reply

The timetable for agricultural liberalization will depend on the bilateral and multilateral discussions in conjunction with Chinese Taipei's accession as well as the result of the Uruguay Round.

12. In the Reply 43 (The Tariff System) Chinese Taipei states that the imports of certain fish products may be liberalized in the future as well that the duties may be further reduced. Do you have any concrete plans concerning the liberalization and duty reductions that you could report? [WP3 Spec(93)43: Q.7; L/7189: Q.43]

Reply

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


Reply

The statistics for the 10 products entered under the liberalized tariff lines (which are cuttlefish products and melon seeds products) is as follows:

<table>
<thead>
<tr>
<th>Type</th>
<th>Trade volume</th>
<th>Value (NT$1,000)</th>
</tr>
</thead>
<tbody>
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<td>Melon Seeds</td>
<td>17,152</td>
<td>345,329</td>
</tr>
</tbody>
</table>

For the other 14 agricultural products that were liberalized at the end of 1992, the relevant statistics are not available at this stage.


Reply

Wheat imports have been liberalized since 1 June 1993 in terms of the qualification of the importers. Further liberalization of the agricultural trade will be carried out following bilateral negotiations with trading partners.
15. Chinese Taipei refers to the need to consolidate the structure of its agricultural sector and increase the contribution of value-added production. Can Chinese Taipei describe the impact that its proposal may have on its production and imports of beef, pork, oilseeds, wheat and wheat flour? [WP3 Spec(93)37: Q.13(a); L/7189: Q.257-289]

Reply

Consolidating the structure of its agricultural sector and increasing the contribution of value-added production have been Chinese Taipei’s determined policy. Under this policy, imports of beef, pork (except for belly of swine), oilseeds, and wheat have been liberalized. It will continue the efforts in contracting the sectors not cost-efficient and increasing the contribution of the value-added sectors.

16. One of the steps undertaken by Chinese Taipei to support its agricultural policy is to establish price support programme and border measures for selected products. Can Chinese Taipei describe in detail the nature and extent of these border measures? [WP2 Philippines II: Q.12]

Reply

The main border measure employed by Chinese Taipei is quantitative restriction. Products that are subject to quantitative restrictions are set out in the Table of Import Control Commodities and the table of Commodities Subject to Quantitative Restrictions on Imports which will be soon replaced by the Negative List.

17. Do you have quotas (QR’s) applied to agricultural products? [WP3 Spec(93)41/Add.1: Q.1-1]

Reply

Certain agricultural products such as apples are subject to quantitative restrictions.

18. In the "Table of Commodities Subject to Quantitative Restriction on Import" (Table 5) the last column indicates that import quotas of certain listed items are, or will be, available to importers through open bidding. How are the existing quotas on fresh apples allocated between importers? [WP2 Australia: Q.8; L/7189: Q.114]

Reply

The existing quotas on fresh apples are allocated among exporting countries according to their actual exports of fresh apples to Chinese Taipei over the period of 1983-1985. In the case of Australia, the importer needs to produce to the Board of Foreign Trade an export certificate from Australia Horticultural Corporation, which is responsible for the quota administration, in order to acquire the required import licence. The quotas are allocated to exporting countries, rather than among importers. The practice does not apply to the United States and Canada because Chinese Taipei has a substantial surplus from trade with the United States and Canada.
19. (1) In respect of Reply 141 we would be grateful to know how long imports of plums and grapes have been restricted to a limited number of supplying countries, particularly the United States.

(2) On Reply 142, we welcome the advice that Chinese Taipei is reviewing the restriction on wheat flour imports.

(3) On Reply 147, could Chinese Taipei explain how discretionary licensing on imports of chicken meat "control[s] the domestic supply". Restrictions on import competition would seem to encourage domestic production, at prices which may not be internationally competitive, rather than "control" domestic production. [WP2 New Zealand: Q.15; L/7189: Q.141, 142, 146, 147 and 148]

Reply

(1) Imports of plums and grapes have been restricted to a limited number of supplying countries since 1987.

(2) From 1 June 1993 onwards, restriction on wheat imports in terms of the qualification of the importers is relaxed to allow the following parties to import wheat:

(i) Foodstuff traders whose business covers trade in wheat or wheat flour; and
(ii) manufacturers holding factory licences whose raw materials include wheat or whose business activities include processing of wheat flour;

Such parties have to apply to the Board of Foreign Trade for registration as qualified importers.

Wheat flour has many varieties in its specifications and cannot be stored for long time. As a result, the international trade volume of wheat flour only accounts for 5 per cent of the total trade volume of flour mills. Currently, Chinese Taipei still restricts wheat flour from importation. However, it will review the restriction after the newly liberalized wheat imports system works long enough for Chinese Taipei to evaluate the impact thereof.

(3) More than 90 per cent of the feedstuff for chicken is imported. If Chinese Taipei allows free importation of chicken meat, the stability of the industry will be seriously affected.

20. (1) Can Chinese Taipei confirm that import licensing controls on wheat will be lifted in July 1993 and the import quota of 850,000 tons eliminated?

(2) Can Chinese Taipei advise whether the domestic equalization tax on imported wheat will be lifted and when?

(3) Can Chinese Taipei confirm that importers other than the 38 member companies of the Chinese Taipei Flour Millers Association will be permitted to import wheat?

(4) Can Chinese Taipei explain why it is maintaining a ban on imports of wheat flour imports while liberalizing imports of bulk wheat? [WP2 Australia II: Q.24]
Reply

(1) Wheat is a main substitute for rice which is the staple food of Chinese Taipei and therefore requires careful control over the consumption and supply. From 1 June 1993 onwards, wheat imports will be liberalized in terms of the qualifications of the importers. However, the import quantity is still subject to the government’s monitoring, so that in case of need the government can take necessary measures according to the Statute for Agricultural Development.

(2) Currently there is no plan to lift the domestic equalization tax on imported wheat.

(3) The liberalization in terms of the qualification of the importers is to allow the following parties to import wheat:

   (i) Foodstuff traders whose business covers trade in wheat or wheat flour; and

   (ii) manufacturers holding factory licences whose raw materials include wheat or whose business activities include processing of wheat flour.

   Such parties have to apply to the Board of Foreign Trade for registration as qualified importers.

(4) Wheat flour has many varieties in its specifications and cannot be stored for a long period of time. As a result, the international trade volume of wheat flour only accounts for 5 per cent of the total trade volume of flour mills. Currently, Chinese Taipei still restricts wheat flour from importation. However, it will review the restriction after the newly liberalized wheat imports system works long enough for Chinese Taipei to evaluate the impact thereof.

21. (1) Chinese Taipei has indicated that from June 1993 onwards restrictions on wheat imports (in terms of the qualification of importers) have been relaxed. We understand that there are still however a number of restrictions applied. Please describe the nature of these restrictions and the rationale for maintaining such restrictions. Can Chinese Taipei also explain how the current importation process functions?

(2) Chinese Taipei currently maintains a ban on wheat flour. Wheat flour is consumed in a different form than rice. In terms of consumer preference, although the nutritional value may be similar, it is not a direct substitute for rice eaten as meals. Could Chinese Taipei indicate why wheat flour is considered as a substitute for rice and which food production and processing sector(s) it wishes to protect by maintaining this ban? [WP3 Spec(93)37: Q.11; L/7189: Q.142]

Reply

(1) Although since 1 June 1993, wheat imports have been liberalized in terms of the qualifications of the importers, the import quantity is still subject to the government’s monitoring, so that in case of need the government can take necessary measures according to the Statute for Agricultural Development.

   The liberalization in terms of the qualification of the importers is to allow the following parties to import wheat:

   (i) Foodstuff traders whose business covers trade in wheat or wheat flour; and
(ii) manufacturers holding factory licences whose raw materials include wheat or whose business activities include processing of wheat flour.

Such parties have to apply to the Board of Foreign Trade (BOFT) for registration as qualified importers. When these qualified importers import wheat, they have to obtain consent letters from the Council of Agriculture first, then with such consent letters apply for the import licence from the BOFT.

(2) Chinese Taipei will review the restriction after it evaluates the impact of the newly liberalized wheat imports system.

22. Table 9 in the Annex to L/7189 confirms that over the period 1989-1991 there have been no imports of frozen poultry products which are subject to Import Regulation 121. What are the main reasons for this lack of imports? Apart from the BOFT and the Council of Agriculture, Executive Yuan from what other authorities are approvals required and what is the process to be followed in seeking such approvals? [WP3 Spec(93)36/Add.1: Q.11; L/7189 Annex: Table 9]

Reply

Poultry products have been in oversupply in Chinese Taipei, and the government has given public notice to ban construction of new chicken farms and expansion of existing ones. In addition, 95 per cent of the feedstuff for chicken raising is imported. Since feedstuff can be freely imported, the Council of Agriculture (COA) has withheld issuing of consent letters for imports of chicken meat. This is the reason why in the period of 1989-1991, there were no imports of frozen poultry products.

23. Are there any other reasons, in addition to those cited in Replies 103 and 129 for import controls? We would be grateful to know what are the restrictions justified by ensuring adequate fresh milk supplies. [WP2 New Zealand: Q.13; L/7189: Q.129]

Reply

(1) There are no reasons for import controls, other than those cited in Replies 103 and 129.

(2) "Ensuring adequate fresh milk supplies" referred to in Reply 129 means ensuring adequate fresh milk supplies from domestic sources.

24. We are grateful for the oral description which the delegation of Chinese Taipei gave during the Working Party meeting of the restrictions, mentioned in Reply 129, which are justified by ensuring adequate fresh milk supplies. It would be helpful to have this response in writing. [WP3 Spec(93)42: Q.4; L/7189: Q.129]

Reply

Imported milk products account for 85 per cent of total local consumption; milk powders can be freely imported with a relatively low duty rate of 15 per cent. Fresh milk is pasteurized milk, and is generally supplied by local milk farms; imported liquid milk is sterilized milk. Restriction on both fresh milk and liquid milk imports is to protect interests of local consumers.
25. (1) Is it possible to use a more recent reference period say from 1989 onwards to determine the import quota of fresh young coconuts for each exporting country?

(2) Can you please elaborate on how the current import quota system for fresh young coconuts is "generally in line with the provisions of Article XI of the GATT"? [WP2 Philippines: Q.4; L/7189: Q.148]

Reply

(1) Fresh coconuts have been subject to import quotas since 1 June 1986. The total quotas and the quota for each of the exporting countries are determined on the basis of the average import amounts in the period 1983-85. If the reference period is to be counted from 1989, it will not be particularly beneficial to exporting countries like the Philippines.

<table>
<thead>
<tr>
<th>Year</th>
<th>Imports from Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>2,037</td>
</tr>
<tr>
<td>1984</td>
<td>6,753</td>
</tr>
<tr>
<td>1985</td>
<td>5,783</td>
</tr>
<tr>
<td>Average</td>
<td>4,858</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Imports from Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>4,613</td>
</tr>
<tr>
<td>1990</td>
<td>4,345</td>
</tr>
<tr>
<td>1991</td>
<td>4,193</td>
</tr>
<tr>
<td>Average</td>
<td>4,384</td>
</tr>
</tbody>
</table>

(2) The authority of Chinese Taipei has instituted a campaign to dissuade farmers from growing coconuts and to encourage them to shift to the growing of other fruits.

26. Are the tariff and non-tariff barriers applied to rice and sugar in conformity with the MFN principle? [WP2 Philippines II: Q.11]

Reply

Chinese Taipei sources its sugar supply from the international market by open tender; there is no discrimination in terms of sources of supply. Import restrictions on rice apply to all countries; there is no discrimination in terms of sources of supply.

27. Which are the seafood products where Chinese Taipei applies non-tariff barriers, and what are these barriers? [WP3 Spec(93)41: Q.(d)]
Import control on sea products has been lifted and now can be freely imported with exception of the following products:

(1) Mackerel 
(2) Sardine 
(3) Carangid 
(4) Squid 

28. Can domestic firms purchase imported steel or are they obliged to purchase steel from the China Steel Corporation at higher prices? If the latter applies, what mechanisms are in place to ensure that domestic firms do not purchase imported steel (which according to the information provided may be cheaper)? [WP3 Spec(93)37: Q.12; L/7189: Q.251]

Reply

In Chinese Taipei, firms can purchase imported steel freely without any restriction. Domestic firms are not required to purchase steel from China Steel.

2.2 Area restrictions

2.2.1 Industrial products

29. Chinese Taipei replies that it will gradually phase out current discriminatory trade measures through bilateral consultations with the concerned contracting parties. In this regard I hope Chinese Taipei will further clarify the specific types of discriminatory trade measures that have been practised bilaterally. [WP2 Korea: Q.1; L/7189: Q.1]

Reply

Discriminatory trade measures practised bilaterally are primarily area restrictions and to a certain extent allocation of quotas, applied to a very limited number of industrial products and certain agricultural products.

30. A wide range of motor vehicles is subject to Import Regulation 603 which requires, *inter alia*, that these vehicles may only be imported from "Europe and American Continent". On what basis is this restriction applied? As an exporter of motor vehicles Australia would appreciate conformation that this discriminatory import restriction would be eliminated on accession if not immediately. [WP3 Spec(93)36/Add.1: Q.4]

Reply

The area restrictions on automobile imports are imposed according to the Automobile Industry Strategic Development Plan. Although Chinese Taipei would like to eliminate such restrictions, it needs a transitional period to make the required adjustment and may not be able to complete such process upon its accession.
31. With respect to the 35 industrial and 19 agricultural products that appear in the "Table of Restrictive Area Commodities on Importation", is the importation of these products from mainly North America and Europe permitted without any quantitative restrictions currently? Or are these imports also subject to certain quantitative restrictions? [WP3 Spec(93)40: Q.1]

Reply

It's true that the importation of these products from North America and Europe permitted area is not subject to any quantitative restrictions.

32. We do not understand that the 35 industrial products are mostly automobiles and motorcycles. From the Automobile Industry Development Policy which Chinese Taipei was kind enough to make available to the contracting parties, I noticed on page 3, Import Control Measures, that the existing area restrictions, on the import of light trucks and station wagons will be discontinued at the end of this year. Does this mean full liberalization of imports of these products or does this mean only the removal of area restriction currently in place? [WP3 Spec(93)40: Q.2]

Reply

Chinese Taipei has the intention to liberalize the imports of these products. However, in order to lessen the impacts on its automobile industry and gradually restructure the industry, Chinese Taipei has to take the liberalization measures step by step. For liberalization of the imports of light trucks and station wagons, please see infra Reply 33.

33. I also noticed from the same policy paper that, starting from 1994, import of passenger cars made by the countries in restricted areas will be opened gradually and by quota system, and thereafter further relaxed through case-by-case review. Does this change mean that as from next year, the import of passenger cars, and for that matter the import of light truck and station wagons also, will be subject to one single regime without any area discrimination except for one contracting party specifically mentioned in that policy paper? [WP3 Spec(93)40: Q.3]

Reply

Chinese Taipei's current plan to liberalize car imports is as follows:

(1) **Heavy trucks** can be imported freely from February 1994;

(2) **passenger cars** can be imported only from North America and Europe (Eastern Europe is excluded) until the end of 1993. From 1994 onwards, passenger cars imports from North America and Europe (Eastern Europe is excluded) will remain free and Japanese passenger cars exceeding 3000 c.c. can also be imported but subject to quantitative restriction; Japanese passenger cars no more than 3000 c.c., however, cannot be imported. Passenger car imports from other areas are now under review and will be opened gradually;

(3) **light trucks and station wagons** can be imported only from European and North American countries until the end of 1993. From 1994 onwards, imports from European and North American countries will remain free and Japanese light trucks and station wagons exceeding 3000 c.c. can also be imported but subject to quantitative restriction; Japanese light trucks and station wagons not more than 3000 c.c., however, cannot be imported. Light truck and station wagon imports from other areas are still under review and will be opened gradually.
34. When does Chinese Taipei expect to liberalize automobile imports (particularly passenger cars) completely? [WP3 Spec(93)40: Q.4]

Reply

At this moment, Chinese Taipei has not had a fixed timetable for liberalization of automobile imports. However, it will take into account the measures adopted by the United States and European countries in the liberalization of automobile imports.

35. As to the transitional period pending the full liberalization and also pending the complete elimination of any discriminatory measures, we do understand Chinese Taipei said, in its answer to our follow-up question on Reply 2 and elsewhere in document L/7189, that it would consult with interested contracting parties and that it would take into account the practices of existing developed contracting parties.

(1) My first question here is, what does it mean "to take into account the practices of existing developed contracting parties? By so saying, is Chinese Taipei alluding to the possible introduction of VERs and other grey area measures? And if that be the case, what is the relationship between such VER type arrangements and paragraph 22 of the proposed Uruguay Round safeguards text that prohibits introduction of grey area measure?

(2) And if that is not the case, what is the specific legal form Chinese Taipei has in mind in seeking such a transitional period? Is it a specific provision built in the protocol of accession or a waiver under GATT Article XXV or something else? Could Chinese Taipei specify on this point? [WP3 Spec(93)40: Q.5]

Reply

Although Chinese Taipei would take into account the practices of existing developed contracting parties for the liberalization of automobile imports, Chinese Taipei does not have the intention to take any measures not accepted by the interested contracting parties or not allowed under the GATT framework. As to the legal form of the transition period Chinese Taipei currently is seeking in order to restructure its automobile industry, it will take a form agreed by members of the Working Party and at this moment it does not rule out any possibilities that may be available under the GATT.

36. Do you have any non-tariff barrier to the importation of automobiles and trucks? [WP3 Spec(93)41/Add.1: Q.II-1]

Reply

Importation of automobiles and trucks are currently subject to area restrictions; please refer to the Table of Restrictive Area Commodities on Importation provided in the Annex to Document L/7189/Rev.1 for the products and area involved.

37. Is there any prohibition to import products in the automobile sector? [WP3 Spec(93)41/Add.1: Q.II-5]

Reply

Under the current area restriction, imports of certain automobiles and trucks from certain specific areas are prohibited. For further details, please refer to the Table of Restrictive Area Commodities on Importation provided in the Annex to document L/7189/Rev.1.
38. Question relative to Reply 123: Chinese Taipei in its reply to the questions of Hong Kong has indicated that area restrictive trade measures exist mostly for agricultural products (where imports are permitted from the United States but not from all other sources) as well as for industrial products such as automobiles and motorcycles.

What are the provisions foreseen for industrial products? [WP3 EC: Q.2-c; L/7189: Q.123]

Reply

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

2.2.2 Agricultural products

39. Chinese Taipei states that area restrictions on certain products are maintained to diversify the origin of imports and maintain balance of trade with particular areas. In Table 10 (Table of Restrictive Area Commodities on Importation), "agriculture restructure" is cited as an additional reason for the area restriction. Can Chinese Taipei please explain why discrimination as to import source occurs for products in the "agriculture restructure" and why for certain items import quotas exist for certain country exporters and not for others? [WP2 Australia: Q.11; L/7189: Q.133]

Reply

There involves several considerations for products subject to area restriction on the ground of "agriculture restructure". Such considerations include: insulation of the related industries from the competition of the products imported from particular areas, diversifying the origin of imports and maintaining balance of trade with certain areas. Based on the foregoing considerations, import quotas exist for exports from certain countries while not for exports from others. In the future, area restrictions will be replaced by a tariff quota system with quotas allocated according to the GATT provisions, including its Article 13.

40. Chinese Taipei states that "area restrictions" on certain products are maintained to diversify the origin of imports and to maintain balance of trade with particular areas. In Table 10 (Table of Restrictive Area Commodities on Importation), "agriculture restructure" is cited as an additional reason for "area restrictions". Can Chinese Taipei please explain (a) why discrimination on the basis of origin occurs for products in this "agriculture restructure" category, and (b) why imports of certain of these items are restricted from some countries but totally unrestricted from others? How would Chinese Taipei propose to bring such restrictions into conformity with GATT provisions? [WP2 Australia II: Q.15; L/7189: Q.133]

Reply

There involves several considerations for products subject to area restrictions on the grounds of "agriculture restructure". Such considerations include: insulation of the related industries from the competition of the products imported from particular areas, diversifying the origin of imports to maintain balance of trade with certain areas. Based on the foregoing considerations, import quotas exist for exports from certain countries while not for exports from others. In the future, Chinese Taipei will adhere to the principle of non-discrimination to resolve such problem. However, because there involves sensitive domestic issues, it hopes to have a transitional period in order to establish a system to replace area restrictions. The advice of the Working Party on our transitional measures is certainly welcome.
41. The Chinese Taipei replied that after its accession to the GATT it plans to liberalize its agricultural sector according to GATT requirements and the outcome of the Uruguay Round, but at the same speed and scale of other similarly situated countries. If so, does this mean that Chinese Taipei will do away with all of its discriminatory import restrictions so as to make way for far greater trade liberalization? [WP2 Korea: Q.6; L/7189: Q.140, 145 and 158]

Reply

Agricultural products that are subject to area or discriminatory restrictions account for a small percentage of the total agricultural products. Such restrictions will be replaced by a system of tariff quotas, after the related laws have been amended to provide the necessary legal basis. The quotas under the new system will be allocated in a GATT-consistent manner, including its Article XIII. Before the amendment of the relevant laws, Chinese Taipei intends to annually increase the quotas allocated to the exporting countries concerned. Consultations with trading partners will be held in order to bring Chinese Taipei's practices more in line with their expectations.

42. Reply No. 141, document L/7189

This reply does not relieve our concern. Therefore we wish to make clear the following:

(1) In accordance with current GATT provisions and specifically the first Article which established the Clause of the most-favoured-nation, a prohibition is unacceptable for our country, and all the more in the present case which includes a geographical discrimination in favour of a particular country. Chinese Taipei cannot adhere to GATT while violating a basic principle for multilateralization of world trade.

(2) It is not acceptable either that the solution of this problem is being related to the results of the Uruguay Round. Chinese Taipei should comply with current GATT rules prior to and not after its adherence. [WP3 Spec(93)38: Q.2; L/7189: Q.141]

Reply

(1) Chinese Taipei appreciates the value of the MFN principle and also has the true intention to conform to it.

(2) Chinese Taipei takes note of the above comments and will sincerely consider them. Although Chinese Taipei also would like to comply all the GATT rules prior to its accession, it cannot exclude the possibilities that some adjustment may not be able to be completed by its accession and it would appreciate for the understanding of contracting parties that a transition period may be needed.

43. Could Chinese Taipei give indications on the way that the volume of these quotas will be established and if there will be a distribution between suppliers? [WP3 EC: Q.2-b]

Reply

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

44. As regards 19 agricultural products currently subject to area restrictions, if the result of the Uruguay Round agricultural negotiations is implemented by the time Chinese Taipei enters the GATT, would Chinese Taipei apply the Uruguay Round results to these 19 agricultural products without any area discrimination? [WP3 Spec(93)40: Q.6]

Reply

Chinese Taipei would apply the outcome of the Uruguay Round negotiation to these items currently subject to area restrictions. However, in case of need, Chinese Taipei will require a transitional period for full implementation of the Uruguay Round result.

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

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

Could Chinese Taipei provide a list of these agricultural products that are subject to restrictive trade indicating the amount of imports and their origin? [WP3 EC: Q.2-a; L/7189: Q.123]

Reply

The agricultural products subject to area restrictions are as follows:

1. Peaches and persimmons: limited to imports from Europe and the United States;
2. bananas, pineapples, guavas, mangoes, lemons and limes, grapes, papayas, plums, lychees, longans, whole ducks, turkey cuts: issuance of import licences is suspended except imports from the United States;
3. oranges and other mandarins, including tangerines and satsumas, and grapefruits: imports from the United States are free, imports from South Africa are limited in quantity;
4. apples: imports from the United States and Canada are free; imports from other areas are subject to quantitative restriction.

46. Chinese Taipei has indicated that trade in certain fresh fruit will not be subject to MFN treatment. Can Chinese Taipei indicate which fresh fruit may not be subject to MFN treatment? [WP3 Spec(93)37: Q.13(b); L/7189: Q.257-289]

Reply

Chinese Taipei fully respects the MFN principle and never has the intention to seek any exception to it. However, in order to adjust some current practices left over by past bilateral talks which were the only ways available for Chinese Taipei in resolving trade issues due to its lack of access to international society before, Chinese Taipei wishes to have a transitional period. The suggestions of
contracting parties regarding the length of the transition period and the measures that shall be taken during the period are welcome.

Chinese Taipei is still reviewing its current practices relating to imports of fresh fruit and has now decided which fresh fruit may not be subject to MFN treatment during the transitional period.

47. Can Chinese Taipei describe briefly its special arrangement with the United States with regards to the importation of certain agricultural products, i.e., bananas, mangoes, papayas? [WP2 Philippines II: Q.8]

Reply

There is no special arrangement with the United States with regard to the importation of bananas, mangoes, papayas (and other agricultural products). There have been no imports of the three named products from the United States.

48. Reply No. 146 Document L/7189

This reply does not relieve our concern. Therefore we would like to receive the following elucidations:

(1) Percentages concerning participation in apple import quotas of each of the apple exporting countries to Chinese Taipei;

(2) is there any country not subjected to these quotas? If so, what is the reason for this discrimination with regard to the terms of the GATT Agreement?

(3) the reference to the result of the Uruguay Round is to be discarded as inappropriate, since Chinese Taipei, from the very moment of its adherence, is bound to comply with all the GATT provisions, which are equally obligatory for all contracting parties;

(4) in view of the above, our country considers this situation should be cleared up prior to Chinese Taipei’s adherence to GATT. [WP3 Spec(93)38: Q.1; L/7189: Q.146]

Reply

(1) The imports of apples from the United States and Canada are not subject to quotas. The other four countries allowed to export apples to Chinese Taipei but subject to quotas are as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>Quota (metric tons)</th>
<th>% of total quotas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chile</td>
<td>7,188</td>
<td>66.6</td>
</tr>
<tr>
<td>New Zealand</td>
<td>2,608</td>
<td>24.2</td>
</tr>
<tr>
<td>South Africa</td>
<td>500</td>
<td>4.6</td>
</tr>
<tr>
<td>Australia</td>
<td>500</td>
<td>4.6</td>
</tr>
</tbody>
</table>

(2) The United States and Canada are not subjected to these quotas. There are historical reasons for such exemptions. Chinese Taipei did not have chance to participate in the multilateral trade system before, and therefore it had to engage in bilateral trade agreements with the countries which requested Chinese Taipei to adjust the large trade imbalance between them and Chinese Taipei. The United States and Canada are the examples. In order to relieve the seriousness
of trade imbalance with the United States and Canada, Chinese Taipei lift the restriction on apple imports from them.

Chinese Taipei takes note of the above comments.

Chinese Taipei will endeavour to lift area restrictions as soon as it can. Certainly it prefers to finish such process by its accession to the GATT. However, since it involves the sensitive issues of protection of domestic agriculture and negotiation with relevant contracting parties, the process may be very time-consuming, Chinese Taipei would appreciate for a transition period for it to complete the reforming process.

49. A list of the 16 fruits on which Chinese Taipei has preferential suppliers, as well as of such suppliers. [WP3 Spec(93)41: Q.(b)]

Reply

The 16 fruits on which Chinese Taipei has preferential suppliers and such suppliers are as follows:

(1) Peaches and persimmons: limited to imports from Europe and the United States;

(2) bananas, pineapples, guavas, mangoes, lemons and limes, grapes, papayas, plums, lychees, and longans: issuance of import licences is suspended except imports from the United States;

(3) oranges and other mandarins, including tangerines and satsumas, and grapefruits: imports from the United States are free, imports from South Africa are limited in quantity;

(4) apples: imports from the United States and Canada are free; imports from other areas are subject to quantitative restriction.

50. Which citrus fruits have area restrictions, and in what geographical areas? [WP3 Spec(93)41: Q.(e)]

Reply

Imports of other mandarins (including tangerines and satsumas), and limes and lemons are limited to those from the United States. Imports of oranges and grapefruits can only be imported from the United States (unlimited amounts) and South Africa (with limited amounts).

51. Similarly, it would be useful to receive in writing responses to the following questions to which the delegation of Chinese Taipei gave preliminary oral answers during the Working Party meeting.

(1) Could Chinese Taipei explain why it decided in 1987 to restrict imports of plums and grapes to certain supplying countries?

(2) Similarly, for how long have area restrictions applied to apples, and what was the original reason for the restrictions?

(3) With respect to the response on why discretionary licensing on chicken meat is justified, we do not understand the significance of the reference in follow up 15 to Chinese Taipei’s high dependence on imported feedstuffs. [WP3 Spec(93)42: Q.5; L/1789: Q.141]
Reply

(1) The import restriction on plums and grapes imposed in 1987 was triggered by the sharp increase in the fruit imports in that year (52.2 per cent increase compared with the imports of the previous year; in 1986, the import volume was 97,026 tons, while in 1987, the import volume was increased to 147,674 tons). As a result, the prices fell drastically and the government faced violent protests of the farmers. In order to temper the situation, the government suspended imports from certain countries.

(2) Apple imports have been subject to area restriction since 1987 for the same reason as that set out in (a). However, because of the size of the surplus in trade with the United States and Canada, apple imports from the two countries are not subject to restrictions.

(3) There has been overproduction in chicken meat. The Government of Chinese Taipei has for several times given public notice to ban construction of new chicken farms or expansion of existing ones, so as to reduce surplus and stabilize prices. Import restriction on chicken meat is a measure to help the implementation of government’s plan to reduce such surplus. The statement made in follow-up Reply 15 is to emphasize that feedstuff can now be freely imported.

52. It is noted that imports of cigarettes into Chinese Taipei require an import licence approved by the BOFT. What are the conditions for the issue of such import licences? Will import licences be issued irrespective of the place of manufacture of the cigarettes? [WP2 Hong Kong: Q.2; L/7189: Q.136]

Reply

To obtain an import licence, an importer has to submit a consent letter issued by the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB) together with its application to the Board of Foreign Trade (BOFT). Import licences are issued to imports of cigarettes manufactured in any of the 23 countries prescribed by Chinese Taipei.

53. What is the agreement between the American Institute in Taiwan and Coordination Council for North American Affairs concerning the importation of beer, wine and cigarettes? Are the sale and importation of these products made in a non-discriminatory manner? [WP2 Philippines II: Q.10]

Reply

The Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs concerning the importation of beer, wine and cigarettes was signed in 1986, which deals with, among others, the importation of, levy of monopoly tax on, advertisement for, and the promotional activities of American wine and tobacco products.

All foreign wine and tobacco products are now imported in accordance with the General Rules for the Taiwan Tobacco and Wine Monopoly Bureau’s (TTWMB’s) Processing of Applications for Importation of Foreign Cigarettes, Wine, and Beer and the General Rules for the Taiwan Tobacco and Wine Monopoly Bureau’s (TTWMB’s) Processing of Applications for Importation of Foreign Spirits. The Rules apply to American and other foreign wine and tobacco products equally; there is no discrimination.
54. In the reply to Question No. 219, Chinese Taipei has stated that "all restrictions on alcoholic beverages originating from all GATT contracting parties" had been liberalized as of 15 March 1993. Which restrictions are referred to in this response? [WP2 USA: Q.23; L/7189: Q.219]

Reply

The restrictions referred to in Reply 219 of L/7189 are the general import restrictions on alcoholic beverage on grounds of origins and not related to phytosanitary requirements.

55. How does Chinese Taipei intend to review the area restrictions on imports of tobacco and alcohol products? When are the area restrictions expected to cease to exist? [WP3 Spec(93)39: Q.12]

Reply

Chinese Taipei intends to review the area restrictions on imports of tobacco and alcohol products in light of its overall trading conditions with the countries concerned. It will also take into account the views of its trading partners and the relevant GATT rules. Currently there is no timetable set for the lifting of the said area restrictions.

56. It is noted that in order to obtain an import licence to cover imports of cigarettes, an importer has to obtain a consent letter issued by the Taiwan Tobacco and wine Monopoly Bureau. What are the conditions of issuing the consent letter? What is the rationale for confining imports of cigarettes from 23 countries only? Would Chinese Taipei consider lifting the restriction? [WP3 Hong Kong: Q.1; WP2 Hong Kong: Q.2]

Reply

(1) Upon the application of private importers, the TTWMB will issue consent letters. No condition or quantity restriction is imposed for issuing such letters.

(2) The rationale for confining imports of cigarettes from 23 countries was to lessen the impact on domestic tobacco farmers from cigarette imports, which started in 1987.

(3) To implement the free market principle, Chinese Taipei is considering to lift such restriction, and may open the market for all contracting parties in the short run.

2.3 Import licensing/Negative List

57. (1) Are we correct in understanding that the Council of Agriculture, Bureau of Industry, Department of Health, Bureau of Commodities Inspection etc (see Reply 109) have to approve the issuing of licences for both import controls and for discretionary licensing?

(2) Can Chinese Taipei give a clear commitment that it will cease the practice of discretionary licensing? [WP2 New Zealand: Q.11; L/7189: Q.101-119]
Reply

(1) Under the current system, the Council of Agriculture, Industrial Development Bureau, Department of Health, Department of Environmental Protection and other agencies have to approve the issue of licences for both import controls and for discretionary licensing in respect of products falling within their respective jurisdiction. After their approval, the Board of Foreign Trade will proceed to issue the import licence.

(2) The practice of discretionary licensing will cease after the Negative List system is implemented. Under the Negative List, the issuance of licences will be according to an objective standard and in a transparent manner.

58. (1) Chinese Taipei says here that "In principle, there is no Quantitative Restriction (QR) imposed on non-automatic licensing items", and earlier specifies that 27 items are subject to QRs with a further 50 items under area restrictions (Reply 113). We would be grateful to know therefore why it is necessary to maintain non-automatic licensing for the remaining 169 non-automatic licensing items (see table in Reply 101)? Similarly, would such products be covered by the 'Negative List', and if so why?

(2) We would be grateful for a detailed explanation of how the restriction on imports of plums for just the United States (Reply 141), wheat flour (Reply 142) and apples (Reply 146) meet all requirements for an exception under Article XI:2. [WP2 New Zealand: Q.12; L/7189: Q.127]

Reply

(1) Some of the non-automatic licensing items are subject to quantitative restrictions which are imposed to assist agricultural development and maintain balance in the domestic supply and demand.

(2) Chinese Taipei plans to replace area restriction on plums and apples with a system of tariff quota, and to deal with the matter through consultations with interested contracting parties.

(3) Imports of wheat have been liberalized since 1 June 1993 in terms.

59. We are disappointed that there is no clear statement that Chinese Taipei is prepared to commit to eliminate discretionary licensing and area restrictions in future. On future access for agricultural products in particular, a precise statement of intent is notably lacking. We hope Chinese Taipei will be able to move forward in these areas soon. [WP2 New Zealand: Q.17]

Reply

Future import administration will eliminate as many discretionary licensing items as possible from the Negative List. For those discretionary licensing items that need to stay in the Negative List, Chinese Taipei will set out the criteria and procedures for obtaining the licences and/or approvals from the relevant authorities in charge, which will be made transparent to conform to the requirement of the Licensing Code.
60. Could the delegation of Chinese Taipei describe how inclusion or exclusion from the discretionary licensing system occurs for any particular item? Is there a hearing process or some method of approach to the authorities that results in such restrictions being applied? Are the restrictions legislatively determined? [WP2 USA: Q.14; L/7189: Q.104]

Reply

The decision to include or exclude certain tariff line items from the existing discretionary licensing system is made through the consultation of the Board of Foreign Trade with other relevant government agencies.

No hearing process or legislative process is required for such decision. However, since the newly promulgated Foreign Trade Act limits the reasons for administrative agencies to take trade restrictive measures, the Board of Foreign Trade certainly will comply with such legislative requirement when it includes certain items into the up-coming Negative List as subject to the new import licensing requirements.

61. The responses to Question Nos. 116 and 132, indicate that automatic licences "shall be obtained .... from the authorized banks", and that they fulfil a "screening process", rather than a protective one.

Could the delegation of Chinese Taipei elaborate on why this type of licensing is believed to be necessary, on how items for inclusion in the programme are selected and who selects them, on the role of "authorized banks", and on the purpose of the "screening process"? [WP2 USA: Q.19; L/7189: Q.116 and 132]

Reply

Most of the current automatic licensing items will not be included in the Negative List when the new import licensing system is implemented in the second half of 1993. Those still staying in the Negative List are either (i) the results of a change of the prior classification which takes the items usually being granted import licences as automatic licensing or (ii) for the purpose to keep updated import statistics, before the Customs administration is adequately equipped to perform such function.

62. Concerning the Import Licensing System we note that import licences are granted by the Board of Foreign Trade and by authorized licensing units. Does Chinese Taipei have any plans to simplify the system in the sense that licences could be obtained from one authority only? [WP3 Spec(93)43: Q.9]

Reply

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

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

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

63. New Zealand would still appreciate clarification of a point raised in connection with Reply 127 of L/7189. The table in Reply 101 of L/7189 identifies a total of 246 items subject to non-automatic licensing at present.

Of these, 27 are subject to QRs and 50 to area restrictions (according to Reply 113).

Reply 127 says that "In principle there is no QRs imposed on non-automatic licensing items".

Taken together, these statements indicate that the remaining 169 items are not subject to QRs, and it is therefore unclear why it is necessary to retain non-automatic licensing on these items which are not subject to QRs. [WP3 Spec(93)42: Q.3; L/7189: Q.101, 113 and 127]

Reply

Under the import licensing system prior to the Negative List, non-automatic licensing items include those subject to area restrictions (including QRs), discretionary licensing, and import control. Therefore, the non-automatic licensing remains not only for administration of QRs but also for other import regulations. Some of these import regulations are imposed to safeguard public morals, or protect human, animal or plant life or health, or secure national security, in a manner consistent with the GATT. Some are imposed to protect domestic agricultural and industrial sectors, which will be dealt with in accordance with the commitments Chinese Taipei is going to make during the accession process.

64. Can the follow-up reply to the United States Question 19 be understood to indicate:

(1) That the licences currently obtained from authorized banks are all "automatic" licences;

(2) that some items currently on the "automatic licence" list will become subject to quantitative restriction or import ban under the "Negative List" system to be implemented; and

(3) that there will be a category of import items subject to the "Negative List" that are only there to "keep updated import statistics, before the Customs administration if adequately equipped to perform such functions"? [WP3 Spec(93)45: Q.II-3-(3); WP2 USA: Q.19]

Reply

The above understanding basically is right. However, Chinese Taipei would like to emphasize that the reason for some items currently subject to automatic licensing to be subject to quantitative restriction or import bans under the future "Negative List" is not because Chinese Taipei would like to put more import restrictions. As a matter of fact, with the implementation of the Negative List,
Chinese Taipei not only commits to make its import regulation system more transparent, but also endeavours to eliminate import restriction as much as it can. The adjustment for some current automatic licensing items to be among the conditional import items under the new system is to cure the non-transparency of the current import licensing system. For some categorization mistakes, some restricted items, such as wild life under CITES, and CFC as well as Halon products under Montreal Protocol are currently put in the automatic licensing column despite the fact that their importation is subject to restrictions. Therefore, the Negative List recategorizes these items and puts them under quantitative restrictions. In other words, such adjustment at most makes the categorization of import licensing meet the real situation of import regulation, and does not add any new restrictions.

65. Can Chinese Taipei define the role of the Executive Yuan Commerce for Agriculture, as well as the Taiwan Provincial Food Bureau in importation? [WP2 Philippines II: Q.9]

Reply

The role of the Council of Agriculture is to plan for development or restructuring in the agricultural, forestry, fishery, and farming sectors, and to ensure a stable and secured food supply. The role of the Taiwan Provincial Food Bureau is to administer food supply, the guaranteed-purchase of rice and other agricultural products as well as storage and distribution of foodstuffs in accordance with the food policies of the central authority.

66. Does "otherwise justified" here mean GATT justified? [WP2 New Zealand: Q.22; L/7189: Q.261]

Reply

"Otherwise justified" means GATT justified, or justified under the rules of the Uruguay Round, or justified because the measures are similar to that of other contracting parties.

67. Do you have import licences and if so, could you give us a list of such licences? [WP3 Spec(93)41/Add.1: Q.I-3]

Reply

For products that are currently subject to import licences, please refer to the Customs Import Tariff and Classification of Import and Export Commodities, which is available at the GATT Secretariat.

68. Codes regarding non-tariff measures. [WP3 Spec(93)41: Q.(a)]

Reply

General information on Chinese Taipei's non-tariff measures are provided in Chinese Taipei's Memorandum on Foreign Trade Regime Doc. L/7097 and its replies responding to questions raised by the members of the Working Party as contained in Doc. L/7189/Rev.1. Given the breadth of the request, Chinese Taipei would appreciate Mexico delegation's advice of the specific non-tariff measures that it wishes to obtain information.
69. The June 1992 Supplement to the Customs Import Tariff and Classification of Import and Export Commodities includes certain new regulations (e.g. C01). However as the Supplement's explanation of the measures applied under each of the code numbers is provided only in the Chinese language it is not possible to determine how many new regulations there are and what they entail. Would Chinese Taipei please provide an English translation of this section of the Supplement, i.e., pages one to 13 inclusive? [WP3 Spec(93)36/Add.1: Q.2]

Reply

The English translation is now being prepared by the Directorate-General of Customs and the Board of Foreign Trade. Once it is completed, Chinese Taipei will make it available to members of the Working Party.

70. Reply No. 147 Document L/7189

This reply does not meet our concern either. The argument advanced by Chinese Taipei meant to justify the practice of import licences for poultry meat is to allow for control of the domestic supply and for domestic market price stabilization.

(1) This criterion does not seem combinable with the firm commitment expressed by Chinese Taipei to apply a free market regime, in which prices actually are determined by demand and supply.

(2) This is another point to be settled by Chinese Taipei before adhering to GATT. [WP3 Spec(93)38: Q.3; L/7189: Q.147]

Reply

(1) Chinese Taipei respects the spirit of a free market. However, the current oversupply of poultry meat has killed the price of poultry meat and therefore caused serious problems to the livelihood of chicken farmers. Although Chinese Taipei has already taken measures to restrain domestic overproduction of poultry meat, it takes time for Chinese Taipei to complete the restructuring of the chicken farming. In order to lessen the impact on chicken farming business due to imports and further avoid the possible disorder due to sudden change, Chinese Taipei would appreciate for a transition period to open its poultry meat market.

(2) Chinese Taipei takes note of it.

71. Concerning the reply in L/7189 to Question No. 117

The Customs Tariff and Classification of Import and Export Commodities indicates that an import licence is required for imports of recovered paper (HS#4707.10-4707.90). The import licence must be obtained through the Chinese Taipei Paper Industry Association. It appears that this import licensing requirement for paper is being used to limit imports of recovered paper. Domestic mills have been required to report the percentage of imports vs. domestic paper purchases to public entities and the Paper Association. It has also been reported that imports of recovered paper are restricted to only direct users (i.e., to mills).

Under what circumstances are import licences denied for imports of recovered paper? Under what circumstances are they currently allowed?

Why has the authority to issue import licences been given to the industry association which represents domestic paper companies?
Will the licensing requirement for recovered paper be removed when Chinese Taipei implements a Negative List system? Will import licences for other paper and paperboard products be removed? If not, how will Chinese Taipei justify the retention of such licences? [WP3 Spec(93)45: Q.II-3-(2)-3; L/7189: Q.117]

Reply

It has to be clarified that the Chinese Taipei Paper Industry Association plays a very limited and passive role in the import licence issuing process for recovered paper (waste and scrape paper). Although it has the function to coordinate the purchase of the recovered paper (waste and scrape paper) in the territory of Chinese Taipei, its coordination is never a factor considered by the licensing units. The import licence issuers are the designated licensing banks. There has never been any authority given to the Association for issuance of import licences.

Furthermore, the import licensing requirement for recovered paper (waste and scrape paper) has never been designated to limit imports of recovered paper (waste and scrape paper). This can be easily perceived from the licence type - automatic licensing, which has no restrictive effect.

The reason to require import licences for recovered paper (waste and scrape paper) is because the Police Administration thought that if there were no monitoring of the recovered paper (waste and scrape paper) imports, the gun or contraband smugglers might employ the imported recovered paper (waste and scrape paper) to cover their smuggling activities. In order to avoid such administration loophole, but not to affect the operation of the legal importers too much, it is required that every importer of recovered paper (waste and scrape paper) file with the Paper Association an affidavit stating that it would not smuggle gun or engage in any illegal conducts. The Paper Association then submits such affidavits to the Police Administration. With the consent letters issued by the Police Administration, every recovered paper (waste and scrape paper) importer, not limited to paper mills, can obtain the import licence directly from the designated licensing banks.

In the Negative List, which will be implemented soon, the licensing requirement for recovered paper (waste and scrape paper) will likely be removed because most automatic licensing items will become subject to no licensing in the Negative List system and also because such licensing may not be a very appropriate way in carrying out the function the Police Administration wanted to achieve. Based on the same consideration, import licences for other paper and paperboard products will be removed as well in the Negative List. However, the environment protection authority and the Legislative Yuan of Chinese Taipei have paid attention to the pollution caused by large recovered paper (waste and scrape paper) imports and the high costs born by local people in cleaning such pollution. The related measures to recovered paper (waste and scrape paper) may be under consideration.

72. In the table on the import licensing system in Reply 101, the import percentages under the various licensing systems are expressed in terms of tariff items. Please give the same proportions expressed in terms of the percentage of the total value of imports, both under the present system and for the future system (Negative List). [WP2 Switzerland: Q.2]

Reply

(1) Current ratio: Please see Annex II attached.

(2) Future ratio: The future import regulation system of Chinese Taipei is primarily based on the Negative List.

The Negative List Chinese Taipei is going to implement basically has two tables: Table I and Table II.
Table I is the "Table of Commodities Subject to Import Restrictions". The commodities contained in this table cannot be imported unless under special circumstances the Board of Foreign Trade approves the importation as exceptions.

Table II is the "Table of Conditional Import Commodities." The commodities under Table II can be imported provided that such commodities comply with the import regulations specified in Table II and accordingly acquire for Customs clearance the import licences issued by the Board of Foreign Trade or its designated licensing banks. The requirements imposed by these import regulations vary. For example, it may be required that the licence applicants submit to the licence issuers the consent letters of such authorities as the Council of Agriculture, the Industry Development Bureau, and the Department of Environment Protection; or it may be required that the particular imports shall not exceed their allocated quotas.

For the commodities not listed in the Negative List, their importation does not require any licences issued by the Board of Foreign Trade or its designated licensing banks. However, if there are any administration rules of no trade restrictive effects and mandated by other laws or regulations, the Board of Foreign Trade shall compile them together with the respective commodities subject thereto into a "Table of Commodities Subject to the (Customs) Delegated Examination". Whether the importation of these commodities conforms to the administration rules is subject to the Customs' monitoring. Therefore, these commodities have to be imported in a manner not contravening the compiled administration rules in order to get the Customs clearance.

It is anticipated that the commodities under the Negative List will only account for 8 per cent of the total tariff lines, and the tariff items under the "Table of Commodities Subject to the (Customs) Delegated Examination" will account for 8 per cent. The rest 84 per cent of tariff lines will be imported freely. The Negative List import regulation system will take effect in the second half of this year (1993), when the subsidiary regulations of the Foreign Trade Act are implemented.

73. (1) How much of the old import licensing system will be retained in the new system?
(2) Will the items on the Negative List be justified under Article XX and XXI?
(3) Will all licensing be handled through a single agency? If so, which agency will be responsible?
(4) Will quotas based on market share be retained?
(5) Will all automatic licences cease to exist under the Negative List?
(6) Will the new system apply to both agricultural and industrial goods?
(7) Will area restrictions cease to exist under the new licensing system? [WP2 Canada: Q.16; L/7189: Q.98-179]

Reply
(1) In principle, the import control items, the discretionary licensing items, the items subject to area restrictions or import quotas, and a limited number of automatic licensing items will be retained in the planned Negative List.
(2) Most items are justified under Article XX and XXI. For those retained in the Negative List on the grounds of industrial or agricultural restructuring, or balancing trade, Chinese Taipei will endeavour to adjust them in line with the GATT and if necessary to resolve the issues through bilateral consultation.

(3) The licences issuing agency for the Negative List will still be the BOFT, but in order to make the licence application more expedient, the designated licensing banks may be retained to issue the licences for some of the items.

(4) Quotas based on market shares will be retained.

(5) Most of the current automatic licensing items will not be included in the Negative List when the new import licensing system is implemented in the second half of 1993.

Those still staying in the Negative List are either (i) the results of a change of the prior classification which takes the items usually being granted import licences as automatic licensing or (ii) for the purpose to keep updated import statistics, before the Customs administration is adequately equipped to perform such function.

(6) The new system will apply to both agricultural and industrial goods because the items retained in the Negative List may be for the reasons under Article XX or XXI, or for restructuring purpose, or for the need to implement the Foreign Trade Act, and whether they are agricultural or industrial products is irrelevant.

(7) Chinese Taipei intends to replace its area restrictions with a system which will take into account GATT requirements. Before the introduction of the new system, it will, through consultations with exporting countries concerned, annually increase the quotas allocated to each of such countries.

In the area of industrial products, the only existing area restrictions are those applied to imports of automobiles and motorcycles. This involves not only trade imbalance with the countries concerned but also the ability of local manufacturers to meet the import competition. The scale of local manufacturers is relatively smaller. And the production cost is relatively higher. The sectors employ 120,000 workers which account for 5.5 per cent of the labour force employed in the manufacturing sector, and their production accounts for 5 per cent of the value of total output of the manufacturing sector. A sudden removal of the area restrictions will result in serious economic and social problems, in particular employment problems.

Based on the above, Chinese Taipei would require a transitional period in order to adjust itself to the increased import competition resulted from the lifting of area restrictions. In the transitional period, Chinese Taipei will consult with interested contracting parties and take into account the practices of the existing developed contracting parties in relation to the gradual liberalization of import restriction.

74. (1) It is noted that Chinese Taipei is developing a "Negative List" which, in principle, will eliminate prior licensing requirements. It is disappointing, however, that even with the implementation of the Negative List in the second half of 1993 some 20 per cent of tariff line items will still be subject to prior licensing requirements.

(2) How will items included in the "Table of Import Control Commodities" (Table 7) for "agriculture restructure" reasons (for example, various milk items of HS Chapter 4, wheat flour, raw cane sugar, evaporated milk) be treated on the accession of Chinese Taipei to the GATT? [WP2 Australia: Q.7; L/7189: Q.111]
Those items subject to import control will be dealt with in the following manner:

(1) In order to safeguard food security, and to stabilize domestic prices, some items will remain subject to import ban.

(2) For those less sensitive items, Chinese Taipei will apply such liberalizing measures as opening up the market gradually, or applying import quota and allowing a minimum access, or applying tariffication and tariff quota.

(3) Chinese Taipei will discuss the scope and pace of liberalization with interested contracting parties in the bilateral trade negotiations.

75. It is noted that Chinese Taipei is developing a "Negative List" which, in principle, will eliminate prior licensing requirements. It is disappointing, however, that even with the implementation of the Negative List in the second half of 1993 some 20 per cent of tariff line items will still be subject to prior licensing requirements.

On the general issue of the imminent move to the Negative List, Australia stresses that it would be very concerned if the discriminatory, vague and discriminatory aspects of the existing system were to be rolled over into the planned system.

How will items included in the "Table of Import Control Commodities" (Table 7) for "agriculture restructure" reasons (for example, various milk items of HS Chapter 4, wheat flour, raw cane sugar, evaporated milk) be treated on the accession of Chinese Taipei to the GATT? [WP2 Australia II: Q.11; L/7189: Q.111]

Those items subject to import control will be dealt with in the following manner:

(1) In order to secure food supply, and to stabilize domestic prices, some items will remain subject to import ban;

(2) For those less sensitive items, Chinese Taipei will apply such liberalizing measures as opening up the market gradually, or applying import quota to allow a minimum access, or applying tariffication and tariff quota;

(3) Chinese Taipei will discuss the scope and pace of liberalization with interested contracting parties in the bilateral trade negotiations.

