2009

AmCham Taipei

TAIWAN WHITE PAPER

AMERICAN CHAMBER OF COMMERCE IN TAIPEI

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The annual *Taiwan White Paper* is written and published by the American Chamber of Commerce in Taipei (AmCham). It includes an overall assessment of Taiwan's business climate, a review of the status of last year's priority issues, and statements of the current priority issues identified by AmCham's industry-specific committees. An additional section offers recommendations to the U.S. government.

The primary purposes of the *Taiwan White Paper* are information and advocacy. The document outlines AmCham's suggestions to the Taiwan government and public on legislative, regulatory, and enforcement issues that have a major impact on the quality of the business environment. It is also used to inform government officials, elected representatives, and other interested parties in the United States about Taiwan's business climate.

Although the *Taiwan White Paper* represents the immediate business interests of AmCham's approximately 950 members, its ultimate goal is to foster the upgrading of Taiwan's economic conditions to the benefit of both local and multinational businesses. It is also in the interest of the Taiwan public at large, as it encourages the growth of a broad spectrum of high-quality of goods and services to improve the quality of life for all Taiwan residents.

The *Taiwan White Paper* can also be found online, where PDF files may be downloaded from the Publications section of the AmCham website at www.amcham.com.tw .

Get Ready for Recovery

BREAKTHROUGH ACHIEVEMENTS

- The past year has brought some major accomplishments: forging a new, constructive economic relationship with China and fulfilling commitments to join the WTO's Government Procurement Agreement.
- Passage of the Internet Service Providers bill has further strengthened Taiwan's IPR regime, validating its removal from Washington's Special 301 Watch List.

UNPRECEDENTED CHALLENGES

- The global economic crisis poses great challenges for all governments, but especially for Taiwan given the heavy dependence on exports.
- The Ma administration responded quickly, though the magnitude and complexity of the crisis means no government can be sure it has done enough.
- Taiwan needs to engage in self-examination, devising ways to build on its strengths and correct its weaknesses.
- International competitiveness surveys can provide a valuable benchmark. Taiwan is losing ground as rival economies improve rapidly.
- The aspect in which Taiwan is usually weakest in such ratings is government efficiency.

REGULATORY MINDSETS

- In addition to revising and rescinding outdated regulations, the government should retrain civil servants to help ensure efficient implementation.
- Top level officials may be open-minded and internationalist, but the working level is often obstructionist if not protectionist. This problem is being cited by more and more Chamber committees.
- Regulatory bodies need to increase transparency, consulting with industry before policy changes are decided upon. Sufficient preparation time must also be allowed before a new regulation goes into effect.
- Unique-to-Taiwan solutions are no substitute for following internationally practiced norms.
- Regulators should reach out to their counterparts in the U.S. and elsewhere to "compare notes" and coordinate approaches.

SOURCES OF FRUSTRATION

- Telecommunications and media companies have been disheartened by the reluctance of NCC commissioners to dialogue with the private sector.
- Pharmaceutical and medical device manufacturers already endure some of the lowest prices on the planet, and further price cuts are being planned.
- Banks are facing a move by lawmakers to impose an interest-rate ceiling that would be detrimental both to the industry and to consumers' access to credit.
- GPA creates a level playing field for central-government projects. Extension of the same spirit to county-level projects would help assure high-quality infrastructure.

THE CHINA CONNECTION

- Taiwan's location was formerly just a potential advantage. With direct cross-Strait flights, it should bring real opportunities as a center for Greater China business activity.
- The prospective financial services agreements and mainland investment in Taiwan will further strengthen the cross-Strait economic relationship.
- A free trade agreement such as ECFA can help Taiwan overcome tariff differentials and preserve its largest export market.
- The issue is an economic one and should not be unnecessarily politicized.

PROVIDING GOOD BALANCE

- The defused state of tension in the Taiwan Strait will encourage both Taiwanese and international investors.
- Better cross-Strait relations should also enable Taiwan to shore up its ties with the U.S.; AmCham urges early TIFA talks and progress toward a Bilateral Investment Agreement.
- Taiwan should lift its ban on bone-in beef from the U.S. in the absence of any scientific evidence of risk.

CONCLUSION

- Sharpening Taiwan's competitiveness today will help ensure that it can reap the maximum benefits when the economy begins to rebound.

