

# WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/SPEC/TPKM/1

14 July 1997

(97-2930)

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**Working Party on the  
Accession of Chinese Taipei**

Original: English

## ACCESSION OF CHINESE TAIPEI

Statement by Vice-Minister Ke-Sheng Sheu, Head of Delegation,  
at the Meeting of the Working Party on the Accession of the Separate Customs Territory  
of Taiwan, Penghu, Kinmen and Matsu to the WTO  
held on 28 February 1997

I am very pleased to lead my delegation to attend this session of the Working Party for the WTO accession of the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu. On behalf of my Government, I would like to express our gratitude to the Secretariat for its assistance in organizing, and Members' support for, this meeting.

Since the Working Party's informal meeting more than one year ago, we have continued our bilateral market access negotiations and initiated the necessary domestic legislative process. We would like to take this opportunity to brief the Working Party on the progress so far. We also intend to go through the main improvements and changes we have made to a rather important document, i.e. the Checklist of Accession Issues, so as to up-date the Working Party on our position vis-à-vis the various issues concerned.

In the seventh Working Party meeting, two years ago, the Chairman, after inviting comments from members of the Working Party, asked the Secretariat to start the drafting of the Working Party Report and the Protocol of Accession. In this meeting, we would also like to have the views of the Working Party members on the general structure and main content of these two documents.

### **I. Progress of Bilateral Market Access Negotiations**

As of now, we have held more than 170 rounds of bilateral discussions with the European Union and 25 other WTO Members. In an effort to meet our target, we have intensified consultations and concluded bilateral negotiations with Uruguay, Colombia, Mexico, Chile, Korea, Australia, Japan and Iceland in the past few months. There are now 18 Members that have concluded bilateral negotiations with us. With the remaining 8 Members, the outstanding issues are rather limited. Our goal is to complete all bilateral negotiations in the short run. To achieve this goal, we will need the cooperation and assistance of our trading partners.

#### **1. Recent Liberalization Efforts**

Although we have not completed our accession process, we, on our own initiative, lowered our tariffs on 758 items in July 1995. A further tariff reduction plan for 1,130 items

has been submitted to the Legislature, and will be implemented when approved. Such reductions apply to all our trading partners on an MFN basis.

In addition, we expressed our support for the proposed Information Technology Agreement in the Singapore Ministerial Meeting, last December, and participated in the subsequent negotiations in January and February this year. We are now preparing the schedule of tariff commitments for verification by other participants. We will implement the commitments, as soon as they meet the approval of our Legislature. The commitments will also be incorporated into our accession schedule and become part of our WTO commitments.

## **2. Main Results of Bilateral Negotiations**

In the previous Working Party meetings, we reported the results of the tariff negotiations as of then. Following the informal Working Party meeting in December 1995, we continued to improve our tariff offers. But at this final stage of the tariff negotiations, further improvements are particularly difficult to make as the offered rates are approaching the utmost limits of our industries, or even have exceeded the limits. Despite this, we have been working hard with the industries to explore every possibility of improving our offers.

The following statistics may provide members of the Working Party with an indication of the significance of our tariff offer as of now.

The tariffs on industrial products (including fishery products) will reach the trade-weighted average of 4.68 per cent in the first year of our accession, and 3.26 per cent at the end of the intended implementation period, using the 1995 trade volume as the base.

In the case of agricultural tariffs, the first-year nominal rate will be 13.12 per cent, and the rate at the intended implementation period will be 11.34 per cent.

## **3. Non-Tariff Measures**

In the previous Working Party meetings and our responses to the Checklist of Accession Issues, we made clear our intention to bring our non-tariff measures into conformity with the WTO rules. In particular, we have carried out a very comprehensive reform of the import licensing regime, and a thorough assessment of our import regulatory regime. We have also made commitments to comply with the various WTO Agreements dealing with non-tariff measures. Notifications required by such Agreements are being prepared and will be submitted soon after our accession.

We have examined the existing laws and proposed legislative amendments in order to ensure our compliance with the WTO rules after our accession. We are also reviewing and revising the relevant administrative rules dealing with non-tariff measures so as to meet WTO requirements.

## **4. Administration of Import Tariff-rate Quotas**

We have made commitments to eliminate all WTO-inconsistent measures at the time of our accession, or after a transition period as permitted by the Working Party. Tariff-rate quotas are the main measures we will be using after our accession to replace current import restrictions on certain agricultural products and passenger cars. Tariff-rate quota administration then becomes an issue. The special treatment, along the lines of Annex V

of the Agreement on Agriculture, that will be accorded to our rice imports after our accession also requires a certain amount of quota administration.

We have carefully studied the various possibilities for administering the quotas, in particular the allocation thereof, and have developed a plan for tariff-rate quota administration. The proposed plan is circulated together with this statement as Attachment I.

I would however like to take this opportunity to brief members of the Working Party on the proposed plan.

**(a) Allocation to State Trading Enterprises**

Sugar has been the monopoly of Taiwan Sugar Corporation, a State enterprise. Therefore, all tariff quotas will go to the company. We will notify this practice according to Article XVII of the GATT 1994, despite the fact that the out-quota imports will not be subject to Taiwan Sugar's monopoly, and can be carried out by ordinary business operators.

Rice imports, to a large extent (88.2 per cent in the first year of our accession), will be carried out by Taiwan Food Bureau, a branch of the provincial government. The rest will be distributed to business operators through auction. We will also notifying this practice according to Article XVII of the GATT 1994.

**(b) Allocation of Global Quota through Auction**

There are twenty items of agricultural products which have been subject to import bans and are to be subject to a tariff-rate quota regime after our accession. As there is no historical record to serve as the basis for allocation of quotas and a first-come-first-served system does not seem to be practical, auction becomes the most efficient, transparent, and fair system. The auction system as it is currently being planned has the following features to ensure that the auction is a fair competitive process:

- (i) all registered importers and foreign exporters through local agents are qualified to participate in the auction;
- (ii) quotas are valid until the end of the relevant year;
- (iii) there will be no more than four auctions in a year, with the last one to be conducted at least three months before the end of that particular year;
- (iv) public notice, with respect to the quota amount and number of auctions that will be conducted in a particular year, will be given in December of the preceding year or the beginning of the next year.

It is our understanding that allocation of quotas through auction is not uncommon among WTO Members. We welcome comments and suggestions from the members of the Working Party and will seek to improve the proposed plan, where appropriate.

**(c) Country Quota for Passenger Cars**

Passenger cars are the only industrial product that will be subject to tariff-rate quotas after WTO accession. We have held a series of bilateral consultations with the

supplier countries on the amount of quotas to be allocated to each of them. The quotas will be allowed to grow at the annual rate of 20 per cent. Our intention is to remove this tariff quota system no later than the year 2006.

## **5. Tobacco and Alcohol Tax and Regulatory Reform**

After our report to the Working Party last time on our proposed plan for reform of the tobacco and alcohol regulatory and tax regimes, we have continued to work with interested trading partners to resolve their particular concerns. We are pleased to report to the Working Party that we are approaching the end of that process. At the same time, the Administrative Branch has been actively preparing the legislation required for carrying out the reform plan. The draft legislation was submitted to our Legislature last December for its approval. A summary of the reform plan is provided in Annex II of the revised Checklist of Accession Issues circulated together with this statement.

We are yet to finalize the tariff rates and internal tax rates for alcohol and tobacco products. The rates are carefully considered in order to comply with the principles of national treatment and most-favoured-nation. Our intention is to ensure that the current market access of foreign suppliers will not be unduly affected.

With respect to the regulatory regime, the draft Tobacco and Alcohol Administration Law has been revised several times so as to ensure that the regulation will be transparent, not overly burdensome to traders and investors, and fair to all parties participating in the market.

The reform is to be carried out within six months after our accession; or, if the Legislature gives its approval before our accession, we will implement the new system within six months after the laws become effective.

## **6. Services**

There are 12 members engaged in bilateral negotiations with us on our service commitments. After two years of bilateral negotiations, there are only 5 members that require further consultations, but outstanding issues are rather limited.

Since our first submission in July 1994, the draft schedule of specific commitments has been revised three times. The revisions are respectively dated October 1994, March 1995, and May 1996, and have been circulated through the Secretariat. A further revision is being prepared which will incorporate results of the negotiations after the last revision in May 1996.

It is worth mentioning that although we have not completed our accession process, we have never stopped or slowed down liberalizing our services market. We have actually carried out some of the commitments made in our draft schedule in keeping pace with our plan to establish an Asia-Pacific Regional Operations Centre.

## **7. Government Procurement**

We expressed our intention in June 1994 to become a signatory of the Government Procurement Agreement, and subsequently submitted our draft entity and product lists. Since then, we have held several rounds of bilateral negotiations with our major partners on the margin of the meetings of the Government Procurement Committee, including one held this week in Geneva. We expect to complete the bilateral negotiations and other necessary

procedures and become a signatory at the time of our WTO accession. Of course, our trading partners' cooperation and flexibility are essential to our achieving this goal.

Domestically, we have prepared a draft Government Procurement Law which takes full account of the requirements of the Government Procurement Agreement and submitted the draft law to the Legislature in December 1996. For implementation of the new law, we need to restructure the Public Construction Commission in order to expand its responsibility and make it the competent authority of the Government Procurement Law. The required legislative change in the organizational charter of the Commission is also being processed.

