

### Consolidated List of TPKM's WTO-ILP Questionnaires and their Respective Governing Regulations in 2005

Subject(s) of Questionnaire	Licensing Authority	Governing Regulations	Date of Promulgation/Amendment	Contact Point
<p>1. <b>Commodities</b> Subject to Conditional Import, Iron and Steel Products, Optical Disk Manufacturing Equipment</p>	<p>Bureau of Foreign Trade, Ministry of Economic Affairs</p>	<p>1. <u>FOREIGN TRADE ACT</u> 2. <u>ENFORCEMENT RULES OF THE FOREIGN TRADE ACT</u> 3. <u>REGULATIONS GOVERNING IMPORT OF COMMODITIES</u> 4. <u>REGULATIONS GOVERNING REGISTRATION AND ADMINISTRATION OF EXPORTERS AND IMPORTERS</u> 5. <u>OPTICAL DISK LAW</u> 6. <u>OPTICAL DISK MANUFACTURING IMPLEMENT IMPORTATION AND EXPORTATION REGULATIONS</u></p>	<p>2002/06/12 Amended 2005/03/18 Amended 2005/04/06 Amended 2002/12/11 Amended 2005/06/15 Amended 2002/01/30 Amended</p>	<p>tonyan@trade.gov.tw</p>
<p>2. Methyl Bromide, HCFC</p>	<p>Environmental Protection Administration,</p>	<p>1. <u>METHYL BROMIDE MANAGEMENT REGULATIONS</u> 2. <u>HCFCs CONSUMPTION MANAGEMENT REGULATIONS</u></p>	<p>2003/05/21 Promulgated 2003/01/15 Promulgated</p>	<p>ylwu@sun.epa.gov.tw</p>
<p>3. <b>Breeding Livestock/ Poultry and Genetic Resources, Genetically Modified Breeding Stock/ Poultry and Genetic Resources</b></p>	<p>Council of Agriculture,</p>	<p>1. <u>GUIDELINES FOR SCREENING APPLICATION FOR LETTER OF APPROVAL FOR THE IMPORTATION OF BREEDING LIVESTOCK AND POULTRY AND GENETIC RESOURCES</u> 2. <u>THE GUIDELINES NEEDED FOR OBTAINING APPROVAL FOR THE IMPORT AND EXPORT OF GENETICALLY MODIFIED BREEDING STOCK AND POULTRY AND GENETIC RESOURCES</u></p>	<p>2005/04/15 Amended 2005/01/26 Promulgated</p>	<p>blue@mail.coa.gov.tw</p>

Subject(s) of Questionnaire	Licensing Authority	Governing Regulations	Date of Promulgation/Amendment	Contact Point
4. Yellow-fin Tuna, Bluefin Tuna, Southern Bluefin Tuna, Swordfish, Big-eye Tuna	Fisheries Agency, Council of Agriculture	<ol style="list-style-type: none"> <li>1. <u>SCREENING CRITERIA AND PROCEDURES REGARDING APPLICATIONS FOR WRITTEN APPROVAL TO IMPORT YELLOW-FIN TUNA</u></li> <li>2. <u>NOTICE OF APPLICATION FOR WRITTEN APPROVAL LICENCE TO IMPORT, EXPORT AND RE-EXPORT BLUEFIN TUNA</u></li> <li>3. <u>NOTICE OF APPLICATION FOR WRITTEN APPROVAL LICENCE TO IMPORT, EXPORT AND RE-EXPORT SOUTHERN BLUEFIN TUNA</u></li> <li>4. <u>NOTICE OF APPLICATION FOR WRITTEN APPROVAL LICENCE TO IMPORT, EXPORT AND RE-EXPORT SWORDFISH</u></li> <li>5. <u>NOTICE OF APPLICATION FOR WRITTEN APPROVAL LICENCE TO IMPORT, EXPORT AND RE-EXPORT BIG-EYE TUNA</u></li> </ol>	<p>2002/02/15 Amended</p> <p>2004/12/15 Amended</p> <p>2004/12/15 Amended</p> <p>2004/12/15 Amended</p> <p>2004/12/15 Amended</p>	shoushin@ms1.fa.gov.tw
5. Tobacco, Liquor Products and Udenatured Ethyl Alcohol	National Treasury Agency, Ministry of Finance	<ol style="list-style-type: none"> <li>1. <u>THE TOBACCO AND ALCOHOL ADMINISTRATION LAW</u></li> <li>2. <u>ENFORCEMENT RULES OF THE TOBACCO AND ALCOHOL ADMINISTRATION LAW</u></li> <li>3. <u>REGULATIONS GOVERNING UNDENATURED ETHYL ALCOHOL</u></li> </ol>	<p>2004/01/07 Amended</p> <p>2004/06/29 Amended</p> <p>2004/06/29 Amended</p>	chunghui@mail.nta.gov.tw
6. Oil and Petroleum products	Bureau of Energy, Ministry of Economic Affairs	<ol style="list-style-type: none"> <li>1. <u>PETROLEUM ADMINISTRATION LAW</u></li> </ol>	2001/10/11 Promulgated	slchen@moeboe.gov.tw
7. Fishing Boats	Council of Agriculture ( Fisheries Agency )	<ol style="list-style-type: none"> <li>1. <u>FISHERIES LAW</u></li> <li>2. <u>ENFORCEMENT RULES OF THE FISHERIES LAW</u></li> <li>3. <u>THE REGULATION FOR FISHING VESSEL BUILDING PERMIT AND FISHERY LICENSE ISSUE</u></li> <li>4. <u>OPERATING RULES FOR SCREENING APPLICATIONS TO IMPORT FISHING VESSELS USING NEW FISHING METHODS</u></li> <li>5. <u>ADMINISTERING APPROACH OF RECREATIONAL FISHERY</u></li> </ol>	<p>2002/12/18 Amended</p> <p>2000/01/31 Amended</p> <p>2003/06/30 Amended</p> <p>1999/11/08 Amended</p> <p>2001/07/31 Amended</p>	shoushin@ms1.fa.gov.tw

Subject(s) of Questionnaire	Licensing Authority	Governing Regulations	Date of Promulgation/Amendment	Contact Point
Vessels	Department of Navigation & Aviation, Ministry of Transportation and Communications	6. <u>THE SHIPPING INDUSTRIES LAW (PARTIAL ARTICLES)</u> 7. <u>REGULATIONS FOR ADMINISTRATING SMALL SHIPS (PARTIAL ARTICLES)</u> 8. <u>REGULATIONS FOR ADMINISTRATING VESSEL CARRIERS AND VESSEL CHARTERING OPERATORS (PARTIAL ARTICLES)</u>	2002/01/30 Amended 2004/04/19 Amended 2003/07/10 Amended	cm_lin@motc.gov.tw
Civil Aircraft	Civil Aeronautics Administration, Ministry of Transportation and Communications	9. <u>CIVIL AVIATION LAW</u> 10. <u>REGULATION OF CIVIL AIR TRANSPORT ENTERPRISE</u> 11. <u>REGULATION GOVERNING GENERAL AVIATION</u> 12. <u>ULTRA-LIGHT VEHICLE REGULATION</u>	2003/05/08 Amended 2002/12/13 Amended 2002/12/13 Amended 2004/12/16 Amended	shchou@mail.caa.gov.tw
8. Firearms, Ammunition, Controlled Swords, Simulation Guns	National Police Administration, Ministry of Interior	1. <u>MEASURES GOVERNING PERMISSION AND ADMINISTRATION OF FIREARMS, AMMUNITION AND CUTTING, POINTED WEAPONS</u> 2. <u>CONTROL OF FIREARMS, AMMUNITION AND WEAPONRY</u>	2005/04/22 Amended 2005/01/26 Amended	edu14@npa.gov.tw
Police Weapons	National Police Administration, Ministry of Interior	3. <u>SOCIAL ORDER MAINTAINING LAW (PARTIAL ARTICLES)</u> 4. <u>THE USE OF POLICE WEAPONS ACT</u> 5. <u>MEASURES GOVERNING THE PERMISSION TO MANUFACTURE, SELL AND HOLD POLICE WEAPONS</u>	1991/06/29 Promulgated 2002/06/26 Promulgated 2002/11/06 Promulgated	sean0123@npa.gov.tw
Industrial Use Explosives	Bureau of Mines, Ministry of Economic Affairs	6. <u>INDUSTRIAL USE EXPLOSIVE MATERIAL MANAGEMENT CODE</u>	2002/08/21 Amended	shunn@mine.gov.tw

Subject(s) of Questionnaire	Licensing Authority	Governing Regulations	Date of Promulgation/Amendment	Contact Point
9. Tariff Quota	Department of Customs Administration, Ministry of Finance	1. <u>THE REGULATIONS OF TARIFF QUOTA</u>	2004/07/12 Amended	hmhuang@mail.mof.gov.tw

**QUESTIONNAIRE 1**

**COMMODITIES SUBJECT TO CONDITIONAL IMPORT, IRON AND STEEL PRODUCTS, OPTICAL DISK MANUFACTURING**

**EQUIPMENT:** BUREAU OF FOREIGN TRADE, MINISTRY OF ECONOMIC AFFAIRS

[Governing Regulations 1-1](#)

# Foreign Trade Act

**Promulgated on February 5, 1993**

**Amended on May 7, 1997**

**Amended and promulgated on December 15, 1999, adding Article 27-1 and 27-2, repealing Article 34, and revising Article 2, name of Chapter 2, Article 13, 15 through 17, 21, 23, and 27 through 32**

**Amended and promulgated on June 12, 2002, adding Article 9-1, 15-1, 20-2, 21-1 and 21-2 and revising Article 9, 16, 18, 20 and 28 through 30**

## **Chapter 1 General Provisions**

### **Article 1**

This Act is enacted for the purposes of expanding foreign trade and maintaining a sound trade order so as to enhance the economic benefits of this country in the spirit of liberalization and internationalization and on the principles of fairness and reciprocity. For matters not provided herein, other applicable laws shall govern.

### **Article 2**

The term “foreign trade” referred to in this Law means the act of exporting/importing goods and related matters.

The term “goods” referred to in the preceding Paragraph includes those attached thereto: exclusive rights for use of trademarks, patent rights, copyrights, and any other intellectual property rights protected by the laws enacted.

### **Article 3**

The term “exporter/importer ”as used herein shall mean a firm registered in accordance with this Act to operate export/import trading business of a firm or a person though not operating export/import trading as its regular business but exporting or importing specific goods.

### **Article 4**

The competent authority referred to in this Act shall be the Ministry of Economic Affairs (MOEA).

Any matter provided herein involving the competence of other ministries, commissions or government authorities, shall be handled by the competent authority in consultation with the authorities concerned.

### **Article 5**

For the purpose of safeguarding national security, the competent authority may, in conjunction with the appropriate government authority or authorities, propose to the Executive Yuan for an approval to the ban and control of trading activities with specific countries or territories provided that such prohibition or control shall be submitted to the Legislative Yuan within one (1)month from the date of publication thereof for its ratification.

### **Article 6**

Under any of the following circumstances, the competent authority may temporarily suspend import from or export to specific countries or territories or import/export of specific goods or take any other necessary measures:

1. when any act of God, incident, or war occurs;
2. when national security is endangered or protection of public safety is hindered;
3. when the domestic or international market suffers a serious shortage of a specific material or the price thereof drastically fluctuates;
4. when serious imbalance is caused or threatened in international payments;
5. when any international treaty, agreement, or international cooperation calls for it; and
6. when a foreign country impedes import/export with measures violating international agreements or principles of fairness and reciprocity.

Application of items 1 through 4 or item 6 of the preceding paragraph shall be limited only to circumstances when there is an adverse impact or a threat thereof upon the normal development of the economy and trade of this country.

Before suspending import/export or taking any other necessary measures pursuant to item 4 or 6 of paragraph 1 above, the competent authority shall try to settle trade disputes through consultation or negotiation.

Suspension of import/export enforced or other necessary measures taken by the competent authority shall be lifted when causes therefor cease to exist.

The ratification requirement provided for in the preceding Article shall also be applicable for the purpose of this Article.

#### **Article 7**

The competent authority or another government agency designated by the Executive Yuan may negotiate and enter into pacts and/or agreements with foreign countries in respect of external trade affairs and shall consult and coordinate with other government agencies first if such other government agencies are involved in matters to be negotiated.

A private organization or body authorized by the competent authority may negotiate and enter into agreements with foreign countries on behalf of the government in respect of external trade affairs and shall report the matters contemplated in the agreements to the competent authority for approval.

Pacts of agreements concluded as a result of foreign trade negotiations, unless within the scope of the administrative discretion power of the signing authority or organization, shall be submitted to the Executive Yuan for forwarding to the Legislative Yuan for discussion and decision.

A pact or an agreement with contents involving amendment of any existing law or enactment of a new law shall become effective only after completion of legislative procedures.

#### **Article 8**

Before negotiating and concluding any pact or agreement with a foreign country in respect of economic and trading affairs, the competent authority or a government agency designated by the Executive Yuan may, if necessary and in conjunction with the Legislative Yuan and the appropriate ministries, commissions or government agencies, hold public hearings or solicit opinions from experts, scholars, and enterprises concerned.

## **Chapter 2**

### **Regulation of trade and import relief**

#### **Article 9**

A corporation or business firm registered with the BOFT as an exporter/importer may engage in export/import business.

A corporation or business firm intended to apply for registration as an exporter/importer shall first apply to the BOFT for approval of its proposed English name. Such proposed English name, upon approval, will be reserved for the period of six (6) months.

Exporter/importer, whose registration being nullified or abolished by the BOFT, shall not reregister within two years starting from the date of nullity or abolishment.

For an exporter/importer closed, dissolved or whose registration being nullified or abolished by the relevant competent authority under relevant law, BOFT may cancel its registration.



Regulation governing registration of exporter/importer shall be prescribed by the MOEA.

#### **Article 9-1**

The exporter/importer whose export/import performance in the preceding year has reached a certain prescribed amount may be awarded. Regulation of the award matter shall be prescribed by the competent authority.

#### **Article 10**

Any juristic person, organization, or individual not operating export/import as its (his/her) regular business, may export/import specific goods in accordance with the regulations stipulated by the BOFT.

#### **Article 11**

Export/import of goods shall be liberalized provided, however, that restriction thereof may be imposed by reason of the requirements of international treaty, trade agreement, national defense, social security, culture, hygiene, and environmental/ecologic protection, or policy. Nomenclatures of goods subject to export/import restriction under the preceding paragraph and regulations governing export/import of such goods shall be announced in public by the competent authority after consulting with government agencies concerned.

#### **Article 12**

Export/import of goods by military organizations shall be effected in accordance with regulations separately enacted by the Ministry of Economic Affairs in conjunction with the Ministry of National Defense and shall be included in the export/import statistics.

#### **Article 13**

To ensure national security, perform international cooperation and agreements, enhance regulation of exportation/importation and flow of strategic hi-tech goods, so as to facilitate the need of introducing hi-tech goods, the exportation/importation of such goods shall comply with the following provisions:

1. No exportation is allowed unless otherwise permitted;
2. Where import permits are granted, no change of the importer or transfer to any third country or region is allowed unless otherwise permitted;
3. Intended use shall be truthfully declared, no change is allowed unless otherwise approved.

Specific strategic hi-tech goods transported to the restricted regions may not transit, transfer or become stored in bonded warehouses via any commercial port of this country without permission.

For the types of goods and the regions restricted as referred to in the two preceding Paragraphs, the competent authority shall give a public notice after consulting with other government agencies concerned.

The requirements and procedures for permission application, the regulations governing exportation/importation, transit, transfer or storage in bonded warehouses, the declaration, changes and restriction of the export/import use, and any other matters required for compliance as referred to in Paragraphs 1 and 2 of this Article shall be prescribed by the competent authority after consulting with other government agencies concerned.

#### **Article 14**

The BOFT may entrust the following matters to financial institutions, business associations, or juristic persons:

1. Issuance of goods export/import permits;
2. Administration of export/import quotas of goods;
3. Other matters relating to examination and registration of export/import of goods.

Any financial institution, business association, or juristic person administering the matters entrusted to it as set forth in the preceding Paragraph shall subject itself to the supervision of the BOFT and, if necessary, shall be obliged to go to the Legislative Yuan to respond to interpellations. Performance of duties relating to the entrusted matters by its personnel shall be deemed as discharge of official duties, and the personnel concerned shall take responsibilities for their acts respectively.

#### **Article 15**

To export/import the goods of which exports/imports are restricted by this Law or to export/import specific goods in accordance with Article 10, if export/import permits could be granted, the exporters/importers shall proceed as prescribed in the export/import permits. Regulations governing the issuance, amendments and effective period of export/import permits, marks of place of origin, trademark declaration and all other export/import related matters required for compliance shall be prescribed by the competent authority.

#### **Article 15-1**

To proceed export/import, the exporter/importer may apply or address export/import documents through the connection of computers or electronic data transmission among customs, the BOFT or institutions entrusted by the BOFT relating the visa issuing matter.

## **Article 16**

For the purposes of facilitating trade negotiations or performing pacts and/or agreements, the BOFT may prescribe quotas either free or required premium for the quantities of export/import goods or other related measures.

The measures of quotas as referred to in the preceding Paragraph shall be prescribed pursuant to the requirements, pacts, agreements of international trade/economic organizations, the commitments derived from trade negotiations, or as provided for by laws and regulations, whichever applicable; otherwise, the quotas shall be for public auction.

The quotas required premium mentioned in Paragraph One refer to these announced through public notices by the BOFT after consulting authorities concerned, and allocated through tendering procedures or distributed by charging a certain amount of administrative fees.

Upon export/import which is subject to quotas, the exporter/importer may not engage in any of the following conducts:

1. Forging or altering quota-related documents, or using such forged or altered documents;
2. Illegal transfer of exports/imports or circumvention from inspection;
3. Improper use of the quotas and therefore causing the disruption of trade order or breach of pacts/agreements with other countries;
4. Evading quota regulations;
5. Failure to comply with offshore processing as certified;
6. Untruthful declaration for the utilization of quotas;
7. Other improper acts obstructing quota regulations.

Export/import quotas may not be pledged or subject to compulsory execution of judgments. Quotas allocated with out charge may not be assigned to others unless otherwise prescribed under the laws and regulations governing specific goods.

The allocation methods, procedures, quantities, effective periods of export/import quotas, obligations of the exporter/importer granted with quotas and the regulations governing quota disposal of such export/importer shall be prescribed by the competent authority in accordance with the regulatory need of each type of goods respectively.

## **Article 17**

An exporter/importer shall not:

1. Infringe any intellectual property rights protected by laws of this country or other countries.
2. Fail to mark the source identification or the country of origin as required or untruthfully mark.
3. Fail to declare trademarks or declare untruthfully.
4. Use false export/import permits or relevant trade permits/certificates.
5. Fail to perform business contracts honestly or in good faith.
6. Disturb trade order with undue means.
7. Commit any other act damaging the goodwill of this country or creating trade barriers.

### **Article 18**

In case of the increase in the import volume of a goods causing or threatening to cause serious injury to the domestic industry which produces like or directly competitive products, the authority in charge of the said industry, the said industry, its associations, or related organizations may apply to the competent authority for investigation of the injury and for import relief.

For investigating injuries to domestic industries, the MOEA shall co-ordinate with the International Trade Commission. The organization rules of the Commission shall be separately stipulated by the MOEA.

Regulations governing the process of applications for import relief filed under paragraph 1 of this Article shall be drafted by the MOEA in conjunction with government agencies concerned and submitted to the Executive Yuan for approval and subsequent promulgation.

Regulations governing the process of applications for import relief on textiles and clothing products which are specifically designated and published by the competent authority pursuant to WTO Agreement on Textiles and Clothing shall be separately stipulated by the MOEA and submitted to the Executive Yuan for approval and subsequent promulgation.

In cases where relief measures have been implemented, the competent authority shall not impose relief measures for the same products within two years after the expiration of the original period of implementation. However, where the relief measures have been implemented for a period exceeding 2 years, the competent authority may not impose such measures for the same products for an equivalent period.

Under any of the following circumstances, the competent authority may apply again, if necessary, the import relief measure to the import of the same product with a duration of 180 days or less, without being restrained by the preceding paragraph of this Article:

1. The duration of the original relief measure is 180 days or less;
2. At least one year has elapsed since the date of introduction of the original relief measure;
3. Such import relief measure has not been applied on the same product more than twice in the five-year period immediately preceding the date of introduction of the measure.

Within one year from the determination by the competent authority in the import relief cases relating to textiles and clothing or other products, according to paragraph 3 or the preceding paragraph of this Article, that the injury to the industry is not established or that no relief measure is to be applied, the competent authority shall not accept any application for the same case again; provided, however, those with justifiable reasons are not subject to this limitation.

#### **Article 19**

In the event that a foreign country exports any goods to this country by way of subsidizing or dumping thereby causing or threatening to cause substantial injury to domestically produced products competing with the said goods or creating substantial hindrance to the establishment of the domestic industry concerned, and the injury has been verified after investigation by the MOEA, the Ministry of Finance may impose, by law, countervailing or anti-dumping duties.

#### **Article 20**

The competent authority shall be responsible for supervision over and assistance to the operation activities of export/import trade related associations. Regulation governing such supervision and assistance shall be prescribed by the MOEA in conjunction with the Ministry of the Interior.

For the purpose of expanding trade, the competent authority may subsidize juristic person other than corporation or business firm and organization to promote the trading business. Regulation governing the qualification, application procedure, subsidy standard, methods of evaluation and other matters required for compliance shall be prescribed by the competent authority.

#### **Article 20-1**

Companies that are mandated by foreign governments to carry out preshipment inspection in the ROC. shall have their inspection activities supervised by the competent authority.

Decisions of the WTO Preshipment Inspection Agreement dispute settlement panel shall be binding on the preshipment inspection company and the exporter concerned.

Regulations governing preshipment supervision shall be made by the Ministry of Economic Affairs.

#### **Article 20-2**

The BOFT may issue the certificate of origin and collect fee under the needs of exporter. The BOFT may entrust other institutions, foundations, industrial organizations or business organizations with the preceding matter.

Industrial organizations and business organizations may also issue the certificate of origin regarding the export goods. But in order to perform the international treaty, agreement, and other international organization regulations, or base on specific certificate of origin required by foreign governments and announced through public notices by the BOFT, the certificate herein shall not be issued unless being entrusted by the BOFT.

The following acts are not allowed while issuing the certificate of origin:

1. Issuing the certificate of origin not according to the form, procedure or the amount of fee.
2. Issuing the specific certificate of origin of the Proviso in Paragraph Two without being entrusted with.
3. Not keeping the documents according to the regulations.
4. Divulging the business secret of exporter.
5. Other conducts damaging the goodwill of this country or disturbing the trade order.

The form of the certificate of origin, the approval standard of the origin, terms to entrust or to terminate entrusting, the documents being attached while application, the issuing procedure, the amount of fee, the period of limitation in document keeping and other matters required for compliance shall be prescribed by the competent authority.

### **Chapter 3 Trade Promotion and Assistance**

#### **Article 21**

In order to expand foreign trade, to cope with the situations of foreign trade, and to support trade activities, the competent authority may establish a trade promotion fund by collecting uniformly, through customs, a trade promotion service fee against the goods exported/imported by exporters/importers at the charging rate not more than 0.0425% of the prices of the goods exported/imported; provided that the collection may be exempt for international treaties, pacts/agreements, practices or any other specific reasons. The actual charging rates of the trade promotion fee to be collected and the coverage of items to be exempt shall be proposed by the competent authority and submitted to the Executive Yuan for approval.

For utilization of the fund set forth in Paragraph 1 of this Article, a trade promotion fund management committee shall be established, and no less than one fourth (1/4) of the members of the said committee shall be representatives of exporters and importers.

The regulations governing the revenue/expenditure, custody, and utilization of the trade promotion fund shall be prescribed by the Executive Yuan.

#### **Article 21-1**

Collection of trade promotion service fee under Paragraph One of the preceding Article shall be made under the following basis:

1. Fee for exported goods shall be based on FOB prices.
2. Fee for imported goods shall be based on dutiable value.

In case the dutiable value of imported goods is estimated on the basis of costs for repair, assembly, process, lease, or use, the estimated value shall be the dutiable value, which shall in term be the basis for the fee.

#### **Article 21-2**

In the following situations concerning exported/imported goods, the application may be filed with customs for refund of paid or overpaid trade promotion service fee:

1. The export/import goods are rejected for export or import during customs clearance procedures.
2. The fee was overpaid due to misprinted, miscalculated, or falsely charged.

3. The exporter having its goods being released by customs is allowed to modify export prices in accordance with laws.

If the refundable amount is less than NT\$100, no refund shall be made.

#### **Article 22**

The competent authority shall assist exporters/importers in eliminating unfair trade barriers they may face in foreign markets through initiative consultations or negotiations with foreign countries.

#### **Article 23**

In response to the needs of trade promotion, the Executive Yuan may designate government agencies concerned to carry out special programs for export insurance, export/import financing, development of shipping business and other facilitating measures.

#### **Article 24**

To meet administrative needs, the BOFT may request exporters/importers to provide documents or information relating to their business operations and, if necessary, may conduct inspections thereof; any exporter/importer shall not refuse such request and inspection. However, when making any such inspection, the inspector shall produce the papers certifying his authority for performing official duties, otherwise the person to be inspected may refuse such inspection.

#### **Article 25**

A person who, in the course of performing duties, becomes aware or has possession of any trade documents or information of others, of which divulgence is sufficient to prejudice the business interests of others, shall keep the same as confidential information, except using them for official purposes.

#### **Article 26**

An exporter/importer shall, in compliance with the principles of honesty and good-faith, actively resolve foreign trade disputes through arbitration, conciliation, or settlement procedures.

The competent authority shall actively promote the establishment of an arbitration system for settling international trade disputes.



## **Chapter 4**

### **Penal Provisions**

#### **Article 27**

For exportation/importation of strategic hi-tech goods under any of the following circumstances, it shall be punishable with imprisonment for not more than two (2) years, detention or in lieu thereof or in addition thereto a fine of not more than NT\$300,000:

1. Where such goods are transported to restricted regions without permission;
2. Where after import permits are granted, such goods are transferred to restricted regions without permission prior to being imported;
3. Where after being imported, the use of such goods imports are changed without permission from the originally declared to the production or development of military weapons, such as nuclear or biochemical arms, or ballistic missiles.

Where the responsible person of a juristic person, the agent, employee or any other staff member of a juristic person or natural person, commits any of the crimes provided for in the preceding Paragraph in its course of business, not only the actor shall be punished as prescribed, the juristic person or natural person shall also be punished with the fine prescribed in the preceding Paragraph.

#### **Article 27-1**

For any of the circumstances prescribed in Paragraph 1 of the preceding Articles, the BOFT shall suspend the liable party from exporting, importing or exporting/importing goods for not less than one (1) month but not more than one (1) year, or revoke the liable party's exporter/importer registration.

#### **Article 27-2**

For exportation/importation of strategic hi-tech goods under any of the following circumstances, the BOFT may impose an administrative fine of not less than NT\$30,000 but not more than NT\$300,000, or suspend the liable party from exporting, importing, or exporting/importing goods for not less than one (1) month but not more than one (1) year, or revoke the liable party's exporter/importer registration:

1. Where such goods are transported to any region other than the restricted regions without permission;

2. Where after import permits are granted, the importers are changed without permission, or the said goods are transferred to any third country or region other than the restricted regions without permission;
3. Where after being imported, the use of such goods imports are changed without permission from the originally declared to the use other than production or development of military weapons, such as nuclear or biochemical arms, or ballistic missiles.

For specific strategic hi-tech goods in breach of the provision of Paragraph 2 of Article 13, the Customs may attach such goods for return shipment or confiscation where appropriate as determined by the competent authority after consulting with other government agencies concerned.

### **Article 28**

Shall an exporter/importer have any of the following violations, the BOFT may issue a warning or impose an administrative fine of not less than NT\$30,000 but not more than NT\$300,000 against such exporter/importer, or suspend it from exporting, importing or exporting/importing goods for not less than one month but not more than one year:

1. Violating the provisions of Article 5 by trading with the country or territory to which the trade is prohibited or under control;
2. Violating the temporary suspension of export/import goods or any other necessary measures as prescribed in Paragraph 1 of Article 6;
3. Violating the regulations governing the goods subject to export/import restriction as referred to in Paragraph 2 of Article 11;
4. Violating the provisions of Paragraph 1 of Article 15 for failure to proceed with export/import as prescribed in the export/import permits;
5. Committing any of the prohibited acts as itemized in Article 17;
6. Violating the provisions of Article 24 for refusing to provide documents or information, or to accept inspection;
7. Violating the provisions of Article 25 by prejudicing the business interests of others.

For any of the violations as prescribed in items 1 through 5 of the preceding Paragraph, in addition to the punishment provided for in the preceding Paragraph, the BOFT may revoke the exporter/importer registration of the liable exporter/importer.

If the industrial organization or the business organization as refer to in Paragraph 2 of Article 20-2 violate the regulation in Paragraph 3 of the same Article, the BOFT may either issue a warning or impose an administrative fine of not less than NT\$30,000 but not more than NT\$300,000 to the organization herein. Under serious violation, the BOFT may suspend the organization from issuing the certificate of origin for not less than one (1) month but more than one year.

#### **Article 29**

Shall an exporter/importer have any of the violations as prescribed in Items 1 through 4 of Paragraph 4 of Article 16, the BOFT may impose an administrative fine of not less than NT\$60,000 but not more than NT\$300,000, retrieve the allocated quota, or suspend export, import or export/import of such goods for not less than three (3) months but not more than six (6) months, and in addition, may cancel the record of achievement, suspend the eligibility for quota application, or revoke the exporter/importer registration of such exporter/importer, wherever appropriate taking into account the seriousness of the violation.

Shall an exporter/importer have any of the violations as prescribed in Items 5 through 7 of Paragraph 4 of Article 16, the BOFT may issue a warning or impose an administrative fine of not less than NT\$30,000 and not more than NT\$150,000, retrieve the quota allocated, or suspend exports, imports or exports/imports of such goods for not less than one (1) month but not more than three (3) months, and in addition, may cancel the record of achievement, suspend the eligibility for quota application of such exporter/importer.

To prevent an exporter/importer suspected of violation circumventing punishment, during the investigation of violation, the BOFT may provisionally suspend the assignment or freeze the utilization of quota allocated either in whole or in part to such exporter/importer.

#### **Article 30**

Shall an exporter/importer have any of the following violations, the BOFT may suspend the exporter/importer concerned from exporting/importing goods; provided that the suspension shall cease as soon as the cause is extinguished:

1. The goods exported/imported are counterfeits or infringe upon the intellectual property rights protected by this country or any other country, the fact of which is supported by concrete evidence;
2. Failure to pay trade promotion fees as required in Paragraph 1 of Article 21.
3. Cease of business or movement to unknown location.

The period of suspension from exporting/importing goods due to the situation prescribed in Item 1 of the preceding Paragraph may not exceed one (1) year.

#### **Article 31**

For an exporter/importer who is suspended from exporting/importing goods pursuant to the provisions of Article 27-1, Paragraph 1 of Article 27-2, or Articles 28 through 30, if such exporter/importer has any transaction established before the punishment, and the transaction is confirmed true by the BOFT, the exportation/importation of goods contemplated in the said transaction may still be effected.

#### **Article 32**

A person punished with the provisions of Article 27-1, Paragraph 1 of Article 27-2, or Articles 28 through 30 may file with the BOFT an objection and request for re-examination, while the BOFT shall make its decision within twenty (20) days from the day following the date of receipt of such written objection; the regulations governing the objection procedures shall be prescribed by the MOEA.

In case of disagreement with the results of reexamination in respect of any objection referred to in the preceding Paragraph, the objector may file an administrative appeal and bring the case to an administrative court in accordance with the laws.

#### **Article 33**

A fines imposed hereunder shall be paid within the timelimit set in a notice, otherwise the case shall be referred to a court for compulsory execution.

## **Chapter 5 Supplemental Provisions**

#### **Article 34 ( repealed )**

#### **Article 35**

Where more than half of the annual operating expense of a business association or a juristic person is subsidized by the trade promotion fund, matters relating to its personnel management and expenditures shall be subject to the guidance and supervision of the MOEA, and the said association or juristic person shall be obligated to be present at the Legislative Yuan to respond to interpellation , if necessary.

**Article 36**

Enforcement rules of this Act shall be drafted by the MOEA and submitted to the Executive Yuan for approval and subsequent promulgation.

**Article 37**

This Act shall be implemented from the date of its promulgation. However, collections of trade promotion service free as provided in Article 21 shall begin from July 1, 1993.

Implementation of the amendments to Article 6.18 and 20-1 of this Act shall commence on a date to be determined by the Executive Yuan.

# Enforcement Rules of the Foreign Trade Act

Amended March 18, 2005, (94)-Mou-09400513942

## Article 1

These Rules are enacted pursuant to Article 36 of the Foreign Trade Act (hereinafter referred to as the Act).

## Article 2

The terms "foreign country", "other country" and "counter-part country" as used in the Act include any separate customs territory designated under the World Trade Organization.

## Article 3

The measure to temporarily suspend export/import or other necessary measures to be taken by the competent authority under Article 6 of the Act shall be reported to the Executive Yuan at the time of publication for forwarding to the Legislative Yuan within one month from the date of publication for approval.

## Article 4

The necessary measures to be taken by the competent authority under Article 6 of the Act against any specific country or territory or any specific goods include restrictions on quantities, prices, qualities, specifications, payment methods, and ways of exportation or importation of the goods exported or imported and may also include a request on the Ministry of Finance to exercise its power of imposing special tariffs in accordance with applicable laws.

## Article 5

The terms “international treaty” or “agreement” mentioned in subparagraph 5, Paragraph 1, Article 6; the Proviso in Paragraph 1, Article 11; Paragraphs 1 and 2, Article 16; and the Proviso in Item 2, Article 20.2 of the Act refer to:

1. Any treaty or agreement signed by this country with any foreign country; and
2. Any convention or agreement signed and approved under any multilateral organization in which this country is a participant; in case this country is not a participant therein, the convention or agreement mutually recognized and complied with by countries in general.

## Article 6

To expand foreign trade relationship, the competent authority shall hold, or participate in, bilateral or multilateral economic and trade cooperation conferences and sign, based on economic and trade development situation or need, with specific countries or territories arrangements or agreements which are helpful to enhance bilateral economic and trade relationship.

## Article 7

The ban and control against specific countries or territories under Article 5, the temporary suspension of export/import of goods or other necessary measures under Article 6, the restrictions provided in the proviso in Paragraph 1 of Article 11, the administration of export/import of strategic hi-tech goods provided in Article 13, the quotas with or without charges or other appropriate measures taken under Article 16, and the import relief provided in Article 18 of the Act shall all be announced by public notices and implemented from the date of publication or any other designated date.

## Article 8

An exporter or importer may still export or import goods, if prior to the date of publication or the designated date stated in Article 7:

1. The exporter or importer has already obtained an export or import permit which is still within valid period; or
2. The importer has already applied for opening of an L/C and the L/C has been opened or payment for goods has already been remitted, or goods have already been shipped out from a foreign country for importation, as can be established by supporting documents; or
3. The exporter has received an L/C opened by a bank in a foreign country or already collected payment for goods, as can be established by supporting documents.

In respect of supporting documents of Item 2 and 3 of the preceding paragraph, the nomenclature or quantity of goods shall be filled out.

#### Article 8.1

To manage trade and collect statistics under the Act, the Bureau of Foreign Trade (BOFT) of the MOEA may use the Customs Import Tariff Code as the classification framework to compile our Import and Export Commodity Classification schedule.

#### Article 9 (deleted)

#### Article 10

In respect of export/import of goods, if quotas with or without charges are required under Paragraph 1, Article 16 of the Act, BOFT may take any of the following actions:

1. To issue and allocate quotas by itself or jointly with authorities concerned.
2. To entrust financial institutions, trade associations, or juristic persons with the administration of quota.
3. To designate a government operated trading organization to import such goods for resale through tendering procedures.



4. To handle the matter in other manners designated or approved by the competent authority.

Article 11 (deleted)

Article 12

Proceeds received from the distribution of quotas with charge shall be turned to the Treasury unless otherwise approved by the Executive Yuan.

Operational expenditures spent by organizations entrusted with quota administration shall be compensated by BOFT through its budgetary procedure except those spent on the administration of quota of which proceeds are not turned to the Treasury.

Article 12-1

Illegal transshipment as mentioned in subparagraph 2, Paragraph 4, Article 16 of the Act means that the origin of exporting products which are subject to quota restriction is not our country, but export to countries or areas where import restraints are enforced under the quota of our country. Evasion of investigation means that the exporter/importer, as required by the measures stipulated in Paragraph 6 of Article 16 of the Act, fails to keep the production materials and documentation or refuses either to submit the said materials and documentation or to cooperate in the investigation.

Overseas processing as mentioned in subsection 5 of Paragraph 3 of Article 16 of the Act means that raw materials or semi-finished products are processed abroad into products which are subject to quota restriction, after which processing these products are re-imported into our country for re-export under the quota of our country, or the products are exported directly from the overseas processing places under the quota of our country.

Article 13

The term of "other countries" as used in subparagraph 1, Article 17 of the Act shall mean any country or territory which has a multilateral

or bilateral protection treaty or agreement on intellectual property rights with this country.

#### Article 14

In an investigation of injuries by the competent authority under Article 19 of the Act, determination of substantial injury, threat of substantial injury, or substantial retardation to establishment of domestic industry concerned shall be based on the same criteria on which the Ministry of Finance determines to impose countervailing or anti dumping duties under Article 67 and Article 68 of the Customs Law as to whether there is substantial injury, threat of substantial injury, or substantial retardation of establishment of domestic industry concerned under Article 69 of the same Law.

#### Article 15

To promote foreign trade, the competent authority may handle by itself or entrust China External Trade Development Council, other relevant organizations, juristic persons, or trade associations with the following matters:

1. To develop promotional plans for economic and trade matters with specific countries or territories.
2. To investigate and remove foreign trade barriers to this country.
3. To assist in responding to foreign complaints on trade matters against this country.
4. To promote the assistance system of enterprise marketing.
5. To promote the identification system of fine product.
6. To establish presences for trade affairs in specific countries or territories.
7. To train trade negotiation and promotion personnel.

8. To hold or participate in international exhibitions.
9. To praise in public local importers/exporters or foreign purchasers of local products for their excellent performance.
10. To assist local exporters/importers and overseas Chinese firms in trade promotion.
11. To increase other activities helpful to promotion of external trade.

Article 16 (deleted)

Article 17

The trade promotion service fee collectable under Paragraph 1, Article 21 of the Act shall be paid by concerned exporter/importer within fourteen days from the date of issuance of a payment request statement.

In collection of the above said trade promotion service fee, the customs shall include the fee into duty request statement and collect it together with import duties if it is for goods imported or collect it after sailing of the shipping vessel. if it is for goods exported.

Article 18 (deleted)

Article 19 (deleted)

Article 20

The use freezing mentioned in Paragraph 3 of Article 29 of the Act means the suspension of assignment or exchange of quota, application for temporary quota, and export licensing of using quota.

Article 21

Pursuant to subparagraph 1 or 2, Paragraph 1, Article 30 of the Act, in respect of suspension or reinstating of the right of an exporter/importer, BOFT may entrust the customs to handle such cases.

#### Article 22

Trade affairs to be handled by BOFT in an Export Processing Zone or a Science-based Industrial Park or a Free Port or an Agricultural Technology Park may be entrusted to the administrative office of such Zone or Park or administrative authority.

#### Article 23

These Rules shall come into force from the date of promulgation.

# Regulations Governing Import of Commodities

Amended on April 6, 2005

## Chapter 1-General Provisions

### Article 1

These Regulations are enacted pursuant to Paragraph 2 of Article 15 of the Foreign Trade Act (hereinafter referred to as "the Act").

### Article 2

The term "licensing" as used herein means issuance of import permits by the Bureau of Foreign Trade, Ministry of Economic Affairs (hereinafter referred to as BOFT). The term "exemption from licensing" as used herein means exemption from an import permit.

### Article 3

The term "a firm" as used herein means any exporter/importer duly registered under "Regulations Governing Registration and Administration of Exporters and Importers".

### Article 4

In respect of intellectual property rights affiliated with commodities, rules governing import of exclusive rights for use of trademarks, patent rights, copyrights, and any other intellectual property rights protected by the laws enacted and the scope of such commodities shall be published by BOFT after consultation with authorities concerned.

### Article 5 delet

## Chapter 2-Import Regulations

## **Article 6**

In respect of the following commodities of which import is restricted under the Act, BOFT will compile and publish a list of commodities subject to import restriction, listing nomenclatures of and import regulations relating to such commodities:

1. Commodities manufactured in specific countries or territories to be designated under Article 5 of the Act.
2. Commodities for which necessary measures need to be taken to restrict import thereof in accordance with Article 6 of the Act.
3. Commodities of which import is restricted in accordance with the proviso of Article 11 of the Act.
4. Commodities for which import quota system is enforced in accordance with Article 16 of the Act.
5. Commodities of which import is restricted due to import relief in accordance with Article 18 of the Act.

Unless otherwise provided in other laws and regulations or announced as licensing-exemption items by BOFT, for import of commodities on the list of commodities subject to import restriction, applications for licensing shall be filed in accordance with the regulations prescribed in the said list. The commodities which do not comply with import regulations set forth on the said list can not be imported without special approval by BOFT.

## **Article 7**

Where a firm, government agency, and/or a government operated enterprise imports commodities not listed on the list of commodities subject to import restriction, licensing shall be exempted.

## **Article 8**

In respect of commodities for which licensing is exempted but whose import is regulated subject to other laws or regulations, BOFT may, to the extent that examination of import commodities can be performed by the customs, compile and publish a list of commodities assisted by the customs for import examination, listing the nomenclatures of and the import regulations applicable to such commodities.

For import of commodities listed in the above said list of commodities entrusted to the customs for import examination, the applicable import regulations listed on the said list shall be followed when an import application is

filed with the customs.

## **Article 9**

Where a person other than a firm, a government agency, and/or a government operated enterprise, who is not a professional importer, imports commodities subject to Article 10 of the Act, he shall apply for import licensing; however, subject to any of the following circumstances, import licensing shall be exempted:

1. Baggages and articles of which the quantities and values are within the limits set by customs brought in by passengers and crews of vessels and aircraft.
2. Duty free articles for official and/or personal use imported by embassies/consulates of various countries in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, international organizations, and diplomatic organizations stationed in this country against the duty-exemption application forms issued by Ministry of Foreign Affairs.
3. Commodities which are not on the list of commodities subject to import restriction but are imported by other importers through marine shipment, airfreight, or parcel post, at an FOB price less than US\$20,000 or its equivalent.
4. **Articles for humanity salvation.**
5. Other articles approved by BOFT.

For import of the above licensing-exemption commodities, if they are on the list prescribed in Article 6 or 8 hereof, regulations set forth on the list shall be followed when an import application is filed with the customs, unless there are other special regulations applicable.

Specific commodities for which import licensing is applied for by an importer mentioned in Paragraph 1 of this Article, shall be limited to those imported for own use by the importer, unless special approval is obtained from BOFT.

## **Article 10**

If an importer imports any commodity on the list of commodities subject to import restriction in a small quantity for own use or as gift, the customs may release it by assessing a duty thereon with consideration of the circumstances and in accordance with the applicable regulations listed in the said list; and in such case import licensing may be

exempted. However, if special provisions are otherwise provided in other laws and regulations in force, such special provisions shall be followed.

#### **Article 11**

To satisfy the requirement of trade administration, BOFT may designate items of commodities to be imported on which country of origin shall be marked or for which certificates of country of origin shall be submitted for examination at the time of filing import applications with the customs.

### **Chapter 3-Licensing Regulations**

#### **Article 12**

Applications for license to import commodities shall be made in writing or lodged electronically with BOFT.

To make an application in written form for license to import commodities, the following documents shall be submitted:

- 1.Application for import permit.
- 2.Other documents to be submitted in accordance with relevant regulations.

Format of the above said application for import permit shall be defined by BOFT.

#### **Article 13**

An import permit shall be valid for six(6) months from the day of licensing. For import of specific commodities or import of commodities from specific areas, import permits of shorter validity may be issued.

If the applicant foresees the commodities for import cannot be shipped within the prescribed validity period of an import permit, the applicant may apply for an import permit of longer validity by explaining reasons and submission of evidential documents.

#### **Article 14**

Imported commodities shall be shipped from the port of embarkation before the expiry of the validity of an import permit. The date of B/L shall be considered the shipment date; if there is any doubt about the B/L date, customs may investigate and determine the shipment date.

No expired import permits without an approved extension shall be used to import commodities.



## **Article 15**

In case shipment of imported commodities cannot be made from the port of embarkation within the validity period of an import permit, the applicant may apply for an extension within one(1) month before the expiry of the validity. Each extension shall not exceed a period of six(6) months, and no more than two(2) extensions may be made. For BOFT designated commodities of which shipment must be made within the validity of the import permit, extension is not allowed.

## **Article 16**

In respect of amendment to the contents of an import permit, the applicant may submit, before the expiry of the validity of the import permit, an application for amendment together with the original of the import permit and relevant evidential documents for amendment. No change of the name of applicant for an import permit may be made, except change of registration already approved.

In case a part of the commodities covered by an import permit have been declared with the customs and been canceled, no application for amendment to the contents of the import permit is allowed, except application for extension of the validity period of the import permit in accordance with the regulations of the preceding Article.

## **Article 17**

For extension or amendment to an import permit, relevant import regulations in force at the time of application for extension or amendment shall apply

## **Article 18**

If an import permit is lost, re-issue thereof may be applied for on condition that a declaration for whole or partial importation of the commodities at issue has not yet been filed with the customs at the time of loss of the original import permit.

Re-issue of an import permit shall be applied for by filing an application for re-issue and an application for import permit.

## **Chapter 4-Supplementary Provisions**

## **Article 19**

For commodities of which import is subject to legal inspection or quarantine, relevant inspection and/or quarantine regulations shall apply.

**Article 20**

To meet the requirement of administration of import trading, BOFT may publish hereunder other relevant import regulations.

**Article 21**

These Regulations shall be come into force from the date of promulgation.

Attachment: APPLICATION FOR IMPORT PERMIT/ IMPORT PERMIT



# 輸入許可證申請書

## APPLICATION FOR IMPORT PERMIT

第一聯：簽證機構存查聯

共	頁	第	頁
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① 申請人 Applicant		③ 生產國別 country of origin		④ 起運口岸 Shipping port	
② 申請人印章 Signature of applicant		⑤ 賣方名址 Seller			
		⑥ 檢附文件字號			
⑦ 項次 Item	⑧ 貨品名稱、規格、廠牌或廠名等 Description of Commodities Spec. and Brand or Maker, etc.	⑨ 商品分類號列及 檢查號碼 C.C.C. Code	⑩ 數量及單位 Q'ty & Unit	噸單價 Unit Price	稟條件及金額 Terms & Value
簽證機構加註有關規定 Special Conditions			輸入許可證號碼		
			Import Permit No.		
			許可證簽證日期 Issue Date		
			許可證有效日期 Expiration Date		

核准機構簽章 Approving Agency Signature

- 一、本輸入許可證一經塗改即屬失效，商品分類號列蓋有簽證機構校對章者除外。
- 二、本輸入許可證記有貿易資料，關係商業機密，請予保密，不得外漏或買賣。
- 三、進口貨品，申請人應自行瞭解及依照有關輸入規定、檢驗、檢疫、衛生及其他相關國內管理法令辦理。

收件號碼

收件日期



# 輸入許可證 IMPORT PERMIT

第二聯：進口人報關用聯

共	頁	第	頁
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① 申請人 Applicant		③ 生產國別 country of origin		④ 起運口岸 Shipping port	
② 申請人印章 Signature of applicant		⑤ 賣方名址 Seller			
		⑥ 檢附文件字號			
⑦ 項次 Item	⑧ 貨品名稱、規格、廠牌或廠名等 Description of Commodities Spec. and Brand or Maker, etc.	⑨ 商品分類號列及 檢查號碼 C.C.C. Code	⑩ 數量及單位 Q'ty & Unit	噸單價 Unit Price	稟條件及金額 Terms & Value
簽證機構加註有關規定 Special Conditions			輸入許可證號碼 Import Permit No.		
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- 三、進口貨品，申請人應自行瞭解及依照有關輸入規定、檢驗、檢疫、衛生及其他相關國內管理法令辦理。

收件號碼

收件日期

## 貨品進口核銷紀錄

批次別	報單號碼	貨名項次及數量	總價	經辦人及股長簽署

## 輸入許可證續頁

共	頁	第	頁
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⑦ 項次 Item	⑧ 貨品名稱、規格、廠牌或廠名等 Description of Commodities Spec. and Brand or Maker, etc.	⑨ 商品分類號列及 檢查號碼 C.C.C. Code	⑩ 數量及單位 Q'ty & Unit	噸單價 Unit Price	噸條件及金額 Terms & Value



輸入許可證號碼 Import Permit No.		收件號碼 收件日期			

註：續頁除最後一頁，可不繕打共幾頁數。

# REGULATIONS GOVERNING REGISTRATION AND ADMINISTRATION OF EXPORTERS AND IMPORTERS

(As amended on December 11, 2003)

## Article 1

These Regulations are enacted pursuant to Paragraph Five, Article 9 of the Foreign Trade Law.

## Article 2

Except where other prohibitions or restrictions apply, a company or business firm that engages in export/import business may apply hereunder to the Bureau of Foreign Trade (hereinafter to be written "BOFT") of the Ministry of Economic Affairs for registration as an exporter/importer.

## Article 3

The application for an approved English name shall be made either by original hard copy or facsimile.

## Article 4

The name for which registration is being applied shall consist of the primary name together with its corporate form; and the English name of the branch of a foreign company must indicate both the foreign company's nationality and the fact that it is a branch of that company.

The name for which registration is being applied may not indicate or suggest that the firm is engaged in areas of business other than those indicated on the firm's Profit-seeking Enterprise Registration Certificate.

The English name shall not be made in such a way that it may cause likelihood of confusion with or similarity to that of any government agencies or non-profit organizations.

## Article 5

Then English name of an exporter/importer shall not be identical or similar to the English name of any exporter/importer, whether existing, dissolved, closed, or punished with cancellation of registration within the last two (2) years, unless special approval is obtained from BOFT based on proper reasons or if the English name of a branch of a foreign company is the same as that which appears on the foreign company's Certificate of Recognition and the said name indicates both the foreign company's nationality and the fact that it is a branch of that company. [For example, ABC Company, Taipei Branch (USA)]

## Article 6

English names shall be regarded as “similar” under Article 5 if they differ only by the addition, replacement or removal of: a common business word; an English article; an abbreviated word; a space or spaces; a symbol or symbols; or by the use of: a plural, as opposed to a singular noun; a different part of speech of a word with the same root; lowercase or uppercase letters; a different corporate form designation like “Inc.”, “Co.”, etc.; or if they differ only in that the English name adds, replaces or removes a place name that is not found in its registered Chinese name.

The “common business word” referred to in the previous paragraph is any one of the following: enterprise, industry, export, import, trade, business, commerce, international, manufacturing, or group.

## Article 7

The application for exporter/importer registration shall be made either by original hard copy or facsimile, and when submitting the application, the following documents shall be attached:

1. An application form;
2. A photocopy of its certificate of company registration if it is a company, or a certificate of business firm registration if it is a business firm.

## Article 8

An exporter/importer that undergoes a merger, change of Chinese or English name, organization, representative, or place of operation shall submit relevant documents to BOFT to effect the change of registration.

The exporter/importer may continue to operate export/import business only after it has completed the process of changing its registration as set forth in the previous paragraph.

#### Article 9

When needed, exporter/importer firms may apply to the BOFT for an exporter/importer registration certificate.

#### Article 10

The various documents referred to in these Regulations may be sent via electronic means, in accordance with the Electronic Signatures Law.

#### Article 11

These Regulations shall come into force from the date of promulgation.

# OPTICAL DISK LAW

*(Promulgated November 14, 2001 per Order ref. Hwa-Tzong-1-Yi-Tze-No.9000223480)*

[Translation]

(In case of any discrepancy between the English version and the Chinese text of this Law, this Chinese text shall govern.)

## Article 1

The management of optical disks shall be governed by this Law. Issues not addressed by this Law shall be governed by other applicable laws.

## Article 2

For purposes of this Law, the following terms shall be defined as below:

### 1. Optical disk

A pre-recorded optical disk and blank optical disk

### 2. Pre-recorded optical disk

A CD, CD-ROM, DVD, DVD-ROM, LD, MD, VCD and any pre-recorded optical disk listed by the competent authority in a public notice.

### 3. Blank optical disk

A CD-R, CD-W and CD-RW.

### 4. Stamper

A metal disk completed by a mastering device for the manufacture of optical disks.

5. SID code

An identification code issued by the competent authority for identifying the manufacturing source of optical disks or stampers.

6. Business entity

A company, sole proprietorship, partnership, individual or organization engaging in the manufacture of optical disks and stampers.

7. Manufacture/manufacturing/manufactured

Production and manufacture of optical disks or stampers by implement for manufacture using raw materials

8. Implement for manufacture

Injection molding machine and mold for the manufacture of optical disks, laser beam recorder system for stampers, and other implement as listed by the competent authority in a public notice.

### Article 3

For purposes of this Law, the competent authority denotes the Ministry of Economic Affairs.

### Article 4

A business entity shall acquire from the competent authority by application a license for the manufacture of pre-recorded optical disks prior to such manufacture.

A business entity shall file a declaration with the competent authority prior to manufacturing blank optical disks.

Regulations governing the procedures and contents, necessary documents, and other matters to be complied with in respect of the application and declaration under the preceding two paragraphs shall be determined by the competent authority.

### Article 5

The competent authority shall not grant any application which a business entity files for a license in accordance with the first paragraph of the preceding article under any of the following circumstances:

1. Where the sentence passed by the court in a final and conclusive judgment on the responsible person of the business entity convicted

- of a violation of this Law or a copyright infringement offense is not completed or was completed less than five years ago; or
2. Where the license for the manufacture of pre-recorded optical disks was revoked or nullified by the competent authority less than five years ago.

## Article 6

A license for the manufacture of pre-recorded optical disks shall specify the following material facts:

1. License number;
2. Name and address of the business entity, and name and residence or domicile of the responsible person;
3. Name, residence or domicile of the responsible person of the manufacturing premises;
4. Address of the manufacturing premises; and
5. Others as listed by the competent authority in a public notice.

The responsible person of the business entity shall apply for amendment in advance of any change in the material facts under subparagraphs 2 to 5 of the preceding paragraph.

A business entity shall display its license under the first paragraph at a conspicuous place of the premises.

## Article 7

The competent authority may cancel the license for the manufacture of pre-recorded optical disks as granted to a business entity which, after its acquisition of such license pursuant to the first paragraph of Article 4, is discovered to have provided materially untrue application information.

## Article 8

A business entity shall maintain client orders, written licenses granted by right holders, contents of the pre-recorded optical disks being manufactured, and other information for at least three years.

## Article 9

A business entity shall manufacture pre-recorded optical disks only at the address of the premises specified on the license.

## Article 10

No business entity shall manufacture pre-recorded optical disks without acquiring by application an SID code from the competent authority in addition to the license under the first paragraph of Article 4.

Each pre-recorded optical disk above shall be inscribed with an SID code. No false or untrue inscription is allowed.

No SID code issued in accordance with the first paragraph shall be made available to others for purposes of inscription on pre-recorded optical disks.

Regulations governing the application procedure, manner of inscription, necessary documents, and other matters to be complied with in respect of the SID code under the first and second paragraphs shall be determined by the competent authority.

## Article 11

A business entity shall acquire SID codes from the competent authority by application prior to its manufacture of stampers for the pre-recorded optical disks described in the first paragraph of the preceding article.

Each stamper above shall be inscribed with an SID code. No false or untrue inscription is allowed.

No SID code issued in accordance with the first paragraph shall be made available to others for purposes of inscription on stampers.

Regulations governing the application procedure, manner of inscription, necessary documents, and other matters to be complied with in respect of the SID Code under the first and second paragraphs shall be determined by the competent authority.

## Article 12

A declaration shall be filed with the competent authority in advance for the importation and exportation of implement for manufacture.

Regulations governing the procedure, necessary documents, and other matters to be complied with in respect of the above declaration shall be determined by the competent authority.

## Article 13



The competent authority may issue warrants to dispatch officers to optical disk or stamper manufacturing premises and other relevant premises for inspection to confirm compliance with the first and second paragraphs of Article 4, the second and third paragraphs of Article 6, and Articles 8 through Article 12, and to request relevant information be submitted. No evasion, obstruction or refusal by the responsible person or practitioners of such premises is allowed. The police authority may be requested to dispatch officers to offer assistance.

#### Article 14

The competent authority may appoint or commission other administrative authorities to handle matters pertaining to the issuance of licenses for the manufacture of pre-recorded optical disks and SID codes, filing for declaration of the importation and exportation of implement for manufacture, and inspection of manufacturing premises of optical disks and stampers and other relevant premises.

#### Article 15

Anyone violating the first paragraph of Article 4 by manufacturing pre-recorded optical disks absent a license shall be ordered to suspend the manufacture, apply for a license within fifteen days, and sentenced to a fine between NT\$1,500,000 and NT\$3,000,000. Where the manufacture is not suspended or application is not filed within the prescribed time limit, a further suspension order and a fine between NT\$3,000,000 and NT\$6,000,000 shall be imposed. Failure to comply with such further order will be subject to imprisonment between one and three years and a possible penalty between NT\$3,000,000 and NT\$6,000,000.

Anyone violating the second paragraph of Article 4 by failing to file a declaration of its manufacture of blank optical disks shall so file within 30 days and sentenced to a fine between NT\$300,000 and NT\$600,000. Failure to so file within the prescribed time limit will be subject to successive punishment for each instance of violation until the declaration is filed.

Implement available exclusively for the manufacture of the pre-recorded optical disks under the first paragraph, and the finished products and semi-finished products of such optical disks, whether owned by the doer or the perpetrator, may be confiscated or seized.

#### Article 16

Anyone violating Article 9 by manufacturing pre-recorded optical disks at an address other than the one specified on the license shall be ordered to suspend the manufacture and sentenced to a fine between NT\$1,000,000 and NT\$2,000,000. Refusal to comply with such order

shall be subject to a further suspension order and a fine between NT\$2,000,000 and NT\$4,000,000. Failure to comply with such further order will be subject to not more than two years' imprisonment, detention, or in lieu thereof or in addition thereto, a fine between NT\$2,000,000 and NT\$4,000,000.

## Article 17

Anyone committing any of the violations set forth below shall be ordered to suspend the manufacture and sentenced to a fine between NT\$1,500,000 and NT\$3,000,000:

1. Violation of the first paragraph of Article 10 by manufacturing pre-recorded optical disks without acquiring by application SID codes;
2. Violation of the second paragraph of Article 10 by manufacturing pre-recorded optical disks without the inscription of SID codes or with untrue or false inscription; and
3. Violation of the third paragraph of Article 10 by making SID codes available to others for purposes of inscription on pre-recorded optical disks.

Where any of the above violations is committed after a suspension order or a fine is imposed pursuant to the preceding paragraph, a further suspension order and a fine between NT\$3,000,000 and NT\$6,000,000 shall be imposed. Failure to comply with such further order will be subject to not more than two years' imprisonment, detention, or in lieu thereof or in addition thereto, a fine between NT\$3,000,000 and NT\$6,000,000.

The finished and semi-finished products as uncovered of the pre-recorded optical disks under the preceding two paragraphs, whether owned by the doer or the perpetrator, shall be confiscated or seized.

The competent authority shall revoke the license of a person having been convicted by the court in a final and conclusive judgment of any of the violations set forth in the first or second paragraph.

## Article 18

Anyone violating the second paragraph of Article 6 by failing to apply for amendment in advance shall be sentenced to a fine between NT\$1,500,000 and NT\$3,000,000 and imposed a time limit of fifteen days to submit such application. Failure to submit such application within such time limit shall be subject to successive punishment and prescription of a time limit for said application for each instance of violation until

the application is duly completed.

Anyone violating the third paragraph of Article 6 by failing to display the license at a conspicuous place of the premises shall be imposed a time limit of fifteen days to cure the violation. Failure to so cure within such time limit shall be subject to a fine between NT\$300,000 and NT\$600,000 and a further order to cure within a prescribed time limit of fifteen days. Failure to so cure within such further time limit shall be subject to prescription of a time limit for cure and successive punishment for each instance of violation until the violation is completely cured.

### Article 19

Anyone violating Article 8 by failing to maintain information shall be sentenced to a fine between NT\$1,500,000 and NT\$3,000,000 and imposed a time limit of fifteen days to cure the violation. Failure to so cure within such time limit shall be subject to prescription of a time limit for cure and successive punishment for each instance of violation until the violation is completely cured.

### Article 20

Anyone committing any of the violations set forth below shall be sentenced to a fine between NT\$1,500,000 and NT\$3,000,000:

1. Violation of the first paragraph of Article 11 by manufacturing stampers without acquiring by application SID codes;
2. Violation of the second paragraph of Article 11 by manufacturing stampers without the inscription of SID codes or with untrue or false inscription; and
3. Violation of the third paragraph of Article 11 by making SID codes available to others for purposes of inscription on stampers.

### Article 21

Anyone violating the first paragraph of Article 12 by exporting or importing implement for manufacture without making a report or a true report shall be sentenced to a fine between NT\$ 1,500,000 and NT\$3,000,000 and prescribed a time limit of fifteen days to apply for registration. Failure to so apply within such time limit shall be subject to prescription of a further time limit for application and successive punishment for each instance of violation until the application is duly completed.

### Article 22

Anyone violating Article 13 by evading, obstructing or refusing inspection shall be sentenced to a fine between NT\$ 1,500,000 and NT\$3,000,000.

### Article 23

The owner of the implement of pre-recorded optical disks imported prior to the enforcement of this Law shall report to the competent authority within six months of the date of enforcement of this Law for the record, otherwise, a fine between NT\$300,000 and NT\$600,000 shall be imposed.

### Article 24

Should anyone be discovered by the Customs to have exported pre-recorded optical disks without inscribing SID codes thereon, the Customs shall, pursuant to the Customs Preventive Law, impose a fine, seize the optical disks, and request the competent authority by notice enclosed with samples of the seizures to take action by the applicable legislation.

### Article 25

Fines meted out pursuant to this Law shall be paid within a prescribed time limit of three months, otherwise, the matter shall be subject to compulsory execution by law.

### Article 26

A business entity already engaging in the manufacture of pre-recorded optical disks prior to the enforcement of this Law shall obtain by application a license from the competent authority within six months of the date of enforcement of this Law, otherwise, the business entity will be deemed to have manufactured pre-recorded optical disks absent a license.

A business entity already engaging in the manufacture of blank optical disks prior to the enforcement of this Law shall report to the competent authority within six months of the date of enforcement of this Law, otherwise, the business entity will be deemed not to have made a report.

## Article 27

A business entity having acquired SID codes from an agency other than the competent authority prior to the enforcement of this Law shall submit an application to the competent authority within six months of the date of enforcement of this Law for the record, otherwise, the business entity will be deemed to have failed to acquire by application SID codes.

## Article 28

This Law shall be enforced as of promulgation.

# OPTICAL DISK MANUFACTURING IMPLEMENT IMPORTATION AND EXPORTATION REGULATIONS

[Translation]

Amended on January 30, 2002

## Article 1

These Regulations are established in accordance with the second paragraph of Article 12 of the Optical Disk Law ("Law").

## Article 2

The importation and exportation of optical disk manufacturing implement shall be governed by these Regulations. Issues not addressed by these Regulations shall be governed by other applicable legislation.

## Article 3

An importer of optical disk manufacturing implement shall submit an import declaration to the competent authority to declare its importation prior to importation.

The above import declaration shall specify the following material facts:

1. Name, address and business account number of the importer
2. Description of commodities spec. and brand or maker etc.
3. Country of origin
4. Quantity and unit
5. Storage or manufacturing premises
6. License or filing number, in the event an optical disk license has been obtained or a declaration has been filed for the manufacture of

optical disks

#### Article 4

An exporter of optical disk manufacturing implement shall submit an export declaration to the competent authority to declare its exportation prior to exportation.