76. What is the basis of Chinese Taipei in removing or retaining products in the Negative List? What is Chinese Taipei's time frame in preparing the Negative List? Will member countries of the GATT be given enough time to submit its comments on the removal or retention of the product in the Negative List? [WP2 Philippines II: Q.3]
In pursuance of the Foreign Trade Act promulgated on 5 February 1993, the import commodities regulation of Chinese Taipei will be modified into a system that "permission is the principle, restriction is the exception". In other words, import permission in principle will be granted. If there is really a need for import restriction in order to protect public morals, safeguard national or social security, protect the environment, implement industrial policies, and protect human, animal or plant life or health, the commodities therefore restricted from importation would be itemized in the Negative List.

The Negative List Chinese Taipei is going to implement basically has two tables: Table I and Table II.

Table I is the "Table of Commodities Subject to Import Restrictions". The commodities contained in this table cannot be imported unless under special circumstances the Board of Foreign Trade approves the importation as exceptions.

Table II is the "Table of Conditional Import Commodities". The commodities under Table II can be imported provided that such commodities comply with the import regulations specified in Table II and accordingly acquire for Customs clearance the import licences issued by the Board of Foreign Trade or its designated licensing banks. The requirements imposed by these import regulations vary. For example, it may be required that the applicants seeking a licence submit to the licensing units the approval letters of such authorities as the Council of Agriculture, the Industrial Development Bureau, and the Environmental Protection Administration; or it may be required that the particular imports shall not exceed the quotas allocated.

There are different reasons for commodities to be included in the Negative List. Some commodities are included to preserve public morals, to ensure national or social security, to protect human, animal or plant life or health, or to conserve the environment, as the General Agreement permits. Others are included to assist industry restructuring or to implement the quantitative restrictions authorized by the Foreign Trade Act.

For the commodities not listed in the Negative List, their importation does not require any licences issued by the Board of Foreign Trade or its designated licensing banks. However, if there are any administration rules having no trade restrictive effect and mandated by other laws or regulations, the Board of Foreign Trade shall compile them and the respective commodities subject thereto into a so-called "Table of Commodities Subject to the (Customs) Delegated Examination". Whether the importation of these commodities conforms to the administrative rules is subject to Customs' monitoring. Therefore, these commodities have to be imported in a manner not contravening the compiled administration rules in order to get Customs clearance.

In conclusion, the future import regulation system of Chinese Taipei is primarily based on the Negative List. For the commodities itemized in the Negative List, import licences issued by the Board of Foreign Trade or its designated licensing banks are required for Custom clearance. If the tariff line items are not included in the Negative List, licensing requirement for importation can be exempt. It is anticipated that the commodities under the Negative List will only account for 8 per cent of the total tariff lines, and the tariff items under the "Table of Commodities Subject to the (Customs) Delegated Examination" will account for 8 per cent. The rest 84 per cent of tariff lines will be imported freely. The Negative List import regulation system will take effect in the second half of this year (1993), when the subsidiary regulations of the Foreign Trade Act are implemented.

After the preparation of the Negative List is finalized, the draft Negative List will be available to the interested contracting parties upon request.
According to the information provided by Chinese Taipei, it would appear that licences will still be required for a large number of items. What will be the procedure to obtain a licence? With regards to the third category of licences for items not on the Negative List, we are concerned that this system will cause problems for exporters. How is this category different from the old automatic licensing system?

What criteria will be used to amend the "Negative List"? What will be the responsible authority?

Will there be a "one-stop shopping" (i.e. only one ministry or government department to deal with) in obtaining a licence when one is required?

For the "third category" of products under the new licensing system, can we assume that there will be no procedures to go through to import products?

What criteria and procedures will be used for deciding to include or exclude certain tariff line items from the discretionary licensing system? Will these criteria be published?

What are the criteria used for the approval of licences for import controls? What criteria will be used for lifting import bans?

For which products does Chinese Taipei anticipate retaining GATT-inconsistent import licensing?

What criteria will have to be met for an import licence to be issued through an authorized bank?

The procedure to obtain a licence is to apply to the Board of Foreign Trade upon fulfilling the requirements set forth in the relevant import laws and regulations, such as obtaining a consent letter from another authority which is in charge of the specific product involved. As to what laws and regulations shall be complied with, please refer to the Customs Import Tariff and Classification of Import and Export Commodities.

As to the items listed in the "Table of Commodities Subject to the (Customs) Delegated Examination", their importation is even easier than the current automatic licensing system because there is no licence issued by the BOFT or designated banks required. As long as the importation complies with the relevant administration rules, which may be proved to the Customs with a certificate or a letter of relevant authority, the respective products can go through the Customs directly without licences.

The Board of Foreign Trade is the authority responsible for coordination of relevant authorities to amend the "Negative List". In other words, if one authority amends a regulation which is relating to the import administration or lifts import restrictions on certain products, the BOFT will accordingly amend the Negative List.

The licence issuer will be only one, either the BOFT or a designated bank. However, before applying for the licence, the importer may need to acquire other documents from the other agencies in order to prove to the BOFT that it complies with the relevant import law and regulation. Chinese Taipei appreciates the convenience of "one-stop shopping". Nevertheless, the BOFT at the current stage may still need to coordinate with the relevant agencies in charge
of various products to complement the regulations of importation administration. Therefore, the consent letters issued by the authorities in charge of the products may still be needed to facilitate the BOFT or the designated banks to issue the licence.

(4) Please refer to supra Reply 77 (1), paragraph 2.

(5) Under the new Negative List, there will be no discretionary licensing system. The second category of the Negative List, i.e., the "Table of Conditional Import Commodities", in spirit, is totally different from the discretionary system.

(6) Unless under special circumstances, for example, imports of limited quantity of samples for experimental purpose where the BOFT may grant approval as exceptions, no import banned items under the Negative List will obtain the approval of licence.

Import bans under the Negative List are imposed for various reasons. If the imposition is to preserve public morals, to ensure national or social security, to protect human life or health, or to conserve the environment, as the General Agreement permits, then the lifting cannot be done until the concerned threat disappears. If the imposition is to assist industry restructure, the lifting of bans will depend on the relevant agricultural and industry policies.

(7) The new import licensing system Chinese Taipei is structuring now will take into account the transparency requirement set forth in the Licensing Code. For part of the import bans or restrictions, which may not be justified under the GATT, Chinese Taipei will make proper adjustment according to the relevant agricultural and industry policies.

(8) An authorized (designated) bank will issue an import licence if the importation meets the criteria set in the Customs Import Tariff and Classification of Import and Export Commodities.

78. Concerning follow-up Reply 14 (United States questions):

The response appears to indicate that BOFT will retain great discretion in the selection of imports for restrictive licensing, since there will be no formalities to the decision to apply such restrictions. There is no indication that consistency with the General Agreement is part of the decision-making process.

Could the delegation of Chinese Taipei please elaborate on how BOFT and the relevant agencies will select the tariff items to be covered by the licensing system and what criteria will be used? What specific GATT Articles will Chinese Taipei cite to defend such restrictions if they are not eliminated in the context of accession to the General Agreement?

Is Chinese Taipei prepared to commit to the administration of this system in conformity with GATT provisions, and to eliminate the restrictions that cannot be justified as consistent with GATT provisions prior to GATT accession? [WP3 Spec(93)45: Q.II-3-(2)-3; WP2 USA: Q.14]

Reply

There are different reasons for commodities to be included in the Negative List. Some commodities are included in order to preserve public morals, to ensure national or social security, to protect human life or health, or to conserve the environment, as the General Agreement permits. Others are included to assist industry restructure or to implement the limitation measures authorized by the Foreign Trade Act, which will be carried out in a GATT consistent manner.
For the restrictions that cannot be justified as consistent with GATT provisions, i.e., the restrictions designated for agricultural and industrial protection, the elimination or modification will depend upon the outcome of the accession negotiation and the commitment Chinese Taipei makes during such process.

79. (1) How many tariff line items will be contained in Tables I and II respectively?

(2) Will the licence be issued automatically once the commodity complies with the import regulations set out in Table II?

(3) We are interested to have the details regarding the laws and regulations in relation to "Table of Commodities Subject to the (Customs) Delegation Examination".

(4) What kind of products will likely be included in the table mentioned in (iii) above? [WP3 Hong Kong: Q.2; WP2 Philippines: Q.3]

Reply

(1) Since Table I and II of the Negative List are still under preparation, exact item numbers are not available at current stage. Chinese Taipei will make the information available at the Secretariat when the Negative List is finalized.

(2) Yes, for the commodity belongs to Table II, the licence will be issued automatically once the commodity complies with the relevant import regulations set out in Table II.

(3) According to Article 9 of the Regulation Governing Import of Commodity, for import commodities free from licensing requirements but subject to other administration regulations, the Board of Foreign Trade may compile a Table of Commodities Subject to the (Customs) Delegated Import Examination with the import regulations and the names of the relevant commodities that the Customs can coordinate to perform. The regulations of this Table have no trade restriction effect and also apply to domestic commodities, such as sanitation, inspection, regulations related to registration certificate of regulations. Further information will be provided when the preparation of the Negative List is finalized.

(4) As to the specific products included in the Table mentioned in (3) above, Chinese Taipei will provide the information when the Negative List is ready.

80. Given Chinese Taipei's level of development we are disappointed with certain of Chinese Taipei's replies which indicate it will be seeking exceptions for trade in certain products. Such an example is Question 1 where Chinese Taipei states that it will extend unconditional MFN treatment to its GATT trading partners "with limited exceptions for trade in certain agricultural and industrial products". Can Chinese Taipei indicate the types of products for which exceptions will be sought? What proportion of Chinese Taipei's imports are accounted for by such products? [WP2 Australia: Q.1; L/7189: Q.1]

Reply

The Negative List will be put into operation when the subsidiary regulations of the Foreign Trade Act are promulgated and implemented. It is tentatively scheduled to be made available in the second half of 1993. Chinese Taipei will provide the Secretariat a copy of the Negative List, as soon as it is finalized.
81. When and from where will the "Negative List" be available? [WP2 Philippines: Q.2; L/7189: Q.69]

Reply

The Negative List will be put into operation when the subsidiary regulations of the Foreign Trade Act are promulgated and implemented. It is tentatively scheduled to be made available in the second half of 1993. Chinese Taipei will provide the Secretariat a copy of the Negative List, as soon as it is finalized.

82. Can Chinese Taipei indicate when the draft "Negative List" of items subject to prior licensing will be made available to contracting parties? [WP3 Spec(93)36/Add.1: Q.3]

Reply

It is estimated that the Negative List can be available for contracting parties by November 1993.

2.4 Standards, inspection and quarantine

83. Sanitary/Phytosanitary measures

What specifically are the laws referred to in Replies 212 and 213? [WP2 Australia II: Q.19; L/7189: Q.212 and Q.213]

Reply

The laws referred to in Replies 212 and 213, and their related regulations are:

(1) The "Commodity Inspection Law";
(2) the "Enforcement Rules for the Commodity Inspection Law";
(3) the "Statute for Prevention and Control of Infectious Livestock Diseases";
(4) the "Enforcement Rules of the Statute for Prevention and Control of Infectious Livestock Diseases";
(5) the "Quarantine Requirements for the Importation of Animals and Animal Products";
(6) the "Quarantine Restrictions on the Importation of Plants and Plant Products";
(7) the "Law Governing Food Sanitation";
(8) the "Regulation Governing the Quarantine at International Port"; and
(9) the "Quarantine Regulations on Imported Fishery Products".

Translations of the above listed laws and regulations have been made available at the GATT Secretariat.

84. Regarding inspection, we would be grateful for clarification on what is defined as necessary? Are inspections mandatory? [WP2 New Zealand: Q.20; L/7189: Q.203]

Reply

Those that are announced by the Ministry of Economic Affairs according to the Commodity Inspection Law are subject to mandatory inspection.

85. Will Chinese Taipei be prepared to apply its SPS measures upon accession in a manner consistent with the draft UR SPS Agreement? [WP2 New Zealand: Q.21; L/7189: Q.212]
Chinese Taipei is prepared to apply its SPS measures upon accession in a manner consistent with the relevant GATT requirements, including the draft UR SPS agreement.

86. In responses to Questions 203-232, Chinese Taipei provided information concerning policies regarding sanitary and phytosanitary measures, including quarantine and inspection provisions.

Are Chinese Taipei’s regulations regarding these issues published and readily available to importers and foreign exporters? Are sanitary and phytosanitary measures based on sound scientific evidence? Is Chinese Taipei prepared to accept the sanitary and phytosanitary measures of other countries which may differ from its own but which offer equivalent levels of health protection? [WP2 USA: Q.22; L/7189: Q.203-232]

Reply

The regulations regarding the issues of Question 203 are readily available for importers and foreign exporters.

All sanitary and phytosanitary measures are based on sound scientific evidence.

Chinese Taipei is prepared to deal with such differences and would, at the request of the interested parties, evaluate scientifically the sanitary and phytosanitary measures of other countries to find a reasonable solution.

87. In responses to Questions 203-232, Chinese Taipei provided information concerning policies regarding sanitary and phytosanitary measures, including quarantine and inspection provisions. Does Chinese Taipei have a transparent rule-making system regarding these measures? Are sanitary and phytosanitary measures based on sound scientific evidence? Is Chinese Taipei prepared to accept the sanitary and phytosanitary measures of other countries which may differ from its own but which offer equivalent levels of health protection? [WP3 Spec(93)45: Q.II-6-1; L/7189: Q.203-232]

Reply

Chinese Taipei does have a transparent rule-making system regarding sanitary and phytosanitary measures.

Chinese Taipei believes that such measures are based on sound scientific principle and evidence, but would appreciate the United States delegation’s further clarification of the meaning of "scientific evidence".

Chinese Taipei is prepared to deal with measures of other countries which differ from its own but achieve appropriate levels of sanitary and phytosanitary protection, and would, at the request of interested parties, evaluate scientifically the sanitary and phytosanitary measures of other countries to find a reasonable solution.
88. The laws and regulations governing standards, quarantine and food safety on agricultural products are under review by technical experts within relevant government agencies in the United States and we will be submitting written comments and clarification questions to Chinese Taipei. However, we wish to reiterate our position taken during the April Working Party meeting:

The United States believes that Chinese Taipei should commit, in the application of all laws, rules, or regulations governing the import and quarantine of food and agricultural products, to base all measures on sound scientific principles. We hold that such measures should not be applied in an arbitrary manner or otherwise unjustifiably discriminate against imports or in a manner which would constitute a disguised restriction on international trade. The information contained in the documents received by Chinese Taipei is being reviewed by United States' technical agencies with these principles in mind. [WP3 Spec(93)45: Q.II-6-2]

Reply

Chinese Taipei appreciates the comments made herein.

89. Commodity Inspection Law

(1) Article 2: Does this require mandatory government inspection of imports to ensure the terms of private contracts are fulfilled? (Are we correct in understanding from Article 27 of the Enforcement Rules for the Commodity Inspection Law that in principle all imports are subject to inspection?)

(2) Are the same inspection measures in effect for domestic products offered for sale on the domestic market as those applied to imports (see also Article 10)?

(3) Article 4: Could Chinese Taipei kindly describe the "quality" required to be indicated on labels which is additional to Chinese Taipei Standards?

(4) Article 8: On what criteria are standards "fixed by the authority in charge". Are the same criteria and standards followed in Article 11 in respect of domestic products?

(5) Article 9: We would be grateful for a list of countries entitled to reciprocal exemption from inspection. Does Chinese Taipei recognize international certificates, as provided for in the TBT Agreement?

(6) Article 14: Could Chinese Taipei identify the countries (and products for which it has any bilateral quarantine protocols)?

(7) Article 26: New Zealand would be grateful for further information on the corporate bodies deputized to conduct inspections. Are they in any cases related to relevant industry associations or individual firms whose main business concerns the products to be inspected?

(8) Article 27: Are there comparable provisions for exempting or simplifying inspections for imported products?

(9) Article 28: Are the inspection fees set at a fixed rate or as a proportion of the value of the inspected commodities? (We note Article 105 of the Enforcement Rules for the Commodity Inspection Law appear to envisage the latter.) [WP3 Spec(93)42: Q.15]
Reply

(1) Chinese Taipei does not require mandatory government inspection of imports to ensure the terms of private contracts are fulfilled. Not all imports are subject to mandatory inspection; only those that are publicly announced by the Ministry of Economic Affairs are subject to mandatory inspection.

(2) The same inspection measures are in effect for domestic products offered for sale on the domestic market as those applied to imports.

(3) In practice, it is not required to indicate "quality" on labels in addition to Chinese Taipei Standards. The word "quality" is expected to be removed when the Law is amended next time.

(4) All products that are subject to commodity inspection are inspected according to the same Chinese Taipei Standards, no matter whether they are imports or domestic products. Where there are no Chinese Taipei Standards available, the relevant inspection standard is to be fixed by the authority in charge.

(5) Currently there is no country that has signed bilateral agreements with Chinese Taipei for reciprocal exemption from inspection. Chinese Taipei after its accession to the GATT and the TBT Agreement will comply with the requirements of the TBT Agreement.

(6) Currently Chinese Taipei does not have any bilateral quarantine protocols with any countries.

(7) The corporate body deputized to conduct inspections are government agencies or non-profit organizations. They are all equipped with necessary facility to conduct the inspections commissioned by the Bureau of Commodity Inspection and Quarantine and are neutral and impartial. None of them is related to relevant industry associations or individual firms whose main business concerns the products to be inspected. The Bureau of Commodity Inspection and Quarantine reviews the performance of those deputized institutions at least once in half a year to ensure that their inspection quality meets the requirements of the Bureau.

(8) Currently there are no comparable provisions for exemption or simplifying inspections for imported products.

(9) The inspection fees are set at a fixed rate (Article 105 of the Enforcement Rules for the Commodity Inspection Law provides for a basis for calculation of the fees).
90. **Enforcement Rules for the Commodity Inspection Law**

(1) **Article 5**: Does the reference to "milk" as one of the items for infectious animal inspection cover only fresh milk?

(2) **Articles 6 and 8**: We should be grateful if Chinese Taipei could confirm the list of infectious diseases here is exhaustive and current.

(3) **Article 20**: Can Chinese Taipei confirm that where no Chinese Taipei Standards exist, the same methods are applied to inspection of imported products and domestic products for sale in the domestic market?

(4) **Article 54**: Could Chinese Taipei explain why it is necessary for a "local market commodity which demands inspection" to be identified by a certain mark?

(5) **Article 89, clauses 2 and 3**: This refers to harmful animal and plants and plants from certain districts. Would it be possible for Chinese Taipei to provide lists identifying the animals, plants and districts referred to?

(6) **Table 2**: This specifies both "inspection quantities" and "sample quantities". We are unclear on the relationship of these two requirements. May a sample be taken from the inspection quantities cited in this table (e.g. at least 2 per cent of the total quantity of fruits having original phytosanitary certificates), or is it mandatory that all the cited inspection quantity be inspected? [WP3 Spec(93)42: Q.16]

**Reply**

(1) The "milk" referred to in Article 5 is raw milk.

(2) From 1987 onwards, the determination and publication of infectious animal diseases have been transferred from the Bureau of Commodity Inspection and Quarantine to the Council of Agriculture. The relevant determination is now made on the basis of those set out in the Statute for Prevention and Control of Infectious Livestock Diseases and those subsequently publicly announced by the Council of Agriculture. The following is a list of the 39 diseases that Chinese Taipei currently determines to be infectious animal diseases:

1. Rinderpest
2. Foot-and-mouth disease
3. Bovine ephemeral fever (Bovine influenza)
4. Contagious bovine pleuropneumonia
5. Tuberculosis (Bovine tuberculosis)
6. Brucellosis
7. Blackleg (Gas gangrene)
8. Anthrax
9. Equine infectious anaemia
10. Glanders
11. Epizootic lymphangitis
12. Piroplasmosis
13. Trypanosomiasis
14. Sheep pox and goat pox
15. Scabies of sheep
16. Hog cholera
17. Swine erysipelas
18. Rabies
19. Epizootic encephalitis
20. Hemorrhagic septicemia
21. Fowl plague
22. Newcastle disease
23. Fowl cholera
24. Pullorum disease
25. Bovine malignant catarrh
26. Bluetongue
27. Pseudorabies (Aujeszky’s disease)
28. African swine fever
29. Swine vesicular disease
30. Trichinellosis
31. Bovine mastitis caused by Streptococcus agalactiae
32. Avain infectious laryngotracheitis
33. Vesicular stomatitis
34. Vesicular exanthemas
35. Teschen disease
36. Duck plague
37. Goose viral enteritis
38. Bovine spongiform encephalopathy (BSE)
39. Porcine reproductive and respiratory syndrome (PRRS)

The plant pests or diseases referred to in Article 8 of the Enforcement Rules refer to harmful organisms which are fungi, slime mould, bacteria, virus, mycoplasma, parasitic plants, nematodes, insects, mites, molluscs, and invertebrates or vertebrates directly or indirectly causing harmful effects to plants.

(3) Chinese Taipei would like to confirm that no matter whether there are Chinese Taipei Standards, the same methods are applied to imported products and domestic products for sale in the domestic market.

(4) The marking requirement provided in Article 54 refers to a situation where local market commodities, which are subject to inspection and are required by Chinese Taipei Standards or standards fixed by the competent authority to have a grading system, shall bear the grading label. Chinese Taipei apologizes for the misunderstanding caused by the English translation.

(5) Regarding harmful animals and plants, please refer to supra reply to the question on Article 8 of the Enforcement Rules. The plants and districts are set out in the Quarantine Restrictions on the Importation of Plants and Plant Products, which has been made available at the Secretariat.

(6) The "inspection quantities" referred to are the quantities taken during the inspection process from the commodity subject to inspection. All the cited inspection quantities are samples subject to inspection and therefore shall all be inspected. As to the "sample quantities" referred to, they are taken when the inspection quantities are suspectable of diseases. For example, where there are 100 boxes of apples for inspection, two boxes of inspection quantities may be taken for preliminary inspection; if they are suspectable of diseases, 10 apples may be taken as sample quantities for further inspection.

91. What are your sanitary and phytosanitary (SPS) measures most commonly used in this sector? [WP3 Spec(93)41/Add.1: Q.1-4]
The most commonly used SPS measures in the agricultural sector are set out in the Commodities Inspection Law, the Statute for Prevention and Control of Infectious Livestock Diseases, the Quarantine Restrictions on the Importation of Animal and Animal Products, the Quarantine Restrictions on the Importation of Plants and Plant Products, the Law Governing Food Sanitation, the Regulations Governing the Quarantine at International Port, and the Quarantine Regulation on Imported Fishery Products. The English translations of the above laws and regulations are available at the GATT Secretariat.

92. Could you provide us with a list of such SPS measures, and of the products in which they are applied? [WP3 Spec(93)41/Add.1: Q.1-5]

The SPS measures and the products to which they are applied are set out in the laws and regulations referred to in Reply 1-4.

93. (1) Aside from tariffs, are there any other internal regulations that apply to coconut and palm oil? (2) Are there plans to equalize the tariff on coconut and palm oil? [WP2 Philippines: Q.1; L/7189: Q.44]

(1) The importation of coconut oil and palm oil, like all other foodstuffs, is subject to sanitary requirements. The licensing requirements for edible fats and oil shall follow No. 506 of the "Customs Import Tariff and Classification of Import and Export Commodities". After entering the local market, they will also be subject to the Law Governing Food Sanitation.

(2) Chinese Taipei has agreed to equalize the tariff on coconut and palm oils after its accession.

94. What is the BCIQ approved quarantine treatment of Chinese Taipei for the importation of fresh fruits? [WP2 Philippines II: Q.14]

Fresh fruits from countries or areas where the Mediterranean Fruit Fly is known to exist are treated in accordance with the "Quarantine Requirements for Importation of Fresh Fruits from Countries or Districts Where the Mediterranean Fruit Fly is Known to Occur" promulgated by the BCIQ; other diseases are treated in accordance with the Schedules for Plant Quarantine Treatment. Both rules will be provided upon request.

95. Regarding cholera, we have information in the sense that some products are subject to restrictions. Could you comment on that? [WP3 Spec(93)41/Add.1: Q.1-6]

Imported products are not subject to general cholera area restriction. Only those fresh, frozen, or refrigerated fishery products that are vulnerable to cholera infection are subject to area restriction when their exporting countries are declared to be cholera infection areas. The declaration and lifting of cholera infection areas are carried out according to information released by the World Health Organization.
96. Here, our main concern is to have a clear picture of whether Chinese Taipei has SPS measures on these products (poultry, bovine meat and pork) and in particular if imports from Mexico are allowed? [WP3 Spec(93)41/Add.1: Q.III-(A)-1]

Reply

Currently, Mexico has not been declared by the relevant authority of Chinese Taipei to be free from foot and mouth disease, rinderpest, contagious bovine pleuropneumonia, African swine fever. According to the Statute for Prevention and Control of Infectious Livestock Diseases and the Quarantine Requirements for the Importation of Animal and Animal Products, importation of poultry, bovine meat and pork from Mexico is currently not allowed.

97. Would you consider the removal of current prohibitions? [WP3 Spec(93)41/Add.1: Q.III-(A)-2]

Reply

Mexico can apply to the relevant authorities of Chinese Taipei according to the Procedures for Recognition of Disease-Free Status of a Foreign Country for being declared a disease-free area. When such application is granted by the relevant authority, the above products then can be imported.

98. What procedure needs to be followed for foreign standards to be recognized in Chinese Taipei? [WP3 Spec(93)36/Add.1: Q.12]

Reply

There is currently no procedure available for foreign standards to be recognized in Chinese Taipei. However, interested parties or relevant organizations concerned with foreign standards may submit proposals for revision of Chinese Taipei Standards according to the Procedure for Establishment of Chinese Taipei Standards.

99. Could Chinese Taipei give the justification and the criteria on the basis of which it is decided whether or not an international standard will be followed? [WP3 EC: Q.6; L/7189: Q.290]

Reply

Chinese Taipei’s goal is to make Chinese Taipei Standards (CTS) conform to international standards and will gradually modify the CTS in this direction, except where there is a need for national security, protection of the human health and the life of animals or plants, accommodation of differences in environment, climate, or geography, or promotion of important technology.

100. In the replies on Standards, Inspections and Quarantines Chinese Taipei explains in Reply 204 its view on the difference between CNS and ISO and IEC standards. Our authorities would appreciate if a more elaborated answer could be provided as the reasoning does not give a clear answer why these differences are needed. [WP3 Spec(93)43: Q.11; L/7189: Q.204]

Reply

Among the examples given in Reply 204 to illustrate the deviations due to different customs, the first and second ones deal with the electric power system which was transferred to Chinese Taipei from Japan when Chinese Taipei was governed by Japan before the Second World War. The third example deals with the TV system which was transferred from the United States and therefore is a NTSC system. As to the fourth example, the technology in manufacturing steel, iron, and copper products...
are primarily imported from Japan; while those in manufacturing aluminum and zinc produ
imported from Japan. Therefore, the designations of raw materials for such production also
that of the countries where the manufacturing technologies originated. The ISO apparently is
of these differences and has made efforts to make designations consistent. For instance, in th
of aluminum, Chapter 2 of the ISO 6362-4 is designated as A199.5 (1050A), A199.0( A1Mg0.73i(6063).

101. Are Chinese Taipei's standards available in English translation, and if so, where
ty they be obtained? [WP3 Spec(93)36/Add.1: Q.13]

Reply

Part of Chinese Taipei Standards have been translated into English. The English versio
such standards have been incorporated into the CTS catalogue, which can be purchased from the Bu
of Standards, and the Ministry of Economic Affairs.

2.5 Labelling requirements

102. What are the "other applicable" (possibly more stringent?) laws referred to in Reply 1
apart from national treatment provisions, which affect the treatment of imports? What are
reasons for the two exemptions from voluntary labelling of origin, as stated in Replies 199-2
[WP2 Australia II: Q.18; L/7189: Q.195 and Q.200]

Reply

Chinese Taipei is not aware of any instance where imported products are receiving treatme
less favourable than that accorded to domestic products.

The "other applicable" laws referred to in Reply 195 are: the Law Governing Food Sanitatio
Law of Pharmaceutical Affairs, Law Governing Cosmetics Sanitation, Law Governing Agrochemicals
Substances.

The reasons for the two exemptions from voluntary labelling of origin are:

(i) To facilitate the authority's export administration; and

(ii) to increase protection for local consumers of the five products concerned.

103. Does discretion comparable to that described for exemption from labelling of pharmaceutical
exist with respect to labelling requirements for other than pharmaceutical products? [WP2
New Zealand: Q.18; L/7189: Q.193]

Reply

Discretion for exemption of pharmaceutical products from labelling is not exercised in a
discriminatory way. Exemption is granted solely upon the nature of the pharmaceutical products.
Whether the products are imported or domestically produced has never been taken into consideration.
With respect to other products, such discretionary exemption from labelling does not exist.
104. The responses to Questions 192-198 do not indicate explicitly if there are provisions in the Commodity Labelling Law that apply to imports that are not applied equally to domestic goods.

Does the law have requirements for imported goods that are not applied to domestic Articles? If so, please describe them. [WP2 USA: Q.21; L/7189: Q.192-198]

Reply

Imported goods are receiving essentially the same treatment as domestic products in respect of labelling requirements.

105. In the Reply 193 on the Labelling System for Imported Products you cover foods and medicines. In document L/7097/Add. 1 you mention, however, also cosmetics and "some other products" for which special legislation is applied. Could Chinese Taipei specify what are these "other products" and describe what are the labelling regulations for cosmetics and those "other products"? [WP3 Spec(93)43: Q.10; L/7189: Q.193]

Reply

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

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

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

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

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

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

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

1. The permit number of the pesticides;
2. the name of the pesticides, which shall be based on the ordinary name given by the central competent authority in public notice; if there is any brand name, the ordinary name shall be put in parenthesis under the brand name with typeface not smaller than the brand name;
3. the names and addresses of the pesticide manufacturer and seller;
4. formula, physical and chemical character, effective ingredients and their weights, net weight or volume per pack;
5. method of use and scope of application;
6. caution regarding its usage and preservation;
7. shelf-life;
8. method to prevent or relieve from being poisoned;
9. date of manufacturing and lot number; if repackaged, name of each of the repackaging factories and respective repackaging dates; the dates shall not be illegible or unrecognized;
10. the number of days between the date of use and the date of harvest;
11. label with language "pharmacies for agricultural use"; highly poisonous pesticides shall bear language to that effect and conspicuous warning signs;
12. method for disposing of the waste container.

The above items cannot be printed in typeface smaller than size number 5.

The "ordinary name" referred to in sub-paragraph 2 of paragraph 1 shall not be used for trademark name or logo application.

The ingredient weight referred to in sub-paragraph 4 of paragraph 1 shall be expressed in percentage term; net weight or volume per pack shall be expressed under the metric system. The weight shown shall be that approved by the central competent authority and may not be changed without authorization.

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

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

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

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

106. Chinese Taipei's follow-up Reply 21 to United States questions is not fully responsive to the question, and we would appreciate a more detailed response. Specifically, in what fashion is the treatment of imported goods not identical to the treatment accorded to domestic products with respect to commodity labelling requirements. We would appreciate knowing what is meant by "essentially the same" in this context. [WP3 Spec(93)45: Q.II-5; WP2 USA: Q.21]

Reply

In order to protect local consumers, Commodity Labelling Law requires that imported goods shall be labelled with the names and addresses of the importers, otherwise, the treatment of imported goods are the same as that of domestic products. As this additional requirement is reflection of the difference in nature between imported and domestic goods, it does not affect the equivalency of treatment
between imported products and domestic products. Chinese Taipei believes that its practice in this area is consistent with Article III of the GATT.

107. Are there any circumstances in which the operation of the other laws or provisions mentioned in this reply may result in imported products receiving treatment less favourable than that accorded to domestic products? [WP2 New Zealand: Q.19; L/7189: Q.195]

Reply

Chinese Taipei is not aware of any instance where imported products are receiving treatment less favourable than that accorded to domestic products.

2.6 Anti-dumping, subsidies and other trade measures

108. Article 5 of Chinese Taipei's "Implementing Regulation on the Imposition of Countervailing Duty and Anti-dumping Duty" establishes the requirement for a complainant to document dumping/subsidization as well as injury, but fails to require that a causal link be drawn between the two. Similarly, Article 19 of the Regulation establishes the factors to be considered in determining injury, but does not ensure that this injury is due to the dumped/subsidized imports and not due to other factors. Does Chinese Taipei's administrative practices ensure that a causal link is established between dumping/subsidization and injury at all stages of an investigation? If not, does Chinese Taipei intend to implement such provisions? [WP2 Canada: Q.11; L/7189: Q.57-62]

Reply

Articles 46 and 46-1 of the Customs Law, which are the legal bases for the levy of anti-dumping and countervailing duties, provide that dumped or subsidized imports which cause injury to the local industry shall be subject to anti-dumping or countervailing duties, in addition to normal tariffs levied according to the Customs Tariff Schedule. It is clear from the language that a causal link is required to establish an anti-dumping or countervailing duty case. Although the implementing regulation does not expressly require a causal link, in the administrative practice of the investigating authority, i.e., the Ministry of Finance, the petitioners are required to make statements in this regard. The Customs Tariff Commission of the MOF will, after its determination of the existence of dumping subsidy and injury, determine whether there is a causal link between the two.

109. We would find a more detailed description of anti-dumping and countervailing duty investigation procedures helpful. [WP2 New Zealand: Q.7; L/7189: Q.58]

Reply

The anti-dumping and countervailing duty investigation is currently carried out in accordance with the Implementing Rules for the Levy of Anti-Dumping Duty and Countervailing Duty; there are no subsidiary rules giving further details of the procedures. The Implementing Rules are available from the GATT Secretariat.

110. Article 3 of "Implementing Regulations on the Imposition of CVD and AD mentions that a producer of a like product can file a case. Does this mean that a single enterprise can file a case on its own behalf? Could Chinese Taipei give clarifications on what is meant by "producer"? Does this apply to domestic enterprises as well as to foreign entities? [WP3 Spec(93)44: Q.5]
A single enterprise can file a case on its own behalf if its production is representative of the industry concerned. A producer means a manufacturer established and registered in Chinese Taipei or a foreign manufacturer duly registered in Chinese Taipei. Foreign entities that are duly registered in Chinese Taipei can file an anti-dumping or countervailing case in Chinese Taipei.

111. What kind of measures Chinese Taipei can take during and after an investigation procedure under the law? Can Chinese Taipei apply preliminary countervailing duties, or prohibit the importation of products under investigation? [WP3 Spec(93)44: Q.6]

Reply

Article 12 of the Implementing Regulations on Imposition of Countervailing and Anti-dumping Duties provides that in the case where the Ministry of Finance determines dumping or subsidy exists and there is an urgent need to protect the domestic industry, it may consult relevant authorities and proposes to the Executive Yuan for imposition of provisional countervailing or anti-dumping duties until the investigation proceeding is finalized. The authority would not suspend imports of the product susceptible of dumping or being subsidized during the investigation proceeding.

112. Article 2.1 of the Subsidies and Countervailing Code and Article 5.1 of the Anti-Dumping Code provide that an investigation shall normally be initiated by or on behalf of the industry affected. Is the Implementing Regulation consistent with these provisions given that it provides that investigations may also be initiated by "commercial, industrial, labour or farm groups, or other relevant organizations formed in accordance with the law"? We would also be interested in details of how often, if at all, this provision has been used. [WP2 Australia II: Q.7; L/7189: Q.58 and 59]

Reply

Although the implementing regulation does not limit the parties who may initiate an anti-dumping or countervailing investigation proceeding into "commercial, industrial, labour or farms groups, or other relevant organizations formed in accordance with the law" in the industries affected, in practice, this is the case. Petitioners for initiating an investigation, other than the producers themselves, have to be representing organizations directly affected by the imports concerned. The 21 cases that have been filed are initiated either by the manufactures themselves or related organizations that are affected and directly related to the producers.

113. Could Chinese Taipei explain the process for keeping the two steel prices separate, so that the lower domestic price is not used to indirectly subsidize the export of steel? [WP2 Canada: Q.19; L/7189: Q.251]

Reply

Besides direct export price at the world market level, Chinese Steel Corporation (CSC) maintains a two-tier pricing in domestic market. The higher domestic price is offered to customers whose products are sold and consumed in domestic market, it is based on the landed, duty-paid price of imported steel products. The lower one (i.e. indirect export price) is applied to customers who manufacture steel into final products for exports. The price is based on the landed, duty-free price of imported steel products. The indirect export price is aimed to ensure that CSC's pricing remains competitive with that of imported steel which is used as materials for making export products enjoying tariff-free treatment.
The difference between the higher domestic price and the lower indirect export price is caused by a duty refund applied to the latter. It reflects the tariffs which are refundable to the customers whose products are for exports.

Customers could apply to CSC for the said difference refund by submitting customs clearance documents to verify that they use CSC's steels to produce goods for exports.

The United States Commerce Department has investigated CSC's two tiers pricing practices in the countervailing duty (CVC) case on oil country tubular goods from Chinese Taipei, and hold that there was no unfair practice.

114. According to the list provided by Chinese Taipei, out of a total of 6 anti-dumping cases filed since August 1992, Korean imports were the subject of five cases. The final outcome of the four closed Korean cases is two withdrawals and one rejection. I would like to know whether Chinese Taipei believes it has acted arbitrarily with respect to anti-dumping cases concerning Korean imports. Also I hope that Chinese Taipei will update us on the status of the four pending anti-dumping cases against Korea. [WP2 Korea: Q.4; L/7189: Q.62]

Reply

Chinese Taipei has been following its relevant laws and regulations, international laws and practices, and the principle of fairness and transparency in administrating anti-dumping cases. There is no instance where the authority acts arbitrarily in anti-dumping cases, particularly concerning Korean imports.

With respect to the information on the four pending anti-dumping cases against Korean imports, Chinese Taipei would provide the information if the Korean authority specifies the information it requires.

115. Concerning the response to Question Nos. 265 and 268-9, Chinese Taipei indicates that it applies no subsidies to exports of agricultural products.

Does this response take into account the occasional international distribution by Chinese Taipei of rice at prices well below the cost of production in Chinese Taipei or even relevant international prices? What is being done by Chinese Taipei to reduce the exportable surplus of rice, which is generated by artificially high internal price supports sustained by an import ban on competitive products? [WP2 USA: Q.25; L/7189: Q.265 and 268-269]

Reply

Chinese Taipei does not directly subsidize rice exports which are primarily for the purpose of disposing of a part of surplus inventory (inventory for one year or more).

Since the implementation of the crop substitution plan in 1984, the domestic rice production of Chinese Taipei has been substantially reduced, so as the rice export. In the future, the production will be reduced further to a level that will not require export for disposition of surplus.

116. Is rice exported from Chinese Taipei at prices below production costs? Clarification is requested on export prices, varieties exported and destinations. Further clarification is also requested of the guaranteed prices provided. Can Chinese Taipei explain how the difference between the price paid to producers and the export price is funded? [WP3 Spec(93)36/Add.1: Q.9]
Rice is exported at prices lower than production costs. However, rice exported is mostly old rice that has been stocked for more than one year and therefore the quality is not comparable to that of new rice. The export price of old rice therefore cannot be based on its production costs or at the prevailing market prices. The difference between the price paid to producers and the export price is funded by government budget.

117. Australia is interested to explore further Chinese Taipei's statements that it has no export subsidies for rice and that the purpose of price support is not for export purposes. It is stated however that small amounts of rice were occasionally exported for the purpose of stock adjustment and that this was conducted on a commercial basis.

(1) We have figures which show a marked increase in exports from 104,000 tonnes in 1988 to a forecast 200,000 tonnes in 1992, and that in 1992, exports were 12 percent of production. This suggests that with declining production and increasing exports, Chinese Taipei is increasingly relying on export markets to dispose of surplus production. Our industry claims that the export price is below production costs.

(2) We request clarification on export prices, varieties exported and destinations and further clarification of the guaranteed prices provided as well as an explanation of how the difference between the price paid to producers and the export price is funded.

(3) What is meant by a "comfortable rate of self-sufficiency" in rice and how does increasing exports fit with this policy? We also request information on consumption.

(4) Access for Australian rice to Chinese Taipei is currently not available and we request details of this apparent prohibition, which would appear not to apply to all countries. [WP2 Australia II: Q.23; L/7189: Q.265, 268, 269 and Q.280]

Reply

(1) The average farm size in Chinese Taipei is about one hectare per family; the production cost is relatively high. Therefore, rice production in Chinese Taipei is not export-oriented, and is directed at maintaining balance in the demand and supply. Without such balance, the financial burden of Chinese Taipei will be increased by overproduction and disposal of surplus rice. Chinese Taipei has a certain amount of rice inventory to maintain food supply security and therefore needs to dispose of such inventory from time to time, when old rice is to be replaced by new rice. Currently, disposal of old rice, which is mainly Japonica rice, is used for feedstuff or exported. The rice is exported at the price of the international market, while it is purchased from the domestic farmers at the guaranteed price. However, the two prices are not necessarily related.

(2) Although there is an increase in exports in 1992, two thirds of the exports are for food aids on humanitarian grounds to areas where there is a food shortage. Rice inventory in Chinese Taipei decreased from 760,000 tonnes in April 1989 to 680,000 tonnes in April 1993. With the implementation of the programme for reducing rice production, rice exports will be reduced in the future.

(3) According to its agricultural policy, the food production of Chinese Taipei is planned to raise the quality and quantity of production and to increase the farmers' income. Since rice is the staple food of Chinese Taipei, it is necessary to maintain a proper rate of self-sufficiency in
rice, in other words, a rate under which the supply can meet the demand, and the consumption can balance the production.

Chinese Taipei's rice production is not export-oriented, but is aimed to establish a production system under which the production and consumption is at balance. The export rice will be reduced after the balance in demand and supply can be reached by the implementation of the 1984 Rice Production Reduction Plan.

The statistics of the consumption of rice:

<table>
<thead>
<tr>
<th>Year</th>
<th>Population mid-year (1,000 persons)</th>
<th>Per person (kg.)</th>
<th>Consumption (1,000 metric tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>For food</td>
</tr>
<tr>
<td>1989</td>
<td>19,990</td>
<td>75.7</td>
<td>1,513</td>
</tr>
<tr>
<td>1990</td>
<td>20,216</td>
<td>74.1</td>
<td>1,498</td>
</tr>
<tr>
<td>1991</td>
<td>20,443</td>
<td>73.4</td>
<td>1,501</td>
</tr>
</tbody>
</table>

Current rice imports need the consent letter of the Food Supply Bureau. However, because of the domestic overproduction which is being adjusted by the implementation of the Rice Production Reduction Plan, there is no consent letter given now. Therefore, not only the rice from Australia cannot be imported, neither can the rice from other countries.

118. What is meant by a "comfortable rate of self-sufficiency in rice" and how does increasing exports fit in with this policy? [WP3 Spec(93)36/Add.1: Q.10]

Reply

"Comfortable rate of self-sufficiency in rice" means the supply of domestically produced rice can meet the local demand. Rice exports are primarily for disposing of the old rice that has been stocked to ensure food security. Part of the exports is provided to countries in short supply of food on humanitarian ground. With the implementation of the rice reduction plan in Chinese Taipei, the need for disposing of rice through exports will be reduced.

The actual expenditure and budget amounts for the relevant years are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Unit: NT million dollars</th>
<th>Total</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rice</td>
<td>Other grains</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>7,150</td>
<td>2,993</td>
<td>10,143</td>
</tr>
<tr>
<td>1990</td>
<td>12,762</td>
<td>3,932</td>
<td>16,694</td>
</tr>
<tr>
<td>1991</td>
<td>13,897</td>
<td>4,163</td>
<td>18,060</td>
</tr>
<tr>
<td>1992</td>
<td>11,678</td>
<td>4,020</td>
<td>15,698</td>
</tr>
</tbody>
</table>

The expenditure increase in 1990 is due to the increase in the purchase amount (from 3,290 to 4,800 kg. per hectare) and the increase in the purchase price (take the Japanic rice for example, guaranteed purchase price from NT$18.8/kg. to NT$19/kg., supplementary purchase price from NT$15.8/kg. to NT$16.5/kg.). The change in 1991 and 1992 are resulted from changes in the market prices, disposition of surplus, allocation for feedrice, and rice export.

Unit: Quantity - kg./hectare, Price - NT$/kg. of Japanic rice

<table>
<thead>
<tr>
<th>Year</th>
<th>Guaranteed purchase</th>
<th>Supplementary purchase</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Purchase amount</td>
<td>Purchase price</td>
</tr>
<tr>
<td>1989</td>
<td>1,940</td>
<td>18.8</td>
</tr>
<tr>
<td>1990</td>
<td>2,800</td>
<td>19.0</td>
</tr>
<tr>
<td>1991</td>
<td>2,800</td>
<td>19.0</td>
</tr>
<tr>
<td>1992</td>
<td>2,800</td>
<td>19.0</td>
</tr>
</tbody>
</table>

120. (1) There were detailed exchanges during the April meeting of the Working Party about the increase in total expenditure on price support from 1989 to 1992 (reply 267 in L/7189) which indicated price support involved in part bank loans serviced by government appropriations. This is not mentioned in follow-up 24.

It would be useful for New Zealand if Chinese Taipei could explain whether or not bank loans are provided in connection with price support, bearing in mind the relevant provisions of the Statute for Agricultural Development which refer extensively to government assisted loans.

(2) Secondly, could Chinese Taipei explain in detail the reference in follow-up 24 to "disposition of surplus" and "rice export". [WP3 Spec(93)42: Q.6; L/7189: Q.267]
Currently, guaranteed purchases cover only rice, corn, soybean and sorghum. Only in the case of rice, the actual expenditures exceeded the annual budget allocated for such purpose; part of the deficiency was covered by borrowing from banks. There is no other situation where loans are made from bank to finance the price support scheme. The following is a table that sets out the amounts of annual expenditure, budget and borrowing from banks.

<table>
<thead>
<tr>
<th>Year</th>
<th>Expenditure for guarantee price of rice</th>
<th>Budget</th>
<th>Borrowing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>7,150</td>
<td>4,000</td>
<td>1,549</td>
</tr>
<tr>
<td>1990</td>
<td>12,762</td>
<td>6,000</td>
<td>4,600</td>
</tr>
<tr>
<td>1991</td>
<td>13,897</td>
<td>7,000</td>
<td>6,947</td>
</tr>
<tr>
<td>1992</td>
<td>11,678</td>
<td>4,000</td>
<td>6,643</td>
</tr>
</tbody>
</table>

Rice production in Chinese Taipei is not export oriented; the main concern is to maintain food security and a balanced market. Each year, old rice in the inventory has to be replaced by new rice, and therefore there is a need to dispose of such old rice. The old rice is exported to the country or area lacking of food or through auction sale and at international prices. With the implementation of the reduction plan, the domestic supply and demand have gradually come closer and the need to export rice has also been gradually reduced.

121. How extensive is the legislative scope for potential price support? What other price support measures exist aside from guaranteed purchase prices? [WP2 New Zealand: Q.25; L/7189: Q.269]

Reply

The price support scheme is drawn up by the Executive Yuan, but the budget for such scheme need be approved by the Legislative Yuan.

Guaranteed purchase price is the only price support measure employed by Chinese Taipei.

122. Regarding Q.272 and 274, we would appreciate more explanation on these replies. How are the parameters for price support set, i.e. which agencies are responsible for determining the figure of 120 per cent and on what basis or criteria? Is this figure a legislated requirement? Which agencies determine, and on what criteria, the proportions of products to be purchased at guaranteed prices and supplementary prices? How is the level of supplementary purchase prices decided? Is the figure legislated? [WP2 New Zealand: Q.26; L/7189: Q.272 and 274]

Reply

The Council of Agriculture and the Executive Yuan are responsible for determining the guaranteed price which is set at 120 per cent of the production cost; the difference of 20 per cent represents the farmers' reasonable profits. Supplementary purchase prices are determined by using market price as reference. Because wage rates in recent years have substantially increased and the guaranteed prices have not be adjusted, the difference between the guaranteed purchase price and the production cost has fallen below 20 per cent.
The determination of proportion of products to be purchased at guaranteed and supplementary purchase prices is based on the quantity produced at the relevant year, warehousing capacity, market supply and demand, financial burden of the government, and the legislative reaction.

123. (1) This response does not fully cover the question, which was essentially what products are potentially subject to price support under Chinese Taipei's legislation?

(2) While New Zealand welcomes the assurance that the only form of price support is "guaranteed purchase prices", we would be grateful to know how Chinese Taipei characterizes the "supplementary prices" in this context. [WP3 Spec(93)42: Q.7; L/7189: Q.269]

Reply

(1) Chinese Taipei currently does not have any plan to extend the price support scheme to cover other products. Nor are there other products that are potentially subject to price support.

(2) Supplementary prices are prices used by the government in making supplementary purchases. Supplementary purchase were first introduced in 1978 as a result of abundant harvests in 1976 and 1977 respectively. The purchases cover only part of the rice surplus, and are made in addition to the guaranteed purchases. The supplementary purchase price is determined taking into account cost of production and fluctuation of market prices. The price has not been adjusted for many years and has fallen even below the cost of production (e.g., in 1992, the average production cost for the second harvest of rice is NT$18.19, while the supplementary price for that harvest is NT$16.5 per kilogram).

124. Chinese Taipei indicates that its policies on substitution and disposal of surplus stocks have resulted in a substantial reduction of rice production. Recently, however, there has been an increase in the support price to producers and increased public purchasing of rice which would appear to reverse the progress noted in this response.

We remain concerned, as noted in earlier interventions, that Chinese Taipei needs to address the problem of over-production and export disposal of agricultural surpluses through subsidized exports. How does this recent development be reconciled with the statement in Reply 25?

Is Chinese Taipei willing to commit formally in the context of its GATT accession that it will not support excess production or its export for disposition of any surplus? [WP3 Spec(93)45: Q.III-2-2; WP2 USA: Q.25]

Reply

Over the last five years, the price index relative to farmers' expenditure (in the category of finance and wage) has increased 50.2 per cent, while the price for guaranteed purchase for rice had not been adjusted. The relative low level of farmers' income has caused serious concern of the Legislative Yuan.

In April this year, the agricultural authority's refusal to increase the guaranteed purchase and its price has twice resulted in the Legislative Yuan's suspension of its review of the agricultural budget. This has forced the authority to agree to the increase of purchase of rice by 20 per cent.

Despite the authority's decision to increase purchase by 20 per cent, it continues to carry out its crop-substitution plan. With the implementation of the plan to gradually reduce rice production,
excess production will be reduced and the need for disposal of such excess through export will accordingly be reduced.

Chinese Taipei’s goal is to gradually reduce excess production and avoid disposal of surplus through exports, and this is consistent with the general expectation of its trading partners. It is prepared to commit that it will continue to implement its policy to reduce rice production and strengthen its efforts in this regard.

125. Could Chinese Taipei elaborate on how the import relief system outlined here works, what form the relief and assistance takes and how it might differ from GATT-consistent anti-dumping, countervailing or safeguard action? [WP2 Australia II: Q.25; L/7189: Q.281]

Reply

Import relief can be in the following forms:

(1) Financial assistance for the purchase, processing, storage, sale or disposal of the related products;

(2) financial assistance for production adjustment or other measures;

(3) financial assistance for developing public facilities for production and distribution of agricultural products.

The agricultural import relief is in the forms of financial assistance to the relevant sectors rather than increase in the tariff rates or in the quantitative restrictions as contemplated in the GATT anti-dumping, countervailing, or safeguard action, and therefore is different from such action.

126. We would be grateful for information on the products eligible for relief under this provision (Regulations Governing Relief and Aid for Major Agricultural Products Damaged by Importation). [WP2 New Zealand: Q.27; L/7189: Q.281]

Reply

The products publicly announced by the Council of Agriculture to be eligible for relief include, among others: citrus apples, plums, peaches, guavas, pears, wax apples, tea leaves, beef, duck meat, bred shrimps, pineapples, chicken meat and clams.

