

Issues and Requests Relating to Foreign Trade and Investment - Taiwan

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	Complex Examination Procedures	- Department of Investment Commission, Ministry of Economic Affairs, Government of Taiwan (GOT) imposes severe demands upon foreign investors entering the Republic of China (ROC) by ambiguous legislative provisions and control systems.	- It is requested that Government of Taiwan (GOT) sets in place a transparent and predictable examination scheme.	- Negative List for Investment by Overseas Chinese and Foreign Nationals (revised on June 17, 2013) - Regulations for Verification of Investment by Overseas Chinese and Foreign Nationals
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Mandatory Use of Taiwan Flag Vessels	- In execution of Purchase & Sales Agreement (PSA) with governmental agencies, by the law identified in the extreme right column, the use of Taiwan Flag Carriers (TFCs) is necessary for more than 50% in value or quantity of the imported goods. While plural TFCs are available for container cargoes, as it stands, there are no TFCs that carry extra large cargoes that won't fit conventional containers. Therefore, incorporation of this law into PSA results in default on the contract.	- It is requested that GOT takes step to amend the law: "excepting transport by conventional vessels, on imported cargoes into Taiwan in quantity or in value of more than 50%..." to exclude "transport by conventional vessels" from the 50% provisions.	- Measures on Ocean Transport of Materials and Machineries and Equipments, Imported by Governmental and Public Organisations (Promulgated on 11 January 2005: Mingguo Year 94) (Measures 020111 Mingguo Year 94)
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- On CBU motorcycles, Government of Taiwan (GOT) levies 20% import duty, which is too high for a country like Taiwan where its economic power has reached the level of developed countries. The high sales prices are one of the factors that have caused the dwindling domestic market for motorcycles. - The tariff rate on wristwatch is high at 5% ad valorem. - Member firm's subsidiary (MFS) of JBCTIF must manufacture products using parts imported from Japan in the market dominated by local industries. The high import duty levied on parts forms part of the cause for the debilitating competitive edge of MFS products. (Actions) - In February, 1997, pursuant to the Japan-Taiwan Agreement concerning the WTO accession, Taiwan committed to remove high tariff rates over 10 items of textile products, 5 items of motor vehicles such as engines, 3 items of mirrors, in total of 18 items.	- It is requested that GOT reduces to 10% import duty for CBU motorcycles. - It is requested that GOT repeals the tariff on wristwatches. - It is requested that trade between Taiwan and Japan is liberalised, by repealing tariffs.	- Customs Regulations and Provisions

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			<ul style="list-style-type: none"> - By Taiwan's accession to WTO, the simple average tariff rate for agricultural produce in 2002 was reduced to 14.1%, and industrial products to 5.78%. Taiwan committed, after a transitional period (until 2004 for majority of the items and some of the motor vehicles and their parts until 2011), to reduce tariffs on the concession items down to 5.5% in average (4.15% on industrial products and 12.86% on agricultural produce). In 2007, the simple average tariff rate on all products was 5.8%, and on non-agricultural products 4.7%. - While tariffs are reduced on many products with Taiwan's accession to WTO, the total tax and duties are high on certain products when the tariff and commodity tax (domestic tax) are added up. (Example: Color Television Receivers - import tariff 10% + commodity tax 13%). - In April 2006, GOT increased the tariff rate of monitor TV to 10%, by the change of classification from computer display equipment of 0% tariff to video monitor. - GOT maintains the Tariff Quota System on motor vehicles, imposing high tariff rate of maximum 30% on imports outside the allocated quota. - On 29 June 2010, GOT and Mainland Area signed ECFA (Cross-Strait Economic Cooperation Framework Agreement), corresponding to FTA, agreeing to reduce or repeal import tariffs on 267-items as to Taiwan (concentrating on tariff rates in the range of 2.5% to 5%) and as to PRC on 539 items (concentrating on tariff rates in the range of 10% to 15%) within 2-years in 3-stages after enforcement under the Early Harvest Scheme finally down to zero percent. The 267-items as to Taiwan are as follows: <ul style="list-style-type: none"> -- Petrochemical products (42-items): Raw materials, special chemical goods, plastic raw materials -- Machineries (69-items): Industrial machinery, other machinery, and machinery parts -- Spinning (22-items): Cotton yarn, cotton cloth, nylon, etc. -- Transporting equipment (17-items): Bicycle (finished) and its parts -- Others (117-items): Precision machine parts, tool and die, metal products, rubber/plastic, electronic products, electric products, etc. - On 22 May 2011, the 1st Meeting was convened for Negotiation of Singapore-Taiwan Economic Partnership Agreement (ASTEP). - In May 2012, negotiation began on Taiwan/New Zealand Bilateral Economic Cooperation Agreement. - In August 2012, Cross-Strait Investment Protection Agreement was concluded. <p>(Improvement)</p> <ul style="list-style-type: none"> - Manufacturing industries in Taiwan will be exempted from tariffs on import of machinery & equipment used for development of new products, product quality enhancement, increase in production capacity, achievement of energy saving, promotion of recycling, and new technology not yet introduced to Taiwan. This measure affords benefits to business entities entering Taiwan with machinery & equipment not yet manufactured in Taiwan. 		