The above export declaration shall specify the following material facts:

1. Name, address and business account number of the exporter
2. Description of commodities spec. and brand or maker etc.
3. Country of destination, consignee and buyer
4. Quantity and unit
5. Storage premises or manufacturing premises
6. Import declaration number or documentary evidence of "Made in Taiwan" product

#### Article 5

Where a mistake is discovered or a change occurs with respect to the materials facts specified in an import or export declaration prior to customs declaration, an application for cancellation and re-declaration shall be filed with the competent authority; no application for amendment is allowed.

An application for re-issue shall be filed with the competent authority where the certificate for optical disk manufacturing implement import or export is lost prior to customs declaration.

#### Article 6

An importer/exporter shall submit the certificate for optical disk manufacturing implement import or export to the customs for the purpose of customs clearance.

Where the importer/exporter fails to submit the above certificate, the customs may, subject to the importer/exporter's undertaking to apply for the necessary registration in accordance with Article 21 of the Law, grant release and forward the customs clearance information on the

importation/exportation in writing to the competent authority for further action.

#### Article 7

The form of declarations required under these Regulations will be determined by the competent authority.

#### Article 8

These Regulations shall be enforced as of the date of promulgation.



## OPTICAL DISK MANUFACTURING IMPLEMENT IMPORT DECLARATION

### Instructions:

Column		Contents
1	Applicant	Chinese and English name of the applicant (seal of the company and its responsible person)
2	Business account number	Business account number of the applicant
3	Address	Address of the applicant
4	Country of origin	1. The name of the country or place of production of the product must be filled (keyed) in. (Where mainland Chinese products are imported, Chinese Mainland (coded CN) must be specified as the country of origin.) 2. Please fill (key) in the country of origin in accordance with the Customs Clearance and Statistics Coding Manual.
5	<input type="checkbox"/> Storage premises <input type="checkbox"/> Manufacturing premises	Please check where appropriate and fill in this column accurately.
6	License or filing number	1. The applicant shall fill in this column accurately if it is a business entity holding a license or having filed for declaration pursuant to Article 4 of the Optical Disks Law. Those importing manufacturing implement for pre-recorded optical disks shall fill in the reference number of the license issued by the competent authority. Importers of manufacturing implement for the manufacture of blank optical disks

Column		Contents
		<p>shall fill in the reference number of the certificate for optical disk manufacturing implement import or export issued by the competent authority.</p> <p>2. Applicants other than the above business entity are not required to fill in this column.</p>
7	Items	Where the product consists of more than one item, the items shall be itemized as 1, 2, 3, ..., and the product name and the respective C.C.C. code shall correspond with each other, regardless of whether the C.C.C. codes of such items are the same or not.
8	Description of commodities spec. and brand or maker etc.	<p>1. The product name should in principle be typed in English.</p> <p>2. Serial number means the ex-factory number of the injection molding machine for the manufacture of optical disks.</p>
9	C.C.C. Code	<p>The C.C.C. codes applicable to this declaration are as follows:</p> <p>CCC8477.10.90.20-3 Injection molding machine for the manufacture of optical disks</p> <p>CCC8479.89.99.20-8 Laser beam recorder systems for optical disks</p> <p>CCC8480.71.90.10-6 Molds for optical disks</p>

Column		Contents
10	Quantity	The quantity and unit of the imported product shall be filled (keyed) in pursuant to the unit for the relevant product as specified in the existing table of classification of imported and exported products.
11	Unit	

## OPTICAL DISK MANUFACTURING IMPLEMENT EXPORT DECLARATION

### Instructions:

Column		Contents
1	Applicant	Chinese and English name of the applicant (seal of the company and its responsible person)
2	Business account number	Business account number of the applicant
3	Address	Address of the applicant
4	Country of destination	Please fill in the country of destination to which the product is exported; the port of destination is not required. Please fill in the country code in the box in the upper right corner (see the Country Code Chart compiled by the Statistics Department of the Directorate General of Customs).
5	Consignee	Not required if the overseas consignee is the same as the buyer.
6	Buyer	1. Company name and country of the overseas buyer; address is not required. 2. Please fill in the country code in the box in the upper right corner.
7	<input type="checkbox"/> Storage premises <input type="checkbox"/> Manufacturing premises	Please check where appropriate and fill in this column accurately.
8	Import declaration or	The import declaration shall be submitted if the product is a foreign product for re-export. Documentary

Column		Contents
	documentary evidence of R.O.C. product	evidence of "Made in Taiwan" product shall be submitted if the product is domestically made.
9	Items	Where the product consists of more than one item, the items shall be itemized as 1, 2, 3, ..., and the product name and the respective C.C.C. code shall correspond with each other, regardless of whether the C.C.C. codes of such items are the same or not.
10	Description of commodities spec. and brand or maker etc.	1. The product name should in principle be typed in English. 2. Serial number means the ex-factory number of the injection molding machine for the manufacture of optical disks.
11	C.C.C. Code	The C.C.C. codes applicable to this declaration are as follows:  CCC8477.10.90.20-3 Injection molding machine for the manufacture of optical disks  CCC8479.89.99.20-8 Laser beam recorder systems for optical disks  CCC8480.71.90.10-6 Molds for optical disks
12	Quantity	The quantity and unit of the exported product shall be filled (keyed) in pursuant to the unit for the relevant product as specified in the existing table of classification of imported and exported products.

Column	Contents
13 Unit	

**QUESTIONNAIRE 2**

**METHYL BROMIDE; HCFC:** ENVIRONMENTAL PROTECTION ADMINISTRATION

[Governing Regulations 2-1](#)

## **METHYL BROMIDE MANAGEMENT REGULATIONS**

Promulgated and Effective on May 21, 2003

Article 1        These Regulations are adopted pursuant to the provisions of Article 30, Paragraph 2 of the Air Pollution Control Act (hereinafter referred to as the "Act").

Article 2        Definitions of terms used in these Regulations:

1. "Methyl Bromide (CH<sub>3</sub>Br)" refers to a substance that has been listed as the controlled substance in Annex E of the Montreal Protocol and that have been publicly announced by the central competent authority, whether existing alone or in a mixture.
2. "Quarantine" refers to a control measure conducted by the government in order to prevent introduction, increase and distribution of quarantine pests.
3. "Pre-Shipment Treatment " refers to conduct direct fumigation within 21 days prior to loading and shipping of goods for export in order to match plant quarantine or health regulations of import or export countries.
4. "User" refers to those who use methyl bromide on quarantine, pre-shipment or academic research.

5. "Importer" refers to an entity that import and sell methyl bromide

Article 3 Production of methyl bromide shall not be conducted without permission of the central competent authority.

Article 4 The importing and exporting of methyl bromide is limited to states or regions that act in accordance with the terms set by the Montreal Protocol and have been approved and publicly announced by the central competent authority.

The central competent authority, in consultation with the relevant authorities, shall revise and publicly announce the states or regions mentioned in the previous paragraph.

Article 5 Importer and user shall submit the following documents to the central competent authority to apply import permit and usage permit according to the demand quantity of the second half of the very year and the first half of next year before the end of every February and August respectively:

1. Application form (as per Appendix 1),
2. Registration documents of importer/exporter qualifications,
3. Relevant registration documents of user approved by the competent authority whereas governmental authorities as users shall not be subject to this regulation, and
4. Certificate document of purpose of usage of methyl bromide.

The certificate document of purpose of usage of methyl bromide provided in the preceding item (iv) refers to the following documents:

1. Quarantine regulations of import country and fumigation certificate,
2. Request document of importer and fumigation certificate,
3. Certificate documents of quarantine and pre-shipment treatment granted by the competent authorities of animal/plant quarantine or epidemic prevention and therapy.



If any application documents are not in compliance with regulations, the central competent authority shall order the applicant to take corrective actions within the specified time frame. An application that is not complete or corrected within the specified time frame will be rejected. In case the application is approved after investigation, document of import permit and usage permit shall be granted.

Article 6 The effective period of document of import permit and usage permit of methyl bromide is six months. User who continues to use beyond expiration date shall apply to the central competent authority for a permit extension within one to two months prior to the expiration date whereas application for extension shall not exceed once.

Article 7 Importer with document of import permit of methyl bromide granted by the central competent authority shall apply for an import license.

Article 8 Transfer of methyl bromide shall not be conducted without permission of the central competent authority.

The applicant shall apply to the central competent authority for transfer permit according to attached format and content (as per Appendix 2).

If any application documents are not in compliance with regulations, the central competent authority shall order the applicant to take corrective actions within the specified time frame. An application that is not complete or corrected within the specified time frame will be rejected. In case the application is approved after investigation, document of transfer permit and usage permit shall be granted.

Article 9 The usage of methyl bromide shall be limited on quarantine, pre-shipment treatment or academic research.

Article 10 Importer and user shall report to the central competent authority before the end of every February and August according to the attached form and content (as per Appendix 3).

If any application documents are not in compliance with regulations, the central competent authority shall order the applicant to take corrective actions within the specified time frame.

Article 11 Under one of the following circumstances, the application for import and use of methyl bromide with the central competent authority shall be permitted and shall not be subject to the regulations of Article 6 and Article 10.

1. Where the emergency quarantine of pests occurs;
2. Where the academic research is necessary; and
3. Others recognized by the central competent authority.

Article 12 In case the applicant applies for permit of methyl bromide with false documents, the central competent authority shall impose a fine pursuant Paragraph 1 of Article 59 of this Act and shall reject its permit.

Article 13 In case of violation of Paragraph 1 of Article 8 or Article 9, the central competent authority shall impose a fine pursuant to Paragraph 1 of Article 59 of this Act and cancel its permits of import, usage and transfer, if necessary.

Article 14 Those who violate regulations stipulated in Article 3 or Paragraph 1 of Article 10 shall be punished in accordance with Paragraph 1 of Article 59 of this Act.

Those who violate regulations stipulated in Paragraph 1 of Article 4 or Article 7 shall be punished in accordance with Paragraph 2 or Paragraph 3 of Article 59 of this Act.

Article 15 These Regulations shall be enforced from the date of promulgation.

## **HCFCs CONSUMPTION MANAGEMENT REGULATIONS**

Promulgated and Effective on January 15, 2003

Article 1        These Regulations are adopted pursuant to the provisions of Article 30, Paragraph 2 of the Air Pollution Control Act (hereinafter referred to as the "Act").

Article 2        Definitions of terms used in these Regulations:

1. "HCFCs" refers to a group of substance that has been listed as the controlled substance in Group I of Annex C of the Montreal Protocol and that have been publicly announced by the central competent authority, whether existing alone or in a mixture. It excludes any of such controlled substance that is in a manufactured product other than a container used for the transportation or storage of that substance.
2. "Production" refers to the amount of HCFCs produced, minus the amount destroyed by technologies approved by the Montreal Protocol and minus the amount entirely used as feedstock in the manufacture process of other chemicals. The amount recycled and reused is not to be considered as "production".
3. "Consumption" refers to "production" plus imports minus exports of HCFCs.
4. "Ozone Depleting Potential tons" (hereinafter referred to as "ODP tons") refers to the calculation of any HCFCs measured in tons, multiplied by its respective ODP value listed in Group 1 of Annex C of the Montreal Protocol.
5. "User" refers to an entity that uses HCFCs as feedstock in its product manufacturing, or agent in its equipment/facility maintenance.

6. "Importer" refers to an entity that imports HCFCs and provides it to the user.
7. "Producer" refers to a domestic entity that produces HCFCs and provides it to the user.

Article 3 Baseline consumption level of HCFCs is 638,156 ODP tons. The HCFCs consumption control time table and limits for each year are as follows:

1. For the twelve-month period commencing on 1<sup>st</sup> January 2004, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not exceed 65% of the baseline consumption level, which is 414,801 ODP tons.
2. For the twelve-month period commencing on 1<sup>st</sup> January 2010, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not exceed 35% of the baseline consumption level, which is 223,355 ODP tons.
3. For the twelve-month period commencing on 1<sup>st</sup> January 2015, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not exceed 10% of the baseline consumption level, which is 63,816 ODP tons.
4. For the twelve-month period commencing on 1<sup>st</sup> January 2020, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not 0.5% of the baseline consumption level, which is 3,191 ODP tons, and such consumption shall be restricted to the serving of refrigeration and air conditioning equipment during this period.
5. For the twelve-month period commencing on 1<sup>st</sup> January 2030, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not exceed zero.

Article 4 Baseline production of HCFCs is 638,156 ODP tons.

For the twelve-month period commencing on 1<sup>st</sup> January 2004, and in each twelve-month period thereafter, the calculated level of consumption of HCFCs shall not exceed the baseline production level.

Each producer shall report its forthcoming 6 months production scheme on every January and July of each year, which should include the quantity of HCFCs produced, amount of HCFCs used as feedstock in the manufacture process for other chemicals, and the amount of these chemicals produced, to the central competent authority.

Article 5 The importing and exporting of HCFCs is limited to states or regions that act in accordance with the terms set by the Montreal Protocol and have been approved and publicly announced by the central competent authority.

The central competent authority, in consultation with the relevant authorities, shall revise and publicly announce the states or regions mentioned in the previous paragraph.

Article 6 Commencing on 1<sup>st</sup> January 2004, and thereafter, users that apply HCFCs as foaming agent in manufacturing of soft and semi-rigid polyurethane foaming plastic, non-insulation purpose polyurethane foaming plastic, insulation purpose polyurethane foaming plastic, and as cleaning agent in manufacturing of the electronic appliance for information technology and non-electronical appliance, are required to cease the use of HCFC-141b.

The central competent authority will cease approving the aforementioned use of HCFC-141b as of 1<sup>st</sup> January 2004.

Article 7 HCFCs users, importers and producers must submit the following documents to the central competent authority to apply for quotas before the end of July of each year:

1. Photocopy of corporate license (importers shall have importer/exporter qualifications)
2. Photocopy of business registration
3. Photocopy of factory registration (Refrigeration and air conditioning engineering businesses shall attach a photocopy of their refrigeration or air conditioner engineering business license.)
4. Documents verifying actual use (the import or actual use of HCFCs from January to June of the current year)
5. Other documents as specified by the central competent authority

If any application documents are incomplete or not in compliance with regulations, the business entity shall submit the required documents within the time frame specified by the central competent authority. An application that is not complete or corrected within the specified time frame will be rejected.

The central competent authority shall cancel the quota allocation of any business entity whose actual consumption is zero for two consecutive years.

Article 8 The central competent authority shall reserve ten per cent of the annual HCFCs consumption quota for the requirements of national development, national defense and the military, and emergencies.

The total consumption quota for a given year shall be the consumption level for that year minus the reserved quota, and shall be allocated for users on a first priority basis. The remainder shall be allocated to importers and producers on a proportional basis.

Article 9 Before the end of every October, the central competent authority shall establish the preliminary annual HCFCs quota allocation and the projected purchase volume for the first and second quarter ( Q1 and Q2 respectively ) for the following year for each applicant.

The standards used to calculate the aforementioned preliminary annual HCFCs quota allocation are as follows:

1. Business entities with existing quota allocations: The sum of the actual consumption during the first and second quarters plus projected purchases volume for the third and fourth quarters of the current year.
2. Businesses entities applying for quota allocations: Double the amount imported or actually used from January to June of the current year.

Article 10 Before the end of every April, the central competent authority shall establish the actual annual HCFCs quota allocation and the projected purchase volume for the third and fourth quarter ( Q3 and Q4 respectively ) of the following year for each applicant.

The actual annual HCFC quota allocation for each applicant shall be calculated based on the actual consumption of the applicant for the preceding year.

Article 11 A business entity with a quota allocation and HCFCs quota allocation permit issued by the central competent authority may apply, or commission an importer to apply, to the Bureau of Foreign Trade, Ministry of Economic Affairs, for an import permit. The

importing of such goods is limited to the current quarter only.

A business entity with a quota allocation and HCFCs quota allocation permit issued by the central competent authority may produce, or commission a manufacturer to produce, HCFCs, the acquisition of goods for which is limited to the current quarter only.

If the goods, as mentioned in the previous two paragraphs, are not imported or are not domestically acquired during the current quarter, and the business entity does not apply to the central competent authority for a permit extension, the central competent authority shall withdraw the allocated quota for that quarter. If the goods are not imported or are not acquired domestically during the fourth quarter of a given year, the central competent authority shall subtract double the difference from the actual annual quota allocation of a business entity for the following year.

Article 12 User quotas may not be transferred.

Importers and manufacturers may transfer quotas among themselves after approval by the central competent authority. In the event a business entity transfers its quota without approval, the central competent authority may subtract double the transferred amount from the actual annual quota for the following year of that business entity, or may revoke the quota qualifications of that business entity.

Article 13 A business entity with a quota allocation that changes the name of its goods or source of goods or that relinquishes its quota allocation shall report such to the central competent authority for future reference.

Article 14 A business entity with a quota allocation shall report their projected Q3 and Q4 HCFCs purchase for the current year to the central competent authority before 5<sup>th</sup> March of each year. It shall also report its projected Q1 and Q2 purchases for the following year before 5<sup>th</sup> September of each year (as per Appendix 1).

Projected HCFCs purchases during the first half (Q1 and Q2) and second half (Q3 and Q4) of the year shall separately be equivalent to one-half of the annual preliminary quota plus or minus twenty percent. However, those who have applied and received approval from the central competent authority are exempted from this restriction.

Article 15 Business entities with quota allocations shall prepare the following documents (as per Appendix 2) as proof of actual consumption and report to the central competent authority before the end of January, April, July, and October respectively each year the actual implemented quota during the preceding quarter. Failure to make such a report on time shall be deemed as an entity not having completed the importation or domestic acquisition of allocated quota.

1. Users shall submit a Domestic Purchase Declaration Form from the domestic acquiring entity if HCFCs were purchased domestically. An Import Arrival Declaration Form filled out by said business entity or a commissioned importer shall be submitted if the HCFCs were imported. Also, an Application and Consumption Statistics Form, detailing the specific way the HCFCs were used, such as for refrigerants, refrigerants in new construction or a maintenance project, foaming, or PU material supply or cleaning.
2. Importers shall submit an Import Arrival Declaration Form and Domestic Vending Declaration Form.
3. Producers shall submit a Production Declaration Form and a Domestic Supply and Demand Statistics Form.

If any report documents are incomplete or not in compliance with regulations, the business entity shall submit the required documents within the specified time frame set by the central competent authority. Failure to do so within the specified time frame shall be deemed as not having submitted a report.

Article 16 The central competent authority may hire specialists, scholars, or relevant government agency representatives to perform review tasks in connection with accepted quota qualification applications, quota review, and actual consumption and projected purchase reports. The central competent authority shall complete review within 30 days after the acceptance cut-off date. The period for submitting supplemental materials will not be included as part of the review period.

Article 17 Those who violate regulations stipulated in Paragraph 2 of Article 4, Paragraph 1 of Article 5, Paragraph 1 of Article 6, Paragraphs 1 or 2 of Article 11, or Article 12 shall be punished in accordance with Article 59 of this Act.

Article 18 A business entity that has received a HCFCs permit document from the central competent authority or competent authority for the relevant industry prior to the promulgation of these Regulations is not subject to the quota qualification application



requirements in Paragraph 1 of Article 7 within the valid period of such permit document, unless the business entity or factory has changed its name, such change shall be reported to the central competent authority for future reference.

Article 19      These Regulations shall be enforced from the date of promulgation.

**QUESTIONNAIRE 3**

**BREEDING LIVESTOCK/POULTRY AND GENETIC RESOURCES:** COUNCIL OF AGRICULTURE  
[Governing Regulations 3-1](#)

## **Guidelines for Screening Application for Letter of Approval for the Importation of Breeding Livestock and Poultry and Genetic Resources**

Promulgated on October 20, 2000 by the Council of Agriculture, Executive Yuan  
Per public notice referenced (89) Nung-Mu-Tze No. 890040390  
Amended on July 24, 2002, Nung-Mu-Tze No. 0910040297  
Amended on October 29, 2004, Nung-Mu-Tze No. 0930040954  
Amended on April 15, 2005, Nung-Mu-Tze No. 0940040251

1. In order to execute Article 19 of the “Animal Industry Act” for issuing the approval letters of importing breeding livestock and poultry and genetic resources, the following guidelines were promulgated.

2. Approval letters shall be issued by the Council of Agriculture (also known as COA) for the importation of breeding livestock and poultry and other genetic resources for breeding purposes, breed improvement, and proliferation, with imports limited to the following categories:

- (1) 0101.10.00.10—4 Live horses, pure-bred breeding animals.
- (2) 0102.10.00.00—5 Live bovine animals, pure-bred breeding animals.
- (3) 0103.10.00.00—4 Live swine, pure-bred breeding animals.
- (4) 0104.20.00.10—9 Live goats, pure-bred breeding animals.
- (5) 0105.11.10.00—9 Live fowls, pure-bred breeding animals, weighing not more than 185g.
- (6) 0105.12.10.00—8 Live turkeys, pure-bred breeding animals, weighing not more than 185g.
- (7) 0105.19.10.00—1 Live ducks, geese, guinea fowls, pure-bred breeding animals, weighing not more than 185g.
- (8) 0105.92.10.00—1 Live fowls of the species *Gallus domesticus*, pure-bred breeding animals, weighing more than 185g, but not more than 2000g.
- (9) 0105.99.10.00—4 Live ducks, geese, turkeys, guinea fowls, pure-bred breeding animals, weighing more than 185g.
- (10) 0105.93.10.00—0 Live fowls of the species *Gallus domesticus*, pure-bred breeding animals, weighing more than 2000g.
- (11) 0106.19.10.21—5 Deer, pure-bred breeding animals.
- (12) 0106.39.00.24—0 Lives ostriches, pure-bred breeding animals.
- (13) 0511.10.00.00—0 Bovine semen.
- (14) 0511.99.91.20—0 Semen for livestock and poultry breeding.
- (15) 0511.99.92.20—9 Embryos for livestock and poultry breeding.
- (16) 0511.99.99.40—8 Ovum for livestock and poultry breeding.

3. Applications to import breeding livestock and poultry and genetic resources should be limited to the listed breeds or lines as following:

- (1) Dairy cattle: Holstein.
- (2) Beef cattle:
  - A. Brahman.
  - B. Santa Gertrudis.

- C. Brangus\_
- D. Simbrah\_
- E. Charbray\_
- F. Beefmaster\_
- G. Belmont Red\_
- H. Droughtmaster\_
- I. Angus.
- J. Hereford.

(3) Swine\_

- A. Landrace\_
- B. Yorkshire or LargeWhite\_
- C. Duroc\_
- D. Hampshire\_
- E. Berkshire.

(4) Goats\_

- A. Saanen\_
- B. Toggenburg\_
- C. Nubian\_
- D. Alpine\_
- E. Boer.

(5) Deer\_

- A. Sambar deer\_
- B. Sika deer\_
- C. Red deer\_
- D. Fallow deer\_

Involving new breeds or lines that have not yet been imported into Taiwan, applications should follow the procedures listed in item 3 of Guideline 4.

4. Application procedures and supporting documents required:

(1) Application procedures :

- A. Breeding livestock: application for import approval letter shall be filed with the county/city government of the area where the livestock will be allocated and raised. Following review, the application shall be referred to COA for issuance of the import approval letter.
- B. Breeding poultry: application for import approval letter shall be filed with the National Animal Industry Foundation. Following review, the application shall be forwarded to COA for issuance of an import approval letter.
- C. Genetic resources: application for import approval letter shall be filed with COA. Following review, the COA will issue the import approval letter.

(2) Application for import approval letter shall be supported by the following documents, in triplicate:

- A. Application form (as Annex 1 and Annex 2).
- B. Photocopy of a quotation issued from original country.
- C. Photocopy of the farm registration certificate (except for imports of semen or embryos)
- D. Pedigree certificate: the pedigree of breeding livestock should be certified by the government of the exporting country or by an authorized breed association, or alternatively shall be confirmed by a certificate that the livestock is duly listed in the exporting country.
- E. Performance data: those wishing to import semen should provide donor's performance data that meet the average of the breed. For those wishing to import embryos the performance data of both sire and dam are required.

(3) For breeds or lines those are being introduced to Taiwan for the first time, the applicant shall submit the following information and file their application for an import approval letter directly with COA:

- A. Application form.

- B. Certificates of the importers.
- C. Breeding history or discovery of the breed or line.
- D. Feeding study references.
- E. Photograph of the object or product.
- F. Other related documents that may be required by the government.

5. During a six-month period for follow-up quarantine requirements, relocation of the imported breeding livestock or poultry is prohibited, unless permitted by the local county/city government. The COA will punish violators of this rule by not issue further import approval letter for a period of two years from their violation.

6. An import permit is valid for six months from the day after the issue of the approval letter. The approval letter shall void upon expiration of the import permit, and a new application is required for continued importation.

7. Quarantine of imported breeding livestock and poultry and genetic resources shall follow the “Quarantine Requirements for the Importation of Animals or Animal Products into the ROC” promulgated by the Bureau of Animal and Plant Health Inspection and Quarantine of COA.

8. Within six months of the import of breeding livestock and poultry and genetic resources, an application for tariff exemption can be filed with the county/city government of the location where the livestock or poultry is raised or the genetic resources are used, with this application having to be accompanied by a photocopy of the import permit and pedigree certificate. Following review, the application will be forwarded to COA for the issuance of a tariff exemption approval. The application will be rejected if it is filed after the expiry of the prescribed time limit.

9. If concern exists that a particular import may influence the market stability of the local livestock and poultry industry, the COA has the sole discretion to suspend the issuance of approval letter on a per item basis.

10. The import involving genetic manipulated shall follow other related regulations.

**APPLICATION FORM FOR THE IMPORTATION OF  
BREEDING LIVESTOCK AND POULTRY**

For (or on behalf of) \_\_\_\_\_ Co., Ltd./Farm, applicant desires to import from \_\_\_\_\_ (country) a total of \_\_\_\_\_ (number of breeds) of \_\_\_\_\_ (Chinese and English name of the breed), comprising \_\_\_\_\_ of male breeds and \_\_\_\_\_ of female breeds, for own breeding and reproduction purposes. Said \_\_\_\_\_ will be raised at \_\_\_\_\_ (full address). Applicant agrees that during the six-month follow-up quarantine after importation, relocation shall be subject to the prior approval of the county/city government; or applicant shall be punishable by way of being suspended from right to importation for two years. Attached hereto are three copies of the following documents: (1) application form; (2) quotation invoice; (3) photocopy of farm registration certificate; and (4) pedigree certificate or undertaking (applicable to breeding cattle, goat, swine and deer only). Your issuing the import approval letter to the applicant would be highly appreciated.

To:

County/City Government  
National Animal Industry Foundation

For transmittal to:

Council of Agriculture, Executive Yuan



Company name of applicant:

Responsible Person:

Address (mailing address):

Telephone No.:

Company ID No.:

Name of the farm:

Registration Certificate No.:

Registered Address:

Mailing Address:

Telephone:

The import approval letter issued by the Council of Agriculture, Executive Yuan will be ( ) mailed or ( ) picked up in person (please check either one).

Applied in the date of MM/DD/YY

Annex 2

**APPLICATION FORM FOR THE IMPORTATION OF  
EMBRYO AND SEMEN**

For (or on behalf of) \_\_\_\_\_ Co., Ltd./Farm, applicant desires to import from \_\_\_\_\_ (country) a total of \_\_\_\_\_ (numbers of embryo or doses of semen) of \_\_\_\_\_ (Chinese and English name of the breed of the embryo or semen). Attached hereto are three copies of the following documents:(1) application form; (2) quotation invoice; and (3) performance certificate. Your issuing the import approval letter to the applicant would be highly appreciated.

To:

Council of Agriculture, Executive Yuan

Company name of applicant:

Responsible Person:

Address (mailing address):

Telephone No.:

Company ID No.:

Name of the farm:

Registration Certificate No.:

Registered Address:

Mailing Address:

Telephone:

The import approval letter issued by the Council of Agriculture, Executive Yuan will be ( ) mailed or ( ) picked up in person (please check either one).

Applied in the date of MM/DD/YY

# **The Guidelines Needed for Obtaining Approval for the Import and Export of Genetically Modified Breeding Stock and Poultry and Genetic Resources**

Promulgated on January 26, 2005 by the Council of Agriculture, Executive Yuan

Per public notice referenced Nung-Mu-Tze No. 0940040111

1. These guidelines are prescribe with an aim to executing Regulation 19 of the Animal Husbandry Law and issuing approving papers for the export and import of genetically modified breeding stock and poultry and genetic resources.
2. The Agricultural Council of Executive Yuan (referred to hereunder as the Council) issues the approving papers for the export and import of the genetically modified breeding stock and poultry and genetic resource to serve the purpose of the breeders and those who do research and experiments. And they are applicable to the following species:
  - (1) 0101.10.00.10-4 Live horses, pure-bred breeding animals
  - (2) 0102.10.00.00-5 Live bovine animals, pure-bred breeding animals
  - (3) 0103.10.00.00-4 Live swine, pure-bred breeding animals
  - (4) 0104.20.00.10-9 Live goats, pure-bred breeding animals
  - (5) 0105.11.10.00-9 Live fowls, pure-bred breeding animals, weighing not more than 185 g
  - (6) 0105.12.10.00-8 Live turkeys, pure-bred breeding animals, weighing not more than 185 g
  - (7) 0105.19.10.00-1 Live ducks, geese, guinea fowls, pure-bred breeding animals, weighing not more than 185 g
  - (8) 0105.92.10.00-1 Live fowls, of the species *Gallus domesticus* pure-bred breeding animals, weighing more than 185 g but not more than 2000 g

- (9) 0105.99.10.00-4 Live ducks, geese, turkeys, guinea fowls, pure-bred breeding animals, weighing more than 185 g
- (10) 0105.93.10.00-0 Live fowls, of the species Gallus domesticus pure-bred breeding animals, weighing more than 2000 g
- (11) 0106.19.10.21-5 Deer, pure-bred breeding animals
- (12) 0106.39.00.24-0 Live ostriches, pure-bred breeding animals
- (13) 0511.10.00.00-0 Bovine semen
- (14) 0511.99.91.20-0 Semen for livestock and poultry breeding
- (15) 0511.99.92.20-9 Embryos for livestock and poultry breeding

3. The applicants are restricted to those who raise and breed breeding stock and poultry, a research institute and those who do business with breeding stock and poultry.

The aforesaid institute should be registered with the competent authorities; those who do business with breeding stock and poultry and own a farm should be equipped with a registration certificate.

4. The application procedure for import and the documents to be submitted :

(1) Application procedure :

Applicants may apply to the Council for the approving papers to be reviewed and issued by the Council

(2) Documents to be submitted :

( a ) A copy of application form (see attached for the detailed form)

( b ) A photocopy of the certification papers of the applicant (the institute should attach registration papers while the business owner should attach registration certificates of the farm)

( c ) Two copies of the related field test of the imported goods, which is completed by the institute certified by the exporting country and of the bio-safe evaluation report in both the original language and Chinese translation

( d ) Two copies of the sequence data of the transferred genes, their performance locus, performance amount and other

documents good enough for certification

- ( e ) One copy of the approving papers issued by the competent authorities of the exporting country (including the Chinese translation)
- ( f ) One copy of the explication papers concerning the usage, the location where they are bred or preserved and the management fashion of the imported goods
- ( g ) Other documents as prescribed by the Council

5. Application procedure for export and the papers to be submitted :

(1) Application procedure :

Applicants may apply to the Council for the approving papers to be reviewed and issued by the Council.

(2) Documents to be submitted

(a) Application form (see attached for the detailed form).

(b) A photocopy of the certification papers of the applicant (the institute should attach registration papers while the business owner should attach registration certificates of the farm).

(c) One photocopy of the field test and of the bio-safe evaluation report

(d) Other documents as prescribed by the Council

6. The reviewing committee of the genetically modified breeding stock and poultry established by the Council may review the application on a case-by-case basis. The approving papers for import or export cannot be issued without the review and approval of the Council.

7. The approving papers for import and export of the genetically modified breeding stock and poultry and genetic resource will be valid from the day after the issuing day to six months after. Exceeding the valid period necessitates a reapplication.

8. The immunization procedures have to be conducted in accordance with the statutes regarding the immunization of the imported animals and their products of R.O.C.
9. After the imported genetically modified breeding stock and poultry complete the immunization procedures in flocks and are thus cleared, they have to be sent straightaway to the field test premises for assessment in accordance with “the Regulations of the field test and bio-safe evaluation of the genetically modified breeding stock and poultry”. They cannot be reclaimed, put to use nor promulgated before they complete and pass the assessment.

The breeding stock and poultry which do not pass the aforesaid assessment should be returned, euthemized and incinerated in a humanistic way. The applicant is liable to the cost or damages resulting from the procedure.

To conduct the assessment prescribed in the first item, the Council may collect samples for test or send to preserve the genetic samples of the imported breeding stock and poultry and the genetic resource for free for the purposes of follow-up matching and management.
10. The research institute which imports genetically modified breeding stock and poultry and genetic resource for the purposes of experiments and tests, and which has obtained approval from the Council, may be exempt for the field test and bio-safe evaluation procedure as prescribed in Article 9. However, the breeding stock and poultry which are marked, bred in isolation and preserved in designated locations, must not be moved, put to use, nor promulgated without permission.

The Council may collect samples for tests or send to preserve genetic samples of imported breeding stock and poultry or genetic resource for free for follow-up matching and management.
11. The imported genetically modified stock and poultry and genetic resource, which had been reviewed and passed bio-safe evaluation and been approved for promulgation, and which had been assessed to be low in risks, may be exempt from the field test and bio-safe evaluation procedure with the approval of the Council.
12. If the imported genetically modified stock and poultry are used for human consumption, they should be handled in accordance with related regulations of the competent authorities in charge of food safety.
13. In case the exported and imported genetically modified stock and poultry and genetic resource have a negative effect on industrial development or endanger the intactness of domestic high technology, the Council may cease issuing approving papers.

**Application From for Import and Export of the Genetically  
Modified Breeding Stock and Poultry**

For (or on behalf of) \_\_\_\_\_ Co., Ltd./Farm, the applicant desires to import from \_\_\_\_\_ (country) for the total of \_\_\_\_\_ (number of breeds) of \_\_\_\_\_ (Chinese and English name of the breed), comprising \_\_\_\_\_ of male breeds and \_\_\_\_\_ of female breeds, for the purposes of his own breeding and reproduction purposes. The said \_\_\_\_\_ will be raised at \_\_\_\_\_ (full address).

Name of the genetically modified breeding stock or poultry and genetic resource	Total number / male or female / unit

Documents to be submitted :

- Application form
- A photocopy of farm registration certificates
- Two copies of the related field test of the imported goods, which is completed by the institute certified by the exporting country and of the bio-safe evaluation report in both the original language and Chinese translation



- Two copies of the sequence data of the transferred genes, their performance locus, performance amount and other documents good enough for certification.
- One copy of the approving papers issued by the competent authorities of the importing or exporting country (including the Chinese translation)
- One copy of the explication papers concerning the usage, the location where they are bred or preserved and the management fashion of the imported goods
- One photocopy of the field test and of the bio-safe evaluation report

In the hope of obtaining

- Approving papers of import
- Approving papers of export

This is for application to Council of Agriculture, Executive Yuan

Company name of the applicant :

Person in charge :

Company Registered No. :

Address :

Mailing address :

Telephone No. :

Fax No. :

Name of the farm :

Farm Certificate No. :

Registered Address :

Mailing address :

Telephone No. :

Fax No. :

The import approving papers issued by the Council of Agriculture, Executive Yuan will be (please check either one)

mailed

picked up in person

**QUESTIONNAIRE 4**

**YELLOW-FIN TUNA; BLUEFIN TUNA; SOUTHERN BLUEFIN TUNA; SWORDFISH; BIG-EYE TUNA**: FISHERIES AGENCY, COUNCIL OF AGRICULTURE

[Governing Regulations 4-1](#)

## Screening Criteria and Procedures Regarding Applications for Written Approval to Import Yellow-fin Tuna [Translation]

Council of Agriculture, Executive  
Enacted August 31, 1995  
Amended February 15, 2002  
(Ref. No. Nung-So-Yu-Tze-No. 0911310027)

1. Only two types of yellow-fin tuna may be imported upon application: fresh or chilled yellow-fin tuna (C.C.C. code 0302.32.00.00) and frozen yellow-fin tuna (C.C.C. code 0303.42.00.00).
2. For the importation of yellow-fin tuna, the importer must first obtain a written approval issued by the Fishery Administration of this Council prior to customs clearance.
3. No importer shall import yellow-fin tuna from a country which is prohibited by other countries from exporting yellow-fin tuna because of its use of fishing gears and fishing methods harmful to dolphins. To seek a written approval for the importation of yellow-fin tuna, an importer shall file a written application (in the Format as modeled in the first to fourth forms of Attachment A) supported by the following documents:
  - (1) photocopies one each of the applicant's company license and business license;
  - (2) the certificate of origin (in form as shown in Attachment B) issued by the government of the flag country of the fishing vessel that harvested the yellow-fin tuna in the shipment, and a photocopy of the nationality certificate of the fishing vessel and fishing vessel license of the above fishing vessel; and

- (3) the original copy and a photocopy of the foreign-issued quotation.
4. The written importation approval is to be in the Format as modeled in the 2<sup>nd</sup> form located in Attachment A and is valid for three months from the date of issue and will be void after it has expired. If importation is prohibited because of changes in domestic and foreign laws and regulations or the infestation status, the written approval issued shall be null and void.
5. Quarantine and other matters concerning the control of the importation of yellow-fin tuna shall be governed by other applicable regulations.

**Application Form for the Importation of Yellow-fin Tuna**

(1<sup>st</sup> form for file purpose)

To: Fishery Administration, Council of Agriculture, Executive Yuan

Applicant: Company Name:  
Address of Responsible Person:  
Telephone:

Date:

Abstract: The yellow-fin tuna for which we are seeking the permission to import is as follows. We request you to kindly issue a written approval so that we can proceed to perform the necessary import formalities.

Product Name and C.C.C. Code:

Quantity Being Sought (please print in words and in unit of kilograms):

Scientific and English Names:

Exporting Country:

Quantity Approved in Unit of Kilograms (to be filled in by the Administration):

**Attachments**

- (1) photocopies one each of the company license and business license;
- (2) the certificate of origin (Attachment B) issued by the government of the flag country of the fishing vessel that harvested the yellow-fin tuna in the shipment and photocopies one each of the nationality certificate and fishing vessel license of the above fishing vessel; and

Attachment A

(3) the original copy and a photocopy of the foreign-issued quotation.

Comments:

Proposed Official Action:

Attachment A

**Written Approval for Importation of Yellow-fin Tuna**

(2<sup>nd</sup> form for applicant)

To:

From: Fishery Administration, Council of Agriculture, Executive Yuan

cc: Bureau of Foreign Trade, Ministry of Economic Affairs  
Department of Planning and Programming, Fishery Administration

Date:

Ref. No.:

Abstract

Approval is hereby granted for your importation of the following fish products. Your attention and compliance will be appreciated.

Product Name and C.C.C. Code:

Quantity Being Sought (please print in words and in unit of kilograms):

Scientific and English Names:

Exporting Country:

Approved Quantity in Unit of Kilograms (to be filled in by the Administration):

Notes

- (1) Information concerning the product name and C.C.C. code, the quantity to be imported, the scientific and English name and the exporting country shall be filled in by the applicant.
- (2) This approval shall be valid for three months from its issuance, but shall be null and void if importation is prohibited because of changes in domestic and foreign laws and regulations or the infestation status.

## Attachment A

(3) This approval shall be returned to the applicant.

### Explanation

1. This is in reply to your application of \_\_\_\_\_ (date).
2. The original copy of the foreign-issued quotation is hereby being returned to the applicant.



**Written Approval for Importation of Yellow-fin Tuna**

(3<sup>rd</sup> form)

To:

From: Fishery Administration, Council of Agriculture, Executive Yuan

cc: Bureau of Foreign Trade, Ministry of Economic Affairs (w/o attachment)  
Department of Planning and Programming, Fishery Administration (w/o attachment)

Date:

Ref. No.:

Abstract

Approval is hereby granted for your importation of the following fish products. Your attention and compliance will be appreciated.

Product Name and C.C.C. Code:

Quantity Being Sought (please print in words and in unit of kilograms):

Scientific and English Names:

Exporting Country:

Approved Quantity in Unit of Kilograms (to be filled in by the Administration):

Notes:

- (1) Information concerning the product name and C.C.C. code, the quantity being sought, the scientific and English names and the exporting country shall be filled in by the applicant.

## Attachment A

- (2) This approval shall be valid for three months from its issuance, but shall be null and void if importation is prohibited because of changes in domestic and foreign laws and regulations or the infestation status.
- (3) This copy shall be kept by the Fishery Administration of the Council for record.

### Explanation

1. This is in reply to your application of \_\_\_\_\_(date).
2. The original copy of the foreign-issued quotation is hereby being returned to the applicant.

Attachment A

**Written Approval for Importation of Yellow-fin Tuna**

(4<sup>th</sup> form)

To:

From: Fishery Administration, Council of Agriculture, Executive Yuan

CC: Bureau of Foreign Trade, Ministry of Economic Affairs (w/o attachment)  
Department of Planning and Programming, Fishery Administration (w/o attachment)

Date:

Ref. No.:

Abstract

Approval is hereby granted for your importation of the following fish products. Your attention and compliance will be appreciated.

Product Name and C.C.C. Code:

Quantity Being Sought (please print in words and unit of kilograms):

Scientific and English Names:

Exporting Country:

Approved Quantity in Unit of Kilograms (to be filled in by the Administration):

Notes:

- (1) Concerning the product name and C.C.C. code, the quantity being sought, the scientific and English names and the exporting country shall be filled in by the applicant.
- (2) This approval shall be valid for three months from its issuance, but shall be null and void if importation is prohibited because of changes in domestic and foreign laws and regulations or the infestation status.

## Attachment A

(3) This copy shall be served on the Bureau of Foreign Trade of the Ministry of Economic Affairs.

### Explanation

1. This is in reply to your application of \_\_\_\_\_(date).
2. The original copy of the foreign-issued quotation is hereby being returned to the applicant.

## Yellow-fin Tuna Certificate of Origin Instruction Sheet

Dealers who want to import yellow-fin tuna into the Republic of China should be required to complete the appropriate sections of the Yellow-Fin Tuna Certificate of Origin.

Please use this instruction sheet as a guideline to complete that section of the Yellow-fin Tuna Certificate of Origin that applies to exporters, importers and government validation. If a language other than English is used on the Certificate, please add the English translation on this document.

### Instructions

1. Exporter  
The person or company exporting the yellow-fin tuna shipment must provide his/her name and address.
2. Consignee  
The person or company producing the yellow-fin tuna must provide his/her name and address.
3. Description of Fish  
The exporter must provide, to the highest degree of accuracy, the following information. NOTE: One row should describe one code of the standard classification of commodities of the Republic of China (C.C.C. code)
  - (1) Code of the standard classification of commodities of the Republic of China and species description: Identify the type of product being shipped as either c.c.c. code: 0302.32.00.00. Yellow-fin tuna (Thunnus albacares), fresh or chilled, or c.c.c. code: 0303.42.00.00 Yellow-fin tuna (Thunnus albacares), frozen.
  - (2) Quantity: net product weight in kilograms.
  - (3) Name of vessel which caught tuna and nation under whose laws the vessel operated: Fill in the name of the vessel that harvested the yellow-fin tuna in the shipment and fill in the name of country of the vessel that harvested the yellow-fin tuna in the shipment.
  - (4) Trip dates: Fill in the period that the vessel harvested the yellow-fin tuna in the shipment.
  - (5) Ocean area of catch: Fill in the geographical area of ocean where the yellow-fin tuna in the shipment were caught. These areas may be categorized as Eastern Tropical Pacific (ETP), Western Pacific (WP), Caribbean Ocean (CAR), Atlantic Ocean (ATL) and Indian Ocean (IND).
  - (6) Gear Code: Fill in the gear code described as follows;

Gear Code

Gear Type

Attachment B

BB	BAITBOAT
GILL	GILLNET
HAND	HANDLINE
HARP	HARPOON
LL	LOGLINE
MWT	MID-WATER TRAWL
PS	PUSE SEINE
RR	ROD AND REEL
SPHL	SPORT HANDLINE
SURF	SURFACE FISHERIES UNCLASSIFIED
TL	TENDLINE
TRAP	TRAP
TROL	TROLL
UNCL	UNSPECIFIED METHODS
OT	OTHER TYPE

Note: For OTHER TYPE, describe the type of gear.

- (7) Government Validation: Fill in the name and full title of the official signing the Certificate. The official must be in the implement of the competent government authority of the flag country of the vessel that harvested the yellow-fin tuna in the shipment appearing on the Certificate.
- (8) Importer Certification: The person or company that imports Yellow-fin tuna in the shipment must provide his/her name, address, signature, date the yellow-fin tuna was imported, license number (if applicable) and final point of import. This includes imports into intermediate countries.

**YELLOW-FIN TUNA  
CERTIFICATE OF ORIGIN**

1. EXPORTER (Name and Address)			2. CONSIGNEE (Name and Address)		
3. DESCRIPTION OF FISH:					
CODE OF THE STANDARD CLASSIFICATION OF COMMODITIES OF THE REPUBLIC OF CHINA (C.C.C. CODE) AND SPECIES DESCRIPTION	QUANTITY	NAME OF FISHING VESSEL WHICH CAUGHT TUNA AND NATION UNDER WHOSE LAWS VESSEL OPERATED	TRIP DATES	OCEAN AREA OF CATCH	GEAR CODE

GOVERNMENT VALIDATION (TO BE SIGNED BY A RESPONSIBLE GOVERNMENT OFFICIAL FROM THE HARVESTING NATION)  
 I CERTIFY THAT THE YELLOW-FIN TUNA WAS HARVESTED IN CONFORMITY WITH THE INTERNATIONAL REQUIREMENT AND NOT WITH FISHING GEAR AND METHOD HARMFUL TO DOLPHIN, AND THAT THE ABOVE INFORMATION IS COMPLETE, TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME & TITLE	SIGNATURE	DATE	GOVERNMENT SEAL
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Importer Certificate I certify that the above information is complete, true, and correct to the best of my knowledge and belief.

<b>Name</b>	<b>Address</b>	<b>Signature</b>	<b>Date</b>	<b>License No.</b>
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Importer Certification (Intermediate Country)

Name	Address	Signature	Date	License No.
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Importer Certification (Intermediate Country)

Name	Address	Signature	Date	License No.
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Importer Certification (Final Destination of Shipment)

Name	Address	Signature	Date	License No.
------	---------	-----------	------	-------------



Final Point of Import: City

State or Province

Country

Note: If a language other than English is used in completing this form, please add the English translation on this document.

#### Governing Regulations 4-2

Notice of Application for Written Approval Licence to Import, Export and Re-export Bluefin Tuna.

Date of issue: 2004.12.15

Reference: Nung-Yu-Tzu No. 0931310342 Enclosure: As script

1. This Notice is enacted in accordance with Article 44 of the Fisheries Law.
2. Application for import, export and re-export of Bluefin tuna (*Thunnus thynnus* ),fresh or chilled (C.C.C. No.: 0302.35.00.00-4), Bluefin tuna (*Thunnus thynnus* ),frozen (C.C.C. No. 0303.45.00.00-1), Bluefin tuna (*Thunnus thynnus* ) fillets and its meat (whether or not minced )fresh or chilled (C.C.C. No. 0304.10.90.51-0) and Bluefin tuna (*Thunnus thynnus* ) fillets, frozen (C.C.C. No. 0304.20.90.31-3). 3. Application for import of bluefin tuna, the importer should enclose the following documents and apply with the Fishery Agency of this Council for approval and issue of letter of consent for import before processing customs clearance procedure.
  - A. When the export country is the original production country, enclose the following documents:
    - a. Application for import of bluefin tuna (format as enclosure 1)
    - b. One photocopy each of company license or operating business registration certificate of the importer.
    - c. ICCAT Bluefin Tuna Statistical Document issued by the export country.
    - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
  - B. When the export country is not the original production country and export countries of the imported bluefin have not yet reached three countries, enclose documents a. to e. If export countries of imported bluefin tuna have exceeded three countries and more, add enclosed document f.
    - a. Bluefin tuna import application (format as enclosure 1).
    - b. One photocopy each of company license or operating business registration certificate of the importer.
    - c. Photocopy of ICCAT Bluefin Tuna Statistical Document certified by the final export country.
    - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
    - e. Re-export certificate issued by the final export country.

- f. Photocopy of re-export certificate of various export countries before certification by the final export country.
4. Letter of consent for import is valid for three months from the date of issue and will be void when it has expired. However, when there is change in domestic and overseas laws and regulations or plague situation and import is prohibited, then the letter of consent already issued will become void.
5. When there are following matters during application for import of bluefin tuna, letter of consent for import will not be issued:
- (1) Countries that the International Fishery Organization has prohibited its import
  - (2) The original country of the southern bluefin tuna is the countries that their transportation is prohibited by the national organization.
6. Quarantine for imported bluefin tuna and other management matters shall be handled based on related regulation.
7. For direct catch that its fishery operation is approved by our country and when applying for export of bluefin tuna, exporter should base on the related regulation to apply for approval and issue of ICCAT Bluefin Statistical Document before processing for custom clearance.
8. For application for re-export of bluefin tuna after its import from other country, exporter should enclose the following documents and apply with Fishery Agency of this Council for approval and issue of Re-export Certificate before processing customs clearance procedure.
- (1) When the other country is the original production country, the following documents should be submitted:
    - A. Bluefin tuna re-export application and ICCAT BLUEFIN TUNA RE-EXPORT CERTIFICATE (format as enclosure 2)
    - B. One photocopy of company license or operating business registration certificate of the exporter.
    - C. Photocopy of ICCAT Bluefin Tuna Statistical Document issued by the export country.
    - D. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
    - E. Import consent document (One copy each of Letter of consent for import by Fishery Agency of the Council and photocopy of customs clearance form).
  - (2) When the other country is not the original production country and when the export countries for the re-export of bluefin tuna countries have not yet reached three countries, enclose documents (A) to (F). If export countries of re-export bluefin tuna have exceeded three countries and more, add enclosed document (G).
    - A. Bluefin tuna re-export application and ICCAT BLUEFIN TUNA RE-EXPORT CERTIFICATE (format as enclosure 2).
    - B. One photocopy each of company license or operating business registration certificate of the importer.
    - C. Photocopy of ICCAT bluefin Tuna Statistical Document certified by the final export country.
    - D. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).

- E. Import consent document (One copy each of Letter of consent fro import by Fishery Agency of the Council and photocopy of customs clearance form).
  - F. Photocopy of Re-export certificate issued by the final export country.
  - G. Photocopy of re-export certificate of various export countries before certification by the final export country.
9. The applicant/dealer requires to attach the original ICCAT BLUEFIN TUNA STATISTICAL DOCUMENT and RE-EXPORT CERTIFICATE or its photocopy at the same time of filing application. Completed copy or original copy and photocopy of proof of import custom clearance would be submitted to the Fishery Agency ((format as enclosure 3) within 3 weeks of the time of import. Failed to provide required documents to close a case will cause next application not to be processed by the Fishery Agency.

## Notice of Application for Written Approval Licence to Import, Export and Re-export Southern Bluefin Tuna

Date of issue: 2004.12.15

Reference: Nung-Yu-Tzu No. 0931310343 Enclosure: As script

1. This Notice is enacted in accordance with Article 44 of the Fisheries Law.
2. Application for import , export and re-export of southern bluefin tuna (*thunnus maccoyii*) ,fresh or chilled (C.C.C. No.: 0302.35.00.00-3), southern bluefin tuna (*thunnus maccoyii*) ,frozen (C.C.C. No. 0303.44.00.00-2), southern bluefin tuna (*thunnus maccoyii*) fillets and its meat (whether or not minced ),fresh or chilled (C.C.C. No. 0304.10.90.52-9) and southern bluefin tuna (*thunnus maccoyii*),fillets, frozen (C.C.C. No. 0304.20.90.32-2) shall be handled based on these essentials.
3. For application for import of southern bluefin tuna, importer should enclose the following documents and shall apply with the Fishery Agency of this council for approval and issue of letter of consent for import before processing custom clearance procedure.
  - (1) When the export country is the original production country, enclose the following documents:
    - a. Application for import of southern bluefin tuna (format as enclosure 1)
    - b. One photocopy of company license or operating business registration certificate of the importer.
    - c. CCSBT SOUTHERN BLUEFIN TUNA STATISTICAL DOCUMENT issued by the export country.
    - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person)..
  - (2) When the export country is not the original production country and export countries of the imported southern bluefin have not yet reached three countries, enclose documents a to e. If export countries of imported southern bluefin tuna have exceeded three countries and more, add enclosed document f.
    - a. Southern bluefin tuna import application (format as enclosure 1).
    - b. One photocopy of company license or operating business registration certificate of the importer.
    - c. Photocopy of CCSBT SOUTHERN BLUEFIN TUNA STATISTICAL DOCUMENT certified by the final export country.
    - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person)..
    - d. Re-export certificate issued by the final export country.

- f. Photocopy of re-export certificate of various export countries before certification by the final export country.
4. Letter of consent for import shall be valid within three months starting from the date of approval and issue and will be void when it is expired. However, when there is change in domestic and overseas laws and regulations or plague situation and import is prohibited, then the letter of consent already issued will become void.
5. When there are following matters during application for import of bluefin tuna, letter of consent for import will not be issued:
- ( 1 ) Countries that the International Fishery Organization of CCSBT has prohibited its import
  - ( 2 ) The original country of the southern bluefin tuna is the countries that their transportation is prohibited by the national organization.
6. Quarantine for imported southern bluefin tuna and other management matters shall be handled based on related regulation.
7. For direct catch that its fishery operation is approved by our country and when applying for export of southern bluefin tuna, exporter should base on the related regulation to apply for approval and issue of CCSBT SOUTHERN BLUEFIN STATISTICAL DOCUMENT before processing for custom clearance.
8. For application of re-export southern bluefin tuna after its import from other country, exporter should enclose the following documents and apply with Fishery Department of our council for approval and issue of letter of consent for re-export before processing custom clearance procedure.
- (1) When the original country of origin is original production country, the following documents should be submitted:
- a. Southern bluefin tuna re-export application and CCSBT SOUTHERN BLUEFIN TUNA RE-EXPORT CERTIFICATE(format as enclosure 2).
  - b. One photocopy of company license or operating business registration certificate of the exporter.
  - c. Photocopy of CCSBT SOUTHERN BLUEFIN TUNA STATISTICAL DOCUMENT certified by the final export country.
  - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
  - e. Import consent document (One copy each of Letter of consent for import by Fishery Agency of this Council and photocopy of custom clearance form).
- (2) When the other country is not the original production country and when the export countries for the re-export of southern bluefin tuna countries

have not yet reached three countries, enclose documents (1) to (6). If export countries of re-export southern bluefin tuna have exceeded three countries and more, add enclosed document (7).

- a. Southern bluefin tuna re-export application and CCSBT SOUTHERN BLUEFIN TUNA RE-EXPORT CERTIFICATE (format as enclosure 2).
- b. One photocopy of company license or operating business registration certificate of the importer.
- c. Photocopy of CCSBT SOUTHERN BLUEFIN TUNA STATISTICAL DOCUMENT certified by the final export country .
- d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
  - e. Import consent document (One copy each of Letter of consent for import by Fishery Agency of this Council and photocopy of custom clearance form).
  - f. Photocopy of Re-export certificate issued by the final export country.
  - g. Photocopy of re-export certificate of various export countries before certification by the final export country.
9. The applicant/dealer requires to attach the original CCSBT BLUEFIN TUNA STATISTICAL DOCUMENT and RE-EXPORT CERTIFICATE or its photocopy at the same time of filing application. Completed copy or original copy and photocopy of proof of import custom clearance would be submitted to the Fishery Agency ((format as enclosure 3) within 3 weeks of the time of import. Failed to provide required documents to close a case will cause next application not to be processed by the Fishery Agency.

## **Notice of Application for Written Approval Licence to Import, Export and Re-export Swordfish**

Date of issue: 2004.12.15

Reference: Nung-Yu-Tzu No. 0931310344 Enclosure: As script

1. This Notice is enacted in accordance with Article 44 of the Fisheries Law
2. Application for import of Swordfish (Xiphiidae family), fresh or chilled (C.C.C. No.: 0302.69.99.50-4), Swordfish (Xiphiidae family), frozen (C.C.C. No.0303.79.99.80-5), Swordfish (Xiphiidae family) fillets and its meat (whether or not minced), fresh or chilled (C.C.C. No.0304.10.90.60-9) and Swordfish (Xiphiidae family), fillets or steaks, frozen (C.C.C. No.0304.20.90.40-2) shall be handled based on these essentials).
3. To apply for import of swordfish, importer should enclose the following documents and apply with the Fishery Agency of this council for approval and issue of letter of consent for import before processing custom clearance procedure.
  - (1) When the import country is the original production country
    - a. Sword fish import application (format as enclosure 1)
    - b. One photocopy of company license or operating business registration certificate of the importer.
    - c. ICCAT SWORDFISH STATISTICAL DOCUMENT issued by the export country.
    - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
  - (2) When the export country is not the original production country
    - a. Swordfish import application (format as enclosure 1)
    - b. One photocopy of company license or operating business registration certificate of the importer.
    - c. One copy each of the original and photocopy of Swordfish statistical document issued and certified by the final export country
    - d. Photocopy of overseas quotation (please add company seal and seal of the responsible person).
4. Letter of consent for import shall be valid within three months starting from the date of approval and issue and will be void when it is expired. However, when there is change in domestic and overseas laws and regulations or plague situation and import is prohibited, then the letter of consent already issued will become void.



5. When there are following matters during application for import of swordfish, letter of consent for import will not be issued:
  - (1) Countries that the International Fishery Organization has prohibited its import.
  - (2) Body size of swordfish caught in the Atlantic is less than 15 kg.
6. For direct catch that its fishery operation is approved by our country and when applying for export of swordfish, exporter should base on the related regulation to apply for approval and issue of ICCAT SWORDFISH STATISTICAL DOCUMENT before processing for custom clearance.
7. For application for re-export of swordfish after its import from other country, exporter should enclose the following documents and apply with Fishery Agency of this Council for approval and issue of Re-export Certificate before processing customs clearance procedure.
  - (3) When the other country is the original production country, the following documents should be submitted:
    - D. Swordfish-export application and ICCAT SWORDFISH RE-EXPORT CERTIFICATE(format as enclosure 2)
    - E. One photocopy of company license or operating business registration certificate of the exporter.
    - F. Photocopy of ICCAT SWORDFISH STATISTICAL DOCUMENT issued by the export country .
    - D.photocopy of overseas quotation(please add with company seal and seal of the responsible person)..
    - E.Import consent document (One copy each of Letter of consent for import by Fishery Agency of this Council and photocopy of customs clearance form).
  - (4) When the other country is not the original production country and when the export countries for the re-export of swordfish countries have not yet reached three countries, enclose documents (A) to (F). If export countries of re-export swordfish have exceeded three countries and more, add encloseddocument (G).
    - A. Swordfish re-export application and ICCAT SWORDFISH RE-EXPORT CERTIFICATE (format as enclosure 2).
    - B. One photocopy each of company license or operating business registration certificate of the importer.
    - C. Photocopy of ICCAT SWORDFISH STATISTICAL DOCUMENT certified by the final export country.
    - D. photocopy of overseas quotation(please add with company seal and seal of the responsible person)..
    - E. Import consent document (One copy each of Letter of consent fro import by Fishery Agency of this Council and photocopy of customs clearance form).
    - F. Photocopy of Re-export certificate issued by the final export country.
    - G. Photocopy of re-export certificate of various export countries before certification by the final export country.
8. The applicant/dealer requires to attach the original ICCAT SWORDFISH STATISTICAL DOCUMENT and RE-EXPORT CERTIFICATE or its photocopy at the

same time of filing application. Completed copy or original copy and photocopy of proof of import custom clearance would be submitted to the Fishery Agency ((format as enclosure 3) within 3 weeks of the time of import. Failed to provide required documents to close a case will cause next application not to be processed by the Fishery Agency.

## **Notice of Application for Written Approval Licence to Import, Export and Re-export Bigeye Tuna.**

Date of issue: 2004.12.15

Reference: Nung-Yu-Tzu No. 0931310345 Enclosure: As script

1. This Notice is enacted in accordance with Article 44 of the Fisheries Law.
2. Application for import frozen Bigeye Tuna (C.C.C. Code: 0303.44.00.00-2), and frozen Bigeye Tuna fillets (C.C.C. Code: 0304.20.90.33-1) shall be handled based on this Notice.
3. Application for import of Bigeye Tuna
  - (1) Importer should enclose the following documents and apply with the Fishery Agency of this Council for approval and issue of letter of consent for import before processing customs clearance procedure.
    - C. When the export country is the original production country, enclose the following documents:
      - a. Application for import of Bigeye Tuna (format as enclosure 1)
      - b. One photocopy of company license or operating business registration certificate of the importer.
      - c. BIGEYE TUNA STATISTICAL DOCUMENT issued by the export country.
      - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
    - D. When the export country is not the original production country and export countries of the imported Bigeye Tuna have not yet reached three countries, enclose documents a. to e. If export countries of imported Big-eye Tuna have exceeded three countries and more, add enclosed document f.
      - a. Bigeye Tuna import application (format as enclosure 1).
      - b. One photocopy of company license or operating business registration certificate of the importer.
      - c. Photocopy of BIGEYE TUNA STATISTICAL DOCUMENT certified by the final export country.
      - d. Photocopy of overseas quotation (please add with company seal and seal of the responsible person).
      - e. Re-export certificate issued by the final export country.
      - f. Photocopy of re-export certificate of various export countries before certification by the final export country.

4. The written approval document shall be valid for three months and shall be null and void upon expiration. If importation is prohibited because of changes in domestic and foreign laws and regulations or plague situation, the written approval document shall be null and void.
5. When there are following matters during application for import of bigeye tuna, letter of consent for import will not be issued:
  - ( 1 ) Countries that the International Fishery Organization has prohibited its import
  - ( 2 ) The original country of the southern bluefin tuna is the countries that their transportation is prohibited by the national organization.
6. Quarantine and other matters concerning the control of the importation of big-eye tuna shall be governed by other applicable regulations.
7. For direct catch that its fishery operation is approved by our country and when applying for export of bigeye tuna, exporter should base on the related regulation to apply for approval and issue of BIGEYE TUNA STATISTICAL DOCUMENT before processing for custom clearance.
8. For application for re-export of bigeye tuna after its import from other country, exporter should enclose the following documents and apply with Fishery Agency of this Council for approval and issue of Re-export Certificate before processing customs clearance procedure.
  - (5) When the other country is the original production country, the following documents should be submitted:
    - G. Bigeye tuna re-export application and BIGEYE TUNA RE-EXPORT CERTIFICATE(format as enclosure 2)
    - H. One photocopy of company license or operating business registration certificate of the exporter.
    - I. Photocopy of BIGEYE TUNA STATISTICAL DOCUMENT issued by the export country .
    - D.photocopy of overseas quotation(please add with company seal and seal of the responsible person)..
    - E.Import consent document (One copy each of Letter of consent for import by Fishery Agency of this Council and photocopy of customs clearance form).
  - (6) When the other country is not the original production country and when the export countries for the re-export of bigeye tuna countries have not yet reached three countries, enclose documents (A) to (F). If export countries of re-export bluefin tuna have exceeded three countries and more, add enclosed document (G).
    - A. Bigeye tuna re-export application and BIGEYE TUNA RE-EXPORT CERTIFICATE (format as enclosure 2).

- B. One photocopy each of company license or operating business registration certificate of the importer.
  - C. Photocopy of BIGEYE TUNA STATISTICAL DOCUMENT certified by the final export country.
  - D. photocopy of overseas quotation(please add with company seal and seal of the responsible person)..
  - E. Import consent document (One copy each of Letter of consent fro import by Fishery Agency of this Council and photocopy of customs clearance form).
  - F. Photocopy of Re-export certificate issued by the final export country.
  - G. Photocopy of re-export certificate of various export countries before certification by the final export country.
9. The applicant/dealer requires to attach the original BIGEYE TUNA STATISTICAL DOCUMENT and RE-EXPORT CERTIFICATE or its photocopy at the same time of filing application. Completed copy or original copy and photocopy of proof of import custom clearance would be submitted to the Fishery Agency ((format as enclosure 3) within 3 weeks of the time of import. Failed to provide required documents to close a case will cause next application not to be processed by the Fishery Agency.