127. Regulations Governing Relief and Aid for Major Agricultural Products Damaged by Importation:

(1) The Regulations appear to address a mixture of objectives - protection against import surges, against subsidized imports, neutralizing the effects of trade liberalization - and provide a range of policy responses - purchase and selling subsidies, production related subsidies, or structural adjustment subsidies, - which do not differentiate among the various reasons for protection. Thus it would seem that a situation due to subsidized imports or other unfair trade measures could be met by structural adjustment subsidies while trade liberalization could lead to subsidization of the product whose trade has been liberalized.

Is Chinese Taipei able to comment on or clarify this issue?
(2) These Regulations, through Article 4, appear to facilitate a domestic subsidy reaction to trade liberalization. This could nullify or impair the trade opportunities resulting from trade liberalization.

New Zealand would be interested in Chinese Taipei's future intentions on these Regulations.

(3) Several of the objectives in these Regulations relate to circumstances already covered by GATT provisions concerning countervail and safeguard action. Can Chinese Taipei therefore commit/apply if necessary the relevant GATT provisions after accession - e.g. CVD in response to subsidized imports - instead of these regulations?

(4) Related to this, Chinese Taipei's Foreign Trade Act (Article 19) provides for CVDs and AD duties. New Zealand would be interested to know what will happen to the similar provisions in the Regulations on Aid to Agricultural Products in light of the Trade Act?

(5) The list in follow-up 27 of products which the COA has announced are eligible for relief under these Regulations is useful. Is it possible to have a comprehensive list?

Is any agricultural product potentially eligible for relief under these Regulations?

(6) In respect of the products announced by COA to be eligible for relief, particularly apples, plums, peaches, pears, beef, New Zealand would be grateful for details of the announcement for each product including: date, circumstances (in terms of Article 4), nature of the relief or aid granted (in terms of Article 7) and duration.

(7) New Zealand would be grateful to know what is the legislative authority under which these regulations were promulgated by COA? [WP3 Spec(93)42: Q.10; L/7189: Q.281; WP2 New Zealand: Q.27]

Reply

(1) Relief measures, in the case of agricultural trade, have to take into account the future of the production damaged by imports, in addition to the sharp increase in imports as a cause of the fall in domestic prices for the product concerned. Therefore, the relief measures cannot be structured only according to the cause of injury.

(2) Chinese Taipei is considering to abolish the Regulations Governing Relief and Aid for Major Agricultural Products Damaged by Importation at the end of 1993 and import relief will be provided to the agricultural sector according to Rules for Administration of Import Relief, which is based onArticle 18 of the Foreign Trade Act. Article 18 of the Act is in turn based on Article 19 of the GATT.

(3) and (4)

After the abolition of the Regulations, subsidized or dumped imports of agricultural products will be dealt with according to the countervailing and anti-dumping laws of Chinese Taipei.

(5) The 16 products eligible for relief under the Regulations are as follows:

Citrus, apples, plums, peaches, guavas, pears, wax applies, grapes, tea leaves, beef, pork, duck meat, bred shrimps, pineapples, chicken meat and clams.

Currently, there is no product potentially eligible for relief under the Regulations.
Apples, plums, peaches, pears, and beef were announced on 20 April 1991 to be eligible for relief according to the Regulations. The announcement does not automatically entitle these products to import relief; they also have to meet the requirements set forth in Article 4 of the Regulations. Import relief measures will be determined on a case-by-case basis. So far, there has been no case of import relief granted by Chinese Taipei's authorities.

The legislative authority for the Regulations is Article 40 of the Statute for Agricultural Development.

**Regulations Governing Relief to Agriculture**

(1) Article 1: What is the definition of short-term? Is there any significant reason why this qualification is not repeated in the substantive provisions of the Regulations, e.g. Article 7?

(2) Article 4.3: What is the definition of "other unfair competition measure"?

(3) Article 4: What is covered by "direct production costs"?

(4) Article 7.1: Does selling include export?
   Article 7.2: It would be helpful if Chinese Taipei could describe what is meant by "adjustment of production"?

(5) Article 8.1: What are the special projects mentioned here?
   Article 8.3: What are the other revenues?
   [WP3 Spec(93)42: Q.11; L/7189: Q.281]

**Reply**

(1) "Short-term" means any length of time which is less than three years. The reason why "short-term" is not repeated in Article 7 is because there is no need to do so as the relief measures contemplated in the Regulations are short-term in nature.

(2) Examples of "Other unfair trade practices" referred to in Reply 281 are export subsidies and dumping.

(3) "Direct production cost" covers total production cost after deductions for land rental, interest payment, and value of by-products.

(4) Selling does not include export. "Adjustment of production" means improvement in technology and adjustment of production seasons.

(5) Special projects mean importations of limited quantity by the government of products that cannot be freely imported. Profits of the special projects mean the government's profits from the selling of the products imported under the special projects. The other revenues include interest income of the Fund.

**How does the Farmer's Bank support the development of the agricultural sector in Chinese Taipei?** [WP2 Philippines II: Q.5]
The Farmer’s Bank provides financing to farmers, following normal banking practices. It may however provide special loans such as loans for pig waste treatment facilities to farmers to meet specific policy requirements.

2.7 Others

130. As a general comment, we would note that there are quite a few instances where Chinese Taipei has indicated in the written replies, its acceptance of certain obligations as on an "in principle" or "best endeavours" basis, or subject to certain exceptions (for example, Replies 1-3). This is of concern given Chinese Taipei’s statement of intent to accede to GATT as a developed economy and we would appreciate greater precision and clarification of these lassies. We are also concerned that in many instances, Chinese Taipei’s expectation appears to be that certain GATT inconsistent or discriminatory measures could be fixed through bilateral negotiations with the contracting parties concerned. Our expectation is that commitment to remove these measures should be given multilaterally in the Working Party. [WP2 Australia II: Q.1]

Reply

It is Chinese Taipei’s firm belief that multilateral approach should be the principal means to address trade problems. However, its existing discriminatory practices in most cases, if not all, are product-specific and affect the trading interest of a very limited number of Chinese Taipei’s trading partners. Therefore, the efficient way to resolve the issues concerned seems to be through bilateral consultation and then, to the extent applicable, multilateralize the outcome of such bilateral talks. Chinese Taipei, of course, will endeavour to have such bilateral talks as transparent as possible so as to avoid the possible adverse effect of bilateralism.

131. We would appreciate greater detail on the measures "imposed in a manner consistent with (GATT) Articles XX and XXI, particularly in the context of "agricultural and industrial restructuring", which are not grounds for action under Articles XX and XXI. [WP2 Australia II: Q.10; L/7189: Q.122]

Reply

The current farm size in Chinese Taipei is small and therefore the agricultural production is relatively less efficient than it possibly can be. For Chinese Taipei, import bans and quantitative restrictions are required to carry out plans which increase the farm size and production efficiency. Moreover, the population in the agricultural sector accounts for 20 per cent of the total population of Chinese Taipei. Import bans and quantitative restrictions can also help Chinese Taipei gain time to gradually reduce the farming population.

There are no industrial products subject to discretionary licensing except for a very limited number of items, licences to which are generally not withheld without justifications.

132. In general, it does not appear that many of the restrictions described in the responses to Questions 98-179 can be justified under GATT Articles. The USG believes that Chinese Taipei should commit to bring all its non-tariff trade policy measures into conformity with the General Agreement on a schedule agreeable to all interested parties. [WP2 USA: Q.18; L/7189: Q.98-179]
Chinese Taipei is prepared to bring all of its non-tariff measures into conformity with the General Agreement on a schedule agreeable to all interested parties with the possible exceptions of trade in certain agricultural products, automobiles, motorcycles, and aerospace products.

133. In its replies Chinese Taipei has indicated that on accession certain items will remain subject to import ban, less sensitive items could be subject to import quotas allowing minimum access or tariffication and tariff quotas and the scope and pace of liberalization will be discussed with interested contracting parties in bilateral trade negotiations. Given the concern with this approach expressed by a range of contracting parties has Chinese Taipei given further thought on how it would bring such restrictions into GATT consistency on accession? [WP3 Spec(93)36/Add.1: Q.1; L/7189: Q.1]

The contracting parties participating in the Uruguay Round negotiation have not reached consensus on agricultural protection. Chinese Taipei has given serious thoughts to the views expressed by members of the Working Party and is still studying ways to minimize the market distorting effects of its agricultural practices.

134. Chinese Taipei has indicated that in respect of certain sectors which have "not been fully developed" it will be seeking a transition period to make "appropriate adjustments" or for such sectors to be developed under "limited protection". Which sectors does Chinese Taipei consider as not being fully developed? In the view of Chinese Taipei, what constitutes a fully developed sector? What does Chinese Taipei mean by "limited protection"? [WP2 Australia II: Q.2; L/7189: Q.2]

The existing industries of Chinese Taipei which are considered as not fully developed are the aerospace industry and the automobile industry. This is because they are currently not internationally competitive, but in Chinese Taipei's view they have the potential to be so when fully developed.

In the case of automobile industry, "fully developed" in Chinese Taipei's view means the industry reaches the stage where (i) it has the capability to supply components and parts and to design the products, and (ii) its costs and prices are internationally competitive.

The agricultural sector is not fully developed in certain respects as the farm size has to be adjusted to reach a level where the farm size would have the necessary economy of scale to make the agricultural products import-competitive, and the agricultural production has to be adjusted toward high value added products.

"Limited protection" means protection for a limited period of time and subject to progressive liberalization. The transitional period required by each type of industrial or agricultural product will vary and Chinese Taipei is prepared to discuss with the interested contracting parties to reach a mutually acceptable solution.
135. Reply 1 from document L/7189 indicates there would be a few exceptions in the MFN treatment by Chinese Taipei after its accession to GATT relating to some agricultural and industrial products. Given that Article I of the GATT does not provide for exceptions, could the Delegation of Chinese Taipei provide more information as to which products would be covered? According to the information we have, the following products would face discrimination as between different contracting parties: passenger cars, automotive tyres, wine, beer and liqueur, fresh fruits, natural leather, processed food. Would these products be part of the exceptions Chinese Taipei would wish to maintain? [WP2 Brazil: Q.1; L/7189: Q.1]

Reply

The following products will be part of the exceptions that Chinese Taipei wishes to maintain: passenger cars, motorcycles, wine, beer and liquor, certain fresh fruits. There will be no exceptions required for the following products: natural leather, processed food, and automotive tyres.

136. Could more information be provided regarding the length of transitional periods proposed and the specific sectors requiring "special" protection? [WP2 Canada: Q.1; L/7189: Q.2]

137. While Chinese Taipei states that it will assume all rights and obligations as a developed nation upon its accession to the GATT, it is also asking for some reservations for its less-developed sectors. I hope that Chinese Taipei will specify these less-developed areas, along with the transitional period that is required for each area. [WP2 Korea: Q.2; L/7189: Q.2]

138. The Nordic countries would have appreciated if Chinese Taipei could have indicated which sectors it considers requiring transition periods and the reasons/economic indicators that in the view of Chinese Taipei give rise for this request. [WP2 Nordic Countries: Q.1; L/7189: Q.3]

Reply to Questions 136, 137 and 138

Although Chinese Taipei would in principle assume all rights and obligations of a developed contracting party upon its accession to the GATT, it is still a newly industrialized economy wherein some of the sectors are less internationally competitive and for which a transitional period is appropriate and necessary. Such industrial sectors include automobile, motorcycle, and aerospace industry.

Transitional period

Automobiles The scale of local manufacturers is relatively smaller and the production cost is relatively higher. The sector employs 120,000 workers which account for 5.5 per cent of the labour force employed in the manufacturing sector, and their production accounts for 5 per cent of the value of total output of the manufacturing sector. A sudden removal of the area restrictions will result in serious economic and social disruption, in particular, a rapid contraction of employment could be anticipated.

Based on the above, Chinese Taipei would require a transitional period in order to adjust itself to the increased import competition resulted from the lifting of the ban on imports from certain sources. In the transitional period, Chinese Taipei will deal with the issue by consulting with interested contracting parties and will take into account the practices of the existing developed contracting parties.

With respect to the local content requirement, Chinese Taipei wishes to be granted the same transitional period as that allowed for developing countries under the finalized TRIMs Agreement.

Motorcycles Currently motorcycles with engine power less than 150 cc. are not allowed to be imported and the motorcycle industry is subject to a local content requirement. The local content
requirement will be removed after the expiration of a transitional period allowed for developing countries under the finalized TRIMs Agreement. The import ban on Japanese imports will be dealt with through bilateral consultations.

**Aerospace industry**  Investment in the aerospace industry is capital and technology intensive and its return cannot be realized until long time after. It also involves a high level of investment risk as there are many uncontrollable factors in the market. The aerospace industry in Chinese Taipei is still in its infancy. There are only three or four local private companies that have passed the quality test for certain, not many, components and parts. The industry at this stage cannot compete with their foreign counterparts either in the local or in the foreign market.

The industry therefore requires government assistance until it reaches a matured stage. Although Chinese Taipei presently does not have any measures to assist the aerospace industry in a way inconsistent with GATT provisions, in the future, there may be needs for measures that are not strictly in accordance with the provisions of GATT. Therefore, a transitional period is required in this regard.

The agricultural sector of Chinese Taipei in respect of certain agricultural products (especially those that are currently subject to import control) will also require a transitional period. The length of the transitional period would vary with the product concerned, and will also be determined according to the outcome of the Uruguay Round.

139. What are the agricultural and industrial products that will be exempted from the unconditional MFN treatment upon Chinese Taipei’s accession to the GATT? For how long will these products be exempted from the MFN treatment? Does Chinese Taipei intend to remove them from the exemption list later on? [WP2 Philippines II: Q.2]

**Reply**

**Industrial products**

**Motorcycles**  Currently motorcycles with engine power less than 150 cc. are not allowed to be imported and the motorcycle industry is subject to a local content requirement. The local content requirement will be removed after the expiration of a transitional period allowed for developing countries under the finalized TRIMs Agreement. The ban on Japanese imports will be dealt with through bilateral consultations.

**Automobiles**  The length of the transitional period required for removal of import ban will be determined taking into account the practices of the existing developed contracting parties.

**Agricultural products**  Chinese Taipei intends to replace its area restrictions with a system of tariff quotas after the relevant laws have been duly amended to provide the necessary legal basis. The quotas under the new system will be allocated in a GATT consistent manner, including its Article XIII. Before the introduction of the new system, Chinese Taipei will, through consultations with exporting countries concerned, annually increase the quotas allocated to each of such countries.

140.  What are the sectors of Chinese Taipei’s economy that will require a transitional period of adjustment once it has acceded to the GATT as a developed contracting party? [WP2 Philippines II: Q.4]

**Reply**

Although Chinese Taipei would in principle assume all rights and obligations of a developed contracting party upon its accession to the GATT, it is still a newly industrialized economy wherein
some of the sectors are in a less developed state. Such less developed industrial sectors include automobile, motorcycle, and aerospace industries.

The transitional period for the agricultural sector varies with the product concerned, and will be determined according to the results of the Uruguay Round negotiation with respect to agricultural products.

141. What are the economic areas and sectors for which Chinese Taipei requests transitional periods before applying the rules stemming from its commitments upon accession to GATT, and for how long? [WP2 Switzerland: Q.1]

Reply

See the reply to Questions 136, 137 and 138 above.

142. Chinese Taipei has indicated that in respect of certain sectors which have "not been fully developed" it will be seeking a transitional period to make "appropriate adjustments" or for such sectors to be more developed under limited protection. Which sectors does Chinese Taipei consider as not being fully developed? In the view of Chinese Taipei what constitutes a fully developed sector? What does Chinese Taipei mean by "limited protection"? [WP3 Spec(93)36/Add.1: Q.8]

Reply

Currently, Chinese Taipei would consider, the following existing industries as not being fully developed: the automobile, motorcycle, and the aerospace.

In the view of Chinese Taipei, a fully developed sector means a sector that has been developed to a matured stage and has the following qualities:

(1) Its forward or backward linked industries have sound bases;
(2) it has matured design and development capabilities;
(3) the industries producing its parts and components are of substantial size;
(4) it has a sound satellite system;
(5) its productions have economy of scale; and
(6) its products are internationally competitive in terms of price and quality.

Limited protection means that the protection would last for a limited period of time.

143. Could Chinese Taipei explain how it sees measures which may cause market distortion but which "may be important for social and other non-economic policies" being justified under GATT rules? [WP2 Australia II: Q.20; L/7189: Q.261]
Agricultural problems are not entirely economic in nature. The existing practices of some of the contracting parties in relation to their agricultural policies are not entirely consistent with GATT provisions, especially Article XI. One of the main purposes of the Uruguay Round Negotiation is to resolve problems of these kinds. Chinese Taipei is prepared to take into account the result of the Uruguay Round in making its regime less protective.

144. Can Chinese Taipei explain in detail its quantitative restriction, area restriction and price support scheme which may be market distorting measures? When are these measures applied to a product? [WP2 Philippines II: Q.6]

Reply

Quantitative restrictions and the price support scheme are applied when the agricultural products involved are major domestic agricultural products, i.e., their production involves a great number of farmers such as rice production. Products subject to area restrictions are also major agricultural products. Area restrictions are to be replaced by a system of tariff quota.

145. Which domestic industries or sectors may require protection? [WP2 Canada: Q.10; L/7189: Q.49]

Reply

Chinese Taipei has conducted a preliminary review of its relevant laws and regulations and found no major deviation from the GATT rules in respect of taxes and other charges. However, there may be GATT inconsistent legislation that cannot be identified in such preliminary review. Discovery of such legislation may require consultation with trading partners and substantial time may be required to assess the views of trading partners in respect of the specific legislation found by them to be GATT-inconsistent.

146. It is said that one of the reasons for subjecting goods to area restrictions is to diversify the existing trade imbalance with particular areas. What criteria is adopted while considering applications and allocating quota as to achieve this objective? [WP2 Hong Kong: Q.1; L/7189: Q.123]

Reply

In the case where imports of certain agricultural products from the United States are permitted, while imports from all other sources are not allowed, the reason for such area restriction is partly due to Chinese Taipei's huge trade surplus resulting from trade with that particular country. Most of the agricultural products subject to area restrictions are major domestic agricultural products for which free importation is not likely. Area restrictions will be replaced by a system of tariff quota, when the relevant laws have been duly amended to provide the necessary legal basis. Before the amendment to the relevant laws, Chinese Taipei will through bilateral consultations with the exporting countries, annually increase the relevant quotas.

In the area of industrial products, the only existing area restrictions are those applied to imports of automobiles and motorcycles. This involves not only trade imbalance with the countries concerned but also the ability of local manufacturers to meet the import competition. The scale of local manufacturers is relatively smaller and the production cost is relatively higher. The sectors employ 120,000 workers which account for 5.5 per cent of the labour force employed in the manufacturing sector, and their production accounts for 5 per cent of the value of total output of the manufacturing sector.
sector. A sudden removal of the area restrictions will result in serious economic and social problems, in particular employment problems.

Based on the above, Chinese Taipei would require a transitional period in order to adjust itself to the increased import competition resulted from the lifting of area restrictions. In the transitional period, Chinese Taipei will consult with interested contracting parties and take into account the practices of the existing developed contracting parties.

147. A description of the agricultural products that remain protected. [WP3 Spec(93)41: Q.(c)]
Reply

Currently the agricultural products subject to import control include edible animal offal, milk; products requiring consent letters for importation include rice, red beans; items subject to area restrictions include bananas, pineapples. For details, please refer to the relevant tables provided in the ANNEX to the documents L/7189.

It is worth mentioning that with the implementation of the new import licensing system later this year, the number of the protected agricultural products will be reduced. The protected items will be listed in the so-called Negative List to be prepared in conjunction with the introduction of the new system.

148. What are your most sensitive sectors in which you have specific policies? [WP3 Spec(93)41/Add.1: Q. Market Access]
Reply

The most sensitive sectors in which Chinese Taipei has specific policies are the agricultural sector and the automobile and motorcycle manufacturing sector. In the agricultural sector, Chinese Taipei imposes import control on a number of products and has other policies to provide assistance to farmers. In the area of automobiles and motorcycles, Chinese Taipei imposes certain local content requirement on local manufacturers and area restriction on imports.

149. Is there any other non-tariff barrier applied to agricultural products? [WP3 Spec(93)41/Add.1: Q.I-7]
Reply

Currently there is no non-tariff barrier applied to agricultural products other than those that have been reported in the above.

150. Is there any regulation concerning the origin of the automotive products? [WP3 Spec(93)41/Add.1: Q.II-3]
Reply

There is currently no rule of origin for such product.

151. Is there any regulation regarding fuel consumption on vehicles? [WP3 Spec(93)41/Add.1: Q.II-4]
152. In follow-up Reply No. 17 to United States questions from the April Working Party meeting, Chinese Taipei indicates that import bans and quantitative restrictions are necessary to allow for gradual reduction of the farm population and to protect relatively inefficient agricultural production as farm size and structure improves.

This justification is at odds with the fact that agriculture provides only 3 per cent of total GDP, and with the probability that continued absolute protection of certain agricultural markets in Chinese Taipei will penalize consumers in order to perpetuate the current system.

Chinese Taipei should indicate its willingness to bring its non-tariff measures in this sector into conformity with the General Agreement and to negotiate a schedule for compliance agreeable to all interested parties. [WP3 Spec(93)45: Q.II-3-(2)-1; WP2 USA: Q.17]

Reply

Although agriculture provides 3.67 per cent of the total GDP, the agricultural population accounts for 20.46 per cent of the total. With the aging of the farm population, 46.6 per cent of those employed in the agricultural sector exceeds the age of 50, and, therefore, labour mobility is low and industry restructuring is difficult.

The Government of Chinese Taipei in recent years has endeavoured to assist farmers to transfer to other sectors. However, because of the small farm size and structure, such restructure is difficult and requires time to get results.

Agriculture has been a common problem to most trading nations; it is not simply an economic concern but also involves high political sensitivity. High guarantee prices, import quotas, variable levies, tariff quotas, and export subsidies are commonly employed by contracting parties to protect their domestic farmers. The level of Chinese Taipei's agricultural protection is still lower than many other countries.

153. Concerning follow-up reply 18 to the United States questions tabled at the April Working Party meeting and the opening statement of the Chinese Taipei delegation:

We find these statements somewhat contradictory on the issue of agricultural policy after accession to the GATT. Chinese Taipei has indicated that it is prepared to bring its trade regime into conformity with GATT obligations, but has also indicated that it wishes to maintain import bans and quotas for certain agricultural products after accession.

We would appreciate clarification from the delegation of Chinese Taipei on how these positions can be reconciled. Does Chinese Taipei intend by this response to indicate that it seeks exclusions or waivers of certain agricultural products or sectors from the application of the General Agreement in the context of its accession? If so, what form does Chinese Taipei intend that these exclusions take? Which products would be affected? Why does Chinese Taipei feel that such exclusions are justified?

We are opposed to exclusions or waivers for Chinese Taipei in the agricultural sector. We do not believe such exclusions can be reconciled with existing GATT rules, let alone those being prepared for the GATT post-Uruguay Round.
Such exclusions should not even be necessary, given recourse to normal GATT provisions for temporary safeguards and in light of the opportunity presented by the accession negotiations themselves to address these issues.

We do not favour an accession protocol for Chinese Taipei that would include such provisions, particularly in light of the near-term conclusion of the Uruguay Round Agreement that would eliminate such waivers that exist for other contracting parties. [WP3 Spec(93)45: Q.III-2-1; WP2 USA: Q.18]

Reply

Chinese Taipei has taken note of the United States delegation’s position.

154. Chinese Taipei indicates in the response to several interventions that it intends to apply Uruguay Round tariffication principles in replacing current import licensing restrictions in the area of agricultural products.

While we appreciate Chinese Taipei’s willingness to address Contracting Party concerns and to alter its current import licensing system to bring it into conformity with the General Agreement, we wish to indicate for the record that application of Uruguay Round tariffication to GATT-inconsistent quantitative restrictions and import bans is not necessarily an acceptable GATT accession approach.

We wish to see establishment of a date by which such restrictions will be eliminated and replaced by bound tariff levels negotiated with interested GATT contracting parties.

We believe this is consistent with Chinese Taipei’s level of development, and will provide the necessary flexibility to address Contracting Party concerns while providing adequate time for domestic interests to adjust to the new, GATT-consistent regime.

The issue of providing for the reduction and removal of these barriers within a GATT framework must be addressed prior to, not after, accession. Indications of future GATT conformity are welcome as an indication of Chinese Taipei’s commitment to GATT principles, but cannot be a substitute for an established agreed framework for implementation in the protocol. [WP3 Spec(93)45: Q.II-3-(2)-2]

Reply

Chinese Taipei appreciates the comments made by the United States delegation and would give serious thoughts to them.

155. Statute for Agricultural Development

(1) The Statute includes provisions which appear to provide subsidies to domestic agricultural producers. Could Chinese Taipei explain the relationship between these provisions and the price support measures (e.g. guaranteed purchase prices and supplementary prices) outlined in L/7189?

(2) The Statute refers to the government helping farmers or agricultural enterprises obtain loans or subsidies, in e.g. Articles 21, 24, 28, 29, 31, 42. Could Chinese Taipei explain the source and the nature of these loans, including the 15-year loans, and subsidies? Are loans provided at less than commercial interest rates (see also Article 41)?
(3) Article 5: What is the Farm Rent Reduction Act?

(4) Article 7 establishes an Agricultural Development Fund, funded by government appropriations among other things. What is this Fund used for and which products benefit?

Article 7: Could Chinese Taipei kindly describe the "various quarters" and the "various" government treasuries which make donations to the ADF?

Article 7: What has been the budget of the ADF since 1973?

(5) Article 8: Could Chinese Taipei kindly explain the operation of and products affected by the government created stabilization fund? Does the government make any financial contribution, direct or indirect?

(6) Article 9: What is the nature of this assistance, which products benefit and what are the criteria for such assistance?

(7) Article 17: Does the payment by farmers fully cover the costs of development, and over what period are the payments made?

(8) Article 20: Could Chinese Taipei describe the guidelines and programmes for agricultural production and marketing, list the products affected, and explain how they are enforced (see also Article 36)?

(9) Article 21: What is the nature of the assistance in establishing special production zones?

(10) Article 22: What are the other incentives referred to here?

(11) Article 23: Are the same specifications and standards applied to imported goods? Are they drafted in terms of performance criteria or design specifications?

(12) Article 25: This refers to "Agricultural power rates". Are these different from those applied to other sectors, and if so could Chinese Taipei please describe?

(13) Article 34: What products are affected by the system described in this Article? What criteria are used to define "reasonable prices"?

(14) Article 37: Could Chinese Taipei kindly explain further the restriction here on supply of agricultural products to "farmers organizations"? Would it make it possible to designate certain products to be supplied to the domestic market only by (domestic) farmers' organizations?

(15) Article 39: What is the nature of the assistance and incentives mentioned here?

(16) Article 40 (p16): Does the requirement that the domestic agricultural authority concur before import of agricultural products cover all agricultural products?

Article 40 bis (p17): Could Chinese Taipei please give details of the effective measures mentioned here and the criteria for adopting them? How does this provision relate to the provisions in the Regulations Governing Relief and Aid for Major Agricultural Products Damaged by Importation, and the "safeguard" provisions in Article 18 of the Foreign Trade Act?
(17) Article 44: What criteria exist for providing financial aid in these circumstances, in particular what is covered by the term "disaster"? How frequently has this provision been invoked.

(18) It would be appreciated if Chinese Taipei could provide copies of the regulations mentioned in Articles 7, 8, 26, 32 and 52. [WP3 Spec(93)42: Q.12]

Reply

(1) The legal basis for Chinese Taipei's price support measures is Article 33 of the Statute. These measures are in addition to the government assistance contemplated in other Articles.

(2) The sources of fund for loans contemplated in Articles 21, 24, 28, 29, 31 and 42 is the Agricultural Development Fund; the loan interest rates are lower than commercial rates.

(3) The "Farm Rent Reduction Act" was enacted in 1951 when farm land in Chinese Taipei was controlled by a limited number of landowners. The authorities of Chinese Taipei at that time introduced a comprehensive agricultural reform programme. One of the purposes of the programme is to limit the land rent and therefore to reduce the burden of farmers who rented land from landowners. The Act imposes a ceiling on the rent payable to landlords, which is 37.5 per cent of the yearly harvest of the main agricultural products on the rented land. Rents which are lower than the ceiling may not be increased.

(4) The Agricultural Development Fund is used for providing funds to assist the infrastructure development by farmers, fishermen, and their organizations, and providing finance for purchase of agricultural and fishery machinery. The use of the Fund covers products of the agricultural, forestry, fishery, and animal raising sectors.

The sources of the Fund are: (1) government budgeted appropriations and (2) interest income of the Fund.

The size of the Fund as of 1993 is NT$12 billion.

(5) The Stabilization Fund can be operated in two ways: (1) providing funds to cover the differences between the market price and the stabilization price, and (2) providing funds to finance buffer stock. In the first case, when the market price is higher than the stabilization price, the difference goes into the Fund; when the market price falls below the stabilization fund, the difference would be covered by the Fund. In the second case which has never been put into operation, when the market price is higher than the stabilization price, the Fund would purchase from the market the excess supply; when the market price falls below the stabilization price, the Fund would sell its stock.

The operation of the Fund now covers only rice and fishery products.

There are three funding sources for the Stabilization Fund: (1) budgeted government appropriations, (2) government appropriations which are not a part of the government budget, and (3) donations from the producers or importers.

(6) The purpose of the development funds is to enhance the development of the crops concerned. Currently, there is only one development fund in operation, which is the Development Fund for Food Grains Other than Rice and Wheat.
(7) Because of the increasing environmental concerns, there exists no situation contemplated in Article 17.

(8) Chinese Taipei does not impose strict production control. There is only an estimate for production target; nor is there concrete production and marketing programme enforced.

(9) The assistance in establishing the special production zone is to have efficient use of resources in order to meet the environmental, production and future development needs. Take the vegetables Special Production Zone for instance. Its establishment is to ensure stable supply of vegetables during the typhoon seasons.

(10) The incentives were set forth in the Statute for Encouraging Investment which was abolished and replaced by the Statute for Upgrading Industries in December 1990. The new Statute does not provide incentives for agricultural service activities.

(11) The specifications and standards are applied to domestic as well as imported goods. Chinese Taipei would appreciate New Zealand delegation's clarification of "performance criteria" and "design specification".

(12) The rates for the agricultural sector is the same as that for other sectors; the only difference is that the basic charges are waived when the relevant agricultural production is not in season.

(13) The system covers a wide range of products including vegetables, fruits, animal farm products, fishery products and their processed products.

The reasonable price referred to in Article 33 means direct product cost plus reasonable administration and marketing expenses (grading, packaging and waste) and reasonable profits.

(14) The system to require the supply of products to farmers' organizations designated by the government applies to export of agricultural product only, as such a system may enhance efficient handling of export and at the same time maintaining order among the exporters which in turn may ensure the quality of export products.

It is impossible to designate certain products to be supplied to the domestic market only by domestic farmers' organization under Article 37.

(15) Currently, there is no assistance of the kind contemplated in Article 39 offered by the authorities of Chinese Taipei.

(16) Most of the agricultural products can now be freely imported without the consent of the agricultural authority. There are only a limited number of agricultural products under import control requiring such consent.

The effective measures mentioned in Article 40 are the assistance measures contemplated in the Regulations Governing Relief to Agriculture which are expected to be replaced by measures contemplated in Article 18 of the Foreign Trade Act which is based on Article 19 of the GATT, and the countervailing and anti-dumping measures provided in the relevant anti-dumping and countervailing duty regulations.
(17) The term "disaster" covers nature disaster such as that resulted from typhoon, torrential rain, earthquake, drought and cold wave. The criteria may, depending on the situation of each case; the seriousness of the event would be assessed by the central competent authority which would then give public notice as to the coverage of the disaster area and provide assistance to farmers in the area.

The government provides assistance under this Article about two or three times a year.

(18) Chinese Taipei is now translating these regulations and will make them available at the Secretariat when the translations are completed.

156. Have all barter arrangements been eliminated?

If private barter arrangements exist, do imports through these arrangements face the same regime as other imports? [WP2 Canada: Q.20; L/7189: Q.279]

Reply

All barter arrangements in agricultural trade have been suspended since October 1992. There is no private barter arrangement.

157. We are concerned that since August 1992, Chinese Taipei has been applying discriminatory trade measures against Korea. Automobile trade based on quotas has been abolished. The barter of Korean apples and pears for Chinese Taipei bananas has also been stopped, and Korean companies have been excluded from open tenders in government procurement. I wonder if there are any plans to abolish these discriminatory measures in the near future? [WP2 Korea: Q.5; L/7189: Q.158 and 361]

Reply

Before 1992, Chinese Taipei did not have any agricultural barter trade with other countries except Korea.

Chinese Taipei intends to enter into bilateral consultations to resolve the problem of automobile imports from Korea.

In respect of government procurement, Chinese Taipei will, after its accession to the GATT, bring its practices more in line with the Government Procurement Code.

158. In its reply, Chinese Taipei has indicated that all barter arrangements in agricultural trade have been "suspended" since October 1992. Will Chinese Taipei commit itself not to reintroduce barter trade for agricultural trade in the future? Have all barter arrangements across all sectors been abolished? If not, which sectors of Chinese Taipei's economy are still subject to barter trade? [WP3 Spec(93)37: Q.14; L/7189: Q.279]

Reply

Currently there is no barter trade arrangement in any sector of Chinese Taipei, but Chinese Taipei cannot rule out the possibility to reintroduce barter trade for agricultural products.

159. (1) It is noted that to register as an importer, a company has to have a paid-in capital of no less than NT$5,000,000. What is the rationale for setting such a high capital requirement for a registered importer?
(2) Are all importers required to be registered before they can undertake import activities? [WP2 Hong Kong: Q.3; L/7189: Q.161]

Reply

(1) The purpose of requiring minimum capitalization of NT$5 million is to ensure that the importers have sufficient financial resources to support their import operation, not to restrict the import trade. Although this requirement may not provide full assurance of the importer's financial capability, it is an objective standard and is administratively convenient.

(2) All importers engaged in international trade as their regular business are required to be registered before they can undertake import activities. For those who do not undertake import activities as their regular business, there is no registration requirement if they import goods for their own uses, although the relevant rules must be followed.

160. Concerning the requirement noted in the response to Question No. 161 that in order to register to engage in international trade a firm must have capitalization of NT$5,000,000 or more:

Why are smaller firms and individuals not allowed such rights? [WP2 USA: Q.16; L/7189: Q.161]

Reply

The purpose of requiring minimum capitalization of NT$ 5 million is to ensure that the importers have sufficient financial resources to support their import operation, rather than to restrict import trade. Although this requirement may not be full assurance of the importer's financial capability, it is an objective standard that is administratively convenient.
3. MTN Agreements and Arrangements

3.1 Government Procurement Agreement

1. What aspects of Government Procurement and Civil Aircraft Agreements are problematic? [WP2 Canada: Q.3; L/7189: Q.4]

2. In the response to Question Nos. 4 and 255 in L/7189, Chinese Taipei indicated that it is not prepared to adhere to the Agreement on Trade in Civil Aircraft or the Government Procurement Code at the time of its accession.

This statement seems inappropriate given the advanced state of the industrial development of Chinese Taipei and the plans already made public to expand the aircraft and components industry. My Government hopes that Chinese Taipei will re-examine this position with a view to adhering to the Civil Aircraft Agreement at the time of entry into GATT. Given the importance of official procurement in Chinese Taipei, reconsideration of this issue in our view would also be indicated. [WP2 USA: Q.1; L/7189: Q.4 and 255]

Reply

Agreement on Trade in Civil Aircraft

Investment in the aerospace industry is capital and technology intensive and its return cannot be realized until a long time after. It also involves high level of investment risk as there are many uncontrollable factors in the market. The aerospace industry in Chinese Taipei is still in its infancy. There are only three or four local private companies that have passed the quality certification for only a few components and parts. The industry at this stage cannot compete with their foreign counterparts either in the local or in the foreign market. It is therefore Chinese Taipei’s policy to require industrial cooperation in the acquisition of civil aircraft in order to assist the development of this industry. Chinese Taipei is not prepared to adhere to the agreement until the industry has developed to a state comparable to that of other industrial sectors of Chinese Taipei. The industry is of particular importance to Chinese Taipei as it will increase the defence capability of Chinese Taipei.

Government Procurement Agreement

The reasons for Chinese Taipei to hold its accession to the Government Procurement Code until a later stage are as follows:

(1) The accession to the Government Procurement Code is optional under the arrangement of the Tokyo Round, and it is also not compulsory for WTO members to accede to the Code in the proposed framework of WTO. This indicates that countries negotiating for the Code take the issue as one to which the principle of reciprocity applies. Countries that have acceded to the Code generally have reached a state of industrial development more advance than that of Chinese Taipei. Chinese Taipei does not foresee much reciprocal benefit it will receive from its accession to the Code as its industries generally lack the ability to compete for major government procurement projects either locally or in foreign countries. Furthermore, the Government Procurement Code now being negotiated in the Uruguay Round will prohibit developed countries from using offsets as an industrial policy instrument. The concept of offset covers a wide range of issues including local content requirement, technology transfer, countertrade, and others, and will affect overall industrial development. For the above reasons, Chinese Taipei is not
prepared to sign the Code until its industries have become competitive in bidding for major government procurement projects.

(2) Despite the concern for its industrial development, Chinese Taipei is now reviewing its laws and regulations related to government procurement and intends to bring the procurement procedure in line with the Code requirement, especially the transparency requirement.

3. Does Chinese Taipei now have a clearer idea of the time required for adhering to the Tokyo Round Codes with which it feels it will not be able to comply upon accession? (ex. Aircraft and Procurement Codes) [WP3 Spec(93)37: Q.2(b); L/7189: Q.4]

Reply

Chinese Taipei has not decided to accede to the Aircraft and Procurement Codes. It will consider the length of the transitional period for the two Codes when it has decided to accede to the two Codes. Chinese Taipei is still reviewing its industrial and agricultural policies in order to determine the transitional periods required for other Tokyo Round Codes.

4. Signature of the Codes related to the GATT provisions, in particular the Aircraft Agreement and the Government Procurement Agreement. Immediate implementation of these provisions on the date of the accession without transitional periods or exceptions for sectors? [WP3 EC: Q.2]

Reply

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

- On the Government Procurement Code, Chinese Taipei will improve current procurement practices to meet the various requirements of the Code, including the transparency requirement, and also avoid violation of the MFN principle to the maximum extent possible.

- Chinese Taipei is not prepared at this moment to sign the Civil Aircraft Code upon our accession, but will assess the possibility of accession on a continuing basis.

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

5. Chinese Taipei states that restrictions in the government procurement area may be applied to suppliers from areas subject to area restrictions. We would like to know which countries are subject to area restrictions, and if there is any plan to abolish these area restrictions. If so, could we please be provided with the details of the plan. [WP2 Korea: Q.7; L/7189: Q.360]
Chinese Taipei is still reviewing the issue and intends to hold bilateral consultations with interested contracting parties to find a mutually acceptable solution.

6. **Chinese Taipei** advises that in respect of international project and procurement tenders, restrictions may be applied to suppliers from areas subject to Chinese Taipei's area restrictions. It is not clear to us from Chinese Taipei's answers what the basis really is for area restrictions in public tendering, other than that they are based on trade policy, including national security policy, considerations. Could Chinese Taipei please give advice concerning these countries/areas? [WP3 Spec(93)36: Q.1; L/7189: Q.353 and 361]

**Reply**

Countries that are subject to area restriction in public tendering are two neighbouring countries of Chinese Taipei: one is subject to such restriction for its huge surplus in trade with Chinese Taipei and the other for the reason of its breaking diplomatic ties with Chinese Taipei in 1992. Chinese Taipei is currently reviewing both situations and intends to enter into discussion with the two countries with a view to resolving the issues at the earliest possibility.

7. **Government procurement**

**Section A: Value of procurement**

1. What is the annual NT$ value of total government procurement? (is, both domestic and overseas procurement, by all government entities, at all levels of government including State enterprises and the Central Trust but excluding military expenditures)

2. What was the NT$ value of this total procurement which was above the Procurement Code threshold level?

3. What was the NT$ value of the procurement above the Code threshold which was awarded to foreign suppliers?

4. What was the NT$ value of above Code threshold procurement which were restricted or negotiated tenders?

5. What is the NT$ value of services procurement and construction procurement?

6. What is the NT$ value of procurement above and below the Code threshold by federal departments, sub-federal departments and State enterprises as well as public enterprises under the auspices of the provincial government?

**Section B: Tender specifications**

1. Are all tender specifications as prescribed by procurement entities always provided in terms of performance rather than design? If other, describe.

2. Are these tender specifications always based on international standards, domestic technical regulations or recognized domestic standards? If other, describe.
Section C: Rules of origin

(1) Does Chinese Taipei apply rules of origin to products imported for the purposes of government procurement that are different from the rules of origin applied in the normal course of trade?

Section D: Threshold levels

(1) Does the current Chinese Taipei threshold value of NT$50 million apply to the purchases of both goods and services including construction services?

(2) Only Articles 59 and 60 of the Law of Audit relate to government procurement. In Article 59 it states that the threshold amount and the auditing procedures shall be established in other laws. What are these other laws and what do they say?

Section E: Valuation of contracts

(1) In estimating the value of a contract, does Chinese Taipei take into account all forms of remuneration, including premiums, fees commission and interest?

(2) In estimating the value of a contract does Chinese Taipei have strict provisions preventing the division of procurement contracts into separate contracts in order for the contracts to qualify under the current threshold level of NT$50 million? If so, what are they?

(3) Does Chinese Taipei have regulations instructing entities on how the valuation of contracts would be carried out to determine threshold levels for leases, contracts for rentals, contracts awarded in separate parts or for contracts with an indefinite term? If so, what are they?

(4) In the qualification and selection of suppliers, goods or services, does Chinese Taipei consider, seek or impose offsets (i.e. requirements for local content, licensing, of technology, investment, countertrade or similar requirements).

Section F: Qualification of suppliers

(1) How are the values of performance, advance payments and bid bonds established? What are the auditing and release procedures for performance and bid bonds? Are these rules the same for both domestic and foreign suppliers?

(2) Do some tenders require a foreign supplier to bid in conjunction with a domestic supplier holding certain certification. What certifications does this include? Are foreign companies granted certification? If so, Why?

Section G: Notice of tender

(1) Does Chinese Taipei have regulations specifying the content of a notice of tender?

(2) In the case of permanent supplier lists does Chinese Taipei publish a list of qualified suppliers including the conditions to be fulfilled by those suppliers included on the list?

Section H: Time-limits for participating

(1) What are the time-limits for tenders provided for domestic and overseas procurement as well as for open and restricted procurement?
Section I: Tender documentation

(1) Does Chinese Taipei have regulations regarding what information or documentation shall be provided to suppliers in order to allow them to respond to a tender?

Section J: Negotiation

(1) Does Chinese Taipei have regulations concerning under what conditions and how negotiations for contracts will be carried out?

(2) How does the government establish the price of a contract?

(3) How frequently are all bids above 20 per cent of the government estimated price? How frequently are tenders re-bid?

Section K: Awarding of contracts

(1) Does Chinese Taipei have procedures which specify the submission, receipt, and opening of tenders and awarding of contracts? Are suppliers who are not awarded the contract informed of the reasons why they did not win? If so, what are they?

Section L: Limited tenders

(1) What are the criteria for determining whether a contract shall be restricted? Who makes the decision that a contract is open or restricted?

(2) Of all the contracts let in the last year statistics are available, how many and what value were; Open, Selective, and Limited?

Section M: Bid challenge

(1) Does Chinese Taipei have a bid challenge procedure for government procurement? If not, what means do suppliers have to protest the award of a tender? [WP2 Canada: Q.23; L/7189: Q.349-368]

Reply

A. Since the information inquired involves domestic statistics, which is difficult to collect, currently there is no such information available. However, Chinese Taipei will comply with the requirements of the Government Procurement Code to make the required data available to contracting parties provided that it decides to accede and does accede the Code in the future.

B. (1) The tender specifications prescribed by Chinese Taipei’s procurement entities may be provided in terms of performance, or design, or a combination of the two as long as such specifications will not constitute unfair competition barriers to bidders. There are some other bases for tender specifications, such as international standards, domestic standards, or reference brands. If reference brands are provided in the tender specifications, equivalents to the reference brands in quality may also be considered.

(2) If there are other special requirements than the international standards, domestic technical regulations, or recognized domestic standards, they will be prescribed in the tender specifications clearly for bidders to comply with.
C. Chinese Taipei applies the same rules of origin to products imported for government procurement as well as for normal trade.

D. (1) The threshold value of NT$50 million applies to both goods and construction service procurement projects but not to pure services procurement because pure services projects currently are not under the jurisdiction of the Law of Audit and the Statute Governing the Audit of Construction Contracts, Procurement Contracts and Selling of Government Properties.

(2) The other law refers to the "Statute Governing the Audit of Construction Contracts, Procurement Contracts, and Selling of Government Properties".

E. (1) The value of a contract is estimated in accordance with the terms and conditions of the proposed procurement, and Chinese Taipei only takes into account the payment to be made to the contractor in accordance with the contract as the basis of such estimation.

(2) According to Article 33 of the Statute Governing the Audit of Construction Contracts, Procurement Contracts, and Selling of Government Properties, if any government entity divides the construction or procurement contracts into separate contracts in order to avoid the application of the Audit Procedure, the official in charge shall be subject to administrative penalty and in case of loss of public funds, the official in charge shall be responsible for restitution.

(3) Currently, Chinese Taipei has no regulation of this kind. There are, however, no contracts with an indefinite term because such contracts run counter to the principle of budget disbursement. In practice, the estimated value of long and short term lease or rental depends on the length of the lease or rental contracts, and the estimated value of the contracts awarded in separate parts is defined in terms of the total value of the contracts.

(4) In isolated instances, Chinese Taipei does require offsets in the selection of suppliers.

F. (1) The value of performance, advance payment and bid bonds are prescribed by the procuring agency in accordance with its own internal rules on a case-by-case basis. They can be a certain percentage of the contract value or bid price or a fixed amount. In general, the value of performance bonds is above 5 per cent; that of advance payment bonds in most cases is the same as the amount of the advance payment, and that of bid bonds is normally above 1 per cent of the bid price. The auditing rules for performance and bid bonds are to ensure that the procuring agency has followed the necessary procedures to require and receive bid and performance bonds. The performance bonds are released when the contractors complete their performance; bid bonds are released when contract-awarding decisions are made or when the bid winners submit performance bonds, as the case may be.

The rules apply to both domestic and foreign suppliers; there is no discrimination.

(2) Foreign suppliers are in some cases required to bid with a domestic supplier holding certain certificates. For instance, the bidder for a construction contract shall possess a local construction licence and be a member of the construction business association. A foreign firm without a local construction licence has to bid in conjunction with a qualified domestic supplier. If the foreign firm wishes to obtain such a licence, it needs to establish a subsidiary in Chinese Taipei and apply for the licence in the name of the subsidiary. Also, companies engaged in the business of importation, sale, or installation of telecommunication equipment subject to government control shall hold a permit for operating such business; companies dealing with medical equipment importation of which requires inspection and registration are required to hold a permit for operating such business.
G. (1) Chinese Taipei currently does not have regulations specifying the content of a notice of tender. In practice, the content of a notice of tender is very close to what is required by the GATT Government Procurement Code.

(2) Chinese Taipei has rarely adopted supplier lists. Even in the case where such lists are adopted, there is no publication of qualified suppliers, but the conditions to be fulfilled by the supplier are published. Chinese Taipei currently does not have a system for registering qualified suppliers.

H. There is no rule specifying the time-limits for tenders which are determined by the procuring agencies depending on the complexity and urgency of the case. If the suppliers think that the time-limits do not meet their time requirement for making preparation, they may request the procuring agency to extend the time-limits.

I. Chinese Taipei currently does not have regulations regarding what information or documents shall be provided to suppliers in order to allow them to respond to a tender. In practice, however, the procuring agency would provide the information along the line of the requirements of the GATT Government Procurement Code. Documents are made available at a fee to all interested parties in an open tender; but only to the selected suppliers and the designated supplier in the case of selective tender and single tender.

J. (1) The term "negotiation" as used by Chinese Taipei means "single tendering procedure". Article 11 of the Statute Governing the Audit of Construction Contracts, Procurement Contracts and Selling of Government Properties requires that the following criteria be used for assigning a procurement for decision by negotiation (single tendering procedures). If the contract value of the proposed procurement reaches a certain threshold, which is currently NT$50 million, prior approval of the audit authority is required.

(i) After market survey, there is only one construction company in the area concerned that meets the tender requirements for a construction contract.

(ii) After market survey, there is only one company in the area concerned that sells the required products, or there are no products in the area concerned that have the same specification for comparison.

(iii) The products to be procured are subject to patent rights, or are manufactured by only one supplier, or are the subjects of domestic experiment manufacture, or are parts for the existing supplies and no substitute is available.

(iv) Only one bid has been received when the selective tendering procedure has been effected twice.

(v) There involves a business transaction of or bartering for supplies and real estate between government entities, or between a government entity and a foreign government or an international organization.

(vi) There involves maintenance or overhaul of a vessel.

(vii) The products to be procured are available from several suppliers, but none of them can supply the required quantity alone.
(viii) In defence procurement, there involves supplies from designated sources, of experiment order, of testing manufacture, or of military supplies in urgent need, when approved by the Ministry of Defence in advance.

Moreover, Article 6 of the same Statute provides that for procurement contracts with value less than NT$5 million, the head of the procuring agency may authorize the units concerned to solicit bids from at least two suppliers and select from them one supplier for negotiation under such circumstance, there is no need for market survey or public notice as normally required. However, most of the government agencies have lowered the threshold to less than one million or even one hundred thousand, in order to narrow down the application of the exception.

With respect to negotiation procedure, please refer to Reply 354 of L/7189.

(2) With respect to the establishment of a contract price, please refer to the first part of Reply 354.

(3) In the case of negotiation, the government estimate is determined after the supplier submits its quotation; therefore, normally there would be no cases where the government estimates exceed the quotations by suppliers. Tenders are rarely re-bid when using the negotiation procedure.

K. The following are general rules that uniformly apply to all cases:

(a) procuring agency may permit submission of tender by mail;

(b) opening of tenders and comparing of bid-prices shall be handled in a transparent manner;

(c) the bidders are required to submit their business licences, tax payment receipts, and certifications in relation to their ability to undertake the construction contract or manufacture the relevant goods;

(d) the procuring agency shall keep in strict confidence bids submitted by suppliers before the bid-opening;

(e) in case of open tender, there shall be at least three bids; in case of selective tender, there shall be at least two suppliers submitting quotations;

(f) the contract-awarding decision making procedure is set out in Reply 355 of L/7189;

The procuring agency would at the request of the suppliers concerned inform them of the reasons why they did not win, such as their prices are higher than that of the bid-winner, their bids do not meet the specification requirements, or the commercial terms are not acceptable.

L. (1) Please refer to paragraph (1) of Reply 354 of L/7189.

Article 7 of the "Statute Governing the Audit of Construction Contracts, Procurement Contracts, and Selling of Government Properties" requires that the following criteria be used for assigning a procurement for decision by restricted tender (selective tendering procedures):
If the solicitation of a construction contract or a procurement contract meets one of the following conditions, the selective tendering procedures may apply; provided that when the contract value reaches or exceeds the threshold amount, submission of facts and reasons to and an approval by the Ministry of Audit or its regional offices in advance is required:

(i) After market survey, there are only two construction companies in a certain area that meet the tender requirements for a construction contract;

(ii) after market survey, there are only two companies in a certain area that meet the tender requirements for a procurement contract;

(iii) after publishing a solicitation notice twice to set a deadline for receiving bids, less than three bids have been received, and it is difficult to initiate another tendering procedure; or after publishing such notice for a construction contract or a procurement contract, three or more bids have been received, but none of their offers is below the government estimate, and it is difficult to initiate another tendering procedure;

(iv) after publishing a solicitation notice, only two bids have been received, and a re-tender or initiating another selective tendering procedure cannot meet a state of urgency;

(v) the Executive Yuan has designated a particular source of acquisition;

(vi) the contract-awarding procedure could not be completed by open tender in time to meet a state of urgency; provided that the relevant facts have been duly submitted to and the case has been approved by the higher authority in charge.

