



Asia-Pacific
Economic Cooperation

2004/SOM3/030
Agenda Item V.2

Report on IAP Peer Review of Chinese Taipei

Purpose: Consideration
Submitted by: APEC Secretariat



Third Senior Officials' Meeting
Santiago, Chile
3-4 October 2004

REPORT OF CHINESE TAIPEI'S INDIVIDUAL ACTION PLAN (IAP) PEER REVIEW

The IAP Peer Review Session of Chinese Taipei was held on October 2, 2004 in Santiago, Chile. Delegates from Australia; Canada; Chile; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Russia; Singapore; Chinese Taipei; Thailand and the United States were present. The APEC Secretariat, ABAC and PECC were also present.

The Review Team for Chinese Taipei was comprised of:

Moderator: [Mr Gordon Venner](#)
International Economic Relations
Department of Foreign Affairs and International Trade
Canada

Discussant: Mr. Chutintorn (Sam) Gongsakdi
Director of International Economic Policy Division
Department of International Economic Affairs
Ministry of Foreign Affairs
Thailand

Expert: Mr. Simon SC Tay
Chairmen
Singapore Institute of International Affairs

APEC Secretariat: Mr. Sergey Shipilov
Professional Staff Member
Singapore

This report contains the following Annexes.

- Annex 1 - Moderator's Wrap-up remarks
- Annex 2 - IAP Study Report – Chinese Taipei 2003
- Annex 3 - Discussant's Remarks
- Annex 4 - Presentation by Chinese Taipei
- Annex 5 - Written Questions Received During the Session

**IAP Peer Review of
Chinese Taipei
Moderator's Wrap-Up Remarks**

- Thank you all for your participation in the IAP Peer Review of Chinese Taipei. In particular, I would like to thank our Expert, Mr. Simon SC Tay from Singapore, and our Discussant Mr. Sam Gongsakdi from Thailand for their contribution to what has been a productive peer review session.
- I would also like to extend my compliments to Chinese Taipei for its open and frank responses to member questions during this session.
- Chinese Taipei's commitment to trade liberalization has been evidenced by its APEC achievements, helping spread the benefits of economic growth throughout the Asia-Pacific region. It is clearly strongly committed to the achievement of the Bogor Goals.
- Chinese Taipei has made many unique contributions to the Asia-Pacific community. Of note is Chinese Taipei's willingness to share its experiences and many policy strengths with developing member economies, especially in the use of information technology as a tool for international trade.
- Chinese Taipei has already made significant progress in privatizing government-owned enterprises, and improving the protection of intellectual property rights. Challenges remain and have been outlined throughout both the expert report and discussions today.
- Member economies have suggested further government liberalization in the sectors of finance and banking, transportation, infrastructure, and government procurement. The future economic growth of Chinese Taipei will be facilitated by the ongoing development of the information communication and technology sector.
- Although much has been accomplished, significant challenges remain. I urge Chinese Taipei to continue further economic liberalization and improved transparency in pursuit of the Bogor Goals.

(REMINDER: PLEASE SUBMIT HARD AND SOFT COPIES OF QUESTIONS TO WHICH YOU WOULD LIKE A WRITTEN RESPONSE TO SERGEY SHIPILOV WITHIN TWO HOURS OF THE END OF THIS SESSION. THANK YOU.)

CHINESE TAIPEI IAP PEER REVIEW

Table of Contents:

A. General

- 1. Introduction**
- 2. Chinese Taipei's Recent Macroeconomic Performance and Policies**
- 3. Chinese Taipei, APEC and WTO Accession**
- 4. Chinese Taipei and the People's Republic of China in APEC**
- 5. Chinese Taipei's Long Term Reforms and Recent Policy Trends**

B. Review by IAP Subject

- 1. Tariffs**
- 2. Non-Tariff Measures**
- 3. Services**
- 4. Investment**
- 5. Standards and Conformance**
- 6. Customs Procedure**
- 7. Intellectual Property Rights**
- 8. Competition Policy**
- 9. Government Procurement**
- 10. Deregulation / Regulatory Review**
- 11. Implementation of WTO Agreement (including Rules of Origins)**
- 12. Dispute Mediation**
- 13. Mobility of Business People**

C. Conclusion

Annexes

Annex 1: Members of the Review Team

Annex 2: Chinese Taipei Responses to Written Questions by Member Economies and Expert (including follow-up questions)

Annex 3: List of Meetings in Chinese Taipei and List of Participants

Chinese Taipei IAP Peer Review

A. GENERAL

1. Introduction

This report seeks to review trade and investment policies in Chinese Taipei as stated in the 2003 IAP, in the broader context of past and current Chinese Taipei reforms in market liberalization.

1. Chinese Taipei has been a relatively market friendly and open economy in the region. It stands as a newly industrialized economy and has benefited from international trade. Its experience with economic openness is, in this regard, ahead of most developing economies in the region. Yet, in comparison with more long standing developed economies, Chinese Taipei has only recently liberalized its policies in a number of sectors or, indeed, is still undertaking efforts to do so. Moreover, in developmental terms, Chinese Taipei stands in between, on one hand, the richer developed economies and, on the other, the poorer and developing economies of the region.

2. Thus situated, Chinese Taipei's experiences in economic liberalization may be of particular interest to APEC member economies. Some assistance and example to the developing countries may be drawn for their next steps forward, as they consider policy reform towards the APEC Bogor goals. Indeed, there are areas in which the policies and practices of Chinese Taipei are among the best in APEC. These include the efforts that Chinese Taipei has made to use information technology to facilitate trade and economic activity. The transparency of trade rules and tariffs has increased, as has the speed of procedures and efficiency in clearance of import and export procedures. Transaction costs have been reduced, especially for the smaller and medium sized companies. In these and some other notable areas, there may be experiences and practices that would be helpful to be shared with other APEC members. Indeed, authorities in Chinese Taipei have evinced a willingness to share such experiences and know-how with other APEC member economies, especially the developing ones.

3. The Chinese Taipei experience may also be considered in the aftermath of the 1997

Asian financial crisis and a slowdown in the economy, starting in 2002. As such, the pace and extent of liberalization policies have necessarily taken into account concerns among some domestic stakeholders about the possible negative effects of further opening. It is therefore notable that Chinese Taipei's implementation of its IAP has proceeded, and the government's commitment to broad and deep liberalization remains strong.

4. An account of the opening of the economy of Chinese Taipei must also consider the country's on-going commitments to fulfill its undertakings to the WTO, as part of the accession process for the Chinese Taipei economy.¹ The accession is quite newly negotiated and implementation processes are still on-going. Moreover, Chinese Taipei's undertakings under its WTO accession are broad and quite substantial across economic sectors. Thus, while the effort to meet these WTO undertakings does not conflict or directly subtract from the commitment to the Bogor Goals, the IAP of Chinese Taipei gives little that is additional to the WTO commitments, or what some have termed, "WTO plus" commitments.²

5. Another factor that bears mention in considering the liberalization of trade and investment in Chinese Taipei is its relationship with mainland China. The underlying issues between the Chinese mainland and Chinese Taipei are of course political and beyond the scope of this review. However, as both are member economies within APEC (and indeed are both WTO members), the principles of non-discrimination and the Bogor goal to achieve free trade among all APEC members would otherwise apply. As such, the differences in treatment accorded by Chinese Taipei to mainland China, and the distortions in economic policy that arise, must necessarily be considered. The present limits to trade with mainland China imposed by the government of Chinese Taipei go beyond issues of direct national security and political concern. There are considerable economic distortions and costs that result.

¹ In the WTO, Chinese Taipei is described as the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

² For background information, the reviewer consulted and reviewed various papers in addition to Chinese Taipei's IAPs as well as the government responses to questions posed by other APEC economies and the reviewer. These papers inform much of the background of this report, and in some cases, were quoted in the review. However, in the interest of brevity and readability, this review forgoes the usual academic footnotes and citations. The final conclusions and opinions are, of course, the responsibility of the reviewer.

6. These costs and distortions become even more evident when we consider the liberalization efforts by Chinese Taipei that apply to other economies, and the overall liberalization and integration of economic activity within the Asia Pacific. The more open and integrated the Chinese Taipei economy is, and the more open and integrated the Asia Pacific region as a whole becomes, the more this issue will need to be considered, at least in terms of its economic impacts.

7. Even at present, despite an uneasy political and diplomatic environment, both Chinese Taipei domestic and cross-Strait business are flourishing. The Chinese Taipei economy is projected to grow 5.41 per cent in 2004, its best performance in at least three years. At the same time, however, the business community has been frustrated by the government's legal and regulatory restrictions, which it perceives as the major hindrance to achieving considerably stronger economic growth. Foremost among those restrictions are the constraints on the flow of people, goods, and capital across the - Straits, even though Chinese Taipei's economic resurgence is being driven in large part by its trade with China.

8. Another issue that bears attention is Chinese Taipei's record on intellectual property protection. This has traditionally been a point of contention and criticism of domestic policy and enforcement in Chinese Taipei. However, intellectual property is increasingly recognized as an important foundation for Chinese Taipei as it builds a knowledge-based economy and society. It is also a crucial factor in attracting investment in key business sectors. While legislation and enforcement have been improving, it is also important to deter infringement by handing down meaningful punishments to IP violators. In addition, Chinese Taipei needs to cultivate greater public awareness of the link between IP protection and domestic economic strength needs attention. Piracy, patent violations, counterfeit materials and illegal imports of patented products all remain problems to be further addressed.

9. Chinese Taipei has made impressive gains in cleaning up and restructuring the financial industry, including decreasing the non-performing loan ratio of domestic banks, but several priorities need continued policy attention: more liberalized capital controls,

reformed bankruptcy and reorganization laws, continued clean-up of non-performing loans, refunding of the Financial Restructuring Fund, and consolidation of policy-making and regulatory functions under the Ministry of Finance. The inauguration of the Financial Supervisory Commission on July 1, 2004, which consolidated the supervision and examination of the banking, securities and futures, insurance as well as the financial holding companies under a single supervisory authority, will further create new momentum to Chinese Taipei's financial regulatory reform. The NPL ratio of domestic banks has steadily declined from a peak of 8.09% in April 2002 to 3.54% at the end of June, 2004.)

10. Domestically, the Chinese Taipei government's various development plans focused on infrastructure development, as well as the reform of political, bureaucratic, judicial and educational institutions. Internationally, the government emphasized that building and maintaining vital economic links with major economic powers are vitally critical for Chinese Taipei's economy. Increasingly, however, it is the quality and variety of the links across the Straits that, in the view of multinational companies, will determine whether Chinese Taipei remains an important economic player. The absence of a national consensus and clear implementation plan for Chinese Taipei-China economic interaction is already having an adverse impact on business planning.

11. The government is to be commended for the steps already taken to push the privatization of government-owned enterprises, to improve the protection of intellectual property rights and to eradicate 'black and gold' political corruption.³ At this point in time, it is important to maintain the momentum, continuing improvement in these areas while turning to other long-term problems that have seen less progress. This includes greater opening-up of Chinese Taipei's economy, especially in the area of financial and banking sectors, transportation, infrastructure, government procurement, and switching its dependence upon manufacturing to information communication and technology and services as the mainstay of its sources of economic growth.

12. The reviewer wishes to thank the Chinese Taipei government and the APEC

³ The definition of black gold in Chinese Taipei's 'Action for Wiping out Black and Gold Influence,' includes corruption, organized crime and vote-buying.

secretariat for their assistance in the process of preparing this report and the former for its responses to questions posed and for additional information provided. Responsibility for the views in this report and any mistakes of course remain with the author.

2. Chinese Taipei's Recent Macroeconomic Performance and Policies

1. Chinese Taipei's economy showed a steady improvement through most of 2003. Though the US-Iraq war and the SARS outbreak caused a sharp dip in the second quarter, the economy recovered quickly and grew progressively stronger after these challenges were effectively overcome. In particular, the government's efforts to accelerate investment in infrastructure and the provision of public services helped speed Chinese Taipei's economic rebound in the second half of the year. Chinese Taipei recorded an economic growth rate of 3.31% in 2003, while consumer prices declined 0.28%. Chinese Taipei's per capita GNP in 2003 ranked 28th among economies with a population exceeding one million, while its foreign exchange reserves were third-largest after those of Japan and mainland China. Chinese Taipei was the world's 15th biggest exporter and its 16th largest importer.

2. Reviewing these past decades of economic development, Chinese Taipei may be noted for combining rapid growth rates, stable prices, low unemployment, and a relatively equitable income distribution. From 1960 through the 1980s, Chinese Taipei sustained an average annual economic growth rate of 9.2%, while unemployment remained below 2.0% of the labor force for most years after the mid-1960s. Consumer prices rose at an average annual pace of 4.3% during the 1970s (excluding the years of the oil crisis). In the 1980s, their increase slowed to only 3.0% per year.

3. Even as it has matured, the Chinese Taipei economy has generally maintained a strong growth momentum. In the 1990s, the economy expanded 6.4% per year, consumer prices rose at an average annual rate of 2.9%, and the unemployment rate averaged 2.0%.

From 2000 through 2003, the corresponding figures were 2.6%, 0.2%, and 4.4%, respectively. Per capita GNP reached US\$13,157 in 2003.

Major Economic Indicators*

Item	Unit	2001	2002	2003
Economic growth rate (real GDP increase)	%	-2.18	3.59	3.24
Gross national product (GNP)	US\$ billion	286.8	289.3	295.9
Per capita GNP	US\$	12,876	12,916	13,157
Changes in consumer price index (CPI)	%	-0.01	-0.20	-0.28
Exchange rate (end of the year)	NTS per US\$	34.999	34.753	33.978
Prime/Base lending rate** (end of the year)	%	7.600	7.310	3.330
Unemployment rate	%	4.57	5.17	4.99
Foreign exchange reserves (end of the year)	US\$ billion	122.2	161.7	206.6
Merchandise exports (at FOB prices)	US\$ billion	122.9	130.6	144.2
Merchandise imports (at CIF prices)	US\$ billion	107.2	112.5	127.3
Balance of trade in merchandise	US\$ billion	15.6	18.1	16.9
Balance of trade in goods & services	US\$ billion	16.0	20.9	20.6
Balance of trade in goods & services as percentage of GDP	%	5.7	7.4	7.2

* GNP and trade figures are given at current prices. ** Base lending rate since 2003.

Sources: 1. Directorate-General of Budget, Accounting and Statistics (DGBAS), Executive Yuan, R.O.C., *Quarterly National Economic Trends, Taiwan Area, R.O.C.*, No. 104, Feb. 2004.

2. The Central Bank of China, R.O.C., *Financial Statistics Monthly, Taiwan District, R.O.C.*, Feb. 2004.

ε

4. High levels of saving and investment have contributed importantly to Chinese Taipei's economic growth since the 1960s. However, in the 1980s a sharp increase in Chinese Taipei's trade surplus, coupled with explosive growth in liquidity, gave rise to an economic-bubble boom toward the end of the decade. In 1986, excess saving (external current account surplus) rose to a peak of 21.4% of GNP. Stock and real estate prices exploded, production costs soared, and the investment climate deteriorated rapidly.

5. The government responded by stepping up the pace of economic liberalization, increasing public investment, and encouraging industrial restructuring. These measures

succeeded in reducing the trade imbalance and restoring economic stability. In recent years, as a result of higher income and the opening of domestic markets, consumer tastes and preferences have become more sophisticated, and household saving relative to income has fallen. At the same time, rising costs of land, labor, and environmental protection have shaved profits and reduced internal saving by business enterprises.

6. Meanwhile, because of slower growth in current revenue and rising expenditures for social welfare, the current account surplus in the government's budget has declined sharply. For all of these reasons, national saving fell markedly to 26.0% of GNP in 2003 from an all-time high of 38.5% in 1987.

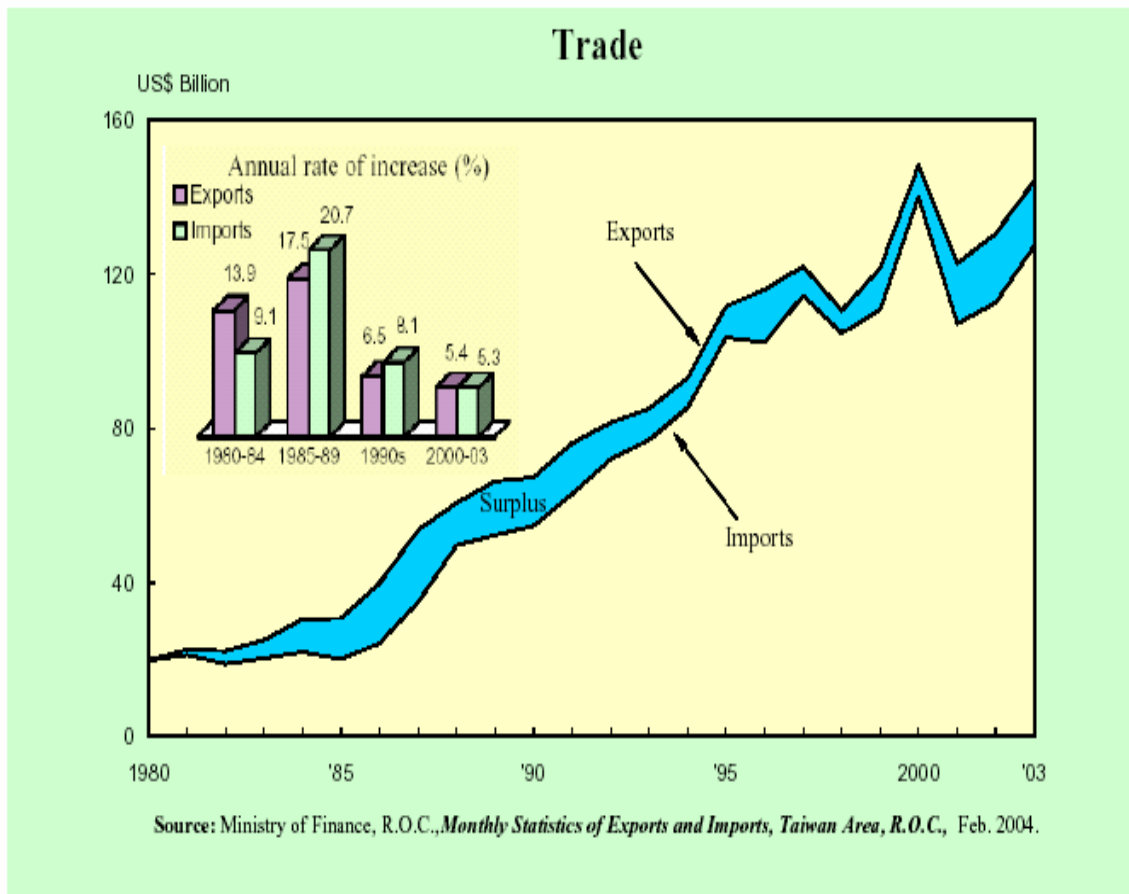
7. Over the years, the composition of Chinese Taipei's merchandise trade has changed substantially, reflecting the restructuring and upgrading of its industry as well as progress in the liberalization and globalization of its economy.

8. Industrial products have steadily increased their share of Chinese Taipei's exports, accounting for more than 90% of total exports in 1990 and reaching 98.5% in 2003. Within this category, exports of capital- and technology-intensive goods have shown impressive growth, raising their share of total exports from 32.2% in 1981 to 75.3% in 2003. As efforts to develop high-technology industries have progressed, electronics and products related to information technology have seen their share of total exports rise considerably, from 13.7% in 1981 to 31.4% in 2003.

9. Looking at imports, since Chinese Taipei has few natural resources, more than 60% of its total imports consist of agricultural and industrial raw materials. Between 1981 and 1997, imports of capital goods accounted for less than 20% of total imports. However, following a surge in investment by high-tech firms beginning in 1998, the share of capital goods in imports climbed to 28.0% in 2000 before easing to 20.5% in 2003.

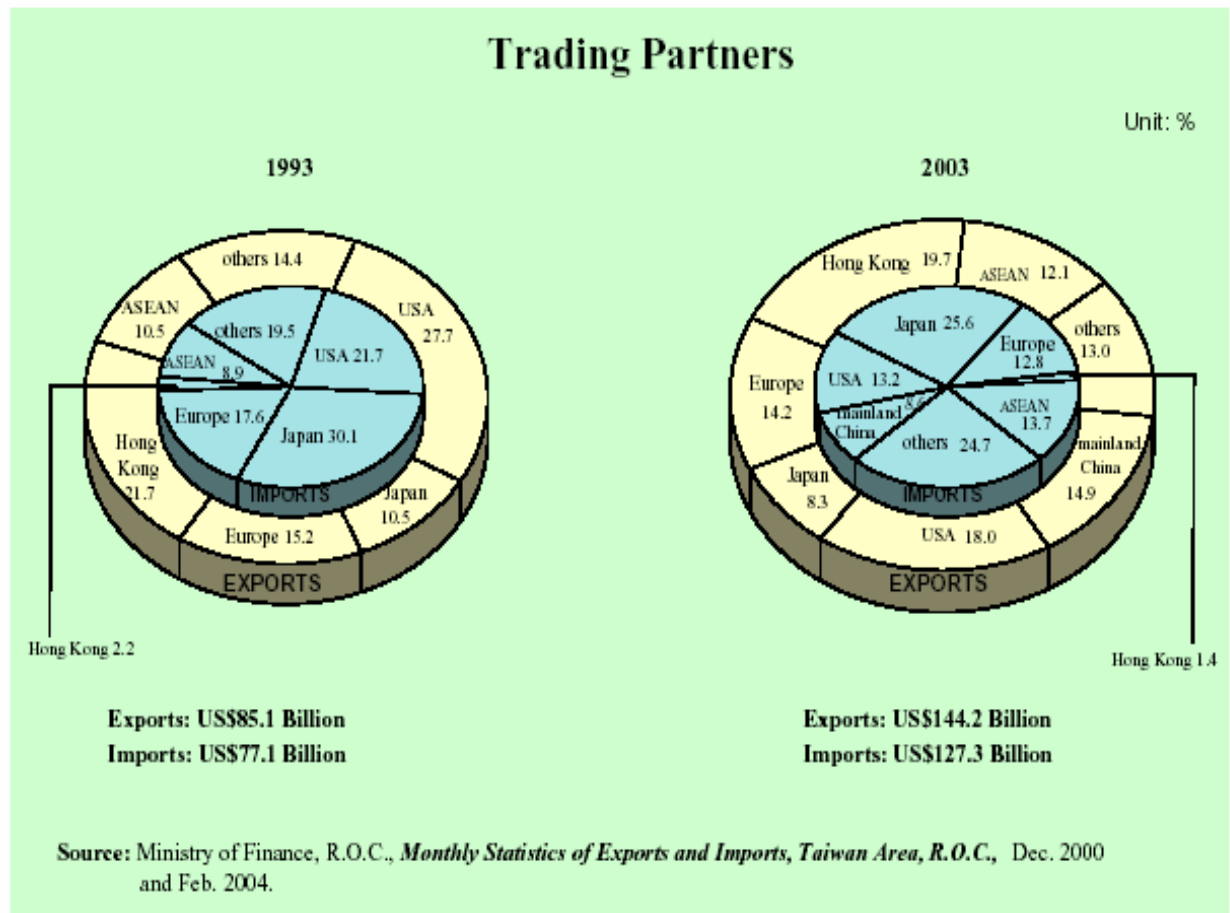
10. Chinese Taipei's trade with countries of the Asia-Pacific region has been steadily increasing. In 2003, Chinese Taipei shipped 19.7% and 14.9% of its exports to Hong Kong and mainland China, respectively. These two neighboring economies have thus

become the largest and third-largest export markets worldwide for Chinese Taipei. Moreover, most of the Hong Kong-bound exports were trans-shipped to the Chinese mainland, further underscoring the growing significance of cross-strait trade. The United States, for long the first destination for exports, slipped to second place among Chinese Taipei's major export markets. The American share of Chinese Taipei's total exports diminished sharply from 27.7% in 1993 to 18.0% in 2003.



11. Seeking to further diversify Chinese Taipei's trade markets, the government in recent years has been vigorously promoting a "southward policy." Under this policy, trade between Chinese Taipei and ASEAN has shown steady growth. In 1997, Chinese Taipei's exports to ASEAN accounted for an all-time high of 13.3% (US\$16.2 billion) of its total exports (up from only 5.5% in 1987). ASEAN's share of Chinese Taipei's total exports stood at 12.1% in 2003.

12. There has also been change in the source of imports to Chinese Taipei. In view of geographic factors and industrial complementarity, Japan and the United States have long been the major suppliers of Chinese Taipei's imports. Before 1995, these two countries consistently provided more than half of Chinese Taipei's total imports. In 2003, however, they accounted for only 38.8%. On the other hand, the share of Chinese Taipei's imports originating in ASEAN has gradually increased, from 8.9% in 1993 to 13.7%.



3. Chinese Taipei, APEC and WTO Accession

1. Chinese Taipei has joined the WTO as a developed economy. It will support the consideration of open markets and free trade being made in the WTO new round of negotiations and has undertaken quite substantial concessions.

2. This can be seen in the area of tariff reductions. Before accession to the WTO, the average level of tariff in Chinese Taipei on imports of industrial and agricultural products stood at 5.94% and 19.33% respectively. In 2004 (the third year after accession), these rates were reduced to 4.19% and 13.30% respectively. Following the completion of all the scheduled tariff reductions (2011), the average tariff level on industrial and agricultural products will be reduced further to 4.06% and 12.84% respectively.

3. In the area of non-tariff measures, other commitments were made. In the agricultural sector, Chinese Taipei has eliminated area restrictions for more than 10 agricultural products and adopted a tariff quota regime for 23 items, including rice and fishery products. In the industrial sector, Chinese Taipei has removed area restrictions on the import of automobiles, replacing them with tariff-rate quotas. Local content requirements have also been made on the domestic production of automobiles, and all discriminatory subsidies have also been eliminated. In the services sector, in accordance with a series of bilateral negotiations between Chinese Taipei and WTO Members, Chinese Taipei has liberalized eleven sectors, including the financial services sector.

4. Efforts to facilitate trade are also being undertaken. To streamline customs procedures, Chinese Taipei has undertaken to meet the principles of the revised Kyoto Convention by amending the existing Customs Law and related regulations. Chinese Taipei has also been working towards a fully paperless system for cargo clearance, by introducing cutting-edge information and communication technologies.

5. Beyond the WTO process, Chinese Taipei is also undertaking trade facilitation programs, with a focus on the “Barrier-Free Customs Clearance Plan”. This includes the establishment of a trade facilitation computer network, improving the operational environment of customs clearance, and installing an information network for airports and harbours. This Plan will be implemented in two phases, the first starting in 2002 and scheduled for completion in 2005. The work in the first phase will be mostly simplifying the relevant documentation and streamlining the procedures. The second phase will include installing the system that will function as a platform for trade

information exchange, making domestic trade-related operations paperless, and linking them internationally.

6. Liberalization efforts undertaken in accordance with WTO commitments have proceeded in Chinese Taipei during a period when the economy has slowed. The government has nevertheless continued to promote economic liberalization.

7. Starting from January 1990, when it first submitted its WTO accession application to the GATT Secretariat, and throughout the accession process, Chinese Taipei already enjoyed the benefits of the Uruguay Round liberalization commitments being implemented by other WTO members. It has therefore taken the initiative to implement liberalization measures or certain accession commitments in advance, to enjoy the economic benefits. While some impacts were felt as a result of the opening of the market after WTO accession, many advantages have also manifested, especially from the barrier-free access to other WTO Members' markets, the expansion of foreign trade, and the lowering of domestic consumer prices. The Chinese Taipei authorities, in this regard, hold that in the mid- to long-term, continued liberalization will enable the more efficient utilization of domestic economic resources, improve national competitiveness and enhance public well-being.

8. Chinese Taipei takes the view that entering the WTO has had more positive than negative effects on its industries. Moreover, since the WTO accession process took a number of years, the various industrial sectors were able to make adjustments over a long period, so the negative impacts of WTO accession could be reduced to a minimum.

9. This is particularly true of the industrial sector in Chinese Taipei. Indeed, increased automation has given broader trading room for manufacturers (as in the ITC industry). Only a few comparatively uncompetitive industries that were geared to meet domestic demand (such as the tobacco and alcohol industry) have experienced rather obvious negative effects.

10. For the service sector, opening has helped to attract foreign investment, improve managerial skill, and accelerate financial reform. It has helped Chinese Taipei develop

towards its avowed ambition of becoming a center of telecommunications and logistics, and has speeded up the internationalization of several service industries. Only a few specialized sectors (such as the cinema industry and legal services) are reportedly facing greater competitive pressures.

11. The impact on the agricultural market in Chinese Taipei has been quite different. The level of protectionism has been relatively high in the past, and WTO accession has caused an impact due to low-cost agricultural imports (such as rice, fruits, peanuts, etc.). This is notwithstanding the positive impact on high-quality agricultural products, such as tropical fruits (wax apples and mangoes), flowers (Gower Ramsey or oncidium orchids, butterfly or phalaenopsis orchids, and anthurium), vegetables, seedlings, fish cultivated in netted sea enclosures, tropical fish, etc. The Chinese Taipei authorities hope to use high-tech means to develop high value-added agricultural products and processed food products for overseas markets.

12. During the recession of the past two years, while taking stimulation measures to address the economic downturn and negative impacts of WTO accession, the government reports that it has remained committed to economic liberalization and internationalization and to improving the investment environment.

13. It remains unclear how much more the APEC process *per se* can expect to stimulate Chinese Taipei towards economic liberalization and the realization of the Bogor goals.

14. This is notwithstanding that the government continues to view APEC as one of the most important international organizations in which Chinese Taipei participates. They consider that APEC provides Chinese Taipei officials and business people a platform where they can join their counterparts from other economies and discuss how to cooperate in reaching certain goals and solving various problems.

15. Chinese Taipei has actively participated in many meetings and activities under the APEC framework. These include, for instance, important ministerial-level occasions such as the annual Ministerial Meetings, the Meetings of Ministers Responsible for Trade, the

SME Ministers' Meetings, and Energy Ministers' Meetings. On the working level, there are also three Senior Officials' Meetings per year and numerous fora and working group meetings. In 2003, Chinese Taipei hosted a total of 11 APEC meetings and other activities.⁴ In addition, APEC's various ministerial-level meetings are utilized as occasions to hold bilateral talks with other member economies' delegations.

16. While APEC holds out these benefits to Chinese Taipei, the government sees that APEC member economies have very wide differences in their level of economic development and that the forum's operating principles are based on voluntary action, consensual decision-making, and flexibility. Thus, the APEC process is seen to be quite different from that of the WTO, and is at present likely to present less specific and definite imperatives for further economic liberalization in Chinese Taipei, above and beyond commitments already made.

17. Nevertheless, Chinese Taipei takes the Bogor Goals as a primary commitment and constantly aspires to take advantage of every opportunity of APEC activity in order to strengthen international cooperation and to enhance mutual understanding among APEC economies. It is making considerable effort within APEC, much of which is focused on the economic and technical cooperation (ECOTECH) agenda. Chinese Taipei actively participates and hosts ECOTECH-related activities, aimed at attaining sustainable growth and equitable development, while reducing economic disparities among APEC economies and improving economic and social well-being. Such activities include the sharing of information and experiences, training and research.⁵ In particular, efforts are being made in the area of information technology and the digital divide.⁶

⁴ The 11 events covered e-commerce, SMEs, energy, and so on. There was also "Toward A Cross-border Paperless Trading Environment - Actions For Trade Facilitation" which generated very positive responses. In 2004, Chinese Taipei is scheduled to hold 12 APEC activities. These are in the areas of trade and environment, industry dialogue, and SMEs. The Bureau of Foreign Trade and Small and Medium Enterprise Administration will host three activities: "The Environment Impact Assessment of Trade Liberalization Measures--Methodology and Case Studies", "The Steering Committee Meeting of APEC Auto Dialogue" and "The Incubator Forum" (for SMEs).

⁵ For example, in the 12th Ministerial Meeting 2000, Chinese Taipei proposed the initiative of "Transforming the Digital Divide into a Digital Opportunity." Chinese Taipei proposed and promoted three initiatives and programs, including "Transforming the Digital Divide into a Digital Opportunity-Technical Training Program," "Fostering IT Schools for the Information Age," and "Best Practices Guidelines for Enhancing Women Entrepreneurship and Start-up Companies" in 2002. This year, Chinese Taipei hosts

4. Chinese Taipei and the People's Republic of China in APEC

1. The Bogor goals set out the vision of free trade in the region without discrimination among the APEC member economies. Non-discrimination is also a major principle under the WTO regime. In this context, the economic relationship between Chinese Taipei and mainland China bears attention, as both are member economies within APEC (and indeed are both WTO members). While the underlying issues are of course political and beyond the scope of this review, the economic issues are relevant and indeed of increasing significance, and bear mention

2. The present limits to trade with mainland China imposed by the government of Chinese Taipei are quite extensive in both width and depth of coverage. They go beyond issues of direct national security and political concern. There are considerable economic distortions and costs that result. Authorities in Chinese Taipei have stated that, “both sides should make efforts to normalize economic and trade relations”. However, they have voiced concerns that any sudden, major opening of their domestic market will cause adaptation problems for domestic industries. This is especially considering the geographical, linguistic and cultural proximities. The Chinese Taipei authorities therefore admit that there is a much greater possibility of Chinese goods “flooding into Chinese Taipei”, as compared to those of any other country.

3. Thus, while some businesses in Chinese Taipei seek to invest and participate in the mainland Chinese market, there are concerns that there would be an accelerated outward exodus of Chinese Taipei's industries, which will lead to the outflow of capital and human resources and will cause increased unemployment. At present, Chinese Taipei has therefore unilaterally set restrictions on trade on a wide range of goods, including agricultural, marine and industrial products as well as machinery and even home electric

several ESC related activities, including “APEC International Youth Camp,” “E-Learning Strategic Plan Development,” “APEC Biotechnology Conference,” “APEC Resources Recycle and Management Training Course,” “the 2nd APEC Incubator Forum.”

⁶ Recognizing the importance of transforming the digital divide into a digital dividend to facilitate APEC economies benefiting from the opportunities presented by a networked environment, Chinese Taipei proposed at the 11th APEC Economic Leaders' Meeting in Bangkok in 2003, the establishment of an APEC Digital Opportunity Center (ADOC). ADOC will serve as a platform for examining digital opportunities and policy positions among APEC member economies to expand digital capability and skills.

appliances. With such measures, they seek a transitional period of time for the adjustments. Perceptions have therefore emerged that Chinese Taipei exercises an “easy out, tight in” policy towards the mainland.⁷

4. Following its WTO accession, Chinese Taipei made the following policy adjustments:

- (1) Allowing cross-strait direct trade since Feb. 15, 2002.
- (2) Continuing to relax controls on Chinese imports. As of the end of May 2004, a total of almost 8,521 product items from China has been permitted for import, accounting for 77.5% of the total number of product items (of that agriculture products account for 12.71% and industrial products account for 64.79%).
- (3) Allowing many industries to invest in China and simplifying the application procedure.
- (4) Relaxing restrictions on Chinese business people visiting Chinese Taipei. Chinese business people are allowed to come to Chinese Taipei to do investment and purchasing.

5. The continuing differences and costs in cross-Straits trade may be seen in the context of the liberalization efforts by Chinese Taipei that apply to other economies, and the overall liberalization and integration of economic activity within the Asia Pacific. The more open and integrated the Chinese Taipei economy is, and the more open and integrated the Asia Pacific region as a whole becomes, the more this issue will need to be

⁷ These perceptions find support in the large deficits that mainland China suffers in trade with Chinese Taipei. Official data shows an accumulated deficit of US\$230 billion by early 2004. This deficit seems to be increasing as the total volume of trade between the two economies has increased to some US\$330 billion in early 2003. “Trade with Taiwan Lopsided”, China Daily 8 August 2002, ...and August 10, 2002. Perspectives in Chinese Taipei itself differ. The view from Chinese Taipei is that the main reason for its huge trade surplus with China is due to the distribution of industrial labor. That is, Chinese Taipei direct investment in China triggers demand for its export of raw materials, equipment, and products. This reflects Chinese Taipei’s continuous competitive advantages in industry, trade and technology, and interdependency of the cross-strait economics relations. As for imports from the mainland, authorities in Chinese Taipei take the view that these have not shown obvious growth, even after many import restrictions have been lifted, because many Chinese goods do not meet the required quarantine standards.

considered, at least in terms of its economic impact. The issues affect not only the two member economies directly but also third countries and businesses that increasingly seek to integrate markets for production. This is particularly the case with firms (whether from Chinese Taipei or other APEC member economies) operating in both in Chinese Taipei and parts of mainland China or that seek to import trade-related products into the mainland, particularly in terms of both investment and the movement of personnel, which impose more burdens than those imposed in respect of other economies⁸

6. Cross-Straits relations remain a delicate issue, and involve many complex factors. In this context, economic ties such as trade and investment are only part of the equations. At present, therefore while Chinese Taipei continues to advocate a fair, open trade policy and ascribes to the principle of non discrimination, exceptions continue for the case of mainland China.

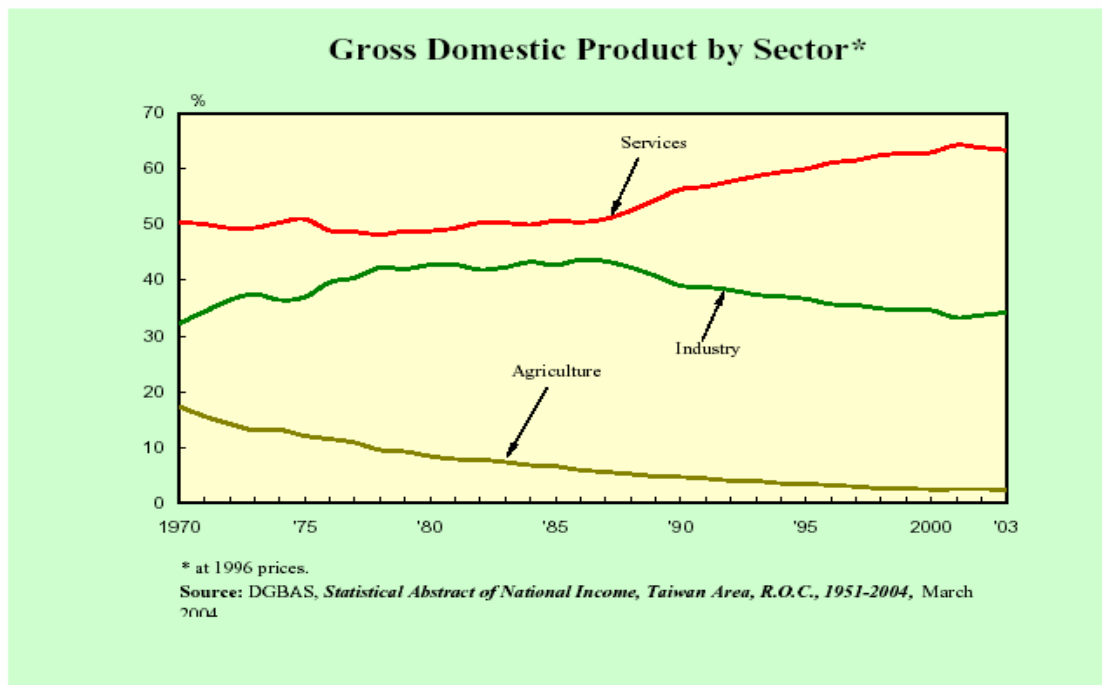
5. Chinese Taipei's Long Term Reforms and Recent Policy Trends

1. During the early stage of Chinese Taipei's rapid industrialization, there was a heavy flow of productive resources from agriculture to industry. The period also saw a steady increase in industrial production as a share of gross domestic product (GDP).

⁸ For investments into mainland China, authorities in Chinese Taipei have implemented a policy of "active liberalization with effective management". This has been explained as managing risks from the relaxation of current restrictions, while seeking the ultimate goal of investment liberalization. Authorities have taken the following measures: Eliminating investment restrictions in the industrial sector. The number of agricultural and industrial products relaxed has reached 8,163 items, accounting for 93.82% of the total. Relaxation of items in the services sector and the basic infrastructure sector have also been relaxed. In the services sector, a total of 68 general items, including the insurance industry, have been relaxed. Chinese Taipei is also evaluating the following items for investment liberalization: naphtha cracker plants, semiconductor design, packaging testing, real estate development, industrial park development, incineration plants, and others. (2) Abolishing the maximum investment restriction of US\$50 million to enable larger-scale investments. (3) Implementing a comprehensive relaxation of restrictions on small-scale investments. An automatic screening system is adopted for investments under US\$20 million. That is, if the authorities have not made a decision within a month after the investor has submitted all the necessary documents, then the investment is automatically permitted and takes effect immediately. A new special case screening mechanism, which was implemented in May, is employed for investments over US\$20 million. Another connected issue is for the movement of personnel by businesses between the two economies. Chinese Taipei authorities have only recently begun to relax the restrictions to allow high-tech personnel and business people from China to come into Chinese Taipei, and allow international corporations in Chinese Taipei to employ mainland Chinese personnel. On its part, mainland China applies its own controls on the inflow and outflow of people, capital and products and imposes strict limitations on Chinese Taipei.

Industry's share of real GDP (at 1996 prices) rose from 22.0% in 1961 to a peak of 43.6% in 1986.

2. Since the mid-1980s, owing to increasing consumer spending fueled by a considerable accumulation of personal wealth, domestic demand has been growing strongly, especially for services. The service sector has generated more than 50% of Chinese Taipei's GDP since 1985. In 2003, industrial production accounted for 34.2% (manufacturing for 28.7%) of GDP and agriculture for only 2.4% (roughly one-fourth of its contribution in 1979). Continuing its strong-growth trend, the service sector generated 3.4% of GDP for the year.



3. Over the course of Chinese Taipei's economic development, the government has given high priority to continuous upgrading of the industrial structure. As the competitive advantage of Chinese Taipei's traditional industries began to erode in the 1980s, the government responded by establishing the Hsinchu Science-Based Industrial Park as a seedbed for the new technologies and industries of the future. This was an important step on the road toward the development of high-tech industries. Chinese Taipei is currently the world's fourth-largest producer of IT hardware and the largest contract supplier of

integrated circuits (ICs). In the service sector, the opening of the domestic telecommunications market to outside competition has slashed phone rates by 50%, with the mobile phone penetration rate now above 110% and the number of broadband Internet households exceeding 3.17 million. Chinese Taipei is therefore well poised to make use of information technology as it applies to different sectors, as part of the development of a “knowledge-based” economy.

4. Plans for the future development of the Chinese Taipei economy have been unveiled by the authorities in, “the *Challenge 2008* Six-Year National Development Plan”. The plan sets out reforms in the political, financial, and fiscal spheres and ten key individual plans.

5. First, political reform aims to transform government into a system of public administration that is small, lean and proactive. Secondly, fiscal reform seeks to balance government revenues and expenditures within five to ten years. Thirdly, financial reform targets cutting the banking sector’s non-performing loan (NPL) ratio (a measure of bad loans as a proportion of total bank-loan portfolios) to 5%, and raising banks’ capital adequacy ratio to 8%, within two years.

6. The ten key individual plans identified by the authorities in the Development Plan are focused on accelerating development of the economy, improving the living environment, and upgrading the role of culture and the arts in modern life. The overall aim is for Chinese Taipei to emerge as a “green silicon island.” The Development Plan foresees that Chinese Taipei will no longer be able to rely on the low-value-added mid-stream processing and contract manufacturing that has provided a key source of growth in the past. It envisages the need for Chinese Taipei to invest more heavily in human resources, R&D, innovation, logistics networks and its living environment. By so doing, the authorities believe Chinese Taipei will lift its position in the industrial value chain.

7. Chinese Taipei has recently demonstrated a new interest in concluding bilateral and sub-regional free trade agreements (FTA). It concluded an FTA with Panama in August 2003 that entered into force on January 1, 2004. Chinese Taipei authorities have

said that they attach priority to signing future RTAs/FTAs with countries with which it maintains important economic relations depending on the trade volume.

8. In this regard, Chinese Taipei has been interested in the wave of bilateral FTAs, as have other APEC economies such as Australia, New Zealand, Singapore, Thailand, Japan, South Korea and the USA. Like these countries, Chinese Taipei reiterates its belief in the need to maintain and indeed accelerate the momentum for trade liberalization and strengthen the multilateral trading system. Its authorities subscribe to the belief that this increased regional economic integration through bilateral and other FTAs should serve to pave the way to the further liberalization of the multinational trading system.⁹

9. Consistent with this, Chinese Taipei guarantees that its future FTAs/RTAs be in full compliance with WTO rules and regulations, such as GATT 1994 Article 24 and GATS Article 5. Chinese Taipei supports the strengthening of WTO disciplines on regional trade agreements, as this would bring greater certainty about the application of WTO disciplines and meet the requirement of transparency. Thus, as WTO members, Chinese Taipei is actively engaged in the ongoing negotiations on RTAs in the Rules Negotiation Group in the Doha Round Negotiation.

B. Review by IAP Subject

1. Tariffs

1. Upon joining the WTO in December 2001, Chinese Taipei started to bind tariffs for all products and reduce tariffs in accordance with its Schedule of Commitment. By the end of 2003, its average nominal tariff rate was 6.32 per cent, reduced from 8.17 per cent prior to joining the WTO. More significantly, Chinese Taipei's average nominal tariff (ANT) on agriculture was reduced from 20 per cent to 13.63 per cent by 2003 and its ANT rate on industrial products was 4.94 per cent by the end of 2003.

⁹ Notably however, the Chinese Taipei FTA with Panama does not affect its tariff commitments under the WTO, especially as regards sensitive agricultural items. The tariff lines related to TRQs for rice are all excluded from the Tariff Reduction Schedule of the FTA between Chinese Taipei and Panama. Therefore the fact that Chinese Taipei signed an FTA with Panama has no influence over TRQs for rice.

2. In line with the APEC Ministerial Declaration on Trade in Information Technology Products, Chinese Taipei gradually made all ITA products duty-free as of 2002 at 0 per cent.

3. Chinese Taipei's tariff rate quota system applies to passenger cars & chassis (to be abolished by 2010) and 23 agricultural commodities, including rice products (which were formerly subject to special treatment based on ANNEX 5 of Agreement on Agriculture). Chinese-Taipei plans to review its Schedule to adapt to the needs of its industries and is committed to implementing the next round of WTO tariff cuts.

4. As part of its WTO accession agreement, Chinese Taipei was classified as a developed economy. This classification has greatly accelerated its tariff reductions. Significant progress has also been made to correct the existing administration of the tariff-rate quota (TRQ) and specific duty tariff, to improve the standardization of custom procedures and to make other non-tariff measures more transparent.

5. However, in the APEC IAP, Chinese Taipei has claimed developing economy status.¹⁰ This is notwithstanding that a number of its concessions and commitments in liberalization (made in WTO context) are actually comparable to the level of developed economies. While Chinese Taipei is making considerable efforts to fulfill its commitments, in line with WTO rules and the APEC spirit, this dichotomy should be bridged and harmonized as soon as possible. This would assist in ensuring that Chinese Taipei's policy is clear and consistent, so that it may liberalize and de-regulate its economy more quickly, and also improve its public and corporate governance.

¹⁰ Since its accession to the WTO in 2002, Chinese Taipei has asserted its developing member status. Authorities in Chinese Taipei assert that the economy has been classified as a developing economy by various international organizations, such as the UNCTAD, the OECD and the World Bank. They rely on the WTO practice that the question of whether a Member is considered developed or developing should depend upon the decision of that Member, as a matter of self-declaration.

6. Chinese Taipei has generally complied with its WTO obligations, in particular, by the reduction or removal of tariffs and in general, by the enactment of WTO-related legislations and removal of most laws, regulations or practices that inappropriately excluded foreign companies from Chinese Taipei or frustrated their operations under WTO obligations. In addition, the government has demonstrated its interest and commitments to consultations at all levels with the private sector and the public at large.

7. The extent of achievement and success for Chinese Taipei in tariff should be measured not just by examining the reduction of the simple average tariff. Equally important is identifying the dispersion rates, the remaining high tariffs on some sensitive sectors and their institutionalization to make sure that positive changes are firmly embedded in the tariff structure.

2. Non-Tariff Measures

1. Non-tariff measures are used basically for national security, public order, public health, environmental protection and adjustment of sensitive industries.

2. Consistent with its WTO obligation, Chinese Taipei has basically eliminated non-WTO consistent NTMs such as quantitative import restrictions, particularly those on automobiles. For other items, it is following WTO principles of elimination of Import Prohibition (now 58 items) and TRQs (25 categories (200 number of tariff items), including rice products).

3. Chinese Taipei reduced the number of items requiring import licenses from 130 before WTO accession down to 18 in 2003. It adopted a Negative List system in July 1994 to streamline administration and improve bureaucracy. Since then, it has reduced exceptions to only 58 goods constituting 0.54 per cent of the total number of product items.

3. Services

1. As a result of economic re-structuring, the service sector will become the mainstay of Chinese Taipei's economy. Its sources of economic growth will increasingly come from information, communication and technology (ICT), financial and banking

services and providing logistic and global networking. In view of that, the government has given top priority to making the service sector competitive and efficient.

2. In the process of making the service sector competitive, the government has initiated policies aimed to privatized, de-regulate and increase competition in the service sectors, particularly in telecommunication, financial, banking, energy and road transport.

3. Since its accession to the WTO, Chinese Taipei has made commitments in 103 sub-sectors and plans to open more. It has met most of its commitments in General Agreement of Trade in Services (GATS) Schedule.

4. In the capital market, various liberalizations have taken place, for example, the authority has lifted the limitation of shareholding for foreign investors in the outstanding shares of each listed/quoted company except for some specific industries.

5. Foreigners can establish proprietorship, partnerships or companies after obtaining recognition in accordance with the “Company Law” and “Statue of Investment by Foreign Nationals.” There is no mention of Joint Requirements as was the case in the past.

6. There are no restrictions in construction, distribution, environmental services, tourism, and recreation (except for foreign performers they must show documentation).

7. One of the most notable liberalizations in the service sector is in finance and banking (details of which are listed in Chinese Taipei IAP 2003 attached in the Annex).

8. Since 2001, Chinese Taipei has followed the WTO standard on the maximum of one-thirds of foreign ownership in airlines.

9. Chinese Taipei has begun opening its road services industry. Besides adhering to the WTO accession commitments in the area of road transport service, Chinese Taipei put into effect a revision to the Highway Law on July 2, 2003, which opened regular route trucking services to foreign investment, in order to internationalize and liberalize the domestic road cargo transport services. According to the Chinese Taipei 2003 IAP,

Article 35 of the Highway Law, however, also stipulates that foreigners may not invest in the operation of automobile transport services within the Chinese Taipei border.

10. In the power services sector, the third stage of de-regulation on power plants is being implemented. The electricity sector is being deregulated and is partially liberalized, while the limit on foreign investment in petroleum distribution has been lifted. In the final analysis, standardization, transparency and competition policy are important elements in reforming the service sectors. The underlying problem is not the absence of laws and regulations but importantly lies with the issue of standardization and transparency, national treatment for market access in the service sectors. Chinese Taipei has done well in liberalizing its service sector because in doing so, the changes converge with the government's top priority of making the service sectors competitive and partly because the changes were required of Chinese Taipei with its accession commitments to the WTO.

11. Chinese Taipei's commitments to transparency in making and implementing laws, regulations and other measures are based on the provisions of Articles III and VI of the General Agreement of Trade in Services (GATS).

4. Investment

1. Inward and outward investment has played a vital role in transforming Chinese Taipei's economy from an agriculture-based economy to its present high technology-based economy, with a rapidly expanding service sector. As part of this transformation, Chinese Taipei has launched several programs to liberalize and make its investment regime more transparent.

2. Chinese Taipei's investment plan is continually revised to be more liberal and consistent with its ever changing development requirements. For example, its investment goal is to be open to emerging industries, build on growth industries and be an "Internet-linked global logistics center".

3. To make its investment rules and regulations more accessible, Chinese Taipei launched a website on investment ". The Administrative Procedures Law was also passed

in February 2000 to make Chinese Taipei's administration more transparent, consistent and efficient.

4. In order to eliminate investment barriers and difficulties confronting major investment projects, Chinese Taipei formed the Co-ordination Office for Investment Promotion as a one-stop office to eliminate investment barriers in land acquisition, transportation, water electricity, taxation, labour laws and others.

5. Additionally, Chinese Taipei has signed agreements with 17 economies to avoid double taxation.

6. Chinese Taipei has signed letters of intent for the establishment of strategic alliances with 80 multinational enterprises from all over the world with the objective of attracting large investment projects.

7. Chinese Taipei has extensively covered the details of its investment regime at its APEC IAP 2003. It completed the establishment of a website, on investment to provide concrete information about Chinese Taipei's investment environment and investment opportunities and to offer a means for the retrieval of the full texts of investment laws and regulations in English.¹¹

8. The issue of investment is very much linked to Chinese Taipei's privatization program, deregulation and enhancing competitive environment. They are all interlinked closely. Since investment is a critical and sensitive element in economic growth, APEC members must adopt a comprehensive framework in assessing whether the investment regime in Chinese Taipei has facilitated outward and inward investment flows, productivity change and sound macroeconomic management.

5. Standards and Conformance

1. Chinese Taipei has completed aligning its domestic standards with international standards identified by SCSC. It also promotes Mutually Recognition Agreement (MRA) in regulated sectors with APEC members on the basis of reciprocity and trade facilitation.

¹¹ The website address is <http://investintaiwan.nat.gov.tw>.

It has completed the necessary domestic procedures for implementing Phase II of APEC TEL MRA, and is preparing to participate in other parts of the APEC Electrical MRA depending on the development of its certification system.

2. According to its 2003 IAP, Chinese Taipei will work towards completing Parts 2 & 3 of the APEC MRA on Conformity Assessment of Electrical and Electronic Equipment (EEMRA).

3. Its food labeling requirements essentially fit the Codex General Standards for prepackaged food. Chinese Taipei applies WTO/SPS principles to its food regulations.

4. Chinese Taipei has implemented the registration of Product Certification Scheme and related measures in order to replace batch-by-batch inspection and avoid multiple inspections of products of similar types. In this respect, it supports SCSC's technical infrastructure projects, including those projects that support developing economies.

5. In line with its continuing effort to improve standards and conformance, Chinese Taipei has declared that it will continue to work towards becoming a member of PASC. In addition it will continue to participate in international programs to improve its proficiency in the testing conducted by APLAC and other organizations, its website information on food sanitation regulations and its product certification scheme. This effort is undertaken notwithstanding that, due to international political constraints, Chinese Taipei is not yet a member of most international standardizing bodies.

6. Chinese Taipei has proposed ways to simplify the registration of grandfather devices and will continue to recognize international harmonization standards for the purpose of simplifying the pre-market registration process. In addition, it is considering adopting GHTF's Summary Technical Documentation (STED) in the hope that regulatory requirements will be consistent with global trends.