	(2)	Tariff Gap from PRC Products under ECFA	<ul style="list-style-type: none"> - <u>Due to ECFA between PRC and ROC, Tariff rates on PRC products are lower than on Japanese products.</u> - <u>Removal of import duty is likely between ROC and PRC, while standards and specifications will get closer, so that products from Japan must compete against low priced PRC products.</u> 	<ul style="list-style-type: none"> - <u>It is requested that GOJ and GOT will conclude FTA between Japan and Taiwan.</u> 	
	(3)	Different Customs Different Duty Rates	<ul style="list-style-type: none"> - <u>Customs clearance is difficult due to the difference in duty rates between Customs on identical products.</u> 	<ul style="list-style-type: none"> - <u>It is requested that GOT takes steps to improve professional expertise of its customs employees.</u> 	

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		(4)	Import Duty Levied on Pre-Shipped Personal Effects of Expatriates before their Entry in Taiwan	- GOT levies import duty on all personal effects of expatriates pre-shipped to Taiwan preceding the expatriates' own entry into Taiwan.	- It is requested that GOT (or Customs of Taiwan) repeals the measures levying import duty, where the circumstances on the left column apply.	
		(5)	Import License System	<p>- Since 15 April 2002, GOT has compelled filing of Import Declaration (on 471- items). On 19 October 2004, GOT repealed the Import Declaration System (on 465- items) This decision is based on GOT's Trade Promotion Policy, and the shortage of steel products. The Import Declaration System was retained on the remaining 6-items (such as reinforcing bar and H-section steel) in consideration of the qualitative safety of the public construction work.</p> <p>(Actions)</p> <ul style="list-style-type: none"> - After accession to WTO, Taiwan plans to observe the GATT 1994 Agreement on import licensing procedures by substantially reducing the item 2 under "Note 1", execute automatic import licensing, and simplify and expedite the import licensing procedures. - Board of Foreign Trade renewed the Law to Regulate Compact Discs on 30 January 2002, and published the definition list for 12 items of the 2nd class. While 6 items, including injection-molding machines for optical discs, are added to the list, tools and molding dies for rubber or plastic injection or compressing molding machines are excluded from the list. To import items subject to the list, optical disc manufacturing certificate (ODMC) issued by the Investment Commission, Ministry of Economic Affairs (MOEAIC) is required. - (1) In August 2003, GOT liberalized import of 173 items of steel sheet, etc. in addition to the previously liberalized 72 items of billet, scrap, pig iron, etc. (2) On 19 October 2005, GOT extended the period of import liberalization from 31 December 2004 to 31 March 2005 on heavy/centre plate (thickness: 4.75-50). (3) On 19 April 2005, GOT liberalized import of thick plate (thickness: 50-150). (4) On 20 December 2005, GOT extended the period of import liberalization from 31 December 2005 to 31 March 2006 on 15 items of hot-rolled steel, wire rods, etc. (5) On 23 March 2006, GOT extended the period of import liberalization from 1 April 2006 to 30 September 2006 on 15 items of steel bar, wire rods, etc. (6) On 20 September 2006, GOT resumed import embargo on 15 items of steel bar, wire rods, etc. (7) GOT temporarily liberalized import of 15 items of steel bar, wire rods, etc. (8) On 28 September 2007, GOT extended the period of import liberalization from 30 September 2007 to 31 March 2008 on 15 items of steel bar, wire rods, etc. (9) On 1 October 2008, in order to respond to the steel material shortage, GOT liberalised import on certain steel products. 	- It is requested that GOT repeals the measures levying import duty, where the circumstances on the left column apply.	

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			<p>(Improvement)</p> <ul style="list-style-type: none"> - Pursuant to the regulations by the Board of Foreign Trade, application for ODMC is no longer required for old machinery used for wiring of railroad cars. - In April 2002, GOT announced to deregulate import control restrictions on certain engines for motor vehicles and electric cords. 		