To bring our current practices closer to the requirements of the Government Procurement Agreement while pending accession, we have taken several interim measures including: the establishment of a computerized data base for collecting and disseminating procurement information, publication of a government procurement gazette, publicizing tender notices and award notices in the gazette, extension of time-limits for receiving tenders, and prescribing solicitation requirements in a fair and reasonable manner.

With the progress report I have provided, I would like to take this opportunity to express our gratitude to members of the Working Party for their support of our accession. For those members that have not concluded bilateral negotiations with us, we would continue to exert our utmost efforts to find solutions to the outstanding problems. We would also expect such members to cooperate fully in bringing the negotiations to an end. It is our hope that the bilateral negotiations can be concluded before our legislature's review of the WTO-related legislative proposals submitted by the Administrative Branch, which is scheduled for March and April this year.

## **II.Domestic Legislative Process**

In preparation for WTO accession, we have conducted a comprehensive review of all our laws and regulations, based on the WTO Agreements and the specific commitments we have made as of now. This results in the need for new legislation and a very substantial change to the existing legislation. These legislative changes are divided into two parts.

The first part is a series of amendments to various laws collectively called the "Series of Laws Related to the Accession to the WTO". This set of amendments is specifically required to bring certain provisions of various relevant laws into conformity with the WTO rules; and their implementation is conditional upon our accession. The second part is a set of new legislation as well as amendments of substantial parts of other relevant laws.

The first set is to be reviewed and approved by the Legislature in conjunction with the WTO accession. The second set, although also relevant to the WTO accession, is to be separately reviewed and approved by the Legislature according to their respective legislative timing requirements. Therefore, they may be implemented before our accession, but in no event later than that of the first set with the possible exception of the laws relating to our accession to the Government Procurement Agreement.

The first set comprises of amendments to the following laws: Foreign Trade Act, Commodity Inspection Law, Trademark Law, Patent Law, Company Law, Customs Law, Statute for Commodity Tax, Business Tax Law, Securities and Exchange Law, Certified Public Accountants Law, Commercial Port Law, Highway Law, Lawyers' Law, Architects'

Law, Statute Governing Privileges and Immunities of Foreign Missions and Their Personnel, Law of Pharmaceutical Affairs, Law Governing Food Sanitation, Publication Law, Central Bank Act and Banking Law. This set of amendments was submitted to the Legislature in December 1996. We will deposit the English translation of this series of amendments with the Secretariat. To assist understanding of this rather complex exercise, we have prepared a background summary of the amendments, which is circulated together with this statement as Attachment II.

The second part comprises of the following: the amendments to the Copyright Law, the new Copyright Intermediary Organization Act, the new Tobacco and Alcohol Administration Law, the new Tobacco and Alcohol Tax Law, the amendments to the Statute Governing the Organization of the Treasury, abolition of the Provisional Statute for Monopoly of Tobacco and Wine in Taiwan Province, the amendments to the Statute for Establishment and Management of Export Processing Zones, the amendment to the Statute for Agriculture Development, the amendment to the Food Management Law, the new Government Procurement Law, the amendment to the Statute Governing the Organization for the Public Construction Commission, the amendments to the Statute for Inspection Procedure Governing Construction Works and Procurement and Disposal of Properties by Government Agencies, and the amendment to the Statute for Vocational Assistance for Retired Servicemen. With two exceptions, proposals for all the new legislation and amendments in this second part have been submitted to the Legislature. We will provide the English translation and a summary of how this new legislation and the amendments relate to our WTO accession at a later stage.

### **III. Checklist of Accession Issues**

To facilitate the drafting of the Working Party Report and the Protocol of Accession, the Working Party, through the assistance of the Secretariat, produced a Checklist of Accession Issues. In July 1994, we submitted our responses to the Checklist, based on the negotiation results as of then. In December of the same year, we submitted a revised version of the responses. We now have a new version of the responses, which incorporates the improvements and changes since December 1994. This new version is circulated together with this statement as Attachment III.

The main improvements and changes incorporated into this third version of the responses are as follows:

- 1.The request for transition periods for TRIPS and TRIMs is dropped, we will implement these two agreements upon our accession (Responses 2, 3).
- 2.We agree to amend the Foreign Trade Act to replace the "trade imbalance clause" with a balance of payments clause along the lines of Article XII of the GATT 1994 (Response 5).
- 3.The request for transition periods for certain fish products is dropped; the import bans for three fish products will be replaced by WTO-consistent tariff quotas, and the import quota on squid will be removed by the time of our accession (Response 3).
- 4.There are changes to the advertising regulation of tobacco and alcohol products (Response 7(b)).

5. Area restriction on government procurement is to be lifted upon accession (Responses 6(a)(i), and 10(b)).
6. All cosmetics except eye liner, mascara, and medicated cosmetics are not required to file pre-market notification/registration since 3 May 1995 (Response 6(d)).
7. The new systems for tobacco and alcohol products are to be implemented within six months after the accession (Response 7(c)).
8. The 14 agricultural items that require special safeguard are listed out, (Response 8(f))
9. We indicate our intention to notify State enterprises other than the 8 enterprises under the auspices of the Ministry of Economic Affairs (Response 10(a)).
10. The Legislature has completed its first reading of the proposed amendment to the Statute Governing the Export Processing Zones, which eliminates the ratio restriction on EPZs' products entering domestic market (Response 14).
11. We update the status with respect to the draft special exchange agreement, which we circulated in the informal Working Party meeting of December 1995 (Response 15).
12. We have removed the original Annex III which provides the proposed amendments to the Customs Law in order to be consistent with the Customs Valuation Agreement, as the proposed amendments have been incorporated into the Series of Law Amendments Related to the WTO Accession.
13. We have removed the original Annex IV which provides information on Implementation and Administration of the Agreement on Technical Barriers to Trade, as we have committed to meet the notification requirement of that agreement.
14. We have provided a revised tobacco and alcohol reform plan in Annex II of the current version of the Responses to the Checklist of Accession Issues.

With the above report on the changes to the Responses to the Checklist Issues, we would welcome comments and suggestions from members of the Working Party, which in turn would help the preparation of the Working Party Report and the Protocol of Accession.

We would also like to take this opportunity to listen to what members have to say on the general structure and content of the two documents.

## **ATTACHMENT I**

### **The Quota Administration Plan for Certain Agricultural Products**

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (hereinafter "Chinese Taipei") will replace all the import bans it imposes on certain agricultural products with WTO-consistent substitution measures. The substitution measures, as we have informed the Working Party, include the Annex 5 treatment of the WTO Agriculture Agreement and tariff-rate quotas. Annex 5 treatment will only be applied to the import of rice and rice products. The measures of tariff-rate quotas will be applied to the imports of the rest of the agricultural products currently subject to import bans. For imports falling within the prescribed quota amount, tariff will be applied at a lower rate, i.e. the in-quota rate. The plan for allocation of such quotas is as follows:

#### **I. Allocation to a State-trading Enterprise**

We will liberalize the import of sugar through tariff-rate quotas after our WTO accession. The quotas will be allocated to Taiwan Sugar Co., currently a monopoly in the importation and local supply of sugar.

Taiwan Sugar Co. currently not only imports sugar but also purchases sugar cane locally. There are sixty thousand households of sugar cane farmers having supply contracts with Taiwan Sugar Co. Under the contracts, Taiwan Sugar Co. is required to purchase sugar from these farmers at a price generally higher than the international price.

Although Chinese Taipei is implementing a plan to adjust its domestic sugar production in order to accommodate more sugar imports, during the implementation period of the plan, Taiwan Sugar Co. needs to continue the contracts with the sugar cane farmers in order for the adjustment to take place smoothly. With the quotas to be allocated to it, Taiwan Sugar Co. can import a certain amount of sugar at a lower tariff, which to certain extent can balance the heavy burden it has in facilitating the government's policy by purchasing locally produced sugar. It is worth mentioning that given the difference in the international and domestic prices, the more Taiwan Sugar Co. imports, the more it will profit from the importation. Therefore, Taiwan Sugar Co. is expected to make maximum profits out of the quotas by fully utilizing them.

As a State-trading enterprise, Taiwan Sugar Co. will observe the disciplines set forth in Article XVII of the GATT 1994.

#### **II. Allocation through an auction process**

Chinese Taipei will liberalize the imports of peanuts, fresh pears (excluding European pears), dry garlic bulbs, betel nuts, meat of fowls, liquid milk, animal offal, mackerel, red beans, dry shiitake (forest mushroom), shaddock, dry longans, young coconuts, bananas, pineapples, mangoes, persimmons, carangid fish, sardines and dry day lilies by means of tariff rate quota. The quotas for the said products are planned to be allocated through an auction process.

