

**-Taiwan-***last updated on 2002-04-04***Table of Contents****GENERAL FEATURES OF TRADE POLICY****TARIFFS AND DUTIES****TRADE DEFENCE INSTRUMENTS****NON TARIFF BARRIERS****INVESTMENT RELATED BARRIERS****IPR****GENERAL FEATURES OF TRADE POLICY**

The island of Taiwan (about 36.000 sq. km , 394 km long and 144 km at its widest point) is separated about 130 km from the Chinese mainland by the Taiwan Strait. After being occupied by the Portuguese, Dutch, Spaniards, Manchus, and Japanese, Taiwan returned to the Republic of China (ROC), led by the nationalist Kuomintang (KMT) in 1945. Four years later Taiwan was detached again from mainland China when the Chinese Communist Party established the People's Republic of China (PRC) in Beijing and the KMT retreated to Taiwan to form the ROC government in Taipei. Only a few countries recognise the ROC and have full diplomatic relations with Taiwan. In line with the "One China" policy, the European Union recognises Taiwan only as a separate customs territory.

Taiwan, short of natural resources, has a dense population (612 persons per sq. km, 22 million total people in December 2000) and a per capita Gross national product (GNP) of 14.216 US\$ (1999). Its only substantial resource (a highly trained workforce) has been the main source of its strong rate of growth.

As a result of government boost to capital- and technology-intensive industries in the 1980s and economic liberalisation and internationalisation programmes carried out in the 1990s, employment has shifted from the agricultural sector to the industrial and service sectors. Now agriculture accounts for just 2% of the Gross Domestic Product (GDP), the service sectors have increased to over 65% of the GDP and the manufacturing sectors account for 26% of the GDP. However, nearly all Taiwan's exports are manufactured goods.

With a small domestic market, Taiwan relies heavily on exports. In recent years there has been a rapid rate of export growth based in large part on US demand for electronic goods. Because of its limited natural resources, Taiwan needs to import large amounts of raw materials, intermediate components and equipment. The Taiwanese two-way external trade in goods amounted to US\$288.331 million in 2000. Merchandise exports totalled US\$148.320 million while imports amounted to US\$140.011 million. However, both exports and imports are expected to contract sharply due to current slowing economic growth in Taiwan's major export markets.

Taiwan's main partners are the United States (20,8% of total trade in 2000, 23,4% of exports and 17,9% of imports), Japan (19,1% of total trade and 27,5% of imports), the European Union (13,1%) Hong Kong (11,6%), Republic of Korea (4,5%), Singapore (3,6%) and China (3,6%). Despite Taiwan's ban of direct transport, communication and commerce with China, Taiwanese trade and investment flows have been increasingly pouring into mainland China for the last decade. At present a quarter of Taiwan's exports (25,4%) go to China, including Hong Kong.

After 12 years of long and arduous negotiations, Taiwan was **admitted to the World Trade Organisation (WTO)** in Doha, Qatar on 11 November 2001, a day after the fourth WTO Ministerial Conference approved the text of the agreement for China's entry into the WTO. In deference to Beijing, Taiwan joins the WTO as **Chinese Taipei, a short name which refers to the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu**, the four islands that are under the control of the ROC government in Taipei. The **Protocol of accession for Chinese Taipei in the WTO** contains the negotiation terms which have been accepted by all other members and includes Taiwan's commitments for trade in **goods** and in **services**. Taiwan officially entered the WTO as the 144th member on 1 January 2002. The **European Commission had approved** the terms of accession of Taiwan to the WTO in September 2001.

Since 1991 Taiwan has been a full member of the **Asia-Pacific Economic Co-operation (APEC)** forum. As a **founder member**, Taiwan joined another regional organisation, the **Asian Development Bank**, in 1966. Taiwan has also been a member of the **Central American Bank for Economic Integration (CABEI)** since 1992. The Taiwanese co-operation with international economic organisations is managed by the **International Co-operation and Development Fund (ICDF)**.

### **EU- Taiwan Trade Relations**

Because of Taiwan' special situation in the international scene, there is no bilateral agreement or internationalised dialogue between the European Union and Taiwan. However, representatives of the European Commission maintain regular meetings with officials of the Taiwanese **Board of Foreign Trade (BOFT)** of the Ministry of Economic Affairs for consultations on bilateral trade.

Today the **European Chamber of Commerce in Taipei (ECCT)**, formerly European Council for Commerce and Trade, is the largest and most effective European Business Organisation in Taiwan. The ECCT numbers 267 members, including all major European firms. In the absence of an EU office in Taipei, the ECCT maintains regular contacts with the Taiwanese government to promote European business interests in Taiwan.