In the case where the project value is less than NT$50 million the procuring agency has the discretion to decide whether open tendering or selective tendering procedure shall be used. For projects with value exceeding NT$50 million, the procuring agency shall submit facts and reasons to the audit authority for the latter’s advance approval.

(2) At present, Chinese Taipei does not have nationwide statistics for the respective quantities and values of procurement contracts using open, selective and single tendering procedures. Take the statistics of the Procurement of Central Trust for example, the quantity and value of procurement contracts awarded by the Central Trust for the fiscal year of 1992 are as follows:

<table>
<thead>
<tr>
<th></th>
<th>No. of cases</th>
<th>Total of contract value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open tender</td>
<td>1,523</td>
<td>US$795 million</td>
</tr>
<tr>
<td>Selective tender</td>
<td>108</td>
<td>US$ 43 million</td>
</tr>
<tr>
<td>Single tender</td>
<td>558</td>
<td>US$222 million</td>
</tr>
</tbody>
</table>

M. Currently, Chinese Taipei does not have rules or regulations setting forth an appeal procedure for government procurement. Suppliers may protest the award of a contract to the procuring entity, its supervising authority, or the audit agency, which will investigate whether the award decisions are properly made and whether the officials in charge breach their duties. Suppliers can also file complaints to the courts.
8. (a) Could Chinese Taipei provide statistics on government procurement, even if such statistics are in a "raw" form. We note that Central Trust procurement alone represents an annual figure of US$1 billion.

(b) With regard to the responses given to USA questions on Government Procurement (document circulated to working party on 28 June 1993), we note that under the Law of Audit, certain procurement is awarded after conducting a "market survey". How are these surveys carried out?

(c) With regard to sources of procurement, does Chinese Taipei take into account the reduction of trade surpluses with its trading partners (i.e. USA) when choosing sources?

(d) The following questions are follow-up questions to the responses given by Chinese Taipei to the questions of Canada in the document dated 28 June 1993, and circulated at the meeting of the working party on that date. The numbering system follows that of the circulated document.

Section B: Tender specifications:

(1) Chinese Taipei has indicated that specifications are provided in terms of performance and design or a combination of the two. Specifications by "design" are contrary to the disciplines of the Procurement Code. Chinese Taipei has also indicated that if reference brands are used in the specifications then equivalents be considered for all tenders? If not, is Chinese Taipei prepared to make this a requirement for all tenders?

(2) If there are other requirements not based on international standards or other standards etc., how can they be prescribed in a manner by which bidders are expected to comply?

Section D: Threshold levels:

(1) Chinese Taipei has indicated that the threshold value of NT$50 million does not apply to pure services projects because they are not under the jurisdiction of the Law of Audit and the Statute Governing the Audit of Construction Contracts, Procurement Contracts and Selling Government Properties. What regulations and threshold values, if any, are applied in the procurement of pure services?

Section E: Valuation of contracts:

(2) What types of administrative penalties are available? Please provide examples where penalties have been imposed. What happens to contracts in such instances? What is the remedy to the bidder? Is the tender re-bid?

(4) How often in the last five years has Chinese Taipei implemented offset requirements in contracts? What were the value of the contract and offsets?

Section F: Qualification of suppliers:

(2) Please explain the process involved in obtaining the required licences for construction projects or telecommunications projects, or for the supply of medical equipment.
Section H: Time-limits for participating:

Are extensions of time-limits automatically provided if requested by a supplier?

Section J: Negotiation:

(1) Can Chinese Taipei provide a definition of the term "in the area" as it is applied in the various contexts of Articles 7 and 11 of the Statute Governing the Audit of Construction Contracts, Procurement Contracts and selling of Government Properties?

[WP3 Spec(93)37: Q.17; L/7189: Q.349-368]

Reply

(a) Since Chinese Taipei’s procurement entities rarely have compiled any statistics, Chinese Taipei at the current stage can only provide with statistics in a "raw" form as follows:

(i) The annual value of total government procurement (both for self-use and for resale by all government entities, at all levels of government including State enterprises but excluding military expenditures) is about US$10 billion in rough estimation.

(ii) Chinese Taipei cannot estimate how much of the aforementioned total procurement was above the Procurement Code threshold level. But to take the procurement made by the Central Trust in the fiscal year of 1992 for example, the procurement above the said threshold level accounted for 92 per cent of the annual value of CTC’s total procurement. As to the procurement made by the 10 State enterprises, including for their self-use and for resale, the procurement above the threshold level accounted for 84 per cent of US$4.5 billion, i.e. their 1992 annual procurement value.

(iii) Of the value of the above Code threshold procurement, 94 per cent in the case of the CTC and 60 per cent in the case of the 10 State enterprises were awarded to foreign suppliers or their agents.

(iv) Of the value of the above Code threshold procurement, 25 per cent in the case of the CTC and 42 per cent in the case of the ten State enterprises were restricted or negotiated tenders.

(v) The total annual value of services procurement and construction procurement made by government entities at all levels including State enterprises is US$10 billion in rough estimation.

(vi) As to the value of procurement above and below the Code threshold by departments at the Central Government level and the provincial government level and State enterprises as well as public enterprises under the auspices of the provincial government, please refer to the answers above.

(b) There are two forms of market survey: one is through public notice and carried out in a way consistent with the qualification review process set forth in the Code, and the other is not through public notice but based on the information the procurement entities possess in the selection of suppliers to participate in the tendering process.

(c) Since the trade surplus with the United States has been reduced, Chinese Taipei has suspended the taking of such measure in reducing the trade imbalance.
Section B:

(1) According to the wording of Item 2 of Article IV of the Government Procurement Code, "any technical specification prescribed by procurement entities shall, where appropriate, be in terms of performance rather than design," specifications by "design" are not completely banned by the Code. Therefore, Chinese Taipei does not think its specification in terms of design is contrary to the Code requirement.

If reference brands are used in the specifications, equivalents will also be considered.

(2) If the requirements cannot be prescribed with international standards or other standards, such as the type of transmission, the colour, and the accessories of a vehicle, they will be specified in a concrete manner for bidders to follow.

Section D:

(1) There is no regulation or threshold value currently applied in the procurement of pure services. Although the Executive Yuan of Chinese Taipei has promulgated "Keypoints for Government Entities Commissioning Technical Advisory Institutions to Provide Technical Service", the Keypoints only regulate the manner in which government entities commission domestic or foreign technical advisory institutes for technical services, but does not set any threshold.

Section E:

(2) The administrative penalties that may be imposed on the responsible officials according to Article 9 of the Law Governing the Discipline of Government Officials include dismissal, suspension, demotion, decrease of salary, record of a demerit, and warning.

Since the procurement entities of Chinese Taipei comply with the audit law quite well, there have been no cases imposing the above penalties.

In case of violation of the audit law, there will be no remedy to bidders but the tender will be cancelled provided that the contract has not been awarded. If a contract has been awarded, whether to cancel the award or not will be subject to negotiation.

(4) In the last five years, only in the procurement of the mechanic and electric equipment of High Speed Transit System, rolling stock, airplanes, incinerators, and the equipment of power plants, offsets have been imposed. The value of those contracts is estimated to be above US$2 billion, and the value of offsets accounted for 10 per cent to 40 per cent of those contracts' value.

Section F:

(2) The processes in obtaining the required licences for construction projects, telecommunication equipment subject to government control, and for the supply of medical equipment are as follows:

- For construction projects:

According to the Regulations Governing Construction Industry promulgated by the Ministry of Interior, a construction firm cannot start operation until it applies for registration with the Ministry of Interior or the agencies delegated by the Ministry.
Upon its application, the applicant shall submit an application form as well as the required qualification certificates. After the review of the licence issuing agencies, a licence of registration will be granted.

- For telecommunication equipment subject to government control:

According to the Implementation Keypoints Regulating Telecommunications Equipment subject to Government Control Approved by the Ministry of Transportation and Communication, any firm with a corporate licence and intending to operate import, sale, or repairing of control equipment has to obtain the licence prescribed in the Keypoints. An applicant shall submit to one of the three Telecommunications Administration Bureaus (of the Northern Taiwan, Mid-Taiwan, and Southern Taiwan) an application form and a copy of corporate licence through the association it belongs to.

- For import of medical equipment:

According to the Notice of Registration of Imported Medical Equipment promulgated by the Health Department, importers of medical equipment shall have the vendor qualification of medical equipment and the pharmacy permit licence for imported medical items. An applicant shall submit an application form, the original description of the equipment as well as its Chinese translation, the certificate of production and sale, and the power of attorney from the producers to the Health Department for registration; after review, a licence of registration will be granted.

Section H:

If the time-limit has been set long enough for most suppliers to prepare for required documents, the procurement entities may not grant extension upon an individual supplier’s request.

Section J:

(1) The term "in the area" refers to the procurement area. The coverage of the area may vary. It may be limited to the territory of Chinese Taipei, or extend to the area of other countries except some particular areas, or include all the countries and areas in the world.

9. Concerning the response to Question No. 15, and in light of contracting parties' requests that Chinese Taipei consider adherence to the Government Procurement Code in the context of GATT accession:

(1) Could Chinese Taipei describe the criteria used for assigning a procurement for decision by open tender, restricted tender or negotiation?

(2) In general terms, what portion of contracts during a recent representative period were offered on the basis of (a) open tender, (b) restricted tender, and (c) negotiation?

(3) Are the terms of the evaluation of bids specified beforehand to firms competing for the contract?

(4) How would the authorities determine the "government estimate" for procurement tenders that bids must not exceed by more than 20 per cent? [WP2 USA: Q.2; L/7189: Q.15]
Please refer to Paragraph (1) of Reply 354.

Article 7 of the "Statute Governing the Audit of Construction Contracts, Procurement Contracts, and Selling of Government Properties" requires that the following criteria be used for assigning a procurement for decision by restricted tender (selective tendering procedures):

If the solicitation of a construction contract or a procurement contract meets one of the following conditions, the selective tendering procedures may apply; provided that when the contract value reaches or exceeds the threshold amount, submission of facts and reasons to and an approval by the Ministry of Audit or its regional offices in advance is required:

(i) After market survey, there are only two construction companies in a certain area that meet the tender requirements for a construction contract.

(ii) After market survey, there are only two companies in a certain area that meet the tender requirements for a procurement contract.

(iii) After publishing a solicitation notice twice to set a deadline for receiving bids, less than three bids have been received, and it is difficult to initiate another tendering procedure; or after publishing such notice for a construction contract or a procurement contract, three or more bids have been received, but none of their offers is below the government estimate, and it is difficult to initiate another tendering procedure.

(iv) After publishing a solicitation notice, only two bids have been received, and re-tender or initiating another selective tendering procedure cannot meet a state of urgency.

(v) The Executive Yuan has designated a particular source of acquisition.

(vi) The contract-awarding procedure could not be completed by open tender in time to meet a state of urgency; provided that the relevant facts have been duly submitted to and the case has been approved by the higher authority in charge.

Article 11 of the same statute requires that the following criteria be used for assigning a procurement for decision by negotiation (single tendering procedures):

In the case of open tender, at least three bids are required for the opening of bids; and in the case of selective tender at least two bids are required. Single tender is only permitted in one of the following situations, provided that facts have been duly submitted to and the case has been approved by the audit authorities in advance.

(i) After market survey, there is only one construction company in the area concerned that meets the tender requirements for a construction contract.

(ii) After market survey, there is only one company in the area concerned that sells the required products, or there are no products in the area concerned that have the same specification for comparison.

(iii) The products to be procured are subject to patent rights, or are manufactured by only one supplier, or are the subjects of domestic experiment manufacture, or are parts for the existing supplies and no substitute is available.
Only one bid has been received when the selective tendering procedure has been effected twice.

There involves a business transaction of or bartering for supplies and real estate between government entities, or between a government entity and a foreign government or an international organization.

There involves maintenance or overhaul of a vessel.

The products to be procured are available from several suppliers, but none of them can supply the required quantity alone.

In defence procurement, there involves supplies from designated sources, of experiment order, of testing manufacture, or of military supplies in urgent need, when approved by the Ministry of Defence in advance.

At present, Chinese Taipei does not have nationwide statistics for the respective percentages of procurement contracts using open, selective and single tendering procedures. However, since the use of selective and single tendering procedures needs to meet the criteria as mentioned in the preceding section, the percentage of such contracts is relatively small in terms of contract value. To take the statistics of the Procurement Department of Central Trust for example, about 75 per cent of the total value of procurement contracts in the fiscal year of 1992 has been awarded by open tender, 21 per cent by single tender, and the rest 4 per cent by selective tender.

The evaluation criteria of bids are specified in the solicitation documents, including the weighing and scoring system for evaluation of the bids, if any.

The government estimate is generally based upon one or more of the following: (i) price enquiry; (ii) former procurement price; (iii) cost analysis of the tender requirements; (iv) market price; and (v) budget.

Under what conditions will a public entity impose technology transfer or local content as offsets? What other offset commitments can be imposed on contract awards? For how many procurement tenders over the past three years did the commissioning entity "impose technology transfer or local content" as offsets? If numerical data is not available, could Chinese Taipei provide specific examples of how such impositions were made?

When a "scoring system" is used to evaluate the bid, are the criteria used to determine the "score" clearly explained in the tender documents? Are outside experts used in determining each bidders' score?

How do procuring entities decide when to require a "quality certificate issued by the bidder's home country"? Must such certificates be issued by a government entity?

Please explain how Chinese Taipei's procurement procedures in the area of "technical specifications" are consistent with Article IV of the GATT Procurement Code.
(5) We understand that for regional procurement of less than NT$15 million open tenders are not required. Could Chinese Taipei provide more information on tenders issued by the provincial authorities? [WP3 Spec(93)45: Q.I1I-8-4; L/7189: Q.355]

Reply

(1) In order to facilitate the industry policy, the industry authority of Chinese Taipei sometimes requires a procurement entity to impose technology transfer or local content as offsets in its tender documents for major projects. Other offset commitments that have been imposed on contract awards include setting up local factories to manufacture important parts or assist exports. Over the past three years, the commissioning entities imposed technology transfer or local content as offsets only on the Metropolitan Rapid Transit System, aerospace, environment conservation, and power station projects. How such impositions were made can be illustrated by the technology transfer requirement for the Taipei Municipal Rapid Transit System. The commissioning entity of the System required firms to transfer the designing, assembling, and repairing technology to the project owners and domestic firms. The purpose of such requirement is to build up domestic designing, assembling, and repairing ability, upgrade domestic industry level, and reduce future operation costs.

(2) If a "scoring system" is used to evaluate the bids, the criteria used to determine the "score" will be clearly explained in the tender documents. Whether to invite outside experts to determine score is up to the procurement entities. However, outside experts are often used in determining the score.

(3) The reason that procuring entities decide to require a "quality certificate issued by the bidder’s home country" is to comply with the quality requirement prescribed by government law or regulation. For example, the noise testing certificate and the exhaust emission certificate required for the procurement of automobiles are used by the procuring entities to evaluate whether or not the automobiles offered conform to the environment protection regulations. The quality certificates can be issued either by the government agencies of the bidder’s home country, or by the authorized or qualified independent testing institutions.

(4) Chinese Taipei’s procurement procedures in the area of "technical specifications" generally are consistent with Article IV of the GATT Procurement Code except in few tenders where the technical specifications are set out by designs or brand names, without specifying allowance for equivalents.

(5) The above information is not correct any more. The level of NT$15 million has been raised to NT$50 million since 1991. Furthermore, procurement less than NT$50 million does not necessarily have no public tenders. Please refer to Reply 358 of document L/7189. As to tenders issued by the provincial authorities, they are also subject to the same audit law and regulation as the Central Government is. Please refer to Reply 349 of document L/7189.

11. We appreciate Chinese Taipei’s explanation in its follow-up replies to United States questions concerning selection of government procurement suppliers by other than competitive tender.

We are, however, concerned that there is an overall lack of transparency in Chinese Taipei’s procurement process.

- While official procuring agencies generally operate under broad guidelines, established by the Central Trust, procurement procedures among some public entities - especially State-owned enterprises - can vary significantly.
We have received complaints about the lack of time provided to respond to complicated bids, which tends to ensure a limited number of bidders, which in turn can be used to justify a non-competitive tender.

We are also concerned about the increasingly frequent practice of informally negotiating technical specifications prior to the publication of the tender in order to match prior to the proprietary standards, thereby "spec-ing out" all potential competitors.

Bids are also being advertised with unreasonable delivery terms.

Contract term requirements that sellers assume unlimited liability for consequential damages are discouraging firms from bidding on contracts. Such terms are at odds with worldwide standards, which normally allocate the risk of consequential damages to the owner and not the contractor because of the undue financial burden such a risk would place on the contractor. In addition, such requirements do not appear to be applied when domestic firms are selected for the procurement.

These practices effectively restrict access to Chinese Taipei’s public procurement in a fashion that can, and has been, manipulated against foreign suppliers.  

[WP3 Spec(93)45: Q.III-8-5]

Chinese Taipei takes note of the above comments.

12. We also note with concern the growing number of tenders which are being classified as "non-competitive" (i.e., selective or single tendering) and/or restricted to local bidders, particularly in light of rumours that the Six-Year Plan will be significantly scaled back. The lack of publicly available information on "non-competitive" contracts is also of concern, since the results of non-competitive contracts are seldom made public and therefore have been difficult to tract.

We believe these problems could be addressed most effectively through Chinese Taipei’s membership in the GATT Government Procurement Code. Chinese Taipei should commit to initiate negotiations to join the GATT Government Procurement Code within six months following its accession to the GATT.

In the period leading up to its Code membership, we would like to see Chinese Taipei implement transitional measures for uniform procurement procedures which would significantly improve the transparency of the procurement system.

These transitional measures should include:

- Announcement of tenders in a designated journal and/or newspaper with the provision of an adequate amount of time for interested parties to submit bids.

- Understanding that contracts valued above an agreed (reasonable) amount will be awarded through open tender, unless compelling need or necessity requires another method.

- Agreement that in cases where contracts are awarded on the basis of a non-competitive tender, the contract and the contracting firm will be announced in the same journal/newspaper that is used to announce competitive tenders.
Agreement that commissioning entities will use non-proprietary, performance-based standards except when absolutely necessary, and that such tenders will include the wording "or equivalent" when standards are based on other criteria.

Agreement for the creation of a centralized bid protest system which would be used by bidders as a forum to address problems relating to the procurement/selection process.

Agreement on reasonable restrictions on requirements that sellers assume unlimited liability for consequential damages. [WP3 Spec(93)45: Q.III-8-6]

Reply

Chinese Taipei will seriously consider the above valuable suggestions and proposals.

13. Would Chinese Taipei consider providing an informal English translation of its defence industry procurement regulations? In any case, please supply a copy of the procurement guidelines for the defence industry in Chinese. [WP2 USA: Q.28; L/7189: Q.362]

Reply

Following the promulgation of the Foreign Trade Act and its subsidiary regulations, the defence procurement authority plans to revise the current procurement rules. The new rules which will be made more consistent with the GATT rules will be provided to the interested contracting parties when it is available.

14. In response to Question No. 363, it is noted that, along with defence procurement, "government-owned enterprises" are listed as entities which may undertake international procurement without going through the Central Trust Corporation (CTC).

Are procurement regulations for these entities consistent with standard operating procedures of the CTC and the Law of Audit? Are their separate regulations available to the contracting parties? [WP2 USA: Q.29; L/7189: Q.363]

Reply

Since the audit regulations also apply to the government-owned enterprises, such enterprises follow procedures similar to that of the Central Trust (CTC). There are no separate procurement regulations for such enterprises.

15. Concerning the reply to Question No. 355, a more detailed description of public procurement practices is given.

(1) What types of public tender would require foreign firms to "bid in conjunction with a domestic supplier holding a certain certification". What specific type of "certification" does this mean? Is it possible for a foreign firm to obtain such a certification?

(2) Do requirements for public tenders ever include requirements for technology transfer, offsets, and local participation, respectively? If so, please describe the circumstances.

(3) Are there general guidelines and/or specific regulations on contingent liability requirements for public tenders? [WP2 USA: Q.30; L/7189: Q.355]
The bidder for a construction contact shall possess a local construction licence and be a member of the construction business association. A foreign firm without a local construction licence has to bid in conjunction with a qualified domestic supplier. If the foreign firm wishes to obtain such a licence, it needs to establish a subsidiary in Chinese Taipei and apply for the licence in the name of the subsidiary.

The current requirements for public tenders do not include any requirements for technology transfer, offsets, nor local participation. There may be individual cases where such requirements have been included as a matter of the government’s industrial policy.

Currently there are no guidelines or specific regulations on contingent liability for public tenders. Whether to apply a contingent liability clause to a public tender is solely at the discretion of the procurement entity itself.

16. (1) What is the basis for the distinction between open tenders, restricted tenders and negotiation? Under what conditions and criteria is open tender used?

(2) It is stated that "only local parties, including foreign company’s agents may participate in the open tender..."(page 168). Please specify the requirements to be an "agent"? Can a foreign company participate in the open tender without its agent? If not, why not?

(3) Is a foreign company invited to use restricted tenders on an equal basis? Under what conditions can a foreign company participate in restricted tenders? How can a foreign company have access to information on restricted tenders?

(4) Is notice of restricted tenders and negotiations published?

Reply

(1) As to open tenders, restricted tenders and negotiation, please refer to Follow-up Reply 2 in the response of June 1993 to the questions of the United States and Sections J and L of Follow-up Reply XXIII in the response of June 1993 to the questions of Canada.

(2) The quote referred to in the question in fact is a requirement on domestic tenders. In other words, the whole sentence shall read as follows: "[in the case of domestic tenders], only local parties, including foreign companies’ agents may participate in the open tender and must submit their bids in New Taiwan dollars." The reason to restrict domestic tenders to local parties is because the payment of the contract proceeds cannot be made until the procurement entity receives the Uniform Invoice from the supplier, and a supplier cannot have the Uniform Invoice until it has registered business operation with the relevant authority of Chinese Taipei. Foreign suppliers are not qualified to issue Uniform Invoice and accordingly cannot participate in the domestic open tenders. The "agents" of a foreign company refer to the foreign company’s distributors which enter into agency agreements with the foreign company and according to the law have establishments in Chinese Taipei as well as business licences and uniform invoices.

(3) A foreign company may still be invited to participate in restricted tenders. However, since restricted tenders are not required to give public notices, foreign suppliers can only get access to information by contacting directly with the procurement entities or contacting the procurement entities through their agents.
17. Concerning government procurement, in reply to question 352 Chinese Taipei states that, if the lowest bid exceeds the government estimate by 20 per cent or exceeds the budgeted amount, all bids shall be rejected. Could Chinese Taipei give an explanation of the basis used for the calculations for the government estimate and budget amounts? We would also appreciate an explanation of how the procuring entity shall proceed, if all bids are rejected as a consequence of these procedures. Will it lead to an exclusively domestic bidding procedure? In this context we would also like to mention that we would like to see Chinese Taipei acceding to the GATT Code on Government Procurement. [WP3 Spec(93)43: Q.2; L/7189: Q.352]

Reply

The government estimate and the budgeted amount are jointly determined by the procuring and accounting personnel and the head or the delegated director of the procuring entity by taking into account past purchase prices, market prices and conditions, the results of cost analysis and/or price inquiries, and the terms and conditions of the procurement transaction under consideration. If the procurement amount exceeds a certain level, the government estimate has to be approved by the higher authority and the audit authority.

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

18. Question No. 352 requested additional information on the Law of Audit and the procurement procedures of the Central Trust. The following additional questions relate to that response.

(1) To whom is this "government estimate" known? Is the estimate ever revealed to the public? What is the role of the Ministry of Audit in setting the "government estimate?"

(2) My government understands that Chinese Taipei does not maintain any formal bid protest system or a central contact point for the resolution of contested bid awards. How does Chinese Taipei handle bid protests? Does it vary depending on which entity issued the tender?

(3) How would a supplier obtain pertinent information concerning the reasons why that supplier's application to qualify for a contract was rejected, or why that supplier was not invited or admitted to tender?

(4) How would a supplier obtain pertinent information concerning the characteristics and the relative advantages of the tender selected, as well as the name of the winning tenderer?

(5) Although "Chinese Taipei does not have decisive criteria for determining whether a procurement is done domestically or as an overseas purchase," could they provide specific examples of how these decisions were reached in actual cases? In general, who makes the decision to have a domestic or international tender?

(6) The Central Trust of China frequently requires all bidders on international tenders to sign a "letter of commitment" which must contain the following wording:

"For any other exceptions, deviations, additional clauses and the like stated or scattered or hidden in various parts of our bid, if any, shall be null and void, can be regarded as non-existent, and we shall not cite them for any purpose whether they be deleted or not,
Are bidders on domestic tenders required to sign similar letters? What is the purpose of this clause? Could you provide specific cases in which this clause has been invoked?

(7) My government understands that for certain tenders, bids made by a team of private firms may be rejected unless all members of the team meet all of the requirements specified in the bid documents. In such cases, even though the team as a unit may be very well qualified to bid, CTC may prohibit their participation. Conversely, there are certain contracts where teams are preferred or mandated.

What is Chinese Taipei's policy towards teams bidding on international and domestic tenders? Are teaming arrangements encouraged or discouraged? In what cases must each team member meet technical specifications as opposed to meeting such requirements as a unit? [WP3 Spec(93)45: Q.III-8-1; L/7189: Q.352]

Reply

(1) According to Article 17 of the "Ordinance Concerning Inspection Procedure Governing Construction Work, Procurement and Disposal of Properties by Governing Agencies," the government estimate shall be kept confidential, except in the case of disposing of government property. Therefore, usually only the parties involved in setting the government estimate, who are procurement personnel, accounting personnel, and the heads or the delegated directors of the agencies, may know the government estimate. If the procurement amount exceeds a certain level, the government estimate is required to be reviewed by the higher authority and the audit authority. The estimate is never revealed to the public, except in the case of disposing of government property.

As to the role of the Ministry of Audit in setting the government estimate, it has the authority to review and reduce the estimate in the setting process.

(2) Bid protests may be filed with the procurement entities, the higher authority thereof, or the audit authority. In addition, the bid protests can also be brought to courts if there are illegal conducts involved. The procurement entity will investigate into the protested events upon its receipt of such protests. As to the higher authority or the audit authority, when it receives such filing of protest, it will request the procurement entity to resolve the issue and report accordingly. The aforementioned ways of dealing with bid protests are the same to all procurement entities.

(3) The rejected supplier can simply file a request with the procurement entity for explanation; the procurement entity then will give the rejection reasons.

(4) Upon request, the procurement entity will reveal the aforementioned information to the requesting supplier except the part involving commercial secrets of the winning tenderer.

(5) Since whether to have a domestic or international tender is determined by the head or the procuring director of the concerned procurement entity, how a decision is reached may vary from agency to agency. For example, in procuring foreign-made fire engines, some entities had international tender to purchase directly from foreign manufacturers because the entities thought that international tender without going through importers would have better price offers or thought that domestic importers might not have enough capital to finance their imports from foreign manufacturers; but some entities had domestic tender because the entities thought
The Central Trust requires bidders to sign a letter with the aforementioned clause only in large and complicated procurement. Therefore, the said clause is not particularly for international tenders. The bidders on large domestic tenders are also required to sign similar letters.

The purpose of the clause is to make the bidders state explicitly and collectively in their bids all the exceptions to or deviations from the tender requirements. If the bidders can put their exceptions to or deviations from the tender requirements in such a conspicuous way, the procurement entity will have less difficulties in reviewing bids. Furthermore, since they will not miss such exceptions and deviations easily in the reviewing process, some unnecessary disputes may be avoided.

The cases where such clause was invoked include the procurement of incinerators and oil tanks.

If the teams bidding as mentioned above refers to the bids made by a joint venture or consortium, Chinese Taipei does not have any policy towards it. However, unless the tender requirements specify that team bidding is welcome, teaming arrangements are not encouraged. Generally only large procurement requires bidding by a joint venture or consortium because the size of the procurement may exceed the capacity of a single firm. Unless a procurement entity specifies that a team shall meet the requirements as a unit, each team member must individually meet technical specifications.

Concerning the additional information in the response to Question No. 354 in L/7189, concerning publication of bids:

(1) Many of the projects open to foreign firms are advertised in only the Chinese language daily newspapers. Chinese Taipei has two quality English language newspapers. If entities are interested in soliciting bids from the broadest range of qualified firms, why are open tenders typically only listed in Chinese language publications?

(2) We understand that frequently non-competitive bid announcements and contract awards for these bids appear in different publications, making it very difficult to track the status of public procurement contracts.

Please provide information on the process used to publish awards and announcements for non-competitive bids.

Where does Chinese Taipei publish tenders and announce contract awards for non-competitive bids?

[WP3 Spec(93)45: Q.III-8-2; L/7189: Q.354]

Reply

(1) The reasons that many of the open tenders are only listed in Chinese language newspapers are as follows:

1. The two English language newspapers as mentioned do not have large circulation comparable to that of Chinese newspapers;

2. It is easier for the procurement entity to have tendering advertisements in Chinese;
3. Foreign firms rarely subscribe to the said two English newspapers, but their local agents in Chinese Taipei often subscribe to Chinese newspapers. Therefore, listing open tenders in Chinese newspapers has larger advertising effect than listing in English newspapers.

(2) Chinese Taipei assumes that the so-called "non-competitive bid" refers to the case of selective tendering or single tendering. Since the current audit law and regulation of Chinese Taipei do not mandate publication of such tenders and their contract awards, the procuring entity does not publish tenders or announce contract awards for non-competitive bids.

20. It is our understanding that only "Class A" construction firms are permitted to bid on the largest and most complex construction projects, and that in order to obtain a Class A licence, foreign firms must accumulate at least four years experience on smaller projects in Chinese Taipei - overseas construction experience is discounted.

What regulation governs this rule for the issuance of construction licences, in particular Class A licences? Why is overseas experience in similar construction ventures by foreign firms discounted? [WP2 USA: Q.31]

Reply

The licences (which are classified as "Class A," "Class B," and "Class C") are issued in accordance with the Administration Rules promulgated by the Ministry of Interior of Chinese Taipei. In applying for a construction licence, it is required that the countable experience be of the applicant itself, and the applicant shall be an enterprise registered in Chinese Taipei. Therefore, overseas experience of foreign firms is not counted.

21. Chinese Taipei has said "there are no rules of preference levels affecting the selection of bidders or bids, except the bid price". Australia has information, however, that Chinese Taipei public enterprises must procure locally if the local bid is not more than 5 per cent higher than the c.i.f. import price plus tariffs and harbour fees. Could Chinese Taipei please clarify this apparent contradiction? [WP3 Spec(93)36: Q.2; L/7189: Q.355(2)]

Reply

The rule of preference that public enterprises must procure locally if the local bid is not more than 5 per cent higher than the c.i.f. price plus tariffs and harbour fees was abolished in 1992.

22. The following questions relate to the issue of contingent liability in government procurement:

(1) Chinese Taipei stated in its response to Follow-up Reply 30 on the United States questions that "there are no guidelines or specific regulations on contingent liability for public tenders. Whether to apply a contingent liability clause to a public tender is solely at the direction of the procurement entity." The following statements on liability were taken verbatim from recent contracts issued by a State-run enterprise:

(i) "Contractor shall be liable to OWNER for consequential loss or damage, including but not limited to loss or damage resulting from loss of use, loss of profits or revenue, cost of capital, loss of goodwill, claim's of owner's customers."

(ii) "Contractor shall indemnify OWNER for all loss or damage arising out of or in connection with contractor's performance under this contract subject to [the] law."
Other provisions which my government has reviewed are less stringent, but still require firms to assume greater liability for consequential damages than virtually all other developed economies. That these requirements, moreover, can vary considerably among procurement entities raises concerns over the transparency of the procurement process.

Can the Ministry of Audit or the Central Trust set parameters for contract provisions which cover contingent liability?

(2) Are there any provisions contained in the Law of Audit and/or other laws/regulations which cover contingent liability?

(3) How are liability provisions drafted for selective and single-tenders which are limited to domestic firms? Please provide examples.

Reply

(1) Since whether to apply a contingent liability clause for public tenders is solely upon the procurement entities, the Ministry of Audit does not set any guidelines covering contingent liability. As to the Central Trust, it cannot advise the procurement entity on the contingent liability provision except for the tendering made through the CTC. For the public tenders made through the CTC, the CTC often advises the procuring entities not to extend the contingent liability to the loss of profits or revenue, or loss of goodwill because these consequential damages may be too large and their calculation is seldom easy. If the procuring entities still insist on such stringent provisions, the CTC usually advises them to cap the damages with the rationale that the willingness of the firms to bid may be frustrated without the upper limit of the damages.

(2) The Civil Law of Chinese Taipei provides that a party of a contract may request from the counter-party damages caused by contingency. However, the requesting party bears the burden of proof. If the amount requested is too large, the judge has the discretion to adjust the damaged amount.

(3) The way that liability provisions are drafted for selective and single-tenders limited to domestic firms does not differ from other public tenders. For example, in procurement of police bullet-proof vests, the tendering will also require the tendering firms to be liable for the death or injury of policemen caused by bad quality vests and prescribe the amount of damages.

23. Under what conditions are foreign firms not welcome to compete for contracts under the Six-Year Development Plan?

Are there situations where some nations are welcomed, but others are not? [WP2 Canada: Q.4; L/7189: Q.15]

Reply

Foreign firms are generally welcome to compete for projects under the Six-Year Development Plan. It is in those cases where domestic industry has the ability to undertake the work or there is a need for development of the industry concerned that only domestic firms are invited to participate in bidding for the projects. Foreign firms are generally treated equally among themselves with a very limited number of exceptions.
24. Regarding the Six-Year Development Plan, under what circumstances would foreign firms not be welcome to compete? When would an open tender process not be used? What are the limited exceptions to the equality of treatment of foreign firms (as among themselves) in competing for projects under the Six-Year Development Plan? [WP3 Spec(93)37: Q.3; L/7189: Q.15]

Reply

Foreign firms are generally welcome to compete for projects under the Six-Year Development Plan. Where domestic industry has the ability to undertake the work and there is a need for development of the industry concerned, only domestic firms are invited to participate in bidding for the projects.

In the cases where using single tendering and selective tendering meet the prescribed criteria, an open tender process would not be used. As to the criteria for using the single tendering or selective tendering, please refer to the Follow-up Reply XXIII, Sections J and L (pages 25-28) of the document replying to questions of Canada concerning document L/7189, which was presented to Canada's delegation on 28 June 1993 and circulated by the Secretariat during last working party meeting.

Except Japanese and Korean firms under certain circumstances, all foreign firms are equally welcome to compete for projects open for foreign firms under the Six-Year Development Plan. The reasons to restrict some of the procurement from Japan and Korea are the large trade imbalance and break of diplomatic ties, respectively.

25. Regarding Reply 350, how does Chinese Taipei intend to realize the opening of "extensive new procurement opportunities to trading partners" under the Six-Year Development Plan? Please provide a detailed picture on this. [WP3 Spec(93)39: Q.5; L/7189: Q.350]

Reply

Under the Six-Year Development Plan, the construction or expansion of the telecommunications equipment, power plants, steel mills, petro-chemical equipment, anti-pollution equipment, high speed transit system, incinerators, rolling stock, highways, high speed railways, and airports have been under way or under planning. Many foreign firms have participated in the process and it is anticipated that more foreign firms will be invited in the above projects.

26. With as much detail as possible, please indicate what projects under the Six-Year Plan will require Industrial Cooperation Programmes (ICPs).

Will Chinese Taipei impose industrial cooperation programmes on domestic as well as foreign firm's bidding on major projects? [WP3 Spec(93)45: Q.III-1-6; L/7189: Q.256]

Reply

The projects under the Six-Year Plan which require industrial cooperation programmes (ICPs) include the high speed railway, the metropolitan rapid transit system, Tai Railway's electric connected locomotive, defense procurement, incinerators, and nuclear power plants.

If a project is required to be accompanied by an ICP, the requirement applies no matter whether the bidders are foreign or domestic firms.
3.2 Civil Aircraft Agreement

27. Chinese Taipei has indicated that a transitional period would be required for the aerospace industry. What would be the length of the transition period? What type of measures "inconsistent with GATT provisions" does Chinese Taipei have in mind to assist its aerospace industry? [WP3 Spec(93)37: Q.1; L/7189: Q.2]

Reply

The GATT provision that Chinese Taipei is primarily concerned about and which requires a transitional period is Article VI dealing with subsidies to the aerospace industry. Currently Chinese Taipei does not have any subsidies which are not consistent with Article VI of the GATT. However, as Chinese Taipei's effort to develop its aerospace industry materializes, there may be measures taken that are not strictly in compliance with Article VI. Chinese Taipei is still assessing the length of the transitional period that is required for this sector. As mentioned in the previous context, Chinese Taipei at this moment is not prepared to accede to the Civil Aircraft Code.

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

Concerning the aerospace industry Chinese Taipei states that it will request for a transition period for this sector to adapt to foreign competition. However, it is not clear whether this transition period is in relation to the disciplines on subsidies in general and the Subsidies Code or the disciplines in the Code for Civil Aircraft. [WP3 Spec(93)43: Q.6]

Reply

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

29. Concerning the Follow-up Reply 3 of the Korean questions, Chinese Taipei indicated that, for its civil aircraft industry, "Although Chinese Taipei presently does not have any measures to assist the aerospace industry in a way inconsistent with GATT provisions, in the future, there may be needs for measures that are not strictly in accordance with the provisions of GATT. Therefore a transitional period is required in this regard".

We believe this statement is unfortunate in two respects. First, we are concerned that current offset practices have negative implications for GATT consistency. But we are even more concerned that Chinese Taipei is contemplating additional measures for the future that will violate GATT provisions.

We believe that this is inappropriate, and that Chinese Taipei should endeavour to avoid measures for its civil aircraft industry that are not in conformity with GATT agreements and provisions. [WP3 Spec(93)45: Q.III-1-4; WP2 Korea: Q.3]

Reply

Currently, Chinese Taipei's industry does not have the capability to assemble commercial aircraft, and there are only three or four local private companies that have passed the quality certification for certain, not many, components and parts. At this development stage of the aerospace industry, Chinese Taipei is an importer of technologies; it needs to import technologies and to establish sales network through cooperation with manufacturers in more advanced countries in order to narrow down
the gap between its industry and that of advanced countries. Offsets at this stage are a policy significant instrument for the establishment of the aerospace industry. This is the main reason why Chinese Taipei hesitates to accede to the Civil Aircraft Code.

In the future, Chinese Taipei’s offset programme will be carried out in a transparent, fair and just manner, in order to meet the expectation of the trading partners who are concerned about the development of Chinese Taipei’s aerospace industry.

30. Regarding the responses in L/7189 to Question Nos. 252-255 and to Follow-up Reply 1 to the United States questions concerning Chinese Taipei’s policy on Trade in Civil Aircraft and the requirement for offsets in this trade:

The GATT Agreement on Trade in Civil Aircraft has been signed by all major large aircraft and aircraft component manufacturing nations in the GATT. The 1992 bilateral agreement between the United States Government and the EC/Airbus Governments is intended to serve as the basis for improving the existing agreement.

The United States Government-EC/Airbus Government bilateral specifically prohibits government offset demands or similar forms of trade distorting inducements. The Agreement emphasizes that procurement and supplier decisions should be made on the basis of commercial and technical considerations without bias between the signatories.

Many firms for both the United States and the EC have been active in the establishment of partnerships and joint ventures with Chinese Taipei. These developments are not consistent with the characterization of an industry "in its infancy", since Chinese Taipei will be involved in production with industry leaders.

Chinese Taipei’s reluctance to adhere to the Agreement on Trade in Civil Aircraft leads us to question its full commitment to the principles of the GATT. Moreover, failure to join will inevitably raise the question for the United States and the EC whether investment in Chinese Taipei would cause indirect violations of their GATT Agreements.

In order to avoid the probable confrontations and concerns over the emerging role of Taiwan in the international aerospace industry, Chinese Taipei should agree to sign on to the GATT Agreement on Trade in Civil Aircraft. [WP3 Spec(93)45: Q.III-1-5; L/7189: Q.252-255]

Reply

In addition to the reasons set forth in Reply III-1-4 herein, accession to the Civil Aircraft Code is not mandatory under the GATT; rather, it is at the option of the contracting parties. Nor does the draft MTO document make the accession mandatory. Chinese Taipei’s aerospace industry is not matured enough to benefit from the accession to the Code. Currently, there are only three or four local companies that have passed the quality certification for some parts. In light of the technology and capital-intensive nature of the aerospace industry and current market conditions, even if local companies form joint ventures with foreign partners, they are still not likely to achieve the degree of maturity comparable to that of their foreign partners in the shore run.

3.3 Import Licensing Code

31. We welcome Chinese Taipei’s confirmation here that it "will" join the Import Licensing Code upon accession to the GATT, with a transitional period if necessary. [WP2 Korea: Q.14; L/7189: Q.134]
A transitional period for accession to the Licensing Code would give Chinese Taipei the time needed to prepare and promulgate various kinds of rules or amendments to legislation in order to make its import administration system more transparent.

32. The response to Question No. 134 indicated that a "transition period" might be needed for Chinese Taipei to implement the Licensing Code. [WP2 USA: Q.15; L/7189: Q.134]

Why would this be the case?

Reply

In order to make the import administration system more transparent, Chinese Taipei needs a transitional period to set up the procedures and rules for issuance of import licences to different kinds of products. In certain cases, the amendment to certain legislation is also required, which may take an even longer time to complete.

33. The response suggests that the only reason Chinese Taipei will require a transition period in respect of its accession to the Tokyo Round Licensing Code is that it needs time to promulgate rules and amendments to make its system more transparent. How long does Chinese Taipei envisage it will take to make amendments to legislation in order to meet the requirements of the Licensing Code? Given that Chinese Taipei is currently in the process of changing its import licensing system, why would Chinese Taipei not at the same time make the necessary changes to its legislation and regulations in order to make accession to the Code possible at the time of accession? [WP3 Spec(93)37: Q.2(a); L/7189: Q.4]

Reply

As a matter of fact, Chinese Taipei has already started amending the law and regulation that will be affected by the drafted new licensing system. It also wishes to complete the amendment process at earliest possible. However, as this exercise involves amendments to many existing laws and regulations, a change cannot be easy and definitely takes time. Although Chinese Taipei is willing to accede to the Licensing Code as soon as it can, according to its preliminary estimate, a three years of transition period may be necessary.

34. Would Chinese Taipei please specify the legislative provisions that it considers to be inconsistent with the Licensing Code?

How long a transition does Chinese Taipei contemplate will be necessary to bring its licensing practices, and the relevant legislation, into conformity with the provisions of the GATT Licensing Code?

Since Chinese Taipei has confirmed its intent to adopt the Licensing Code at the time of its accession to the GATT, Chinese Taipei should begin immediately to alter its administrative practices and change those aspects of its legislation that are not consistent with the provisions of the Licensing Code. [WP3 Spec(93)45: Q.II-3-(2)-S; WP2 USA: Q.15]

Reply

Chinese Taipei has started reviewing its laws and regulations in order to identify the provisions that may need to be amended under the new negative list system. For example, for conditional import items under the negative list, the conditions for importation shall be clearly specified in law and
regulation. If there is no authority for limitation or prohibition of import, the importation shall be free from licensing requirement unless relevant laws and regulations are amended. On the other hand, if there is authority limiting or prohibiting imports, the importation cannot be liberated unless relevant law and regulation are amended. No matter under what circumstances the laws and regulations require amendment, it is the same that the amendment process takes time. Accordingly although the new import licensing system, i.e. a negative list system, designated to meet the transparency requirement of the Licensing Code can be implemented in the second half of this year, a transitional period to complete the amendment of relevant laws and regulations is still required. Since Chinese Taipei has not finished reviewing its law and regulation, it is not easy to estimate the transitional period. The preliminary estimate, which may not be accurate, is about three years.

3.4 **Other agreements and arrangements**

35. We welcome Chinese Taipei's confirmation that it will join certain GATT Codes at the time of its accession. Nevertheless we are disappointed that Chinese Taipei will be seeking transitional periods for certain areas "that are to be identified". Can Chinese Taipei give any indication of the areas under consideration and of the length of any transitional periods which may be sought? [WP2 Australia: Q.2; L/7189: Q.4]

**Reply**

**Licensing Code**

A transitional period for accession to the Licensing Code would give Chinese Taipei the time needed to prepare and promulgate various kinds of rules or amendments to legislation in order to make its import administration system more transparent.

**Code on Technical Barriers to Trade**

The relevant authorities of Chinese Taipei are studying the length of the transitional period that may be required for accession to this Code.

**Anti-Dumping/Countervailing Duty Code/Custom Valuation Code**

Chinese Taipei believes that its laws and practices in these areas shall be generally in line with the Codes. However, there may be instances where the working party considers Chinese Taipei's rules and/or practices to be inconsistent with the GATT provisions and/or the Codes. Under such circumstances, Chinese Taipei will need a transitional period to amend its relevant laws.

**Subsidies Code**

Chinese Taipei may require a transitional period for its aerospace industry and agricultural sector.

36. We would appreciate clarification of the aspects of the Codes for which Chinese Taipei will be seeking transitional periods. Can Chinese Taipei provide indications of the areas under consideration and of the length of transition periods which may be sought? [WP2 Australia II: Q.3; L/7189: Q.4]
Licensing Code

A transitional period for accession to the Licensing Code would give Chinese Taipei the time needed to prepare and promulgate various kinds of rules or amendments to legislation in order to make its import administration system more transparent.

Code on Technical Barriers to Trade

The relevant authorities of Chinese Taipei is studying the length of the transitional period that may be required for accession to this Code.

Anti-Dumping Code/Subsidies and Countervailing Duty Code/Customs Valuation Code

Chinese Taipei believes that its laws and practices in these areas shall be generally in line with the Codes. However, there may be instances where the working party considers Chinese Taipei's rules and/or practices to be inconsistent with the GATT provisions and/or the Codes. Under such circumstances, Chinese Taipei will need a transitional period to amend its relevant laws.

37. Could information be provided about the transitional measures required for implementing the Tokyo Round Codes. [WP2 Canada: Q.2; L/7189: Q.4]

Reply

Licensing Code

A transitional period for accession to the Licensing Code would give Chinese Taipei the time needed to prepare and promulgate various kinds of rules or amendments to legislation in order to make its import administration system more transparent.

Code on Technical Barriers to Trade

The relevant authorities of Chinese Taipei are studying the length of the transitional period that may be required for accession to this Code.

Anti-Dumping Code/Subsidies and Countervailing Duty Code/Customs Valuation Code

Chinese Taipei believes that its laws and practices in these areas shall be generally in line with the Codes. However, there may be instances where the Working Party considers Chinese Taipei's rules and/or practices to be inconsistent with the GATT provisions and/or the Codes. Under such circumstances, Chinese Taipei will need a transitional period to amend its relevant laws.

38. (1) While accession to Chinese Taipei declares that upon its accession to the GATT it will also adhere to the Codes on TBT, Anti-dumping, Subsidies/Countervailing Duties, it has simultaneously asked for a certain transitional period to bring its practices into line with requirements of the Codes. We hope that Chinese Taipei will clarify further the necessity for this transitional period and its planned duration.

(2) Chinese Taipei states that it is not ready to comply with the Code on Government Procurement. We would like to know why? [WP2 Korea: Q.3; L/7189: Q.4]
Reply

(1) **TBT**

The relevant authority of Chinese Taipei is now reviewing its practices in the light of TBT requirements, and will advise the Working Party of the transitional period it may require as soon as the review is completed.

**Anti-dumping/countervailing duties**

Chinese Taipei believes that its anti-dumping and countervailing duties rules, which were made according to Article 6 of the General Agreement and the Tokyo Round Codes, should be generally in line with the requirements of the Codes. However, there may be instances where the Working Party considers Chinese Taipei’s rules and/or practices to be inconsistent with the GATT provisions and/or the Codes. Under such circumstances, Chinese Taipei will need a transitional period to amend its relevant laws. With respect to the Subsidies Code, Chinese Taipei may require a transitional period for its aerospace industry and agricultural sector.

(2) The reasons for Chinese Taipei to hold its accession to the Government Procurement Code until a later stage are as follows:

The accession to the Government Procurement Code is optional under the arrangement of the Tokyo Round, and is also not compulsory for WTO members to accede to the Code in the proposed framework of the WTO. It is therefore clear that countries negotiating for the Code take the issue as one for which the principle of reciprocity applies. Countries that have acceded the Code generally have reached a state of industrial development. Chinese Taipei does not foresee much reciprocal benefit it will receive from its accession to the Code as its industries generally lack the ability to compete for major government procurement projects either locally or in foreign countries. Furthermore, the Government Procurement Code now being negotiated in the Uruguay Round will prohibit developed countries from using offset as an industry policy instrument. The concept of offset covers a wide range of issues including local content requirement, technology transfer, countertrade, and others, and will affect the overall industrial development. For the above reasons, Chinese Taipei is not prepared to sign the Code until its industries have become competitive in bidding for major government procurement projects.

Despite the concern for its industrial development, Chinese Taipei is now reviewing its laws and regulations affecting government procurement and intends to bring the procurement procedure in line with the Code requirement, especially the transparency requirement.

39. Chinese Taipei’s Customs Law and its Enforcement Rules are said to be enacted to the "spirit" of the Customs Valuation Code. Does this mean that there are some departures from the "letter" of the Code? [WP2 Australia II: Q.6; L/7189: Q.50]

Reply

Due to the differences in language, legislative practice, and expression, Chinese Taipei like many other countries does not directly incorporate and employ the language of the Customs Valuation Code. However, the rules are made in accordance with, and therefore there are no departures from the Code requirements.

40. Does Chinese Taipei intend to renew its bilateral textile arrangement with some countries (i.e. USA, Canada, Japan) when they expire? [WP2 Philippines II: Q.13]
Reply

Before its accession to the GATT, Chinese Taipei intends to renew its bilateral textile arrangements with importing countries, when requested, in order to maintain the order in textile trade. After accession and the conclusion of the Uruguay Round, Chinese Taipei will deal with the matter in accordance with the results of the Uruguay Round, if any.
STATE ENTERPRISES

4. State enterprises

1. Are Chinese Taipei State enterprises described in this section GATT-consistent in their operations? [WP2 Canada: Q.24; L/7189: Q.369-389]

Reply

State enterprises are business entities and therefore their operations in principle are profit-oriented and based on commercial considerations. However, as the Government is the largest shareholder of State enterprises, such enterprises sometimes need to take government policies into account in making business decisions.

2. Many of Chinese Taipei's State enterprise monopolies import materials or products of considerable commercial interest to Australia (steel, coal, petroleum, vessels, sugar, alcohol).

Australia is interested to learn more about the purchasing policies of these monopolies, in particular whether they purchase by tender, whether they apply any discriminatory criteria (such as area restrictions), what the spread of suppliers is in the case of each State enterprise, whether any other non-commercial criteria are applied, whether they are subject to government direction or have to meet criteria established by the Government (see Question 374).