There are no import records for these products due to the existing import bans. Therefore, it is impossible to allocate the quotas based on a historical record of imports. On the other hand, to allocate quotas on a first-come-first-served basis may cause unfairness, inefficiency or less commercial certainty for importers. Because the quotas only represent a small percentage of domestic consumption and the difference is large



between domestic and international prices, if a first-come-first-served system is adopted, speculation on quotas may happen and cause great uncertainty. In order to ensure fairness, transparency and high utilization of quotas, Chinese Taipei plans to adopt auction for quota allocation. The details of the planned auctions are as follows:

1. The amount of a bid will not be fixed so that both large and small amounts of imports are possible. However, in order to prevent a monopoly of the quota, each bid may not be in an amount exceeding a certain percentage of the total auctioned amount. The percentage will be prescribed based on the characteristics of the products concerned.
2. Bids are required to be submitted by mail.
3. Each bid shall specify the premium a bidder is willing to pay in order to obtain the quota. Bids submitted will be arranged in a priority order according to the premium amount to be paid. The order starts from the highest-premium bid to the lowest-premium bid. The auctioned amount then will be allocated to the bidders based on the amount each requires in such order. In other words, a bidder paying a higher premium will obtain the priority to fill the amount he requires. In case several bids offer the same premium, and the amount available is not sufficient to fill each of such bids, the sequence of such bids will be determined randomly.
4. Holders of allocated quotas can source globally.
5. A minimum will be set for premium in order to cover the expenses required for an auction process.
6. The im/exporters registered with the Board of Foreign Trade of Chinese Taipei and the foreign traders/farmers associations recognized by exporting countries are all eligible for bidding. However, foreign bidders who obtain a quota shall commission the im/exporters registered with the BOFT to import.
7. An annual quota will be divided into two or four different segments, which will be auctioned out at different time periods of a year. The last auction of each year will be held at least three months before the end of the year.
8. The Council of Agriculture will announce in December the quota of each product concerned, the amount of quota to be auctioned each time and the schedule of each auction for the next whole year. The Central Trust, an agency which will be entrusted by the agricultural authority, will publish the auction notice of each auction 21 days before the deadline for bid submission.
9. To avoid waste of quota, a bidder who obtains a quota shall deposit with the auctioning agency a performance bond. If the quota allocated to him is not fully utilized during the prescribed period, the bond will be forfeited and the bidder will be suspended from bidding for one year.
10. The acquired quota will not be required to be imported in one single shipment.
11. The acquired quota will be valid for a year. Unused quota cannot roll over to next year.

## ATTACHMENT II

### A Background Summary of the Series of Law Amendments Related to the WTO Accession

Title of Law and Articles Amended	Background of Amendment
Foreign Trade Act Articles 6, 18, 20.1	<u>Article 6:</u> The amendment is to remove previous authorization to take trade restrictive measures when encountering bilateral imbalances of trade. The new version changes the condition for taking such action to imbalance in international payments.
	<u>Article 18:</u> The amendment deletes the words "drastic or large" in describing the amount of increase in imports as a condition to initiate domestic safeguard action. This is to follow the use of language in the Safeguard Agreement. The amendment also provides a legal basis for the authority to set rules to initiate safeguard action as contemplated in the Agreement on Textiles and Clothing.
	<u>Article 20.1:</u> This is a new addition to the Law which is intended to provide the legal basis for the authority to regulate the pre-shipment inspection activities of firms mandated by foreign governments. It also gives binding effects of the decisions of dispute resolution panel of the WTO Preshipment Inspection Agreement on the private parties concerned, namely, the preshipment inspection company and the exporter.
The Commodity Inspection Law Articles 1, 4, 7, 8, 10, 11, 27, 28	The amendment exercise is to achieve the following three objectives: (i)to incorporate international standards in the domestic standard-setting process, so as to ensure that domestic inspection standards follow international trends, the inspection regime meets the requirements of the TBT Agreement,
	(ii)to accord national treatment to foreign products in terms of application of simplified procedures and exemption which were previously available only to domestic products,
	(iii)to accept and recognize foreign inspection certificates in order to be in line with the spirit of the TBT Agreement, particularly that calling for mutual recognition.
The Trademark Law Articles 4, 5, 23, 25, 34, 37, 61	The amendments to this Law are to achieve the following objectives: (i)to broaden the scope of reciprocal granting of the right of priority to cover the situation where there is no formal agreement but the right of priority is

Title of Law and Articles Amended	Background of Amendment
	granted to Chinese Taipei's owner of trademark through practice,
	(ii)to include combination of colours in the group of items that are capable of constituting a trademark so as to be consistent with Article 15 of the TRIPS Agreement,
	(iii)to extend administrative protection to well known marks by providing that no applications may be filed for registration of a trademark design which is identical with or similar to another person's well-known trademark or mark and likely to cause the public to form a mistaken belief.
The Patent Law Articles 21, 51, 56, 57, 78, 79, 80, 82, 88, 91, 105, 109, 117, 122	The amendments to this Law are to achieve the following objectives: (i)to delete the requirement of reciprocity in respect of the granting of patents for micro-organisms, extension of patent protection terms and the granting of exclusive import rights so as to be consistent with Articles 3 and 4 of the TRIPS Agreement,
	(ii)to limit compulsory licensing in respect of semi-conductor technology to public non-commercial use or to remedying anti-competitive practice, so as to be consistent with Article 31(c) of the TRIPS Agreement,
	(iii)to provide patent owners and his/her exclusive licensees the right to request destruction or other necessary disposition of the infringing goods, raw materials or instruments used, in connection with the infringement, so as to meet the requirement of Article 46 of the TRIPS Agreement which calls for giving the judicial authority to order disposition outside the channels of commerce,
	(iv)to provide for shifting the burden of proof in respect of process patents as required by Article 34 of the TRIPS Agreement,
	(v)to provide for longer term of protection for industrial design, so as to meet the minimum requirement of 10 years of the TRIPS Agreement.
Company Law Articles 373, 383	The amendment is to delete the reciprocity requirement for recognition of foreign companies and public placement of foreign companies' shares, so as to fulfil Chinese Taipei's commitments under the GATS.
Customs Law Articles 3.1, 4.3, 4.4, 11.1, 12, 12.4, 12.6, 27, 27.1, 46.1, 46.2, 47.2, 51	This set of amendments is to achieve the following objectives: (i)to provide a legal basis for application of tariff-quotas negotiated by Chinese Taipei as substitution measures for existing restrictions,

Title of Law and Articles Amended	Background of Amendment
	(ii)to provide for a duty of secrecy on customs personnel in respect of information submitted for assessment of import duties, so as to meet the requirement of Article 10 of the Agreement on Customs Valuation,
	(iii)to provide a legal basis for the establishment of the rules of origin and the authority to require the submission of the certificates of origin,
	(iv)to revise the customs valuation rules according to the Agreement on Customs Valuation,
	(v)to delete the provisions that limit the drawback of import duties to imports of machinery by certain high-tech or important companies whose products are solely for export,
	(vi)to revise the provision relating to determination of normal value for purposes of anti-dumping administration so as to make it consistent with Article 2 of the Anti-dumping Agreement.
Statute for Commodity Tax Articles 3, 5, 13, 14, 15, 17, 18, 32	The amendments are to achieve the following objectives: (i)to delete rules relating to tobacco and alcohol products as this part of the Law will be replaced by the new Tobacco and Alcohol Tax Law, a separate body of law,
	(ii)to delete allowance for deduction of 12 per cent promotion expenses in the calculation of tax base, when goods are not circulated through exclusive distributors, as a reflection of Chinese Taipei's accession commitment,
	(iii)to exclude harbour construction dues from the tax base for commodity tax.
Business Tax Law Articles 16, 20	The amendments are to exclude harbour construction dues from the tax base of the business tax and to require that the business tax base shall include tobacco and alcohol tax as provided in the new Tobacco and Alcohol Tax Law.
The Securities and Exchange Law Articles 54, 95, 128	Article 54: This amendment is to delete the requirement that the certain business personnel of securities firms be Chinese Taipei residents.
	Article 95: This amendment is to delete the limitation that only one stock exchange can be established in one geographical area,
	Article 63: This amendment is to delete the limitation that only Chinese Taipei residents can be shareholders of a stock exchange in company form.
The Certified Public Accountants Law Article 47	The amendment is to delete the reciprocity requirement for foreigners to take the examination and be qualified as certified public accountants in Chinese Taipei.

Title of Law and Articles Amended	Background of Amendment
Commercial Port Law Article 7	The amendment is to subject goods, circulated internally through international commercial ports, to the levy of the harbour construction dues in order to be consistent with the principle of national treatment. The amendment also makes clear that the revenue of harbour construction dues shall be used exclusively for the development of commercial harbours so as to ensure the levy to be consistent with Article VIII of the GATT 1994 which regulates the levy of service fees.
Highway Law Article 35	The amendment is to provide legislative mandate to the administrative authority for the opening of the markets for rental services of passenger cars, freight trucking and container trucking as a reflection of Chinese Taipei's commitment under the GATS.
Lawyers' Law Articles 20.1, 42, 45, 46, 47.1 to 47.14, 48, 49, 50, 50.1	This set of amendments is directed: (i) to provide a statutory basis for allowing Chinese Taipei lawyers to hire foreigners to work as consultants or legal assistants,
	(ii) to delete the reciprocity requirement for foreigners to take the bar examination and become qualified to practice Chinese Taipei law,
	(iii) to provide the statutory basis and qualification standards for allowing foreign lawyers to practice the laws of their home countries and international law in Chinese Taipei.
Architects' Law Article 54	The amendment is to delete the reciprocity requirement for foreigners to take the architects' examination and become qualified to practice in Chinese Taipei.
Statute Governing Privileges and Immunities of the Foreign Missions and their Personnel in Chinese Taipei Article 7-1	This addition to the Law is to extend privileges and immunities to WTO related personnel for purposes of Article 8 of the Marrakesh Agreement Establishing the World Trade Organization.
Law of Pharmaceutical Affairs Article 53	This amendment is to lift the restriction on and provide rules for regulating repackaging of imported pharmaceutical products.
Law Governing Food Sanitation Article 17	The amendment is to provide the labelling of food products with an option to use the date of manufacture or the expiry date as a code for product identification.
The Publication Law Article 8	This amendment is to delete reciprocity requirements in the granting of publishing rights to foreign nationals.
Central Bank Act Article 23	The amendment is to replace current limitation on foreign liabilities of banks operating in Chinese Taipei with reserve requirements.
Banking Law Article 42	This amendment is to compliment the amendment of Article 23 of the Central Bank Act in respect of the

<b>Title of Law and Articles Amended</b>	<b>Background of Amendment</b>
	authority in the setting of the deposit reserve ratio and reserves for other liabilities

**ATTACHMENT III**  
**CHECKLIST OF ACCESSION ISSUES**

Revised Responses Provided on 28 February 1997

The following revised preliminary responses are prepared by Chinese Taipei to address the issues submitted to the WTO Secretariat by Australia, Canada, the European Communities, Japan, New Zealand, Switzerland and the United States for Chinese Taipei's commitments for accession to WTO. The previous two versions of this document are respectively dated 26-27 July 1994 (Document Spec(94)33) and 21 December 1994 (Documents Spec(95)1 and Spec(95)1/Corr.1).