In 2000 Taiwan was the 7th most important EU supplier (€26.493 million) and the 17th biggest export market (€14.846 million) for EU goods. The EU registered a negative trade balance with Taiwan for 11.647 million Euro. The market access concessions agreed to by Taiwan in the framework of its WTO accession will undoubtedly foster a rebalancing of trade flows.

*The following table is an overview of the tradeflow between the European Union and Taiwan*

<b>Section</b>	<b>Year</b>	<b>Import(Euro)</b>	<b>Export(Euro)</b>
<b>Animals &amp; animal products</b>	1996	38,798,580	87,540,540
	1997	37,699,520	88,293,400
	1998	88,968,260	64,326,510
	1999	45,170,540	68,901,680
	2000	47,357,450	84,793,010
	2001	71,168,810	74,842,920
	2002	78,265,070	92,269,800
	2003	63,566,410	94,150,630
<b>Vegetable products</b>	1996	10,153,020	49,284,310
	1997	10,042,180	45,375,230
	1998	10,202,910	42,733,240
	1999	11,659,950	45,356,260
	2000	13,513,240	57,768,100
	2001	13,359,580	50,504,290
	2002	12,902,280	50,438,080
	2003	12,163,510	49,107,970
	1996	242,700	9,285,740
	1997	353,350	16,368,840
	1998	530,110	15,171,260

<b>Animal or vegetable fats</b>	1999	1,011,200	10,267,150
	2000	1,582,850	21,355,610
	2001	1,212,700	18,748,460
	2002	873,060	20,616,130
	2003	1,164,640	14,743,310
<b>Prepared foodstuffs</b>	1996	18,247,690	274,987,890
	1997	22,037,740	412,094,900
	1998	22,041,400	259,573,010
	1999	20,515,940	265,228,900
	2000	24,512,770	309,929,290
	2001	28,601,660	323,036,280
	2002	27,978,310	323,632,700
	2003	24,658,180	276,126,650
<b>Mineral products</b>	1996	1,862,960	77,442,770
	1997	1,623,120	96,978,920
	1998	4,729,090	87,621,620
	1999	3,315,320	86,685,560
	2000	7,745,540	96,173,610
	2001	2,157,430	85,054,970
	2002	6,107,040	84,492,260
	2003	17,288,170	59,112,600
<b>Chemical products</b>	1996	104,335,590	1,060,716,080
	1997	126,130,590	1,224,820,240
	1998	161,390,810	1,286,100,300
	1999	163,897,050	1,443,749,830
	2000	194,570,670	1,644,790,780
	2001	191,535,890	1,481,363,020
	2002	185,716,920	1,530,176,190
	2003	187,658,250	1,428,044,930
<b>Plastics &amp; rubber</b>	1996	535,678,410	357,262,660
	1997	582,091,120	435,267,220
	1998	632,325,770	378,756,080
	1999	599,693,930	411,054,800
	2000	687,248,240	454,104,930
	2001	631,344,970	435,218,140
	2002	593,845,090	428,998,230
	2003	581,274,730	396,862,560
<b>Hides &amp; skins</b>	1996	122,694,500	87,637,050
	1997	132,101,380	94,437,430
	1998	117,601,990	72,029,070
	1999	107,202,140	64,975,860
	2000	101,070,900	77,297,790
	2001	88,889,060	67,765,090
	2002	71,174,290	62,125,000
	2003	55,684,610	54,582,530
<b>Wood &amp; wood products</b>	1996	48,516,350	53,432,240
	1997	47,647,730	71,465,640
	1998	35,618,970	53,423,970
	1999	41,311,710	60,355,200
	2000	52,378,680	61,737,570
	2001	52,122,460	47,273,430
	2002	40,638,500	53,287,770
	2003	33,631,940	44,045,110
<b>Wood pulp products</b>	1996	38,347,640	280,450,180
	1997	40,221,040	289,758,840
	1998	40,671,630	211,345,640
	1999	47,475,770	251,363,890
	2000	52,575,160	312,413,840
	2001	43,468,800	275,341,020
	2002	36,041,930	275,687,460
	2003	34,776,560	285,364,660