	(6)	Absence of Mutual Recognition System on AEO	- <u>Taiwan and Japan have introduced Authorized Economic Operator (AEO) System, without, however, ratification of mutual recognition system (MRS).</u>	- <u>It is requested that GOJ and GOT will ratify MRS, which gives favourable measures to AEOs in the domestic markets of both Taiwan and Japan.</u>	
	(7)	Complex Product Registration Upon Import	<ul style="list-style-type: none"> - <u>GOT requires product registration on prototype samples imported for evaluation purpose.</u> - Product registration procedures are vexatiously complex on import and distribution of medical equipment. 	<ul style="list-style-type: none"> - <u>It is requested that GOT streamlines the import procedures on prototype samples imported for evaluation purpose.</u> - <u>It is requested that GOT repeals products registration renewal system, namely, like Japan, once registered no renewal is necessary.</u> 	
	(8)	Concern Over GOT's Executing Demand for Production of Certificate of Origin and Inspection Report	<p>- <u>Ministry of health and welfare, announcement of 28 October 2014 announced the following 2-strengthening measures under import regulation (the relative period of 60-days from 28 October 2014 is overdue already, and is now presumably under review. As of 22 January, however, no measure has been taken on both 2-issues. However, GOT recommends making advance preparation, as its implementation will begin immediately once decision is reached.):</u></p> <p><u>(1) Foods imported from Japan require acquisition of (prefectural) certificate of produce issued by public institution.</u></p> <p><u>(2) Fresh frozen fruits and vegetables, frozen fruits and vegetables, fresh frozen fishery products, dairy products, foods for infants and children, mineral water or drinking water/edible seaweeds and tea products, candies, biscuits, and cooked grain products, require acquisition of radioactive materials inspection report.</u></p> <p><u>[Issues confronting a member firm]</u></p> <p><u>A member firm supplies material such as fats and oil imported from Japan to western confectionary in Taiwan. The followings are anticipated problems:</u></p> <p><u>-- "Best Before Dates (BBDs) are too short for the subject products. As a result, considering the requisite time for acquisition of certificates and</u></p>	<ul style="list-style-type: none"> - <u>Member firms are opposed to the two measures on the left column that tighten import restrictions.</u> 	<ul style="list-style-type: none"> - <u>Ministry of Health and Welfare Announcement of 28 October 2014No.1031303136(Left(1))No. 1031303247(Left(2))</u>

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			<p><u>test reports from public institutions, the remaining BBDs get too short.</u> <u>-- The products in concern are with high-mix, small-lot production features so that the acquisition cost of certificate and test report for each item threatens the profitability of the member firm.</u></p>		
	(9)	<u>Delayed Confirmation Work of Master List for Duty Free Application</u>	<p><u>- Import duty is exempted on goods imported by electric power companies into Taiwan with certificate of Bureau of Energy (BOE), Ministry of Economics (MOE) for Non-Domestic Production in Taiwan (NDP), without however, confirmation of the time frame (the required work-time for the BOE's confirmation of the master list, confirmation point, etc.), concerning BOE's certificate of NDP. During the pendency of BOE's confirmation work, the applicant's temporary assumption arises for the vast amount of duty, pending completion of the NDP finding.</u></p>	<p><u>- It is requested that BOE/MOE promulgates master list preparation guidelines for application of tariff exemption, with the work-time within BOE for the confirmation work.</u></p>	<p><u>- Customs Import Tax Regulation, Article 84, Additional Note 12</u></p>
12 Exchange Controls	(1)	<u>Rapid Foreign Exchange Fluctuations</u>	<p><u>- Radical exchange fluctuations prevail. As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction with its parent company, the prevailing Yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.</u></p>	<p><u>- It is requested that GOP takes step to:</u> <u>-- stabilise foreign exchange fluctuations, and</u> <u>-- holds the fluctuation band within a few percents in 6-months.</u></p>	
14 Taxation Systems	(1)	Difficulties Emanating from Unexecuted Bilateral Tax Treaty	<p><u>- As of today, Japan-ROC comprehensive tax treaty remains unconcluded. International transportation income tax agreement limited only on International transportation is the only bilateral treaty that has been brought into force to this date. (Example) While 20% withholding tax is levied on dividends, interests and licensing fees between Japan and Taiwan, the less heavy withholding tax rate in the range of 5 to 15% is levied as regards countries where tax treaty with Japan is concluded.</u> <u>- Due to the absence of tax treaty between Taiwan and Japan, tax payable by Member Firm's Subsidiary (MFS) is high at 20%. Consequently, where a member firm makes direct investment into a Taiwanese corporation to secure more than 25% share ownership, on the Japan side, the member firm sustains demerit on tax liability for the distributed dividend. (In substance, where withholding tax rate (WHR) is zero, tax levy is 1.8%. However, 21.8% WHR applies where WHR is 20%. This can be a factor that discourages the desire to invest from Japan to Taiwan.</u></p>	<p><u>- Move toward holding G-to-G negotiations on conclusion of Japan-Taiwan Tax Treaty.</u> <u>- It is requested that GOT and GOJ conclude Japan-Taiwan tax treaty to dissolve the demerits arising from the tax demerits.</u></p>	<p><u>- Income Tax Act, etc.</u> <u>- Withholding Tax: The Income Tax Act</u> <u>- Income Tax Act, Section 4 Withholding of Tax, Article 88 and 89.</u> <u>- Standards of Withholding Rates for Various Incomes, Article 3.</u></p>