**QUESTIONNAIRE 5**

**TOBACCO, LIQUOR PRODUCTS AND UNDENATURED ETHYL ALCOHOL: NATIONAL TREASURY AGENCY, MINISTRY OF FINANCE  
[Governing Regulations 5-1](#)**

The Tobacco and Alcohol Administration Law

Enacted & Promulgated on April 19, 2000 by Presidential Order

Amended & Promulgated on January 7, 2004 by Presidential Order

**CHAPTER I: General Provisions**

**Article 1**

This Law is enacted to promote the sound administration of the tobacco and alcohol business and products. Other laws shall apply to matters not provided for in this Law.

**Article 2**

The competent authority under this Law shall be the Ministry of Finance at the central government level; the municipal government at the municipal level; and the county (city) government at the county (city) level.

**Article 3**

"Tobacco" referred to in this Law shall mean the products entirely or partially made of tobacco plants or other substitutes as ingredients of, in a form suitable for smoking, chewing, sucking, snuffing or any other method. "Tobacco plants" referred to in the preceding paragraph shall mean nicotine-containing tobacco leaves, tobacco stubs, tobacco seedlings, tobacco seeds, tobacco stems, tobacco scraps, etc. or their products, which are not ready for smoking, chewing, sucking, snuffing or other applications.

"Tobacco plants" referred to in the preceding paragraph includes nicotine-containing tobacco leaves, tobacco stubs, tobacco seedlings, tobacco seeds, tobacco stems, tobacco scraps, etc. or their products, which are not ready for smoking, chewing, sucking, snuffing or other applications.

**Article 4**

"Alcohol" referred to in this Law shall mean the beverages having an alcohol content by volume of more than 0.5 percent, undenatured ethyl alcohol and other ethyl products that can

be used for the production or preparation of the above-mentioned beverages. "Alcohol " which is regarded as medicine in accordance with the laws or regulations of the central health authority shall be exempt from administration as Alcohol under this Law.

The term "alcohol content" referred to in this Law shall mean the percentage of ethyl alcohol contained in the entire volume (of a specific beverage) at a temperature of 20 degrees as measured with a Celsius thermometer.

The term "undenatured ethyl alcohol" referred to in Paragraph One of this article shall mean the ethyl alcohol having an alcohol content by volume in excess of 90%, without adding therein any denaturant.

The undenatured ethyl alcohol as referred to in Paragraph One of this Article may be imported only for industrial, pharmaceutical, military, processing applications, or for repackaging before sale. The regulation governing the matters pertaining to production, importation, and sale of undenatured ethyl alcohol, and the addition of denaturants shall be prescribed by the central competent authority.

#### Article 5

"Tobacco/alcohol business" referred to in this Law shall mean any of the following three businesses:

1. tobacco/ alcohol producers: business operators engaging in the manufacturing of tobacco and/or alcohol products, or
2. tobacco/alcohol importers: business operators engaging in the importation of tobacco and/or alcohol products, or
- 3 .tobacco/alcohol sellers: business operators engaging in the wholesale or retail of tobacco and/or alcohol products.

"Production and manufacture" under this Law includes manufacturing, re-packaging and the relevant activities

#### Article 6

"Illegal tobacco and illegal alcohol" referred to in this Law shall mean tobacco and alcohol products which are manufactured or imported without permission.

#### Article 7

"Disqualified tobacco and disqualified alcohol" referred to in this Law shall mean the tobacco and alcohol products under any of the following contains:

1. tobacco whose content of nicotine or tar exceeds the limits set by the Law governing the Prevention of Tobacco Hazards; or is apparently moldy, damp, or otherwise deteriorated;  
or
2. alcohol which does not meet the national health standards and the relevant regulations.

#### Article 8

"Responsible person" referred to in this Law shall mean the person who shall assume the responsibility as required by the Company Law, the Business Registration Law, or other laws or the relevant organizational charters.

### CHAPTER II: Administration of Tobacco and Alcohol Business

#### Article 9

Tobacco and/or undenatured ethyl alcohol producers shall be organized in the form of a company limited by shares only.

For a producer of alcohol products other than undenatured ethyl alcohol which is organized in the form other than a company limited by shares, except that it is a farmers' association or an agricultural cooperative association having received a factory registration certificate, the annual output of such alcohol producer shall not exceed the specific annual amount established by the central competent authority.

#### Article 10

Where an existing company, partnership or wholly-owned enterprise, and/or any agricultural organization duly established under the law files an application for incorporating a tobacco/alcohol producer, it shall submit the following documents along with the application with the central competent authority for its approval, and may start the production/manufacture and business operations of the tobacco/alcohol producer only after having been permitted and obtained a permit license. In the case that the tobacco/alcohol producer to be incorporated is organized in the form of a company, partnership or a wholly-owned enterprise, it shall, after having obtained the permit license, follow the procedure



for registration of alteration to company business by submitting the following documents:

1. a written application for permission of incorporation of a tobacco/alcohol producer;
2. the company registration or business registration certificate, or the certificate issued by other competent authorities approving the proposed incorporation;
3. the factory registration certificate;
4. the production and business operation plan; and
5. other supporting documents as required by the central competent authority.

Where a company, partnership, or a wholly-owned enterprise being prepared for incorporation applies for incorporation of a tobacco/alcohol producer, it shall first submit the documents as required in Items 1, 4 and 5 of the preceding paragraph with an application for incorporation preparation permit to the central competent authority, and shall subsequently, after having obtained the company or business registration certificate and the factory registration certificate, submit all the foregoing documents with an application to the central competent authority for its approval and issuance of a tobacco/alcohol producer permit license.

Where the applicant is an entity organized in a form other than a company, the factory registration certificate as required in Item 3, Paragraph One and the preceding paragraph of this article may be substituted for the following documents:

1. the certificate issued by the competent environmental protection authority justifying the conformity of the applicant's factory incorporation plan to the relevant requirements set out in environmental protection related laws and regulations; however, if the applicant is not an entity subject to control under the environmental protection related laws and regulations, a certificate confirming its exemption from such control shall be submitted instead;
2. the certificate issued by the competent health authority justifying the conformity of the applicant's factory incorporation plan to good sanitation standards as specified in Paragraph One, Article 28 of this Law;

3 the transcript of the land and building registration records in connection with the site whereat the proposed tobacco/alcohol production/manufacture will be located, or other document(s) which is(are) sufficient to certify the source of the applicant's title to such land and buildings; however, if such land and buildings are not owned by the applicant, a photocopy of the relevant lease agreements or the owners' consents to the use of such land and buildings shall be submitted along with the application.

Time tables for liberalizing the production of tobacco/alcohol products shall be determined by the central competent authority separately in respect of different categories of tobacco/alcohol products.

#### Article 11

Any farmer or aborigine who produces agricultural raw materials suitable for use in wine brewing within the agricultural area covered by an urban development plan, or on the farm/pasture land other than an urban land may apply for incorporation as an alcohol producer at the same piece of land provided that the alcohol production site shall meet the applicable environmental protection, sanitation, and land use control requirements, and shall be limited to one site only; and that its annual output shall not exceed the restrictive annual amount established by the central competent authority, nor may it be engaged in business activities thereat in connection with producing/manufacturing and/or repackaging alcohol products by or for other persons under contracts of commission.

The application for incorporation of an alcohol producer as set forth in the preceding paragraph shall be filed, through the competent authority of the local municipal or county (city) government, with the central competent authority, and the applicant may commence the production/manufacture and business operations only after having been approved by the central competent authority and obtained the permit license. Regulations governing the matters pertaining to the documents and the qualification requirements required for filing the application, the production/manufacture and sale of such alcohol products shall be prescribed by the central competent authority.

#### Article 12

Under any of the following circumstances, the application for incorporation of a tobacco/alcohol producer shall be disapproved by the central competent authority:

1. Where the applicant or the responsible person is a minor, or an interdicted person, or a bankrupt;
2. Where the applicant or the responsible person has violated the provisions set out in Article 46, Article 47, Article 48 or Article 49 and the case is not executed;

3. Where the applicant or the responsible person has been adjudicated guilty by a final judgment or the case is executed for his/her commitment of the offence defined in Article 46, Article 47, Article 48 or Article 49 hereof; or he/she has been adjudicated guilty by a final judgment in violation of the Taxation Law, and the execution of any of the said judgment has not been completed; or the duration of time elapsed after the completion of the execution of such judgment is less than two years, or after expiration of the duration of suspension of punishment is less than two years, or after remittance of the punishment is less than two years;
4. Where the duration elapsed after the tobacco/alcohol producer incorporation permit issued to the applicant has been revoked or invalidated by the central competent authority is less than three years;
5. Where the applicant or the responsible person had acted as the responsible person of a tobacco/alcohol producer, and the duration elapsed after the incorporation permit of the tobacco/alcohol producer was revoked or invalidated by the central competent authority is less than three years;
6. Where the contents provided in the production and business operation plan are insufficient to realize the objective of such business plan; or
7. Where the documents submitted along with the application for incorporation are incomplete or the contents contained therein are insufficient, and such deficiencies have not been supplemented or corrected after expiry of a deadline date given by a notice or the supplement made is still insufficient.

### Article 13

The following matters shall be specified on the tobacco/alcohol manufacturing permit license: 1. name of producer;

2. types of products;

3. total capital;

4. head office and factory locations;

5.name of the responsible person; and

6.any other matters required to be specified by the central competent authority.

#### Article 14

To establish additional factory, a tobacco/alcohol producer shall specify in writing the location of the factory and apply to the central competent authority for permission; and such factory may not operate prior to receipt of an establishment permit.

#### Article 15

Where a tobacco/alcohol producer intends to make any change/alteration to the type of product, location of the factory or its responsible person, it shall apply to the central competent authority for an approval, and shall, within fifteen days from the date of such change/alteration, apply to the central authority for issuance of a new permit license.

Where a tobacco/alcohol producer has made any change/alteration to the name of its enterprise, the total amount of its capital stock, the location of its head office, or to any particulars as set forth in Item 6, Article 13 hereof, it shall, within fifteen days from the date of such change/alteration, file a report with the central competent authority of such change/alteration for its recordation and at the same time apply for issuance of a new permit license accordingly.

#### Article 16

Where a tobacco/alcohol producer dissolves or terminates its tobacco/alcohol operation; the tobacco/alcohol producer shall surrender the permit license to the central competent authority for invalidation thereof within fifteen days from the date of its dissolution or business termination. For a tobacco/alcohol producer who fails to surrender the permit license upon expiry of the foregoing time limit, the central competent authority may make a public announcement to revoke the permit license.

#### Article 17

For the tobacco/alcohol producer whose permit license was revoked or invalidated, the central competent authority shall notify such producer to surrender the permit license within a given time limit. If the permit license is not surrendered within the given time limit, the central competent authority shall make a public announcement to revoke the permit license.

### Article 18

Where an existing company, partnership, or a wholly-owned enterprise applies for incorporation as a tobacco/alcohol importer, an application accompanied by the following documents shall be filed with the central competent authority for its permission. The tobacco/alcohol importer may commence its business operation only after having been approved and issued with a permit license, and shall subsequently complete the procedure for alteration to registration of its company/business by supplying the following documents:

1. an application for permission for incorporation as an importer of tobacco/alcohol;
2. the company or business registration certificate; and
3. other documents as required by the central competent authority.

Where a company, partnership, or a wholly-owned enterprise being prepared for incorporation applies for incorporation as an a tobacco/alcohol importer, it shall first submit the documents as required in Items 1 and 3 of the preceding paragraph along with an application for a permit for preparation for incorporation to be filed with the central competent authority, and shall subsequently, after having obtained the company or business registration certificate, submit all the foregoing documents along with an application to the central competent authority for its approval and issuance of a tobacco/alcohol importer permit license.

### Article 19

Under any of the following circumstances, an application filed for incorporation of a tobacco/alcohol importer shall be disapproved by the central competent authority:

1. where the applicant or the responsible person is a minor, or an interdicted person, or a bankrupt;
2. where the applicant or the responsible person has violated the provisions set out in Article 46, Article 47, Article 48 or Article 49 hereof and the case is not executed;
3. where the applicant or the responsible person has been adjudicated guilty by a final judgment or whose case is in proceedings in regard to his/her commitment of the offence defined in Article 46, Article 47, Article 48 or Article 49 hereof; or he/she has been adjudicated guilty by a final judgment in violation of the Taxation Law, and the execution of any of the said judgment has not been completed; or the duration of time elapsed after the completion of the execution of such judgment is less than two years, or after expiration of the

duration of suspension of punishment is less than two years, or after remittance of the punishment is less than two years;

4 Where the duration of time elapsed after the incorporation permit of the tobacco/alcohol importer issued to the applicant has been revoked or invalidated by the central competent authority is less than three years;

5 Where the applicant or the responsible person had acted as the responsible person of a tobacco/alcohol importer, and the duration of time elapsed after the incorporation permit of the tobacco/alcohol importer was revoked or invalidated by the central competent authority is less than three years;

6. Where the documents submitted with the application for incorporation are incomplete or the contents contained therein are insufficient, and such deficiencies have not been supplemented or corrected after expiry of a deadline date given by a notice or the supplement made is still insufficient.

#### Article 20

The permit license for tobacco/alcohol importer shall specify the following matters:

1. name of business;
2. types of products;
3. location of the head office;
4. name of the responsible person; and
5. any other matters required to be specified by the central competent authority.

#### Article 21

Where a tobacco/alcohol importer intends to make any change or alteration to its scope of business or the name of its responsible person, the importer shall apply to the central

competent authority for approval; and shall, within fifteen days from the date of such change or alteration, apply to the central competent authority for a new permit license.

Where a tobacco and/or alcohol importer intends to make any change or alternation to the name of the importer, the location of its head office, or to any of the particulars as set forth in Item 5 of the preceding article required by the central competent authority, an application for recordation of such changes/alterations and for issuance of a new permit license shall be filed with the central competent authority within fifteen days from the date of such change or alteration.

#### Article 22

Where a tobacco/alcohol importer dissolves or terminates its tobacco/ alcohol business, the tobacco/alcohol importer shall surrender the permit license to the central competent authority for invalidation thereof within fifteen days from the date of such dissolution or business termination. For an importer who fails to surrender the permit license upon expiry of the foregoing time limit, the central competent authority may make a public announcement to revoke the permit license.

#### Article 23

For the tobacco/alcohol importer whose permit license was revoked or invalidated, the central competent authority shall notify such importer to surrender the permit license within a given time limit. If the permit license is not surrendered within the given time limit, the central competent authority shall make a public announcement to revoke the permit license.

#### Article 24

The central competent authority may entrust to the competent authority of the municipal or county (city) government the administration of matters relating to the establishment, changes of the registered information, or dissolution of the tobacco/alcohol importer, or other matters relating to such approval.

#### Article 25

No person under any of the following circumstances shall be qualified as a tobacco/alcohol seller:

1. Where the responsible person is a minor, or an interdicted person, or a bankrupt;
2. Where the applicant or the responsible person has been adjudicated guilty by a final judgment or whose case is in proceedings in regard to his/her commitment of the offence defined in Article 46, Article 47, Article 48 or Article 49 hereof; or he/she has been adjudicated guilty by a final judgment in violation of the Taxation Law, and the execution of any

of the said judgment has not been completed; or the duration of time elapsed after the completion of the execution of such judgment is less than two years, or after expiration of the duration of suspension of punishment, or after remittance of the punishment is less than two years.

### CHAPTER III: Administration of the Sanitation of Tobacco and Alcohol Products

#### Article 26

The maximum level of nicotine and tar in tobacco shall not exceed the limits set by the Law Governing the Prevention of Tobacco Hazards.

#### Article 27

Hygiene of alcohol products shall comply with the hygiene standards and the relevant regulations prescribed jointly by the central competent authority and the central health authority.

The hygiene condition of alcohol products containers shall conform to the relevant hygiene standards as prescribed jointly by the central competent authority and the central competent health authority.

#### Article 28

The work places, facilities and quality assurance system to be used by any tobacco/alcohol in performing the manufacturing, processing, preparing, packaging, transporting, storing, and/or blending operations shall meet the sanitation standards as prescribed jointly by the competent central authority and the central health authority.

The buildings and equipment to be used by a tobacco/alcohol production/manufacture factory shall meet the factory establishment standards as prescribed jointly by the central competent authority, the central health authority and the industrial authority.

### CHAPTER IV: Production, Importation and Sale of Tobacco and Alcohol Products

#### Article 29

Manufacturers other than a tobacco/alcohol producer shall not accept any contract to produce tobacco/alcohol products for any other persons.



A tobacco/alcohol producer shall, when accepting a commission from another business operator to produce tobacco/alcohol products for it, comply with the qualifications as set by the central competent authority.

The tobacco/alcohol producer to comply with the preceding paragraph shall apply to the central competent authority for approval and may proceed to produce only after obtaining the approval.

### **Article 30**

Any tobacco/alcohol producer which repackages tobacco/alcohol products for sale shall not change the original brand of such tobacco/alcohol products, and shall obtain a written authorization from the original producer of such tobacco/alcohol products for such repackaging operation.

For the tobacco/alcohol products to be imported for repackaging and sale, the certificates of origin issued by the government of the country wherein such products are produced or the appropriate chamber of commerce authorized by such foreign government shall be presented along with the products at the time of importation thereof.

A timetable for revising the tobacco/alcohol products repackaging operation and sale by tobacco/alcohol producers shall be determined by the central competent authority separately in respect of different classes/categories of tobacco/alcohol products.

### **Article 31**

Methods of sale by which a buyer's age can not be identified, such as by vending machine, postal sale or electronic sale, etc. cannot be used in the distribution and sale of alcohol products. Tobacco/alcohol products whose expiration date or storage life has expired shall not be put to sale.

The distribution and sale of tobacco shall comply with the Law Governing the Prevention of Tobacco Hazards.

## **CHAPTER V: Administration of Labeling and Advertising and Promotion of Tobacco and Alcohol Products**

### **Article 32**

For distribution and sale of packaged tobacco products, producers or importers shall specify the following particulars on the label affixed directly on the tobacco containers:

1. brand name;
2. name and address of producer: for imported tobacco products, importers' names and addresses shall also be included; for tobacco products produced by a contractor under Paragraph Three, Article 29 hereof, the name and address of the commissioning party shall also be included; for tobacco products repackaged for sale in accordance with the provisions set out in Paragraph One, Article 30 hereof, the name and address of the repackaging producer shall also be included;
3. weight or quantity;
4. major raw materials;
5. content of nicotine and tar;
6. health warning;
7. expiration date or date of production, and where the date of production is labeled, the storage life of the products shall also be indicated; and
8. other labeling required to be included by the central competent authority.

The labels affixed on the containers and external packages of tobacco products shall not contain any false or misleading statements.

With regard to the nicotine and tar contents and the health warnings which must be labeled under items 5 and 6 of Paragraph One of this Article, the relevant labeling rules and penal clauses as provided for in the Law Governing the Prevention of Tobacco Hazards shall govern. The labeling requirements as set out in Item 8, Paragraph One of this Article shall come into force after elapse of eighteen months from the date such requirements are published in a public notice given by the central competent authority.

### Article 33

For distribution and sale of packaged alcohol products, producers or importers shall specify the following on the label affixed directly on alcohol containers:

1. brand name;
2. product type;
3. alcohol content;
4. origin of product;
5. name and address of producer; for imports, importers' names and addresses shall also be stated; the name and address of the commissioned party as prescribed in Paragraph Three, Article 29 of this Law shall also be stated; the name and address of the repackaging producer as prescribed in Paragraph One, Article 30 of this Law shall also be stated;
6. volume;
7. for alcohol products having an alcohol content of 7% or less, the expiration date or bottling date, and the period of storage after production shall also be included if the bottling date is indicated on the label;
8. "Excessive drinking endangers health." or other health warnings;
9. other labeling required to be included by the central competent authority.

Producers and importers may label the year, age, or geographical indication of the wine and spirits.

In case the external space of a container or external packaging of an alcohol product is too small to accommodate a label to be affixed thereon according to Paragraph One, a labeling

tag may be used for the purpose of labeling.

No false or misleading statements may be made in labeling on the container or external packaging and or brochure introduction of alcohol products. The geographical indication of the alcohol product shall not be used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like, to convey erroneous impression or inference as to the origin of the alcohol product, even where the true origin of the product is indicated.

The regulations governing labeling shall be prescribed by the central competent authority. The labeling requirement as referred to in Item 9, Paragraph One of this Article will be made effective eighteen months after announcement by the central competent authority.

#### Article 34

The Chinese language shall prevail, other languages will be as secondary on labels of tobacco and alcohol; with the exception of products intended for export.

When tobacco and alcohol for export is changed for domestic sale, or imported tobacco and alcohol is sold, Chinese labels shall be added.

The following particulars to be labeled on tobacco/alcohol products may not be made in Chinese characters:

1. the brand name and the name and address of the foreign producer of imported tobacco/alcohol products; and
2. the name and address of the foreign commissioning enterprise which are required under Item 2, Paragraph One, Article 32 or Item 5, Paragraph One of the preceding Article of this Law.

#### Article 35

Products which are not tobacco or alcohol referred to in this Law, shall not be labeled or advertised as tobacco or alcohol, or in a manner which may mislead people into identify such products as tobacco or alcohol.

### Article 36

The advertising and promotion of tobacco shall comply with the relevant provisions of the Law Governing the Prevention of Tobacco Hazards.

### Article 37

Advertising and promotion of alcohol shall be labeled with a conspicuous warning "Excessive Drinking Endangers Health" or other warning, and shall not involve any of the following:

1. violate public order and good morals;
2. encourage or advocate consumption of alcohol;
3. harm adolescents, promote the consumption of a pregnant woman by mental and physical well being;
4. contain deceptive, exaggerated, distorted facts or contents be easily misinterpreted; or
5. others announced to be prohibited by the central competent authority.

## CHAPTER VI: Inspection and Seizure

### Article 38

The competent authority shall send officials to inspect the tobacco/alcohol business in respect of the matters governed by this Law. The inspector(s) may, as it is deemed necessary, require the business operators to provide accounting books and records, evidentiary documents, and other necessary information; and may take samples, to which the examinees shall not refuse, evade, or impeded; provided, however, that the quantity of samples to be taken shall be limited to what the inspection requires.

Upon presentation of the accounting books and records, evidentiary documents, and other necessary documents by the tobacco/alcohol business undergoing inspection in accordance

with the provisions set out in the preceding Paragraph, the competent authority conducting such inspection shall issue a receipt to the provider, and shall return such documentation to the provider within seven (7) days from the date such documentation is fully provided except that the business is suspected to violate the provisions set out in this Law; subject to an extension of seven (7) days thereof under extraordinary situation.

### Article 39

The competent health authority may conduct a spot-check of the business operations, sanitary measures, and relevant records of any tobacco or alcohol product producer, and may take samples and seize relevant records in question when necessary, which actions the producer shall not refuse, evade or impede, provided, however, that the quantity of samples to be taken shall be limited to what the inspection may require.

If necessary, the inspection required in the preceding paragraph may be conducted jointly by the competent health authority and the other competent authorities.

Import of foreign alcohol products may be permitted only after such imported alcohol products have been inspected by the central competent authority for their conformity to the standard hygienic requirements.

The inspection set forth in the preceding paragraph may be conducted by means of lot-to-lot inspection, lot-sampling inspection, or release after documentary examination.

For imported alcohol products, with the exception for undenatured ethyl alcohol, in any of the following conditions, inspection may be conducted on the basis of release-after-documentary examination:

1. alcohol products that have been previously inspected and found to be conformity with the standard hygiene requirement; or
2. alcohol products other than those sampled for inspection; or
3. alcohol products accompanied by test reports, inspection certificates or relevant examination and verification certificates issued for that particular lot of alcohol products by the authority (institution) of nations having reciprocal recognition relations with the Republic of China.

The central competent authority may authorize another agency (institution) to execute the inspection of alcohol products set forth in Paragraph Three of this Article. Regulations governing such authorization and the inspection shall be prescribed jointly by the central competent authority and the competent health authority.

#### Article 40

The inspection officials referred to in the preceding two articles shall present identification documents when conducting inspection.

#### Article 41

The competent authority may seal up for storage or seize the illegal tobacco/ alcohol, disqualified tobacco/alcohol, which is suspected to be in violation of this Law and take samples for examination. If the product may continuously ferment or injure the environment, the competent authority may take necessary procedures in handling.

The examination referred to in the preceding paragraph may be entrusted by the competent authority to the competent health authorities or other appropriate authorities or organizations.

#### Article 42

If the competent authority or the competent health authority discovers that the tobacco/alcohol products produced/manufactured or imported by a tobacco/alcohol producer or importer may cause serious injury to human health, the competent authority shall publicly announce a prohibition of the production/manufacture, importation, sale of, or otherwise dispose of such products.

The competent authority shall publicly announce a prohibition of the consumption of tobacco and alcohol referred to in the preceding paragraph, and order its producer or importer to recall and destroy the product within a specified time period. The tobacco and/or alcohol wholesaler and retailer shall comply with such recall and destruction order. Such recall and destruction may be enforced by the competent authority on behalf of the producer or the importer thereof; with any costs being entailed thereby such producer or importer. The injured victims may seek for compensation.

#### Article 43

The competent authority and health authority, when conducting inspection or launching a crackdown in accordance with this Law, may request the assistance by the police or other police agencies.

#### Article 44

Where an informant reports or assists to uncover tobacco and/or alcohol products or tobacco and/or alcohol business violating this Law, the name of the informant shall be kept in strictly confidential and the informant may be rewarded.

The provisions governing the reward referred to in the preceding paragraph shall be prescribed by the central competent authority.

#### Article 45

Tobacco, alcohol and raw materials and equipment for their production, which are confiscated under this Law or other Laws may be destroyed or disposed of in other manners.

### CHAPTER VII: Penal Provisions

#### Article 46

Any person who produces or imports illegal tobacco/alcohol products shall be punished by a fine of between NT\$ 100,000 to NT\$ 1,000,000; however, the producer will be punished by a fine equal to one to five times the market value in the case that the market value of the offending product(s) is/are above NT\$1,000,000 at the time when it/they were uncovered.

No punishment will be imposed provided that the quantity of illegal tobacco/alcohol products produced does not exceed a specific limit of quantity; and that such products are produced for own/personal use.

The central competent authority shall announce the specific amount set in the preceding Paragraph One of this Article.

Any person who imports illegal tobacco/alcohol products shall be punished by imprisonment for a period of up to 2 years, or by detention; further in lieu thereof or in addition thereto, a fine of between NT\$ 200,000 and NT\$ 2,000,000 may be imposed.



#### Article 47

Any person who sells, transports, transfers, or displays with the intention of selling illegal tobacco/ alcohol products shall be punished by a fine of between NT\$ 50,000 and NT\$500,000; however, the violator will be punished by a fine equal to one to five times the market value in the case that the market value of the offending product (s) is/are above NT\$500,000 at the time when it/they were uncovered.

#### Article 48

Any person who produces or imports disqualified tobacco/alcohol products shall be punished by a fine of between NT\$ 300,000 and NT\$3,000,000; however, the producer or importer will be punished by a fine equal to one to five times the market value in the case that the market value of the offending product(s) is/are above NT\$3,000,000 at the time when it/they were uncovered.

If the produced or imported disqualified tobacco/alcohol products, prescribed in the preceding paragraph, contain the material which may seriously injure people's health, any person who produces or imports disqualified tobacco/alcohol products shall be punished by imprisonment for a period up to 3 years, or by detention, in lieu thereof or in addition thereto, a fine of between NT\$ 300,000 and NT\$ 3,000,000 may be imposed.

#### Article 49

Any person who sells, transports, transfers, or displays with the intention of selling illegal or disqualified tobacco or alcohol products shall be punished by a fine of between NT\$ 200,000 and NT\$2,000,000; however, the producer or importer will be punished by a fine equal to one to five times the market value in the case that the market value of the offending product(s) is/are above NT\$2,000,000 at the time when it/they were uncovered.

If the illegal or disqualified tobacco or alcohol products, prescribed in the preceding paragraph, contain the material which may seriously injure people's health, any person who sells, transports, transfers, or displays with the intention of selling illegal or disqualified tobacco or alcohol products shall be punished by imprisonment for a period up to 2 years, or by detention, in lieu thereof or in addition thereto, a fine of between NT\$ 200,000 and NT\$ 2,000,000 may be imposed.

#### Article 50

Where the representative of a juridical person, or agent, employee or other workers of a juridical person or natural person, commits any one or more of the crimes as set forth in

Paragraph 4, Article 46 and the two preceding articles of this Law during discharge of their responsibility, such person(s) as described above shall be punished by the penal provision of each Article; and whether by penal provision /or by fine to the amount set forth in each Article.

#### Article 51

Where the responsible person of a permitted tobacco/alcohol producer is discovered under any of the following circumstances, the central competent authority may order the producer to change its responsible person within a given time limit; and may further revoke or invalidate its incorporation permit:

1. under any of the circumstances prescribed in Items 1 through 5, Article 12 of this Law; or
2. having been adjudicated guilty by a final judgment or the case is executed for his/her commitment of the offence set forth in Article 46, Article 47, Article 48 or Article 49 of this Law.

#### Article 52

Where the responsible person of a permitted tobacco/alcohol importer acts or is discovered acting under any of the following circumstances, the central competent authority may order the importer to change its responsible person within a given time limit, and may further revoke or invalidate its incorporation permit:

1. under any of the circumstances prescribed in Items 1 through 5 of Article 19; or
2. having been adjudicated guilty by a final judgment or where the case is in the process of execution for his/her commitment of the offence set forth in Article 46, Article 47, Article 48 or Article 49 of this Law.

#### Article 53

Where the responsible person of a registered alcohol products seller is discovered acting under any of the following circumstances, the competent authority may order the seller to change its responsible person within a given time limit, and may further revoke or invalidate its incorporation permit:

1. under any of the circumstances set forth in any of the Items of Article 25 of this Law; or

2. having been adjudicated guilty by a final judgment or where the case is in the process of execution for his/her commitment of any of the offences set forth in Article 46, Article 47, Article 48 or Article 49 of this Law.

Where the responsible person violates the provisions set out in Item 1 of the preceding paragraph, the competent authority may order the seller to change its responsible person within a given time limit, and he or she may also be imposed with a fine of not less than NT\$ 50,000 but not more than NT\$100,000.

#### Article 54

Any tobacco/alcohol producer or importer who violates the labeling requirements set out in Article 32, 33 or 34 of this Law in course of its production/manufacture or importing operations shall be imposed with a fine of not less than NT\$ 100,000 but not more than NT\$ 500,000 each time upon confirmation of its performance of such act in violation of the law, and shall be ordered to recall the products and correct the labeling within a given time limit. If such tobacco/alcohol producer or importer fails to do so upon expiry of the time limit, the competent authority shall suspend production or importation operations for a period from six months to one year, and shall confiscate those tobacco and/or alcohol products that were produced/manufactured in violation of this Law.

Any who sells, transfers, or displays with the intention of selling the tobacco/alcohol products not conforming to the labeling requirements set out in this Law shall be imposed with a fine in an amount of one to five times the market value of the unlawful products at the time when it/they were uncovered, and such unlawful products shall be confiscated.

#### Article 55

Any person who advertises or promotes the sale of alcohol products in a manner violating the provisions set out in Article 37 of this Law shall be imposed with a fine of not less than NT\$ 100,000 but not more than NT\$ 500,000, and shall be ordered to take corrective measures within a given time limit; if he/she fails to do so upon expiry of the time limit, he/she shall be subject to the same punishment for each subsequent violation of this clause.

For any television, broadcast, newspaper, magazine or publication enterprise which broadcasts or publishes advertisement of alcohol products in violation of the provision of Article 37 of this Law, the competent information authority shall impose on the violator a fine of not less than NT\$ 100,000 but not more than NT\$ 500,000, and shall order such party to take corrective measures within a given time limit; if the party fails to do so, the fine may be imposed on the violator for each subsequent violation of this Article.

## Article 56

A fine of between NT\$ 50,000 and NT\$ 250,000 may be imposed in any of the following circumstances:

1. violations of the regulations prescribed pursuant to Paragraph 4, Article 4 of this Law;
2. violation of the specific annual amount as provided pursuant to Paragraph 2, Article 9 of this Law;
3. violation of the provision set out in Paragraph 1, Article 11 of this Law by producing alcohol products in excess of the specific annual amount ; or by producing alcohol products for other persons or repackaging alcohol products for sale;
4. violation by a tobacco/alcohol producer of the provisions of Paragraph 1, Article 15 of this Law;
5. violation by a tobacco/alcohol importer of the provision of Paragraph 1, Article 21 of this Law;
6. violation of the container sanitation standards as specified in Paragraph 2, Article 27 of this Law;
7. violation by a tobacco/alcohol producer of the hygiene standards as specified in Paragraph 1, Article 28 of this Law;
8. violation of the provisions set out in Paragraph 3, Article 29 of this Law by producing tobacco/alcohol products for other persons;
9. violation by a tobacco/alcohol producer of the provisions set out in Paragraph 2, Article 31 of this Law by selling tobacco/alcohol products whose expiration date or the storage life of which has expired;
10. violations of the provisions of Article 35 of this Law in connection with labeling or promotion;
11. violation by a tobacco/alcohol business of this Law by refusing, evading or impeding the inspection or examination conducted by the competent authority in accordance with the

provisions of Article 38 or by the competent health authorities in accordance with the provisions of Article 39 of this Law; or

12. violation of the Provisions of Paragraph 2, Article 42 of this Law by failing to recall and to destroy within the time limit given by the competent authority those tobacco/alcohol products that may cause serious injury to human health.

The tobacco and/or alcohol producer or importer subject to the conditions set forth in Items 4, 5, 8, 9, or 12 of the preceding paragraph, shall be notified to take corrective measures or to recall and destroy the products within a given time limit. If such producer or importer fails to comply with the terms of such notification, fines may be imposed per instance successively. Subject to the imposition of the fines as set out in Items 2, 3, 7, or 8, Paragraph One of this Article, the incorporation permit certificate previously issued to the alcohol producer which has violated the provisions set out in Paragraph 2, Article 9; the specific annual amount in Paragraph 1, Article 11; the sanitation standards as specified in Paragraph 1, Article 28; or the provisions of Paragraph 3, Article 29 of this Law shall also be invalidated.

Subject to the imposition of a fine under Item 1, Paragraph One of this Article, the central competent authority may also prohibit the violator of the regulations prescribed under Paragraph Four, Article 4 of this Law from producing/manufacturing, importing or selling alcohol products for a period of not less than six months but not more than one year following the imposition of the fine.

#### Article 57

Under any of the following circumstances, the violator shall be imposed with a fine of not less than NT\$ 10,000 but not more than NT\$ 50,000:

1. violation by a tobacco/alcohol producer or importer of the provisions set out in Paragraph 2, Article 15 or Paragraph 2, Article 21 of this Law;

2 where the alcohol products are being sold in a manner violating the provisions set out in Paragraph 1, Article 31 of this Law.

The violator of the provisions set out in Item 2 of the preceding paragraph may also be imposed with a fine successively on a daily basis until the act performed in violation of the law is ceased.

#### Article 58

Any illegal tobacco/alcohol products, disqualified tobacco/alcohol, and the equipment used for the processing of the raw materials, and alcohol containers used for the production of the illegal and/or tobacco/alcohol products being attached under this Law shall be seized or confiscated.

### CHAPTER VIII: Supplementary Provisions

#### Article 59

When the fine imposed under this Law is overdue, the case shall be referred to the court for compulsory execution.

#### Article 60

In order to effect an upgrading in the quality of tobacco/alcohol products, the competent authority may authorize other authorities (institutes) to perform quality certification and examination activities in relation to tobacco/alcohol products.

#### Article 61

The competent authority authorized to process the applications, registrations, and to issue or re-issue (supplement or substitute) licenses pursuant to the provisions of this Law shall collect registration, examination and certification fees. The competent authority may collect annual licensing fees from tobacco/alcohol producers and/or the persons/entities authorizing others to produce/manufacture tobacco/alcohol products for them. The standard rate of charge of such fees shall be formulated and decided by the central competent authority.

#### Article 62

The enforcement rules of this Law shall be prescribed by the central competent authority.

#### Article 63

The implementation date of this Law shall be decided by the Executive Yuan.



## Enforcement Rules of the Tobacco and Alcohol Administration Act

Full text of 25 articles approved by the Executive Yuan with Letter Tai (89) Tsai-Tzu No. 36097 on December 29, 2000

Full text of 25 articles enacted and promulgated by the Ministry of Finance with Order Tai-Tsai-Ku-Tzu No. 0890351436 on December 30, 2000

Full text of 31 articles amended and approved by the Executive Yuan with Letter Yuan-Tai-Tsai-Tzu No. 0930015723 on May 27, 2004

Amended and promulgated by the Ministry of Finance with Order Tai-Tsai-Ku-Tzu No. 09303509880 on June 29, 2004

### Article 1

These Enforcement Rules are prescribed in accordance with Article 62 of the Tobacco and Alcohol Administration Act (hereinafter referred to as the "Act").

### Article 2

"Tobacco" set forth in Article 3, Paragraph 1 of the Act is classified into the following categories:

1. Cigarettes: Tobacco products made of cut, processed tobacco leaves wrapped in tobacco paper, with or without filter tip.
2. Cut tobacco: Finely cut and processed tobacco leaves used for smoking.
3. Cigars: Long rolls of processed tobacco leaves with the filler leaves making up the center of rolled cigars which are covered with binder leaves and then wrapper leaves, or unrolled cigars primarily made of cigar leaves, giving off a distinctive aroma of cigar.
4. Snuff: Tobacco added with spices, and then dried and ground into powder used for smelling or application on gums or tongue apex.
5. Chewing tobacco: Irregular small lumps or pieces of tobacco made from tobacco leaves soaked in spiced juice, used for chewing.



6. Other tobacco products: Those other than the products set forth in the preceding 5 subparagraphs.

The term "tobacco substitutes" used in Article 3, Paragraph 1 of the Act shall refer to other natural plants and processed products containing nicotine, used as substitutes for tobacco.

### Article 3

"Alcohol" set forth in Article 4, Paragraph 1 of the Act is classified into the following categories:

1. Beer: Saccharized and fermented carbonated alcoholic beverages brewed from malt and hops as primary raw materials, with or without other grains or starch as supplementary raw materials; complementary plant ingredients may or may not be added.
2. Wine: Following alcoholic beverages are brewed from fermented fruits as raw materials:
  - (1) Grape wine: Wine brewed from grapes as raw materials;
  - (2) Other fruit wine: Wine brewed from fruits other than grapes, or from two or more kinds of fruits, as raw materials.
3. Beverages brewed from grains: Saccharized and fermented alcoholic beverages brewed from grains as raw materials.
4. Other brewed alcoholic beverages: Brewed alcoholic beverages other than those set forth in the preceding three subparagraphs.
5. Distilled spirits: The following spirit drinks made from fruit, grain, or starch- or sugar-containing plants by saccharification or not, fermentation, and then distillation:
  - (1) Brandy: Distilled spirits made from fruit by fermentation, distillation and maturation in wooden casks for at least six months, with an alcohol content of not less than 36 percent.
  - (2) Whisky: Distilled spirits made from grain by saccharification, fermentation, distillation and maturation in wooden casks for at least two years, with an alcohol content of not less than 40 percent.
  - (3) Clear spirits: Distilled spirits made from grain as raw materials by saccharification, fermentation, distillation, maturation, and blending, using various yeast or enzyme and ferments.
  - (4) Rice spirits: Distilled spirits made from rice as raw materials by saccharification, fermentation, distillation, maturation, and blended with or without ethyl alcohol.

- (5) Other distilled spirits: Distilled spirits other than those set forth in the preceding four items.
6. Reprocessed alcoholic beverages: Alcoholic beverages utilizing ethyl alcohol, brewed alcoholic beverages or distilled spirits as a base, added with complementary animal or plant ingredients, medicinal materials, minerals or other food additives for reprocessing, and having an extract content of not less than two percent of the total volume.
7. Cooking alcoholic beverages: Alcoholic beverages made for cooking from grains or other starch-containing plants added with ethyl alcohol after saccharification as a base, or using ethyl alcohol, fermented alcohol or distilled spirits directly as a base with a salt content of more than 0.5%, and added with or without other flavors. The aforesaid salt content of more than 0.05% shall refer to that each 100 ml of cooking alcoholic beverages contains more than 0.5 g of salt.
8. Ethyl alcohol: Undenatured ethyl alcohol with an alcohol content of more than 80 percent as follows:
- (1) Ingestible ethyl alcohol: Undenatured ethyl alcohol made from grains, potatoes, beets or honey by fermentation and distillation, with an alcohol content of more than 80 percent.
- (2) Non-ingestible ethyl alcohol: Undenatured ethyl alcohol other than ingestible ethyl alcohol set forth in the preceding sub-item, with an alcohol content of more than 80 percent.
9. Other alcoholic beverages: Other kinds of alcohol not included in those set forth in the preceding eight subparagraphs.

#### Article 4

The "repackaging" set forth in Article 5, Paragraph 2 of the Act shall refer to unsealing bulk tobacco or alcohol or such product packed in larger weight, quantity or volume for repackaging or putting into smaller packages or bottles without conducting any manufacturing or processing activities.

The processing activities referred to in the preceding paragraph shall exclude those processing activities with the authorization of the original manufacturers and not changing the original brands.

#### Article 5

"Tobacco and alcohol products manufactured or imported without permission" set forth in Article 6 of the Act shall refer to tobacco and alcohol

products falling into any of the following situations:

1. Tobacco and alcohol products imported by persons who fail to obtain tobacco or alcohol importers' permit licenses in accordance with the Act.
2. Tobacco and alcohol products manufactured by persons who fail to obtain tobacco or alcohol manufacturers' permit licenses in accordance with the Act.
3. Tobacco and alcohol products manufactured after the central competent authority revoke or abolish the permission or the relevant importers' permit licenses have been nullified.
4. Tobacco and alcohol products manufactured or imported that are forbidden or ceased by the competent authority.
5. Tobacco and alcohol products manufactured by the tobacco and alcohol manufacturers at places other than the factory locations listed on the permit licenses.

Tobacco and alcohol products as referred to in Subparagraph 2 of the preceding Paragraph do not include tobacco and alcohol samples not for sales and attached with research or trial manufacture records and not wrapped in commercialized packages.

#### Article 6

The annual output set forth in Article 9, Paragraph 2 of the Act includes alcohol products manufactured under the commission of another person or manufactured by another person under commission.

#### Article 7

The term agricultural organizations set forth in Article 10, Paragraph 1 of the Act shall refer to farmers' associations, agricultural production and marketing departments, cooperative farms, or other agricultural organizations.

#### Article 8

The alteration date of the name of manufacturer, total capital, head office locations, name of the responsible person, and business items as set forth in Article 15 and Article 21 of the Act shall refer to the date when the company or business alteration registration is complete. With regard to agricultural organizations, the alteration date shall refer to the date when the fact occurs.

The alteration date of product type as set forth in Article 15, Paragraph 1 of the Act shall refer to the date when the fact occurs. The alteration date of factory locations shall refer to the date when the factory alteration registration is complete. With regard to those that do not possess factory registration documents, the alteration date shall refer to the date when the fact occurs.

#### Article 9

If deemed necessary, before the central competent authority issues or renews tobacco or alcohol manufacturers' permit licenses, it may request the municipal or county (city) competent authority situated in the head office locations and factory locations of the manufacturers to dispatch personnel to inspect whether the manufacturers manufacture tobacco or alcohol in violation of the Act and to examine on whether the machinery and equipment are consistent with the production and operation plans declared by the manufacturers.

#### Article 10

Where a tobacco or alcohol manufacturer is commissioned to manufacture tobacco or alcohol products set forth in Article 29, Paragraph 3 of the Act, it means that said tobacco or alcohol products are for the commissioning party to sell.

Where a tobacco or alcohol manufacturer reports to the central competent authority for reference in accordance with Article 29, Paragraph 3 of the Act, it shall submit an application form bearing the signatures of the parties' responsible persons and the following documents:

1. Photocopy of the respective tobacco or alcohol manufacturers' permit licenses issued to the commissioned party.
2. The company or business registration documents of the commissioning party.
3. Declarations stating that the commissioning party does not fall under the situations set forth in Article 25 of the Act.

4. The manufacturing commission contract.
5. Photocopy of the factory registration documents of the commissioned party.
6. The commissioned party's tobacco or alcohol tax payment documents for the last one year.
7. Other documents required by the central competent authority.

The application form set forth in the preceding paragraph shall contain the following particulars:

1. Names and the head office locations of the commissioning and commissioned parties and the factory location of the commissioned party.
2. Types, specifications, quantities, and brand name(s) of the tobacco or alcohol products to be manufactured under such commission.
3. Term of the manufacturing commission.
4. Other particulars required by the central competent authority.

#### Article 11

The addresses as referred to in Article 32, Paragraph 1, Subparagraph 2 and Article 33, Paragraph 1, Subparagraph 5 of the Act shall include the contents sufficient for identification and contact by consumers.

The major raw materials as referred to in Article 32, Paragraph 1, Subparagraph 4 of the Act shall listed in a decreasing order according to their respective proportions.

#### Article 12

The false labels leading people to misidentify tobacco or alcohol products set forth in Article 35 of the Act shall refer to words or patterns used on the inside or outside packages of some products that are likely to lead people to mistake such products for tobacco or alcohol products.

#### Article 13

The term “advertising” as referred to in Article 37 of the Act shall mean propagating the content of promotion to unspecified majority by utilizing television, broadcasting, films, slides, newspapers, magazines, flyers, posters, signboards, memorial archways, computers, fax, electronic videos, electronic voice, or other means.

Prohibiting alcohol products, pasting posters, or using words or patterns to label or describe the sales alcohol products inside of the business places to sell alcohol products, if not expanding to other places or floors and taking people who enter the room as targets, shall not be subject to the term “advertising” or “promotion” as prescribed in Article 37 of the Act.

#### Article 14

The health warning label on advertising or promotional materials of alcohol products set forth in Article 37 of the Act shall continuously appear thereon and independently occupy 10% of the space of the entire page, and the space for the written characters shall not be smaller than 50% of the space of the background. In the case of TV or other image commercials or promotion, the warning shall appear in an overlapping manner all the time. In the case of merely sound advertisement or promotion, the health warning shall be clearly disclosed by sound.

The color of the warning set forth in the preceding Paragraph shall be in contrast with the background color of the advertising or promotional materials.

#### Article 15

With regard to the provision where advertising or promotion of alcohol shall not contain deceptive, exaggerated, distorted facts or contents that are easily misinterpreted, set forth in Article 37, Subparagraph 4 of the Act, it includes that the advertising or promotion shall not have false or misleading statements or use translation wording, labels of the same category, type, and style, other similar labels, or additional remarks to state that the alcohol is produced from somewhere else. This provision shall apply to those with correct labels of the actual place of origin as well.

#### Article 16

The central, municipal and county/city competent authorities shall set up investigation taskforce(s) to carry out the inspection and seizure activities under Chapter VI of the Act.

#### Article 17

The central competent authority shall conduct the spot check set forth in Article 38, Paragraph 1 of the Act on a random basis, whereas municipal and county/city competent authorities shall do the same at least once every year.

When conducting the spot check under the preceding Paragraph, the inspection officials shall check whether any alteration to the particulars originally declared by a tobacco or alcohol enterprise has been made, or the scope of permission corresponds with its actual business items, or the tobacco or alcohol label complies with or violates the Act.

When conducting the spot check under Paragraph 1, a municipal or county/city competent authority may, in consideration of the actual circumstances, divide its jurisdiction into several areas and check different items at different areas, and then file the results of such spot check with the central competent authority for reference.

Other necessary matters set forth in Article 38, Paragraph 1 of the Act shall include the health inspection reports concerning the nicotine and tar content of tobacco or alcohol issued by the laboratories recognized by the central competent authority with public announcement.

#### Article 18

Where the competent authority takes samples of tobacco and/or alcohol products for examination in accordance with Article 38, Paragraph 1 of the Act, said samples shall be gratuitous. The competent authority shall give the examinee a recipe for the samples.

#### Article 19

After samples of tobacco and/or alcohol products for examination are taken in accordance with Article 39, Paragraph 1 of the Act, the health authority and the tobacco and/or alcohol enterprises concerned shall jointly sign the seals thereon. After the inspection officials give the examinee a receipt for the samples and each of these samples is given a specific code by the inspection officials, such sealed samples shall be collected by the health authority for examination. Upon the conclusion of examination, the enterprises and the competent authorities shall be informed of the results thereof.

#### Article 20

The identification documents to be presented by the inspectors under Article 40 of the Act are as follows:

1. Official letter issued by the authority concerned indicating the term of inspection and the name and title of the inspection official.
2. Employee ID or pass of the inspection official or any other document sufficient to prove that he/she is employed by the authority.

#### Article 21

Where the competent authority takes samples for examination in accordance with Article 41, Paragraph 1 of the Act, Article 19 shall apply *mutatis mutandis*. The competent authority shall, within three days, commission the health authority or relevant authorities or institutions to examine samples delivered for examination in accordance with Article 41, Paragraph 2 of the Act.

#### Article 22

The competent authority shall seize all suspicious illegal or disqualified tobacco and alcohol products found in any crackdown in accordance with Paragraph 1, Article 41 of the Act, or seal up and deliver the same to the original owner or an appropriate person for safekeeping under oath, in case it is inconvenient for the authority to transfer or difficult to keep such products or if samples thereof must be taken for inspection.

When conducting the seizure or sealing-up under the preceding Paragraph, the competent authority shall record the time and place of crackdown, the quantity, the facts of suspected violation, the source, the name of the manufacturer or importer, the day of manufacture, importation or purchase, the



layout of the scene or the storage situation of the warehouse, and have the suspect or the interested party(ies) present at the scene sign or seal the records. If the suspect or such interested party refuses to do so, the fact shall be indicated thereon.

#### Article 23

The "tobacco and alcohol that will seriously injure people's health" as referred to in Paragraph 1, Article 42 of the Act shall mean tobacco and alcohol contaminated or containing ingredients other than the required ones, which are hazardous to human health and have caused or are likely to cause illness to users.

If any seriously injurious tobacco and alcohol is located, the health authority shall give immediate notice to the central, municipal or county (city) competent authority for taking necessary actions.

Upon receiving the notice set forth in the preceding Paragraph, or if any seriously injurious tobacco and alcohol is located, the municipal or county (city) competent authority shall seal up or detain said tobacco and alcohol after checking and recording the finished goods and half-finished goods and shall transfer the case to the judicial authority. Upon announcement of the central competent authority's prohibition against sale of such tobacco or alcohol, the municipal or county (city) competent authority shall conduct spot check of tobacco and alcohol retailers within its jurisdiction so as to ascertain that they have suspended selling the same.

With regard to the tobacco and alcohol set forth in the preceding two paragraph, the municipal or county (city) competent authority shall make public announcement to stop smoking or drinking, order the tobacco and alcohol manufacturers or importers to retrieve and destroy such tobacco and alcohol within a prescribed period, and shall notify the central competent authority. After the prescribed period expires, if any enterprise is found failing to retrieve and destroy said tobacco and alcohol, it shall be punished in accordance with Article 56, Paragraph 1, Subparagraph 12 and Paragraph 2 of the Act.

#### Article 24

The "other disposal manners" set forth in Article 45 of the Act shall refer to any of the followings:

1. Sale by tender;
2. Sale by tender for subsequent re-export;
3. Donation; or
4. For use in research or experiment by academic institutions.

Except for those easily get mildewed or deteriorated, confiscated or appropriated tobacco or alcohol products shall be disposed in accordance with the preceding Paragraph only after the final decision on confiscation or appropriation is handed down.

Tobacco or alcohol confiscated or appropriated due to trademark infringement shall be destroyed

For tobacco or alcohol products disposed of in the manner set forth in Paragraph 1, Subparagraph 1, the document issued by the inspector commissioned by the central competent authority shall be obtained certifying that the nicotine or tar content thereof is within the limit set forth in the Tobacco and Alcohol Control Act or up to the sanitation standard for alcohol shall be obtained.

For tobacco or alcohol products disposed of in the manner set forth in Paragraph 1, Subparagraph 1, the label thereon must meet the requirements in the applicable Acts and regulations when the products are assigned or sold by the successful bidder.

The municipal or county (city) competent authority shall file the disposal situations of confiscated and appropriated tobacco or alcohol products with the central competent authority for reference once every three months.

## Article 25

The competent authority may commission relevant authorities or institutions to dispose of confiscated or appropriated tobacco or alcohol products, and shall handle the disposal expenses and proceeds in accordance with the budget procedures.

## Article 26

Except that penalties of fines set forth in Article 56, Paragraph 1, Subparagraphs 2 to 5, Subparagraph 8, and Article 57, Paragraph 1, Subparagraph 1 of the Act shall be enforced by the central competent authority, the penalties set forth in the Act shall be enforced by the municipal or county (city) competent authority.

## Article 27

Where a fine is imposed on a tobacco or alcohol manufacturer or importer and said enterprise is informed to retrieve and take supplementary measures within a prescribed period in accordance with Article 54, Paragraph 1 of the Act, if the enterprise fails to comply within the deadline, the municipal or county (city) competent authority shall apply to the central competent authority to terminate the manufacture or import for more than six months and less than one year, and shall appropriate the tobacco or alcohol.

The disposition of appropriation set forth in the preceding paragraph shall be conducted by the municipal or county (city) competent authority.

After a fine is imposed on a tobacco or alcohol manufacturer in accordance with Article 56, Paragraph 1, Subparagraph 7 of the Act, the municipal or county (city) competent authority shall apply to the central competent authority to abolish the permission in accordance with Article 56, Paragraph 3 of the Act.

## Article 28

Where the central competent authority revokes or abolishes a tobacco or alcohol manufacturer's permit or forbids or suspends the ethyl alcohol production during a certain period, the central competent authority shall notify the local municipal or county (city) competent authority in conjunction with the competent tax collection agency to dispatch personnel to check the inventory and record the finished goods and half-finished goods of tobacco or alcohol and take the goods under supervision.

After the central competent authority abolishes the permit or forbids or suspends the tobacco or alcohol production during a certain period, the tobacco or alcohol manufacturer may, with regard to those finished goods completed before the day when the permit is abolished or when the production is forbidden or suspended, pay the taxes and sell said goods. The production of the remaining half-finished goods of tobacco or alcohol shall not be continued. Where a tobacco or alcohol manufacturer's permit is revoked, in order to maintain public interest or avoid the beneficiaries' property loss, the provision hereof shall apply *mutatis mutandis*.

#### Article 29

Fees collected by the municipal or county (city) competent authority from service charges for carrying out matters entrusted by the central competent authority in accordance with Article 24 of the Act shall be handed over to the National Treasury. The central competent authority shall handle the entrustment fees in accordance with the budget procedures.

#### Article 30

Formats of the documents set forth in the Act and these Enforcement Rules shall be formulated by the central competent authority.

#### Article 31

The Enforcement Rules shall be enforced as of the date of promulgation.

## Regulations Governing Undenatured Ethyl Alcohol

Full text of 16 articles enacted and promulgated by the Ministry of Finance with Order Tsai-Ku-Tzu-No. 0890351440 on December 30, 2000

Full text of 19 articles amended and promulgated by the Ministry of Finance with Order Tsai-Ku-Tzu-No. 09303509830 on June 29, 2004

### Article 1

The Regulations are enacted pursuant to Article 4, Paragraph 4 of the Tobacco and Alcohol Administration Act (hereinafter referred to as the Act)

### Article 2

The manufacture, importation, and sale of undenatured ethyl alcohol and the addition of denaturant shall be governed by the Regulations.

Other relevant laws and regulations shall apply with regard to those not provided for herein.

### Article 3

Undenatured ethyl alcohol (hereinafter referred to as “ethyl alcohol”) referred to in the preceding article shall mean ethyl alcohol having an alcohol content by volume of over eighty percent (80%) without denaturant.

The alcohol content referred to in the preceding paragraph shall mean the volume percentage of ethyl at 20 degrees Celsius (20°C).

#### Article 4

Ethyl alcohol manufacturers shall be organized in the form of a company limited by shares.

Prior to establishment of an ethyl alcohol manufacturer, an existing company shall submit the following documents to the central competent authority for approval. A company may only produce and operate its business with the permit license after the approval is granted, and shall additionally complete the company alteration registration after receiving said permit license:

1. Application form for the establishment of tobacco/alcohol manufacturing;
2. Evidencing documents of company registration;
3. Evidencing documents of factory registration;
4. Production and operation plans;
5. The satisfactory factory examination report issued by the competent authority of fire control where the factory is located; and
6. Other documents required by the central competent authority.

Where a company during the process of establishment applies for the establishment of an ethyl alcohol manufacturer, it shall first submit the documents as prescribed under Subparagraphs 1, 4, and 6 of the preceding paragraph to the central competent authority for the establishment approval. After receiving the company registration and the factory registration, it shall file said documents along with the satisfactory factory examination report issued by the competent authority of fire control with the central competent authority to apply for the issuance of the ethyl alcohol manufacturing permit license.

#### Article 5

Where the industrial by-product of a company is ethyl alcohol, the company shall apply to the central competent authority for the ethyl alcohol manufacturing permit license in accordance with Article 10 of the Act and the preceding article herein. The company shall begin selling its by-product

after receiving the permit license.

## Article 6

Where an existing company, a partnership or sole proprietorship enterprise applies for the establishment of an ethyl alcohol importer, it shall submit the following documents to the central competent authority for approval. It may only operate with the permit license after the approval is granted, and shall complete the company or business alteration registration after receiving the permit license:

1. Application form for the establishment of tobacco/alcohol importation;
2. Evidencing documents of the company or business registration;
3. Plans regarding the importation of undenatured ethyl alcohol; and
4. Other documents required by the central competent authority.

The plans regarding the importation of undenatured ethyl alcohol as referred to in the Subparagraph 3 of the preceding paragraph shall clearly specify the storage location, transportation plans, route/traffic plans, the origin and purpose of ethyl alcohol, and the sales target.

Where a company, a partnership or sole proprietorship enterprise during the process of establishment applies for the establishment of an ethyl alcohol importer, it shall first submit the documents as prescribed under Subparagraphs 1, 3, and 4 of Paragraph 1 to the central competent authority for the establishment approval. After receiving the company or business registration, it shall file said documents with the central competent authority to apply for the issuance of the ethyl alcohol import permit license.

## Article 7

An ethyl alcohol seller shall submit the evidencing documents of the company, business or other approved operations along with the satisfactory examination reports regarding its sales and storage places issued by the competent authority of fire control to the municipal government or county (city) government located in where the business place is for registration prior to the operation. However, ethyl alcohol manufacturers, importers, and

those who sell ethyl alcohol in accordance with Article 15 with the pharmacy license or pharmaceutical business permit license are not subject to this article.

#### Article 8

The importation of ethyl alcohol shall be limited to the industrial, pharmaceutical, military, processing, or repackaging purposes and shall not be utilized for purposes inconsistent with declaration.

The storage location of imported ethyl alcohol shall be limited to the factory location stated in the tobacco/alcohol manufacturing permit license, pharmaceutical business permit license, or the factory registrations of other industries, or the storage location clearly specified in the plans regarding the importation of undenatured ethyl alcohol prescribed in Article 6, Paragraph 1, Subparagraph 3 hereof.

#### Article 9

Where an ethyl alcohol importer applies to import ethyl alcohol for processing or repackaging, it shall submit the following documents and applies to the central competent authority for approval:

1. For self-processing or repackaging alcohol, the photocopies of the alcohol manufacturing permit license and the satisfactory factory examination report issued by the competent authority of fire control where the factory is located shall be submitted;
2. For other people to process or repackage alcohol, the entrustment contract, the photocopy of the principal's alcohol manufacturing permit license, and the satisfactory factory examination report issued by the competent authority of fire control where the factory is located shall be submitted; or
3. The evidence of place of production issued by the government or chamber of commerce authorized by the government of the place (country) of production or the government or chamber of commerce authorized by the government of the place (country) of exportation;

Where imported alcohol are utilized as self-use raw materials for the industrial, pharmaceutical, and military purposes, the alcohol import permit license may be exempted, however, the following documents shall be submitted during the customs clearance:



1. For industrial purposes excluding alcohol manufacturing and pharmacy: documents of the approval or evidencing the purpose issued by the Industrial Development Bureau, Ministry of Economic Affairs;
2. For industrial purposes of pharmacy: the pharmaceutical business permit license, the permit certificate of the pharmaceuticals, and the approval documents by the central competent authority; or
3. For military agencies, military schools, and military hospitals: documents of the approval or evidencing the purpose issued by the Ministry of National Defense.

When an agency issue documents of approval or evidencing the purpose as referred to in Subparagraphs 1 and three of the preceding paragraph, said agency shall also notify the central competent authority and shall supervise or administer the utilization of imported ethyl alcohol.

#### Article 10

Ethyl alcohol manufacturers, importers, and sellers shall handle affairs concerning the factory establishment, storage equipment, transportation, and labor working environment in accordance with the relevant public safety Acts and regulations, such as the Fire Act, Labor Safety And Health Act, Labor Inspection Act, and Statue Governing Road Traffic, prior to the business operation. However, those who sell ethyl alcohol in accordance with Article 15 with the pharmacy license or pharmaceutical business permit license are not subject to this article.

#### Article 11

Where denaturant is added to denature ethyl alcohol, the denaturation method shall conform to the “Standard Chart of Ethyl Alcohol Denaturant” (Appendix).

Ethyl alcohol denatured without conforming to the provision of the preceding paragraph shall be deemed as undenatured.

#### Article 12

Denatured ethyl alcohol, without reporting to the competent authority for approval, shall not be transformed back to the undenatured status.

### Article 13

Ethyl alcohol manufacturers, importers, and a sellers without the pharmacy license or pharmaceutical business permit license shall fill out the “Monthly Report of the Production, Importation, and Sale of Undenatured Ethyl Alcohol” and the “Sale Detail Statement of Undenatured Ethyl Alcohol” of the previous month and file the same with the local competent authority prior to the tenth (10<sup>th</sup>) day of each month. The local competent authority shall transfer said documents to the central competent authority for review.

When selling more than five (5) liters of ethyl alcohol at a time, the seller shall ask for evidencing documents of purpose and ID from the purchaser for checkup prior to the sale and shall keep said documents for two (2) years for the competent authority to examine.

The evidencing documents of purpose referred to in the preceding paragraph shall mean the following documents:

1. For selling, the documents shall refer to the certificates of selling registered at the municipal government or county (city) government located in where the business place is.
2. For alcohol manufacturing, the documents shall refer to the permit license of alcohol manufacturing.
3. For pharmacy, the documents shall refer to the pharmaceuticals permit.
4. For industries other than alcohol manufacturing and pharmacy, the documents shall refer to the evidencing documents of purpose issued by the competent authorities of relevant businesses.
5. For medical treatment, the documents shall refer to the practice license of the medical institutions.
6. For sanitation and sterilization, the documents shall refer to the company or business registration documents or the documents issued by the agencies, schools, or hospitals.
7. For military, academic, and scientific research, the documents shall refer to those issued by each competent authority or the agency (organization) that utilized ethyl alcohol.

With regard to those that purchase for sanitation and sterilization, if the purchaser purchases over four hundred (400) liters of ethyl alcohol at one time or the same purchaser aggregately purchases over four hundred (400) liters of ethyl alcohol within the same month, in addition to submitting the evidencing documents of purpose prescribed in Subparagraph 6, the purchaser shall also provided the utilization plan. Ethyl alcohol may only be purchased after the competent authority grants its approval.

A purchaser shall use the purchased ethyl alcohol in accordance with the purpose.

#### Article 14

With those who have the pharmacy license or pharmaceutical business permit license, when purchasing more than five (5) liters of ethyl alcohol at one time, Paragraphs 2, 3, and 4 of the preceding article shall apply.