摘要

為經濟復甦做好準備

突破性的成就

- 過去一年來，台灣有幾項重大改革與突破：兩岸經貿互動的環境現在更具嶄新面貌與建設性，以及台灣終於加入世界貿易組織（WTO）的《政府採購協定》。
- ISP法案的通過，象徵台灣進一步強化智慧財產權保護法規體系，與美國將台灣從特別301觀察名單中除名的決定相呼應。

空前的挑戰

- 全球經濟危機對各國政府形成空前挑戰，但對台灣這個高度依賴出口的經濟體，衝擊更是特別顯著。
- 馬政府已推動相關措施，快速因應全球經濟衰退的可能衝擊，但在全球經濟大幅度衰退下，各國政府都很難保證振興經濟政策是否足以應付嚴峻的挑戰。
- 台灣應檢討分析自身優缺點，並以積極作為強化優勢、修正弱點。
- 國際經濟與管理機構的競爭力調查是十分有價值的指標。令人擔心的是，台灣在過去一兩年間，於各項調查的排名都快速下滑。
- 台灣在各項調查中，表現最差的項目是政府效能。

法規管理心態

- 除了法規鬆綁革新以外，政府亦應加強對公務員的再訓練，以確保政策目標的落實。
- 高層官員通常心態開放且具國際觀，但實際負責執行政策的基層公務員，往往持保守閉塞、甚至是保護主義的做法。越來越多的委員會抱怨這個問題。
- 法規主管機關的透明度也必須強化，進行任何政策改變前，應先與業界溝通。新法規實施之前，也必須有足夠的緩衝準備期。
- 避免忽略國際慣例，而施行台灣唯一的獨有法規。
- 台灣政府機關應與美國及其他國家的相關主管機關交流，討論共通的法規問題之解決方法。

挫折來源

- 電信與媒體產業既失望又難以理解的現象是，國家通訊傳播委員會非常不願意與民間業者溝通。
- 製藥與醫療器材產業面臨的困境則是，部分產品的健保給付價格已創全球新低，又即將面臨藥價調整的衝擊。
- 銀行業的困境是，立法院正在審理一項限制法定利率上限的修正案；該法案一旦通過，將對整體業界及消費者融資管道造成極大傷害。
- GPA為中央機關層級的採購案，提供公平競爭的平台。GPA規範的精神應進一步擴大到地方政府層級的採購業，以提升基礎建設的品質。

兩岸關係互動

- 台灣與中國距離相近，過去僅是一項潛在優勢。隨著兩岸直航的開啟，台灣現在應有機會真正成為大中華區商業活動的核心據點。
- 透過未來的兩岸金融合作協議及中資來台投資，相信兩岸經貿關係將更加緊密。
- 類似自由貿易協定的ECFA，可望協助台灣克服關稅劣勢，並保住其最大的出口市場。
- ECFA是經濟議題，不應被無謂地政治化。

美中台均衡發展

- 兩岸緊張情勢的和緩，能讓國內外投資人對台灣市場更有信心。
- 兩岸關係改善同樣有助於穩定台美關係。美國商會呼籲台美 TIFA 會談儘速舉行，並希望雙方就《雙邊投資協定》的初步討論能有進展。
- 沒有任何科學證據顯示，美國帶骨牛肉會對人體產生危險，因此台灣應儘速解除這項禁令。

結論

- 現在就開始提升台灣競爭力，將能確保未來全球經濟復甦時的豐碩成果。

Get Ready for Recovery

BREAKTHROUGH ACHIEVEMENTS

The 12 months since release of the 2008 *Taiwan White Paper*, coinciding with the first year of the Ma Ying-jeou administration, have brought breakthrough achievements on several issues of major concern to the multinational business community, as prominently expounded upon in past *Taiwan White Papers*. Foremost among these accomplishments have been the forging of a new and constructive environment for increased economic interchange with China – the world's fastest-growing market – and Taiwan's fulfillment, after long delay, of its commitment to join the Government Procurement Agreement (GPA) under the World Trade Organization (WTO). Both of these steps will enable Taiwan to play a more dynamic role in the regional and global economic arena, abandoning the tendency toward self-marginalization that had previously been worrisomely evident.