<b>Textiles &amp; textile articles</b>	1996	624,654,950	409,337,940
	1997	986,068,160	434,028,870
	1998	1,018,813,410	395,840,510
	1999	1,019,671,250	336,866,110
	2000	1,117,657,750	375,337,190
	2001	991,672,240	342,815,490
	2002	899,710,900	306,732,910
	2003	784,402,600	268,340,340
<b>Footwear, headgear</b>	1996	192,766,070	50,522,370
	1997	279,119,070	51,825,210
	1998	253,480,260	46,600,150
	1999	273,816,190	38,485,420
	2000	280,637,300	41,384,770
	2001	163,001,780	43,972,630
	2002	164,445,390	33,573,670
	2003	147,628,140	30,974,030
<b>Articles of stone, plaster, cement, asbestos</b>	1996	136,287,700	149,489,330
	1997	147,387,390	189,245,360
	1998	166,982,010	174,104,210
	1999	155,143,280	182,809,850
	2000	185,968,100	213,253,100
	2001	143,549,810	167,596,920
	2002	143,315,560	166,460,990
	2003	142,697,810	138,495,130
<b>Pearls, (semi-)precious stones, metals</b>	1996	52,387,940	62,479,280
	1997	44,167,990	121,720,010
	1998	41,865,560	55,049,880
	1999	36,265,380	49,013,220
	2000	70,650,910	71,507,640
	2001	44,662,960	69,276,610
	2002	41,646,590	72,192,430
	2003	42,991,620	58,776,580
<b>Base metals &amp; articles thereof</b>	1996	932,573,820	713,882,100
	1997	1,137,508,920	897,249,860
	1998	1,599,502,540	623,092,210
	1999	1,426,303,030	616,289,650
	2000	1,858,248,740	803,634,220
	2001	1,573,594,620	682,338,960
	2002	1,425,300,930	771,021,450
	2003	1,441,597,230	834,363,310
<b>Machinery &amp; mechanical appliances</b>	1996	7,106,492,310	2,807,468,020
	1997	8,131,871,050	3,947,896,620
	1998	10,373,907,160	4,687,087,040
	1999	12,047,956,010	4,514,371,430
	2000	17,218,281,140	5,756,234,230
	2001	16,417,916,750	4,968,066,740
	2002	14,725,412,470	4,281,595,380
	2003	13,992,141,650	3,983,819,740
<b>Transportation equipment</b>	1996	714,127,580	401,082,860
	1997	847,055,240	487,480,860
	1998	1,014,514,830	464,200,920
	1999	1,308,850,460	288,321,860
	2000	1,507,561,570	430,857,320
	2001	1,119,968,050	466,614,760
	2002	969,366,840	425,148,490
	2003	1,126,605,230	625,800,400
<b>Instruments - measuring, musical</b>	1996	400,621,350	283,506,880
	1997	484,614,470	391,063,340
	1998	451,000,570	351,369,820
	1999	492,574,020	390,323,320
	2000	559,425,330	547,771,440

	2001	539,485,280	596,676,210
	2002	500,970,330	945,450,490
	2003	404,194,520	711,117,400
<b>Arms &amp; ammunition</b>	1996	4,820,930	1,429,050
	1997	5,294,370	1,250,220
	1998	5,821,200	624,710
	1999	5,056,860	1,292,500
	2000	4,686,670	632,810
	2001	6,495,460	1,086,760
	2002	6,233,230	1,111,240
	2003	5,803,730	639,260
	<b>Miscellaneous</b>	1996	790,613,390
1997		892,178,600	134,680,410
1998		890,043,910	122,351,150
1999		999,849,970	103,443,920
2000		1,115,702,680	127,921,560
2001		930,515,790	96,614,710
2002		765,916,650	88,798,170
2003		699,935,790	73,966,590
<b>Works of art</b>	1996	2,955,180	9,943,180
	1997	4,209,780	15,713,960
	1998	3,859,470	13,216,310
	1999	3,015,720	8,521,930
	2000	1,865,230	10,143,260
	2001	678,250	7,393,970
	2002	2,473,350	5,310,650
	2003	7,979,430	8,153,590
<b>Other</b>	1996	23,116,910	32,485,260
	1997	31,404,570	30,378,480
	1998	40,005,180	39,226,090
	1999	45,420,490	44,295,250
	2000	50,643,620	48,844,210
	2001	68,678,770	43,916,320
	2002	69,334,870	39,754,300
	2003	63,842,830	58,294,820

**Agriculture and Fisheries**  
last updated on  
2002-04-05

In the framework of the **EC-Chinese Taipei bilateral market access negotiations**, Taiwan committed itself to eliminate tariffs on brown and white spirits (except on some oriental spirits) on 1 January 2000. Taiwan also committed itself to protect European denominations of origin for wines and spirits.

**Aircraft**  
last updated on  
2001-11-28

Taiwan has joined the **WTO Agreement on Trade in Civil Aircraft** upon WTO accession.