With those whose sales amount accumulates up to four hundred (400) liters, the relevant reports shall be filled and filed with the local competent authority and be transferred to the central competent authority for review prior to the tenth (10<sup>th</sup>) day of each month in accordance with Paragraph 1 of the preceding article.

#### Article 15

With regard to ethyl alcohol used for pharmacy or medical sanitation and sterilization, the inspection specifications shall conform to the standards stipulated in the Chinese Pharmacopoeia.

Sellers of ethyl alcohol referred to in the preceding paragraph shall be limited to those who possess the pharmacy license or pharmaceutical business permit license.

#### Article 16

Where ethyl alcohol manufactures, importers, and sellers dissolve or terminate their operations or where their permit licenses are revoked, the remaining ethyl alcohol stock, except for those that are approved to extend the handling period by the local competent authority, shall be appropriately handled within three (3) months after the fact occurs. With regard to those that fail to handle by the deadline, the local competent authority may directly dispose of the stock. The expenses occurred therefrom shall be borne by such business operators.

Where the central competent authority revokes or abolishes an ethyl alcohol manufacturer's permit or forbids or suspends the ethyl alcohol production during a certain period, the central competent authority shall notify the local municipal or county (city) government in conjunction with the competent tax collection agency to dispatch personnel to check the inventory and record the finished goods and half-finished goods of ethyl alcohol and take the goods under supervision.

After the central competent authority abolishes the permit or forbids or suspends the ethyl alcohol production during a certain period, the ethyl alcohol manufacturer may, with regard to those finished goods completed before the day when the permit is abolished or when the production is forbidden or suspended, pay the taxes and sell said goods. The production of the remaining half-finished goods of ethyl alcohol shall not be continued. Where an ethyl alcohol manufacturer's permit is revoked, in order to maintain public interest or avoid the beneficiaries' property loss, the provision hereof shall apply *mutatis mutandis*.

## Article 17

Where ethyl alcohol manufacturer, importers, and sellers violate Articles 7, 8, 12, 13, or 14 hereof, the punishment pursuant Article 56 of the Act is as follows:

1. An ethyl alcohol seller that fails to register with the municipal or country (city) government located in where the business place is, in violation of Article 7 hereof, shall be punished by fines and may also be forbidden to sell;
2. An ethyl alcohol importer that uses ethyl alcohol imported for purposes inconsistent with declaration, in violation of Article 8 hereof, shall be punished by fines. Those that recommit the violation shall be punished by fines and may also be forbidden to import.

3. Those that transform ethyl alcohol back to the undenatured status after the ethyl alcohol was denatured without reporting to the competent authority for approval, in violation of Article 12 hereof, shall be punished by fines.
4. Those that fail to fill out and file the reports by the deadlines, in violation of Article 13 or Article 14 hereof, shall be punished by fines. Those that make false statements in the reports for the first time shall be notified to take corrective measures within a specified time period by the competent authority. For the second violation, a fine shall be imposed. For the third violation, besides a cumulative fine, those business operators may also be forbidden to manufacture, import, and sell.

Ethyl alcohol manufacturers, importers, and sellers that violate Article 10 shall be handled in accordance with the relevant Acts and regulations, such as the Fire Act, Labor Safety And Health Act, Labor Inspection Act, and Statue Governing Road Traffic.

#### Article 18

The forms required in the Regulations shall be additionally prescribed by the central competent authority.

#### Article 19

The Regulations shall be enforced as of the day of promulgation.

## QUESTIONNAIRE 6

OIL AND PETROLEUM PRODUCTS: BUREAU OF ENERGY, MINISTRY OF ECONOMIC AFFAIRS

[Governing Regulations 6-1](#)

# Petroleum Administration Law

(Promulgated by Presidential Decree on October 11, 2001)

Note: This translation is prepared solely for reference purposes. In the event of any discrepancy with the English translation, the original stipulations in the Chinese-language version shall govern.

## Chapter 1 General Provisions

### Article 1

The Petroleum Administration Law (henceforth the Law) is being instituted to promote the sound development of the oil industry, the continuation of oil production, and the sales order of the oil market as well as to ensure the steady supply of oil, enhance people's livelihoods, and develop the national economy while at the same time giving equal consideration to environmental protection. Matters not provided herein will be governed by other relevant laws.

### Article 2

Definitions of terms used in the Law:

1. Oil: Refers to petroleum crude oil, bituminous crude oil, and petroleum products.
2. Petroleum crude oil: Refers to naturally occurring crude oil that is mixtures of hydrocarbon compounds (containing mainly paraffin hydrocarbon), cycloparaffin hydrocarbon, and aromatic hydrocarbon.
3. Bituminous crude oil: Refers to crude oil extracted from bituminous minerals.

4. Petroleum products: Refers to products that are used primarily as energy and obtained from oil through the process of distillation, refining, or blending. These include gasoline, diesel oil, kerosene, naphtha, liquefied petroleum gas (LPG), jet fuel, and fuel oil.
5. Oil refinery: Refers to a business that uses oil as its raw material to engage in the manufacture of petroleum products through the process of distillation, refining, or blending.
6. Gasoline station: Refers to a business place with an oil storage facility and metered fuel-servicing equipment installed so that gasoline or diesel oil can be supplied to motor vehicles, motive power machines, and other consumers.
7. LPG station: Refers to a business place with a gas storage facility installed and metered gas-servicing equipment installed so that the built-in container of a vehicle can be filled with liquefied petroleum gas.
8. Fishing boat filling station: Refers to a business place with an oil storage facility and flow meters installed so that the built-in oil tank of a fishing boat can be filled with fuel.
9. Oil storage facility: Refers to a structure specifically for oil storage that is situated above ground or underground with a top lid and enclosures. It must also have obtained a use permit pursuant to the provisions stipulated in the Building Law. For structures that do not fall under the provisions of the Building Law where a use permit applies, the approval of the competent authorities that have jurisdiction over the business is required.

The criteria for petroleum products mentioned in Items 1, 4, and 5 of the preceding paragraph will be determined and promulgated by the central competent authority after conferring with the agencies concerned.

### Article 3

The competent authorities referred to in the Law are the Ministry of Economic Affairs on the central level, the municipal government on the special municipality level and the county (city) government on the county (city) level.

## Chapter 2 Oil Refining

### Article 4

An oil refinery must be organized in the form of a company limited by shares.

Oil refineries must meet the following requirements:

1. Have installed oil distillation, refining, and blending equipment.
2. Have installed or leased of an oil storage facility which has a capacity greater than the security stockpile prescribed in Article 24 herein.

## Article 5

In order to set up an oil refinery, an establishment permit must be obtained from the central competent authority. This entails submitting an application that states the following particulars:

1. Plant location along with the size of the distillation, refining, blending, and oil storage facilities as well as the construction schedule and the plant completion date.
2. Principal products and the annual capacity for those products.
3. Two-year production and sales plan following the initiation of production. This plan must include oil refining, import, export, sales, and storage plans.
4. Other items as promulgated by the central competent authority.

## Article 6

After a business receives permission to establish an oil refinery, it must set up a separate company or change its own registration. Then, after completing a trial run and obtaining the factory registration certificate, it must apply to the central competent authority for an operation license by submitting the following documents. (A business may not start an oil refinery business until it has an operation license.)

1. Company license.
2. Factory registration permit.
3. Documents verifying that the oil storage facility has the capacity to comply with the security stockpile requirement as specified in Article 24 herein. If the facility is leased, lease documents must be provided as evidence.
4. Other documents as required and promulgated by the central competent authority.

If an oil refinery operator has constructed or leased an oil storage facility that has a capacity greater than the required security stockpile before receiving the operation license and after completing the trial run, and it has submitted the documents to the central



authorities specified in Item 3 of the preceding paragraph, then the oil refinery operator may sell any petroleum products it produces following the completion of a trial run, subject to the approval of the central competent authority. However, the sale period is limited to six months, and the provisions specified in the first paragraph of Article 17 apply hereto.

The aforesaid business must comply with the security stockpile requirement of an oil refinery operator specified in Article 24 herein.

#### Article 7

Before an oil refinery operator expands or reconstructs its distillation, refining, or blending facilities, it must obtain the approval of the central competent authority. After completing the expansion or reconstruction, the operator must apply to the central authorities for a new oil refinery operation license.

The provisions specified in Articles 5 and 6 apply to the application procedures mentioned in the preceding paragraph.

### Chapter 3 Import/Export

#### Article 8

Oil importers must be organized in the form of a company limited by shares.

An oil importer must construct or lease an oil storage facility with a capacity exceeding the security stockpile prescribed in Article 24 herein.

#### Article 9

Before importing oil, a business must submit an application to the central competent authority for an establishment permit. This application must state the company name and location, scope of business along with the name and domicile or residence of the person responsible for the business. An oil storage plan as well as a sales or use plan must be attached.

#### Article 10

A business may not import oil until it has obtained an operation license from the central competent authority. A business must submit the following documents to apply for an operation license:

1. Company license.

2. Documents on their oil storage facility that show it complies with the security stockpile requirement specified in Article 24 herein. If aforesaid facility is leased, lease documents must be provided as evidence of this.
3. Other documents that may be required and/or promulgated by the central competent authority.

## Article 11

The types of oil or petroleum products that can be imported or exported by licensed importers or exporters are limited to those approved by the central competent authority. The preceding provision does not apply to oil refinery operators who obtained their operation licenses prior to the complete opening of the market oil to imported products.

## Article 12

Manufacturers of petrochemical materials may apply to the central competent authority for special permission to import petroleum products for private use. The application submitted must state the particulars listed below. In addition, a company license or business registration permit and factory registration permit must be attached to the application.

1. The types and volume of petroleum products to be imported along with the planned use period for them.
2. The production flow process.
3. The types, volume, and percentages of petrochemical materials to be produced.
4. The types, volume, and percentages of petroleum by-products to be produced.
5. The use status of the most recent petroleum products imported for private use, including import types, volume, actual volume used, types and volume of petrochemical materials produced, types and volume of petroleum by-products produced, and their actual export or sales.

The petroleum by-products produced by such a manufacturer must be either exported or purchased by oil refinery operators. If they are exported, the exporter must be properly registered in accordance with Article 15 herein.

If the manufacturer mentioned in the first paragraph is in any of the situations described in either Item 1 of the first paragraph of Article 45 or of Items 1, 2, 4, or 7 of Article 50 herein, the central authorities will withhold the approval of this manufacturer's application for six months starting from the date the penalty required by Article 50 is imposed on the manufacturer.

An oil or non-oil business that imports petroleum grade solvent oil or lubricant must file a report with the central competent

authorities within ten days of any importation. The report must state the following about the importer: its core business, its business place, the name and domicile of its responsible person, the types, quantity, and usage of the product imported. This provision does not apply to imports by petrochemical enterprises sanctioned by the industrial authority.

#### Article 13

If a business meets any of the conditions listed below, it may apply to the central competent authority for special permission to import petroleum products for private use. The application must include the name and location of the principal business, the name and domicile or residence of the responsible person, and types along with the volume of the petroleum products to be imported.

1. If an oil refinery operator needs oil for a trial run.
2. If a petrochemical material manufacturer needs petroleum products for a trial run.
3. If an establishment needs oil for research and testing purposes.
4. If an establishment wishes to import petroleum products of special application that are either not produced domestically and if products of similar specifications are not available domestically.
5. If an establishment wants to import less than one kilogram of petroleum product (other than gasoline or diesel oil) packed in a container.

#### Article 14

Crude oil imported by a licensed importer can only be supplied to the oil refinery industry as feedstock, unless it is otherwise approved under special case status.

Naphtha imported by a licensed importer can only be supplied as feedstock to the oil refinery or petrochemical industry, unless it is otherwise approved under special case status.

Gasoline, diesel oil or LPG suppliers as well as their customers may not supply their petroleum products to gasoline or LPG operators that do not have gasoline or LPG stations set up according to regulations. Nor may they supply the same products to gasoline or LPG filling or storage facilities for private use that were not set up according to regulations.

Oil or non-oil businesses may not sell solvent oil, lubricant, or other volatile hydrocarbon compounds as fuels for motor vehicles or motive power machines.

#### Article 15

To set up an oil export business, an application must be submitted to the central competent authority. The application must state the name and location of the principal business, scope of business, name and domicile or residence the person responsible for the business. An export plan for the business must be attached. A business is not allowed to start an oil export operation until its application has been approved and a registration certificate issued by the central authorities.

Export of oil by a non-oil business for research and testing purposes requires the prior approval of the central authority under special case status.

### Chapter 4 Administration of Gasoline and Diesel Oil Wholesalers and LPG Stations

#### Article 16

Wholesalers of gasoline and diesel oil be must companies limited by shares.

To set up a gasoline or diesel oil wholesale business an application must be submitted to the central competent authority. The application must state the company name and location, scope of business, name and domicile of the person responsible for the business. The articles of incorporation of the business as well as its sales plan must be attached to the application. The business may begin operations only after it has obtained a registration certificate. The preceding provision does not apply to licensed oil refinery operators or licensed importers.

#### Article 17

Retailers of gasoline, diesel oil, or liquefied petroleum gas (LPG) for vehicles must set up a gas station, a LPG station, or a fishing boat filling station. This provision does not apply to oil refinery operators, importers, or gasoline and diesel oil wholesalers who retail gasoline or diesel oil for private-use filling or storage facilities or for non-vehicle use.

Operators of gasoline stations, LPG stations, or fishing boat filling stations must apply to the competent authority of the special municipal or county (city) government for a construction permit. Operators may begin operations only after their station facilities have passed an inspection given by the competent authority of the special municipal or county (city) government and after acquiring an operation permit for the stations from the central competent authority.

The central competent authority will stipulate rules and regulations on land use for gasoline stations, LPG stations, and fishing boat filling stations. It will also stipulate rules and regulations on the construction of and facilities required for these entities as well as application formalities, the issue and change of operation licenses, and other relevant administrative affairs.

The central competent authority may authorize the competent authority of the special municipal or county (city) government to administer the issue and change of the operation licenses referred to in the preceding paragraph. The county (city) government may also be authorized by the central competent authority to take charge of other administrative affairs.

Gasoline station operators are required to join the local gasoline station commercial association.

## Article 18

Passenger-cargo transport businesses, construction businesses, factories, or other entities that want to set up LPG filling and storage facilities to supply their own vehicles or power motive machines must apply receive special permission from the competent authority of the special municipal or county (city) government.

The central competent authority will stipulate rules and regulations on the construction of and facilities required for the aforesaid LPG filling and storage facilities as well as rules and regulations on application formalities and other relevant administrative affairs.

## Article 19

Other than the gasoline, LPG, and fishing boat filling stations specified in Items 6 ~ 8, the first paragraph of Article 2 hereof, air terminals, commercial ports, or industrial ports may install fuel or LPG storage and refilling facilities specifically for the refilling of aircraft, ground vehicles, ships, or port machinery. The central competent authority will stipulate rules and regulations on the installation of and facilities required for these entities as well as application formalities, and other relevant administrative affairs after conferring with the central authorities that have jurisdiction over the aforesaid entities.

## Article 20

Gas stations, LPG stations, fishing boat filling stations, and other sellers of petroleum products are only allowed to purchase and/or sell petroleum products that have been legally imported or legally refined domestically.

## Chapter 5 Oversight

### Article 21

In the event of an oil shortage or a great fluctuation of oil prices that might impact the steady supply of oil or national security, the central competent authority may institute measures on oil control, such as quotas, price controls, and adjustments. Furthermore, it may utilize the security stockpile during an emergency period.

To clarify these measures, the central competent authority will draft a bill on oil control in emergency periods delineating the enforcement conditions, timing, procedures, applicable targets, scope, contents, and methods. The bill will then be submitted to the Executive Yuan (Office of Administration) for final approval.

### Article 22

Oil refinery businesses, oil import businesses, oil export businesses, gasoline and diesel oil wholesalers, gasoline stations, LPG stations, fishing boat filling stations, air terminal oil storage and refilling facilities, commercial ports, and industrial ports, as well as oil and LPG filling facilities installed for private use that meet the criteria set by the central competent authority are required to obtain public liability insurance coverage and accidental contamination liability insurance.

The central competent authority will decide how much coverage each business must obtain after conferring with the Ministry of Finance.

### Article 23

Oil businesses are liable for damages to others caused by its production methods, import/export, sales, transport or storage of the oil product, or other business-related activities.

### Article 24

Oil refinery operators and importers are required to maintain a security stockpile of no less than sixty days of supply. The supply amount will be based on the average domestic sales and consumption in the past twelve months. The security stockpile of LPG may amount to no less than twenty-five days of supply. The supply amount will be based on the average domestic sales and consumption in the past twelve months.

The aforesaid security stockpile must be no less than 50,000 kiloliters or 10,000 kiloliters for importers of only LPG.

The government should make use of the Petroleum Fund (see Chapter 6 herein) to store crude oil. The amount stored in the third year following the enactment of this Law must not be lower than thirty days of demand. The demand amount will be based on the average domestic sales and consumption of the previous year.

The criteria and computation formulas for the actual security stockpiles referred to in the first and the third paragraphs will be determined and promulgated by the central competent authority.

#### Article 25

Where different oil refinery operators or importers share the same oil storage facility for their security stockpile, they must file jointly with the central competent authority before the 20th of each month indicating the amount each of them stores in the said facility. If the actual joint storage volume is lower than the total of that reported by the individual businesses, each individual business will be deemed to have failed to meet its safety stock requirement unless evidence proves which business actually has stored less than their required security stockpile amount.

#### Article 26

If an oil refinery operator or importer ceases operation, the central competent authority may draw on the Petroleum Fund (see Chapter 6 herein) to purchase their security stockpile. In any case, the security stockpile of this company may not be disposed of without the prior consent of the central competent authority.

#### Article 27

Before the end of October of each year, oil refinery operators must prepare and file with the central competent authority an annual production, import, export, and sales plan for the following year. Furthermore, before the 20th of each month they must file a report on the production, import, export, and sales of the previous month as well as a report on the status of their security stockpile for the current month.

The preceding provision also applies to oil importers, exporters, and gasoline/ diesel oil wholesalers.

## Article 28

The central competent authority may ask the oil refinery operators, importers, exporters, and gasoline/diesel oil wholesalers to report on their operations. Or, the central competent authority may send personnel or have a professional institution conduct an inspection of the actual operations, security stockpile, and relevant data of these businesses. The business may not interfere with, refuse, or dodge such inspection.

The central competent authority may ask the manufacturers of petrochemical materials to report on their use of imported petroleum products. Or, the central competent authority may ask oil or non-oil businesses to name who bought the solvent oil and/or lubricant products the businesses imported. Likewise, the central competent authority may send personnel or appoint a professional institution to conduct an inspection on the same issues. The business may not interfere with, refuse, or dodge such inspection.

Competent authorities of different levels may ask gasoline, diesel oil, and LPG suppliers or their customers to name who bought their products. They may also send personnel or appoint a professional institution to conduct an inspection on the same issues. The business may not interfere with, refuse, or dodge such an inspection.

## Article 29

Only petroleum products that meet the national standards, where such standards apply, can be imported or sold in the domestic markets.

The central competent authority may send personnel or appoint a professional institution to examine the quality of the petroleum products sold. The business may not interfere, refuse, or dodge such examination.

## Article 30

If the central competent authority revokes the license of an oil refinery operator, importer, exporter, or gasoline/diesel oil wholesaler, that business is prohibited from re-applying for another operation license or registration certificate within two years from the date of revocation.

If the operation license of the operators of a gasoline station, a LPG station, or a fishing boat filling station has been revoked, the original business body and its responsible person are prohibited from reapplying to setup a filling station at the original site within two years from the date of revocation.



If the installation permit of an oil/LPG filling or storage facility for private use has been revoked, the original site may not be used again for such a facility within two years from the date of revocation.

### Article 31

Where necessary, oil refinery operators or importers may lay pipelines using rivers, irrigation canals and ditches, coastal areas, bridges, dikes, ports and harbors, roads, forest land, green land, parks, and other public land.

Laying the pipeline may not disrupt the landscape or the original use of the premises on which the pipeline is laid. Before laying the pipeline, those who will do so, must get the approval of the central competent authority and the agency in charge of the land. The operator or importer must compensate for any damages incurred to the landscape or to the original use of the premises on which the pipeline is laid.

Oil refinery operators or importers who have oil pipelines may accept the request of other businesses to transmit oil through those pipelines.

### Article 32

Oil refinery operators or importers must observe the following requirements in laying oil pipelines:

1. The materials of the pipeline must conform to national standards or other comparable standards.
2. The business must immediately replace corroded pipelines that pose a safety concern.
3. The business must conduct periodic inspections of its oil pipelines each year and save the inspection results for the competent authorities to review.
4. The competent authorities may send personnel or appoint a professional institution to conduct inspections of the pipelines. The business may not refuse such inspection.
5. The business must draw up a pipeline maintenance, inspection, replacement, anti-burglary, anti-leaking, and contingency plans for the following year before the end of October of each year. Before the end of January of each year, it must also produce a report on the inspection and replacement status of the pipeline for the previous year. This report must then be filed with the competent authorities.
6. The business must submit its oil pipeline layout diagrams, final acceptance drawings, and other relevant data to the competent

authorities for the setup of a pipeline management information system.

If the inspection of the pipeline shows that corrosion of pipes poses a safety concern, the competent authorities may demand remedial actions from the business within a prescribed time period.

#### Article 33

Oil businesses must apply to the competent authority of the special municipal or county (city) government for permission to install oil storage facilities. The central competent authority will prescribe the rules governing the application procedures, land uses, and other administrative matters.

An oil business may ask an inspection institution sanctioned by the central competent authority to conduct periodic or occasional inspections of the aforesaid oil storage facilities and to prepare inspection records. The central competent authority may dispatch personnel or appoint an institution to conduct spot checks of said storage facilities.

An oil business must retain the aforesaid inspection records for at least five years. If deemed necessary, the local competent authority of the municipal or county (city) government may dispatch personnel to check those inspection records.

The central competent authority will stipulate the eligibility, requirements, fee schedule, and responsibilities of the inspection institution referred to in the second paragraph of this Article.

### Chapter 6 Petroleum Fund

#### Article 34

To finance the Petroleum Fund, the central competent authority will set and charge fees of fixed rates from the following activities:

1. The exploration or import of oil with the exception of oil imported under the provisions stipulated in the first paragraph of Article 12 and Items 2 ~ 4 of Article 13.
2. Petroleum by-products produced by petrochemical feedstock manufacturers and sold to oil refinery operators in conjunction with the second paragraph of Article 12. The preceding provision does not apply when the feedstock for the petrochemical products was originally purchased from oil refinery operators or importers.

The rates mentioned in the preceding paragraphs will be charged by volume and based on the average import price of oil.

#### Article 35

Collection of fees for the Petroleum Fund will be carried out in the following manners:

1. Require oil importers to pay fees into the Petroleum Fund before importing.
2. Require oil explorers to pay fees into the Petroleum Fund before refining or selling the oil to oil refinery operators.
3. Require petrochemical material manufacturers that produce petroleum by-products to pay fees into the Petroleum Fund before selling their products to oil refinery operators.

Oil refinery operators or importers who have paid fees into the Petroleum Fund as required under Item 1 of the preceding paragraph may apply to the central competent authority for a refund of those fees that apply to the same quantity of the oil originally imported if (1) the imported oil is used for the manufacture of petrochemical feedstock, (2) the imported oil is later exported, or (3) the imported oil is used as fuel for international shipping or international flights. Relevant documents of proof must be included with the application.

Five years after the implementation of this law, the central competent authority will review the practice of refunds described in the preceding paragraph and decide whether or not to continue it.

#### Article 36

The Petroleum Fund will be used in the following manners:

1. To maintain the government petroleum security stockpile.
2. To set up petroleum facilities, subsidize transportation outlays, and offer price subsidies to mountain villages and offshore areas.
3. To encourage oil and natural gas exploration as well as development.
4. To assist with the energy policy or the research and development of oil development technology and alternative energy sources.
5. To implement other necessary measures that the central competent authority determines will help stabilize the oil supply and maintain order in the oil market.

#### Article 37

A petroleum administration committee will be set up to oversee the operation of the Petroleum Fund. The Executive Yuan (Office of Administration) will stipulate measures governing the collection, expenditure, custody, and utilization of this Fund.

#### Article 38

The central competent authority must give its approval before a business engaging in the production of renewable energies such as alcohol gasoline, bio-diesel, or oil from recycled waste can be set up.

Other than petroleum products used for blending, rules related to the security stockpile and Petroleum Fund do not apply to renewed energy sold by businesses established according to the provision specified in the preceding paragraph.

The central competent authority will prescribe measures for the administration of businesses engaging in the production of the renewable energies of alcohol gasoline, bio-diesel, or oil from recycled waste.

### Chapter 7 Penalty Provisions

#### Article 39

A business in any of the following situations will be fined a minimum of NT\$2,000,000 and a maximum of NT\$10,000,000:

1. In violation of the provisions specified in the first paragraph of Article 6 herein (i.e., failing to obtain an oil refinery operation license while conducting oil distillation, refining, or blending other than for the purpose of a trial run).
2. In violation of provisions specified in Article 10 (i.e., failing to obtain an oil import operation license or failing to acquire a special permit for oil imports as specified in Article 12 or Article 13 herein).

Oil distilled, refined, blended, or imported while the business doing so is committing the violations described in the preceding paragraph will be confiscated.

If any of the violations described in the first paragraph results in public endangerment, the offender will be sentenced to a maximum of three years imprisonment or detention and/or be fined a minimum of NT\$1,000,000 and a maximum of NT\$5,000,000.

If the offender of the preceding paragraph is a corporate person, its acting responsible person will be punished and the corporate person itself also be subjected to the fine prescribed in the preceding paragraph.

#### Article 40

A business in any of the following situations shall be fined a minimum of NT\$1,000,000 and a maximum of NT\$5,000,000:

1. In violation of the provisions specified in the second paragraph of Article 16 herein (i.e., engaging in the gasoline or diesel oil wholesale business without registering with the competent authority).

2. In violation of provisions specified in the first or second paragraph of Article 17 herein (i.e., engaging in retailing of gasoline, diesel oil, or LPG for vehicle use).
3. In violation of provisions specified in the first paragraph of Article 18 (i.e., setting up an oil (gas) filling or storage facility for private use without first acquiring a permit).
4. In violation of provisions specified in the first paragraph of Article 33 (i.e., by failing to acquire permission for the installation of oil storage facility).

Petroleum products for sale or private use and the oil or LPG filling facilities and devices described in the preceding paragraph will be confiscated.

In the event any of the violations described in the first paragraph results in public endangerment, the offender will be sentenced to a maximum of two years of imprisonment or detention and/or fined a minimum of NT\$600,000 and a maximum of NT\$3,000,000.

In the event the offender mentioned in the preceding paragraph is a corporate person, its acting responsible person will be punished and the corporate person itself will also be subjected to the fine prescribed in the preceding paragraph..

#### Article 41

A business failing to store a security stockpile or failing to store the required amount as specified in Article 24 herein will be fined a minimum of NT\$2,000,000 and a maximum of NT\$10,000,000. Furthermore, the business will be ordered to take remedial actions by a deadline. Any business failing to meet their deadline will be penalized consecutively until they have taken satisfactory corrective actions. If the offense is of a serious nature (see Article 49 herein) or repeated offenses against the same provision occur within six months after the business has taken remedial actions, the business may be ordered to suspend operations for a maximum of three months or it may have its operation license revoked.

#### Article 42

Offenders of the provisions stipulated in the yet to be drafted bill on controlling oil in emergency periods (see the second paragraph of Article 21 herein) and those failing to take the remedial actions of the second paragraph of Article 32 herein by a prescribed deadline will be fined a minimum of NT\$2,000,000 and a maximum of NT\$10,000,000. If the offense is of a serious nature (see Article 49 herein), the business may be ordered to suspend operations for a maximum three months, or it may have its operation license revoked, or it may

be ordered to close.

#### Article 43

A violation of the first paragraph of Article 26 herein (i.e., a business fails to obtain prior approval for the disposal of their security stockpile), will result in the responsible person of the business will be fined a minimum of NT\$1,000,000 and a maximum of NT\$5,000,000.

#### Article 44

A licensed oil importer who violates Article 11 herein (i.e., importing types of oil not permitted for import) will be fined a minimum of NT\$1,000,000 and a maximum of NT\$5,000,000. If the offense is of a serious nature (see Article 49 herein), the business may be ordered to suspend operations for a maximum three months, or it may have its operation license revoked.

Oil imported in violation of Article 11 will be confiscated.

#### Article 45

Any of the following offenses will result in a minimum fine of NT\$1,000,000 and a maximum fine of NT\$5,000,000:

1. A petrochemical feedstock manufacturer violating the first paragraph of Article 12 herein (i.e., using imported petroleum products for purposes other than private use).

A violation of the third paragraph of Article 14 herein (i.e., supplying gasoline, diesel oil, or LPG to gasoline or gas filling operators that are known or should have been known to be running illegal gasoline or LPG stations, or to illegal private oil or LPG filling or storage facilities).

An oil or non-oil business violating the fourth paragraph of Article 14 (i.e., selling solvent oil, lubricants, or other volatile hydrocarbon compounds as fuels for motor vehicles and motive power machines).

Any petroleum products being used or to be used in these offenses will be confiscated.

#### Article 46

A business importing or selling petroleum products that do not meet the national standards (see the first paragraph of Article 29

herein) will be fined a minimum of NT\$200,000 and a maximum of NT\$1,000,000. Such business will also be ordered to take remedial actions by a deadline. Any business failing to comply by the deadline will be fined consecutively until satisfactory corrective actions are taken. If the offense is of a serious nature (see Article 49 herein) or repeated offenses against the same provision occur within six months after the business has taken remedial actions, the business may be ordered to suspend operations for a maximum of three months or it may have its operation license revoked.

Any petroleum products that fail to be upgraded to national standards of quality will be confiscated.

#### Article 47

Any of the following offenses will result in a minimum fine of NT\$100,000 and a maximum fine of NT\$500,000. Furthermore, the offender will be ordered to take remedial actions by a deadline. Any offender failing to comply by the deadline will be penalized consecutively until said offender takes satisfactory corrective actions:

1. An oil refinery operator who in violation of the first paragraph of Article 7 herein does not obtain prior approval or changes its operation license before expanding or reconstructing its distillation, refining, or blending facilities.
2. A violation of Article 15 herein (i.e., exporting oil without registering as an oil exporter with the central competent authorities).
3. A violation of the third paragraph of Article 17 herein. Article 17 pertains to setting up a gasoline station, a LPG station, or a fishing boat filling station.
4. A violation of the second paragraph of Article 18. Article 18 pertains to setting up an oil or LPG filling or storage facility for private use.
5. A violation of Article 19 herein. Article 19 pertains to the rules governing the administration of fuel or LPG storage and refilling facilities at air terminals, commercial ports, and industrial ports.
6. A violation of the first paragraph of Article 22 herein (i.e., a failure by oil refinery businesses, oil import businesses, oil export businesses, gasoline or diesel oil wholesalers, gasoline stations, LPG stations, fishing boat filling stations, air terminal oil storage and refilling facilities, commercial ports, and industrial ports, as well as oil or LPG filling facilities for private use that meet the criteria set by the central competent authority to obtain public liability insurance coverage and accidental contamination liability insurance).
7. Oil or LPG filling or storage facilities failing to obtain public liability insurance or accidental contamination liability insurance as

required by the first paragraph of Article 22 herein.

8. Not filing periodic reports as required by Article 27 herein or filing a false report.
9. A violation of any of the provisions specified in the first paragraph of Article 32 herein. Article 32 pertains to laying pipelines.
10. A violation of rules governing the setup of oil storage facilities as specified in the first paragraph of Article 33 herein.
11. A violation of the measures for the administration of businesses engaging in the production of renewable energy as specified in the third paragraph of Article 38.
12. A violation of the fourth or tenth paragraphs of Article 52 herein. These paragraphs of Article 52 state that oil refinery operators designated by the competent authority may not refuse to negotiate the purchase of detained oil products.

If one of these violations is committed and it is of a serious nature (see Article 49 herein) or repeated violations against the same provision occur within six months after the business committing the violations has taken remedial actions, the business may be ordered to suspend operations for a maximum of three months or it may have its operation license revoked. Furthermore, a business may be ordered to close if a violation of Items 1 ~ 3, 5, 6, 8, 9, 11, or 12 occurs. Moreover, if a violation of Items 4, 7, or 10 occurs, the violator may be ordered to stop using its facility for a maximum three months or have the permission(s) granted to it to engage in the businesses referred to in Items 4, 7, or 10 revoked.

#### Article 48

Any of the following offenses will result in a fine of a minimum of NT\$100,000 and a maximum of NT\$500,000. If a business commits an offense of a serious nature (see Article 49 herein), the business may be ordered to suspend operations for a maximum three months, or it may have its operation license revoked, or it may be ordered to close.

1. A violation of the first paragraph of Article 14 (i.e., supplying crude oil to businesses or individuals that need but do not have special permission to receive crude oil).
2. A violation of the second paragraph of Article 14 (i.e., supplying naphtha to businesses or individuals that need but do not have special permission to receive naphtha).
3. A violation of the first paragraph of Article 20 (i.e., selling illegally imported or domestically produced oil).
4. A violation of the first paragraph of Article 28 or the second paragraph of Article 29 (i.e., failing to make business reports as required or interfering with, refusing, or dodging an inspection by the competent authorities).



#### Article 49

The offenses of a serious nature in Articles 41, 42, 44, 46-48 are offenses specified in this Law and in any of the following conditions:

1. An offense that results in public endangerment.
2. An offense evidenced by the facts as being unable to be rectified within ninety (90) days.
3. An offense that occurs three or more times in one year.
4. An offense that results in punishments six times or more cumulatively in one year.
5. Illegal producing, importing, or selling that involves more than 200 kiloliters of petroleum products in a single incidence of offense.

#### Article 50

Any of the following offenses will result in a fine of a minimum of NT\$100,000 and a maximum of NT\$500,000:

1. A violation of the second paragraph of Article 12 herein (i.e., selling oil by-products to businesses or individuals other than oil refinery operators).
2. A violation of the third paragraph of Article 12 herein (i.e., failing to register to export oil with the authorities concerned as required by Article 15 herein).
3. A violation of the fifth paragraph of Article 12 herein (i.e., failing to file in time or filing a false report on the import of solvent oil or lubricants).
4. A violation of the second and third paragraphs of Article 28 herein (i.e., interfering, refusing or dodging inspection).
5. A violation of the second paragraph of Article 33 herein (i.e., failing to ask an inspection institution sanctioned by the central competent authority to conduct an inspection and to prepare records) or a violation of the third paragraph of Article 33 herein (i.e., failing to keep the records for a minimum of five years).
6. A violation of Item 2 of the first paragraph of Article 35 (i.e., producing oil or selling oil to oil refinery operators without paying the required fees into the Petroleum Fund).
7. A violation of Item 3 of the first paragraph of Article 35 (i.e., exporting or selling oil by-products to oil refinery operators without paying the required fees into the Petroleum Fund).

## Article 51

Gas stations that do not join the local gasoline station commercial association (pursuant to the fifth paragraph of Article 17) within one month after beginning business will be fined a minimum of NT\$20,000 and a maximum of NT\$100,000.

The competent authority will repetitively fine gas stations that do not comply by the deadline until they do comply.

## Article 52

Prior to taking penal actions, the competent authorities may confiscate the oil and oil or LPG storage and filling facilities of offenders in violation of the first paragraph of Article 39, the first paragraph of Article 40, the first paragraph of Article 44, or the first paragraph of Article 45.

The confiscated articles will be sealed or marked and stamped with the seal of the detaining authorities or public official.

Where necessary, confiscated articles that are hard to move or safekeep may first be sealed up by the competent authorities and then turned over to their owner, keeper, custodian, or person deemed appropriate for custody.

Where the action described in the preceding paragraph is not suitable or possible, the competent authority may ex officio sell the articles to an oil refinery operator by price negotiation and keep custody of the proceeds. The oil refinery operator designated by the competent authority may not refuse such purchase request.

The measure for price negotiations of the aforesaid confiscated oil will be stipulated separately by the central competent authority.

For evidentiary purposes, samples and photos will be taken of any confiscated articles disposed of in accordance with the fourth paragraph of this Article.

The competent authorities, in the execution of detention, will produce a receipt which states the name of the confiscated article, the quantity (volume), the place where the confiscation took place, and the time it was handed over to its owner, keeper, or custodian for custody.

If the confiscation action takes place in an inhabited or guarded residence, the inhabitant, guard, or a representative should be asked to be present. If no such people are present, a neighbor, or a staff member of a neighborhood group may be asked to be present.

If the owner, keeper, or custodian of the confiscated articles cannot be identified or notified, the competent authority will make a public announcement of the confiscation and process the confiscated articles as waste if their owner, keeper, or custodian remain

unidentified ten (10) days after the announcement.

The competent authority may sell by price negotiations to a designated oil refinery operator oil confiscated in accordance with the second paragraph of Article 39, the second paragraph of Article 40, the second paragraph of Article 44, the second paragraph of Article 45 or the second paragraph of Article 46 herein. An oil refinery operator so designated may not refuse the purchase request. The purchase price will be computed according to the Measure for Price Negotiations of Detained Oil.

The competent authorities may ask the assistance of the local police in enforcing the provisions specified in this article.

### Article 53

Other than in the five exceptions specified below, the central competent authority will carry out those points of the Law that call for imposition of fines, confiscations, demands of remedial actions within a prescribed time period, business suspensions, revocations of a license/certificate/permission, or the issuing of orders to cease business.

1. The special municipal or county (city) competent authority will issue the fines and/or carry out the confiscation for violations of Items 2-4 of the first paragraph of Article 40.
2. The applicable authority will carry out the punishment(s) set in Article 46 herein that are to be imposed on LPG stations for selling petroleum products not complying with national standards. The applicable authority will also carry out the punishment(s) set out in Item 12 of the first paragraph of Article 47 herein that are to be imposed on oil refinery operators for refusing the request of the competent authority.
3. The special municipal or county (city) competent authority will impose fines, demand remedial actions by the prescribed deadline, and/or issue orders to cease business for those offenses of a serious nature referred to in Item 3 of the first paragraph and those offenses in the second paragraph of Article 47 herein.
4. The special municipal or county (city) competent authority will impose the fines, carry out the demands of remedial actions by the prescribed deadline, revoke the licenses/certificates/permissions, and/or issue the orders to cease business for violations set forth in Items 4, 7, 10, of the first paragraph of Article 47 herein and also carry out actions against related offenses that are of a serious nature.
5. The special municipal or county (city) competent authority will impose the fines and carry out demand of remedial actions set forth in Article 51.

Fines imposed according to the Law must be paid by a prescribed deadline. Failure to comply by the prescribed deadline will result in the case being turned over to a court for compulsory execution.

#### Article 54

Competent authorities of different levels may ask for the assistance of local police or other agencies in the execution of the following actions:

1. Seizing oil distillation, refinery, or blending operations that violate the first paragraph of Article 6 herein.
2. Investigating the sale by oil or non-oil businesses of solvent oil, lubricants, or other volatile hydrocarbon compounds for use by motor vehicles or motive power machines which is illegal under the fourth paragraph of Article 14 herein.
3. Seizing wholesale operations for gasoline or diesel oil that violate the second paragraph of Article 16 herein.
4. Seizing retailers of gasoline, diesel oil, or LPG for vehicle use who violate the first or second paragraph of Article 17 herein.
5. Seizing LPG filling or storage facilities for private use that violate the first paragraph of Article 18 herein.
6. Investigating sales of imported or sold solvent oil or lubricants pursuant to the second paragraph of Article 28 herein.
7. Seizing oil storage facilities that violate first paragraph of Article 33 herein.

The informer(s) and law enforcement personnel involved in these actions may be rewarded. The central competent authority will be determine the amount of the reward on a case by case basis.

## Chapter 8 Supplemental Provisions

#### Article 55

Oil-related provisions in the Energy Management Law will no longer apply after this Petroleum Administration Law (the Law) is implemented.

#### Article 56

The Law does not apply to the import and stockpiling of oil or the construction of oil filling or storage facilities and their management by military establishments for national defense purposes.

#### Article 57

Oil importers, exporters, gasoline or diesel oil wholesalers, and producers who have obtained operation permission(s) prior to the Law coming into force must within three months following the date of enforcement of the Law apply to the central competent authority for the issue of an operation license. Their failure to comply with the preceding provision will result in the invalidation of any permit(s) they have been granted previously.

#### Article 58

The competent authorities of each level will charge review and license fees for processing the applications for review, granting the permissions, and/or issuing the licenses described in the Law. The central competent authority will set the fee rates.

#### Article 59

The central competent authority will separately prescribe the forms and license formats required under the Law.

#### Article 60

The Law will come into force upon promulgation.

## QUESTIONNAIRE 7

### **FISHING BOATS; VESSELS; CIVIL AIRCRAFT**

**FISHING BOATS:** FISHERIES AGENCY, COUNCIL OF AGRICULTURE

**VESSELS:** DEPARTMENT OF NAVIGATION & AVIATION, MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

**CIVIL AIRCRAFT:** CIVIL AERONAUTICS ADMINISTRATION, MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

[Governing Regulations 7-1](#)

## **Fisheries Act**

Amended and Promulgated by Presidential Order on December 18, 2002

### Chapter One General Principles

#### Article 1

This Act is enacted to conserve and rationally utilize aquatic resources, to increase fisheries productivity, to promote sound fisheries development, to guide and assist the recreational fishery, to maintain order of the fisheries, and to improve the living of fishermen. Matters not covered by this Act shall be governed by the provisions of other acts and regulations.

#### Article 2

In this Act, the term "competent authority" or "competent authorities" means the Council of Agriculture of the Executive Yuan at the central government, municipal governments at municipalities, and county/city governments at /counties/cities.

#### Article 3

In this Act, the term "fishery" means the industries of catching, of harvesting, or of cultivating aquatic organisms, as well as processing, transportation, and

distribution industries associated thereto.

#### Article 4

In this Act, the term "fishery operator" means the fishing right holders, the piscary holders, or any other persons who engage in fisheries operation in accordance with the provisions of this Act.

In this Act, the term "fishing professional" means any crew members of fishing vessels and any other persons who catch, harvest, or cultivate aquatic organisms for any fishery operator.

#### Article 5

Only nationals of the Republic of China may qualify as fishery operators hereunder unless a foreign national obtains the approval from the central competent authority to operate fisheries in cooperation with any Republic of China fishery operator.

#### Article 6

Any person who wishes to operate fishery in the public waters or non-public waters adjacent thereto shall obtain approval given and fishing license issued by the competent authority prior to the operation.

#### Article 7

The competent authority shall collect fees from applicants for fishing licenses issued. The central competent authority shall prescribe guidelines of granting license and the amount of the fees.

#### Article 7-1

The competent authorities of different levels shall not issue fishing licenses when the following circumstances occurs:

- (1)any fishery operator whose fishing license has been revoked by the fisheries competent authorities;
  - (2)any fishery operator who engages in smuggling and whose vessels are consequently confiscated or withheld by the customs or the courts;
  - (3)any fishery operator who arbitrarily imports vessels without obtaining permission from the central competent authority;
  - (4)any fishery operator who is within the restrained or suspended period in accordance with Article 10 of this Act;
  - (5)any fishery operator whose fishing license is still under withdrawal;
  - (6)any fishery operator who has not paid for penalties in accordance with this Act;
- and
- (7)any fishery operator who violates the provisions of this Act or these regulations promulgated pursuant to this Act before any alteration of vessel ownership takes place, but who has yet to be dealt with by the competent authorities.

#### Article 8

The building, alteration, or chartering of any fishing vessel used by a fishery operator operating in fishery shall obtain permission from the competent authority.

A fishery operator shall obtain permission from the competent authority before importing/exporting any fishing vessel in accordance with regulations provided by the competent trade authorities.

The qualifications, conditions, application procedure and any other standards to be followed for the building, alteration or chartering of any fishing vessel in accordance with paragraph 1, or the rights of exportation and importation provided



in the preceding paragraph, shall be prescribed by the central competent authority.

#### Article 9

For the purposes of exploiting or conserving aquatic resources, or for the need of public interests, the competent authority may impose restrictions or conditions when giving approval to any fishery operation.

#### Article 10

Any fishery operator who violates the provisions of this Act or any other regulations promulgated pursuant to this Act, the central competent authority may restrain or suspend the operator's right to operate any fishery, or revoke his fishing license for not more than one year. Where the violation is considered gross, the central competent authority may withdraw the approval of the fishery operation or revoke the fishing license of the fishery operator.

Any fishery professional who violates this Act or any other regulations promulgated pursuant to this Act, the central competent authority may withdraw the professional's Fishing Vessel Officer Certificate or Fishing Vessel Crew Identification for not more than one year. Where the violation is considered gross, the central competent authority may revoke the professional's Fishing Vessel Officer Certificate or Fishing Vessel Crew Identification.

#### Article 11

Where any of the following circumstances occurs, the competent authority shall revoke the approval of the fishery operation:

(1) any fishery operator who does not have any justification for not being able to undertake his fishery operation for more than one year as from the date of approval

was given, or who suspends his fishery operation for more than two years without being approved from the commencement of the operation;

(2) any fishery operator who applies and is approved to operate fishery as a Republic of China national loses his Republic of China nationality; or

(3) any applicant who obtains the approval of the fishery operation by fraud or illicit means.

Without stating justification and being approved by the competent authority, any fishery operator shall not suspend his fishery operation for more than one year. The operator shall report to the competent authority for resumption of fishery operation on records. Failure to do so, the operation shall be considered as not resumed.

#### Article 12

For the purposes of maintaining the orderly operation of fishing vessels and safety of navigation and operation, the central competent authority shall prescribe rules governing the management of crew members of any fishing vessel.

#### Article 13

For the purposes of adjusting the fisheries structure, the competent authority may establish a fisheries advisory committee, which consists of experts, scholars, fisheries associations, and officials from relevant government agencies. The fisheries advisory committee shall be organized, functioned, and operated in accordance with regulations prescribed by the central competent authority.

#### Article 14

The competent authority shall, by the types of fishery, respectively establish and promulgate the facilities of fishing grounds, methods of catching, harvesting, and

cultivating, fishing gears, and any other matters as deemed necessary.

## Chapter Two Fishing Right Fishery

### Article 15

In this Act, the term "fishing right" means any of the following rights:

(1) set net fishing right: the right to build underwater rocky cliffs or wooden fences or to install fishing gears within a specific water area for catching or harvesting aquatic animals;

(2) demarcated fishing right: the right to partition a specific water area for operating aquaculture; or

(3) exclusive fishing right: the right to use a specific water area and form a fishing ground for piscary holders to operate the following fisheries:

(a) catching or harvesting aquatic organisms;

(b) aquaculture; or

(c) catching or harvesting aquatic animals with anchored fishinggears within the waters at a depth of twenty-five meters or less

Only fishermen's associations or fisheries production cooperatives can qualify as exclusive fishing right holders mentioned in the preceding paragraph.

### Article 16

In this Act, the term "piscary" means the right to operate fishery within the authorization of exclusive fishing right.

### Article 17

The competent authority shall, according to the production of fishery resources and taking into account minerals exploration and exploitation, navigation, irrigation, environmental protection, and other public interests, make an integrated plan with

respect to the fishing right fishery in public waters and shall elaborate and regularly publicize relevant programs annually, as well as take applications for fishing rights.

The programs mentioned in the preceding paragraph may be revised according to practical needs. The competent authority shall promulgate such revised programs.

#### Article 18

Set net and demarcated fishing rights shall be granted according to the following order of priority:

(1) any fishery operator or fishery professional in hsiang /town /city /district where the fishing ground is located;

(2) any fishermen's association or fishery production cooperative in hsiang /town /city /district where the fishing ground is located;

(3) any fishery operator or fishing professional in municipality /county /city where the fishing ground is located;

(4) any fishermen's association or fishery production cooperative in municipality/county/city where the fishing ground is located;

(5) any non-fishery operator or non-fishery professional in hsiang/town/city/district where the fishing ground is located;

(6) any non-fishery operator or non-fishery professional in municipality/county/city where the fishing ground is located;

(7) any fishery operator or fishery professional in other municipalities/counties/cities;

(8) any non-fishery operator or non-fishery professional in other municipalities/counties/cities.

Any fishery operator applying for continuous operation before his fishing right

expires shall not be subject to the order of priority mentioned in the preceding paragraph.

#### Article 19

Any fishermen's associations or fishery production cooperatives approved to operate exclusive fishing right shall draft rules for access fishing and apply to the competent authority for approval.

Piscary undertaken by any non-member of fishermen's associations or fishery production cooperatives shall be agreed by a contract.

#### Article 20

The fishing right shall be considered as the right over things. Except as this Act otherwise provides, the provisions of the Civil Code governing immovables of the right over things shall, *mutatis mutandis*, apply.

#### Article 21

The creation, acquisition, alteration, and loss of fishing right shall not become effective before registration.

In taking legal proceedings pursuant to Articles 10, 11, and 29 regarding set net fishing right, demarcated fishing right, and exclusive fishing right, the competent authority shall also register such legal proceedings to the respective fishing right.

The competent authority processing application for fishing right registration shall charge the applicant registration fees. The central competent authority shall prescribe the registration rules and the amount of fees.

#### Article 22

Jurisdiction over any dispute concerning fishing right shall be exercised by a court at the municipality or city/county with its coast closest to the fishing ground where such fishing right is exercised.

#### Article 23

Exclusive fishing right shall not be the subject of any other rights or juristic acts other than entitling the holder thereof to fish in the specific waters.

#### Article 24

Set net fishing right and demarcated fishing right shall not be the subject of any other rights or juristic acts except for succession, transference, and mortgage.

#### Article 25

Unless approved by the competent authority, no mortgage shall be created over the fishing right provided in the preceding article, nor shall such right be transferred unless otherwise arises out of a compulsory execution and the approval of the competent authority has been duly obtained.

A fishery operator or fishery professional shall be preferred to be the transferee of the compulsory execution and the transference provided in the preceding paragraph.

Except as otherwise provided in a contract, the working articles grounded within a fishing ground over which a mortgage has been registered shall be deemed as the subject of the mortgage created.

#### Article 26

Except as the competent authority otherwise approves, the fishing right shall neither be merged nor subdivided.

#### Article 27

Unless consented by at least two-thirds of the other joint-holders who hold their respective percentage shares, the joint-holders of set net fishing right, demarcated fishing right, or piscary shall in no event dispose of their respective percentage shares.

The provision of the preceding paragraph shall, mutatis mutandis, apply to the fishing right jointly held by public bodies.

#### Article 28

The term of fishing rights shall be as follows:

- (1) set net fishing right: 5 years;
- (2) demarcated fishing right: 5 years;
- (3) exclusive fishing right: 10 years.

Upon the expiration of the term provided in the preceding paragraph, the fishing right holder may be preferred to apply for renewing the respective rights.

#### Article 29

The competent authority may alter or revoke its fishing right approval or suspend the operation of any fishing right if any one of the following circumstances occurs:

- (1) requirements of national defense;
- (2) economic utilization of land;
- (3) conservation of aquatic resources;
- (4) requirements of environmental protection;
- (5) navigation and anchoring of any vessel;
- (6) laying of underwater pipelines and cables;

(7) exploration and exploitation of minerals; or

(8) other public interests.

Before taking any official proceedings provided in the preceding paragraph, the competent authority shall publicize such proceedings and notify all fishery operators concerned.

Where the official proceedings provided in the first paragraph cause any loss to the fishery operator, the relevant competent authority or the party claiming alteration, revocation, or termination shall reconcile the operator to make appropriate compensation for the losses. Should the reconciliation fails, the central competent authority shall decide the content of the compensation.

#### Article 30

The piscary shall not be the subject of other rights or juristic acts apart from succession and transference.

#### Article 31

The term of a piscary that is not specified shall be valid for a term as that of an exclusive fishing right.

#### Article 32

An exclusive fishing right holder may collect fishing access fees from piscary holders. The amount of the fees shall be enunciated in the rules or the contract of fishing access.

#### Article 33

Where the fishing right holder deems necessary, he may, with the consent of the land



owner or user, utilize the land or request the reservation of bamboo, timber, soil, and stones therefrom:

- (1) to build signs within the fishing ground;
- (2) to build or maintain necessary signs within the fishing ground; or
- (3) to build beacons or other necessary facilities relating to fishing right.

#### Article 34

For the purposes of fisheries survey, site investigation, or the building of facilities mentioned in any subparagraph of the preceding article, the fishing right holder may, with the consent of the land owner and land user, access to the land or remove any obstruction from the land.

#### Article 35

If any one of the circumstances occurred under Articles 33 and 34 prevents the obtaining of any necessary consent to take any action under the articles, an application may be filed to the competent authority for permission to take the said action. The competent authority shall publicize the permission it has issued and shall also notify the said land owner and land user. The applicant shall make appropriate compensation to the particular land owner and land user for any losses incurred.

#### Chapter Three Directed Fisheries

#### Article 36

In this Act, the term "directed fishery" means the fishery authorized by the competent authority for the use of fishing vessels to catch or harvest aquatic organisms for commercial purposes.

The authorizations of fishery operation provided in the preceding paragraph shall

include the types of fishery, operating period as well as operating areas, and such items shall be stipulated in the fishing license.

#### Article 37

The competent authority may impose restrictions on respective directed fishery regarding the total number and tonnage of the fishing vessels, operating areas, operating period, and other matters, if any one of the following circumstances occurs:

- (1) conservation of aquatic resources;
- (2) adjustment of fisheries structure; or
- (3) restrictions on terms of international fisheries agreements or fisheries cooperation with foreign countries.

#### Article 38

Where the restrictions imposed in accordance with the provisions of the preceding article on the total number of fishing vessels within respective directed fishery requires the reduction of the approved number of fishing vessels, the fisheries association of the particular directed fishery shall coordinate with the operators for the reduction. The operators who continue their operation shall compensate those who are restricted. Provided that those fishing vessels imposed restrictions may operate other types of fishery, no compensation shall be given. Should no coordination be reached, the competent authority shall mediate between the relevant operators, and make a decision at its discretion if such mediation fails.

Where the restrictions in the preceding paragraph cause termination of the fishery operation and revocation of the fishing license, the competent authority shall make appropriate compensation accordingly.

#### Article 39

Any fishery operator shall obtain approval from the central competent authority before his fishing vessels and crew members operate at overseas bases. The central competent authority shall prescribe regulations governing such operations.

#### Article 40

For the purposes of meeting the needs of the fisheries development and promoting fisheries cooperation with foreign countries, the central competent authority shall prescribe rules governing fisheries cooperation with foreign countries.

#### Chapter Four Recreational Fishery

#### Article 41

In this Act, the term "recreational fishery" means the fishery using fishing vessels, for recreational purposes, to catch or harvest aquatic organisms or to engage in sightseeing.

Any fishery operator engaging in recreational fishery provided in the preceding paragraph shall apply to the competent authority for license.

#### Article 42

The recreational fishery operator shall obtain the consent of the exclusive fishery right holder and comply with the rules prescribed by the said holder prior to operate within the waters covered by the exclusive fishing right. The exclusive fishing right holder can not withhold his consent without justification.

#### Article 43

The central competent authority shall prescribe regulations to strictly govern the

equipment of the fishing vessels, life saving, and other compliance matters that must be met concerning full time or part time recreational fishery.

## Chapter Five Conservation and Management

### Article 44

For the purposes of resources management and fisheries structure adjustment, the competent authority may promulgate the following matters:

- (1) restriction or prohibition of the catching, harvesting, or processing of aquatic organisms;
- (2) restriction or prohibition of the sale or possession of aquatic organisms or the products made therefrom;
- (3) restriction or prohibition of the use of fishing gears and fishing methods;
- (4) restriction or prohibition of fishing area and fishing period;
- (5) restriction or removal of any article obstructing the migratory routes of aquatic animals;
- (6) restriction or prohibition of placing or dumping of objects harmful to aquatic organisms;
- (7) restriction or prohibition of placing or removal of protective objects necessary for the propagation of aquatic organisms;
- (8) restriction or prohibition of transplantation of aquatic organisms; or
- (9) other matters as deemed necessary.

### Article 45

For the purposes of conserving aquatic resources, the competent authority may designate the establishment of aquatic organisms propagation and conservation zones. The establishment of the conservation zones shall be subject to the approval of the municipal competent authority. In the case of the county/city, the competent

authority may submit a project concerning the conservation zones to the central competent authority for approval and promulgate the project after being approved. If the establishment of the conservation zone involves two or more provinces or municipalities, the project shall be subject to the approval of the central competent authority.

The municipal/county/city competent authority with jurisdiction over the conservation zone shall be responsible for the management of the conservation zone. Where the jurisdiction over the waters on which the conservation zone established is extended over two or more provinces/municipalities/counties/cities or is not clear, the central competent authority shall appoint an agency to manage the conservation zones.

#### Article 46

For the purposes of conserving aquatic resources, the competent authority may undertake survey on respective directed fishery regarding its catch volume, operation conditions, and sea conditions.

In undertaking the investigation as mentioned in the preceding paragraph, the competent authority may request the fishery operator or fishing professional to submit a report on catch volume, operation period, fishing gears, fishing methods and other relevant facts. The fishery operator or the fishing professional shall not withhold his consent.

#### Article 47

The central competent authority shall draft regulations for conserving and managing aquatic resources for submission to the Executive Yuan for approval.

#### Article 48

Aquatic organisms shall not be caught or harvested by use of:

- (1) toxic substances;
- (2) explosives or other dynamites; or
- (3) electricity or other narcotics.

The restrictions provided in the preceding paragraph shall not apply to the catch or harvest which is for experimental and research purposes and with permission from the central/municipal competent authority.

#### Article 49

When the competent authority deems necessary, it may designate an officer to the fishing vessel or other relevant sites of the fishery operator to inspect the operator's catch, fishing gears, account books, and other objects. The officer may also question any relevant party who shall not withhold his consent.

In carrying out the inspection provided in the preceding paragraph, where the officer finds any commission regarding fisheries offense but is not in the position to request the judicial authority to proceed with search or seizure, he/she may provisionally seize the fishing vessel, the catch, or other objects that may serve as evidence of the offense committed. In case that any other violation of the provisions of this Act is found, the catch, the fishing gears and other objects may be seized.

The seizure undertaken in accordance with the preceding paragraph shall be witnessed by any person in charge of the fishing vessel or the site, or any other civil servant.

An inventory shall be made in respect of the objects detained.

In carrying out the inspection, the officer mentioned in the first paragraph above shall produce his identification and authorization issued by the competent authority specifying the area of inspection. Failure to do so, the subject of the inspection may refuse such inspection.

#### Article 50

Where any dispute arises concerning the operation areas, fishing grounds, or the methods of catching, harvesting, or aquaculture, the fishery operator may apply to the competent authority for the mediation.

#### Article 51

Where there are more than one fishing methods used within the same fishing ground, the competent authority may, after consulting the fishery operators' opinion, prescribe rules for operation.

#### Chapter Six Fishery Development

#### Article 52

For the purposes of facilitating fisheries fund, the competent authority shall, in consultation with the authorities concerned, consult financial institutions in providing various fishery loans.

Whenever necessary, the financial and the fisheries competent authorities may approve the establishment of fisheries financial institutions.

#### Article 53

For the purposes of promoting fisheries investment and assuring safety fisheries, the competent authority shall coordinate with the authorities concerned to conduct various fisheries insurance programs, or shall designate fishermen's associations or consult public or private insurance institutions to undertake the programs.

#### Article 53-1

For the purposes of protecting fishermen's lives and property safety, the competent

authorities may prescribe regulations regarding salvage operations for fishermen and their fishing vessels in maritime distress, awards to motor-powered vessel owners, and insurance to fishermen in their sea operations.

#### Article 54

For the purposes of assuring fishery security and maintaining the order of the fishing areas, the competent authority shall:

- (1) construct and maintain fishing ports and fisheries infrastructures;
- (2) dispose patrol fleets to perform the duties of salvage, patrol, and fishery protection;
- (3) establish fisheries radio broadcasting stations;
- (4) establish such safety facilities as beacons, sign poles, and weather forecasting systems;
- (5) prescribe regulations which must be observed in the fishing grounds and for the fishing vessels; and
- (6) request the Ministry of Defense and other authorities concerned for necessary assistance and protection.

#### Article 55

The competent authority may award those who have performed any of the following:

- (1) improving facilities which are conducive to safety fishing and salvage;
- (2) improving fishing vessels, fishing gears, fishing methods, or processing methods of fisheries products, with remarkable result;
- (3) promoting fisheries education or conducting fisheries research, with remarkable result;
- (4) exploiting fisheries resources which are conducive to fisheries development; or



(5) any other performance which contributes greatly to fisheries development.

The central competent authority shall prescribe regulations for providing incentives mentioned in the preceding paragraph.

#### Article 56

For the purposes of promoting fisheries development, the government shall establish fisheries development fund. The competent authority shall propose the amount of the said fund to the Executive Yuan for approval, and duly appropriate its budget accordingly.

The Executive Yuan shall prescribe regulations on the incomes and expenditures, safe custody, and application of the fisheries development fund.

#### Article 57

For the purposes of coping with price fluctuation of fishery products and stabilizing the market of fishery products, the government shall establish a fishery products market stabilization fund. The central competent authority shall prescribe regulations for the establishment of the fund and guidelines for its management and application.

#### Article 58

Any fishing vessels, fishing gears, or capital goods for fishing imported for fisheries production purposes shall be exempted from or reduced from import duties in case such items are not manufactured domestically or the quantity of those domestically manufactured is insufficient to meet the demand. Any item imported by fisheries research institutes for experimental and research purposes shall be exempted from import duties.

The Executive Yuan shall decide and promulgate those items eligible for exemption

or reduction of import duties and the applicable criteria mentioned in the preceding paragraph.

#### Article 59

Fuel for powered equipment used in fisheries shall be exempted from commodity tax.

The Executive Yuan shall decide the standard of preferential fuel price.

#### Chapter Seven Penalty

#### Article 60

Any person who violates the provisions of any subparagraph of Article 48(1) shall be convicted to imprisonment for a period of not exceeding five years, detention, or in lieu thereof, or a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars.

Any person who violates the rules promulgated by the competent authority pursuant to Article 44(1) and (2) shall be convicted to imprisonment not exceeding three years, detention or in lieu thereof or in addition thereto a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars.

#### Article 61

Any person who violates the rules promulgated by the competent authority pursuant to Article 44(3) shall be convicted to imprisonment not exceeding six months, detention, or in lieu thereof or in addition thereto, a fine of not exceeding thirty thousand New Taiwan Dollars.

#### Article 62

Any person who undertakes any one of the following activities shall be liable to detention or in lieu thereof a fine of not exceeding one hundred and fifty thousand

New Taiwan Dollars:

- (1) altering the fishing vessel's name or the registration number;
- (2) removing, vitiating, or destroying the signs on any fishing grounds or any fishing gears; or
- (3) setting up fences, buildings, or any other fishing gears to obstruct the migratory routes of fish.

#### Article 63

Where the representative of a judicial person, or an agent, an employee, or any other professional of a judicial person or natural person, in performing his duty, violates the provisions of Articles 60 to 62, the offender shall be punished pursuant to the provisions of the respective article. In addition thereto, the relevant judicial person or natural person shall be punished with a fine for the amount as specified in the relevant article.

#### Article 64

Any person who undertakes any one of the following activities shall be liable to a fine of between sixty thousand and three hundred thousand New Taiwan Dollars:

- (1) operating fisheries in violation of the provisions of Article 6;
- (2) violating the official proceedings imposed by the competent authority pursuant to Article 29(1); or
- (3) continuing to operate fisheries after his fishing license has expired and application for renewal of the license has not been duly approved.

#### Article 65

Any person who undertakes any one of the following activities shall be liable to a

fine of between thirty thousand and one hundred and fifty thousand New Taiwan Dollars:

- (1) violating the restrictions or conditions imposed pursuant to Article 9;
- (2) violating conditions as promulgated pursuant to Article 14;
- (3) violating the provisions or restrictions pursuant to Article 36 or Article 37;
- (4) failing to apply for license pursuant to Article 41(2);
- (5) violating any one of the provisions of Article 44(4) to (9);
- (6) refusing, bypassing, or obstructing an inspection carried out pursuant to Article 49(1), or refusing to answer without proper reason or making false statement to the officers' queries;
- (7) violating the regulations prescribed pursuant to Article 54(5); or
- (8) violating the orders issued by the competent authority pursuant to this Act.