In addition, following up on last year's creation of a specialized Intellectual Property Rights (IPR) Court, Taiwan has further strengthened its IPR regime through the Legislative Yuan's enactment in April of an ISP bill to specify the obligations and liabilities of Internet Service Providers with respect to pirated content. Through its continued attention to IPR issues, Taiwan has validated the decision of the U.S. government this spring to delete its name from the Special 301 Watch List, the roster of countries considered to be deficient in tackling counterfeiting and piracy. (AmCham had urged Taiwan's removal from the Watch List in a series of formal letters to the Office of the U.S. Trade Representative).

UNPRECEDENTED CHALLENGES

These favorable developments, however, must be considered against the backdrop of the current economic crisis, the worst the world has seen since the Great Depression. For governments around the globe, the magnitude and complexity of recent events have posed unprecedented challenges – perhaps especially so in Taiwan's case because of this economy's heavy dependence on exports (typically about 70% of GDP) for its prosperity.

The Ma administration deserves credit for responding quickly to the economic downturn with an imaginative consumer-voucher program and other stimulus initiatives – including increased spending on infrastructure that if implemented properly should also help boost Taiwan's long-term competitiveness. These measures have contributed to bolstering confidence and minimizing domestic economic disruption. Nevertheless, the severity of the worldwide economic collapse means that no government can feel assured that it has done enough to rise to the challenge.

More than ever before, what is called for from the government is leadership, creativity, and vision. This is the time for candid self-examination to identify Taiwan's strengths and weaknesses, and then to devise effective programs for building on those strengths and correcting the weaknesses. Only in that way can Taiwan emerge from the current economic slump with the capability to take vigorous advantage of the opportunities presented by economic recovery.

In performing that self-analysis, Taiwan can turn for reference to the various competitiveness surveys conducted by leading international economic and management organizations. These may not be wholly accurate in all their specifics, but overall they provide a valuable benchmark – and in the past year or two they have shown an alarming trend as Taiwan has steadily slipped in the global rankings. The lesson is not necessarily that Taiwan's business conditions have deteriorated but that rival economies are improving rapidly, putting Taiwan at an increasing comparative disadvantage unless it quickens its pace of reform.

The surveys usually show Taiwan scoring well in terms of legal environment, manufacturing prowess, and – in particular – technological vitality. Where Taiwan falls down most conspicuously in the ratings is in government

efficiency. Instead of seeing the facilitation of business (thus boosting economic growth and national income) as part of their mission, the regulatory agencies too frequently relate to business mainly by placing obstacles in its path.

REGULATORY MINDSETS

The Ma administration is conscious of this deficiency, and the deregulation task force of the Council for Economic Planning and Development has moved to revise or rescind scores of regulations. AmCham suggests additional emphasis in the coming year on the retraining of civil servants to help ensure that actual policy implementation at the working level and middle-management is fully in line with the government's objectives.

AmCham, in fact, in the past year has perceived a sharp and growing disconnect within government between the open-minded, internationalist-oriented views of the highest-ranking officials and the obstructionist if not protectionist approaches of many of the officials interpreting regulations on a day-to-day basis. In this year's White Paper, more of our committees than ever before have commented on the difficulties they are experiencing in interacting with their industry's regulators.

Among the most common problems is insufficient transparency. Rather than consulting with industry representatives at an early stage when considering a change in policy, the regulatory body often arranges a meeting or calls for a public hearing only after a preliminary decision has already been made. That precludes any industry input to influence the initial decision. It also means that key policymakers have already committed themselves to a position and are unlikely to easily change their minds.

Similarly, insufficient time is often allowed between announcement of a new regulation and the date on which it goes into effect. The key to solving that problem is also increased consultation. Then companies would have an opportunity to make officials aware of the practical implications of the new policy and the amount of time needed to prepare adequately for implementation.

Most troubling for business is the penchant of regulators to invent unique-to-Taiwan solutions rather than following internationally practiced norms. In a huge market, multinational companies might find that acceptable as the price of participation. But in a small-to-medium-sized market such as Taiwan, having to comply with a unique set of rules means burdensome extra costs and administrative hurdles. For prospective foreign investors, it is hardly a sign of a business-friendly environment.

Taiwan's regulators should reach out to their counterparts in the United States and other jurisdictions to "compare notes" and coordinate approaches to common regulatory problems. Virtually none of Taiwan's regulatory challenges is in fact unique to Taiwan.