**1. Status**

**It should be made clear that Chinese Taipei wishes to accede to the WTO as a developed economy with all the obligations this implies.**

Response:

With the exception set out in the responses to the following issues of the Checklist, Chinese Taipei is prepared to accede to the WTO as a developed economy, with all the obligations this implies for a developed economy comparable to that of Chinese Taipei.

**2. WTO Multilateral Agreements**

**A condition of accession will be that Chinese Taipei complies with all WTO agreements, including TRIMs and the Subsidies Agreement. In case of the latter, Chinese Taipei's compliance will encompass its aerospace sector.**

Response:

Chinese Taipei is prepared to comply with all WTO agreements, including TRIMs and the Subsidies Agreement, except those set out herein.

Chinese Taipei is now prepared to remove its previous reservation of a five-year transition to bring its local content requirement for the automobile and motorcycle industries in line with the TRIMs requirement. Chinese Taipei will bring its local content practices in line with the TRIMs requirement upon accession.

With respect to the Subsidies Agreement, Chinese Taipei is prepared to remove its current reservation for its aerospace industry when it decides to accept the disciplines of the Agreement on Trade in Civil Aircraft. Chinese Taipei has not finalized its decision as to whether it will accept the Civil Aircraft Agreement.

### 3. Transition Periods

**Chinese Taipei should undertake to implement the Uruguay Round results without any transition periods for derogations.**

**Chinese Taipei should provide a complete listing of the transition periods that it is requesting in order to bring its trade regime into full conformity with the WTO. Acceptance of the use of transition periods, the length of time involved and the pace of liberalization thereunder must be approved by the Working Party.**

Response:

Chinese Taipei is prepared to accept the disciplines of the WTO upon its accession without transition periods, except in the following cases:

(a) Fish products:

The current import ban on mackerel, carangid and sardine will be replaced by tariff rate quota after accession.

Import quotas on squid will be removed by Chinese Taipei upon its WTO accession; imports will then be subject only to tariffs.

(b) Agricultural products:

The current import bans on rice and rice products will be replaced by special treatment along the lines of Annex 5 of the Agreement on Agriculture.

The rest of the agricultural products currently subject to import bans will be free from such restriction upon Chinese Taipei's accession to the WTO. Some such products will be subject to no substitution measures after accession. Some others will be accorded with WTO consistent substitution measures such as increased tariffs or tariff quotas. For details, please refer to Annex I.

(c) Harbour Construction Dues:

Chinese Taipei will need a transition period of five years for amendment of the Commercial Harbour Law and reallocation of budget to bring its practices relating to harbour construction dues in line with the WTO requirement.

(d) Mixing Requirement on Coal Imports

Chinese Taipei requires a transition of five years to phase out the mixing requirement on coal imports.

(e) Amendment of Existing Laws to Reflect Chinese Taipei Accession Commitments

Although Chinese Taipei has already started the preparation for new legislation and amendments to the existing laws that are required to reflect its accession commitments, it has to request for a transitional period for its legislative branch to pass these amendments.



In general, Chinese Taipei needs six months after the accession to complete the necessary legislative changes and an additional period of six months to complete the corresponding regulatory changes (e.g. the implementing regulations of the relevant laws). The transition period is particularly needed when new legislation has to be introduced (as opposed to the amendment of existing laws) to honour Chinese Taipei's WTO commitments.

**4. Compliance with Article I of the General Agreement**

**(a)Area Restrictions: Area restrictions will have to be eliminated in a manner satisfactory to Working Party members as a condition of accession.**

Response:

All area restrictions on imports of agricultural and industrial products will be eliminated upon Chinese Taipei's accession to the WTO. Protection for some such products will be accorded through the use of substitution measures. For substitution measures, please refer to Response 6(a).

**(b)A clear indication should be given of area restriction as a heading or a sub-heading with a specific, but not necessarily exhaustive, list of the items subject to it.**

Response:

Please refer to above Response 4(a).

**(c)Bilateral Preference: Chinese Taipei should provide a comprehensive listing of all trade preferences (tariff and non-tariff measures) which it extends on a bilateral basis; these must be dealt with to the satisfaction of the Working Party.**

Response:

After the removal of area restrictions there are no trade preferences (tariff and non-tariff) which Chinese Taipei extends on a bilateral basis, except its government procurement practice, which is allowed to have a reciprocity requirement under the Agreement on Government Procurement.

**5. Foreign Trade Act**

**All the provisions in the Foreign Trade Act, including the so-called "trade imbalance clause", should be brought into conformity with WTO.**

Response:

Chinese Taipei is prepared to amend the Foreign Trade Act to repeal the "trade imbalance clause" with a balance of payments clause along the line of Article XII of the GATT 1994.

**6. Licensing and other Non-Tariff Measures**

**(a)(i) Area Restriction**

- Fruits**
- Alcoholic beverages and cigarettes**
- Passenger cars and small commercial vehicles**
- Automobile chassis**
- Motorcycles**
- Government Procurement**

Response:

The area restriction on alcoholic beverages and cigarettes was lifted on 1 September 1994. The area restriction applying to imports of fruit, passenger cars and small commercial vehicles, automobile chassis and motorcycles will be eliminated upon Chinese Taipei's accession to the WTO.

**-Fruits**

All area restrictions on fruits will be lifted upon accession. For apples, not only the area restriction will be lifted, the currently applied tariff rate is also to be reduced substantially. For young coconuts, bananas, pineapples, mangoes, and persimmons<sup>1</sup>, the area restriction will be substituted by a WTO-consistent measure, i.e. tariff rate quota. For the other fruit currently subject to area restrictions, restriction will be lifted without any substitution measure. Please refer to Annex I hereof.

**-Passenger cars, small commercial vehicles and automobile chassis**

Area restriction will be lifted upon accession. Substitution measures will be tariff-rate quotas; the discussion on the amount of country quota to be distributed to each trading partner concerned has now been concluded, with the exception of a small number of countries.

**-Motorcycles**

Area restrictions on motorcycle imports will be lifted upon accession.

**-Government Procurement**

The area restriction on government procurement is to be lifted upon accession. However, certain elements of discrimination may exist in Chinese Taipei's negotiated package for accession to the Government Procurement Agreement, as permitted by the Agreement. The issue will be dealt with according to the terms of accession to the Agreement on Government Procurement.

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<sup>1</sup> After the Negative List was implemented, the area restrictions on bananas, pineapples, mangoes, and persimmons were changed into import bans in order to reflect the actual situation of the import regulation imposed thereon.

**(ii) Discriminatory Treatment**  
**-Automation equipment and pollution prevention equipment**

Response:

This refers to the subsidy measures of Chinese Taipei in relation to the purchase of automation equipment and pollution prevention equipment. The subsidy is granted in a form of tax credit to purchasers of the equipment, with different tax credit applying to domestically manufactured and imported equipment. Chinese Taipei will notify this practice to the Committee on Subsidies and Countervailing Measures and phase it out according to the Subsidies Agreement.

**(iii) Discriminatory regulation on standards**  
**-Big commercial vehicles**

Response:

Chinese Taipei believes this issue arises from its requirement of producing certificates of weight issued by credible agencies, where such agencies exist in the exporting countries. It is developing a system that can provide a car safety certification system for general application. When such a system is in place, the current requirement of the weight certificates will be eliminated.

**(iv) Local Content Requirement**  
**-Automobiles and motorcycles**

Response:

Chinese Taipei will phase out the local content requirement for automobiles and motorcycles upon its accession. Please also refer to Response (iii) above.

**(v) Counter purchase requirements**  
**-automobiles**

Response:

Chinese Taipei does not impose any mandatory counter-purchase requirement. The current practice to encourage purchase of locally manufactured components and/or parts is a prize of no monetary value granted to foreign investors in Chinese Taipei who have exported substantial amounts of components and/or parts back to their home countries.