#### Article 66

Any person who undertakes any one of the following activities shall be liable to a fine of between fifteen thousand and seventy-five thousand New Taiwan Dollars:

- (1) violating the provisions of Article 11(2) in suspending operation for more than one year without approval;
- (2) refusing, bypassing, or obstructing the inspection carried out pursuant to Article 46(1), or violating the provisions of Article 46(2) by refusing to submit a report; or
- (3) violating the rules prescribed pursuant to Article 51.

#### Article 67

Fines imposed in accordance with this Act not paid within the designated time limit shall be transferred to the court for compulsory execution.

#### Article 68

In addition to the punishment imposed pursuant to Article 60, Article 61, Article 62(3), Article 64, and Article 65(1), the catch or fishing gears may also be confiscated. In case the whole or part of such catch or fishing gears cannot be confiscated, the value of such catch or fishing gears shall be collected.

#### Chapter Eight Miscellaneous

##### Article 69

The municipal/county/city competent authority shall prescribe rules for registration and management of inland aquaculture.

The municipal/county/city competent authority may plan and set up an aquaculture area in which the environment is appropriate for developing aquaculture or presently fish farms concentrated.

Any aquatic organisms that involved in genetic breeding and transference shall run prior field tests and safety assessments before promotion. Regulations on genetic breeding and transference shall be prescribed by the central competent authority.

##### Article 70

The central competent authority shall prescribe rules for the enforcement of this Act.

##### Article 71

This Act shall enter into force on the date of promulgation.

## ENFORCEMENT RULES OF THE FISHERIES LAW

Promulgated November 30, 1991

per order referenced (80) Nung-Yu-Tze 0156369A

Promulgated January 31, 2000

per order referenced (89) Nung-Yu-Tze 891201414

[Translation]

### Article 1

These Rules are enacted in accordance with Article 70 of the Fisheries Law (hereinafter called the "Law").

### Article 2

The term "incidental processing, transportation and distribution" referred to in Article 3 of the Law shall denote operation of fish catch transport vessels or fishery processing vessels.

### Article 3

The term "public waters" referred to in Article 6 of the Law shall denote rivers, natural lakes, tidal belts and oceans. The term "non-public waters adjacent to public waters" shall denote ponds, low-lying ponds, reservoirs etc. which are adjacent to public waters.

### Article 4

The term "fishing boats" referred to in the Law shall denote vessels, sampans and fishing rafts on which fisheries are operated, and fishery patrol boats, fishery research vessels and fishery training boats.

## Article 5

The term "reconstruction" referred to in the first paragraph of Article 8 of the Law shall denote any of the following circumstances:

1. Change of the length, width and depth of a fishing boat;
2. Installation of the major and donkey engines, or change of the type or horsepower of such engines; and/or
3. Change of the structure or equipment of a fishing boat for the change of the usage of the fishing boat or of the type of fishery being operated.

## Article 6

An application for construction or reconstruction of fishing boats shall be filed with the relevant competent authority as below:

1. The base of fishing boat located in country/city: The application shall be filed with the county/city competent authority if the fishing boat is less than 20 tons, with the central competent authority if it is 20 tons or above.
2. The base of fishing boat located in municipal: The application shall be filed with the municipal competent authority if the fishing boat is less than 100 tons, with the central competent authority if it is 100 tons or above.

The above application shall include the following documents:

1. Three copies of the application form, which shall specify the following:
  - a) name, ID No and address of the applicant;
  - b) name of the fishing boat;
  - c) type of fishery being operated, fishing area and port of registry;
  - d) proposed gross tonnage;
  - e) main dimension of the boat;
  - f) materials of the hull;
  - g) name and address of the boat builder;
  - h) country of the builder of the major and donkey engines, type, brand name, maximum continuous horsepower, number of cylinders, radius and rate of gyration of the cylinders; and

- i) projected date of start-up and completion for launching.
2. Four copies of drawing of the fishing boat (including general layout, central cross section and linear plan) and building manuals (not required for sampans, fishing rafts and fishing boats with a wooden hull of less than ten tons).
3. An application for re-construction shall also be attached with the vessel inspection logbook or small boat license.
4. Other documents announced by the central competent authority to be attached to the application.

#### Article 7

The division of management and responsibilities of the competent authorities in the issuance of fishing permits is as follows:

1. Central Competent Authority
  - (1) Exclusive fishing right fishery with operating waters within the province and set-net and sectional fishery with operating waters covering at least two counties/cities.
  - (2) Fishing right fishery operating in the waters covering at least two provinces/municipalities
  - (3) Recognized and recreational fisheries which excluded the municipal or county/city competent authority.
2. Municipal Competent Authority
  - (1) Fishing right fishery with operating waters within the municipality.
  - (2) Recognized and recreational fisheries using fishing boats with gross tonnage of less than 100 tons and the bases of the fishing boats are located in the municipal.
3. County/City Competent Authority
  - (1) Set-net and sectional fisheries with operating waters within the county/city; or
  - (2) Recognized and recreational fisheries using fishing boats with gross tonnage of less than 20 tons and the bases of the fishing boats are located in the county/city.

#### Article 8

An application for operating fishing right fishery shall be filed with the municipal or county/city competent authority at the location of the fishing area accordingly.



An application for operating recognized and recreational fisheries shall be filed with the municipal or county/city competent authority of the place of registry of the fishing boat concerned.

#### Article 9

Only the following can be the applicants to operate fishery:

1. The capital contributor shall be the applicant in case of a sole proprietorship;
2. One of the representatives shall be the applicant in case of a partnership;
3. The statutory representative of the legal entity shall be the applicant in case of a company or business firm;
4. The statutory representative shall be the applicant in case of a public institution or fisheries research institute; or
5. The statutory representative shall be the applicant in case of a fishermen association or fishery production cooperative.

#### Article 10

An application to import a fishing boat shall be attached with the following documents and filed with the central competent authority for approval through the municipal or county/city competent authority of the place of registry of the fishing vessel concerned:

1. Application form;
2. Photocopy of the certificate of nationality issued by the exporting country of the fishing vessel;
3. Valid certificate proving the vessel safety inspection has been duly passed; and
4. Drawing of fishing vessel layout.

#### Article 11

An application to export a fishing boat shall be submitted with the following documents and filed with the central competent authority for approval through the municipal or county/city competent authority of the place of registry of the fishing vessel concerned:

1. Application form;
2. Two photocopies of fishing permit;
3. Two photocopies of the certificate of nationality or small boat license; and
4. Two photocopies of the purchase and sales agreement.

The above application shall be subject to the approval of the municipal or county/city competent authority if the fishing boat concerned is less than 20 tons.

#### Article 12

The sanctions by way of recalling a fishing permit or license or fishing crew manual of the officers and crew pursuant to the Article 10 of the Law shall be valid for a period as follows:

1. If the fishing vessel and crew subject to the sanction are still in the port and if the above permit, license or manual is surrendered within the time limit prescribed in the notice of sanction, the sanction shall be valid from the date of receipt of such notice; otherwise, the sanction shall become valid from the date when the permit, license or manual is surrendered.
2. If the fishing vessel and crew subject to the sanction have departed from the port, the sanction shall become valid from the date of the above surrendering upon their return to the port.

#### Article 13

Upon the setting up of a fisheries advisory committee in accordance with Article 13 of the Law, the competent authority shall seek the advice of such committee with regard to the following matters:

1. Overall planning in regard to structural adjustment and management system of fishery;
2. Comprehensive use of fishing area;
3. Overall planning of fishing right fishery;
4. Priority and disputes regarding approval of fishing right fishery;
5. Change of the type and operating location of fishing right fishery;
6. Approval and revocation of fishing right, and matters pertaining to administrative action on such right;
7. Designation of the type of recognized fishery, term of operation, operating waters, total number and tonnage of fishing vessels, and other relevant matters; and
8. Conservation and management of fishery resources.

#### Article 14

The term "fishing gear" referred to in Article 14 of the Law shall denote tools directly or indirectly used for catching, harvesting or culturing purposes.

#### Article 15

The plan to be drafted in accordance with Article 17 of the Law shall include the type of fishery, scope of fishing area, fishing period, anticipated quantity to be approved, period of public notice, period of application and other relevant matters.

If necessary, the central or county/city competent authority may allocate a budget to the relevant organizations or academic institutions commissioned to study and be in charge of the drafting or adjustment of the overall plan under the first paragraph of Article 17 of the Law and the plan under the preceding paragraph.

#### Article 16

The plan drafted or adjusted by the central or county/city competent authority in accordance with the preceding article shall be published for 30 days for public review at the *hsiang*/town/city/district and fishermen's association at the place of the fishing area.

During the above period of public review, interested parties may submit their comments to the competent authority in writing, with name, address and occupation stated. After the plan has been duly reviewed and approved, the competent authority will forward such comments to the superior authority to be placed on file for future reference.

#### Article 17

After approving the plan in accordance with the preceding article, the central or county/city competent authority shall publish a public notice with respect to the acceptance of applications for fishing right fishery permits at the *hsiang*/town/city/district and fishermen's association at the place of the fishing area before July of each year.

The period of the above public notice shall not be less than 30 days.

#### Article 18

An application to operate fishing right fishery shall be attached with the following documents:

1. Three copies of application form, which shall specify the items as follows:
  - a. Name, address, ID No and occupation of the applicant;
  - b. Type and name of fishery to be operated;
  - c. Location, zone and size or scope of fishing area (specifying size of the fishing area shall be waived if set-net fishery is to be operated);
  - d. Type and amount of fishing gear;
  - e. Target species; and
  - f. Fishing period
2. Three copies of map of fishing area (the main geographical co-ordinates of the fishing area and relevant bearings and distance from land, and size of the nets and tools shall be specified);
3. Three copies of business plan;
4. If the applicant is a partnership, the partnership contract shall be submitted. If it is a company, a photocopy of the certificate of incorporation registration shall be submitted. If it is a fishermen association or fishery production cooperative, three copies of the minutes regarding resolutions of the members representatives plenary meeting shall be submitted.
5. If the zone or waters of the fishing area within which fishery is to be operated is owned or occupied by another person, three copies of the letter of consent issued by that person shall be submitted.
6. An application to operate exclusive fishery shall be accompanied by three copies of draft fishing rules and regulations specifying the following:
  - a. Qualifications of the person allowed to seek permission to fish in specific waters;
  - b. Area and period of fishing in specific waters;
  - c. Fishing methods used in fishing in specific waters; and
  - d. Other requirements to be met.

#### Article 19

The approved waters for operating exclusive fishery shall be limited to waters within the jurisdiction of the fishery association or fishery production cooperative concerned.

#### Article 20

In regard to the approved fishing right fishery, the competent authority may delimit an area of waters to restrict other persons from operating fishery.

#### Article 21

The fishing right permit issued by the competent authority for fishing right fishery shall specify the following material facts:

1. Name, address and ID No of the fishing right holder;
2. Approval number and date of approval;
3. Type and name of fishery being operated;
4. Location, zone and size or scope of fishing area;
5. Target species;
6. Fishing period;
7. Validity period of the fishing right; and
8. Conditions or restrictions imposed upon approval.

#### Article 22

If operation is to continue upon the expiration of the fishing right permit, an application for new permit shall be filed within six months prior to the expiration.

When the above permit becomes null and void, the fishing right shall extinguish at the same time.

#### Article 23

Any one waiving fishing right shall apply to the original issuing authority for de-registration. If other rights are registered in relation to said fishing right, written approval shall be submitted.

#### Article 24

A fishing right holder shall, within three months of its acquisition of a fishing right permit, complete set-up of markings of datum points on land for surveying the fishing area.

After completion of the establishment of a fishing area for fishing right fishery, an application shall be filed with the competent authority for inspection and for a map of the fishing area.

If with respect to the markings set up under the first paragraph, new markings need to be set up or re-set up, an application, with reasons stated, shall be filed with the competent authority concerned for approval. Upon the extinguishment of the fishing right, the fishing right holder shall remove the markings and facilities of the fishing area.

#### Article 25

The competent authority shall publish a public notice with respect to the approval it has granted for the acquisition, combination, separation, change and loss of fishing right, and the revocation of the approval of operation under the first paragraph of Article 10 and the first paragraph of Article 11 of the Law.

#### Article 26

Applicants for the permission under Article 35 of the Law shall specify the following material facts:

1. Name and address of land owner or user
2. Location and scope
3. Purposes of use
4. Period of use
5. The fact that consent is not granted
6. Other necessary material facts

#### Article 27

The designation of and restrictions on the recognized fishery, and the change thereof, under Articles 36 and 37 of the Law shall be published in a public notice by the municipal or county/city competent authority after being approved by the central competent authority.

## Article 28

Application for operation of recognized fishery shall be attached with the following documents and filed with the competent authority concerned:

1. Three copies of application form specifying the following material facts:
  - a. Name, address and ID No of the applicant;
  - b. Type of fishery;
  - c. Location and area of fishing ground;
  - d. Name, gross tonnage, net tonnage, uniform No and number of crew of the fishing boat;
  - e. Type and horsepower of the engine as well as the capacity of oil tank and hourly speed;
  - f. Type and quantity of fishing implements;
  - g. Target species;
  - h. Fishing period;
  - i. Fishing base and port of catch loading and unloading;
  - j. Name, date of birth and nationality of the captain, and the license No of officers and crew;
  - k. Certificate of origin of the fishing boat;
  - l. Refrigerating and freezing ability and capacity of the fishing boat;
  - m. Main fishing and navigational apparatus and equipment;
  - n. Communication equipment;
  - o. Operating period being sought; and
  - p. written approval issued by the competent authority
2. Three photocopies or transcripts of boat inspection logbook, boat inspection certificate, small boat license or raft license; and
3. Those applying as a company or business firm shall submit a photocopy of the certificate of incorporation registration and three copies of business plan..

## Article 29

The maximum period of approved recognized fishery shall be limited to five years. If operation is to continue, application for renewal of

the fishing permit shall be filed within three months prior to the expiration.

#### Article 30

The fishing permit issued by the competent authority for recognized fishery shall specify the following material facts:

1. Name, address and ID No of the fishery person;
2. Approval number and date of approval;
3. Type of fishery to be operated;
4. Location and area of fishing ground;
5. Name, gross tonnage, net tonnage, uniform No and number of crew of the fishing boat;
6. Type, horsepower, capacity of oil tank, and speed per hour of the machinery of the fishing boat;
7. Type and amount of fishing implements;
8. Target species;
9. Fishing period;
10. Fishing base and port of catch loading and unloading;
11. Validity of fishing permit;
12. Communication equipment and international call number; and
13. Conditions or restrictions imposed upon granting the approval

#### Article 31

No fishery person shall allow a third person to use his fishing permit.

#### Article 32

Fishery persons shall bring their fishing permits when fishing or operating at sea.

#### Article 33

Neither fishery persons nor fishing professionals may perform any of the following conducts when fishing or operating:



1. performing non-fishery acts against the law;
2. violating the restriction imposed by the competent authority on the number of crew in operation;
3. selling or using fishing power oil for other purposes; or
4. entering foreign waters illegally.

#### Article 34

A fishing person who blocks the migration path of an anadromous fish for fishing operation shall reserve at least one-fifth of the waters as such path.

#### Article 35

Both fishery persons and fishing professionals shall fill in fishery reports and other relevant materials in accordance with the regulations of the competent authority.

#### Article 36

The central competent authority may authorize the municipal or country/city competent authority to handle its business.

#### Article 37

These Rules shall become effective as of the date of their being promulgated.

## **THE REGULATIONS FOR FISHING VESSEL BUILDING PERMIT AND FISHERY LICENSE ISSUE**

Nov. 17, 1989, Council of Agriculture, Executive Yuan 78 Nong-Yu-Tsu No. 8040367 A formulates and issues the whole document Article 15

Dec. 24, 1990 Council of Agriculture, Executive Yuan 79 Nong-Yu-Tsu No.9040585 A order amends and issues

Dec. 24, 1991 Council of Agriculture, Executive Yuan 80 Nong-Yu-Tsu No. 004065 A order amends and issues name and the full document

Sep. 30, 1992 Council of Agriculture, Executive Yuan 81 Nong-Yu-Tsu No.1040799 A order amends and issues

April 28, 1995 Council of Agriculture, Executive Yuan 84 Nong-Yu-Tsu No.4040367 A order amends and issues name and the full document

Jan. 31, 1997 Council of Agriculture, Executive Yuan 86 Nong-Yu-Tsu No.86040026 A order amends and issues Article 21(1), 22

Feb. 27, 1997 Council of Agriculture, Executive Yuan 86 Nong-Yu-Tsu No.86040096 A order amends and issues Article 26

Jan. 6, 1998 Council of Agriculture, Executive Yuan 87 Nong-Yu-Tsu No.86040853 order amends and issues Article 4, 11, 14, 15, 18, and 26

Nov. 24, 1999 Council of Agriculture, Executive Yuan 88 Nong-Yu-Tsu No.88670098 order amends and issues Article 30

Oct. 18, 2000 Council of Agriculture, Executive Yuan (89) Nong-Yu-Tsu No.891321449 order amends and issues Article 11, 12, 14, 15, 18, 26; and deletes Article 22, 23

Sep. 28, 2001 Council of Agriculture, Executive Yuan (90) Nong-Yu-Tsu No.901321600 order amends and issues Article 26, and revises and augments Article 26(1), 26(2)

Jun. 28, 2002 Council of Agriculture, Executive Yuan (91) Nong-Yu-Tsu No.0911320977 order amends and issues Article 12

Jun. 30, 2003 Council of Agriculture, Executive Yuan (92) Nong-Yu-Tsu No.0921321090 order amends and issues Article 18, 26(2), and deletes Article 28

Article 1 The regulations are formulated for the purpose of standardizing the building, alteration , chartering, or importing of fishing vessel and obtaining the permit and license grant of fishery in accordance with Article 7 & 8 of the fisheries Act.

Article 2 The regulations are fit for the building, alteration , chartering, or importing of fishing vessel and obtaining the permit and license issue of the Directed Fisheries.

The regulations are fit for the building, alteration , chartering, or importing of fishing vessel and obtaining the permit and license issue of the entertainment fishery unless there is additional management measure for the Recreational Fishery.

**The regulations are fit for the building, alteration , chartering, or importing of fishing vessel of Fishing Right Fishery; the license will be distributed according to the Fisheries law and fishery rights registration regulations.**

Article 3 The definition of the terminologies in this regulation:

1. Fishing license: the fishing license and fishery certificate
2. Fishery type: the main fishing business registered in the license, excluding the concurrent fishing business
3. The loss of the fishing vessel: the being decomposed, sinking, being stranded, being damaged, missing, being confiscated or detained by the foreign government, and being cancelled of ship registry
4. Qualification replacement: the qualification for the fishery operator to be granted the right to build the boat of the same tons and continue to manage

the same fishery type after losing, deleting, submitting and canceling the original fishing license

5. The replacement number of tons: the number of tons approved to be replaced on the cancellation of the fishing license due to the losses
6. The number of tons of the fishing vessel: the total tons measured according to the shipping measurement rules by navigation affairs department; 30% of the tonnage will be added to the fishery businesses which were measured before the amendment of the regulation according to Transportation and Navigation (71) No.1584 order, by Ministry of Transportation & Communications on July 16th 1982

Article 4 The one which conforms to any one of the following provisions may apply the issue of fishing license:

1. The fishing businessman gaining the qualification to build new fishing vessel after replacement of the old ones
2. The fishing businessman being granted the right to build the fish transportation vehicles above 2000 tons
3. The fishing businessman being approved to import fishing vessel by the central government authorities
4. The fishing businessman accepting or renting other's fishing vessel
5. The fishing businessman changing fishery type on the basis of the current fishing vessel on approval
6. The fishing businessman engaging in fishery training, experiment and paroling by using the fishing vessel on being approved

Article 5 The applicant for changing the fishing license should apply three months before the expiry, except the cases mentioned below:

1. The one who applies to the authorities in advance for postponing changing the license and is approved may apply right before the expiry of the approved duration.
2. The one who is approved for business suspension by the authorities should apply before the business restoration at the completion of the closedown.  
The authorities will punish the applicant who applies for change after the expiry of the license according to the fishery laws.

Article 6 The fishing businessman accepting other's fishing vessel should apply the issue of the license within one month after the shipping ownership is changed by the navigation affairs department.

Article 7 The fishing license should record any changes and the business should apply for registration change within one month of the change by attaching the certifying documents.

**In case of the change of the fishery operator , veddel name or fishery type, the application must be made for license change.**

Article 8 On the loss of the fishing vessel, the fishery operator should apply to cancel the fishing license by attaching the certifying documents, the boat registration cancellation certificate by the navigation affairs department authorities and the original fishing license.

**The competent authorities will directly cancel the fishing license in case of the confiscation, or selling abroad of the fishing vessel.**

Article 9 The fishing operator gaining the replacement qualification of the old shipping, but not building the new ships should apply for the fishery type that has the same management and replacement qualification on the basis of the existing fishing vessel.

The existing fishing vessel that gained the replacement qualification according to the original fishery type should be kept its replacement qualification under the original fishery type.

Article 10 Any one of the following cases may directly apply for the change of the fishery type:

1. The coral fishery, shellfish and testacean fishery, submarine equipment fishery is changed to manage fishery other than trawl
2. The change of double-boat trawling fishery into single-boat trawling fishery

Article 11 The fishery businessman will not be allowed to apply for the change of the approved fishery type within two years.

No change of fishery type is allowed for the imported fishing vessel except the imported fishing vessel under III of the Entry I, Article 26, which will be managed according to the provisions of the above two Articles.

Article 12 The provisions for the mutual change or concurrent operation of the fishing vessel of the directed fisheries, recreational fishery and fishing right fishery are as below:

1. The operation or concurrent operation of other fishery type may be applied for the directed fisheries shipping except the fishing vessel of purse seine for mackerel and fish carrier.
2. The operation or concurrent operation of other fishery type cannot be applied for the fishing vessel for recreational fishery unless the vessel is of more than 3 years old and has been reconstructed on the approval of the authorities-in-charge.
3. The application for operation change may be made for the fishing vessel for fishing right fishery, but not for the concurrent operation of other fishery.
4. The application for the change of fishery type is made for pole and lines boote, troll line, longline fisheries, spear fishing and other fishery type that central competent authority announced they allowed for the recreational fishery vessel.
5. The application for directed fisheries made for the fishing vessel for fishing right fishery, coral reef fishery, shellfish and testacean fishery, submarine equipment fishery, trawling fishery, or any other fishery announced as the limited type by the central competent authority should not be allowed.

Article 13 The fishing vessel for the directed fisheries, full time recreational fishery and fishing right fishery may be mutually replaced and built again.

When the fishing vessel for the full time recreational fishery and the fishing right fishery are replaced by that for the directed fisheries, no coral fishery, shellfish and testacean fishery, submarine equipment fishery, trawling fishery, or any other fishery announced as the limited type by the central competent authority is allowed.

Article 14 While the fishing operator applies the shipping replacement and construction qualification with two or more vessels, and the replaced tonnage is less than the newly built tonnage, the shortage should be made up except the difference is less than one ton.

When the replaced tonnage is one ton more than the newly built tonnage, it should be kept; the reserved number of tons can only be used to make up the shortage of other fishing vessel, not for the increase of building new ship; the reserved replacement number of tons is valid one year from the verified date for reservation.

When the replacement number of tons is supplemented by the reserved part, or the fishery type other than 鯖鮫purse boat and fish transportation vehicles according to the said supplement provision, the supplemented number of tons for the replacement should not be more than 49% of the tonnage of the newly built fishing vessel.

When the fishing operator applies for the fishery type change of the current fishing vessel according to the Entry 1, Article 9, and the replaced number of tons is less or more than that of the current fishing vessel, the provisions in 1st to 3rd Entry may be applied.

When the fishing operator builds fish transportation vehicles or 鯖鮫purse boats, the tonnage should not be less than that of the original fishing vessel, and the Entry 2 is not applicable for this either. The replaced number of tons should not be used for the replacement of the fishing shipping for other fishery type or the supplementation of the replaced number of tons.

When the fishing businessman builds the fishing boat more than 100 tons, or applies the operation change of the fishery type for the current fishing boats of more than 100 tons in the replacement qualification according to the Entry 1 of Article 9, the applicant should gain the replacement of at least 100 tons of the fishing vessel for the same fishery type, and the provisions in Entry 1 to 3 may be applied to the shortage or the extra tons.

For the fishing operator applying for importing fishing vessel of new fishing style and the entertainment fishery, the number of tons to be replaced is the fishery type other than 鯖purse vessel and fish transportation vehicles.

Article 15 When the tons of the fishing vessel are increased upon the verification and reconstruction, the replaced number of tons should be made up except the difference is less than one ton. The total tonnage of the fishing vessel below 100 tons should not exceed 100 tons after reconstruction.

Article 16 The applicant for reservation of replacement qualification should attach the following documents:

The original fishing license

The cancellation document of ship registry for replaced fishing vessels

The certifying documents for the reduction of the fishing vessels

Other specified documents or data

The fishing business of which the cancellation made according to the Entry 1 of Article 8, may omit the above first to third documents upon application

Article 17 The replacement qualification is valid within 3 years from the reduction date of the fishing vessel.

In case that the fishing vessel is detained by the foreign government, or it has been already completely punished or remitted upon verification by the competent authority, or it has not received any court decision after being

detained for two years, the replacement qualification will be valid in 3 years from that day that the vessel owner completes the cancellation of the vessel registry with the Navigation Affairs Department.

The replacement qualification reservation approved according to the Entry 2 of Article9 will be valid within 3 years from the approval date.

Article 18 Any one of the following cases cannot apply for the reservation of the replacement qualification:

1. No reduction of the fishing vessels.
2. The applicant being refused to issue license due to any one case under Article 7-(1) of the fisheries law.
3. The validity of the fishing license or the approved close-down period is already expired.
4. The applicant who has not gained the replacement qualification for importing the fishing vessel of new fishing style after the construction restriction announcement by the central authorities on November 17<sup>th</sup> 1989.
5. The owner of the fishing vessel did not properly manage the stranded boat, which affected shipping navigation, or polluted the oceanic environment

Article 19 The application for building new vessel should be made before the expected decomposition of the current fishing vessel. The old vessel should be decomposed and the original license cancelled before the new vessel is completed and the application is made for fishing license.

Article 20 The main fishery business Articles such as trawling, longline, cuttlefish fishing (魷釣), skipjack, tuna purse net, and 鯖鰹 purse net should not be registered as the concurrent business. The verified concurrent business in these fields should be changed into main businesses upon applying for change of license. The competent authority may directly cancel the registered concurrent business if no application is available.

Article 21 No new fishing license for coral fishery, shellfish and testacean fishery, and submarine equipment fishery will be issued except the change of license upon the expiry of the original one.

**The applicant for the reservation of the replacement qualification in the said Article should choose to build the fishing vessel for other fishery type.**

Article21- 1 No restriction is made for the fishery type of the fishing vessel less than 5 tons. But the operation of the fishery such as coral fishery, shellfish and testacean fishery, submarine equipment fishery, and trawling fishery should be managed according to the concerned provisions of this regulation.

Article 22 ( deleted )

Article 23 ( deleted )

Article 24 No more than one main fishery business is allowed to be registered in license and three types for the concurrent business.

Article 25 The approved shipping to be built should be completed and the application for fishing license be made within two years after the approval. The approval will be regarded invalid upon the exceeding the time limit. In case that the vessel shell is completed and the main equipment such as the main engine, second engine are purchased, the application for one-year extension for construction may be made before the completion of the two-year duration.

Article 26 No fishing vessel is to be imported from foreign country unless one of the following cases exists:

**The fishing vessel with new fishing style and examined and approved by the central authorities-in-charge as a special case**

The fishing vessel specially for the entertainment fishery

The completion of the fishing vessel in the fishery cooperation with foreign country approved by the central competent authorities; or the returned fishing vessel being exported to other country through special case

The fishing vessel in accordance with the provisions under Article 26-1 & 26-2

The fishing vessel imported under the first entry of the last Article should first gain the replacement and construction qualification and the time should not exceed ten years from the construction completion and launching to the application date.

The fishing vessel for full time recreational fishery imported under the second entry of the last Article will be limited to the newly built ones. The applicant should first gain the replacement and construction qualification, and have the approval of the local city or Tsan 縣 of the planned harbor, and finally the verification of the central competent authority.

Article 26-1 The manager of the longline fishing vessel of more than 100 tons that was constructed in Taiwan and exported to other country and registered as foreign vessel but managed by our people, during the period from January 1st 1994 to January 28th 2000, will gain the replacement number of tons for a longline fishing vessel of more than 100 tons with the approval of the central competent authority. The shortage will be made up by the number of tons for longline boat or the shipping for other fishery type.

The offer in advance may be adopted in the management of the replacement number of tons for the longline fishing vessel of more than 100 tons in the last Article. The fishing vessel offering replacement number of tons in advance should be decomposed before December 31st 2005 ( called standard date here-in-after, except the following cases:

the one who has gained replacement number of tons before the basic standard date according to the last Article

The one who has gained the offered replacement number of tons by another longline fishing vessel of more than 100 tons before December 31<sup>st</sup> 2003 and the shortage tons has been supplemented by the replacement number of tons of the longline or other type of fishing vessel. And the replacement should be made only once according to this regulation.

The fishing vessel offering the replacement number of tons in advance under the second case of the last Article should be decomposed before the basic standard date.

The longest validity of the license for the fishing vessel that offers the replacement number of tons in advance under the second case should not exceed the basic standard date and no fishing operator registration change is allowed in this case.

The central competent authority will announce the application procedure, time, the replacement number of tons

offered in advance, the supplementation method of the shortage tons and the documents required for the fishing vessel applied for import according to this regulation.

Article 26-2 Before amend and enforces this license (during the period from January 1st 1994 to July 2nd 2003), the longline fishing vessels that of more than 100 tons that was constructed in Taiwan and exported to other country and registered as foreign vessel but managed by our people, but has not been applied according to the fifth case in the Article 26-(1), it can apply for import as one of below:

1. It may apply for gaining the sufficient replacement number of tons according to Article 14 before the basic standard date.
2. To guarantee and promise that it may according to Article 14 complement the replacement number of tons before the basic standard date.
3. If it not according to the Clause 2 above to complement the replacement number of tons, except confiscated the guarantee and the replacement number of tons, it also abolish its fishery license.

The central competent authority will announce the application procedure of import fishing boat, time, the way of make guarantee, the documents required for the fishing vessel and the limited conditions applied for import according to the rule of Clause 2 of Entry 1.

Article 27 The fishing businessman should apply to the original issuing department for change or supplementation issue of the license by attaching the certifying documents in case of the loss or damage of the fishing license.

Article 28 ( deleted )

Article 29 Refer to the attached Table for the fee required for applying the issue, change and make-up issue of the fishing license according to Article 7 of the fishery laws.

Article 30 The central or city government department-in-charge will formulate additional rules for the fishing business operated through sampan and raft, the replacement and construction, and reconstruction. But coral fishery, shellfish and testacean fishery, submarine equipment fishery, trawling fishery should not be operated.

Article 30-1 This regulation will be in execution from the release date.



# OPERATING RULES FOR SCREENING APPLICATIONS TO IMPORT FISHING VESSELS USING NEW FISHING METHODS

Promulgated October 13, 1992 by the Council of Agriculture, Executive Yuan

Per letter referenced (81) Nung-Yu-Yze No. 1040822A

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Per letter referenced (88) Nung-Yu-Yze No. 88675455

[Translation]

1. An application to import a fishing vessel using new fishing methods shall, in accordance with Article 10 of the Enforcement Rules of Fishery Act, be supported by the following documents and filed with the competent authority of the municipality or county/city of the place of registry for transmittal to the Council of Agriculture (the "Council") for approval:
  - (1) application form;
  - (2) a photocopy of the certificate of registry of the exporting country of the fishing vessel;
  - (3) a valid document certifying that the vessel has passed the safety inspection; and
  - (4) a design specification of the vessel.
  
2. If a vessel to be imported is over ten years old from the date of completion to the date of application, then the application shall be dismissed pursuant to the second paragraph of Article 26-2 of the Guidelines Governing the Issuance of Fishing Vessel Licenses. The same applies where all the required documents are not submitted as scheduled on request.

3. Upon accepting an application, the Council shall fix a date for holding a meeting which relevant experts and scholars in fishing, fishing implements, shipbuilding or processing, representatives of experiment agencies and municipal directly under the jurisdiction of the Central Government/municipal fishing authorities will be invited to attend to review and determine whether the fishing method under application is a new fishing method.
4. The Council shall assess the fishing method which is deemed new upon review. Importation of the fishing vessel shall be approved if its fishing method is encouraged under the public policy.
5. Once approved, importation of the fishing vessel using new fishing method shall be completed within six months of the date of approval; otherwise, the approval granted shall be deemed invalid.

## Administering Approach of Recreational fishery

In 1993.5.26, Council of Agriculture of Executive Yuan, 82 *nong yu zi*, no. 2123895A orders statement, announce full text of 29 articles.

In 1995.6.30, Council of Agriculture of Executive Yuan, 84 *nong yu zi*, no. 4040505A calls for correction and announcement of article number 21.

In 1996.3.13, Council of Agriculture of Executive Yuan, 85 *nong yu zi*, no. 5109101A calls for correction and announcement of article 24.

In 1999.8.18, Council of Agriculture of Executive Yuan, (88) *nong yu zi*, no. 88602585 calls for correction, announce full text of 27 articles.

In 2000.8.28, Council of Agriculture of Executive Yuan, (89) *nong yu zi*, no. 891218864 calls for correction, announce the 9th article.

In 2001.7.31, Council of Agriculture of Executive Yuan, (90) *nong yu zi*, no. 901340574 calls for correction and announcement of the 6th, 9th~11th and 15th, 17th, 20th and no. 24, 27 and 28 articles.

Article 1 The approach is based on rule 43 of Fisheries Law.

Article 2 The addressed "Recreational fishery" declared in this approach directs to individual who provides fishing vessel for recreational purpose such as water activities or relevant objectives.

The above-mentioned tourism points to recreational activities for tourists' sightseeing of fishing or viewing of marine biology and ecological environment.

The fishery operator should follow this rule for processing fishing vessel management of recreational fishery.

Article 3 Fishery operator defined in this approach is those who provide fishing vessel for management of recreational fishery.

Article 4 Addressed recreational fishing vessels are those fishing vessel that is presently in the business of fishing vessel management, reconstruction, building and other recreational fishery.

Prior stated recreational fishing vessel, safety facility, minimum number of crew, maximum number of passengers on vessel and other rules to comply with should follow relevant passenger vessel or passenger carrying vessel regulations from Shipping Administration institution.

Article 5 Passenger defined here in the approach points to citizens of R.O.C or aliens with valid visa passport approved by Republic of China for sea recreational fishery.

- Article 6 Total weight limit for fishing vessel that is in recreational business must be above one ton and under 50 tons.  
Sampan and raft cannot be used for recreational fishery. However, sea area with certain water depth similar to lagoon which is characterized by natural barriers must have legal rules set by relevant county or (municipal) government to distinguish water region, as well as for management purpose, approbation for sampan and raft in recreational fishery business.
- Article 7 Sampan or craft can use 3 units for one under ten tons recreational fishery craft.
- Article 8 Fishery Competent Authority shall limit the number of recreation fishing vessel if it is necessary.
- Article 9 Professional recreational fishing vessel shall not apply for purchase of fuel at preferential prices.
- Article 10 Fishery operator shall apply with following documents to particular Competent Authority for recreational fishery license.
1. 5 Copies of application, must record the following items:
    - (a) Name of applicant, birth date, address and social security number. °
    - (b) Location and region of the fishing ground.
    - (c) Name of fisheries , ID , total weight in tonnage , net tonnage and number of crews , port of registry.
    - (d) Vessel machine type, horsepower, tank capacity and speed per hour.
    - (e) Name of captain, birth date and license of staff or operating serial number of motor boat.
    - (f) Communication facility.
    - (g) Safety Equipment.
    - (h) Maximum number of passenger on board.
    - (i) Insured amount and period.
    - (j) Emergency contacts and address.
  2. Staff crews' profession certificate or motor boat driving license and certificate of four trainings including survival, fire extinguishments, first aid, operation of lifeboat and life raft.

3. A copy of signal communication facility certificate.
  4. A copy of insured policy contract for responsibility and individual injury.
  5. 3 copies of checking record book for boat inspection, certificate of boat inspection or boat license.
  6. New builder should enclose approved document for such construction.
  7. Fishery operator who concurrently operates recreational fishery shall enclose a copy of original fishing license.
  8. Applicant apply through company title shall enclose 5 copies of registration and business plan.

Article 11 Recreational fishery license shall record the following:

1. Name of fishery operator, address and identity card number.
  2. Name of fishing craft, ID number, total weight in tonnage and net tonnage.
  3. Vessel machine type, horsepower, tank capacity and navigation speed.
4. Signal communication facility.
  5. Safety equipment.
    6. Crew and maximum number of passengers on board, port of registry.
  7. Location and region of fishing ground.
  8. Restrictions attached when approbation is granted.
  9. Approbation number and date (y/m/d).
  10. License effective date.

Article 12 The maximum approved time for recreational fishery accredited by Competent Authority is five years. However, the period can not exceeds the effective period for vessel inspection and insurance effective date.

Pre-described fishery operator shall renew his license within 3 months if willing to continue the management.

Article 13 Fisherman association or fishery production cooperative society should follow fishery regulation no. 42 and list out following status for verification by relevant county or (municipal) government organization.

1. Restricting range for recreational fishery.
2. Standard fee collection for recreational fishery business.
3. Approved items for recreational fishery.
4. Rules to comply in recreational fishery business.
5. Related issues about fishery guarder.
6. Penalty for law breaking.

Article 14 Method of harvest of aquatic animals and plants in recreational fishery can only employ one fishing pole and trolling.

Article 15 Captain and the chief engineer of recreational fishing vessel with over 20 tons weight should possess crew certification.

Fishery captain in recreational fishery that holds vessel under 20 tons weight and should qualify for one of following:

1. Holds navigating license of powerboat for business purpose.
2. Holds certified document for being both a fishery navigator and engineer at the same time.
3. Holds fishery navigator crew certification and the assistant hold the certification of being a qualified engineer.

Captain and the chief engineer of a ship in recreational fishery cannot be replaced by senior crew.

Article 16 Fishing vessel in recreational fishery shall install DSB and EPIRB and for communication range that over 24 miles distance from station, SSB should be set up and operate by qualified staff.

Article 17 Fishery operator or captain should comply the following regulation:

1. Collecting data of meteorological and sea phenomena, and explaining to passengers; if having any safety concerns such as over 6 degree of wind force schedule should be rearranged or cancel immediately.
2. Giving passenger instructions such as lifesaving equipment and launch forth only when passengers are well equipped with life jacket.
3. Boarding and landing instructions, including other points for attention should be labeled on a clearly spot on the boat.

4. Maximum number of passengers on boat based on legal regulations must be labeled clearly above pilot cockpit and clearly on two sides of the craft.

Article 18 Inspection, measurement, registration, certification issuing must comply with relevant legalization rule according to total weight and processes through the Shipping Competent Authority at location where the craft anchored off. Boat at where no Shipping Competent Authority is available, should process through local government.

Article 19 All crews including navigator of recreational fishery craft must hold certification of four trainings: survival, fire extinguishments, first aid, operation of lifeboat and life raft.

Notification must be given to Competent Authority due to any staff and position change.

Article 20 Passengers who launch forth for recreational fishery activities should bring their own identity card, passport or other ID documents for fishery operator or captain to fill out the list of people on boat (format as attachment 1). Report is necessary for in charged coast patrol unit of harbor before the launch, no further actions should be taken without registration.

Before the recreational fishing vessel launch forth, fishery operator is requested to draw up a data table of recreational fishery craft navigating plan (format as attached file 2) with application to leave port. After verification, submit to inspectors in implementation.

Article 21 Fishery operator or captain is responsible for any damage compensation due to any intended cause of the third person's physical injury or property lost.

The responsibility of aforesaid compensation to damage should be insured by fishery operator. Individual's insured amount can not be lower than 1 million and two hundred thousand NT dollars. When the mature contract is to be renewed, Competent Authority must be notified for reference.

Article 22 Fishery operator should take out an insurance policy for each of his staffs and passengers. Passengers must provide personal ID for insurance requirement.

The insured injury premium as aforementioned should be state on the ticket or leasing contract. The premium for each individual shall not be lower than 1 million and two hundred thousands NT dollars, when the mature contract is to be renewed, the Competent Authority must be notified for reference.

- Article 23 Recreational fishing vessel for fishery activities shall comply with following rules:
1. Shall not steer to important military facilities along the coast, stronghold, military harbor and restrict coast region nearby commercial harbor, this includes prohibited area in commerce coast and fishery natural resources nursing area and nature protecting region.
  2. Prohibit to deliver passengers in a different (mostly disguise) form.
  3. Prohibit to provide or promote inappropriate activity to impair public order and against law-abiding customs.
  4. Prohibit for business management other than recreational fishery.
  5. Prohibit waste material disposal into the water or water environmental contamination.
6. Other relevant regulations.

Prior condition should be enforced by captain.

Article 24 Activity schedule for recreational fishing vessel is opened 24 hours a day. The limit for each sequence of voyages however, is 48 hours.

Activity region limits to 24 miles surrounding Taiwan and Peng Hu, and within 12 miles around Pen Jia islet, Green island, and Lan Yu .

Fishery activities in Jin Men, Ma Zu areas are limited to use only local vessel, the activity time and region will be decide by local government, defend commanding office and related responsible water region management institution under safety conditions that will not impact preparedness security.

Article 25 Recreational fishing vessel should pass in and out through home port or approved port. Port for entering, exiting and anchor should follow port regulation rule no. 16 and pay for port administrative expenses base on regulation no. 15. Above mentioned port that has the approval from relevant department institution, if individual is to cross district, coordination for agreement from Competent Authority is required before taking any process.

Article 26 Fishing operator who falls into any of following category, Competent Authority must take legal penalty base on the law or send for relevant institution for required procedures.



1. Individuals who fail to apply for inspection, measurement and registration.
2. Passenger capacity exceeds carrying quota.
3. Management without approval.
4. Crew staff and navigator without qualified license.
5. Individuals who does not have equipped facilities for survival, fire extinguishments and signal communication as state in the regulation .
6. Individuals who enters prohibited port.
7. Others who violate the regulation of this approach.

Article 27 Jurisdictional municipality or county must set attention rules for whale watching activities or have convention agreed by counseling business.

Individual who is in business of whale watching activities shall post the agreement for such activities on boat, in an evident area for passenger's reference.

Article 28 Regulation will come into force on the day of announcement.

# The Shipping Industries Law

( Partial Articles )

30 January 2002, by the Ministry of Transportation and Communications.

## Chapter 2      Carrier by Ship

### Article 12

If a carrier by ship intends to scrap, bare-boat charter out, mortgage his own ship or sell it abroad, it shall apply for approval from the Ministry of Transportation and Communications via the local shipping administration authority by providing a statement of reasons. If a carrier by ship operates a chartered ship, it shall provide the charterparty while applying for approval from the local shipping administration authority.

### Article 14

A carrier by ship, which intends to build a new ship, shall apply for approval from the Ministry of Transportation and Communications by providing a ship construction plan.

### Article 15

When a carrier by ship intends to purchase existing ships abroad, it shall cope with the regulations which govern the maximum ages of ships allowed for importation. It shall also report to the Ministry of Transportation and Communications for approval via the local shipping administration authority before the time of the purchase, by providing its operation plan and the particulars of the ships. The above maximum ages allowed for importation is determined by the Ministry of Transportation and Communications.

# Regulations for Administrating Small Ships

( Partial Articles )

Promulgated on 16th October 1963, lastly amended on Amended 19th April 2004

## Article 1

The present Regulations are prescribed pursuant to the first paragraph, Article 74-1 of The Law of Ships.

## Article 8

The owner of a small ship shall apply for the inspection, measurement and registration of the ship on the form prescribed and printed by the shipping administration authority. If the application is made orally, the authority may fill out the form for the applicant, and the applicant shall seal to the form therewith. Apart from the shipping administration authority, the inspection or measurement mentioned in the previous paragraph may be conducted by a classification society recognized by the Ministry of Transportation and Communications (MOTC).

## Article 10-1

These non-power-driven ships for contest or athletics can be no necessity to inspect or measure :

1. The length of dragon boat or canoe is shorter than 18 meter;
2. The length of sailboat is shorter than 5 meter.

## Article 13

The navigation routes or districts, limitation of number of ships, ticket fares, and rentals of the small ships carrying passengers exclusively or concurrently shall come into force only after approved by the shipping administration authority.

## Article 15

Any person desiring to operate small ships shall make an application, accompanying attached with hereunder document to the

shipping administration authority for approving the establishment of company:

1. the application ( for the form thereof, see Attachment 1 ) ;
2. the business plan;
3. ship particulars or specifications and drawings, or photocopy of existing small ship license;
4. the document approved by the management administration authority of desiring to berth the wharf;
5. the document approved by the management administration authority of desiring to navigate the water area.

A small ship operator that is approved to establish its company shall complete by law the registration of company as well as the provision of ships and the business registration shall be completed within six months after the approval is given. But the government desiring to operate small ships without the company or business administration registration, if necessary, the authority will take limitation at its business period.

## Article 15-1

Any person desiring to operate small ships shall do business within six months after receipt of the Permit. However, an application for extension may be made if it is sustained by proper reason, but the extension is limited in six months only. Any small ship operator engaging in domestic liner service shall not be suspended without any due reason. The suspension, if any, shall be reported to the shipping administration authority for approval, if it is verified to be not attributable to the small ship operator, it shall report the shipping administration authority for filing within the reason of suspension is disappear for one month.

## Article 15-2

The revocation of all or part liner approved by the shipping administration authority shall punish whomever desiring to operate small ships violating one of the provisions indicated hereunder :

1. Any small ship operator didn't begin to navigate after receipt of the Permit for six months;
2. Any small ship operator begins to navigate without receipt of permit, and then has been suspended over 3 months;
3. Any small ship operator begins to navigate without receipt of permit within 1 year, and has been suspended over 5 times.

All or part operation permission of small ship operators are revoked definitely by shipping administration, and the administration must

notify the authority in charge of registration of company or business to revoke all or part registration.

### **Article 23**

The assignment of drivers and assistants of power-driven small ships shall be as follows:

1. For a ship under 5 gross tonnage: one driver; and
2. For a ship between 5 and 12 gross tonnage: one driver and one assistant.

The driver of a power-driven small ship shall only be allowed to steer the ship after he is qualified through the examination by the shipping administration authority, whereby he holds a driving license for small ship (for the form thereof, see Attachment hereto). The said license for the power-driven small ship is classified into the private license and the commercial license. The Ministry of Transportation and Communications (MOTC) shall otherwise prescribe the regulations governing the institutions for power-driven small ship's driver, the examination of the drivers and issuance of licenses for driving small ship.

### **Article 24**

For the purpose of protecting the passengers on board a small ship, the small ship operators shall subscribe the passenger accident insurance.

### **Article 29**

The application for inspecting a small ship shall be made on the form attached hereto to the shipping administration authority at the place of calling.

### **Article 40**

The application for the measurement of a small ship shall be made on the form attached hereto to the shipping administration authority at the place of calling.

### **Article 51**

The standards of equipment category, quantity and specification of a small ship shall not be lower than as stipulated in the Standards of Small Ship Equipment (see attachment). If a small ship is not equipped pursuant to the previous paragraph due to its size, construction, functions or other reasons, the owner may apply to the shipping administration authority for proper reduction of the

equipment, or substitution of such equipment with other approved one if the safety is not affected, and notation in the Small Ship License consequently.

### **Article 58**

The owner of a small ship carrying passengers shall apply to the shipping administration authority or the local government at the port of calling for inspection for ratifying the certified number of passengers and ports of passenger-carrying, and making notes in the Small Ship License; only with that shall the ship be allowed to carry passengers.

In order to meet the occasional or seasonal need that a small ship shall carry passengers exceeding the certified number, the owner of the ship shall apply beforehand to the shipping administration authority or the local government at the port of calling for inspection thus to issue a provisional license (see Attachment for the form). However, life-saving appliances shall be adequate for the over-carried passengers, and the safety of navigation shall not be adversely affected.

### **Article 60**

The certified number of passengers of a passenger-carrying small ship shall be clearly painted on the bulkheads or prominent places at both sides of superstructures where the navigation bridge located and at passenger entrances. The master shall strictly command all passengers to wear the qualified life vests.

### **Article 67**

The application for registering a small ship shall be made on the form (see Attachment), attached with relevant documents, to the shipping administration authority at the place of registration.

### **Article 68**

After a small ship is registered, the shipping administration authority shall issue the Small Ship License in the form as stipulated in the Attachment hereto.

### **Article 71**

In the event that a registered small ship is exterminated, wasted or unusable, the owner shall apply to the shipping administration authority at the place of registry for canceling the registration within 15 days after the incident is known or occurs; and the Small Ship License shall be withdrawn except that it is lost. If the ship has been lost for six months, or she is no more salvageable for repair after

sinking, or to which the regulations governing small ships do not apply as a result of conversion in type or tonnage, the owner shall apply to the said authority for cancellation and withdrawal. The shipping administration authority shall notify the person failing to apply for cancellation and withdrawal to complete the procedures within a time limit, or the authority may make cancellation after the time limit.

### **Article 73**

The fees specified in the Schedule annexed hereto shall be payable for the applications for inspections, measurements, registrations or issuance of licenses. No fees shall be charged for the registrations, replacements, reissues or corrections of licenses of the ships engaged on governmental non-commercial services.

### **Article 79**

Any owner or master of a small ship shall be fined one thousand dollars and upward to not more than ten thousand N.T. dollars for any of the following violations pursuant to Article 83, Ship Law:

1. The applications for inspections, measurements and registrations are not made pursuant to the regulations;
2. The ship carries passengers over the certified number;
3. The ship is caused to navigate without being fitted out for its voyage;
4. The ship fails to obtain a permit pursuant to regulations while navigates Without prior permission;
5. A power small ship is navigated by a driver without holding a driving license;
6. The ship that has been assigned and marked with the maximum draft loads over such draft on its voyage;
7. The ship carries passengers without making an application to the competent authority for inspecting and ratifying the certified number of passenger and the passenger-carrying ports, and without recording the same in the Small Ship Permit; or
8. The ship carries passengers over the certified number of passenger in order to meet temporary or seasonal need without making an application for inspection for issuing a provisional permit and without being equipped with required life-saving appliances pursuant to regulations.

# Regulations for Administrating Vessel Carriers and Vessel Chartering Operators

## ( Partial Articles )

Promulgated on 25th May 1962, lastly amended on 10th July 2003

### Article 1

The present Regulations are prescribed pursuant to Article 63 of the Shipping Law (hereinafter referred to as "The Law").

### Article 3

Any person desiring to engage in business as a vessel carrier shall make an application, with enclosure of two copies each of the following documents, to the local shipping administration authority for examining and submitting to the MOTC for approval to establish the company:

1. Application Form;
2. Photocopies of Name List and personal ID of all shareholders or initiators;
3. Operation plan elaborating operation plans, vessel's construction or purchase specifications, capital financing, and fund raising plan; and
4. Memorandum of Articles of Company.

### Article 4

Any newly established vessel carrier shall have a paid-up capital of no less than the sum set forth hereunder:

1. For the new buildings, the paid-up capital shall be the sum that is sufficient to pay for 10% of total construction cost for the new vessels.



2. For the existing vessels, the paid-up capital shall be the sum that is sufficient to pay for 20% of total purchase cost for the existing vessels.

## Article 5

During the period granted for establishment of company, the vessel carrier shall complete the Registration of Company by law, acquire its own vessels and make an application, with the enclosure of the following documents, together with a permit fee, to the local shipping administration authority for examining and submitting to the MOTC for the issuing of a Vessel Carrier Permit:

1. Application Form (see Attachment 1, Form No. 401);
2. Photocopies of the Company License and Business License;
3. Articles of Company;
4. Name List of Directors, Superintendents and Shareholders (see Attachment 2, Form No. 402);
5. Name List of Managers (see Attachment 3, Form No. 403);
6. List of Vessels (see Attachment 4, Form No. 404);
7. Company flag and logo; and
8. Operation plan and budget for operating revenues and disbursements.

Any carrier failing to apply for the permit within the specified period pursuant to the provision in the previous paragraph shall be liable to the revocation of permission to establish the company. Nonetheless, such time limit may be extended upon request, provided that the extension is sustained by due reasons; however, it shall not exceed six months.

## Article 6

A newly established vessel carrier who has completed procedures for taking delivery of the vessel it owns, received a Provisional Certificate of Ship's Nationality, and made an application for the Vessel Carrier Permit pursuant to Article 5 hereinbefore may apply to the local shipping administration authority for issuing a Provisional Vessel Carrier Certificate (see Attachment 5).

The Provisional Vessel Carrier Permit aforesaid shall be effective for a period identical to that for the Provisional Certificate of Ship's Nationality, and shall be void and null upon exchange of the official Vessel Carrier Permit.

## Article 7

A vessel carrier desiring to establish branches or alter the organization and name of its company shall make an application to the local shipping administration authority for examining and submitting for approval of MOTC. The vessel carrier may thence apply for reissuing the Vessel Carrier Permit after completing the registration of such alteration by law, with payment of a fee of two thousand one hundred N.T. dollars for the permit.

A vessel carrier who alters its address, capital, statutory representative, directors, superintendents, managers or the address of branch shall file, within thirty days after the registration of alteration is made, such alteration with the local shipping administration authority for submitting to MOTC for filing and inspection (see Attachment 6, Form No. 405 and Attachment 7, Form No. 406).

In case of address alteration, as referred to hereinbefore, to an address in other county or city, the Vessel Carrier Permit shall be replaced. Whilst if the alteration causes to change the shipping administration district and the shipping administration authority of jurisdiction, the Permit shall secure replacement by MOTC through an application made to the shipping administration authority in the original district for transmitting to the shipping administration authority in the new district where the address is moved to.

Any vessel carrier who changes its company flag, colors or logo shall make a filing with the local shipping administration authority for transmitting to MOTC for filing and inspection.

## Article 14

A vessel carrier sells its vessel for demolition within this country shall apply for approval of MOTC through the local shipping administration authority, hence apply by law to the shipping administration authority concerned for deleting the registry of the vessel sold, and apply to the shipping administration authority governing the place of demolition for permission.

## Article 30

A foreign vessel carrier who desires to establish a branch shall apply to the local shipping administration authority for examining and submitting to MOTC for approval to establish the company by enclosing the following matter and documents:

1. The name, type and nationality of the parent company;
2. The business items of the parent company;

3. Paid-up capital;
4. The amount of the fund required for operation in ROC territory;
5. The location of the head quarters and the location of the branch in ROC territory;
6. The counterpart or photocopy of Vessel Carrier Permit and the date, month and year on which its business commences in its own country;
7. The names, nationalities and address of directors, superintendents and statutory representative;
8. The name, nationality and address of and the Letter of Authorization to the agent who is appointed in ROC territory for lawsuits and non-litigation cases;
9. Articles of Company;
10. The plan of operation in ROC territory;
11. List of Vessels and photocopy of Certificate of Ship's Nationality;
12. Business records of the past three years and the status of business in ROC; and
13. The document certifying that the government of the nation of such foreign carrier extends reciprocal privileges of setting up branches to ROC carriers.

All documents indicated in the previous paragraph shall be certified by a ROC embassy, consulate or representative. A Chinese translation copy shall be attached if the documents are written in foreign language.

## Article 32

After granted to establish a branch, the foreign vessel carrier shall complete the registration of franchise and submit two copies each of the following documents together with a franchise fee of 0.4% of the operating fund to apply to the local shipping administration authority for examining and submitting to MOTC for issuing a Foreign Vessel Carrier Branch Permit:

1. Application Form,
2. Form for Registering Company Information,
3. Photocopy of Branch License and Business License, and
4. Name List of Managers

Failure to apply for the permit within the time limit specified in the previous paragraph shall cause the permission of establishment to

be revoked.

### Article 37

Any vessel chartering operator who is newly established shall have a paid-up capital of no less than the sum set forth hereunder:

1. For new buildings, the paid-up capital shall be the sum that is sufficient to pay for 10% of total construction cost for the new vessels.
2. For the existing vessels, the paid-up capital shall be the sum that is sufficient to pay for 20% of total purchase cost for the existing vessels.

### Article 45

All vessel carriers shall be subject to the fees for the permits as required hereunder:

1. Thirty six thousand N.T. dollars for the permit covering the international transportation;
2. Eighteen thousand N.T. dollars for the permit covering the domestic transportation; and

An additional fee in the sum of eighteen thousand N.T. dollars for a permit of which the coverage is altered from the domestic transportation to international transportation.

# Civil Aviation Law

Amended on May 08, 2003

## Chapter I. General

### Article 1

This Law is enacted to insure the aviation safety, a sound civil aviation system, compliance with international civil aviation standards, and promote the development of civil aviation.

### Article 2

The terms used in this Law are defined as below:

- 1) "Aircraft" means any airplane, airship, balloon or other apparatus that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.
- 2) "Airport Terminal" means an area of land that is used for the landing and takeoff of aircraft, including its buildings and facilities to load/unload passengers/goods.
- 3) "Flight" means takeoff, navigation in the air, landing of aircraft and its taxiing on the ground before takeoff and after landing.
- 4) "Airman" means aircraft pilot, flight mechanic, ground mechanic, air traffic controller, technicians employed by an aircraft maintenance facility and aircraft dispatcher.
- 5) "Airfield" means any land or water that is used for takeoff, landing and surface movement of aircraft.
- 6) "Navigation Aids" means facilities designed for the support of aviation communications, meteorology, radio and visual aids as well as other installations providing safety guidance to aircraft in flight.
- 7) "Airway" means a control area or portion designated by the Civil Aeronautics Administration (CAA) and thereof established in the form of a corridor equipped with radio navigation aids.
- 8) "Special Flight" means any approved single flight such as an aircraft test flight, acrobatic flight, flight beyond prescribed limits or repair as well as maintenance, and ferry flight.

- 9) "Air Traffic Control" means a service operated by an appropriate authority to promote the safe, orderly, and expeditious flow of air traffic.
- 10) "Pilot-in-Command" means the pilot responsible for the operation and safety of an aircraft during flight time.
- 11) "Civil Air Transport Enterprise" means an undertaking directly engaging in the transportation by aircraft of passengers, cargo and mail for compensation or hire.
- 12) "General Aviation" means a business engaging in aerial tourism, survey, photographing, fire-fighting and searching, paramedic, hauling and lifting, spraying and dusting, as well as those authorized and other-than-air transport of passengers, cargo and mail flight operations for compensation or hire.
- 13) "Air Freight Forwarder" means, with the exception of forwarding or the delivery of mail, a business authorized to forward, through a civil air transport enterprise, air cargo and international trade and commercial documents for others for compensation or hire.
- 14) "Airport Ground Handling Service" means a service that performs towing and guiding of aircraft on the ramp; loading and unloading of baggage, cargo and meals; and cleaning aircraft cabin and other associated tasks.
- 15) "Catering Service" means a caterer who transports meals and beverage and other necessary articles to and from aircraft on the ramp.
- 16) "Air Cargo Entrepot" means a business for importing, exporting, transferring, collecting and distributing of air cargo; of handling in-and-out airport control areas for customs formalities, warehousing arrangement, facilities and services, and is provided for compensation.
- 17) "Aircraft Accident" means an occurrence associated with the operation of aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which a person, either within or without the aircraft, is fatally or seriously injured or the aircraft sustains substantial damage or structural failure, is missing or completely inaccessible.
  - 18) "Aircraft serious incident" means an occurrence associated with the operation of aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all persons aboard have disembarked, which almost result in an accident.
- 19) "Aircraft incident" means an occurrence associated with the operation of aircraft which takes place between the time any person

boards the aircraft with the intention of flight until disembarkation of all those on board, other than what happen in the preceding two items.

20)“Ultra-light”: means an aircraft which has power and capacity to carry passengers, is less than two hundred and eighty kilograms in net weight, has a maximum fuel tank capacity of twenty eight liters, has a take off speed of less than sixty five kilometers per hour for maximum take off weight, and power shut down speed is less than sixty four kilometers per hour.

### Article 3

The Ministry of Transportation and Communications (hereinafter referred to as MOTC) shall establish the Civil Aeronautics Administration (hereinafter referred to as CAA) to administer affairs relating to civil aviation.

Regulations governing the organization of CAA shall be enacted separately.

### Article 4

The use of air space and demarcation of control area, control zone, restricted area, dangerous area and prohibited area shall be determined by the MOTC in coordination with the Ministry of National Defense.

### Article 5

The first inbound landing of an aircraft originating from any point in a foreign country, or an outbound aircraft taking off from the Republic of China to another country, shall conduct such landing or takeoff at a designated international airport. However, exception may be made in case of an emergency.

### Article 6

In the event it is necessary for an aircraft to land at a military airfield, or to utilize the facilities of a military airport, the owner or operator of the aircraft shall apply to the military authorities through CAA for permission. However, an exception may be made for emergency landing.

When taking off from and landing at a military airfield, aircraft shall observe regulations of the airfield and abide by the instructions of the airfield authorities.

## Chapter II. Aircraft

### Article 7

All citizens, legal persons and government organizations of the Republic of China may enjoy the right to own aircraft according to this Law and other related statutes. MOTC may impose restrictions on such ownership of non-public use aircraft if air space is limited or facilities at air terminals are inadequate.

Foreigners, aside from complying with the provisions set forth in Chapter VII, shall not own aircraft in the Republic of China.

### Article 8

The owner or operator of an aircraft shall apply to CAA for aircraft registration. A certificate of registration shall be issued if the application meets all appropriate requirements. No ROC-registered aircraft shall be registered in a foreign country without first canceling its Chinese registration.

Aircraft that have been registered in a foreign country shall not be allowed to apply for registration in the Republic of China until its registration has been cancelled.

### Article 9

The owner or operator of a ROC-registered aircraft shall apply to CAA for an airworthiness inspection. A certificate of airworthiness shall be issued if the aircraft is found in compliance with the inspection.

Classification and limitation of the above-mentioned airworthiness inspection, conditions for application, rating, cancellation and abolition as well as for revocation and renewal, rules of airworthiness maintenance & repair, signing of certificate, documentation, airworthiness checks and collection of certificate charges, shall all be stipulated by MOTC.

### Article 10

An aircraft may be registered as ROC aircraft under any of the following categories:

- 1) Owned by ROC citizens.
- 2) Owned by government organizations of the ROC.



- 3) Owned by the following legal persons who have a principal office in ROC in accordance with ROC laws:
  - 1) Unlimited company completely owned by citizens of the ROC.
  - 2) Limited company with over two thirds of capital owned by citizens of the ROC and represented by directors who are citizens of the ROC.
  - 3) Company formed by shareholders of both limited and unlimited liabilities, whose unlimited liability shareholders are citizens of the ROC.
  - 4) Company limited by shares, whose chairman and over two thirds of the directors are citizens of the ROC, as well as more than two thirds of its capital owned by citizens of the ROC.
  - 5) Other legal persons whose representatives are citizens of the ROC.

Except otherwise prescribed in this law, aircraft other than that of ROC nationality may not apply for registration in this country.

## Article 11

Any non-ROC aircraft purchased from a foreign country on conditional terms by ROC citizens, legal persons or government agencies pending entitlement of ownership, or any such aircraft leased from a foreign country for a period more than six months, may be registered as an ROC aircraft if its registration in the foreign country has been duly cancelled, provided the purchaser or lessee is responsible for operating such aircraft and employing the required personnel and equipment.

The purchaser or lessee may apply to the CAA for appropriate registration. However, such registration shall not construe proof of ownership.

Renewal is not required for registrations found to be in compliance with the provisions of this Article prior to the effective date of this Amendment.

## Article 12

After the aircraft has been properly registered, the ROC nationality marks and registration number shall be displayed on a conspicuous part of the aircraft.