We would particularly appreciate information on Chinese Taipei's intentions for moving to commercial bases for purchases of coal by Taipower and China Steel (currently factors such as purchasing from countries which trade imbalances with Chinese Taipei are in effect). [WP3 Spec(93)36: Q.5; L/7189: Q.374]

Reply

Purchases by public enterprises in principle are made by public tender and the purchase decisions are based upon such relevant factors as qualities, specifications, deliveries, and prices. In addition, since the Government is the largest shareholder of the public enterprises, some of the purchase decisions are to a certain extent affected by the Government's economic and trade policies. Despite so, non-commercial factors rarely come into play. Currently, area restriction applies only to two neighbouring countries. These are the only instances where purchase decisions may deviate from commercial consideration.

Neither Taipower nor China Steel enjoys import monopoly of coal. Furthermore, their purchases are based upon commercial considerations, and mainly by long-term contracts in order to secure stable supplies. As a common industry practice, the long-term purchase contracts are so arranged as to diversify the sources of supply: Taipower imports approximately 30 per cent of its coal requirement from Australia, 30 per cent from South Africa, 20 per cent from the United States, and 20 per cent from Indonesia and other areas; China Steel imports two thirds of its coal requirement from Australia and one third from North America. From time to time, Taipower purchases by public tender in the spot market part of its coal requirement.

In the case of crude oil, China Petroleum imports approximately 66 per cent from Middle East, 15 per cent from South East Asia, 10 per cent from Africa, 4 per cent from Australia, and 5 per cent from other areas.
In the case of sugar, Taiwan Sugar Company imports sugar only in the recent three years: in 1991, it imported 50 thousand tons from Korea and Thailand; in 1992, it imported 50 thousand tons from Australia and Thailand; 47,500 tons imported in 1993 are from Australia.

In the case of alcohol, the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB) does not have any import; it purchases its alcohol requirements from the Taiwan Sugar Company.

There is no public enterprise that enjoys import monopoly of steel and vessels.

3. We notice that the answer has not addressed all sub-questions. [WP3 Spec(93)36: Q.6; L/7189: Q.379]

Reply

With respect to the sub-question (iv) which Chinese Taipei did not reply in the Document L/7189/Rev. 1, Chinese Taipei would like to confirm that suppliers of domestic and foreign products have equal access to this market and they have to compete on the same footing. Currently, foreign products account for one third of the market and enjoy a favourable market position.

4. Very discriminatory practices are involved, about which we share the concerns of several other Working Party participants. [WP3 Spec(93)36: Q.7; L/7189: Q.384]

Reply

There is no discriminatory practice in this area, with only one exception, i.e., area restriction against imports from a particular country. Chinese Taipei is reviewing its relevant trade policies in order to find a solution to the problem of the area restriction.

5. (1) If a provincial enterprise acts in a GATT-inconsistent manner, does the Central Government have the power to ensure compliance?

(2) With respect to State enterprises, does the ownership (i.e. the government) have the ability to direct procurement decisions for inputs?

(3) What is the constitutional relationship between the powers of central and provincial governments regarding State enterprises?

(4) In its Memorandum on Foreign Trade Regime (p.28) Chinese Taipei indicated that State enterprises "take government policy into account". How does this relate the requirements of GATT Article XVII? [WP3 Spec(93)37: Q.18; L/7189: Q.176]

6. Could Chinese Taipei kindly describe the constitutional relationship between the authorities of Chinese Taipei and the Provincial Assembly, under whose auspices the enterprises listed in Reply 376 (2) fall? [WP3 Spec(93)42: Q.9; L/7189: Q.375]

Reply

(1) Legally the Central Government has no power to directly intervene in the decision-making process of the provincial enterprises. However, as according to Article 111 of the Constitution, government procurement is a matter that is national in nature, and therefore the Central Government may through national legislation indirectly control the procurement practice of provincial enterprises.
(2) The extent to which the ownership may affect a State enterprise's procurement decisions depends on the corporate structures and the organizational charters of the enterprises concerned. Even though the Government may have the influence on the procurement decisions, the Government itself is obligated to ensure that the decisions made by State enterprises are based on commercial considerations as such enterprises are profit-seeking enterprises and have to be responsible to their non-government shareholders; in case of loss, the Government will not subsidize the loss.

(3) According to Article 109 of the Constitution of Chinese Taipei, provincial enterprises fall within the power of the provinces under the Central Government. Article 111 of the Constitution, which sets out the general criterion for distinction between entities of Chinese Taipei's Central and provincial Governments, provides that those matters that are national in nature shall fall within the jurisdiction of the Central Government while those matters that are provincial in nature shall fall within the jurisdiction of the Province.

Enterprises which are more than 51 per cent owned by the Provincial Government are considered as provincial enterprises and for the purpose of Article 109 are to be governed by the provincial authorities. Despite so, as procurement is a matter national in nature and shall fall within the jurisdiction of the Central Government according to Article 111 of the Constitution, the audit and import/export regulations made by the central authorities shall also apply to the procurement practices of provincial enterprises. Furthermore, international trade, according to Article 107, falls within the power of the central authorities.

(4) Please refer to supra (2) item.

7. What will be the effect of privatization on the operation of State enterprises? Will they lose their monopoly rights? [WP2 Canada: Q.25; L/7189: Q.373]

Reply

The main purpose of privatizing State enterprises is to increase the autonomy of such enterprises in the running of their business. Privatization is a firm policy of Chinese Taipei and the rules and regulations for implementation of the privatization plan are now in place. After privatization, the monopoly right of the State enterprises concerned under the Ministry of Economic Affairs will be abolished.

8. (1) Reply 370 indicates that Chinese Taipei will gradually nullify the State enterprises' monopoly rights. Please specify the plan.

(2) Please provide the reasons why the Taiwan Sugar Corporation monopolizes the import and export of sugar. What impact does this monopoly have on the domestic production of sugar?

(3) Concerning Reply 371, please explain the relationship between the Taiwan Fertilizer Company's monopolization of liquid ammonia and "General Agricultural Policy"? What are the reasons for monopolization of liquid ammonia?

(4) Reply 376 lists 15 different State and provincial enterprises engaging in international trade. Do all of these 15 enterprises fall within the scope of the State trading enterprises of Article 17 of the GATT? If not, why not?
Reply 383 confirms Chinese Taipei’s intention to notify all the State-trading enterprises and to report on their activities as required by Article 17. Please provide an exhaustive list of the State trading enterprises to be notified to the GATT under Article 17. [WP3 Spec(93)39: Q.7; L/7189: Q.370, 371, 376 and 383]

Reply

(1) The monopoly rights of State enterprises will be gradually nullified, depending on the condition of each of the industries concerned, as the economy of Chinese Taipei further develops.

(2) Sugar production has been one of the most important parts of Chinese Taipei’s agricultural economy. Taiwan Sugar Corporation has the responsibility to support farmers growing sugar cane and maintain the order of the sugar market. In recent years, domestic production of cane sugar has been substantially reduced; in case of need, Taiwan Sugar Corporation would import sugar to stabilize the local sugar market. The monopoly right of Taiwan Sugar Corporation has helped stabilize sugarcane growers’ income and prevented drastic fluctuation in domestic sugar production. At this time, Chinese Taipei does not think it appropriate to nullify the company’s monopoly.

(3) Liquid ammonia is an important raw material of fertilizers. As agriculture still plays an important role in Chinese Taipei’s economy, there is a need to ensure a stable supply of ammonia. Currently, liquid ammonium for disposing of waste acid gas can be freely imported; while ammonia for other purposes are still subject to Taiwan Fertilizer Company’s monopoly.

(4) The 10 State enterprises under the auspice of the Ministry of Economic Affairs, in Chinese Taipei’s view, fall within the definition of State enterprises provided in Article 17 of the GATT. The five provincial enterprises are not State enterprises that would fall within the meaning of the term under Article 17. Among the five provincial enterprises, only the Taiwan Tobacco and Wine Monopoly Bureau has nominal monopoly on imports of wine and cigarette products, while the rest of them do not enjoy any import/export monopoly right. Even in the case of TTWMB, private importers can now also import wine and cigarette products under the name of TTWMB. This is to reconcile the current law which gives TTWMB the monopoly rights in importing wine and cigarette products and the need to liberalize the import. TTWMB would give private importers the consent letters required for them to import wine and cigarette products as a matter of course. Therefore, although TTWMB has the legal monopoly right, it in actuality does not exercise such rights. Chinese Taipei therefore is not prepared to treat TTWMB as one that is covered by Article 17 of the GATT.

(5) The State enterprises to be notified to the GATT for the purpose of Article 17 are the 10 State enterprises that are under the auspice of the Ministry of Economic Affairs, which are as follows:

1. Taiwan Power Company;
2. Chinese Petroleum Corporation;
3. Taiwan Sugar Corporation;
4. Taiwan Fertilizer Company;
5. China Steel Corporation;
6. China Shipbuilding Corporation;
7. Taiwan Machinery Manufacturing Corporation;
8. BES Engineering Corporation;
9. China Petrochemical Development Corporation; and
10. Taiwan Salt Works.
9. (1) Further to Chinese Taipei’s response during the Working Party meeting, we would be grateful for details of any special or exclusive privileges, including distribution systems from which other traders may be required to purchase, which the Tobacco and Wine Monopoly Bureau enjoys.

(2) What is the practical significance of the distinction between enterprises under the auspices of the Ministry of Economic Affairs and those under the auspices of the "Provincial Government" (listed in reply 376 (2))? [WP3 Spec(93)42: Q.8; L/7189: Q. 376]

Reply

(1) According to Articles 6, 7 and 28 of the Provisional Statute for Monopoly of Tobacco and Wine in the Taiwan Province, the Tobacco and Wine Monopoly Bureau has the monopoly in the protection and distribution of wine and tobacco products; imports and exports of the products require TTWMB’s consent. Since 1987 when wine and tobacco products were first allowed to be imported by private traders, importers have been able to sell their imports to distributors, wholesalers, or TTWMB licensed retailers, and enjoy an equal position in competing with TTWMB, according to the General Operating Regulations of TTWMB for Importing Foreign Beer, Wine, and Cigarettes, and the General Operating Regulation of TTWMB for Importation of Foreign Spirits. Except those that have been reported to the Working Party, TTWMB enjoys no other privileges.

(2) The budget for enterprises under the auspices of the Provincial Government of Taiwan is to be approved by the Provincial Assembly; while that for enterprises under the auspices of the Ministry of Economic Affairs is to be approved by the Legislative Yuan. Both types of enterprises are subject to the same audit and export/import laws and regulations, and their purchase decisions are all based on commercial considerations.

10. Concerning the response to question No. 373 addressing Chinese Taipei’s privatization programme:

With respect to privatization, in light of the dramatic under-subscription to this winner’s offering of BES Engineering Corporation stock, has Chinese Taipei re-evaluated its privatization plans?

The other offerings mentioned in this Reply (51 per cent of BES, 60 per cent of Taiwan Machinery and Manufacturing, and 40 per cent of China Petroleum) have not yet been issued. They were scheduled for June 1993. Is there a new timetable? [WP3 Spec(93)45: Q.III-9-1; L/7189: Q.373]

Reply

The current timetable for privatization of BES, Taiwan Machinery and Manufacturing, and China Petrochemical Development is as follows:

(1) BES:

The January 1993 public offering only disposed of 8.51 per cent of the company’s share, as the market at that time was low. 51.49 per cent of the company’s will be disposed of through public auction. The privatization is scheduled to be completed by the end of 1993.
(2) Taiwan Machinery and Manufacturing:

60 per cent of the company's shares will be transferred to the private sector through public auction; the privatization is scheduled to be completed by the end of 1993.

(3) China Petrochemical Development:

190 million shares were transferred to the private sector in June 1991, which account for 20 per cent of the paid-in capital of the company. 35 per cent of the company's shares are planned to be transferred to the private sector; the privatization is to be completed by the end of June 1994.

11. (1) How does Chinese Taipei intend to ensure in practice that State enterprises do not discriminate in any way in their procurement and sales, in accordance with Article XVI:1(a)? (Q.373)

(2) What principles guide the activities of the "exchange retail stores" (choice of products, price setting, purchases from local and/or foreign suppliers, etc.)? (Q.379)

(3) What criteria does the Board of Foreign Trade use to identify the countries and regions from which tobacco, beer and wine imports are authorized by the Taiwan Tobacco and Wine Monopoly Bureau? Please provide a list of the approved countries as well as a description of the Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs concerning beer, wine and cigarettes. (Q.384) [WP2 Switzerland: Q.II-2; L/7189: Q.369-386]

Reply

(1) State enterprises are profit-seeking businesses. No matter whether their procurement is handled by themselves or by consulting firms or the Central Trust, the decisions are based on commercial considerations. This is because the State enterprises, as a matter of Chinese Taipei's policy, have to be responsible for their own loss. Therefore, there is not much reason for them to have discriminatory practice as contemplated in Article 17.1.(a) of the GATT at the expense of their commercial interests.

(2) The purpose of the supply centres is to improve the welfare of the civil servants by providing them with daily necessities at lower cost. Therefore, goods sourced by the supply centres are daily necessities. Suppliers of domestic and foreign products have equal access to this market and they have to compete on the same footing. Currently, foreign products account for one third of the market and enjoy a favourable position.

(3) A list of countries from which cigarette, wine, beer, and spirit products can be imported into Chinese Taipei is enclosed herewith. (Annex III)

The Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs concerning the importation of beer, wine and cigarettes was signed in 1986, which deals with, among others, the importation of, levy of monopoly tax on, advertisement for, and the promotional activities of American wine and tobacco products.

All foreign wine and tobacco products are now imported in accordance with the General Rules for the Taiwan Tobacco and Wine Monopoly Bureau's (TTWMB's) Processing of Applications for Importation of Foreign Cigarettes, Wine, and Beer and the General Rules for the Taiwan
Tobacco and Wine Monopoly Bureau's (TTWMB’s) Processing of Applications for Importation of Foreign Spirits. The two Rules apply to American and other foreign wine and tobacco products equally; there is no discrimination.

12. Concerning the operation and status of publicly-owned retail stores, as addressed in the response to Question No. 379:

The pricing policy used by publicly-owned retail stores appears to be highly irregular in comparison to commissary-type operations throughout the world. Prices are fixed in a manner which can undermine sales in the free market, especially given the reported level of access to these stores.

Article 19(6) of the Fair Trade Law prohibits an enterprise from "imposing improper restrictions on its trading counterparts’ business activities as a condition of transacting business with them". Nevertheless, publicly-owned retail stores require suppliers not to sell at a lower price to any store in the open market.

Please describe how this pricing policy is consistent with Article 19 (6). Do these stores fall under the purview of the Fair Trade Commission and the Fair Trade Law?

How many publicly-owned retail stores are currently in operation? Has the number increased or decreased over the last three years? How many outlets have opened in the past year?

What are the laws governing the operations of publicly-owned stores?

Please describe pricing policies of stores run by the United Cooperative Association?

How many or what percentage of these stores operate on publicly-owned land?

How are price negotiations conducted for sales to publicly-owned stores? For the Ministry of Defence PX stores, how does the panel of generals ultimately determine purchase prices? Is there a specific percentage discount based on the prevailing retail price? What are the grounds for rejecting an offered price? [WP3 Spec(93)45: Q.III-9-2; L/7189: Q.379]

Reply

The Fair Trade Commission, in an interpretation letter with reference No. (82)-Kou-Yi-Tze-52568 dated 17 July 1993, holds the position that the United Cooperative Association is established according to the Law Governing Cooperatives and is commissioned by the Central Personnel Administration of the Executive Yuan and the Ministry of Education to supply products that are necessities for employees of the Government and educational institutions. Its practices do not fall within the application of provisions dealing with monopolies and horizontal collaboration of the Fair Trade Law; nor are they subject to Articles 19 and 24 of the Fair Trade Law.

There are currently 55 publicly-owned stores in operation. There were two stores opened in the past three years; but four stores closed in the same period of time.

There was only one store opened in 1992.

The United Cooperative Association is established according to the Law Governing Cooperatives, and is otherwise also governed by that law.
The United Cooperative Association is a private entity and is commissioned by the Government to supply daily necessities to employees of the Government and educational institutions. When performing such functions, its pricing decisions are made according to the Rules Governing the United Cooperative Association’s Negotiation Practices. The decision-making procedure under the Rules is as follows:

1. The suppliers of the products to be purchased by the Association submit price quotations (market price and preferential price);

2. Based on the quotations, the Association will conduct price surveys by sending its personnel to department stores, supermarkets and retail stores to collect information on market price and consumption level of the product concerned;

3. Based on the results of market survey, market condition, and popularity of the brand, a base price which is 15 per cent to 30 per cent lower than the market price would be determined, and submitted to a special panel for review and approval;

4. After the base price is approved, there would be a negotiation panel established to negotiate with suppliers face-to-face; the negotiated price when lower or equal to the base price would be accepted; would not be accepted; when higher;

5. The accepted negotiated price would be submitted to the special panel for review and approval; when approved, the price then becomes the sourcing price for the product concerned; the selling price of the retail stores under the Association is 2 per cent above the sourcing price;

6. The prices determined according to the above would be submitted to the Chairman of the Board of Governors for his approval and then published;

7. After publication of the price, the Association will proceed to sign the contract with the supplier, and obtain the product for sales in the retail stores:

There are currently 55 publicly-owned retail stores; among them, there are 17 (i.e. 31 per cent) which operate on public land leased or loaned to such stores.

On the Ministry of Defence PX stores, the price negotiation is conducted by a price negotiation panel consisting of representatives of members of military force, audit personnel, and officials who are familiar with PX operation. The panel would negotiate the price face-to-face with the suppliers based on a ceiling price which is determined in accordance with market conditions. If both sides fail to reach a price which is below or equal to the ceiling price, the negotiation would be considered failed. Under such circumstances, high level officials would call a meeting to decide whether to conduct another negotiation with the suppliers.

The sourcing prices of the Ministry of Defence PX stores are generally lower for the following reasons:

(i) They purchase directly from the manufacturers rather than wholesalers or retailers;

(ii) their quantity of purchase is such that would reduce the costs of the supplier and therefore would yield substantial quantity discount and two thirds of the purchase price.
The selling price of the Ministry of Defence PX stores is 2 per cent above the sourcing price. The 2 per cent margin is to cover the operating expenses. In contrast, in commercial entities such as department stores and supermarkets, the margin is equally 20 per cent to 30 per cent above the sourcing costs.

13. **It is reported that controls on access to publicly-owned stores is lax and identification cards are readily passed on from members to friends and associates. In fact, such access has resulted in purchases from publicly-owned stores making up between 40 to 50 per cent of total sales by many firms in Chinese Taipei.**

What type of controls are in place to restrict access to these discount outlets?

Are identification cards issued for each store or is a general ID issued for all stores? Do identification cards have pictures? Are there regulations governing the checking of identification of individuals using the stores?

What types of penalties, if any, have been imposed on non-members attempting to utilize publicly-owned stores? [WP3 Spec(93)45: Q.III-9-3]

Reply

Identification cards are general IDs for all stores under the Association. The identification cards do have pictures. The Regulations Governing the Issuance of Identification Cards require the checking of identification cards before the card holders are permitted to enter the retail stores.

According to the Regulations, if a card holder permits non-members to use his cards, his access to the publicly-owned stores would be suspended for one year.

14. Publicly-owned stores typically offer buyers between 20 to 30 per cent discounts on identical merchandise purchased in the free market. There is no limit on the amount a member can purchase. This frequently leads to products purchased in bulk and then resold, in some cases, directly out in front of the publicly-run stores.

What restrictions are there on the re-sale of merchandise purchased in these stores?

Has anyone ever been arrested and/or fined for the resale of merchandise purchased in publicly-owned stores? [WP3 Spec(93)45: Q.III-9-4]

Reply

The Association has made a rule to prevent re-sale of merchandise purchased in the publicly-owned stores. The Association will refer any case of violation to the relevant government agency (e.g., the tax authority which will penalize the violator according to the Tax Levying Law or Business Tax Law), or suspends the violator’s access to the stores.

According to the Association, it has not found any case of resale of merchandised purchased in a publicly-owned stores.

15. **We note that Chinese Taipei has price controls on domestic prices of certain commodities. Chinese Taipei also advises that there are no price controls applied to imports. Controls on domestic prices can of course affect the competitiveness and market access opportunities of imports in the Chinese Taipei market. Would Chinese Taipei advise when it plans to eliminate such price controls?** [WP2 Australia: Q.6; L/7189: Q.98]
Domestic price controls in Chinese Taipei are primarily applied to public utilities or for the purpose of implementing specific policies, such as stabilization of oil prices (in the case of oil), farmers’ income, and production cost (in the case of sugar and fertilizer).

While Chinese Taipei has reservation as to whether domestic price controls would necessarily affect the competitiveness and market access opportunity of imports, it will take into account the relevant GATT requirements in its future review of the price control system.

16. We note that Chinese Taipei has price controls on domestic prices of certain commodities. Chinese Taipei also advises that there are no price controls applied to imports. Controls on domestic prices can of course affect the competitiveness and market access opportunities of imports in the Chinese Taipei market. Would Chinese Taipei advise when it plans to eliminate such price controls? [WP2 Australia II: Q.9; L/7189: Q.98]

Reply

Domestic price controls in Chinese Taipei are primarily applied to public utilities or implemented to carry out specific policies, such as stabilization of oil prices (in the case of oil), farmers’ income, and production cost (in the case of sugar and fertilizer).

While Chinese Taipei has reservation as to whether domestic price controls would necessarily affect the competitiveness and market access opportunity of imports, it will take into account the relevant GATT requirements in its future review of the price control system.

17. Could Chinese Taipei please identify the full list of products under price control which are covered by the phrase "other necessities"? [WP2 New Zealand: Q.10]

Reply

(1) Price Control Mandated by Law
   Electricity: The Electricity Law
   Salt: The Statute for Salt Administration

(2) Price Control to Implement Specific Policies
   Oil: energy policy to stabilize oil prices as well as prices of general commodity prices (as oil is the basic input for almost all productions).
   Sugar and fertilizer: agricultural policy to stabilize farmers’ income and production cost.

(3) Price control on other necessities
   Natural gas and liquified petroleum gas: mandated by the "Law Governing Surveillance over Privately Owned Utility Companies"; price to be determined by the Public Utility Rate Commission of the Executive Yuan.

18. Could Chinese Taipei provide the exact HS number of those currently subject to price controls or those which could be subject to such controls in the future? Could we obtain a copy of the laws and regulations guiding the Price Control System? [WP3 Spec(93)37: Q.9; L/7189: Q.98]
Electricity:

As it cannot be stored or imported, there is no HS number or customs classification code assigned. Legal basis for price control is the Electricity Law.

Salt:

The HS number is 2501. Legal basis for price control is the Statute for Salt Administration.

Petroleum:

The HS numbers are 2710.00.11, 2710.00.12, 2710.00.23, 2710.00.31, and 2710.00.33.

Sugar and fertilizers:

The HS numbers are 1701.11, 3102.10.10, 3102.21.10, 3102.30.10, 3102.70.10, 3103.10.00. Legal basis for price control of these commodities is the Table of Division of Work between the Ministry of Economic Affairs and the Executive Yuan.

Natural gas and liquefied gas:

The HS numbers are 2711.21.00 and 2711.19.10. Legal basis for price control is the Statute for Monitoring Private Enterprises Operating Public Utilities.

The English translations of the above-mentioned legal basis will be submitted to the GATT Secretariat after the translation work is finished.

5. Exchange arrangements

1. We appreciate the response to Question No. 290, noting aspects of Chinese Taipei’s foreign exchange rules that are liberalized.

My Government, however, has long been concerned that elements of the Foreign Exchange System of Chinese Taipei provide scope for practices that distort trade flows. We note that Chinese Taipei has recently given indications that it would be willing to undertake appropriate commitments concerning the operation of its exchange policies in a manner that would not frustrate access to its market. In order to comply with Article XV, we believe that a Special Exchange Agreement should be negotiated incorporating obligations consistent with IMF Article VIII. [WP2 USA: Q.26; L/7189: Q.209]

Reply

Chinese Taipei is prepared to discuss with the Working Party and interested parties on the possibilities of entering into a Special Exchange Agreement incorporating the relevant obligations of the Articles of the Agreement of the International Monetary Fund.
FISCAL POLICY

6. Fiscal Policy, Including Incentives

6.1 Monopoly Tax on Tobacco and Wine

1. How does the monopoly tax work?

Could Chinese Taipei provide detailed information on specific monopoly taxes on imported and domestically produced goods? [WP2 Canada: Q.13; L/7189: Q.89]

Reply

The monopoly tax amounts for domestically produced wine and tobacco products are arrived at by deducting the various relevant costs and expenses from the wholesale prices of the products concerned. The monopoly tax amounts are slightly different among the domestically produced products. Chinese Taipei would like to give the Working Party the tax amounts for the representative products as an indication of the general level of such tax amounts. For cigarettes with the brand name "Long Life", which account for 92.22 per cent of the cigarette sale volume of TTWMB in the fiscal year of 1992, the monopoly tax rate on ad valorem basis is 171.15 per cent to cost; for beer which accounts for 63.54 per cent of the total sale, the tax rate is 168.10 per cent; for Shao-Hsin wine, which accounts for 8.20 per cent of the total sale, the tax rate is 179.33 per cent.

2. Concerning the application of the monopoly tax on tobacco and wine on imported articles:

(1) We have noted for several years the existence of a serious transparency problem in the application of monopoly taxes on tobacco and wine products. Specifically, we do not understand how the rates are determined. The responses to the questions in this section and to Question No. 324 do not address this issue directly. Will Chinese Taipei please outline the method used to decide what tax to apply?

(2) the response to Question No. 323 indicates that in the application of the Monopoly Tax System "there is no discrimination whatsoever in the treatment of any imported spirit" compared to domestic spirits. We are not convinced that this is, in all instances, the case. We will want to see the issue clarified prior to the accession of Chinese Taipei to the GATT. [WP2 USA: Q.9; L/7189: Q.323].

Reply

(1) As the Taiwan Tobacco and Wine Monopoly Bureau is a government entity rather than an ordinary business enterprise, the monopoly tax is arrived at by deducting all the cost elements from the total revenue, and the monopoly tax goes into the Treasury in full. Such tax is in place of all relevant internal taxes. In the most recent 10 years, monopoly tax on domestic products accounts for 65 per cent of the total sales revenue of the Bureau, i.e. approximately 185 per cent monopoly tax to its cost. After the lowering of the monopoly tax on imported products in recent years as a result of the bilateral consultation with the United States, monopoly tax on domestic products tends to be higher than that applied to imported products.

(2) The monopoly tax on domestic products is levied on an ad valorem basis and is considered as a sales tax, which under Chinese Taipei tax system is levied on an ad valorem basis. Monopoly tax on imported products is a specific tax, in line with the relevant international practices and the need for implementation of the monopoly system. There is no intended
discrimination against imported products. After the monopoly system is replaced by a new
system now under study by Chinese Taipei authority, it is expected that the tax applied to
domestically produced and imported wine and tobacco products will be the same, except import
duties and charges which are levied only on imported products.

3. Could Chinese Taipei elaborate on its plans to abolish the tobacco and wine monopoly
system within three years as announced in this reply? [WP2 Canada: Q.22; L/7189: Q.323]

Reply

The Legislative Yuan has resolved to abolish the Tobacco and Wine Monopoly System, and
the Executive Yuan has instructed the relevant administrative authorities to take steps to effect such
a plan. The abolishment of the system would require careful studies on such issues as administration
of wine and tobacco production and distribution, levy of taxes, ensuring quality of wine and tobacco
products, employment problems of the employees of TTWMB. Therefore, three ad hoc task forces
were established to address to these issues: (i) tax system, (ii) administration, and (iii) future organization
of the TTWMB.

4. The response to Question No. 89 indicates that there has been a Legislative Yuan decision
to repeal this tax system within three years and replace it with one "structured and applied in
a manner consistent with the GATT".

(1) My government would want to have some idea of what sort of substitution is intended prior
to the GATT accession of Chinese Taipei, given the involvement of State trading enterprises
in the current system and the problems that have been associated with structuring taxes on these
products. Will Chinese Taipei describe the system under consideration to replace the current
practices?

(2) Given Chinese Taipei’s resolve to repeal the Tobacco and Wine Monopoly System in three
years, why is not the Taiwan Tobacco Wine Monopoly Board listed for the first stage of
privatization, as outlined in the response to Question No. 387? Does Chinese Taipei plan to
privatize and dissolve the Board at the same point? [WP2 USA: Q.10; L/7189: Q.89]

Reply

(1) Chinese Taipei is now studying on the establishment of a new system to replace the current
Monopoly Tax System. The new System will take into account the GATT requirements,
particularly Article III of the General Agreement, the practices of other countries, and the unique
elements of Chinese Taipei domestic environment. Under the new system, it is essential that
imported and domestically produced wine and tobacco products will be subject to the same
internal taxes. Imported wine and tobacco products of course will additionally be subject to
import duties and charges.

(2) Privatization of the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB) is now under
review by the authority of Chinese Taipei. This is an issue separated from the reform of the
tax system for wine and tobacco products, and will not affect the progress of the said tax reform.

5. We appreciate Chinese Taipei’s recognition in Reply 10 of the United States follow-up
questions that the Monopoly Tax System needs to be altered to bring it into conformity with
Article III.
The United States opposes however, a revision of the current system that would merely perpetuate the current very protective market access conditions for the products covered by the system while changing its organization.

We would be interested in knowing why three years is necessary to fully repeal the current system. In addition, we would appreciate knowing the date contemplated for the starting point of the three-year period of reform and describe in some detail how the new, reformed system would operate. What steps, if any, have been taken this far?

Chinese Taipei should negotiate new tariffs with contracting parties that, in conjunction with equally applied domestic excise taxes, would bring the Monopoly Tax System into conformity with GATT provisions on national treatment and transparency.

Finally, can Chinese Taipei please explain how the privatization of the Taiwan Tobacco and Wine Monopoly Bureau can be considered a separate issue from reform of the Monopoly Tax System that it implements? Please describe how privatization of the Bureau is envisaged? [WP3 Spec(93)45: Q.III-6-3; WP2 USA: Q.10]

Reply

Since July 1992, Chinese Taipei has established three task forces to study the following three issues: the normal tax system to be applied, the administration of wine and tobacco production and sale, and the future organization form of TTWMB. It is contemplated that under the new system, the regulation of wine and tobacco production and sale will be separated from the business operation of TTWMB, and the monopoly tax will be replaced by normal taxes (including commodity tax, business tax, income tax) and customs duty. With respect to tax rates structure to be applied to foreign products under the new system, Chinese Taipei will take into account the international classification, practices of its trading partners, and the need for special classification for Chinese traditional wine and spirits. The TTWMB under the new system will be any ordinary business enterprises separate from the government, and will be placed on the privatization list of enterprises owned by the Taiwan Provincial Government.

6. Questions 323, 324: in relation to the "monopoly tax" applied to tobacco products and alcoholic beverages, Chinese Taipei advises that the average monopoly tax rate on domestic products (i.e. tobacco and alcohol) is approximately 185 per cent over their cost. On the other hand, the information on the average monopoly tax rate on imported goods relates only to spirits (120 per cent) and is based on the import price. Could Chinese Taipei please provide information on a basis which would allow a better comparison of the average monopoly tax for (a) imported and domestic tobacco products and (b) imported and domestic alcoholic products? Can such information be provided for wines?

In summary, the information sought by Australia on monopoly tax for tobacco, wine, spirits and beer is:

What are the details of the criteria for the "cost" basis for the tax applied to domestic products?

- for imported products it seems more based on "price";

- what are the details of the formulae/criteria?

Where examples are given of tax rates for certain alcoholic products, is the rate per unit (bottle, case)?
- Why is Scotch and Irish whisky subject to higher monopoly tax than other whisky (9/2323).

What are the categories for which rates of tax are broken down (wine, spirits and tobacco) as referred to briefly in Reply 324?

Could Chinese Taipei provide some detail on the tariff classification they use? What is the meaning of the reference to "based on United States and European Community" practice?

We would like a table which better shows the comparative treatment for imported compared to domestic tobacco and also for alcohol (differentiated for wine and for spirits) to help us understand the differences.

[WP3 Spec(93)36: Q.3; L/7189: Q.323, 324]

7. Article XVII of the General Text requires contracting parties to supply information on State trading enterprises which are considered to adversely affect the interests of other contracting parties. In order to satisfy the requirements stated in Articles III and XVII, Chinese Taipei is requested to provide the following detailed information:

- The methodology (including costs and revenue figures) which is used by TTWMB to determine the monopoly tax rates for domestic wine, cigarettes and distilled spirits;

- a list of the individual taxes applied to imports, the rates of those taxes, and the value basis of application for each;

- a description in detail of the method used to determine that imported spirits and wine products are subject to a monopoly tax rate of "approximately 120 per cent of the import price". Please provide the figures (e.g. average import prices) used in this calculation;

- a description in detail of the method used to determine that domestic tobacco, spirits and wine products are subject to a monopoly tax rate of "approximately 185 per cent of the cost".

[WP3 Spec(93)45: Q.III-6-2; L/7189: Q.89, 323, and 324].

Reply

Please refer to response to Question III-6-1 for methodology used by TTWMB to determine the tax rates for domestic wine, cigarettes and distilled spirits.

The cost for domestically produced wine and tobacco products is determined on the basis of their production cost plus their operating expenses (for example, marketing, administration, and Research and Development expenses). The cost for imported wine and tobacco products is determined on the basis of the actual invoice prices on f.o.b., C&F, or c.i.f. terms.

According to Article 33 of the Provisional Statute for Monopoly of Tobacco and Wine in Taiwan Province, the prices for domestically produced wine and tobacco products are determined by operating expenses (i.e. costs) plus monopoly tax. The monopoly tax rate, in practice, varies with the changes in the prices and/or costs of the TTWMB. According to the statistics of the most recent 10 years, the costs of TTWMB have been maintained at 35 per cent of its prices. Despite there has been changes in TTWMB’s prices and costs, the monopoly rate on average, is still maintained at the level above 60 per cent to its prices and above 150 per cent to its costs respectively for the following reasons:
(1) Because of the increase of the consumption following the increase of GNP, the unit fixed cost is reduced;

(2) although the Monopoly Bureau has been successful in lowering its costs by improving its production method and equipment, the increases in wages and other costs have offset in the price increases;

(3) the prices for new products are determined on the basis of monopoly tax being 185 per cent, which is the target set by the government.

The monopoly tax for imported spirits was first determined at the time Chinese Taipei announced the lifting of ban on import of foreign spirits in 1991, by converting the ad valorem rate of 185 per cent for domestic products to specific tax amounts. The initial specific tax amounts were later reduced to the levels as shown in the Table, set out below.

The reduced amounts, when converted back to ad valorem rate is approximately 120 per cent. As import prices have been slightly increased, the average monopoly tax rate may have been lowered accordingly. As to the precise current ad valorem levels of monopoly tax on foreign imports, the time from the first free importation of foreign spirits is not long enough to make the statistics meaningful for an accurate assessment. The issue is further complicated by the change in exchange rates, sales policies and price quotations since the first announcement of free import.

The rate is per litre for wine and spirits and per 1000 sticks for cigarettes. On the issue of Scotch and Irish Whisky subject to higher monopoly tax, as opposed to other whiskies, Chinese Taipei wishes to note that the monopoly tax in our domestic practice is a sales tax and therefore Chinese Taipei levies on an ad valorem basis. It is in response to our trading partners' request that we levy specific monopoly tax on imported products. The tax amount is actually determined on an ad valorem basis but levied on a specific tax basis. Scotch and Irish Whisky are high quality and high price products, and therefore their monopoly tax is bound to be higher than other Whiskies. Chinese Taipei classifies Whisky into Scotch and Irish Whisky as one category, and the other Whiskies as the other category, and applies different rates for these two classes, taking into account the customs classification practice of the United States and the European Community.

Attached below is a table comparing the monopoly tax burden on domestic and imported products. In making the comparison of ad valorem rates monopoly tax, the import prices are treated as the costs of imported products.
### Comparison of Monopoly Tax Burden Between Domestic and Imported Products of Tobacco, Wine and Spirits

<table>
<thead>
<tr>
<th>Items</th>
<th>Imported Products</th>
<th>Domestic Products</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Monopoly Tax</td>
<td>Average Tax Burden</td>
</tr>
<tr>
<td></td>
<td>(Specific Basic)</td>
<td>to Cost FY 1992</td>
</tr>
<tr>
<td></td>
<td>Average Tax</td>
<td>(Ad valorem Basic)</td>
</tr>
<tr>
<td></td>
<td>Burden (Marlboro &amp;</td>
<td>122%</td>
</tr>
<tr>
<td></td>
<td>Parliament)</td>
<td></td>
</tr>
<tr>
<td>Cigarettes</td>
<td>NT$ 830/1,000</td>
<td>163%</td>
</tr>
<tr>
<td></td>
<td>sticks</td>
<td></td>
</tr>
<tr>
<td>Beer</td>
<td>30/litre</td>
<td>105%</td>
</tr>
<tr>
<td>Wine</td>
<td>119/litre</td>
<td>64%</td>
</tr>
<tr>
<td>Scotch &amp; Irish Whisky</td>
<td>440/litre</td>
<td>169%</td>
</tr>
<tr>
<td>Other Whisky</td>
<td>198/litre</td>
<td>71%</td>
</tr>
<tr>
<td>Cognac &amp; Armagnac Brandy</td>
<td>1,000/litre</td>
<td>208%</td>
</tr>
<tr>
<td>Other Brandies</td>
<td>500/litre</td>
<td></td>
</tr>
<tr>
<td>Rum, Gin, Vodka &amp; Other Non-Oriental Spirits</td>
<td>225/litre</td>
<td>214%</td>
</tr>
</tbody>
</table>

8. These replies are not fully helpful in assisting us to better understand the relative incidence of the monopoly tax on imports and domestic goods.

We do not understand how the ad valorem taxation of net profits of the Monopoly Bureau for domestic goods can be considered equivalent to a specific tax on imported goods.

For example, are monopoly taxes on domestic products entirely dependent on changes in revenue and operating expenses of TTWMB? If TTWMB’s revenues increase significantly, will the domestic monopoly tax rise or fall? What is the effect on the tax if operating expenses increase?

Our information indicates that the last time TTWMB raised prices for domestically produced cigarettes was in 1980. Is this correct? Have operating expenses for the production of cigarettes and revenues from the sale of cigarettes increased or decreased over this period?

These questions are illustrative of the problem we have in assessing the credibility of the assertion that the system is GATT-consistent. The information provided by Chinese Taipei up to this point simply fails to support the contention that the current system for applying monopoly taxes is consistent with Article III of the General Agreement.

Based on the best available information, we have reason to believe that the monopoly tax for imported wine, cigarettes and distilled spirits is significantly higher than the effective tax assessed on similar domestic products. [WP3 Spec(93)45: Q.III-6-1; L/7189: Q.89, 323, and 324]
According to Article 33 of the Provisional Statute for Monopoly of Tobacco and Wine in Taiwan Province, the prices for domestically produced wine and tobacco products are determined by operating expenses (i.e. costs) plus monopoly tax. The monopoly tax rate, in practice, varies with the changes in the prices and/or costs of the TTWMB. According to the statistics of the most recent ten years, the costs of TTWMB have been maintained at 35 per cent of its prices. Despite there has been changes in TTWMB's prices and costs, the monopoly rate on average, is still maintained at the level above 60 per cent to its prices and above 150 per cent to its costs respectively for the following reasons:

1. Because of the increase of the consumption following the increase of GNP, the unit fixed cost is reduced;

2. although the Monopoly Bureau has been successful in lowering its costs by improving its production method and equipment, the increases in wages and other costs have offset in the price increases;

3. the prices for new products are determined on the basis of monopoly tax being 185 per cent, which is the target set by the government.

When the Monopoly Tax System is abolished, normal tax and duty will apply in place of monopoly tax; such tax and duty will be applied in a manner consistent with Article 3 of the Government Agreement.

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

We would also appreciate it if Chinese Taipei could give the figures of the imports that are carried out through monopolies or companies having exclusive rights. [WP3 Spec(93)43: Q.3; L/7189: Q.373]

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

<table>
<thead>
<tr>
<th></th>
<th>FY1991</th>
<th>FY1992</th>
<th>FY1993</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigarettes</td>
<td>16.12</td>
<td>18.76</td>
<td>19.09</td>
</tr>
<tr>
<td>Beer</td>
<td>3.85</td>
<td>3.99</td>
<td>4.68</td>
</tr>
<tr>
<td>Grape Wine</td>
<td>17.58</td>
<td>17.28</td>
<td>16.44</td>
</tr>
<tr>
<td>Wine Cooler</td>
<td>35.63</td>
<td>30.61</td>
<td>40.40</td>
</tr>
<tr>
<td>Liqueur</td>
<td>6.30</td>
<td>5.98</td>
<td>5.12</td>
</tr>
<tr>
<td>Whiskies</td>
<td>77.00</td>
<td>83.37</td>
<td>95.86</td>
</tr>
<tr>
<td>Brandy</td>
<td>34.29</td>
<td>25.87</td>
<td>31.68</td>
</tr>
<tr>
<td>Other spirits</td>
<td>0.93</td>
<td>1.12</td>
<td>1.42</td>
</tr>
<tr>
<td>Weighted Average</td>
<td>3.46</td>
<td>3.66</td>
<td>4.62</td>
</tr>
</tbody>
</table>

(Unit: %)

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

10. My Government is also concerned about the growth in the trade of counterfeit distilled spirits on Chinese Taipei.

Please provide specific information on steps Chinese Taipei has taken to curtail the growing trade in counterfeit distilled spirits.

To address this problem, foreign distilled spirits manufacturers have suggested the implementation of a requirement that all distilled spirits imports be accompanied by a certificate of origin issued by the producer or the appropriate authorities of the country of manufacture. Would Chinese Taipei consider implementing such a system? [WP3 Spec(93)45: Q.III-6-4]

Reply

On the issue of counterfeits of distilled spirits, the current law imposes severe penalty on counterfeiters. Unfortunately, we do not have the relevant statistics concerning the growth of the trade in counterfeits of distilled spirits. We would appreciate the delegation of the United States to provide the information it might have. As a preventive measure, the General Operating Regulation of TTWMB for Importing Foreign Spirits in its Articles 4 and 9 requires submission of a certificate of origin when applying for the relevant import permit; this is in line with the suggestion of the United States delegation.
6.2 Harbour Construction Dues

11. We note that the Harbour Construction Dues of 0.5 per cent applied to imports using shipping is in excess of those applied to like domestic products. When will Chinese Taipei eliminate this discriminatory levy? [WP2 Australia: Q.5; L/7189: Q.74-79]

Reply

Chinese Taipei is still examining the GATT-consistency of its practice in relation to the levy of the Harbour Construction Dues, and will make best efforts to correct its practice, if found to be GATT-inconsistent.

12. Harbour Construction Dues

When will this discriminatory levy be eliminated? [WP2 Australia II: Q.8; L/7189: Q.74-79]

Reply

Chinese Taipei is still examining the GATT-consistency of its practice in relation to the levy of the Harbour Construction Dues, and will make best efforts to correct its practice, if found to be GATT inconsistent.

13. Do Harbour Construction Dues apply to inter-island trade as well as international shipments? [WP2 Canada: Q.5; L/7189: Q.34]

Reply

Harbour Construction Dues currently do not apply to inter-island trade, as the volume of such trade is rather limited and it would not be administratively cost-justified to levy the Dues on inter-island trade.

14. Can Chinese Taipei give a firm commitment to bring the harbour construction dues into consistency with the provisions of the GATT including Articles II, III and VIII? [WP2 New Zealand: Q.8; L/7189: Q.76 and 78]

Reply

Chinese Taipei is still reviewing the GATT-consistency of its practice in relation to the levy of the harbour construction dues, and will make best efforts to correct its practice, if found to be GATT-inconsistent.

15. Concerning harbour construction dues

Please explain how these charges on imported goods are related to the cost of services rendered to the imports, i.e., how are they directly related to services for processing specific imports? [WP2 USA: Q.8]

Reply

Chinese Taipei is still examining the GATT-consistency of its practice in relation to the levy of the Harbour Construction Dues, and will make best efforts to correct its practice, if found to be GATT inconsistent.
16. How can Chinese Taipei justify the consistency of Harbour Construction Dues with GATT Article III if they do not apply to Chinese Taipei's inter-island trade? [WP3 Spec(93)37: Q.6; L/7189: Q.76-78]

Reply

Chinese Taipei is still reviewing the issue.

17. In the Reply 78 (Other Charges and Fees) Chinese Taipei states that the GATT-consistency of the Harbour Construction Dues is not clear but that an investigation to this effect will be conducted. It would be interesting to know how, if started, the investigation has proceeded and whether any preliminary observations are at hand. [WP3 Spec(93)43: Q.8; L/7189: Q.78]

Reply

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

6.3 Business/commodity tax

18. Concerning the application of the commodity tax:

1) The formula for the application of this tax refers to a "taxable value prescribed by the Customs Import Tariff". What is meant by this reference to "taxable value"?

2) what portion of the revenues of the commodity tax are derived from imported goods as opposed to domestic consumption? Who determines the scope and level of application of this tax? [WP2 USA: Q.11].

Reply

1) The "taxable value" referred in our Reply 89 means duty paying value (customs value).

2) Commodity tax revenue derived from imported goods accounts for 27.23 per cent of the total commodity tax revenue in the fiscal year 1992. The scope and the level of the application of this commodity tax are to be approved by the Legislative Yuan.

19. In its answer to Question 320 in Document L/7189/Rev.1, Chinese Taipei indicates the commodity tax formula applying to domestic goods and to imported goods. Could Chinese Taipei explain why the commodity tax rates, as determined by the afore-said formula, seems to be higher on imported products? [WP3 Spec(93)44: Q.7; L/7189: Q.320]

Reply

Chinese Taipei's commodity duty is an excise tax. The determination of taxable value follows the practices of other countries in the levying of their excise tax. Commodity tax on imports is levied on the costs to the importers, while commodity tax on domestic products is levied on tax-excluded ex-factory prices. The tax rates apply in both cases are the same.

Please refer to Reply 329 in Document L/7189/Rev.1 for further details.
20. Concerning the Reply to Question No. 329 in L/7189, concerning the point of application of the commodity tax:

The response does not address the basic inequity of application of the tax on domestic and imported goods. Ex-factory value for domestic goods excludes the cost of delivery and transfer of the goods to the wholesale level, while the duty-paid import value incorporates all transportation, insurance and other customs charges, in addition to the duty.

The basis for the application of the tax to imports is artificially inflated by comparison to the base for domestic goods. Chinese Taipei should correct this inequity prior to accession. [WP3 Spec(93)45: Q.III-6-5; L/7189: Q.329]

Reply

Chinese Taipei’s practice in this regard is the same as most of other countries levying the commodity tax (or excise tax), i.e., domestically produced goods are taxed at the ex-factory level, while imported goods are taxed on the basis of c.i.f. value plus customs duties and harbour construction dues (or other similar fees).

Another factor in the calculation of the commodity tax is the 12 per cent promotional expense. The promotional expense is a manufacturer’s expenditure for promoting its sale of goods. In order to simplify the determination of the promotional expense, a 12 per cent ratio to the price is assumed. Since the manufacturer does not need to promote its sale of goods and has no promotional expenditure when the goods are sold through wholesalers/distributors, such a manufacturer cannot deduct the 12 per cent promotional expenses from its commodity tax base. Chinese Taipei treats imported goods the same as the goods sold through distributors. There is no discrimination against imports.

21. Concerning the application of the business tax

Please describe the scope of application of this tax. Is it a form of sales or value added tax that is levied on virtually all domestic as well as imported goods sold? Who determines the scope and level of application of this tax? At what point of sale is it applied to domestic goods? Approximately what portion of the tax revenue is accounted for by imports? [WP2 USA: Q.12]

Reply

The business tax applies to the sale of goods and rendering of services in the territory of Chinese Taipei.

There are two forms of business tax: one is value-added tax, and the other is general sales tax. The general sales tax applies to the business of insurance, banking, investment trust, securities, or agricultural wholesalers, pawn shops, and small-sized business operators. Value-added business tax applies to all other business. The same system applies to domestic and imported goods in the same manner.

The scope and level of the application of the business tax have to be approved by the Legislative Yuan.

Business tax on domestically manufactured goods is levied at the point where a sale occurs. However, business subject to value-added business tax can credit input tax against output tax.
Imported goods are not taxed at the point of importation but at the point of sale. However, business tax on passenger cars and imports by business operators subject to business tax levied in the sales tax form are levied at the point of importation.

Business tax revenue derived from imported products accounts for 2.19 per cent of the total business tax revenue in the fiscal year of 1992.

22. Concerning Reply 320, why are imported passenger cars treated differently from other goods in the imposition of the business tax?

Why is the business tax imposed not just on the amount of taxable value prescribed by the Customs Import Tariff but on the total amount of taxable value prescribed by the Customs Import Tariff, Harbour Construction Dues and commodity tax, if any? [WP3 Spec(93)39: Q.1; L/7189: Q.320]

Reply

(1) The fact that business tax for some imported goods, including passenger cars, is levied at the time of importation and not at a later stage of sale is only a result of tax-levying expediency, not a scheme to differentiate imported goods from domestic ones.

The business tax system of Chinese Taipei, like that of many other contracting parties, is a value-added tax system, which will tax the various values added in goods at each transaction stage. In other words, when one product is turned over from the wholesaler, to the seller, and from the seller to the customer, each person, at each transaction stage, is only liable for the business tax on the value he adds into the product. At each transaction stage, a seller pays business tax (i.e. the input tax) for his purchase and collects the business tax (i.e. the output tax), from his buyer. Through this offset mechanism, he only needs to pay the difference between the input tax and output tax to the government.

Almost all countries using VAT levy such tax upon imported goods at the time of importation, but Chinese Taipei generally does not do so. In countries where VAT is levied on imports at the time of importation, the importer can deduct the up-front paid input tax from the output tax he collects from his buyer when he sells the product. In this instance, the tax burden is actually split into two parts: one is at the importation stage, and the other is at the stage when value is added to the product. Although Chinese Taipei simplifies the procedure by levying the business tax (VAT) on sales by VAT taxable importers (excluding importers of passenger cars) at a later stage, the tax burden on these importers is the same as that in other countries using the VAT system. This is because Chinese Taipei merely levies the business tax (VAT) once on both the imported value and the value added by the importer together rather than separately.

Although to tax the business VAT for imported goods at a later sale stage does simplify the levying procedure, there are some loopholes where the tax authority may not possibly levy the business tax (VAT) unless it levies at the time of importation. For example, the passenger cars imported for self-use, or the goods imported by the financial service industry. Therefore, imported passenger cars as well as the goods imported by the financial service industry are taxed with VAT at the time of importation. The reason not to differentiate the levying measure for the passenger cars imported for self-use and those imported for sale is because the importer can always deduct his input tax, which is paid at the importation, from the output tax, which he has collected from his customers upon later sale, if he sells cars as his business.
It was not anticipated that some imported goods still need be taxed VAT at the time of importation when Chinese Taipei simplified the levying procedure by taxing most of the imported goods at the sale stage instead of the importation stage. Therefore, while reviewing our own VAT system, Chinese Taipei is also studying the possibility to follow the practice of other countries using VAT, which tax all imported goods at the time of importation.

It is a common practice among almost all countries using VAT to calculate VAT on the total value of domestic goods and imported goods, including custom duties, Harbour Construction Dues, and commodity tax, if any. In other words, if the goods are subject to commodity tax, the commodity tax forms part of the tax base for the business tax (VAT) whether the goods are imported or domestically produced. Therefore, there is no discrimination against imported goods. Furthermore, VAT taxable business entities can deduct the input tax from the output tax, and eventually only be taxed on the value they add to the goods. If the retail prices of imported goods and domestic goods are the same, their business tax burden is also the same. There is no double-counting or "tax on tax" problem.

(2) The business VAT for domestic goods and imported goods are both levied upon their sales amounts, which include all the value added. If there is commodity tax, the commodity tax certainly shall be the added value of the goods and counted as the tax base for the business VAT no matter whether the goods are imported or domestically produced. Therefore, there is no discrimination against imported goods. Furthermore, the business importer can deduct the input tax from the output tax, and eventually only be taxed for the value he added to the goods; so there is no double-counting or "tax on tax" problem.