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			<p>- <u>A member firm now providing training to Taiwanese staff for certain period in Japan faces double taxation problems, where the member firm pays wages payable in Japan as well as absorbing personal expenses incurred in Taiwan pro-rata to the personnel expenses.</u></p> <p>- <u>As it stands, if a member firm of JBCTIF accepts an employee despatched to Japan from its subsidiary in Taiwan (MFS) for a fixed period, while member firm pays his/her wages in Japan, and MFS absorbs the personnel expenses in Taiwan, in addition to accrual of tax paid in Japan, the personnel expenses assumed by MFS are taxable in Taiwan, resulting in double taxation.</u></p> <p><u>It results in curbing the efforts for technological and human resources developments by induction, on-the-job training, etc. and interchange of human resources between ROC and Japan.</u></p> <p>- <u>A member firm as a group company is under the double taxation risk, especially under the TPTS as the rules vary from one nation to another and so do the interpretation on the rules between the countries.</u></p>	<p>- <u>It is requested that GOT and GOJ ratify the bilateral tax treaty for application of reduced tax rate (10%).</u></p> <p>- <u>It is requested that GOT and GOJ conclude the Income Tax Treaty between Japan and Taiwan to eliminate the double taxation problems.</u></p> <p>- <u>It is requested that GOK:</u> <u>-- overhauls TPTS guidelines, etc. of the world standard.</u> <u>-- embellishes advance pricing agreement system.</u></p>																				
			<p>(Actions)</p> <p>- In January 2004, under Article 114 of Examination Rules for Profit-seeking Enterprise Income Tax, Ministry of Finance (MOF) set forth among others the calculation method for the transfer pricing taxation system between independent enterprises and the advance pricing agreement system. Beginning 2004, Profit-seeking Enterprise Income Tax Return, enterprises are obligated to attach the particulars for the transactions between the related parties and to prepare the detailed explanation concerning the related party transactions (such as Report on Transfer Pricing) as from the Income Tax Return for the TY 2005.</p> <p>- As of February 2008, GOT ratified the bilateral tax treaties with 16 countries (including the 6 OECD Member States)(already enforced). The withholding tax rates on the Taiwan side are: 5-15% (20-30% against non-ratified country) on dividends, 10-15% (20% against non-ratified country) on interests, and 10-15% (20% against non-ratified country) on royalty.</p> <p>- Withholding tax rates differ between the Ratified and Non-Ratified Countries as regards the Bilateral Tax Treaty as follows:</p> <table border="0" data-bbox="611 1161 1272 1299"> <tr> <td>-----</td> <td>Ratified Countries</td> <td>-----</td> <td>Non-Ratified Countries</td> </tr> <tr> <td>Dividends</td> <td>-----</td> <td>5%-15%</td> <td>-----</td> <td>20%,25%,30%</td> </tr> <tr> <td>Interests</td> <td>-----</td> <td>10%, 15%</td> <td>-----</td> <td>20%</td> </tr> <tr> <td>Royalties</td> <td>-----</td> <td>10%, 12.5%, 15%</td> <td>-----</td> <td>20%</td> </tr> </table> <p>- Since 1 January 2010, GOT has reduced profit-seeking-enterprise income tax rate from 25% to 20%, while reducing deemed profit tax rate to 3.0% (15% x 20%).</p> <p>- In January 2011, bilateral Japan-Taiwan Investment Treaty signed between Interchange Association (Japan) and East Asia Relations Commission (Taiwan) entered into force.</p>			-----	Ratified Countries	-----	Non-Ratified Countries	Dividends	-----	5%-15%	-----	20%,25%,30%	Interests	-----	10%, 15%	-----	20%	Royalties	-----	10%, 12.5%, 15%	-----	20%
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			<p>(Improvement)</p> <p>- Beginning FY 2011, due to the Amendment of Tax Act in Japan, GOJ will not tax, in principle, on the parent in Japan of dividends received from its overseas' subsidiary (non-inclusion into taxable income profits in the form of dividends received from its overseas subsidiary), from the fiscal year beginning on 1 April 2009, by shifting to "The Computation System of Excluding from Taxable Amount External Income received as Dividends from Overseas' subsidiary".</p> <p>- <u>On 26 November 2015, interchange association of Japan and East Asia relations commission of Taiwan signed "Agreement on Avoidance of Double Taxation and on Prevention of Income Tax Evasion (ADT-PITE Agreement)," setting forth: (1) Withholding tax rates on dividends at 10%, interest at 10%, and rental fees at 10%, and (2) creation of the framework for problem solving and exchange of information between the taxation authorities of both countries.</u></p> <p>- <u>On 5 February 2016, deliberation began at regular session of the national diet on amendment bill for "2016 fiscal year tax scheme reform," including "implementing measures by the private sectors". "ADT-PITE Agreement" has been made into law by the provisions in Article 2, Paragraph 3 of "the law concerning income tax exemption upon foreign residents, et al", by "the law based on the reciprocity principle", without expressly identifying the subject country, which, however, will be incorporated into the governmental decree.</u></p>		