SOURCES OF FRUSTRATION

Some of the areas of greatest frustration for multinational businesses in Taiwan have involved specific industry sectors, but with broad implications for Taiwan's economic and social development:

- In telecommunications and media, industry players have been puzzled and disheartened by the reluctance of nearly all members of the National Communications Commission to enter into dialogue with representatives of the private sector. The commissioners presumably worry that merely engaging in such discussions would somehow compromise their independence and open them to suspicions of conflict of interest. But in a democratic society, it is vital for regulators and the regulated to communicate freely. This is especially true in industries where rapid technological developments are constantly changing market conditions. In the absence of regular contact, the NCC and the industry are unaware of one another's objectives and priorities, and there is no opportunity to build trust and understanding. Although Taiwan's telecom and media sector is widely considered to have great potential, it is being deprived of the visionary regulatory environment needed for it to flourish.
- In the healthcare fields of pharmaceuticals and medical devices, manufacturers have been forced to endure some of the lowest prices in the world due to the frequent price cuts undertaken to contain costs in the deficit-ridden National Health Insurance program. The meager reimbursement prices directly threaten the quality of medical treatment, since manufacturers are increasingly discouraged from launching new and innovative products in the Taiwan market. For pharmaceuticals, hope that the situation was improving was sparked late last year when the government convened a National Drug Policy Conference that broached some creative approaches for balancing cost concerns with the need for innovative drugs. But although follow-up discussions are still going on, the pharmaceutical and medical-device companies are being confronted with the prospect of yet another round of debilitating price cuts.

  Given a more positive business outlook, international drug and medical-device companies could contribute significantly to development of a flourishing biotech industry in Taiwan. President Ma is urged to renew the plans for revitalizing Taiwan's healthcare program that were outlined during his presidential campaign.
- In financial services, the banks are facing a move in the Legislative Yuan to impose a ceiling on the interest rates chargeable on unsecured loans, mainly affecting credit-card debt. Proponents of the bill view it as assisting consumers during a period of economic hardship, but Taiwan's maximum rate is already low in comparison with many other markets. More to the point, other

countries' experience clearly shows that statutory interest-rate caps hurt the consumer by contracting the supply of credit, compelling many borrowers to turn to loan sharks. Further, the credit crunch has an enervating effect on retail sales – hardly what the Taiwan economy needs now. Unfortunately, this issue was allowed to grow so highly politicized that calm discussion of the pros and cons became nearly impossible. Beyond the potential impact on consumer credit and economic activity, the result may be to further weaken Taiwan's credibility as a financial-services center.

- In infrastructure development, discriminatory measures had effectively frozen international players out of the market for most public projects in recent years. Now with Taiwan's accession to the GPA, a level playing field has been created, at least for procurement at the central-government level. Under GPA, however, Taiwan will not be required to extend the same privileges for county-level projects, which are becoming more and more numerous. In the interest of assuring high-quality infrastructure by encouraging competition, AmCham hopes that the Cabinet will instruct local authorities to adopt GPA-style rules voluntarily for large-scale or complex projects. GPA and other international standards should be the rule throughout Taiwan's government procurement market, not the exception, adopted only where legally mandated.

As Taiwan proceeds with its ambitious i-Taiwan 12 infrastructure projects, it also needs to be mindful of the need to rigorously monitor their progress. Only if construction schedules are strictly adhered to can the program provide the intended economic stimulus. As President Ma has already indicated, the government will also need to stay alert against the risk of corruption in these cases.

THE CHINA CONNECTION

Taiwan's geographical, linguistic, and cultural closeness to China has always been one of its main potential sources of competitiveness. But until regular, non-stop, cross-Strait passenger and cargo flights were inaugurated last year (and recently expanded in terms of both frequency and routes), Taiwan could not take full advantage of that asset. Now that it is possible for both foreign and domestic business people to fly conveniently between Taiwanese and mainland cities, however, companies hopefully will consider making greater use of Taiwan-based operations within their regional business plans. Although the current deep-seated recession may slow down the pace of implementation, such initiatives can be expected to materialize over time. Taiwan, after all, enjoys numerous comparative advantages as a location for Greater China business activity, including its well-established rule of law and good IPR protection, quality of life (especially cleaner air), reasonably priced commercial rents, and the availability of a talented and well-educated workforce.

The Chamber is pleased that the expansion of cross-Strait cooperation has not stopped with the establishment of direct flights, but has proceeded to cover other important aspects of the Taiwan-China economic relationship. The late-April negotiations in Nanjing have paved the way for a series of agreements on financial services – opening the door for Taiwan's banks, insurance companies, and securities houses to operate on the mainland – and Taiwan has acted to permit Chinese investment in 99 industrial sectors, so that the flow of investment dollars will now no longer be in one direction only.