6.4 Statute for Upgrading Industries

23. Statute for Upgrading Industries

We remain concerned about the transparency of the criteria used for determining which firms receive assistance under "Statute for Upgrading Industries". We would appreciate it if Chinese Taipei could provide:

(i) A sectoral breakdown of its spending under the Statute for Upgrading Industries;

(ii) A copy of the "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business", and the "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business" which set the criteria for determining eligibility for assistance under the Statute for Upgrading Industries. [WP3 Spec(93)37: Q.8; L/7189: Q.94-95]

Reply

(i) A table of tax exemption breakdown under the Statute for Upgrading Industries is attached hereto. (Annex IV)

(ii) A copy each of the "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business", and the "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business" is also attached hereto. (Annex V)
24. Statute for Upgrading Industries (SUI)

Under Article 5, last paragraph, it is stated that the scope of application for tax benefits is defined by the Executive Yuan. Could Chinese Taipei indicate what are the criteria for these scopes of application? Do they apply to domestic as well as to foreign investors (except tax benefits described under Articles 11 and 12 which relate only to foreign investors)? Do the same criteria apply to all industrial sectors, or do they apply on a specific basis? Could Chinese Taipei provide us with specific information on the criteria guiding the decisions of the Executive Yuan? [WP3 Spec(93)44: Q.1]

Reply

Article 5 applies to all companies organized in the form of company limited by shares according to the Company Law of Chinese Taipei including those companies incorporated by foreign investors or entities.

Tax benefits provided in sub-paragraph 1 apply to all industrial sectors; whereas tax benefits provided in sub-paragraph 2 of Article 5 apply to particular industrial sectors. The Executive Yuan is to define the scope of application for sub-paragraph 2, but there has been no guideline set. Currently there is only one industrial sector, HDTV, that has been specifically approved by the Executive Yuan for purpose of sub-paragraph 2.

25. Statute for Upgrading Industries (SUI)

Article 7 SUI: This Article relates to credits granted to specific areas. Could Chinese Taipei indicate legal basis for its regional policy? On which criteria does the Executive Yuan render its decisions and following which procedure? [WP3 Spec(93)44: Q.2]

Reply

The policy to maintain regional balance is set out in the Constitution of Chinese Taipei, particularly its Article 147. The criterion employed by the Executive Yuan in making its decisions is whether a particular region is poor or the economic development of such region is stagnated in terms of its population, employment, transportation, tax revenue, average regular income per family, or public facility. Each year the authority will rank the counties in those terms and provide regional assistance to the eight lowest rated counties plus Kinmen county and Lien-Chiang county. The list of the counties qualified for assistance from the authority will be published by 31 March each year.

26. Statute for Upgrading Industries (SUI)

Article 21 SUI: Article 21 mentions a list of six criteria guiding the utilization of the Development Fund. Do companies have to fulfil all listed criteria to benefit from this Fund? Could Chinese Taipei expand further on the meaning of the last criterion and give concrete examples on what is meant by "other purposes as specifically approved by the Executive Yuan"? [WP3 Spec(93)44: Q.3]

Reply

To benefit from the Development Fund, companies need to fulfil only one of the six criteria.

The quoted language refers to the situation where those that do not fulfil any one of the first five criteria would have to be specially approved by the Executive Yuan.
27. Statute for Upgrading Industries (SUI)

Article 43 SUI: This Article stipulates that the enforcement rules of the Statute for Upgrading Industries are prescribed by the Executive Yuan. Are those enforcement rules already promulgated, and if so, could we have a copy? [WP3 Spec(93)44: Q.4]

Reply

The Enforcement Rules are available at the Secretariat.

28. Concerning the response to Question 8 in L/7189 concerning public sector involvement in the industrial restructuring of Chinese Taipei.

It is stated (in the Statute for Upgrading Industries) that technology acquired as a result of publicly financed Research and Development will be provided directly to private firms at a "reasonable price". How does Chinese Taipei define a "reasonable price" in this regard? Are there any restrictions on the access to this technology by firms invested in Chinese Taipei?

Could the Chinese Taipei delegation specify which areas currently, and are anticipated in future to qualify under the "Statute for Upgrading Industries" as "important enterprises or projects relating to industrial upgrading or improvement of industrial structure"?

What specific programmes have been put into place to support efforts of private firms to create "internationally renowned brands and images"? [WP3 Spec(93)45: Q.III-1-2; L/7189: Q.8]

Reply

The provision of publicly financed Research and Development to private firms is dealt with in Article 22 of the Statute for Upgrading Industries which provides that "in order to introduce or transfer advanced technology from abroad, technical assistance organizations ... shall provide technical assistance as required". The Rules for Providing Technical Assistance to Industries is now in place and enclosed herewith. (Annex VI). The reasonable price for technology transfer is determined by taking into account market value, development cost and marketability of the concerned technology, and through negotiation between the provider and recipient of the technology. The price is determined on a case-by-case basis and there is no set formula for its determination.

Any company or institution which is organized in Chinese Taipei according to the relevant laws has access to the technology provided by the government-financed Research and Development Unit. For transfer of the technology to parties outside of Chinese Taipei, prior approval of the Ministry of Economic Affairs is required.

"Important enterprises or project relating to industrial upgrading or improvement of industrial structure" refer to companies or projects that are within the scope of 10 promising industries and eight key technologies as specified in the Six-year Development Plan. The industries and technologies concerned are listed in the Section on Science and Technology Policy of Document L/7097, page 33.

The participation of the development fund in the investment of a particular project is usually through development banks. Therefore, investment which falls within the 10 promising industries or eight key technologies has to be assessed by the banks on a case-by-case basis. The banks would invest on commercial terms in projects that may yield good investment returns.
Chinese Taipei provides tax incentives to support efforts of private firms to create "internationally renowned brands and images". Under the tax incentive programme, any company established in the form of a company limited by shares according to the Company Law of Chinese Taipei which has expenditures for establishing internationally renowned brand and image exceeding NT$3 million in a tax year is entitled to a tax credit of 5 per cent of the tax payable. Any company with such expenditure exceeding NT$5 million in a tax year and uses the symbol of "Excellence" authorized by the Ministry of Economic Affairs is entitled to a tax credit in the amount of 10 per cent of the tax payable.

29. Concerning the Statute for Upgrading Industries

Article 21(2) states that "financial facilities" will be provided important enterprises or plans which are relating to industrial upgrading ..."

Under what terms can private firms access such financial assistance?

What is the total NT$ value of the "development fund"? [WP3 Spec(93)45: Q.III-1-3]

Reply

According to Article 21(2) of the Statute for Upgrading Industries, the terms and conditions for the development fund to provide financing facilities to private firms are the same as that of the development banks which the development fund works with in providing such facilities. As mentioned previously, the development banks would assess the feasibility and investment return of a particular plan and grant facilities based on commercial considerations. The development fund is a revolving fund; its net worth is approximately NT$ 5.5 billion at the end of July 1993.

6.5 Tax Incentives

30. This Reply and the Replies for Questions 8 and 239 assert that certain industrial incentives provided under the "Statute for Development of Medium and Small Businesses" and the "Statute for Upgrading Industries" are generally available. The text of both Statutes suggests that considerable administrative discretion is available to the authorities. Could this be clarified?

Could an estimate of the value of the incentives under the "Statute for Upgrading Industries" be provided for the incentives described as "generally available" under Reply 237(3)(a) and the specific incentives under Reply 237(3)(b)? [WP2 Canada: Q.17; L/7189: Q.237]

Reply

In the case of the Statute for Development of Small and Medium Businesses, there is no room for the exercise of administrative discretion. This is because the incentives provided under the Statute are in the forms of loans and loan guarantees. The decision to grant financing facility to a medium or small business is made by the financing bank based on commercial considerations, and the government provides a part of funds for such financing.

In the case of the Statute for Upgrading Industries, the relevant administrative decisions are made according to the standards set out in the "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business", and the "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business".

The following statistics for the fiscal year 1992 give indication of the value of the incentives under the Statute for Upgrading Industries.
## Tax Reductions Due to Implementation of Statute for Upgrading Industries

(Units: 1,000 New Taiwan Dollars)

<table>
<thead>
<tr>
<th>Items of Tax</th>
<th>Article of the Statute</th>
<th>Items</th>
<th>Tax Deductible Income</th>
<th>Tax Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Income Tax</strong></td>
<td>§5 accelerated depreciation</td>
<td>1. Two-year accelerated depreciation for R&amp;D equipment</td>
<td>5,829</td>
<td>1,090</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Two-year accelerated depreciation for energy-saving equipment</td>
<td>99,704</td>
<td>24,926</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. 50% reduction of useful life for specific machinery</td>
<td>852</td>
<td>128</td>
</tr>
<tr>
<td>§6 Corporate Investment tax credit</td>
<td>1. Automation equipment &amp; technology investment</td>
<td>2,840,621</td>
<td>968,354</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Pollution prevention equipment &amp; technology investment</td>
<td>223,626</td>
<td>135,267</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. R&amp;D investment</td>
<td>4,350,247</td>
<td>1,518,602</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Investment in personnel training</td>
<td>593,172</td>
<td>70,355</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Investment in brand promotion</td>
<td>93,520</td>
<td>22,275</td>
</tr>
<tr>
<td>§7 Corporate investment tax credit</td>
<td>Investment for regional balance promotion</td>
<td>38,983</td>
<td>7,608</td>
<td></td>
</tr>
<tr>
<td>§8 Institutional shareholders investment tax credit</td>
<td>1. Investment by institutional shareholders in important technology-based enterprises</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Investment by institutional shareholders in important invested enterprises</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Investment by institutional shareholders in venture capital enterprises</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>§10</td>
<td>Foreign investment loss reserves</td>
<td>131,152</td>
<td>28,177</td>
<td></td>
</tr>
<tr>
<td>§11</td>
<td>20% withholding tax for institutional investors</td>
<td>-</td>
<td>5,503</td>
<td></td>
</tr>
<tr>
<td>§15</td>
<td>Exemption from mandatory distribution of profits</td>
<td>248,941</td>
<td>24,894</td>
<td></td>
</tr>
<tr>
<td>Items of Tax</td>
<td>Article of the Statute</td>
<td>Items</td>
<td>Tax Deductible Income</td>
<td>Tax Reduction</td>
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<tr>
<td>------------------------------</td>
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<td>----------------------------------------------------------------------</td>
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<td>---------------</td>
</tr>
<tr>
<td>Business and Income Tax</td>
<td>§16</td>
<td>Deferral of income tax for stock dividends to institutional shareholders</td>
<td>1,231,947</td>
<td>136,883</td>
</tr>
<tr>
<td>(cont’d)</td>
<td>§17</td>
<td>Deferral of income tax for stock dividends to venture capital’s institutional investors</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>§18</td>
<td>Exemption of incremental tax for reappraisal of assets value</td>
<td>95,706</td>
<td>23,927</td>
</tr>
<tr>
<td></td>
<td>§19</td>
<td>Tax exemption for reserve from the stock price over par value</td>
<td>631,830</td>
<td>152,482</td>
</tr>
<tr>
<td></td>
<td>§20</td>
<td>Dividend income exemption for companies limited by shares investing in venture capital enterprises</td>
<td>180,240</td>
<td>46,846</td>
</tr>
<tr>
<td></td>
<td>Sub-total</td>
<td></td>
<td>10,766,386</td>
<td>3,168,781</td>
</tr>
<tr>
<td>Individual’s Investment</td>
<td>§8</td>
<td>1. Investment by individual investors in important technology-based enterprises</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Income Tax</td>
<td></td>
<td>2. Investment by individual investors in important invested enterprises</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Investment by individual investors in venture capital enterprises</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>§9</td>
<td>Tax exemption for royalties or sale income of patent rights or computer software copyrights</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>§11</td>
<td>20% withholding income tax for non-residents</td>
<td>-</td>
<td>511</td>
</tr>
<tr>
<td></td>
<td>§16</td>
<td>Deferral of income tax for stock dividends to venture capital’s individual investors</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Items of Tax</td>
<td>Article of the Statute</td>
<td>Items</td>
<td>Tax Deductible Income</td>
<td>Tax Reduction</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>-----------------------</td>
<td>---------------</td>
</tr>
</tbody>
</table>
| Individual’s Investment Income Tax       | §17                    | 1. Deferral of income tax for stock dividends to venture capital’s individual investors
2. Income tax deferral for capital increase using employees bonus | -                     | -                         |
|                                          |                        | Sub-total                                                            | -                     | 511            |
| Preferral Land Value Increment Tax       | §13                    | 1. Deferral of land increment tax for land acquisition from merger approved by the MOEA
2. Refund of land increment tax for change of plant site cost increment | -                     | -                         |
|                                          |                        | Sub-total                                                            | -                     | 95             |
|                                          | §14                    | 1. Reduction of land increment tax for implementation of city planning
2. Reduction of land increment tax for pollution control, public safety, environment protection
3. Reduction of land increment tax for moving of plant site | -                     | 95                         |
|                                          |                        | Sub-total                                                            | -                     | 95             |
| Stamp Tax                                | §13                    | Merger approved by the MOEA                                          | -                     | -                         |
|                                          |                        | Sub-total                                                            | -                     | -                         |
| Deeds Tax                                | §13                    | Merger approved by the MOEA                                          | -                     | -                         |
|                                          |                        | Sub-total                                                            | -                     | -                         |
| Total                                    |                        |                                                                     | 10,766,386            | 3,169,387      |

"-" represents "not available".
31. This Reply states that assistance worth approximately US$120 million has been provided up to now from the "Medium and Small Business Fund". Could a sectoral breakdown of this assistance be provided? [WP2 Canada: Q.18; L/7189: Q.238]

Reply

Although the authorized amount of the Medium and Small Business Development Fund is planned to be NT$12 billion, the Government so far has disbursed only NT$3 billion to the Fund. NT$2.6 billion is to be used for loans and 0.4 billion NT$ for loan guarantees. There is no sectoral breakdown available currently.

32. Does Chinese Taipei's policy in this area encompass only support of research and development? Could Chinese Taipei provide more details on their support programmes in this area? [WP2 Canada: Q.26; L/7189: Q.421-424]

Reply

There are two programmes for supporting research and development. One is for the support of research and development for technological innovation; the purpose is to assist the development of new technologies. The amount of the grant is subject to a ceiling, and the transfer of the patent right resulting from such Research and Development projects is subject to the approval of the authority which will share the profit with the grant-receiving party on a pro rata basis. The other programme is for development of new products and components. The grant is subject to a ceiling of 50 per cent of the relevant Research and Development expenditure. The relevant intellectual property rights resulting from such Research and Development project are to be shared by the authority and the grant-receiving party on a 50/50 basis, and the latter has the priority right in acquiring the 50 per cent interest held by the authority.

33. Reply 422 refers to tax incentives for "promising" industries, and to Article 8 of the Statute for Upgrading Industries (which we have not seen). Can Chinese Taipei indicate in writing what conditions industries must meet to secure such tax concessions, and indicate whether export performance is such a condition? [WP3 Spec(93)36: Q.8; L/7189: Q.422]

Reply

The Statute for Upgrading Industries has been made available at the Secretariat (Please see Item 44 of the ANNEX to Document L/7189/Rev.1). The "promising industries" as referred to in Reply 422 are actually the Important Technology-Based Enterprises referred to in Article 8 of the Statute for Upgrading Industries, which are listed in the Section on science and technology policy of Document L/7097, P.33. Tax incentives are provided to enterprises when they fulfil the requirements set out in the enclosed "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business" and "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business" both promulgated by the Executive Yuan pursuant of the Statute for Upgrading Industries.

34. Concerning Reply 422, please explain the specific measures taken to support "new and promising industries"? [WP3 Spec(93)39: Q.9; L/7189: Q.422]
Reply

The steps taken to support the industries are as follows:

(1) The relevant authority of Chinese Taipei would first determine the generic technologies to be developed for the relevant industries (including new industries). The decision is made by a group of specialists from the government, the industry and academic institutions;

(2) the Executive Yuan and the Legislative Yuan would then review and approve the budget required;

(3) the Ministry of Economic Affairs contracts with non-profit research institutions for carrying out the research project;

(4) private companies may participate in the project from the beginning in order to jointly develop the technologies, or after the completion of the project they may obtain the technologies at the market price;

(5) private companies may also contract with the non-profit research institutions at the market price to meet its specific Research and Development needs;

(6) if the private companies have the capacity to self-develop the required technologies, the authority will assist them in acquiring the necessary financing or other assistance.

6.6 Aerospace Industry

35. We would be interested in obtaining the following documents which are referenced in the "Aeronautics and Space Industries Development Programme":

"Key Points for Transfer of the Results Achieved Under Special Technology Research and Development Programmes"

"Regulations for Encouraging Private Enterprise to Develop New Industrial Products"

"Key Points for Providing 180 day to 360 Export Credit Facilities by the Export/Import Bank". [WP3 Spec(93)45: Q.III-14-2]

Reply

The required documents are provided herewith. (Annex VII)

36. It is stated in the "Aeronautics and Space Industries Development Programme" that the Ministry of Defense will be authorized to "use its operating funds, technical personnel, technology and equipment ... to assist government-owned and private enterprises in the development of research and development of the manufacturing of aeronautics and space products and their associated equipment".
Have private or government-owned enterprises applied for and received such assistance from MND? Are there other industrial sectors in Chinese Taipei which maintain access to MND funds, technology and/or personnel to assist in their development? [WP3 Spec(93)45: Q.III-14-3]

Reply

The Aeronautics and Space Development Centre of the Chung Shan Science Research Institute, the Ministry of Defense, has entered into an agreement with the Taiwan Aerospace Corporation and the Industrial Technology Research Institute, respectively for technology transfer.

37. Please list "government-owned" enterprises which are engaged in the development of manufacturing aeronautics and space products. Chinese Taipei has stated that the central authorities own 29 per cent equity in Taiwan Aerospace Corporation.

Are there other private enterprises which are involved in the aeronautics and space industries which are partially owned by the government? Please list. [WP3 Spec(93)45: Q.III-14-4]

Reply

There are no private enterprises which are involved in the aeronautics and space industries and are partially owned by the government, with the exception of Taiwan Aerospace Corporation.

38. Concerning response to Question No. 254, Chinese Taipei states that private enterprises are not forced to adopt the industrial cooperation concept.

Do penalties or disadvantages exist, imposed on private enterprises which do no insist on an industrial cooperation plan? For example, would a private airline be denied preferential financing from a government-owned bank if it didn’t require such a plan in connection with its import purchases of aircraft and parts? [WP2 USA: Q.24; L/7189: Q.254]

Reply

No penalties or disadvantages are imposed on private enterprises which do not insist on an industrial cooperation plan. Although the Aeronautics and Space Industries Development Programme calls for provision of preferential financing to local aircraft purchasers, such a statement is of only declaratory effect. In practice, there has been no specialized bank or commercial bank providing such financing facility for imports of aircraft or its parts/components.

In respect of borrowing from commercial banks, the authority of Chinese Taipei will recommend to banks the private enterprises which have incorporated an industrial cooperation arrangement into their acquisition plans. However, the banks will make their own decisions based on commercial considerations.

39. In January 1993, Chinese Taipei instituted "industrial cooperation programmes (ICPs)", which can be applied to all public tenders.
What are the specific objectives of this programme, and how will it be implemented? Are there specific regulations which govern the implementation of ICPs? If so, please provide copies of these regulations. [WP2 USA: Q.32]

Reply

Chinese Taipei did not announce in January 1993 and neither has it ever announced the "industrial cooperation programme" to be applied to all public tenders. However, in July 1990, it did announce the "Aeronautics and Space Industries Development Programme, in which it is required that important acquisition by the Government and State enterprises of aerospace facility and related equipment shall be accompanied by a reciprocal industrial cooperation agreement to be signed between the sellers and the Task Force for Promoting the Aeronautics and Space Industries Development.

40. Concerning the Aeronautics and Space Industries Development Programme:

Please provide information on the "Special Technology Research and Development Programme" and the "Operational Plan for Inward Technology Transfer."

Are funds available under these programmes part of the "Development Fund" under the Statute of Upgrading Industries? [WP3 Spec(93)45: Q.III-14-1]

Reply

(1) In order to meet Chinese Taipei industrial science and technology requirement, the Ministry of Economic Affairs has established funds for the related Research and Development projects. Non-profit Research and Development organizations may apply for participation in these projects. Aeronautic and Space Industry Development Programme is one of the projects funded by the MOEA. Take the fiscal year of 1993 for example, investment in this set programme is about one per cent of the total Research and Development fund from the MOEA.

Limited funds are also allocated for technology import or "Inward Technology Transfer" in other words. Non-profit Research and Development organizations may apply for funding, if their research projects meet the requirement for promoting industrial technology.

(2) The funds available under the aforementioned programmes are not part of "Development Fund," but from the budget the government set annually.
7. Investment Regulations

7.1 General Policy

1. (1) Does Chinese Taipei intend to pursue the liberalization of its rules on investment. Please inform us of what specific measures are envisaged for this purpose? How does it intend to eliminate certain legislative barriers to direct investment?

(2) On what considerations and guidelines does the Investment Commission base its decision to authorize foreign investment? Is such a decision final or is there an appeal procedure for investors who do not obtain approval? (Q.341)

(3) Is there an appeal procedure in the event of a dispute between an investor and the authorities of Chinese Taipei if the investor’s country has not concluded an investment guarantee agreement with Chinese Taipei? (Q.341)

(4) May foreign investors employ managers, administrators and technicians of their choice, regardless of nationality, in their enterprises? Are there any restrictions on the recruitment of foreign personnel or of local personnel? (Q.341) [WP2 Switzerland: Q.II-1; L/7189: Q.332-341]

Reply

(1) It has been Chinese Taipei's firm policy to encourage foreign investments. The Investment Commission is established to consolidate resources of the various government agencies involved in order to provide the necessary assistance and services to foreign investors as a package.

According to the Statute for Investments by Foreign Nationals, foreign nationals are treated just as Chinese Taipei’s citizens except for public safety, good morals, environmental protection, or prohibitions of other laws; there is no discrimination.

In continuing its effort to internationalize and liberalize its economy, Chinese Taipei is making necessary amendments to its laws and regulations relating to foreign investments, taking into account the relevant rules of the GATT, OECD and other countries.

(2) The Investment Commission’s decisions on foreign investment applications are made according to the Statute for Investments by Foreign Nationals and the Negative List for Investments by Foreign Nationals and Overseas Chinese. In the case where the authority turns down an application for foreign investments, the applicant can initiate a proceeding to request a review of the administrative decisions. The review may be conducted by higher administrative authorities or the administrative court, which is established to review administrative decisions.

(3) In the case where there is no investment guarantee agreement between Chinese Taipei and the investor’s home country, the investor has to resort to the domestic procedure for review of the administrative decisions as outlined in paragraph 2 above.
Chinese Taipei’s rules for employment of foreign nationals by foreign invested enterprises do not make distinction in terms of country of origin or nationalities of the foreigners to be employed. The number of foreign nationals that can be employed depends on the size of the foreign invested business involved (please refer to the Rules Governing the Approval and Administration of Foreign Specialist and Technical and Personnel Employed by Public or Private Enterprises and Ranking Executives Employed by Overseas Chinese or Foreign National Invested Enterprises for details). There is no particular requirement for hiring Chinese Taipei’s citizens.

2. Australia appreciates the advice in Mr. Sheu’s statement to the morning session of 29 June that the industries which are currently excluded from investment by foreign investors because they have monopoly privileges granted or are banned from private investment by law are, among others, electricity supply, railway transportation, telecommunications and postal services - and that those industries banned investment by law include, among others, road transport and taxi services. Are complete lists available?

Australia welcomes the clarification given by Chinese Taipei in the Working Party on 28 June that passenger motor vehicles are not included in this category and that there is therefore no limit on investment by foreigners in that industry. [WP3 Spec(93)36: Q.4; L/7189: Q.333 and 339]

Reply

The Foreign Investment Negative List which is a part of the Statute for the Investment by Foreign Nationals provides a complete listing of industries which are currently excluded from investments by foreign investors for the reason that they involve monopoly privileges granted or are banned from private investments by laws. The aforementioned Negative List and Statute are provided in the ANNEX to the Document L/7189/Rev.1.

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

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

In addition we note that Chinese Taipei does not mention restrictions for foreign investments containing import or export performance requirements or requirements of local production or local content. Could the delegation of Chinese Taipei state whether any limitations of this kind exist? [WP3 Spec(93)43: Q.1; L/7189: Q.333]
Examples of industries in which investments by foreign nationals are banned or restricted are as follows:

(a) Those against public safety and security:

- steel forging (gun barrel forging);
- manufacturing and repairing of other machinery (firearms, weapons manufacturing, arms repairing);
- manufacturing of cutlery hand tools and general hardware (saber manufacturing); and
- manufacturing of other chemical products (gunpowder, fuse, agents for fire).

(b) Those against good morals:

- other cultural and recreational services (coffee shops, bars, tea shops, taverns, and dancing halls with woman attendants).

(c) Those causing great pollution:

- manufacturing of basic chemicals (soda-chloride factories operating with mercuric electrolyzers, manufacturing of sodium cyanide and potassium cyanide);
- manufacturing of other chemical products (monosodium glutamate factories using fermentation method);
- other oil and coal industries (coking); and
- other basic industry of non-ferric metal (asbestos and its related products, refining metalline cadmium and stearic acid, etc., made with cadmium as a main raw material, recycling industries of waste metals).

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

- manufacturing of pesticides and herbicides;
- railway transport;
- telecommunications; and
- ivory processing.

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

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

4. **Inward investment**

   It is stated in Reply 341 that all investment applications which meet the requirements set forth in the Statute for Foreign Investment and Commission. What is meant by "normally"? Is there any case where investment applications are not "normally" approved? [WP3 Spec(93)39: Q.2; L/7189: Q.341]

   **Reply**

   "Normally" means any investment application which fulfils the requirements set forth in the Statute for Investment by Foreign Nationals in respect of the investor's qualification, investment type, investment method and type of capital contribution and is submitted to the authority according to the prescribed procedure will be granted approval. If the documentation is incomplete or inaccurate, the application would be turned down. There has been very few cases where application is turned down by the authority.

5. **Foreign investment**

   Concerning Reply 343, please specify the meaning of the statement that "the Investment Commission is considering making appropriate changes to foreign investment laws and regulations as Chinese Taipei's development needs change". [WP3 Spec(93)39: Q.3; L/7189: Q.343]

   **Reply**

   In order to improve the investment environment and continue to bring in foreign investment to facilitate the upgrading of industries and technologies, the Investment Commission is now reviewing the relevant laws and regulations in the light of the investment laws of advanced countries and international bodies, such as the GATT and OECD. It has been Chinese Taipei's firm policy to encourage inflow of foreign investment and continue to liberalize and internationalize its economy.

6. Could Chinese Taipei please describe the "serious economic and social disruption" it claims would flow from its adherence to the TRIMs text (quote from response to Canada's questions circulated to the Working Party 28 June 1993). [WP3 Spec(93)37: Q.15; L/7189: Q.297]

   **Reply**

   The remark of "economic and social disruption" was made in the context of a transitional period required for Chinese Taipei's accession to the General Agreement and Tokyo Round Codes, without taking into account the TRIMs, which is part of the Uruguay Round. Chinese Taipei is particularly concerned about the employment problem of the labour employed in the automobile and motorcycle industries and the possible economic and social disruption that may be caused by the labour immobility.
7.2 Local content requirements

Concerning Reply 344, we believe that the local content requirements are GATT-inconsistent and cannot be justified by national treatment. What is the view of Chinese Taipei on this? [WP3 Spec(93)39: Q.4; L/7189: Q.344]

Reply

The local content requirement will be removed five years after Chinese Taipei's accession to the GATT.

8. The memorandum notes that except for auto and motorcycle manufacture there are no local content requirements for foreign companies. This statement appears at odds with Chinese Taipei's enunciated aircraft trade policy, and with statements concerning the use of offsets in industrial development.

We seek a fuller explanation from the delegation of Chinese Taipei on its local content policies and how they will be applied to trade in aircraft and other industrial goods. [WP3 Spec(93)45: Q.III-7-(1); L/7189: Q.344]

Reply

Although there are local content requirements imposed on automobiles and motorcycles, currently there is no local content requirement on aircraft because up to now there is no civil aircraft assembled in Chinese Taipei. As to the local content requirements on government procurement of incinerator and electric connected locomotive, they are an exceptions to the national treatment permitted under Article III of the GATT.

9. Would Chinese Taipei please explain how the local content requirements for motor vehicles set out in the reply to Question 297 (L/7189) conform with the provisions of GATT Article III, paragraphs 1, 4 and 5? [WP3 Spec(93)36/Add.: Q.5; L/7189: Q.297]

Reply

Chinese Taipei is prepared to eliminate the local content requirements five years after its accession. This is because the automobile industry is a sensitive and not yet fully-developed sector as mentioned several times before, and there is a need for a transitional period.
10. (1) Does Chinese Taipei apply any measures which are mandatory or enforceable under domestic law or under administrative rulings or compliance with which is necessary to obtain an advantage, and which require:

(a) The purchase or use by an enterprise of products of domestic origin or from domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;

(b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports?

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

(a) The importation by an enterprise of products used in or related to its local productions, generally or to an amount related to the volume or value of local production that it exports;

(b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprises;

(c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production?

(3) Does Chinese Taipei apply any measure which is mandatory or compliance with which it is necessary to obtain an advantage which requires that an enterprise exports a specific products, or a specific volume or value generally or to a specific market or region?

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

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

Reply

(1) (a) There is no such measure except the local content requirement applied to the automobile and motorcycle industries.

(b) There is no such requirement.
(2)  
(a) There is no such measure.
(b) There is no such measure.
(c) There is no such measure.

(3) There is no such measure.

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

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

(b) For light trucks, manufacturers are also required to select four items to be produced among the following 15 mandatory items:

1. Cylinder Block;
2. Cylinder Head;
3. Crank Shaft or Crank Shaft R/Stock finishing;
4. Camshaft and Rocker Arm Asy;
5. Piston, Piston Pin and Connecting Rod;
6. Clutch and Fly Wheel;
7. Transmission Gears;
8. Transmission Gear Housing (including Clutch Housing and Gear Box Housing);
9. RR Axle and Propelar Shaft Asy;
10. Steering Wheel/Column/Intermedium Shaft and Combination Switch;
11. Steering Gear Asy;
12. Brake System (including FR/PR Brake Asy and Master Cylinder and Vac);
13. Cabin and Slide Door (including Inner/Outer Panel) and Rear Cargo Box (Pick Up);
14. FR CTR RR Floors Asy or Chassis Frame Asy;
15. FR Panel and Back Panel for Pick Up FR panel and Tail Gate for Van.
(c) For buses, high duty trucks and passenger/cargo combined vehicles of gross weight 3.5 to 10 tons, manufacturers are required to select three items to be produced domestically among the 15 mandatory items, namely:

1. Piston and Connecting Rod or Connecting Rod R/Stock finishing;
2. Camshaft or Camshaft R/Stock Finishing;
3. Intake/Exhaust Manifold;
4. Clutch Asy;
5. Fly Wheel and Fly Wheel/Clutch Housing;
6. Brake Asy and Clutch Cylinder or Clutch Cylinder and Brake Cylinder;
7. Brake Drum and Rub;
8. Propelar Shaft and RR Axle Asy;
9. Steering Column;
10. Steering Gear Asy;
11. Steering Linkage Asy;
12. Chassis frame Asy;
13. Door Asy (including Outer/Inner Panel);
14. Front Panel and Back Panel;
15. Floor Panel.

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

(5) Chinese Taipei in certain large construction contracts or public procurement contracts has the policy to require offset arrangements. However, there is no penalty imposed in a case of violation.

11. Can Chinese Taipei please explain the operation of the requirement (Question 344 refers) that motor vehicle manufacturers "select" a certain number of items from major parts and components designated for domestic production? [WP3 Spec(93)36/Add.: Q.6; L/7189: Q.344]

Reply

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

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

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

1. Cylinder Block;
2. Cylinder Head;
3. Crank Shaft or Crank Shaft R/Stock Finishing;
4. Camshaft and Rocker Arm Asy;
5. Piston, Piston Pin and Connecting Rod;
6. Clutch and Fly Wheel;
7. Transmission Gears;
8. Transmission Gear Housing (including Clutch Housing and Gear Box Housing);
9. RR Axle and Propellar Shaft Asy;
10. Steering Wheel/Column/Intermedium Shaft and Combination Switch;
11. Steering Gear Asy;
12. Brake System (including FR/PR Brake Asy and Master Cylinder and Vac);
13. Cabin and slide Door (including Inner/Outer Panel) and Rear Cargo Box (Pick Up);
14. FR CTR RR Floors Asy or Chassis Frame Asy;
15. FR Panel and Back Panel for Pick up FR Panel and Tail Gate for Van.

For bus, high duty truck and passenger/cargo combined vehicle of gross weight 3.5 to 10 tons, manufacturers are required to select three items to be produced domestically among the 15 mandatory items, namely:

1. Piston and Connecting Rod or Connecting rod R/Stock Finishing;
2. Camshaft or Camshaft R/Stock Finishing;
3. Intake/Exhaust Manifold;
4. Clutch Asy;
5. Fly Wheel and Fly Wheel/Clutch Housing;
6. Brake Asy and Clutch Cylinder or Clutch Cylinder and Brake Cylinder;
7. Brake Drum and Rub;
8. Propelar Shaft and RR Axle Asy;
9. Steering Column;
10. Steering Gear Asy;
11. Steering Linkage Asy;
12. Chassis frame Asy;
13. Door Asy (including Outer/Inner panel);
14. Front Panel and Back Panel;
15. Floor Panel.

As to bus, high duty truck and passenger/cargo combined vehicle of gross weight over 10 tons, two items among the above 15 are required to be produced domestically.
TRADE LAWS

8. Trade Laws

8.1 Fair Trade Law

1. Q.45 (1) - Article 26(7) of the Customs Law refers to "monopoly goods imported by monopoly agencies solely for monopolized sales" being exempt from customs duty. Is this not contrary to the provisions of Article 10 of the Fair Trade Law (specifically Article 10.3)? [WP2 Canada: Q.7; L/7189: Q.45(1)]

Reply

Paragraph 1 of Article 46 of the Fair Trade Law provides that "this Law shall not apply to any act performed by an enterprise in accordance with law". Therefore, the monopoly referred to in Article 26(7) of the Customs Law is exempt from the Fair Trade Law.

2. Are publicly controlled monopolies such as the Taiwan Tobacco and Wine Monopoly Board bound by the same rules contained in the Fair Trade Law? Are they subject to the provisions in Article 46?

Will the new system to replace the TTWMB abide by the rules contained in the Fair Trade Law? Does Article 46 apply? [WP3 Spec(93)45: Q.III-10-2]

Reply

The wine and tobacco monopoly rights are provided in the Law and therefore is exempt from the application of the Fair Trade Law according to its Article 46. If under the new system to replace the TTWMB, the monopoly rights are maintained and authorized by specific law, the monopoly rights of the new entity established for production of wine and tobacco products will not be subject to the Fair Trade Law by virtue of its Article 46.

3. With regard to the Fair Trade Law (FTL), the Chinese Taipei mentioned that this Law applies without any discrimination to domestic and foreign enterprises. However, Article 46/2.2 of the FTL stipulates that public enterprises benefiting from a State monopoly will not be submitted to the terms of this Law for the first five years after its promulgation, i.e. until 1997. Referring to point 2 of the answer to Question 386 in Document L/7189/Rev. 1, could Chinese Taipei elaborate on the objective reasons on which the Fair Trade Commission judges that there is no discrimination, i.e. that this Article is consistent with Article III GATT? [WP3 Spec(93)44: Q.8; L/7189: Q.386]

Reply

Article 46/2.2 of the Fair Trade Law is not intended to discriminate against foreign nationals or entities. The Law applies to domestic as well as foreign entities and is not intended to protect or otherwise give preferential treatment to domestic entities. State enterprises have been important instruments in providing public goods or services or implementing other national policies and therefore their operations are not geared entirely at meeting competition in the market. A five-year transitional period would give such State enterprises the necessary time to make appropriate adjustment to operate in the competitive environment regulated by the Fair Trade Law.
4. Why is a period of five years following promulgation of the Law necessary in order for governmental enterprises to comply? [WP3 Spec(93)45: Q.III-10-3]

Reply

A period of five years following the promulgation of the Fair Trade Law is necessary in order for government enterprises to adjust themselves to comply with the Law. This is because such enterprises have been the government's instruments in the implementation of the relevant policies and therefore their orientations are not entirely geared at private competition; a certain period of time is required for them to make necessary adjustments.

It, however, should be noted that the exemption from the application of the Fair Trade Law under such circumstances applies to only specific practise of the government enterprises concerned, rather than being a general exception that applies to all practise of a specific enterprise. The rule is formulated to assist the transition and by no means is intended to discriminate against foreign products.

5. What procedures governing the import of agricultural commodities have been amended or are due for revision since the Fair Trade Law was promulgated? [WP3 Spec(93)45: Q.III-10-1]

Reply

Wheat imports were investigated by the Fair Trade Commission of Chinese Taipei. Partly because of the Commission's move, the wheat import has been liberalized in terms of the qualification of the importers. The Commission has also approved the joint procurement of agricultural commodities by importers as an exception to the rules on horizontal collaboration. Since the Fair Trade Law was promulgated, no other procedures governing the import of agricultural commodities have been amended or are due to be revised.

6. Article 10/5 resp. Article 11 of the Fair Trade Law stipulates that a list of companies benefiting from a monopoly as well as enterprises whose market share is equal or superior to 20 per cent has to be published periodically. What is the periodicity of this publication and could we have a copy of the latest ones? [WP3 Spec(93)44: Q.9]

Reply

The first and latest lists of companies enjoying a monopolistic position as well as companies whose market shares are equal to or more than 20 per cent are set out below. The Fair Trade Commission has not fixed a time interval for periodic publication of the lists. The publication of such lists depends upon the economic development and market changes.

The publication of monopolistic enterprises only indicates the market position of such enterprises and does not imply that such enterprises have or attempt to have conducts abusing its market position.
<table>
<thead>
<tr>
<th>No.</th>
<th>Specific market</th>
<th>Market area</th>
<th>Name of enterprises</th>
</tr>
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<tbody>
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<td>Business engaging in transportation of passenger railway</td>
<td>Taiwan Railway Administration</td>
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<td>2</td>
<td>Telecommunication of the first category</td>
<td>Business engaging in instalment of telecommunication equipments, businesses of basic exchange and transportation relating to telecommunications of telephone, digital information, pictures, visual communications</td>
<td>Directorate General of Telecommunications &amp; Communications</td>
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<td>Harbour services</td>
<td>Harbour services for outgoing and incoming of vessels, loading and unloading</td>
<td>Kaohsiung Harbour Bureau; Keelung Harbour Bureau; Taichung Harbour Bureau</td>
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<td>4</td>
<td>Ground services of airport</td>
<td>Services of dragging, tugging aircrafts, loading and unloading of luggage, goods and meals, clearing cabins and other related services at apron</td>
<td>Taoyuan Aviation Services Co. Ltd.</td>
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<tr>
<td>5</td>
<td>Passenger transportation of buses on national express ways</td>
<td>Passenger transportation of buses driving on national express ways, not including county or city passenger transportation</td>
<td>Taiwan Bus Transportation Co. Ltd.; United Highway Bus Corporation</td>
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<tr>
<td>8</td>
<td>Securities exchange</td>
<td>Legal entity which has set up a place and facilities according to the Securities Exchange Act with the provision of a market for the consolidated exchange of marketable securities as its objective</td>
<td>Taiwan Stock Exchange Corporation</td>
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<tr>
<td>9</td>
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<td>Business of providing financing by means of capital funds or marketable securities to a third party to engage in the purchase and sale of marketable securities</td>
<td>Fuh-Hwa Securities Finance Corporation</td>
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<tr>
<td>10</td>
<td>Business of television stations</td>
<td>Business engaging in operation of television stations</td>
<td>Taiwan Television Enterprise, Ltd.; China Television Company, Ltd.; Chinese Television System</td>
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<tr>
<td>11</td>
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<td>Brown sugar, raw sugar, fructose, and other sugar</td>
<td>Taiwan Sugar Corporation</td>
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<tr>
<td>12</td>
<td>Tobacco</td>
<td>Filter-tipped cigarettes, non-filter-tipped cigarettes, cigars, tobacco</td>
<td>Taiwan Tobacco &amp; Wine Monopoly Bureau</td>
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<td>13</td>
<td>Wine</td>
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<td>Taiwan Tobacco &amp; Wine Monopoly Bureau</td>
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<td>Terephthalic acid</td>
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<td>Chinese Petroleum Corporation</td>
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<td>17</td>
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<td>Chinese Petroleum Corporation</td>
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<td>18</td>
<td>Diesel Fuel</td>
<td>Diesel fuel (for diesel fuel engines) at 15 degrees C over 0.85 specific gravity with flash point not higher than 46 degrees C. Gas oil at 15 degrees C over 0.85 but not over 0.90 specific gravity</td>
<td>Chinese Petroleum Corporation</td>
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<tr>
<td>19</td>
<td>Asphalt, Bitumen</td>
<td>Natural bitumen and asphalt, bitumen or oil shale and tar sands; asphaltities and asphaltic rocks, petroleum bitumen (asphalt). Other residues of petroleum oils or of oils obtained from bituminous minerals. Bituminous mixtures based on natural asphalt, on natural bitumen, on mineral tar or on mineral tar pitch.</td>
<td>Chinese Petroleum Corporation</td>
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<td>Petroleum gas</td>
<td>Petroleum gas</td>
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<td>22</td>
<td>Nitrogenous fertilizers</td>
<td>Urea whether or not in aqueous solution, ammonium sulphate, double salts and mixtures of calcium nitrate and nitrate, and other nitrogenous fertilizers</td>
<td>Taiwan Fertilizer Co. Ltd.</td>
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<tr>
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<td>Mixed fertilizers</td>
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<td>Taiwan Fertilizer Co. Ltd.</td>
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<td>Kuozui Motors, Ltd.; International Auto Co. Ltd.; Shung Yi Motor Co. Ltd.</td>
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<td>Motorcycles</td>
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<td>Yamaha Motor Taiwan Co. Ltd.; Kwang Yang Ind. Co. Ltd.; San Yang Industry Co. Ltd.</td>
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<td>26</td>
<td>Public launch exchangers</td>
<td>Public launch exchangers</td>
<td>Taicom Systems Ltd.; AT &amp; T Taiwan Telecommunications Co. Ltd.; Taiwan Int’l Standard Electronics Ltd.</td>
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<td>Refined salt</td>
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<td>Taiwan Glass Industrial Co. Ltd.</td>
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<td>Great Taipei Area Gas Co. Ltd.</td>
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<td>Telecommunications Administration of the Ministry of Communication</td>
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<td>6</td>
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<td>Business engaging in domestic airlines to obtain payments by directly transporting passengers, goods and mails by means of aircrafts</td>
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<td>Broadcasting Corporation of China; Cheng Sheng Broadcasting Corp., Ltd.;</td>
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<td>9</td>
<td>News &amp; newspaper</td>
<td>Business engaging in all kinds of operation for publication of news, including collecting news, writing articles, preparing advertisements, and editing, publishing and issuing</td>
<td>United Daily News; China Times Cultural Enterprise Co. Ltd.</td>
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<td>Enterprises engaging in the life insurance business</td>
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<td>14</td>
<td>Security services</td>
<td>Enterprises engaging in the design and maintenance of systems and equipment for the prevention of theft, fire and calamities, or accepting commission to take charge of the security of office buildings, factories, warehouses, financial institutions, markets, residences, exhibit centres and other places by sending personnel to do the protection, patrol and surveillance work, or accepting commission to transport cash and maintain the security of their precious articles</td>
<td>Chung Hsing Security Co. Ltd.; Taiwan Shin Kong Security Co. Ltd.</td>
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<tr>
<td>15</td>
<td>Securities investment and trust</td>
<td>Enterprises engaged in issuing beneficial interest certificates, raising securities investment trust funds and using securities investment trust funds to invest in securities</td>
<td>Kwang Hua Securities Investment and Trust Co. Ltd.; China Securities Investment Trust Corp.; National Investment Trust Co. Ltd.; International Investment Trust Co. Ltd.</td>
</tr>
<tr>
<td>16</td>
<td>Fresh milk and flavoured milk</td>
<td>Fresh milk, yeast milk, yoghurt milk, flavoured evaporated or sterilized milk, flavoured milk</td>
<td>Wei Chuan Foods Corporation</td>
</tr>
<tr>
<td>17</td>
<td>Sugar</td>
<td>Brown sugar, raw sugar, fructose and other sugar</td>
<td>Taiwan Sugar Corporation</td>
</tr>
<tr>
<td>18</td>
<td>Thread, noodle for staple food</td>
<td>Noodle, instant noodle, rice threads, green bean threads, instant rice threads, other noodle</td>
<td>President Enterprises Corporation</td>
</tr>
<tr>
<td>19</td>
<td>Soy sauce</td>
<td>Soy sauce</td>
<td>Kim Lan Foods Co. Ltd.; Wei Chuan Foods Corp.</td>
</tr>
<tr>
<td>20</td>
<td>Wine</td>
<td>Beer, fermented cereal beverages, fermented fruit beverages, refined wine, other wine</td>
<td>Taiwan Tobacco &amp; Wine Monopoly Bureau</td>
</tr>
<tr>
<td>21</td>
<td>Tobacco</td>
<td>Filter-tipped cigarettes, non-filter-tipped cigarettes, cigars, tobacco</td>
<td>Taiwan Tobacco &amp; Wine Monopoly Bureau</td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Market area</td>
<td>Name of enterprises</td>
</tr>
<tr>
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</tr>
<tr>
<td>22</td>
<td>Paper of a kind used for cultural purpose</td>
<td>Newsprint, in rolls or sheets, hand-made paper of a kind used for writing, printing, hand-made paper and paperboard of a kind used as a base for photo-sensitive or heat-sensitive paper or paperboard, carbonizing base paper. Other hand-made paper (below 40 g/m), other hand-made paper (40-150 g/m), other hand-made paper (over 150 g/m), other paper and paperboard, paper of a kind used for printing, writing (not over 150 g/m), paper of a kind used for printing, writing (over 150 g/m), light-weight coated paper of a kind used for printing, writing, and other paper for printing, writing</td>
<td>Yuen Foon Yu Paper Mfg. Co. Ltd.</td>
</tr>
<tr>
<td>23</td>
<td>Paper of a kind used for household purpose</td>
<td>Toilet paper, facial tissue, towel stock, toilet paper, paper handkerchiefs, facial paper and towels, paper table cloths and serviettes</td>
<td>Taiwan Scott Paper Corporation</td>
</tr>
<tr>
<td>24</td>
<td>Paper diapers and sanitary napkin</td>
<td>Diapers and diaper liners, sanitary towels, tampons and sanitary articles</td>
<td>Proctor &amp; Gable Taiwan Limited</td>
</tr>
<tr>
<td>25</td>
<td>Wool strip</td>
<td>Carbonized wool, carded wool, wool strip and combed wool</td>
<td>Reward Wool Industry Corp.</td>
</tr>
<tr>
<td>26</td>
<td>Nylon fibres</td>
<td>Nylon filaments, cotton</td>
<td>Formosa Chemicals &amp; Fibre Corp.</td>
</tr>
<tr>
<td>27</td>
<td>Polyester staple fibres</td>
<td>Polyester staple filaments, cotton</td>
<td>Nan Ya Plastics Corp.</td>
</tr>
<tr>
<td>28</td>
<td>Acrylic-plastic fibres</td>
<td>Acrylic-plastic filaments, cotton</td>
<td>Formosa Plastics Corp.</td>
</tr>
<tr>
<td>29</td>
<td>Rayon fibres</td>
<td>Rayon filaments, cotton</td>
<td>Formosa Chemicals &amp; Fibre Corp.</td>
</tr>
<tr>
<td>30</td>
<td>Woven fabrics of artificial staple fibres</td>
<td>Woven fabrics of artificial staple fibres</td>
<td>Formosa Chemicals &amp; Fibre Corp.</td>
</tr>
<tr>
<td>31</td>
<td>Gasoline of a kind for specific purpose</td>
<td>Gasoline (including natural gasoline)</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>32</td>
<td>Gasoline for domestic aviation</td>
<td>Gasoline for aviation, spirit type jet fuel, kerosene type jet fuel</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Market area</td>
<td>Name of enterprises</td>
</tr>
<tr>
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</tr>
<tr>
<td>33</td>
<td>Fuel oil</td>
<td>Other gas oil and light fuel oil, other gas fuel oil of a kind used for turbines or jet engines; fuel oil, at 15 degrees C over 0.90 but not over 0.93; fuel oil, at 15 degrees C over 0.93</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>34</td>
<td>Diesel fuel</td>
<td>Diesel fuel (for diesel fuel engines) at 15 degrees C over 0.85 specific gravity with flash point not higher than 46 degrees C. Gas oil at 15 degrees C over 0.85 but not over 0.90 specific gravity</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>35</td>
<td>Asphalt, bitumen</td>
<td>Natural bitumen and asphalt, bitumen or oil shale and tar sands; asphalities and asphaltic rocks, petroleum bitumen (asphalt). Other residues of petroleum oils or of oils obtained from bituminous minerals. Bituminous mixtures based on natural asphalt, on natural bitumen, on mineral tar or on mineral tar pitch</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>36</td>
<td>Carbon black</td>
<td>Carbon black</td>
<td>China Synthetic Rubber Corp.</td>
</tr>
<tr>
<td>37</td>
<td>Helium</td>
<td>Liquid helium, gas helium</td>
<td>Lien Hwa Industrial Gases Co. Ltd.; San Fu Chemical Co. Ltd.</td>
</tr>
<tr>
<td>38</td>
<td>Oxygen</td>
<td>Liquid oxygen, gas oxygen</td>
<td>Lien Hwa Industrial Gases Co. Ltd.; San Fu Chemical Co. Ltd.</td>
</tr>
<tr>
<td>39</td>
<td>Disodium carbonate</td>
<td>Disodium carbonate</td>
<td>South East Soda Manufacturing Co. Ltd.</td>
</tr>
<tr>
<td>40</td>
<td>Ethylene</td>
<td>Ethylene</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>41</td>
<td>Propylene</td>
<td>Propylene</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>42</td>
<td>Butadiene</td>
<td>Butadiene</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Name of enterprises</td>
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</tr>
<tr>
<td>43</td>
<td>Benzene</td>
<td>Chinese Petroleum Corporation</td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>Toluene</td>
<td>Chinese Petroleum Corporation</td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>Xylenes</td>
<td>Chinese Petroleum corporation</td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Styrene</td>
<td>Taiwan Styrene Monomer Corp.</td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Vinyl chloride</td>
<td>Taiwan VCM Corp.</td>
<td></td>
</tr>
<tr>
<td>48</td>
<td>Acetone</td>
<td>Lee Chang Yung Chemical Industry Corporation</td>
<td></td>
</tr>
<tr>
<td>49</td>
<td>Butanone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>Vinyl acetate</td>
<td>Dairen Chemical Corporation</td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>Methyl methacrylate acid</td>
<td>Kaohsiung Monomer Co. Ltd.</td>
<td></td>
</tr>
<tr>
<td>52</td>
<td>Plastic plasticizer</td>
<td>Union Petrochemical Corp.; Nan Ya Plastics Corp.</td>
<td></td>
</tr>
<tr>
<td>53</td>
<td>Phthalic anhydride</td>
<td>Union Petrochemical Corp.</td>
<td></td>
</tr>
<tr>
<td>54</td>
<td>Terephthalic acid</td>
<td>China American Petrochemical Co. Ltd.</td>
<td></td>
</tr>
<tr>
<td>55</td>
<td>Acrylonitrile</td>
<td>China Petrochemical Development Corp.</td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>Epsilon-caprolactam</td>
<td>China Petrochemical Development Corp.</td>
<td></td>
</tr>
<tr>
<td>57</td>
<td>Nitrogenous fertilizers</td>
<td>Taiwan Fertilizer Co. Ltd.</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Market area</td>
<td>Name of enterprises</td>
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<tr>
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</tr>
<tr>
<td>58</td>
<td>Mixed fertilizers</td>
<td>Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium</td>
<td>Taiwan Fertilizer Co. Ltd.</td>
</tr>
<tr>
<td>59</td>
<td>Shampoos</td>
<td>Shampoos</td>
<td>Proctor &amp; Gable Taiwan Limited</td>
</tr>
<tr>
<td>60</td>
<td>Toothpaste</td>
<td>Dentifrices, mouth washes</td>
<td>Hawley &amp; Hazel Taiwan Corporation</td>
</tr>
<tr>
<td>61</td>
<td>Perfumed soaps</td>
<td>Toilet soaps</td>
<td>Fuic Ltd.</td>
</tr>
<tr>
<td>62</td>
<td>Insecticides</td>
<td>Insecticides</td>
<td>Shinung Corp.</td>
</tr>
<tr>
<td>63</td>
<td>Herbicides</td>
<td>Herbicides</td>
<td>Yih Fong Agricultural Chemical Works Co. Ltd.</td>
</tr>
<tr>
<td>64</td>
<td>Polyethylene</td>
<td>Polyethylene having a specific gravity of less than 0.94. Polyethylene having a specific gravity of more than 0.94 or of 0.94; Ethylene-vinyl acetate copolymers</td>
<td>Usi Far East Corporation</td>
</tr>
<tr>
<td>65</td>
<td>Polypropylene</td>
<td>Polypropylene</td>
<td>Taiwan Polypropylene Co. Ltd.; Yung Chia Chemical Industries Corp.</td>
</tr>
<tr>
<td>66</td>
<td>Polystyrene</td>
<td>Polystyrene, other expansible polystyrene</td>
<td>Chi Mei Industrial Co. Ltd.</td>
</tr>
<tr>
<td>67</td>
<td>ABS coresize</td>
<td>ABS copolymers</td>
<td>Chi Mei Industrial Co. Ltd.</td>
</tr>
<tr>
<td>68</td>
<td>Polyvinyl chloride</td>
<td>PVC in primary forms not mixed, PVC in primary forms non-plasticised, PVC in primary forms plasticised, vinyl chloride vinyl acetate copolymer, vinylidene chloride polymers</td>
<td>Formosa Plastics Corp.</td>
</tr>
<tr>
<td>69</td>
<td>Sizing agent</td>
<td>Polyvinyl alcohols, advanced starches</td>
<td>Chang Chun Petrochemical Co. Ltd.</td>
</tr>
<tr>
<td>70</td>
<td>Phenolic resins</td>
<td>Phenolic resins</td>
<td>Chang Chun Plastics Co. Ltd.</td>
</tr>
</tbody>
</table>
### List of Enterprises Owning One-Fifth of Market Shares or More