	(2)	Inadequate Nomenclature of Evidential Document for Tax Deductions	<p>- <u>National Tax Administration (NTA) requires Invoice instead of Debit Note as evidential document for tax deductions on expenses accrued outside Taiwan. However, the nomenclature of the evidential document does not match the actual accounting document used by a member firm of JBCTIF, impeding its accounting work. (NTA's requirement does not come to grip with the international commercial practice of using the term "Debit Note", unless transactions accompany customs clearance, in which case the term "Invoice" applies.)</u></p>	<p>- <u>While Member Firm now settle all its account by Invoice, pursuant to the ROC laws, it is requested that in accordance with the long-established business practices, GOT accepts Debit Note as evidential document for tax deductions.</u></p>	<p>- Taiwan National Tax Administration Interpretative Circular No. 0990245351 of 30 August 2010</p>
	(3)	Irrational Imposition of 10% Corporate Income Tax on Undistributed Dividend	<p>- Article 66(9) of income tax act provides for "imposition of 10% tax upon undistributed profit", aimed at complementing the tax revenue shortage arising from enterprises' willful reduction of revenue as undistributed profit. First of all, the effect is slight upon Foreign Funded Enterprises (FFE) of the GOT's intended purpose mentioned above. Moreover, this provision of the Income tax act is unreasonable to FFEs in Taiwan, desiring to continue developing their business and to re-invest the income gained from their operation in Taiwan into their business in Taiwan.</p> <p>- <u>A Member Firm's Subsidiary (MFS) experienced a difficult time from GOT's income tax levy on undistributed profit, due to the short grace period granted from promulgation to implementation of the amended income tax act.</u></p>	<p>- It is requested that GOT repeals 10% tax levy on undistributed profits of FFEs in ROC.(e.g.) income tax on undistributed profit no longer exists in leading Asian countries, such as Hong Kong, Singapore, ROK, and Japan.</p> <p>- <u>To begin with tax levy on the undistributed profit is the scheme that freezes reinvestment into Taiwan. It is requested that GOT reconsiders its repeal.</u></p>	<p>- Income Tax Act, Article 66(9)</p>


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	(4)	<u>Halved Amount of Withholding Tax Deduction on 10% Additional Tax for Undistributed Profit</u>	- <u>After the income tax amendment, the deduction amount has been "halved" on the net business income tax, received by non-resident shareholders (individuals and commercial enterprises), whereas the full amount deduction had been authorised prior to the income tax act amendment.</u>	- <u>It is requested that GOT takes step to enable deduction of the "full amount" of the 10% additional commercial business tax levy paid by foreign funded enterprises on the undistributed profit.</u>	- <u>Income Tax Act, Article 73-(2)</u>
	(5)	<u>Taxation Authority's Tightening of Tax Investigation</u>	- <u>The taxation reform, such as reduction in corporate income tax implemented to correct the prolonged Taiwanese economic recession, and the decline in the Taiwanese working population by aging, it is considered, have been the major reasons that have prompted the current serious deficit in tax revenue. As a means to supplement the tax revenue deficits, the taxation authority has tightened its tax investigation upon enterprises in recent years.</u>	- <u>It is requested that GOT will resolve the fundamental tax revenue deficits by preparing the environment for attracting the domestic investment in Taiwan, steering the industrial policy toward domestic consumption, etc.</u>	
	(6)	<u>Expansion of Non-Taxable Items on Income Tax Levied upon Expatriates</u>	- <u>Taxable income of foreign expatriates working in ROC includes medical expenses and matching income tax, payable by enterprises employing such expatriates.</u>	- <u>It is requested that GOT also excludes from the taxable income, medical expenses and matching income tax, in addition to moving cost, fuel and light expenses, housing expenses, etc.</u>	- <u>Finance/Tax No. 09804119810 "The Scope of Application for Tax Preferences Provided to Foreign Professionals" (2010.03.12)</u>
	(7)	<u>Vexatiously Complex Application Procedures in Taiwan on Request for Deduction of Foreign Tax Amount</u>	- <u>Withholding Tax (20.42%) is levied and collected in Japan on remittance of interest, dividend, etc. from Japan to Taiwan, pursuant to the Japanese laws. To file application for foreign tax deduction in Taiwan, aside from the Certificate of Tax Payment (CTP) issued by tax office, so-called "visa", issued by Taipei Economic and Cultural Representative Office in Japan, Republic of China (TECRO) becomes necessary, as proof of payment of the Japanese withholding tax. For the headquarter of a trading firm that makes multiple external remittances, visa acquisition is quite a costly chore, including person-hours and related costs necessary. Countries that require visa other than CTP are not found elsewhere. Change in rules on tax certificate appears necessary. Within the OECD signatories of the 34-countries, it has been confirmed that at least 13-countries (the U.S., U.K., Italy, Australia, Canada, ROK, Chile, Germany, Turkey, France, Belgium, Mexico, and Japan) do not require visa acquisition. As of now, no practical administrative change has taken place.</u>	- <u>It is requested that got takes step to obviate the need for visa acquisition at TECO to enable FFEs to obtain foreign tax reduction only by CTP.</u>	- <u>Proviso of Article 3(2) of Income Tax Act</u>