**(b) Chinese Taipei's import bans, quantitative restrictions and other non-tariff measures must be eliminated or justified under specific WTO provisions. WTO justifications for measures which Chinese Taipei proposes to retain will have to be agreed by Working Party members. Area restrictions for agricultural products and for automobiles and motorcycles must be eliminated from the time of accession.**

Response:

Chinese Taipei is prepared to eliminate import bans, quantitative restrictions and other non-tariff measures which are not justifiable under specific WTO provisions, with the exceptions of those that have been reported to, and the transition measures have been approved by, the Working Party. Area restrictions for agricultural and industrial products will be eliminated at the time of accession. Substitution measures will be used to provide the necessary room for adjustment to the domestic sectors. The substitution measures for these agricultural products requiring special protection after the lifting of non-tariff measures are set out in Annex I hereof. As mentioned, area restrictions on automobiles will be replaced by WTO-consistent tariff quotas.

**(c) All bans and restrictions set out in the "Negative list" as well as all requirements for import licensing by more than one regulatory entity, should be eliminated or modified as required in order to bring Chinese Taipei's regime into full conformity with the WTO, including the Agreement on Import Licensing Procedures.**

Response:

Please refer to Response (vi)(b). In addition, although the Agreement on Import Licensing Procedures allows import licensing entities for each import to be more than one, it is Chinese Taipei's intention to work towards a system that the import licences for each of its imports shall not require more than one regulatory entity. Such a goal, however, may not be achieved in the short run, due to the time required for the institutional restructuring.

Nevertheless, Chinese Taipei would like to inform the Working Party that it not only commits to bring its import regime into full conformity with the Agreement on Import Licensing Procedures, but will also continue its efforts to review and simplify the scheme as much as it can.

**(d) Possibly remaining import licensing procedures on medicine, other chemical and medical devices should not cause any undue delay or restriction to exports into Chinese Taipei.**

Response:

Chinese Taipei will ensure that the possibly remaining import licensing procedures on medicine, other chemicals and medical equipment would not cause any undue delay or restriction to exports into Chinese Taipei.

As a matter of fact, the documents required by Chinese Taipei for imports of the above products are "technical regulation" in nature and are more appropriately called "market licences." The requirement is set for protection of health and applies to domestic products of the same kind as well. Therefore, it is more appropriate for them to observe the TBT Agreement instead of the Licensing Agreement.

The procedures for assessment of conformity by the above medicine, chemicals, and medical equipments to the relevant technical regulation in Chinese Taipei are in line with the TBT Agreement requirements. For example, the average time required for granting a market licence to new medicine in Chinese Taipei is well within the range of the developed economies. Chinese Taipei also accepts as a basis of its decision the results of the clinical tests conducted in the country of origin of the product concerned. Therefore, only a small-scale clinical trial is required to be conducted locally.

A part of cosmetics products (25 items) has been exempt from the requirement of market licences since 7 August 1991. Thereafter, Chinese Taipei made a further move. All cosmetics except eye liner, mascara, and medicated cosmetics have even been free from the pre-market notification/registration since 3 May 1995.

**(e) Remaining import licensing procedures of any kind, including, but not limited to, quotas, non-automatic and automatic licences and tariff-rate quotas, should be administered in full conformity with the Agreement on Import Licensing Procedures.**

Response:

Chinese Taipei is prepared to commit that its import licensing procedures will be administered in full conformity with the Agreement on Import Licensing Procedures.

**7. Operations of the TTWMB and the monopoly tax on tobacco and wine**

**(a) The taxation system must respect the MFN principle**

Response:

The intention of Chinese Taipei is to respect fully the MFN principle. However, given the diversity of tobacco and wine products and the features of the products of different countries, Chinese Taipei has consulted fully with its trading partners with a view to developing a system that is fair and equitable for suppliers from different countries. After such consultations, Chinese Taipei has decided to treat all distilled spirits including brandy, whisky, rum, gin and vodka, and liqueurs as like products and apply the tobacco and alcohol tax on these products at the same rate.

**(b) While it can be accepted that rules of advertising of tobacco and alcohol products can be more restrictive than those for other products, they should not be used to protect a domestic industry or discriminate (either de jure or de facto) against imported products.**

Response:

Chinese Taipei has no intention to use advertising rules to discriminate against imported tobacco and alcohol products. The advertising for cigarettes will be governed by a new law entitled "Tobacco Hazard Prevention Act" while there will be no restriction on the media in which alcohol products can be advertised. The current limitation of a one-year advertising period for new alcohol products will be lifted. The advertising rules and the implementation thereof will take into account international practice and will be consistent with national treatment and most-favoured-nation treatment.

Please refer to Annex II for a comparison of the existing and future advertising rules.

**(c) Operation of the TTWMB needs to be significantly altered prior to accession to produce increased transparency and consistency with GATT 1994 provisions. In particular, Chinese Taipei must develop the information on cost of production requested earlier and indicate how it intends to ensure that this enterprise observes the provisions of GATT 1994, in particular those of Articles I, III, X, XI, XVI, and XVII.**

Response:

Alteration of the TTWMB's operation requires legislative actions, including the abolition of the Statute providing rules for its organization and creating its monopoly position. The best solution to those problems that Chinese Taipei's trading partners have in the tobacco and alcohol trade is to expedite the reform and have the reform plan carried out at the earliest possibility. Chinese Taipei has submitted the draft legislation required for implementing the reform plan to the legislative body. After the reform, TTWMB will be separated from the Government and become an independent business operation unit. Under such circumstances, its operation and cost structure will be the same as those of other business enterprises, and there will be no problem in allocating the cost that should be borne by the TTWMB within the Government. Transparency can thus be assured. The legislative process, establishment of the accompanying regulatory framework, and the administrative preparation for implementation of the plan are expected to be completed within six months after Chinese Taipei's accession, or even earlier, if the laws are passed by the legislative branch before accession.

**(d)The future functioning of the TTWMB shall provide equal opportunity to all tobacco products exporters.**

Response:

After the reform, TTWMB will have no regulatory function nor monopoly in the distribution of tobacco and alcohol products. Therefore, it has no influence on the market access of the tobacco product exporters. The equal opportunity will be ensured by the regulator who at the government level is the Ministry of Finance, and by the laws to be made to govern the production and trade in such products, i.e. the Tobacco and Alcohol Administration Law which is now pending at the legislative body.

**(e)If portions of the current official monopoly are to be liberalized, these plans must be fully reviewed for their trade impact prior to accession.**

Response:

Chinese Taipei has provided a summary of the reform plan in the position paper it produced in June 1994, in particular, Annex VII thereof. Chinese Taipei welcomes comments by, and is prepared to answer any specific questions of, the members of the Working Party. Through this exercise, Chinese Taipei believes that its future regime for trade in tobacco and alcohol products will be improved. The reform plan has been substantially modified after several rounds of consultations with the trading partners concerned. An up-dated version of the reform plan is provided in Annex II hereto.

**(f)If the Monopoly Tax is to be eliminated in favour of a more traditional tariff/tax system, the Working Party will need to examine the basis upon which domestic taxes will be levied and how national treatment for imports of alcoholic beverages and cigarettes is to be ensured.**

Response:

The basis upon which domestic tax will be levied has been provided to the Working Party in the June 1994 Position Paper, in particular, Annex VII thereof. Since then, several rounds of consultation with the trading partners concerned have been held and substantial

modifications have been made to the initially proposed tax regime. Chinese Taipei believes that the current version of the proposal meets the requirement of national treatment. Please refer to Annex II hereto.

**8. Agriculture**

**(a) Chinese Taipei should commit itself to eliminating all import quotas before accession.**

Response:

Import quotas, not otherwise WTO justifiable, will be eliminated upon accession.

**(b) Chinese Taipei must eliminate non-tariff measures or justify these in detail under specific rules provisions and offer improved market access through comprehensive tariff bindings.**

Response:

Chinese Taipei has provided justifications for non-tariff measures applied to agricultural products in a document entitled "Explanation of NTMs/Import Regulations" provided in Annex II of the 20 June 1994 Position Paper. With respect to those measures for which justifications cannot be found, Chinese Taipei set out an outline of its liberalization plan in Annex III and Annex IV of its 20 June 1994 Position Paper. In the 26 July 1994 and the 21 December 1994 versions of the Checklist of Accession Issues, Chinese Taipei further set out the then current liberalization plan, which took into account the bilateral negotiation result as of then. The liberalization plan as set out in Annex I of this version of Checklist represents the most up-to-date position of Chinese Taipei. It is noteworthy that the liberalization plans, provided in Annex I hereto, represents a very substantial improvement from the previous plan summarized in Annexes III and IV of the 20 June 1994 Position Paper and the earlier versions of this Checklist.

Chinese Taipei is prepared to bind all the tariff lines covered by the Agreement on Agriculture and all the fish products with certain exceptions (not exceeding 1 per cent of its total tariff lines).

**(c) Chinese Taipei must then submit a comprehensive, complete, WTO-consistent agricultural schedule, reflecting a comprehensive commitment to full liberalization and including commitments on export subsidies and internal supports.**

Response:

Please refer to Annex I of this document for liberalization of existing NTMs applied at the border. Chinese Taipei has provided information on its internal support and export practices for agricultural products in Annex VI of the 20 June 1994 Position Paper and will refine the information provided therein after consultation with trading partners. Chinese Taipei is prepared to reduce such supports and export subsidies, if any, according to the Agreement on Agriculture. Chinese Taipei would appreciate the assistance of the Secretariat and members of the Working Party in the preparation of the agricultural schedule, which will be formally submitted after its WTO accession.

**(d) Chinese Taipei must reduce trade distorting domestic supports.**

Response:

Please refer to Response 8(c).