<table>
<thead>
<tr>
<th>No.</th>
<th>Specific market</th>
<th>Market area</th>
<th>Name of enterprises</th>
</tr>
</thead>
<tbody>
<tr>
<td>71</td>
<td>Tubes, pipes and hoses of plastics</td>
<td>Tubes, pipes and hoses, PE, rigid; tubes, pipes and hoses, PP, rigid; tubes, pipes and hoses, PVC, rigid; tubes, pipes and hoses, of other plastics, rigid; flexible tubes, pipes and hoses; other tubes, pipes and hoses not reinforced without fittings, other tubes, pipes and hoses not reinforced, with fittings; tubes, pipes and hoses, FRP and fittings thereof</td>
<td>Nan Ya Plastics Corp.</td>
</tr>
<tr>
<td>72</td>
<td>Rubber</td>
<td>Natural rubber, synthetic rubber, latex</td>
<td>Taiwan Synthetic Rubber Corp.</td>
</tr>
<tr>
<td>73</td>
<td>Tubes of rubber of a kind used on motor cars, buses and lorries</td>
<td>Inner and outer tubes of rubber of a kind used on motor cars, inner and outer tubes of rubber of a kind used on buses or lorries</td>
<td>Bridgestone Taiwan Co. Ltd.</td>
</tr>
<tr>
<td>74</td>
<td>Tubes of rubber of a kind used on motorcycle and bicycles</td>
<td>Inner and outer tubes of rubber of a kind used on motorcycle and bicycles</td>
<td>Cheng Shin Rubber Ind. Co. Ltd.</td>
</tr>
<tr>
<td>75</td>
<td>PVC synthetic leather</td>
<td>PVC synthetic leather</td>
<td>Nan Ya Plastics Corp.</td>
</tr>
<tr>
<td>76</td>
<td>PU synthetic leather</td>
<td>PU synthetic leather</td>
<td>Nan Ya Plastics Corp.</td>
</tr>
<tr>
<td>77</td>
<td>Products of hot-rolled steel</td>
<td>Hot-rolled steel, in coils, hot-rolled steel, in sheet, hot-rolled steel, in strip, of a width of less than 600 m/m.</td>
<td>China Steel Corporation</td>
</tr>
<tr>
<td>78</td>
<td>Cold-rolled steel</td>
<td>Cold-rolled steel in coil, in sheet, cold-rolled narrow steel, in coil</td>
<td>China Steel Corporation</td>
</tr>
<tr>
<td>79</td>
<td>Plated steel</td>
<td>Plated steel</td>
<td>China Steel Corporation</td>
</tr>
<tr>
<td>81</td>
<td>Wire materials, in coil</td>
<td>Middle, low carbonized wire materials, in coil; high carbonized wire materials, in coil</td>
<td>China Steel Corporation</td>
</tr>
<tr>
<td>82</td>
<td>Round bar</td>
<td>Round bar of steel</td>
<td>China Steel Corporation</td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Market area</td>
<td>Name of enterprises</td>
</tr>
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</tr>
<tr>
<td>83</td>
<td>Electric elevators, electric escalators</td>
<td>Electric elevators, electric escalators</td>
<td>Yungtay Eng. Co. Ltd.</td>
</tr>
<tr>
<td>84</td>
<td>Colour television picture tubes</td>
<td>Colour cathode-ray television picture tubes</td>
<td>Chunghwa Picture Tubes, Ltd.</td>
</tr>
<tr>
<td>85</td>
<td>Uninsulated wires</td>
<td>Uninsulated wires</td>
<td>Hwahsin Lihwa Corporation</td>
</tr>
<tr>
<td>86</td>
<td>Wires and cables of a kind used on telecommunication</td>
<td>Co-axial cable and other co-axial electric conductors, optical fibre cables, other electric conductors</td>
<td>Pacific Electric Wire &amp; Cable Co. Ltd.; Hua Eng Wire &amp; Cable Co. Ltd.</td>
</tr>
<tr>
<td>87</td>
<td>Buses</td>
<td>Buses (for 9 passengers or more), bus chassis</td>
<td>Kuozui Motors, Ltd.; International Auto Co. Ltd.</td>
</tr>
<tr>
<td>88</td>
<td>Duplicating machines</td>
<td>Duplicating machines</td>
<td>Taiwan Fuji Xerox Corp.</td>
</tr>
<tr>
<td>89</td>
<td>Lighting equipment of a kind used on vehicles</td>
<td>Lighting equipment of a kind used on vehicles</td>
<td>Ta Yih Industrial Co. Ltd.</td>
</tr>
<tr>
<td>90</td>
<td>Electric cookers, electronic cookers</td>
<td>Electric cookers, electronic cookers</td>
<td>Tatung Co.; Swan Kuwan Enterprise Co. Ltd.</td>
</tr>
<tr>
<td>91</td>
<td>Public launch exchangers</td>
<td>Public launch exchangers</td>
<td>AT&amp;T Taiwan Telecommunications Co. Ltd.; Taiwan Int’l Standard Electronics Ltd.; Taicom Systems Ltd.</td>
</tr>
<tr>
<td>92</td>
<td>Magnetic discs</td>
<td>Unrecorded data processing system magnetic discs</td>
<td>Megamedia Corp.</td>
</tr>
<tr>
<td>93</td>
<td>Minitrucks</td>
<td>Minitrucks (with weight of not more than 3.5 tonnes, including 3.5 tonnes), minitruck chassis</td>
<td>China Motor Corporation</td>
</tr>
<tr>
<td>94</td>
<td>Trucks</td>
<td>Trucks (with weight of more than 3.5 tonnes), truck chassis</td>
<td>Kuozui Motors, Ltd.</td>
</tr>
<tr>
<td>No.</td>
<td>Specific market</td>
<td>Market area</td>
<td>Name of enterprises</td>
</tr>
<tr>
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<td>---------------------</td>
</tr>
<tr>
<td>95</td>
<td>Motorcycles</td>
<td>Motorcycles</td>
<td>Yamaha Motor Taiwan Co. Ltd.; Kwang Yang Industry Co. Ltd.; San Yang Industry Co. Ltd.</td>
</tr>
<tr>
<td>96</td>
<td>Kilowatt-hour meters</td>
<td>Kilowatt-hour meters (for calculating electric energy)</td>
<td>Tatung Co.; Chung-Hsin Electric &amp; Machinery Mfg. Co. Ltd.</td>
</tr>
<tr>
<td>98</td>
<td>Zippers</td>
<td>Zippers</td>
<td>Taiwan Zippers Co. Ltd.</td>
</tr>
<tr>
<td>99</td>
<td>Refined salt</td>
<td>Refined salt</td>
<td>Taiwan Salt Works</td>
</tr>
<tr>
<td>100</td>
<td>Clinker cement</td>
<td>White cement, Portland clinker cement</td>
<td>Taiwan Cement Corp.; Asia Cement Corp.</td>
</tr>
<tr>
<td>101</td>
<td>Ceramic products of a kind used for household purposes</td>
<td>Ceramic wash basins, closet pans, tableware and kitchenware</td>
<td>Hocheng Corporation</td>
</tr>
<tr>
<td>102</td>
<td>Surface ground glass</td>
<td>Bare board, first produced (original glass, coloured glass)</td>
<td>Taiwan Glass Industry Corp.</td>
</tr>
<tr>
<td>103</td>
<td>Safety glass</td>
<td>Laminated safety glass, toughened safety glass</td>
<td>Lim Sshang Hang Temper-Safe Glass Factory Co. Ltd.</td>
</tr>
<tr>
<td>104</td>
<td>Natural gas</td>
<td>Natural gas</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>105</td>
<td>Petroleum gas</td>
<td>Petroleum gas</td>
<td>Chinese Petroleum Corporation</td>
</tr>
<tr>
<td>106</td>
<td>Electric energy</td>
<td>Electric energy</td>
<td>Taiwan Power Company</td>
</tr>
<tr>
<td>107</td>
<td>Piped fuel oxygen for household use</td>
<td>Permitted areas</td>
<td>Great Taipei Area Gas Co. Ltd.</td>
</tr>
</tbody>
</table>
8.2 Other Trade Laws and Regulations

8.2.1 Foreign Trade Act

7. With respect to the provision in the Foreign Trade Act to suspend trade from specific countries because of persistent trade deficits, we are not aware of a GATT justification for these measures and would be grateful for confirmation that Chinese Taipei will bring this practice into conformity with the GATT upon its accession. [WP2 New Zealand: Q.1; L/7189: Q.17]

Reply

It is Chinese Taipei’s intention that, after its accession, it will apply its administrative authority provided in the Foreign Trade Act to limit or suspend imports and in the Customs Law to increase the statutory rates of duty in conformity with GATT provisions, including Articles XI, XII and XIX, if the products involved are subject to tariff bindings.

8. Concerning the provision mentioned in Chinese Taipei’s Foreign Trade Act in L/7189 Reply 17 for discriminatory trade measures against specific countries in certain circumstances, the GATT Articles cited by Chinese Taipei in its follow-up reply do not provide for such discriminatory measures. New Zealand therefore would be grateful for Chinese Taipei’s confirmation that it would eliminate such provisions by the time it accedes to GATT. It would be desirable for Chinese Taipei to start the necessary legislative steps as soon as possible. [WP3 Spec(93)42: Q.1; L/7189: Q.17]

Reply

Chinese Taipei is currently studying and would like to discuss with members of the Working Party the extent to which certain of its measures are regarded as discriminatory and inconsistent with Articles XI, XII and XIX of the GATT. If the measures are found to be GATT-inconsistent, Chinese Taipei would discuss with the interested parties affected by such measures with a view to resolving the issues on mutually acceptable terms.

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List of Enterprises Owning One-Fifth of Market Shares or More

<table>
<thead>
<tr>
<th>No.</th>
<th>Specific market</th>
<th>Market area</th>
<th>Name of enterprises</th>
</tr>
</thead>
<tbody>
<tr>
<td>108</td>
<td>General distribution of barrelled liquid fuel for household use</td>
<td>General distribution</td>
<td>The Division for Supply of Liquid Petroleum Gas under the Guidance Committee of Retired Soldiers of the Executive Yuan</td>
</tr>
<tr>
<td>109</td>
<td>Tap water of Taiwan Province</td>
<td>Permitted areas</td>
<td>Taiwan Water Co. Ltd.</td>
</tr>
<tr>
<td>110</td>
<td>Tap water of Taipei</td>
<td>Permitted areas</td>
<td>Taipei City Water Works</td>
</tr>
</tbody>
</table>
9. Concerning the authority described in the response to Question Nos. 17-19 in the Foreign Trade Law to limit or suspend imports and in the Customs Law to increase the statutory rates of duty:

(1) Is Chinese Taipei prepared to commit to apply this authority in conformity with GATT provisions, including Articles XI, XII and XIX?

(2) Do these provisions require ratification by the Legislative Yuan before implementation? [WP2 USA: Q.3; L/7189: Q.17-19]

Reply

(1) It is Chinese Taipei's intention that, after its accession, it will apply its administrative authority provided in the Foreign Trade Act to limit or suspend imports and in the Customs Law to increase the statutory rates of duty in conformity with GATT provisions, including Articles XI, XII and XIX, if the products involved are subject to tariff binding.

(2) The provisions giving the administrative discretion to limit or suspend imports and to increase the statutory rates of duty do not require ratification by the Legislative Yuan for implementation.

10. (1) New Zealand would be grateful to receive a copy of Chinese Taipei's replies to the questions raised by the United State's delegation during the working party meeting on the above Law.

(2) We recall that during the working party meeting, Chinese Taipei said that the Trade Promotion Fund (Article 21) was used, among other things, to support the "Chinese Taipei Trade Development Promotion Council". We would be grateful for a description of the activities of this Council.

(3) New Zealand understands that this Act has entered into force but that certain implementing regulations are currently being prepared. We would be grateful to know when these regulations are expected to be available?

(4) Article 11

We should be grateful if Chinese Taipei could specify the "trade agreements" referred to here.

(5) Article 16

Could Chinese Taipei advise what the "other appropriate measures" are which are mentioned here?

Which products are subject to quotas or other measures pursuant to this provision?

New Zealand notes the quotas provided for here may be inconsistent with Article XI. [WP3 Spec(93)42: Q.13; L/7189: Q.18]
Reply

(1) A copy of the replies to questions raised by the United States delegation during the Working Party meeting on the Foreign Trade Act is enclosed herewith.

(2) The Chinese Taipei External Trade Development Council (CETRA) was founded in 1970 in order to effectively promote Chinese Taipei’s two-way trade. Cosponsored by the government and private industrial and business organizations, CETRA has a total staff of 720 working in Chinese Taipei and through three overseas Chinese Taipei Trade Centres and 30 overseas branch offices. CETRA is Chinese Taipei’s foremost trade promotion body, providing a wide range of services to the local and foreign business communities.

CETRA’s functions include gathering trade information, conducting market research, undertaking market promotion, organizing exhibitions, promoting product and packaging design, providing business training and convention services.

(3) The draft Implementing Regulations are now being reviewed by the Executive Yuan and are expected to come into force in September. The Regulations Governing Import of Commodities, the Regulations Governing Export of Commodities, the Regulations Governing Registration and Administration of Exporters and Importers, and the Regulations Governing Protest Procedure for Trade Administrative Penalty Cases have been promulgated in July 1993.

(4) Examples of the trade agreements referred to in Article 11 are agreements with trading partners on export control of textile products and machine tools.

(5) "Other measures" mean import/export monitoring, export control for purpose of implementing bilateral textile agreements with certain importing countries or import control on parallel imports of copyrighted works.

11. The following questions relate to the provisions of the Foreign Trade Law:

- Article 13 of the Foreign Trade Law states that the Ministry of Economic Affairs shall "prescribe regulations governing export/import of high-tech commodities". Have such regulations been implemented? If so, please provide;

- Article 14 states that BOFT may entrust the issuance of import/export permits, administration of export/import quotas, and other matters relating to export/import of commodities to financial institutions, business associations or juristic persons. Please provide a list of business associations which have been tasked to issue import licences;

- Article 21 mentions a "trade promotion fund" which may be established by collecting uniformly, through customs, a "trade promotion service fee against the commodities imported and exported".
Has this fund been established? If so, when?

Please describe how the fee to support this fund is assessed to both imports and exports.

What are the rates charged? How are the funds utilized?

- Per Article 23, please provide a detailed description of the types of export insurance, export/import financing, and other "facilitating measure" which are available to domestic firms in order to "cope with special situations of foreign trade". In addition, please define the meaning of "special situations of foreign trade".

- Has Article 23 ever been invoked? If so, please describe the circumstances and the outcome of its use.

- Per Article 24, under what circumstances would documents or information relating to business operations be requested by BOFT? What type of documentation would normally need to be submitted? [WP3 Spec(93)45: Q.IV-1]

Reply

The regulations governing export/import of high-tech commodities are now being drafted by the relevant trade authority; it has not been implemented.

The Board of Foreign Trade currently does not entrust any business association to issue import licences.

The Trade Promotion Fund has existed since July 1993 and has been in operation since then. The fee to support the fund is assessed at the rate of 0.05 per cent of the import/export prices. The Fund is used to promote import/export trade.

There has been no export insurance programme, export/import financing, and other "facilitating measures" introduced after the promulgation of the Foreign Trade Act.

Article 23 has never been invoked.

In handling trade disputes, the BOFT will need relevant documents from the traders. The documents required vary, depending on the nature of the dispute at issue. Generally, those that may be required are sales contracts, correspondences between the parties and import/export certification.

8.2.2 Regulations Governing Import of Commodities

12. Regulations Governing Import of Commodities

Article 7: Could Chinese Taipei identify the table of commodities under import control mentioned here.

Article 9: Could Chinese Taipei identify the table of commodities subject to customs examination (for reasons other than licensing) which is mentioned here.
New Zealand notes that the designation of areas from which government enterprises or agencies may purchase, in Article 13, may be inconsistent with Article I. [WP3 Spec(93)42: Q.14]

Reply

The tables have not been finalized and will be made available to the members of working party as soon as they are finalized.

8.2.3 Others

13. It is not clear to us from this reply how Chinese Taipei will handle GATT inconsistent laws and regulations on taxes and other charges. Is the comprehensive review to identify GATT inconsistent legislation to be before or after accession? What is meant by "efforts will be made to gradually eliminate such inconsistency"? The reply appears to envisage maintaining certain existing schemes beyond the short run. Could Chinese Taipei please identify what time-frame it envisages here and what existing schemes are referred to? [WP2 New Zealand: Q.6; L/7189: Q.49]

Reply

Chinese Taipei has conducted a preliminary review of its relevant laws and regulations and found no major deviation from the GATT rules in respect of taxes and other charges. However, there may be GATT inconsistent legislation that can not be identified in such preliminary review. Discovery of such legislation may require consultation with trading partners and substantial time may be required to assess the views of trading partners in respect of the specific legislation found by them to be GATT inconsistent.

14. We are confused. In response Question No. 49 raised by the Canadian Delegation in the responses circulated yesterday concerning domestic industries or sectors which may require protection, Chinese Taipei responded:

There may be GATT inconsistent legislation that cannot be identified in such preliminary review [of relevant laws and regulations]. Discovery of such legislation may require consultation with trading partners ... in respect of the specific legislation found by them to be GATT inconsistent.

We don't understand the connection. Canada asked for a list of industries or sectors that Chinese Taipei considered sensitive. The response appears to imply that the delegation of Chinese Taipei believes current practices in these areas to be GATT inconsistent and is asking the CPs to guess as to which aspects need change.

Transparency requirements of GATT Article X and in the procedures of Article XXXIII presuppose that Chinese Taipei would respond to the original question.

Moreover, we believe that Chinese Taipei should be willing to discuss frankly with GATT CPs its legislation which may be inconsistent with GATT regulations.
We assume that Chinese Taipei is in the process of conducting a more detailed review of its legislation to determine its GATT consistency; it should not be waiting for contracting parties to "discover" such legislation.

We seek an unambiguous commitment from Chinese Taipei that it will operate its laws and regulations in conformity with GATT provisions after its accession to the GATT, whether or not GATT inconsistent provisions are subsequently "discovered." [WP3 Spec(93)45: Q.III-1-1; L/7189: Q.49; WP2 Canada: Q.5]

Reply

Chinese Taipei regrets that the United States’ delegation misunderstands its intention in making the quoted statement. What is meant by the statement is that Chinese Taipei, because of its past absence from the GATT, may not fully understand the operation and rules of the GATT so as to ensure a thorough review, especially the initial review of the GATT consistency which was conducted within a rather limited time. The statement is made to provide for the situation where one or more existing contracting parties may have a different view from that of Chinese Taipei in the assessment of the GATT consistency of a particular law or regulation. It is intended to be an expression of Chinese Taipei’s willingness to review the issue with such contracting parties; and if the law or regulation is later found by members of the working party or a GATT panel to be GATT inconsistent, Chinese Taipei is prepared to make appropriate correction within an acceptable time-frame.

Take the harbour construction dues for instance, Chinese Taipei was not aware of its possible GATT inconsistency until the issue was raised by some of the contracting parties. Chinese Taipei, after being advised of the views of such contracting parties, has conducted a review of its related practices and consulted the GATT Secretariat to determine its GATT consistency. Chinese Taipei has indicated on several occasions that if the practices are ultimately determined to be GATT-inconsistent, it will make appropriate adjustment within an acceptable time-frame.

Chinese Taipei wishes to emphasize that it is always its intention to discuss frankly with contracting parties its legislation which may be inconsistent with the GATT rules.

15. GATT Article X provides that law, regulations, judicial decisions and administrative rulings must be published promptly. Furthermore, it is clear that in order to achieve the transparency provided for by this Article the legislation should be systematically and immediately translated into a language commonly used in trade. Can Chinese Taipei confirm that intends to do in this? [WP2 Switzerland: Q.II-17; L/7189: Q. 463]

Reply

Chinese Taipei is prepared to publish its relevant laws and regulations according to the requirements of Article X of the GATT after its accession to the GATT.

Chinese Taipei will, after its accession, translate its relevant laws and regulations as required by the GATT provisions, including Article X, and the result of the Uruguay Round.

Chinese Taipei shall respect international treaties in accordance with its constitution. By its constitution, the international treaties shall come into force after they are duly ratified by the President with the consent of the Legislative Yuan (Congress).

According to the legal system and judicial practice set up by Chinese Taipei, an international treaty has the same validity as municipal law and in some cases it is superior to municipal law.

17. Concerning the "Regulation Governing Examination and Administration of Classification of Import/Export Commodities":

Article 7 appears to give the Government of Chinese Taipei the authority to impose import controls (of an unspecified nature) on any product for which Chinese Taipei has reached a level of self-sufficiency.

Does Chinese Taipei intend to retain this provision after accession to the GATT? If so, how can the provision be reconciled with the rules of the GATT? [WP3 Spec(93)45: Q.IV-2]

Reply

The Regulation Governing Examination and Administration of Classification of Import/Export Commodities has been abolished on 19 July 1993 by an administrative order with reference number Chin(82)-Mau-087102. The regulation of import/export is now based on Articles 6 and 11 of the Foreign Trade Law.
9. **Trade-Related Aspect of Intellectual Property Rights**

1. **What measures can the Customs Authorities themselves take at the border to combat counterfeiting?** Can they take action at their own initiative? Are there other measures besides those mentioned in the reply to Question 409?

   Could we receive fuller information on the negotiations undertaken with the United States "pipeline protection" regarding patents? [WP2 Switzerland: Q.3; L/7189: Q.409]

**Reply**

(1) The emphases of the Customs' inspection on imported goods are product names, brand names, qualities, specifications, product serial numbers, model numbers, countries of manufacture, quantities, net weights, and etc., and trademark infringement is not within the scope of inspection.

(2) Trademark holders when possessing evidence or having obtained the necessary information may file a petition to the court for provisional attachment of the counterfeits or inform the prosecutor, or petition to the trademark authority. The Customs will take actions to seize the counterfeits when informed by the court or the trademark authority.

(3) The Customs would refer suspects of trademark infringement to the Anti-Counterfeiting Committee of the Ministry of Economic Affairs only in export cases, there is no such scheme for imported goods.

(4) The United States-Chinese Taipei consultation on pipeline protection for pharmaceuticals has been concluded. The Department of Health will by 1 August 1993 issue revised public notices regarding safety monitoring that will provide administrative protection under the terms agreed upon by both parties. This monitoring scheme and its associated protection will be applicable to all pharmaceutical innovations regardless of their countries of origins.

2. Are the procedures described in points 2 and 3 of Follow-up Reply II-3 (Switzerland 1) also applicable to infringements of other intellectual property rights (e.g. patents, industrial design, geographical indications, including appellations of origin?) [WP3 Spec(93)44: Q.10; WP2 Switzerland: Q.II-3]

**Reply**

As patent rights are private rights, without any other legal basis specifically provided for, the right-holders have to obtain a court judgement or order to form the legal basis of the Customs' action to seize any products susceptible of patent infringement. Article 104 of the Copyright Law provides that the right-holders may petition to the Customs for seizure of imports susceptible of copyright infringement upon posting of appropriate bond and the Customs will confiscate the imports when the
Court finally confirms the existence of infringement. With respect to the other intellectual property rights, there is currently no legal basis for the Customs’ seizure of imports. Therefore, they have to be dealt with in the same manner as that for the patent right.

3. Will the Customs in the future also be given the authority to take the same actions against counterfeited elements or parts that are imported for the purposes of assembling or producing a finished product which will be exported to third markets? If not, what kind of measures would be envisaged by the authorities to cope with this kind of problem? [WP3 Spec(93)44: Q.11]

Reply

The issue has never been brought to the attention of the Customs before. In fact, the issue involves the responsibilities of many agencies; Chinese Taipei needs to study the matter further. Before any concrete result is produced, the Customs has to follow the instructions of the Court in taking action on seizing imports just as in the case of patent infringement.

4.

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

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

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

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

Reply

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

The above rules apply to all inventions, including pharmaceutical inventions.
(2) The Operational Key Points for Submission of Supplementary Documents in Patent Applications does provide for extension of time for submission of supplementary documents. In case of need, the competent authority will grant extension of time at its discretion upon the applicant’s petition. Currently there is no plan to revise the Operational Key Points.

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

(4) A list of products subject to export licensing requirements in the area of intellectual property protection is attached hereto (Annex VIII).

5. Concerning Intellectual Property Rights Protection we note with satisfaction that a number of improvements have been introduced in Chinese Taipei during recent years to improve intellectual property protection and that Chinese Taipei seems ready to take obligations in this field that are in line with those envisaged in the TRIPS-text of the DFA. It seems, however, from what we have experienced during recent years that the present problems Chinese Taipei faces on this field are on the enforcement side rather than on the IPR legislation itself. At present, we do not have additional questions on this subject, but will follow the development closely. [WP3 Spec(93)43: Q.4]

Reply

Chinese Taipei appreciates the comments made herein.

6. When is the bilateral copyright agreement with the United States expected to come into force?

Does Chinese Taipei plan to have any other agreements on copyrights protection than the one with the United States? If any, please explain the contents of such agreements.

When is the Patent Law to come into force? What about the Trademark Law, the Integrated Circuit Layout Protection Law and the Industrial Design Law?

Please outline the new policy against the infringement of copyrights.

Concerning Reply 405, does Chinese Taipei have any policy to protect foreign-owned copyrighted programmes from being transmitted without authorization? If any, please outline such policy. [WP3 Spec(93)39: Q.8; L/7189: Q.405]
Reply

The bilateral agreement with the United States was formally signed on 16 July 1993 and according to Article 21 of the Agreement, it takes effect from the signing date.

Chinese Taipei welcomes any opportunity of entering into bilateral agreements with countries other than the United States. According to Article 4 of the Copyright Law, the reciprocity required for granting protection to foreign copyrights can be established by way of (1) treaty or agreement, (2) unilateral action by other countries through their laws, regulation, or other legal instruments which provide protection to Chinese Taipei’s copyrights, or (3) practices.

Chinese Taipei is willing to discuss with interested parties to find a mutually accepted way to establish such reciprocity. Except the bilateral agreement with the United States, Chinese Taipei has established reciprocity with the United Kingdom and Hong Kong through unilateral legislative action. To establish reciprocal copyright protection, the consultation with the trading partners concerned always takes time. There are currently several discussions underway, but they are all at the preliminary stage and have not resulted in concrete results that Chinese Taipei can report here.

The draft amendments to the Patent Law and the Trademark Law are pending at the Legislative Yuan and the legislative process is scheduled to be completed by the end of 1993.

The draft frameworks for the Integrated Circuit Layout Protection Law and the Industrial Design Law have now been completed; the draft laws are scheduled to be forwarded to the Legislative Yuan by the end of 1994.

The Action Plan to Comprehensively Protect Intellectual Property Rights approved by the Executive Yuan on 29 June 1993 has set out the following eight directions for efforts to strengthen protection of intellectual properties:

1. Improving the relevant legal framework;
2. Strengthening the relevant administrative organization;
3. Enhancing enforcement of the relevant laws and regulations;
4. Increasing education and promotion;
5. Increasing the capability in negotiating with other countries;
6. Strengthening investigation and research capability;
7. Providing adjustment assistance to the industries; and
8. Monitoring the implementation of the plan.

In addition, Chinese Taipei has decided to establish the Intellectual Property Bureau whose responsibility is exclusively for dealing with intellectual property matters.

According to Article 4 of the Copyright Law, copyrights (including programmes transmitted through satellites) of countries or territories which have established reciprocity with Chinese Taipei are protected by Chinese Taipei. Protection also extended to foreign works published for the first time in the territory of Chinese Taipei, or foreign works which are published in Chinese Taipei within thirty days of their first publication in territories outside of Chinese Taipei.
10. Services

10.1 General

1. Please provide details of Chinese Taipei's position on the Understanding on Commitments in Financial Services of the GATS. Does Chinese Taipei intend to base its offer on that text? [WP2 Switzerland: Q.I-4]

Reply

Chinese Taipei would like to deal with the problem according to the Uruguay Round results, and intends to participate in the relevant parts of the Uruguay Round negotiation, when allowed to do so. Our inability to participate in the Uruguay Round negotiation makes us lack the necessary degree of understanding of the relevant rules and their backgrounds. Chinese Taipei would appreciate contracting parties giving it time to collect the necessary information and to make appropriate assessment of the impact of the Understanding on its financial market.

2. With respect to banking and securities, we appreciate the response to Question 308, but must note that it does not provide a response to the central request, i.e., existing restrictions on market access or "national treatment" as in the Understanding on Commitments in Financial Services of the Draft General Agreement on Trade in Services.

Such restrictions exist, and we believe that Chinese Taipei should be willing to report them. We would be interested in knowing to what extent Chinese Taipei believes it could comply with Articles XVI and XVII of the Understanding if it were decided to adopt Uruguay Round obligations at some point. [WP2 USA: Q. 27; L/7189: Q. 308]

Reply

With respect to national treatment, the draft of General Agreement on Trade in Services is yet to be adopted. Chinese Taipei has not been allowed to participate in the Uruguay Round negotiation and therefore lacks the needed understanding of the nature and the possible application of Articles XVI and XVII of the draft GATS.

Chinese Taipei is therefore not in a position to respond to this question at this moment. Nevertheless, should Chinese Taipei be allowed to participate, even as an observer, in the Uruguay Round negotiation, a better understanding of the draft of General Agreement on Trade in Services will help Chinese Taipei in preparing a concrete answer to this question.

Chinese Taipei would appreciate special consideration by the Working Party.
3. **General question concerning services**

We should be grateful if the delegation of Chinese Taipei could provide an exhaustive list of the services sectors for which the "economic needs test" is mandatory, and also of the sectors where the reciprocity principle is applied. [WP2 Switzerland: Q.II-4]

**Reply**

With respect to issues relating to assessment of market access, Chinese Taipei will formally deal with them in conjunction with its preparation of the initial commitments when it participates in the Uruguay Round negotiation. Chinese Taipei would appreciate the Working Party’s understanding that its absence from the Uruguay Round negotiation makes it lack the necessary degree of understanding of the relevant rules and their backgrounds.

4. **Could Chinese Taipei indicate in which services sectors economic needs test apply (exhaustive list)?** [WP3 Spec(93)44: Q.13]

**Reply**

Chinese Taipei is now making a survey and is trying to develop an exhaustive list of service sectors to which the test applies. The result will be provided to the members of the Working Party in due course.

5. **Could Chinese Taipei indicate in which services sectors reciprocity requirements apply (exhaustive list)?** [WP3 Spec(93)44: Q.14]

**Reply**

Chinese Taipei is now making a survey and is trying to develop an exhaustive list of service sectors subject to the requirement. The result will be provided to the members of the Working Party in due course.

6. **Could Chinese Taipei indicate in which services, if any, bilateral agreements or other provisions prevail which give benefits to some country(ies) not automatically extended to others?** [WP3 Spec(93)44: Q.15]

**Reply**

To the best knowledge of Chinese Taipei, there is no such bilateral agreement. Chinese Taipei will continue to search to see whether there is anything to the contrary.
10.2 Financial services

7. Restrictions on commercial presence:

(1) Foreign Banks - Chinese Taipei’s restrictions on the establishment of foreign banks and on ownership of banks registered in Chinese Taipei constitute a significant denial of market access and national treatment to foreign banks. What steps is Chinese Taipei planning to alleviate this market access problem?

(2) Foreign Insurance Companies - The current provisions of the legislation governing the establishment of foreign insurance companies are discriminatory to the extent that preferential treatment has been given to a large number of insurance companies from one particular source. This discriminatory treatment, which is inconsistent with the MFN principle, unnecessarily adds to the cost of entry, complicates management structures, and suppresses competition. Does Chinese Taipei intend to provide MFN treatment for foreign insurance companies?

(3) Ownership of Securities Firms - Restrictions that limit foreign ownership of securities firms discourage entry of foreign firms and limit competition. What plans does Chinese Taipei have for opening up the securities industry?

Operational restrictions:

(4) Private Banking - Foreign banks are prohibited from opening accounts for Chinese Taipei residents in their branches outside Chinese Taipei or from liaising with foreign financial institutions to open such a network. These restrictions are contrary to one of the main reasons foreign banks seek to establish themselves in Chinese Taipei, that is to augment and interface with their other international and domestic branches. Does Chinese Taipei intend to eliminate this prohibition?

(5) Foreign Bank Liability Limits - For foreign banks in Chinese Taipei, the foreign liability limits reduce significantly their flexibility in funding and competitiveness in the Chinese Taipei market. Such limits are at odds with Chinese Taipei’s desire to become a major regional financial centre. Does Chinese Taipei intend to change the current foreign liability limits?

(6) Foreign Bank Deposit Limits - Foreign bank deposit limits set out in the Guidelines for the Screening and Approval of the Establishment of Foreign Banks unfairly limit the growth of foreign banks as well as their profit generation capabilities. Will Chinese Taipei make changes to the Guidelines regarding foreign bank deposit limits? [WP2 Canada: Q.21; L/7189: Q.298-319]
Reply

(1)&(6) With respect to national treatment or market access, the draft of General Agreement on Trade in Services is yet to be adopted. Chinese Taipei has not been allowed to participate in the Uruguay Round negotiation and therefore lacks the needed understanding of the nature and the possible application of Articles XVI and XVII of the draft GATS.

Chinese Taipei is therefore not in a position to respond to this question at this moment. Nevertheless, should Chinese Taipei be allowed to participate, even as an observer, in the Uruguay Round negotiation, a better understanding of the draft of General Agreement on Trade in Services will help Chinese Taipei in preparing a concrete answer to this question.

Chinese Taipei would like to deal with the problem according to the Uruguay Round results, and intends to participate in the relevant parts of the Uruguay Round negotiation, when allowed to do so. The restrictions to foreign participation in Chinese Taipei’s banking market have already been included in previous responses. At this time, Chinese Taipei’s authority does not have the technical expertise to classify these restrictions as market access or national treatment restrictions. It would be happy to consult with the GATT Secretariat on ways in which this could be done.

(2) The Ministry of Finance completed the first draft of the “Criteria for Approving and Regulating Foreign Insurance Enterprises” early this year. In the hearing held by the Insurance Department of the MOF in April of this year, the Taipei representatives of British, French, Swiss, Japanese, German, and Finnish firms were invited to comment on the draft. Currently the Insurance Department is studying these different opinions in order to incorporate them into the draft, when appropriate. Once the process is completed, the Criteria will be promulgated and made available to the Working Party.

(3) The action that opens up the securities industry in Chinese Taipei has been taken for years, such a liberalization policy has provided market access for many foreign securities firms to set up branches or representative offices in it. Chinese Taipei will continue to open up its securities industry.

(4) On the issue of private banking, the scope of such business is not clearly defined. Chinese Taipei’s current policy is that foreign bank branches and local banks may not assist local residents in opening accounts with offshore financial institutions for the following reasons:

(i) In order to protect domestic investors and depositors, offshore financial institutions may not provide banking services in Chinese Taipei without the approval of the Ministry of Finance, and therefore, local banking establishments may not provide related agency services.

(ii) Serving as an agent for offshore financial institutions in their solicitation of deposits or carrying out other banking business does not fall within the scope of permissible business for foreign and local banks in Chinese Taipei.
The foreign liability limits have been commonly employed by central banks to control the money supply and to prevent the inflow of hot money. It is particularly important at a time when the foreign exchange control was substantially liberalized. In 1987, when Chinese Taipei had surpluses in the current account (including merchandise, service and transfer of payment), there was a great inflow of hot money. As a result, the money supply \( M, B \) increased by the annual rate of 46.39 per cent. In order to avoid over-supply of money and stabilize prices, the Central Bank (CB) since June 1987 has imposed limits on bank foreign liabilities. Thereafter, the current account surplus gradually decreased and anticipation of New Taiwan Dollar appreciation reduced; the Central Bank then raised the limits by 30 per cent. In March and August 1990, the limits were raised by 30 per cent and 50 per cent respectively. In November and October 1991, the limits were raised by 10 per cent each time to reach a total of US$19,000,000,000. In November 1992 and February 1993, the limits were raised by US$200,000,000 and US$400,000,000 respectively. After this series of adjustments, the total ceiling amount reached US$19,600,000,000, while at the end of February 1993, the total actual foreign liability amount was US$1,480,000,000. After the most recent adjustment (17 May 1993), the total of the limits reached US$20,600,000,000. The fact that the total limit amount was substantially higher than the total actual liability amount (US$15,800,000,000 as of 17 May 1993) indicates that the amount of the limit should be sufficient to meet the needs of the banks here.

8. Restrictions on commercial presence

(1) Foreign Banks - Will the revised guidelines for the screening and approval of the establishment of branch offices and representative offices by foreign banks address or remove the following measures:

(a) The designation of locations in which bank branches may be established;

(b) the discriminatory ownership and acquisition restrictions which limit foreign ownership in any bank incorporated in Chinese Taipei to 5 per cent individually and 15 per cent collectively;

(c) restriction of establishment via a quota on branch approvals and on multiple branching;

(d) the requirements for establishment with respect to levels of business activity that must be transacted with the banks and major enterprises in Chinese Taipei prior to the date of application for a branch office?

In addition, does Chinese Taipei intend to remove the economic needs test in instances where foreign banks intend to have more than two branches locally? Does Chinese Taipei also intend to remove the reciprocity requirement?

(2) On the question of foreign liability limits, we note that the issue for Canadian banks is not necessarily the aggregate limit and utilization but rather the setting of limits for individual banks. Is Chinese Taipei willing to address this concern?
We believe that foreign bank deposit limits set out in the "Guidelines for the Screening and Approval of the Establishment of Foreign Banks" unfairly limit the growth of foreign banks as well as their profit generation capabilities. Is Chinese Taipei willing to make changes to the guidelines regarding foreign bank deposit limits? [WP3 Spec(93)37: Q.16; L/7189: Q.298-319]

Reply

(1) The revised guidelines do not remove the designation of locations for foreign banks' branches. However, under the economic needs test, foreign banks may still be able to set branches outside the locations designated by the said Guidelines. For example, Citibank, N.A. now has four branches located out of those cities prescribed by the said Guidelines.

The ownership and acquisition restrictions mentioned in sub-question (b) are set forth in Article 25 of the Banking Law, not in the said Guidelines. Furthermore, such restrictions are not specifically designated to discriminate against foreigners but to disperse the ownership of a bank; the restrictions apply to citizens of Chinese Taipei as well.

With respect to the restriction of establishment via a quota on branch approvals referred to in sub-question (c), the Ministry of Finance is studying the possibility of revision. As to the limitation on foreign banks' multiple branching, currently there is no plan for revision, but foreign banks may seek exceptions to the multiple branching restriction under the economic needs test.

As to the requirement of prior business activity with the banks and major enterprises in Chinese Taipei, there is no revision plan. However, in addition to the prior-business-activity approach, currently there are several alternatives by which a foreign bank may apply for establishment of a branch office: Where the application for establishment of a branch results from acquisition or in accordance with the principle of reciprocity, or the applying foreign bank is a national representative one, according to Articles 3, 6 and 5 of the said Guidelines respectively, the application is not subject to the prior-business-activity requirement.

Chinese Taipei currently does not intend to remove the economic needs test. Nevertheless, the economic needs test does not restrain multiple branching; instead, it provides an exception to the multiple branching limitation. For example, with the test, the MOF approves Citibank to have six branches in Chinese Taipei.

As to the reciprocity principle, Chinese Taipei does not intend to remove it, either. It is the alternative basis for branch establishment. With this, the foreign bank can have more options for branch establishment.

(2) In the recent adjustment of foreign liability limits (August 11, 1993), the Central Bank took account of the actual foreign liability of each individual bank, the amount of foreign exchange such bank borrows and lends through SWAP, and the amount it borrows from domestic banking units. The CB then chose the higher one of the old ceiling or 115 per cent of the aggregate amount of the above items to be the new ceiling of each individual bank. Accordingly, the needs of individual banks has been taken care of.
(3) To ensure the soundness of foreign bank operations and to protect local depositors, Chinese Taipei does not have any plan to change foreign bank deposit limits.

9.(1) It is noted that under the Banking Law of Chinese Taipei, there are limitations in the holding of shares in a bank by any single person (5 per cent) or persons related to the shareholder (15 per cent). What is the interpretation of the term "related"?

(2) It is noted that the above limitations can be waived subject to the approval of the Ministry of Finance. Under what circumstances would the Ministry of Finance approve this kind of exemption? [WP2 Hong Kong: Q.4; L/7189: Q.299]

Reply

(1) According to Paragraph 3 of Article 25 of the Banking Law, the scope of related persons covers a person, his/her spouse, a relative by blood within the second degree of such person, and an enterprise of which a person or his/her spouse is the responsible officer of such enterprise.

(2) Since the referred shareholding limitations (prescribed in Article 25 of the Banking Law) was not added into the Banking Law until the 1989 Amendment, a period of adjustment shall be available for persons whose shareholdings already exceeded the prescribed limit when the 1989 Amendment was adopted. Accordingly paragraph 4 of Article 25 of the Banking Law explicitly authorizes the competent authority (the Ministry of Finance) to set a time limit as is practicable for the persons with such excessive shareholdings to adjust. In other words, those persons to whom the Ministry of Finance grants adjustment time are not exempt but simply have a grace period to lower their shareholdings as required. The Ministry of Finance does not grant any waiver of this kind to new banks established after the 1989 Amendment.

10. It is noted that 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. When would the revised guidelines be finalized and put into operation? [WP2 Hong Kong: Q.5; L/7189: Q.301]

Reply

The revised guidelines will be finalized and put into operation by the end of this year (1993).

11. Question/Reply 299: The reply describes the limitations on ownership concerning both domestic and foreign banks that make it impossible for foreign banks to establish subsidiaries in Chinese Taipei. According to the reply the Ministry of Finance can grant exemptions from this rule. Have exemptions of this nature been granted and if yes, how many banks have obtained this exemption and on which ground, and if this exemption only considers domestic banks what are the reasons therefor? [WP2 Nordic Countries: Q.3; L/7189: Q.299]
Since the referred shareholding limitations (prescribed in Article 25 of the Banking Law) was not added into the Banking Law until the 1989 Amendment, a period of adjustment shall be available for persons whose shareholdings already exceeded the prescribed limit when the 1989 Amendment was adopted. Accordingly, paragraph 4 of Article 25 of the Banking Law explicitly authorizes the competent authority (the Ministry of Finance) to set a time-limit as is practicable for the persons with such excessive shareholdings to adjust. In other words, those persons to whom the Ministry of Finance grants adjustment time are not exempt but simply have a grace period to lower their shareholdings as required. The Ministry of Finance does not grant any waiver of this kind to the new banks established in Chinese Taipei after the 1989 Amendment.

12. Please provide fuller details on liberalization in the banking sector. What restrictions will be removed and what restrictions will be maintained? Will the restrictions on activities of private banking establishments be lifted, and will residents of Chinese Taipei be authorized to open accounts with financial institutions abroad) [WP2 Switzerland: Q.I-3]

Reply

With respect to national treatment, the draft General Agreement on Trade in Services is yet to be adopted. Chinese Taipei has not been allowed to participate in the Uruguay Round negotiation and therefore lacks the needed understanding of the nature and possible application of Articles XVI and XVII of the draft GATS.

On the issue of private banking, the scope of such business is not clearly defined. Chinese Taipei’s current policy is that foreign bank branches and local banks may not assist local residents in opening accounts with offshore financial institutions for the following reasons:

(i) In order to protect domestic investors and depositors, offshore financial institutions may not provide banking services in Chinese Taipei without the approval of the Ministry of Finance, and therefore, local banking establishments may not provide related agency services.

(ii) Serving as an agent for offshore financial institutions in their solicitation of deposits or carrying out other banking business does not fall within the scope of permissible business for the foreign and local banks in Chinese Taipei.

Currently Chinese Taipei does not have any plan to allow foreign investment in local banks. For those foreign banks which intend to have more than two branches in Chinese Taipei, the Ministry of Finance will take into account of the need of market development and grant its approval liberally.

13. It is noted that the criteria for granting approval to foreign insurance firms and the rules governing the administration of these firms are being promulgated by the Ministry of Finance. When would these rules be promulgated and whether they would be make available to the Working Party? [WP2 Hong Kong: Q.6; L/7189: Q.309]
Reply

The Ministry of Finance completed the first draft of the "Criteria for Approving and Regulating Foreign Insurance Enterprises" early this year. In the hearing held by the Insurance Department of the MOF in April of this year, the Taipei representatives of British, French, Swiss, Japanese, German, and Finnish firms were invited to comment on the draft. Currently the Insurance Department is studying these different opinions in order to incorporate them into the draft, when appropriate. Once the process is completed, the criteria will be promulgated and made available to the Working Party.

14. Can Chinese Taipei confirm that all foreign insurance companies will be allowed to operate on the local market? [WP2 Switzerland: Q-I-5; L/7189: Q.318]

Reply

Insurance Companies may establish joint venture subsidiaries according to the "Criteria for Establishment of Insurance Companies;" those wishing to establish branch offices may submit their applications after the promulgation of the "Criteria for Approving and Regulating Foreign Insurance Enterprises."

15. In Reply 309 you mention that "The Criteria for Approving Foreign Insurance Enterprises and the Governing Regulations" will, when enacted, set out the criteria to grant approval for foreign insurance firms. We would appreciate an outline of those regulations and criteria. [WP3 Spec(93)43: Q.12; L/7189: Q.309]

Reply

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

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

16. It is noted that foreign insurance firms are prohibited by the Land Law of Chinese Taipei from investing in real estate. What is the reason for such prohibition? [WP2 Hong Kong: Q.7; L/7189: Q.313]

Reply

Restrictions on investment in real estate by foreign insurance firms are set out in Articles 17 and 18 of the Land Law. Article 17 imposes a general prohibition on foreign nationals creating or obtaining rights on certain categories of land in Chinese Taipei. For other categories of land, Article 18 of the Land Law provides that foreign nationals who may obtain or create rights on a lot of land in
Chinese Taipei are limited to those whose home countries grant the same treatment to the nationals of Chinese Taipei in accordance with a treaty or in accordance with the laws in said countries.

17. **In the response to Question 313 in L/7189, Chinese Taipei indicates that foreign nationals may own land if the home country allows Chinese Taipei citizens to own land.**

   My Government’s understanding is that Chinese Taipei’s Land Law strictly prohibits foreign persons from owning real estate except for that limited to direct business use. Please provide further clarification on this point, especially as it regards portfolio investment by insurance companies and by branches of foreign insurers. [WP3 Spec(93)45: Q.III-5-(3)-3; L/7189: 313]

**Reply**

As regards to whether foreign nationals may obtain title to land or create interest on land in Chinese Taipei, Article 18 of the Land Law, based on the principle of reciprocity, provides the following:

Foreign nationals who may obtain title to land or create interest on land in Chinese Taipei shall be limited to those from countries in which people of Chinese Taipei may enjoy similar rights pursuant to treaties or the laws of such countries.

With respect to the purposes for which they may lease or purchase land, Article 19 of the same law, as required by the domestic situation, provides the following:

"Foreign nationals may lease or purchase land for any one of the following purposes. The area and location of such land shall be subject to the restrictions prescribed according to law by the city or county government having jurisdiction over such land.

1. Residences;
2. Shops and factories;
3. Churches;
4. Hospitals;
5. Schools for children of foreign nationals;
6. Embassies, consulates and meeting places of public welfare groups;
7. Cemeteries."

18. **The response to Question 312 states that several public insurance programmes (e.g. "Civil Servants’ Insurance," "Labourer’s Insurance," and "Farmers’ Insurance") which are administered by authorities, are social insurance rather than commercial insurance.**

   My Government is not convinced that these programmes should be categorized as "social insurance" simply because they are administered by the authorities and not open to commercial insurers. Please provide information on these programmes and their purposes. [WP3 Spec(93)45: Q.III-5-(3)-2; L/7189: 312]
Reply

There are currently 13 different types of social insurance programmes. Among them, labour insurance, civil servants’ insurance, insurance for employees of private schools, insurance for civil service retirees, farmers’ health insurance, and health insurance for councilmen at different government levels of the Taiwan Province and local council directors of the Taiwan Province are integrated insurance programmes covering cash payment and medical expenditure payment, and the remaining seven insurance programmes (medical care for civil servants’ family members, medical care for civil service retirees, medical care for spouses of civil service retirees, medical care for retirees from private schools, medical care for spouses of retirees from private schools, medical care for family members of employees of private schools, health insurance for low income families) are health insurance programmes.

The purpose of the labour insurance programme is to provide protection to labourers and increase social security. The purpose of the farmers’ health insurance programme is to provide health care to farmers, increase farmers’ welfare, and maintain stability in the farm area. The purpose of other insurance programmes (i.e., public insurance programmes) is to improve the welfare of civil servants and employees of private schools.

Labour insurance is mandatory for employers which are companies with more than five employees. Eligible farmers may participate in the farmers’ health programme through local cooperatives. Employees of and retirees from government entities and private schools, as well as their family members may participate in the public insurance programmes through their employers. Civil servants’ insurance and insurance for employees of private schools are compulsory; insurance for retirees and family members are optional.