7. In summary, the assessment is that Chinese Taipei has made significant progress on standards and conformance based on its commitments to the WTO and voluntary efforts and participation in APEC-sponsored programs and activities.

6. Customs Procedures

1. In 2003, Chinese Taipei's Customs adopted a series of actions to facilitate its procedures, notably the refinement of risk management, the establishment of an internet declaration system, and the enhancement of its partnerships with its business community. All customs information is now available on the Internet. It is also adhering to the provisions of the WTO TBT (Technical Barriers to Trade) and SPS (Sanitary and Phytosanitary) agreements.

2. To strengthen its commitments on customs procedures, Chinese Taipei has redrafted its Customs law to fit the Kyoto Convention. Along this line, it adopted of Systematic Risk management techniques and implemented a 24-hour customs clearance for express consignments, transit air cargo, and examination and release along side aircraft cargo.

3. Chinese Taipei adopted the "Single Window Concept" to improve its trade facilitation environment; that is, all electronic import and export transactions between Customs, trade regulatory agencies and other stakeholders will be passed to and returned by that window. Rather than creating a single authority or a single system, Chinese Taipei will provide an integrated automated system.

4. Customs procedures are integrated measures that Chinese Taipei has taken to achieve its long-term goal of making Chinese Taipei one of the leading logistic hubs in the region. Customs procedures measures are one of its immediate strategic policies to achieve its long-term development objectives. In this context, Chinese Taipei has done very well towards achieving the APEC goal of a free trade and seamless market in the region.

5. Chinese Taipei posted comprehensive details of its Customs Procedures on APEC IAP 2003 with a view to stepping up efforts to simplify its formalities, harmonize its operations and streamline its procedures as it creates a barrier-free environment for international trade.

7. Intellectual Property Rights

1. Chinese Taipei's record on intellectual property protection has traditionally been a point of contention and criticism. However, intellectual property is increasingly recognized as an important foundation for Chinese Taipei as it builds a knowledge-based economy and society. It is also a crucial factor in attracting investment in key business sectors.

2. Improving intellectual property rights protection has been a major achievement of Chinese Taipei, driven by its WTO accession commitments and APEC voluntary efforts. The government's commitment is considered as a vital policy to enhance technical and innovative development in Chinese Taipei's economy. Accordingly, Chinese Taipei is now TRIPS-compliant and is working to become WCT- and WPPT-compliant.

3. Legislation and enforcement have been improving. However, Chinese Taipei needs to cultivate greater public awareness of the link between IP protection and domestic economic strength needs attention. Piracy, patent violations, counterfeit materials and illegal imports of patented products all remain problems to be further addressed.

4. To strengthen inter-agencies' IP enforcement abilities and to increase public awareness, Chinese Taipei has planned to launch a Three-Year Action Plan 2003-2005 following its implementation of the 2002 IPR Action year. The country's major approaches to the protection of IPR have been to implement patent and trademark examination standards, amend IPR laws to comply with the TRIPS Agreement, increase the degree of computerization and simplify the registration procedure, insure that remedies and procedures provided by local laws and regulations meet the requirements of the TRIPS Agreement, and establish an IPR-related computer network.

5. Chinese Taipei IPR protection laws consist of the Copyright Act, the Trademark Act, the Patent Act, the Integrated Circuit Layout Protection Act, the Trade Secrets Act, the Optical Disk Act, the Plant Variety and Plant Seed Law and the Tobacco and Alcohol Administration Act and Fair Trade Act. The current IP-related laws and border control measures are fully consistent with the requirements set out by TRIPS.

6. As part of its continuing improvement in enforcement measures, Chinese Taipei has undertaken to continue to review its civil, criminal and administrative policies to ensure they are effective.

7. Beyond these legal efforts domestically, Chinese Taipei undertook the Convenorship of the Intellectual Property Expert Group (IPEG) of APEC from March 2002 to April 2004. The work achieved by this group covers many IP-related areas, in particular the establishment of an IPR Service Center, the implementation of the Comprehensive Strategy on IPR in APEC, and the Enforcement of Best Practices in APEC Economies to combat optical piracy.

8. Details of changes, improvements and policy planning and administrative measures are posted in Chinese Taipei's APEC IAP 2003. The details of the resulting achievements and statistics are posted on its Customs Website at <http://wwweng.dgoc.gov.tw>

9. Despite its success in upgrading and improving the standards of its intellectual property rights protection, Chinese Taipei needs to strengthen further its enforcement and prosecution process, and also enhance public education and awareness of the importance of IPR. Without a strong IPR protection, creativity, enterprises and high-level technical development would be impeded, especially among local small and medium enterprises that form the basis of Chinese Taipei's economy.

8. Competition Policy

1. Chinese Taipei keenly recognizes that a vibrant, transparent and fair competition policy is vitally important in restructuring its economy from a relatively closed to a competitively open global economy. It is closely linked to the government's policy to pursue the privatization and de-regulation of the economy, in which it has been quite successful, especially since joining the WTO in December 2001.

2. Chinese Taipei passed its Fair Trade Law and set up its Fair Trade Commission in 1992. Both the Law and the Commission were amended and strengthened in 2002 in order to meet its WTO obligations and operationally to meet the challenges of

globalization, cross border mergers, open economies and the privatization of state monopolies.

3. Chinese Taipei has achieved much in the past few years in terms of competition in the telecommunications and petroleum products markets. The Fair Trade Commission has continuously participated in the establishment of a post market-opening competition framework with a view to continually open controlled industries and establish a framework to counter monopolistic tendencies. The monopolized sectors such as the liquefied petroleum gas market, the telecommunications market, the petroleum and the electricity market have been extensively liberalized. The oil sector has been fully liberalized since December 26, 2001.

4. The Fair Trade Commission has been continuously advising the relevant government agencies with respect to the drafting of laws and regulations to prevent the abuse of dominant position, cross-subsidizing and undue pricing after the restructuring of the public utilities and other previously monopolized industries.

5. As part of enhancing its competition environment, the government has initiated the privatization program. For example, Taiwan China Shipbuilding Corp will be privatized in December 2004, Tang Eng Iron Works Co was scheduled to be privatized in August 2004 and the schedules and timetables for the privatization of other major state-owned enterprises have been discussed.

6. With the view that the aims of the Fair Trade Act are not to punish the violators but to make the business comply with the Act and to create a sound and effective environment for a market economy, the Fair Trade Commission initiated a Self-Regulatory Compliance Program for the business community. Certain enterprises with large market shares have participated. Thus far, the program has functioned well but it is too early to evaluate its effectiveness.

9. Government Procurement

1. The government procurement issue affects not only APEC developing but some developed economies as well. It is often embedded in the domestic political patronage,

monopolistic economic system and tied to the issue of national security in both developed and developing countries. The renewed emphasis in the WTO on the subject has stimulated further interest in APEC members to improve its government procurement system.

2. In this context, Chinese Taipei is trying to accede to the WTO Agreement on government procurement (GPA) and has made reforms in line with the GPA. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on December 9, 2002. However, due to the outstanding non-economic issue, Chinese Taipei is not yet able to complete the accession process. Despite this, the principle of transparency and access to information on government procurement is an important measure that Chinese Taipei has initiated. Information is available through the Government Procurement Information System (GPIS) and notices are published in a designated gazette.

3. Chinese Taipei's Electronic Procurement Plan facilitates the publication of notices, and the processes of tendering and bidding by all interested parties. A complaint review board examines complaints from suppliers.

4. Chinese Taipei has accomplished several reform measures such as extending the time-limits for tendering, publicizing procurement information, disclosing awarding information, making technical specifications reasonable and a host of other measures to make the procurement process more transparent, open and competitive.

5. The Government Procurement Act came into effect on 27 May 1999 and the enforcement rules of the Act and the related regulations have also been put into effect. The necessary legal and institutional processes have generally been in place. However, the basic problem remains effective implementation. This requires much longer time and greater efforts to comply with the law and regulations pertaining to government procurement process.

6. According to Articles 17, 43 and 44 of the Government Procurement Act, local/foreign suppliers or local/foreign products may be accorded differential treatment except

otherwise prohibited by the treaties or agreements to which Chinese Taipei is a party. Such treatments may include domestic content, technology transfer, investment, export facilitation or price preference by a maximum of 3 per cent.

7. On the chapter of government procurement, Chinese Taipei has made significant progress because of the commitment and political interest demonstrated by the Executive Yuan in pushing through political democratization and economic reforms.

10. De-regulation/ Regulatory review

1. In its accession to the WTO, Chinese Taipei introduced deregulations and simplified its administrative policies. It is now fully compliant.

2. As of 2003, 49 state-run enterprises had been either privatized (33) or closed (16). Another 14 state-run enterprises are in the process of undergoing privatization or scheduled to be transferred to private ownership in the near future.

3. Following Chinese Taipei's WTO accession in January 2002, further de-regulation has been carried out in areas that had not been fully liberalized, such as financial services, transportation, investment and flow of personnel, a number of import tariffs have been lowered and non-tariff barriers removed.

4. Moreover, to demonstrate Chinese Taipei's determination to open up its market and enhance the operating efficiency of state-run enterprises, the timetable for the privatization of state-run enterprises has been advanced.

5. The Act for the establishment and management of Free ports was passed in July 2003. With a few exceptions, the Act allows the free flow of goods into or between free ports for warehousing, transshipment, and valued-added processing.

6. The deregulation process is an integral part of restructuring Chinese Taipei's economy, administrations and institutions. The extent of its success is very much linked to the chapters of competition policy and in Chinese Taipei's success in meeting its accession commitments to the WTO. Although efforts and measures to improve its mechanism are continuing, the deregulation process has registered remarkable success.

7. In this connection, the Golden Axe Award strengthens the so-called “bottom-up” reform mechanism. It is intended to encourage civil servants to focus on the benefits side of reform and to actively review and re-evaluate all regulatory laws in their respective jurisdictions. This is an important mechanism to improve the de-regulation process since it was introduced in 1998. Its CEDI website is <http://work.edi.cepd.gov.tw>

11. Implementation of WTO Obligations and Rules of Origin

1. As part of its accession obligations to the WTO, Chinese Taipei has reduced the average tariff levels on imports of industrial and agricultural products down to 4.94 per cent and 13.63 per cent, respectively. The average level of tariffs on imports of all products is 6.4 per cent. It plans to reduce the average nominal tariff rate to 5.53 per cent. To make it transparent, all tariffs are bound.
2. On non-tariff barriers, in addition to 24 types of agricultural products subject to TRQ, rice and rice products are subject to TRQ from 2003.
3. On Sanitary and Phytosanitary (SPS), Technical Barriers to Trade (TBT) and Communication and Technology (CT), all are WTO- consistent.
4. On services, Chinese Taipei has made reforms to be WTO-compliant in education, insurance, construction, law, engineering, telecommunications, postal and the certification of accountants. In the area of trade in services, Chinese Taipei has eased criteria for the establishment of branch agencies of foreign securities firms, opened the domestic market to the establishment of branch agencies by foreign insurance companies and eliminated the share ownership restriction on foreign insurance companies.
5. Chinese Taipei has established a set of horizontal commitments (commitments applicable across sectors) as well as a set of sector-specific commitments. Eleven sectors are covered under these sector-specific commitments, including business service, communication services, construction and related engineering services, distribution services, education services, environmental services, financial services, health-related and social services, tourism and travel-related services, recreational, cultural and sporting services and transport services.

6. On IPR, Chinese Taipei made the commitments required in its WTO accession schedule and is also TRIPS-compliant. It also has made major changes to its domestic IPR regime as explained in the IPR section.

7. On Government Procurement, Chinese Taipei will soon become a signatory to the WTO Government Procurement Agreement.

8. On Rules of Origin (ROO), Chinese Taipei bases its ROO on the WTO Agreement and the principles of the Kyoto convention. So far, Chinese Taipei has made a preferential trade agreement with Panama, which was signed in 2003.

9. In general, Chinese Taipei has substantially met its accession obligation to the WTO. The American Chamber of Commerce's Taipei White Paper published in 2004 and the European Chamber of Commerce's Taipei WTO Monitoring Position Paper in 2003, both concluded that Chinese Taipei has generally complied with its WTO obligations. In particular, this was achieved by the reduction or removal of tariffs, and in general, by the enactment of WTO-related legislation and removal of most laws, regulations or practices that inappropriately excluded foreign companies in Chinese Taipei or frustrated their operations under WTO obligations. Chinese Taipei was also commended for its intellectual property protection measures and privatization programs.

12. Dispute Mediation

1. Chinese Taipei's Administrative Procedure Law came into force in January 2001. The significance of this legislation with regards to transparency is that all aspects of government work, including executive orders, measures and others, shall be applied in accordance with fair, public and democratic procedures in order to protect public welfare, prevent the escalation of disputes and enhance administrative efficiency.

2. Chinese Taipei has bilateral agreements on the protection and promotion of investment with several APEC members.

3. Since its last APEC IAP, Chinese Taipei has not been involved in any trade disputes, except as a Third Party in 16 cases.

13. Mobility of Business People

1. Chinese Taipei has complied with all APEC measures on the mobility of business people and will continue to make changes as other APEC members do so.
2. Chinese Taipei joined APEC Business Travel card (ABTC) Scheme in August 2001 and its operation started on May 1, 2002.
3. Chinese Taipei has agreed to continue to explore the possibility of entering into long validity multiple entry visa arrangements and visa exemption measures with other APEC economies.
4. To facilitate traveling in the region, all travel information and other requirements are on the website.

14. Information Gathering and Analysis

1. Chinese Taipei gathers and publishes information on trade and investment in various forms accessible by government, industry and academia. Specifically, tariffs and non-tariff databases, Chinese Taipei statistics, APEC Competition Policy and Law Database, and reports on financial, investment and government procurement sectors are maintained and updated regularly.
2. Chinese Taipei has announced more plans to make electronic databases more comprehensive and establish a government statistical service center website.

C. Conclusion

1. Chinese Taipei has been a relatively market friendly and open economy in the region. It stands as a newly industrialized economy and has benefited from international trade. Chinese Taipei participates actively in the APEC process. Its authorities consistently state that they have gained in the process. Chinese Taipei is also increasingly shown its willingness to share such experiences and know-how with other APEC member economies, especially the developing ones.

2. This is especially the case in areas in which the policies and practices of Chinese Taipei are among the best in APEC, such as the use of information technology to facilitate trade and economic activity, to increase the transparency of trade rules and tariffs and to speed up procedures and efficiency in clearance of import and export procedures. Transaction costs have been reduced, especially for the smaller and medium sized companies.

3. Chinese Taipei has also taken steps forward in areas that, in the recent past, have attracted criticism. One of these areas is in intellectual property protection. While there remains room for improvement, progress has been made. It is notable, moreover, that the driving factors for this change are not only the concerns expressed by other APEC member economies, but also a changing perspective within Chinese Taipei that recognizes the importance of intellectual property protection to Chinese Taipei's domestic interests as it builds a knowledge-based economy and society.

4. The government is to be commended for the steps it has already taken to push the privatization of government-owned enterprises, to improve the protection of intellectual property rights, and to eradicate "black gold" political corruption. It is vital to maintain the momentum of this liberalization and reform. This includes greater opening-up of Chinese Taipei's economy, especially in the financial and banking sectors, transportation, infrastructure, government procurement, and also switching its dependence upon manufacturing to information communication and technology and services as the mainstay of its sources of economic growth.

5. In this context, Chinese Taipei has also made impressive gains in cleaning up and restructuring the financial industry, another area in which liberalization was felt by some to have lagged, in comparison to other sectors of the economy. While many restrictions to foreign participation in this sector have been lifted, several priorities need continued policy attention.

6. Domestically, the Chinese Taipei government's various development plans focused on infrastructure development, as well as the reform of political, bureaucratic, judicial and educational institutions. Internationally, the government emphasized that

building and maintaining vital economic links with major economic powers is vitally critical for Chinese Taipei's economy. Increasingly, however, it is the quality and variety of the links across the Straits that, in the view of multinational companies, determine whether Chinese Taipei will remain an important economic player. The absence of a national consensus and a clear implementation plan for Chinese Taipei-China economic interaction is already having an adverse impact on business planning. While the underlying issues between the Chinese mainland and Chinese Taipei are of course political, the principles of non-discrimination and the Bogor goal to achieve free trade among all APEC members should be considered. This is especially as the liberalization efforts by Chinese Taipei continue for other regional economies.

7. The current Chinese Taipei IAP commitments have been set against the context of the 1997 Asian financial crisis and a slowdown in the economy, starting in 2002. As such, the pace and extent of liberalization policies have necessarily taken into account concerns among some domestic stakeholders about the possible negative effects of further opening. It is therefore notable that the Chinese Taipei's implementation of its IAP has proceeded, and the government's commitment to broad and deep liberalization remains strong.

8. The implementation of the IAP is also taking place in the context of on-going commitments by Chinese Taipei to fulfill its undertakings to the WTO, as part of its accession process. At present, the implementation processes for this are still on-going, especially as the undertakings under WTO accession are broad and quite substantial across economic sectors. In this regard, the IAP of Chinese Taipei gives little that is additional to these WTO commitments, or what some have termed, "WTO plus" commitments.

9. Looking ahead, as these WTO commitments are implemented, it should be hoped that Chinese Taipei will commit to utilize the APEC process to move towards the Bogor Goals, further and faster ahead than the WTO process has run and will likely run in the near future.

Simon SC Tay*

* Associate Professor, National University of Singapore, and Visiting Professor, Harvard Law School (2003-04), and chairman, Singapore Institute of International Affairs.

Annex 1

Review Team

Moderator:

Mr. David MULRONEY
Assistant Deputy Minister, Asia-Pacific
Department of Foreign Affairs and International Trade
Canada

Discussant:

Mr. Chutintorn (Sam) Gongsakdi
Director of International Economic Policy Division
Department of International Economic Affairs
Ministry of Foreign Affairs, Thailand

Expert:

Mr. Simon SC Tay
Chairman
Institute of International Affairs, Singapore

APEC Secretariat:

Mr. Sergey Shipilov
Director, Program
APEC Secretariat

ANNEX 2

Questions and Comments by APEC Member Economies on Chinese Taipei's IAP

CHAPTER 0. General Policies

(New Zealand)

Chinese Taipei has joined the WTO as a developed economy. This suggests that Chinese Taipei is, like New Zealand, working towards the achievement of the Bogor Goals of free and open trade and investment by 2010. We note that WTO accession has seen Chinese Taipei make good progress towards the achievement of these goals.

Q1- What further specific action beyond the WTO process is Chinese Taipei planning to meet the achievement of free and open trade and investment by 2010?

Chinese Taipei Response

Chinese Taipei joined the WTO as a developing economy. Please see the attachment for detailed explanation. (Attachment A)

Chinese Taipei will support the consideration of open markets and free trade being made in the WTO new round of negotiations, provided that this is also done while paying equal attention to the issue of the relationship between trade liberalization and sustainable development (as in fisheries).

1. In the area of tariff reductions:

Before accession, the average level of tariff on imports of industrial and agricultural products stood at 5.94% and 19.33% respectively. In 2004 (the third year after accession), these rates were reduced to 4.19% and 13.30% respectively. Following the completion of all the scheduled tariff reductions (2011), the average tariff level on industrial and agricultural products will be reduced further to 4.06% and 12.84% respectively.

2. In the area of non-tariff measures:

- a. Agricultural sector: Chinese Taipei has eliminated area restrictions for more than 10 agricultural products and adopted a tariff quota regime for 23 items, including rice and fishery products.
- b. Industrial sector: Chinese Taipei has removed area restrictions on the import of automobiles, replacing them with tariff-rate quotas. We have also removed local content requirements on the domestic production of automobiles and eliminated all discriminatory subsidies.
- c. Services sector: In accordance with Chinese Taipei's bilateral accession negotiations with WTO Members, Chinese Taipei has liberalized eleven sectors, including the financial services sector.

To streamline our customs procedures, we have been devoting ourselves to meeting the principles of the revised Kyoto Convention by amending our Customs Law and related regulations. We have also been doing our best to build up a full paperless environment for cargo clearance by introducing cutting-edge information and communication

technologies. We are convinced that these ongoing efforts will help us achieve the Bogor Goals.

Beyond the WTO process, we are also undertaking trade facilitation programs, primarily the “Barrier-Free Customs Clearance Plan,” which includes the establishment of a trade facilitation computer network, improving the operational environment of customs clearance, and installing an information network for airports and harbors. This Plan will be implemented in two phases, the first starting in 2002 and scheduled for completion in 2005. The work in the first phase will be mostly simplifying the relevant documentation and streamlining the procedures. The second phase will include installing the system that will function as a platform for trade information exchange, making domestic trade-related operations paperless, and linking them internationally. The current status of this Plan is detailed in the 2003 IAP. (Attachment B)

CHAPTER 1. Tariff

(Australia)

Q1 - What, if any, plans are in place to reduce the distortionary tariff peaks in the areas of Agriculture, Fish Products (greater than 20%) and Transport Equipment (15 to 20%)?

It is noted that Chinese Taipei has committed to phase out of its TRQs for passenger motor vehicles by 2010.

Chinese Taipei Response

Tariff on agricultural and fishery products has already been greatly reduced after our WTO accession. Some imported products still under regulation are being liberalized in accordance with WTO regulations, or TRQ has been adopted for them. As for plans to lower tariffs in agricultural and fishery products in the future, Chinese Taipei will handle this in accordance with decisions made in the WTO new round.

Chinese Taipei is scheduled to reduce our tariff on motor vehicles (passenger cars and light commercial vehicles) according to our commitments to the WTO at the time of accession in 2002, as per the attachment. (Attachment C)

(Hong Kong, China)

Comment 1 - We appreciate that Chinese Taipei has bound all tariff lines at an average rate of 6.32% which is relatively low among APEC member economies. We note however that tariff quotas are applied for more than 20 agricultural products and two industrial products. While Chinese Taipei has committed to abolishing some tariff quotas in 2005, 2008 and 2010, we encourage Chinese Taipei to critically review the need of all the tariff quotas with a view to their early elimination.

We also encourage Chinese Taipei to change all specific and compound duties to ad valorem tariffs, in order to improve the transparency and predictability of the tariff regime.

Chinese Taipei Response

Chinese Taipei will handle such issues in accordance with decisions made in the WTO new round.

(New Zealand)

Q2 - When the tariff schedule is reviewed, will there be a public process of submissions and consultations? Will importer and consumer interests be given the opportunity to present their views?

Chinese Taipei Response

We invite all related firms, industry associations and government agencies to review our tariff schedule, taking into account the liberalization and facilitation of international trade and the needs of domestic industries, importer and consumer interests.

On page one Chinese Taipei states that 98 percent of its tariffs are on an ad valorem basis. Later in the document in the APEC IAP Tariff Dispersion Table 8599 tariff lines are identified as being specific tariffs.

Q3 - We would be grateful for clarification - it appears that this table has the numbers out of order and is incorrect.

Chinese Taipei Response

We appreciate the correction from New Zealand, Chinese Taipei has provided the new "IAP Tariff Dispersion Table" as attached. Among the 8522 tariff lines in the table, 8,500 items are ad valorem and 22 items are specific duties. Therefore, 98% of the tariff lines are subject to ad valorem duties. (Attachment D)

Q4 - Does Chinese Taipei have any plans to convert remaining specific duties to ad valorem equivalents?

Chinese Taipei Response

There are 8,522 dutiable items in The Customs Import Tariff Schedule of Chinese Taipei, and more than 98% of the tariff lines are subject to ad valorem duties. In future reviews of its tariff system, Chinese Taipei will take into account the views of other members in this respect. As for the small number of agricultural products that are subject to specific duties, Chinese Taipei does not have any plan to make them subject to ad valorem equivalents, unless the WTO makes a decision in this regard in the new round negotiations.

(USA)

Q5 - Chinese Taipei signed a FTA with Panama in 2003. Tariff reductions are in line with WTO commitments. Please comment on how Chinese Taipei plans to handle TROs for rice.

Chinese Taipei Response

The tariff lines related to TRQs for rice are all excluded from the Tariff Reduction Schedule of the FTA between Chinese Taipei and Panama. Therefore the fact that Chinese Taipei signed an FTA with Panama has no influence over TRQs for rice. In other

words, our policy on regulating rice imports are still based on the content of the document with which we informed the WTO of the FTA with Panama.

CHAPTER 2. Non-Tariff Measures

(Australia)

Q1 - Have Chinese Taipei's continued efforts to simplify trade administration procedures, to make import/export regulations and operating procedures more transparent, and to reduce the number of items for which application of import licence is required eventuated in a reduction of non-trade measures? What are the key examples of this?

Chinese Taipei Response

Liberalization and facilitation are goals that Chinese Taipei continues to pursue in its external trade policies. To reach the NTM liberalization goals that were set forth in the Bogor Declaration and Osaka Action Agenda, Chinese Taipei after its accession to WTO on 1 January 2002, has eliminated non-WTO-consistent non-tariff measures of import ban and quantitative and area restrictions or has administered them according to WTO principles. In addition, relevant government agencies will continue to simplify import procedures, enhance transparency of import/export regulations and procedures, reduce the number of items requiring import/export permit, and promote single window trade administration. Chinese Taipei will also continue to review remaining NTMs and study the feasibility of further liberalization.

To increase efficiency of trade administration, and speed up the clearance of goods through customs, Chinese Taipei is actively planning and promoting "Trade Facilitation Network" project and the establishment of operating systems hereunder. In the area of "Trade Administration" under the Project, it encompasses licensing application, inspection, quarantine, customs clearance, and port entry/exit visa. The system is expected to be fully functional before the end of 2005. After that time, businesses may file their applications by one single entry and have the information sent to all agencies in the process, without being hindered owing to the factors of time, place, on level of digitalization. Consequently, business transaction costs will also be reduced by 5%, there by meeting the goals set forth by APEC, and essentially achieve readiness of paperless trading by 2005. As part of this process, Chinese Taipei will advance further toward the goal of electronic standardized format, electronic application by one single entry, simplification/reduction of document requirement, and facilitation/standardization of inter-governmental licensing procedures.

(Hong Kong, China)

Comment1 - We appreciate Chinese Taipei's efforts in reducing NTMs upon its accession to the WTO on 1 January 2002. We are also pleased to see Chinese Taipei's commitments to make further improvements. In this regard, we look forward to seeing Chinese Taipei's early reduction or elimination of NTMs, particularly in the areas of "quantitative import restrictions/prohibitions" and "automatic import licensing".

Chinese Taipei Response

Please refer to our answer to Q1. Based on our WTO accession agreement, starting in 2005, items for which TRQ is applied, such as chicken meat, pork (pork belly), pork meat offals and chicken meat offals will be open to free import. Starting in 2008, TRQ for four fishery items—persimmons, mackerel, carangid and sardines—will be eliminated, and these products will be freely imported.

(New Zealand)

Q2 - Could Chinese Taipei please clarify the role of "technical committees" in the development of technical and SPS standards? What do these committees add to the work of relevant agencies applying international standards?

Chinese Taipei Response

As for technical regulation:

According to the Regulations for the Establishment of National Standards, the technical committees prepare the draft of national standards, provide comments and advice to draft national standards, review and decide the draft national standards in their final draft.

According to Article 12 of the Regulations for the Establishment of National Standards, the technical committees when reviewing draft national standards shall achieve the following objectives:

1. to reflect the domestic production capability and technology level;
2. to improve quality of products and enhance production efficiency;
3. to maintain a reasonable balance between production, use and consumption;
4. to conform to relevant international standards; and
5. to establish standards based on requirements in terms of performance rather than design or descriptive characteristics.

As for SPS standards in agriculture:

The “Plant Protection and Quarantine Advisory Committee” and “Animal Quarantine Advisory Committee” are established under the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ), COA. Their functions are to provide expertise on matters relating to the establishment or revision of the plant and animal protection and quarantine regulations, pest and import risk analysis, phytosanitary technology and measures, and other SPS issues respectively. No “Technical Committee” exists as described by New Zealand.

Chinese Taipei is following the WTO/SPS agreement and relevant international guidelines in the development of technical and SPS standards.

As for SPS standards in food:

The “technical committee” consists of experts from academy, research institute and NGO which in charge of providing technical information and suggestions for implementation and administration. This committee has no law related governing right.

(USA)

Q3 - NTBs are often a result of government bureaus setting unsupportable standards in pursuit of policy goals, or partially adopting global standards without consultation with industry. Please comment on how Chinese Taipei will reconcile fuel economy standards for large engine motorcycles with concerns that have been expressed by industry.

Chinese Taipei Response

Chinese Taipei is a densely populated island with limited natural resources, and 98% of the energy supply depends on imports. As energy plays a vital role in economic development, the government of Chinese Taipei has enacted the "Energy Management Law", which has been implemented as a mandatory energy policy. Article 15 of the Law stipulates that vehicles designated by the central competent authority, manufactured by local manufacturers or imported by merchants for domestic use should conform to the permit standards of energy consumption set up by the central competent authority.

The vehicle fuel economy regulation of Chinese Taipei was enacted based on an open and transparent S.O.P. Anyone concerned about this issue can get information from the Gazette of Chinese Taipei and express his or her opinion at the open hearing. The regulation has been enforced since 1988 and amended seven times, and it has also been promoted continuously. Here we would like to list the S.O.P. for enacting the regulation for reference as follows:

1. Consult with professional research institutes to evaluate international regulations and standards, and analyze the vehicle energy efficiency status of international and domestic markets.
2. Draft a feasible regulation for the local situation and achievable energy saving targets, and set a buffer time required for the adoption of the new regulation.
3. Discuss the preliminary regulation with vehicle-related association representatives of manufacturers and imported merchants.
4. Hold a draft regulation open hearing for the public to reconcile different opinions.
5. Announce the draft regulations in the Gazette for further comment.
6. Proclaim the regulation officially if there are no further comments required for reconciliation.

CHAPTER 3. Services

(Australia)

Business Services – Legal

Comment1 - Australia notes that Chinese Taipei places restrictions on qualified Australian lawyers practising their national law in Chinese Taipei. Australian lawyers with unrestricted practising certificates would have a right to practise law in all Australian States and Territories, including the right to appear before Courts.

However, Chinese Taipei imposes an additional five year experience requirement in relation to the practice of Australian law by Australian lawyers working in Chinese Taipei as Attorneys of Foreign Legal Affairs (AFLAs).

Australia is strongly of the view that it should be the lawyer's home country, and not the host country, that should determine whether a lawyer meets the knowledge, skill and

experience requirements to practise his or her home country law on an unrestricted basis.

Australia requests that this additional five year experience requirement for recognition as an Attorney of Foreign Legal Affairs be removed.

Chinese Taipei Response

We open our door to foreign attorneys for the practice of law in Chinese Taipei in the hope that this will ensure the quality of their service. We also hope that their interaction with local law practitioners will spur the development of our attorney-at-law system and contribute to the improved quality of our legal service. Usually a multinational case is more complicated, so it is more proper to enlist the service of considerably experienced attorneys. For this reason, we open our door to experienced foreign attorneys only because they can provide the suing parties with better protection. Usually, an attorney with five years' experience can be considered as experienced. Some other countries, including Japan and China, have imposed similar restrictions based on the same considerations.

Transport Services

(Australia)

Air services

Q1 - What are the ownership/control requirements for airlines to be designated as a Chinese Taipei airline?

Chinese Taipei Response

According to Article 49 of Civil Aviation Act, a Chinese Taipei civil air transport enterprise shall be formed as a company organization. For a company limited by shares, at least two-thirds of its capital should be owned by Chinese Taipei citizens, and its board chairman and two-thirds of board directors should be Chinese Taipei citizens.

Q2 - With which countries is Chinese Taipei engaging in bilateral Air Service negotiations? What freedom rights does Chinese Taipei offer foreign entrants?

Chinese Taipei Response

Chinese Taipei engages in bilateral Air Services negotiations with any country before establishing aviation relations with it. Chinese Taipei offers foreign entrants navigation freedom rights in accordance with bilateral agreements, and some include fifth freedom rights.

(Canada)

Comment2 - Chinese Taipei characterises the management of foreign entry into this sector on the basis of "bilateral air services agreements". In the case of Canada, despite the fact that access has been obtained, no such formal agreement is in place.

Chinese Taipei Response

The air services relationship between Chinese Taipei and Canada is based on a bilateral agreement signed by competent organizations of both sides.

Road services

(Australia)

Q3 - What are the current restrictions on foreign entry into car rental services, truck transport services and container trucking services?

Chinese Taipei Response

Foreign investors are treated the same as domestic companies in this sector, and there are no special restrictions on foreigners.

(Mexico)

Q4 - Which are the main licensing and qualification requirements for road transport service providers?

Chinese Taipei Response

To apply for a license to establish a business as a road transport service provider, the applicant must first have adequate capital, number of vehicles, and a place to park them.

Q5 - Is there any limit to foreign investment in order to participate in the operation of car rental, truck transportation and container trucking services?

Chinese Taipei Response

Foreign investors are treated the same as domestic companies in this sector, and there are no special restrictions on foreigners.

Q6 - Is there any plan to modify domestic regulation of transport services to improve the operation and liberalization of this sector?

Chinese Taipei Response

Chinese Taipei's road transport services industry operates in a freely competitive market and is completely open to foreign investment. As for the road passenger transport services industry, a decision on whether to open this sector to foreign investment will be made after a review of market demand.

(USA)

Q7 - What are the qualifications for a company not incorporated in Chinese Taipei to get approval by the central highway authority to invest in trucking and container haulage services?

Chinese Taipei Response

These are stipulated in our Statute for Investment by Foreign Nationals.

Q8 - Are there any limits on the investment by an approved foreign company?

Chinese Taipei Response

According to our WTO commitments, we are committed to open our road transportation services industry to foreign investment, and there are no special restrictions on foreigners.

Q9 - Is a company incorporated in Chinese Taipei wholly owned by foreign persons or companies considered a Taiwan company?

Chinese Taipei Response

According to our WTO commitments, we are committed to open our road transportation services industry to foreign investment, and there are no special restrictions on foreigners.

*Rail services**(Hong Kong, China)*

*Q10 - As set out in the IAP, foreign entity providing rail transport services must be in the form of certain types of legal entity and with regard to foreign investment by private institutions, the authority in charge may, as it may deem necessary on a case-by-case basis, re-set the foreign ownership restriction, without being subject to the existing regulatory restrictions on the foreign ownership as may be imposed under any other laws. However, we note that full commitments for the sector have been undertaken by Chinese Taipei under the GATS. **Would Chinese Taipei advise on the compatibility of the applicable domestic regime with the full GATS commitments inscribed for the sector?***

Chinese Taipei Response

Based on stipulations in our Railroad Law, there are no special restrictions on foreigners investing in and operating private railroad transport services. The regulation alluded to in the question seems to be the regulation encouraging private investment (including that of foreigners) in Chinese Taipei's public construction projects (including the building of railroads), with the concern being that a legal limit is placed on the ratio of foreign-held shares. The agency in charge may, as it may deem necessary on a case-by-case basis, make report to the Executive Yuan so it can consider raising the foreign ownership restriction.

(Mexico)

Q11 - It would be very useful to incorporate the main characteristics of the licensing and qualification requirements for rail transport service providers, or a website to check them out.

Chinese Taipei Response

We need more information to answer this question.

Q12 - Is there any restriction to the foreign investment participation in this sector?

Chinese Taipei Response

Our WTO commitments include opening rail services to foreign investment, and there are no special restrictions on foreigners (they are treated the same as domestic companies).

*Energy services**(Mexico)*

Q13 - It would be helpful to include a website to check the operational requirements for the oil and petroleum products, and electricity sectors.

Chinese Taipei Response

Information on the supply and demand data for the energy sector (including oil and petroleum products and the electricity sector) can be found on the website of the Energy Commission, Ministry of Economic Affairs (<http://www.moeaec.gov.tw>).

Q14 - According to the foreign entry section, the electricity sector allows foreign participation up to 50 percent. Is there any plan to modify this restriction in the short term?

Chinese Taipei Response

Foreign investors can hold as much as 100% of shares in power generations. Transmission and distribution sections still limit foreign participation to 50%. The restriction will be modified when these two sections allow private sectors to participate.

Q15 - Is there any possibility to include an Individual Action Plan regarding gas sector as part of the energy services?

Chinese Taipei Response

Currently in Chinese Taipei, the state-owned CPC is the de facto natural gas business and is comprehensively responsible, on the wholesale level, for gas production, importation and transmission, i.e., the gas market structure is quite simple. Moreover, because of Chinese Taipei's geographic location (as an island where the possibility of pipeline gas importation will be denied in the foreseeable future), we have omitted the natural gas section from our IAP in the past, as it would not have had any real meaning.

Educational services

(New Zealand)

Q16 - What restrictions are there on foreigners opening private schools and Universities in Chinese Taipei? If there are restrictions what is the justification for these?

Chinese Taipei Response

Foreigners can open private schools and universities in Chinese Taipei and are subject to the same laws and regulations as our nationals, except for the following two restrictions:

1. The principal/president and chairman of the board must be nationals of Chinese Taipei;
2. The number of foreign nationals as board members must not exceed one-third of the board and must not exceed five members in total.

Communication Services: Telecommunications

(Hong Kong, China)

Q17 - The total direct shareholding by foreigners in a Type I telecommunication enterprise may not exceed 49%, and the sum of direct and indirect shareholding may not exceed 60%. The foreign equity cap at 20% for shareholding in Chunghwa Telecom Co Ltd, which is inscribed in the GATS commitments of Chinese Taipei, has however not been mentioned in the IAP. Would Chinese Taipei clarify the regime with respect to the foreign equity cap for investment in the telecommunication market? If different caps are being imposed for Chunghwa Telecom and the other telecommunication enterprises, we would like to know the reason for the differential treatment.

As set out in "Operational Requirements" and "Licensing and Qualification Requirements of Service Providers", Type I telecom enterprises are subject to tariff regulation based on price cap regime, and 'the timetable for deregulation, and the number of operators to be allowed for Type I telecom enterprises shall be announced by the Executive Yuan'

Chinese Taipei Response

Regarding the restrictions on foreign investment in Chunghwa Telecom, we note that Japan, Korea, France, Australia and others have even tighter restrictions on foreign

investment in their existing major telecommunications operators. Considering that Chunghwa Telecom still is a market leader in fixed networks, and considering that our environment in telecommunications infrastructure is still not fully competitive, it is still necessary that the company fulfill certain national policies (such as universal service). Therefore, the present restrictions that impose stricter limits on foreign investment in that company in comparison with other Type I telecom operators will be relaxed in the future if future conditions warrant.

Q18 - Would like to know further information as follows:

- *What is the current number of operators allowed for Type I telecom enterprises, and is application to apply for licence for Type I telecom enterprises currently open?*
- *Are Type I telecom enterprises all subject to tariff regulation based on price cap regime or is it only the incumbent Type I telecom enterprises that is subject to tariff regulation? If the former, is there any plan to deregulate the pricing control and what would that deregulation be?*
- *Is there any target date for a decision on the number of operators to be allowed for Type I telecom enterprises?*

Chinese Taipei Response

- As of March 2004, there were 103 Type I telecom enterprises in Chinese Taipei. A variety of Type I Telecommunication businesses have been continuously deregulated since 1996 based on a 'request for proposal' system for licensing. Though there is no request for proposal at the moment, a new licensing regime which accepts applications for Type I telecommunications businesses on a regular basis is going to be established in the near future.
- Currently the price cap is imposed on all Type I telecom operators. Under price regulation, prior approval is required for the dominant operator's major services, and prior notification is required for non-dominant operators and the dominant operator's non-major services. It is likely that the price regulation mechanism is going to be adjusted in the future in accordance with the level of competition in the telecom market.
- There is no pre-set number of licenses for Type I telecom businesses except when the operation of the telecom business (e.g. 2G, 3G) involves the usage of radio frequencies.

Q19 - "Licensing and Qualification Requirements of Service Providers": Please confirm whether there is any limitation on the number of licences that will be issued for Type II telecom enterprises.

Chinese Taipei Response

There is "ex-post" regulation imposed on Type II telecom enterprises except that the competent authority shall review the system architecture proposed by the applicant who is intended to engage in the special Type II telecom business before issuing the license. Accordingly, there is no limitation on the number of license in Type II telecom business.

(USA)

Q20 - Please update us on the requirements for licensing of new Type I telecom operators.

Chinese Taipei Response

There have been no recent change to the licensing criteria for Type I telecom enterprises. However, we are simultaneously reviewing the licensing criteria in course of the planning of a new licensing regime. For more information, please visit the Directorate General of Telecommunications (DGT)'s website at www.dgt.gov.tw/english/flash/index.shtml

Q21 - Does Chinese Taipei intend to maintain high build-out and capital requirements for licensing of Type I services?

Chinese Taipei Response

The Directorate General of Telecommunications has already held three public hearings to collect public opinion under the "Plan for Further Opening of Fixed Networks," and after collecting the opinions of various sectors, it completed a report listing its suggestions to the Ministry of Transportation and Communication (MOTC). The report also provides brief explanations of the strengths and weaknesses of various suggestions. However, regarding the minimum required capitalization and infrastructure threshold for obtaining a license to conduct integrated network business, the MOTC expects to make a decision at the end of June 2004, after making a comprehensive evaluation.

Q22 - When is it likely that the requirements for operation and licensing will be finalized by the MOTC?

Chinese Taipei Response

Because the conditions for opening channels and issuing licenses for fixed network operators after further market liberalization involves requirements on network scale for self-constructed local networks, the Directorate General of Telecommunications has already included its relevant suggestions in its report to MOTC as described in Q21 above. It plans to decide the matter at the end of June 2004, as mentioned in Q21.

Q23 - When is it likely that the Type I licenses will be issued?

Chinese Taipei Response

On December 30, 1999, the MOTC for the first time began to accept applications for licenses to operate fixed integrated telecommunications networks. On April 7, 2000, it issued the first approval to establish such networks, and on January 19, 2001, it issued the first special license to an operator of a privately-operated fixed network. Therefore, when handling applications for issuance of approvals to establish fixed integrated networks and licenses to operate such networks, the MOTC will follow the former method.

Q24 - All mobile phone service providers already allow for number portability. The Directorate General of Telecommunications has announced plans for opening the fixed line market to additional bidders beginning in September 2004 and at six-month intervals thereafter. Industry believes there should be no application windows and that minimum capitalization and build out requirements are excessive. Could Chinese Taipei comment on plans to get the privatization of Chunghwa Telecom back on schedule?

Chinese Taipei Response

The MOTC is currently planning to release 35.06% of Chunghwa Telecom's shares to the public, under the principle that the shares be released to the whole public. The next planned release of Chunghwa Telecom shares will await further reporting to and

instructions from the Executive Yuan. The MOTC expects to complete the privatization of Chunghwa Telecom at the end of 2004.

Telecommunications(Mexico)

It is important to emphasize that outstanding improvements have taken place since the implementation of number portability in May 2003. In this context, we would like to know how the "080 toll-free phone number portability" works.

Chinese Taipei Response

According to the "Regulations Governing Number Portability", the originating network should adopt "all call query" method to deal with 080 toll-free call. However, if the originating network operator can reach an agreement with the corresponding number range holder of the 080 ported number, the donor network operator of the 080 ported number, or the transit network operator, it can use any other database query method to complete the 080 call.

Postal and delivery services(Mexico)

The current entry requirements refer to the obligation to fulfill the relevant provisions of the Postal Law, Civil Aviation Law, Airfreight Forwarded Regulations and Road Regulations.

Nevertheless, we consider important to include a website in order to check the above-mentioned regulations out.

Chinese Taipei Response

You can find Chinese and English versions of the Postal Law in the website of the Chunghwa Post: www.post.gov.tw

Tourism and Travel Related Services

(Hong Kong, China)

*Q25 - There are no foreign entry restrictions for tourism and travel related services. Market access to tourist guides services in terms of commercial presence has however been inscribed as "unbound" in Chinese Taipei's GATS schedule of commitments. **Would Chinese Taipei clarify whether there are any foreign entry restrictions being imposed on tourist guides services? If not, would Chinese Taipei consider reflecting its freer regime of the sub-sector in its offers in the context of GATS negotiations so as to bring its commitments into line with its actual regime and to increase the predictability of the regime?***

Chinese Taipei Response

Our WTO commitments chart includes a section on tourism guide services. Mode three (commercial presence) states, "Unbound except such services can be only provided by a

travel agency or a tour operator,” and not simply “unbound.” As for whether further opening will be made in the context of GATS negotiations, that is still being studied and will have to await the outcome of the new round negotiations.

Recreational cultural and sporting services

(Mexico)

Q26 - The section licensing and qualification requirements of service providers points out that foreign sporting providers must meet the Regulations for Employment of Foreign Specialists. Is there any website in which these requirements can be revised?

Chinese Taipei Response

The regulations and standards that the National Council on Physical Fitness and Sports follow in reviewing applications by trainers, athletes and other professionals to seek employment in Chinese Taipei are based on stipulations in Article 46 of the Employment Services Law. Starting on January 15, 2004, all applications have been processed through the “single-window” of the Council of Labor Affairs, Executive Yuan. The Council of Labor Affairs has also set up a webpage (<http://www.evta.gov.tw/foreign/foreign-01.htm>) which provides information on foreign professionals applying for work permits, relevant laws, and an English Q&A.

Construction and Related Engineering Services

(USA)

Comment3 - Industry complains that bidding requirements still disadvantage foreign firms.

Chinese Taipei Response

Concerning foreign construction enterprises to practice in Chinese Taipei, the terms of registration, permit of construction enterprises, and construction-undertaking are following the precedents of domestic construction enterprises as per the Construction Industry Act. As for participating in our government bidding, industries should directly contact the Public Construction Commission.

Financial Services

(USA)

Comment4 - The QFII system was effectively scrapped in June 2003.

Chinese Taipei Response

Chinese Taipei announced on July 7, 2003 to abolish the Qualified Foreign Institutional Investors (QFII) system and overhaul Chinese Taipei’s restrictions for foreign portfolio investors in the near future. In Sep. 30, 2003 the authority approved the newly amended “Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals” (“the new Regulation”). A new registration system, streamlined process and documentation, cost reduction, deregulation, and facilitated operation are the five pivotal measures adopted to facilitate foreign investment under the new Regulation.

The five pivotal measures are as follows:

1. New Registration System

Instead of obtaining permission from the Securities and Futures Commission, all foreign investors from now on can invest in the securities market after simply registering with the Taiwan Stock Exchange Co. (TSEC) and obtain an investment ID. Foreign institutional investors, allowed to enjoy investment quota without an upper limit, shall still obtain consent from the Central Bank.

2. Streamlined Process and Documentation Requirement

The registration process will be on a once-for-all basis. Any unnecessary documents, such as documents evidencing that the applicant meet the qualifications set by this Commission as well as a copy of custodian agreement, will no longer be required.

3. Cost Reduction

To minimize the cost incurred in the investment process, all foreign investors, during the period when the securities income [i.e. capital gains] tax is not levied, can remit their profit without a guarantee from their tax agent or a tax clearance certificate.

4. Deregulation

Foreign investors will be permitted to participate in DR (ADR or GDR) offerings by converting their holdings in Chinese Taipei listed shares into DR. They will also be permitted to provide listed shares held by them for re-issuance of DR. Thus, subject to the availability for reissuance of DR and relevant depository's reissuance procedure, foreign investors may convert their shares into DR and sell DR in the overseas market. However, participating in DR offering will still require issuing company's cooperation and be subject to conditions set by the relevant issuing company.

5. Facilitated Operation

With streamlined documentation required in the registration process, all foreign investors can easily register the names of their beneficial owners. Therefore, the current practice regarding sub-account will no longer be necessary and the previous rules for sub-account opening are removed. However, existing sub-account holders may choose to maintain their sub-account status or register as a Foreign Institutional Investor (FINI) or Foreign Individual Investor (FIDI). Moreover, if a FINI appoints more than one external manager or has a separate trading desk to manage its investment fund, then it may be necessary to have separate trading accounts. The SFC will allow such FINI, with only one investment ID, to open more than one trading account, indicating the associated investment managers' names, within the same securities firm.

The abolition of the QFIIs system symbolizes Chinese Taipei's major change of attitude towards foreign investment regulation. From the review of qualification documents in

the past to the simple registration process in the future, foreign investors can now invest in a level playing field as local investors.

The approval of the new Regulation shows Chinese Taipei's commitments to speeding up financial liberalization and internationalization. Chinese Taipei is looking forward to continued investment from the international investment community. In the future, Chinese Taipei will continue to welcome all foreign investors and will treat them on the basis of the principle of national treatment. Chinese Taipei will also continue to relax restrictions and help foreign investors solve any difficulties arising from their investment process.

CHAPTER 4. Investment

(Australia)

Q1 - Chinese Taipei notes in respect of commercial presence that the "Statute for Investment by Overseas Chinese" and "Statute for Investment by Foreign Nationals" will be revised, after which the "Negative List for Investment by Overseas Chinese and Foreign Nationals" will be abolished. Can Chinese Taipei explain which industries will be liberalised as a result of this relaxation and over what time-frame?

Chinese Taipei Response

At present, the Legislature is studying the bill to amend the "Statute for Investment by Foreign Nationals" and the "Statute for Investment by Overseas Chinese" in order to eliminate the "Negative List for Investment by Overseas Chinese and Foreign Nationals." Sometimes there is difficulty caused by differences in the timetable for amending these two laws, because the items on the "Negative List" which place limits or prohibitions on investment by overseas Chinese or foreign nationals are based on other laws and regulations on various business sectors and on their respective agencies in charge. After this amendment is passed and publicly announced, then the opening of the various sectors for investment will be based on the regulations set for those sectors by their respective governing agencies.

Q2 - Could Chinese Taipei please clarify its present approval requirements for the purchase of all categories of land and whether or not there are any reciprocity requirements or restrictions on land use? Has Chinese Taipei considered using exemption thresholds for non-sensitive purchases by foreign interests on real estate? These questions arise from an apparent contradiction in its IAP.

- *Under "Current Investment Measures Applied", the entry reads: "Chinese Taipei has relaxed restrictions on purposes of land use. Aliens may be allowed to acquire land for investments helpful or useful in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries that are approved by the government authorities concerned."*
- *Subsequently, under the section dealing with measures taken since 1995 to meet planned objectives the IAP states: "Chinese Taipei abolished the approval procedures for foreign investment in real estate in 2002".*

- *Chinese Taipei modified its “Statute for Investment by Foreign Nationals” in November 1997, with the effect that reinvestment by overseas Chinese- and foreign-invested enterprises will be subject to approval by the competent authority only when the overseas Chinese or foreign investor holds one-third or more of the equity in the enterprise concerned”. **Why does Chinese Taipei continuing to examine proposed expansions of existing approved investments? Is Chinese Taipei considering further relaxations to this requirement?***

Chinese Taipei Response

Chinese Taipei’s Land Law was amended and promulgated on 31 October 2001. Based on the principle of reciprocity, aliens or foreign companies are permitted to acquire land in Chinese Taipei, according to the regulations specified in Article 18 of the Land Law, excluding lands used for forestry, aquaculture, salt plants, mineral deposits exploitation, water resources, military bases and areas, and land adjacent to the national frontiers as defined in Article 17 of Land Law. And according to Article 19 of Land Law, aliens may acquire land for personal use, investment or public welfare purposes to build residences, as business sites, for office buildings, shops, factories, churches, hospitals, schools for children of foreigners, embassies or consulates, public welfare institutions offices, or cemeteries. In addition, aliens may be allowed to acquire land for investments helpful or useful in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries that are approved by the government authorities concerned. Moreover, Chinese Taipei will continue its effort in abolishing the principle of reciprocity in Article 18 of the Land Law for land acquisitions by aliens of foreign companies.

If one-third or more of the equity of an enterprise is held by an overseas Chinese or foreign investor, it would mean that the investor has controlling power over the enterprise. Therefore, reinvestment by these enterprises must get the approval by the competent authority, in order to prevent overseas Chinese or foreign investors from circumventing the restrictions on specific investment.

The Australian Commerce and Industry Office concluded a tax treaty with the Taipei Economic and Cultural Office in 1996. The treaty contains a most favoured nation (MFN) clause which provides that, if Australia concludes a tax treaty with a third country which includes a Non-Discrimination Article (NDA), Australia will be obliged to enter into negotiations with Chinese Taipei with a view to providing similar treatment. The MFN clause was triggered by the inclusion of an NDA in the new Australia/United Kingdom tax treaty, which entered into force on 17 December 2003. The inclusion of an NDA in the treaty would further assist trade and investment flows between the two countries.

Chinese Taipei Response

- Chinese Taipei is willing to negotiate with Australia to include a Non-Discrimination Article in the tax treaty (DTA). We hope both sides can proceed to amend the DTA as soon as possible. We would appreciate it if Australia could propose a draft amendment in this regard.

- Together with this case, we would also appreciate it if Australia could consider another case which we have brought up previously in relation to Paragraph 2 of the DTA Annex regarding exclusive taxing right solely to resident territory for interest derived from the investment of official foreign exchange reserve assets.
- We think that both the above proposals can further facilitate mutual trade and investment between Australia and Chinese Taipei.

(Canada)

Comment1 - Employment obstacles for managers of foreign-invested enterprises. Previous rules governing the employment authorisation for foreign manager or branch manager of a foreign-invested enterprise effectively saw an automatic work permit if the invested company met basic investment criteria - among other things a minimum of NTD 500,000 (limited company) or NTD 1,000,000 (limited by shares). In early 2004 rules were replaced in the spirit of "opening to white collar workers", "one-stop-shop" etc. etc. The effect has in certain cases been negative as new investment threshold rose to NTD 5,000,000 (five million). This is a relatively minor issue so far impacting a handful of Canadian individuals (not firms as far as we are aware) but should be noted.

Chinese Taipei Response

According to Article 37 of “Qualifications and Criteria Standards for foreigners undertaking the jobs specified under Article 46.1.1 to 46.1.6 of the Employment Service Act”, the employers should have the following qualification when hiring foreigners for management work in a business entity invested by overseas Chinese or foreigners: Foreign branch offices that have less-than-one-year operation and more than NT\$ 5,000,000 (more or less equal to US\$147,058) capital in Chinese Taipei; or companies that have been established more than one year, and the latest yearly revenue or the average revenue of the last three years amounts to NT\$10,000,000 (more or less equal to US\$294,117), with average import/export performances reaching US\$1,000,000 or average (agent) commission reaching US\$400,000.

However, according to Paragraph 5 of the same article, those foreign companies that have proven contribution to the economic development in this country or have been recognized by the central competent authorities along with authorities concerned at the central government level should not be limited to the above mentioned capital amount restrictions.

In the near future, after consulting with related authorities, we will propose more flexible and open policy.

(USA)

*Q3 - Chinese Taipei has effectively eliminated restrictions on QFII. Privatization of SOEs is not entirely consistent with Chinese Taipei’s commitments. **Please comment on Chinese Taipei’s plans in this area.***

Chinese Taipei Response

Investment by foreigners in Chinese Taipei is governed by the “The Statute of Investment by Foreign Nationals.” There are different investment restrictions for some industries under this statute. When State-owned Enterprises (SOEs) under the MOEA

will be privatized, the authorities in charge of the relative SOEs will need to review the restrictions of foreign investment.