## Article 13

The certificate of registration shall become invalid upon any of the following events:

- 1) Transfer of aircraft ownership.
- 2) Aircraft is destroyed or damaged beyond repair.
- 3) Aircraft is dismantled or abandoned.
- 4) Forfeiture or loss of aircraft nationality.

#### Article 14

The certificate of airworthiness shall become invalid upon any of the following events:

- 1) Expiration of the certificate.
- 2) Invalidation or revocation of the certificate of registration.
- 3) Aircraft fails to meet CAA airworthiness requirements.

#### Article 15

In case a registration or airworthiness certificate becomes invalid, CAA shall serve a public notice of its cancellation, and the holder of such certificate shall return it to CAA within twenty days from the date of invalidation.

#### Article 16

In case a registered aircraft is found to be in non-conformity with the provisions of the paragraph II of Article 8, Article 10 or Article 11, the CAA shall cancel the registration and order the certificate of registration be returned.

#### Article 17

At anytime a certificate of registration becomes invalid for reasons other than the two preceding articles, the CAA shall immediately revoke the aircraft registration certificate.

#### Article 18

Except as specifically provided in this Law, aircraft shall be governed by the provisions of the Civil Code and other appropriate laws.

## Article 19

Aircraft may be an object of mortgage.

The provisions of the Chattel Secured Transactions Act with regard to movable property shall apply to mortgaging an aircraft.

## Article 20

Unless duly registered, transfer of ownership, creation of mortgage, or lease of an aircraft, shall not be a defense against a third party.

## Article 20-1

Rules governing the registration and cancellation of an aircraft nationality and ownership, mortgage and lease thereof, nationality insignia , registration numbering and registration fees shall be fixed by MOTC.

## Article 21

Provisions of Article 11 to Article 14 and Article 16 to Article 19 of the Maritime Law shall apply to aircraft under joint ownership.

## Article 22

Except as otherwise specified in this Law or other laws, aircraft shall not be detained, attached or provisionally attached from the time it takes off until completion of its flight.

## Article 23

The design , manufacture, maintenance & repair, process of assembly and the end products of aircraft, aircraft engine and propeller, various aircraft equipment and component parts, shall be rated by CAA for a certificate.

Aircraft manufacturer shall submit aircraft production program in advance to CAA and complete provisional registration according to proper procedures. This will serve as basis for applying relevant certificates upon completion of manufacture. An aircraft having completed provisional registration pending formal registration shall not be used in general flight.

Aircraft provisionally registered as per above shall not be subject to the constraints of the terms of owners set forth in Article 10, paragraph one, subparagraph three and shall be exempt from provisional registration.

CAA may commission any other related agency, body or individual to perform the functions of rating prescribed in paragraph one. Measures concerning qualification, terms, obligation and supervision of those so commissioned shall be established by MOTC.

CAA shall establish the airworthy standards for the end products stated in paragraph one with regard to their design, manufacture, assembly, performance, operations limitation, flight maintenance & repair data. Nevertheless, the airworthiness standards used in international practices, which are adoptable for domestic use, can be referred to after CAA approves.

MOCT shall provide rules governing the management of certification for the design, manufacture, assembly of the end products stated in paragraph one, for the rating classification and procedure, for setting up certification and technical documentation system, on application for rating or for increase or change of rating, on application for issuance, cancellation or renewal of a rating certification, for collection of certificate charges, for certification and regulating of manufacture and so forth.

MOTC shall set up rules for the end products stated in paragraph one with regard to rating classification and procedure of maintenance & repair factory, inspection handbooks, maintenance record, signing of certificate, conditions of maintenance & repair facilities, of equipment, tools and workers, institution of maintenance & repair and quality control systems, on application of rating, for increase or change of rating, for cancellation and renewal, collection of certificate charges and regulating of maintenance & repairs.

CAA may entrust other agency, body or individual to inspect a manufacturer or maintenance and repair factory with regard to their employees and facility and oversee their operations. Those being inspected shall not refuse, avoid or obstruct such inspections. The inspected shall be notified of any deficiency found and given a time limit in which to effect improvement. Subject to MOCT approval, CAA may suspend partial or entire operations of those who fail to make improvement within the time limit or for refusing, avoiding or obstructing inspections.

## Chapter III. Airman

### Article 24

An airman shall be a citizen of the ROC, unless granted a special approval by MOTC.

## Article 25

Airmen rated qualified after passing tests of theory and technology shall be issued a professional license by CAA. Only those in possession of such a license can be allowed to work on their respective jobs. The license should be carried with the person in performing his or her duties.

MOTC shall prescribe rules governing classification of ratings for the above-mentioned airmen, eligibility for applying a professional license and certificate of rating, items for tests of theory and technology, reexamination, periodical rechecks, additional rating, overdue rating, procedure for foreign airmen to apply for rating and collection of license fees.

The ratings of airmen in theory and technology as stated in paragraph one may be administered by a CAA commissioned agency or body. CAA shall prescribe measures relative to the qualification, condition, obligation and supervision of the agency or body so commissioned.

## Article 26

CAA shall conduct periodical physical examinations of aircraft pilots, flight mechanics and flight controllers as well as temporary checks.

Those meeting the standard will be issued a Clean Bill of Health which should be carried with the person in performing his or her duties. Those who fail to pass the physical examination shall be suspended from duty.

CAA shall prescribe measures relating to the preceding airmen's bodily constitution, timing of examination, items of examination, procedure for requesting a review of those who fail to pass the examination and conditions for submitting such a request for review, the length of time required, collection of fees for such examination and rating, issuance of clean bill of health and the basis on which those who fail to pass examination must be suspended from duty.

Airmen's physical examination stated in paragraph one may be handled by a CAA commissioned agency or body. CAA shall provide measures relevant to the qualification, condition obligation and supervision of such an agency or body so commissioned.

## Article 27

With a view to cultivating civil aviation personnel, MOTC may consult with the Ministry of Education (MOE) to establish a civil

aviation school, or ask MOE to increase or adjust related departments in existing academic institutions.

Any private civil aviation training institution shall apply to MOTC for approval prior to getting accredited.

MOCT shall establish rules governing the above said airmen's training institutions with regard to classification of training, organization, application for setting up such a school, application for a permit, its cancellation and renewal, procedure for student enrolment, qualification of trainees, curriculum of training, facility and equipment for training, qualification of the faculty, as well as collection of license fees and management of training.

CAA shall establish a state-operated air terminal with MOTC approval. Air terminals to be operated by a municipality under direct Central Government jurisdiction shall have application submitted to CAA for MOCT approval before such air terminal can be established. The same applies in the event of abolishing an air terminal.

CAA may send personnel to inspect a civil aviation training institution; to monitor its operations including employees, training, and equipment; and to monitor its business. The civil aviation training institution shall not refuse, avoid or impede such inspections, and will be notified of deficiencies if any, and shall improve within a certain period of time when so advised by the CAA.

## Chapter IV. Airport, Airfield & Navigation Aids

### Article 28

CAA shall establish a state operated air terminal with MOTC approval. Air terminals to be operated by a municipality under direct Central Government jurisdiction shall have application submitted to CAA for MOCT approval before such air terminal can be established. The same applies in the event of abolishing an air terminal.

### Article 29

An airfield may be established and operated by the central or local governments, by ROC citizens or legal persons specified in Article 10, paragraph 1, sub-paragraph 3 of this Law after applications filed with CAA and approved by MOTC in consultation with

authorities concerned. The same requirements shall apply to the lease, transfer or abolition of airfields.

The operators and managers of an airfield as stated in the preceding paragraph shall be limited to ROC citizens.

#### Article 29-1

MOTC shall establish rules governing application for permission to set up a private airfield, application for a permit, registration, conditions for revocation and abolition, cancellation and renewal, collection of permit charge, suspension of operation or closure, flight control, meteorological forecast and weather report, designing and planning, safety service, request for temporary takeoff and landing and business management.

#### Article 30

No airport and airfield shall be utilized for any other purpose without CAA approval.

MOTC shall consult with the Ministry of National Defense for using a military airport or airfield.

#### Article 31

The installation, alteration and abolition of navigation aids within the territory shall become effective only with CAA approval.

Any person who installs such navigation aids shall comply with CAA regulations in managing these facilities.

#### Article 32

To bolster flight safety, CAA shall impose prohibition or restriction to a certain extent, on the heights of buildings and other obstructions around an air terminal, airfield or navigation aid installation and on the radiation angle of lighting thereof, and report the proposed move to MOTC which will consult with the Ministry of Internal Affairs (MOIA) and concerned agencies to reach consensus for a decision. It will then be announced by the municipal and county (city) governments. However, such a decision should not overrule any case of existing heights or lighting angles that has been specially approved by the Executive Yuan.

The MOTC in conjunction with MOIA and the Ministry of National Defense (MND) shall provide measures for regulating the heights of structures and radiation angle of lightings thereof, within certain range surrounding an air terminal, airfield and navigation aids, procedure for making public announcement, procedure for screening a proposed prohibition or restriction and for approving a special

case.

### Article 33

To deal with violation of prohibition or restriction rulings referred to in the preceding Article, CAA in conjunction with concerned agencies should notify the owner of the obstructive structure to make improvement within a time limit or to relocate. However, in the case of a specially approved structure as referred to in the preceding Article, the owner should be obliged to install obstruction lights and markings.

If such obstructive structures were already in place at the time the prohibition or restriction rulings were promulgated, CAA or the airfield manager shall pay compensation for relocation or for installing obstruction lights and marking.

### Article 33-1

Buildings or other obstructive structures exceeding a certain height should have obstruction lights and markings installed. The allowable certain heights shall be affixed by MOTC in conjunction with the MOIA.

### Article 34

Animals are prohibited from entering an airport, airfield or area of navigation aids. Animals or birds that have entered any of these areas which may have endangered aviation safety may be caught and/or killed.

The raising of pigeons or releasing of any objects that may be considered hazardous to flight safety is prohibited within a certain distance from the outer boundary of an airport or airfield.

The CAA or the airfield manager shall adopt appropriate measures to prevent racing pigeons, birds or animals from entering any area that is within a certain distance from the outer boundary of an airport or airfield.

The MOTC, in conjunction with organizations concerned, shall determine and advise the public the exact distance referred to in the preceding two paragraphs.

### Article 35

In an effort to control the noise problem at civil airport, the CAA shall jointly collaborate with the Environment Protection Agency in



the development of a noise abatement program.

CAA shall set up an ad hoc unit to carry out the task referred to in the preceding paragraph.

### Article 36

The land needed for public airports, airfields and navigation aids may be requisitioned by the government in accordance with the laws.

### Article 37

Fees shall be paid for the use of airport, airfield, navigation aids and related facilities. The scale of fees for using the above, for services rendered, and for noise control will be affixed and made public by MOTC.

The noise control fees referred to in the preceding paragraph shall be used exclusively for the control of noises. It shall be used first in noise inhibiting facilities near an airport utilized by civil aircraft. Any remaining money may be used to maintain health facilities as well as for neighborhood activities.

Among various fees stipulated in paragraph 1, 3% of total amount of airport landing fees levied annually shall be earmarked as refunds to airports in accordance with the ratio each airport collect.

The allocation and use of fees levied by paragraph 2 and 3 shall be formulated by MOTC.

## Chapter V. Flight Safety

### Article 38

An aircraft shall carry the following documents during any flight:

- 1) Aircraft registration certificate;
- 2) Airworthiness certificate;
- 3) Flight logbook;
- 4) Passenger manifest when carrying passengers;

- 5) Cargo and mail manifest;
- 6) Aircraft radio station license.

If the documents described in the preceding paragraph are not in order or invalid upon the required CAA preflight checks, the flight shall be terminated.

### Article 39

Special flight shall be performed only after an application filed with CAA has been approved.

### Article 40

The owner or operator of an aircraft with an airworthiness certificate shall give the aircraft adequate maintenance and conduct preflight inspections according to regulations to insure the aircraft remain airworthy and meets appropriate safety standards. If not airworthy, or so determined by the inspector or the pilot-in-command, the aircraft shall not be allowed to take off.

CAA shall send its staff or authorize another agency or body to send qualified technicians to inspect the aforesaid aircraft on periodical or spot-check basis in accordance with its regulations. The aircraft shall also be put under further CAA supervision. If the maintenance status falls short of airworthiness and safety requirements, the aircraft shall be grounded and its airworthiness certificate rescinded.

Civil Air Transport Enterprise shall publish its aircrafts' ages, flight hours, the latest maintenance records, and pilots' flight hours for passengers' reference in choosing carriers.

Procedures for authorizing aircraft inspection, and the means or formats to publish the information mentioned in the preceding paragraph shall be formulated by MOTC.

### Article 41

For the sake of flight safety, aircraft when airborne must submit to controls of general flight, visual flight and instrument flight and also follow instructions of flight control authority.

Measures of control for the above said general flight, visual flight and instrument flight shall be prescribed by CAA.

## Article 41-1

Rules governing flight operation, preparation to flight, operational limitation to the performance of aircraft, aircraft instruments, equipment and documents, aircraft telecommunication and navigation equipment, aircraft maintenance & repair, the functions of flight crew, qualification of pilots and dispatchers, handbooks, forms and records, crew members for passengers cabin and security assignment shall be formulated by MOTC.

## Article 42

No aircraft shall be allowed to fly over prohibited areas.

Aircraft flying over restricted or dangerous areas must comply with the applicable provisions of the regulations.

## Article 43

Unless specifically permitted by CAA, aircraft shall not carry firearms, ammunition, explosives, poison gas, radioactive materials or other articles hazardous to flight safety.

Airmen, aircrew members and passengers shall not smuggle the abovementioned articles into an aircraft. Neither shall they use appliances that may interfere with aeronautical telecommunications from the time the aircraft door is shut with announcement forbidding such use up to the time the door is reopened.

The variety of the aforesaid appliances that may cause interference to aeronautical telecommunications shall be published by CAA.

## Article 44

No object shall be dropped from an aircraft in flight, unless otherwise provided for by law, or unless the object dropped is necessary for the safety of flight or for rescue purposes.

## Article 45

The pilot-in-command of an aircraft is directly responsible for the safe operation of that aircraft and may take any necessary steps to deal with an emergency.

## Article 46

An aircraft, its passengers and cargo, shall be available for examination by appropriate authorities in accordance with law prior to and after a flight.

## Article 47

CAA should help mediate in any dispute between the air carrier and passengers during or upon completion of a flight.

If passengers ignore efforts at mediation and refuse to leave aircraft after landing, the air carrier with CAA consent may request assistance of the Air Police Bureau to persuade or force passengers to leave aircraft after landing, the air carrier with CAA consent may request assistance of the Air Police Bureau to persuade or force passengers to leave aircraft.

Measures for mediation stated in paragraph one shall be provided by CAA.

## Chapter VI. Management of Civil Air Transport Enterprise

### Section One Civil Air Transport Enterprise

## Article 48

Any person desiring to establish a civil air transport enterprise shall request MOTC through the CAA for permission to establish its business. Within a specified preparatory period the applicant shall, according to law, complete registration with appropriate authorities, execute agreements for conditional or unconditional purchase of aircraft, and submit to MOTC through CAA for approval. If an applicant's business scope includes international transport, the applicant shall register with the Customs Office to acquire appropriate certification. The civil air transport enterprise may begin its operation only after receiving a same as business license from CAA.

The license shall become invalid if the enterprise fails to start operations within 24 months from the date the license was issued, or it has suspended operations over 6 months after starting its business. In this case, CAA shall report to MOTC to have the license revoked and notify agencies concerned to cancel its registration, unless an extension justified by special circumstances is applied for and approved through due process.

Before a civil air transport enterprise terminates its operation, advance notice must be served to MOTC through CAA. Within 30 days

from termination, it should surrender the issued license for cancellation. If the license has not been surrendered within the 30-day period, CAA will issue a public notice advising that the license has been revoked.

## Article 49

A civil air transport enterprise shall be formed as a company organization adhering to the following rules:

- 1) Unlimited company with the entire body of its shareholders being citizens of the Republic of China.
- 2) Limited company with over two-thirds of its total capital owned by ROC citizens, and its board directors being ROC citizens.
- 3) Dual-partnership company whose unlimited responsibility shareholders are all ROC citizens.
- 4) Company limited by shares with its two-thirds of capital owned by ROC citizens, and over two-thirds of its board chairman and board directors being ROC citizens.

For a company limited by shares, all the shares issued should be registered by name.

## Article 50

A civil air transport enterprise should have secured international air traffic rights with relevant time zones and in possession of an air route certificate, before it can engage in international scheduled air carrier service on assigned air routes.

Similarly, civil air transport enterprise should have acquired aircraft takeoff & landing allotment for domestic airports or time zone and in possession of an air route certificate, prior to commencing domestic scheduled air carrier service on designated air routes.

The points of departure, intermediate points and destinations along the designated air routes related to in the foregoing two paragraphs, nature of service and validation date are all specified in the air route certificate.

Guidelines for the screening of international air traffic rights allocation stated in paragraph one shall be formulated by MOTC.

CAA shall prescribe measures for regulating aircraft takeoff & landing allotment for domestic airports and time zone.

## Article 51

A civil air transport license or air route certificate is not transferable, and the license or certificate holder must not consider him- or herself as enjoying exclusive rights to operate the various services as prescribed in the permit or certificate thereof.

## Article 52

A civil air transport enterprise holding an air route certificate, or any aircraft stopping over in ROC territory shall be required to carry mail in accordance with the provisions of the ROC Postal Law.

## Article 53

Freight rates for airmail letters and air postal parcels shall be lower than those for ordinary air cargo.

## Article 54

A civil air transport enterprise shall give priority to transport airmail over that of passengers and cargo.

## Article 55

Civil air transport enterprise shall notify MOTC through CAA regarding its freight rates for moving passengers and cargo on international scheduled air routes. For those rates on domestic scheduled air routes, shall notify MOTC through CAA to approve the range between the highest and lowest freight rates. The same procedure applies in the event of rate changes.

Rules governing the utilization of airfare, special methods, application procedures for approval, effective day and any other relevant matters shall all be formulated by MOTC.

As a favorable consideration to residents in remote offshore islands such as Penghu country, Chinmen county, Lienchiang county, Lanyu island and Green island both in Taitung county, airfare subsidies shall be offered for travel by air to and from their residence or between offshore islands.

Aircraft in use for the above purpose include fixed wing type and helicopters.

Air carriers serving offshore islands with fixed wing aircraft and/or helicopters should be rewarded.

Measures of granting airfare subsidies as described in third paragraph and of reward in preceding paragraph shall be drafted by MOTC for ratification by the Executive Yuan (Cabinet).

## Article 56

A civil air transport enterprise shall submit periodical reports to MOTC for record through the CAA, pertaining to the following:

- 1) Business matters.
- 2) Financial matters.
- 3) Operations matters.
- 4) Maintenance matters.
- 5) Shareholders holding 3% or more of total shares.

Whenever deemed necessary, CAA may inspect the business and financial conditions and other relevant matters of the civil air transport enterprise.

#### Article 57

CAA may provide personnel to inspect a civil air transport enterprise and monitor its operations including employees and equipment. The civil air transport enterprise shall not refuse, avoid or impede such inspections, and will be notified of deficiencies if any; and shall improve within a certain period of time when so advised by the CAA.

If no improvement has been made within the specified period, or the civil air transport enterprise refuses, avoids or impedes inspections, the CAA may, with MOTC approval, take action necessary to restrict or suspend all or part of the air routes served by the civil air transport enterprise.

#### Article 58

A civil air transport enterprise shall, in addition to action taken in compliance with law, make a report to MOTC for record through CAA regarding any of the following events:

- 1) Increase or decrease of capital.
- 2) Issuance of corporate bonds.
- 3) Contracts entered into between one civil air transport enterprise and another, or with any other related enterprise with regard to lease, joint transport and agency matters.
- 4) Change or relocation of principal operations and maintenance facilities.

#### Article 58-1

Civil air transport enterprises shall report to CAA with a performance plan of alliance and submit related documentation to apply for approval and to file an application for MOTC's approval for their alliance before starting the alliance operation. The MOTC is able to approve such alliance with conditions, period, limitations or burdens.

In the event that the civil air transport enterprises fail to operate an alliance in accordance with the performance plan, or the approved reasons for the alliance to cease to exist, or the alliance cause violation of public interest or civil aviation development, the CAA is entitled to withdraw its approval, revise the contents of approval, order to stop the alliance or amend the alliance actions.

The alliance shall be subject to the Fair Trade Commission's approval if the alliance mentioned in the first paragraph meets the scope of alliance actions under Article 7 of the Fair Trade Law. The Reviewing Rules for Approving the Alliance shall be promulgated by MOTC together with the Fair Trade Commission of the Executive Yuan.

#### Article 59

To serve the needs of public interest, CAA may, with MOTC approval, instruct any civil air transport enterprise to adjust or increase designated air routes.

#### Article 60

In the event of any urgent requirement by the government, a civil air transport enterprise shall accept the direction of MOTC to carry out designated transport assignments.

#### Article 61

When a civil air transport enterprise is dissolved in accordance with the law, its license and air route certificate shall simultaneously become invalid. The license and air route certificate shall be returned to CAA for cancellation within 30 days.

#### Article 62

A civil air enterprise shall not continue operation beyond the expiration date specified in the license or air route certificate unless an extension is applied for and is approved in accordance with the laws.



## Article 63

(Deleted)

## Article 63-1

Rules governing the business items of civil air transport enterprise, limitation of eligibility, application for permission to set up business, application for a permit, registration, cancellation and renewal, amount of capital, change in company registration, procurement of aircraft, conditional purchase & sale, lease of aircraft, limitation of aircraft age, air routes preparation, application for launching a flight, approval for alliance, collection of certificate fees, business management, as well as air routes preparation of foreign civil air transport enterprise, establishment of branch office, setting up a general agent, collection of certificate charges and management of operations shall all be formulated by MOTC.

## Section Two General Aviation Enterprise

### Article 64

Any person to start a general aviation business shall request permission for doing so from MOTC via CAA and, within allotted preparatory period, complete registration with concerned authorities, have aircraft made available capable of undertaking a safe general aviation service duly screened by CAA for MOTC approval. Business can begin upon issuance of a general aviation license from CAA.

General aviation business that fails to start operation over 12 months from the date the CAA license was issued, or has suspended operation over six months after start-up, shall have its license revoked by CAA, who will also notify concerned authorities to cancel its registration, unless there are good reasons to justify an extension.

The aforesaid extension shall not exceed a period of six months, and it can be granted only one time.

### Article 64-1

Rules governing the business items of general aviation enterprise, application for permission to set up the said enterprise, application for a permit, registration, cancellation and renewal, amount of capital, change in company registration, procurement of aircraft,

conditional purchase and sale, lease of aircraft, limitation of aircraft age, application for making a flight, collection of certificate charge and business management shall all be formulated by MOTC.

## Article 65

Paragraph three of Article 48, Article 40, Article 56, Article 57 and Article 60 shall apply to the general aviation industry.

## Section Three Air Freight Forwarder

### Article 66

Any person aspiring to work as air freight forwarder shall apply to MOTC via CAA for permission to set up business. Within a specified preparatory period the applicant shall, according to law, complete registration with appropriate authorities and submit to MOTC via CAA for approval. The forwarder-to-be may start operation only after receiving a license from CAA.

If the air freight forwarder fails to start up for over six months from the date license was issued, or has suspended operation for over six months after start-up, CAA shall advise MOTC to have its license revoked and notify concerned authorities to cancel its registration, unless an extension with justifiable reasons is applied for and approved.

To close down business, the air freight forwarder shall report via CAA to MOTC for record and, within thirty days after closure, turn in the air freight forwarder license. If the license is not surrendered in time, CAA will make known cancellation of the license in a public announcement.

The extension referred to in paragraph two may not exceed six months, and will be granted once only.

### Article 66-1

Air freight forwarder must be formed as a company organization and comply to the following rules:

- 1) Unlimited company whose shareholders are all citizens of the Republic of China.
- 2) Limited company with more than half of its total capital owned by ROC citizens, and more than half of its board directors are ROC citizens.
- 3) Dual-partnerships company whose unlimited responsibility shareholders are all ROC citizens.

- 4) Company limited by share whose board chairman and more than half of its board directors are ROC citizens.

The above restrictions will not override otherwise provided in a treaty or agreement.

#### Article 67

A foreign air freight forwarder can set up a branch company in the ROC according to law, by applying for MOTC permission through CAA.

#### Article 68

An air freight forwarder shall, within 6 months from the end of each year, submit to the CAA for record the following papers relating to its air freight forwarding business:

- 1) Balance sheet.
- 2) Income statement and business income tax returns.
- 3) Volume of freight exported and imported.

#### Article 69

CAA may provide personnel to inspect various facilities and operations of any air freight forwarder. The forwarder shall not refuse, avoid or impede such inspections, and will be notified of any shortcomings and told to improve within a certain period.

#### Article 70

An air freight forwarder shall not employ any of the following persons to a management position, and where there is already a person employed, he or she must be dismissed:

- 1) A person implicated in any one of the circumstances outlined in Article 30 of Corporate Law.
- 2) A person whose previous air freight forwarder license was revoked less than 5 years before assuming the managerial position.

The provision in the preceding paragraph shall apply to the company board of directors and supervisors.

#### Article 70-1

Rules governing air freight forwarder, application to set up a branch office of foreign air freight forwarder, for a license, registration, cancellation and renewal, amount of capital, change in company registration, collection of license fees and business management shall be enacted by MOTC.

## Section Four Air Cargo Distribution Center

### Article 71

Any person wishing to establish an air cargo distribution center shall apply, along with relevant documents, to CAA for permission from MOTC. Within a specified preparatory period, the applicant should complete registration with appropriate authorities according to law, prepare necessary sites, equipment and facilities, register with the customs office, obtain relevant supporting documents and submit to MOTC via CAA for approval. Only after receiving an air cargo distribution center license issued by CAA can the center begin operations.

In the event the air cargo distribution center fails to start operation for more than six months after the license was issued, or has suspended business for over six months after starting up, the CAA shall advise MOTC to have its permission withdrawn, then revoke the license of the air cargo distribution center and notify concerned authorities to abolish its registration. However, an extension may be applied for on the basis of justifiable reasons.

The aforesaid extension, if approved, shall not exceed a period of six months, and it can be granted just once only.

### Article 72

A civil air transport enterprise may request permission from the MOTC through the CAA to set up an air cargo distribution center to self-handle the collection and distribution of cargo carried by its own aircraft.

The provision in the preceding paragraph shall also apply to foreign civil air transport enterprise, provided whose home country grants equal rights to ROC civil air transport enterprise to operate an air cargo distribution center in that country under a treaty or an agreement, or based on an equal and reciprocal principle.

### Article 72-1

Rules governing air cargo distribution center, both Chinese and foreign air transport enterprises applying for setting up their own air cargo distribution centers to self-handle the distribution of cargo, their business items, application for permission to set up business, for a license, registration, cancellation and renewal, amount of capital, change in company registration, collection of license fees and business management, shall all be formulated by MOTC.

### Article 73

The provisions of paragraph three of Article 48, Article 57 and Article 66-1 shall apply to the air cargo distribution center industry.

## Section Five Airport Ground Handling Services

### Article 74

Any person wishing to run an airport ground handling service shall apply to CAA for permission from the MOTC in order to set up business. Within a specified preparatory period, the applicant shall complete registration with appropriate authorities according to law, and submit to MOTC via CAA for approval. Only after receiving an airport ground handling service license issued by CAA can business get started.

In the event the airport ground handling service fails to start operation for more than 12 months after the CAA license was issued, or has suspended business for over six months after starting up, the CAA will advise MOTC to have its permission withdrawn, then revoke the license and notify concerned agencies to abolish the registration. However, an extension may be applied for on the basis of justifiable reasons.

The above said extension, when approved, shall not be in excess of six months, and it can be granted just once only.

### Article 74-1

An airport ground handling service shall be formed as a company organization in compliance with the following rulings:

- 1) Unlimited company whose shareholders are all citizens of the Republic of China.
- 2) Limited company with more than one half of its total capital owned by ROC citizens, and more than one half of its

board directors being ROC citizens.

3) Dual-partnerships company whose unlimited responsibility shareholders are all ROC citizens.

4) Company limited by share with more than one half of its capital owned by ROC citizens, its board chairman and more than one half of board directors are ROC citizens.

Stocks issued by company limited by share must be registered by name.

If otherwise provided for under a treaty or agreement, airport ground handling service shall not be bound by restrictions in the two preceding paragraphs.

## Article 75

Civil air transport enterprise may apply for permission from MOTC via CAA to operate concurrently an airport ground handling service.

The foregoing provision shall also apply to foreign civil air transport service, provided whose home country grants equal rights to ROC civil air transport enterprise to operate airport ground handling service in that country under a treaty or agreement, or based on an equal and reciprocal principle.

To maintain airport security and good business order, MOTC may impose partial or complete restrictions on the operations of the approved airport ground handling service run concomitantly by a civil air transport enterprise, or an authorized private airport ground handling service.

## Article 75-1

Rules governing airport ground handling service, both Chinese and foreign civil air transport enterprises applying for concurrent operation of airport ground handling service or private ground handling service, their business items, application for permission to set up business, for license, registration, cancellation and renewal, amount of capital, increase or decrease of business items, change in company registration, collection of license fees and business management, shall all be enacted by MOTC.

## Article 76

Article 48, paragraph 3, and Article 57 shall also apply to airport ground handling services.

## Article 77

Paragraph three of Article 48, Article 57, Article 74, Article 4-1 and Article 75 shall apply to the Flight Kitchen Service.

## Article 77-1

Rules governing flight kitchen service, both Chinese and foreign civil air transport enterprises applying to run concurrently a flight kitchen service, their business items, application for permission to set up business, application for license, registration, cancellation and renewal, amount of capital, change in company registration, collection of license fees and business management, shall all be provided by MOTC.

## Chapter VII. Foreign Aircraft or Foreign Civil Air Transport Enterprise

### Article 78

Foreign aircraft shall not be allowed to fly over or land in ROC territory without permission from MOTC, unless otherwise provided for in a treaty or an agreement.

Rules governing a foreign aircraft flying into, flying out of, and flying over ROC territory shall be enacted by MOTC.

### Article 79

A foreign civil air transport enterprise may operate its aircraft on a non-scheduled flight between a point in the ROC and a point outside the ROC carrying passengers, cargo and mail with or without remuneration only after obtaining approval from the CAA.

### Article 80

A foreign air transport enterprise seeking to operate scheduled flights between a point in the ROC and a point outside the ROC to carry passengers, cargo and mail with or without remuneration pursuant to a treaty or an agreement, or based on an equal and reciprocal

principle, shall first apply to the CAA for an air route certificate prior to its operation.

#### Article 81

No foreign aircraft or foreign civil air transport enterprises may carry passengers, cargo and mail between two points in the ROC with or without remuneration, or operate as a general aviation enterprise in the ROC.

#### Article 82

A foreign civil air transport enterprise seeking to establish a business partnership in the ROC shall provide all relevant documents in its application to the CAA. The CAA will forward the application to the MOTC for processing and approval in accordance with the laws. If the business partner is a branch office, the registration shall be made in accordance with the law, and the application submitted to the CAA for approval by the MOTC. A branch office may begin operations only after receiving a license for that specific branch office of the parent foreign civil air transport enterprise by the CAA, and supporting documents are obtained upon registering with the Custom Office.

#### Article 83

Article 81 does not apply in cases where the aircraft maintenance needs of a ROC civil air transport enterprise or general aviation aircraft, or in cases where a government agency is of business purposes, provided the foreign registered aircraft is under a lease or loan approved by the MOTC for a term not to be exceed 6 months.

### Chapter VIII. Aircraft Accident Investigation

#### Article 84

In order to conduct investigations and prevent aircraft accident or serious incident from happening, the Executive Yuan has established the Aviation Safety Council (hereinafter referred to as ASC) as a standing council. The Executive Yuan will formulate ASC's organization and function extraordinarily.

ASC shall execute its authority independently, without being subject to any interference. CAA, as committed to the management of airworthiness or flight safety, must not hamper the investigation conducted by ASC.



ASC shall focus on the identification, investigation and cause assessment of aircraft accident or serious incident on preventing the recurrence of similar accident or serious incident, rather than on dispensing penalty or pursuing responsibility.

ASC shall formulate rules governing the investigation and disposition of aircraft accident or serious incident.

#### Article 85

In the event of an aircraft accident or serious incident, its owner and operator, the pilot-in-command of aircraft flying in nearby air space and the informed air traffic control agency shall inform ASC and CAA as soon as possible.

#### Article 86

In the event of an aircraft accident or serious incident, ASC shall immediately form a special task force to lead and commence investigation. The aircraft owner and operator and CAA shall promptly provide all relevant data to ASC while taking measures of rescue and assisting in the probe. Relevant authorities on the scene of accident shall provide assistance to ASC in searching for evidence and maintaining security as well as other relevant tasks.

#### Article 87

Upon conclusion of an investigation of aircraft accident or serious incident, ASC shall present to the Executive Yuan an investigation report along with recommendation for flight safety improvement. Concerned government agencies, aircraft owner and operator shall follow such recommendation in correcting defects.

#### Article 88

(Deleted)

#### Article 88-1

Rules governing matters of flight safety such as publication of bulletins, fire-fighting, search & rescue, taking emergency measures, as well as investigation of non-aircraft accident or major incident, statistics and analysis, shall all be prescribed by MOTC.

## Chapter IX. Liability for Compensation

### Article 89

Where casualties or damage to property occur as a result of aircraft accident, the owner of the aircraft shall be liable for compensation regardless of whether such accident is due to willful action or negligence. Such an owner of the aircraft shall also be liable for damage caused by force majeure. The same also applies to damage caused by falling or dropping of objects from the aircraft.

### Article 90

Where the damage as referred to in the preceding article is caused by an aircraft operated on lease, conditional purchase or lending, the owner and lessee, the conditional purchaser or borrower shall be jointly and severally liable. But if the said conditional purchase and lease have been registered, the lessee and purchaser shall be singly liable unless the owner is faulty for negligence.

### Article 91

The aircraft operator shall be liable for accidental death or injury of passengers in the aircraft or while embarking or disembarking the aircraft. But if such death or injury is attributed to the passenger's fault, such liability may be exonerated or reduced.

The aircraft operator shall be liable for causing damage to passengers because of flight delay, provided that the aircraft operator can prove the delay is caused by force majeure. The liability shall be limited to the necessary extra expense incurred to the passengers through the flight delay.

### Article 92

Where damage is caused by the willful act or negligence of an airman or a third party, the owner, lessee or borrower has the right to make a claim against such airman or third party.

### Article 93

Where there is a special contract providing for the amount of compensation for damage to passengers and cargo or duty personnel

aboard an aircraft, the special contract shall prevail. If the special contract contains discriminating clauses unfavorable to ROC citizens, the most favorable clauses shall apply. Where there is no special contract, the MOTC shall, according to related regulations or rules in this Law, and making reference to international standards for liability, prescribe rules for compensation and submit to the Executive Yuan for approval and promulgation.

The special contract referred to above shall be in writing.

The standards of liability set forth in the first paragraph shall not affect the right of the victim to bring claim in a lawsuit.

#### Article 93-1

The liability of aircrafts users or carriers for loss of cargo, or checked-in baggage shall be limited to NT\$1,000 per kilo, unless the nature and value of the cargo or baggage which have been declared to air carriers, and specified in the airway bill or passenger tickets.

Passengers' carry-on baggage shall be compensated for actual damages. Each passenger shall not claim for more than NT\$20,000.

Aircraft users or carriers shall not claim for limited liability if the damage mentioned in the first 2 paragraphs was caused by their intention or by their gross negligence.

The above-mentioned three paragraphs shall also be applied to air cargo forwarders, airport ground handling enterprise and cargo terminal operation enterprise when claiming for compensations.

#### Article 94

An aircraft owner shall, prior to applying for registration pursuant to Article 8; or a civil air transport enterprise, prior to applying for a license pursuant to Article 48, purchase liability insurance.

The amount of liability referred to in the preceding paragraph shall be prescribed by the MOTC, and such amount shall be complied with for effecting liability insurance.

#### Article 95

Where a foreign aircraft operates in the ROC territory with a special permit, the MOTC may order such foreign aircraft to produce, in advance, an appropriate amount as security for liability or a certificate of insurance.

## Article 96

CAA may detain any foreign aircraft that fails to produce proof of liability insurance, or makes an emergency landing or crashed without a special permit to operate in the ROC territory. If there is any damage to persons or property, compensation shall be made in accordance with the ROC laws.

In the events of the circumstance described in the preceding paragraph, except where other violations of law are found, the aircraft shall be released if its owner, lessee, borrower or pilot-in-command produces proof of liability endorsed by CAA.

## Article 97

Litigation over damages provided for in Article 89 shall be under the jurisdiction of the court where damage occurred.

Litigation over damage provided for in Article 91 shall be under the jurisdiction of the court at the place where the contract of carriage was concluded or at the destination of the flight.

## Article 98

At the request of any interested party or the public prosecutor, the court may declare a person dead who has been missing for six months following the date an aircraft carrying this person was involved in an accident.

## Article 99

Except as otherwise provided for in this Law, all matters relating to liability for aircraft accident and jurisdiction of litigation thereof shall be governed by the provisions of the Civil Code and the Code of Civil Procedure.

## Chapter IX. Ultra-Light

### Article 99-1

Subject to approval by CAA to set up an activity association for ultra-light (“activity association”) and to register the association

as a legal entity for community group under the laws. Through CAA's permission, the activity association is allowed to operate after its activities guideline has been approved by MOTC together with the National Council on Physical Fitness and Sports, Executive Yuan.

The activities guideline shall include the following:

- 1) Applications for manufacturing, importation, registration, inspection, issuing certification and changing (reissuing) certificate for ultra light;
- 2) Applications for issuing and changing (reissuing) operating license for ultra-light;
- 3) Plan of requirement, arrangement, and application for places of activities;
- 4) Scope, limitation, execution of activities in airspace, safety and management of airspace;
- 5) Notification and handling of aviation accident.

Rules governing requirements and procedures for permission of setting up or revoking an activity association; drafting guideline for activities; importing, registering, inspecting, issuing certificate, changing (reissuing) certificate for ultra-light; issuing and changing (reissuing) operating license; operating and controlling aviation of ultra-light; applying for activities space and contest; collecting fee standards; notifying and handling aviation accident and so on, shall all be provided by MOTC.

#### Article 99-2

Owners and operators of ultra-light shall join an activity association as members and comply with the guideline provided by the activity association before starting activities.

#### Article 99-3

An ultra-light is allowed to fly after registration, inspection and when a certification of inspection is issued.

Before operating ultra-light the operator of an ultra-light shall pass a physical examination, written examination and practical examination and then given an operating license.

The registration, inspection certificate, license for operator's examination mentioned in the two preceding paragraphs may be administered by CAA or a CAA commissioned competent agency.

#### Article 99-4

The airspace for ultra-light shall be defined by MOTC together with the Ministry of National Defense; and can be revoked if and when necessary.

The above-mentioned airspace shall not include the airspace of national parks and planned urban development region. Nevertheless, it shall include agriculture and scenery areas or areas approved by the Executive Yuan.

The period for use, or any other prohibitions or limitations for use of airspace mentioned in the first paragraph can be preside over by CAA for national defense, for safeguarding aviation safety, or for public interest, must be published.

The activity association shall inform its members of the publication mentioned in the preceding paragraph.

#### Article 99-5

The operator of ultra-light shall operate an ultra-light by visual flight, and shall not:

- 1) Perform aviation beyond the defined airspace for ultra-light.
- 2) While operating an ultra-light the operator must not have more than 0.04% alcohol in the blood or more than 0.2% milligram of alcohol when exhaling.
- 3) Fly after sunset and before sunrise.

Operator of an ultra-light shall avoid coming close to or hitting another aircraft, ultra-light or obstruction during flight operation.

#### Article 99-6

Where casualty, bodily injury or damage to property occurs as a result of operating an ultra-light, the owner of the ultra-light shall be liable for compensation regardless of whether such accident is due to willful action or negligence. Owner of the ultra-light shall also be liable for damage caused by force majeure. The same also applies to damage caused by falling or dropping objects from the ultra-light.

The owner and operator of ultra-light shall be jointly liable for damages mentioned in the preceding paragraph if the owner of ultra-light allowed a third party to operate the ultra-light.

The compensation amount for death and bodily injury in the preceding two paragraphs shall also be applied to the standards as mentioned in the rules of Paragraph 1, Article 93. The standards of liability set forth shall not affect the right of the victim to bring

claim in a lawsuit.

The owner of ultra-light shall purchase liability insurance for the compensation amount mentioned in the preceding paragraph.

#### Article 99-7

CAA may provide personnel to inspect an activity club and its members for various equipments, business and ultra light. The activity club shall not refuse, avoid or impede such inspections, and will be notified of deficiencies if any; and shall improve within a certain period of time when so advised by CAA.

#### Article 99-8

Paragraph 1 of Article 42, paragraph 1 of Article 43, Article 44, Articles 84-87, Article 98, and Article 99 shall also be applicable for ultra-light.

### Chapter X. Penalties

#### Article 100

Any person who hijacks an aircraft by force, threat or other means shall be subject to punishment by death, imprisonment for life, or imprisoned for not less than 7 years.

Such person who causes death to another shall be subject to the penalty of death or imprisonment for life; subject to the punishment by death, imprisonment for life or no less than 10 years while causes serious injury to another person.

Any person attempting to commit the crime described in paragraph 1 shall be punished.

Any person conspiring to commit the crime described in paragraph 1 shall be liable to imprisonment not exceeding 3 years.

#### Article 101

Any person who endangers flight safety or aviation facilities by force, threat or other means shall be liable to imprisonment not

exceeding 7 years, detention or a fine of up to NT\$210,000.

Such person who caused damage to aircraft or other facilities shall be subject to imprisonment from 3 to 10 years.

Such person who causes death to another is subject to the penalty of death, imprisonment for life or more than 10 years; subject to imprisonment from 5 to 12 years for causing serious injury to another.

Any person attempting to commit the crime described in paragraph 1 shall be punished.

## Article 102

Any person in violation of the provisions of Article 43 shall be subject to imprisonment not exceeding 5 years, detention or a fine of up to NT\$150,000.

Such person who causes death to another shall be subject to life sentence or imprisonment no less than 7 years; or subject to imprisonment from 3 to 10 years for causing serious injury to another.

## Article 103

Any person operating an aircraft without an airworthiness certificate shall be subject to imprisonment not exceeding 5 years, detention or a fine of up to NT\$1,000,000.

The same applies also to a person flying an aircraft with an invalid airworthiness certificate.

## Article 104

Any person who engages in a flight without a CAA license, a CAA rating certificate and a CAA medical certificate shall be subject to imprisonment not exceeding 5 years, detention or a fine of up to NT\$1,000,000.

## Article 105

Any person making false report to a government official, to the staff of a civil air transport enterprise, or staff of activity association of an alleged threat to aviation safety or aviation facilities without naming or identifying the violator or offender is subject to imprisonment up to 3 years, detention or a fine up to NT\$1,000,000.

Any person committing the crime stated in the preceding paragraph and consequently causing real danger to flight safety shall be



subject to imprisonment from 3 to 10 years; for causing damage to aircraft or casualties is subject to imprisonment for life or over 5 years.

#### Article 106

Any person who, by fraudulence in application for certification or registration, obtains airman license, certificate of rating, medical certificate, certificate of aircraft registration or airworthiness certificate, shall be subject to imprisonment up to 5 years, detention or a fine of up to NT\$1,000,000.

The license and certificates referred to above shall be revoked by CAA.

#### Article 107

In case of violation of the provisions of Article 78, the pilot-in-command shall be subject to imprisonment not exceeding 3 years, detention or a fine of up to NT\$1,000,000.

#### Article 108

Any airman, duty personnel aboard an aircraft, passenger, or operator of ultra-light who violates the provisions of Article 44 without justifiable reasons shall be subject to imprisonment not exceeding 3 years, detention or a fine of up to NT\$600,000.

#### Article 109

Any person who violates the provisions specified in Article 42, paragraph 1 shall be subject to imprisonment not exceeding 2 years, detention or a fine of up to NT\$400,000.

#### Article 110

The responsible person of aircraft manufacturing factory or maintenance factory or facility, their employee or other hired person who undertakes the manufacture, assembly or maintenance with unqualified aircraft equipment and component parts, shall be subject to imprisonment not exceeding 3 years, detention plus a fine of up to NT\$1,000,000.

Any person who commits the crime stated in the preceding paragraph to the extent of causing danger to flight safety shall be subject to imprisonment from 3 to 10 years; subject to the death sentence, imprisonment for life or up to 10 years for causing death to another; subject to imprisonment from 5 to 12 years for causing serious injury to another.

Any person who, due to negligence of duty, commits the crime stated in paragraph 1 to the extent of causing danger to flight safety shall be subject to imprisonment not exceeding 3 years, detention plus a fine of up to NT\$1,000,000; subject to imprisonment up to 7 years or detention plus a fine of up to NT\$3,000,000 for causing death to another; subject to imprisonment up to 5 years or detention plus a fine of up to NT\$2,000,000 for causing serious injury to another.

#### Article 110-1

The operator of ultra-light, who perform aviation activities beyond the limit of aviation vicinity and caused danger to aviation safety, shall be subject to imprisonment for more than six months and less than five years; subject to imprisonment for more than three years and less than ten years for causing death to another; subject to imprisonment for less than one year and less than seven years for causing serious injury to another.

#### Article 111

Any airman shall be liable to a fine from NT\$60,000 to NT\$300,000 for any of the following; and in serious cases, the penalty shall be the suspension of duty or revocation of his or her license:

- 1) Violation of the provisions set forth in Article 41, for not observing flight control rules or not following the instructions of flight control authorities.
- 2) Failure to carry all documents required of the aircraft in flight.
- 3) Landing at or taking off from a site outside an airfield without justification.
- 4) Violation of the provisions set forth in Article 41-1 pertaining to flight operation of an aircraft.
- 5) Refusal to submit to inspection prior to taking off and/or after landing.
- 6) Failure to turn in an airman license or certificate of rating due for cancellation.
- 7) Committing a technical error that leads to the happening of an aircraft accident or a major incident.
- 8) Using an expired clean bill of health, airman license or certificate of rating.
- 9) Filling in untruthful record or falsifying flight hours.
- 10) Substituting another under an assumed name or asking another to act as substitute in signing various kinds of certificates, records or documents.

- 11) Not reporting an accident or incident in a deliberate attempt to cover up.
- 12) Making use of airman license or certificate of rating in illegal activities.
- 13) Causing serious incident to happen for being neglectful of duty.
- 14) Allowing another to stand in for duty without authorization, thereby causing a serious incident to happen.
- 15) Unlawful alteration of, or lending to another the use of, airman license or certificate of rating.

The above said provisions shall apply to foreign airmen hired by civil air transport enterprise, general aviation, aircraft manufacturer or aircraft maintenance & repair factory in the event they violate such rules in their execution of duties.

## Article 112

An aircraft owner or user, civil air transport enterprise, general aviation, air cargo forwarder, airport ground handling service, flight kitchen, air cargo distribution center, airfield, aircraft manufacturer or aircraft maintenance & repair factory, office or civil aviation training institution shall be subject to a fine of NT\$600,000 to NT\$3,000,000 for any of the following; and in serious cases, after reporting to MOTC for approval through the CAA, the penalty shall be partial or complete suspension of business or revocation of permits:

- 1) Aircraft nationality marking and registration number not clear or not in designated place.
- 2) Failure to turn in certificate of registration, airworthiness certificate or other certificates issued in accordance with this Law that should have been surrendered when due for cancellation.
- 3) Violation of provisions set forth in paragraph two of Article 9 relative to the procedure of aircraft airworthiness management.
- 4) Violation of provisions in paragraph one of Article 23 for starting business without first taking qualification rating and given a certificate.
- 5) Violation of provisions in paragraph one of Article 40 relative to aircraft maintenance & repair procedures.
- 6) Violation of provisions in paragraph one of Article 41 for failure to observe flight control or follow instructions of flight control authorities.
- 7) Violation of provisions in paragraph one of Article 41 pertaining to aircraft flight operations.
- 8) Non-compliance to noise control regulations.
- 9) Violation of provisions in paragraph one of Article 55 for failing to report for record or for permission of setting or

changing passenger and cargo fares.

10) Violation of provisions in paragraph one of Article 56 for failing to submit periodical report on state of business, finance, flight operation, mechanical service or name list of shareholders in possession of over 3% of stocks.

11) Obstructing, avoiding or refusing to accept inspections prescribed in paragraph two of Article 56.

12) Violation of provisions in Article 58, for failing to report increase or decrease of capital, issuance of company bonds, contracts of lease, of connection carriage and franchise, or change or relocation of major flight operation and mechanical service facilities.

13) Violation of first paragraph of Article 58-1, for operating alliance without approval.

14) Violation of provisions of Article 86, for failing to provide relevant data, to launch search & rescue or assist in aircraft accident investigations.

15) Other acts such as rejecting, avoiding or impeding an inspection or scheduled for improvement under the Law, and failing to make correction of irregularities or deficiencies, and improvement not corrected or completed within a given deadline.

Any person who undertakes without permission to run a civil air transport enterprise, general aviation, air freight forwarder, airport ground handling service, flight kitchen or air cargo distribution center shall be subject to a fine from NT\$600,000 to NT\$3,000,000.

#### Article 112-1

For reporting on one's own initiative to CAA on any undetected violation covered in the preceding two Articles, CAA may impose lesser penalty or grant exoneration judging by the seriousness of the case.

#### Article 113

Any aircraft manufacturing factory or maintenance and repair factory shall be subject to a fine of NT\$1,000,000 to NT\$3,000,000 for committing the crime stated in Article 110 by their responsible person, any employee or other hired person.

## Article 114

Any aircraft manufacturing factory or maintenance & repair factory, in the execution of their operations, shall be liable to a fine from NT\$600,000 up to NT\$3,000,000 for any one of the following events; in serious cases, may be ordered to suspend operations partially or wholly, or have their rating certificates revoked:

- 1) Failure to conform to the technical documents certified by CAA, or by the civil aviation authority in the country where the original manufacturer is located, in executing a major project of overhaul or reconstruction.
- 2) Performing repair or reconstruction of items uncertified; or lacking the necessary special equipment, facility, tools, or technical documents which working on any items certified.
- 3) Failure to keep their maintenance & repair capacity, inclusive of all staffs, facilities, equipment, tools and instruments up to the standards prescribed in the certificate of rating; or failure to conduct on their own periodical inspections.
- 4) Their equipment, method and procedures used in maintenance & repair or in reconstruction not conforming to the technical documents issued by the original manufacturer or endorsed by CAA.
- 5) Using special tools or test equipment not in compliance with the recommendation of the original manufacturer, or not using alternate formula endorsed by CAA.
- 6) Undertaking a long-term commitment of aircraft maintenance without following the maintenance program of the user or owner.
- 7) The repaired or reconstructed aircraft, engines, propellers, instruments, radio equipment or accessory parts having not been subjected to final inspection by qualified inspectors, so that personnel considered eligible by CAA cannot sign the proper work record or hang tags of certifications onto the repaired or reconstructed articles to prove they are safe for use.
- 8) Failure to have a complete set of records of the maintenance & repair and reconstruction works, or failure to properly keep such records on file.
- 9) After being rated and certified, failing to execute operation in accordance with the technical documents endorsed by CAA; or for erasing, altering, falsifying records, or for holding back report on major inefficiency of quality control systems, or on critical flaws, lapsed efficacy or deficiency of products.

Violation of provisions in paragraph six of Article 23 pertaining to rules for the management of manufacturers or the management of certification thereof.

## Article 115

Any foreign civil air transport enterprise found in violation of this Law, the decrees issued pursuant to this Law, or the provisions of a treaty or an agreement, in addition to penalties prescribed in this Law, the CAA may cancel its air route certificate, or suspend its business totally or partially.

## Article 116

Private air field manager and navigation aids installer shall be subject to a fine from NT\$600,000 to NT\$3,000,000 for any of the following, in addition to being ordered to make improvement, dismantle, relocate or to install as the case may be, within a given deadline, and the penalty shall be repeated if work has not been satisfactory completed before the deadline:

1. Violation of provisions set forth in paragraph one of Article 29, relative to setting up, lease, transfer or abolishing an airfield without permission.
2. Violation of provisions in Article 31, relative to setting up, changing or abolishing domestic navigation aids installation without permission, or not following regulations in managing the diverse equipment.

## Article 117

A private air field operator or manager shall be subject to a fine from NT\$300,000 to NT\$1,500,000 for any one of the following:

- 1) Concurrent use of airfield for other purposes without permission.
- 2) Abolition of airfield, putting it to lease or rent, without permission.
- 3) Collection of airfield charges not conforming to regulations.
- 4) Failure to comply with the rules in managing navigation aids facilities.

## Article 118

Violation of any one of the following shall result in a fine from NT\$300,000 to NT\$1,500,000.

- 1) Violation of provisions set forth in paragraph one of Article 33, for failing to make improvement, dismantle, relocate, or to install obstruction lights and markings within a time limit.

- 2) Violation of provisions in paragraph one of Article 33-1, for not having installed obstruction lights and markings.
- 3) Violation of provisions in paragraph one of Article 34, for intrusion of livestock traced to have been set loose by its owner.
- 4) Violation of provisions in paragraph two of Article 34, relative to rising of pigeons or releasing of objects considered hazardous to flight safety.
- 5) Failure by civil air transport service to remove all its transit passengers from an airport terminal within the scheduled time limit.

The owners referred to in item one and item two of the preceding paragraph, after being fined and still not in compliance, shall continue to be fined until they fulfill their obligations. If necessary, the airport authority and aviation police bureau will notify concerned government agency to remove the construction, lights or any other obstructions. With respect to Item 4, the airport and aviation police bureau in conjunction with concerned police agencies will notify the owner of pigeon shack to remove it within a time limit. CAA or airport manager shall give compensation for the removal. Failure to remove within time limit or building a pigeon shack again shall result in the pigeon shack forcibly pulled down without compensation.

Airport authority and aviation police bureau, in conjunction with concerned police agencies, shall take action to clamp down on the release of objects hazardous to flight safety.

## Article 119

Violation of paragraph 3 of Article 40 for civil air transport enterprise shall be imposed with a fine from NT\$60,000 to NT\$300,000.

## Article 119-1

Any owner, operator or activities association shall be liable to a fine from NT\$600,000 up to NT\$3,000,000 for any one of the following offenses; in serious cases, may be ordered to suspend operations or activities, or have their ultra-light operation certificates revoked:

- 1) Paragraph 1 of Article 99-1, for operating activities.
- 2) Violation of Article 99-2, for not joining activities association to operate activities, or failing to comply with activities guidelines.
- 3) Violation of paragraphs 1 and 2 of Article 99-3, for performing aviation activities without certification of airworthiness for ultra-light

and or operation certificates for ultra-light.

- 4) Violation of paragraph 3 of Article 99-4, for utilization of period, or prohibition, and limitation.
- 5) Violation of paragraph 4 of Article 99-4, for activities association's failure to notify its members.
- 6) Violation of paragraph 1 of Article 99-5, for prohibitions specified.
- 7) Violation of paragraph 2 of Article 99-5, for close-by or crash between ultra-light and any other aircraft, ultra-light or obstacle.
- 8) Violation of paragraph 4 of Article 99-6, for failure to purchase liability insurance
- 9) Violation of Article 99-7, for rejecting, avoiding or impeding an inspection or failing to make correction within a given deadline.

## Article 120

In the event of refusal to pay penalties imposed pursuant to this Law within the specified time limit shall be referred to court for compulsory enforcement.

## Chapter XI. Supplemental Provisions

### Article 121

CAA may, making reference to the standards, recommendations, measures or procedures outlined in relevant international conventions and annexes thereto, propose to MOTC for adoption of provisions involving international affairs not covered in this Law, for their promulgation and implementation.

### Article 122

A flat fee, to be set by MOTC, shall be assessed for any certificates issued according to provisions of this Law.

### Article 123

This Law shall become effective on the date of promulgation.



# Regulation of Civil Air Transport Enterprise

(amended on December 13, 2002)

## Chapter I General

### Article I

This Regulation is enacted in accordance with the terms in the first paragraph of Article 63 of Civil Aviation Law

### Article 2

The terms used in this Regulation are defined as below:

- 1) "Fixed wing aircraft" means an airplane that is kept aloft by the aerodynamic forces of air upon its wings and is driven forward by a screw propeller or by jet propulsion.
- 2) "Helicopter" means an aircraft that is lifted and moved by large propeller mounted horizontally above the fuselage.
- 3) "Fixed wing carrier service" means carriage of passengers, cargo and mail performed for reward, by fixed wing aircraft of a civil air transport enterprise.
- 4) "Helicopter carrier service" means carriage of passengers, cargo and mail performed for reward, by helicopter of an civil air transport enterprise.
- 5) "Scheduled air carrier service" means a carrier service by aircraft conducted between two points on regularly scheduled dates and time along appointed air routes.
- 6) "Unscheduled air carrier service" means a service of additional and charter flights aside from the scheduled air carrier service.
- 7) "Charter flight" means unscheduled carriage of passengers, cargo and mail by aircraft of an civil air transport enterprise, to be charged by time spent, mileage flown or by the number of sortie.

## Chapter II Permit & Registration

### Article 3

To apply for running a fixed wing carrier service, civil air transport enterprise shall possess one of the following qualifications:

- 1) A company that has been established for more than five years with finance and organization in solid condition, its board chairman and over two thirds of directors being ROC citizen, having had no financial problem nor dispute over share holdings detrimental to the normal operation of company in past three years, may apply for scheduled or unscheduled air carrier service on domestic air routes.
- 2) A civil air transport enterprise serving domestic air routes, with finance and organization in good shape, having had no financial problem nor share-holders' dispute to affect the normal function of company over the last three years, and in the same period had an accrued passenger load of 900,000 persons or more, had no occurrence of major incident involving flight safety, having in its employment a proficient crew of maintenance people of Class II and above and a sufficient number of qualified airmen, may apply for chartered service on international air routes.
- 3) A charter service on international air routes that has been in operation for more than two years, with finance, maintenance and flight operation organic systems all in sound condition, having had no financial difficulty nor share-holders' dispute to affect the normal function of company in past two years, launched over 60 flights each year, had no occurrence of major flight safety incident in past two years, employing a proficient maintenance crew of Class II and above and a sufficient number of qualified airmen, may apply for scheduled or unscheduled carrier service on international air routes.
- 4) A company that has been in international carrier or international trade business for more than five years, with finance and organization in solid condition, its board chairman and two thirds of directors being ROC citizen, over two thirds of company capital owned by ROC citizen, having had no financial problem nor share-holders' dispute to affect the normal function of company in last three years, posted an annual revenue of more than NT\$6 billion, may apply for scheduled or unscheduled cargo service on international air routes. A company whose annual business income hit NT\$10 billion or more, may apply for scheduled or unscheduled air carrier service on international air routes.

### Article 4

To apply for starting a helicopter carrier service, civil air transport enterprise shall possess one of the following qualifications:

- 1) A company in the general aviation service, with sound finance and organization, having had no financial problem nor share-holders' dispute to affect the normal function of company in past two years, in the same period logged more than 500 flight hours, incident-free in the last 250 flight hours and without record of flight violations, may apply for helicopter carrier service on domestic air routes.
- 2) A civil air transport enterprise in fixed wing air carrier service, with finance and organization in sound condition, not having had any financial or share-holders' trouble to affect the normal operation of company in last two years, in the same period logged one thousand flight hours without any aircraft accident, incident-free in the past year with no record of flight violations, may apply for helicopter carrier service on domestic air routes.

#### Article 5

A company that meets the qualifications as laid down in subparagraph 1 or subparagraph 4 of Article 3, in applying for running a civil air transport enterprise, shall prepare to organize a new company. The application including the following papers in duplicate shall be filed with Civil Aeronautics Administration (hereinafter referred to as CAA) for MOTC permission:

- 1) application (attachment 1).
- 2) original company bylaw.
- 3) Registration of original company.
- 4) original company roster of shareholders, list of board directors and supervisors.
- 5) original company certificate of business performance.
- 6) original company business statement, financial report and accountant auditing report for last three years.
- 7) draft company bylaw of the new company to be set up.
- 8) list of sponsors and their identification papers for the new company.
- 9) prospectus: inclusive of operational plans, air routes to be served, fleet of aircraft, estimated volume of load, forecast of revenue and expenditure, plan to raise capital.
- 10) plans of equipment, organization and training relating to flight operation and mechanical service.
- 11) sourcing of pilots and their training program.
- 12) flight safety organization and planning.

The shareholders in the original company shall hold no less than two thirds of total shares in the new company to be established.

## Article 6

Civil air transport enterprise or general aviation service that meets the qualifications as laid down in subparagraph 2, subparagraph 3 of Article 3 or Article 4 in applying for additional air transport services, shall enclose the following papers in duplicate for MOTC permission via CAA:

- 1) application (attachment 1).
- 2) company registration.
- 3) company bylaw.
- 4) list of company shareholders, roster of board directors and supervisors.
- 5) company business statement, financial report and accountant auditing report for last three years.
- 6) company organic chart.
- 7) prospectus: inclusive of operational plans, air routes to be served, fleet of aircraft, estimated volume of load, forecast of revenue and expenditure, plan to raise capital.
- 8) plans of equipment, organization and training relative to flight operation and mechanical service.
- 9) sourcing of pilots and their training program.
- 10) flight safety organization and planning.

## Article 7

Within a specified preparatory period the civil air transport enterprise shall, according to law, complete registration with appropriate authorities, execute agreements for conditional or unconditional purchase of aircraft, and enclose the following papers in duplicate in applying to CAA for MOTC approval. The applicant's Operations Specifications will also be approved by CAA. If an applicant's business scope includes international transport, the applicant shall register with the Customs Office to acquire appropriate certification. The civil air transport enterprise may begin its operation only after receiving an aviation operation certification (attachment 2) from CAA.

- 1) photo copies of company registration.
- 2) company bylaw.
- 3) roster of shareholders and list of board directors and supervisors.

- 4) resume of managers.
- 5) contract for purchase of aircraft or for conditional procurement and a synopsis of aircraft.
- 6) company logo.
- 7) certificate of liability insurance taken.
- 8) inventory of maintenance and repair equipment, hangar and field facilities, or contract authorizing a qualified business concern to handle all this.
- 9) equipment and organization of flight operations and mechanical service and list of personnel.
- 10) list of pilots.
- 11) flight safety organization and list of staffs.

#### Article 8

The equity capital of a civil air transport enterprise shall meet the following provisions:

- 1) no less than NT\$2 billion for fixed wing carrier service on international air routes, scheduled or unscheduled.
- 2) no less than NT\$1 billion for fixed wing chartered service on international air routes.
- 3) no less than NT\$500 million for fixed wing carrier service on domestic air routes, scheduled or unscheduled.
- 4) no less than NT\$250 million for helicopter carrier service on domestic air routes, scheduled or unscheduled.

#### Article 9

Any change in the name, organization or representative of a civil air transport enterprise company shall, within 15 days of registration with a competent authority, be reported to MOTC for file via CAA.

Likewise, any change in the company's board directors, supervisors or managers, or relocation of company or setting up a branch company, shall within 15 days of registration with a competent agency, be reported to CAA for file.

A new civil air transport enterprise permit shall be applied for, by paying a fixed fee for such renewal, in connection with changes in company name, organization, representative or relocation of company covered in the preceding two paragraphs.

Any change in a company's English title or code shall, within 15 days of such change taking effect, be reported to CAA for MOTC file.

#### Article 10

Where the application of an civil air transport enterprise for preparation to set up business or for expansion of air carrier services, is found to involve one of the following scenarios, CAA may recommend MOTC to restrict its scope of operation or to deny permission:

- 1) not enough flights to serve international air routes.
- 2) not enough frequency taking off and landing at domestic airports.
- 3) supply is exceeding demand.
- 4) facilities at airport terminals or airfields will be strained.

#### Article 11

Civil air transport enterprise or its aircraft supplier, in dealing with the purchase, conditional procurement or lease Of aircraft, shall enclose the following papers in duplicate applying to CAA for approval before the deal can go ahead.