**(e) Chinese Taipei must eliminate export subsidies upon accession.**

Response:

Please refer to Response 8(c).

**(f) The Uruguay Round tariffication and Uruguay Round Special Safeguard were procedures developed for those countries which were already GATT contracting parties at the conclusion of the Round and are not applicable to new accession.**

Response:

As Chinese Taipei is undergoing radical liberalization of its agricultural trade, it needs a special safeguard mechanism along the lines of the Special Safeguard System provided in the Agreement on Agriculture, and the understanding of its need by the Working Party is appreciated. Chinese Taipei requires Special Safeguards (SSG) for the following items: peanuts, fresh pears (excluding European pears), sugar, garlic bulbs, betel nuts, meat of fowls, liquid milk, animal offal, red beans, dried shiitake, fresh shaddocks, persimmons, dried day lilies and pork bellies.

**(g) Beef: Chinese Taipei must eliminate any tariff distinctions based on product specifications.**

Response:

Chinese Taipei is consulting with its trading partners on the resolution of the beef issue in a way that is acceptable to all the parties concerned. Chinese Taipei believes that the consultations held so far have produced a workable framework and that the issue can be eventually resolved.

**(h) Fish: Chinese Taipei must eliminate its quantitative or other non-tariff measures for fish products. Provision to the Working Party of a transparency path to full liberalization is necessary.**

Response:

Chinese Taipei has developed a plan for eliminating non-tariff border measures applied to fish products, which is set out in Annex I hereto. Chinese Taipei plans to fully liberalize squid imports by the time of accession. In the case of mackerel, carangid fish and sardine, the current import control will be replaced by tariff-rate quotas, which will in turn be eliminated six years after Chinese Taipei's accession.

## **9. Implementation of the Agreement on Sanitary and Phytosanitary Measures**

**Chinese Taipei needs to demonstrate that it can meet the requirements of the Standards and SPS Agreements in the area of measures taken for SPS reasons and justify all SPS measures on a case-by-case basis. In particular, Chinese Taipei needs to eliminate the following practices:**



- Quarantine controls are applied to imported agricultural commodities without adequate notification, consultation or a clear scientific basis for their application.**
- Certain certificates nominally granted for health, sanitation, or quarantine reasons are, in fact, never granted, and therefore act as de facto bans on importation.**
- In a number of cases, the denial of certification seems arbitrary, no criteria are available to traders to indicate under what conditions certificates can be obtained, and no explanation is given when the certification is not approved.**

Response:

Chinese Taipei has held bilateral SPS consultations with more than 10 countries on the basis of the SPS Agreement. Substantial progress has been made. It is generally felt that such consultations improve the understanding between the countries and Chinese Taipei and help resolve most of the issues in the SPS area, and the process should continue in the future.

In the future, Chinese Taipei will follow the "Transparency of Sanitary and Phytosanitary Regulations" set out in Annex B of the SPS Agreement to ensure transparency, in particular, the publication and notification procedures provided therein.

- New quarantine regulations applying to air-freighted fresh fruits impose excessive burdens on exporters and act as a barrier to trade.**

Response:

Chinese Taipei's quarantine practices in respect of air-freighted fresh fruit is a common SPS measure employed by developed countries. It is Chinese Taipei's understanding that other countries also send inspectors to the exporting countries to inspect air-freighted fresh fruits before the shipment for export. Chinese Taipei held a SPS meeting with the Working Party member who raised the SPS issue related to air-freighted fresh fruit in October 1994 and sent SPS personnel to conduct on-site inspections. The issue was resolved as a result.

#### **10. State-trading Enterprises**

- (a) Chinese Taipei should notify to the Working Party the State-owned firms covered by Article XII of the GATT 1994 and the Understanding on the Article and be willing to explain how those not notified should be considered to be consistent with GATT provisions, as well as notify other enterprises with special privileges, powers or monopolies related to imports or exports which have been granted by the Government.**

Response:

Chinese Taipei is prepared to notify the 8 State enterprises under the Ministry of Economic Affairs according to Article XVII of the General Agreement. Initially, there were ten State enterprises of this kind but recently two of them have been privatized. These two privatized enterprises do not enjoy import monopoly or other privileges granted by the Government. Chinese Taipei will also notify other State enterprises which fall within the definition of Article XVII.

With respect to TTWMB, it is a part of Taiwan Provincial Government and enjoys only nominal import monopoly in respect of tobacco and alcohol products. Chinese Taipei will notify TTWMB under Article XVII, if the Working Party thinks it is appropriate to do so. However, after the reform of the tobacco and wine monopoly system, TTWMB will be a business operation unit independent from the government without any trading monopoly.

**(b) Chinese Taipei must agree to additional transparency in the operation of its State trading enterprises, particularly in the area of agricultural products, e.g. by demonstrating that mark-ups on State-traded imports do not discriminate against imported goods vis-a-vis domestically-produced goods, and in the area of export subsidies.**

Response:

Mark-ups on State-traded imports have never discriminated and will not discriminate against imported goods. The reselling price of the products imported by these state trading enterprises has been the same or even lower than the products produced locally, and the situation will remain the same in the future.

#### **11. Industrial Subsidies**

**(a) Many of the industrial promotion plans that Chinese Taipei implements act as disguised subsidies. Chinese Taipei needs to discuss these measures in light of the provisions of the Agreement on Subsidies and Countervailing Measures.**

Response:

Chinese Taipei has been participating in the meetings of the Committee on the Agreement on Subsidies and Countervailing Measures as an observer. At the request of the Committee on SCMs, Chinese Taipei has submitted to the Committee all relevant laws and regulations. Chinese Taipei is preparing and will formally submit after accession the notification on its subsidy practices according to Articles 25 and 28 of the Agreement on SCMs.

**(b) There can be no exemption, transitional or otherwise, from subsidies disciplines of any sector or product (e.g. aerospace industry).**

Response:

Chinese Taipei's reservation with respect to its aerospace industry will be removed, when it decides to accept the discipline of the Agreement on Trade in Civil Aircraft.

#### **12. Elimination or alteration of Harbour Construction Dues to meet the criteria of Article VIII**

**This surcharge of 0.5 per cent ad valorem is a revenue charge to fund harbour up-keep and expansion based on import taxation, not a charge for a specific service rendered. Alteration of this tax to bring it into conformity with GATT 1994 must be accomplished in advance of accession.**

Response:

Chinese Taipei intends to phase out the inconsistent practice associated with the levy within a period of five years. The five-year transition is necessary to amend the relevant laws and reallocate budget, taking into account the substantial resulting reduction of government revenue.

**13. Application of the Commodity Tax**

**(a) The current application of this tax violates Article III of the GATT 1994 by providing for a 12 per cent valuation uplift for imports prior to applying the tax.**

Response:

Chinese Taipei is prepared to amend its laws to remove this allowance of 12 per cent for promotional expenses, when goods are not circulated through exclusive distributors.

**(b) The point of sale at which the tax is applied (ex-factory) is not comparable to the point of sale of imports (duty-paid c.i.f.).**

Response:

Chinese Taipei is also prepared to amend its laws to use selling prices as the base for levying the commodity tax.

**14. Export Processing Zones**

**(a) The incentives provided for investment in these zones appear to be incompatible with the Subsidies Agreement.**

**(b) Chinese Taipei should ensure that the imported component of sales from the zones into Chinese Taipei commerce will be assessed normal taxes, tariffs, and other border measures.**

**(c) The Working Party should be satisfied that the regime within the EPZs ensures GATT/WTO consistent treatment of goods, services and intellectual property.**

Response:

Chinese Taipei has now decided to levy tariffs on EPZ products entering the domestic market on the basis of their ex-factory prices minus value-added as a result of manufacturing or processing activities in the EPZs. The formula to be used in calculating the value added is to take into account the relevant practices of other countries. This should alleviate the concerns of some contracting parties that the current system may serve as a disincentive for EPZ products entering the domestic market. However, Chinese Taipei has submitted proposed amendments to the Statute Governing the EPZs to the legislative body to remove the ratio restriction on the EPZ products entering the domestic market. The restriction in actual practice is no longer enforced, although the amendment process has not been completed. The legislative body has completed its first reading of the proposed amendment.

Other practices related to EPZs are generally WTO consistent, except for exemption of import duties for imported machinery used by EPZ firms. However, such exemption is not conditional upon the firms' products being exported and therefore does not constitute export subsidy. The practice is of minimal trade effects; its effects are far below the threshold of 5 per cent for actionable subsidies under the Subsidies Agreement.

**15. Special Foreign Exchange Agreement with the GATT**

**Chinese Taipei must conclude an agreement as provided for in Article XV of the GATT 1994.**

Response:

Chinese Taipei submitted a draft of the special exchange agreement and briefed to the Working Party of the contents of the draft agreement in the 14 December 1995 Informal Working Party meeting.

**16. Customs Valuation Code**

**Chinese Taipei needs to address certain inconsistencies in its laws vis-à-vis provisions of the code.**

Response:

Although Chinese Taipei's Customs Law in its Article 12 provides for use of duty paying value list (pre-determined value of imported products) at the discretion of the Executive Yuan, the Executive Yuan has, by an administrative order, eliminated the use of such pre-determined value for assessing import duties. The Ministry of Finance has proposed an amendment to the Customs Law to remove the discretionary power granted to the Executive Branch, and is preparing a revision of the relevant implementing regulations.