CHAPTER 5. Standards and Conformance

(Australia)

Q1 - Australia welcomes Chinese Taipei's involvement in the APEC Electrical MRA and notes that negotiations are progressing on a bilateral n MRA with Australia based on the APEC MRA which is expected to be the first step in Chinese Taipei's broader participation in the Electrical MRA.

Chinese Taipei Response

Chinese Taipei is willing to discuss bilateral MRAs with interested parties based on the APEC MRA and is preparing for participation in other parts of APEC Electrical MRA depending on the development of our certification system.

(Canada)

Comment1 - Chinese Taipei describes as an agreement the mechanism it has in place with Canada and USA on EMC test report acceptance. In the case of Canada, we have an Arrangement in place, not a formal agreement.

Chinese Taipei Response

Chinese Taipei has provided the APEC Secretariat a revised version to table on the e-IAP website.

(Chile)

Q2 - Under the section of Technical Infrastructure, Taipei mentions the Good Regulatory Practice (GLP) guidelines for domestic food-testing laboratories. It would be possible have more details about these guidelines?

Chinese Taipei Response

DOH has the draft on “Good Laboratory Practice and Accreditation” but in only Chinese version. The implementation level for GLP related regulations are currently under discussion by academy, experts, stakeholders and administrators.

(Japan)

*Q3 - In Chinese Taipei, chemical products contained in paper bags, are requested to label item by item with Shipping Mark (seal) although, in other economies, labelling is requested for each container or pallet. **Japan would like to know the reason why each individual paper bag contained chemical products is requested to label Shipping Mark (seal).***

Chinese Taipei Response

We need more information to answer this question, please indicate which “chemical products” you mean, since these also include toxins and pharmaceuticals.

However, if the chemicals in question are manufactured or imported toxic substances, then they should be governed by stipulations of Article 15 of the Toxic Chemical Substances Control Act, which states: “Toxicity and pollution-control measures of toxic

chemical substances shall be conspicuously labeled or displayed on toxic chemical substances containers, packaging, or handling facilities, or handling sites, and material safety data sheets shall be made available, pursuant to the provisions prescribed by the responsible agency at the central government level.” This refers to the labeling of the containers and packaging for toxic chemical substances.

There is no similar labeling requirement for imported pharmaceuticals.

(New Zealand)

Generally speaking, Chinese Taipei has advised interested parties of proposed changes to technical standards prior to implementation and provided sufficient time for comment. However, we have noticed recently that some changes to technical standards have been made without prior notification to interested parties or with little or no time to offer comment.

Q4 - Does Chinese Taipei intend, in light of APEC’s Transparency Standards, to return to its previous policy of advising interested parties of proposed changes to technical standards and invite comment with sufficient time for parties to respond?

Chinese Taipei Response

According to Articles 10 & 11 of the Regulations for the Establishment of National Standards, once the draft national standards has been prepared, the “government agency in charge of standards” shall solicit comments and advice from interested parties, members of related technical committees and review committees, experts, industries, government bodies, institutions, and educational institutes. Solicitation of comments and advice shall be conducted simultaneously via individual notices and public announcement and the comment period shall not be less than sixty (60) days. The procedures for such notice may be shortened in case of actual or potential emergencies involved in public safety, health or environment. Chinese Taipei follows the above Articles to observe the principle of transparency, and they have not been changed.

Q5 - Is Chinese Taipei considering amending labelling standards so that labels need not be translated into Chinese before import, but can instead be translated before retail? This would facilitate trade from non-Chinese speaking economies.

Chinese Taipei Response

Because The Commodity Labelling Law is introduced for sale on market, therefore, it is not necessary to be revised.

Q5 – 1 - What is the technical justification for requiring Chinese language labels to be applied prior to importation?"

Chinese Taipei Response

Commodity doesn’t require Chinese language labels to be applied prior to importation, because The Commodity Labelling Law is enacted for a commodity is introduced for sale on the market.

Q6 - Where regulators have introduced specific regulatory requirements (for food or other goods) for health and safety or environmental concerns, which of these regulators

use the national accreditation body for assurance of competence in testing and inspection and which of these regulators also recognise accreditation by MRA signatories of the national accreditation body?

Chinese Taipei Response

The bureau of food and drug analysis, department of health are the competent authority for national accreditation body. Chinese Taipei has not implemented Food MRA system. All measures and standards for food related products shall comply with CODEX and WTO/SPS.

Q7 - Where regulators do rely on internationally accepted standards as the basis of their regulations, which regulators use the national accreditation body for assurance of competence in testing and inspection and which of these regulators also recognise accreditation by MRA signatories of the national accreditation body?

Chinese Taipei Response

The Bureau of Standards, Metrology and Inspection (BSMI) under the Ministry of Economic Affairs uses the national laboratory accreditation body as one of the means to ensure competence of laboratories in testing. Testing laboratories accredited by the Chinese National Laboratory Accreditation may submit application to the BSMI for becoming designated testing laboratories in the Registration of Product Certification (RPC) Scheme. The BSMI also recognizes ISO 9000 certification by IAF MLA signatories in its RPC Scheme.

The Directorate General of Telecommunications (DGT) is the regulator of Telecommunications services in Chinese Taipei. The DGT uses the national accreditation body-Chinese National Laboratory Accreditation (CNLA) to assure the competence of telecommunications equipment testing labs. On August 5, 1999, the DGT of Chinese Taipei made a joint statement with the Telecom Authorities of 3 MRA parties which participate in Phase I of APEC TEL MRA, including ACA of Australia, OFTA of Hong Kong, IDA of Singapore, to use the APLAC MRA to recognize the testing labs accredited by each other's national accreditation body.

Q8 - What progress has been made on finalising the draft of "Accreditation and Administration Regulations of Recognised Certification Bodies for Controlled Telecommunications Radio-frequency Devices" which was due to be completed by the end of 2003?

Chinese Taipei Response

The "Accreditation and Administration Regulations of Regulatory Certification Bodies for Controlled Telecommunications Radio-frequency Devices" was promulgated on the date of Nov. 18, 2003.

(Hong Kong, China)

Q9 - We would like to know the progress for the Phase II implementation of APEC TEL MRA.

Chinese Taipei Response

According to the WTO TBT and APEC TEL MRA, two domestic TTE certification bodies have been accredited and recognized by Chinese Taipei in September 2001. That is, Chinese Taipei has completed the necessary domestic procedures to implement the

Phase II of APEC TEL MRA. Furthermore, to implement Phase II procedures of the APEC Telecom MRA, the DGT has promulgated the “Accreditation and Administration Regulations of Regulatory Certification Bodies for the Controlled Telecommunications Radio-Frequency Devices” in 2003 and has enlarged the scope of Telecommunications Equipment whose certification work could be entrusted to the private sector. Meanwhile, it is expected to complete accreditation and commission task subject to low-power RF device certification bodies in the middle of 2004. We anticipate undertaking steps with other APEC economies with intention for the effective implementation of Phase II of APEC TEL MRA .

(USA)

*Q10 - Recently, Chinese Taipei has promulgated new regulations, which have hindered or have had the potential to hinder trade in such products as home appliances, blood plasma products, medical devices, alcohol beverages, and large motorcycles. We are concerned that Chinese Taipei’s approach, although admirable in its efforts to conform to international standards, may unnecessarily impede trade. **How does Chinese Taipei plan to improve its regulatory process?***

Chinese Taipei Response

The Department of Health (DOH) is currently considering to grandfather the existing requirements for certain types of medical devices and to recognize international harmonization standards for the purpose of simplifying the premarket registration process. In addition, DOH is considering to adopt GHTF’s Summary Technical Documentation (STED) in the hope that regulatory requirements will be in accord with global trends.

(Mexico)

Regarding China Taipei IAP, Mexico submits the following questions for Chapter 5: Chinese Taipei’s Approach to Standards and Conformance in 2003

1) For the section Alignment of standards with international standards where appropriate, Mexico would like to know in which areas, and based in what criteria, will Chinese Taipei continue it’s aligning program.

Chinese Taipei Response

According to Article 8 of the Standards Act, the government agency that regulates standards may, on the basis of already existing international standards whose scope, grade, condition and level of application are all appropriate to domestic circumstances, adopt the said standards as national standards. Chinese Taipei continues its aligning program based on the above Article and the resolution of APEC/SCSC.

2) For the section Continuously strive to increase transparency of their standards and Conformance requirements, Mexico would like to know if Chinese Taipei has other available web pages with a more complete technical regulations and standards catalog, additional to the one of the Health Department, referred in the IAP.

Chinese Taipei Response

A complete standards catalog of Chinese Taipei is available at the website at http://www.cnsonline.com.tw/CNS_EN/index.html.

Or the website of Department of Health is also available technical regulations and standards in English. <http://www.doh.gov.tw/dohenglish/>

CHAPTER 6. Customs

(Australia)

Kyoto

Q1 - Does Chinese Taipei have an outcome of the draft amendment of Customs legislation that was scheduled to be submitted to the Legislative Yuan at the end of 2003 for approval?

Chinese Taipei Response

The draft amendment of Customs Law was submitted to the Legislative entity in early October 2003 and passed its third reading in mid-April 2004. The amendment is to be become effective as soon as the government promulgates it .

Risk Management

Q2 - Does Chinese Taipei have a Risk Management program/system in place to support the training of its staff?

Chinese Taipei Response

Chinese Taipei Customs has conducted training courses on collection and analysis of intelligence, identification of risks as well as sharing of enforcement experiences, etc.

Integrity

Q3 - Has Chinese Taipei developed an Integrity Action / Implementation Plan?

Chinese Taipei Response

In order to develop an Integrity Action/Implementation Plan, on March 11, 2004, Chinese Taipei's Customs entrusted the Taiwan Institute of Economic Research to conduct a customs integrity assessment. It is anticipated that the assessment with appropriate suggestions will be completed before July 11, 2004. Thereafter, the Customs authority expects to use these proposals to develop an Integrity Action / Implementation Plan. Chinese Taipei Customs has put into practice following approaches:

1. The Ministry of Finance has entrusted the Taiwan Institute of Economics Research to conduct a survey on Customs integrity.
2. Customs has compiled the Customs Code of Conduct, and distributed the brochure to every Customs employee.
3. Customs has enhanced the education of Customs integrity, and included the courses regarding Customs integrity in pre-job as well as on-the-job trainings.
4. Customs has set up an exclusive unit (Civil Service Ethics Office,) to deal with the businesses regarding integrity management and prevention of corruption, and applied risk management techniques to integrity management.

5. Customs has established an integrity auditing task force to oversee and inspect integrity management business in field Customs Offices regularly.

(Hong Kong, China)

*Q4 - "Implementation of the TRIPS Agreement": Several approaches are taken by the Customs to crack down on illegal importation/exportation of pirated and counterfeit goods. **Would like to know the effectiveness of the various measures taken in detection or suppression of illegal importation or exportation of pirated and counterfeit goods.***

Chinese Taipei Response

After taking various measures in the prevention of and crackdown on illegal importation or exportation of pirated or counterfeited goods, the resulting achievements are shown in the attached table, "Customs Statistics of IPR Infringement Cases". The statistics are posted on our Customs Website at: <http://www.eng.dgoc.gov.tw> (Attachment E)

*Q5 - There is no information on Customs-Business Partnership. **Appreciate to have a brief account on what it has/will be done to enhance the cooperation and communication between Customs and the business sector.***

Chinese Taipei Response

Customs has enhanced the cooperation and communication between itself and the business sector as follows:

1. Intensify cooperative relationship with strategic alliance firms by providing them with information regarding training programs and urging them to enhance capability of "identifying illegal shipments" as well as establishing contact points between the two sides.
2. Hold seminars regularly to prepare the business sector with knowledge about the security measures for their professional equipment, facilities, documentation and personnel management, so as to prevent them from being used illegally.
3. Regard strategic alliance firms as reliable partners and keep them informed of Customs' latest laws, regulations and practices as well as publicly recognize strategic alliance firms with outstanding performances so as to increase compliance rate.

(Japan)

*Q6 - With regard to "Paperless Trading", Chinese Taipei mentions to plan and implement the "Single Window Concept" for international trade. **Japan would like to obtain the detailed information on "Single Window Concept" and also like to know when it will be implemented. Japan also would like to know which agencies / offices will be in charge and what procedures will be required in the "Single Window Concept".***

Chinese Taipei Response

Chinese Taipei adopts the "Single Window Concept" in improving its trade facilitation environment, that is, all electronic import and export transactions between Customs, trade regulatory agencies and other stakeholders will be passed to and returned by that window. Rather than creating a single authority or a single system, our concept is to provide an automated system. At the present moment, Chinese Taipei already has two value-added network companies providing electronic services for customs clearance. Based on the

existing framework, we shall add in new features to enhance its function for trade administration. Business users will only need to visit the single window and complete their applications for import/export permits, certificates of origin, certificates of inspection, and quarantine certificates, etc. All the information will merge with the customs clearance system with no need for data reentry. At the second stage, the system will integrate the port authorities to enable the exchange of manifests and other required information.

A cabinet level inter-agency task group is responsible for the coordination. Bureau of Foreign Trade and Directorate General of Customs are the two major agencies for the implementation of this system. Relevant trade controlling agencies are deeply involved in this project to re-engineer their internal business process. In establishing such a system, government will need to identify the required functions that the “single window” needs to perform. Interested application service providers are welcome to build up the functions to operate the automated system and provide the “single window” services. It will also help to foster market competition mechanism among the private sector.

According to the time schedule, a preliminary automated system will be established by 2006.

Q7 - With regard to trade facilitation, Japan believes that a survey on the time required for the release of goods is one of the most effective ways to measure its effectiveness. In this regard, Japan would like to ask if Chinese Taipei has an experience conducting such a survey. If so, Japan would like to know the outline and results of the survey.

Chinese Taipei Response

Because the single window automated system is still in the development stage, we are still unable to conduct such a comparative survey. However, during its planning stage, we carried out a study based on internal examination of government agencies and interviews with customs declaration service companies and application service providers. According to the study, a single window automated system will reduce the time required for applications for import permits and other certificates from the current three days to less than a day. It will also help to shorten the time to claim cargo release from the current two hours to 80 minutes.

According to our statistics for Customs throughput time, it takes only few seconds or even less to go through Customs for goods exempted from document checking or physical examinations. The above statistics are arrived at on the basis of time periods between goods declarations and their releases. However, we have not conducted an in-depth study, as suggested by the WCO, on the time required from the arrival of particular goods to their release, considering that such a study may well need considerable input from other parties, such as port authorities, air cargo stations, etc.

(New Zealand)

Implementation of Harmonised Systems

Under Chinese Taipei's approach to Customs Procedures in 2003 regarding the implementation of Harmonised System, it is reported that Chinese Taipei would "revise Custom Import Tariff pursuant to "Amendments to the Harmonized system Nomenclature effective from 1 January 2002".

Q8 - Could Chinese Taipei provide an update on the current status regarding the implementation of HS?

Chinese Taipei Response

Since December 17, 2003, Chinese Taipei has implemented the Custom Import Tariff Schedule revisions in accordance with the "Amendments to the Harmonized system Nomenclature effective from January 1, 2002." For further information please refer to the information at <http://www.weng.dgoc.gov.tw/eseach-frames.asp>

Controlled goods not included in the de minimis tariff exemption

Under Chinese Taipei's approach to Tariff in 2003, it is reported that Chinese Taipei has implemented de minimis measure since October 1998 and that the revised measure grants tariff and other exemptions to imported goods if the value is less than NT 3,000. This exemption does not apply to a few categories, including controlled goods.

Q9 - Could Chinese Taipei provide a list of goods covered by the definition "controlled goods"?

Chinese Taipei Response

The said controlled goods include narcotics, arms and ammunition, IPR infringement goods, and products that are harmful to human health, ecology and environment. Currently there are 65 tariff items falling into the last category.(Attachment F)

Service Charge on Import and Export (under Non-tariff measures)

Against reporting on Import and Export Levies, Chinese Taipei states: "Beginning on January 1, 2002, only a service fee is charged on exports and imports based upon a specific rate of volume of the shipments, as allowed by GATT Article 8".

Q10 - Could Chinese Taipei provide further details on specific rate(s) of volume applicable to imports and exports of various goods?

Chinese Taipei Response

According to Article VIII of GATT 1994, "All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes." Chinese Taipei brought the Harbor Construction Dues into

conformity with Articles III and VIII of GATT 1994 by 1 January 2002, and substituted Commercial Port Dues for Harbor Construction Dues. The current Commercial Port Dues are based on the cost of the services provided and not applied on a valuation basis.

Regulations on the rate of Commercial Port Dues are drafted by the Ministry of Transportation and Communication, except in referring to the charge of foreign Commercial Port Dues and domestic port fees. Rates for Commercial Port Dues also take into consideration the ability to bear commodity costs so as to set fair Dues levels, the need to be in compliance with WTO regulations, and so on. At present, Commercial Port Dues are levied on inbound vessels, passengers embarking on and disembarking from outgoing passenger vessels, and cargo being loaded and discharged at commercial ports. The persons required to pay these Dues are, respectively, the shipping companies, departing passengers, and the importer/exporter of the cargo. A table showing the most recent rates for the Commercial Port Dues is attached. (Attachment G)

Paperless Trading

Q11 - Could Chinese Taipei provide an update on the testing of "XML message and processing system with two through-Customs Vans" that was planned to be completed by the end of 2003?

Chinese Taipei Response

1. Since there is no international XML-based message standard for Customs clearance at present, Chinese Taipei Customs, based on UN/EDIFACT standard message and applying the ebXML's ebMS 2.0's service delivery mechanism to the existing Customs clearance procedures, developed the import/export message standards for XML as well as a XML message and processing system in April 2003, so as to create a web-based environment for import/export clearance operations.
2. The Customs and two Value-Added Networks have been conducting on-line tests for the XML messaging system since June 2003, though faced with some difficulties, such as issues regarding the application of SOAP Message Security, the definition of Registry & Repository, the design of Collaboration Protocol Agreement (CPA) and Core Component, reaching a common understanding toward work process between the Customs and the Vans, etc. Currently, the Customs and the VANs are making every effort to solve these problems. We expect that the integrated test for XML messaging system will be completed at the end of this year.

(USA)

Q12 - When will Chinese Taipei submit the Draft Amendment to the Customs law to the LY? Ongoing training on IPR issues for Customs personnel should be expanded. Does Chinese Taipei have any plans in this area? Chinese Taipei has agreed to

participate in the Container Security Initiative. When does it plan to sign the Declaration of Principles, which is the first step to allow US Customs personnel to begin surveying local operational needs?

Chinese Taipei Response

The draft amendment of the Customs Law was submitted to the Legislature in early October 2003 and passed its third reading in mid-April 2004. The amendment is to be become effective soon.

Chinese Taipei Customs has conducted various training programs as follows:

1. From March to June 2003, Customs conducted ten seminars on IPR border control operations, including the courses on the “Guidelines Governing Customs Implementation of Trademark & Copyright Protection Measures” and the “Guidelines Governing the Enforcement Task Force against Exportation of Pirated Optical Disks.”
2. From November to December 2003, Customs held four seminars on various IPR border control operations to enhance Customs officers’ enforcement abilities.
3. In April and May 2004, Customs invited five famous trademark owners and their authorized agents to conduct eight seminars on the differentiation between genuine and counterfeit articles for Customs personnel.
4. Customs plans to hold various training programs on IPR border control to further deepen Customs officers’ professional abilities.

Chinese Taipei has already provided its comments on the content of the draft of the Declaration of Principles, and is still waiting the response from the United States. If both sides can agree on the content of the above draft, it will be submitted to the government for approval. Thereafter, we will sign the Declaration of Principles.

CHAPTER 7. Intellectual Property Rights

(Australia)

We note that Taiwan has adopted a number of amendments to its legislation covering intellectual property and would encourage Chinese Taipei to strengthen their enforcement practices in this area.

Chinese Taipei Response

IP protection is an established policy by Chinese Taipei. 2003 marked the completion of the first year of its “IPR Action Plan 2003-2005” and the completion of amending its Trademark, Patent, and Copyright Acts. Currently, our IP regulations meet national needs and are in line with international trends.

The Integrated Enforcement Task Force was established in January 2004 by the National Police Administration to strengthen inspection of IP infringements. The Ministry of Justice established the Coordination Taskforce for IPR Enforcement to coordinate activities of all enforcement authorities in the execution of IP infringement cases and inspections. The Ministry of Finance also established a committee to strengthen border

control measures. Furthermore, the Ministry of Economic Affairs has increased the amount for informant award to NT\$10 million for those whose lead results in the crackdown of illegal optical disk plant.

(Hong Kong, China)

Q1 - "Ensuring the Expeditious Granting of IP Rights": We note from the website of the Chinese Taipei's Intellectual Property Office that Chinese Taipei has introduced amendments to Article 106ter of its Copyright Act which provides for retroactivity and the requirement to pay remuneration and the prohibition against continued sale/rental of unauthorized copies of restored works. **We would like to know more about the provision, its background and the rationale for the amendments.**

Chinese Taipei Response

1. After Chinese Taipei's accession to the WTO, works that were not given protection previously under its Copyright Act are now protected in line with TRIPS. To protect the interests of users of these copyrighted works, a two-year transition is provided under Article 106ter.
2. According to Article 70.4 of TRIPS, right holders may claim and receive remuneration during the transition period of the retroactivity. The Copyright Act of 1998 allowed those who have used or invested in the retroactivity of copyrighted works to continue to use the works until December 31, 2003, and, as such, civil remedy in Article 6 and penalty provisions in Article 7 did not apply. These stipulations were not in compliance with TRIPS' regulations for remuneration. The new Copyright Act, which went in to effect on July 11, 2003, requires the payment of remuneration.
3. Since the 1998 Copyright Act did not provide for distribution rights, unauthorized reproduction of works that were not protected under copyright law prior to Chinese Taipei's accession to the WTO may continued to be sold as long as stock remains. However, under the new Copyright Act, as distribution rights is provided in Article 28.1, such permission is recalled. From 11 July 2004, any continuation of sales shall be in violation of the distribution rights. If the reproduction is in the format of an optical disk, it is considered a public offense, as stipulated in Article 100 of the Copyright Act.

Q2 - "Effective Enforcement of IP Rights": IPR authorities, which are administrative agencies, issue assessment reports on infringement of trademarks and copyrights at the request of the courts. **Would like to know the scope of such assessment reports and how they are used in legal proceedings.**

Chinese Taipei Response

The scope of assessment includes words, images, symbols, colors, 3D objects or a combination of the above of a mark that is distinct and is not similar to other marks that have been registered under TIPO. The assessment reports are for reference use only and do not have any legal implication. Trademark and copyright infringements are to be processed by the courts.

Q3 - "Effective Enforcement of IP Rights": We note under the Cumulative Improvements Implemented to Date column that Chinese Taipei has put in place different measures to expedite court proceedings. **In respect of IP related court proceedings (both civil and criminal), what is the current average waiting time after a case is ready for trial to the actual trial date? Are there any**

interlocutory proceedings in criminal trials whereby defendants are required to attend court? If so, what are the nature and length of such interlocutory proceedings?

Chinese Taipei Response

1. According to the 2003 statistics, the average number of days for district courts to close ordinary civil cases was 96.69 days, whereas the average number of days to close IPR cases, such as copyright, patent, and trademark was 158.89 days. The average number of days for high courts to close ordinary civil cases was 121.84 days, whereas the average number of days to close IPR cases was not tallied. The number of days needed to close IP-related cases was 62.2 days more than civil cases. This difference in processing time is due to the fact that civil cases require the active participation of the parties involved, whereas IP-related cases are more complicated and thus require more time to process.
2. With respect to the nature and length of interlocutory proceedings in criminal trials, Article 273.1 of the Code of Criminal Procedures states that, "The court may subpoena the defendant or his representative, and notify the prosecutor, the defending attorney, and the assistant to appear in court for interlocutory proceeding prior to the first trial date. The purpose of the interlocutory proceeding is to 1) clarify the applicability of certain provisions on the scope of validity of the indictment and on changes in prosecutor; 2) examine the indictment with the defendant, the defending attorney, and the representative to determine whether the facts stated by the prosecutor shall suffice as guilty plea and whether the case may move into summary proceeding; 3) handle major arguments of the case and testimony; 4) handle the disputes generated from the capacity of the testimony; 5) give instruction for filing evidence investigation; 6) clarify the scope, procedure and methods of the evidence investigation; 7) order to produce evidence or documentation of evidence; 8) other matters related to the trial." Thus, criminal cases may undergo interlocutory proceeding prior to the trial to ensure that the trial may proceed efficiently. The length of such interlocutory proceedings depends on the nature of each case.

(Japan)

Q4 - Please explain measures to ensure uniformity of result on patent examination.

(Japan's business organization indicates that there is lack of uniformity of result on patent examination.)

Chinese Taipei Response

TIPO formulates a set of examination procedures and standards that examiners must follow when undertaking patent examination. Also, TIPO holds internal trainings and groups discussions from time to time to discuss exemplary cases so as to ensure uniformity of examination.

Q5 - After Chinese Taipei joined WTO, patent infringement (on October 2001), infringements of model utility right and copyright in registered design (on January 2003) were exempted from criminal penalty. Therefore, Japan thinks that inhibiting effect against these infringements was very much reduced. Please indicate the number of cases and results of civil bailout after these infringements were exempted.

Chinese Taipei Response

1. Utility model patents are protected under the Patent Act in Chinese Taipei.
2. Legal proceedings for patent infringements in civil actions are as follows:

District Courts' Civil Proceedings of Copyright, Patent, and Trademark's First Trials (April 2003-March 2004)							
Type of offense	Total	Cases withdrew	Cases receiving verdict	No. of settlements	Cases dismissed	Cases transferred	No. of mediations
Total	301	88	163	15	22	8	5
Copyright	121	39	69	4	5	1	3
Patent	114	34	55	5	15	5	
Trademark	66	15	39	6	2	2	2

Q6 - Under related law in Chinese Taipei, classified information on business activities is mainly protected through civil bailout. **Please indicate the number of civil bailout cases and also results of each claim.**

Chinese Taipei Response

Statistics for copyright, patent, and trademark civil cases are available, but Chinese Taipei does not have any available statistics on trade secrets cases.

Q7 - Japan recognizes that Chinese Taipei takes positive measures for control movement of infringed products with regard to the right of trademark and copy right. **Please explain relevant measures already implemented and also future direction on this issue.**

Chinese Taipei Response

On June 10, 2003, the Directorate General of Customs of the Ministry of Finance, issued the "Directions for Customs Authorities in Implementing Measures for Protection of Trademark & Copyright." The Directions are in line with the protection of intellectual property rights policy and the newly amended Trademark Act and Copyright Act. These Directions serve as a guideline for customs officials in implementing trademark and copyright measures, and will help enhance anti-piracy efforts.

The Directions took effect on July 1, 2003. All trademark and copyright owners (including licensees) or their agents who suspect certain imported/exported goods are infringing their trademark or copyright may prepare the necessary documents and information pursuant to the Directions and lodge a complaint or give an advice in writing to the Directorate General of Customs or the local customs authorities. If the goods in question are consistent with the information, Customs authorities shall promptly notify the applicant to identify the goods within a prescribed period. If infringement are indeed found, the applicant should apply for seizure of such goods with the Customs by posting a bond, pursuant to Article 65, Paragraph 2 of the Trademark Act, Article 90-1 of the Copyright Act, or the "Implementation Regulations for Suspension of Release of Goods Infringing on Copyright or Plate Rights by Customs Authorities". Alternatively, the applicant may also apply to the Court for Temporary Restraining Order, and Customs authorities would collaborate in the seizure of the goods.

The Directorate General of Customs has held workshops for local customs authorities. Local customs authorities has also increased education efforts to warn

importers/exporters and customs broker against importation/exportation of trademark or copyright infringing goods.

Q8 - Chinese Taipei enacted the Copyright Act in 2003. Taking the spread of internet into consideration, **has Chinese Taipei been expanding the protection of intellectual property rights and its relative rights, such as, creating rights to access internet, improving the procedure to protect copyright by law and setting remedy at law for the duty on information managing intellectual property rights?**

Chinese Taipei Response

The new Copyright Act that was enacted in July 2003 was amended to address copyright protection on the Internet and to realign penal provisions. Major amendments to the Act are as follows:

1. The amended Act stipulates “temporary reproduction” as “reproduction” to be in line with digital technological development.
2. The amended Act accords public transmission right, which requires the consent of the right holder before transmitting copyrighted works on the Internet.
3. The amended Act accords distribution right to right holders to prohibit the distribution of pirated works.
4. The amended Act accords a right of remuneration for public performances of sound recording to right holders of sound recordings and performers.
5. The amended Act affords protection to electronic rights management information (“ERMI”), which prohibits the random deletion or correction of copyrighted works in ERMI.
6. The amended Act accords a civil mediation settlement ratified by a court as having the same force as a final court judgment in a civil case to encourage the public to use non-litigation measures to settle copyright disputes.
7. The amended Act increases the amount of statutory compensation in civil remedy from NT\$1 million to NT\$5 million.
8. The amended Act increases the fines for criminal penalties from NT\$450,000 to NT\$8 million, other fines are also adjusted as well. In addition, unauthorized reproduction and sale thereafter of optical disks with the intent to profit is deemed public offense to deter distribution and piracy. Other types of infringement remain as requiring legal complaint from plaintiff.
9. The amended Act accords the right to enforcement authorities to confiscate all infringement products or equipment in the event the infringer cannot be found.
10. The amended Act inserts the requirement for payment of remuneration during the retroactive protection transition period and prohibits the sale of such copyrighted work after one year.

As to the Technical Protection Measures, it has been included in the new amendment bill, which is pending legislation at Legislative Yuan.

Q9 - The report states that Chinese Taipei has made significant efforts to eradicate piracy. **What is the percentage of pirated edition in a market, and which economies’ pirated editions mainly spread in the Chinese Taipei’s market?**

Chinese Taipei Response

1. In 2003, Chinese Taipei commissioned the National Cheng-chi University to conduct the “Research Project for Counter OD Piracy Strategies and Measures”. Survey results showed that piracy rate for music CDs was 33%, and for video CDs (including DVDs) was 36%.
2. According to the 2003 BSA survey on software piracy rate in Asia, Chinese Taipei’s piracy rate for 2002 showed the biggest drop among all economies, from 53% to 43%. Also, pirated music CDs rate also dropped from 47% to 42% according to the 2003 IFPI’s survey. These figures indicate that meaningful results have been achieved through Chinese Taipei’s IP enforcement and law amendments.
3. Based on the National Police Administration’s statistical reports on IP infringements, major infringements from other WTO member economies to Chinese Taipei are pirated music and video optical disks, watches, clothing, and leather accessories.

Q10 - Chinese Taipei has been dedicating considerable human and finance resources to tackle the issue of piracy. **Are there any efforts made by private sectors or through cooperation between public and private sectors?**

Chinese Taipei Response

1. Recognizing that close partnership with right holder associations is crucial in effective and adequate protection of IPs, mutually benefiting interactions are maintained between TIPO and BSA, IFPI, and MPA, etc. Information on the latest IP enforcement results and market surveys are shared on a regular basis to monitor the effectiveness of enforcement efforts and to be made aware of what better actions are needed to be implemented to deal with the latest piracy trends.
2. Seminars, television and radio programs, newspaper columns, the internet and various promotional channels targeting at the general public, industries, organizations, schools, and right holders groups are utilized to cultivate positive attitudes towards intellectual property rights and to engender a proper understanding of IPR.

Q11 - **What are the damages of IPR in Chinese Taipei caused by pirated editions in other economies and counter-measures taken by Chinese Taipei to deal with them?**

Chinese Taipei Response

Ensuring a healthy IP protection environment is the top national agenda for Chinese Taipei. Currently, we do not have any statistical reports on the damages that piracy from other countries have caused, but Chinese Taipei urges other member economies to observe the principle of mutual benefits and provide the same protection for our IPs.

Q12 - **What kind of measures does Chinese Taipei take to tackle the infringement of copyright on the Internet?**

Chinese Taipei Response

1. Chinese Taipei’s Copyright Act accords reproduction and public transmission rights that require the consent of the right holder prior to transmitting the copyrighted work on the Internet.
2. The Cyber Crime Taskforce (CCT) is established under the Criminal Investigation Bureau of NPA. CCT has been dispatched to conduct rigorous searches on the Internet

to crack down on instances of infringement cases. All police authorities have been instructed to redouble efforts to eradicate this new type of infringement activity.

(USA)

Q13 - How does Chinese Taipei intend to improve relevant laws, such as copyright and optical disk, to strengthen CT's IPR regime?

Chinese Taipei Response

The new Copyright Act was promulgated on July 9, 2003. The Act was amended according to the 1996 WCT and WPPT conventions to be in line with digital technological development and to protect public interests. Major amendments to the Act are as follows:

1. The amended Act stipulates "temporary reproduction" as "reproduction" to be in line with digital technological development.
2. The amended Act accords public transmission right, which requires the consent of the right holder before transmitting copyrighted works on the Internet.
3. The amended Act accords distribution right to right holders to prohibit the distribution of pirated works.
4. The amended Act accords right holders of sound recordings and performers a right of remuneration for broadcasting of their recording works.
5. The amended Act affords protection to electronic rights management information ("ERMI"), which prohibits the random deletion or correction of copyrighted works in ERMI.
6. The amended Act accords a civil mediation settlement ratified by a court as having the same force as a final court judgment in a civil case to encourage the public to use non-litigation measures to settle copyright disputes.
7. The amended Act increases the amount of statutory compensation in civil remedy from NT\$1 million to NT\$5 million.
8. The amended Act increases the fines for criminal penalties from NT\$450,000 to NT\$8 million, other fines have also been adjusted as well. In addition, unauthorized reproduction and sale thereafter of optical disks with the intent to profit is deemed public offense to deter distribution and piracy. Other types of infringement remain as requiring legal complaint from plaintiff.
9. The amended Act accords the right to enforcement authorities to confiscate all infringement products or equipment in the event the infringer cannot be found.
10. The amended Act inserts the requirement for payment of remuneration during the retroactive protection transition period and prohibits the sale of such copyrighted work after one year.

Q14 - When does Chinese Taipei plan on improving these laws and what measures is Chinese Taipei considering?

Chinese Taipei Response

The Copyright Act was amended and promulgated on July 9, 2003. To further strengthen the existing Act, TPMs, more stringent penal provisions, and Customs *ex officio* actions are being added to a new amendment bill currently under review at the Legislative Yuan.

Q15 - Chinese Taipei does not fulfill the WTO TRIPS obligation to provide data exclusivity for pharmaceutical products leading to a reluctance of many pharmaceutical companies to apply license innovative drugs in Taiwan. **What is Chinese Taipei's approach to ensuring provision of data exclusivity for pharmaceuticals?**

Chinese Taipei Response

1. Confirmed by different parties (including several law firms), the drug registration process conducted by the Department of Health (DOH) fully complies with WTO TRIPS Article 39.3. The Article requires a WTO member to protect undisclosed test data against unfair commercial use. It does not require a WTO Member to grant an exclusive period of time for a newly approved drug.
2. In the case of new drug application in Taiwan, once the first applicant submits local clinical trial data, the follow-up applicants have to submit the same scale of clinical trial data, together with data to prove the product's safety, efficacy and quality in the following five years. DOH does not rely on data submitted by the original applicant for the approval of follow-up applications, thus the question of fair or unfair commercial use of test data submitted by the original applicant is not of concern.
3. In respect to the data exclusivity proposal, DOH is communicating with different interest parties. A conclusion has been reached for pharmaceuticals of new chemical entities to apply for market approval. In order to effectively afford data exclusivity, a working group entitled "Data Protection and Data Exclusivity Task Force" will be assembled. The proposed Task Force will consist of representatives mainly from six pharmaceutical associations and is monitored by DOH. The mission of the Task Force is to reach consensus for data exclusivity in the Pharmaceutical Affairs Law. The time frame is to send the drafted amendment to the Executive Yuan for review in 9 to 12 months. DOH believes that a sound mechanism to protect data will not only promote early launching of new drugs in Taiwan but also create a more attractive environment for R&D, which will result a win-win situation for both industry and public health.

Q16 - **How does Chinese Taipei intend to sustain and broaden IPR enforcement in an effort to reduce high levels of IPR piracy and counterfeiting?**

Chinese Taipei Response

Chinese Taipei will continue to further IP protection in 2004 to improve our IP regulations, strengthen enforcement, and enhance public awareness. Major directions for this year's IP action plan are:

- Sustaining partnership with right holder associations;
- Strengthening border control measures to deal with transnational piracy;
- Legalizing IETF to ensure that the continuity of task force members and professionalism are maintained;
- Enhancing campus awareness programs to prevent illegal copying of textbooks and use of illegal websites; Help establish secondhand bookstores on campuses;
- Facilitating cross border enforcement to deal with cyber crime;
- Incorporating commutation to fine execution as part of evaluation criteria on prosecutors to prompt them to be cautions in dealing with commutation of sentence to fine.

Q17 - How is Chinese Taipei addressing concerns related to delays in the judicial system?

Chinese Taipei Response

1. The time frame needed to charge or close a case depends on the nature of each case. In accordance with the “Regulations for All Level of Courts on the Time Frame for Processing Cases” and the “Regulations for the Clearance of Delayed Civil Cases of First and Second Trials”, the Judicial Yuan monitors all level of courts to ensure efficient handling of court cases. Each court also established a committee to monitor the progress of court cases and to assist judges in closing cases on hands.
2. On December 5, 2002, the Judicial Yuan issued an order to all level of courts stating that IP-related cases are to be monitored and reported on a monthly basis. On January 29, 2003, another order was issued stating that each IP-related case is to be handled and sentenced according to the situation given, and shall be processed efficiently. Last on October 22, 2003, the Judicial Yuan urged all level of courts that when processing and sentencing copyright infringement cases, due considerations should be given to whether the case has negative impact on Chinese Taipei’s foreign relations and economic development. All cases are to be processed as quickly as possible to show our determination in IP protection. The Judicial Yuan has urged all level of courts since 1982 to establish specialized IP tribunal, or assign IPR cases to those judges with IPR expertise. This issue was reiterated in another communication issued on January 29, 2003. Judicial Yuan has issued the memorandum on July 12, 2004 to all levels of courts that sentencing defendants committing IPR crimes should be based on the Article 57 of the Penal Code, the value of IPR, producing counterfeits massively with mechanical approach, infringement act transnational for the purpose of import / export.
3. Time Frame for trademark and patent administrative litigations is stipulated under the “Regulations for All Level of Courts on the Time Frame for Processing Cases ”. As of March 31, 2004, and since the new administrative litigation procedures took effect on July 1, 2000, the average number of days for the Administrative Supreme Court, the Taipei Administrative High Court, the Taichung Administrative High Court, and the Kaohsiung Administrative High Courts to close an IP-related case was 103 days, 96 days, 14.5 days, and 36 days, respectively, which is within the time limit set forth under Article 4 of the said regulations. No cases of delay have been recorded thus far.

Q18 - The current copyright law does not provide adequate protection for IP or sentences for violators. When does Chinese Taipei estimate the LY will pass the amendments to the copyright law? The United States actively supports continued training for judges and prosecutors on IP law and would welcome the establishment of a specialized IP court. Enforcement efforts are improved but would benefit from institutionalization of the current ad hoc task forces. **Would Chinese Taipei please comment on plans in these areas?**

Chinese Taipei Response

The Copyright Act was amended and promulgated on July 9 ,2003. To further strengthen the existing Act, TPMs, more stringent penal provisions, and Customs *ex officio* actions are being added to a new amendment that is currently under review at the

Legislative Yuan. In addition, two other draft amendments from user interested groups are also pending review. The Judicial Yuan has organized the “Intellectual Property Court Working Group” in September 2004 to deal with the preparatory task for setting up the Intellectual Property Court.

CHAPTER 8. Competition Policy
(Australia)

Q1 - What means/measures/monitoring systems or framework is there in place to gauge the impact of improved policy/law and the effect (i.e. acting as a deterrent) of punishment regimes? Has punishment/monitoring reduced the incidence of anti-competitive conduct?

Chinese Taipei Response

There hasn't been any empirical study on whether the revision of the punishment regime of the Fair Trade Act in 1999 has significantly reduced the incidence of anti-competitive conduct. Statistics showed that, from 2000 to 2003, the number of violations kept decreasing. This tendency might be interpreted in various ways, though. The impact of the revision of the system may still too early to be assessed.

Number of Punishments

Unit: Case

	Complaints Received	Decisions
Year	16,187	1,876
1992	757	51
1993	1,094	79
1994	1,408	118
1995	1,643	158
1996	1,633	178
1997	1,662	206
1998	1,409	225
1999	1,453	154
2000	1,384	202
2001	1,404	193
2002	1,284	189
2003	1,056	123

Q2 - You have indicated that, in the future, the opening of controlled industries will be broadened and deepened, and the other monopolistic public utilities will also (gradually) be opened. When do you envisage this process commencing, and which industries and public utilities will be subject to reform?

Chinese Taipei Response

Chinese Taipei's petroleum and telecom industries have already been opened to private investment. In the electricity industry, power generation has been opened to private investment in power plants, while power transmission and distribution will be opened to such extent as is provided for in the amended version of the Electricity Law enacted by the legislature.

There are 7 State-Owned Enterprises (SOEs) under the Ministry of Economic Affairs, including Taiwan Power Co. (TPC), Chinese Petroleum Corp. (CPC), China Shipbuilding Corp. (CSBC), Aerospace Industrial Development Corp. (AIDC), Tang Eng Iron Works Co. (TEIW), Taiwan Sugar Corp. (TSC) and Taiwan Water Supply Corp. (TWSC). Except for the privatization plan of TSC and the feasibility study of privation of TWSC which are in process, the other SOEs' privatization schedules as follows:

Privatization Schedule of SOEs under the MOEA

Company	Timetable
Taiwan Power Co. (TPC)	December 2005
Chinese Petroleum Corp. (CPC)	The timetable will be set after CPC Privatization Plan has been approved by Legislative entity.
China Shipbuilding Corp. (CSBC)	December 2004
Aerospace Industrial Development Corp. (AIDC)	The timetable will be set after AIDC Privatization Plan has been approved by Legislative entity
Tang Eng Iron Works Co. (TEIW)	August 2004

Q3 - What has been your experience with encouraging industries to establish their own self-regulatory compliance programs? Have you found this approach to be successful in promoting competition?

Chinese Taipei Response

The Fair Trade Commission has only two years' experience in enforcing the self-regulatory compliance programs. With the view that the aims of the Act are not to punish the violators but to make the business comply with the Act and to create a sound and effective environment for a market economy, in 2001 the Fair Trade Commission proposed a Self-Regulatory Compliance Program for the business community. Certain enterprises with large market share have participated in the program. Thus far, the program has functioned well, but it might be too early to evaluate its effectiveness.

Q4 - Are there any areas of competition policy that have worked particularly effectively? Based on the Chinese Taipei experience, are there any lessons you could pass on to other economies?

Chinese Taipei Response

The Fair Trade Commission has devoted numerous resources in pursuing competition policy work ever since its establishment. Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. The process not only requires removal of entry barriers to each of the previously closed sectors, but also a thorough examination of the structure of the market concerned as well as the way the market is regulated. The FTC

is therefore very keen in creating and maintaining a regulatory environment that fits into the spirit of the market economy.

To smooth the economic transition, the FTC has been continuously advising the responsible government agencies during the liberalization of the monopolized sectors, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting laws and regulations to prevent the misuse of dominant position, cross-subsidizing and undue pricing after restructuring of the public utilities. The FTC is more than willing to share its experiences in participating in these market liberalizing and restructuring tasks with other member economies.

General Policy Framework

Q5 - Is there a framework in which all states of Chinese Taipei can apply the national competition policy?

Chinese Taipei Response

In Chinese Taipei, the Fair Trade Commission is the sole competent authority to enforce its competition law, the Fair Trade Act, nation-wide

Q6 - Out of the 23,720 competition law cases in Chinese Taipei, how many cases resulted in convictions?

Chinese Taipei Response

The figure 23,720 actually comprises of the numbers of complaints, the merger applications, the concerted action application and the explanation requests. The accumulated number of the complaints, by the end of 2002, was 15,460. Out of the complaints received by the Fair Trade Commission, 1,753 cases resulted in convictions were convicted, including both the restrictive business practices and unfair trade practices cases.

Q7 - What steps will be taken to transform the FTC into an independent agency? When is it anticipated that this transformation will take place?

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don't have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

Reviews of Competition Policies and/or Laws

Q8 - How does the FTC identify its legislative and regulatory review and reform priorities?

Chinese Taipei Response

The legislative purposes of the Fair Trade Act are stipulated in Article 1 of the Act, which aims to maintain trading order, protect consumer interests, ensure fair competition and promote economic stability and prosperity.

Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. To facilitate a smooth economic transition, the Fair Trade Commission has devoted numerous resources in removing entry barriers to the previously closed sectors and creating and maintaining a competitive business environment.

As public utilities concern our nationals' well-being as well as all kinds of economic activities, the FTC has been keen to advise the responsible government agencies during the liberalization of the public utilities, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting of laws and regulations to prevent misuse of dominant position, cross-subsidization and undue pricing after restructuring of the public utilities. After the markets are liberalized, the responsibility of maintaining a competitive market environment mainly falls upon the enforcement of the Fair Trade Act.

Measures to Deal with Horizontal Restraints

Q9 - What are the current exceptions in relation to concerted actions?

Chinese Taipei Response

According to the Fair Trade Act, no enterprise shall have any concerted action. Exception could be granted, though, by the Fair Trade Commission if the FTC is satisfied that the concerted action meets one of the following requirements, is beneficial to the economy as a whole and in the public interest:

1. unifying the specifications or models of goods for the purpose of reducing costs, improving quality, or increasing efficiency;
2. joint research and development on goods or markets for the purpose of upgrading technology, improving quality, reducing costs, or increasing efficiency;
3. each developing a separate and specialized area for the purpose of rationalizing operations;
4. entering into agreements concerning solely the competition in foreign markets for the purpose of securing or promoting exports;
5. joint acts in regards to the importation of foreign goods for the purpose of strengthening trade;
6. joint acts limiting the quantity of production and sales, equipment, or prices for the purpose of meeting demand during economic downturn, when the market price of products is lower than the average production costs and the enterprises in a

particular industry have difficulty maintaining their business or encounter a situation of overproduction; or

7. joint acts for the purpose of improving operational efficiency or strengthening the competitiveness of small-medium enterprises.

Q10 - What types of horizontal restraints are prohibited?

Chinese Taipei Response

Concerted action is deemed as per se illegal in accordance with the Fair Trade Act. The definition of concerted action means the conduct of any enterprise, by means of contract, agreement or any other form of mutual understanding, with any other competing enterprise, to jointly determine the price of goods or services, or to limit the terms of quantity, technology, products, facilities, trading counterparts, or trading territory with respect to such goods and services, etc., and thereby to restrict each other's business activities.

Measures to Deal with Vertical Restraints

Q11 - To what extent have measures dealing with vertical restraints been effective in regulating competition in the market and deterring unfair conduct?

Chinese Taipei Response

The Fair Trade Act strictly prohibits resale price maintenance. As regarding to other type of vertical restraints, the Act provides that:

1. If the means, by an enterprise, is considered “unfair”; or the “effect of competition” has actually lessened the competitiveness in a market, the “rule of reason” would be governed to examine; and/or
2. If the means has not reached the stage of illegal per se, the FTC would then need to consider whether such an act has increased or impeded the competition in the free market by applying “rule of reason” and ensuring the competitiveness in the market.

Measures to Deal with Mergers and Acquisitions

Q12 - What criteria are used to assess the approval of mergers?

Chinese Taipei Response

According to the Fair Trade Act, in dealing with merger case, the Fair Trade Commission may not prohibit any of the mergers notified if the overall economic benefit of the merger outweighs the disadvantages resulting from competition restraint. In order to ensure that the overall economic benefit of the merger outweighs the disadvantages resulting from competition restraint, the FTC is also empowered to attach conditions or require undertakings in any of the decisions it makes on the cases field.

To evaluate “overall economic benefit,” the FTC used to take the benefit of the economic scale, efficiency of innovated technology, and low price, etc. into considerations. On the other hand, to evaluate “competition restraint,” entry barriers, concentration changing

(such as CR4, HHI), numbers of competitors in the market, and characteristics of the product etc. will be taken into account.

In practice, when reviewing different types of mergers, the FTC considers different factors in weighing the “overall economic benefits” and the “disadvantages brought about by competition restraints.”

Horizontal mergers: the factors the FTC considers in terms of the “overall economic benefit” and the “disadvantages resulting from competition restraint” are the following:

- “overall economic benefits”: economy of scale (in technology of production, management and finance); technological efficiency; and other factors, such as the possibility of changes in prices in post-merger markets and whether one of the merging parties is a failing company, among others;
- “disadvantages resulting from competition restraints”: market power of the merged entity and entry barriers of the post-merger market; changes in the concentration ratio and the number of players in the relevant market; substitutability of the merging parties’ production or distribution; past records with regard to merging parties in conducting illegal mergers, hard-core cartels or misuse of market power.

Vertical mergers:

- “overall economic benefits”: economy of scale (in management and finance); vertical economy; and other factors, such as possible changes in prices in post-merger markets and whether one of the merging parties is a failing company, and so on;
- “disadvantages resulting from competition restraints”: entry barriers of the post-merger market; changes concerning the concentration ratio; past records of merging parties in conducting illegal mergers, hard-core cartels or misuse of market power.

Conglomerate mergers:

- “overall economic benefit”: economy of scale in technology of production; whether one of the merging parties is a failing company; economy of scope, etc.;
- “disadvantages resulting from competition restraints”: market power of the merged entity in the post-merger market; changes *vis-à-vis* the concentration ratio; past records of merging parties with respect to conducting illegal mergers, hard-core cartels or misuse of market power.

Improvements in Chinese Taipei’s Approach to Competition Policy since 1996

Q13 - What are the bodies that regulate competition policy at the municipal, provincial and county level? Is it now the role of the FTC?

Chinese Taipei Response

The Fair Trade Commission is the sole competent authority equipped with resources to enforce the Fair Trade Act in Chinese Taipei. Although in the Act local governments are the competent authority at regional level, they actually do not have jurisdictions and resources to enforce the Act. In practice, the FTC often seeks the local governments' assistance in competition advocacy work, including arranging educational seminars, distributing educational materials, as well as doing on-site inspection on certain multi-level sales enterprises.

General questions

Q14 - Do you have a statutory definition for 'dominant market share'?

Chinese Taipei Response

The Fair Trade Act defines "monopolistic enterprise" as "any enterprise that faces no competition or has a dominant position to enable it to exclude competition in a relevant market." Two or more enterprises shall be deemed monopolistic enterprises if they do not in fact engage in price competition with each other and together have the same status as a monopolistic enterprise.

However, an enterprise shall not be deemed a monopolistic enterprise, if none of the following circumstances exists:

1. the market share of the enterprise in a relevant market reaches one-half of the market;
2. the combined market share of two enterprises in a relevant market reaches two-thirds of the market; and
3. the combined market share of three enterprises in a relevant market reaches three-fourths of the market.

Where the market share of any individual enterprise does not reach one-tenth of the relevant market or where its total sales in the preceding fiscal year are less than NT\$ 1 billion, such enterprise shall not be deemed as a monopolistic enterprise.

An enterprise exempted from being deemed as a monopolistic enterprise by any of the preceding two paragraphs may still be deemed a monopolistic enterprise by the Fair Trade Commission if the establishment of such enterprise or any of the goods or services supplied by such enterprise to a relevant market is subject to legal or technological restraints, or there exists any other circumstance under which the supply and demand of the market are affected and the ability of others to compete is impeded.

Q15 - In general, is an assessment of the impact of proposed legislation completed prior to the enactment of legislation or regulations? If so, are there examples of where

this assessment process has led to a more appropriate regulatory outcome? When regulations are applied, are the regulatory guidelines developed according to internationally recognised frameworks (e.g. OECD)?

Chinese Taipei Response

Although current legislation process in Chinese Taipei does not require an assessment of the impact, the central government, the legislature and the interested non-governmental organizations will, almost always hold public hearings. During those informal processes the draft act may be better formulated to meet all parties' concerns.

The Fair Trade Commission takes internationally recognized frameworks, especially the OECD Competition Committee's work, into account when developing enforcement guidelines. Examples may be found in the followings:

- While examining the rationale of pricing cartels formed by the various professionals, and while preparing the decision rulings against the three largest trade associations of architects for engaging in pricing cartels, the FTC referred to the Roundtable on Competition in Professional Services.
- In drafting the FTC's Guidelines for Unconditional Endorsement and Transfer of Ticket Vouchers between Airlines, the FTC referred to the Roundtable on Airline Mergers and Alliances.
- In drafting and revising the FTC's Regulatory Note on Telecommunications, several publications regarding telecommunications such as the Roundtable on Relationship between Regulators and Competition Authority, Roundtable on Competition and Regulation Issues in Telecommunications, and Report on Access Pricing in Telecommunications were consulted.

The FTC and the French Competition Council have signed a bilateral cooperation arrangement referred to the 1995 OECD Recommendation Concerning Co-operation between Member Countries on Anticompetitive Practices Affecting International Trade.

Q16 - Is there is a clear separation between policy-setting and compliance – ie is there a separate and relatively independent/objective entity with resources devoted to compliance?

Chinese Taipei Response

Currently the Fair Trade Commission is mandated with both policy-setting and implementation functions. On the one hand, the Commission is a ministerial-level government agency; the Chairperson of the FTC is a Cabinet minister who presents the Commission's views in the Cabinet meeting regarding competition law enforcement issues and deregulation matters. On the other hand, enforcement is also the Fair Trade Commission's responsibility. To ensure compliance, the Fair Trade Act equips the Commission with investigation power for discovery of illegal practices and empowers the Commission to issue cease-and-desist orders, require correction of illegal practices, and impose administrative fines.

Q17 - What is the rate of prosecution/level of enforcement activity by the compliance agency/arm?

Chinese Taipei Response

Please refer to the following two tables.