**Automotive**  
last updated on  
2002-03-07

Tariffs will be gradually lowered to 17.5% in the automotive sector by the year 2008. On 1 January 2002 Taiwan's tariff quota on car imports from the EU was set at **159,220 units**, which will be increased by 20% a year towards full liberalisation to be achieved in 2010. Taiwan will also remove its ban on diesel passenger cars and motorcycles above 150 cc no later than 2004.

**Services - Communications & Audiovisual**  
last updated on  
2001-12-06

In line with the policy of liberalising the telecommunications sector, in the first quarter of 2001 Taiwan started liberalising its fixed-line telecom market by allowing the entry of private operators and a total of three private firms were granted operating licences from the **Ministry of Transportation and Communication (MOTC)**.

Taiwan has started the first phase of privatisation of the government-run **Chunghwa Telecom** and accepted applications to open 3G mobile communication services. As

mentioned elsewhere, foreign ownership of telecommunication service suppliers except Chunghwa Telecom is permitted up to 60 %.

**Services - Financial**  
**last updated on**  
**2002-04-05**

In the recent years Taiwan approved a number of legal and statutory measures in the financial services sector which provide a framework for financial institutions to address their high level of fragmentation and to perform as international style universal banks. These measures include the Financial Institutions Merger Law (November 2000) and the Financial Institutions Holding Company Act (June 2001).

The Financial Institution Merger Law, which allows foreign banks to make local acquisitions, set up Asset Management Companies (AMC) to collect and manage the bad debts of local banks and to assist with reducing their high Non-Performing Loan (NPL) ratio. In April 2001 the first AMC business licence was issued by the Ministry of Finance (MOF).

The Financial Institutions Holding Company Act allows Financial Holding Companies (FHC) to control subsidiaries across the financial services spectrum. Previously a financial company could not operate in more than one area of the financial sector. The new legislation allows the FHC to invest in and own 100% of banks, securities firms and insurance companies. The first six FHC were approved by the MOF on 28 November 2001.

**Telecommunications**  
**Equipment**  
**last updated on**  
**2002-04-05**

In line with Taiwan's signing of the **International Technology Agreement (ITA)** in Singapore in 1996, tariffs on 201 different types of computer and telecommunications products have been eliminated.

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## TARIFFS AND DUTIES

As a result of WTO accession Taiwan has bound tariffs on 6814 products, reduced its tariff protection, and eliminated tariffs on products covered by the Uruguay Round zero-for-zero Initiatives as well as the **Information Technology Agreement (ITA)**. Most tariff cuts have already been made (68%). For 2217 (32%) tariff lines reduction/elimination will take place over specific time periods ('staging'). Most will be implemented by the year 2002, except for 405 products mainly in the chemicals, iron and steel, auto parts, and plywood sectors (year 2004), and 46 tariff lines in the motor vehicles sector (2008).

The simple averages of nominal duty rates for industrial and agricultural products in Taiwan are 5,78 % and 14,01% respectively.

By the time the scheduled tariff concessions covering 3.470 industrial and 1.021 agricultural items are completely implemented, these averages will be 4,15% and 12,86% respectively. Forecasts predict that a market for imports equivalent to roughly US\$1 billion could be created once Taiwanese concessions are fully implemented.

### Tariff Levels

Current duty rates for every item may be searched by either an HS Product Code (4 or 6 digits) or by Keywords describing the product in the **Applied Tariffs section** of this Database.

### Tariff Quotas

Taiwan has introduced a tariff rate quota (TRQ) scheme on certain products which were subject to import



restrictions inconsistent with WTO agreements.

### *Agricultural and fish products*

From 1 January 2002, all products imported under the TRQ are distributed freely within Taiwan without further trade-based restrictions. Allocation certificates, as import licences, are freely transferable and tradable, and certificate holders may have certificates reissued to combine or divide allocations. Applications for allocation of TRQ quantities are to be submitted to the MOF.

The application period for initial allocations is closed by 30 November of the previous year. For reallocations of unused quotas the application period is closed by 1 September. The MOF will grant allocations and publish and notify the names of recipients and allocations within two weeks of the close of the application period for the purpose of transfer.

The quota are allocated according to the following methods:

a) SYSTEM 1: for quotas of *chicken meat, pork offal, poultry offal, deer velvet, fresh pears (excluding European pears), bananas, and pork belly*. The initial allocation certificates are issued on a first-come, first-served basis.

SYSTEM 2: for quotas of *red bean, liquid milk and peanuts*. The annual quota is distributed once a year.

SYSTEM 3: for quotas of *garlic bulbs, dried shiitake, dried day lily, young coconut, betel nuts, pineapples, mangoes, shaddocks, persimmons, dried longans and longan pulp, sugar (private sector), mackerel, carangid, and sardine (herrings)*. The annual quota amount is divided into one to four segments for distribution.