Further, the Ma administration is laying the groundwork for negotiating a type of free-trade agreement with China, tentatively called the Economic Cooperation Framework Agreement (ECFA). AmCham firmly believes that broadening and institutionalizing the existing extensive cross-Strait economic relationship will serve Taiwan's best interests. The reality is that a formidable regional trade bloc is developing – so far to Taiwan's exclusion – as ASEAN, China, Japan, and Korea prepare to dismantle trade barriers with one another. Without ECFA, important Taiwanese export industries such as petrochemicals and textiles stand to be priced out of the China market by tariff differentials. By entering into an agreement with China, Taiwan would be acting to preserve its largest export market. It would also be increasing the likelihood that China would acquiesce to Taiwan's participation in the Asian regional bloc and in free trade agreements with other countries around the world.

Considering the compelling economic arguments, AmCham urges the domestic opposition parties to refrain from unnecessarily politicizing and complicating the issue. While respecting the opposition's deep concern for Taiwan's interests, we note that historically – as economic scholarship has consistently shown – smaller countries entering into trade pacts with larger countries tend to benefit far more from the cooperation than do the bigger economies. Concern for Taiwan's political autonomy should not become a mask for economic protectionism. We would also cite the comments of Nobel Laureate economist Paul Krugman during his recent visit to Taipei. Krugman suggested that those in Taiwan who are uneasy about ECFA should look at the example of the closely interlinked economies of Canada and the United States. Not only has Canada not been swallowed up by its much bigger neighbor, he said, but it has maintained its own distinct identity socially, economically, and politically.

PROVIDING GOOD BALANCE

Improvement in the cross-Strait economic relationship has also helped defuse the state of tension and antagonism that had prevailed between Taiwan and China. That will bring an additional dividend when economic resurgence occurs, by prompting both Taiwanese and international investors to look on this market as one that offers greater certainty and stability.

Better cross-Strait relations should also enable Taiwan to shore up its ties with the United States, which had become frayed during the Chen and Bush administrations over U.S. perceptions that Taiwan was unnecessarily provocative toward China. As it eases relations with Beijing, Taiwan undoubtedly will wish to assure a balance by maintaining close interaction with the United States, the main guarantor of its security and the largest end-market for its export products. We look forward to early scheduling of the bilateral negotiations known as the TIFA (for Trade and Investment Framework Agreement) talks, and we urge continuation of active preliminary discussions between the two sides on a Bilateral Investment Agreement, in hope that the United States will agree to launch formal negotiations this year.

Currently the number-one irritant in the U.S.-Taiwan bilateral relationship is something that logically should not be a problem at all: Taiwan's continued ban on the import of cuts of U.S. beef containing bone, a legacy of the "mad cow" scare of several years ago. Taiwan's Department of Health has conducted extensive research, including the dispatch of teams to inspect U.S. slaughterhouses, and according to our understanding has found no evidence that bone-in beef represents any threat to the consumer. Millions of Americans, of course, are consuming those cuts of meat every day without any suggestion of risk.

Politics, however, has raised the profile of the issue on both sides. In the United States, the strong agricultural lobby is adept at making its voice heard, especially on trade matters, to the extent of forcing other issues to the sidelines. In Taiwan, certain consumer and political groups are constantly on the lookout for a hot issue from which to extract publicity.

But despite the political sensitivities, it is important to do the right thing. When the scientific data says U.S. beef is safe, it is unreasonable to deny Taiwanese consumers a full range of choice. At the AmCham's annual Hsieh Nien Fan banquet in March, President Ma addressed the beef issue by assuring the attendees: "Don't worry. We're working on it." With the Ma administration now in office for more than a year, it is time to remove this obstacle so that Taiwan and the United States can move on to more pressing and substantive trade matters, rebuilding the close and harmonious relationship that has existed for most of the past half-century.

CONCLUSION

The 2008 *White Paper* noted the high public hopes and expectations as the Ma administration first took office. Although the past year did bring the substantial accomplishments noted above, the international financial crisis and resulting recession have dragged down the Taiwan economy to its worst performance in memory.