Cases received by the Fair Trade Commission

Unit: Case

	Total	Cases			
		Complaints	Concerted Action Applications	Merger Applications and Notifications	Explanation Requests
Total	24,821	16,460	125	6,102	2,134
1992	1,296	1,039	12	13	232
1993	1,567	1,243	9	112	203
1994	2,020	1,499	11	262	248
1995	2,486	1,768	2	435	281
1996	2,234	1,636	12	334	252
1997	2,277	1,480	23	561	213
1998	2,444	1,335	13	863	233
1999	2,757	1,522	7	1,064	164
2000	2,697	1,372	12	1,187	126
2001	2,556	1,381	4	1,089	82
2002	1,386	1,185	8	132	61
2003	1,101	1,000	12	50	39

Results of Complaints

Unit: Case

	Total	Results				
		Decision	Non-decision	Warnings	Termination	Combined with other Cases
Total	16,187	1,876	3,050	284	9,758	1,219
1992	757	51	100	-	591	15
1993	1,094	79	199	7	749	60
1994	1,408	118	306	40	852	92
1995	1,643	158	280	75	997	133
1996	1,633	178	325	62	931	137

	Total	Results				
		Decision	Non-decision	Warnings	Termination	Combined with other Cases
1997	1,662	206	315	34	912	195
1998	1,409	225	278	23	773	110
1999	1,453	154	281	17	912	89
2000	1,384	202	301	13	759	109
2001	1,404	193	252	6	825	128
2002	1,284	189	218	4	798	75
2003	1,056	123	195	3	659	76

Q18 - Does punishment for anti-competitive conduct include both financial and criminal? When is it anticipated that the next review of competition policy will be undertaken? Are there any areas of competition policy/law that works particularly effectively? Based on your experience, are there any lessons you are willing to pass on to other nations?

Chinese Taipei Response

In terms of certain types of anti-competitive conduct, including misuse of monopolistic position, cartel, and vertical restraints, the Fair Trade Act adopts an “administrative prior to criminal principle”. The Fair Trade Commission can order violators to cease their operations, rectify the illegal practices, or take any necessary measure within the time prescribed in the order, as well as impose an administrative fine. If the violators fail to comply with the issued order, or comply once but engage in the same or similar practices later, administrative and criminal investigations will then be launched in sequence. The FTC may continue to order the violators to comply with the order, and each time may successively impose an administrative fine of between NT\$100 thousand and NT\$50 million until the order has been complied with. The FTC will then refer the case to prosecutors for criminal investigation. Individuals responsible for the cartel may be punished by imprisonment for up to three years or detention, or by a criminal fine of no more than NT\$100 million, or by both imprisonment and a criminal fine.

As for the revision of the Fair Trade Act, the next review is already under way. The salient points of the draft amendments include applying exemption to horizontal agreements in services sectors, adopting the leniency program for cartels, and increasing the imprisonment penalty for persons in charge of pyramid selling up to seven years, etc.

The Fair Trade Commission has devoted numerous resources in pursuing competition advocacy work ever since its establishment. Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. The process not only requires removal of entry barriers to each of the previously closed sectors, but also a thorough examination of the structure of the market concerned as well as the way the market is regulated. The FTC is therefore very keen in creating and maintaining a regulatory environment that fits into the spirit of the market economy.

To smooth the economic transition, the FTC has been continuously advising the responsible government agencies during the liberalization of the monopolized sectors, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting laws and regulations to prevent the misuse of dominant position, cross-subsidizing and undue pricing after restructuring of the public utilities. The FTC is more than willing to share its experiences in participating in these market liberalizing and restructuring tasks with other member economies.

Q19 - In relation to competition policy, the deregulation of public utilities and regulatory reform neither Member Economy has stated any impact the developments in these areas may have on the small business sector.

Chinese Taipei Response

We did not receive any information from several agencies.

(Japan)

Q20 - With regard to the sheet of “Improvements in Chinese Taipei’s Approach to Competition Policy since 1996”, in the column of cumulative improvements implemented to date, all the statistics seem no change from that of IAP 2002. Please provide the latest data.

Chinese Taipei Response

An “Improvements in Chinese Taipei’s Approach to Competition Policy since 1996” is attached with updated statistics. (Attachment H)

(Mexico)

Q21 - What would be the main characteristics of the Public Utility Competition Framework?

Chinese Taipei Response

In the past, most public utilities were state owned and operated. In recent years, however, as more and more new technologies have been invented, the previous natural monopolies have transformed into industries that can segment their services and trade their products in the market. Hence it is now generally believed that supply and demand for the provision of public utilities should also be decided by market rules so as to enhance the efficiency of the business involved.

It is well known that Chinese Taipei has achieved much in the past few years in terms of competition in the telecommunications and petroleum product markets. For its part, the FTC has continuously participated in formulating the market conditions post-opening competition framework. In the future, the opening of controlled industries will be broadened and deepened, and the other monopolistic public utilities will inevitably, albeit gradually, also be opened. In response to these economic changes, proper advance preparations must be made so restrictions to competition or unfair practices caused in the future can be corrected, and in the process, a competition framework for each of those industries can be established.

Q22 - How do you evaluate and reconcile consumer interests and industrial development with competition policies in order to ensure that these are efficient?

Chinese Taipei Response

Competition law, through establishing and maintaining a fair and free market, seeks to regulate those enterprises having market power so they do not abuse that power. It also protects the efforts and innovation performance of enterprises that bring prosperity and economic stability, and protect consumers' interests.

The FTC is of the opinion that consumers can benefit from well-functioning markets. Effective competition can improve quality, variety, the availability of desired goods and services provided by enterprises and reduce the costs of acquisition. Fair competition, meanwhile, can prevent market information from being distorted and ensure that consumers are able to access truthful and useful information for decision-making.

Q23 - What aspects are included under the self-regulation program, which sectors are under this program and what are their main characteristics?

Chinese Taipei Response

With the view that the aims of the Act are not to punish the violators but to make the business comply with the Act and to create a sound and effective environment for market economy, in 2001 the Fair Trade Commission proposed a Self-Regulatory Compliance Program for the business community. The content of the program includes providing free competition law education materials and lecturers to businesses and to set up contact points between businesses and the FTC for legal consultations, etc.

The program is not aimed at specific sectors. Enterprises across various sectors voluntarily participating in the program are often well-structured companies with large shares in their respective market. It is possible that participants expect to reduce the risk of breaching the Fair Trade Act and thereby avoid penalties and bad press.

Q24 - Are there any kinds of penalties imposed to companies that do not comply with the self-regulation program? If so, what kind of penalties are they and which authority is responsible for their imposition and enforcement?

Chinese Taipei Response

Currently there is no penalty designed for companies that do not comply with the self-regulatory programs. The purpose of the program is more educative than compulsory; it is not in the Fair Trade Commission's intention to punish businesses for not following the

program. However, if the violation also breaches the Fair Trade Act, the FTC will prosecute it in accordance with the Act.

Q25 - What kind of investigative powers does the FTC have?

Chinese Taipei Response

The Fair Trade Commission is equipped with certain administrative investigation powers. It may investigate and handle, upon complaints or ex officio, any violation of the provisions of Fair Trade Act that harms the public interest. In conducting investigations, the FTC may proceed in accordance with the following procedures:

1. notify the parties and any related third party to make statements;
2. notify relevant agencies, organizations, enterprises, or individuals to submit books and records, documents, and any other necessary materials or exhibits, and
3. dispatch staff for any necessary on-site inspection of the office, place of business, or other locations of the relevant organization or enterprises.

Should any person subject to any investigation conducted by the FTC pursuant to the Fair Trade Act refuse the investigation without justification, or refuse to respond or to render relevant materials by the set time limit, an administrative penalty of not less than NT\$ 20,000 nor more than NT\$ 250,000 shall be imposed upon it. The penalty shall be successively imposed until the order is complied with.

Q26 - Explain what are the most significant exceptions to the competition regime in Chinese Taipei and if there are any plans to limit them.

Chinese Taipei Response

In 1999, the Fair Trade Act was amended so that the Act now should not be applied to practices performed in accordance with other laws not conflicting with the legislative purpose of the Fair Trade Act. Therefore there is no more exception to the competition regime under the existing provisions of the Fair Trade Act.

Q27 - Regarding the review of laws and regulations to provide an environment for fair market competition and to facilitate the enforcement of competition policy, please explain what are the main obstacles that the FTC faced, and if there have been any concrete and measurable benefits from this policy.

Chinese Taipei Response

From time to time, difficulties do arise to hinder the Fair Trade Commission's competition advocacy work. The idea of competition is new and not widely accepted by certain previously monopolized sectors. To effectively enforce competition law the Fair Trade Commission always regards promoting competition culture as one of its priorities.

Regarding the benefits received through market liberalization, the best example may be found in the telecommunications sector. To provide consumers a broader range of choices, Chinese Taipei opened its cellular phone service market in 1997, thus breaking a monopoly on services in that area, and since then it has separately opened the markets for

satellite communications service, fixed network communications service, and 3G mobile communications service. As of the end of 2001, there were 73 Type I telecommunications operators and 380 Type II telecommunications operators. Total revenue in Chinese Taipei's telecommunications industry reached US\$9.62 billion and accounted for 3.36% of Chinese Taipei's GDP, so the effectiveness of the liberalization policy has been clearly demonstrated.

In the five years since 1998, when private operators were permitted to enter the mobile communications market, the number of mobile telephone user accounts multiplied by a factor of approximately 15, so that by the end of 2002, there were 23,910,000 accounts and a penetration rate of 106.15%. In 2002, total earnings from mobile telephone services reached US\$5.276 billion, equivalent to 54.86% of total earnings in Chinese Taipei's telecommunications market.

In the area of fixed network communications, three private integrated fixed network operators commenced business in 2001. Because the international telephone network, which had greater room for profitability, was built rather quickly, the new operators first entered international telephone service. As a result, their market share in the international telephony market (using revenue as a basis for calculation) had already grown quickly to reach 32.16% in 2002. The market shares for other long-distance telephone service and for local telephone service stood at 5.49% and 1.26% respectively. Although the three private integrated fixed network operators just entered the market one after the other in 2001, the price-cutting effect of market competition is already quite obvious. For example, the rate for direct-dial telephone calls from Chinese Taipei to the United States through Chunghwa Telecom, Chinese Taipei's largest telecommunications company, decreased 288% from US\$0.50 per minute in 1999 to US\$0.17 per minute in 2002, to the clear benefit of consumers.

Following the spread of the Internet, Chinese Taipei actively promoted the liberalization of the telecommunications market. At the end of 2002, the number of Chinese Taipei's Internet users had reached 8.59 million, representing an increase in penetration rate from 22% in 1999 to 38% in 2002. Furthermore, the percentage of Chinese Taipei households connected to the Internet had reached 53% the same year.

The number of broadband users in Chinese Taipei began to grow rapidly in 2001 due to strenuous promotion of broadband connectivity by both the government and private sector, and due to the efforts by private industry to drive down operational costs within an environment of open, fair competition. The number of broadband user accounts grew from 262,800 at the end of 2000 to 2,116,000 at the end of 2002. In other words, in two years more than 1,850,000 broadband users were added, so that 24.63% of Chinese Taipei's Internet users had broadband access.

At present, Chinese Taipei is actively striving to open its market for mobile virtual network operators (MVNOs) and promoting the use of number portability services. It is expected that these moves will effectively strengthen competition mechanisms in Chinese

Taipei's telecommunications market and provide Chinese Taipei with a greater diversity of high-quality telecommunications services.

Q28 - Has the impact of the public awareness program been assessed? How would you measure the impact of these advocacy programs?

Chinese Taipei Response

Although the Fair Trade Commission or other parties have never conducted any research to measure the effectiveness of our public educational activities, whenever the FTC has released an important message on enforcement work or guidelines issued, double or triple amount of calls than it normally receives will go through the enquiry desk in the following days. It is fair to assume that the communications clearly receive the relevant audience's attention, at least on most occasions.

Mandates of the FTC include helping the general public to better understand what the FTC does for them and urging their continual support for the work of the FTC. In addition to releasing updated pamphlets and annual reports to explain its services, the FTC also manages an enquiry desk where all staff takes turns dealing with calls and visits from the general public and members of the business community. The enquiry desk, which handles more than 10,000 calls annually, provides the most up-to-date professional legal consulting services.

Besides providing face-to-face communication with the public, the FTC has set up a comprehensive website for the society to have full access to its information via the Internet at any time. Aside from the laws and regulations administered by the FTC, the information pages most often visited on the website concern news releases and case decisions. With the widespread use of Internet technology, society can easily access any information it needs from the FTC.

The FTC has been well aware that the public expects services which are all-encompassing. In other words, FTC staff must be capable of communicating with a broad variety of audiences on many issues and in different ways. Apart from just communicating with their counterparts in business, law firms and other governmental agencies, the staff's servicing the enquiry desk further helps them to learn first-hand reactions from the general public regarding enforcement issues, among others. This has clearly proven to be an effective way to keep the staff focused on the fact that the enforcement of the Fair Trade Act needs to be responsive to the needs of the entire society.

Q29 - What is the authority empowered to follow-up criminal procedures related to competition and to impose penalties?

Chinese Taipei Response

In terms of most anti-competitive conduct, the Fair Trade Act adopts an "administrative prior to criminal principle," which means if the violators fail to comply with the corrective order issued by the Fair Trade Commission, or comply once but engage in the same or similar practices later, the FTC could then refer the case to prosecutors for criminal investigation. The prosecutors will require the police department or the

Investigation Bureau to conduct the relevant investigation. Once the prosecutors are satisfied with all the evidence, they will file the suit to the criminal courts. The court will make the judgments, including to deciding the criminal penalty and setting the terms of imprisonment.

Q30 - Have the different guidelines issued by the competition authority been challenged by any economic agent or other government agency?

Chinese Taipei Response

The guidelines issued by the Fair Trade Commission cannot avoid facing challenges from private parties or other government agencies. For example, the “Guidelines for the Review of Cases Involving Enterprises Issuing Warning Letters for Infringement on Copyright, Trademark, and Patent Rights” released by the Fair Trade Commission has challenged by a private party. In the end, the Council of Grand Justices reached the conclusion that the guidelines issued by the Fair Trade Commission to clarify its enforcement policy is within the Commission’s discretion and shall not be seen as void.

Another example concerns the responsible regulator of the banking sector. The Ministry of Finance, is questioning whether the “Guidelines of Violated Case by Banking Industry Collecting Indemnity of Discharge Housing Loans Advance Contract Term” published by the Fair Trade Commission has been violating its jurisdiction. Currently the two agencies are still negotiating this jurisdiction issue.

Q31 - Please explain the simplified review process for approving mergers.

Chinese Taipei Response

Since the merger regulation has changed from “pre-merger approval system” to the “pre-merger notification system”, the threshold of filing merger has been raised and the reviewing time has been shortened, and the Fair Trade Commission has ceased to apply the simplified procedure for reviewing merger cases. The FTC will evaluate whether to revise it after more cases and experience have been accumulated.

Q32 - What measures does your competition legislation foresee in order to deter anti-competitive cross-border practices?

Chinese Taipei Response

To best deal with cross-border anti-competitive practices without jurisdictional conflicts, competition authorities might have recourse to international co-operation. Although the Fair Trade Commission adopts an effective doctrine in prosecuting cross-border anti-competitive practices, it is always seeking opportunities to co-operate with foreign counterparts in any form, be it formal or informal, to better tackle this rising issue.

(USA)

Q33 - We note that the Fair Trade Law was amended to change the prior approval system for mergers to a premerger notification system. Please briefly describe the application of the new pre-merger notification system to mergers involving one or more foreign entities.

Chinese Taipei Response

If the extraterritorial merger case will affect Chinese Taipei's domestic market, the merging parties have to notify to the Fair Trade Commission. The information reporting that needs to be provided in such a case is similar to that of a domestic merger case. The major difference is that to determine the economic power of the extraterritorial merger, we consider how such post-merger enterprises will sell their products or have their affiliates conduct business.

1. As for the reporting required in such cases, the Fair Trade Commission has issued "Guidelines for Handling Extraterritorial Merger Cases." The threshold for extraterritorial enterprise to file merger report may be found in Article 4 of the Guidelines. "A report of merger shall be notified to the FTC prior to merger in extraterritorial merger cases where any of the situations enumerated under Article 11(1) of the Fair Trade Law exists. The sales volume of a foreign enterprise participating in a merger shall be assessed by the monetary amount of that foreign enterprise's sales within the territorial domain of the Chinese Taipei and the monetary amount of products or services imported from that foreign enterprise by domestic enterprises."
2. According to Article 5 of the Guidelines, "Where a report of merger must be filed with the Fair Trade Commission under Article 4(1) of these Guidelines, such a report shall be filed by the following enterprises: (1) by [all] the enterprises participating in the merger, where the merger involves a merger or consolidation of enterprises, transfer or leasing of the operations or assets of one enterprise by another, regular joint operations of enterprises, or outsourcing of one enterprise's operations by another; (2) by the holding or acquiring enterprise, where an enterprise holds or acquires the shares or capital contributions in another enterprise; (3) by the controlling enterprise, where an enterprise directly or indirectly controls the business operations or personnel appointment and discharge of another enterprise. If a report filer under the preceding paragraph is a foreign enterprise, the report shall be filed with the Commission by the ultimate controlling foreign parent company. Provided, if such parent company has an affiliated enterprise, branch, or office within the Chinese Taipei, the affiliated enterprise, branch, or office may file the report, adding its own name thereto, with the Commission on behalf of such parent company. The Commission may still order the ultimate controlling parent company to submit relevant materials when necessary. If an enterprise required to file a report has not yet been established, the report shall be filed by the existing enterprise(s) participating in the merger."
3. In addition, Article 6 of the Guidelines for Handling Extraterritorial Merger Cases states, "The provisions of the preceding two articles shall apply *mutatis mutandis* in the following situations: (1) where the combining enterprises belong respectively to the territorial domains of the Chinese Taipei and another country and any of the situations enumerated in Article 6(1) of the Fair Trade Law exists; (2) where a merger of foreign enterprises outside of the territorial domain of the Republic of China results in any of the situations enumerated in Article 6(1) of the

Fair Trade Law among affiliated enterprises or branch companies within the territorial domain of the Chinese Taipei.”

Q34 - What are the criteria for determining whether a “dominant position by monopolistic enterprises” has been established?

Chinese Taipei Response

To determine whether a monopolistic enterprise has dominant position depends upon whether the enterprise has the ability to control price or exclude competition. If an enterprise uses unfair means to directly or indirectly impede other enterprises to compete with, to improperly decide the price of the product or service, without proper reason to give preferential treatment by counterpart, or to demand the counterpart to sign contract without providing important trading information, the enterprise could be deemed as a dominant enterprise that abuses its market position.

The following criteria shall be taken into consideration to determine whether a monopolistic enterprise has established a dominant position:

1. the market share of the enterprise in a particular market;
2. the availability of substitution of the goods or services within the market;
3. the ability of the enterprise to influence prices in a particular market;
4. whether barriers exist to entry to a particular market by other enterprises; and
5. import and export status of the goods or services.

Q35 - The FTC reviews applications for concerted action and determines whether to approve such applications. What are the criteria for approving applications for concerted action? Are such criteria published and if so, where?

Chinese Taipei Response

Article 15 of the Enforcement Rules to the Fair Trade Act stipulates the criteria for approving applications for concerted action, which reads as the follows:

1. the cost structure before and after the concerted action and analytical data on forecasted changes;
2. the impact of the concerted action on enterprises not participating;
3. the impact of the concerted action on the structure, supply and demand, and pricing of the relevant market;
4. the impact of the concerted action on upstream and downstream enterprises and their markets; and

5. concrete benefits and detrimental effects of the concerted action for the overall economy and public interest.

Q36 – Chinese Taipei’s IAP lists “acts that . . . damage [to] the business reputation of others” and “false or misleading representations, symbols and advertising” as measures to deal with vertical restraints. Would you clarify this by giving a few examples of how such conduct constitutes a vertical restraint, that is, how it impacts competition between different levels of the supply chain, such as between manufacturer and retailer?

Chinese Taipei Response

Chinese Taipei regrets that those were significant editing errors. The relevant paragraph should read as follows:

The FTC investigates and handles cases pertaining to resale prices maintained by enterprises, acts that are likely to lessen competition or impede fair competition.

Q37 - Under “General Policy Framework,” the IAP indicates that the FTC will be transformed into an “independent agency” in a future reorganization so that it can better carry out its functions. We would appreciate knowing what the timetable for this transition is likely to be. In addition, we would appreciate learning what you see as the benefits to the FTC from a transition to an “independent agency.”

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don’t have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

CHAPTER 9. Government Procurement

(Australia)

Q1 - Could Chinese Taipei please outline the circumstances in which suppliers might be accorded differential treatment in procurement processes?

Chinese Taipei Response

According to Articles 17, 43 and 44 of the Government Procurement Act, local/foreign suppliers or local/foreign products may be accorded differential treatments except otherwise prohibited by the treaties or agreements to which Chinese Taipei is a party. Such treatments may include domestic content, technology transfer, investment, export facilitation or price preference by 3% maximum.

Q2 - Australia notes that, in principle, all government procurement in Chinese Taipei should be conducted through open tendering processes. Could Chinese Taipei provide an indication of the actual percentage of government procurement projects executed through open tendering procedures?

Chinese Taipei Response

The statistics released by the Public Construction Commission shows that 150,759 out of 174,246 cases, or 86.52% of the total number of procurements, were conducted through open tendering procedures in 2003.

(Canada)

Comment1 - Under "Value for Money", Chinese Taipei refers to "most advantageous tender". Canadian bidders remain concerned that the evaluation of tenders under this system may be subjective and lack transparency. For example, certain bidders and foreign representative offices raised questions regarding the bid evaluation of the autumn 2002 Chunghwa Telecom 3G supply tender, but little further explanation was provided.

Chinese Taipei Response

(1) With regard to "most advantageous tender", it is consistent with the requirement prescribed in paragraph 4(b) of Article 13 of the Agreement on Government Procurement (GPA).

(2) Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge system to protect their interests.

(3) The Complaint Review Board for Government Procurement had come to a conclusion in 2003 regarding the case of Chunghwa Telecom 3G, all complainants involved had been informed with the outcome, not as alleged where "little further explanation was provided."

Comment2 - Obviously, Chinese Taipei has yet to make good on its commitment to join the GPA, and this should be raised, even if carefully. One way or the other, however, assertions in the IAP that the existing regime (which dates to 1996) fulfils the spirit of GPA, are rather bald overstatements. Foreign business groups here (representing among others Canadian firms like SNC, Nortel, Bombardier) are encouraging Chinese Taipei to immediately make effective dormant provisions in Taiwan's Government Procurement Law, which would prohibit exclusion of foreign firms and set off, in order to meet its WTO Working Party Report promises.

Chinese Taipei Response

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA

Parties on December 9, 2002. However, due to the outstanding non-economic issue, Chinese Taipei is not able to complete the accession process yet. Once becoming a party to the GPA, Chinese Taipei will open its government procurement market reciprocally to GPA Parties under the norms of the GPA. Chinese Taipei has been working hard to carry out its strong commitment to the GPA and has demonstrated the utmost flexibility in dealing with this outstanding issue. We would like to reiterate that the non-economic issue should not hinder Chinese Taipei's accession to the GPA. This situation is frustrating not only for Chinese Taipei, but also for companies both in Chinese Taipei and in GPA Parties, which are still waiting for the mutual opening of procurement markets. We hope that all GPA Parties should "encourage acceptance of and accession to this Agreement by governments not party to it", as set forth in the preamble of the GPA. More specifically, all GPA Parties should take upon themselves the responsibility of Chinese Taipei's GPA accession, and thus facilitate the adoption of Chinese Taipei's accession to the GPA as soon as possible.

(Hong Kong, China)

Comment3 - We commend Chinese Taipei's efforts in recent years in moving towards a more open and transparent government procurement regime. The enactment of the Government Procurement Law and the development of the Government Procurement Information System are two particularly impressive examples. We encourage Chinese Taipei to maintain the good efforts.

Chinese Taipei Response

Chinese Taipei appreciates Hong Kong, China for its comment. Chinese Taipei will continue to ensure transparency in government procurement regime.

(USA)

*Q3 - Industry complains that government procurement requirements are often unclear and contract awards are frequently non-transparent. Although Chinese Taipei has a government procurement law, Taiwan's procurement system is not completely consistent with the obligations of the WTO GPA. **When does Chinese Taipei plan to meet the commitment it made when it joined the WTO to sign on to the WTO GPA?.***

Chinese Taipei Response

Since the enactment of the Government Procurement Act in 1999, Chinese Taipei's government procurement system has conformed to international norms. While conducting procurements, government entities shall follow fair and open procurement procedures. The enforcement of this Act has created a transparent and fair government procurement market. In addition, Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge system to protect their interests.

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on December 9, 2002. However, due to the outstanding non-economic issue, Chinese Taipei is not able to complete the accession process yet. Once becoming a party to the GPA, Chinese Taipei will open its government procurement market reciprocally to GPA Parties under the norms of the GPA. Chinese Taipei has been working hard to carry out its strong commitment to the GPA and has demonstrated the utmost flexibility in dealing with this outstanding issue. We would like to reiterate that the non-economic issue should not hinder Chinese Taipei's accession to the GPA. This situation is frustrating not only for Chinese Taipei, but also for companies both in Chinese Taipei and in GPA Parties, which are still waiting for the mutual opening of procurement markets. We hope that all GPA Parties should "encourage acceptance of and accession to this Agreement by governments not party to it", as set forth in the preamble of the GPA. More specifically, all GPA Parties should take upon themselves the responsibility of Chinese Taipei's GPA accession, and thus facilitate the adoption of Chinese Taipei's accession to the GPA as soon as possible.

CHAPTER 10. Deregulation/Regulatory Review

(Australia)

Q1 - Has Chinese Taipei progressed towards establishing the Fair Trading Commission as an independent agency?

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don't have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

Q2 - Has Chinese Taipei seen tangible economic benefits from introducing competition to the energy sector? In the effort to work with industry to develop self-regulatory compliance programs, how has industry been consulted? What kind of opposition, if any, has industry raised to increased competition? How has this been overcome?

Chinese Taipei Response

Concerning the oil sector:

1. The oil sector of Chinese Taipei has been fully liberalized since December 26, 2001, following the approval of the Petroleum Administration Law by the Legislature to promote the sound development of the oil industry and safeguard the production and sales of oil. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers to brainstorm and seek a consensus. The Administration and the Legislature held 23 consultations, deciding to remove oil refinery business restrictions on treating more than 15,000 kiloliters of crude oil per day and enacting the oil stockpile held by the Administration. Finally, the Legislature approved the Petroleum Administration Law that was promulgated by presidential decree on October 11, 2001.
2. Liberalization introduced a competitive spirit to the oil market. Petroleum companies not only have price competition, but also enhanced petroleum quality and service to attract consumers. It is a win-win situation for the petroleum industry and consumers.

Concerning the gas sector:

The Administration of Chinese Taipei recognizes the benefits to gas consumers that arise from a competitive gas market and the fact that the benefits can be expanded by strengthening market oversight, just as has been the case in the Atlantic region. Therefore, to cope with the global trends of gas industry liberalization, the draft of the Natural Gas Business Law, part of which addresses competition policy, has been sent to the Legislature for further review. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers, to brainstorm and reach a consensus. After having considered all aspects of the issue, including market conditions, contract terms, maturity of industries, incentives of long-term investment in gas transmission pipelines and storage facilities, comprehensive energy mix planning by the Administration, etc., negotiated TPA (third party access) was thought to be more prudent than regulated TPA at this stage, and the Administration will intervene conditionally in the public interest or in case of failure in negotiations concerning capacity allocation or tariff setting. Nonetheless, since gas is an important source of energy for Chinese Taipei, the Administration will continue to carefully observe international gas industry development trends, so as to constantly adjust its response policies in a timely manner.

Concerning the electricity sector:

The power generation sector of Chinese Taipei is open to private investors. There are eight commercialized independent power producers which take 14.5% of the total installed capacity of Chinese Taipei. Chinese Taipei will keep promoting the liberalization of the electricity industry. However, it is subject to approval of the Legislature.

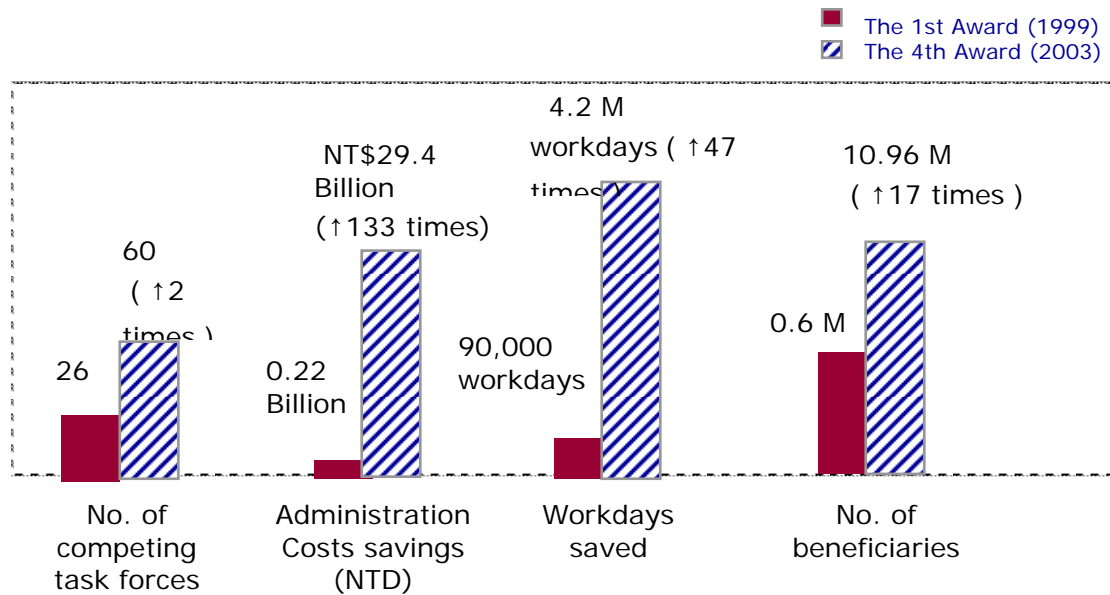
Q3 - What reforms were undertaken as a result of the contribution of the Administrative Re-engineering Consultation Committee and the Golden Axe Awards?

Q4 - How have the effect of these reforms been measured?

Chinese Taipei Response

The effectiveness of the Golden Axe Awards may be estimated both quantitatively and qualitatively. Quantitatively speaking, due to the expansion of the program from the central government to include the local government level, 60 task forces formed from 14 central government agencies (ministries/councils) and 9 local county/city governments participated in the competition for the 4th awards. This marked a dramatic increase from the 1st awards, when only 26 task forces from various central government agencies participated. The economizing on administrative costs and the number of beneficiaries are also charted below:

Table I: Quantitative performance comparison between the 1st and 4th Golden Axe Awards



Qualitatively speaking, the increased participation in the program by county and city governments indicates that local governments are also attaching importance to the population's rising expectations in terms of administrative efficiency, and as a result, they are adopting measures that are yielding immediate results. The amount of energy that the public sector is putting into re-engineering administrative systems is having a positive effect on Chinese Taipei's overall competitiveness.

Furthermore, central and local levels of government in Chinese Taipei are putting a great deal of effort in computer networking and putting many procedures on-line. These new systems are being used for everything from employment services to commodity inspection and so on. It is indeed the case that Chinese Taipei's efforts in promoting e-

government have completely eliminated the old perception that in order to get anything done, one had to shuttle from agency to agency with a suitcase full of papers. Nowadays, people can apply for various official documents or permits or post inquiries to various agencies via the Internet. Therefore, it is possible to announce that the era of 24-hour e-government has arrived.

Identification and Review of Proposed Regulations

Q5 - When is it anticipated that the revision of the statute governing the relations between people on both sides of the Taiwan Strait will be passed?

Chinese Taipei Response

The amendments to the “Act Governing Relations between Peoples of the Taiwan Area and the Mainland Area” were passed in October 2003.

Identification and Review of Existing Regulations

Q6 - How does Chinese Taipei identify those laws it will repeal? (For example, Australia has a schedule for the review and reform of legislation that restricts competition).

Chinese Taipei Response

There is no so-called “top-down” procedure or schedule for such a legislation review process to identify laws to be repealed. The current mode of reviewing process could be described as a “bottom-up” approach. We have, however, provided some incentives for the various government agencies to do their part to look at their domains of authorities to see if anything is no longer appropriate and needs to be revised or discarded. The Golden Axe Award provides one of those incentives.

Q7 - How much has the level of foreign investments increased in Chinese Taipei as a result of its government’s measures to remove foreign investment restrictions? Has such measures also assisted competition in the market, and benefited consumers through lowering prices and improving the quality of goods and services?

Chinese Taipei Response

On Sep. 30, 2003, our government promulgated a revision to the Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals to eliminate the QFII qualification screening and open up Taiwan’s stock market fully to foreign investment. The QFII system, which has been enforced for the past 12 years, has now been consigned to history.

For developing Chinese Taipei into an Asia-Pacific regional operations center and acceding to the World Trade Organization, we have made a lot of efforts to promote foreign investment, including open the markets of finance and telecommunication. According to the statistics by Investment Commission, Ministry of Economic Affairs (MOEAIC), the inward FDI amounted US\$40 billion from 1993 to 2003.

(Chile)

Q8 - Under the Section "General Policy Position", Taipei mentions the Golden Axe Awards. It would be possible have more details about this award?

Chinese Taipei Response

The Golden Axe Award strengthens the so-called “bottom-up” reform mechanism. It is to encourage the civil servants to focus on the benefits side of reform and to actively review and reevaluate all regulatory laws of their individual jurisdiction. This is one of the mechanisms that our government has been promoting since 1998, and this year (2004) marks the fourth award. Please visit the CEDI website (<http://work.cedi.cepd.gov.tw>) for more detailed information of this award (the content, however, is in Chinese only).

Q9 - Under the same section, Taipei say the had taken an "active stance in helping remove trade and investment obstacles for industries". Would it possible to mention some example of trade and investments obstacles removed?

Chinese Taipei Response

After Chinese Taipei’s accession to the WTO, we have been devoting efforts to implementing our accession commitments, such as by removing the following trade and investment obstacles:

1. The ban on imported rice was lifted upon Chinese Taipei’s accession to the WTO. We restructured market access for rice import along the lines of Annex 5 of the Agreement on Agriculture, with the rice import quota being 144,720 metric tons in the first year after accession. In light of trade liberalization under the WTO Agreement on Agriculture, our rice import system was changed from a quantitative restriction scheme to a tariff rate quota (TRQ) scheme, effective from 2003.
2. The import ban on motorcycles over 150cc was lifted on July 1, 2002.
3. Chinese Taipei has removed area restrictions on the import of automobiles, replacing them with tariff-rate quotas. Additionally, we removed local content requirements on the domestic production of automobiles for this sector on January 1, 2002.
4. In order to attract foreign investment into our telecom industry and stimulate its development, the permitted FDI ratio of Type I telecom businesses was increased to 49% from the previous 20%.
5. We dismantled the monopoly on the manufacture and sale of tobacco and alcohol products in Chinese Taipei and replaced it with a competitive mechanism. The Taiwan Tobacco & Wine Monopoly Bureau reverted to the status of a normal commercial enterprise and no longer holds monopoly rights over the domestic manufacture and distribution of tobacco and alcohol products.
6. In accordance with its various bilateral accession negotiations with WTO Members and the four modes of supply under trade in services (i.e., cross-border supply, consumption abroad, commercial presence, and presence of natural persons), Chinese Taipei established a set of horizontal commitments (commitments applicable across sectors) as well as a set of sector-specific commitments to provide market access in services. Eleven sectors are covered under these sector-specific commitments, namely, business services; communication services; construction and related engineering services; distribution services; education services; environmental services; financial services; health related and social services; tourism and travel-related services; recreational, cultural and sporting services; and transport services.
7. Foreign mutual insurance companies may directly establish branch offices in Chinese Taipei, starting January 1, 2002.
8. The amendment of our Civil Aviation Law to open up our auxiliary service market on an MFN basis was implemented on January 1, 2002.

(Hong Kong, China)

Q10 - We are interested about the establishment of the Golden Axe Awards and Golden Hammer Awards as tools to encourage reform of major operating systems, review and deregulation of inappropriate laws and regulations and simplification of administrative processes. Please provide more details on the award schemes, the level of participation and their effectiveness in achieving the stated objectives

Chinese Taipei Response

The Golden Axe Award has four different categories of competition: administration reengineering, deregulation and innovation, attracting investments, and cross-agencies cooperation. Both central government agencies and local government agencies can participate in this competition. This award is intended to have participation from various

government agencies of all levels. The fourth award was held in 2003 and 60 task forces, being formed from 4 ministries/councils and 9 county/city governments, took part in this competition. The quantitative performance measurements resulting from the fourth award can be summarized as follows: the savings of 4.2 million office processing hours for the citizens and the government, the savings of administration costs for 29.4 billion NTD, and 10.96 million beneficiaries as a result of this award.

(USA)

Q11 - Privatization of China Petroleum is not underway as promised. Please comment on Chinese Taipei's plans in these areas.

Chinese Taipei Response

In 2003, the Legislature concluded that Chinese Petroleum Corp. (CPC) must negotiate with its labor union about the Privatization Plan. After the results of negotiation have been written into the Privatization Plan and once the plan has been approved by the relevant legislative committee, CPC will sell shares. Now the negotiation is in process.

CHAPTER 11: Implementation of WTO Obligations (inc ROOs)

(USA)

Q1 - Please comment on Chinese Taipei's plans to implement TRIPS commitments, which are not being met, especially in pharmaceutical data protection.

Chinese Taipei Response

Since Chinese Taipei's accession to the WTO, it has been fully implementing the obligations mandated by the WTO TRIPS Agreement. Please refer to our answer to Chapter 5 Q15 Data Exclusivity.

CHAPTER 12. Dispute Mediation

(Hong Kong, China)

Q1 - As set out in the IAP, laws, regulations and administrative guidelines and polices regarding trade and investment are accessible at the website of the Ministry of Justice. However, the English version of the website is a simplified version of the Chinese version and does not contain as much information. Would like to know if there is any plan to provide one in both Chinese and English

Chinese Taipei Response

Starting in December 2003, Chinese Taipei has put its entire law database on the website <http://law.moj.gov.tw/eng>. At present, however, if you want to check the English version of laws in the area of trade and investment, you may still need to scan through the websites of the relevant agencies, such as the Bureau of Foreign Trade and the Investment Commission. We hope that in the future we can provide the full, detailed English versions of all our laws on the main law database website.

(USA)

Q2 - The Public Construction Commission, designated as the mediating body for government contracting disputes, has been accused of favoring domestic firms. Could Chinese Taipei comment on its plans to ensure a level playing field for foreign firms?

Chinese Taipei Response

Since the enactment of the Government Procurement Act in 1999, Chinese Taipei's government procurement system has conformed to international norms. While conducting procurements, government entities shall follow fair and open procurement procedures. The enforcement of this Act has created a transparent and fair government procurement market and ensured a more effective and efficient utilization of public resources. In addition, Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge procedures to protect their interests. Chinese Taipei hereby emphasizes that CRBGP is an impartial and independent review body. All suppliers who seek resolution of their complaints through CRBGP, no matter domestic or foreign, will be treated equally.

CHAPTER 13. Mobility of Business People

(Australia)

Comment1 - Australia acknowledges the efforts undertaken by Chinese Taipei to streamline entry for more APEC economies in recent times.

Australia appreciates Chinese Taipei's active participation in the various TILF funded Business Mobility workshops including in travel document examination, professional service and in the travel document security workshop recently held in March 2004. Chinese Taipei's participation in the APEC Business Travel Card scheme is also appreciated by Australia and other economy participants.

Australia acknowledges the future improvements planned in respect of plans to develop training programs on travel document examination and professional service. Australia wishes to remind Chinese Taipei of the availability of APEC funds in 2004 to assist in developing strategic action plans to implement agreed professional Immigration service standards.

In future, as standards have now been agreed on Advance Passenger Information, Travel Document Security, Legal Immigration Infrastructure and area-specific Transparency standards, there will be the opportunity to report on progress on implementation of these standards in IAPs.

Chinese Taipei Response

Chinese Taipei appreciates Australia, as a leading economy in the IEGBM, for its efforts in assisting Chinese Taipei to conduct the capacity building programs. Chinese Taipei will continue to ensure quality services to facilitate the mobility of business persons.

(Canada)

Comment2 - Canadian businesses are among the many affected by the inefficient and often restrictive administration of entry to Chinese Taipei by PRC nationals. From the

perspective of Bogor goals, this represents a disappointing obstacle to liberalisation of regional trade.

Chinese Taipei Response

Canada is one of the 31 countries, whose citizens are eligible to enter Chinese Taipei under the visa exemption program and stay in Chinese Taipei for up to 30 days. If a foreigner intends to stay in Chinese Taipei for more than 30 days, the application for a visa pre-arrival is required. For the application of a visitor visa for the purpose of business, the normal processing time is in 1 to 3 days. It takes 10 days for the processing of a work permit and a resident visa for the purpose of employment, which meets the agreed 30-day processing standards by IEGBM.

According to the Statute Governing the Relations Between the People of the Taiwan Area and the Mainland Area and its Regulations, a Mainland Chinese person who was naturalized in a foreign country and has stayed abroad for less than four years is defined as Mainland Chinese not a foreigner. If the applicant meets related requirements stipulated in the said laws, the applicant should apply for an entry permit instead of a visa.

APEC IAP PEER REVIEW OF CHINESE TAIPEI 2003/04

0. General

Expert's Questions

0.1 Chinese Taipei is liberalizing its economy in accordance with its WTO commitments. Please describe the impacts that this liberalization has had on the economy in this period, when the economy has slowed. Does the government attribute any significant macro-economic changes to the liberalization efforts that it has made, whether positive or negative?

Chinese Taipei Response

1. It is our government's established policy to promote economic liberalization. Starting from January 1990, when we first submitted our WTO accession application to the GATT Secretariat, and throughout the accession process, we already enjoyed the benefits of the Uruguay Round liberalization commitments being implemented by other WTO members, and we took the initiative to implement liberalization measures or certain accession commitments in advance, to enjoy the economic benefits. As expected, we experienced some impacts as a result of the opening of our market after WTO accession, but at the same time, we have also enjoyed many advantages, especially from the barrier-free access to other WTO Members' markets, the expansion of foreign trade, and the lowering of domestic consumer prices. In the mid-to long-term, it will enable the more efficient utilization of domestic economic resources, improve national competitiveness and enhance public well-being.
2. Entering the WTO has had more positive than negative effects on Chinese Taipei's industries. Since our accession process dragged out for so many years, our various industrial sectors were able to make adjustment over a long period, so the negative impact of WTO accession could be reduced to a minimum.

- Because the level of protectionism in our agricultural market was relatively high in the past, WTO accession caused an impact through due to low-cost agricultural imports (such as rice, fruits, peanuts, etc.), but it also proved helpful for the export of our high-quality agricultural products, such as tropical fruits (wax apples and mangoes), flowers (Gower Ramsey or oncidium orchids, butterfly or phalaenopsis orchids, and anthurium), vegetables, seedlings, fish cultivated in netted sea enclosures, tropical fish, etc. We can use high-tech means to develop high value-added agricultural products and processed food products for overseas markets.
 - In general, the impact of WTO accession on industrial products has been relatively light, and it is possible that increased automation has given broader trading room for manufacturers (as in the ITC industry). Only a few comparatively uncompetitive industries that were geared to meet domestic demand (such as the tobacco and alcohol industry) have experienced rather obvious negative effects.
 - The opening of the service sector has helped to attract foreign investment, improve managerial skill, and accelerate financial reform. It has helped us in developing Chinese Taipei as a center of telecommunications and logistics, and it has speeded up the internationalization of our service industries. Only a few specialized sectors (such as the cinema industry and legal services) are facing greater competitive pressures.
3. During the recession of the past two years, while taking many economic stimulation measures, the government has remained committed to economic liberalization and internationalization and to improving the investment environment. Important measures include: relaxing the ratio of ceiling of foreign investment in certain industries, opening the QFII system, promoting financial reform, strengthening IPR protections, setting up a single window on employment service regulation, planning the establishment of a free port zone, and assigning specific experts responsible for removing investment obstacles.

0.2 While market liberalization is widely pursued in the region, the roles that different governments play do differ in emphasis. Some governments participate or “pick winners” in the economy by providing incentives or investment in such companies as they deem fit. In Chinese Taipei, some SOEs do enjoy special treatment as compared to foreign and other companies. What commitments are there to end their special treatment and reduce or give up government investment in such companies? What future role does government see for itself in the economy and economic development?

Chinese Taipei Response

The trade operations of Chinese Taipei’s state-owned enterprises (SOEs) already conform to the regulations of GATT Article 17.

0.3 How does Chinese Taipei view the importance of APEC as a forum to pursue its own liberalization and to secure increased access to foreign markets?

Chinese Taipei Response

Asia Pacific Economic Cooperation (APEC) was established in 1989, and Chinese Taipei joined this regional economic and trade forum in 1991 as a formal member.

APEC is one of the most important international organizations in which Chinese Taipei participates today. Since the issues this organization puts forward and discusses are very broad, encompassing economics, trade, counter-terrorism (security), public health and so on, APEC provides our officials and business people a platform where they can join their counterparts from other economies and discuss how to cooperate in reaching certain goals and solving various problems. In addition, we use the occasion of APEC's various ministerial-level meetings to hold bilateral talks with other member economies' delegations. Besides exchanging opinions on the issues mentioned above, we also frequently ask our counterparts to lift trade barriers that our businesses encounter, and vice versa. Such talks have also led to the organization of bilateral economic and trade conferences, exchanges of ministerial-level visits, and other breakthroughs. Therefore, the bilateral meetings under the APEC framework have been extremely important for strengthening our economic and trade relations with other member economies.

Since 1991, Chinese Taipei has actively participated in many meetings and activities under the APEC framework. These include, for instance, important ministerial-level occasions such as the annual Ministerial Meetings, the Meetings of Ministers Responsible for Trade, the SME Ministers' Meetings, and Energy Ministers' Meetings. On the working level, there are also three Senior Officials' Meetings per year and numerous fora and working group meetings. Through these activities, we can get some idea to improve our administration procedures in order to pursue a more liberalized market.

Last year (2003), Chinese Taipei hosted a total of 11 APEC meetings and other activities. The 11 events covered e-commerce, SMEs, energy, and so on. There was also "Toward A Cross-border Paperless Trading Environment - Actions For Trade Facilitation" which generated very positive responses. In 2004 we are scheduled to hold 12 APEC activities in Chinese Taipei; these are in the areas of trade and environment, industry dialogue, and SMEs. The Bureau of Foreign Trade and Small and Medium Enterprise Administration will host three activities: "The Environment Impact Assessment of Trade Liberalization Measures--Methodology and Case Studies", "The Steering Committee Meeting of APEC Auto Dialogue" and "The Incubator Forum" (for SMEs).

Although APEC's member economies have very wide differences in their level of economic development, the forum's operating principles are based on voluntary action, consensual decision-making, and flexibility. Thus we can continue to raise innovative proposals and carry out strategies in specific areas, in line with international demand, through our participation in and hosting of APEC meetings and other activities, and we can seek more benefit from APEC.

0.4 Is Chinese Taipei actively pursuing bilateral free trade arrangements or closer economic partnerships with another economy? If so, with which partners, and on what terms? How will Chinese Taipei ensure that these FTAs will be consistent with the WTO rules and APEC goals?

Chinese Taipei Response

Being an active member in the WTO and the APEC, Chinese Taipei aims to implement free trade and investment by 2010, as set forth in the Bogor Goals. While remaining a strong supporter of the multilateral trading system, Chinese Taipei also believes that trade efforts made in regional and bilateral fora may accelerate the momentum for trade liberalization and, in turn, strengthen the multilateral trading system. Thus, we are still seeking possible regional and bilateral FTA opportunities with other countries.

Chinese Taipei concluded an FTA with Panama in August 2003 that entered into force on January 1, 2004. We attach priority to signing future RTAs/FTAs with certain countries that maintain important economic relations with us such as the US, Japan and Singapore.

Increased regional economic integration should serve as the interface for and pave the way to the further liberalization of the multinational trading system. Chinese Taipei guarantees that its future FTAs/RTAs be in full compliance with WTO rules and regulations, such as GATT 1994 Article 24 and GATS Article 5. Chinese Taipei supports the strengthening of WTO disciplines on regional trade agreements, as this would bring greater certainty about the application of WTO disciplines and meet the requirement of transparency. Thus, we are actively engaged in the ongoing negotiations on RTAs in the Rules Negotiation Group in the Doha Round Negotiation. We believe that regionalism and multilateralism can be pursued at the same time, and in a fashion that is mutually supportive.

0.5 While the historical issues between Chinese Taipei and China are recognized, trade liberalization in the WTO and in APEC upholds the principle of non discrimination between all economies. Given this, what process – if any – does Chinese Taipei have to review and reconsider present limits in trade and economic relations with China, and what progress has been made to reduce the differences in treatment of trade and economic ties with China

Chinese Taipei Response

1. Maintaining our national security and competitive advantages is the precondition for cross-strait economic and trade exchange, and improving the mutual trust and healthy interaction between the two sides for creating a win-win situation is always our goal.
2. Now that Chinese Taipei and China have entered the WTO, both sides should make efforts to normalize economic and trade relations. However, we are concerned that any sudden, major opening of our domestic market will cause adaptation problems for our domestic industries, especially considering the fact that China's and Chinese Taipei's economies are very different while geographically, linguistically and culturally they are very close. Thus there is a much greater possibility of Chinese goods flooding into Chinese Taipei compared to any other country. Therefore, Chinese Taipei needs a transitional period of time for the adjustments.
3. We are always working hard to shorten the transitional period. Therefore, after our WTO accession, our government has made following policy adjustments:
 - (1) Allowing cross-strait direct trade since Feb. 15, 2002.
 - (2) Continuing to relax controls on Chinese imports. As of the end of May 2004, a total of almost 8,521 product items from China has been permitted for import, accounting for

77.5% of the total number of product items (of that agriculture products account for 12.71% and industrial products account for 64.79%).

(3) Allowing many industries to invest in China and simplifying the application procedure.

(4) Relaxing restrictions on Chinese business people visiting Chinese Taipei. Chinese business people are allowed to come to Chinese Taipei to do investment, purchasing, attend exhibitions, and provide after-sales services.

4. In the future, our government will continuously work toward adjusting measures to promote gradual development of cross-strait economic and trade relations, while upholding the principles of “reciprocal benefit, mutual gain,” and “risk management.”

1. Tariffs

Expert's Questions

1.1 While tariff rates on average have been lowered, please clarify the relative differences in tariffs, such as the ratio of simple average rates for non duty free items to simple average tariff rates for all items.

Chinese Taipei Response

After Chinese Taipei's WTO accession in 2001, we have lowered tariff rates in accord with our accession commitments. Moreover, these tariff reductions have been spread across all categories of goods. In 2002, the average simple tariff rate for non duty-free items was 8.65%, and in 2003, it was 7.78%. Chinese Taipei will provide clearer reporting on different tariff rates when compiling future IAPs.

Follow up Questions

1.2 *from NZ question (2)* on tariffs and consultation with importer and consumer interests: Chinese Taipei invites all related firms, industry associations and government agencies to review its tariff schedule, but who – if anyone – represents consumers in this process? Moreover, are the responses from those who are consulted made available to the public or other interested parties?

Chinese Taipei Response

Any consumer can contact the Department of Customs Administration and other relevant government agencies (Council of Agriculture and Industrial Development Bureau) via e-mail or regular mail about their requests on lowering tariffs. When the Department of Customs Administration meets with the other relevant government agencies to set tariff rates, they consider not only the requests from the business sector but also the interests of consumers.

2. Non Tariff Measures

Expert's Questions

2.1 Chinese Taipei maintains NTMs relating to national security, public order, public health, environment protection, and the need for adjustment in a number of sensitive industries. Please confirm that these are subject to the relevant WTO disciplines.

Chinese Taipei Response

Area restrictions on certain passenger cars and small commercial vehicles, automobile chassis and motorcycles were eliminated upon Chinese Taipei's accession to the WTO. In agriculture, area restrictions were eliminated except for young coconuts, which are subject to TRQ. In fishery products, the imports controls for mackerel, carangid and sardines were replaced by TRQ. For a small number of products formerly subject to number restrictions and for which we were permitted a period of adjustment, our opening commitments have also been met. For example, six months after accession, we eliminated the import ban on motorcycles over 150cc, and two years after accession (2004), we eliminated the import ban on passenger cars equipped with diesel engines. Currently all our import restrictions are consistent with the provisions of WTO agreements.

Besides adhering to the provisions of the WTO TBT and SPS Agreements, which is the duty of all WTO Members, the relevant customs procedures are also in conformance with WTO rules.

2.2 In the area of the environment, please specify the process by which new environmental standards and SPS standards are set and introduced, including processes of consultation with relevant industry and environmental groups. How do environmental standards set by Chinese Taipei compare to those accepted by the international community?

Chinese Taipei Response

All environmental management standards developed by BSMI follow the six steps described in the Standards Act, i.e. submitting a proposal, drafting, soliciting comments, review, final review, and approval and promulgation. Up to now, Chinese Taipei has developed 16 environmental management standards, which are based on ISO 14000 series of standards.

In the area of the environment, when drafting the technical regulations (e.g., noise and emission standards for motor vehicles), Chinese Taipei refers to similar regulations of other nations. Stakeholders, including representatives from industry, research institutions, and non-government organizations, are consulted during the drafting process. A period of time is allocated for solicitation of public opinions on the new draft. Technical regulations enter into force only after complying with proper stipulation procedures. The environmental standards of Chinese Taipei are equivalent to those standards of other nations. They are applicable to both domestic and imported products.

The plant protection and quarantine standards of Chinese Taipei are drafted by the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) in accordance with domestic and international pest status, the opinions of industrial stakeholders and academic institutes and the result of pest risk analysis, taken into account of relevant international standards. The draft standards will be reviewed by the "Plant Protection and Quarantine Advisory Committee" established under the BAPHIQ. Afterwards, the draft standards will be subject to public comments. The standards will then be entered into force after the law-making procedures are completed.

2.3 While Chinese Taipei has made regulations available at different websites, please provide details on any plans to provide a one-stop reference and easy navigation to these

various sites. Please also estimate the time delays, if any, between the passing of laws and regulations, and the time they are made available on websites to the public in the English language.

Chinese Taipei Response

Chinese Taipei has set up a website of “Laws and Regulations Database (<http://law.moj.gov.tw/eng>)”, which provides one-stop navigation service. When searching trade related laws and regulations, please refer to Chinese Taipei’s WTO Enquiry Point (<http://ewto.trade.gov.tw/enquiry/enquiry01.htm>).

According to Paragraph 217 of its WTO Accession Working Party Report, Chinese Taipei will translate and publish in an official WTO language no later than 90 days after enactment or issuance of laws and regulations relating to trade in goods as well as measure subject to the transparency provisions of the GATS and TRIPS Agreement.

Follow up Questions

2.4 From Australia’s question (1) relating to Chinese Taipei’s continued efforts to simplify trade administration procedures: Chinese Taipei intends to make the “Trade Administration” system of its Trade Facilitation Network project fully functional before the end of 2005. Please confirm if the project is expected to be completed on schedule and if it is planned to have any prior consultation or trial period for importers, especially foreign ones.