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	(8)	<p><u>Inadequate Business Tax Levied upon Profit from Resale Made by Nominal Trade Firm</u></p>	<p><u>- According to Ministry of Finance Notice (TaiCaiSuiZi No. 09804119810) of 29 October 2008, in the case where "A" (Domestic Merchandiser) places an order with "C" (Overseas' Manufacturer) based on the order received from "B" (Domestic Purchaser) and imports the goods in concern under the B's name, "A" must issue uniform invoice (Note) in "duplicate" (in which "A" is responsible as the final business tax payor), regarding the differences between the purchase and resale prices as commission revenue. However, in light of the fact that payment and receipt of sales/purchase prices actually take place in this transaction, it is unjustifiable to regard the profit from resale as commission revenue.</u></p> <p><u>On 25 December 2012, the Chief Justice of the Supreme Yuan, in the Liaison Conference, with reference to a case closely resembling the foregoing, stated: Since A (MFS) receives the payable amounts directly from B, it represents a single transaction between A and B. In this transaction, under the definition for "Sales of Goods domestically in Taiwan" and of "Import of Cargo" in Article 1 of Business Tax Law, based on the Tax Law Principles, assumption of two business taxes is established, payees, being the seller of goods A, and purchaser B, being recipient of the purchased goods.</u></p> <p><u>Therefore, it is incumbent upon A to issue uniform invoice in triplicate. (A does not function as payee of business tax, as A merely pays business tax deposit. It gives no impact upon A's profit and loss.)</u></p> <p><u>The Chief Justice additionally ruled, purchaser B, having paid business tax upon import customs clearance, it has resulted in double payment of business tax on the same cargo, it will result in B's filing request to Ministry of Finance for special refund for business tax.</u></p> <p><u>As it stands, no change has taken place as stated in the MOF notice above.</u></p> <p><u>(Note) Official invoice, the use of which is compulsory to ensure business tax payment. In addition to the registered marking to Taiwan MOF, and the prescribed description, in the case of the duplicate format, one copy will be held in A's file, while another copy will be held in B's file. In the case of the triplicate format, one copy will be for A's file, while A will issue to Purchaser two copies, out of which purchaser will issue one copy to the tax office.</u></p>	<p><u>It is requested that GOT takes step to:</u></p> <p><u>-- repeals Ministry of Finance Notice No. 09804119810 of 29 October 2008</u></p> <p><u>-- follow the conclusions drawn by the chief justice of the Supreme Yuan, in the liaison conference of 25 December 2012.</u></p>	<p><u>- Ministry of Finance Notice (TaiCaiSuiZi No. 09804119810) of 29 October 2008</u></p>

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	(9)	<u>Insufficiency in Tax System Operation</u>	- <u>At supermarkets all around the town, almost without exception, question is raised if they have a uniform invoice. This shows the absence of willingness to pay tax among small-to-medium business operators.</u>	- <u>It is requested that GOT improves tax collection operation under the existing tax system to assure collection without fail.</u>	
15	Price Controls	(1) Rising cost of Public Utility Charges	- By governmental policy, it appears there will be the utility charge hike. - <u>As raise continues on utility charge, ups and downs in the cost of raw materials push up commodity prices.</u>		
16	Employment	(1) Unstable Employment of Workers under the Fixed Term Contract of Employment	- <u>Limited only to seasonal or temporary type of work, fixed term contract of employment (FTCE) is permitted. However, there is a potential risk related to employment of workers considered to be seasonal labour.</u>	- <u>It is requested that GOT establishes the system that guarantees flexible adjustment of workers.</u>	
		(2) Shortage of Human Resources for Managers and Engineers	- <u>In the past few years, there has been exodus abroad of numerous Taiwanese over issues involving low technology level and wages, resulting in acute shortage of human resources in the capacity of engineers and managers.</u>	- <u>It is requested that GOT:</u> -- <u>ensures technology transfer to Taiwan with adequate wage scale,</u> -- <u>overhauls environment for investment, and</u> -- <u>builds up environment that human resources cluster.</u>	