### *Other products*

Passenger cars and light commercial vehicles are subject to TRQ after WTO accession. The transition period of the TRQ system will be eight years after the accession year.

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## TRADE DEFENCE INSTRUMENTS

There are no EU commodities subject to [Taiwanese antidumping measures](#) in force at 11 August 2001.

In March 1999, the International Trade Commission (ITC) of the Ministry of Economic Affairs (MOEA) made a **negative final determination** in its injury investigation involving *Steel Shot and Steel Grit* from Spain and Italy. Preliminary antidumping measures had been taken in June 1998. In November 1997 Taiwan had initiated an antidumping case against *Uncoated Stress-Relieved Steel Wires for Prestressed Concrete*, from Spain. The final determination also was negative.

According to Taiwan's [Implementing Regulation on the Imposition of the Countervailing and Antidumping Duties](#), the authority concerned with the investigation of whether the imported product is subsidised or dumped is the Ministry of Finance; whereas the MOEA is responsible for the investigation of whether the subject subsidised or dumped imported product causes injury to the industry of Taiwan. The countervailing and antidumping Regulation has been promulgated in accordance with the [Customs Duty Law](#).

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## NON TARIFF BARRIERS

Historically Taiwan has maintained a complex network of non-tariff measures on merchandise imports. According to Taiwan's **Regulations Governing Import of Commodities**, the commodities subject to import restrictions are to be listed by the Ministry of Economic Affairs (MOEA) which is the competent authority referred to in the **Foreign Trade Act**. On a regular basis the Board of Foreign Trade within the MOEA publishes a summary of the Consolidated List of Commodities Subject to Import Restrictions concerning both **agricultural** and **industrial** products.

## Registration, Documentation, Customs Procedures

Taiwan is actively promoting "paperless trading" to speed up the clearance of goods through customs.

## Standards, Sanitary and Other Technical Requirements

Taiwan has committed to comply with all articles of the agreement on Technical Barriers to Trade (TBT) as well as with the principles of the agreement on the application of Sanitary and Phytosanitary (SPS) Measures.

## Government Procurement Agreement (GPA)

Taiwan adopted a new **Government Procurement Law (GPL)** in 1998 that takes full account of the WTO GPA requirements, including the establishment of a bid challenge procedure. The **Public Construction Commission (PCC)** has taken the responsibility of GPL. Taiwan signed on to the plurilateral GPA in February 2002 and is expected to become a **contracting party to the agreement** two months later.

## Agriculture and Fisheries

### Standards and Other Technical Requirements

#### ● 020055-Certification of labels [2002-04-30]

Taiwan's regulations on labelling of alcoholic beverages require that the information declared on the label in regard to geographical indications, age and date must be certified by an organisation approved by the authorities of the exporting country.

#### ● 020056-Information requested in labels of alcoholic drinks [2002-06-05]

Taiwan's regulations on labelling require that the labels of alcoholic beverages include the name of their "major ingredients". Owing to the fact that the raw materials used in the production of spirit drinks change substantially in character and chemical composition during the production process and some raw materials may even be absent from the final product, ingredient listing requirements seem to be inappropriate and unnecessary for spirits.

### Sanitary and phytosanitary measures

#### ● 970356- Taiwan- Fresh Fruits [2004-09-15]

Exports of fruits and vegetables to Taiwan are restricted due to sanitary concerns about Mediterranean Fly and Codling moth on fruits.

This measure is based on the Quarantine restrictions of the importation of plants and plant products into Taiwan (ROC). Responsibility therefore lies with the Taiwanese Ministry of Economics (Commodity Inspection Bureau). Exceptions can be made after an extensive inspection, mainly concerning trading facilities, carried out by Taiwanese officials in the exporting country.

- Taiwan has very complicated phytosanitary and administrative customs requirements which in the case of perishable products as fresh fruit and vegetables can be considered as a SPS problem.

EU and Taiwan have a difference of opinion regarding the eradication of Med Fruit fly and Codling moth in consignments. This difference of opinion is regarding the time of cold treatment applied.



● *040124-Taiwan- Beef and beef products [2004-10-01]*

Ban on the import of beef and beef products and cosmetics containing animal-derived ingredients.

- The Commission services (DG TRADE) has already denounced twice at the SPS Committee (March and June 2004) import restrictions carried out by some Third Countries due to BSE on EU products.  
This problem has also been denounced at bilateral negotiations EU-Taiwan during 2004.