Chinese Taipei Response

Chinese Taipei is optimistic about the establishment of the integrated single window for trade administration and customs declaration by the end of 2005. Prior and continuous consultation among relevant responsible agencies has been one of the major tasks in implementing this project. There will be a trial period together with the promotion and training programs of the system. All relevant businesses and individuals are welcome to participate. Foreign importers and exporters with business presence in Chinese Taipei will be also eligible to access the integrated single window.

3. Services

Follow up Questions

Air Services

3.1 Follow up from Australia’s question (2) on bilateral Air Service negotiations: With which countries is Chinese Taipei presently engaged in discussing bilateral Air Service negotiations?

Chinese Taipei Response

Chinese Taipei engages in bilateral Air Services negotiations with any country before establishing aviation relations with it. However, due to the request for keeping confidentiality during negotiations, it’s difficult to inform about with which countries Chinese Taipei is presently engaged in discussing bilateral Air Service negotiations.

Energy Services

3.2 Follow up from Mexico's question (14) on foreign participation in this sector: When does Chinese Taipei intend to allow the private sector to participate in transmission and distribution sectors of the energy services?

Chinese Taipei Response

Concerning the oil sector:

1. The oil sector of Chinese Taipei has been fully liberalized since December 26, 2001, following the approval of the Petroleum Administration Law by the Legislature to promote the sound development of the oil industry and safeguard the production and sales of oil. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers to brainstorm and seek a consensus. The Administration and the Legislature held 23 consultations, deciding to remove oil refinery business restrictions on treating more than 15,000 kiloliters of crude oil per day and enacting the oil stockpile held by the Administration. Finally, the Legislature approved the Petroleum Administration Law that was promulgated by presidential decree on October 11, 2001.
2. Liberalization introduced a competitive spirit to the oil market. Petroleum companies not only have price competition, but also enhanced petroleum quality and service to attract consumers. It is a win-win situation for the petroleum industry and consumers.

Concerning the gas sector:

The Administration of Chinese Taipei recognizes the benefits to gas consumers that arise from a competitive gas market and the fact that the benefits can be expanded by strengthening market oversight, just as has been the case in the Atlantic region. Therefore, to cope with the global trends of gas industry liberalization, the draft of the Natural Gas Business Law, part of which addresses competition policy, has been sent to the Legislature for further review. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisors, to brainstorm and reach a consensus. After having considered all aspects of the issue, including market conditions, contract terms, maturity of industries, incentives of long-term investment in gas transmission pipelines and storage facilities, comprehensive energy mix planning by the Administration, etc., negotiated TPA (third party access) was thought to be more prudent than regulated TPA at this stage, and the Administration will intervene conditionally in the public interest or in case of failure in negotiations concerning capacity allocation or tariff setting. Nonetheless, since gas is an important source of energy for Chinese Taipei, the Administration will continue to carefully observe international gas industry development trends, so as to constantly adjust its response policies in a timely manner.

Concerning the electricity sector:

The power generation sector of Chinese Taipei is open to private investors. There are eight commercialized independent power producers which take 14.5% of the total installed capacity of Chinese Taipei. Chinese Taipei will keep promoting the liberalization of the electricity industry. However, it is subject to approval of the Legislature.

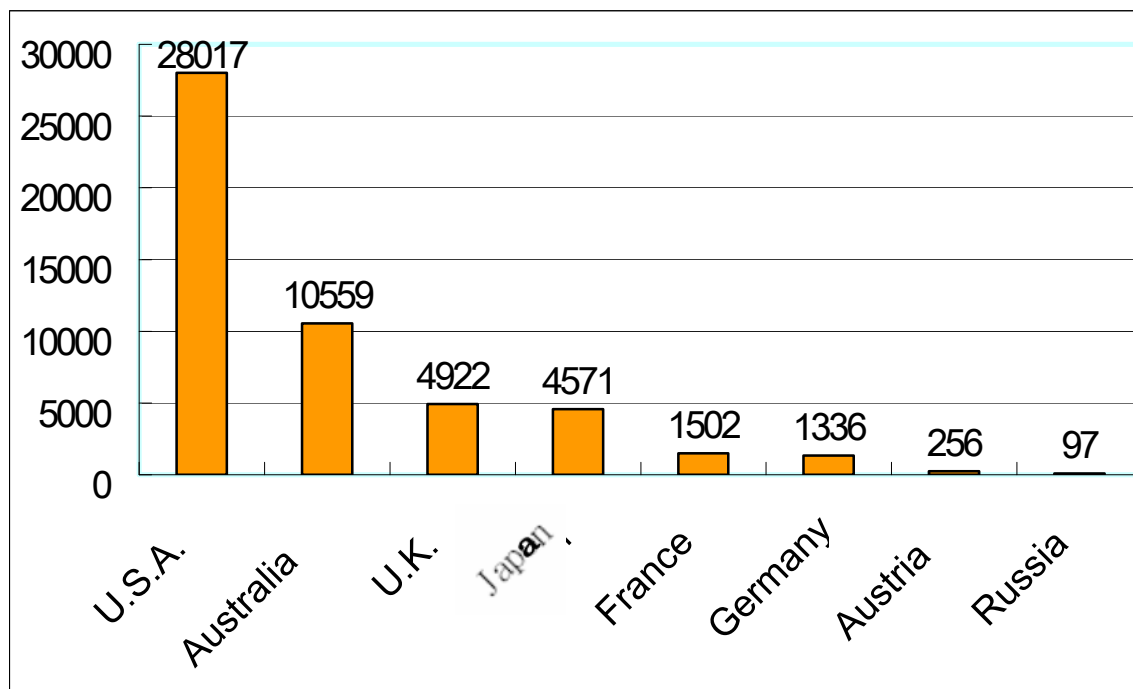
Educational Services

3.3 Follow up from New Zealand's question (16) on foreigners opening private schools and universities in Chinese Taipei: Given the restrictions set by Chinese Taipei, how many foreign private schools and universities have been established in Chinese Taipei? Additionally, what numbers of students from Chinese Taipei study abroad, as a percentage of their cohort?

Chinese Taipei Response

In reply to the first question, on the number of foreign private schools and universities have been established in Chinese Taipei, no registered foreign private school has been set up in Chinese Taipei.

In reply to the second question, on the number of students from Chinese Taipei studying abroad, here is a chart on the figures for 2003.



Telecommunications

3.4 Follow up question from Hong Kong, China, (17) on foreign equity cap for investment in the telecommunication market: Has Chinese Taipei any policy, conditions or time line to bring the present restrictions on foreign investment in Chunghwa Telecom in line with other Type I telecom operators?

Chinese Taipei Response

With regard to the question on the restriction on foreign investment in Chunghwa Telecom, the Commission on Economic Planning and Development, Executive Yuan, approved a Ministry of Transportation and Communications (MOTC) proposal on May 22, 2003. Thus, the ceiling on shares of Chunghwa Telecom held directly and indirectly by foreign persons was raised from the then-current 20% to 35%, effective after the issuance of American Depository Shares (ADS) abroad and then the official

announcement by the MOTC of the relaxation of the restriction. The MOTC completed the procedures for overseas issuance of shares in Chunghwa Telecom in July 2003, and in the near future it will publicly announce the relaxation of the restriction on foreign shareholding.

4. Investment

Expert's Questions

4.1 There are a number of SOEs in Chinese Taipei that receive special treatment from other corporations. Please evaluate the financial cost of these special treatments and any investment-related incentives that Chinese Taipei provides to these SOEs or other nationals. Please explain the government's policies towards relinquishing control of these SOEs and/or phasing out the special treatment they enjoy. Where possible, specify time lines or the conditions for phase out/divestment by government.

Chinese Taipei Response

The daily business operations of the state-owned enterprises of the Ministry of Economic Affairs are based on commercial considerations. They do not enjoy special treatments or privileges. The state-owned enterprises of the Ministry of Economic Affairs are consistent with the provisions of 1997 GATT Article XVII.

Chinese Taipei has made considerable progress on privatization of state-owned enterprises. According to its commitment of accession to the WTO, Chinese Taipei will provide annual reports to WTO Members on developments in its programme of privatization. Related authorities are preparing the notification for the year 2004.

4.2 Have APEC efforts in this area, such as the APEC Non Binding Investment Principles and Menu of Options for Investment Liberalization and Business Facilitation been helpful to Chinese Taipei? Have they been actively referred to in considering changes to the investment regime?

Chinese Taipei Response

The efforts that APEC has made to lower the investment barriers of the past and increase transparency have helped foreign investors to invest in APEC member economies. When Chinese Taipei plans any revision to or proposes any investment measure, it always takes APEC's efforts into serious consideration.

4.3 What measures, if any, are being made to promote outward investments from Chinese Taipei and which overseas economies, if any, are especially favoured by policy?

Chinese Taipei Response

According to "Regulations for Approval and Consideration of Foreign Investment or Technical Cooperation", the competent authority shall, with regard to the following items, adopt proper measures of encouragement, instruction or advice:

1. Investigation and development of appropriate markets.
2. Rationalization of operations.
3. Promotion of international economic cooperation.
4. Obtaining and guaranteeing productive factors and technologies.
5. Cultivation of personnel.
6. Obtaining of funds.

7. Other matters relating to the promotion or appropriate development of foreign investment, or technical cooperation.

According to the statistics by Investment Commission, Ministry of Economic Affairs (MOEAIC), from 1952 to Apr. 2004, the top two geographic regions for which outbound foreign investment applications were approved were the British Caribbean territories (38.57%) and the United States (34.19%).

Follow up Questions

4.4 From Australia's question (1) on the opening of various sectors to foreign investment: As Chinese Taipei has said that it will amend laws governing foreign investment, can it estimate a time frame for these and other steps to be taken?

Chinese Taipei Response

The revised draft of "Statute for Investment by Foreign Nationals" and the "Statute for Investment by Overseas Chinese" are amended to abolish the "Negative List for Investment by Overseas Chinese and Foreign Nationals." After abolishing the Negative List, which industries will be liberalized will depend on the laws by competent authorities. The revised drafts also open the investors shouldn't get approval if the investment amount is below a certain one. It can simplify the administrative procedures. The drafts are still reviewed by legislators. After completing the legislative procedures, they will be enforced. It is a kind of difficult to predict the time frame for legislature.

6. Customs

Expert's Questions

6.1 Steps have been taken towards paperless trading and a simplification of export/import regulations and procedures. Please state when the goal of a fully computerized, paperless trading system will be implemented, and steps put in place to ensure that foreign traders can access, understand and use this system. Please report on the most frequent queries or complaints raised to date in respect of the paperless system. Please state the percentage of customs entries that are electronically logged and processed, and compare the present percentage to relevant past equivalents.

Chinese Taipei Response

In Chinese Taipei, the automated customs clearance systems for air cargo and sea cargo began operation respectively in 1992 and 1994. By the end of 1997, virtually all customs entries (import and export) were being logged and processed electronically. Currently, Chinese Taipei is implementing a Trade Facilitation Network Project which will add new features to the existing customs clearance system to enhance its function for trade administration and establish an integrated single window for trade administration and customs declaration. Optimistically, the integrated single window will be functional by the end of 2005, following a trial period. The system will offer only Chinese language interfaces. However, the service providers will offer a series of training programs for the users, including foreign traders who have business presence in Chinese Taipei.

Based on our experience in implementing the automated customs clearance systems, the speed of response from the systems and transaction status are the major concerns of the business users. With regard to queries or complaints about the integrated single window, the business users are requesting further simplification of the process; the responsible governmental agencies are concerned about the shortage of manpower in addressing problems arising from computerization. Meanwhile, the application service providers worry about their competitiveness when facing the changes in the new practice. In addition, harmonization of the data flows among relevant agencies and the computerization of the supporting documents used in applying for import/export permits are areas that need to be enhanced in order to achieve a “fully” computerized trade facilitation system.

9. Government Procurement

Expert's Questions

9.1 Please identify and quantify any preferences currently given to SOEs in terms of service procurement.

Chinese Taipei Response

According to the Government Procurement Act, there is no preference given to SOEs (State-Owned Enterprises) over private suppliers for all kinds of procurement.

9.2 Chinese Taipei is considering joining the WTO GPA. Please explain the factors that are still being considered before its accession and implementation.

Chinese Taipei Response

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on December 9, 2002. However, due to the outstanding non-economic issue a, Chinese Taipei is not able to complete the accession process yet. We would like to reiterate that non-economic factors should not hinder Chinese Taipei's application for accession to the GPA.

9.3 Have APEC efforts in this area, such as the APEC Non Binding Principles on Government Procurement been helpful to Chinese Taipei? Have they been actively referred to in considering changes to the investment regime?

Chinese Taipei Response

As a result of completion of preparatory work for accession to the WTO GPA, Chinese Taipei's government procurement system has conformed to international norms and the APEC Non-Binding Principles (NBPs) on Government Procurement, comprising Transparency, Value for Money, Open and Effective Competition, Fair Dealing, Accountability and Due Process, and Non-Discrimination. The result of Chinese Taipei's voluntary review of consistency of government procurement regimes' against the NBPs specifically demonstrates the institutional improvement and concrete reform measures that Chinese Taipei has undertaken and thus is very helpful in creating a transparent and fair government procurement market. Additionally, Chinese Taipei has established a non-discriminatory, timely, transparent, and effective bid challenge system for protecting the

rights and interests of both foreign and domestic suppliers. The foregoing institutional changes have therefore enhanced the investment regime in Chinese Taipei.

ANNEX 3

Participants list

6/30(Wednesday)

1430-1600	Ch 0 General Policy	BOFT, Ministry of Economic Affairs (MOEA)
	Ch 11 WTO Implementation	BOFT, Department of Custom Administration, Ministry of Finance (MOF)
1630-1730	Ch 13 Mobility of Business People	Bureau of Consular Affairs, Ministry of Foreign Affairs (MOFA)

Chapter 0 General Policy

Moderator and presenter: Frank LU, Section Chief, Multilateral Trade Affairs Division, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Chapter 11 WTO Implementation

Moderator and presenter: Frank LU, Section Chief, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Participant: Mr. Chun-Wu YANG, Section Chief, Department of Custom Administration, MOF,

Ch 13 Mobility of Business People

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: Mr. Colin KAO, Chief of First Section, Visa Division, Bureau of Consular Affairs, Ministry of Foreign Affairs (MOFA),

7/1 (Thursday) Participants list

0900-1000	Ch 1 Tariffs	Department of Custom Administration, MOF Directorate General of Customs, MOF Council of Agriculture Industrial Development Bureau, MOEA
1030-1130	Ch 2 Non-tariff Measures	BOFT
1330-1430	Ch 3 Services	BOFT and relevant service sector institutions
1500-1600	Ch 4 Investment	Industrial Development and Investment Center, MOEA Investment Commission, MOEA Land Administration, Ministry of the Interior (MOI), Council for Economic Planning and Development, Commission of National Corporations, MOEA, Council of Labor Affairs, Commerce Department, MOEA
1615-1715	Ch 5 Standards & Conformance	Bureau of Standards, Metrology and Inspection, MOEA Department of Health Directorate General of Telecommunications, Ministry of Transportation and Communications (MOTC) Commerce Department, MOEA

Ch 1 Tariffs

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: Ms. Lillian L.Y. HSIEH, Senior Specialist, Department of Custom Administration, MOF,

Participantes:

Mr. Buhu-Shin BAU, Section Chief, Department of Custom Administration, MOF; Ms.

Yi-Chen TSAI, Staff, Department of Custom Administration, MOF ;

Mr. Ching-Long JSENG, Senior Auditor, Directorate General of Customs, MOF ; Mr.

Billy SHYU, Secretary, Directorate General of Customs, MOF

Council of Agriculture

Industrial Development Bureau, MOEA

Chapter 2 Non-tariff Measures

Moderator and presenter: Frank LU, Section Chief, Multilateral Trade Affairs Division, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Participant: Ms. Hsu-Sung LU, Export/import Administration Division, BOFT
 ; Mr. Hou-Ding AN, Specialist, BOFT
 Council of Agriculture;
 Mr. James YANG, e-Commerce Task Force, BOFT;

Chapter 3 Services

Moderator and presenter: Frank LU, Section Chief, Multilateral Trade Affairs Division, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Participants:

Mr. Kung-Chun LIU, Council of Labor Affairs; Mr. CHEN, Dr. Sophie H. CHOU, Section Chief, Ministry of Finance ; Mr. Ray CHEN, Assistant Director General, Insurance Bureau, Financial Supervisory Commission ; Mr. Li-Chun Wang, Section Chief of the Bureau of Monetary Affairs, Financial Supervisory Commission; Mr. Elbert Tsu-Chi YEH, Section Chief, Public Construction Commission ; Mr. Cheng-Ping TSAI, Officer ; Mr. Yu-Hsing HO, Engineer ;

Ms. Judy Fang, Executive Officer, International Affairs Division, Tourism Bureau
 Ministry of Transportation and Communications, Ms. Huei-Wen HSU, Senior Commissioner, Ministry of Education;

Mr. Jin-Chung WANG, Executive Officer, Department of Railways and Highways of
 Ministry of Transportation and Communications ;

Director Jin-Sheng SU, Energy Commission; Ms Corenna Shu-Hwei TSENG, Section
 Chief, Energy Commission

Ms. Vivien WANG, Director, General Planning Department, Directorate General of
 Telecommunications, Ministry of Transportation and Communications
 (MOTC) ; Mr. Yun-Ti Yeh, Senior Specialist, General Planning Department, Directorate
 General of Telecommunications, Ministry of Transportation and Communications
 (MOTC); Ms. Mei-Man Lu, Specialist, General Planning Department, Directorate General
 of Telecommunications, Ministry of Transportation and Communications (MOTC)

Chapter 4 Investment

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: David, C. H. Wang, Deputy Director General of Industrial Development and Investment Center, MOEA

Participants: Mr. Yao Hung Hsu, Specialist ; Mr. Stefan C.W. LIN ;

Ms. LAN, Commerce Department, MOEA ;

Mr. YANG, Commission of National Corporations, MOEA ;

Ms. Yu-Lin LEE, Industrial Development Bureau, MOEA

Investment Commission, MOEA ; Land Administration, Ministry of the Interior (MOI) ; Council for Economic Planning and Development ; Council of Labor Affairs

Chapter 5 Standards & Conformance

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: Mr. Ann-Chu CHUNG, Deputy Director, Bureau of Standards, Metrology and Inspection, MOEA

Participants: Mr. Ming-Shan CHEN, Section Chief; Ms. Hsiu-Chen LEE, Technical Specialist; Mr. Hung-Ju WANG, Associate Technical Specialist; Ms. Ying-Ching SU, Officer;

Dr. Shu-Jean TSAI, Section Chief, Bureau of Food and Drug Analysis, Department of Health ; Dr. Hsin-Tang LIN, Senior Scientist, Bureau of Food Safety, Department of Health

Ms. HSU, Commerce Department, MOEA

Mr.Hsi-Lan Hsu, Deputy Director, General Planning Department, Directorate General of Telecommunications, Ministry of Transportation and Communications (MOTC);Mr.Gin-Shian Lou, Senior Engineer, Chief Engineer Office, Directorate General of Telecommunications, Ministry of Transportation and Communications (MOTC);Mr. Yun-Ti Yeh, Senior Specialist, General Planning Department, Directorate General of Telecommunications, Ministry of Transportation and Communications (MOTC)

7/2(Friday) Participants list

0900-1000	Ch 6 Customs Procedures	Directorate General of Customs, MOF Department of Custom Administration, MOF Taiwan External Trade Development Council Intellectual Property Office, MOEA, BOFT
1015-1115	Ch 7 Intellectual Property	Intellectual Property Office, MOEA Directorate General of Customs, MOF Department of Health
1130-1230	Ch 8 Competition Policy	The Fair Trade Commission Council for Economic Planning and Development
1330-1500	Ch 9 Government Procurement	Public Construction Commission
	Ch 12 Dispute Mediation	BOFT The Arbitration Association of R.O.C.
1510-1600	Ch 10 Deregulation	Center for Economic Deregulation and Innovation, Council for Economic Planning and Development Energy Commission, MOEA
1600-1630		Visit Taiwan Institute of Economic Research (Chinese Taipei APEC Study Center)
1630-1800	Meeting with Scholars	APEC Study Center MOFA, BOFT

Chapter 6 Customs Procedures

Moderator: Dr. William WANG, Deputy Director, Department of Clearance Operations, Directorate General of Custom, MOF

Presenter: Mr. Yung-chieh LIEN, Section-chief, International Affairs, Dept.of Clearance Operation

Participants: Mr. Ching-Long JSENG, Senior Auditor ; Ms. Ming-chu LIU, Section-chief ; Ms. Ling-hwei LIN, Secretary ; Mr. Jen-chih HSU, Section-chief ; Mr. Fu-lai CHIEN, Section-chief ; Ms. Pao-hua CHENG, Editor Ms. Ming-yu WEI, Auditor; Mr. Mujung CHEN, System Analyst; Mr. Billy SHYU, Secretary

Ms. Shwu-Jane SU, Section Chief, Department of Custom Administration, MOF ; Mr. Chung-Wu YANG, Section Chief, Department of Custom Administration, MOF

Mr. Bennet W.B. Chen, Director, External Affairs and General Planning Department, Intellectual Property Office, MOEA

Mr. James YANG, e-Commerce Task Force, BOFT

Taiwan External Trade Development Council

Chapter 7 Intellectual Property

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: Mr. Jack W.S. Lu, Deputy Director General, Intellectual Property Office, Deputy Director General, MOEA ; Mr. Bennet W.B. Chen, Director, External Affairs and General Planning Department, Intellectual Property Office, MOEA ; Ms Margaret Chen, Director, Copyright Department; Mr. Sheen-Yan Torn, Deputy Director, Patent Department I , Intellectual Property Office; Ms. Shu-Ying Lin, External Affairs and General Planning Department, Intellectual Property Office

Ms. Ming-chu LIU, Section-chief, Department of Clearance Operations, Directorate General of Custom, MOF ; Ms. Ling-hwei LIN, Secretary Dr. CHIU, Department of Health,

Chapter 8 Competition Policy

Moderator: Kien-Chi LIEN, Deputy Executive Director, APEC Task Force, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter: Ms. Liming CHIANG, Director of The Fair Trade Commission ; Mr. Ning YEH, Section Chief , Mr. Tsung-Yu HSU, Inspector
Council for Economic Planning and Development

Chapter 9 Government Procurement

Moderator: Frank LU, Section Chief, Multilateral Trade Affairs Division, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Presenter : Mr. Ming-Tong SU, Deputy Director, Public Construction Commission; Mr. Elbert Tsu-Chi YEH, Section Chief; Mr. Chieh-Li Pai, Specialist; Ms. Josephine Hsien-Li Chen, Assistant researcher; Ms. Kuan-Chu Chen, Systems Analyst

Chapter 12 Dispute Mediation

Moderator and presenter: Frank LU, Section Chief, Multilateral Trade Affairs Division, Bureau of Foreign Trade, Ministry of Economic Affairs, MOEA.

Participants:

Ministry of Justice

The Arbitration Association of R.O.C.

Mr. Yao Hung HSU, Specialist, Industrial Development and Investment Center, MOEA ; Mr. Stefan C.W. LIN, Specialist

Chapter 10 Deregulation

Moderator: Ms. Connie CHANG, Deputy Director, Center for Economic Deregulation and Innovation, Council for Economic Planning and Development

Presenter: Jennifer Fang-Yu Huang, Officer, , Center for Economic Deregulation and Innovation, Council for Economic Planning and Development

Participant: Director Jin-Sheng SU, Energy Commission, MOEA; Ms Corenna Shu-Hwei TSENG, Section Chief, Energy Commission

Discussant's Remarks
APEC IAP Peer Review for Chinese Taipei

General Comments

It is an honour to serve as the Discussant for the APEC IAP Peer Review for Chinese Taipei. The IAP process is a core element of the APEC cooperative process and the IAP Peer Review process is an important building block for the 2005 Mid-Term Stocktake of APEC's collective progress towards the Bogor Goals. It is also a special privilege for this Discussant, who is from Thailand, to provide policy-oriented remarks in the context of the IAP Peer Review for Chinese Taipei, as both economies are neighbours by APEC protocol order.

The APEC cooperative process has been an excellent tool for Chinese Taipei to engage internationally. Indeed, the APEC process provides the advantage of economies of scale for any member economy. However, this advantage is accentuated in the case of Chinese Taipei. It is a credit to APEC that Hong Kong, China and Chinese Taipei participate amongst the other economies in APEC. However, the breadth and depth of Chinese Taipei's participation in APEC is a credit to itself.

Although APEC is important for Chinese Taipei, the APEC process, as it stands, is insufficient to take Chinese Taipei to where it wants to be. That is, to further diversify its trade and investment and avoid over dependence on China. I will revisit this a little later.

Much or even most of the positive changes in Chinese Taipei's economy has been achieved through reform and restructuring due to the financial crisis of the late 1980s and its membership of the WTO. While this begs the question of how much of Chinese Taipei's liberalisation is APEC-driven, one must also realize that action taken by APEC members in the WTO context, are legally binding commitments. Furthermore, plenty of APEC member economies choose only to reflect their own WTO commitments in their IAPs. Open regionalism is an APEC principle, but like the Bogor Goals, APEC member economies will have to sit down one day in the future to talk through the commitment that open regionalism entails and define the Bogor Goals in more precise terms. The 2005 Mid-Term Stocktake could be such an opportunity.

In this context, a point that I note from the Expert's Study Report is that in the WTO, Chinese Taipei's status is that of a developed Contracting Party, while in APEC, Chinese Taipei opts for a developing member economy status. We all know that the entrance fee for newer members to the WTO rises by the day and Chinese Taipei's status in the WTO is a result of its tough accession negotiations. Nevertheless, its choice of developing member economy status in APEC means that this economy is aiming for free and open trade only by 2020. As with all developing economies in APEC, the 2020 Bogor Goal means "by 2020". I also note with interest that unlike other IAP Peer Reviews, the Expert's Study Report does not make the call as to whether Chinese Taipei is on track to meeting its 2020 Bogor Goal. Nevertheless, I would venture to say that, based on performance to date and trends, Chinese Taipei should be well on track. One important determinant would be the shape and form of its economic relationship with China, or more accurately how it is able to deal with the concern of being economically over dependent on China, its main economic partner. I will return to this point later.

To conclude that because Chinese Taipei's IAP does not offer much that is beyond its WTO commitments, Chinese Taipei's contribution to APEC is consequently small, would be unfair. Chinese Taipei, together with economies like Japan and Korea, has been at the forefront of leveraging the use of information and communications technology for the creation of knowledge-based economies in APEC. Chinese Taipei's contribution to IT education and paperless trading are particularly noteworthy. Chinese Taipei also plays an active role in the areas of science and technology, health and youth. It is my view that Chinese Taipei maximises the cooperative aspects of its APEC membership quite effectively.

Chinese Taipei's trade and investment horizon is dominated by its special relationship with China. For various reasons, Chinese Taipei is insecure about the prospects of this economic interdependence growing even further. There are two points that need to be made here. First, that Chinese Taipei's trade and investment measures are more restrictive than they need to be due to this factor. Second, Chinese Taipei is trying to diversify and deepen its economic relations with others. Worthy of note is the fact that trade relations with ASEAN member economies have grown. However, the dominant partner by far remains China. There is a natural attraction.

One aspect of Chinese Taipei's policy of diversifying its trade and investment relationship is its interest in pursuing FTAs with its trading partners. Based on the Expert's Study Report, Chinese Taipei has concluded an FTA with Panama, which came into force on 1 January 2004. The impact of the FTA is probably more symbolic than real. However, Chinese Taipei is also pursuing FTAs with other trading partners across the globe. We are all probably aware of the political complications involved, which has to be resolved prior to this avenue of cooperation opening up fully for Chinese Taipei, but this is my own personal assessment. Nevertheless, APEC may yet come to the rescue once again. The APEC Business Advisory Council's interest in APEC pursuing a Free Trade Area of the Asia-Pacific (FTAAP) may afford Chinese Taipei an avenue for engaging other APEC member economies in an FTA-like way, possibly without political complications.

Specific Comments

I would now like to make some specific comments based on the Expert's Study Report.

Tariffs: Worthy of note is the fact that Chinese Taipei has gradually made ITA products duty-free as of 2002. This is a strategic policy in support of the goal of building a knowledge-based economy.

Non-Tariff Measures: While Chinese Taipei had made great strides in this area as part of its WTO membership, it still maintains high tariffs, tariff quotas and applies SPS measures on many import items, notably agricultural items.

Services: As a result of Chinese Taipei's restructuring, services will become the mainstay of Chinese Taipei's economy. Commendably, the service sector has been made more open, in particular the communications, financial, banking, energy and transport sectors. For the future, the Expert's Study Report emphasizes the need for standardisation, transparency and moving closer to national treatment.

Investment: Chinese Taipei aims to build its future on being open to emerging industries, build on growth industries and become an Internet-linked global logistics center. All relevant information on Chinese Taipei's investment regime can be found at its "Investment and Technology Transfer Information System" website.

Customs Procedures: Facilitated customs procedures are a key policy strategy towards Chinese Taipei becoming an Internet-linked global logistics center.

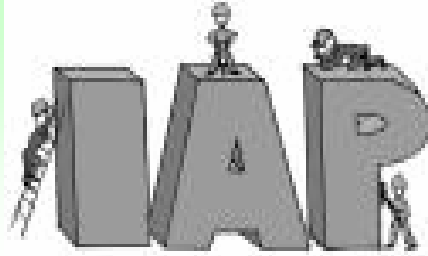
Intellectual Property Rights: All emerging economies with IPR to protect, recognise the importance of IPR protection. Chinese Taipei is no different. As with other economies, public awareness and enforcement are key operational issues. Within APEC, Chinese Taipei chairs the Intellectual Property Experts' Group.

Structural Reform, Deregulation and Competition Policy: Monopolised sectors such as the liquefied petroleum gas, telecommunications, petroleum and electricity markets have been extensively liberalized. Continued privatisation is taking place at an advanced pace. The Expert's Study Report indicates that, as of 2003, 49 state-run enterprises have either been privatised or closed.

Government Procurement: Chinese Taipei is trying to accede to the WTO Agreement on Government Procurement.

Conclusion

In summary, the IAP Peer Review of Chinese Taipei confirms that it has implemented policies that have been good for its own economy and that the future direction is good. WTO and APEC membership have been good for Chinese Taipei. Some problems remain in the agricultural sector with tariffs and non-tariff measures. Like most economies, the agricultural lobby is relatively small, but is disproportionately strong. Complaints against SPS measures also need to be considered against the island nature of Chinese Taipei. Like Korea and Singapore, Chinese Taipei is a worthy example for other emerging economies of the region to follow. This applies in terms of reform, restructuring and opening-up the economy to foreign competition. Chinese Taipei is a good example in terms of building the foundations for a knowledge-based service economy through strategic policies that promote IT services and industries, and cultivate innovation through intellectual property protection. Chinese Taipei is also an example in terms of using IT for trade facilitation, particularly in terms of paperless trading. I congratulate Chinese Taipei for its achievements and wish it well in pursuing its future goals.



IAP Peer Review Chinese Taipei

October 2, 2004

Santiago, Chile

Contents

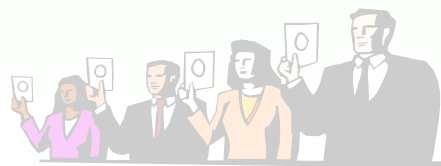
I. Review of Chinese Taipei's Economic Performance

2003~2004

II. Trade and Investment Development of Chinese

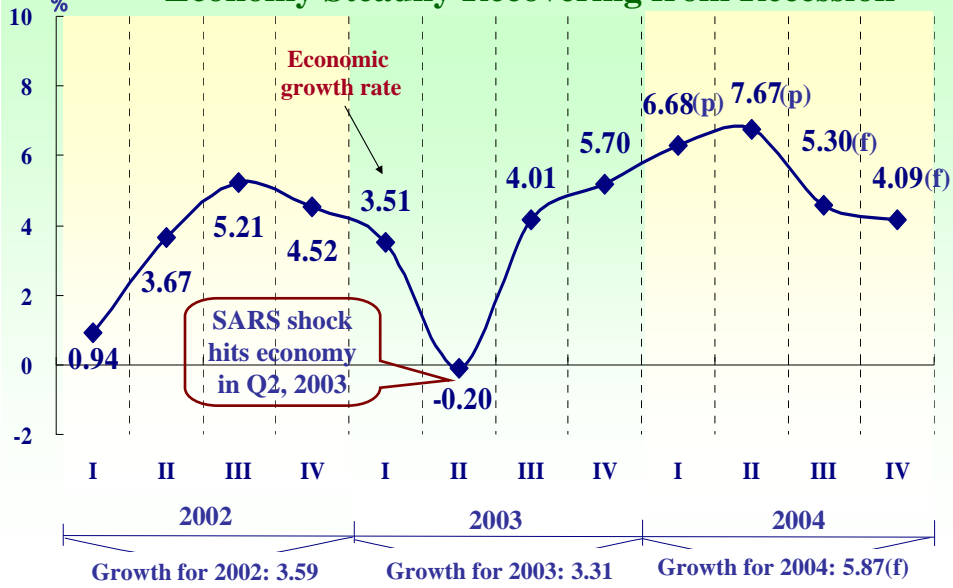
Taipei with other APEC Economies

III. Chinese Taipei's Efforts Towards Bogor Goals

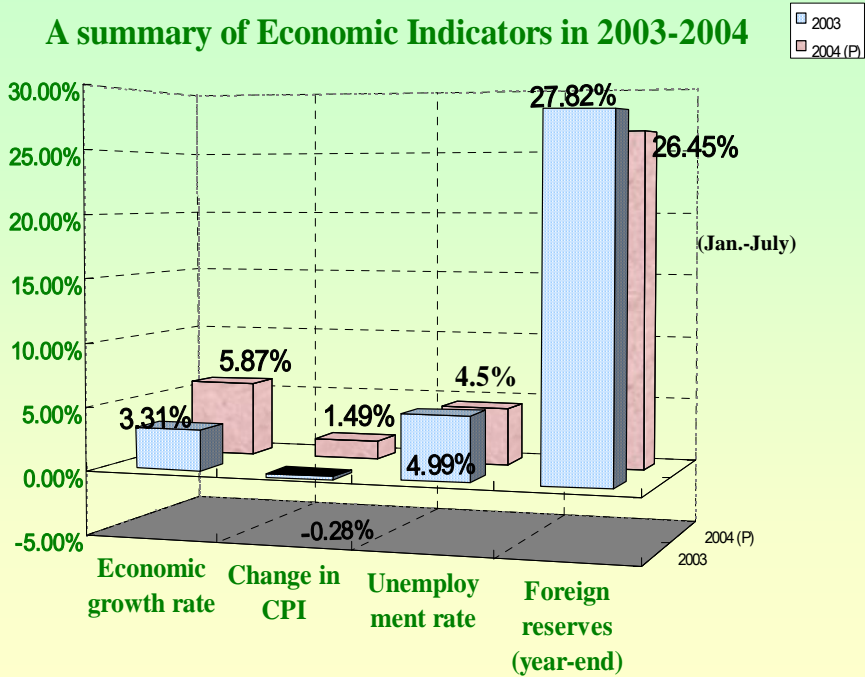


I. Review of Chinese Taipei's Economic Performance in 2002~2004

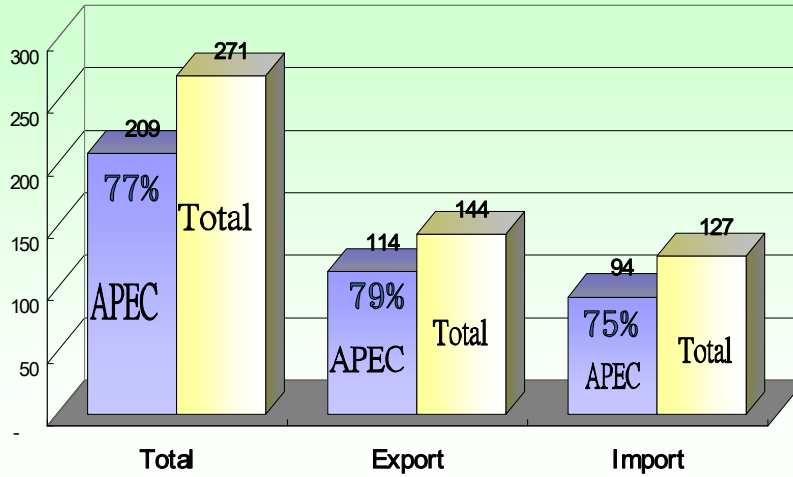
Economy Steadily Recovering from Recession



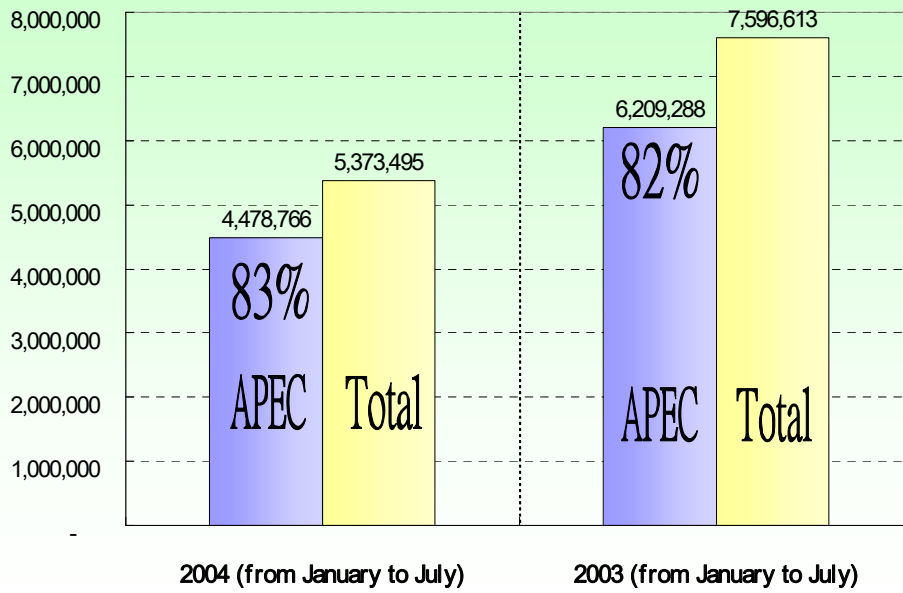
A summary of Economic Indicators in 2003-2004



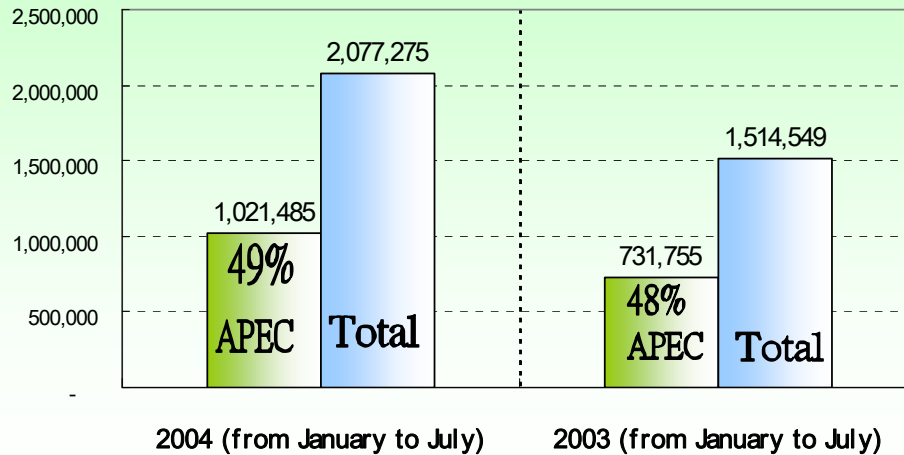
Statistics of Export/Import in 2003 unit: US\$ billion



Chinese Taipei Outbound FDI unit: US\$ thousand



Chinese Taipei Inbound FDI unit: US\$ thousand



©Economic Structure

Item	1985	1990	1995	1999	2000	2001	2002	2003
Structure of Demand % of GDP at current prices								
Private consumption	51.0	54.8	58.8	60.7	61.9	63.6	63.1	62.8
Government consumption	16.1	17.2	14.2	13.2	12.9	13.0	12.6	12.8
Gross domestic capital formation	19.1	23.1	25.3	23.4	22.9	17.7	16.9	17.2
Exports of goods and services	54.2	46.8	48.0	48.3	54.4	50.9	53.8	58.1
Imports of goods and services	40.4	41.8	46.3	45.5	52.1	45.2	46.4	50.9
Structure of Output % of GDP at current prices								
Agriculture	5.8	4.2	3.5	2.6	2.1	1.9	1.9	1.8
Industry	46.3	41.2	36.4	33.2	32.4	31.1	31.0	30.4
Services	47.9	54.6	60.1	64.3	65.5	67.0	67.1	67.8
Savings and Investment % of GDP at current prices								
Gross domestic saving	32.5	27.6	25.9	25.4	24.4	22.4	23.4	23.5
Gross national saving	34.1	30.0	27.5	26.3	25.8	24.4	26.0	26.8
Gross domestic capital formation	19.1	23.1	25.3	23.4	22.9	17.7	16.9	17.2

II. Trade and Investment Development of Chinese Taipei with other APEC Economies

Indicator	2002	2003
Exports	US\$130.6 billion (up 6.3%)	US\$144.2 billion (up 10.4%)
Imports	US\$112.5 billion (up 4.9%)	US\$127.3 billion (up 13.1%)
Foreign direct investment (total)	US\$3.27 billion (down US\$1.86 billion)	US\$3.58 billion (up US\$0.31 billion)

Chinese Taipei Trade with APEC Economies

- Chinese Taipei had US\$209.23 billion in total (two way) trade in goods with APEC economies during 2003, up 10.62% from 2002. Two-way trade from APEC economies account for 77% of overall Chinese Taipei trade in goods in 2003.
- Our five largest APEC trade partners are:
 1. Japan (US\$44.54 billion)
 2. U.S. (US\$42.76 billion)
 3. China (US\$32.38 billion)
 4. Hong Kong, China (US\$30.08 billion)
 5. Korea (US\$13.26 billion)



Chinese Taipei Trade with APEC Economies

Goods Imports

- **Chinese Taipei goods imports from APEC economies totaled \$94.8 billion in 2003, up 6.98% from 2002. Imports from APEC economies accounted for 75% of overall Chinese Taipei imports in 2003.**
- **The five largest APEC suppliers of imports:**
 1. Japan (US\$32.63 billion)
 2. U.S. (US\$16.82 billion)
 3. China (US\$10.96 billion)
 4. Korea (US\$8.69 billion)
 5. Malaysia (US\$4.75 billion)



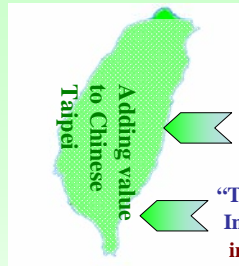
Chinese Taipei Trade with APEC Economies

Goods Exports

- **Chinese Taipei goods exports to APEC economies totaled \$114.4 billion in 2003, up 10.29% from 2002. Exports to APEC economies accounted for 79% of overall Chinese Taipei exports in 2003.**
- **The five largest APEC destinations of exports:**
 1. Hong Kong, China (US\$28.35 billion)
 2. U.S. (US\$25.94 billion)
 3. China (US\$24.41 billion)
 4. Japan (US\$11.91 billion)
 5. Singapore (US\$4.98 billion)



Chinese Taipei's Investment Environment among World's Best



Attracting international business investment of **NT\$100 billion**

“Taiwan First” Investment Incentive Program: investment of at least **NT\$1.2 trillion annually**

50 economies evaluated	Singapore	Chinese Taipei	Japan	U.S.A.	South Korea	China
Overall Ranking (Rating)	2 (1A)	4 (1A)	4 (1B)	10 (1A)	19 (1C)	19 (1C)
Business operation risk	2	4	15	7	25	25
Political risk	2	12	15	9	23	20
Foreign exchange risk	4	3	1	16	10	11

Source: Council for Economic Planning and Development, Chinese Taipei

Note: Business Environment Risk Intelligence (BERI) expects Chinese Taipei's investment environment to be even better five years from now.

Tariffs

- **Chinese Taipei's Approach to Tariffs in 2003:**

Based on HS, and 98% of the Schedule is on ad valorem basis.

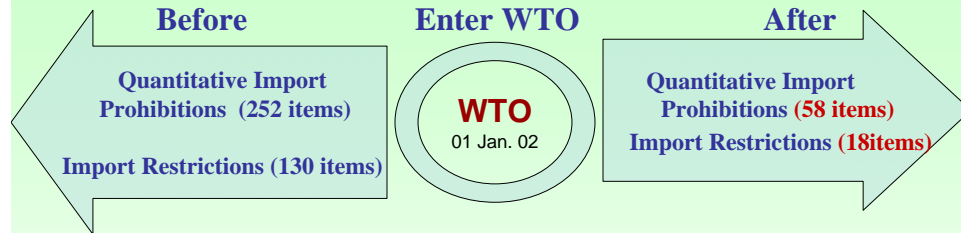
- **Three Columns of Tariffs in 2004:**

First	WTO members, countries or areas with whom we have reciprocal treatment
Second	specified least developed countries (LDC) or developing countries/areas have signed FTA with Chinese Taipei
Third	Applied to goods not subject to the first column and the second column

- **Tariff Liberalization Following the Bogor Declaration: Outcome**

Amended the Schedule; finished the implementation of Chinese Taipei's commitments to the Ministerial Declaration on Trade in ITA products; implemented concession commitments for accession to the WTO.

Non-Tariff Measures



- **Tariff Rate Quota (effective upon WTO accession)**
 - 24 Categories (23 Agricultural + 1 Industrial)
 - 200 items at HS-10 digit level (174 Agricultural + 26 Industrial)
 - 01 Jan. 2005 Phase-out Categories: chicken, pork belly, red meat offal, and poultry offal
 - 2008 Phase-out Categories: mackerel, carangid, sardines and persimmons.
 - 2010 Phase-out Categories: passenger cars, passenger car chassis.

Chinese Taipei's Efforts on Trade in Services

Liberalization

- As a newly acceded Member of the WTO since 2002, Chinese Taipei has been participating actively in the WTO Doha Round negotiations and is contributing to further liberalization of services trade and multilateral rule-making.
- We adhere to the Doha Declaration and submit our services initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003. Our performance is evident in our strong support during on-going WTO negotiations.

Chinese Taipei's Efforts on Trade in Services Liberalization

- **In our initial offers, we proposed to expand commitments under the GATS on market access and national treatment in Computer and Related Services, Telecommunication Services, Audiovisual Services and Maritime Transport Services.**

Investment (1)

- **General Policy Framework**

Based on “Statute for Investment by Foreign Nationals”, a foreign investor may establish a company or proprietary business; the Statute is continuously reviewed and revised to keep up with a globalized world.

- **Transparency**

The Administrative Procedures Law enhances administrative behavior and improves administrative performance in terms of speed and simplifying of procedure. An “Invest in Taiwan” website was set up to provide comprehensive and up-to-date investment-related information.

- **Non-discrimination**

Chinese Taipei abolished the maximum quota limit of US\$3 billion on QFIIs and the limited two-year validity period of QFIIs' approved quotas.

Investment (2)

- **Expropriation and Compensation**

Foreign investors who own 45% or more of the capital amount of an enterprise are not subject to expropriation.

- **Protection from Strife and Similar Events**

Investment protection agreements have been signed with 28 economies (8 APEC members).

- **Transfers of capital related to investments**

Direct investments and portfolio investments (have been liberalized)

- **Avoidance of Double Taxation**

Agreements for the avoidance of double taxation have been signed with 17 economies (8 APEC members).

Investment (3)

- **Performance Requirements**

Local-content requirements for automobiles and motorcycles sectors have been abolished; no performance requirements exist.

- **Entry and Stay of Personnel**

Chinese Taipei joined the APEC Business Travel Card (ABTC) Scheme on May 1, 2002; a one-stop center for hiring foreign professional employee was set up on Jan 15, 2004.

Standards and Conformance

- **Alignment of Chinese National Standards(CNS) with International Standards;**
- **Participation in the Recognition Arrangements of Conformity Assessment;**
- **Participation in Special Regional Bodies Activities;**
- **Promote Cooperation for Technical Infrastructure;**
- **Information on Standards and Conformance in Chinese Taipei available at <http://www.bsmi.gov.tw>**

Customs Procedures (1)

Implement various trade facilitation initiatives to establish a barrier-free environment for international trade.

- **Cargo Clearance Automation**

Implement a fully automated cargo clearance system since 1995.

Utilize UN/EDIFACT model.

The average clearance time is 0.256 hours for air cargo and 1.829 hours for sea cargo.

- **Pre-entry Clearance System**

Import cargo can be released upon arrival without being warehoused.

Customs Procedures (2)

- **Consolidated Clearance System**

Ninety-nine business firms are approved by the Customs to implement the Consolidated Clearance System.

Duty payment can be made on a monthly basis.

- **Advanced Ruling on Tariff Classifications**

Importers can know tariff classifications and duty rates prior to importation.

Customs On-line Services

More than 50 items of web-based application services regarding importation/exportation, duty drawbacks, etc. are provided.

Customs Procedures (3)

- **One-stop services**

Around-the-clock services are provided for all express consignments and cargoes that need to be released alongside aircrafts or ships.

- **Express Consignment Clearance**

The ceilings of import customs value and export F.O.B. value for low-value express consignments are raised to US\$1470.

Express carriers established strategic partnership with the Customs can examine express consignments on their own.

The estimated aggregate transaction cost reduced for local express industries in 2003 was about US\$760,000.

Intellectual Property Rights (1)

- **General Policy**

Establish a healthier IP environment; 2002 IPR Action Year; 3-year Action Plan 2003 - 2005

- **TRIPS Implementation**

Current laws fully consistent with the requirements set out by TRIPS.

- **Expeditious Granting of IP Rights**

Measures to accelerate the IPR application process:

Amendment to Trademark Act (May 28, 2003), Patent Act (February 6, 2003), Copyright Act (July 2003/August 2004), early disclosure of invention patents system, fee reduction for application of re-examination, website of Patent Network: patent-related information and online search, establishment of E-filing system.

Intellectual Property Rights (2)

- **Effective Enforcement**

Internal and Border Control

Enforcement Units

ACC: Planning & coordination of inspection/crackdown; analysis of results; coordination with local reps of right holders association; improve quality of inspection.

JODE: Inspections on OD Plants (94)

IETF: 220 policemen posted at 6 stations island-wide; inspections on night markets, retail shops, wholesalers.

- **APEC Cooperation on IP Issues**

- Convenor for APEC/IPEG from March 2002 – April 2004

- Strengthening cooperation with member economies on personnel

- training to enhance examination quality; holding seminars; and combating piracy and counterfeiting.

Intellectual Property Rights (3)

- **Public Education and Awareness of IP, enhanced IP user skills**

Major IPR Education Activities in Chinese Taipei:

Ten seminars on IPR border control operations (from March to June of 2003); four workshops on Anti-counterfeiting for judicial officers (from September to October of 2002); three training programs for Integrated Enforcement Task Force (IETF).

In line with the Protection of Intellectual Property Right Action Plan:

An educational promotional program on the ICRT radio station; promotional films on the electronic display board at CKS International Airport; information sessions on the newly amended Copyright Act and Trademark Act; promotional brochures on IPR protection.

Competition Policy

- **Reviewing and Revising of the Fair Trade Act**

The Fair Trade Commission (FTC) has devoted many resources competition policy work and is very keen to review and revise the Fair Trade Act.

- **Enhancement of Transparency**

An amendment to the Fair Trade Act entitles the party or interested person to apply for the right to read, copy, photocopy or photograph relevant data or records during the process of the investigatory procedure.

- **Regulatory Reform Initiative**

The FTC held ten consultation meetings with various ministries regarding laws and regulations that impede fair competition in the professions, civil aviation, shipping and the natural gas markets.

- **Technical Assistance Program**

The FTC cooperates with the OECD Competition Division to hold the “The International Competition Policy Cooperation Program” **annually** (since 1999), and extensive discussion with APEC economies.

Government Procurement Regime

- **Government Procurement Act** (effective May 27, 1999)
- **In conformity with the requirements of WTO/GPA**
- **Consistent with the APEC Non-binding Principles on Government Procurement**
- **Electronic Procurement System**

Government Procurement Information System (GPIS) available to the public at web-site

- **Bid Challenge System**
Complaint Review Board for Government Procurement (CRBGP)
- **WTO/GPA Accession Application**
Bilateral consultations concluded on December 9, 2002, pending accession.

Deregulation (1)

The establishment of the Financial Supervisory Commission (FSC)

The 3 main goals for establishing FSC:

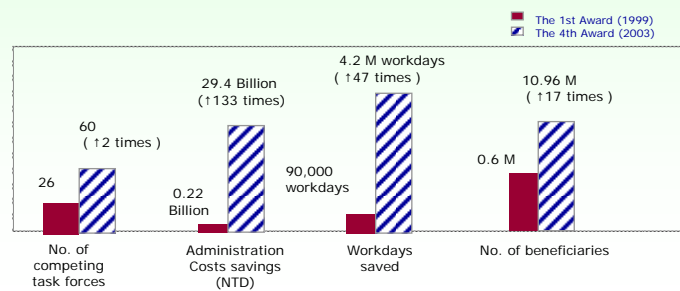
- (1) To enhance the independence of financial supervision
- (2) To focusing on expertise and professional capability of financial supervision
- (3) To strengthen the effectiveness of financial supervision

Deregulation (2)

The Golden Axe Awards: An Incentives-based Approach:

Four different categories of competition:

- (1) Administration reengineering
- (2) Deregulation and innovation
- (3) Attracting investments
- (4) Cross-agency cooperation



Business Mobility (1)

- **Enhancing trade and investment liberalization in the Asia-Pacific**

Nationals of **31** countries (including **9** APEC economies) are eligible for the visa-exempt program for a temporary stay of 30 days. Nationals of three countries are eligible for the landing visa program for a temporary stay of 30 days.

Chinese Taipei joined the APEC Business Travel Card (ABTC) Scheme in August 2001; operation commenced on May 1, 2002. Under this Scheme, cardholders can enter and stay in Chinese Taipei for 90 days. Sign-posted ABTC lanes are available at the international airports.

Business Mobility (2)

- **Intensifying Asia-Pacific Development Cooperation**

Chinese Taipei supports efforts in APEC to improve document examination and professional service standards, and has sent officials to related training activities. APEC's training kit has been used as the textbook to train relevant immigration officials.

- **Enhancing the use of information and communications technology (ICT) to facilitate the movement of people across borders**

Chinese Taipei's visa information and application forms are available at

http://www.coca.gov.tw/~boca2000/en/visalaw_e.htm

Chinese Taipei has regularly updated its online entries in the APEC Business Travel Handbook at

<http://www.businessmobility.org/travel/index.asp>

Questions and Comments by APEC Member Economies on Chinese Taipei's IAP

CHAPTER 0. General Policies

(New Zealand)

Chinese Taipei has joined the WTO as a developed economy. This suggests that Chinese Taipei is, like New Zealand, working towards the achievement of the Bogor Goals of free and open trade and investment by 2010. We note that WTO accession has seen Chinese Taipei make good progress towards the achievement of these goals.