		(3) Likely Introduction of Proportionate Restrictions on Despatched Workers	- <u>The draft "despatched workers protection law" now under preparation includes restrictive provision: "despatched workers must be less than 3% of the total number of employees". It is difficult for manufacturing enterprises with a large number of employees to hold it down to less than 3%.</u>	- <u>It is requested that GOT takes step to deregulate "the less than 3%" provision.</u>	
		(4) Capped Regular/Overtime Work Hours	- <u>Labour Standard Act, Taiwan (LSAT) (under Article 32) provides certain restrictions on flexible employment of regular work hours and a cap on overtime work. Under this act, adjustment of work hours flexibly on seasonable goods, etc. is difficult, debilitating competitiveness of the products domestically manufactured in Taiwan.</u>	- <u>It is requested that got takes step to:</u> -- <u>introduce flexible employment of the fixed working hours (such as by the unit of one-year) under "Article 36. special provisions" of LSAT,</u> -- <u>or else, exclude the first 8-hours on holidays (normally Saturdays) from the legal overtime work,</u>	- <u>Japan: Labour Standards Act (LSAJ), Article 32(2)-(5), Article</u> - <u>Taiwan: Labour Standards Act (LSAT), Article 32(2)</u>

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				<u>while the deliberation is under way in the draft amendment to change the Legal Monthly Working Hours (LMWH) from 46 to 60-hours per month.</u>	
17 Implementation of Intellectual Property Rights ("IPRs")	(1)	Inadequate Provisions of Patent Act concerning Indirect Infringement	- Means available to patent holder are restricted to protect against others' <u>manufacture and sales of goods (exclusive parts) used only for manufacture of the patented products, and against manufacture and sales of goods used only for the patent method, due to the absence of the provisions for indirect infringement in the Patent Act.</u>	- It is requested that GOT causes the Patent Act to be amended so that it <u>contains specific provisions concerning indirect infringement equivalent to the Patent Act of Japan, the U.S., etc.</u>	
	(2)	Obligations to submit Priority Certificate in filing Patent Application	- <u>The burden is heavy upon Applicant filing Patent Application under the Paris Convention, as the Applicant must apply for issuance of priority certificate with Japan Patent Office (JPO) and mail the original priority certificate so obtained to Taiwan Intellectual Property Office (TIPO), due to the compulsory submission requirement of priority certificate. In addition, due to the enforcement start in December 2013 of electronic exchange of priority documents, dispatch by postal service of priority certificate is no longer necessarily required. However, use of electronic exchange scheme is quite burdensome, as it requires filing of application by the applicant. However, the applicant's submission of priority document is not necessary among the countries (the U.S., EP, CN, etc.) where Japan Patent Office electronically shares in common patent application information.</u> (Actions) - On 1 May 2012, Japan-Taiwan Patent Prosecution Highway came into force between Interchange Association (Japan) and East Asia Relations Commission (Taiwan).	- It is requested that TIPO takes steps to: -- <u>obviate the need for submission of priority certificate, the same as other foreign countries, and</u> -- <u>share in common among IP Offices the requisite information (data) necessary for assertion of priority right without the applicant's intervention.</u>	Patent Act, Article 28 - ROC Patent Act (Article 29) - Memorandum of Understanding between Japan and ROC on Electronic Exchange of Priority Documents on Patent, etc. (Enforcement began in December 2013) http://www.jpo.go.jp/tetu/zuki/t_tokkyo/shutsugan/tipo.htm
	(3)	<u>Anxiety over Increase in IPRs' Infringements/ Counterfeits due to Introduction of Plain Package Control on Tobacco Products</u>	- <u>GOT envisages introduction of regulations similar to Tobacco Plain Packaging Regulations (TPPR) promulgated in Australia. If introduced, it could materially damage the intrinsic value of the trademark identification capability, the "brand value", the core of business, and damages the sound market competitions. For example, specific concerns include: consumers' purchase of unintended products from the difficulty of distinction and consumers shift to low priced products, barring a new entry into the market, etc. In addition, simplified packages facilitate</u>	- <u>As shown in the left column, TPPR infringes business operators' intellectual property right, and consequently obstructs industrial development through the sound market competition. On the other hand, prevention of juvenile smoking is considered achievable by</u>	- <u>Proposed amendment of the Tobacco Hazards Prevention Act</u>

Category	No	Issue	Issue Details	Requests	References
			<u>copying and increased fraudulent manufacture of the counterfeits.</u> (Note) <u>Plain packaging regulations are measures to standardise the configurations, colors, etc. of the tobacco package. More precisely, printing requirement of caution (front 75%, back 90%), largely restricts the space on the package, prohibiting the graphical trademark, etc. of logos, etc., and restricting the fonts used on the trademark and its allowable location.</u>	<u>alternative measures such as education and severer fines and penalties.</u> Therefore, It is requested that GOT implements restrictive measures, positively based on the principle of proportionality. -- GOJ is requested to take positive actions based on the full understanding of the issues pointed out in the left column.	- <u>Proposed amendment of the Tobacco Hazards Prevention Act</u>