- 1) specification of aircraft.
- 2) how aircraft will be used.
- 3) maintenance plan (inclusive of maintenance organization, staff members, training program, capability of maintenance and repair).
- 4) financial plan (inclusive of how payment will be made, source of capital, forecast of business revenue and expenditure).
- 5) Source of pilot and training program.

The age of foreign aircraft to be purchased, procured with conditions attached, or leased, for passenger aircraft it shall not exceed six years, for cargo aircraft it shall not exceed ten years. Nevertheless, a civil air transport enterprise that has used the same type of aircraft for over three years, the aircraft shall be not more then ten years old for passenger use, not more then fifteen years old for cargo use.

Under one of the following conditions, the proviso in the second paragraph allows continuing use of that aircraft after the civil air transport enterprise encloses pertinent papers and applies to CAA for MOTC approval:

- 1) continued lease of the same aircraft.
- 2) With an aircraft already on lease which is meeting the age limit set forth in the preceding paragraph, the lessee is applying for changing the status of lease into that of purchase or conditional procurement.
- 3) lease- back of the same aircraft that has been sold.

Civil air transport enterprise applying for running a helicopter carrier service, its passenger helicopter must be driven by twin-turbine engine and cargo helicopter by turbine engine.

General aviation applying for running a civil air transport enterprise with helicopter, upon approval to set up business, may continue to use the twin-turbine engine passenger helicopter and the turbine engine cargo helicopter already in commission without being subjected to the restriction set out in the second paragraph.

### Chapter III Air Route Certificate

#### Article 12

Civil air transport enterprise in applying for opening a new air route or additional air routes, should have first acquired the right of navigation, airport slots or frequency of take-off and landing. Then enclose the following papers in duplicate with the application to CAA for MOTC approval:

- 1) application (attachment 3).
- 2) market survey of the desired air route.
- 3) air route chart (marking off air terminals or airfields as point of departure and destination along the air route to be used).
- 4) specification of aircraft to be used.
- 5) prospectus and estimates of revenue and expenditure.
- 6) in case an air field is to be used, an agreement testifying to such usage.

The revelation of any one of the following scenarios shall oblige CAA to deny applicant, subject to MOTC approval, permission to open new or additional routes as provided in the preceding paragraph.

- 1) aircraft accident had occurred within the year before the date of application.
- 2) aircraft incident or flight violation had occurred within the year before the date of application while corrective measures remain incomplete.
- 3) there was major business infraction within the year before the date of application.
- 4) market situation of the air route being applied for is already glutted.

5) facilities at air terminal or airfield will be overstretched.

If investigations of the aircraft accident related in item 1) and the aircraft incident or flight violation related in item 2) of the preceding paragraph, showed the civil air transport enterprise applicant was not to blame, the provisions thereof shall not apply.

#### Article 13

Civil air transport enterprise shall, within the allotted preparatory period, make aircraft, available complete the formality for CAA to check out its flight operation and mechanical service and test flight, before CAA will issue an air route certificate authorizing the applicant to start doing business. Test flight may be waived if CAA after screening decides it is not necessary.

Provisions in the preceding paragraph shall apply to civil air transport enterprise application for running a charter flight.

#### Article 14

Civil air transport enterprise not equipped with aircraft, but is serving a scheduled international air route in the form of code share flight, shall apply to CAA for issuing an air route certificate inscribed with the notation that this is for code share flight only.

When the civil air transport enterprise is able to serve the aforesaid air route on its own, a new air route certificate shall be applied for.

#### Article 15

An air route certificate is valid for ten years. One month prior to its expiration, civil air transport enterprise shall submit application (attachment 3) for CAA to complete flight and mechanical checks before issuing a renewal air route certificate. However, where there are treaties, agreements with specific rulings concluded on the basis of reciprocal principles, the provision shall not apply.

An air route certificate will document only one air route, with notation on points of departure, transit and destination, nature of operation, time limit of flight and type of aircraft in use.

Any change in the type of aircraft related in the above paragraph, shall necessitate application for CAA to complete flight and mechanical checks for a new air route certificate.

### Chapter IV Charter Flight



#### Article 16

For a civil air transport enterprise to undertake international passenger and cargo charter service, application (attachment 4) enclosing a copy of charter contract must be filed with CAA, ten working days before estimated departure. Flight can get started upon approval.

#### Article 17

Application by civil air transport enterprise for operating an international passenger and cargo charter flight shall conform with the following stipulations:

- 1) Except otherwise provided for in treaty or agreement concluded on the principle of equality and mutual benefit, foreign civil air transport enterprise applying for a charter flight shall be limited to utilizing the third and fourth rights.
  - 2) an international charter flight shall not affect the operation of scheduled flight service.
  - 3) civil air transport enterprise or the chartered shall not collect goods for shipment other than what is intended for the cargo charter flight.
- Civil air transport enterprise applying for a charter flight shall pay to CAA an application fee to be fixed by CAA.

If the above said charter flight is cancelled automatically, application fee will be charged one half the rate.

#### Article 18

For a civil air transport enterprise to undertake domestic charter flight, application (attachment 4) enclosing a copy of charter contract must be filed with CAA, ten working days before estimated departure, for approval.

In the case of charter flight for evacuating the wounded and sick and for other emergencies, application may be filed with the nearest air terminal without being subjected to the restraint of working days related in the preceding paragraph.

### Chapter V Application for Flight

#### Article 19

To apply for an international scheduled flight service, civil air transport enterprise shall comply with the following provisions:

- 1) A timetable of scheduled flights shall be submitted, twenty days before it takes effect, to CAA for approval. Any changes should be reported five working days before taking effect, to CAA for approval.
- 2) Cancellation for some reason of a scheduled flight already approved should be reported beforehand to the relevant air terminal.

#### Article 20

To apply for an unscheduled flight, special flight and flight by a private aircraft, other than international flight, civil air transport enterprise shall, two working days before estimated departure, file application (attachment 5) with CAA for approval. The same applies in the case of changes.

The validity of the flight approved in the preceding paragraph shall be twenty-four hours before and after the estimated time of departure and arrival as shown in the flight notification (attachment 6).

#### Article 21

To apply for a domestic scheduled flight, civil air transport enterprise shall comply with the following provisions:

- 1) A timetable of scheduled flight shall be submitted, twenty days before it takes effect, to CAA for approval. Any changes should be reported five working days before taking effect, to CAA for approval.
- 2) Cancellation for some reason of a scheduled flight already approved should be reported beforehand to the relevant air terminal.

#### Article 22

To apply for a domestic unscheduled flight and special flight, civil air transport enterprise shall file application (attachment 5), five working days before estimated departure, with CAA for approval.

### Chapter VI Operational Administration

#### Article 23

The use and preferential rates of passenger and cargo freight charges of a civil air transport enterprise, those applying to record via CAA. However, if these rates come within the range between the upper and lower limits of freight charges decided by MOTC, they should be reported before effective date to CAA for record.

#### Article 24

A Civil air transport enterprise shall submit periodical report to MOTC for record through the CAA, pertaining to the following:

- 1) Business matters (attachments 7,8,9).
- 2) Financial matters (attachments 10,11,12).
- 3) Operations matters.
- 4) Maintenance matters.
- 5) Shareholders holding 3% or more of total shares.

Whenever deemed necessary, CAA may inspect the business and financial conditions and other related papers.

#### Article 25

In the event of increasing or decreasing capital or issuing company bonds, a civil air transport enterprise shall enclose the following papers in duplicate applying for CAA approval, before starting to do so according to law:

- 1) photo copies of company registration.
- 2) photo copy of civil air transport enterprise permit.
- 3) minutes of the resolution to increase/decrease capital or to issue company bonds.
- 4) item of capital increase with cash or issuance of company bonds, utilization progress and forecast of probable benefit, estimated schedule of capital reduction and reason.

Civil air transport enterprise shall, within one month upon completion of capital increase/decrease or issuance of company bonds, report the result to CAA for MOTC record.

Prior to completion of capital increase with cash or utilization plan for company bonds issued, civil air transport enterprise shall disclose in its annual report how such plan was executed. Any major changes should also be made with CAA approval.

In the event of change in the amount of equity capital, civil air transport enterprise shall enclose the fee for a new permit in applying to CAA for renewal.

#### Article 26

When the nation is in urgent needs, civil air transport enterprise shall submit to the command of MOTC to handle assigned transport mission. The air route it normally serves may be suspended so as to fulfill national defense and military requirements.

#### Article 27

Civil air transport enterprise shall adopt the International Air Transport Association's regulations on disposition of dangerous goods, in transporting such goods.

#### Article 28

Civil air transport enterprise shall keep the following papers used for its carrier service, at least two years from the date of take-off, for CAA inspection:

- 1) passenger ticket stubs or electric ticket file.
- 2) passenger manifest.
- 3) air waybill, air consignment note, cargo manifest and related shipping document.
- 4) charter flight contract.

#### Article 29

When a cargo plane is carrying the following personnel, the civil air transport enterprise shall record in the manifest their names, identity and accompanying relatives, and present it to concerned authorities at the air terminal upon departure and arrival:

- 1) escort for animals and goods and flight safety personnel.
- 2) persons who must fly with the cargo plane to another location for the above assignment.
- 3) service personnel sent by government.
- 4) military escort, supervisor and flight crew for transporting military goods.

5) employees of the civil air transport enterprise and their families.

## Chapter VII Foreign Civil Air Transport Enterprise

### Article 30

Foreign civil air transport enterprise to apply for scheduled air route service in ROC or additional air routes pursuant to a treaty or agreement, shall submit the application (attachment 13) along with a letter of authorization and an air route map to CAA for approval.

Business can start upon CAA issuing an air route certificate.

CAA shall notify concerned authorities upon the issuance of air route certificate to a foreign civil air transport enterprise.

### Article 31

Foreign air transport enterprise to apply for setting up a branch company in ROC, shall enclose the following papers in duplicate with the application to CAA for MOTC approval. Then process for a foreign company recognition certificate and branch company register, as well as registration with the customs office. With these certifying papers in place, CAA will issue a foreign civil air transport enterprise branch company permit (attachment 14) for the applicant to begin operation:

- 1) application (attachment 15).
- 2) letter of authorization.
- 3) valid certifying papers issued by authorities in the country of registration.
- 4) roster of principal shareholders.
- 5) current map of air routes.

Foreign civil air transport enterprise to apply for setting up an office in ROC, shall enclose the above papers in duplicate with the application to CAA for MOTC permission, then register with authorities concerned according to law.

### Article 32

CAA shall notify authorities concerned of its decision, invoking the provisions of Article 115 of Civil Aviation Law, to suspend the operation of a foreign civil air transport enterprise having an air route certificate, or to revoke the foreign carrier's air route certificate.

CAA shall recommend MOTC to rescind the permit of a foreign civil air transport enterprise without having received an air route certificate, found to have breached the provision of Civil Aviation Law and other regulations.

#### Article 33

Foreign civil air transport enterprise in concluding a contract to serve as general agent for passenger or cargo carrier service in ROC, shall have its general agent company submit following documents in duplicate to CAA for approval and for MOTC record:

- 1) application (attachment 16).
- 2) Chinese and English copies of general agent contract.
- 3) witness documents of general agent company.

A passenger carrier general agent company shall be that of civil air transport enterprise, composite or class A travel agency.

A foreign air transport enterprise may serve as general agent for passenger or cargo carrier service for other foreign air transport enterprises on a principle of equality and mutual benefit.

#### Article 34

Save for otherwise stipulated in this Chapter related to foreign civil air transport enterprise, the provisions of paragraph 4 of Article 9, Articles 14 through 17, Article 19, 20, 23, Articles 27 through 29 and Article 35 shall apply.

CAA shall forward the application to MOTC for approval, of a foreign air transport enterprise not having signed a treaty or agreement with ROC, which intends to apply for charter carrier service in respect of Article 16.

### Chapter VIII Supplemental Provisions

#### Article 35

Civil air transport enterprise applying for a civil air transport enterprise permit and an air route certificate, shall pay a permit charge and a certificate charge of NT\$36,000 respectively.

In the case a civil air transport enterprise permit or air route certificate is damaged or lost, the civil air transport enterprise shall state reasons in applying to CAA for issuance of new ones.

To apply for English version of the above said permit and air route certificate or for issuance of new ones, civil air transport enterprise shall pay NT\$2,100 apiece for the making and replacement of such papers.

The new air route certificate issued relative to the second paragraph, shall have the same validity as the original one.

#### Article 36

This Regulation becomes effective from the date of its promulgation.

## Regulation Governing General Aviation

Amended on December 13 2002.

### Article 1

This Regulation is enacted in accordance with the terms in the first paragraph of Article 64, Civil Aviation Law.

### Article 2

General aviation means a business engaging in aerial tourism, survey, photographing, fire-fighting and searching, paramedic, hauling and lifting, spraying and dusting, as well as those authorized and other-than-air transport of passengers, cargo and mail flight operations for compensation or hire.

### Article 3

General aviation should be run as a specialized business. Nevertheless, civil air transport enterprise or an industry connected with aviation given permission on case by case basis, may engage concurrently in general aviation germane to its normal operations. In that case, a general aviation permit shall be applied for according to this Regulation.

### Article 4

General aviation applicant shall form a new company and enclose the following papers in duplicate to request MOTC through the Civil Aeronautics Administration (hereinafter referred to as CAA) for permission to establish its business:

1. application form(attachment 1).
2. draft company bylaw.
3. namelist of sponsors and household certificate.
4. prospectus: covering business projects, fleet of aircraft, market status, forecast of revenue and expenditure, plans to raise capital.
5. equipment for flight operation and maintenance, programs of organization and training.
6. source of pilots and training.

To run the concurrent business of general aviation pertinent to Article 3, applicant shall enclose papers listed in item 1, items 4 through 6 and revised draft of company bylaw.



## Article 5

Having received permission to set up business, general aviation applicant shall within a specified preparatory period shall, according to laws, complete registration with appropriate authorities and enclose the following papers in duplicate to submit to MOTC through CAA for approval. The enterprise may begin its operations only after receiving a license from CAA.

1. photo copies of company registration.
2. company charter.
3. roster of board of directors, supervisors and shareholders.
4. resume of managers.
5. synopsis of aircraft.
6. map of company marks.
7. liability insurance taken.
8. inventory of maintenance & repair equipment, hangar and field facility, or a contract committing a qualified agent to do such maintenance & repair work.

The license shall become invalid if the enterprise fails to start operations within 12 months from the date the license was issued by CAA, or it has suspended operations over 6 months after starting its business. In this case, CAA shall report to MOTC to have the license abolished and notify agencies concerned to cancel its registration, unless an extension justified by special circumstances is applied for and approved.

## Article 6

CAA shall report to MOTC to deny any general aviation applicant on account of one of the following:

1. the services to be provided do not coordinate social development or meet practical needs.
2. air terminal or air field facilities would be overstretched.

## Article 7

The equity capital of a general aviation business shall not be lower than NT\$50 million.

## Article 8

To import civil aircraft through procurement, on conditional transaction or on the basis of lease, general aviation business shall apply for MOTC permission via CAA, enclosing the following papers in duplicate:

1. specification of aircraft.
2. plan for use.
3. maintenance plan (including maintenance organization and training of personnel).
4. financial program (including how payment is made, source of funding and projected revenue and expenditure).
5. source of pilots and training program.

The age of foreign aircraft to be purchased, procured with conditions attached, or leased, for passenger aircraft it shall not exceed ten years, for cargo aircraft it shall not exceed ten years. Nevertheless, a general air aviation business that has used the same type of aircraft for over three years, the aircraft shall be not more than ten years old for passenger use, not more than fifteen years old for cargo use.

Under one of the following conditions, the proviso in the second paragraph allows continuing use of that aircraft after the general air aviation business encloses pertinent papers and applies to CAA for MOTC approval:

- 1) continued lease of the same aircraft.
- 2) With an aircraft already on lease which is meeting the age limit set forth in the preceding paragraph, the lessee is applying for changing the status of lease into that of purchase or conditional procurement.
- 3) lease- back of the same aircraft that has been sold.

Aircraft to be used for tourism and rescue shall be twin turbine engines. The aircraft must carry two pilots in the cockpit together with a cockpit communications recorder. A flight recorder should also be installed where called for.

Civil air transport enterprise applying for running general aviation business with helicopter, upon approval to set up business, may continue to use the turbine engine cargo helicopter already in commission without being subjected to the restriction set out in the second paragraph.

#### Article 9

General aviation business shall, five working days before a planned operation, enclose the following papers in applying for CAA permission:

1. flight operation application (attachment 2).
2. sketch of operation area.
3. list of passengers.
4. statement of authorization to execute the operation.

5.other documents.

If the operation is for photographing, permission should be requested from competent agency via CAA, ten working days before the planned operation, enclosing the above papers.

In order to use a helicopter pad on temporary basis, aside from going by pertinent rules, CAA permission shall be requested seven working days before the planned operation, submitting the following papers in the process:

- 1.date of aircraft to be used.
- 2.map of flight routes from take-off to landing.
- 3.plane view of take-off and landing field, photos of take-off and landing area and its surroundings.
- 4.statement of agreement allowing the use of take-off and landing field.
- 5.plan for the use of take-off and landing field.

Items 1, 2 and 3 shall not be changed at will once permission is granted.

If extension of an operation is required, CAA permission must be requested three working days before the last day of the operation, submitting the following papers:

- 1.letter of authorization to extend operation.
- 2.photo copy of the original letter of agreement approved.

Application to launch an operation of fire-fighting, search & rescue or other matter of emergency may be filed with the nearest air terminal affiliated to CAA, exempt from the working days requirement as stipulated in the first paragraph.

#### Article 10

Aside from dealing with the respective situations according to law, general aviation business shall report any one of the following scenarios to CAA for MOTC record:

- 1.entering into contract with other enterprise in respect of lease, joint operation or franchise, change or termination of such contract.
- 2.change or relocation of the base for flight operation and maintenance service, or of principal equipment.
- 3.change in the scope of operations.

#### Article 11

General aviation business shall report to CAA for MOTC record any changes in the company title, organization, representatives and capital fund, within 15 days from the date such changes have been registered with the concerned agency. Change in the board of

directors, supervisors, managers, address or establishment of a branch company shall be reported to CAA for file within 15 days following the completion of registration.

Upon changes in company title, organization, representatives, capital fund and address, a new general aviation permit shall be applied for, enclosing the fee for a replacement permit.

#### Article 12

Before a general aviation enterprise terminates its operation, advance notice must be served to MOTC through CAA. Within 30 days from termination, it should surrender the issued license for cancellation. If the license has not been surrendered within the 30-day period, CAA will issue a public notice advising that the license has been revoked.

#### Article 13

General aviation business shall, within six months from the end of each business year, submit the following data to CAA for MOTC record:

1. statistics of operation data and volume of carriage.
2. financial report with auditing report by a certified public accountant.
3. statement on capital increase or issuance of company bonds.
4. flight operation report.
5. maintenance & repair report and flight safety information.
6. shareholders holding more than 3 percent of company shares.

If necessary, CAA may examine the company business and financial status and other relevant documents.

#### Article 14

To promote the development of civil aviation industry, ensure aviation safety or public interest, the CAA may provide personnel to inspect general aviation business and monitor its operations including employees and equipment. The general aviation shall not refuse, avoid or impede such inspections, and will be notified of deficiencies if any, and shall improve within a certain period of time when so advised by the CAA.

If no improvement has been done within the specified period, or the general aviation business refuses, avoids or impedes inspections, the CAA may, with the MOTC approval, take action necessary to put on hold the general aviation business' application under Article 9.

#### Article 15

The Rules of Compensation for Damage Caused to Passengers and Freight shall apply to those passengers and flight crews aboard an aircraft for whom the general aviation business is accountable, unless otherwise stipulated in a special contract.

#### Article 16

Those already received a general aviation permit before the promulgation of this revised Regulation, shall within a year from the date of promulgation of this Regulation, fill up its equity capital to the amount prescribed under Article 7.

#### Article 17

General aviation business in applying for a permit shall pay a fee for the permit in the amount of NT\$36,000. To renew or replace a permit, the charge is NT\$2,100.

Having lost a permit, the general aviation business shall apply to CAA for a replacement permit.

#### Article 18

This Regulation shall become effective on the date of promulgation.

Amended on 16 December 2004

## **ULTRA-LIGHT VEHICLE REGULATION**

This regulation prescribes rules governing the operation of ultra-light vehicles. For the purposes of this part, an ultra-light vehicle is a vehicle that:

- (a) Powered aircraft with passenger carry capability.
- (b) Weighs less than 280 kilograms empty weight, excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation.
- (c) Has a fuel capacity not exceeding 28 liters.
- (d) Minimum Speed at maximum take off weight (MTOW) is less than 65 km per hour.
- (f) Has a power off stall speed which does not exceed 64 km per hour calibrated airspeed.

Article 1. This regulation is drafted in accordance with ROC Civil Aviation Law Article 99-1 Paragraph 3.

Article 2. Applications for establishing ultra-light vehicle organizations, i.e. (organizations), must include two complete sets of the following documents submitted to the Civil Aeronautics Administration (CAA) for approval by the Ministry of Transportation and Communication (MOTC):

1. Application Form (Attachment 1)
2. Draft Article of Organization
3. Founders list (Attached with a copy of photo identifications)
4. Description of equipments source
5. Professional Personnel's List

Applicant should register as a legal business entity within 6 months after approval by the CAA. Failure to file for organizational status within the prescribed time frame will result in termination of such approval by CAA.

Organizations registered as legal business entities, shall submit two copies of the following documents to the CAA within one month of the intended date of operation.

1. Copies of documentation of approval from relevant social administration Agencies, approval license, and organization signs/logos
2. Copies of proof of legal entity from relevant social administration agency, approval license and organizations signs/logos.
3. Article of organization
4. Board of Director's List
5. Member's List

Article 3. After legally registered, the organization shall prepare an organization activity function guide. The guide should include the following:

1. List of professional personnel and qualifications
2. List of equipments
3. Application for Ultra Light Vehicle manufacturing, importation, registration, and inspection/renewal
4. Application for Ultra Light Vehicle operating certificate/renewal
5. Activity zone planning, communication, operation application
6. Activity zone airspace planning, boundaries, applicable regulation and air space safety management
7. Reporting of incident/accident to relevant authority and plan course of action.

Organization shall submit its activity/function guide to CAA for approval by the MOTC, Executive Yuan and NCPFS, before commencing activities.

Article 4. Ultra Light Vehicle importation request shall include two copies of the following documents for CAA approval:

1. Ultra Light Vehicle Specification
2. Ultra Light Vehicle Operating and Maintenance Manual

Article 5. Owners of Ultra Light Vehicles shall submit photos of registration numbers, signs/ Logo and certificate liability insurance (see Article 22 for liability insurance) to CAA or authorized party for registration application.

Article 6. Owners of Ultra Light Vehicles shall apply through CAA/Designated Authority for vehicle inspections:

1. Ultra Light Vehicles with maximum gross weights less than 180 kilograms may be inspected by other CAA approved organizations with inspection capability or other CAA approved organizations.
2. Ultra Light Vehicle with Maximum Gross Weight more than 180 kilograms may be inspected by CAA approved organizations with inspection capability.

Article 7. Organizations or professional groups with the following authorizations/ qualifications, may apply with CAA for inspection approval:

1. Organizations with inspection capabilities for Ultra Light Vehicles.
2. Aviation related businesses with engineering, quality assurance, testing and inspection capabilities may be approved by CAA or a foreign authority.
3. CAA approved aircraft repair station.

Organizations/professional groups designated by CAA, shall prepare inspection forms and methods of recording for CAA approval before commencement of inspection work.



Article 8. Inspection personnel with the following qualifications and with no CAA regulation violations within the last two years, may apply through organizations/ professional groups for CAA approval and the issuance of Ultra Light Vehicle Inspection Approvals/Certificates (referred to as Inspection Certificate):

1. With a minimum of 5 years documented aircraft maintenance and inspection experiences approved by CAA.
2. With proper documented training on inspection work.
3. Familiar with appropriate CAA regulations, inspection standards and procedures.

The Inspection Certificate is valid for two years. Organizations/professional groups may apply for renewal 30 days prior to the expiration date. When the Inspection Certificate is expired or when inspection personnel are no longer employed by the organization/professional group, the organization/professional group shall return the inspection certificate to CAA. Loss or damaged Inspection Certificates may be reapplied for with a proper statement of explanation.

Article 9. CAA reserves the right to terminate the designation when the organization/professional group no longer meets the qualifications of Article 7 Paragraph 1. CAA also the reserve the right to cancel inspection certificates if any misconduct is found. Organizations/professional groups many also file for cancellation of inspection designation or approval.

Article 10. Ultra Light Vehicles, after inspection, with documented inspection records may apply with CAA or an authorized designated party for the issuance of inspection certificates.

The Inspection Certificate is valid for 3 year for Ultra Light Vehicles less than 3 years old and two years for Ultra Light Vehicles over 3 years old.

CAA designated inspection organizations or professional groups shall file inspection records after every inspection.

Article 11. Owners of Ultra Light Vehicles shall apply with CAA or a designate party for inspection renewal 30 days prior to certificate expiration. The CAA designated inspection organization/professional group shall complete the inspection within 30 days of application. The certificate may be renewed after passing the inspection and with proper documentation. If the Ultra Light Vehicle is damaged and needs airframe/engine replacement/repair, the repair must restore the vehicle to it's original standard. If the vehicle is stolen/missing the owner shall notify CAA. For damaged or recovered vehicles the owner shall apply to the CAA for a temporary inspection. Upon completion of the CAA inspection, a remark shall be noted on the original/renewed certificate, that the vehicle has been recovered/repared and continues to meet manufacture's standards.

Article 12. When designated inspection organizations or professional groups perform the inspection, the owner of Ultra Light Vehicle shall be present for questioning and provide necessary assistance during the inspection. They may appoint other individuals if their presence during inspection is not possible.

Article 13. When changes is made on the inspection certificate, the owner of the Ultra Light Vehicle shall apply with CAA or designated party within 15 days for change of the inspection certificate.

When the Inspection Certificate is lost or damaged, the owner of Ultra Light Vehicle may apply with CAA or designated party for the re-issuance of the inspection certificate.

Owners of Ultra Light Vehicles shall prepare their maintenance plans and records for CAA inspection.

Article 14. No one may operate an Ultra Light Vehicle without an Operating Certificate. Operators of Ultra Light Vehicles shall submit the following to CAA/authorized party, the written and check ride passing records for issuance of an Ultra Light Vehicle Operating Certificate (see attachment IV) prior to operation.

1. Application (see attachment V)
2. Medical Certificate (within 30 days) from public or educational hospital or CAA designated physical examination institution

Operating Certificate is valid for two years.

CAA designated inspection organization/professional Group shall record written and check ride examinations for CAA review.

Article 15. For Operating Certificate renewal, the applicant shall submit to the CAA documentation of the physical examination, 30 days prior to the certificate expiration date.

When the Operating Certificate is lost or damaged, the operator shall submit to the CAA or organizations or profession, groups, documentation for re-issuance.

Article 16. Organizations or professional groups with one of the following qualifications and having test flight personnel, may apply with CAA for test flight authorizations:

1. Organizations or professional groups with flight test personnel and desiring CAA approval for flight test authorization.
2. Flight Training Institutions with CAA approval.

Organizations or professional groups designated by CAA for test flights, shall prepare a list of test items and recording methods.

Article 17. Test Flight personnel with the following qualifications and with no CAA regulation violations in two years, may apply to the CAA, through the organization/professional group for the issuance of Ultra Light Vehicle Flight Test Approval/Certificate (Flight Test certificate):

1. With minimum of 1000 flight hours of experience.
2. CAA or other foreign aviation authority issued Private Pilot (or Higher) Certificate

Flight Test Certificates are is valid for two years. Organization/professional groups may apply for renewal 30 days prior to the expiration date.

When the Flight Test Certificate expires or when flight test personnel are no longer employed, the organization/professional group, shall return the inspection certificate to CAA. Lost or damaged Inspection Certificates may be reissued by the CAA with proper explanation.

Article 18. The CAA reserves the right to terminate the Flight Test Designation when the organization/professional group no longer meets the qualifications of Article 17 Paragraph 1.

The CAA also reserves the right to terminate the Flight Test Certificate if any misconduct is found.

Organizations/professional groups may also file for cancellation of flight test designation or approval.

Article 19. Ultra Light Vehicle operators shall manipulate the vehicle under Visual Flight Rules and avoid the following:

1. Operating the Vehicle outside of the predetermined airspace
2. Blood Alcohol content of 0.04% or when exhaling, a content of 0.02mg while operating Ultra Light Vehicles.
3. Operating between the hours of dusk till dawn.

Operators shall avoid coming into close proximity of other aircraft, ultra light vehicles or obstacles that may create a hazard.

Article 20. Ultra Light Vehicle activity zones and airspace will be designated by the MOTC and Ministry of Defense and be published by CAA.

Organizations shall submit two copies of the following documents for approval to CAA/authorized party:

1. Planned use of airspace and its coordinates (Using WGS84 system).
2. Planned use of airspace and its altitude.
3. Planned use of airspace and its geographic location.

Once airspace boundaries of the activity zone are approved, the organization shall properly mark and identify such boundaries for ease of visual

reference by operators and participants.

If more than one organization intends to use the same airspace at the same time, these organizations shall coordinate and mutually agree to the general rules of activities and submit the joint operation plan to CAA for approval.

If the organization is planning a temporary international Ultra Light Vehicle event, the organization is required to apply for approval from CAA through the MOTC and the Ministry of Defense, three months in advance if a temporary airspace is required.

Article 21. Organizations are required to establish measures for instant location reporting relating to the safety of airspace.

Instant location reporting must be CAA approved prior to use.

Article 22. Owners of Ultra Light Vehicles are required to have the following liability insurance coverage for:

1. Death compensation should not be less than Three Million New Taiwan Dollars.
2. Seriously injury compensation should not be less than One Million Five Hundred Thousand New Taiwan Dollars.
3. Other compensation per incident should not be greater than One Million Five Hundred Thousand New Taiwan Dollars.

Article 23. Organizations shall submit two copies of the following documents for Ultra Light Vehicle operational areas to CAA:

1. Activity Planning Proposal shall include the name of the proposed area of activities, location, goals, purpose, facilities/safety maintenance plan, airspace boundaries and type of Ultra Light Vehicles.
2. Proof of property title, lease agreement or consent for use of real estate documentation.
3. The copies of land deed and land registration records must be submitted to CAA within 3 months of the proposed date of operation. Maneuvering space should be identified in color
4. If environmental assessments are required, the assessment report or environmental analysis report shall be included.

The above-mentioned right of use property shall comply with all relevant regulations, including environmental protection laws. After approved by the Executive Yuan, NCPFS and other relevant authorities, the organization shall be allowed to begin operations in the approved areas.

Article 24. For special activities or competitions, the organization shall apply within 15 days for CAA approval. The CAA will coordinate this approval with the Executive Yuan and the NCPFS. If such activities or competitions are held domestically, organizations shall be entitled to make organizational rules and guideline relating to such functions.

Article 25. Organizations shall be entitled to make membership pricing standards. Organizations shall submit the pricing standard information to CAA and MOTC.

Article 26. When Ultra Light Vehicle accidents or incidents occur, owners, operators or organizations of Ultra Light Vehicles, shall notify relevant authorities according to the laws and regulations. Organization shall notify CAA, the MOTC the Executive Yuan and the NCPFS within two hours and execute corrective measures immediately. Organizations shall submit the corrective/improvement measures report to CAA, the MOTC, the Executive Yuan and (NCPFS) within 30 days from the date of the accident/incident.

Article 27. Organizations of Ultra Light Vehicles shall submit the following report and records to CAA every three months:

1. List of all Ultra Light Vehicles.
2. Member List.
3. All activities, take offs and landing records.

Article 28. If organizations have already filed and are registered as a legal business entity prior to the announcement of this part, such organizations shall submit two complete sets of the following documents to CAA within 30 days of application:

1. Copies of documentation of approval from relevant social administration agency, Approval License and organization signs/logo.
2. Copies of proof of legal entity from relevant governmental agency and licenses
3. Article of the organization
4. Board of Director's List
5. Member's List
6. Source and documentation of basic equipment
7. Professional personnel's list

Once the organization obtains its approval, the organization shall prepare an activity/function guide with the following documents:

1. Professional personnel's list
2. Basic equipments list
3. Application for Ultra Light Vehicle manufacturing, importation, registration, inspection certification/renewal.
4. Application for Ultra Light Vehicle operating certificate/renewal.
5. Activity zone planning, communications and operation application.
6. Activity zone air space planning, boundaries, applicable regulations and air space safety management.
7. Reporting of incident/accidents to relevant authority and a plan for corrective action.

Organization shall submit the activity/function guide to CAA for approval by (MOTC) Executive Yuan, (NCPFS) before commencement of activities.

Article 29. Subject to Ultra Light Vehicle Regulations Article 5, 7 and 16, when consignments are involved, the consigned party shall be identified.  
The consigned event documents shall be posted on MOTC's circular or press release.

Article 30. This regulation becomes effective on the publication date.

## QUESTIONNAIRE 8

### FIREARMS, AMMUNITION, CONTROLLED SWORDS, POLICE WEAPONS; INDUSTRIAL USE EXPLOSIVES:

FIREARMS, AMMUNITION, CONTROLLED SWORDS, POLICE WEAPONS: NATIONAL POLICE ADMINISTRATION, MINISTRY OF INTERIOR

INDUSTRIAL USE EXPLOSIVES: BUREAU OF MINES, MINISTRY OF ECONOMIC AFFAIRS

[Governing Regulations 8-1](#)

## **Measures Governing Permission and Administration of Firearms, Ammunition and Cutting, Pointed Weapons**

Amended and promulgated by National Police Administration, MOI, on October 2, 2002 (Document No. 09100764163)

Amended and promulgated by National Police Administration, MOI, on November 30, 2004 (Document No. 0930077272)

Amended and promulgated by National Police Administration, MOI, on April 22, 2005 (Document No. 0940100463)

### Chapter I General Provisions

#### Article 1

The Measures are enacted pursuant to Paragraph 1, Article 6-1 and Paragraph 3, Article 20 of the Regulations Governing Firearms, Ammunition and Cutting, Pointed Weapons (hereafter referred to as “the Regulations”).

#### Article 2

Definitions of terms used in the Measures:

1. Aborigine: refers to the aborigine as defined in Article 2 of the Aborigine Identification Law.
2. Fisherman: refers to a national citizen practically engaged in fishing for aquatic products along the coast and certificated with the fishing boat crew



manual.

### Article 3

Institutions (institutes), schools, organizations, civilians or firms purchasing and using, manufacturing, selling, transporting, transferring, renting, loaning, possessing, storing or displaying the firearms, ammunition specified in Item 1, 2 of Paragraph 1, Article 4 of the Regulations, according to the Measures, shall file the application to the central competent authority for permission.

The National Police Administration of the Ministry of Interior (hereafter referred to as “NPA”) is authorized to handle the permission as set forth in the preceding paragraph.

Civilians, organizations or firms manufacturing, transporting, transferring, leasing, lending or holding the cutting, pointed weapons specified in Item 3, Paragraph 1, Article of the Regulations, according to the Measures, or aborigines or fishermen applying to manufacture, transport, possess self-made hunting guns or fishing-guns, or the sales, transference, lease, lending or storage of self-made hunting guns or fishing-guns shall submit the application to the competent authority of the special municipality, county (city) for permission.

The police department of the special municipality, county (city) is authorized to handle the permission as set forth in the preceding paragraph.

## Chapter II Permission and Administration of Firearms and Ammunition

### Article 4

The government institutions (institutes) equipped with firearms and ammunition according to laws and regulations may apply the purchase, the use, transportation, transferring, renting, loaning, possession, storage and display of firearms and ammunition.

The aforementioned institutions (institutes) shall submit the model, catalogue, quantity and the purpose of firearms and ammunition, and apply to the central competent authority for permission before the purchase, transportation, transferring, renting, loaning, possession, storage and display of firearms and ammunition. In the case of transferring, the applier shall process the registration change with the municipal or county police agency issuing the original permission within seven days after the issuance of permission.

### Article 5

Academic research institutions (institutes) may apply for the purchase, use, transportation, transferring, renting, loaning, possession, storage and

display of firearms and ammunition based on the requirements of research and development.

The aforementioned institutions (institutes) shall submit the approval document issued by the central competent authority concerned, and the model, catalogue, quantity, and the purpose of firearms and ammunition, and apply to the central competent authority for permission before the purchase, transportation, transferring, renting, loaning, possession, storage and display of firearms and ammunition. In the case of transferring, the applier shall process the registration change with the municipal or county police agency issuing the original permission within seven days after the issuance of permission.

#### Article 6

Schools of every level may apply for the purchase, transportation, transferring, renting, loaning, possession, storage and display of firearms and ammunition for the purpose of military training programs.

The aforementioned schools shall submit the approval document issued by the central competent authority concerned, and the model, catalogue, quantity, and the purpose of firearms and ammunition, and apply to the central competent authority for permission before the purchase, transportation, transferring, renting, loaning, possession, storage and display of firearms and ammunition. In the case of transferring, the applier shall process the registration change with the municipal or county police agency issuing the original permission within seven days after the issuance of permission.

#### Article 7

Animal protection institutions (institutes) may apply for the purchase, use, transportation, transferring, renting, loaning, possession, storage and display of narcotic guns.

The aforementioned institutions (institutes) shall submit the approval document issued by the central competent authority concerned, and the model, catalogue, quantity, and the purpose of narcotic guns, and apply to the central competent authority for permission before the purchase, transportation, transferring, renting, loaning, possession, storage and display of narcotic guns. In the case of transferring, the applier shall process the registration change with the municipal or county police agency issuing the original permission within seven days after the issuance of permission.

## Article 8

Civilians may purchase fishing-guns and each civilian is limited to purchase only two guns unless otherwise provided in the following:

1. Under 20 years old
2. Sentenced to limited imprisonment which has been confirmed
3. Judicially declared interdiction which has not been revoked

## Article 9

Any person approved to import or export firearms and ammunition shall apply to the central competent authority for the issuance of approval documents and submit it to any Customs Bureau of the Directorate General of Customs of MOF for examination required for clearance, before such import or export. It's mandatory to apply for reissuance of the preceding document if the document is lost or destroyed.

## Article 10

Being permitted to purchase firearms and ammunition, the representative, the responsible person or the possessor of the government institution (institute), the school and the organization shall apply to the police department of the special municipality, county (city) where the institution (institute), the school or the (organization's) chief office is located, or the household is registered, for examination and issuance of the permit, within 7 days from the date of the purchase.

If the firearms and ammunition conform to any regulation stipulated in the article 5.2.1, the representative, the responsible person or the possessor of the government institution (institute), the school and the organization shall hand the firearms and ammunition as well as the permit over to the police department of the special municipality, county (city) where the institution (institute), the school or the chief office is located, or the household is registered for purchase or confiscation with prices within fifteen days after the day of termination or revocation of permits. Should there be none in charge of handing process, the municipal or county (city) governments where the firearms and ammunition are located is responsible for confiscation.

If the firearms and ammunition set forth in Paragraph 1 are lost, the representative, the responsible person or the possessor of the government institution (institute), the school and the organization shall hand the permit over to the police department of the special municipality, county (city) where the institution (institute), the school or the (organization's) chief office is located, or the household is registered.

Firearms and ammunition purchased by Central Police University and Taiwan Police College shall be controlled subject to the Measures Governing the Deployment of Weapons and Ammunition for Police Administration, Central Police University and Taiwan Police College instead of the provisions of the previous two paragraphs.

#### Article 11

The institutions (institutes), organizations approved to purchase firearms and ammunition shall install an iron cabinet at the proper place inside to store the firearms and ammunition separately under central custody. The iron cabinet shall be firm and stout and provides burglarproof, fireproof and ventilation equipment.

#### Article 12

Schools of every level approved to purchase firearms and ammunition shall establish warehouses for central custody. The criteria of the establishment are:

1. The warehouses shall be established in the school or in a military camp temporarily.
2. Firearms and ammunition shall be stored in different warehouses in which a special person shall be assigned for the 24-hour custody.
3. The warehouses shall be built with reinforced concrete and shall be equipped with iron gates, grille and locks.
4. The warehouses shall be installed with video monitoring facilities and AC/DC alarms.
5. The warehouse shall provide fire control facilities like fire fighting sand, water and extinguishers.
6. The warehouse for firearms shall be installed with gun cabinets and locks.
7. The warehouse for ammunition shall be installed with vent holes, thermometers and hygrometers.

#### Article 13

Firms engaged in the import/export of guns and ammunition, manufacturing chief parts for the export or manufacturing fishing-guns for the import/export, and operating the maintenance business of guns shall file the application form to the central competent authority for permission. A corporation applying for the permission shall additionally file the application form where the company name and budget prequalification approved by the Ministry of Economic Affairs are specified.

#### Article 14

The firm approved to be engaged in the import/export of guns and ammunition, manufacturing chief parts for the export or manufacturing fishing-guns for the import/export, and operating the maintenance business of guns, subject to the provision of the preceding article, shall submit the following documents to the central competent authority for permission:

1. Application form
2. Order, Letter of credit, Agreement or Letter of attorney from foreign traders (Chinese version shall be attached)
3. Model and Catalogue of firearms and ammunition (submitted in six copies) and the quantity detail
4. Original copy or photocopy of the corporation or factory registration certificate and the business registration certificate; the photocopy shall be affixed with the seal of the corporation (or factory) and the seal of the responsible person

Chief parts of firearms and ammunition manufactured for export shall be examined by the police department of the special municipality, county (city) where the corporation or the factory is located before exported.

After the fishing-guns are imported or manufactured, the corporation or the factory shall apply to the police department of the special municipality, county (city), where the corporation or the factory is located, for the examination certificate before displaying or selling the fishing-guns at legal sports goods stores, fishing gear stores and diving equipment shops.

#### Article 15

Aborigines may apply for the manufacture, transportation or possession of self-made hunting guns based on the needs for livelihood, e.g. hunting, sacrificial rites, and etc.

Fisherman may apply for the manufacture, transportation or possession of self-made fishing-guns based on the needs for practically engaged in fishing for aquatic products along the coast.

Aborigines or fishermen as referred in any of the provisions of Article 8 shall not apply for the manufacture, transportation or possession of self-made hunting guns or fishing-guns.

#### Article 16

Aborigines or fishermen applying for the manufacture, transportation or possession of self-made hunting guns or fishing-guns shall file the written application to the authority of the special municipality, county (city), through the police station (substation) of the place where their households are

registered. The authority shall make the determination and response within 15 days from the next day of receipt of the application. If approved, the applicant shall complete the manufacture or possession of self-made hunting guns or fishing-guns, and apply to the police department of the special municipality, county (city), where their households are registered, for examined stamps and certificates, within one month from the next day of receipt of the permission letter.

#### Article 17

Each aborigine applying for the possession of the self-made hunting gun or fishing gun is limited to two respectively and six respectively per household.

Each fisherman applying for the possession of the self-made fishing-gun is limited to possess two and each household is limited to possess six.

#### Article 18

The possessor or successor of the self-made hunting gun or fishing-gun as referred in the article 5.2.1 shall hand the hunting gun or fishing-gun as well as the certificate over to the police department of the special municipality, county (city) where his households is registered for purchase with prices within 15 days after the day of permit revocation or termination. Should there be none in charge of handing process, the municipal or county (city) governments where the firearms and ammunition are located is responsible for confiscation.

1. Deprived of the identification of the aborigine or fisherman
2. As referred in any of the provisions of Article 21
3. The hunting gun or fishing-gun is left unused or unusable because of destroyed
4. Deceased

If the self-made hunting gun or fishing-gun is lost, the possessor shall hand the certificate over to the police department of the special municipality, county (city) where his household is registered.

#### Article 19

Aborigines or fishermen engaged in the sales, transference, lease, lending or storage of self-made hunting guns or fishing-guns between them for livelihood tools shall submit the application to the competent authority of the special municipality, county (city), where their households are registered,

for permission, but the aborigine or fisherman as referred in any of the provisions of Article 8 shall not be permitted. As regards the sales and transference, the aborigines or the fishermen shall submit the certificate to the police department of the special municipality, county (city) where their households are registered for change of the registration.

#### Article 20

The examination, administration of the firearms and ammunition approved according to the Measures shall be subject to Article 2, Item 1, 3 of Paragraph 1, and Paragraph 2 of Article 6, Article 8 – 10, Article 12 and Article 13 of the Regulations Governing Self-defense Guns.

### Chapter III Permission and Administration of Controlled Cutting and Pointed Weapons

#### Article 21

Civilians or organizations may apply for possession of cutting and pointed weapons for the purpose of memory, decoration, fitness, performance or legitimate recreation, except those prohibited in the article 8.

#### Article 22

Civilians or organizations applying for possession of cutting and pointed weapons shall submit the following documents to the authority of the special municipality, county (city), where their households are registered or their chief offices are located:

1. Application form
2. Photocopy of the applicant's identification card or the civil organization's registration certificate
3. Colored illustration of the cutting and pointed weapon (submitted in six copies), in which the quantity, use, hilt, blade's length and open edge/no open edge of the cutting and pointed weapon are specified.
4. Original copy or photocopy of the relevant corporation or factory registration certificate and the business registration certificate; the photocopy shall be affixed with the seal of the corporation (or factory) and the seal of the responsible person

The application as referred in the preceding paragraph shall be issued with license and administered after the police department of the special municipality, county (city), where the household is registered, examines the cutting and pointed weapon.

#### Article 23

Before applying for the import, export of the cutting and pointed weapon, the civilian or the organization shall submit the model, model, quantity and the use of the cutting and pointed weapon to the authority of the special municipality, county (city), where the household is registered or the (organization's) chief office is located, for the issuance of approval documents, and submit it to any Customs Bureau of the Directorate General of Customs of MOF for examination required for clearance. It's mandatory to apply for reissuance of the approval document if the document is lost or destroyed.

Before a domestic purchase of cutting and pointed weapons, the information as the catalogue, model, quantity and the use of the cutting and pointed weapon shall be submitted to the authority of the special municipality, county (city), where the household is registered or the chief office is located for the issuance of approval documents

Civilians and organizations shall apply, pursuant to the provision of the preceding article, to the police department of the special municipality, county (city), where the household is registered, for examination and issuance of licenses, within 7 days from the date of the import or purchase of the cutting and pointed weapon as provided in the preceding two paragraphs.

#### Article 24

Any possessor carrying the permitted cutting and pointed weapon outside shall also carry the license with him. If the cutting and pointed weapon is lost, the possessor shall hand the license over to the police department of the special municipality, county (city) where his household is registered

#### Article 25

When the place where the possessor's household is registered or the organization's chief office is located is changed, the possessor shall submit the license to the police departments of the special municipality, county (city), before the change and after the change, for change of the registration.

#### Article 26

Should people or groups conform to any of the article 5.2.1, their weaponry and license shall be purchased without prices or confiscated pursuant to the Article 18.1.

#### Article 27



When selling, transferring, leasing or lending the cutting and pointed weapon, the civilian or the organization shall apply to the police department of the special municipality, county (city), where his household is registered or the (organization's) chief office is located, for permission, but the civilian or the organization as referred in any of the provisions of Article 21 shall not be permitted. As regards the sales and transference, the civilian or the organization shall submit the license to the police department of the special municipality, county (city), where the (civilian's) household is registered or the (organization's) chief office is located, for change of the registration.

#### Article 28

Manufacturers engaged in the import/export, manufacturing or sales of the weaponry shall file the application to the responsible authority of the municipal or county (city) government where the firm or factory is located for permission. A corporation applying for the permission shall additionally file the application form where the company name and the budget prequalification approved by the Ministry of Economic Affairs are specified.

#### Article 29

The firm approved to be engaged in the import/export, manufacturing or sales of the cutting and pointed weapon, subject to the provision of the preceding article, shall submit the following documents to the authority of the special municipality, county (city), where the corporation or the factory is located, for permission:

1. Application form
2. Original copy or photocopy of the corporation or factory registration certificate and the business registration certificate; the photocopy shall be affixed with the seal of the corporation (or factory) and the seal of the responsible person
3. Colored illustration of the cutting and pointed weapon (submitted in six copies)
4. Order, Letter of credit, Agreement or Letter of attorney from foreign traders where the Chinese version shall be attached (for exporters only)
5. The firm supplying domestic civilian or organization with the weapon shall submit the approval document issued by the authority of the special municipality, county (city) where the civilian's household is registered or the organization's chief office is located.

The cutting and pointed weapon manufactured for the export shall be examined by the police department of the special municipality, county (city) where the manufacturer or the factory is located, before exported.

#### Chapter IV Supplemental Provisions

#### Article 30

The central competent authority shall implement the inspection of approved firearms, ammunition and cutting, pointed weapons on a year basis, or implement temporary general inspection based on the needs of social security.

#### Article 31

If the permit or the license of the approved firearms, ammunition and cutting, pointed weapons is lost or destroyed, the representative, the responsible person or the possessor of the government institution (institute), the school and the organization shall apply to the police department of the special municipality, county (city), where the institution (institute), the school or the (organization's) chief office is located, or the household is registered, for reissuance of the permit. The person who has lost the permit shall also submit the lost declaration published on local newspapers.

#### Article 32

The firearms, ammunition and weaponry purchased with prices or confiscated pursuant to the article 5.2.1 of the Measures shall be forwarded to the mechanic repair plant of the Police Administration for destroying. The destroying cost shall be budgeted and born by the Agency.

In the case of death of weaponry-possessor, dissolution of possessing groups, reapplication for permission or application for continuance by the successor of the owner of self-made hunting gun, the application shall be made within three month after occurrence.

#### Article 33

The central competent authority shall be responsible for printing the permits of firearms, ammunition and the examination certificates of fishing-guns, while the police department of the special municipality, county (city) is responsible for printing the licenses of cutting, pointed weapons.

The examination and certificating shall be handled every two years, starting from January 1 of the first year. The term of the license is limited to 2 years and the license shall be revoked, if the term expires, and be changed into a new one.

#### Article 34

The central competent authority will prescribe the forms and formats required under the Measures.

#### Article 35

The Measures will come into force upon promulgation.

## **Control of Firearms, Ammunition and Weaponry**

June 27, 1983 Established and Promulgated by President's Order Tai-Tung (First) Yi-Tze No. 3547  
January 18, 1985 Amended and Promulgated by President's Order Hwa-Tzong (First) Yi-Tze No. 0241  
July 16, 1990 Amended and Promulgated by President's Order Hwa-Tzong (First) Yi-Tze No. 4049  
September 25, 1996 Amended and Promulgated by President's Order Hwa-Tzong (First) Yi-Tze No. 8500231810  
November 24, 1997 Amended and Promulgated by President's Order Hwa-Tzong (First) Yi-Tze No. 8600250990  
July 5, 2000 Amended and Promulgated by President's Order Hwa-Tzong First Yi-Tze No. 8900166160  
November 14, 2001 Amended and Promulgated by President's Order Hwa-Tzong First Yi-Tze No. 9000223470  
June 2, 2004 Amended and Promulgated by President's Order Hwa-Tzong First Yi-Tze No. 09300206981  
January 26, 2005 Amended and Promulgated by President's Order Hwa-Tzong First Yi-Tze No. 09400010101

- Clause 1** The Clauses are regulated for the control of firearms, ammunition and weaponry in order to protect social order and the safety of life and property.
- Clause 2 Unless it is otherwise regulated, firearms, ammunition and weaponry should be used in accordance with the Clauses.
- Clauses 3 The competent authority for firearms, ammunition, and weaponry is: the Ministry of Interiors in national government; special municipality in municipality government; and county (city) in county (city) government.
- Clause 4 The so-called firearms, ammunition and weaponry in the Clauses are:  
1. Firearms: Cannon, shoulder arms, machine gun, submachine gun, carbine, machine rifle, rifle, horse gun, pistol, pen gun, gas gun, tranquilizer gun, shotgun, air gun, gun harpoon, remodeled gun, and other gunnery for the shooting of metal or bullet to kill.

2. Ammunition: The cannon and bullet used for the aforementioned gunnery or various bombs and explosives that is fatal and lethal.
3. Weaponry: Samurai sword, stick knife, Double knife, brass knuckles, finger tiger, steel (iron) whip, thruster, dagger (see the attachments), and other lethal gunnery that are banned by national competent authority with a proper cause.

The firearms and ammunition stated in Clause 4.1 and Clause 4.2 include major components unless they could not be used for the construction of cannon and ammunition.

National competent authority regulates the major components of cannon and ammunition.

Clause 5 The aforementioned cannon and ammunition may not be produced, traded, transported, transferred, rent, loaned, possessed, stored, or displayed without the approval of national competent authority.

Clause 5.1 The pistol, air gun, shotgun and other cannon, and ammunition for sports may not be produced, traded, transported, transferred, rent, loaned, possessed, stored, or displayed without the approval of national competent authority.

Clause 5.2 Should the firearms, ammunition and weaponry regulated in the clauses violate any of the followings, the approvals may be revoked or terminated; the firearms, ammunition and weaponry be purchased with prices by national competent authority, except those purchased and used by the governmental agencies or used against the clauses

1. Termination of reasons of the approval.
2. Termination of needs of possession or obsolescence due to damages.
3. The holders lose the status as Natives or Fishermen.
4. The holders evade, hinder or refuse inspection.
5. The holders pass away.
6. The holders are sentenced for a penal servitude for a definite period and the sentence has been confirmed.
7. Judicially declared interdiction which has not been revoked.
8. The groups holding the firearms, ammunition and weaponry dissolve.
9. Any other actions violate the regulations.

Reapplication for approvals in the cases of holder's death or dissolution of holding groups or for continuance of approvals by successors in the case of self-made shotgun holders, the firearms, ammunition and weaponry are not to be purchased with prices after approvals.

The aforementioned successors of self-made shotguns shall confine to one of all legal successors, whereas the underage or incapacity are unable to apply for the continuance of approvals.

The purchase cost stated in the section 1 shall be budgeted and covered by the national competent authority yearly. The prices shall be determined by the national competent authority and the purchase executed by the municipal and county (city) governments.

The firearms, ammunition and weaponry purchased, and approvals confiscated according to the section 1 shall be forwarded to the National Police Agency, Ministry of Interior for destruction by the national competent authority except those kept for later use.

Clause 6 The weaponry listed in Clause 1.3 above may not be produced, traded, transported, transferred, rent, loaned, and possessed without the approval of national competent authority.

Clause 6.1 The application, condition, termination, inspection, and other requirements of firearms and ammunition that is stated in Clause 5 and Clause 6 are to be regulated by national competent authority.

The application, condition, termination, inspection, and other requirements of firearm and ammunition that is stated in Clause 5.1 are to be regulated by national business authority and national competent authority.

Those who violate the regulations stipulated in the previous section shall be sentenced to a fine less than NT\$ 50,000, except those who are against the clause 5.1 or those who used the approved firearms or ammunition with the intention of committing or assisting crimes.

Clause 7 The offender who has cannon, shoulder arms, machine gun, submachine gun, carbine, machine rifle, rifle, horse gun,

pistol and various firearms, bomb, and explosives manufactured, traded, or transported without authorization will be punished with a sentence of death penalty, penal servitude for life, or penal servitude for a definite period over seven years. An offender with a sentence of penal servitude for a definite period could also be fined for an amount less than NT\$30 million.

The offender who has the aforementioned firearms and ammunition transferred, rent, or loaned without authorization will be punished with a sentence of penal servitude for life or penal servitude for a definite period over five years; also, a fine less than NT\$10 million.

The offender who has committed the aforementioned offense with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of death penalty or penal servitude for life. An offender with a sentence of penal servitude for a definite period and could also be fined for an amount less than NT\$50 million.

The offender who has firearms and ammunition possessed, stored, or exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period over five years; also, a fine less than NT\$10 million.

An attempted crime of the aforementioned offense will be punished.

Clause 8

The offender who has pen gun, gas gun, tranquilizer gun, shotgun, air gun or any other killing firearms which are able to fire metal or bullets stipulated in the clause 4.1.1 manufactured, traded, or transported without authorization will be punished with a sentence of penal servitude for life or a definite period over five years; also, a fine less than NT\$10 million.

The offender who has the aforementioned guns transferred, rent, or loaned without authorization will be punished with a sentence of penal servitude for a definite period more than five years; also, a fine less than NT\$10 million.

The offender who has committed the offense stipulated in the previous two sections with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of penal servitude for a definite period over seven years; also, a fine less than NT\$10 million.

The offender who has firearms and ammunition stipulated in the section 1 possessed, stored, or exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period of three to ten years; also, a fine less than NT\$7 million.

An attempted crime of the aforementioned offense in the section 1 to 3 will be punished.

Clause 9

The offender who has gun harpoon manufactured, traded, transferred, rent, or loaned without authorization will be punished with a sentence of penal servitude for a definite period less than one year, detention, or a fine less than NT\$500,000.

The offender who has committed the aforementioned offense with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of penal servitude for a definite period less than 2 years, detention, or a fine less than NT\$1 million.

The offender who has gun harpoon possessed, stored, or exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period less than 6 months, detention, or a fine less than NT\$500,000.

An attempted crime of the aforementioned offense will be punished.

Clause 10

( Deleted )

Clause 11

( Deleted )

Clause 12

The offender who has bullet manufactured, traded, or transported without authorization will be punished with a sentence of penal servitude for a definite period of one to seven years; also, a fine less than NT\$5 million.



The offender who has bullet transferred, rent, or loaned without authorization will be punished with a sentence of penal servitude for a definite period of six months to five years; also, a fine less than NT\$3 million.

The offender who has committed the aforementioned offense with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of penal servitude for a definite period of three to ten years; also, a fine less than NT\$7 million.

The offender who has bullet possessed, stored, or exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period less than five years; also, a fine less than NT\$3 million.

An attempted crime of the aforementioned offense will be punished.

Clause 13

The offender who has the main components of firearms and ammunition manufactured, traded, or transported without authorization will be punished with a sentence of penal servitude for a definite period of three to ten years; also, a fine less than NT\$7 million.

The offender who has the main components of firearms and ammunition transferred, rent, or loaned without authorization will be punished with a sentence of penal servitude for a definite period of one to seven years; also, a fine less than NT\$5 million.

The offender who has committed the aforementioned offense with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of penal servitude for a definite period over five years; also, a fine less than NT\$10 million.

The offender who has the main components of firearms and ammunition possessed, stored, or exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period of six months to five years; also, a fine less than NT\$3 million.

An attempted crime of the aforementioned offense will be punished.

Clause 14 The offender who has bayonet manufactured, traded, or transported without authorization will be punished with a sentence of penal servitude for a definite period less than three years; also, a fine less than NT\$1 million.

The offender who has committed the aforementioned offense with intent to commit a serious crime himself/herself or assisting others will be punished with a sentence of penal servitude for a definite period of six months to five years; also, a fine less than NT\$3 million.

The offender who has bayonet possessed and exhibited for trade without authorization will be punished with a sentence of penal servitude for a definite period less than one year, detention, or a fine less than NT\$500,000.

An attempted crime of the aforementioned offense will be punished.

Clause 15 The offender who has possessed bayonet without authorization and with one of the following conditions committed will be punished with a sentence of penal servitude for a definite period less than two years:

1. A crime committed in the night;
2. A crime committed at bus station, harbor, airport, and public place;
3. A crime committed by a gang instead of individual.

Clause 16 Functionary or elected civil servants who have the convicted offender of Clause 7, Clause 8, or Clause 12 covered up will be punished with a sentence that is with additional 50% (as high as) term rendered.

Clause 17 ( Deleted )

Clause 18 The offender of Clause 18 who has himself/herself surrendered with the firearms, ammunition, and bayonet turned in is entitled to the privilege of punishment alleviation or exemption. The offender of Clause 18 who has firearms, ammunition, or bayonet transferred to others but volunteered the information of pertaining sources and disposition with the crime unfolded eventually is entitled to the privilege of punishment alleviation or exemption too.

The offender of Clause 18 who has himself/herself surrendered during the gray period arranged by national competent authority with the approval of the Executive Yuan is entitled to the privilege of punishment exemption.

The offender of Clause 18 who has volunteered false information of firearms and ammunition turned in will be punished in accordance with the pertaining punitive clauses for the offense.

The offender of Clause 18 who has confessed his/her crime in the interrogation or trial and volunteered the information of the source and disposition of firearms, ammunition, and bayonet with a severe crime unfolded and prevented is entitled to the privilege of punishment alleviation or exemption. The offender of Clause 18 who has refused to give confession or has forwarded false information will be punished with one third (1/3) additional term rendered.

Clause 19 (Deleted)

Clause 20 Natives who have shotgun manufactured, transported, or possessed without authorization; or, fishermen who has gun harpoon manufactured, transported, or possessed without authorization will be fined for an amount more than NT\$2,000 and less than NT\$20,000. The punitive clause pertaining to the Clause is not applicable.

Natives or fishermen who have the aforementioned shotgun or gun harpoon traded, transferred, rent, loaned, or stored will be fined for the same.

National competent authority regulates the application, condition, term, cancellation, inspection, and other control measures of the aforementioned two occasions.

National competent authority shall educate natives and fishermen of legally applying for approvals of self-made shotguns and gun harpoons.

The offenders in the section 1 and 2 shall be exempted from penalties should they turn in voluntarily during the specific

period proposed by the national competent authority and approved by the Executive Yuan.

Clause 20.1 Those which may fire and are similar to real guns in appearance, structure and materials are termed as simulation guns. Those simulation guns may be transformed into killing guns shall be banned publicly by the national competent authority together with national business authority.

Importation of simulation guns shall only be conducted after securing approval documents issued by the National Police Agency, the Ministry of Interior.

Those who manufacture, sell, transport or transfer the publicly banned simulation guns in the section 1 shall be sentenced to a fine less than NT\$500,000. In the case of grave violation, termination or suspension of business may be part of penalties except those reported to the police in advance for the purpose of exportation or research and development.

Those who have the simulation gun publicly banned in the section 1 rent, loaned, possessed, stored or displayed for sale shall be fined of a penalty less than NT\$30,000.

Those who transform simulation guns into non-killing shotguns capable of firing metals or bullets shall be sentenced to a fine less than NT\$100,000.

In order to inspect the publicly banned simulation guns, the police agencies may enter the locations where simulation guns are manufactured, stored or sold. They may also inspect parts, final products, semi-products, records and other necessities, and enquire relevant people together with national business authority.

The aforementioned inspectors shall actively produce identification in inspection and shall not interfere in the conduction of common business in the inspected location.

Those who evade, hinder or refuse inspections or providing information stipulated in the section 6 shall be sentenced to a fine of NT\$200,000 to NT\$500,000, and may be punished for each violation with enforcing inspection.

Those people's groups holding the simulation guns stipulated in the section 1 before the ban published shall report to the police agency. Those who complete the reporting procedure by the due date will not be punished for possession.

The simulation guns publicly banned in the section 1 shall be confiscated regardless possessors, except those reported to the police agency for the purpose of exportation or research and development or those stipulated in the previous section.

Clause 21 The punitive clauses more rigorous than this Clause shall prevail under the circumstance.

Clause 22 The informer that has helped solved the crime pertaining to this Clause should be rewarded materially.

The said reward is to be regulated by the Executive Yuan.

Clause 23 (Deleted)

Clause 24 (Deleted)

Clause 25 The Clause is to be executed in the day it is published.

# Social Order Maintaining Law

( Partial Articles )

Published (Issued) on June 29, 1991

III Sub-regulation

## Chapter 1 Social disorder

### Clause 63

A fine less than NT\$30,000 or a detention less than three-day will be brought against the offender of the following acts:

1. Possess lethal weaponry, chemical solvent, or other dangerous objects without a proper cause.
2. Fire a gun without a proper cause.
3. Possess a tool for unlocking door, window, lock, or other safety equipment without a proper cause.
4. Place, throw, or project a lethal object that is detrimental to the health or the property of others.
5. Spread rumor that is detrimental to public order.
6. Disguised with a veil or frighten others with a threat to personal safety.
7. Manufacture, transport, trade, and store inflammable, explosive, and dangerous business operation without the authorization of competent authority; or, other business equipment and method that is against the law and regulations.
8. Manufacture, transport, trade, possess, or display instrument that is banned by competent authority.

The offender of aforementioned clause 7 & clause 8 with a severe consequence or serial offenses will be punished with a punitive sentence of business suspension or business termination.