Q1- What further specific action beyond the WTO process is Chinese Taipei planning to meet the achievement of free and open trade and investment by 2010?

Chinese Taipei Response

Chinese Taipei joined the WTO as a developing economy. Please see the attachment for detailed explanation. (Attachment A)

Chinese Taipei will support the consideration of open markets and free trade being made in the WTO new round of negotiations, provided that this is also done while paying equal attention to the issue of the relationship between trade liberalization and sustainable development (as in fisheries).

1. In the area of tariff reductions:
Before accession, the average level of tariff on imports of industrial and agricultural products stood at 5.94% and 19.33% respectively. In 2004 (the third year after accession), these rates were reduced to 4.19% and 13.30% respectively. Following the completion of all the scheduled tariff reductions (2011), the average tariff level on industrial and agricultural products will be reduced further to 4.06% and 12.84% respectively.
2. In the area of non-tariff measures:
 - a. Agricultural sector: Chinese Taipei has eliminated area restrictions for more than 10 agricultural products and adopted a tariff quota regime for 23 items, including rice and fishery products.
 - b. Industrial sector: Chinese Taipei has removed area restrictions on the import of automobiles, replacing them with tariff-rate quotas. We have also removed local content requirements on the domestic production of automobiles and eliminated all discriminatory subsidies.
 - c. Services sector: In accordance with Chinese Taipei's bilateral accession negotiations with WTO Members, Chinese Taipei has liberalized eleven sectors, including the financial services sector.

To streamline our customs procedures, we have been devoting ourselves to meeting the principles of the revised Kyoto Convention by amending our Customs Law and related regulations. We have also been doing our best to build up a full paperless environment for cargo clearance by introducing cutting-edge information and communication technologies. We are convinced that these ongoing efforts will help us achieve the Bogor Goals.

Beyond the WTO process, we are also undertaking trade facilitation programs, primarily the "Barrier-Free Customs Clearance Plan," which includes the establishment of a trade facilitation computer network, improving the operational environment of customs clearance,

and installing an information network for airports and harbors. This Plan will be implemented in two phases, the first starting in 2002 and scheduled for completion in 2005. The work in the first phase will be mostly simplifying the relevant documentation and streamlining the procedures. The second phase will include installing the system that will function as a platform for trade information exchange, making domestic trade-related operations paperless, and linking them internationally. The current status of this Plan is detailed in the 2003 IAP. (Attachment B)

CHAPTER 1. Tariff

(Australia)

Q1 - What, if any, plans are in place to reduce the distortionary tariff peaks in the areas of Agriculture, Fish Products (greater than 20%) and Transport Equipment (15 to 20%)?

It is noted that Chinese Taipei has committed to phase out of its TRQs for passenger motor vehicles by 2010.

Chinese Taipei Response

Tariff on agricultural and fishery products has already been greatly reduced after our WTO accession. Some imported products still under regulation are being liberalized in accordance with WTO regulations, or TRQ has been adopted for them. As for plans to lower tariffs in agricultural and fishery products in the future, Chinese Taipei will handle this in accordance with decisions made in the WTO new round.

Chinese Taipei is scheduled to reduce our tariff on motor vehicles (passenger cars and light commercial vehicles) according to our commitments to the WTO at the time of accession in 2002, as per the attachment. (Attachment C)

(Hong Kong, China)

Comment1 - We appreciate that Chinese Taipei has bound all tariff lines at an average rate of 6.32% which is relatively low among APEC member economies. We note however that tariff quotas are applied for more than 20 agricultural products and two industrial products. While Chinese Taipei has committed to abolishing some tariff quotas in 2005, 2008 and 2010, we encourage Chinese Taipei to critically review the need of all the tariff quotas with a view to their early elimination.

We also encourage Chinese Taipei to change all specific and compound duties to ad valorem tariffs, in order to improve the transparency and predictability of the tariff regime.

Chinese Taipei Response

Chinese Taipei will handle such issues in accordance with decisions made in the WTO new round.

(New Zealand)

Q2 - When the tariff schedule is reviewed, will there be a public process of submissions and consultations? Will importer and consumer interests be given the opportunity to present their views?

Chinese Taipei Response

We invite all related firms, industry associations and government agencies to review our tariff schedule, taking into account the liberalization and facilitation of international trade and the needs of domestic industries, importer and consumer interests.

On page one Chinese Taipei states that 98 percent of its tariffs are on an ad valorem basis. Later in the document in the APEC IAP Tariff Dispersion Table 8599 tariff lines are identified as being specific tariffs.

Q3 - We would be grateful for clarification - it appears that this table has the numbers out of order and is incorrect.

Chinese Taipei Response

We appreciate the correction from New Zealand, Chinese Taipei has provided the new “IAP Tariff Dispersion Table” as attached. Among the 8522 tariff lines in the table, 8,500 items are ad valorem and 22 items are specific duties. Therefore, 98% of the tariff lines are subject to ad valorem duties.(Attachment D)

Q4 - Does Chinese Taipei have any plans to convert remaining specific duties to ad valorem equivalents?

Chinese Taipei Response

There are 8,522 dutiable items in The Customs Import Tariff Schedule of Chinese Taipei, and more than 98% of the tariff lines are subject to ad valorem duties. In future reviews of its tariff system, Chinese Taipei will take into account the views of other members in this respect. As for the small number of agricultural products that are subject to specific duties, Chinese Taipei does not have any plan to make them subject to ad valorem equivalents, unless the WTO makes a decision in this regard in the new round negotiations.

(USA)

Q5 - Chinese Taipei signed a FTA with Panama in 2003. Tariff reductions are in line with WTO commitments. Please comment on how Chinese Taipei plans to handle TROs for rice.

Chinese Taipei Response

The tariff lines related to TRQs for rice are all excluded from the Tariff Reduction Schedule of the FTA between Chinese Taipei and Panama. Therefore the fact that Chinese Taipei signed an FTA with Panama has no influence over TRQs for rice. In other words, our policy on regulating rice imports are still based on the content of the document with which we informed the WTO of the FTA with Panama.

CHAPTER 2. Non-Tariff Measures

(Australia)

Q1 - Have Chinese Taipei's continued efforts to simplify trade administration procedures, to make import/export regulations and operating procedures more transparent, and to reduce the number of items for which application of import licence is required eventuated in a reduction of non-trade measures? What are the key examples of this?

Chinese Taipei Response

Liberalization and facilitation are goals that Chinese Taipei continues to pursue in its external trade policies. To reach the NTM liberalization goals that were set forth in the Bogor Declaration and Osaka Action Agenda, Chinese Taipei after its accession to WTO on 1

January 2002, has eliminated non-WTO-consistent non-tariff measures of import ban and quantitative and area restrictions or has administered them according to WTO principles. In addition, relevant government agencies will continue to simplify import procedures, enhance transparency of import/export regulations and procedures, reduce the number of items requiring import/export permit, and promote single window trade administration. Chinese Taipei will also continue to review remaining NTMs and study the feasibility of further liberalization.

To increase efficiency of trade administration, and speed up the clearance of goods through customs, Chinese Taipei is actively planning and promoting "Trade Facilitation Network" project and the establishment of operating systems hereunder. In the area of "Trade Administration" under the Project, it encompasses licensing application, inspection, quarantine, customs clearance, and port entry/exit visa. The system is expected to be fully functional before the end of 2005. After that time, businesses may file their applications by one single entry and have the information sent to all agencies in the process, without being hindered owing to the factors of time, place, on level of digitalization. Consequently, business transaction costs will also be reduced by 5%, there by meeting the goals set forth by APEC, and essentially achieve readiness of paperless trading by 2005. As part of this process, Chinese Taipei will advance further toward the goal of electronic standardized format, electronic application by one single entry, simplification/reduction of document requirement, and facilitation/standardization of inter-governmental licensing procedures.

(Hong Kong, China)

Comment1 - We appreciate Chinese Taipei's efforts in reducing NTMs upon its accession to the WTO on 1 January 2002. We are also pleased to see Chinese Taipei's commitments to make further improvements. In this regard, we look forward to seeing Chinese Taipei's early reduction or elimination of NTMs, particularly in the areas of "quantitative import restrictions/prohibitions" and "automatic import licensing".

Chinese Taipei Response

Please refer to our answer to Q1. Based on our WTO accession agreement, starting in 2005, items for which TRQ is applied, such as chicken meat, pork (pork belly), pork meat offals and chicken meat offals will be open to free import. Starting in 2008, TRQ for four fishery items—persimmons, mackerel, carangid and sardines—will be eliminated, and these products will be freely imported.

(New Zealand)

Q2 - Could Chinese Taipei please clarify the role of "technical committees" in the development of technical and SPS standards? What do these committees add to the work of relevant agencies applying international standards?

Chinese Taipei Response

As for technical regulation:

According to the Regulations for the Establishment of National Standards, the technical committees prepare the draft of national standards, provide comments and advice to draft national standards, review and decide the draft national standards in their final draft.

According to Article 12 of the Regulations for the Establishment of National Standards, the technical committees when reviewing draft national standards shall achieve the following objectives:

1. to reflect the domestic production capability and technology level;
2. to improve quality of products and enhance production efficiency;

3. to maintain a reasonable balance between production, use and consumption;
4. to conform to relevant international standards; and
5. to establish standards based on requirements in terms of performance rather than design or descriptive characteristics.

As for SPS standards in agriculture:

The “Plant Protection and Quarantine Advisory Committee” and “Animal Quarantine Advisory Committee” are established under the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ), COA. Their functions are to provide expertise on matters relating to the establishment or revision of the plant and animal protection and quarantine regulations, pest and import risk analysis, phytosanitary technology and measures, and other SPS issues respectively. No “Technical Committee” exists as described by New Zealand.

Chinese Taipei is following the WTO/SPS agreement and relevant international guidelines in the development of technical and SPS standards.

As for SPS standards in food:

The “technical committee” consists of experts from academy, research institute and NGO which in charge of providing technical information and suggestions for implementation and administration. This committee has no law related governing right.

(USA)

Q3 - NTBs are often a result of government bureaus setting unsupportable standards in pursuit of policy goals, or partially adopting global standards without consultation with industry. Please comment on how Chinese Taipei will reconcile fuel economy standards for large engine motorcycles with concerns that have been expressed by industry.

Chinese Taipei Response

Chinese Taipei is a densely populated island with limited natural resources, and 98% of the energy supply depends on imports. As energy plays a vital role in economic development, the government of Chinese Taipei has enacted the "Energy Management Law", which has been implemented as a mandatory energy policy. Article 15 of the Law stipulates that vehicles designated by the central competent authority, manufactured by local manufacturers or imported by merchants for domestic use should conform to the permit standards of energy consumption set up by the central competent authority.

The vehicle fuel economy regulation of Chinese Taipei was enacted based on an open and transparent S.O.P. Anyone concerned about this issue can get information from the Gazette of Chinese Taipei and express his or her opinion at the open hearing. The regulation has been enforced since 1988 and amended seven times, and it has also been promoted continuously. Here we would like to list the S.O.P. for enacting the regulation for reference as follows:

1. Consult with professional research institutes to evaluate international regulations and standards, and analyze the vehicle energy efficiency status of international and domestic markets.
2. Draft a feasible regulation for the local situation and achievable energy saving targets, and set a buffer time required for the adoption of the new regulation.
3. Discuss the preliminary regulation with vehicle-related association representatives of manufacturers and imported merchants.
4. Hold a draft regulation open hearing for the public to reconcile different opinions.
5. Announce the draft regulations in the Gazette for further comment.

6. Proclaim the regulation officially if there are no further comments required for reconciliation.

CHAPTER 3. Services

(Australia)

Business Services – Legal

Comment1 - Australia notes that Chinese Taipei places restrictions on qualified Australian lawyers practising their national law in Chinese Taipei. Australian lawyers with unrestricted practising certificates would have a right to practise law in all Australian States and Territories, including the right to appear before Courts.

However, Chinese Taipei imposes an additional five year experience requirement in relation to the practice of Australian law by Australian lawyers working in Chinese Taipei as Attorneys of Foreign Legal Affairs (AFLAs).

Australia is strongly of the view that it should be the lawyer's home country, and not the host country, that should determine whether a lawyer meets the knowledge, skill and experience requirements to practise his or her home country law on an unrestricted basis.

Australia requests that this additional five year experience requirement for recognition as an Attorney of Foreign Legal Affairs be removed.

Chinese Taipei Response

We open our door to foreign attorneys for the practice of law in Chinese Taipei in the hope that this will ensure the quality of their service. We also hope that their interaction with local law practitioners will spur the development of our attorney-at-law system and contribute to the improved quality of our legal service. Usually a multinational case is more complicated, so it is more proper to enlist the service of considerably experienced attorneys. For this reason, we open our door to experienced foreign attorneys only because they can provide the suing parties with better protection. Usually, an attorney with five years' experience can be considered as experienced. Some other countries, including Japan and China, have imposed similar restrictions based on the same considerations.

Transport Services

(Australia)

Air services

Q1 - What are the ownership/control requirements for airlines to be designated as a Chinese Taipei airline?

Chinese Taipei Response

According to Article 49 of Civil Aviation Act, a Chinese Taipei civil air transport enterprise shall be formed as a company organization. For a company limited by shares, at least two-thirds of its capital should be owned by Chinese Taipei citizens, and its board chairman and two-thirds of board directors should be Chinese Taipei citizens.

Q2 - With which countries is Chinese Taipei engaging in bilateral Air Service negotiations? What freedom rights does Chinese Taipei offer foreign entrants?

Chinese Taipei Response

Chinese Taipei engages in bilateral Air Services negotiations with any country before establishing aviation relations with it. Chinese Taipei offers foreign entrants navigation freedom rights in accordance with bilateral agreements, and some include fifth freedom rights.

(Canada)

Comment2 - Chinese Taipei characterises the management of foreign entry into this sector on the basis of "bilateral air services agreements". In the case of Canada, despite the fact that access has been obtained, no such formal agreement is in place.

Chinese Taipei Response

The air services relationship between Chinese Taipei and Canada is based on a bilateral agreement signed by competent organizations of both sides.

Road services

(Australia)

Q3 - What are the current restrictions on foreign entry into car rental services, truck transport services and container trucking services?

Chinese Taipei Response

Foreign investors are treated the same as domestic companies in this sector, and there are no special restrictions on foreigners.

(Mexico)

Q4 - Which are the main licensing and qualification requirements for road transport service providers?

Chinese Taipei Response

To apply for a license to establish a business as a road transport service provider, the applicant must first have adequate capital, number of vehicles, and a place to park them.

Q5 - Is there any limit to foreign investment in order to participate in the operation of car rental, truck transportation and container trucking services?

Chinese Taipei Response

Foreign investors are treated the same as domestic companies in this sector, and there are no special restrictions on foreigners.

Q6 - Is there any plan to modify domestic regulation of transport services to improve the operation and liberalization of this sector?

Chinese Taipei Response

Chinese Taipei's road transport services industry operates in a freely competitive market and is completely open to foreign investment. As for the road passenger transport services industry, a decision on whether to open this sector to foreign investment will be made after a review of market demand.

(USA)

Q7 - What are the qualifications for a company not incorporated in Chinese Taipei to get approval by the central highway authority to invest in trucking and container haulage services?

Chinese Taipei Response

These are stipulated in our Statute for Investment by Foreign Nationals.

Q8 - Are there any limits on the investment by an approved foreign company?

Chinese Taipei Response

According to our WTO commitments, we are committed to open our road transportation services industry to foreign investment, and there are no special restrictions on foreigners.

Q9 - Is a company incorporated in Chinese Taipei wholly owned by foreign persons or companies considered a Taiwan company?

Chinese Taipei Response

According to our WTO commitments, we are committed to open our road transportation services industry to foreign investment, and there are no special restrictions on foreigners.

Rail services

(Hong Kong, China)

Q10 - As set out in the IAP, foreign entity providing rail transport services must be in the form of certain types of legal entity and with regard to foreign investment by private institutions, the authority in charge may, as it may deem necessary on a case-by-case basis, re-set the foreign ownership restriction, without being subject to the existing regulatory restrictions on the foreign ownership as may be imposed under any other laws. However, we note that full commitments for the sector have been undertaken by Chinese Taipei under the GATS. Would Chinese Taipei advise on the compatibility of the applicable domestic regime with the full GATS commitments inscribed for the sector?

Chinese Taipei Response

Based on stipulations in our Railroad Law, there are no special restrictions on foreigners investing in and operating private railroad transport services. The regulation alluded to in the question seems to be the regulation encouraging private investment (including that of foreigners) in Chinese Taipei's public construction projects (including the building of railroads), with the concern being that a legal limit is placed on the ratio of foreign-held shares. The agency in charge may, as it may deem necessary on a case-by-case basis, make report to the Executive Yuan so it can consider raising the foreign ownership restriction.

(Mexico)

Q11 - It would be very useful to incorporate the main characteristics of the licensing and qualification requirements for rail transport service providers, or a website to check them out.

Chinese Taipei Response

We need more information to answer this question.

Q12 - Is there any restriction to the foreign investment participation in this sector?

Chinese Taipei Response

Our WTO commitments include opening rail services to foreign investment, and there are no special restrictions on foreigners (they are treated the same as domestic companies).

Energy services

(Mexico)

Q13 - It would be helpful to include a website to check the operational requirements for the oil and petroleum products, and electricity sectors.

Chinese Taipei Response

Information on the supply and demand data for the energy sector (including oil and petroleum products and the electricity sector) can be found on the website of the Energy Commission, Ministry of Economic Affairs (<http://www.moeaec.gov.tw>).

Q14 - According to the foreign entry section, the electricity sector allows foreign participation up to 50 percent. Is there any plan to modify this restriction in the short term?

Chinese Taipei Response

Foreign investors can hold as much as 100% of shares in power generations. Transmission and distribution sections still limit foreign participation to 50%. The restriction will be modified when these two sections allow private sectors to participate.

Q15 - Is there any possibility to include an Individual Action Plan regarding gas sector as part of the energy services?

Chinese Taipei Response

Currently in Chinese Taipei, the state-owned CPC is the de facto natural gas business and is comprehensively responsible, on the wholesale level, for gas production, importation and transmission, i.e., the gas market structure is quite simple. Moreover, because of Chinese Taipei's geographic location (as an island where the possibility of pipeline gas importation will be denied in the foreseeable future), we have omitted the natural gas section from our IAP in the past, as it would not have had any real meaning.

Educational services

(New Zealand)

Q16 - What restrictions are there on foreigners opening private schools and Universities in Chinese Taipei? If there are restrictions what is the justification for these?

Chinese Taipei Response

Foreigners can open private schools and universities in Chinese Taipei and are subject to the same laws and regulations as our nationals, except for the following two restrictions:

1. The principal/president and chairman of the board must be nationals of Chinese Taipei;
2. The number of foreign nationals as board members must not exceed one-third of the board and must not exceed five members in total.

Communication Services: Telecommunications

(Hong Kong, China)

Q17 - The total direct shareholding by foreigners in a Type I telecommunication enterprise may not exceed 49%, and the sum of direct and indirect shareholding may not exceed 60%. The foreign equity cap at 20% for shareholding in Chunghwa Telecom Co Ltd, which is inscribed in the GATS commitments of Chinese Taipei, has however not been mentioned in the IAP. Would Chinese Taipei clarify the regime with respect to the foreign equity cap for investment in the telecommunication market? If different caps are being imposed for Chunghwa Telecom and the other telecommunication enterprises, we would like to know the reason for the differential treatment.

As set out in "Operational Requirements" and "Licensing and Qualification Requirements of Service Providers", Type I telecom enterprises are subject to tariff regulation based on price cap regime, and 'the timetable for deregulation, and the number of operators to be allowed for Type I telecom enterprises shall be announced by the Executive Yuan'

Chinese Taipei Response

Regarding the restrictions on foreign investment in Chunghwa Telecom, we note that Japan, Korea, France, Australia and others have even tighter restrictions on foreign investment in their existing major telecommunications operators. Considering that Chunghwa Telecom still is a market leader in fixed networks, and considering that our environment in telecommunications infrastructure is still not fully competitive, it is still necessary that the company fulfill certain national policies (such as universal service). Therefore, the present

restrictions that impose stricter limits on foreign investment in that company in comparison with other Type I telecom operators will be relaxed in the future if future conditions warrant.

Q18 - Would like to know further information as follows:

- *What is the current number of operators allowed for Type I telecom enterprises, and is application to apply for licence for Type I telecom enterprises currently open?*
- *Are Type I telecom enterprises all subject to tariff regulation based on price cap regime or is it only the incumbent Type I telecom enterprises that is subject to tariff regulation? If the former, is there any plan to deregulate the pricing control and what would that deregulation be?*
- *Is there any target date for a decision on the number of operators to be allowed for Type I telecom enterprises?*

Chinese Taipei Response

- As of March 2004, there were 103 Type I telecom enterprises in Chinese Taipei. A variety of Type I Telecommunication businesses have been continuously deregulated since 1996 based on a ‘ request for proposal’ system for licensing. Though there is no request for proposal at the moment, a new licensing regime which accepts applications for Type I telecommunications businesses on a regular basis is going to be established in the near future.
- Currently the price cap is imposed on all Type I telecom operators. Under price regulation, prior approval is required for the dominant operator's major services, and prior notification is required for non- dominant operators and the dominant operator’s non-major services. It is likely that the price regulation mechanism is going to be adjusted in the future in accordance with the level of competition in the telecom market.
- There is no pre-set number of licenses for Type I telecom businesses except when the operation of the telecom business (e.g. 2G, 3G) involves the usage of radio frequencies.

Q19 - "Licensing and Qualification Requirements of Service Providers": Please confirm whether there is any limitation on the number of licences that will be issued for Type II telecom enterprises.

Chinese Taipei Response

There is “ex-post” regulation imposed on Type II telecom enterprises except that the competent authority shall review the system architecture proposed by the applicant who is intended to engage in the special Type II telecom business before issuing the license. Accordingly, there is no limitation on the number of license in Type II telecom business.

(USA)

Q20 - Please update us on the requirements for licensing of new Type I telecom operators.

Chinese Taipei Response

There have been no recent change to the licensing criteria for Type I telecom enterprises. However, we are simultaneously reviewing the licensing criteria in course of the planning of a new licensing regime. For more information, please visit the Directorate General of Telecommunications (DGT)’s website at www.dgt.gov.tw/english/flash/index.shtml

Q21 - Does Chinese Taipei intend to maintain high build-out and capital requirements for licensing of Type I services?

Chinese Taipei Response

The Directorate General of Telecommunications has already held three public hearings to collect public opinion under the “Plan for Further Opening of Fixed Networks,” and after

collecting the opinions of various sectors, it completed a report listing its suggestions to the Ministry of Transportation and Communication (MOTC). The report also provides brief explanations of the strengths and weaknesses of various suggestions. However, regarding the minimum required capitalization and infrastructure threshold for obtaining a license to conduct integrated network business, the MOTC expects to make a decision at the end of June 2004, after making a comprehensive evaluation.

Q22 - When is it likely that the requirements for operation and licensing will be finalized by the MOTC?

Chinese Taipei Response

Because the conditions for opening channels and issuing licenses for fixed network operators after further market liberalization involves requirements on network scale for self-constructed local networks, the Directorate General of Telecommunications has already included its relevant suggestions in its report to MOTC as described in Q21 above. It plans to decide the matter at the end of June 2004, as mentioned in Q21.

Q23 - When is it likely that the Type I licenses will be issued?

Chinese Taipei Response

On December 30, 1999, the MOTC for the first time began to accept applications for licenses to operate fixed integrated telecommunications networks. On April 7, 2000, it issued the first approval to establish such networks, and on January 19, 2001, it issued the first special license to an operator of a privately-operated fixed network. Therefore, when handling applications for issuance of approvals to establish fixed integrated networks and licenses to operate such networks, the MOTC will follow the former method.

Q24 - All mobile phone service providers already allow for number portability. The Directorate General of Telecommunications has announced plans for opening the fixed line market to additional bidders beginning in September 2004 and at six-month intervals thereafter. Industry believes there should be no application windows and that minimum capitalization and build out requirements are excessive. Could Chinese Taipei comment on plans to get the privatization of Chunghwa Telecom back on schedule?

Chinese Taipei Response

The MOTC is currently planning to release 35.06% of Chunghwa Telecom's shares to the public, under the principle that the shares be released to the whole public. The next planned release of Chunghwa Telecom shares will await further reporting to and instructions from the Executive Yuan. The MOTC expects to complete the privatization of Chunghwa Telecom at the end of 2004.

Telecommunications(Mexico)

It is important to emphasize that outstanding improvements have taken place since the implementation of number portability in May 2003. In this context, we would like to know how the "080 toll-free phone number portability" works.

Chinese Taipei Response

According to the "Regulations Governing Number Portability", the originating network should adopt "all call query" method to deal with 080 toll-free call. However, if the originating network operator can reach an agreement with the corresponding number range

holder of the 080 ported number, the donor network operator of the 080 ported number, or the transit network operator, it can use any other database query method to complete the 080 call.

Postal and delivery services(Mexico)

The current entry requirements refer to the obligation to fulfill the relevant provisions of the Postal Law, Civil Aviation Law, Airfreight Forwarded Regulations and Road Regulations. Nevertheless, we consider important to include a website in order to check the above-mentioned regulations out.

Chinese Taipei Response

You can find Chinese and English versions of the Postal Law in the website of the Chunghwa Post: www.post.gov.tw

Tourism and Travel Related Services

(Hong Kong, China)

Q25 - There are no foreign entry restrictions for tourism and travel related services. Market access to tourist guides services in terms of commercial presence has however been inscribed as “unbound” in Chinese Taipei’s GATS schedule of commitments. Would Chinese Taipei clarify whether there are any foreign entry restrictions being imposed on tourist guides services? If not, would Chinese Taipei consider reflecting its freer regime of the sub-sector in its offers in the context of GATS negotiations so as to bring its commitments into line with its actual regime and to increase the predictability of the regime?

Chinese Taipei Response

Our WTO commitments chart includes a section on tourism guide services. Mode three (commercial presence) states, “Unbound except such services can be only provided by a travel agency or a tour operator,” and not simply “unbound.” As for whether further opening will be made in the context of GATS negotiations, that is still being studied and will have to await the outcome of the new round negotiations.

Recreational cultural and sporting services

(Mexico)

Q26 - The section licensing and qualification requirements of service providers points out that foreign sporting providers must meet the Regulations for Employment of Foreign Specialists. Is there any website in which these requirements can be revised?

Chinese Taipei Response

The regulations and standards that the National Council on Physical Fitness and Sports follow in reviewing applications by trainers, athletes and other professionals to seek employment in Chinese Taipei are based on stipulations in Article 46 of the Employment Services Law. Starting on January 15, 2004, all applications have been processed through the “single-window” of the Council of Labor Affairs, Executive Yuan. The Council of Labor Affairs has also set up a webpage (<http://www.evta.gov.tw/foreign/foreign-01.htm>) which provides information on foreign professionals applying for work permits, relevant laws, and an English Q&A.

Construction and Related Engineering Services

(USA)

Comment3 - Industry complains that bidding requirements still disadvantage foreign firms.

Chinese Taipei Response

Concerning foreign construction enterprises to practice in Chinese Taipei, the terms of registration, permit of construction enterprises, and construction-undertaking are following

the precedents of domestic construction enterprises as per the Construction Industry Act. As for participating in our government bidding, industries should directly contact the Public Construction Commission.

Financial Services

(USA)

Comment4 - The QFII system was effectively scrapped in June 2003.

Chinese Taipei Response

Chinese Taipei announced on July 7, 2003 to abolish the Qualified Foreign Institutional Investors (QFII) system and overhaul Chinese Taipei's restrictions for foreign portfolio investors in the near future. In Sep. 30, 2003 the authority approved the newly amended "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals" ("the new Regulation"). A new registration system, streamlined process and documentation, cost reduction, deregulation, and facilitated operation are the five pivotal measures adopted to facilitate foreign investment under the new Regulation.

The five pivotal measures are as follows:

1. New Registration System

Instead of obtaining permission from the Securities and Futures Commission, all foreign investors from now on can invest in the securities market after simply registering with the Taiwan Stock Exchange Co. (TSEC) and obtain an investment ID. Foreign institutional investors, allowed to enjoy investment quota without an upper limit, shall still obtain consent from the Central Bank.

2. Streamlined Process and Documentation Requirement

The registration process will be on a once-for-all basis. Any unnecessary documents, such as documents evidencing that the applicant meet the qualifications set by this Commission as well as a copy of custodian agreement, will no longer be required.

3. Cost Reduction

To minimize the cost incurred in the investment process, all foreign investors, during the period when the securities income [i.e. capital gains] tax is not levied, can remit their profit without a guarantee from their tax agent or a tax clearance certificate.

4. Deregulation

Foreign investors will be permitted to participate in DR (ADR or GDR) offerings by converting their holdings in Chinese Taipei listed shares into DR. They will also be permitted to provide listed shares held by them for re-issuance of DR. Thus, subject to the availability for reissuance of DR and relevant depositary's reissuance procedure, foreign investors may convert their shares into DR and sell DR in the overseas market. However, participating in DR offering will still require issuing company's cooperation and be subject to conditions set by the relevant issuing company.

5. Facilitated Operation

With streamlined documentation required in the registration process, all foreign investors can easily register the names of their beneficial owners. Therefore, the current practice regarding sub-account will no longer be necessary and the previous rules for sub-account opening are removed. However, existing sub-account holders may choose to maintain their sub-account status or register as a Foreign Institutional Investor (FINI) or Foreign Individual Investor (FIDI). Moreover, if a FINI appoints more than one external manager or has a separate trading desk to manage its investment fund, then it may be necessary to have separate trading accounts. The SFC will allow such FINI, with only one investment ID, to open more than one trading account, indicating the associated investment managers' names, within the same securities firm.

The abolition of the QFIIs system symbolizes Chinese Taipei's major change of attitude towards foreign investment regulation. From the review of qualification documents in the past to the simple registration process in the future, foreign investors can now invest in a level playing field as local investors.

The approval of the new Regulation shows Chinese Taipei's commitments to speeding up financial liberalization and internationalization. Chinese Taipei is looking forward to continued investment from the international investment community. In the future, Chinese Taipei will continue to welcome all foreign investors and will treat them on the basis of the principle of national treatment. Chinese Taipei will also continue to relax restrictions and help foreign investors solve any difficulties arising from their investment process.

CHAPTER 4. Investment

(Australia)

Q1 - Chinese Taipei notes in respect of commercial presence that the "Statute for Investment by Overseas Chinese" and "Statute for Investment by Foreign Nationals" will be revised, after which the "Negative List for Investment by Overseas Chinese and Foreign Nationals" will be abolished. Can Chinese Taipei explain which industries will be liberalised as a result of this relaxation and over what time-frame?

Chinese Taipei Response

At present, the Legislature is studying the bill to amend the "Statute for Investment by Foreign Nationals" and the "Statute for Investment by Overseas Chinese" in order to eliminate the "Negative List for Investment by Overseas Chinese and Foreign Nationals." Sometimes there is difficulty caused by differences in the timetable for amending these two laws, because the items on the "Negative List" which place limits or prohibitions on investment by overseas Chinese or foreign nationals are based on other laws and regulations on various business sectors and on their respective agencies in charge. After this amendment is passed and publicly announced, then the opening of the various sectors for investment will be based on the regulations set for those sectors by their respective governing agencies.

Q2 - Could Chinese Taipei please clarify its present approval requirements for the purchase of all categories of land and whether or not there are any reciprocity requirements or restrictions on land use? Has Chinese Taipei considered using exemption thresholds for non-sensitive purchases by foreign interests on real estate? These questions arise from an apparent contradiction in its IAP.

- Under “Current Investment Measures Applied”, the entry reads: “Chinese Taipei has relaxed restrictions on purposes of land use. Aliens may be allowed to acquire land for investments helpful or useful in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries that are approved by the government authorities concerned.”
- Subsequently, under the section dealing with measures taken since 1995 to meet planned objectives the IAP states: “Chinese Taipei abolished the approval procedures for foreign investment in real estate in 2002”.
- Chinese Taipei modified its “Statute for Investment by Foreign Nationals” in November 1997, with the effect that reinvestment by overseas Chinese- and foreign-invested enterprises will be subject to approval by the competent authority only when the overseas Chinese or foreign investor holds one-third or more of the equity in the enterprise concerned”.

Why does Chinese Taipei continue to examine proposed expansions of existing approved investments? Is Chinese Taipei considering further relaxations to this requirement?

Chinese Taipei Response

Chinese Taipei’s Land Law was amended and promulgated on 31 October 2001. Based on the principle of reciprocity, aliens or foreign companies are permitted to acquire land in Chinese Taipei, according to the regulations specified in Article 18 of the Land Law, excluding lands used for forestry, aquaculture, salt plants, mineral deposits exploitation, water resources, military bases and areas, and land adjacent to the national frontiers as defined in Article 17 of Land Law. And according to Article 19 of Land Law, aliens may acquire land for personal use, investment or public welfare purposes to build residences, as business sites, for office buildings, shops, factories, churches, hospitals, schools for children of foreigners, embassies or consulates, public welfare institutions offices, or cemeteries. In addition, aliens may be allowed to acquire land for investments helpful or useful in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries that are approved by the government authorities concerned. Moreover, Chinese Taipei will continue its effort in abolishing the principle of reciprocity in Article 18 of the Land Law for land acquisitions by aliens of foreign companies.

If one-third or more of the equity of an enterprise is held by an overseas Chinese or foreign investor, it would mean that the investor has controlling power over the enterprise. Therefore, reinvestment by these enterprises must get the approval by the competent authority, in order to prevent overseas Chinese or foreign investors from circumventing the restrictions on specific investment.

The Australian Commerce and Industry Office concluded a tax treaty with the Taipei Economic and Cultural Office in 1996. The treaty contains a most favoured nation (MFN) clause which provides that, if Australia concludes a tax treaty with a third country which includes a Non-Discrimination Article (NDA), Australia will be obliged to enter into negotiations with Chinese Taipei with a view to providing similar treatment. The MFN clause was triggered by the inclusion of an NDA in the new Australia/United Kingdom tax treaty, which entered into force on 17 December 2003. The inclusion of an NDA in the treaty would further assist trade and investment flows between the two countries.

Chinese Taipei Response

- Chinese Taipei is willing to negotiate with Australia to include a Non-Discrimination Article in the tax treaty (DTA). We hope both sides can proceed to amend the DTA as soon

as possible. We would appreciate it if Australia could propose a draft amendment in this regard.

- Together with this case, we would also appreciate it if Australia could consider another case which we have brought up previously in relation to Paragraph 2 of the DTA Annex regarding exclusive taxing right solely to resident territory for interest derived from the investment of official foreign exchange reserve assets.
- We think that both the above proposals can further facilitate mutual trade and investment between Australia and Chinese Taipei.

(Canada)

Comment1 - Employment obstacles for managers of foreign-invested enterprises. Previous rules governing the employment authorisation for foreign manager or branch manager of a foreign-invested enterprise effectively saw an automatic work permit if the invested company met basic investment criteria - among other things a minimum of NTD 500,000 (limited company) or NTD 1,000,000 (limited by shares). In early 2004 rules were replaced in the spirit of "opening to white collar workers", "one-stop-shop" etc. etc. The effect has in certain cases been negative as new investment threshold rose to NTD 5,000,000 (five million). This is a relatively minor issue so far impacting a handful of Canadian individuals (not firms as far as we are aware) but should be noted.

Chinese Taipei Response

According to Article 37 of "Qualifications and Criteria Standards for foreigners undertaking the jobs specified under Article 46.1.1 to 46.1.6 of the Employment Service Act", the employers should have the following qualification when hiring foreigners for management work in a business entity invested by overseas Chinese or foreigners: Foreign branch offices that have less-than-one-year operation and more than NT\$ 5,000,000 (more or less equal to US\$147,058) capital in Chinese Taipei; or companies that have been established more than one year, and the latest yearly revenue or the average revenue of the last three years amounts to NT\$10,000,000 (more or less equal to US\$294,117), with average import/export performances reaching US\$1,000,000 or average (agent) commission reaching US\$400,000.

However, according to Paragraph 5 of the same article, those foreign companies that have proven contribution to the economic development in this country or have been recognized by the central competent authorities along with authorities concerned at the central government level should not be limited to the above mentioned capital amount restrictions.

In the near future, after consulting with related authorities, we will propose more flexible and open policy.

(USA)

Q3 - Chinese Taipei has effectively eliminated restrictions on QFII. Privatization of SOEs is not entirely consistent with Chinese Taipei's commitments. Please comment on Chinese Taipei's plans in this area.

Chinese Taipei Response

Investment by foreigners in Chinese Taipei is governed by the "The Statute of Investment by Foreign Nationals." There are different investment restrictions for some industries under this statute. When State-owned Enterprises (SOEs) under the MOEA will be privatized, the authorities in charge of the relative SOEs will need to review the restrictions of foreign investment.

CHAPTER 5. Standards and Conformance

(Australia)

Q1 - Australia welcomes Chinese Taipei's involvement in the APEC Electrical MRA and notes that negotiations are progressing on a bilateral n MRA with Australia based on the APEC MRA which is expected to be the first step in Chinese Taipei's broader participation in the Electrical MRA.

Chinese Taipei Response

Chinese Taipei is willing to discuss bilateral MRAs with interested parties based on the APEC MRA and is preparing for participation in other parts of APEC Electrical MRA depending on the development of our certification system.

(Canada)

Comment1 - Chinese Taipei describes as an agreement the mechanism it has in place with Canada and USA on EMC test report acceptance. In the case of Canada, we have an Arrangement in place, not a formal agreement.

Chinese Taipei Response

Chinese Taipei has provided the APEC Secretariat a revised version to table on the e-IAP website.

(Chile)

Q2 - Under the section of Technical Infrastructure, Taipei mentions the Good Regulatory Practice (GLP) guidelines for domestic food-testing laboratories. It would be possible have more details about these guidelines?

Chinese Taipei Response

DOH has the draft on “Good Laboratory Practice and Accreditation” but in only Chinese version. The implementation level for GLP related regulations are currently under discussion by academy, experts, stakeholders and administrators.

(Japan)

Q3 - In Chinese Taipei, chemical products contained in paper bags, are requested to label item by item with Shipping Mark (seal) although, in other economies, labelling is requested for each container or pallet. Japan would like to know the reason why each individual paper bag contained chemical products is requested to label Shipping Mark (seal).

Chinese Taipei Response

We need more information to answer this question, please indicate which “chemical products” you mean, since these also include toxins and pharmaceuticals.

However, if the chemicals in question are manufactured or imported toxic substances, then they should be governed by stipulations of Article 15 of the Toxic Chemical Substances Control Act, which states: “Toxicity and pollution-control measures of toxic chemical substances shall be conspicuously labeled or displayed on toxic chemical substances containers, packaging, or handling facilities, or handling sites, and material safety data sheets shall be made available, pursuant to the provisions prescribed by the responsible agency at the central government level.” This refers to the labeling of the containers and packaging for toxic chemical substances.

There is no similar labeling requirement for imported pharmaceuticals.

(New Zealand)

Generally speaking, Chinese Taipei has advised interested parties of proposed changes to technical standards prior to implementation and provided sufficient time for comment. However, we have noticed recently that some changes to technical standards have been made without prior notification to interested parties or with little or no time to offer comment.

Q4 - Does Chinese Taipei intend, in light of APEC's Transparency Standards, to return to its previous policy of advising interested parties of proposed changes to technical standards and invite comment with sufficient time for parties to respond?

Chinese Taipei Response

According to Articles 10 & 11 of the Regulations for the Establishment of National Standards, once the draft national standards has been prepared, the "government agency in charge of standards" shall solicit comments and advice from interested parties, members of related technical committees and review committees, experts, industries, government bodies, institutions, and educational institutes. Solicitation of comments and advice shall be conducted simultaneously via individual notices and public announcement and the comment period shall not be less than sixty (60) days. The procedures for such notice may be shortened in case of actual or potential emergencies involved in public safety, health or environment. Chinese Taipei follows the above Articles to observe the principle of transparency, and they have not been changed.

Q5 - Is Chinese Taipei considering amending labelling standards so that labels need not be translated into Chinese before import, but can instead be translated before retail? This would facilitate trade from non-Chinese speaking economies.

Chinese Taipei Response

Because The Commodity Labelling Law is introduced for sale on market, therefore, it is not necessary to be revised.

Q5 – 1 - What is the technical justification for requiring Chinese language labels to be applied prior to importation?"

Chinese Taipei Response

Commodity doesn't require Chinese language labels to be applied prior to importation, because The Commodity Labelling Law is enacted for a commodity is introduced for sale on the market.

Q6 - Where regulators have introduced specific regulatory requirements (for food or other goods) for health and safety or environmental concerns, which of these regulators use the national accreditation body for assurance of competence in testing and inspection and which of these regulators also recognise accreditation by MRA signatories of the national accreditation body?

Chinese Taipei Response

The bureau of food and drug analysis, department of health are the competent authority for national accreditation body. Chinese Taipei has not implemented Food MRA system. All measures and standards for food related products shall comply with CODEX and WTO/SPS.

Q7 - Where regulators do rely on internationally accepted standards as the basis of their regulations, which regulators use the national accreditation body for assurance of competence in testing and inspection and which of these regulators also recognise accreditation by MRA signatories of the national accreditation body?

Chinese Taipei Response

The Bureau of Standards, Metrology and Inspection (BSMI) under the Ministry of Economic Affairs uses the national laboratory accreditation body as one of the means to ensure competence of laboratories in testing. Testing laboratories accredited by the Chinese National Laboratory Accreditation may submit application to the BSMI for becoming designated testing laboratories in the Registration of Product Certification (RPC) Scheme. The BSMI also recognizes ISO 9000 certification by IAF MLA signatories in its RPC Scheme.

The Directorate General of Telecommunications (DGT) is the regulator of Telecommunications services in Chinese Taipei. The DGT uses the national accreditation body-Chinese National Laboratory Accreditation (CNLA) to assure the competence of telecommunications equipment testing labs. On August 5, 1999, the DGT of Chinese Taipei made a joint statement with the Telecom Authorities of 3 MRA parties which participate in Phase I of APEC TEL MRA, including ACA of Australia, OFTA of Hong Kong, IDA of Singapore, to use the APLAC MRA to recognize the testing labs accredited by each other's national accreditation body.

Q8 - What progress has been made on finalising the draft of "Accreditation and Administration Regulations of Recognised Certification Bodies for Controlled Telecommunications Radio-frequency Devices" which was due to be completed by the end of 2003?

Chinese Taipei Response

The "Accreditation and Administration Regulations of Regulatory Certification Bodies for Controlled Telecommunications Radio-frequency Devices" was promulgated on the date of Nov. 18, 2003.

(Hong Kong, China)

Q9 - We would like to know the progress for the Phase II implementation of APEC TEL MRA.

Chinese Taipei Response

According to the WTO TBT and APEC TEL MRA, two domestic TTE certification bodies have been accredited and recognized by Chinese Taipei in September 2001. That is, Chinese Taipei has completed the necessary domestic procedures to implement the Phase II of APEC TEL MRA. Furthermore, to implement Phase II procedures of the APEC Telecom MRA, the DGT has promulgated the "Accreditation and Administration Regulations of Regulatory Certification Bodies for the Controlled Telecommunications Radio-Frequency Devices" in 2003 and has enlarged the scope of Telecommunications Equipment whose certification work could be entrusted to the private sector. Meanwhile, it is expected to complete accreditation and commission task subject to low-power RF device certification bodies in the middle of 2004. We anticipate undertaking steps with other APEC economies with intention for the effective implementation of Phase II of APEC TEL MRA .

(USA)

Q10 - Recently, Chinese Taipei has promulgated new regulations, which have hindered or have had the potential to hinder trade in such products as home appliances, blood plasma products, medical devices, alcohol beverages, and large motorcycles. We are concerned that Chinese Taipei's approach, although admirable in its efforts to conform to international standards, may unnecessarily impede trade. How does Chinese Taipei plan to improve its regulatory process?

Chinese Taipei Response

The Department of Health (DOH) is currently considering to grandfather the existing requirements for certain types of medical devices and to recognize international harmonization standards for the purpo

se of simplifying the premarket registration process. In addition, DOH is considering to adopt GHTF's Summary Technical Documentation (STED) in the hope that regulatory requirements will be in accord with global trends.

(Mexico)

Regarding China Taipei IAP, Mexico submits the following questions for Chapter 5: Chinese Taipei's Approach to Standards and Conformance in 2003

1) For the section Alignment of standards with international standards where appropriate, Mexico would like to know in which areas, and based in what criteria, will Chinese Taipei continue it's aligning program.

Chinese Taipei Response

According to Article 8 of the Standards Act, the government agency that regulates standards may, on the basis of already existing international standards whose scope, grade, condition and level of application are all appropriate to domestic circumstances, adopt the said standards as national standards. Chinese Taipei continues its aligning program based on the above Article and the resolution of APEC/SCSC.

2) For the section Continuously strive to increase transparency of their standards and Conformance requirements, Mexico would like to know if Chinese Taipei has other available web pages with a more complete technical regulations and standards catalog, additional to the one of the Health Department, referred in the IAP.

Chinese Taipei Response

A complete standards catalog of Chinese Taipei is available at the website at http://www.cnsonline.com.tw/CNS_EN/index.html.

Or the website of Department of Health is also available technical regulations and standards in English. <http://www.doh.gov.tw/dohenglish/>

CHAPTER 6. Customs

(Australia)

Kyoto

Q1 - Does Chinese Taipei have an outcome of the draft amendment of Customs legislation that was scheduled to be submitted to the Legislative Yuan at the end of 2003 for approval?

Chinese Taipei Response

The draft amendment of Customs Law was submitted to the Legislative entity in early October 2003 and passed its third reading in mid-April 2004. The amendment is to be become effective as soon as the government promulgates it .

Risk Management

Q2 - Does Chinese Taipei have a Risk Management program/system in place to support the training of its staff?

Chinese Taipei Response

Chinese Taipei Customs has conducted training courses on collection and analysis of intelligence, identification of risks as well as sharing of enforcement experiences, etc.

Integrity

Q3 - Has Chinese Taipei developed an Integrity Action / Implementation Plan?

Chinese Taipei Response

In order to develop an Integrity Action/Implementation Plan, on March 11, 2004, Chinese Taipei's Customs entrusted the Taiwan Institute of Economic Research to conduct a customs integrity assessment. It is anticipated that the assessment with appropriate suggestions will be completed before July 11, 2004. Thereafter, the Customs authority expects to use these proposals to develop an Integrity Action / Implementation Plan. Chinese Taipei Customs has put into practice following approaches:

1. The Ministry of Finance has entrusted the Taiwan Institute of Economics Research to conduct a survey on Customs integrity.
2. Customs has compiled the Customs Code of Conduct, and distributed the brochure to every Customs employee.
3. Customs has enhanced the education of Customs integrity, and included the courses regarding Customs integrity in pre-job as well as on-the-job trainings.
4. Customs has set up an exclusive unit (Civil Service Ethics Office,) to deal with the businesses regarding integrity management and prevention of corruption, and applied risk management techniques to integrity management.
5. Customs has established an integrity auditing task force to oversee and inspect integrity management business in field Customs Offices regularly.

(Hong Kong, China)

Q4 - "Implementation of the TRIPS Agreement": Several approaches are taken by the Customs to crack down on illegal importation/exportation of pirated and counterfeit goods. Would like to know the effectiveness of the various measures taken in detection or suppression of illegal importation or exportation of pirated and counterfeit goods.

Chinese Taipei Response

After taking various measures in the prevention of and crackdown on illegal importation or exportation of pirated or counterfeited goods, the resulting achievements are shown in the attached table, "Customs Statistics of IPR Infringement Cases". The statistics are posted on our Customs Website at: <http://www.eng.dgoc.gov.tw> (Attachment E)

Q5 - There is no information on Customs-Business Partnership. Appreciate to have a brief account on what it has/will be done to enhance the cooperation and communication between Customs and the business sector.

Chinese Taipei Response

Customs has enhanced the cooperation and communication between itself and the business sector as follows:

1. Intensify cooperative relationship with strategic alliance firms by providing them with information regarding training programs and urging them to enhance capability of "identifying illegal shipments" as well as establishing contact points between the two sides.
2. Hold seminars regularly to prepare the business sector with knowledge about the security measures for their professional equipment, facilities, documentation and personnel management, so as to prevent them from being used illegally.
3. Regard strategic alliance firms as reliable partners and keep them informed of Customs' latest laws, regulations and practices as well as publicly recognize strategic alliance firms with outstanding performances so as to increase compliance rate.

(Japan)

Q6 - With regard to "Paperless Trading", Chinese Taipei mentions to plan and implement

the “Single Window Concept” for international trade. Japan would like to obtain the detailed information on “Single Window Concept” and also like to know when it will be implemented. Japan also would like to know which agencies / offices will be in charge and what procedures will be required in the “Single Window Concept”.

Chinese Taipei Response

Chinese Taipei adopts the “Single Window Concept” in improving its trade facilitation environment, that is, all electronic import and export transactions between Customs, trade regulatory agencies and other stakeholders will be passed to and returned by that window. Rather than creating a single authority or a single system, our concept is to provide an automated system. At the present moment, Chinese Taipei already has two value-added network companies providing electronic services for customs clearance. Based on the existing framework, we shall add in new features to enhance its function for trade administration. Business users will only need to visit the single window and complete their applications for import/export permits, certificates of origin, certificates of inspection, and quarantine certificates, etc. All the information will merge with the customs clearance system with no need for data reentry. At the second stage, the system will integrate the port authorities to enable the exchange of manifests and other required information.

A cabinet level inter-agency task group is responsible for the coordination. Bureau of Foreign Trade and Directorate General of Customs are the two major agencies for the implementation of this system. Relevant trade controlling agencies are deeply involved in this project to re-engineer their internal business process. In establishing such a system, government will need to identify the required functions that the “single window” needs to perform. Interested application service providers are welcome to build up the functions to operate the automated system and provide the “single window” services. It will also help to foster market competition mechanism among the private sector.

According to the time schedule, a preliminary automated system will be established by 2006.

Q7 - With regard to trade facilitation, Japan believes that a survey on the time required for the release of goods is one of the most effective ways to measure its effectiveness. In this regard, Japan would like to ask if Chinese Taipei has an experience conducting such a survey. If so, Japan would like to know the outline and results of the survey.

Chinese Taipei Response

Because the single window automated system is still in the development stage, we are still unable to conduct such a comparative survey. However, during its planning stage, we carried out a study based on internal examination of government agencies and interviews with customs declaration service companies and application service providers. According to the study, a single window automated system will reduce the time required for applications for import permits and other certificates from the current three days to less than a day. It will also help to shorten the time to claim cargo release from the current two hours to 80 minutes.

According to our statistics for Customs throughput time, it takes only few seconds or even less to go through Customs for goods exempted from document checking or physical examinations. The above statistics are arrived at on the basis of time periods between goods declarations and their releases. However, we have not conducted an in-depth study, as suggested by the WCO, on the time required from the arrival of particular goods to their release, considering that such a study may well need considerable input from other parties, such as port authorities, air cargo stations, etc.

(New Zealand)

Implementation of Harmonised Systems

Under Chinese Taipei's approach to Customs Procedures in 2003 regarding the implementation of Harmonised System, it is reported that Chinese Taipei would "revise Custom Import Tariff pursuant to "Amendments to the Harmonized system Nomenclature effective from 1 January 2002".

Q8 - Could Chinese Taipei provide an update on the current status regarding the implementation of HS?

Chinese Taipei Response

Since December 17, 2003, Chinese Taipei has implemented the Custom Import Tariff Schedule revisions in accordance with the "Amendments to the Harmonized system Nomenclature effective from January 1, 2002." For further information please refer to the information at <http://wwweng.dgoc.gov.tw/eseach-frames.asp>

Controlled goods not included in the de minimis tariff exemption

Under Chinese Taipei's approach to Tariff in 2003, it is reported that Chinese Taipei has implemented de minimis measure since October 1998 and that the revised measure grants tariff and other exemptions to imported goods if the value is less than NT 3,000. This exemption does not apply to a few categories, including controlled goods.

Q9 - Could Chinese Taipei provide a list of goods covered by the definition "controlled goods"?

Chinese Taipei Response

The said controlled goods include narcotics, arms and ammunition, IPR infringement goods, and products that are harmful to human health, ecology and environment. Currently there are 65 tariff items falling into the last category.(Attachment F)

Service Charge on Import and Export (under Non-tariff measures)

Against reporting on Import and Export Levies, Chinese Taipei states: "Beginning on January 1, 2002, only a service fee is charged on exports and imports based upon a specific rate of volume of the shipments, as allowed by GATT Article 8".

Q10 - Could Chinese Taipei provide further details on specific rate(s) of volume applicable to imports and exports of various goods?

Chinese Taipei Response

According to Article VIII of GATT 1994, "All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes." Chinese Taipei brought the Harbor Construction Dues into conformity with Articles III and VIII of GATT 1994 by 1 January 2002, and substituted Commercial Port Dues for Harbor Construction Dues. The current Commercial Port Dues are based on the cost of the services provided and not applied on a valuation basis.

Regulations on the rate of Commercial Port Dues are drafted by the Ministry of Transportation and Communication, except in referring to the charge of foreign Commercial Port Dues and domestic port fees. Rates for Commercial Port Dues also take into consideration the ability to bear commodity costs so as to set fair Dues levels, the need to be in compliance with WTO regulations, and so on. At present, Commercial Port Dues are levied on inbound vessels, passengers embarking on and disembarking from outgoing

passenger vessels, and cargo being loaded and discharged at commercial ports. The persons required to pay these Dues are, respectively, the shipping companies, departing passengers, and the importer/exporter of the cargo. A table showing the most recent rates for the Commercial Port Dues is attached. (Attachment G)

Paperless Trading

Q11 - Could Chinese Taipei provide an update on the testing of "XML message and processing system with two through-Customs Vans" that was planned to be completed by the end of 2003?

Chinese Taipei Response

1. Since there is no international XML-based message standard for Customs clearance at present, Chinese Taipei Customs, based on UN/EDIFACT standard message and applying the ebXML's ebMS 2.0's service delivery mechanism to the existing Customs clearance procedures, developed the import/export message standards for XML as well as a XML message and processing system in April 2003, so as to create a web-based environment for import/export clearance operations.
2. The Customs and two Value-Added Networks have been conducting on-line tests for the XML messaging system since June 2003, though faced with some difficulties, such as issues regarding the application of SOAP Message Security, the definition of Registry & Repository, the design of Collaboration Protocol Agreement (CPA) and Core Component, reaching a common understanding toward work process between the Customs and the Vans, etc. Currently, the Customs and the VANs are making every effort to solve these problems. We expect that the integrated test for XML messaging system will be completed at the end of this year.