The proposed amendments related to customs valuation are prepared according to the WTO Agreement on Customs Valuation and summarized in the "Background Summary of the Series of Law Amendments Related to the WTO Accession" hereto.

**17. Standards**

**Chinese Taipei needs to reform its standards regime to bring it into conformity with the Agreement on Technical Barriers to Trade, particularly in the area of notification procedures.**

Response:

Chinese Taipei is now reviewing and revising its standards with a view to bringing them into conformity with the TBT Agreement. It has also incorporated notification procedures into the draft amendments to its relevant laws.

Amendments to the existing law in order to bring the relevant regime into conformity with the Agreement on Technical Barriers to Trade have been proposed to the legislative body and are summarized in the "Background Summary of the Series of Law Amendments Related to the WTO Accession" hereto.

**18. TRIMs e.g., those applied to the production of automobiles and motorcycles**

**Chinese Taipei needs to notify its TRIMs and specify its schedule for the elimination (e.g. the local content provisions on motor vehicles and mixing requirements for coal and cement production).**

Response:

Chinese Taipei is prepared to phase out its existing local content requirement applied to the production of automobiles and motorcycles upon its accession.

The mixing requirement for coal is imposed on importers of coal. Importers are required to purchase local coal at least in an amount equal to a certain percentage of the quantity of coal they wish to import. The prescribed percentage is de minimis. The requirement in Chinese Taipei's view is an Article III issue rather than a TRIMs issue and therefore need not be notified under the TRIMS.

Chinese Taipei has decided to phase out the mixing requirement in a period of five years after its accession.

There is no mixing requirement for cement production.

**19. TRIPS implementation from the date of accession**

**Chinese Taipei should implement the TRIPS Agreement at the time of its accession.**

Response:

Chinese Taipei is prepared to implement the TRIPS at the time of its accession.

**20. Services, including financial and insurance services**

**(a) Chinese Taipei must undertake a substantial package of initial commitments in its Services Schedule with minimum exemption from MFN**

Response:

Chinese Taipei has prepared a draft schedule of initial commitments that covers almost all the service sectors (but not necessarily all the sub-sectors) under the Services Sectoral Classification List (MTN.GNS/W/120 of 10 July 1991). Subsequent to December 1994, Chinese Taipei has circulated two up-dated versions of the draft services schedule, in March 1995 and May 1996 respectively. All MFN exemptions, except one, have been removed from its draft schedule of initial commitments.

**(b) No discrimination shall be applied by Chinese Taipei between companies providing services of comparable type.**

Response:

After careful review of its draft schedule, Chinese Taipei finds no element of discrimination between companies providing services of comparable type. There may be cases where different requirements are imposed on foreign service providers for reasons of prudential supervision or of the difference in the basic legal systems between Chinese Taipei and the country where the service provider is incorporated. None of these requirements is to discriminate against foreign service providers.

**21. Adherence to the Agreement on Trade in Civil Aircraft upon accession**

**Given the advanced state of the industrial development of Chinese Taipei and the plans already made public to expand the aircraft and components industry, the participation of Chinese Taipei in the Aircraft Agreement is a prerequisite for accession.**

Response:

Chinese Taipei has not finalized its decision on whether and under what conditions it will adhere to the Agreement on Trade in Civil Aircraft.

## **22. Adherence to the Government Procurement Code at the time of its accession**

**Given the importance of official procurement in Chinese Taipei, e.g. a reported current annual budget of approximately US\$22 billion, it is important for Chinese Taipei to adopt Code procedures and begin a process of opening its procurement.**

Response:

Chinese Taipei filed its application for accession to the Government Procurement Code in June 1994, and submitted its first offer in March 1995 and a revised one in February 1996. A further revised offer was just submitted in February 1997 in order to complete its negotiations for accession to the Agreement on Government Procurement. In recent years, Chinese Taipei has been undertaking a series of reforms on its government procurement regime. These reforms include the publication of a government procurement gazette for dissemination of tender and award notices, the extension of minimum time-limits for tendering, and the preparation of technical specifications for tendering in a reasonable way.

A draft Government Procurement Law conforming to the requirements of the Agreement on Government Procurement was submitted in December 1996 to the legislative body for reviewing.

## **23. Tariffs**

**(a) Bindings: Chinese Taipei should bind its entire tariff schedule upon accession. This should include tariff rate ceilings for industrial and agricultural products at levels appropriate to Chinese Taipei's status as a developed economy.**

Response:

Chinese Taipei is prepared to bind all its tariff lines with the exception of a small fraction of products (not exceeding 1 per cent of the total tariff lines).

**(b) Chinese Taipei must be prepared to cut its tariffs (and bind those rates) at the time of accession rather than "backloading" most cuts over stages going well beyond the time of accession.**

Response:

In the case of agricultural products, the tariff cuts at the time of accession represent two-thirds of the total cuts. This is a frontloading rather than backloading of the tariff cuts.

For tariff reduction over stages, Chinese Taipei in principle will carry it out in equal annual instalments. There are very few cases of backloading with respect to industrial tariffs; these are usually intended to balance the need to protect domestic industries in difficulty and to accommodate trading partners' requests for deeper cuts. Instances of this kind

have been discussed with interested trading partners in bilateral negotiations, and in Chinese Taipei's view, have been largely resolved with such trading partners.

**(c)Tariff System: Chinese Taipei should adopt an ad valorem approach throughout its tariff (as opposed to specific tariffs or a mixed system) in order to increase predictability and transparency of its tariff regime.**

Response:

Ad valorem tariffs are adopted for 98 per cent of Chinese Taipei's tariff lines. In future reviews of its tariff system, Chinese Taipei will take into account comments of the Working Party members.

**(d)Phased Tariff Reductions: The accountability of phased tariff reductions, as proposed by Chinese Taipei, is a further tariff issue to be resolved between Chinese Taipei and Working Party members.**

Response:

In order to give its industries sufficient time to make the adjustment, Chinese Taipei would appreciate the Working Party's understanding of its need for a phased tariff reduction schedule. Chinese Taipei has conducted bilateral negotiations with 26 WTO Members on tariffs and non-tariff measures. The phased tariff reduction as proposed by Chinese Taipei has been reviewed by and discussed with such Members. Chinese Taipei believes that the issue has been largely resolved to the mutual satisfaction of both sides.

## **24. Anti-Dumping and Countervailing Laws**

**Chinese Taipei needs to address certain apparent inconsistencies in its laws vis-à-vis provisions of these Agreements.**

Response:

Chinese Taipei will revise its implementing regulations for anti-dumping and countervailing measures and complete the revision at the time of its accession to the WTO.

**ANNEX I**  
**to Attachment III - Checklist of Accession Issues**

**Agriculture Liberalization Plan**

1. ANNEX 5 to the Agreement on Agriculture:

Serial Number	Product	Current Import Regulation	Current Rate	Minimum Access (Percentage of Domestic Consumption)		Out-of-Quota Tariff Rate	
				1st. Year	8th. Year	1st. Year	8th. Year
1	Rice and Rice Products	111	0% 17% 20% 30% 40% 45% 50%	Annex 5 Formula	Annex 5 Formula	Annex 5 Formula	Annex 5 Formula

2. TARIFF RATE QUOTA (TRQ):

Serial Number	Product	Current Import Regulation	Current Rate	Quota (Percentage of Domestic Consumption)		Out-of-Quota Tariff Rate (Percentage of Tariff Equivalent)	
				Year 1	Year 6	Year 1	Year 6
1	Peanuts	import ban or consent letter	50% 40% 35% 30% 15% 10% 5%	4%	8%	100%	85%
2	Fresh Pears (excl. European Pears)	import ban	50%	4%	8%	100%	85%
3	Sugar	consent letter	25% 35%	26%	41%	90%	76%
4	Dry Garlic Bulbs	import ban	40% 45%	4.2%	8%	80%	68%
5	Betel Nuts	import ban	35%	4%	8%	100%	85%
6	Meat of Fowls	import ban	40% 20%	4%	8%	100%	85%
7	Liquid Milk*	import ban	20% 32.5% 35% 40%	4.5%	9%	80%	68%
8	Animal Offal	import ban	35% 50%	4%	8%	100%	85%
9	Mackerel	import ban	50%	15%	25%	100%	85%



Serial Number	Product	Current Import Regulation	Current Rate	Quota (Percentage of Domestic Consumption)		Out-of-Quota Tariff Rate (Percentage of Tariff Equivalent)	
				Year 1	Year 6	Year 1	Year 6
			NT\$14/KG or 45% 42.5% 40% 37.5% NT\$11/KG or 37.5% 37.5%				
10	Red Beans	import ban	20% 40% 45%	13%	21%	80%	68%
11	Dry Shiitake (Forest Mushroom)	import ban	50% or NT\$221/KG	4%	10%	80%	68%
12	Shaddocks	import ban	50%	4%	10%	70%	60%
13	Dry Longans and Longan Pulp	import ban	30%	10%	30%	80%	68%
14	Young Coconuts	quota to 3 countries only	50% or NT3/KG	17.6%	22%	50%	43%
15	Bananas	import ban	25%	4%	10%	70%	60%
16	Pineapples	import ban	30%	4%	10%	50%	43%
17	Mangoes	import ban	50%	4%	10%	80%	68%
18	Persimmons**	import ban	50%	4%	10%	80%	68%
19	Carangid	import ban	40% 42.5% 50%	4%	10%	80%	68%
20	Sardines	import ban	37.5% 42.5% 40% 42.5% or NT\$81/KG 50%	15%	30%	100%	85%
21	Dry Day Lilies	import ban	45%	4%	10%	80%	68%

\* Importation of sweetened condensed milk will be liberalized upon accession.