### Clause 64

A fine less than NT\$18,000 or a detention less than three-day will be brought against the offender of the following acts:

1. The offender has crowds summoned at park, bus station, harbor, airport, and other public place with intent to cause disturbance and interfere with social order; moreover, the offender has failed to have the crowds dismissed upon the request of the competent authority.

2. Purchase transportation or amusement park tickets for personal gains instead of personal use.
3. Vehicle, vessel, hotel staffs/porters, and other receptionists who force service onto customers.
4. Transportation personnel demand a charge beyond the agreed amount, make additional request during the journey, fail to honor the agreement signed, or try to conduct a fraud afterwards that is extraordinary from general practice.
5. Preside, manipulate, or attend a gang activity to commit an act detrimental to social order.

Clause 65

A fine less than NT\$18,000 or a detention less than three-day will be brought against the offender of the following acts:

1. Vessels captain fails to follow the order of estoppels given for not sailing in dangerous gale or in the night.
2. Have a corpse that is not or could be not resulted from a deadly sickness or a corpse with unknown source buried or disposed without an autopsy performed.
3. Possess a look-alike toy gun that is detrimental to public safety without a proper cause.
4. Neglect the stacking and compilation of inflammable subject or have inflammable substance carried or stored near the inflammable pile carelessly without following the order of estoppels rendered.

# **The Use of Police Weapons Act**

As promulgated on Jun 26, 2002

## **Article 1**

The police weapons used by personnel to enforce police duties consist of police batons, police swords, police firearms or other instruments approved.

Police personnel using police weapons pursuant to the Act shall wear police uniforms or present police badges or police certificates which can be used as identifications, unless under emergency conditions.

The type and specification of the police weapons referred in Paragraph 1 shall be concluded by the Executive Yuan.

## Article 2

Police personnel may use police batons for instruction if they encounter any of the following situations when enforcing police duties:

1. Instructing the traffic;
2. Evacuate the public; and
3. Guarding against accidents

## Article 3

Police personnel may use police batons for deterrence if they encounter any of the following situations when enforcing police duties:

1. Giving assistance in investigating crimes or in executing the duty with force, e.g. reconnaissance, detainment, custody or arrest;
2. Under intimidation during the enforcement of police duties pursuant to laws and regulations; and
3. Any situation referred as in Paragraph 1 of Article 4 hereof, and it is regarded as a proper measure to use batons for deterrence



#### Article 4

Police personnel may use police swords or police firearms for deterrence if they encounter any of the following situations when enforcing police duties:

1. Preventing extraordinary accidents and maintaining social security;
2. Any disturbance which will cause danger to social security;
3. Any offender's resisting arrest or fleeing, or other person(s) giving aid to such offender in resisting arrest or fleeing;
4. Land, buildings, objects, automobiles, vessels, aircrafts guarded by police personnel, or other people's life, body, freedom, property being under hazards or intimidation;
5. Police personnel's life, body, freedom and equipment being under violence or intimidation, or any fact identifying them as under hazardous conditions;
6. Any person in possession of weapons for criminal purpose rejecting to throw away such weapons after police personnel's warning; and
7. Any situation as referred in Paragraph 1, 2 of the preceding article hereof, and police personnel failing to stop such situation unless using police swords or police firearms.

Other weapons approved can be jointly used to the preceding situations where necessary.

#### Article 5

When enforcing police duties as executing a ban or an interrogation, police personnel may order the counterparty to stop or raise hands, where necessary, and may check whether he/she is in possession of weapons for criminal purpose. Police personnel may use police weapons pursuant to the Act if they are resisted and they are perceived to be under assault.

#### Article 6

Police personnel may reasonably use police weapons, based on emergency needs, which should not exceed beyond the imperative level.

#### Article 7

Police personnel shall stop using police weapons in case that the reason, whereby police personnel are allowed to use police weapons, disappears.

#### Article 8

Police personnel using police weapons shall pay attention not to cause injury to others

#### Article 9

Police personnel using police weapons shall pay attention not to cause mortal injury to offender(s).

#### Article 10

Police personnel shall immediately report the event to their chief after using police weapons, unless otherwise using police batons.

#### Article 11

In case that police personnel using police weapons pursuant to the Act and leading the third party's injury, death, or loss of property, the government of the level concerned shall be liable for the medical charge, consolation pension, compensation, or funeral expenses.

In case that police personnel using police weapons in violation of the Act and leading the third party's injury, death, or loss of property, the government of the level concerned shall be liable for the medical charge, consolation pension, compensation, or funeral expenses.

Provided that police personnel cause the preceding hurt willfully, the government of the level concerned may make a claim for compensation to the police personnel.

The criteria for the medical charge, consolation pension, compensation, or funeral expenses referred in the first two paragraphs shall be concluded by the Ministry of Interior.

#### Article 12

Police personnel using police weapons pursuant to the Act is a legal behavior.

#### Article 13

The Act shall be applied to other judiciary police and the military police when they are enforcing judiciary, military duties or garrison police duties approved by the Ministry of Interior.

The measures governing the use of police weapons for garrison police will be enacted by the Ministry of Interior.

#### Article 14

Police weapons shall not be made by order, sold or held unless otherwise under the approval of the Ministry of Interior or other police organizations authorized by the MOI, and shall be confiscated if the forgoing provision is violated, except as required by law.

The measures governing the police weapons type, specification, permission conditions, application, investigation, cancel, revocation, abrogation or other provisions, with respect to the preceding approval of the police weapons made by order, sold or held, shall be enacted by the Ministry of Interior.

#### Article 15

The Act will come into force upon promulgation.

## **Measures Governing the Permission to Manufacture, Sell and Hold Police Weapons**

As promulgated on November 6, 2002

### Article 1

The Measures are enacted pursuant to Paragraph 2, Article 14 of the Use of Police Weapons Act.

### Article 2

The application for permission to manufacture, sell, hold police weapons referred in the provisions of the Measures shall be limited to police batons, police handcuffs, electric police batons (electric instruments).

The Ministry of Interior (hereafter referred to as “the MOI”) may authorize the National Police Administration of the MOI (hereafter referred to as “the NPA”) or the police department of the special municipality, county (city) to handle the preceding permission.

The firms referred in the Measures shall be limited to corporations.

### Article 3

The firms applying for manufacture and sales of police batons, police handcuffs, electric police batons (electric instruments) shall submit the following documents to the MOI for permission through the police department of the special municipality, county (city).

1. Application form;
2. Responsible person’s ID card;
3. Photocopy of the business registration certificate;
4. Product illustration and Chinese manual (including models and photographs); and
5. Additionally attached with relative test reports implemented by the government and sample products for electric police batons (electric instruments).

The approved manufacturer of the preceding application shall additionally submit the photocopy of the factory registration certificate, and the approved vendor (firm) shall additionally submit the photocopies of the selling agent agreement and manufacturer's permission document.

The MOI will issue a permission document to the prequalified firm of Paragraph 1; the permission document shall not be photocopied, leased, transferred, mortgaged, lend to others.

The approved firm shall apply for change of the business registration and add permitted operation items, within 6 months from the next day of permission, and the approved manufacturer shall change the business registration and add permitted operation items.

The firm accomplishing the preceding registration shall submit the photocopy of the business registration certificate and the manufacturer shall additionally submit the photocopy of the factory registration certificate to the MOI for reference through the police department the special municipality, county (city).

The manufacturer accomplishing the preceding reference shall submit the product's Chinese manual, relative test reports implemented by the government and sample products to the MOI through the police department the special municipality, county (city), before manufacturing, selling electric police batons (electric instruments) for the first time. The approved product shall be sent to the police department the special municipality, county (city) for permission before the manufacture and sales subsequently.

#### Article 4

The firm accomplishing the procedure referred in the preceding article shall submit the following documents to the police department the special municipality, county (city) for permission, when the firm applies for export of police batons, police handcuffs:

1. Application form (deposition);
2. Letter of credit from the import country;
3. Order for export (Chinese transcript attached);
4. Product's Chinese manual;
5. Photocopy of business registration certificate; and
6. Photocopy of permission documents.

The approved manufacturer of the preceding application shall additionally submit the photocopy of the factory registration certificate.

The firm accomplishing the procedure referred in the preceding article shall submit the documents provided in the first two paragraphs to

the NPA for permission through the police department the special municipality, county (city), when applying for export of electric police batons (electric instruments).

The firm applies to the Customs of the destination port for the issuance of an export duplicate copy of application form (export certificate) and shall, within 7 days, submit it to the NPA for reference through the police department the special municipality, county (city).

#### Article 5

The sample products of police batons, police handcuffs or electric police batons (electric instruments) retained by the firm, which has accomplished the procedure referred in Article 3, shall not exceed 10 units (sets) for each product; the sample product displayed in the sales place shall be limited to 1 unit (set), where written characters "Sample Product" shall be stamped, which shall be applied to the police department the special municipality, county (city) for reference and control.

When mailing sample products of police batons, police handcuffs or electric police batons (electric instruments) to foreign countries, the firm as referred in the preceding paragraph shall apply to the police department the special municipality, county (city) for permission, where the sample products mailed to each country or area shall be limited to 2 units (sets).

#### Article 6

The police batons, police handcuffs or electric police batons (electric instruments) manufactured by the firm, which has accomplished the procedure referred in Article 3, shall be stamped with the title of the firm and a serial number and shall not be overproduced or illegally sold by this method.

The preceding firm shall submit the monthly sales report of the previous month, in which the production volume and sales targets of the police weapons are specified, to the NPA for reference through the police department the special municipality, county (city), before the tenth day of every month.

#### Article 7

The institution, institute, school, corporation, small trading company, factory, civil defense organization which hires security guards, security service personnel, watchmen or public officials enforcing the inspection pursuant to laws shall submit the following documents to the police department the special municipality, county (city) for permission to procure police batons, electric police batons (electric

instruments). The affiliates, if any, of the preceding unit shall file the application to the special municipality, county (city) for permission.

1. Application form;
2. Certificate issued by the application unit;
3. Chinese manual of the approved firm's product; and
4. Additionally attached with the user's Certificate of Incumbency and 3 photographs

The responsible person of the gold and jewelry business which does not hire any security guard may also apply for the procurement of electric police batons (electric instruments) pursuant to the preceding provision.

#### Article 8

The procured police batons approved in the preceding application shall be gathered for custody and shall be registered with the police department the special municipality, county (city) for reference; the same way in case of any alteration.

The police department the special municipality, county (city) will issue certificates of police weapon to the procured electric police batons (electric instruments) approved in the preceding application, while the electric police batons (electric instruments) and certificates of police weapon shall not be transferred or lent to others.

The certificates of police weapon shall be renewed every two years. The possessor shall carry the certificate with himself/herself, and shall immediately apply to the police department the special municipality, county (city) for the reissuance of the certificate if the certificate is destroyed, lost or exterminated.

#### Article 9

When the firm accomplishing the procedure referred in Article 3 is suspended or dismissed, the NPA will revoke the permission concerned and the firm shall send the original permission documents to the NPA for cancellation through the police department the special municipality, county (city). The retained electric police batons (electric instruments) shall be destroyed automatically.

If the security guards, security service personnel, watchmen or public officials enforcing the inspection, pursuant to laws, of the institution, institute, school, corporation, small trading company, factory, civil defense organization resign or the preceding unit is suspended or dismissed, the police department the special municipality, county (city) will revoke the permission concerned, and the revoked shall hand the certificate of police weapons over to the police department the special municipality, county (city). The procured electric police batons

(electric instruments) shall be destroyed automatically; the same way in case any police batons, electric police batons (electric instruments) are revoked.

#### Article 10

The responsible person of the firm, the gold and jewelry business, the security guard, security service personnel, watchman or the public official enforcing the inspection, pursuant to laws, as provided in any of the following situations shall not apply for the manufacture, sales and possession of police batons, electric police batons (electric instruments); any of the following applicants shall not be approved:

1. The person committing the crime of civil convulsions, the crime of foreign intrusion, and being sentenced to be guilty, after the Period of Mobilization for the Suppression of Communist Rebellion was terminated;
2. Committing murder, serious assault, robbery (forceful taking), forcible rape, kidnapping, or violating the Law for the Control of Narcotics, the Organized Crime Prevention Act, the Firearms, Ammunition and Cutting, Pointed Weapons Control Act, and the Money Laundering Control Law, and sentenced to be guilty, which has been confirmed;
3. Presumed to be a hoodlum or declared judicially rehabilitation on hoodlum, which has been confirmed;
4. Having committing the crime excluding that referred in Item 1 or Item 2 during the recent 5 years, and sentenced to limited imprisonment or above instead of probation or payment of a fine, which has been confirmed;
5. incompetent, limited in legal capacity or mentally defective; and
6. Violating the Social Order Maintenance Law and penalized, twice or above, on a charge of drugs, hallucinogen excluded from narcotics, which has been confirmed

If the applicant is found as provided in any of the preceding situations after permitted, the permission shall be cancelled or revoked.

#### Article 11

The NPA and the police department the special municipality, county (city) may implement the inspection on the manufacture, sales, custody and the use of the police batons, police handcuffs, electric police batons (electric instruments) of the firm, institution, institute, corporation, small trading company, factory, civil defense organization, and, where necessary, may request relevant data.

The inspected unit and personnel shall not refuse, obstruct or evade the inspection unless legitimate reasons.



#### Article 12

The NPA may set up the assessment committee to handle the inspection and identification of police weapons; the members of the committee will be selected by the NPA.

#### Article 13

Anyone who violates Paragraph 6 of Article 3, Article 4 – 6, Article 8, Article 9 or Article 11 shall improve within the given term after informed; if not, the permission shall be revoked and the certificate of police weapons shall be cancelled.

The firm and the responsible person whose permission is cancelled or revoked shall not file the application within 5 years.

When the permission is cancelled, revoked or the certificate of police weapons is cancelled, the police weapons possessed or retained shall be destroyed automatically.

#### Article 14

The NPA will prescribe the forms and formats required under the Measures.

#### Article 15

The Measures will come into force upon promulgation

## Industrial use explosive material management code

Promulgated jointly on March 5, 1980

per 69 Tai-nei-jing-tse 2666 Decree of Ministry of Interior & 69 Fa-tse 7356 Decree of Ministry of Economic Affairs

Amended jointly on December 24, 1983

per Tai-nei-jing-tse 202468 Decree of Ministry of Interior & Jing (72) 51051 Decree of Ministry of Economic Affairs

Amended jointly on May 13, 1989

per 78 Tai-nei-jing-tse 691331 Decree of Ministry of Interior & Jing (78) Kuang 017561 Decree of Ministry of Economic Affairs

Amended jointly on May 8, 1995

per Tai-84-nei-hsiao-tse 8476603 Decree of Ministry of Interior & Jing (84) Kuang 84004276 Decree of Ministry of Economic Affairs

Amended jointly on June 30, 1999

per Tai-88-nei-jing-tse 8871720 of Ministry of Interior & Jing (88) Kuang 88272878 Decree of Ministry of Economic Affairs

Amended jointly on March 1, 2001

per Tai-90-nei-jing-tse 9081661 Decree of Ministry of Interior & Jing (90) Kuang 89265382 Decree of Ministry of Economic Affairs

Amended jointly on October 31, 2001

per Tai-90-nei-jing-tse 9081347 Decree of Ministry of Interior & Jing (90) Kuang 09002723140 Decree of Ministry of Economic Affairs

Amended jointly on August 21, 2002

per Tai-nei-jing-tse 0910076167 Decree of Ministry of Interior & Jing-Kuang-Tse 09102717 Decree of Ministry of Economic Affairs

### Chapter 1 general

#### Clause 1

This regulation is aimed to manage industrial legal manufacture, sell, transport, hold or use explosive materials, accident prevention, and maintain public safety. If not covered in this regulation, use other applicable regulations.

## Clause 2

In this regulation, the so-called explosive materials including explosives, cotton powder, mercuric fulminate powder, or other similar type explosive materials and their main raw materials. The classification and characteristics are as follows:

1. Powder: product with slow explosion, used for combustion, no extinguishing destructive results. Including:
  - (1) Black powder and other nitrate smoke powders.
  - (2) Single unit nitrocellulose smokeless powder.
  - (3) Double units nitroglycerin smokeless powder.
2. Explosives: products with rapid explosion and strong explosive destruction results. Including
  - (1) Mercuric fulminate, lead azide, lead styphnate, and diazodinitrophenol etc. explosion initiate powder.
  - (2) Nitric esters
  - (3) Nitrate type explosives
  - (4) Per chlorates and chlorates mixture explosives
  - (5) Picric acid, TNT, etc. nitrate based compounds explosive.
  - (6) Liquid oxygen explosive and other liquid explosive powder.
3. Blasting agents: mixtures, which use nitrates etc. oxidants as main components, must be in enclosed space and use designated detonator to set off. Including:
  - (1) Various types of AN-FO
  - (2) Slurry or emulsion blasting agents
4. Explosion starter: products for detonating explosives. Including:
  - (1) Detonator
  - (2) Fire rope
  - (3) Ignition rope
5. Explosive chemical raw materials: means the raw materials that can directly ignite and be ignited. Including those used for

manufacturing TNT, picric acid, nitroglycerin, lead azide, mercuric fulminate, nitrate starch, ammonium TNT, ammonia picric acids etc.

6. Other explosive materials designated by the Ministry of Economics Affairs (MOEA).

**Clause 2-1**

The onsite mixed explosives, described in this regulation, are considered to be non-explosive materials. Through special equipment, mixed on site to form blasting agents. Then, it is inserted into the cannon hole immediately and use detonation device to explode.

**Clause 3**

The explosive material management organizations are: at central government, MOEA , at class 1 cities, the city government, and at counties (cities), county (city) government.

**Clause 4**

In this regulation, the use organizations are:

1. government organization
2. government owned corporation
3. certified registered private industries
4. local county or city or engineering organization certified use group.

**Clause 4-1**

in this regulation, the contracting organization means the organization through which a project is contracted to other governmental or private organization for execution.

**Clause 5**

In this regulation, the explosive material purchasing quota certificate (herein after refer to as purchase certificate) represents the certificate issued by MOEA to the use organization on which recorded the application and purchase of explosive material type, quantity, and location to be used. It is used by the organization to purchase and transport explosive materials.

**Clause 6**

In this regulation, the explosive material transport quota certificate (herein after refer to as transport certificate) represents the certificate

issued by MOEA to the explosive material manufacturing, processing, sales and import and export organization to record the application and transport of explosive materials' time, quantity, route and initial and end points for the transportation of the explosive materials.

## **Chapter 2 manufacturing and sales**

### **Clause 7**

The manufacturing, sales and processing of explosive materials shall be legal government, private company or factories specially approved by MOEA.

The explosive materials sales organization shall, based on the use organization distribution, apply to MOEA for approval then set up distribution center.

MOEA will issue the first item, the set up requirement.

### **Clause 8**

The explosive material manufacturing, processing, sales industries, can only sell or transport explosive materials in accordance to the purchase certificates or transport certificates issued by MOEA. There shall be no sales, transfer or transport without authorization.

### **Clause 9**

The facility used to manufacture, process, sell (including distribution) explosive materials shall follow the following facility safety requirement, after approval by MOEA, and then are allowed to start manufacture or start business operation. The start operation or opening date shall be reported to MOEA, local police department and fire department.

1. The explosive factory (including warehouse) shall have on site security guard, responsible for maintaining safety. As for the distribution center, the requirement to set up on site security guard shall be determined jointly by MOEA and Ministry of Interiors.
2. based on actual conditions, setup safety maintenance requirement.
3. setup designated department or person to be responsible for personnel evaluation
4. setup powder warehouse and guardhouse. Assign designated person or shift personnel.
5. coordinate with related organizations to carry out necessary measures.

The facility for the manufacture, process and sell explosive materials shall restrict both employees and visitors from entering. When

entering and leaving the factory (warehouse) area, do not bring in ignitable materials and bringing out explosive materials.

For the on site mixing facility, the item 1.1 and previous items are not applicable.

#### **Clause 10**

The facility for explosive materials manufacture, process and sell shall prepare books to record explosive types, quantity, time, and source etc.

The facility for explosive materials manufacture, process and sell, after each purchase and sell explosives, shall do the following:

1. On the day of purchase or sell, submit the copies of purchase certificates and transport certificates to Ministry of Economics and the police station and fire department where the powder warehouse located.
2. Submit the explosive and raw material inventory ten-day report to the police station and fire department where the powder warehouse located.

### **Chapter 3 purchasing and hold**

#### **Clause 11**

The use organization, when apply for explosive purchasing quota, shall fill out industrial use explosive purchasing application form, together with production plan or engineering drawings and calculation for objectives to be blasted, five days ahead of time, submit to the powder warehouse location's fire organization for application to check the following items. After approval, then apply for Ministry of Economics for certificates, as base for quota.

1. For those have installed powder warehouse and received approved Ministry of Economics powder warehouse installation certificate, or temporary engineering organization, based on item 30, already has loaned powder warehouse or installed powder warehouse.
2. Already installed powder warehouse guardhouse.
3. Follow chapter 7 requirement, designated explosive manager, and already submitted to MOEA and received approval and certificated.
4. Not under penalty for stop purchasing or use.

The explosive applicant, if it is engineering contractor, shall fill out the explosive purchase application form and shall be approved by the

contracting organization. Then apply, based on previous items requirement.

The explosive use organization, when applying for purchasing quota, shall base on last month's usage quantity to calculate the daily average usage quantity. The inventory of explosives shall be less than 15 days. It will then be approved for purchasing quota. If the last month usage is abnormal, it may use last year's usage to calculate daily average usage quantity. The approved explosive quantity shall not exceed 60 days usage quantity.

For new explosive purchasing quota application and irregular use organization, based on the planned usage quantity, approve for 30 days usage quantity.

### **Clause 12**

The effective time for purchase certificate and transport certificate is one year. And they can only be used once. For reasons that purchase or transport not possible, state the reason and apply to MOEA for a one-month extension.

The purchase certificate and transport certificate are not transferable. They cannot be sold and illegally obtained. When lost, immediately report to the police department at the location of the warehouse, selling organization and Ministry of Economics. And apply to MOEA for reissuing.

### **Clause 13**

The explosive quota shall not be transferred, sold, mortgaged, discarded, hidden without reported, and loaned and moved without authorization.

The afro mentioned explosives, if stolen, lost or other abnormal use and leads to unbalance matched quantity, report, immediately, to MOEA local police and fire department. The explosive use organization, if contractors, shall report to the contracting organization immediately.

### **Clause 14**

The explosive quota can only be used on the designated task. Unless approved by MOEA, they shall not be used on different tasks. But for special disaster or emergency situation requiring explosives, first receive approval from local police department, then they can be used and the use organization can then complete the usage procedure with MOEA.

The explosive quota, if due to the expiring of powder warehouse effective date, the completion of contract, or, without reporting to

MOEA for approval and without proper reasons and not used for over three months with left overs, shall be reported to MOEA within three days for approval to be purchased back by the original selling organization or other use organization. If the properties already changed and cannot be used anymore, it shall be treated in accordance to item 38.

The afro mentioned left over explosives, if not treated in accordance to the requirement and discovered by MOEA, police and fire departments, they shall be handled in accordance to the afro mentioned procedures.

#### **Clause 15**

The use organization shall prepare books to record the movement of explosive type, quantity, time, sources etc. The shipping and arriving of explosives shall be reported to local police department.

### **Chapter 4 import and export**

#### **Clause 16**

The facilities to manufacture, process and sell explosives may export explosives under ministry of economics permit.

#### **Clause 17**

The facilities to manufacture, process and sell explosives and the use organization may import explosives under ministry of economics permit.

For the imported explosives, the sales, storage, use and management shall follow applicable articles in this regulation.

#### **Clause 18**

When applying for exporting and importing explosives, an applicant shall report the the explosives' type, specifications, quantity, price, purpose , export/export locations, packaging type, loading/unloading dates, magazine, transport supervisor, shipping method and routes etc. to MOEA for certificate approval. MOEA shall send assigned copies of transport certificate to relevant import/export airport and/or harbor police departments to check the quantity and type, and then the explosives can exit or enter the country.

### **Chapter 5 management, storage and transport**



**Clause 19**

The facilities to manufacture, process and sell explosives and the use organization shall setup powder warehouse and assign explosive supervisor and powder warehouse guard. During explosive transport, it shall assign transport supervisor. When use the explosives, it shall assign blasting engineer and blasting supervisor.

**Clause 20**

The explosives shall be stored inside the powder warehouse. For the daily use quantity, under the guard by designated person, it may temporary stored at a secured place in the explosive distribution center or work site.

**Clause 21**

The maximum storage quantity in a single powder warehouse shall not exceed 100 tons of explosives. The safety distance shall follow the following requirement.

Explosive storage (kg)	The minimum safety distance to various facilities (m)			
	Class 4 facility	Class 3 facility	Class 2 facility	Class 1 facility
Under 100	100	100	100	380
Under 500	100	100	128	640
Under 1000	100	100	160	800
Under 2000	100	102	204	1020
Under 5000	100	138	276	1380
Under 10000	100	174	348	1740
Under 15000	100	198	396	1980
Under 20000	109	218	436	2180

Under 50000	148	296	592	2960
Under 60000	157	314	628	3140
Under 70000	165	330	660	3300
Under 80000	173	346	692	3460
Under 90000	180	360	720	3600
Under 100000	186	372	744	3720

The afro mentioned powder warehouse, when installed with wall or has natural cover, after approval by MOEA, the safety distance may be halved. The facility classifications in the table are as follows:

1. Class 1 facility: including special building or national historic building.
2. Class 2 facility: including airport, harbor, power plant, power transformer, water reservoir, oil tank, or gas tank.
3. Class 3 facility: including railroad, train station, park, houses, villages, schools, hospitals, theaters, temples, churches, stadiums, factories, or mines
4. Class 4 facility: including national, provision, county, city road or special routes.

**Clause 22**

In between the powder warehouses, there shall be wall or natural cover, the safety distance requirement is as the following table:

Powder warehouse storage quantity (kg)	Minimal safety distance (kg)
Under 500	6
Under 1000	9

Under 2000	12
Under 4000	15
Under 9000	21
Under 20000	25
Under 30000	32
Under 43000	41
Under 63000	49
Under 86000	56
Under 100000	72

For the afro mentioned safety distances and wall specifications, if the storage quantities are different for two warehouses, other then required in article 24, use the larger quantity as calculation standard.

**Clause 23**

The powder warehouse, due to change in conditions and results in that the safety distance could not meet specifications, it shall apply for storage quantity reduction permit. The powder warehouse setup certificates shall be sent to MOEA for correction. Otherwise, move within three months. Before the move, the explosive quota may be stored at the nearby warehouse for safekeeping and use.

**Clause 24**

Powder and detonator shall be stored in different warehouse. The safety distance shall be based on the detonator requirement. The calculation standard shall use the detonator and explosive conversion requirement. It shall follow the article 22 item 1 table requirement.

**Clause 25**

The explosive storage height shall be lower than 1.8 meter. The warehouse height, from floor to ceiling, shall be over 2 meter. Inside the warehouse, there shall be 30% access way.

**Clause 26**

The powder warehouse is classified into A, B, C three classes and underground warehouse, the explosive storage quantity is as follows:

1. Class A powder warehouse: 30 to 100 ton.
2. Class B powder warehouse: 5 to 30 ton.
3. Class C powder warehouse: under 5 ton.
4. Underground powder warehouse: under 40 tons.

To store other explosive materials, the conversion standard is as follows:

1. 2 tons of powder equal to 1 ton explosive
2. 5 tons of explosive agent equal to 1 ton explosive
3. 1500000 units of normal detonator or electric detonator equal to 1 ton explosive
4. 50000 meter of explosive initial rope equal to 1 ton explosive
5. 140000 meter fire initial rope equal to 1 ton explosive
6. 1250000 units of non-electric detonator equal to 1 ton explosive
7. 50000000 meter of fire initial pipe equal to 1 ton explosive
8. 6000000 units of powder cylinder equal to 1 ton explosive

**Clause 27**

The location, structure and equipment for class A, B, and C powder warehouse shall meet the following requirement:

1. The warehouse shall be located at the industrial location near dry area.
2. The warehouse shall be steel reinforced concrete, brick or stone one story building

3. when the wall of the warehouse is steel reinforced concrete, the thickness shall be over 15 cm, for brick and stone, the thickness shall be over 24 cm.
4. In the warehouse, there shall be ceiling, walls and floor. There shall be no exposed sparking metal. If installed with anti-moisture, anti-heat and anti-impact devices, it can be exempted.
5. The warehouse wall shall install at least 3 ventilation holes. Use steel wire to protect. If the ventilation hole height and width are over 20 cm, for every 5 cm, install 1 cm diameter steel bar.
6. For the class A and B powder warehouse, if there is requirement for lighting and more ventilation, then install windows at 2 m height and over. The number and size are determined by the warehouse size. For the window, every 10 cm, there shall be steel bars with diameter over 1 cm. The internal shall use steel wire glass and the outside uses fireproof window.
7. The warehouse top shall install lightning rod. The tip shall be wired to warehouse edge. The lightning rod wire angle shall be within 45 degree. The lightning rod shall be copper rod with diameter over 12 mm. It shall be connected to the lead wire and grounding plate. The lightning wire shall use copper wires with cross sectional area over 40 square mm. The grounding plate shall use copper plate. The grounding resistance shall be less than 10 ohm.
8. The warehouse shall install surrounding water trough, fence or barber wire fence. It shall install gate and install fire alarm or other anti-theft devices.
9. Warehouse shall install fire extinguishers. Within 8 meters, there shall be no combustible materials.
10. Within 30 meters from the warehouse and the monitoring range of the guard, there shall be guardhouse installation. It shall be stationed day and night. The guardhouse shall be sturdy. For the underground warehouse, the guardhouse may be located at the side of the entrance. If restricted by the topology, it can be installed within 30 meters from the entrance.

#### **Clause 28**

The warehouse wall may be wood structure filled with soil, or dirt pile, or steel reinforced concrete or brick or stone structure. The structure requirement shall be specified by MOEA.

#### **Clause 29**

The location, structure and equipment for the underground warehouse shall meet the following specifications:

1. The warehouse shall be located inside solid rock. The wall shall be reinforced with steel and concrete. There shall be ventilation equipment.
2. The steel door thickness shall be greater than 3 mm and with lock. The entrance cave shall install door and lock also.
3. Inside the warehouse, there shall be no lighting equipment. The cave lighting equipment shall be explosion proof lightings, cables. Also install automatic breaker.
4. The rock thickness for the warehouse shall meet the following requirement:

Rock thickness (m)	Explosive storage quantity (ton)
Over 4	Under 1
Over 6	Under 2
Over 8	Under 3
Over 10	Under 4
Over 11	Under 5
Over 12	Under 6
Over 13	Under 7
Over 14	Under 8
Over 15	Under 9
Over 16	Under 10
Over 17	Under 12
Over 18	Under 14
Over 19	Under 16
Over 20	Under 18

Over 21	Under 19
Over 22	Under 20
Over 24	Under 25
Over 26	Under 30
Over 28	Under 35
Over 29	Under 40

**Clause 30**

If the temporary unit's project schedule is within one year, the explosives can be stored at other warehouse. It can also install temporary warehouse after received approval from MOEA.

The structure requirement, explosive storage quantity, period and safety distances shall be specified by MOEA.

**Clause 31**

For new and reconstruction of the warehouse, the location shall be reported to the local police department. After approved, submit the following documents to MOEA for approval:

1. Warehouse location and safety distances
2. Building layout drawings and engineering description
3. Land owner certificate, landlord approval document, or rent agreement, etc. land use proof document. But for cave underground warehouse, these can be exempted.
4. Explosive storage type and quantity.
5. Project start and completion dates.

**Clause 32**

After completion of the approved warehouse, report to MOEA, together with local police and fire department for inspection and approval and obtain certificate. Then it can be used. The effective time for the certificate is 5 years. But, if the leased land does not have five-year lease, the effective time will be the lease agreement year. For engineering project, if the project time does not reach 5 years, the same.

One month before the original certificate expires, it shall apply for re-inspection and new certificate. If the original organization does not want to continue use, other original associated organizations may elect one organization with agreement, before the expiration of the original certificate, to submit land use agreement, warehouse owner agreement and related documents and fees, to apply for registration. Before issuing the new certificate, the original applicant shall continue on the management and use.

When MOEA checks the afro two articles, the local police and fire department shall submit opinions for the following items:

1. Location information
2. Anti-theft installations
3. Fire protection installations
4. Other safety items

**Clause 33**

The distance between the project site and the warehouse shall not exceed 10 km. But if due to project requirement and approved by MOEA, can be exempted.

If the project area crosses two or more police jurisdictions, the explosive use conditions shall be reported to all police and fire departments.

**Clause 34**

For the explosive use project sites within 50 km, after approval by MOEA, they can use the same warehouse.

**Clause 35**

The approved warehouse shall be guarded 24 hours a day.

**Clause 36**

When store explosives in the warehouse, follow the following requirement

1. The stored explosives shall be classified, base on the type, and set up storage cards, hung at obvious location and keep complete receiving and delivering records.
2. Non-working personnel is not allowed enter the warehouse. Prohibit to carry in any ignitable materials.
3. The warehouse shall not store any other non-explosive objects, and paper boxes, wooden boxes etc. empty packaging materials.



4. Paper boxes, internal linings, plastic bags, paper containers, packaging papers, etc. explosive leftover materials shall be checked for residue powder and then burn onsite, do not use for other purposes.
5. the explosives shall be stored in accordance to the types and enter time. The sign must face out. Between storage piles, there shall be access way. Follow first in first use requirement.
6. Maintain the explosive packaging integrity. If damaged or opened, return to the original condition and mark and place at outside for first use.
7. Warehouse shall install thermometer and humidity gage. Record temperature and humidity in details. If the warehouse internal temperature exceeds 37.5 °C (100 °F) for over 24 hours, use outside water spray and other temperature lower means to lower warehouse internal temperature.
8. The opening of explosive containers shall be at a distance 24 m away from the warehouse. Or at locations approved by MOEA. Use wooden material safety tools.
9. The discarded or non-usable explosives shall stored separately. Destruct in accordance to article 38.

### **Clause 37**

The storage of explosives shall meet the following safety requirement:

1. Use sturdy wooden or non-electric conduct materials containers, the internal shall not have iron or other metal points.
2. Explosive shall be in the original packages. Do not change. Do not use acidic, alkaline and oily paper to package or fill.
3. Mercuric fulminate, lead azide and DDNP etc. explosion initialization agent shall be wetted with 20 to 40% water. Fill in with wood powder or other anti-shock materials between internal and external packages.
4. PETN etc. sensitivity explosion transmission agent shall be soaked with 40% water. Do not store dry.
5. Black powder and other powdery agents shall use tight packaging. Avoid leaks. If there is leakage, clean immediately.
6. Picric acids shall not use metal containers other than tin foil to store. Avoid contact with lead, iron etc. metals.
7. When store nitroglycerin explosives, for every 30 to 60 days, each box shall be turned once to avoid glycerin oil leak.
8. For nitroglycerin explosives, if there is nitroglycerin leak and contaminates container outside boxes or warehouse floor, use sulfur sludge (two parts of sulfur, one part of sodium carbonate and four parts of water) to absorb, then clean with dry cloth. Then wash

with warm water. The sulfur sludge and clean cloth shall be burned together at designated sites.

9. Fire rope shall avoid overheat, moisture, contact with oil and cold etc. This will lead to slower burning rates, not combustible and fire leak etc. conditions.
10. The detonator packaging wood box shall be kept in good shape. Avoid heat and shock. When distribute, try to use a full box, if possible.

### **Clause 38**

When the use organization noticed that the explosives are not usable, report to MOEA for approval to be destructed. Do not treat without authorization.

The destruction process shall be witnessed by local police and fire departments, and supervised by MOEA or manufacturer's technical personnel.

The destruction treatment requirement shall be specified by MOEA.

### **Clause 39**

When transport explosives, follow approved routes and time and follow the following requirement:

1. Passing through Taipei City, between 0000 to 0530 only. For other areas, the restriction shall be based on needs.
2. Passing through specific points and routes, the use organization shall, three days ahead of time, submit, in details, the explosive types, name, quantity, transportation vehicles, transport supervisor, transport time, routes, starting and ending points, and certificates or transport certificate numbers, to local police department for approval and arrange personnel to direct traffic or lead.
3. When the locality has parades etc public meetings, or disasters etc. traffic jams. Use alternate routes, do not stop and wait.

The specific points and routes shall be assigned by the police bureau of the ministry of interior.

The facility to manufacture, process and sell explosives and the use organization, when transport explosives, shall follow traffic safety regulation article 84 on vehicle carrying hazardous materials requirement.

### **Clause 40**

Explosives shall not be mixed with other materials for transportation. And follow article 37 and the following requirements:

1. Road transport vehicles shall use sturdy and safe vehicles with at least 4 wheels.

2. The use organization or manufacturer shall assign personnel as supervisor. No other personnel are allowed on the vehicle.
3. Detonator shall not be transported together with powder, explosives, blasting agent, wire rope or raw materials on the same vehicle.
4. The transport supervisor shall not be too far away from the vehicle. He shall make sure that all personnel on the vehicle do not carry ignitable materials, smoke or drink.
5. The explosive packaging shall be sturdy, with internal padding for shock resistance. During transportation, they shall not be under direct sun light.
6. To park the vehicle or unload explosives, first turn off the engine and fix the brake. During rest, keep a distance from the vehicle. Park in open space. Do not park near places with fires, gas stations or other non-safety locations.

**Clause 41**

When discovering deserted, buried or salvaged explosives, the discoverer or salvager shall report to local police department.

**Clause 42**

The facility manufacturer, process, sell, import or export explosives and use organization shall keep all books and reports for five years.

**Clause 43**

For the article 19 assigned personnel, if new, the organization shall provide them with professional training. The current employee shall be trained on the job. MOEA may conduct its own training for them.

**Clause 44**

If explosive accidents occurred, immediately proceed with emergency response measures. And immediately report to local police and fire department and ministry of economics.

**Clause 44-1**

For on-site mixing blasting agents, the article 39 and 49 are not applicable.

## **Chapter 6 use**

**Clause 45**

The explosives of the use organization shall be distributed based on management personnel's application. The requested amount shall

not exceed one day's estimated usage.

**Clause 46**

The application and use of detonator and explosives shall follow the following requirement:

1. Shall be handover at a proper location away from the warehouse.
2. The explosives and detonators shall be packaged separately in non-metal containers. No other objects are allowed to be in the container. There shall be signs out side the container to indicate detonator or explosive.
3. The explosive container or detonator container shall be stored at a safe location outside the work site. Do not near fire source, steel rail, high voltage wire, battery or other combustibles.

**Clause 47**

Unless required otherwise, the use organization shall follow the following requirement to use the explosives:

1. When install the detonator into the explosives or (and) connect safe fire ropes to the detonators, it shall be at a location near the work site and use safety tools. Keep far away from fire source, electric wire, electric equipment, steel rail and operating equipment.
2. Ignition task shall be supervised on site by blast supervisors.
3. When fill the explosives into the cannon hole, use wood or bamboo rod.
4. After the explosives filled the cannon hole, then fill with clay, sand bag, water bag or other non-combustible materials.
5. When use electric detonator, before connecting to the wires, connect the two legs of the wire together. When ignition, use inspection approved igniter.
6. When not using the ignition wires, connect the two ends of the wire. They should be always connected. The two ends connecting to the detonator shall be separated with different length. The ignition wire shall be completely insulated electric wires. There shall be no damage. Keep away from electric carrying objects. The length shall be sufficient to maintain safety for the blasting personnel.
7. The blasting personnel, before blasting, shall provide alarm and station security personnel. Make sure that all nearby area person and animals are in the safety area. Then he may ignite. The security personnel shall only leave the site 15 minutes after the blasting.
8. The installation, connection, use and blasting of the explosives are restricted to designated personnel.

9. The left over or no good explosives shall be returned to the warehouse daily. They shall not be stored at any other places. For 24 hours operation project. They shall be returned to the warehouse within 24 hours. However, the said explosives may stand out of the magazine by MOEA's approval in case there is any special circumstance.

#### **Clause 48**

When use electric detonator to blast, after energized, blasted or not, first cut off igniter's power and remove wire from the igniter. Then connect the wires. Wait for over 15 minutes before entering into the work site for necessary check.

When use normal detonator and connect safe fire rope to blast, after firing, blasted or not, wait for over 30 minutes before entering into the work site for necessary check.

#### **Clause 49**

After blasting, inspect the blasting site, if there is residue explosives, take the following measures:

1. To clear out residue explosives in the cannon hole, use one of the following methods:
  - (1) At a location 40 cm or over away from the original hole, dig an equal depth horizontal hole and blast.
  - (2) Use pressurized water or compress air take out the filling material and blast again
  - (3) Use safe method refill the original hole and blast again
2. When loading the stones from the previous treatment, hung signs and report to blast supervising personnel.
3. For the hole with residue explosives, hung signs. If during shift change, explain to the next shift personnel. If no next shift, assign designated person to guard or set up fence etc.

#### **Clause 50**

When use normal detonator and use the same person to ignite continuously, follow the following requirement:

1. Use inspection approved igniter
2. Each continuous ignition shall not be over 15 times
3. The safe fire rope for each hole shall be over 1 meter. The last rope length shall be of sufficient length for the igniting person to reach safe place.

#### **Clause 51**

The explosive quota, used or not, shall be listed in the ten day report. It shall be submitted within three days in the next ten day period to local police and fire department, and MOEA. The explosive quota, used or not, shall be listed in the ten day report. It shall be submitted within three days in the next ten day period to local police and fire department, and MOEA.

## **Chapter 7 Explosive Controller**

### **Clause 52**

The person having one of the following qualifications and has attended and qualified in the Explosive Controllers Training hosted by Ministry of Economic Affairs (MOEA) being recommended by the application party for participating the training is an explosive controller:

1. The person being a graduate of chemistry, chemical engineering, mining management, civil, fire-fighting major from a domestic or overseas college or university or a graduate of other related subject with the training of explosive related subject and holding the certificate or graduated from the Government's High-grade Examination of relevant subject, and has worked as an assistant explosive controller or more than one year of work experience in application.
2. A graduate of chemical engineering, mining management, civil of High-grade Industrial Technical School, or a graduate of High-grade Secondary School or a qualified in Ordinary Examination, and has worked as an assistant controller or having the qualification of the mining site safety controller and has supervised explosive controlling or more than 2 years of work experience in application.
3. A graduate of higher than National Secondary School or having the qualification of mining site safety inspector, has worked as an assistant controller or having more than 3 years of work experience in application.
4. The ones having the qualification as Class-A and Class-B explosive controllers before the announcement of the revision of this regulation on 30 June 1999.

### **Clause 53**

1. The duty of explosive controllers are as follows:
2. The management of explosive acceptance & distribution, storage and transportation.

3. Supervision of the escort of explosives transportation.
4. Supervision and direction of the explosives storage keeper.
5. Reporting for handling of explosive loss, stolen, accident, quality deformation and elimination.
6. Recording and book-keeping of various items of books and certificates of explosives.
7. Routine making and reporting of various report sheets and records.
8. Other works related to explosives controlling.

**Clause 54**

The person having one of the following conditions shall not be taken as an explosive controller:

1. The person who is confirmed in the imprisonment for a definite term in foreign aggression, civil convulsions, public danger, homicide, burglary, robbery, invasion or kidnapping etc.
2. The person who is confirmed in the imprisonment for a definite term in violation of weaponry and arms restriction regulation.
3. An announced interdicted person.
4. The ones having the criminal record within the last 3 years.

The employment of explosives storage keeper, exploder and detonation supervisor shall be made in accordance with the aforementioned regulation.

**Clause 55**

When explosive controller is to be employed by explosive manufacturer, processor or vendor and the application department, the person in-charge of the department shall fill in the application letter for assignment of explosive controller, attached with the explosive controller's certificates or educational certificate, Certificate of Registered Residence (photocopy) and resume as submittal to the Ministry of Economic Affairs for approval.

The department of the assignment should furnish the list of explosive controller, explosives storage keeper, exploder and detonation supervisors and submit it to the Ministry of Economic Affairs, and also submit to the local police station and fire-fighting authority for approval.

At the approval of the first-item personnel, the Ministry of Economic Affairs shall provide Explosive Controller Certificates to the first-

time personnel in charge.

**Clause 56**

The explosive controller must be a full-time person in-charge. Unless approved by the Ministry of Economic Affairs (MOEA) for working as part-time explosive controller for an application party located within 10 km of distance with the application quantity below 100 kg, no part-time work can be made.

**Clause 57**

Explosive controller must not get away from the duty. When the duty is unable to perform for a period below 30 days for certain reason, the party of the assignment shall replace the post temporarily with an appropriate personnel for the time being; the ones longer than 30 days, shall be assigned with one qualified person as acting for the absent personnel. Moreover, they shall be submitted to MOEA, the local police station and fire-fighting authority of the explosives storage site for approval.

When an explosive controller resigns, the department of the employment shall assign an appropriate personnel for acting for the post. In addition to submittal of the incidence to MOEA, local police station and fire-fighting authorities of the explosives storage site for documentation, a qualified personnel shall be employed within one month for the replacement.

**Clause 58**

MOEA should arrange the industrial-use explosive controllers training for more than one-month of training period as per actual demand. The qualified persons after the training shall be provided with graduation certificates.

The qualification required for the aforementioned training shall be designated by MOEA.

## **Chapter 8 Supervision**

**Clause 59**

MOEA and various levels of police authorities should dispatch personnel from time to time for inspecting various items of hazards prevention, thief prevention facilities and the regulations of explosive manufacturer, processor, vendor and application unit.

**Clause 59-1**

The project-commissioning department shall be responsible for supervising the explosives application department that undertakes the



work. The one that fails to supervise as per the aforementioned requirement shall be notified by MOEA for instructing the project commissioning department to investigate for penalty.

#### **Clause 60**

For preventing accident, maintenance of public safety, if necessary, MOEA shall enforce the manufacturer, processor, vendor or application department to take the following measures:

1. To entirely or partially stop the use of the facilities or explosives storage.
2. Prohibit or restrict the manufacturing, vending, processing, storing, transportation or application of explosive.
3. The change of explosives storage location or disposal of its owned explosives.

When the aforementioned circumstances is encountered, the police authority shall execute and coordinate with MOEA for handling.

#### **Clause 61**

For the purpose of the social order of the governing area, the local police authority shall prohibit or restrict the transportation and application of explosives within specific area, along certain route or within certain time.

#### **Clause 62**

The local police station shall evaluate and record the explosive controller, explosive storage keeper, detonation supervisor and exploder from time to time.

The aforementioned evaluation method and necessary recording items shall be designated by the Ministry of Interior (MOI).

## **Chapter 9 Penalty**

#### **Clause 63**

The one that conducts manufacturing, vending, transportation or holding explosive in violation of the regulation, in addition to be punished in accordance with the regulation, he/she shall be transferred to the judiciary for the committed crime.

#### **Clause 64**

The explosives of the one having one of the following conditions shall be detained for 3~10 days by the local police station according to the degree of the scenario:

Violation of the regulation specified in Clause 10 (sub-clause 1), Clause 13 (sub-clause 2), Clause 15, Clause 20, Clause 33 (sub-clause 2), Clause 35, Clause 36 (sub-subclause 1), Clause 44, Clause 45, Clause 47 (sub-subclause 2 & 8), Clause 51, Clause 55 (sub-clause 2) or Clause 57 (sub-clause 1).

Loss of certified distribution & purchase permit that failed to respectively report within 24 hours.

#### **Clause 65**

The explosives of the one having one of the following conditions shall be detained for 10~20 days by the local police station according to the degree of the scenario:

1. Fake arrangement of explosive controller for proposing as the application of the explosives.
2. Violation of the regulation specified in Clause 14 (sub-clause 1 & 2), Clause 39, Clause 40, Clause 47 (sub-subclause 9) or Clause 57 (sub-clause 2).

#### **Clause 66**

The one having one of the following conditions, his/her explosives shall be detained by the local police station and reported to MOEA for stopping the provision (application) of explosive, and the detained explosives shall be treated in accordance with the applicable laws:

1. The one that violates the regulations specified in Clause 13 (sub-clause 1).
2. The one that transfers the ownership sells or conducts fake acceptance of distribution & purchase certificate.
3. The one that violates the regulations specified in Clause 38 in eliminating or disposing explosive.
4. The one that hides the reality and reports the burglary of explosive in fake.

The duration of the aforementioned detention shall not exceed 30 days.

#### **Clause 67**

The manufacturer, processor, vender of explosives that violate the regulations specified in Clause 7 (sub-clause 1 & 2), Clause 8 (sub-clause 1), Clause 9, Clause 10 (sub-clause 2) or Clause 19 shall be punished by MOEA in accordance with the degree of the scenario as follows:

1. Cancellation of the permit for explosive manufacturing, processing, vending and application.
2. Forced buy of his/her explosives.

3. Stop manufacturing or distribution for sales of his/her explosive.

#### **Clause 68**

Under one of the following conditions, the Explosive Controller Certificate of the explosive controller shall be cancelled by MOEA:

1. The one who is applicable to one of the situations specified in each sub-clause of Clause 54.
2. The one who conducts the burglary during his/her duty.
3. The one who hides the reality and reports the burglary of explosive in fake.
4. The one who trades, transfers the ownership, loans, hides, disposes or loses of explosive.
5. The one who is in charge of an explosive controller but fails to execute the duty of an explosive controller.

#### **Clause 69**

The explosives detained by the police authority shall be sealed and watched in a way by assigned personnel or other appropriate person for keeping it with respect to the scenario. But the one who is detained for penalty as per the criminal act shall be an exception.

The aforementioned execution procedure and regulation are as follows:

1. The detention of explosive shall subject to the approval of the county/city police station and to be notified by the local police station of the explosive storage site to MOEA for execution. The detained explosive shall be prohibited from application during the detention period.
2. At the expiry of the detention period, after the re-inspection made as per requirement is qualified, the explosives shall be returned for application.
- 3.
4. The explosive being announced by the legal court for confiscation shall be submitted to MOEA for handling in accordance with the notice from the court.
5. When execution of detention or distribution (application) suspension, the fact shall be clearly investigated as reference for further judgement.

The regulation shall be notified to the party conducting improvement in writing.

#### **Clause 70**

The party that Violates Clause 23 in failing to report for storage quantity reduction, fails to submit the explosive storage erection permit for correction or fails to find the erection site within 3 months shall not be certified for explosive provision.

## **Chapter 10 Supplementary Regulations**

### **Clause 71**

The explosives demanded by military engineering shall be proposed in writing by the military headquarter or Logistic Deputy Chief of Staff Division of Ministry of Defense to MOEA for provision, and shall be liable for keeping them by the relevant application unit in accordance with the military explosive materials control regulation.

### **Clause 72.**

The civilian's firm that undertakes military works shall uses general explosives. They shall apply to MOEA in accordance with the regulation specified in this volume for obtaining the explosives procurement permit. The explosives that are stocked within military zone shall be controlled by the military.

### **Clause 73**

(Voided)

### **Clause 74**

The format of the book, sheet or forms required in this working procedure shall be designated by MOEA.

### **Clause 75**

This working procedure shall come into effect from the date of announcement.

This working procedure is revised on 30 June 1999 and shall be implemented from 1 July 1999.

## QUESTIONNAIRE 9

**TARIFF QUOTA:** DEPARTMENT OF CUSTOMS ADMINISTRATION, MINISTRY OF FINANCE  
[Governing Regulations 9-1](#)

# The Regulations of Tariff Quota

Amended on 12 July 2004

## Article 1

The Regulations are enacted pursuant to the provisions of Paragraph 2, Article 5 of the Customs Act ( hereinafter referred to as "the Act" ) .

## Article 2

"Tariff Rate Quota" referred to in the Regulations means to specify a certain quantity for specific imported goods. The lower tariff rate ( hereinafter referred to as "in-quota tariff rate" ) applies on imported goods within the quota, and the normal tariff rate applies on imported goods in excess of the quota ( hereinafter referred to as "out-quota tariff rate" )

## Article 3

The tariff rate quota is allocated by the Ministry of Finance or the delegated organizations or other entrusted authorities.

## Article 4

Whilst in-quota tariff rate applies on imported goods, the quota shall be allocated by the method of first-come first-served or the method of allocation in advance.

Under the method of allocation in advance, quota shall be allocated by the following ways:

- 1.The order of application
- 2.Ballot

3.The performance of importation

4.Auctions for tariff quota rights

5.Other methods agreed by international treaties or approved by the Ministry of Finance consulting with the related authorities concerned.

The performance bond or premium shall be collected whilst quota is allocated in accordance with the preceding Paragraph.

## Article5

The methods of allocation, period of allocation, the number of installments for distribution, the beginning and final dates of application for allocation, the ways of allocation, the lowest and highest sum of quota, eligibility of application for allocation, the collection of performance bond or premium, and other related issues about the implementation of tariff quota shall be announced before the implementation of tariff quota after consultation with the related authorities concerned and shall be published in the official journal of the government. Under the method of allocation in advance, the announcement should be made public 60 days in advance of the start of the application period, but the period of notice that has been agreed in other international treaties will be applied in accordance with the agreements in those treaties.

Under the method of allocation in advance, if the method of installment distribution is used, the quantity of quota in each installment shall be published 21 days in advance of the start of the application period for each installment.

In the case where tariff rate quota are increased in accordance with Article 71 of the Customs Act, the ways of allocation, eligibility of application for allocation, the collection of performance bond or premium, the period of notice and other related issues about the implementation of tariff quota shall be published by the Ministry of Finance after consultation with the related authorities concerned.

## Article6

The tariff rate quota can be allocated by countries and territories respectively with consideration of special need or in accordance with international treaties.

The country of origin of imported goods shall be determined under " Rules of Origin On Imported Goods ". The Customs can request the duty-payer to provide the verification documents for the country of origin.

## Article 7

Under the method of first-come first-serve, quota shall be allocated by the order of the date of importation. Whilst the quantity of declaration within the same date of importation is over the unused quota, the quota shall be allocated by pro rata based on the quantity of declaration respectively.

The date of importation referred to in preceding Paragraph shall be the arrival date of transportation means carrying such goods. But if goods are stored in the bonded warehouse under Article 58 of the Act, the date shall be the application date of withdrawal for importation.

## Article 8

Whilst quota is allocated by the method of first-come first-serve, the Customs shall announce if the quantity of declaration reaches certain volume, and shall examine and release the imported goods after that the procedure of allocation is performed by the Ministry of Finance or the delegated organization or the entrusted authorization. In view of the need to retrieve imported goods in advance, the duty-payers can pay the guaranty deposit equivalent to the amount of customs duties calculated by out-quota tariff rate and apply for the release of imported goods.

The certain volume referred to in preceding Paragraph and the allocation method of goods referred to in Article 5 of the Regulations shall be announced at the same time.

The importers can not request for applying the in-quota tariff rate to imported goods if the importers submit declarations over 15 days from the arrival date of transportation means carrying such goods and the quota has been allocated.

## Article 9

Under the method of allocation in advance, the importers shall apply to the Ministry of Finance or the delegated organization or the entrusted authorities for participating the allocation of quota before the final application date, which is announced in accordance with the Paragraph 1, Article 5, accompanied with the application form of tariff quota indicating the following items:

1. The Chinese/English name, the number of profit-seeking enterprise registration/the number of identification card, address and phone number of applicants.

2.The tariff number, description of goods, quantities, units of the imported goods.

If the quota is determined by the country of origin or territories respectively, the application form of tariff quota shall indicate the information of country of origin.

## Article 10

Under the method of allocation in advance, the Ministry of Finance or the delegated organization or the entrusted authorities shall announce the name list of recipients within 14 days of the close of the application period announced under Paragraph 1 Article 5 of the Regulations, and shall collect the performance bond or premium whilst issuing the certificate of tariff quota.

The premium referred to in Paragraph 1 shall pay to the national treasury except that the premium of agricultural products shall be used as the source of salvage fund for agricultural products injured by importation.

## Article 11

The quota allocated in accordance with the Article 9 can be transferred partial or wholly within the valid period of the tariff quota certificate.

To transfer quota referred to in Paragraph, both obligee and transferee shall fill the application form of tariff quota and apply to the original authority which allocated the quota for transference of quota and the performance bond accompanied by the following documents :

- 1.The original tariff quota certificate
- 2.The agreement of transference of tariff quota with mutual subscription
- 3.The agreement of transference of the performance bond with mutual subscription.

On receiving an application for transference of quota referred to in the preceding paragraph, the original authority may separately re-issue TRQ certificates for the transferred quota, and the remainder of the quota which the imported or transferred quota are deducted from the quota written on the original tariff quota certificate. The validity of the certificate shall be the same as the date written on the original tariff quota certificate.



## Article 11-1

Both obligee and transferee may apply to the original authority which allocated the quota for return of the performance bond referred to in the preceding paragraph after the importation of the entire goods or the amount of the goods after transference, within the valid period of the tariff quota certificate.

The performance bond shall belong to the national treasury instead of refunding if neither the obligee nor the transferee apply for refund within 5 years or do not import the goods entirely within the valid period of the tariff quota certificate.

The un-imported goods of the obligee and transferee which are less than a certain proportion of the quota written on the tariff quota certificate shall be regarded as imported entirely. The aforementioned proportion shall be included in the announcement made by the Ministry of Finance in accordance with the provision of Article 5.

## Article 12

Under the method of allocation in advance, the importers can import goods partially or wholly within the valid period of the tariff quota certificate. The customs shall deduct the imported quantity from quota after examining the exactly arrived goods and then forward the quantity of deduction to the original authority which allocated the quota.

## Article 13

Under the method of allocation in advance, if the quantity of quota can not be imported entirely before the expiration of the tariff quota certificate, the importers can apply to the original authority which allocated quota for extension to the final date in the year before the expiration of the valid period, accompanied by the transaction contract and the original certification of the tariff quota.

Under the method of allocation in advance, if the method of installment distribution is used, the quota allocated in each installment must be imported entirely before the expiration of the tariff quota certificate in the given period, and no extension may be applied for. Such importers as import rice and rice products may apply for extension to the final date in the such year in accordance with the preceding paragraph.

## Article 14

If the quota was allocated in accordance with Article 9 but without the issuance of tariff quota certificate or without the application of

importation at the same year, the Ministry of Finance shall reallocate the tariff quota and announce 21 days prior to the beginning date of application for reallocation, except that such extension of period is approved in accordance with the preceding Article.

The application for participating the reallocation, the allocation and the issuance of tariff quota certificate referred to in preceding Paragraph, should be implemented in accordance with the Article 9 and Article 10.

### Article 15

In view of the need to amend the name of profit-seeking enterprise registration, address or telephone number, the importers shall apply to the original authority which allocated the quota for amendment within the valid period of the certificate, accompanied by the authentic writing of certificate and related documents.

### Article 16

Under the situation that imported goods are applying the in-quota tariff rate of the method of allocation in advance, whilst the importers can not submit tariff quota certificate on time but can rectify the procedure, the importers can apply for goods examined and released accompanied with the payment of guaranty deposit equivalent to the amount of customs duties calculated by the out-quota rate and rectify the procedure within the valid period of the certificate. If the procedures can not be rectified, the guaranty deposit shall be confiscated under the Paragraph 3, Article 18 of the Act.

### Article 17

If the imported goods can not apply the in-quota tariff rate, the importers can import good with the declaration under out-quota tariff rate, or act by the following methods before goods released by the Customs

1. Apply to re-export the goods.

2. Apply to store in a bounded house under Article 58 of the Act and "the Regulations Governing the Establishment and Management of Bonded Warehouse".

## Article 18

The implementation of the tariff rate quota increase according to Article 71 of the Act, with the exception of Paragraph 1, Article 5, shall be implemented in accordance with the Regulations of Tariff Quota.

The implementation of the tariff rate quota adopted according to Article 72 of the Act, shall be implemented in accordance with the Regulations of Tariff Quota.

## Article 19

These Regulations shall be come into force from the date of promulgation

Attachment 1: APPLICATION FORM FOR GLOBAL TARIFF RATE QUOTA

Attachment 2: PREMIUM BIDDING FORM FOR GLOBAL TARIFF QUOTA



# APPLICATION FORM FOR GLOBAL TARIFF RATE QUOTA

\* print type by the applicant

<p><b>(1) Applicant</b> (Name in English and Chinese, Business Registration No., Address, Telephone No. and Facsimile No.):</p>	<p><b>(3) Source of Origin:</b> WTO Member</p>	
<p><b>(2) Seals of the Applicant</b> (including both company &amp; person in charge):</p>	<p><b>(4) Documentations attached</b></p> <ol style="list-style-type: none"> <li>1. Copy of qualification documentation (please check applicable boxes) <ul style="list-style-type: none"> <li><input type="checkbox"/> Copy of Registration Card or Certificate for Exporter/Importer</li> <li><input type="checkbox"/> Copy of Business Registered Certificate</li> </ul> </li> <li>2. <input type="checkbox"/> Original Receipt of Post Office Fund-Transfer for Service Charge</li> </ol>	
<p><b>(5) Quantity:</b></p> <p style="text-align: center;">MTS</p> <p>(Quantity of Deer Velvet:      KGS)</p>	<p><b>(6) Quota Variety/Product (Check one box only)</b></p> <p><input type="checkbox"/> A. Chicken Meat    <input type="checkbox"/> B. Pork Belly</p> <p><input type="checkbox"/> C. Pork Offal        <input type="checkbox"/> D. Poultry Offal</p> <p><input type="checkbox"/> E. Deer Velvet       <input type="checkbox"/> F. Fresh Pears</p> <p><input type="checkbox"/> G. Banana</p>	<p><b>(7) Lot of Quota Allocation</b></p>
<p>We hereby agree to abide by the relevant notices and regulations concerning the application of Global Tariff Quota. In the meantime, we agree to accept, if violated, punishments including suspension of quota application, quotas withdraw etc. as stipulated in the Customs Law or other relevant laws.</p> <p style="text-align: center;">to</p> <p style="text-align: center;"><b>Central Trust of China, Trading Department</b></p>		

※ **Remarks: 1. The above-mentioned products shall be imported in compliance with the relevant quarantine/inspection and importation regulations.**

**2. To avoid errors and mistakes, please fill in this application form in accordance with instructions on the reverse side.**

<b>Do not fill in</b>	<b>Evaluation Result</b>	<input type="checkbox"/> <b>Unqualified</b>	<input type="checkbox"/> <b>Qualified</b>
		<input type="checkbox"/> Unqualified date of sending <input type="checkbox"/> Unqualified quantity <input type="checkbox"/> Unqualified in applicant's qualification <input type="checkbox"/> Apply for more than one product <input type="checkbox"/> Incomplete Documentations <input type="checkbox"/> Repeated application <input type="checkbox"/> Service Charge not paid <input type="checkbox"/> Others	

th e ri gh t bl an k	<b>Allocation Result</b>
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# PREMIUM BIDDING FORM FOR GLOBAL TARIFF QUOTA

We, the Tenderer, hereby certify that we can firmly get supply of the qualified product and assures that the product will arrive on or before the validity date of quota certificate. Otherwise, we shall be responsible for any consequences. We also confirm that our bid for product is in conformity with all the requirements in CTC's Invitation documents as follows:

Quantity: \_\_\_\_\_ Metric Tons

※Notice :

*Quantity is neither permitted to be lower than the floor quantity, nor over the ceiling quantity specified in Instructions for bid of the products . The unit of quantity is metric ton.*

Unit Price of Premium: New Taiwan Dollars \_\_\_\_\_ Per Metric Ton.

If there is any illegal or improper activities that may impair the fairness of the bid, the Tenderer shall assume full legal responsibilities.

To

Central Trust of China, Trading Department

Tenderer : \_\_\_\_\_ Seal: \_\_\_\_\_

Representative : \_\_\_\_\_ Seal: \_\_\_\_\_

Address : \_\_\_\_\_

Telephone : \_\_\_\_\_ Fax : \_\_\_\_\_

Opening date of Tender

The Deposit will be paid by Banks' check. Details are as follows :		CTC'S Cashier:
Tenderer : _____ bid for _____ MT <u>(product)</u> pay Deposit NT\$ _____		
1.Kind of Check :	3.Issuing Bank:	
2.Paying Bank :	4.Check No :	