(USA)

Q12 - When will Chinese Taipei submit the Draft Amendment to the Customs law to the LY? Ongoing training on IPR issues for Customs personnel should be expanded. Does Chinese Taipei have any plans in this area? Chinese Taipei has agreed to participate in the Container Security Initiative. When does it plan to sign the Declaration of Principles, which is the first step to allow US Customs personnel to begin surveying local operational needs?

Chinese Taipei Response

The draft amendment of the Customs Law was submitted to the Legislature in early October 2003 and passed its third reading in mid-April 2004. The amendment is to become effective soon.

Chinese Taipei Customs has conducted various training programs as follows:

1. From March to June 2003, Customs conducted ten seminars on IPR border control operations, including the courses on the "Guidelines Governing Customs Implementation of Trademark & Copyright Protection Measures" and the "Guidelines Governing the Enforcement Task Force against Exportation of Pirated Optical Disks."
2. From November to December 2003, Customs held four seminars on various IPR border control operations to enhance Customs officers' enforcement abilities.
3. In April and May 2004, Customs invited five famous trademark owners and their authorized agents to conduct eight seminars on the differentiation between genuine and counterfeit articles for Customs personnel.

4. Customs plans to hold various training programs on IPR border control to further deepen Customs officers' professional abilities.

Chinese Taipei has already provided its comments on the content of the draft of the Declaration of Principles, and is still waiting the response from the United States. If both sides can agree on the content of the above draft, it will be submitted to the government for approval. Thereafter, we will sign the Declaration of Principles.

CHAPTER 7. Intellectual Property Rights

(Australia)

We note that Taiwan has adopted a number of amendments to its legislation covering intellectual property and would encourage Chinese Taipei to strengthen their enforcement practices in this area.

Chinese Taipei Response

IP protection is an established policy by Chinese Taipei. 2003 marked the completion of the first year of its "IPR Action Plan 2003-2005" and the completion of amending its Trademark, Patent, and Copyright Acts. Currently, our IP regulations meet national needs and are in line with international trends.

The Integrated Enforcement Task Force was established in January 2004 by the National Police Administration to strengthen inspection of IP infringements. The Ministry of Justice established the Coordination Taskforce for IPR Enforcement to coordinate activities of all enforcement authorities in the execution of IP infringement cases and inspections. The Ministry of Finance also established a committee to strengthen border control measures. Furthermore, the Ministry of Economic Affairs has increased the amount for informant award to NT\$10 million for those whose lead results in the crackdown of illegal optical disk plant.

(Hong Kong, China)

Q1 - "Ensuring the Expedious Granting of IP Rights": We note from the website of the Chinese Taipei's Intellectual Property Office that Chinese Taipei has introduced amendments to Article 106ter of its Copyright Act which provides for retroactivity and the requirement to pay remuneration and the prohibition against continued sale/rental of unauthorized copies of restored works. We would like to know more about the provision, its background and the rationale for the amendments.

Chinese Taipei Response

1. After Chinese Taipei's accession to the WTO, works that were not given protection previously under its Copyright Act are now protected in line with TRIPS. To protect the interests of users of these copyrighted works, a two-year transition is provided under Article 106ter.
2. According to Article 70.4 of TRIPS, right holders may claim and receive remuneration during the transition period of the retroactivity. The Copyright Act of 1998 allowed those who have used or invested in the retroactivity of copyrighted works to continue to use the works until December 31, 2003, and, as such, civil remedy in Article 6 and penalty provisions in Article 7 did not apply. These stipulations were not in compliance with TRIPS' regulations for remuneration. The new Copyright Act, which went in to effect on July 11, 2003, requires the payment of remuneration.
3. Since the 1998 Copyright Act did not provide for distribution rights, unauthorized reproduction of works that were not protected under copyright law prior to Chinese Taipei's accession to the WTO may continued to be sold as long as stock remains.

However, under the new Copyright Act, as distribution rights is provided in Article 28.1, such permission is recalled. From 11 July 2004, any continuation of sales shall be in violation of the distribution rights. If the reproduction is in the format of an optical disk, it is considered a public offense, as stipulated in Article 100 of the Copyright Act.

Q2 - "Effective Enforcement of IP Rights": IPR authorities, which are administrative agencies, issue assessment reports on infringement of trademarks and copyrights at the request of the courts. Would like to know the scope of such assessment reports and how they are used in legal proceedings.

Chinese Taipei Response

The scope of assessment includes words, images, symbols, colors, 3D objects or a combination of the above of a mark that is distinct and is not similar to other marks that have been registered under TIPO. The assessment reports are for reference use only and do not have any legal implication. Trademark and copyright infringements are to be processed by the courts.

Q3 - "Effective Enforcement of IP Rights": We note under the Cumulative Improvements Implemented to Date column that Chinese Taipei has put in place different measures to expedite court proceedings. In respect of IP related court proceedings (both civil and criminal), what is the current average waiting time after a case is ready for trial to the actual trial date? Are there any interlocutory proceedings in criminal trials whereby defendants are required to attend court? If so, what are the nature and length of such interlocutory proceedings?

Chinese Taipei Response

1. According to the 2003 statistics, the average number of days for district courts to close ordinary civil cases was 96.69 days, whereas the average number of days to close IPR cases, such as copyright, patent, and trademark was 158.89 days. The average number of days for high courts to close ordinary civil cases was 121.84 days, whereas the average number of days to close IPR cases was not tallied. The number of days needed to close IP-related cases was 62.2 days more than civil cases. This difference in processing time is due to the fact that civil cases require the active participation of the parties involved, whereas IP-related cases are more complicated and thus require more time to process.
2. With respect to the nature and length of interlocutory proceedings in criminal trials, Article 273.1 of the Code of Criminal Procedures states that, "The court may subpoena the defendant or his representative, and notify the prosecutor, the defending attorney, and the assistant to appear in court for interlocutory proceeding prior to the first trial date. The purpose of the interlocutory proceeding is to 1) clarify the applicability of certain provisions on the scope of validity of the indictment and on changes in prosecutor; 2) examine the indictment with the defendant, the defending attorney, and the representative to determine whether the facts stated by the prosecutor shall suffice as guilty plea and whether the case may move into summary proceeding; 3) handle major arguments of the case and testimony; 4) handle the disputes generated from the capacity of the testimony; 5) give instruction for filing evidence investigation; 6) clarify the scope, procedure and methods of the evidence investigation; 7) order to produce evidence or documentation of evidence; 8) other matters related to the trial." Thus, criminal cases may undergo interlocutory proceeding prior to the trial to ensure that the trial may proceed efficiently. The length of such interlocutory proceedings depends on the nature of each case.

(Japan)

Q4 - Please explain measures to ensure uniformity of result on patent examination. (Japan's business organization indicates that there is lack of uniformity of result on patent examination.)

Chinese Taipei Response

TIPO formulates a set of examination procedures and standards that examiners must follow when undertaking patent examination. Also, TIPO holds internal trainings and groups discussions from time to time to discuss exemplary cases so as to ensure uniformity of examination.

Q5 - After Chinese Taipei joined WTO, patent infringement (on October 2001), infringements of model utility right and copyright in registered design (on January 2003) were exempted from criminal penalty. Therefore, Japan thinks that inhibiting effect against these infringements was very much reduced. Please indicate the number of cases and results of civil bailout after these infringements were exempted.

Chinese Taipei Response

1. Utility model patents are protected under the Patent Act in Chinese Taipei.
2. Legal proceedings for patent infringements in civil actions are as follows:

District Courts' Civil Proceedings of Copyright, Patent, and Trademark's First Trials (April 2003-March 2004)							
Type of offense	Total	Cases withdrew	Cases receiving verdict	No. of settlements	Cases dismissed	Cases transferred	No. of mediations
Total	301	88	163	15	22	8	5
Copyright	121	39	69	4	5	1	3
Patent	114	34	55	5	15	5	
Trademark	66	15	39	6	2	2	2

Q6 - Under related law in Chinese Taipei, classified information on business activities is mainly protected through civil bailout. Please indicate the number of civil bailout cases and also results of each claim.

Chinese Taipei Response

Statistics for copyright, patent, and trademark civil cases are available, but Chinese Taipei does not have any available statistics on trade secrets cases.

Q7 - Japan recognizes that Chinese Taipei takes positive measures for control movement of infringed products with regard to the right of trademark and copy right. Please explain relevant measures already implemented and also future direction on this issue.

Chinese Taipei Response

On June 10, 2003, the Directorate General of Customs of the Ministry of Finance, issued the "Directions for Customs Authorities in Implementing Measures for Protection of Trademark & Copyright." The Directions are in line with the protection of intellectual property rights policy and the newly amended Trademark Act and Copyright Act. These Directions serve as a guideline for customs officials in implementing trademark and copyright measures, and will help enhance anti-piracy efforts.

The Directions took effect on July 1, 2003. All trademark and copyright owners (including licensees) or their agents who suspect certain imported/exported goods are infringing their

trademark or copyright may prepare the necessary documents and information pursuant to the Directions and lodge a complaint or give an advice in writing to the Directorate General of Customs or the local customs authorities. If the goods in question are consistent with the information, Customs authorities shall promptly notify the applicant to identify the goods within a prescribed period. If infringement are indeed found, the applicant should apply for seizure of such goods with the Customs by posting a bond, pursuant to Article 65, Paragraph 2 of the Trademark Act, Article 90-1 of the Copyright Act, or the “Implementation Regulations for Suspension of Release of Goods Infringing on Copyright or Plate Rights by Customs Authorities”. Alternatively, the applicant may also apply to the Court for Temporary Restraining Order, and Customs authorities would collaborate in the seizure of the goods.

The Directorate General of Customs has held workshops for local customs authorities. Local customs authorities has also increased education efforts to warn importers/exporters and customs broker against importation/exportation of trademark or copyright infringing goods.

Q8 - Chinese Taipei enacted the Copyright Act in 2003. Taking the spread of internet into consideration, has Chinese Taipei been expanding the protection of intellectual property rights and its relative rights, such as, creating rights to access internet, improving the procedure to protect copyright by law and setting remedy at law for the duty on information managing intellectual property rights?

Chinese Taipei Response

The new Copyright Act that was enacted in July 2003 was amended to address copyright protection on the Internet and to realign penal provisions. Major amendments to the Act are as follows:

1. The amended Act stipulates “temporary reproduction” as “reproduction” to be in line with digital technological development.
2. The amended Act accords public transmission right, which requires the consent of the right holder before transmitting copyrighted works on the Internet.
3. The amended Act accords distribution right to right holders to prohibit the distribution of pirated works.
4. The amended Act accords a right of remuneration for public performances of sound recording to right holders of sound recordings and performers.
5. The amended Act affords protection to electronic rights management information (“ERMI”), which prohibits the random deletion or correction of copyrighted works in ERMI.
6. The amended Act accords a civil mediation settlement ratified by a court as having the same force as a final court judgment in a civil case to encourage the public to use non-litigation measures to settle copyright disputes.
7. The amended Act increases the amount of statutory compensation in civil remedy from NT\$1 million to NT\$5 million.
8. The amended Act increases the fines for criminal penalties from NT\$450,000 to NT\$8 million, other fines are also adjusted as well. In addition, unauthorized reproduction and sale thereafter of optical disks with the intent to profit is deemed public offense to deter distribution and piracy. Other types of infringement remain as requiring legal complaint from plaintiff.
9. The amended Act accords the right to enforcement authorities to confiscate all infringement products or equipment in the event the infringer cannot be found.

10. The amended Act inserts the requirement for payment of remuneration during the retroactive protection transition period and prohibits the sale of such copyrighted work after one year.

As to the Technical Protection Measures, it has been included in the new amendment bill, which is pending legislation at Legislative Yuan.

Q9 - The report states that Chinese Taipei has made significant efforts to eradicate piracy. What is the percentage of pirated edition in a market, and which economies' pirated editions mainly spread in the Chinese Taipei's market?

Chinese Taipei Response

1. In 2003, Chinese Taipei commissioned the National Cheng-chi University to conduct the "Research Project for Counter OD Piracy Strategies and Measures". Survey results showed that piracy rate for music CDs was 33%, and for video CDs (including DVDs) was 36%.
2. According to the 2003 BSA survey on software piracy rate in Asia, Chinese Taipei's piracy rate for 2002 showed the biggest drop among all economies, from 53% to 43%. Also, pirated music CDs rate also dropped from 47% to 42% according to the 2003 IFPI's survey. These figures indicate that meaningful results have been achieved through Chinese Taipei's IP enforcement and law amendments.
3. Based on the National Police Administration's statistical reports on IP infringements, major infringements from other WTO member economies to Chinese Taipei are pirated music and video optical disks, watches, clothing, and leather accessories.

Q10 - Chinese Taipei has been dedicating considerable human and finance resources to tackle the issue of piracy. Are there any efforts made by private sectors or through cooperation between public and private sectors?

Chinese Taipei Response

1. Recognizing that close partnership with right holder associations is crucial in effective and adequate protection of IPs, mutually benefiting interactions are maintained between TIPO and BSA, IFPI, and MPA, etc. Information on the latest IP enforcement results and market surveys are shared on a regular basis to monitor the effectiveness of enforcement efforts and to be made aware of what better actions are needed to be implemented to deal with the latest piracy trends.
2. Seminars, television and radio programs, newspaper columns, the internet and various promotional channels targeting at the general public, industries, organizations, schools, and right holders groups are utilized to cultivate positive attitudes towards intellectual property rights and to engender a proper understanding of IPR.

Q11 - What are the damages of IPR in Chinese Taipei caused by pirated editions in other economies and counter-measures taken by Chinese Taipei to deal with them?

Chinese Taipei Response

Ensuring a healthy IP protection environment is the top national agenda for Chinese Taipei. Currently, we do not have any statistical reports on the damages that piracy from other countries have caused, but Chinese Taipei urges other member economies to observe the principle of mutual benefits and provide the same protection for our IPs.

Q12 - What kind of measures does Chinese Taipei take to tackle the infringement of copyright on the Internet?

Chinese Taipei Response

1. Chinese Taipei's Copyright Act accords reproduction and public transmission rights that require the consent of the right holder prior to transmitting the copyrighted work on the Internet.
2. The Cyber Crime Taskforce (CCT) is established under the Criminal Investigation Bureau of NPA. CCT has been dispatched to conduct rigorous searches on the Internet to crack down on instances of infringement cases. All police authorities have been instructed to redouble efforts to eradicate this new type of infringement activity.

(USA)

Q13 - How does Chinese Taipei intend to improve relevant laws, such as copyright and optical disk, to strengthen CT's IPR regime?

Chinese Taipei Response

The new Copyright Act was promulgated on July 9, 2003. The Act was amended according to the 1996 WCT and WPPT conventions to be in line with digital technological development and to protect public interests. Major amendments to the Act are as follows:

1. The amended Act stipulates "temporary reproduction" as "reproduction" to be in line with digital technological development.
2. The amended Act accords public transmission right, which requires the consent of the right holder before transmitting copyrighted works on the Internet.
3. The amended Act accords distribution right to right holders to prohibit the distribution of pirated works.
4. The amended Act accords right holders of sound recordings and performers a right of remuneration for broadcasting of their recording works.
5. The amended Act affords protection to electronic rights management information ("ERMI"), which prohibits the random deletion or correction of copyrighted works in ERMI.
6. The amended Act accords a civil mediation settlement ratified by a court as having the same force as a final court judgment in a civil case to encourage the public to use non-litigation measures to settle copyright disputes.
7. The amended Act increases the amount of statutory compensation in civil remedy from NT\$1 million to NT\$5 million.
8. The amended Act increases the fines for criminal penalties from NT\$450,000 to NT\$8 million, other fines have also been adjusted as well. In addition, unauthorized reproduction and sale thereafter of optical disks with the intent to profit is deemed public offense to deter distribution and piracy. Other types of infringement remain as requiring legal complaint from plaintiff.
9. The amended Act accords the right to enforcement authorities to confiscate all infringement products or equipment in the event the infringer cannot be found.
10. The amended Act inserts the requirement for payment of remuneration during the retroactive protection transition period and prohibits the sale of such copyrighted work after one year.

Q14 - When does Chinese Taipei plan on improving these laws and what measures is Chinese Taipei considering?

Chinese Taipei Response

The Copyright Act was amended and promulgated on July 9, 2003. To further strengthen the existing Act, TPMs, more stringent penal provisions, and Customs *ex officio* actions are being added to a new amendment bill currently under review at the Legislative Yuan.

Q15 - Chinese Taipei does not fulfill the WTO TRIPS obligation to provide data exclusivity for pharmaceutical products leading to a reluctance of many pharmaceutical companies to apply license innovative drugs in Taiwan. What is Chinese Taipei's approach to ensuring provision of data exclusivity for pharmaceuticals?

Chinese Taipei Response

1. Confirmed by different parties (including several law firms), the drug registration process conducted by the Department of Health (DOH) fully complies with WTO TRIPS Article 39.3. The Article requires a WTO member to protect undisclosed test data against unfair commercial use. It does not require a WTO Member to grant an exclusive period of time for a newly approved drug.
2. In the case of new drug application in Taiwan, once the first applicant submits local clinical trial data, the follow-up applicants have to submit the same scale of clinical trial data, together with data to prove the product's safety, efficacy and quality in the following five years. DOH does not rely on data submitted by the original applicant for the approval of follow-up applications, thus the question of fair or unfair commercial use of test data submitted by the original applicant is not of concern.
3. In respect to the data exclusivity proposal, DOH is communicating with different interest parties. A conclusion has been reached for pharmaceuticals of new chemical entities to apply for market approval. In order to effectively afford data exclusivity, a working group entitled "Data Protection and Data Exclusivity Task Force" will be assembled. The proposed Task Force will consist of representatives mainly from six pharmaceutical associations and is monitored by DOH. The mission of the Task Force is to reach consensus for data exclusivity in the Pharmaceutical Affairs Law. The time frame is to send the drafted amendment to the Executive Yuan for review in 9 to 12 months. DOH believes that a sound mechanism to protect data will not only promote early launching of new drugs in Taiwan but also create a more attractive environment for R&D, which will result a win-win situation for both industry and public health.

Q16 - How does Chinese Taipei intend to sustain and broaden IPR enforcement in an effort to reduce high levels of IPR piracy and counterfeiting?

Chinese Taipei Response

Chinese Taipei will continue to further IP protection in 2004 to improve our IP regulations, strengthen enforcement, and enhance public awareness. Major directions for this year's IP action plan are:

- Sustaining partnership with right holder associations;
- Strengthening border control measures to deal with transnational piracy;
- Legalizing IETF to ensure that the continuity of task force members and professionalism are maintained;
- Enhancing campus awareness programs to prevent illegal copying of textbooks and use of illegal websites; Help establish secondhand bookstores on campuses;
- Facilitating cross border enforcement to deal with cyber crime;
- Incorporating commutation to fine execution as part of evaluation criteria on prosecutors to prompt them to be cautious in dealing with commutation of sentence to fine.

Q17 - How is Chinese Taipei addressing concerns related to delays in the judicial system?

Chinese Taipei Response

1. The time frame needed to charge or close a case depends on the nature of each case. In accordance with the “Regulations for All Level of Courts on the Time Frame for Processing Cases” and the “Regulations for the Clearance of Delayed Civil Cases of First and Second Trials”, the Judicial Yuan monitors all level of courts to ensure efficient handling of court cases. Each court also established a committee to monitor the progress of court cases and to assist judges in closing cases on hands.
2. On December 5, 2002, the Judicial Yuan issued an order to all level of courts stating that IP-related cases are to be monitored and reported on a monthly basis. On January 29, 2003, another order was issued stating that each IP-related case is to be handled and sentenced according to the situation given, and shall be processed efficiently. Last on October 22, 2003, the Judicial Yuan urged all level of courts that when processing and sentencing copyright infringement cases, due considerations should be given to whether the case has negative impact on Chinese Taipei’s foreign relations and economic development. All cases are to be processed as quickly as possible to show our determination in IP protection. The Judicial Yuan has urged all level of courts since 1982 to establish specialized IP tribunal, or assign IPR cases to those judges with IPR expertise. This issue was reiterated in another communication issued on January 29, 2003. Judicial Yuan has issued the memorandum on July 12, 2004 to all levels of courts that sentencing defendants committing IPR crimes should be based on the Article 57 of the Penal Code, the value of IPR, producing counterfeits massively with mechanical approach, infringement act transnational for the purpose of import / export.
3. Time Frame for trademark and patent administrative litigations is stipulated under the “Regulations for All Level of Courts on the Time Frame for Processing Cases ”. As of March 31, 2004, and since the new administrative litigation procedures took effect on July 1, 2000, the average number of days for the Administrative Supreme Court, the Taipei Administrative High Court, the Taichung Administrative High Court, and the Kaohsiung Administrative High Courts to close an IP-related case was 103 days, 96 days, 14.5 days, and 36 days, respectively, which is within the time limit set forth under Article 4 of the said regulations. No cases of delay have been recorded thus far.

Q18 - The current copyright law does not provide adequate protection for IP or sentences for violators. When does Chinese Taipei estimate the LY will pass the amendments to the copyright law? The United States actively supports continued training for judges and prosecutors on IP law and would welcome the establishment of a specialized IP court. Enforcement efforts are improved but would benefit from institutionalization of the current ad hoc task forces. Would Chinese Taipei please comment on plans in these areas?

Chinese Taipei Response

The Copyright Act was amended and promulgated on July 9 ,2003. To further strengthen the existing Act, TPMs, more stringent penal provisions, and Customs *ex officio* actions are being added to a new amendment that is currently under review at the Legislative Yuan. In addition, two other draft amendments from user interested groups are also pending review. The Judicial Yuan has organized the “Intellectual Property Court Working Group” in September 2004 to deal with the preparatory task for setting up the Intellectual Property Court.

CHAPTER 8. Competition Policy

(Australia)

Q1 - What means/measures/monitoring systems or framework is there in place to gauge the impact of improved policy/law and the effect (i.e. acting as a deterrent) of punishment regimes? Has punishment/monitoring reduced the incidence of anti-competitive conduct?

Chinese Taipei Response

There hasn't been any empirical study on whether the revision of the punishment regime of the Fair Trade Act in 1999 has significantly reduced the incidence of anti-competitive conduct. Statistics showed that, from 2000 to 2003, the number of violations kept decreasing. This tendency might be interpreted in various ways, though. The impact of the revision of the system may still too early to be assessed.

Number of Punishments

Unit: Case

	Complaints Received	Decisions
Year	16,187	1,876
1992	757	51
1993	1,094	79
1994	1,408	118
1995	1,643	158
1996	1,633	178
1997	1,662	206
1998	1,409	225
1999	1,453	154
2000	1,384	202
2001	1,404	193
2002	1,284	189
2003	1,056	123

Q2 - You have indicated that, in the future, the opening of controlled industries will be broadened and deepened, and the other monopolistic public utilities will also (gradually) be opened. When do you envisage this process commencing, and which industries and public utilities will be subject to reform?

Chinese Taipei Response

Chinese Taipei's petroleum and telecom industries have already been opened to private investment. In the electricity industry, power generation has been opened to private investment in power plants, while power transmission and distribution will be opened to such extent as is provided for in the amended version of the Electricity Law enacted by the legislature.

There are 7 State-Owned Enterprises (SOEs) under the Ministry of Economic Affairs, including Taiwan Power Co. (TPC), Chinese Petroleum Corp. (CPC), China Shipbuilding Corp. (CSBC), Aerospace Industrial Development Corp. (AIDC), Tang Eng Iron Works Co. (TEIW), Taiwan Sugar Corp. (TSC) and Taiwan Water Supply Corp. (TWSC). Except for the privatization plan of TSC and the feasibility study of privation of TWSC which are in process, the other SOEs' privatization schedules as follows:

Privatization Schedule of SOEs under the MOEA

Company	Timetable

Taiwan Power Co. (TPC)	December 2005
Chinese Petroleum Corp. (CPC)	The timetable will be set after CPC Privatization Plan has been approved by Legislative entity.
China Shipbuilding Corp. (CSBC)	December 2004
Aerospace Industrial Development Corp. (AIDC)	The timetable will be set after AIDC Privatization Plan has been approved by Legislative entity
Tang Eng Iron Works Co. (TEIW)	August 2004

Q3 - What has been your experience with encouraging industries to establish their own self-regulatory compliance programs? Have you found this approach to be successful in promoting competition?

Chinese Taipei Response

The Fair Trade Commission has only two years' experience in enforcing the self-regulatory compliance programs. With the view that the aims of the Act are not to punish the violators but to make the business comply with the Act and to create a sound and effective environment for a market economy, in 2001 the Fair Trade Commission proposed a Self-Regulatory Compliance Program for the business community. Certain enterprises with large market share have participated in the program. Thus far, the program has functioned well, but it might be too early to evaluate its effectiveness.

Q4 - Are there any areas of competition policy that have worked particularly effectively? Based on the Chinese Taipei experience, are there any lessons you could pass on to other economies?

Chinese Taipei Response

The Fair Trade Commission has devoted numerous resources in pursuing competition policy work ever since its establishment. Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. The process not only requires removal of entry barriers to each of the previously closed sectors, but also a thorough examination of the structure of the market concerned as well as the way the market is regulated. The FTC is therefore very keen in creating and maintaining a regulatory environment that fits into the spirit of the market economy.

To smooth the economic transition, the FTC has been continuously advising the responsible government agencies during the liberalization of the monopolized sectors, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting laws and regulations to prevent the misuse of dominant position, cross-subsidizing and undue pricing after restructuring of the public utilities. The FTC is more than willing to share its experiences in participating in these market liberalizing and restructuring tasks with other member economies.

General Policy Framework

Q5 - Is there a framework in which all states of Chinese Taipei can apply the national competition policy?

Chinese Taipei Response

In Chinese Taipei, the Fair Trade Commission is the sole competent authority to enforce its competition law, the Fair Trade Act, nation-wide

Q6 - Out of the 23,720 competition law cases in Chinese Taipei, how many cases resulted in convictions?

Chinese Taipei Response

The figure 23,720 actually comprises of the numbers of complaints, the merger applications, the concerted action application and the explanation requests. The accumulated number of the complaints, by the end of 2002, was 15,460. Out of the complaints received by the Fair Trade Commission, 1,753 cases resulted in convictions were convicted, including both the restrictive business practices and unfair trade practices cases.

Q7 - What steps will be taken to transform the FTC into an independent agency? When is it anticipated that this transformation will take place?

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don't have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

Reviews of Competition Policies and/or Laws

Q8 - How does the FTC identify its legislative and regulatory review and reform priorities?

Chinese Taipei Response

The legislative purposes of the Fair Trade Act are stipulated in Article 1 of the Act, which aims to maintain trading order, protect consumer interests, ensure fair competition and promote economic stability and prosperity.

Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. To facilitate a smooth economic transition, the Fair Trade Commission has devoted numerous

resources in removing entry barriers to the previously closed sectors and creating and maintaining a competitive business environment.

As public utilities concern our nationals' well-being as well as all kinds of economic activities, the FTC has been keen to advise the responsible government agencies during the liberalization of the public utilities, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting of laws and regulations to prevent misuse of dominant position, cross-subsidization and undue pricing after restructuring of the public utilities. After the markets are liberalized, the responsibility of maintaining a competitive market environment mainly falls upon the enforcement of the Fair Trade Act.

Measures to Deal with Horizontal Restraints

Q9 - What are the current exceptions in relation to concerted actions?

Chinese Taipei Response

According to the Fair Trade Act, no enterprise shall have any concerted action. Exception could be granted, though, by the Fair Trade Commission if the FTC is satisfied that the concerted action meets one of the following requirements, is beneficial to the economy as a whole and in the public interest:

1. unifying the specifications or models of goods for the purpose of reducing costs, improving quality, or increasing efficiency;
2. joint research and development on goods or markets for the purpose of upgrading technology, improving quality, reducing costs, or increasing efficiency;
3. each developing a separate and specialized area for the purpose of rationalizing operations;
4. entering into agreements concerning solely the competition in foreign markets for the purpose of securing or promoting exports;
5. joint acts in regards to the importation of foreign goods for the purpose of strengthening trade;
6. joint acts limiting the quantity of production and sales, equipment, or prices for the purpose of meeting demand during economic downturn, when the market price of products is lower than the average production costs and the enterprises in a particular industry have difficulty maintaining their business or encounter a situation of overproduction; or
7. joint acts for the purpose of improving operational efficiency or strengthening the competitiveness of small-medium enterprises.

Q10 - What types of horizontal restraints are prohibited?

Chinese Taipei Response

Concerted action is deemed as per se illegal in accordance with the Fair Trade Act. The definition of concerted action means the conduct of any enterprise, by means of contract, agreement or any other form of mutual understanding, with any other competing enterprise,

to jointly determine the price of goods or services, or to limit the terms of quantity, technology, products, facilities, trading counterparts, or trading territory with respect to such goods and services, etc., and thereby to restrict each other's business activities.

Measures to Deal with Vertical Restraints

Q11 - To what extent have measures dealing with vertical restraints been effective in regulating competition in the market and deterring unfair conduct?

Chinese Taipei Response

The Fair Trade Act strictly prohibits resale price maintenance. As regarding to other type of vertical restraints, the Act provides that:

1. If the means, by an enterprise, is considered “unfair”; or the “effect of competition” has actually lessened the competitiveness in a market, the “rule of reason” would be governed to examine; and/or
2. If the means has not reached the stage of illegal per se, the FTC would then need to consider whether such an act has increased or impeded the competition in the free market by applying “rule of reason” and ensuring the competitiveness in the market.

Measures to Deal with Mergers and Acquisitions

Q12 - What criteria are used to assess the approval of mergers?

Chinese Taipei Response

According to the Fair Trade Act, in dealing with merger case, the Fair Trade Commission may not prohibit any of the mergers notified if the overall economic benefit of the merger outweighs the disadvantages resulting from competition restraint. In order to ensure that the overall economic benefit of the merger outweighs the disadvantages resulting from competition restraint, the FTC is also empowered to attach conditions or require undertakings in any of the decisions it makes on the cases field.

To evaluate “overall economic benefit,” the FTC used to take the benefit of the economic scale, efficiency of innovated technology, and low price, etc. into considerations. On the other hand, to evaluate “competition restraint,” entry barriers, concentration changing (such as CR4, HHI), numbers of competitors in the market, and characteristics of the product etc. will be taken into account.

In practice, when reviewing different types of mergers, the FTC considers different factors in weighing the “overall economic benefits” and the “disadvantages brought about by competition restraints.”

Horizontal mergers: the factors the FTC considers in terms of the “overall economic benefit” and the “disadvantages resulting from competition restraint” are the following:

- “overall economic benefits”: economy of scale (in technology of production, management and finance); technological efficiency; and other factors, such as the possibility of changes in prices in post-merger markets and whether one of the merging parties is a failing company, among others;
- “disadvantages resulting from competition restraints”: market power of the merged entity and entry barriers of the post-merger market; changes in the

concentration ratio and the number of players in the relevant market; substitutability of the merging parties' production or distribution; past records with regard to merging parties in conducting illegal mergers, hard-core cartels or misuse of market power.

Vertical mergers:

- “overall economic benefits”: economy of scale (in management and finance); vertical economy; and other factors, such as possible changes in prices in post-merger markets and whether one of the merging parties is a failing company, and so on;
- “disadvantages resulting from competition restraints”: entry barriers of the post-merger market; changes concerning the concentration ratio; past records of merging parties in conducting illegal mergers, hard-core cartels or misuse of market power.

Conglomerate mergers:

- “overall economic benefit”: economy of scale in technology of production; whether one of the merging parties is a failing company; economy of scope, etc.;
- “disadvantages resulting from competition restraints”: market power of the merged entity in the post-merger market; changes *vis-à-vis* the concentration ratio; past records of merging parties with respect to conducting illegal mergers, hard-core cartels or misuse of market power.

Improvements in Chinese Taipei's Approach to Competition Policy since 1996

Q13 - What are the bodies that regulate competition policy at the municipal, provincial and county level? Is it now the role of the FTC?

Chinese Taipei Response

The Fair Trade Commission is the sole competent authority equipped with resources to enforce the Fair Trade Act in Chinese Taipei. Although in the Act local governments are the competent authority at regional level, they actually do not have jurisdictions and resources to enforce the Act. In practice, the FTC often seeks the local governments' assistance in competition advocacy work, including arranging educational seminars, distributing educational materials, as well as doing on-site inspection on certain multi-level sales enterprises.

General questions

Q14 - Do you have a statutory definition for 'dominant market share'?

Chinese Taipei Response

The Fair Trade Act defines “monopolistic enterprise” as “any enterprise that faces no competition or has a dominant position to enable it to exclude competition in a relevant market.” Two or more enterprises shall be deemed monopolistic enterprises if they do not in fact engage in price competition with each other and together have the same status as a monopolistic enterprise.

However, an enterprise shall not be deemed a monopolistic enterprise, if none of the following circumstances exists:

1. the market share of the enterprise in a relevant market reaches one-half of the market;
2. the combined market share of two enterprises in a relevant market reaches two-thirds of the market; and
3. the combined market share of three enterprises in a relevant market reaches three-fourths of the market.

Where the market share of any individual enterprise does not reach one-tenth of the relevant market or where its total sales in the preceding fiscal year are less than NT\$ 1 billion, such enterprise shall not be deemed as a monopolistic enterprise.

An enterprise exempted from being deemed as a monopolistic enterprise by any of the preceding two paragraphs may still be deemed a monopolistic enterprise by the Fair Trade Commission if the establishment of such enterprise or any of the goods or services supplied by such enterprise to a relevant market is subject to legal or technological restraints, or there exists any other circumstance under which the supply and demand of the market are affected and the ability of others to compete is impeded.

Q15 - In general, is an assessment of the impact of proposed legislation completed prior to the enactment of legislation or regulations? If so, are there examples of where this assessment process has led to a more appropriate regulatory outcome? When regulations are applied, are the regulatory guidelines developed according to internationally recognised frameworks (e.g. OECD)?

Chinese Taipei Response

Although current legislation process in Chinese Taipei does not require an assessment of the impact, the central government, the legislature and the interested non-governmental organizations will, almost always hold public hearings. During those informal processes the draft act may be better formulated to meet all parties' concerns.

The Fair Trade Commission takes internationally recognized frameworks, especially the OECD Competition Committee's work, into account when developing enforcement guidelines. Examples may be found in the followings:

- While examining the rationale of pricing cartels formed by the various professionals, and while preparing the decision rulings against the three largest trade associations of architects for engaging in pricing cartels, the FTC referred to the Roundtable on Competition in Professional Services.
- In drafting the FTC's Guidelines for Unconditional Endorsement and Transfer of Ticket Vouchers between Airlines, the FTC referred to the Roundtable on Airline Mergers and Alliances.
- In drafting and revising the FTC's Regulatory Note on Telecommunications, several publications regarding telecommunications such as the Roundtable on Relationship between Regulators and Competition Authority, Roundtable on Competition and

Regulation Issues in Telecommunications, and Report on Access Pricing in Telecommunications were consulted.

The FTC and the French Competition Council have signed a bilateral cooperation arrangement referred to the 1995 OECD Recommendation Concerning Co-operation between Member Countries on Anticompetitive Practices Affecting International Trade.

Q16 - Is there is a clear separation between policy-setting and compliance – ie is there a separate and relatively independent/objective entity with resources devoted to compliance?

Chinese Taipei Response

Currently the Fair Trade Commission is mandated with both policy-setting and implementation functions. On the one hand, the Commission is a ministerial-level government agency; the Chairperson of the FTC is a Cabinet minister who presents the Commission's views in the Cabinet meeting regarding competition law enforcement issues and deregulation matters. On the other hand, enforcement is also the Fair Trade Commission's responsibility. To ensure compliance, the Fair Trade Act equips the Commission with investigation power for discovery of illegal practices and empowers the Commission to issue cease-and-desist orders, require correction of illegal practices, and impose administrative fines.

Q17 - What is the rate of prosecution/level of enforcement activity by the compliance agency/arm?

Chinese Taipei Response

Please refer to the following two tables.

Cases received by the Fair Trade Commission

Unit: Case

	Total	Cases			
		Complaints	Concerted Action Applications	Merger Applications and Notifications	Explanation Requests
Total	24,821	16,460	125	6,102	2,134
1992	1,296	1,039	12	13	232
1993	1,567	1,243	9	112	203
1994	2,020	1,499	11	262	248
1995	2,486	1,768	2	435	281
1996	2,234	1,636	12	334	252
1997	2,277	1,480	23	561	213
1998	2,444	1,335	13	863	233
1999	2,757	1,522	7	1,064	164
2000	2,697	1,372	12	1,187	126
2001	2,556	1,381	4	1,089	82
2002	1,386	1,185	8	132	61
2003	1,101	1,000	12	50	39

Results of Complaints

Unit: Case

	Total	Results				
		Decision	Non-decision	Warnings	Termination	Combined with other Cases
Total	16,187	1,876	3,050	284	9,758	1,219
1992	757	51	100	-	591	15
1993	1,094	79	199	7	749	60
1994	1,408	118	306	40	852	92
1995	1,643	158	280	75	997	133
1996	1,633	178	325	62	931	137
1997	1,662	206	315	34	912	195
1998	1,409	225	278	23	773	110
1999	1,453	154	281	17	912	89
2000	1,384	202	301	13	759	109
2001	1,404	193	252	6	825	128
2002	1,284	189	218	4	798	75
2003	1,056	123	195	3	659	76

Q18 - Does punishment for anti-competitive conduct include both financial and criminal? When is it anticipated that the next review of competition policy will be undertaken? Are there any areas of competition policy/law that works particularly effectively? Based on your experience, are there any lessons you are willing to pass on to other nations?

Chinese Taipei Response

In terms of certain types of anti-competitive conduct, including misuse of monopolistic position, cartel, and vertical restraints, the Fair Trade Act adopts an “administrative prior to criminal principle”. The Fair Trade Commission can order violators to cease their operations, rectify the illegal practices, or take any necessary measure within the time prescribed in the order, as well as impose an administrative fine. If the violators fail to comply with the issued order, or comply once but engage in the same or similar practices later, administrative and criminal investigations will then be launched in sequence. The FTC may continue to order the violators to comply with the order, and each time may successively impose an administrative fine of between NT\$100 thousand and NT\$50 million until the order has been complied with. The FTC will then refer the case to prosecutors for criminal investigation. Individuals responsible for the cartel may be punished by imprisonment for up to three years or detention, or by a criminal fine of no more than NT\$100 million, or by both imprisonment and a criminal fine.

As for the revision of the Fair Trade Act, the next review is already under way. The salient points of the draft amendments include applying exemption to horizontal agreements in services sectors, adopting the leniency program for cartels, and increasing the imprisonment penalty for persons in charge of pyramid selling up to seven years, etc.

The Fair Trade Commission has devoted numerous resources in pursuing competition advocacy work ever since its establishment. Chinese Taipei is in a transition from heavy-handed regulation to a free and open economy. The process not only requires removal of entry barriers to each of the previously closed sectors, but also a thorough examination of the structure of the market concerned as well as the way the market is regulated. The FTC is therefore very keen in creating and maintaining a regulatory environment that fits into the spirit of the market economy.

To smooth the economic transition, the FTC has been continuously advising the responsible government agencies during the liberalization of the monopolized sectors, such as the liquefied petroleum gas market, the telecommunications market, the petroleum market and the electricity market, as well as drafting laws and regulations to prevent the misuse of dominant position, cross-subsidizing and undue pricing after restructuring of the public utilities. The FTC is more than willing to share its experiences in participating in these market liberalizing and restructuring tasks with other member economies.

Q19 - In relation to competition policy, the deregulation of public utilities and regulatory reform neither Member Economy has stated any impact the developments in these areas may have on the small business sector.

Chinese Taipei Response

We did not receive any information from several agencies.

(Japan)

Q20 - With regard to the sheet of "Improvements in Chinese Taipei's Approach to Competition Policy since 1996", in the column of cumulative improvements implemented to date, all the statistics seem no change from that of IAP 2002. Please provide the latest data.

Chinese Taipei Response

An "Improvements in Chinese Taipei's Approach to Competition Policy since 1996" is attached with updated statistics. (Attachment H)

(Mexico)

Q21 - What would be the main characteristics of the Public Utility Competition Framework?

Chinese Taipei Response

In the past, most public utilities were state owned and operated. In recent years, however, as more and more new technologies have been invented, the previous natural monopolies have transformed into industries that can segment their services and trade their products in the market. Hence it is now generally believed that supply and demand for the provision of public utilities should also be decided by market rules so as to enhance the efficiency of the business involved.

It is well known that Chinese Taipei has achieved much in the past few years in terms of competition in the telecommunications and petroleum product markets. For its part, the FTC has continuously participated in formulating the market conditions post-opening competition framework. In the future, the opening of controlled industries will be broadened and deepened, and the other monopolistic public utilities will inevitably, albeit gradually, also be

opened. In response to these economic changes, proper advance preparations must be made so restrictions to competition or unfair practices caused in the future can be corrected, and in the process, a competition framework for each of those industries can be established.

Q22 - How do you evaluate and reconcile consumer interests and industrial development with competition policies in order to ensure that these are efficient?

Chinese Taipei Response

Competition law, through establishing and maintaining a fair and free market, seeks to regulate those enterprises having market power so they do not abuse that power. It also protects the efforts and innovation performance of enterprises that bring prosperity and economic stability, and protect consumers' interests.

The FTC is of the opinion that consumers can benefit from well-functioning markets. Effective competition can improve quality, variety, the availability of desired goods and services provided by enterprises and reduce the costs of acquisition. Fair competition, meanwhile, can prevent market information from being distorted and ensure that consumers are able to access truthful and useful information for decision-making.

Q23 - What aspects are included under the self-regulation program, which sectors are under this program and what are their main characteristics?

Chinese Taipei Response

With the view that the aims of the Act are not to punish the violators but to make the business comply with the Act and to create a sound and effective environment for market economy, in 2001 the Fair Trade Commission proposed a Self-Regulatory Compliance Program for the business community. The content of the program includes providing free competition law education materials and lecturers to businesses and to set up contact points between businesses and the FTC for legal consultations, etc.

The program is not aimed at specific sectors. Enterprises across various sectors voluntarily participating in the program are often well-structured companies with large shares in their respective market. It is possible that participants expect to reduce the risk of breaching the Fair Trade Act and thereby avoid penalties and bad press.

Q24 - Are there any kinds of penalties imposed to companies that do not comply with the self-regulation program? If so, what kind of penalties are they and which authority is responsible for their imposition and enforcement?

Chinese Taipei Response

Currently there is no penalty designed for companies that do not comply with the self-regulatory programs. The purpose of the program is more educative than compulsory; it is not in the Fair Trade Commission's intention to punish businesses for not following the program. However, if the violation also breaches the Fair Trade Act, the FTC will prosecute it in accordance with the Act.

Q25 - What kind of investigative powers does the FTC have?

Chinese Taipei Response

The Fair Trade Commission is equipped with certain administrative investigation powers. It may investigate and handle, upon complaints or ex officio, any violation of the provisions of Fair Trade Act that harms the public interest. In conducting investigations, the FTC may proceed in accordance with the following procedures:

1. notify the parties and any related third party to make statements;
2. notify relevant agencies, organizations, enterprises, or individuals to submit books and records, documents, and any other necessary materials or exhibits, and
3. dispatch staff for any necessary on-site inspection of the office, place of business, or other locations of the relevant organization or enterprises.

Should any person subject to any investigation conducted by the FTC pursuant to the Fair Trade Act refuse the investigation without justification, or refuse to respond or to render relevant materials by the set time limit, an administrative penalty of not less than NT\$ 20,000 nor more than NT\$ 250,000 shall be imposed upon it. The penalty shall be successively imposed until the order is complied with.

Q26 - Explain what are the most significant exceptions to the competition regime in Chinese Taipei and if there are any plans to limit them.

Chinese Taipei Response

In 1999, the Fair Trade Act was amended so that the Act now should not be applied to practices performed in accordance with other laws not conflicting with the legislative purpose of the Fair Trade Act. Therefore there is no more exception to the competition regime under the existing provisions of the Fair Trade Act.

Q27 - Regarding the review of laws and regulations to provide an environment for fair market competition and to facilitate the enforcement of competition policy, please explain what are the main obstacles that the FTC faced, and if there have been any concrete and measurable benefits from this policy.

Chinese Taipei Response

From time to time, difficulties do arise to hinder the Fair Trade Commission's competition advocacy work. The idea of competition is new and not widely accepted by certain previously monopolized sectors. To effectively enforce competition law the Fair Trade Commission always regards promoting competition culture as one of its priorities.

Regarding the benefits received through market liberalization, the best example may be found in the telecommunications sector. To provide consumers a broader range of choices, Chinese Taipei opened its cellular phone service market in 1997, thus breaking a monopoly on services in that area, and since then it has separately opened the markets for satellite communications service, fixed network communications service, and 3G mobile communications service. As of the end of 2001, there were 73 Type I telecommunications operators and 380 Type II telecommunications operators. Total revenue in Chinese Taipei's telecommunications industry reached US\$9.62 billion and accounted for 3.36% of Chinese Taipei's GDP, so the effectiveness of the liberalization policy has been clearly demonstrated.

In the five years since 1998, when private operators were permitted to enter the mobile communications market, the number of mobile telephone user accounts multiplied by a factor of approximately 15, so that by the end of 2002, there were 23,910,000 accounts and a penetration rate of 106.15%. In 2002, total earnings from mobile telephone services reached US\$5.276 billion, equivalent to 54.86% of total earnings in Chinese Taipei's telecommunications market.

In the area of fixed network communications, three private integrated fixed network operators commenced business in 2001. Because the international telephone network, which had greater room for profitability, was built rather quickly, the new operators first entered international telephone service. As a result, their market share in the international telephony market (using revenue as a basis for calculation) had already grown quickly to reach 32.16% in 2002. The market shares for other long-distance telephone service and for local telephone service stood at 5.49% and 1.26% respectively. Although the three private integrated fixed network operators just entered the market one after the other in 2001, the price-cutting effect of market competition is already quite obvious. For example, the rate for direct-dial telephone calls from Chinese Taipei to the United States through Chunghwa Telecom, Chinese Taipei's largest telecommunications company, decreased 288% from US\$0.50 per minute in 1999 to US\$0.17 per minute in 2002, to the clear benefit of consumers.

Following the spread of the Internet, Chinese Taipei actively promoted the liberalization of the telecommunications market. At the end of 2002, the number of Chinese Taipei's Internet users had reached 8.59 million, representing an increase in penetration rate from 22% in 1999 to 38% in 2002. Furthermore, the percentage of Chinese Taipei households connected to the Internet had reached 53% the same year.

The number of broadband users in Chinese Taipei began to grow rapidly in 2001 due to strenuous promotion of broadband connectivity by both the government and private sector, and due to the efforts by private industry to drive down operational costs within an environment of open, fair competition. The number of broadband user accounts grew from 262,800 at the end of 2000 to 2,116,000 at the end of 2002. In other words, in two years more than 1,850,000 broadband users were added, so that 24.63% of Chinese Taipei's Internet users had broadband access.

At present, Chinese Taipei is actively striving to open its market for mobile virtual network operators (MVNOs) and promoting the use of number portability services. It is expected that these moves will effectively strengthen competition mechanisms in Chinese Taipei's telecommunications market and provide Chinese Taipei with a greater diversity of high-quality telecommunications services.

Q28 - Has the impact of the public awareness program been assessed? How would you measure the impact of these advocacy programs?

Chinese Taipei Response

Although the Fair Trade Commission or other parties have never conducted any research to measure the effectiveness of our public educational activities, whenever the FTC has released an important message on enforcement work or guidelines issued, double or triple amount of calls than it normally receives will go through the enquiry desk in the following days. It is fair to assume that the communications clearly receive the relevant audience's attention, at least on most occasions.

Mandates of the FTC include helping the general public to better understand what the FTC does for them and urging their continual support for the work of the FTC. In addition to releasing updated pamphlets and annual reports to explain its services, the FTC also manages an enquiry desk where all staff takes turns dealing with calls and visits from the general public and members of the business community. The enquiry desk, which handles more than 10,000 calls annually, provides the most up-to-date professional legal consulting services.

Besides providing face-to-face communication with the public, the FTC has set up a comprehensive website for the society to have full access to its information via the Internet at any time. Aside from the laws and regulations administered by the FTC, the information pages most often visited on the website concern news releases and case decisions. With the widespread use of Internet technology, society can easily access any information it needs from the FTC.

The FTC has been well aware that the public expects services which are all-encompassing. In other words, FTC staff must be capable of communicating with a broad variety of audiences on many issues and in different ways. Apart from just communicating with their counterparts in business, law firms and other governmental agencies, the staff's servicing the enquiry desk further helps them to learn first-hand reactions from the general public regarding enforcement issues, among others. This has clearly proven to be an effective way to keep the staff focused on the fact that the enforcement of the Fair Trade Act needs to be responsive to the needs of the entire society.

Q29 - What is the authority empowered to follow-up criminal procedures related to competition and to impose penalties?

Chinese Taipei Response

In terms of most anti-competitive conduct, the Fair Trade Act adopts an “administrative prior to criminal principle,” which means if the violators fail to comply with the corrective order issued by the Fair Trade Commission, or comply once but engage in the same or similar practices later, the FTC could then refer the case to prosecutors for criminal investigation. The prosecutors will require the police department or the Investigation Bureau to conduct the relevant investigation. Once the prosecutors are satisfied with all the evidence, they will file the suit to the criminal courts. The court will make the judgments, including to deciding the criminal penalty and setting the terms of imprisonment.

Q30 - Have the different guidelines issued by the competition authority been challenged by any economic agent or other government agency?

Chinese Taipei Response

The guidelines issued by the Fair Trade Commission cannot avoid facing challenges from private parties or other government agencies. For example, the “Guidelines for the Review of Cases Involving Enterprises Issuing Warning Letters for Infringement on Copyright, Trademark, and Patent Rights” released by the Fair Trade Commission has been challenged by a private party. In the end, the Council of Grand Justices reached the conclusion that the guidelines issued by the Fair Trade Commission to clarify its enforcement policy is within the Commission's discretion and shall not be seen as void.

Another example concerns the responsible regulator of the banking sector. The Ministry of Finance, is questioning whether the “Guidelines of Violated Case by Banking Industry Collecting Indemnity of Discharge Housing Loans Advance Contract Term” published by the Fair Trade Commission has been violating its jurisdiction. Currently the two agencies are still negotiating this jurisdiction issue.

Q31 - Please explain the simplified review process for approving mergers.

Chinese Taipei Response

Since the merger regulation has changed from “pre-merger approval system” to the “pre-merger notification system”, the threshold of filing merger has been raised and the reviewing time has been shortened, and the Fair Trade Commission has ceased to apply the simplified

procedure for reviewing merger cases. The FTC will evaluate whether to revise it after more cases and experience have been accumulated.

Q32 - What measures does your competition legislation foresee in order to deter anti-competitive cross-border practices?

Chinese Taipei Response

To best deal with cross-border anti-competitive practices without jurisdictional conflicts, competition authorities might have recourse to international co-operation. Although the Fair Trade Commission adopts an effective doctrine in prosecuting cross-border anti-competitive practices, it is always seeking opportunities to co-operate with foreign counterparts in any form, be it formal or informal, to better tackle this rising issue.

(USA)

Q33 - We note that the Fair Trade Law was amended to change the prior approval system for mergers to a premerger notification system. Please briefly describe the application of the new pre-merger notification system to mergers involving one or more foreign entities.

Chinese Taipei Response

If the extraterritorial merger case will affect Chinese Taipei's domestic market, the merging parties have to notify to the Fair Trade Commission. The information reporting that needs to be provided in such a case is similar to that of a domestic merger case. The major difference is that to determine the economic power of the extraterritorial merger, we consider how such post-merger enterprises will sell their products or have their affiliates conduct business.

1. As for the reporting required in such cases, the Fair Trade Commission has issued "Guidelines for Handling Extraterritorial Merger Cases." The threshold for extraterritorial enterprise to file merger report may be found in Article 4 of the Guidelines. "A report of merger shall be notified to the FTC prior to merger in extraterritorial merger cases where any of the situations enumerated under Article 11(1) of the Fair Trade Law exists. The sales volume of a foreign enterprise participating in a merger shall be assessed by the monetary amount of that foreign enterprise's sales within the territorial domain of the Chinese Taipei and the monetary amount of products or services imported from that foreign enterprise by domestic enterprises."
2. According to Article 5 of the Guidelines, "Where a report of merger must be filed with the Fair Trade Commission under Article 4(1) of these Guidelines, such a report shall be filed by the following enterprises: (1) by [all] the enterprises participating in the merger, where the merger involves a merger or consolidation of enterprises, transfer or leasing of the operations or assets of one enterprise by another, regular joint operations of enterprises, or outsourcing of one enterprise's operations by another; (2) by the holding or acquiring enterprise, where an enterprise holds or acquires the shares or capital contributions in another enterprise; (3) by the controlling enterprise, where an enterprise directly or indirectly controls the business operations or personnel appointment and discharge of another enterprise. If a report filer under the preceding paragraph is a foreign enterprise, the report shall be filed with the Commission by the ultimate controlling foreign parent company. Provided, if such parent company has an affiliated enterprise, branch, or office within the Chinese Taipei, the affiliated enterprise, branch, or office may file the report, adding its own name thereto, with the Commission on behalf of such parent company. The

Commission may still order the ultimate controlling parent company to submit relevant materials when necessary. If an enterprise required to file a report has not yet been established, the report shall be filed by the existing enterprise(s) participating in the merger.”

3. In addition, Article 6 of the Guidelines for Handling Extraterritorial Merger Cases states, “The provisions of the preceding two articles shall apply *mutatis mutandis* in the following situations: (1) where the combining enterprises belong respectively to the territorial domains of the Chinese Taipei and another country and any of the situations enumerated in Article 6(1) of the Fair Trade Law exists; (2) where a merger of foreign enterprises outside of the territorial domain of the Republic of China results in any of the situations enumerated in Article 6(1) of the Fair Trade Law among affiliated enterprises or branch companies within the territorial domain of the Chinese Taipei.”

Q34 - What are the criteria for determining whether a “dominant position by monopolistic enterprises” has been established?

Chinese Taipei Response

To determine whether a monopolistic enterprise has dominant position depends upon whether the enterprise has the ability to control price or exclude competition. If an enterprise uses unfair means to directly or indirectly impede other enterprises to compete with, to improperly decide the price of the product or service, without proper reason to give preferential treatment by counterpart, or to demand the counterpart to sign contract without providing important trading information, the enterprise could be deemed as a dominant enterprise that abuses its market position.

The following criteria shall be taken into consideration to determine whether a monopolistic enterprise has established a dominant position:

1. the market share of the enterprise in a particular market;
2. the availability of substitution of the goods or services within the market;
3. the ability of the enterprise to influence prices in a particular market;
4. whether barriers exist to entry to a particular market by other enterprises; and
5. import and export status of the goods or services.