Looking ahead, AmCham calls on the government to narrow the mindset gap between regulators and industry, and to raise the efficiency of government services. Sharpening Taiwan's competitiveness today will help ensure that it can reap the maximum benefits when the economy begins to rebound.

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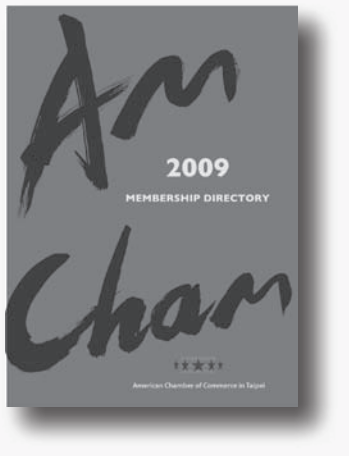

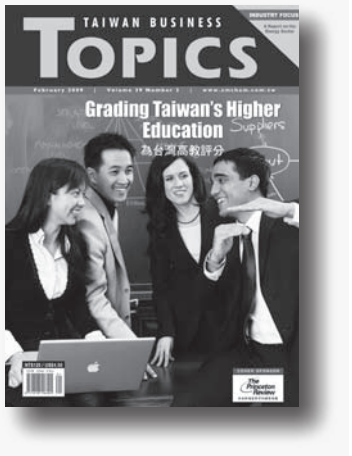

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為經濟復甦做好準備

突破性的成就

2008年《台灣白皮書》發佈以來的十二個月，正好是馬英九總統執政的第一年；跨國企業長年關切的主要議題，以及《台灣白皮書》多年來呼籲的改革，有幾項在這段時間出現突破性的進展。最重要的無非是，兩岸經貿互動的環境現在更具嶄新面貌與建設性，以及台灣終於加入世界貿易組織（WTO）的《政府採購協定》（GPA）。這兩項突破將讓台灣在區域與全球經濟中更為活躍，脫離過去幾年令人擔憂的自我邊緣化。

此外，台灣的智慧財產權保護法規體系也更加完善：繼智慧財產法院去年成立後，立法院今年四月又通過《著作權法》修正案，規範網路服務提供者（ISP）對侵權內容的相關責任及義務。正因為台灣持續提升智財權保障，台北市美國商會曾多次致函美國貿易代表署（USTR），希望將台灣自特別301觀察名單中除名；美國政府年初終於同意除名，顯示台灣已經不再是仿冒與盜版猖獗的國家。

空前的挑戰

然而，這些正面發展的背景卻是經濟大蕭條以來最嚴重的全球經濟危機，其威力與複雜度都對各國政府形成空前挑戰—對台灣這個高度依賴出口的經濟體，衝擊特別顯著（台灣出口佔國內生產毛額（GDP）的七成）。

值得讚許的是，馬政府已快速因應全球經濟衰退的可能衝擊，推動創意獨具的消費券以及其他振興措施，例如擴大公共建設投資計畫； 此一計畫如能充分落實，可為台灣長期競爭力打好基礎。這些措施都有助穩定信心、降低衝擊；但在全球經濟大幅度衰退下，各國政府都很難保證振興經濟政策是否足以應付嚴峻的挑戰。

此刻，政府更需要展現領導力、創意與遠見。台灣不僅該坦誠地檢討分析自身優缺點，更應該以積極作為強化優勢、修正弱點。唯有如此，台灣才能走出經濟危機，以實力充分掌握經濟復甦所產生的商機。

自我檢視的方式之一，是觀察主要國際經濟與管理機構的競爭力調查，這些調查結果雖然不見得完全準確，但整體來說仍是十分有價值的指標。令人擔心的是，台灣在過去一兩年間，於各項調查的排名都持續下滑。主要問題不見得是因為台灣的經商環境惡化，而在於競爭對手快速進步；因此，除非台灣能加快改革腳步，否則將處於越來越大的相對劣勢。

台灣的法律環境、製造能力，特別是科技實力，都在各項調查中名列前茅；但政府效能卻明顯不足。促進商業活動以提振經濟成長並增加國民所得，本應為政府的要務，但台灣的政府主管機關往往未能體認這一點，反而將焦點放在如何對企業經營設限。

法規管理心態

馬政府顯然瞭解問題所在，並責成經建會推動財經法規鬆綁革新的工作。商會建議，未來的一年，政府應加強對基層公務員與中階主管的再訓練，以確保這些執行階層的公務員，能真正落實馬政府法規鬆綁與改革開放的政策目標。