**Automotive**

**Quantitative Restrictions and Related Measures**

● *970159- Import ban automotive products [2003-02-19]*

Historically Taiwan has maintained import bans on passenger cars equipped with diesel engines, motorcycles of 150cc or above, and vehicles equipped with two-cycle engines. These restrictions will continue for two years after Taiwan's accession to the WTO.

- The Taiwanese government lifted the restrictions on the importation of motorcycles over 150cc on July 1, 2002. However regulatory or possibly market factors have resulted in few if any of these over 150cc motorcycles being seen on the streets. Taiwan's WTO commitments obliged it to ensure that other road usage restrictions would not be a barrier to trade and that general WTO commitments on taxation, regulation, and environmental standards should not be more burdensome than necessary. According to the Ministry of Trade however such motorcycles are prohibited from being used in the fast lanes and expressways of downtown areas, which is arguably more strict than Taiwan's promise to generally regulate only Taiwan's 2 main highways. In addition motorcycle dealers report that Taiwan's requirement of taking a driving class which must be passed before obtaining an additional special driver's license can be a deterrent to potential or actual buyers. The ECCT has urged Taiwan to monitor, evaluate and correct any possible unnecessary regulatory restrictions in order to ensure full WTO compliance.

**Other Industries**

**Standards and Other Technical Requirements**

● *020043-Medical device approval [2002-04-04]*

Taiwan's registration and approval requirements for medical device imports is complicated to comply with. The **application** form must be filed by a local representative of the foreign manufacturer together with the following documents:

- Letter of authorisation to register the products;
- Free sale's certificate legalised by Taiwan's representative in the manufacturer's country;
- Leaflet containing the name, structure, specification usage, administration, and the manufacturer's name & address of devices;
- Quality control record, including testing methods and results;
- Form, structure, dimension, raw materials or ingredient, and quantity, performance, purpose of use, indication or effect;
- A sample of the devices, unless their construction is heavy weight or very complicated or of a bulky size or some other particular special circumstances, in which case the submission of a sample may be exempted and replaced by pictures sufficient to identify the structure, properties and functions of the devices.
- Clinical reports of both newly developed medical devices and those already approved with new applications;
- Testing record and certificate of radiation leakage of radioactive devices.

Medical devices are regulated by the **Bureau of Pharmaceutical Affairs (BPA) within the Department of Health (DOH)**, under the Pharmaceutical Affairs Law.

In June 2000 Taiwan adopted the U.S. Food and Drug Administration's (FDA) medical device classification system and it is expected that the DOH will likely agree to accept an FDA-issued Certificate for Foreign Export, which will simplify the import procedures for US medical devices. This will also facilitate EU exports inasmuch as Taiwan, during its WTO accession negotiations, committed to grant to medical devices originating from the EU a "treatment no less favourable than medical devices origination from the US".

● **020023-Pharmaceutical Manufacturing Validation [2003-07-17]**

Since June 2002 onwards foreign pharmaceutical companies have been required to provide the Taiwanese Bureau of Pharmaceutical Affairs (BOPA) of the Department of Health (DOH) (weblink: [www.doh.gov.tw/english/Welcome.html](http://www.doh.gov.tw/english/Welcome.html)) with huge amounts of data relating to their manufacturing sites and production methods for all imported products for purposes of manufacturing validation. Formally all that was needed was a Certificate of Pharmaceutical Product (CPP). Local companies on the other hand are inspected and certified by the local regulatory body.

The Taiwanese DOH decided this measure in June 2001, even though the previous year the National Laboratories of Foods and Drugs (NLFD), the DOH office for food and drug testing and research, had applied for membership of the Pharmaceutical Inspection Co-operation Scheme (PICS) (weblink: <http://www.picscheme.org/index.htm>) a co-operative arrangement between international health authorities for mutual recognition of inspections.

Taiwan's new rule on the registration of foreign pharmaceutical products as regards manufacturing validation has been considered to be unnecessarily burdensome and contrary to international practice as well as to PIC/S norms. Moreover the requirements for providing data and the review standards themselves remain unclear, suggesting that the rules will be made on a case-by-case basis.

- An agreeable solution has now been found between foreign industry in Taiwan and the Taiwanese authorities to ensure that these regulatory requirements do not impose unacceptable burdens on foreign operators.

Services -  
Construction &  
Engineering

### Government Procurement

● **030013-Exclusion of Foreign Companies [2003-07-17]**

The exclusion of foreign companies to bid for certain public construction projects is non-compliant with Taiwan's pending WTO obligations.

As a part of its accession negotiations, Taiwan promised to accede to the Government Procurement Agreement (GPA) within 1 year of its accession.

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## INVESTMENT RELATED BARRIERS

The legal framework governing overseas investment in Taiwan is established by both the Statute For Investment By Foreign Nationals (SIFN) and the Statute For Investment By Overseas Chinese.