19 Industrial Standards, Approval of Safety Standards	(1)	Undeveloped Standards and Regulations Relative to Electric Vehicles	- <u>Overhaul is insufficient for the infrastructure (such as, standards, regulations, and safety standard) of the electric vehicles (EV).</u>	- <u>In as much as Taiwan is gifted with a fertile soil suited for development of the EV industry, big business opportunities are close at hand. It is requested that GOT overhauls the rules and regulations as soon as possible.</u>	
	(2)	Complex CNS Mark Certification System for LED Lighting Products	- <u>A member firm of JBCTIF must obtain individually the Taiwan original CNS mark certification for sales and distribution of its LED lighting products in Taiwan. It is concerned about the increased cost and time to meet the CNS mark certification requirement, because of the LED's short product cycle that requires fast parts changes.</u>	- <u>It is requested that GOJ and GOT will streamline the testing, inspection, and certification system (TICS) by overhaul of mutual recognition system with the Japan domestic TICS, adoption of common specifications, etc.</u>	- CNS Mark Certification System
	(3)	Conformity Assessment Procedures	- On 8 August 2013, Bureau of Standards, Metrology and Inspection (BSMI) notified WTO TBT on its introduction of conformity assessment procedures (CAP) on hot dip galvanized steel sheet/coil (HDGSS_C). On 25 December 2013, BSMI announced its introduction from 1 March 2013 of conformity assessment procedures on HDGSS_C in draft form Taiwan Gazette (in Chinese only), excluding, however, HDGSS_C destined to (1) re-export and (2) cars/motorcycles manufacture.	- It is requested that GOT: -- withdraws the notification to WTO TBT, and. -- sets forth appropriate exemption provisions.	- Products Inspection Law - Products Inspection Registration Law
	(4)	CNS Inspection	- <u>CNS inspection is both costly and time consuming.</u>	- <u>It is requested that GOT allows import into ROC of JIS certified products without inspection in Taiwan.</u>	

Category	No	Issue	Issue Details	Requests	References
	(5)	Inadequate Food Sanitation Control	- <u>Food Sanitation Administration requires improvement, such as problems over impure food oil.</u>	- <u>It is requested that GOT ensures thorough administration of foods in detail.</u>	
22 Environmental Pollution and Waste Disposal	(1)	Original Recycle Mark (Batteries)	- <u>Legislative provisions have been promulgated in each country and each region throughout for effective use of natural resources and prevention of environmental pollution. It is the same with batteries. GOB compels provision of the various markings on the battery itself, and its user's manual for products containing batteries in the same carton correctly without any mistakes, the administration of which heavily burdens the manufacturers.</u> 	- <u>It is requested that Governments will jointly work toward unification of the recycle marking requirement worldwide.</u>	
		(Actions)	- On 1 May 2014, The Bureau of Standards, Metrology and Inspection (BSMI) of the Ministry of Economic Affairs enforced Commodity Inspection Law, compelling product inspection and labeling on lithium secondary battery (cells), lithium secondary battery power source, and lithium secondary battery cell-phone chargers, for use with the "3C" products (computer, communication, and consumer electronics).		
	(2)	Inadequate Wastes Control	- <u>Wastes control is not effectively administered.</u>	- <u>It is requested that GOT goes into more precise details in the environmental management.</u>	
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	<u>Frequent Changes of Webpage Linkage Addresses(URL)</u>	- <u>The website address for regulatory information frequently changes so that it takes much time and effort for collecting information. (e.g. search for Inventory of an existing substance).</u>	- <u>It is requested that GOT refrains from changing the website address once released to the public.</u>	- <u>Occupational Safety and Health Act (OSHA), Taiwan</u> - <u>Toxic Chemical Substances Control Act</u>
24 Indigested Legislation, Abrupt Changes	(1)	Legalisation of the Spare Parts Retention Period	- <u>The absence of legislative provision governing the spare parts retention period (SPRP) requires manufacturers to hold stocks of spare parts for a long time. Manufacturers are exposed to the risk of disputes from their customer in the event the required spare parts are out of stock over the product the customer used for a long time.</u>	- <u>It is requested that GOT legalise SPRP and prepares Guidelines on this issue.</u>	
	(2)	<u>Delayed Issuance of Subordinate Regulations, Guidelines, etc.</u>	- <u>Despite the enforcement of superior laws and regulations, it is difficult to take actual responsive action, due to the delayed promulgation of the public release of subordinate rules, list of restricted substance, and guidelines necessary for their actual enforcement.</u>	- <u>It is requested that GOT takes step to have the laws promulgated only after subordinate rules, guidelines, etc. are made ready.</u>	- <u>Occupational Safety and Health Act (OSHA), Taiwan</u> - <u>Toxic Chemical Substances Control Act</u>