Q35 - The FTC reviews applications for concerted action and determines whether to approve such applications. What are the criteria for approving applications for concerted action? Are such criteria published and if so, where?

Chinese Taipei Response

Article 15 of the Enforcement Rules to the Fair Trade Act stipulates the criteria for approving applications for concerted action, which reads as the follows:

1. the cost structure before and after the concerted action and analytical data on forecasted changes;

2. the impact of the concerted action on enterprises not participating;
3. the impact of the concerted action on the structure, supply and demand, and pricing of the relevant market;
4. the impact of the concerted action on upstream and downstream enterprises and their markets; and
5. concrete benefits and detrimental effects of the concerted action for the overall economy and public interest.

Q36 – Chinese Taipei’s IAP lists “ acts that . . . damage [to] the business reputation of others” and “false or misleading representations, symbols and advertising” as measures to deal with vertical restraints. Would you clarify this by giving a few examples of how such conduct constitutes a vertical restraint, that is, how it impacts competition between different levels of the supply chain, such as between manufacturer and retailer?

Chinese Taipei Response

Chinese Taipei regrets that those were significant editing errors. The relevant paragraph should read as follows:

The FTC investigates and handles cases pertaining to resale prices maintained by enterprises, acts that are likely to lessen competition or impede fair competition.

Q37 - Under “General Policy Framework,” the IAP indicates that the FTC will be transformed into an “independent agency” in a future reorganization so that it can better carry out its functions. We would appreciate knowing what the timetable for this transition is likely to be. In addition, we would appreciate learning what you see as the benefits to the FTC from a transition to an “independent agency.”

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don’t have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

CHAPTER 9. Government Procurement

(Australia)

Q1 - Could Chinese Taipei please outline the circumstances in which suppliers might be accorded differential treatment in procurement processes?

Chinese Taipei Response

According to Articles 17, 43 and 44 of the Government Procurement Act, local/foreign suppliers or local/foreign products may be accorded differential treatments except otherwise prohibited by the treaties or agreements to which Chinese Taipei is a party. Such treatments may include domestic content, technology transfer, investment, export facilitation or price preference by 3% maximum.

Q2 - Australia notes that, in principle, all government procurement in Chinese Taipei should be conducted through open tendering processes. Could Chinese Taipei provide an indication of the actual percentage of government procurement projects executed through open tendering procedures?

Chinese Taipei Response

The statistics released by the Public Construction Commission shows that 150,759 out of 174,246 cases, or 86.52% of the total number of procurements, were conducted through open tendering procedures in 2003.

(Canada)

Comment1 - Under "Value for Money", Chinese Taipei refers to "most advantageous tender". Canadian bidders remain concerned that the evaluation of tenders under this system may be subjective and lack transparency. For example, certain bidders and foreign representative offices raised questions regarding the bid evaluation of the autumn 2002 Chunghwa Telecom 3G supply tender, but little further explanation was provided.

Chinese Taipei Response

- (1) With regard to "most advantageous tender", it is consistent with the requirement prescribed in paragraph 4(b) of Article 13 of the Agreement on Government Procurement (GPA).
- (2) Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge system to protect their interests.
- (3) The Complaint Review Board for Government Procurement had come to a conclusion in 2003 regarding the case of Chunghwa Telecom 3G, all complainants involved had been informed with the outcome, not as alleged where "little further explanation was provided."

Comment2 - Obviously, Chinese Taipei has yet to make good on its commitment to join the GPA, and this should be raised, even if carefully. One way of the other, however, assertions in the IAP that the existing regime (which dates to 1996) fulfils the spirit of GPA, are rather bald overstatements. Foreign business groups here (representing among others Canadian firms like SNC, Nortel, Bombardier) are encouraging Chinese Taipei to immediately make effective dormant provisions in Taiwan's Government Procurement Law, which would prohibit exclusion of foreign firms and set off, in order to meet its WTO Working Party Report promises.

Chinese Taipei Response

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on December 9, 2002. However, due to the outstanding non-economic issue, Chinese Taipei is not able to complete the accession process yet. Once becoming a party to the GPA, Chinese Taipei will open its government procurement market reciprocally to GPA Parties under the norms of the GPA. Chinese Taipei has been working hard to carry out its strong commitment to the GPA and has demonstrated the utmost flexibility in dealing with this outstanding issue. We would like to reiterate that the non-economic issue should not hinder Chinese Taipei's accession to the GPA. This situation is frustrating not only for Chinese Taipei, but also for companies both in Chinese Taipei and in GPA Parties, which are still waiting for the mutual opening of procurement markets. We hope that all GPA Parties should "encourage acceptance of and accession to this Agreement by governments not party to it", as set forth in the preamble of the GPA. More specifically, all GPA Parties should take upon themselves the responsibility of Chinese Taipei's GPA accession, and thus facilitate the adoption of Chinese Taipei's accession to the GPA as soon as possible.

(Hong Kong, China)

Comment3 - We commend Chinese Taipei's efforts in recent years in moving towards a more open and transparent government procurement regime. The enactment of the Government Procurement Law and the development of the Government Procurement Information System are two particularly impressive examples. We encourage Chinese Taipei to maintain the good efforts.

Chinese Taipei Response

Chinese Taipei appreciates Hong Kong, China for its comment. Chinese Taipei will continue to ensure transparency in government procurement regime.

(USA)

Q3 - Industry complains that government procurement requirements are often unclear and contract awards are frequently non-transparent. Although Chinese Taipei has a government procurement law, Taiwan's procurement system is not completely consistent with the obligations of the WTO GPA. When does Chinese Taipei plan to meet the commitment it made when it joined the WTO to sign on to the WTO GPA?.

Chinese Taipei Response

Since the enactment of the Government Procurement Act in 1999, Chinese Taipei's government procurement system has conformed to international norms. While conducting procurements, government entities shall follow fair and open procurement procedures. The enforcement of this Act has created a transparent and fair government procurement market. In addition, Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge system to protect their interests.

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on

December 9, 2002. However, due to the outstanding non-economic issue, Chinese Taipei is not able to complete the accession process yet. Once becoming a party to the GPA, Chinese Taipei will open its government procurement market reciprocally to GPA Parties under the norms of the GPA. Chinese Taipei has been working hard to carry out its strong commitment to the GPA and has demonstrated the utmost flexibility in dealing with this outstanding issue. We would like to reiterate that the non-economic issue should not hinder Chinese Taipei's accession to the GPA. This situation is frustrating not only for Chinese Taipei, but also for companies both in Chinese Taipei and in GPA Parties, which are still waiting for the mutual opening of procurement markets. We hope that all GPA Parties should "encourage acceptance of and accession to this Agreement by governments not party to it", as set forth in the preamble of the GPA. More specifically, all GPA Parties should take upon themselves the responsibility of Chinese Taipei's GPA accession, and thus facilitate the adoption of Chinese Taipei's accession to the GPA as soon as possible.

CHAPTER 10. Deregulation/Regulatory Review

(Australia)

Q1 - Has Chinese Taipei progressed towards establishing the Fair Trading Commission as an independent agency?

Chinese Taipei Response

There is no independency problem for the Fair Trade Commission in implementing the Fair Trade Act. The FTC itself is a ministerial-level government agency, set up under the Fair Trade Act. The Commission consists of nine full-time Commissioners, each appointed to renewable three-year terms. One of the Commissioners serves as the Chairperson, who is ministerial-level and attends the cabinet meeting regularly, and another serves as Vice-Chairperson. The Commissioners meet at least once every week to deliberate fair trade policies, laws and regulations related to fair trade, approvals and disciplinary actions and all other matters related to the enforcement of the Fair Trade Act. Decisions of the Commission are made by majority vote of the Commissioners. The number of Commissioners with the same political party shall not be more than one-half of the total number of Commissioners. All Commissioners should be free from any interference of political parties and exercise their authorities independently according to the Fair Trade Act.

The central government now considers certain agencies might better carry out their mandates if they don't have to take general economic interests into account. A reform program is being proposed that agencies like the Central Bank and the FTC shall be exempted from the cabinet meetings so as to better focus on their own mandates. The reform part program part is of a whole package of central governmental reforms, but the result is yet to be decided by the legislature.

Q2 - Has Chinese Taipei seen tangible economic benefits from introducing competition to the energy sector? In the effort to work with industry to develop self-regulatory compliance programs, how has industry been consulted? What kind of opposition, if any, has industry raised to increased competition? How has this been overcome?

Chinese Taipei Response

Concerning the oil sector:

1. The oil sector of Chinese Taipei has been fully liberalized since December 26, 2001, following the approval of the Petroleum Administration Law by the Legislature to

promote the sound development of the oil industry and safeguard the production and sales of oil. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers to brainstorm and seek a consensus. The Administration and the Legislature held 23 consultations, deciding to remove oil refinery business restrictions on treating more than 15,000 kiloliters of crude oil per day and enacting the oil stockpile held by the Administration. Finally, the Legislature approved the Petroleum Administration Law that was promulgated by presidential decree on October 11, 2001.

2. Liberalization introduced a competitive spirit to the oil market. Petroleum companies not only have price competition, but also enhanced petroleum quality and service to attract consumers. It is a win-win situation for the petroleum industry and consumers.

Concerning the gas sector:

The Administration of Chinese Taipei recognizes the benefits to gas consumers that arise from a competitive gas market and the fact that the benefits can be expanded by strengthening market oversight, just as has been the case in the Atlantic region. Therefore, to cope with the global trends of gas industry liberalization, the draft of the Natural Gas Business Law, part of which addresses competition policy, has been sent to the Legislature for further review. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers, to brainstorm and reach a consensus. After having considered all aspects of the issue, including market conditions, contract terms, maturity of industries, incentives of long-term investment in gas transmission pipelines and storage facilities, comprehensive energy mix planning by the Administration, etc., negotiated TPA (third party access) was thought to be more prudent than regulated TPA at this stage, and the Administration will intervene conditionally in the public interest or in case of failure in negotiations concerning capacity allocation or tariff setting. Nonetheless, since gas is an important source of energy for Chinese Taipei, the Administration will continue to carefully observe international gas industry development trends, so as to constantly adjust its response policies in a timely manner.

Concerning the electricity sector:

The power generation sector of Chinese Taipei is open to private investors. There are eight commercialized independent power producers which take 14.5% of the total installed capacity of Chinese Taipei. Chinese Taipei will keep promoting the liberalization of the electricity industry. However, it is subject to approval of the Legislature.

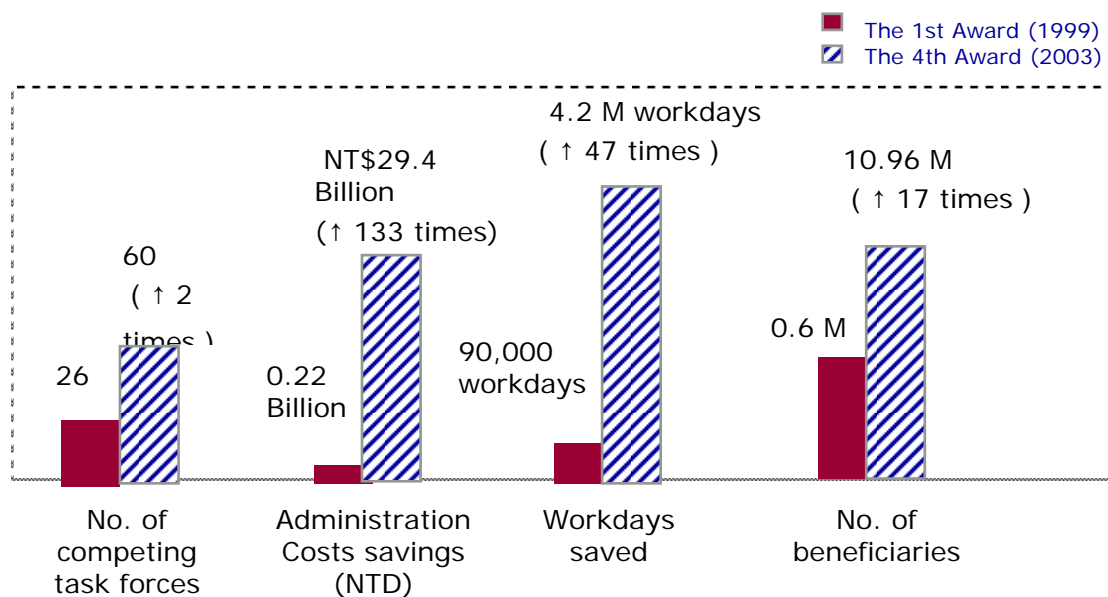
Q3 - What reforms were undertaken as a result of the contribution of the Administrative Re-engineering Consultation Committee and the Golden Axe Awards?

Q4 - How have the effect of these reforms been measured?

Chinese Taipei Response

The effectiveness of the Golden Axe Awards may be estimated both quantitatively and qualitatively. Quantitatively speaking, due to the expansion of the program from the central government to include the local government level, 60 task forces formed from 14 central government agencies (ministries/councils) and 9 local county/city governments participated in the competition for the 4th awards. This marked a dramatic increase from the 1st awards, when only 26 task forces from various central government agencies participated. The economizing on administrative costs and the number of beneficiaries are also charted below:

Table I: Quantitative performance comparison between the 1st and 4th Golden Axe Awards



Qualitatively speaking, the increased participation in the program by county and city governments indicates that local governments are also attaching importance to the population's rising expectations in terms of administrative efficiency, and as a result, they are adopting measures that are yielding immediate results. The amount of energy that the public sector is putting into re-engineering administrative systems is having a positive effect on Chinese Taipei's overall competitiveness.

Furthermore, central and local levels of government in Chinese Taipei are putting a great deal of effort in computer networking and putting many procedures on-line. These new systems are being used for everything from employment services to commodity inspection and so on. It is indeed the case that Chinese Taipei's efforts in promoting e-government have completely eliminated the old perception that in order to get anything done, one had to shuttle from agency to agency with a suitcase full of papers. Nowadays, people can apply for various official documents or permits or post inquiries to various agencies via the Internet. Therefore, it is possible to announce that the era of 24-hour e-government has arrived.

Identification and Review of Proposed Regulations

Q5 - When is it anticipated that the revision of the statute governing the relations between people on both sides of the Taiwan Strait will be passed?

Chinese Taipei Response

The amendments to the "Act Governing Relations between Peoples of the Taiwan Area and the Mainland Area" were passed in October 2003.

Identification and Review of Existing Regulations

Q6 - How does Chinese Taipei identify those laws it will repeal? (For example, Australia has a schedule for the review and reform of legislation that restricts competition).

Chinese Taipei Response

There is no so-called "top-down" procedure or schedule for such a legislation review process to identify laws to be repealed. The current mode of reviewing process could be described as a "bottom-up" approach. We have, however, provided some incentives for the various government agencies to do their part to look at their domains of authorities to see if anything

is no longer appropriate and needs to be revised or discarded. The Golden Axe Award provides one of those incentives.

Q7 - How much has the level of foreign investments increased in Chinese Taipei as a result of its government's measures to remove foreign investment restrictions? Has such measures also assisted competition in the market, and benefited consumers through lowering prices and improving the quality of goods and services?

Chinese Taipei Response

On Sep. 30, 2003, our government promulgated a revision to the Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals to eliminate the QFII qualification screening and open up Taiwan's stock market fully to foreign investment. The QFII system, which has been enforced for the past 12 years, has now been consigned to history.

For developing Chinese Taipei into an Asia-Pacific regional operations center and acceding to the World Trade Organization, we have made a lot of efforts to promote foreign investment, including open the markets of finance and telecommunication. According to the statistics by Investment Commission, Ministry of Economic Affairs (MOEAIC), the inward FDI amounted US\$40 billion from 1993 to 2003.

(Chile)

Q8 - Under the Section "General Policy Position", Taipei mentions the Golden Axe Awards. It would be possible have more details about this award?

Chinese Taipei Response

The Golden Axe Award strengthens the so-called "bottom-up" reform mechanism. It is to encourage the civil servants to focus on the benefits side of reform and to actively review and reevaluate all regulatory laws of their individual jurisdiction. This is one of the mechanisms that our government has been promoting since 1998, and this year (2004) marks the fourth award. Please visit the CEDI website (<http://work.cedi.cepd.gov.tw>) for more detailed information of this award (the content, however, is in Chinese only).

Q9 - Under the same section, Taipei say the had taken an "active stance in helping remove trade and investment obstacles for industries". Would it possible to mention some example of trade and investments obstacles removed?

Chinese Taipei Response

After Chinese Taipei's accession to the WTO, we have been devoting efforts to implementing our accession commitments, such as by removing the following trade and investment obstacles:

1. The ban on imported rice was lifted upon Chinese Taipei's accession to the WTO. We restructured market access for rice import along the lines of Annex 5 of the Agreement on Agriculture, with the rice import quota being 144,720 metric tons in the first year after accession. In light of trade liberalization under the WTO Agreement on Agriculture, our rice import system was changed from a quantitative restriction scheme to a tariff rate quota (TRQ) scheme, effective from 2003.
2. The import ban on motorcycles over 150cc was lifted on July 1, 2002.
3. Chinese Taipei has removed area restrictions on the import of automobiles, replacing them with tariff-rate quotas. Additionally, we removed local content requirements on the domestic production of automobiles for this sector on January 1, 2002.

4. In order to attract foreign investment into our telecom industry and stimulate its development, the permitted FDI ratio of Type I telecom businesses was increased to 49% from the previous 20%.
5. We dismantled the monopoly on the manufacture and sale of tobacco and alcohol products in Chinese Taipei and replaced it with a competitive mechanism. The Taiwan Tobacco & Wine Monopoly Bureau reverted to the status of a normal commercial enterprise and no longer holds monopoly rights over the domestic manufacture and distribution of tobacco and alcohol products.
6. In accordance with its various bilateral accession negotiations with WTO Members and the four modes of supply under trade in services (i.e., cross-border supply, consumption abroad, commercial presence, and presence of natural persons), Chinese Taipei established a set of horizontal commitments (commitments applicable across sectors) as well as a set of sector-specific commitments to provide market access in services. Eleven sectors are covered under these sector-specific commitments, namely, business services; communication services; construction and related engineering services; distribution services; education services; environmental services; financial services; health related and social services; tourism and travel-related services; recreational, cultural and sporting services; and transport services.
7. Foreign mutual insurance companies may directly establish branch offices in Chinese Taipei, starting January 1, 2002.
8. The amendment of our Civil Aviation Law to open up our auxiliary service market on an MFN basis was implemented on January 1, 2002.

(Hong Kong, China)

Q10 - We are interested about the establishment of the Golden Axe Awards and Golden Hammer Awards as tools to encourage reform of major operating systems, review and deregulation of inappropriate laws and regulations and simplification of administrative processes. Please provide more details on the award schemes, the level of participation and their effectiveness in achieving the stated objectives

Chinese Taipei Response

The Golden Axe Award has four different categories of competition: administration reengineering, deregulation and innovation, attracting investments, and cross-agencies cooperation. Both central government agencies and local government agencies can participate in this competition. This award is intended to have participation from various government agencies of all levels. The fourth award was held in 2003 and 60 task forces, being formed from 4 ministries/councils and 9 county/city governments, took part in this competition. The quantitative performance measurements resulting from the fourth award can be summarized as follows: the savings of 4.2 million office processing hours for the citizens and the government, the savings of administration costs for 29.4 billion NTD, and 10.96 million beneficiaries as a result of this award.

(USA)

Q11 - Privatization of China Petroleum is not underway as promised. Please comment on Chinese Taipei's plans in these areas.

Chinese Taipei Response

In 2003, the Legislature concluded that Chinese Petroleum Corp. (CPC) must negotiate with its labor union about the Privatization Plan. After the results of negotiation have been written

into the Privatization Plan and once the plan has been approved by the relevant legislative committee, CPC will sell shares. Now the negotiation is in process.

CHAPTER 11: Implementation of WTO Obligations (inc ROOs)

(USA)

Q1 - Please comment on Chinese Taipei's plans to implement TRIPS commitments, which are not being met, especially in pharmaceutical data protection.

Chinese Taipei Response

Since Chinese Taipei's accession to the WTO, it has been fully implementing the obligations mandated by the WTO TRIPS Agreement. Please refer to our answer to Chapter 5 Q15 Data Exclusivity.

CHAPTER 12. Dispute Mediation

(Hong Kong, China)

Q1 - As set out in the IAP, laws, regulations and administrative guidelines and polices regarding trade and investment are accessible at the website of the Ministry of Justice. However, the English version of the website is a simplified version of the Chinese version and does not contain as much information. Would like to know if there is any plan to provide one in both Chinese and English

Chinese Taipei Response

Starting in December 2003, Chinese Taipei has put its entire law database on the website <http://law.moj.gov.tw/eng>. At present, however, if you want to check the English version of laws in the area of trade and investment, you may still need to scan through the websites of the relevant agencies, such as the Bureau of Foreign Trade and the Investment Commission. We hope that in the future we can provide the full, detailed English versions of all our laws on the main law database website.

(USA)

Q2 - The Public Construction Commission, designated as the mediating body for government contracting disputes, has been accused of favoring domestic firms. Could Chinese Taipei comment on its plans to ensure a level playing field for foreign firms?

Chinese Taipei Response

Since the enactment of the Government Procurement Act in 1999, Chinese Taipei's government procurement system has conformed to international norms. While conducting procurements, government entities shall follow fair and open procurement procedures. The enforcement of this Act has created a transparent and fair government procurement market and ensured a more effective and efficient utilization of public resources. In addition, Chinese Taipei has established the Complaint Review Board for Government Procurement (CRBGP), an impartial and independent mechanism for suppliers to seek resolution of their complaints, with a view to providing a non-discriminatory, timely, transparent, and effective bid challenge system. In the event that procuring entities are in breach of the Government Procurement Act, suppliers may use the bid challenge procedures to protect their interests. Chinese Taipei hereby emphasizes that CRBGP is an impartial and independent review body. All suppliers who seek resolution of their complaints through CRBGP, no matter domestic or foreign, will be treated equally.

CHAPTER 13. Mobility of Business People

(Australia)

Comment1 - Australia acknowledges the efforts undertaken by Chinese Taipei to streamline entry for more APEC economies in recent times.

Australia appreciates Chinese Taipei's active participation in the various TILF funded Business Mobility workshops including in travel document examination, professional service and in the travel document security workshop recently held in March 2004. Chinese Taipei's participation in the APEC Business Travel Card scheme is also appreciated by Australia and other economy participants.

Australia acknowledges the future improvements planned in respect of plans to develop training programs on travel document examination and professional service. Australia wishes to remind Chinese Taipei of the availability of APEC funds in 2004 to assist in developing strategic action plans to implement agreed professional Immigration service standards.

In future, as standards have now been agreed on Advance Passenger Information, Travel Document Security, Legal Immigration Infrastructure and area-specific Transparency standards, there will be the opportunity to report on progress on implementation of these standards in IAPs.

Chinese Taipei Response

Chinese Taipei appreciates Australia, as a leading economy in the IEGBM, for its efforts in assisting Chinese Taipei to conduct the capacity building programs. Chinese Taipei will continue to ensure quality services to facilitate the mobility of business persons.

(Canada)

Comment2 - Canadian businesses are among the many affected by the inefficient and often restrictive administration of entry to Chinese Taipei by PRC nationals. From the perspective of Bogor goals, this represents a disappointing obstacle to liberalisation of regional trade.

Chinese Taipei Response

Canada is one of the 31 countries, whose citizens are eligible to enter Chinese Taipei under the visa exemption program and stay in Chinese Taipei for up to 30 days. If a foreigner intends to stay in Chinese Taipei for more than 30 days, the application for a visa pre-arrival is required. For the application of a visitor visa for the purpose of business, the normal processing time is in 1 to 3 days. It takes 10 days for the processing of a work permit and a resident visa for the purpose of employment, which meets the agreed 30-day processing standards by IEGBM.

According to the Statute Governing the Relations Between the People of the Taiwan Area and the Mainland Area and its Regulations, a Mainland Chinese person who was naturalized in a foreign country and has stayed abroad for less than four years is defined as Mainland Chinese not a foreigner. If the applicant meets related requirements stipulated in the said laws, the applicant should apply for an entry permit instead of a visa.

APEC IAP PEER REVIEW OF CHINESE TAIPEI 2003/04

0. General

Expert's Questions

0.1 Chinese Taipei is liberalizing its economy in accordance with its WTO commitments. Please describe the impacts that this liberalization has had on the economy in this period, when the economy has slowed. Does the government attribute any significant macro-economic changes to the liberalization efforts that it has made, whether positive or negative?

Chinese Taipei Response

1. It is our government's established policy to promote economic liberalization. Starting from January 1990, when we first submitted our WTO accession application to the GATT Secretariat, and throughout the accession process, we already enjoyed the benefits of the Uruguay Round liberalization commitments being implemented by other WTO members, and we took the initiative to implement liberalization measures or certain accession commitments in advance, to enjoy the economic benefits. As expected, we experienced some impacts as a result of the opening of our market after WTO accession, but at the same time, we have also enjoyed many advantages, especially from the barrier-free access to other WTO Members' markets, the expansion of foreign trade, and the lowering of domestic consumer prices. In the mid- to long-term, it will enable the more efficient utilization of domestic economic resources, improve national competitiveness and enhance public well-being.
2. Entering the WTO has had more positive than negative effects on Chinese Taipei's industries. Since our accession process dragged out for so many years, our various industrial sectors were able to make adjustment over a long period, so the negative impact of WTO accession could be reduced to a minimum.
 - Because the level of protectionism in our agricultural market was relatively high in the past, WTO accession caused an impact through due to low-cost agricultural imports (such as rice, fruits, peanuts, etc.), but it also proved helpful for the export of our high-quality agricultural products, such as tropical fruits (wax apples and mangoes), flowers (Gower Ramsey or oncidium orchids, butterfly or phalaenopsis orchids, and anthurium), vegetables, seedlings, fish cultivated in netted sea enclosures, tropical fish, etc. We can use high-tech means to develop high value-added agricultural products and processed food products for overseas markets.
 - In general, the impact of WTO accession on industrial products has been relatively light, and it is possible that increased automation has given broader trading room for manufacturers (as in the ITC industry). Only a few comparatively uncompetitive industries that were geared to meet domestic demand (such as the tobacco and alcohol industry) have experienced rather obvious negative effects.
 - The opening of the service sector has helped to attract foreign investment, improve managerial skill, and accelerate financial reform. It has helped us in developing Chinese Taipei as a center of telecommunications and logistics, and it has speeded up the internationalization of our service industries. Only a few specialized sectors (such as the cinema industry and legal services) are facing greater competitive pressures.
3. During the recession of the past two years, while taking many economic stimulation measures, the government has remained committed to economic liberalization and internationalization and to improving the investment environment. Important measures include: relaxing the ratio of ceiling of foreign investment in certain industries, opening the QFII system, promoting financial reform, strengthening IPR protections, setting up a single window on employment service regulation, planning the establishment of a free port zone, and assigning specific experts responsible for removing investment obstacles.

0.2 While market liberalization is widely pursued in the region, the roles that different governments play do differ in emphasis. Some governments participate or “pick winners” in the economy by providing incentives or investment in such companies as they deem fit. In Chinese Taipei, some SOEs do enjoy special treatment as compared to foreign and other companies. *What commitments are there to end their special treatment and reduce or give up government investment in such companies? What future role does government see for itself in the economy and economic development?*

Chinese Taipei Response

The trade operations of Chinese Taipei’s state-owned enterprises (SOEs) already conform to the regulations of GATT Article 17.

0.3 *How does Chinese Taipei view the importance of APEC as a forum to pursue its own liberalization and to secure increased access to foreign markets?*

Chinese Taipei Response

Asia Pacific Economic Cooperation (APEC) was established in 1989, and Chinese Taipei joined this regional economic and trade forum in 1991 as a formal member.

APEC is one of the most important international organizations in which Chinese Taipei participates today. Since the issues this organization puts forward and discusses are very broad, encompassing economics, trade, counter-terrorism (security), public health and so on, APEC provides our officials and business people a platform where they can join their counterparts from other economies and discuss how to cooperate in reaching certain goals and solving various problems. In addition, we use the occasion of APEC’s various ministerial-level meetings to hold bilateral talks with other member economies’ delegations. Besides exchanging opinions on the issues mentioned above, we also frequently ask our counterparts to lift trade barriers that our businesses encounter, and vice versa. Such talks have also led to the organization of bilateral economic and trade conferences, exchanges of ministerial-level visits, and other breakthroughs. Therefore, the bilateral meetings under the APEC framework have been extremely important for strengthening our economic and trade relations with other member economies.

Since 1991, Chinese Taipei has actively participated in many meetings and activities under the APEC framework. These include, for instance, important ministerial-level occasions such as the annual Ministerial Meetings, the Meetings of Ministers Responsible for Trade, the SME Ministers’ Meetings, and Energy Ministers’ Meetings. On the working level, there are also three Senior Officials’ Meetings per year and numerous fora and working group meetings. Through these activities, we can get some idea to improve our administration procedures in order to pursue a more liberalized market.

Last year (2003), Chinese Taipei hosted a total of 11 APEC meetings and other activities. The 11 events covered e-commerce, SMEs, energy, and so on. There was also “Toward A Cross-border Paperless Trading Environment - Actions For Trade Facilitation” which generated very positive responses. In 2004 we are scheduled to hold 12 APEC activities in Chinese Taipei; these are in the areas of trade and environment, industry dialogue, and SMEs. The Bureau of Foreign Trade and Small and Medium Enterprise Administration will host three activities: “The Environment Impact Assessment of Trade Liberalization Measures--Methodology and Case Studies”, “The Steering Committee Meeting of APEC Auto Dialogue” and “The Incubator Forum” (for SMEs).

Although APEC’s member economies have very wide differences in their level of economic development, the forum’s operating principles are based on voluntary action, consensual decision-making, and flexibility. Thus we can continue to raise innovative

proposals and carry out strategies in specific areas, in line with international demand, through our participation in and hosting of APEC meetings and other activities, and we can seek more benefit from APEC.

0.4 Is Chinese Taipei actively pursuing bilateral free trade arrangements or closer economic partnerships with another economy? If so, with which partners, and on what terms? How will Chinese Taipei ensure that these FTAs will be consistent with the WTO rules and APEC goals?

Chinese Taipei Response

Being an active member in the WTO and the APEC, Chinese Taipei aims to implement free trade and investment by 2010, as set forth in the Bogor Goals. While remaining a strong supporter of the multilateral trading system, Chinese Taipei also believes that trade efforts made in regional and bilateral fora may accelerate the momentum for trade liberalization and, in turn, strengthen the multilateral trading system. Thus, we are still seeking possible regional and bilateral FTA opportunities with other countries.

Chinese Taipei concluded an FTA with Panama in August 2003 that entered into force on January 1, 2004. We attach priority to signing future RTAs/FTAs with certain countries that maintain important economic relations with us such as the US, Japan and Singapore.

Increased regional economic integration should serve as the interface for and pave the way to the further liberalization of the multinational trading system. Chinese Taipei guarantees that its future FTAs/RTAs be in full compliance with WTO rules and regulations, such as GATT 1994 Article 24 and GATS Article 5. Chinese Taipei supports the strengthening of WTO disciplines on regional trade agreements, as this would bring greater certainty about the application of WTO disciplines and meet the requirement of transparency. Thus, we are actively engaged in the ongoing negotiations on RTAs in the Rules Negotiation Group in the Doha Round Negotiation. We believe that regionalism and multilateralism can be pursued at the same time, and in a fashion that is mutually supportive.

0.5 While the historical issues between Chinese Taipei and China are recognized, trade liberalization in the WTO and in APEC upholds the principle of non discrimination between all economies. Given this, what process – if any – does Chinese Taipei have to review and reconsider present limits in trade and economic relations with China, and what progress has been made to reduce the differences in treatment of trade and economic ties with China?

Chinese Taipei Response

1. Maintaining our national security and competitive advantages is the precondition for cross-strait economic and trade exchange, and improving the mutual trust and healthy interaction between the two sides for creating a win-win situation is always our goal.

2. Now that Chinese Taipei and China have entered the WTO, both sides should make efforts to normalize economic and trade relations. However, we are concerned that any sudden, major opening of our domestic market will cause adaptation problems for our domestic industries, especially considering the fact that China's and Chinese Taipei's economies are very different while geographically, linguistically and culturally they are very close. Thus there is a much greater possibility of Chinese goods flooding into Chinese Taipei compared to any other country. Therefore, Chinese Taipei needs a transitional period of time for the adjustments.

3. We are always working hard to shorten the transitional period. Therefore, after our WTO accession, our government has made following policy adjustments:

(1) Allowing cross-strait direct trade since Feb. 15, 2002.

(2) Continuing to relax controls on Chinese imports. As of the end of May 2004, a total of almost 8,521 product items from China has been permitted for import, accounting for 77.5%

of the total number of product items (of that agriculture products account for 12.71% and industrial products account for 64.79%).

(3) Allowing many industries to invest in China and simplifying the application procedure.

(4) Relaxing restrictions on Chinese business people visiting Chinese Taipei. Chinese business people are allowed to come to Chinese Taipei to do investment, purchasing, attend exhibitions, and provide after-sales services.

4. In the future, our government will continuously work toward adjusting measures to promote gradual development of cross-strait economic and trade relations, while upholding the principles of “reciprocal benefit, mutual gain,” and “risk management.”

1. Tariffs

Expert's Questions

1.1 While tariff rates on average have been lowered, please clarify the relative differences in tariffs, such as the ratio of simple average rates for non duty free items to simple average tariff rates for all items.

Chinese Taipei Response

After Chinese Taipei's WTO accession in 2001, we have lowered tariff rates in accord with our accession commitments. Moreover, these tariff reductions have been spread across all categories of goods. In 2002, the average simple tariff rate for non duty-free items was 8.65%, and in 2003, it was 7.78%. Chinese Taipei will provide clearer reporting on different tariff rates when compiling future IAPs.

Follow up Questions

1.2 *from NZ question (2)* on tariffs and consultation with importer and consumer interests: Chinese Taipei invites all related firms, industry associations and government agencies to review its tariff schedule, but who – if anyone – represents consumers in this process? Moreover, are the responses from those who are consulted made available to the public or other interested parties?

Chinese Taipei Response

Any consumer can contact the Department of Customs Administration and other relevant government agencies (Council of Agriculture and Industrial Development Bureau) via e-mail or regular mail about their requests on lowering tariffs. When the Department of Customs Administration meets with the other relevant government agencies to set tariff rates, they consider not only the requests from the business sector but also the interests of consumers.

2. Non Tariff Measures

Expert's Questions

2.1 *Chinese Taipei maintains NTMs relating to national security, public order, public health, environment protection, and the need for adjustment in a number of sensitive industries. Please confirm that these are subject to the relevant WTO disciplines.*

Chinese Taipei Response

Area restrictions on certain passenger cars and small commercial vehicles, automobile chassis and motorcycles were eliminated upon Chinese Taipei's accession to the WTO. In agriculture, area restrictions were eliminated except for young coconuts, which are subject to TRQ. In fishery products, the imports controls for mackerel, carangid and sardines were replaced by TRQ. For a small number of products formerly subject to number restrictions and

for which we were permitted a period of adjustment, our opening commitments have also been met. For example, six months after accession, we eliminated the import ban on motorcycles over 150cc, and two years after accession (2004), we eliminated the import ban on passenger cars equipped with diesel engines. Currently all our import restrictions are consistent with the provisions of WTO agreements.

Besides adhering to the provisions of the WTO TBT and SPS Agreements, which is the duty of all WTO Members, the relevant customs procedures are also in conformance with WTO rules.

2.2 In the area of the environment, please specify the process by which new environmental standards and SPS standards are set and introduced, including processes of consultation with relevant industry and environmental groups. How do environmental standards set by Chinese Taipei compare to those accepted by the international community?

Chinese Taipei Response

All environmental management standards developed by BSMI follow the six steps described in the Standards Act, i.e. submitting a proposal, drafting, soliciting comments, review, final review, and approval and promulgation. Up to now, Chinese Taipei has developed 16 environmental management standards, which are based on ISO 14000 series of standards.

In the area of the environment, when drafting the technical regulations (e.g., noise and emission standards for motor vehicles), Chinese Taipei refers to similar regulations of other nations. Stakeholders, including representatives from industry, research institutions, and non-government organizations, are consulted during the drafting process. A period of time is allocated for solicitation of public opinions on the new draft. Technical regulations enter into force only after complying with proper stipulation procedures. The environmental standards of Chinese Taipei are equivalent to those standards of other nations. They are applicable to both domestic and imported products.

The plant protection and quarantine standards of Chinese Taipei are drafted by the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) in accordance with domestic and international pest status, the opinions of industrial stakeholders and academic institutes and the result of pest risk analysis, taken into account of relevant international standards. The draft standards will be reviewed by the “Plant Protection and Quarantine Advisory Committee” established under the BAPHIQ. Afterwards, the draft standards will be subject to public comments. The standards will then be entered into force after the law-making procedures are completed.

2.3 While Chinese Taipei has made regulations available at different websites, please provide details on any plans to provide a one-stop reference and easy navigation to these various sites. Please also estimate the time delays, if any, between the passing of laws and regulations, and the time they are made available on websites to the public in the English language.

Chinese Taipei Response

Chinese Taipei has set up a website of “Laws and Regulations Database (<http://law.moj.gov.tw/eng>)”, which provides one-stop navigation service. When searching trade related laws and regulations, please refer to Chinese Taipei’s WTO Enquiry Point (<http://ewto.trade.gov.tw/enquiry/enquiry01.htm>).

According to Paragraph 217 of its WTO Accession Working Party Report, Chinese Taipei will translate and publish in an official WTO language no later than 90 days after enactment or issuance of laws and regulations relating to trade in goods as well as measure subject to the transparency provisions of the GATS and TRIPS Agreement.

Follow up Questions

2.4 From Australia's question (1) relating to Chinese Taipei's continued efforts to simplify trade administration procedures: Chinese Taipei intends to make the "Trade Administration" system of its Trade Facilitation Network project fully functional before the end of 2005. Please confirm if the project is expected to be completed on schedule and if it is planned to have any prior consultation or trial period for importers, especially foreign ones.

Chinese Taipei Response

Chinese Taipei is optimistic about the establishment of the integrated single window for trade administration and customs declaration by the end of 2005. Prior and continuous consultation among relevant responsible agencies has been one of the major tasks in implementing this project. There will be a trial period together with the promotion and training programs of the system. All relevant businesses and individuals are welcome to participate. Foreign importers and exporters with business presence in Chinese Taipei will be also eligible to access the integrated single window.

3. Services

Follow up Questions

Air Services

3.1 Follow up from Australia's question (2) on bilateral Air Service negotiations: With which countries is Chinese Taipei presently engaged in discussing bilateral Air Service negotiations?

Chinese Taipei Response

Chinese Taipei engages in bilateral Air Services negotiations with any country before establishing aviation relations with it. However, due to the request for keeping confidentiality during negotiations, it's difficult to inform about with which countries Chinese Taipei is presently engaged in discussing bilateral Air Service negotiations.

Energy Services

3.2 Follow up from Mexico's question (14) on foreign participation in this sector: When does Chinese Taipei intend to allow the private sector to participate in transmission and distribution sectors of the energy services?

Chinese Taipei Response

Concerning the oil sector:

1. The oil sector of Chinese Taipei has been fully liberalized since December 26, 2001, following the approval of the Petroleum Administration Law by the Legislature to promote the sound development of the oil industry and safeguard the production and sales of oil. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisers to brainstorm and seek a consensus. The Administration and the Legislature held 23 consultations, deciding to remove oil refinery business restrictions on treating more than 15,000 kiloliters of crude oil per day and enacting the oil stockpile held by the Administration. Finally, the Legislature approved the Petroleum Administration Law that was promulgated by presidential decree on October 11, 2001.
2. Liberalization introduced a competitive spirit to the oil market. Petroleum companies not only have price competition, but also enhanced petroleum quality and service to attract consumers. It is a win-win situation for the petroleum industry and consumers.

Concerning the gas sector:

The Administration of Chinese Taipei recognizes the benefits to gas consumers that arise from a competitive gas market and the fact that the benefits can be expanded by strengthening market oversight, just as has been the case in the Atlantic region. Therefore, to cope with the global trends of gas industry liberalization, the draft of the Natural Gas Business Law, part of which addresses competition policy, has been sent to the Legislature for further review. During the drafting process, the Administration invited representatives from all sectors of the industry, together with many scholars, acting as advisors, to brainstorm and reach a consensus. After having considered all aspects of the issue, including market conditions, contract terms, maturity of industries, incentives of long-term investment in gas transmission pipelines and storage facilities, comprehensive energy mix planning by the Administration, etc., negotiated TPA (third party access) was thought to be more prudent than regulated TPA at this stage, and the Administration will intervene conditionally in the public interest or in case of failure in negotiations concerning capacity allocation or tariff setting. Nonetheless, since gas is an important source of energy for Chinese Taipei, the Administration will continue to carefully observe international gas industry development trends, so as to constantly adjust its response policies in a timely manner.

Concerning the electricity sector:

The power generation sector of Chinese Taipei is open to private investors. There are eight commercialized independent power producers which take 14.5% of the total installed capacity of Chinese Taipei. Chinese Taipei will keep promoting the liberalization of the electricity industry. However, it is subject to approval of the Legislature.

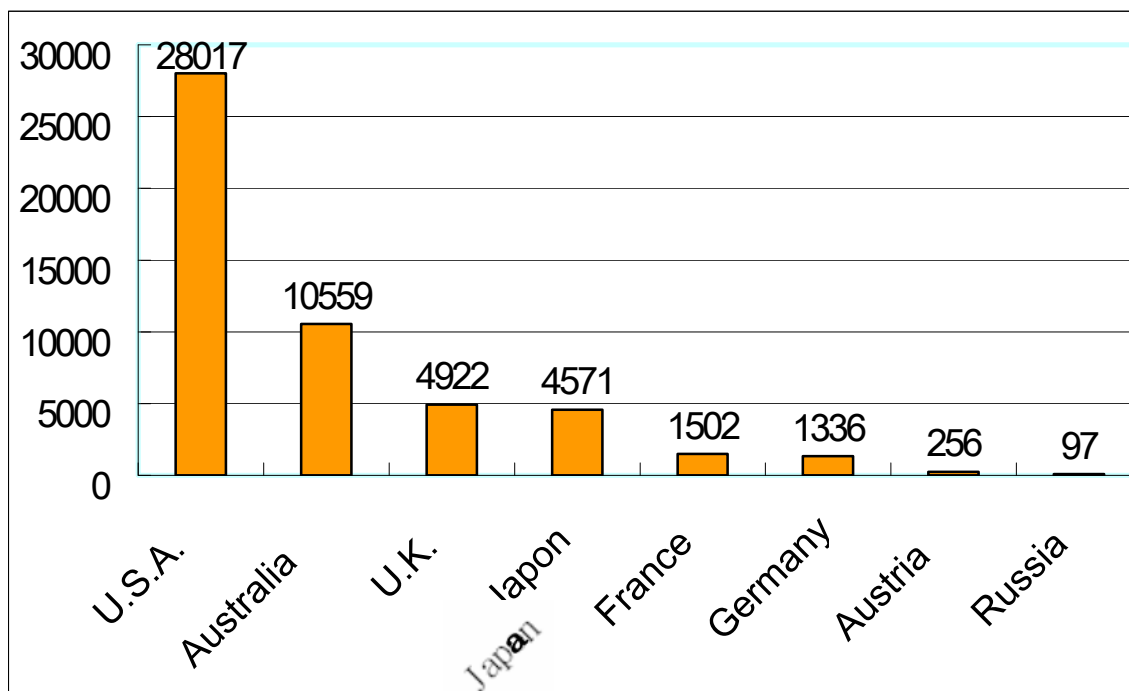
Educational Services

3.3 Follow up from New Zealand's question (16) on foreigners opening private schools and universities in Chinese Taipei: Given the restrictions set by Chinese Taipei, how many foreign private schools and universities have been established in Chinese Taipei? Additionally, what numbers of students from Chinese Taipei study abroad, as a percentage of their cohort?

Chinese Taipei Response

In reply to the first question, on the number of foreign private schools and universities have been established in Chinese Taipei, no registered foreign private school has been set up in Chinese Taipei.

In reply to the second question, on the number of students from Chinese Taipei studying abroad, here is a chart on the figures for 2003.



Telecommunications

3.4 Follow up question from Hong Kong, China, (17) on foreign equity cap for investment in the telecommunication market: Has Chinese Taipei any policy, conditions or time line to bring the present restrictions on foreign investment in Chunghwa Telecom in line with other Type I telecom operators?

Chinese Taipei Response

With regard to the question on the restriction on foreign investment in Chunghwa Telecom, the Commission on Economic Planning and Development, Executive Yuan, approved a Ministry of Transportation and Communications (MOTC) proposal on May 22, 2003. Thus, the ceiling on shares of Chunghwa Telecom held directly and indirectly by foreign persons was raised from the then-current 20% to 35%, effective after the issuance of American Depository Shares (ADS) abroad and then the official announcement by the MOTC of the relaxation of the restriction. The MOTC completed the procedures for overseas issuance of shares in Chunghwa Telecom in July 2003, and in the near future it will publicly announce the relaxation of the restriction on foreign shareholding.

4. Investment

Expert's Questions

4.1 There are a number of SOEs in Chinese Taipei that receive special treatment from other corporations. Please evaluate the financial cost of these special treatments and any investment-related incentives that Chinese Taipei provides to these SOEs or other nationals. Please explain the government's policies towards relinquishing control of these SOEs and/or phasing out the special treatment they enjoy. Where possible, specify time lines or the conditions for phase out/divestment by government.

Chinese Taipei Response

The daily business operations of the state-owned enterprises of the Ministry of Economic Affairs are based on commercial considerations. They do not enjoy special treatments or privileges. The state-owned enterprises of the Ministry of Economic Affairs are consistent with the provisions of 1997 GATT Article XVII.

Chinese Taipei has made considerable progress on privatization of state-owned enterprises. According to its commitment of accession to the WTO, Chinese Taipei will

provide annual reports to WTO Members on developments in its programme of privatization. Related authorities are preparing the notification for the year 2004.

4.2 Have APEC efforts in this area, such as the APEC Non Binding Investment Principles and Menu of Options for Investment Liberalization and Business Facilitation been helpful to Chinese Taipei? Have they been actively referred to in considering changes to the investment regime?

Chinese Taipei Response

The efforts that APEC has made to lower the investment barriers of the past and increase transparency have helped foreign investors to invest in APEC member economies. When Chinese Taipei plans any revision to or proposes any investment measure, it always takes APEC's efforts into serious consideration.

4.3 *What measures, if any, are being made to promote outward investments from Chinese Taipei and which overseas economies, if any, are especially favoured by policy?*

Chinese Taipei Response

According to "Regulations for Approval and Consideration of Foreign Investment or Technical Cooperation", the competent authority shall, with regard to the following items, adopt proper measures of encouragement, instruction or advice:

1. Investigation and development of appropriate markets.
2. Rationalization of operations.
3. Promotion of international economic cooperation.
4. Obtaining and guaranteeing productive factors and technologies.
5. Cultivation of personnel.
6. Obtaining of funds.
7. Other matters relating to the promotion or appropriate development of foreign investment, or technical cooperation.

According to the statistics by Investment Commission, Ministry of Economic Affairs (MOEAIC), from 1952 to Apr. 2004, the top two geographic regions for which outbound foreign investment applications were approved were the British Caribbean territories (38.57%) and the United States (34.19%).

Follow up Questions

4.4 *From Australia's question (1) on the opening of various sectors to foreign investment: As Chinese Taipei has said that it will amend laws governing foreign investment, can it estimate a time frame for these and other steps to be taken?*

Chinese Taipei Response

The revised draft of "Statute for Investment by Foreign Nationals" and the "Statute for Investment by Overseas Chinese" are amended to abolish the "Negative List for Investment by Overseas Chinese and Foreign Nationals." After abolishing the Negative List, which industries will be liberalized will depend on the laws by competent authorities. The revised drafts also open the investors shouldn't get approval if the investment amount is below a certain one. It can simplify the administrative procedures. The drafts are still reviewed by legislators. After completing the legislative procedures, they will be enforced. It is a kind of difficult to predict the time frame for legislature.

6. Customs

Expert's Questions

6.1 *Steps have been taken towards paperless trading and a simplification of export/ import regulations and procedures. Please state when the goal of a fully computerized, paperless trading system will be implemented, and steps put in place to ensure that foreign traders can access, understand and use this system. Please report on the most frequent queries or complaints raised to date in respect of the paperless system. Please state the percentage of customs entries that are electronically logged and processed, and compare the present percentage to relevant past equivalents.*

Chinese Taipei Response

In Chinese Taipei, the automated customs clearance systems for air cargo and sea cargo began operation respectively in 1992 and 1994. By the end of 1997, virtually all customs entries (import and export) were being logged and processed electronically. Currently, Chinese Taipei is implementing a Trade Facilitation Network Project which will add new features to the existing customs clearance system to enhance its function for trade administration and establish an integrated single window for trade administration and customs declaration. Optimistically, the integrated single window will be functional by the end of 2005, following a trial period. The system will offer only Chinese language interfaces. However, the service providers will offer a series of training programs for the users, including foreign traders who have business presence in Chinese Taipei.

Based on our experience in implementing the automated customs clearance systems, the speed of response from the systems and transaction status are the major concerns of the business users. With regard to queries or complaints about the integrated single window, the business users are requesting further simplification of the process; the responsible governmental agencies are concerned about the shortage of manpower in addressing problems arising from computerization. Meanwhile, the application service providers worry about their competitiveness when facing the changes in the new practice. In addition, harmonization of the data flows among relevant agencies and the computerization of the supporting documents used in applying for import/export permits are areas that need to be enhanced in order to achieve a “fully” computerized trade facilitation system.

9. Government Procurement

Expert's Questions

9.1 *Please identify and quantify any preferences currently given to SOEs in terms of service procurement.*

Chinese Taipei Response

According to the Government Procurement Act, there is no preference given to SOEs (State-Owned Enterprises) over private suppliers for all kinds of procurement.

9.2 *Chinese Taipei is considering joining the WTO GPA. Please explain the factors that are still being considered before its accession and implementation.*

Chinese Taipei Response

Chinese Taipei committed itself to becoming a party of the GPA upon accession to the WTO. After lengthy bilateral consultations with GPA Parties over the past eight years, Chinese Taipei concluded all bilateral consultations on substantive issues with GPA Parties on December 9, 2002. However, due to the outstanding non-economic issue a, Chinese Taipei is not able to complete the accession process yet. We would like to reiterate that non-economic factors should not hinder Chinese Taipei's application for accession to the GPA.

9.3 *Have APEC efforts in this area, such as the APEC Non Binding Principles on Government Procurement been helpful to Chinese Taipei? Have they been actively referred to in considering changes to the investment regime?*

Chinese Taipei Response

As a result of completion of preparatory work for accession to the WTO GPA, Chinese Taipei's government procurement system has conformed to international norms and the APEC Non-Binding Principles (NBPs) on Government Procurement, comprising Transparency, Value for Money, Open and Effective Competition, Fair Dealing, Accountability and Due Process, and Non-Discrimination. The result of Chinese Taipei's voluntary review of consistency of government procurement regimes' against the NBPs specifically demonstrates the institutional improvement and concrete reform measures that Chinese Taipei has undertaken and thus is very helpful in creating a transparent and fair government procurement market. Additionally, Chinese Taipei has established a non-discriminatory, timely, transparent, and effective bid challenge system for protecting the rights and interests of both foreign and domestic suppliers. The foregoing institutional changes have therefore enhanced the investment regime in Chinese Taipei.

CHINESE TAIPEI IAP PEER REVIEW

Additional Comments/Questions to Chinese Taipei Received at the session

Australia

Transport Services

- "8. Since 2001, Chinese Taipei has followed the WTO standard on the maximum of one-thirds of foreign ownership in airlines."
- Can Chinese Taipei provide greater detail on foreign ownership restrictions on airlines. Does this limit refer to the ownership of both domestic and international airlines? Can Chinese Taipei clarify the WTO standard to which it refers?

Competition

- We commend Chinese Taipei for its continued advances in competition policy and improved transparent administrative procedures for executing competition law.
- Note, however, that some members of the business community in Chinese Taipei remain “frustrated by the government’s legal and regulatory restrictions”.
 - Has the issue of regulatory compliance costs been considered and, if so, what measures have been proposed or implemented to reduce the regulatory burden on business?
- As part of Australia’s national competition policy, governments at both national and state level review and reform all legislation that restricts competition. Legislation should not restrict competition unless it could be shown that the benefits of the restriction to the community as a whole outweigh the costs and that the objectives of the legislation can be achieved only by restricting competition. Proposals for new legislation must be accompanied by evidence that the legislation is consistent with this guiding principle.
 - Has Chinese Taipei considered or implemented measures to review current legislative restrictions or undertake regulatory impact assessments?

From Canada:

Chapter 9: Procurement

- Canada would like to compliment Chinese Taipei on the progress it has made thus far in improving the processes of its government procurement system. Could Chinese Taipei please elaborate on its plans to further improve the transparency and predictability of its government procurement regime?

Chapter 10 (2): Privatization

- Chinese Taipei has indicated that as of 2003, 49 state-run enterprises had been either privatized (33) or closed (16). Another 14 state-run enterprises are in the process of undergoing privatization or scheduled to be transferred to private ownership in the near future. We would be grateful if Chinese Taipei could explain the percentage of private ownership and direction that must exist for an enterprise to be legally defined as privatized?

From Hong Kong, China

General

- Since the selection of actions from the Trade Facilitation Menu of Concrete Actions and Measures last year, has Chinese Taipei adopted any new initiatives?
- What is the progress of implementation of the actions selected?

From Singapore:

- Please update us on the status of Chinese Taipei's plan to introduce third party certification for regulated products and whether it plans to totally pass all conformity assessment work to the non-government sector as currently BSMI still performs some conformity assessment activities for regulated products.

From the United States:

- We note that the Fair Trade Law was amended to change the prior approval system for mergers to a premerger notification system. Please briefly describe the application of the new premerger notification system to mergers involving one or more foreign entities.
- The FTC reviews applications for concerted action and determines whether to approve such applications. What are the criteria for approving applications for concerted action? Are such criteria published and if so, where?
- What are the criteria for determining whether a “dominant position by monopolistic enterprises” has been established?
- Taiwan’s IAP lists “acts that . . . damage [to] the business reputation of others” and “false or misleading representations, symbols and advertising” as measures to deal with vertical restraints. Would you clarify this by giving a few examples of how such conduct constitutes a vertical restraint, that is, how it impacts competition between different levels of the supply chain, such as between manufacturer and retailer?

- Under “General Policy Framework,” the IAP indicates that the FTC will be transformed into an “independent agency” in a future reorganization so that it can better carry out its functions. We would appreciate knowing what the timetable for this transition is likely to be. In addition, we would appreciate learning what you see as the benefits to the FTC from a transition to an “independent agency.”