The SIFN (article 7) completely bans foreign investments in industries that may negatively affect national security, public order, good customs and practices, or national health as well as those which are prohibited by the law. In addition to prohibited investments, the SIFN establishes a second area of foreign investments which are partially restricted.

Both areas of foreign investments subject to limitations are stipulated in the Taiwanese Negative List for Investment by Overseas Chinese and Foreign Nationals, issued by the Executive Yuan (the Taiwanese government).

The Negative List has been trimmed significantly in recent years and restrictions on FDI will continue to be eased in line with WTO commitments. Now FDI in Taiwan is unrestricted in most categories of industries.

However, according to the Negative List, as amended on 8 September 1999, **foreign investments remain restricted** in the following industries:

- coal mining;
- crude petroleum; natural gas and geothermal energy mining;
- metal ore mining;
- non-metal ore mining;

- e) manufacture of chemical products (nitrated glycerin not used in gunpowder/explosive pillars and not involving public safety);
- f) oil and coal products (coking);
- g) basic metal industries (gun/cannon barrel forging, recycling industries of mixed waste metals);
- h) manufacture of metal (saber manufacturing);
- i) manufacture and repair of equipment and machinery (military aircraft);
- j) manufacture of precision instruments (military instruments and equipment);
- k) manufacture of sundry industrial products (processing of ivory);
- l) electric light and power supply;
- m) water supply;
- n) transportation,
- o) communication,
- p) financing;
- q) insurance;
- r) real estate;
- s) legal and accounting services;
- t) civil engineering and construction services;
- u) social service; and
- v) and broadcast and television industry (cable broadcast and television, satellite broadcast and television).

The area of completely **banned investments** for foreign persons comprises the following categories of industries:

- a) Agriculture, animal husbandry, and hunting: Agronomic and horticulture; raising livestock; and hunting, trapping and game propagation
- b) Forestry
- c) Fishery
- d) Manufacture of chemical materials: nitroglycerine nitrated glycerin used in gunpowder/explosive pillars and involving public safety; alcohol; and soda-chloride factories operating with mercuric electrolyzers
- e) Manufacture of chemical products: Pesticides and herbicides; toxic chemicals; and gun powder fuse, agents of fire and fulminating mercury
- f) Basic Industries of metal: cadmium smelting
- g) Manufacture and repair of equipment and machinery: firearms, weapon manufacture, arms repair, ammunitions and fire-control (exclusive of military aircraft)
- h) Transportation: passenger bus services (including highway passenger services and city passenger bus services); taxi transport; tour bus services; general trucking services; and private operated small truck cargo transportation
- i) Communication: postal service
- j) Financing: postal saving and remittance service
- k) Broadcast and television industry: radio broadcasting industry; and radio television industry
- l) Recreational services: special recreational services.

The Overseas Chinese and Foreign **Investment Commission** within the Ministry of Economic Affairs (MOEA) is in charge of matters relating to the screening and approval of investment and technical cooperation by foreigners and overseas Chinese.

#### Services - Communications & Audiovisual

#### Direct Foreign Investment Limitations

##### 📍 970155- Telecom Act [2003-02-19]

Foreign direct investment in telecommunications services can not exceed 20%, unless the investment is part of a joint-venture with a Taiwanese person. Then the aggregate of direct and indirect investment by non-Taiwanese persons in a service supplier other than Chunghwa Telecom, is permitted to 60 % . In addition, the chairman and a majority of the board of directors shall be Taiwan nationals.

- Officials from Taiwan's Ministry of Transportation and Communications have recently suggested that foreigners may soon be allowed to fully own local phone companies. Initial plans have been drawn up to ease the current restrictions on foreign holdings in local telephone companies in preparation for the new round of WTO negotiations.

## Services - Financial **Direct Foreign Investment Limitations**

### ● 960194- *ban on banking subsidiaries* [2001-12-05]

Wholly owned subsidiaries of foreign banks are not allowed. Access is restricted to branches and representative offices.

### ● 960196- *equity limits securities* [2002-01-31]

Equity interest in a company held by a single share holder and its related parties is subject to a ceiling limitation of 25% except when 20% or more of the equity holding comes from the following financial institutions:

- a) fund management institutions with at least NTD 65 billion of mutual fund, unit trust, or investment trust under management (assets managed by their 50%, or more than 50%, holding subsidiaries included);
- b) banks ranked among top 1000 of world banks in terms of assets or net worth;
- c) insurance companies holding at least NTD 8 billion securities assets.