事實上，商會發現，在過去一年，政府內部出現明顯且令人擔憂的落差：儘管高層官員的心態開放且具國際觀，但實際負責執行政策的基層公務員，往往持保守閉塞、甚至是保護主義的做法。在今年《白皮書》的產業建議書中，抱怨與主管機關難以互動的委員會，數量比往年更多。

業界遇到問題中，最常見的是透明度不足。主管機關通常是在已經有初步決定後才徵詢業界意見或是開公聽會，而不是在改變政策之前就先與業界代表溝通。這種作風不但讓業界無法在決策初期提供意見，也突顯決策官員其實早有定見、不會輕易改變想法。

同樣的，新規定從公佈與實施之間的緩衝期經常過於短促。解決之道還是必需經常溝通，讓業者有機會說明新政策的影響範圍，以及需要的準備時間。

業界最為困擾的，是官員常常忽略國際慣例，堅持使用台灣唯一的獨有法規。如果市場夠龐大，跨國企業或許還願意視此為做生意的成本而勉強接受，但在規模不大的台灣市場，如果也要配合遵循台灣唯一的法規，將增加成本及管理難度。對於有意願投資的外商，這樣的經濟環境難稱友善。

台灣的主管機關可以多瞭解美國與其他國家的作法，並參考共通的法規問題之解決方法，因為，許多法規問題事實上並非只在台灣發生。

挫折來源

跨國企業在某些產業的挫折感特別深，但這些問題其實對台灣經濟及社會發展有更廣泛的影響：

- 電信與媒體產業既失望又難以理解的現象是，國家通訊傳播委員會（NCC）非常不願意與民間業者溝通。NCC委員很明顯的擔憂是，就算只是見面開會，都可能會傷害其獨立自主性，甚至可能遭質疑有不當利益輸送。但民主社會中。主管機關與相關產業本來就應該經常對話溝通；對那些技術快速更新、帶動市場環境持續改變的產業來說更是如此。由於欠缺常態溝通管道，NCC與業界當然不可能掌握彼此的目標與期望，自然也無法強化互信與瞭解。台灣的電信與媒體產業被公認潛力十足，但欠缺遠見的管理方式將妨礙產業發展。
- 製藥與醫療器材產業面臨的困境則是，部分產品的健保給付價格履創全球新低，其主因來自健保局不斷以藥價調整的手段來控制健保支出，以應付健保體系的財務危機。過低的健保給付價格已直接威脅台灣的醫療品質，因為廠商越來越不願意將創新產品引進台灣。在去年

底召開的「藥品政策全國會議」中，有些兼顧財務考量與新藥引進的創意作法被提出討論，讓業界稍稍重燃希望；然而，儘管後續討論仍在進行中，製藥與醫材產業卻又開始面臨新一波藥價調整的衝擊。

如果商業環境能夠改善，國際製藥與醫療器材廠商將能為台灣重點培植的生技產業注入活水。商會希望馬總統能落實競選承諾，振興台灣醫療衛生體系。

- 金融業同樣面臨衝擊。一項限制法定利率上限的修正案，正在立法院審查中；該法案一旦通過，無擔保授信 — 主要是信用卡借貸 — 將首當其衝。支持此法案者希望在不景氣時，透過調降利率上限減輕消費者負擔，但台灣現行利率上限已經低於許多國家，更重要的是，其他國家的經驗顯示，以立法方式調降利率上限，反將傷害消費者，因為銀行必然緊縮融資，迫使急需借款者轉向地下錢莊借錢。此外，信用緊縮更將打擊零售業的業績，對急需振興的台灣經濟無意雪上加霜。令人遺憾的是，此一議題已經高度政治化，完全沒有理性討論與分析的空間。除了消費融資及經濟活動的衝擊，這個法案更將對打造台灣成為金融中心的努力產生反效果。
- 在基礎建設方面，由於採購招標實務上的歧視性條款與作為，近年來，多數基礎建設案幾乎已不見外商。但在台灣加入《政府採購協定》後，至少在中央機關層級，必須提供公平競爭的政府採購平台。不過，《政府採購協定》並不適用縣市政府層級的採購案，惟此類採購案數量越來越多。美國商會期望行政院積極鼓勵地方政府，在執行大型或複雜建設計畫時，仍主動採用《政府採購協定》的規範，以合理競爭提升基礎建設的品質。台灣的政府採購體系，應全面採用《政府採購協定》與其他國際性規範；而非僅在法律要求時才被迫遵守。