\*\*After 6 years of implementation period, a tariff-only regime will be in place with the rate reduced to 35 per cent.

3. TO BE LIBERALIZED AFTER RAISING TARIFF RATES UPON ACCESSION:

Serial Number	Product	Current Import Regulation	Current Rate	Accession Rate	
				Year 1	Year 6
1	Pork Bellies	import ban	15%	NT\$18/KG (60%)	NT\$15/KG (50%)
2	Fresh Longans	import ban	10%	20%	17%
3	Lychees	import ban	10%	20%	17%

4. TO BE LIBERALIZED UPON ACCESSION:

Serial Number	Product	Current Import Regulation
1	Wheat Flour	Already liberalized
2	Meslin Flour	Already liberalized
3	Potatoes	Import ban
4	Oranges	Area restriction
5	Limes and Lemons	Area restriction
6	Grapefruits	Area restriction
7	Grapes	Area restriction
8	Peaches	Area restriction
9	Plums	Area restriction
10	Apples	Area restriction
11	Papayas	Import ban
12	Other Mandarins	Area restriction
13	Other Citrus Fruits	Import ban
14	Ducks, cut into pieces	Import ban
15	Whole Ducks	Area restriction
16	Turkeys, cut into pieces	Area restriction
17	Guavas	Import ban
18	Squid	Import ban

**ANNEX II**  
**to Attachment III - Checklist of Accession Issues**

**Revised Summary of the Tobacco and Alcohol Reform Plan**

**Part A**

**I. Classification of Tobacco Products and Alcoholic Beverages for the Purposes of Internal Taxes (Tobacco and Alcohol Taxes)**

**1. Tobacco Products**

Tobacco products are classified into cigarettes, pipe tobacco, cigars and others. Cigarettes are subject to a specific tax of x dollars per 1,000 sticks; pipe tobacco, cigars and others are subject to a specific tax of x dollars per kilogram.

**2. Alcohol Products**

Alcohol products are classified into brewed alcoholic beverages (including beer and other brewed alcoholic beverages), distilled alcohol beverages (including whisky, brandy, rum, gin and vodka), reprocessed alcohol beverages, rice wine ("Mi Chu"), cooking wine, other alcoholic beverages and alcohol, and are to be taxed as follows:

**(a) Brewed Alcoholic Beverages**

**(i) Beer:** specific tax of x dollars per litre.

**(ii) Other Brewed Alcoholic Beverages:**

specific tax of x dollars per litre per degree of alcohol content.

**(b) Distilled Alcoholic Beverages (including, among others, whisky, brandy, rum, gin, vodka):**

specific tax of x dollars 1 per litre.

**(c) Reprocessed Alcoholic Beverages:**

Specific tax of x dollars per litre of alcohol contents exceeding specific 20 per cent by volume,  
specific tax of x dollars per litre per degree of alcohol contents less than  
20 per cent by volume.

**(d) Rice Wine ("Mi Chu")**

specific tax of x dollars per litre.

**(e) Cooking Wine:**

specific tax of x dollars per litre.

(f) Other Alcoholic Beverages:

specific tax of x dollars per litre per degree of alcohol content.

(g) Alcohol:

specific tax of x dollars per litre.

II. The tobacco and alcohol tax will be applied in a transparent and non-discriminatory manner with equal treatment accorded to imported and domestic products.

III. The setting of the rates of tariffs and taxes has taken into account the current monopoly tax level, Uruguay Round "zero for zero" offers and the practices of comparable economies of the WTO Members. The tariff rates will be incorporated into Chinese Taipei's market access schedules.

Part B

I. Production and Sale

1. Production

(a) Planting and purchase of tobacco leaves are to be arranged between the manufacturers and tobacco farmers by contracts. Production of cigarettes will not be open to the private sector within three years after the reform.

(b) Production of Alcohol Products:

The manufacturing of machinery and equipment for alcohol and tobacco production, printing of trademarks and packaging paper are not regulated in the Tobacco and Alcohol Administration Law. Production of alcohol products will be open to the private sector in stages within three years after the implementation of the new system.

Chinese Taipei plans to liberalize production/manufacture of wine within one year after the implementation of the new system; liberalization of spirits and beer production will be effected two years after the implementation of the new system. It is the intention of Chinese Taipei to attain full liberalization within three years.

(c) Qualification for engaging in the production of alcohol and tobacco products:

(i) permits from the authority will be required. The applicant must fulfil the following requirements: minimum capital, organization form (companies limited by shares only), acquiring a factory licence and no record of criminal offence or tax default;

(ii) with the implementation of the new system, tobacco and alcohol manufacturers legally established will be permitted to import alcohol and tobacco products in bulk for repackaging provided, however, such manufacturers shall have authorization from the original manufacturers of the imported products and shall be able to produce the relevant certificates of origin;

(iii) tobacco and alcohol manufacturers may contract out or accept contract manufacturing, subject to the approval of the competent authority.

## 2. Importation and Wholesale

A licence is required for an importer and a wholesaler of alcohol and tobacco products; the licence bearer can not have prior record of tax default or criminal offence within a prescribed time. Chinese Taipei has incorporated services relating to the distribution of tobacco and alcohol products in its draft schedule of specific commitments on trade in services.

3. The legal and regulatory framework for production and distribution of alcohol and tobacco products will not impose particular restriction on foreign firms engaging in related commercial activities. The time table and rules for liberalizing the production/manufacture of particular tobacco and alcohol products will apply equally to foreign as well as domestic private firms.

## II. Product Labelling

The labelling requirement is stipulated under the Tobacco and Alcohol Administration Law. All alcohol products will be required to be labelled with the warning "excessive drinking endangers health".

## III. Product Inspection

Product inspection will be governed by the standards established by the health authority and administered by that authority accordingly.

## IV. Advertising and Promotion

Advertising and promotion for tobacco products are subject to the Tobacco Hazards Prevention Act (draft). Chinese Taipei has to a large extent lifted restrictions and allowed advertising of beer, wine and other alcohol beverages on radio and television during a specified time period of the day. After implementation of the Tobacco and Alcohol Administration Law, advertising of alcohol products in all media will be permitted, subject however to regulation in relation to the content and timing of the advertising. All advertising regulation will be consistent with the principle of national treatment. The advertisement shall not have any of the following situations:

- running counter to public order and good moral, and public interest,
- encouraging and promoting drinking,
- causing harm to adolescents, pregnant women's mental or physical well-being,
- containing forged, exaggerated, or false facts or misleading contents,
- other situations prohibited by the central competent authority through public notice.

## V. Trading Order

Trading order will be maintained according to the Fair Trade Law and other relevant laws and regulations.

## VI. Inspection on Business Operation and Interception of Contraband

Chinese Taipei has incorporated penal provisions into the draft Tobacco and Alcohol Administration Law to serve as the legal basis for enhanced efforts to protect against smuggled and counterfeit products.

The Alcohol and Tobacco Administration Agency will be given the authority to carry out inspection on the business operations of manufacturers and traders.

Inspection and interception of contraband will be subject to the Alcohol and Tobacco Administration Law (draft), Alcohol and Tobacco Tax Law (draft), Statute for Anti-smuggling Law, Statute for Interception by the Customs and other relevant laws and regulation.

#### VII. Disposal of Contraband

Under the new administration system, contraband and counterfeit products will be destroyed or otherwise disposed of, taking into account international practices.

#### VIII. Penalties

Violation of the Tobacco and Alcohol Administration Law will be subject to administrative or criminal penalties, depending on the type or seriousness of the violation.

### **Comparison of the Present and the Future Regulations on Advertisement and Promotions for Tobacco and Alcohol**

<b>Classification</b>	<b>Present Regulations</b>			<b>Future Regulations</b>	
	<b>Wine, Beer</b>	<b>Spirits</b>	<b>Tobacco</b>	<b>Alcohol</b>	<b>Tobacco</b>
Newspaper	allowed	prohibited	prohibited	allowed	prohibited
Magazine	allowed	allowed, but brand new products may advertise for a period of the first one year	allowed, but each manufacturer may be limited to 120 advertising placements in a magazine each calendar year	allowed	prohibited
Cable Television	allowed from 9:00 p.m. to 6:00 a.m. next day		prohibited	allowed from 9:30 p.m. to 6:00 a.m. next day	prohibited
Television Broadcasting	allowed from 9:00 p.m. to 6:00 a.m. next day		prohibited	allowed from 9:30 p.m. to 6:00 a.m. next day	prohibited
Sponsorship for Sports and Cultural Activities	prohibited	prohibited	prohibited	allowed	prohibited
Special Promotions	allowed, but importers	prohibited	allowed, but importers	allowed	prohibited

Classification	Present Regulations			Future Regulations	
	Wine, Beer	Spirits	Tobacco	Alcohol	Tobacco
	may be required to provide 30-day prior notification to the TTWMB of the activity or event planned		may be required to provide 30-day prior notification to the TTWMB of the activity or event planned		
Others	according to items 1,2,5 and 6 of Article 6 of the 1986 Bilateral Agreement with the U.S.			allowed	according to Article 10 of the draft Tobacco Hazards Prevention Act