The above insurance programmes are categorized as social insurance, not simply because they are administered by the authorities. They are categorized as such because the programmes are part of the Government’s social welfare programme. The programmes have been in existence for a long time and general public favours the Government being the provider of such insurance services. Over the last 20 years, the government has established several other types of health insurance programme. It is planned that by 1994, the government will establish a global health programme.

The second reason for the Government to be the provider of the social insurance programme is that it is the most cost-saving way of providing such insurance service. This is supported by the experience of other countries in their administration of health insurance. In the case of Canada, the administrative cost of the Government in providing the relevant insurance service accounts for 2.28 per cent of the payment made to hospitals and physicians in 1985, and in the case of Chinese Taipei the administrative cost accounts for 2.65 per cent of total benefit payment in 1991; whereas in the case of the United States where the relevant insurance services are provided by private insurance companies, the administrative cost accounts for 11.7 per cent of the total benefit payment by private insurers in 1987.

The third reason for the Government’s provision of social insurance is to redistribute income among different sectors and ensure a fairer distribution of income. Those that are financially weaker would be better assured of the access to the insurance services, when the provider is the government.
19. Concerning the response to Question No. 310 in L/7189, the required offering of cessions to the Central Reinsurance Company (CRC) is clearly not a sign of a liberal insurance market. Does Chinese Taipei have any plans to liberalize this requirement? [WP3 Spec(93)45: Q.III-5-(3)-1; L/7189: 310]

Reply

Chinese Taipei intends to privatize the Central Reinsurance Company by gradually increasing participation of private insurance companies in the Central Reinsurance Company. Chinese Taipei has on several occasions indicated its intention to liberalize its insurance market according to the negotiation result of the Uruguay Round and in addition to plans that have been drawn up to open the insurance market to foreign insurers other than United States insurers, further plans to liberalize the sector will be established when the Uruguay Round produces a more concrete result for Chinese Taipei to follow.

20. In the response to Question No. 319 (2), Chinese Taipei states that foreign insurers can engage in the business of reinsurance with the same treatment accorded to domestic insurance companies.

This appears to contradict a previous response which spells out the special status and treatment accorded to the Central Reinsurance Company. Please explain how foreign firms are accorded equal treatment in the area of reinsurance given the rôle of the Central Reinsurance Company. [WP3 Spec(93)45: Q.III-5-(3)-4; L/7189: 319(2)]

Reply

Chinese Taipei intends to liberalize its insurance market according to the negotiation result of the Uruguay Round. When foreign insurance companies are permitted to engage in reinsurance business, they would be accorded the same treatment as domestic companies.

10.3 Telecommunications

21.(1) When will the amendment to the Telecommunications Act be adopted and when will it enter into force? (Q.425)

(2) What are the exact conditions that must be fulfilled in order to obtain a licence from the Ministry of Transport and Telecommunications for private investment in the value-added services sector? What will these conditions be once the amendment to the Telecommunications Act has been adopted? (Q.426)

(3) Please provide further information on the extent of foreign participation that will be allowed in the "non-reserved services" sector. (Q.434) [WP2 Switzerland: Q.II-5; L/7189: Q.425, 426, 434]

Reply

(1) The Amendment to the Telecommunications Act is now pending at the Legislative Yuan for review; the Executive Branch will make best efforts to coordinate the Legislative Yuan for
early passage of the Amendment. The law will come into effect when it is passed by the Legislative Yuan and promulgated by the President.

(2) According to Article 13 of the draft amendment to the Telecommunications Act, which is now under review by the Legislative Yuan, foreign companies will be allowed to make equity investment in Chinese Taipei to provide Category II VANS, provided that their investment plans fulfil the requirements of technology transfer, and their home countries grant the same treatment to citizens of Chinese Taipei.

(3) According to the draft amendment, international value-added business will be opened to foreign operators within two years after the implementation of the amended Telecommunications Act, and domestic value-added business will be opened to foreign operators within four years after the implementation of the amended law.

22. Australia shares the interest of other delegations (United States, EC, Nordics, Hong Kong) on the detail of the process of implementation of the draft amendment to the Telecommunications Act, its likely timing, and on the conditions required for granting of licences for foreign investment in and operation of the VANS.

Can Chinese Taipei provide information on how automatic the licence-granting would be?

Will there be any specific additional criteria for the licences (including any area restrictions, tendering or fees)? [WP3 Spec(93)36: Q.9; L/7189: Q.415]

Reply

The draft amendment to the Telecommunications Act has been forwarded by the Executive Yuan to the Legislative Yuan in April 1992. The draft is now pending at the Legislative Yuan. It is difficult to predict when the Legislative Yuan will complete its review.

According to the draft amendment, foreign investment in Category II telecommunications services will have to be approved by the Ministry of Communications, if the proposed investment meets the conditions set out in Reply 426. It is not finally determined whether area restriction, tendering or fees will be imposed or required.

23. Concerning the response in L/7189 to Question No. 425 with regard to the Telecommunications Law and the draft amendment:

What is the status of regulations that will be needed to implement provisions of the new Telecommunications Law?

Will the draft Telecommunications Law include provisions for private Chinese Taipei and/or foreign companies competitively offering cellular communication, paging services or voice services (i.e. non-Category II services)?

What is the status of the law defining the new structure of the DGT?
How will the draft Telecommunications Law be passed, what steps will the DGT take to ensure free competition within the Value Added Network and other Category II service markets?

Will the draft Telecommunications Law include provisions for the restructuring of the DGT as China Telecommunications Company (CTC)? If so, will the CTC have majority government ownership or private ownership? Will foreign firms be allowed to purchase CTC stock? [WP3 Spec(93)45: Q.III-17-1; L/7189: 425]

Reply

Chinese Taipei is now preparing draft amendments to the subsidiary regulations for implementation of the proposed amendments to the Telecommunication Law.

According to the draft amendment to the Telecommunication Law, Category-I service will be exclusively provided by China Telecommunication Company, a government owned enterprise. No other domestic companies nor foreign companies can provide services of this type. The scope and operation items of Category II service will be proposed by the Directorate General of Telecommunications to the Ministry of Communications for its approval. The authority will have to review the situation every six months, and when the market requires, amend the scope and operation items of Category II service.

The new structure of the DGT will be defined in the new Organization Statute of the DGT, the draft amendment which is now under review by the Legislative Yuan.

The steps that will be taken to ensure free competition within the Category II service market are as follows:

1. Appropriate and reasonable regulation of the business activity of the providers of Category I services;
2. Identifying the business activities of Category II service providers, which are encouraged by the authority;
3. Segregating Category I from Category II service by establishing appropriate safeguard measures, and to ensure equal access to the telecommunication network;
4. Preventing cross-subsidy within a particular service provider;
5. Publicizing technical information on network connecting to facilitate the business operation of various service-providers;
6. Preventing cut-throat competition among service providers;
7. Establishment of a review committee consisting of scholars and specialists to review and handle various telecommunication matters or disputes.

The draft amendment to the Telecommunication Law provides that the DGT is responsible for assisting and supervising telecommunications enterprises, and supervising telecommunication...
activities. As mentioned previously, the CTC is to be exclusively owned by the Government; foreign companies or nationals may not purchase shares of the company.

24.(1) When is the Telecommunications Act to come into force?

(2) Concerning Reply 425, does Chinese Taipei intend to open the "Category I" market to foreign companies? If not, why not?

(3) Reply 426 provides two conditions that foreign-owned companies should fulfil in order to provide value-added services. Are there any other conditions than these two? If a foreign-owned company fulfils these two conditions, will that company be automatically allowed to provide value-added services? [WP3 Spec(93)39: Q.10; L/7189: Q.425]

Reply

(1) The draft amendment to the Telecommunications Law is now pending at the Legislative Yuan which would commence its session after the summer recess in September. It is difficult at this time to predict the time when the amendment will be passed and come into force.

(2) According to the draft amendment to the Telecommunications Law, telecommunications business is divided into Category I and Category II business. Category I business is the basic telecommunication business which is of extreme importance to the general public and is to be operated by the Government as a public service. Chinese Taipei's current plan is to have such business monopolized by a state-owned enterprise and no foreign participation will be permitted.

(3) For foreign business to operate the Category II services (VAN service) in Chinese Taipei, its investment has to meet the requirements of reciprocity and technology transfer, and be specially approved by the Ministry of Transportation and Communications. In conjunction with the amendment to the Telecommunications Law in this respect, the telecommunications authority is now preparing two implementing rules: the Rules for Approving Foreign Nationals/Entities Operating Category II Telecommunications Services in Chinese Taipei, and the "Rules Governing the Category II Telecommunications Services Operation".

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

We would also like to get a more precise definition of what Chinese Taipei includes in its definition of VANs (value added networks). [WP3 Spec(93)43: Q.5]

Reply

The draft amendment to the Telecommunication Act was forwarded by the Executive Yuan to the Legislative Yuan in April 1992. It is now pending the latter's review. It is difficult at this moment to predict when the amendment will be passed by the Legislative Yuan.
According to the current Regulations Governing Telecommunication Value-Added Network Business, VANs refer to telecommunication services by affiliating computer equipment for storage, on-line searching, and processing information through the basic network facility provided by the DGT. Specifically, this type of service covers (1) information storage and on-line search, (2) data processing, (3) remote exchange (access), (4) word processing and editing, (5) voice mail, (6) electronic mail, (7) electronic bulletin, (8) electronic data interchange, and (9) other business approved by the Ministry of Communication. Under the current Telecommunication Act, foreign nationals may not operate business of this type.

26. The response to Question No. 426 indicates that value-added telecommunications services can be provided only by licensed domestic vendors, not foreign firms.

After the new telecommunications law is passed, will foreign companies be allowed to make equity investments in Chinese Taipei to provide Category II VANS? Will wholly-owned foreign investments be allowed? [WP2 USA: Q.33; L/7189: Q.426]

Reply

According to Article 13 of the new Telecommunications Act which is now under review by the Legislative Yuan, foreign companies will be allowed to make equity investment in Chinese Taipei to provide Category II VANS provided that their investment plans fulfil the requirements of technology transfer, and their home countries grant the same treatment to citizens of Chinese Taipei.

27.(1) Question related to Reply No. 431

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

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

(2) Question related to Replies No. 439/441

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

(3) Question related to Reply No. 434

Has the limit of third country holding in an enterprise providing value added services in Chinese Taipei been determined? [WP3 EC: Q.17; L/7189: Q.431, 439, 441, 434]
(1) The draft Telecommunications Law does not define "technology transfer" nor "reciprocal treatment." These definitions will not be available until the Ministry of Transportation and Communications makes the relevant rules to govern the granting of permission.

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

1. Information storage and on-line search;
2. data processing,
3. remote exchange (access);
4. word processing and editing;
5. voice mail;
6. electronic mail;
7. electronic bulletin;
8. electronic data interchange.

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

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

28. Concerning the response to Question No. 430:

Does the DGT accept foreign type-approval certificates or test results from foreign laboratories for DGT type-approvals process and applicable standards for customer premises equipment? If not, does Chinese Taipei intend to prepare such a publication for the benefit of foreign equipment suppliers?

Is there a description in English of the type-approvals process and applicable standards for customer premises equipment? If not, does Chinese Taipei intend to prepare such a publication for the benefit of foreign equipment suppliers?

Can all types of customer premises equipment be tested and received approval in Chinese Taipei?

Are test results accepted for any type of customer premises equipment? [WP3 Spec(93)45: Q.III-17-2; L/7189: 430]

Reply

DGT's type approvals are based on the test results of DGT or its affiliated institutions; foreign type-approval certificates or test results may service as reference only.
The application for customer premises equipment has to be filed by domestic manufacturers at local agents of foreign manufacturers. The Key Points for Testing Process has not been translated into English; Chinese Taipei will prepare the English version in case of need.

All types of customers premises equipment can be tested and received approval in Chinese Taipei.

Test results are accepted for different types of customer premises equipment, according to the items and scope of the test. Chinese Taipei would appreciate the United States delegation's further clarification of the question.

29. Could Chinese Taipei give more detailed information on restrictions with regard to market access and national treatment related to the Computer Reservation System? [WP3 Spec(93)44: Q.12]

Reply

According to Article 5 of the current Telecommunications Law, foreign nationals/entities may not operate telecommunications services in Chinese Taipei; the Computer Reservation System is considered as a value-added telecommunications service and therefore is governed by the Regulations Governing VAN Services. Under the Regulations, international VAN services can be operated only by domestic companies when Chinese Taipei has signed appropriate agreements with the countries involved. In the case where there is no such agreement, and there is a need for so doing, Chinese Taipei operators may enter into appropriate agreements with foreign information services operators, and when such agreement is approved by the Ministry of Transportation & Telecommunications (MOTC), the local telecommunications services operators may operate international VAN services.

In order to meet the needs for telecommunications service and to liberalize the market, Article 13 of the proposed amendment to the Telecommunications Law provides that foreign nationals or entities when fulfilling the requirements and being specially approved by the Ministry of Transportation and Telecommunications may operate the Computer Reservation System and other Category II telecommunications services in Chinese Taipei.

10.4 Transportation

30.(1) Please give details of current legislation concerning freight forwarding for each type of transport, in particular as regards restrictions on market access and national treatment (Q.453).

(2) What restrictions exist on market access and national treatment relating to computer reservation systems? (Q.458) [WP2 Switzerland: Q.11-6; L/7189: Q.453, 458]

Reply

The rules for sea freight forwarding business are set out in the "Rules for Administrating the Sea-Freight Forwarding Business". Article 4 of the said Rules which deals with foreign participation in the industry provides that sea freight forwarding business shall be established in the form of a company
according to the Company Law. In the case of companies limited by shares, the equity participation of Chinese Taipei's nationals shall not be less than two thirds of the total capital of the company and more than two thirds of the board directors shall be citizens of Chinese Taipei.

Non-Chinese Taipei shareholders shall submit documents to show that their home countries grant the same treatment to the citizens or companies of Chinese Taipei, through the navigation authorities of their home countries, unless their home countries have bilateral arrangements with Chinese Taipei.

The rules for the air freight forwarding business are set out in the Civil Aviation Law under which foreign participation in the industry is subject to the following restrictions as set out in Articles 10 and 45.

(i) The air freight forwarding business shall be a legal entity established according to the laws of the Chinese Taipei and with its principal place of business located in Chinese Taipei;

(ii) If the business is a company limited by shares, the president and more than two thirds of the board directors shall be citizens of Chinese Taipei and more than two thirds of the equity shall be held by the citizens of Chinese Taipei;

(iii) If the business is a limited company, no less than two thirds of equity shall be held by the citizens of Chinese Taipei and the director representing the company shall be a citizen of Chinese Taipei.

31. Does Chinese Taipei allow foreign providers to offer the ancillary aviation services of aircraft repair and maintenance, computer reservation services, aircraft rental, terminal services, and baggage handling? Please provide details of all applicable conditions and policy. [WP3 Spec(93)36: Q.10]

Reply

Aircraft repair and maintenance, terminal services and baggage handling are on the Negative List for foreign investment in Chinese Taipei; foreign investment is limited to those nationals whose home countries have signed bilateral civil aviation agreements with Chinese Taipei.

Computer reservation services are considered as one type of telecommunications business, specifically the VAN business, and therefore are subject to the relevant telecommunications laws and regulations. According to the current Telecommunications Regulations, international VAN business can only be operated by citizens of Chinese Taipei when the authority of Chinese Taipei has entered into bilateral agreements with the relevant countries. However, to meet the social needs, Chinese Taipei’s business operators may cooperate with foreign operators, and when the agreements are approved by the Ministry of Communication, the relevant service can be provided by Chinese Taipei’s operators.

Under the draft amendment contemplates, foreign nationals or entities may operate VAN business in Chinese Taipei, when they meet the conditions set forth in Reply 426 and approved by the Ministry of Communications.
32.(1) Please outline Chinese Taipei’s deregulation policy on services for air transportation.

(2) Please outline Chinese Taipei’s deregulation policy on services for domestic freight forwarding and road transport services. [WP3 Spec(93)39: Q.11]

Reply

(1) **Air transportation**

Because of the shortage of supply in the air transportation services, Chinese Taipei in 1987 relaxed the relevant restriction and allow more airline companies to enter the market. As a result, (i) the number of international liners from Chinese Taipei have increased from one to three; and there are two other air-line companies permitted to operate international chartered flights, (ii) the number of airline companies operating domestic freights increased from four to eight, (iii) the number of international passengers increased from 5.67 million in 1987 to 12.11 million in 1992, and (iv) the number of domestic passengers increased from 3.5 million in 1987 to 7.19 million in 1992.

The deregulation applies only to domestic companies organized as companies limited by shares. Foreign participation in such companies may not exceed one third of the shareholding. Foreign airline companies may operate international flights only when their home countries have entered into bilateral arrangements with Chinese Taipei.

(2) **Road 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.

The following is the relevant part of the draft:

**Draft Amendment to the Highway Law**

**Approved by the Legislative Yuan at the First Reading**

**Article 35**

Non-Chinese Taipei citizens or legal persons may not invest in or operate motor vehicle transportation business within the territory of Chinese Taipei.

On condition that the government of a foreign carrier permits a Chinese Taipei shipping carrier to transport its own containers with its own vehicles within the territory of such foreign country, a foreign shipping carrier which has established a branch office in Chinese Taipei with a Foreign Carrier Branch Office Licence issued by the MOTC may apply to the MOTC through the
Highway Authority-in-Charge for approval to operate container trucking business. Upon approval of its application, the foreign carrier may, with its own vehicles, transport shipping containers contracted by itself. The provisions in the preceding paragraph shall not apply to such foreign shipping carrier.

A foreign shipping carrier which has established a branch office in Chinese Taipei and has been granted an approval to operate container trucking business in accordance with the preceding paragraph, shall not commence its business operation until it has completed the change of company recognition, change of branch office registration, business enterprise registration and has obtained motor vehicle transportation business licence. The foreign carrier shall abide by the Chinese Taipei Laws and Regulations governing the administration of such business. The profit and loss of the land transportation and the profit and loss of the shipping operation shall be calculated separately. Mutual subsidy between the land transportation and the shipping operation shall not be permitted. The business scope shall be limited to trucking of containers contracted by the carrier itself for import and export. It shall not include containers contracted by others for shipping by the carrier’s vessels.

10.5 **Professional services**

33. **To what extent are Chinese Taipei professional bodies regulated by the Government?** [WP3 Spec(93)36: Q.14]

**Reply**

Generally, professional bodies such as associations of lawyers, accountants, or architects are under the supervision of the Ministry of Interior for their organization matters, such as establishment or registration of the associations. If an association files its own articles of association or any relevant law, the MOI may depending on the cases, issue a warning, revoke the violating resolution made by the association, or reorganize the association.

Professional bodies are also subject to the supervision of the authority which has jurisdiction over the business of the professionals involved, e.g., the Ministry of Justice in the case of lawyers, the Ministry of Finance (in particular, the Securities and Exchange Commission) in the case of accountants, and the Ministry of Interior (in particular, the Construction Administration) in the case of architects. Such authorities also have the power to issue warnings and revoke resolutions. The laws (the Lawyers Law, the Accountants Law, and the Architects Law) provide for codes of conduct, and the associations also have rules to discipline their members. Violation of such codes of conduct or rules would result in such disciplinary action as warning, suspension of practice, or disqualification.

34. **What are the laws and regulations that govern the certification of professionals in the following sectors: computer and related services, construction management, architectural services, engineering services?** [WP3 Spec(93)37: Q.19; L/7189: Q.460]
The laws and regulations governing the certification of professionals are as follows:

- Computer and related services: nil.
- Construction management:
  Regulation for Constructional Industry;
  Regulation and Permission for Employment of Foreign Technical Personnel by Constructional Industry.
- Architectural services:
  Architects Law;
  Regulation and Permission for Employment of Foreign Technical Personnel by Architects.
- Engineering services:
  Technicians Law.
- Accounting services:
  Accountants Law.
- Legal services:
  Lawyers Law.

35. What application processes do foreign legal consultants have to fulfil to be able to practise foreign legal consultancy in Chinese Taipei? (Q.449: Does this mean there will be no possibility of foreign legal consultancy involvement in Chinese Taipei before there is an outcome of the Uruguay Round.) [WP3 Spec(93)36: Q.11; L/7189: Q.449]

Reply

Foreign lawyers may practise law in Chinese Taipei if they pass the local bar exams and obtain permission from the Ministry of Justice. This is further conditioned by the requirement of reciprocity.

Foreign lawyers who are not qualified to practise law in Chinese Taipei, but fulfil the requirements set out in the Rules for Regulating and Granting Permission for Employment for Foreigners by Local Lawyers may be hired by lawyers of Chinese Taipei as their consultants and assistants. Law firms in Chinese Taipei may not operate under the name of such foreign lawyers. Local lawyers that wish to hire foreign lawyers shall apply to the Ministry of Justice for permission.

According to the aforementioned Rules, local lawyers may hire foreign lawyers who meet the following requirements:

(1) They must be graduated from the relevant departments of local or foreign university or relevant graduate schools and have working experience in the relevant fields for more than two years; or;
they pass foreign bar exams and have relevant working experience for more than two years;

36. To what extent are foreign legal consultants allowed to enter into fee-sharing arrangements, or partnership with local law firms in Chinese Taipei? What is Chinese Taipei’s policy on the use of foreign names in legal consultancy? [WP3 Spec(93)36: Q.12]

Reply

Foreign consultants may not form partnerships or have any fee-sharing arrangements with local law firms in Chinese Taipei. Besides, using foreign names in legal consultancy is not permitted.

10.6 Audio-visual

37. Concerning restrictions on foreign films outlined in the response to Question No. 169:

Please indicate the relationship of the restrictions applied to the provisions of the General Agreement, including Article IV. [WP2 USA: Q.20; L/7189: Q.169]

Reply

Chinese Taipei does not impose any restriction on the number of foreign films screened, as the production of domestic films cannot meet the local demand. In 1991 and 1992, domestic films accounted only for 6.6 per cent and 7.4 per cent respectively of the total number of films distributed in the local market.

The restrictions for purpose of protecting the domestic industry are imposed on the numbers of copies and screening places. The numbers have been increased gradually by the authorities. According to statistics for the year 1992, only 35 foreign films which account for 10 per cent of the total foreign films imported used up the quota of 14 copies allowed for each of the foreign films. In terms of screening places, only 90 foreign films which account for 30.5 per cent of total foreign films in the year 1991 used up the quota of six allowed for each foreign film. This indicates that the quotas allowed for foreign films are generous enough to accommodate the needs of the suppliers. There is no discrimination among films of different origins.

38. Information regarding the services sector, in particular about audiovisuals. [WP3 Spec(93)41: Q.(f)]

Reply

Information regarding the services sector has been provided in the relevant parts of documents L/7097 and L/7189/Rev.1, and replies to follow-up questions put by various contracting parties. Chinese Taipei will provide additional information upon specific request. Chinese Taipei has already made available at the Secretariat English translations of the Publication Law, the Broadcasting and Television Law, and the Motion Picture Law, which would provide general information on audiovisuals.
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<td>WEIGHT</td>
<td>AMOUNT</td>
<td>RATIO</td>
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ANNEX II

Non-Tariff Measures Q.72 [WP2 Switzerland: Q.2]

Current Import Licensing System of Chinese Taipei

<table>
<thead>
<tr>
<th>Import Control and Import Permission</th>
<th>Various Import Regulations</th>
<th>Import Amount (US$) Period: 01-12/1992</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>26,011,208</td>
<td>0.04</td>
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<td></td>
<td>Licences are granted only under exceptional cases: Related policy and social consideration</td>
<td>12,285,170</td>
<td>0.02</td>
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<td>Items permitted to be imported: importation generally is permitted</td>
<td>Prior licensing</td>
<td>Discretionary licensing</td>
<td>39,271,789</td>
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<td></td>
<td>Area restrictions</td>
<td>Others</td>
<td>2,276,106,402</td>
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<td>Others</td>
<td>No prior licences are required</td>
<td>27,147,044,926</td>
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<td>No prior licences are required</td>
<td>42,474,143,866</td>
<td>69.01</td>
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</table>
ANNEX III

State Enterprises O.10 [WP2 Switzerland: O.II.2]

A list of countries from which tobacco products can be imported into Chinese Taipei:

- Australia
- Austria
- Belgium
- Canada
- Costa Rica
- Denmark
- France
- Germany
- Greece
- Italy
- Korea, Republic
- Luxembourg
- Netherlands
- Philippines
- Portugal
- S. Africa, Republic
- Singapore
- Spain
- Sweden
- Switzerland
- United States of America
- United Kingdom
- Ireland

A list of countries from which wine, beer, spirits, products can be imported into Chinese Taipei:

- Antigua and Barbuda
- Argentina
- Australia
- Austria
- Barbados
- Bahamas, Commonwealth of
- Bangladesh
- Belgium
- Belize
- Benin
- Bolivia
- Botswana
- Brazil
- Burkina Faso
- Burundi
- Canada
- Cameroon
- Chad
- Chile
- Colombia
- Congo
- Costa Rica
- Cote d'Ivoire
- Cuba
- Cyprus
- Czechoslovakia
- Denmark
- Dominica, Commonwealth of
- Dominican Rep.
- Egypt
- El Salvador
- Finland
- France
- Gabon
- Gambia
- Germany
- Ghana
- Greece
- Grenada
- Guatemala
- Guinea-Bissau, Rep. of
- Guyana
- Haiti
- Honduras, Rep. of
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Israel
- Italy
- Jamaica
- Kenya
- Kingdom of Tonga
- Korea, Rep. of
- Kuwait
- Lesotho
- Liberia, Rep. of
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
A list of countries from which wine, beer, spirits, products can be imported into Chinese Taipei (cont’d)

Mali
Malta
Mauritania
Mauritius
Mexico
Morocco
Mozambique
Myanmar
Namibia
Nauru, Rep. of
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Pakistan
Panama, Rep. of
Paraguay, Rep. of
Peru
Philippines
Poland
Portugal
Romania
Rwanda
Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Senegal
Sierra Leone
Singapore
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Tanzania
Thailand
Trinidad and Tobago
Togo
Tunisia
Turkey
Tuvalu
Uganda
Uruguay
United Kingdom
United States of America
Vatican City State (Holy See)
Venezuela
Yugoslavia
Zaire
Zambia
Zimbabwe
## ANNEX IV

**Fiscal Policy Q.23 [WP3 Spec(93)37: Q.8]**

**Tax Reductions Due to Implementation of Statute for Upgrading Industries**

(Unit: 1,000 New Taiwan Dollars)

<table>
<thead>
<tr>
<th>Items of Tax</th>
<th>Article of the Statute</th>
<th>Items</th>
<th>Tax Deductible Income</th>
<th>Tax Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Income Tax</td>
<td>§5 accelerated depreciation</td>
<td>Two-year accelerated depreciation for R &amp; D equipment</td>
<td>5,829</td>
<td>1,090</td>
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<td></td>
<td></td>
<td>Two-year accelerated depreciation for energy-saving equipment</td>
<td>99,704</td>
<td>24,926</td>
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<td></td>
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<td>50% reduction of useful life for specific machinery</td>
<td>852</td>
<td>128</td>
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<td>§6 corporate investment tax credit</td>
<td>Automation equipment and technology investment</td>
<td>2,840,621</td>
<td>968,354</td>
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<td>Pollution prevention equipment and technology investment</td>
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<td>R &amp; D investment</td>
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<td>Investment in personnel training</td>
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<td>Investment in brand promotion</td>
<td>93,520</td>
<td>22,275</td>
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<td>§7 corporate investment tax credit</td>
<td>Investment for regional balance promotion</td>
<td>93,520</td>
<td>22,275</td>
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<td>§8 institutional shareholders investment tax credit</td>
<td>Investment by institutional shareholders in important technology-based enterprises</td>
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<td>Investment by institutional shareholders in important invested enterprises</td>
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<td>Investment by institutional shareholders in venture capital enterprises</td>
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<td>§10</td>
<td>Foreign investment loss reserves</td>
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<td>Items of Tax</td>
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<td>Tax Deductible Income</td>
<td>Tax Reduction</td>
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<td>--------------</td>
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<td>Business Income Tax (cont’d)</td>
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<td>20% withholding tax for institutional investors</td>
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<td>§15</td>
<td>Exemption from mandatory distribution of profits</td>
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<td>§16</td>
<td>Deferral of income tax for stock dividends to institutional shareholders</td>
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<td>Deferral of income tax for stock dividends to venture capital’s institutional investors</td>
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<td>§18</td>
<td>Exemption of incremental tax for reappraisal of assets value</td>
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<td>23,927</td>
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<td>Tax exemption for reserve from the stock price over par value</td>
<td>631,830</td>
<td>152,482</td>
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<td>Dividend income exemption for companies limited by shares investing in venture capital enterprises</td>
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<td>Sub-total</td>
<td></td>
<td>10,766,386</td>
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<td>Individual’s Investment Income Tax</td>
<td>§8</td>
<td>Investment by individual investors in important technology-based enterprises</td>
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<td>Investment by individual investors in venture capital enterprises</td>
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<td>0</td>
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<td>§9</td>
<td>Tax exemption for royalties or sale income of patent rights or computer software copyrights</td>
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<tr>
<td>Items of Tax</td>
<td>Article of the Statute</td>
<td>Items</td>
<td>Tax Deductible Income</td>
<td>Tax Reduction</td>
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<td>Individual’s Investment Income Tax (cont’d)</td>
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<td>20% withholding income tax for non-residents</td>
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<td>§16</td>
<td>Deferral of income tax for stock dividends to venture capital’s individual investors</td>
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<td>§17</td>
<td>Deferral of income tax for stock dividends to venture capital’s individual investors</td>
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<td>Reduction of land increment tax for pollution control, public safety, environment protection</td>
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<td>Reduction of land increment tax for moving of plant-side</td>
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<tr>
<td>Stamp Tax</td>
<td>§13</td>
<td>Merger approved by the MOEA</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Sub-total</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Deeds Tax</td>
<td>§13</td>
<td>Merger approved by the MOEA</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Sub-total</td>
<td></td>
<td>-</td>
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<tr>
<td>Total</td>
<td></td>
<td></td>
<td>10,766,386</td>
<td>3,169,387</td>
</tr>
</tbody>
</table>

Note: "-" represents "not available".
ANNEX V

Fiscal Policy Q.23 [WP3 Spec(93)37: Q.8]

Scope of Application of Important Technology-Based Enterprises
Engaged in Manufacturing Business

Promulgated by the Executive Yuan,
on 31 January 1992 per its letter
No. Tai-81-Tsai 04472

Article 1

This Scope of Application is stipulated pursuant to the provisions of paragraph 3, Article 8 of the Statute for Upgrading Industries.

Article 2

In order to be categorized as an important technology-based enterprise engaged in manufacturing business, the following requirements of the Scope of Application shall be met:

(1) The products of the investment project shall be within one or more of the following categories, i.e. communications, information, consumer electronics, semiconductors, precision equipment and automation machinery, aeronautics and aerospace, high-end materials, special chemicals and pharmaceuticals, medical and health care, pollution prevention and control;

(2) the amount of either the paid-in capital or the increased paid-in capital of the investment project shall be in and amount over one billion New Taiwan Dollars (NT$1,000,000,000);

(3) the amount of the capital used in purchase of machinery and equipment under the investment project shall be over five hundred million New Taiwan Dollars (NT$500,000,000); and

(4) the investment project shall be completed within three (3) years after the approval of the project.

Article 3

An enterprise satisfying the requirements set forth in the preceding Article shall, within three (3) months following the date of the promulgation of this Scope of Application, or within six (6) months Ministry of Economic Affairs for issuance of a certificate of important technology-based enterprise by filing the following documents:

(1) The detailed list of machinery and equipment;

(2) the investment plan and the work schedule of the plant construction; and

(3) photocopies of the certificate of incorporation and the permit for factory establishment.

Industrial Development Bureau, Ministry of Economic Affairs shall, while issuing the aforesaid
certificate to the applicant, inform the Department of Taxation, Ministry of Finance of such issuance by sending the said Department a copy of the approval letter.

Article 4

This Scope of Application shall come into force on 1 January 1991 and shall remain in force until 31 December 1992.

Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business

Promulgated by the Executive Yuan, on 31 January 1992 per its letter No. Tai-81-Tsai 04472

Article 1

This Scope of Application is stipulated pursuant to the provisions of paragraph 3, Article 8 of the Statute for Upgrading Industries.

Article 2

In order to be categorized as an important invested enterprise engaged in manufacturing business, the following requirements of the Scope of Application shall be met:

(1) The products of the investment project shall be produced by an enterprise other than the important technology-based enterprises;

(2) the amount of either the paid-in capital or the increased paid-in capital of the investment project shall be in an amount over two billion New Taiwan Dollars (NT$2,000,000,000);

(3) the amount of the capital used in purchase of machinery and equipment under the investment project shall be over one billion New Taiwan Dollars (NT$1,000,000,000);

(4) the investment project shall be completed within three (3) years after the approval of the project; and

(5) the investment project shall be instrumental to the upgrading of industries as well as to be in conformity to the standards of environmental quality.

Article 3

An enterprise satisfying the requirements set forth in the preceding Article shall, within three (3) months following the date of the promulgation of this Scope of Application or within six (6) months following the date of the permit of its factory establishment, apply to the Industrial Development Bureau, Ministry of Economic Affairs for issuance of a certificate of important invested enterprise by filing the following documents:

(1) The detailed list of the machinery and equipment;

(2) the investment plan and the work schedule of the plant construction; and

(3) photocopies of the certificate of incorporation and the permit for factory establishment.
The Industrial Development Bureau, Ministry of Economic Affairs shall, while issuing the aforesaid certificate to the applicant, inform the Department of Taxation, Ministry of Finance of such issuance by sending the said Department a copy of the approval letter.

Article 4

This Scope of Application shall come into force on 1 January 1991 and shall remain in force until 31 December 1992.
ANNEX VI

Fiscal Policy Q.28 [WP3 Spec(93)45: Q.III-1-2]

Regulations for Providing Technical Assistance to Industries

Article 1

These Regulations are stipulated pursuant to the provisions of paragraph II, Article 22 of the Statute for Upgrading Industries (hereinafter referred to as the "Statute").

Article 2

The term "technical assistance organizations formed with the funds contributed by the Government" as set forth in paragraph I, Article 22 of the Statute shall refer to the juristic persons in the form of foundations which are set up respectively with the funds contributed by the Government, and are commissioned by the Government to carry out the plans pertaining to technology Research and Development and/or providing technical assistance to industries.

Article 3

Government authorities in charge of relevant end enterprises shall, for supporting technical assistance efforts, each establish a technical assistance service centre respectively to provide consulting services in connection with technical assistance.

Article 4

The objects eligible to receive technical assistance under these Regulations shall be limited to those domestic manufacturers and firms which have duly registered as and obtained the registration certificate for profit-seeking enterprises (hereinafter referred to as the "manufacturers"). Manufacturers having manufacturing plants shall complete the procedures for factory establishment permit or registration.

Article 5

A technical assistance organization shall, at the request of a manufacturer, provide the following assistance:

1. To provide domestic and foreign technical information;
2. to assist the manufacturer in acquiring necessary technology from abroad;
3. to assist in transferring technology;
4. to provide technical consultation;
5. to provide other relevant technical assistance.

For providing the technical assistance set forth in the preceding paragraph, a technical assistance organization shall prescribe implementation guidelines and assistance application procedures, and may charge appropriate service fees for rendering technical assistance.
The implementation guidelines, the technical assistance application procedures and the rules for charging service fees to be prescribed under the preceding paragraph shall be filed with the appropriate authority in charge for approval and recordation.

Article 6

The appropriate authority in charge shall assess and evaluate the performance of various assistance organizations in carrying out their technical assistance work as an important reference for examining the Research and Development plan budget of the respective assisting organizations.

Article 7

These Regulations shall come into force from the date of promulgation.
ANNEX VII

Fiscal Policy Q.35 [WP3 Spec(93)45: Q.III-14-2]

Key Points for Transfer of the Research Results Achieved Under
Special Technology Research and Development Projects

1. In order to provide a legitimate reference for transfer of the research results achieved by contracted research institutions under the "Technology Research and Development Projects" (hereinafter referred to as the "R and D Projects") by the Ministry of Economic Affairs (hereinafter referred to as "MOEA"), these Key Points are hereby stipulated in accordance with Article 7 of the "Key Points for Receiving and Disbursing Transactions under Special Projects of the Ministry of Economic Affairs Executed by Authorized Research Institutions".

2. The term "research results" as used in these Key Points shall refer to the technical know-how and technology which are created from execution of "R and D Projects" and useful in industries and the intellectual property rights obtained therefrom.

3. The research results achieved shall be owned by the Government, if the "R and D Project" is financed solely by MOEA, and shall be shared by the Government and the private sector concerned pro rata, if the "R and D Project" is financed jointly by MOEA and such private sector. With regard to research results owned by the Government, MOEA shall have the right to appoint the research institution concerned to apply for intellectual property rights therefore, provided that the profit, if any, derived from transfer or disposition of such intellectual property rights by the appointee shall belong to the Government.

4. An "R and D Project" and the results achieved thereunder shall be published in accordance with the following provisions:

   (1) The contents of the "R and D Project" shall be published by MOEA after statutory budget has been finalized;

   (2) after completion of research, MOEA shall authorize the research institution concerned to publish the results thereof and disclose to the public the contents of the research results;

   (3) while publishing the research results in accordance with the provisions of the preceding sub-paragraph, the research institution shall apply for intellectual property rights therein within the statutory time-limit.

5. The transferees of research results shall be limited to domestic firms and agencies (institutions) duly registered under the Law. Prior approval of the MOEA shall be obtained for any transfer outside the Chinese Taipei area.

6. Unless otherwise specifically approved by MOEA, the transfer of research results shall be non-exclusive licensing in nature. The terms and conditions of the transfer agreement, contracting procedures and principles for calculating income from transfer arrangements shall be formulated and submitted by the research institution concerned to MOEA for approval before implementation.
7. Procedures for transfer of research results:

(1) The research institution concerned shall start to accept application(s) for transfer or research results commencing from the date of publishing of the research results;

(2) the research institution shall enter into a transfer agreement with the applicant(s) in accordance with the provisions of these Key Points; and

(3) after execution of the transfer agreement(s), the research institution shall file a report on the transfer arrangement(s) to MOEA for recordation. The research institution shall draft the measures for dealing with violations of the transfer agreement(s) and submit the same to MOEA for approval of enforcement thereof.

8. Transfer income shall be derived from transfer of research results in any of the following manners to be indicated in the transfer agreement:

(1) To provide the research results as equity investment in a mutually agreed value in exchange for shareholdings of the invested enterprise;

(2) to sell the research results for proceeds; or

(3) to obtain transfer income through other arrangement.

9. Where the research institution concerned is a non-profit seeking foundation, the transfer income to be derived from transfer or research results shall be included into its annual budget and final statement and shall be reported.

10. In order to encourage the acceleration of the transfer of research results, the research institution concerned may be granted the following incentives so that its research and development functions can be strengthened, its level of research and development can be upgraded and the morale of personnel can be boosted:

(1) The MOEA sets an amount of incentive payment through budgeting procedures, with reference to the annual transfer income amount estimated by each research institution;

(2) the MOEA effectuates the incentive payment on 1 June of each year according to the execution performance of transfer of research results in the previous twelve months;

(3) the principles for effectuating the incentive payment are as follows:

(a) With respect to income under sub-paragraph 8(1), the incentive payment shall not exceed 15 per cent (the incentive payment shall be calculated based on the par value of the equity stock);

(b) with respect to income under sub-paragraph 8(2) and 8(3), the incentive payment shall not exceed 50 per cent.

11. The performance of a research institution in the execution of transfer of the research results achieved by it under "R and D Projects" shall be used as a reference for MOEA in evaluating its ability of execution of future "R and D Projects".
12. In case the national interests suffer any damage as a result of violation of any provisions of these Key Points on the part of an authorized research institution, MOEA shall have the right to claim against said research institution for recovery of such damage.

**Measures for Encouraging Private Enterprises to Develop New Industrial Products**

**Article 1**

For the encouragement of researching and developing new industrial products by private enterprises, improving the structures of industrial products, raising the international competitiveness and promoting economic development, these measures are hereby enacted.

**Article 2**

The required funds under these measures shall be provided in the following manner:

1. A special account for "research/development programme for new industrial products" (the "Account") shall be opened under the development funds of the Executive Yuan, and development funds shall be appropriated into the Account according to the annual budget;

2. donation by individuals and the authorities concerned: and

3. the repaid matching funds and fees as stipulated in Article 12.

**Article 3**

A private enterprise which develops a new industrial product that falls within the scope of important industry development items and where the research and development is performed by a private enterprise or a research institution shall be eligible to apply for the appropriation of matching funds.

The important industry development items mentioned above shall be published by the Government every year.

**Article 4**

A private enterprise or research institution which applies for the appropriation of matching funds shall have a research and development department with sufficient number of technical professionals.

**Article 5**

Two kinds of matching funds, the development matching funds and the financing interest expense matching funds, may be applied for by private enterprises.

**Article 6**

A private enterprise meeting the requirement under Article 4 which applies for the appropriation of matching funds shall submit an application together with a research and development plan and the relevant data, specifying the kind, item and amount of the matching funds applied for. The application
shall be submitted to the Industrial Development Bureau (hereinafter as the "IDB") for transfer to the Ministry of Economic Affairs (hereinafter as the "MOEA") for approval.

**Article 7**

The application for the appropriation of matching funds shall be reviewed by the New Product Development Review Team of the MOEA (hereinafter as the "Review Team"). The decision of the Review Team shall be executed by the IDB:

The Review Team shall consist of representatives of the Science and Technology Advisory Group of the Executive Yuan, the Council for Economic Planning and Development, the MOEA, the Bureau of Standards, the IDB, the Industrial Technology Research Institute, the Institute for Information Industry and the relevant specialists to be retained.

**Article 8**

The IDB may, upon receipt of an application for the appropriation of matching funds, request the relevant technology institutions or specialists to review and analyse the application prior to the transfer thereof to the Review Team.

**Article 9**

The approval of the Review Team shall stipulate the amount of the matching funds and the conditions therefor. Where two or more private enterprises or research institutions simultaneously apply for the appropriation of matching funds for the development of like products, in addition to taking into account the respective development capability of the applicants, the applicant which assumes, in its own cost the highest percentage of development expenses shall, in principle, be granted a priority.

**Article 10**

For the financing interest expense matching funds approved by the Review Team, after the private enterprise obtains a new industrial product development project loan from the bank designated by the MOEA, the interest rate during the development period shall be 3 per cent lower than the average of ceiling and floor interest rates announced by the Association of Banks. The 3 per cent difference shall be paid by the Account to the bank for a period of up to five years.

**Article 11**

The IDB may from time to time despatch personnel to understand the status of the research and development project granted with the matching funds. The private enterprise or research institution receiving the matching funds shall respond to the inquiry of the IDB personnel and submit periodic research reports for the approval of the Review Team so that the subsequent payment of the matching funds can be effectuated.

In the event the matching funds have been used for other purposes or the research and development have been suspended without due cause such that the progress of the research and development project is substantially behind schedule, the Review Team shall withhold the subsequent payments and recall previously paid matching funds or any equipment, material or instruments purchased by use of the matching funds.
Article 12

The following provisions shall apply to private enterprises which have received the matching funds and developed new products:

1. **Patents**

   In the event a private enterprise has developed a new product and applies for the relevant patent, and where the research and development expenses have all been paid by the matching funds, the IDB shall have the exclusive right to apply for the relevant patent. Where part of the research and development expenses have been paid by the matching funds, the right to apply for the relevant patent shall be jointly held by the IDB and the private enterprise and the relevant patent shall also be jointly held in proportion to their respective sharing of the research and development expenses pursuant to the agreement of the parties, provided that the private enterprise shall be entitled to exclusively utilize the relevant patent for a period of three years. Afterwards during the period of joint utilization of the relevant patent, the private enterprise shall consent to transfer the relevant technology to any other enterprises designated by the IDB for production of the product and other rights, obligations and associated matters and shall file such transfer with the authorities concerned.

2. **Repayment of the matching funds**

   A private enterprise which has received the matching funds and developed and commenced production of the new product shall, starting from one year after the date of sale, repay the matching funds in instalments. The period of repayment shall not be less than two years and not more than five years.

3. **Royalties**

   A private enterprise which has received the matching funds and developed and commenced production of the new product shall, starting from the date of sale, pay to the Account royalties calculated at 1 to 4 per cent (depending on the amount of the matching funds and the characteristics of the new product, and to be determined by the Review Team) of the sales amount for a limited period of three years.

Article 13

The deposit, withdrawal and use of funds in the Account shall be handled pursuant to the accounting procedures and shall be reported to the Development Fund Management Committee of the Executive Yuan.

Article 14

These measures shall be implemented from the date of promulgation.
181 to 360 Days Short-Term Export Credit

I. Purpose

To facilitate the export of machinery, equipment, capital goods, and other important industrial products, the Export-Import Bank (the Eximbank) hereby provides the short-term export credit to exporters with the tenor from 181 days and up to 360 days. The loan will be disbursed and repaid in NT$ or US$.

II. Eligibility requirements

1. Eligible applicants:

   (i) Duly registered manufacturers who have technical capability to produce the eligible products;

   (ii) official trading enterprises or duly registered trading companies who have exported the eligible products on behalf of manufacturers mentioned in the preceding paragraph and have met all of the following conditions:

       (a) Having a paid-in capital of above NT$2 million;

       (b) having a three-year export and/or import record of above US$3 million;

       (c) having a good credit standing on the company and its responsible officials.

2. Eligible products:

   (i) Industrial machines and machinery parts;

   (ii) The 10 newly emerging industries (approved by Government) comprising of telecommunications, information, consumer electronics, semi-conductors, precision machinery and automation industry, aerospace, advanced material, special chemicals and pharmaceuticals, medical and health care, and pollution control;

   (iii) Strategic industrial products approved by Government;

   (iv) Automobile, motorcycle and their spare parts;

   (v) Hand tools, structures of iron and steel, electric wires and cables, and computer system products;

   (vi) Other capital goods (subject to Eximbank’s approval).
## ANNEX VIII

### TRIPS Q.4

Types of Products Requiring Export Permits and Inspection

<table>
<thead>
<tr>
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<th>8473.30.10.90</th>
<th>9504.10.00.10</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name of product</strong></td>
<td>Computer PC board (only PC boards with semiconductor chips and computer software within the chip)</td>
<td>Printer PC board (only PC boards with semiconductor chips containing computer software)</td>
<td>Television video game PC boards with semiconductor chips containing computer software</td>
</tr>
<tr>
<td><strong>Inspection standard</strong></td>
<td>Provisional regulations for computer software export inspections</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Sample regulations</strong></td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Apply for inspection at</strong></td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Inspection location</strong></td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Duration of inspection</strong></td>
<td>3 days</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Validity of certificate</strong></td>
<td>1 month</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Units</strong></td>
<td>PC</td>
<td>PC</td>
<td>PC</td>
</tr>
<tr>
<td>Product CCC No.</td>
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<td>954.90.90.00</td>
<td>954.90.90.00</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------</td>
<td>---------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Name of product</td>
<td>Video games of a kind used with a television receiver</td>
<td>Other articles for funfairs, table or parlour games (palmtop electronic games containing computer software)</td>
<td>Other articles for funfairs, table or parlour games (cassettes for palmtop electronic games)</td>
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<tr>
<td>Inspection standard</td>
<td>Provisional regulations for computer software export inspections</td>
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<td>ditto</td>
</tr>
<tr>
<td>Sample regulations</td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Apply for inspection at</td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Inspection location</td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Duration of inspection</td>
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<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Validity of certificate</td>
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</tr>
<tr>
<td>-----------------</td>
<td>---------------</td>
<td>---------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Name of product</td>
<td>Cassettes for television video games</td>
<td>Digital automatic data processing machines (containing in the same hosing at least a CPU and output unit, whether combined or not)</td>
<td>Dot matrix printer</td>
</tr>
<tr>
<td>Inspection standard</td>
<td>Provisional regulations for computer software export inspections</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Sample regulations</td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Apply for inspection at</td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td>Inspection location</td>
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<td>ditto</td>
</tr>
<tr>
<td>Duration of inspection</td>
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<td>ditto</td>
</tr>
<tr>
<td>Validity of certificate</td>
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</tr>
<tr>
<td>-----------------</td>
<td>---------------</td>
<td>---------------</td>
<td>---------------</td>
</tr>
<tr>
<td><strong>Name of product</strong></td>
<td>Laser printer</td>
<td>Daisy printer</td>
<td>Other printer</td>
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<td><strong>Inspection standard</strong></td>
<td>Provisional regulations for computer software export inspections</td>
<td>ditto</td>
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</tr>
<tr>
<td><strong>Sample regulations</strong></td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Apply for inspection at</strong></td>
<td>III regional offices</td>
<td>ditto</td>
<td>ditto</td>
</tr>
<tr>
<td><strong>Inspection location</strong></td>
<td>III regional offices</td>
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<td>ditto</td>
</tr>
<tr>
<td><strong>Duration of inspection</strong></td>
<td>3 days</td>
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<td>ditto</td>
</tr>
<tr>
<td><strong>Validity of certificate</strong></td>
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<td>---------------</td>
<td>---------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Name of product</td>
<td>Recorded data processing system magnetic disks (only disks containing computer software)</td>
<td>Other digital integrated circuits (used in computers, printers or TV video games and containing chips with computer software)</td>
<td>Other monolithic integrated circuits (used in computers, printers or TV video games and containing chips with computer software)</td>
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<td>Inspection standard</td>
<td>Provisional regulations for computer software export inspections</td>
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<tr>
<td>Sample regulations</td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td>ditto</td>
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<tr>
<td>Apply for inspection at</td>
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<td>Inspection location</td>
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<td>Validity of certificate</td>
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<td>-----------------</td>
<td>--------------</td>
<td>--------------</td>
<td></td>
</tr>
<tr>
<td><strong>Name of product</strong></td>
<td>Mix integrated circuits (used in computers, printers or TV video games and containing chips with computer software)</td>
<td>Other integrated circuits and microassemblies (used in computers, printers or TV video games containing chips with computer software)</td>
<td></td>
</tr>
<tr>
<td><strong>Inspection standard</strong></td>
<td>Provisional regulations for computer software export inspections</td>
<td>ditto</td>
<td></td>
</tr>
<tr>
<td><strong>Sample regulations</strong></td>
<td>Obtain 1% of samples, at least 1, no more than 5</td>
<td>ditto</td>
<td></td>
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<tr>
<td><strong>Apply for inspection at</strong></td>
<td>III regional offices</td>
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<td><strong>Inspection location</strong></td>
<td>III regional offices</td>
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<td></td>
</tr>
<tr>
<td><strong>Duration of inspection</strong></td>
<td>3 days</td>
<td>ditto</td>
<td></td>
</tr>
<tr>
<td><strong>Validity of certificate</strong></td>
<td>1 month</td>
<td>ditto</td>
<td></td>
</tr>
<tr>
<td><strong>Units</strong></td>
<td>PC</td>
<td>PC</td>
<td></td>
</tr>
</tbody>
</table>

**Note:**

1. Items listed in the table should undergo inspection in accordance with promulgations of 19 September 1992 Jian Tai (81) Tze No. 089180, 16 September 1992 Jian Tai (81) 3 Fa Tze No. 17593, and 1 February 1993 Jian Tai (82) 3 Fa Tze No. 01825.

2. General inspections are limited to three days but should further inspections be necessary, the time period may be extended to 10 days (13 April 1993 Jian Tai (82) 3 Fa Tze No. 06915).

3. Items in the table must be inspected. Any item whose export permit has been stamped "No Inspection" by the permit unit is not bound by these limits. (15 June 1994 Jian Tai (82) 3 Fa Tze No. 10708).