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## IPR

Taiwan committed to fully apply the provisions of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) by the date of WTO accession, without recourse to any transitional period. Over the last years Taiwan has introduced a number of improvements to the protection of intellectual property rights (IPR) and now its legal IPR protection is adequate. However, Taiwan's IPR problems stem rather from lack of enforcement than from its IPR legislation, which comprises the Patent Law, the Trademark Law, the Integrated Circuit Layout Protection Act, the Copyright Law, the Trade Secrets Act as well as the Satellite Broadcasting Law, the Cable Radio and Television Law and the Broadcasting and Television Law.

In January 1999 Taiwan established the Intellectual Property Office (IPO) to deal with intellectual property matters. In addition to administrative IPO enforcement measures, the Fair Trade Law and the Commodity Inspection Act (labelling) also provided for the protection of IPR. Nevertheless counterfeit imports of alcohol and tobacco products are common in Taiwan, and the illegal copying of watches, leather bags, golf clubs, software, video and music compact discs is unrestrained.

At the entry into the WTO Taiwan committed to ensure IPR protection, especially:

- a) full protection of geographical indications as well as of well-known marks;
- b) the establishment of a registration system for trademarks which incorporates all conditions as set out in the TRIPS agreement;
- c) the amendment of the Copyright Law to comply with Article 14(1) of the TRIPS agreement on protection of performers (fixation of their performance on a phonogram, broadcasting by wireless means and the communication to the public of their live performance);
- d) the extension to all WTO members of advantages currently given on the basis of reciprocity, the elimination of any reciprocity requirements; and in particular,
- e) effective enforcement (including implementation of the special requirements related to border measures).

## Enforcement problems on IPR

### 030007-Enforcement of Copyrights [2003-07-17]

Although Taiwan has in place relevant laws to comply with its obligations under TRIPS, problems in their enforcement mean that copyright owners are unable to fully protect their property from infringement. This may constitute a breach of Taiwan's TRIPS commitments for an "effective" enforcement system.

In addition current proposals to amend the Copyright Law would weaken criminal sanctions on some copyright violations. Though this is a "watered-down" version of the original proposal, foreign and domestic IP interest groups remain strongly opposed on the basis that it would be a step backwards both in terms of IPR enforcement generally as well as on the basis of WTO non-compliance. The concern remains that most street level for-profit infringers, common educational institution related infringers, or small infringers affiliated with government entities would not qualify for criminal sanctions under the proposal, and the copyright holder would still only be left with what is felt to be inadequate civil remedies under the current practice. To date though, the Executive Yuan has not yet finalised its proposals or forwarded anything to the Legislative Yuan.

## Pharmaceuticals **Enforcement problems on IPR**

### 030008-Lack of effective Data Exclusivity protection [2003-12-04]

Despite the fact that Taiwan has demonstrated its commitment to bringing its laws into line with its TRIPs obligations, extending legal protection on patents to 20 years, there remains considerable confusion regarding the issue of data exclusivity (Article 39.3 of the TRIPs Agreement).

Taiwan does not, so far, provide effective protection for the commercially valuable and confidential information associated with new drug applications. In the meantime, European operators are concerned that inadequate protection of the data submitted to the Taiwanese authorities as a necessary prerequisite to gain marketing approval affords local generics manufacturers unfair commercial advantages.

Protection for undisclosed data is an independent form of intellectual property, wholly separate from patent protection, and should be available regardless of whether the drugs concerned are patented or not. As opposed to a patent right, which gives the right-holder the right to exclude others from making, using, selling, offering for sale, or importing the patented product, the protection that governments must accord to test data does not, per se, exclude the copier from running its own tests and submitting the results to the regulatory authorities.

In practice, however, effective data exclusivity is usually only commercially necessary when a pharmaceutical product does not benefit from patent protection or when patent protection is nearing its end. The issue of data protection is, therefore, only relevant to the small number of cases where a new drug cannot be protected by a patent. Nevertheless the commercial implications for European manufacturers in these few cases may be sizable. The large amounts of data that are required to be submitted in order to obtain marketing approval are provided to the authorities in confidence, and are not meant to be referred to by third parties. If such data were immediately available to third parties, there would be no incentive for a company to go through the costly and time-consuming process of generating it in the first place. At present generics makers can enter the Taiwanese market with only a local clinical trial and a simplified version of the registration dossier, all of it resting on the backbone of the original makers's research. The fact that generic pharmaceutical manufacturers can "rely" on the data submitted by the originator amounts to "unfair commercial use" as prohibited by Article 39.3 of the TRIPs Agreement.

Some industry sources suggest that there is a degree of foot-dragging in providing effective protection in light of Taiwan's stated aim of becoming a global player in the bio-technology sector.