  在積極推動「愛台十二建設」時，政府應特別注意嚴格監督進度；只有按進度執行，這些建設計畫才能發揮預期的振興經濟效果。同時，如同馬總統曾經提醒過的，這些計畫也必須避免發生貪瀆案件。

兩岸關係互動

兩岸地理、語言、文化的鄰近性，一直是台灣競爭力的主要潛在來源；但直到去年落實定期直航的兩岸客貨包機、以及近期的增班增點前，台灣在這方面的優勢一直無法充分展現。現在，直航班機已開放給所有國籍的旅客，或許能讓企業更願意在區域營運中充分利用其台灣據點；雖然受到嚴重經濟衰退的拖累，但直航對台灣帶來的正面效益遲早會浮現。畢竟，台灣在大中華市場享有無數的相對優勢：包括完整的法治架構、充份的智慧財產權保障、優良的生活品質（特別是空氣品質）、合理的商辦租金、及素質精良的人才。

商會樂見，兩岸合作的領域並不只限於直航，而繼續擴大到其他重要經貿領域。四月底的南京「江陳會」形成多項攸關金融產業的共識，包括開放銀行、保險、證券到中國營運，同時，台灣也已允許中資來台投資九十九項產業，兩岸資金自此將不再只有單向流動。

此外，台灣也正準備與中國簽訂類似自由貿易協定的「兩岸經濟合作架構協定」（目前暫稱為ECFA）。商會相信，兩岸經貿關係的拓展與制度化符合台灣利益。眼前的深實是，東協加三（中國、日本、南韓）的自由貿易架構正在成形中，但台灣目前還被排除在外；沒有ECFA，石化與紡織等重要台灣的出口產業，將因關稅劣勢被迫退出中國市場。若簽訂ECFA，台灣還有機會保住最大的出口市場，或許還能讓中國默許台灣參與東協架構或與他國簽訂自由貿易協定。

為了台灣整體經濟利益，在野黨應避免將此議題無謂的政治化或複雜化。我們尊重也瞭解反對黨急於保護台灣利益，但過去的經濟研究顯示，當小國與大國簽定貿易協定，小國通常獲益較多。此外，對於犧牲台灣主權的擔憂，不該被當成鼓吹經濟保護主義的藉口。諾貝爾經濟學獎得主克魯曼（Paul Krugman）最近訪台時曾指出，對ECFA有疑慮的台灣人，或許應該看看美國與加拿大的例子 — 加拿大不但沒有被規模較大的鄰國併吞，反倒維持了自身獨特的社會、經濟與政治環境。

美中台均衡發展

經貿關係的改善，亦有效降低兩岸緊張與對立的情勢。當經濟開始復甦時，和緩的兩岸關係亦能讓國內外投資人更相信台灣市場的穩定度。

兩岸關係改善同樣有助穩定台灣與美國的關係—美台關係在過去八年常生波折，主因是美國認為台灣非必要地挑釁中國。在改善兩岸關係之際，台灣自然也會希望與美國維持緊密互動，以維持美中台三邊關係的平衡 — 畢竟，美國既是台海安全的主要保護者，也是台灣外銷產品的最大終端市場。商會期待台美《貿易暨投資架構協定》(TIFA)年度會談時程能儘早排定，也期盼雙方就《雙邊投資協定》(BIA)的初步討論能持續且積極進行，以待美國同意今年內展開正式談判。

目前美台貿易關係中的最敏感的議題是美國牛肉進口；但事實上，這不該是個問題。由於數年前的狂牛症疫情，台灣至今仍禁止美國帶骨牛肉進口；然而，衛生署已進行了十分廣泛的調查，包括派遣專案小組前往美國考察屠宰場，據我們的瞭解，台灣迄今尚未發現任何科學證據，能證明帶骨牛肉會危害消費者健康。數百萬計的美國人每天仍在食用這些牛肉，亦未出現健康疑慮。

但政治考量卻升高此議題的嚴重性。美國的農業產業的遊說力道強大，特別是在貿易事務上，其威力有時甚至能完全排擠其他議題。至於在台灣，部分消費者與政治團體，則不斷尋求可以增加曝光機會的熱門議題。

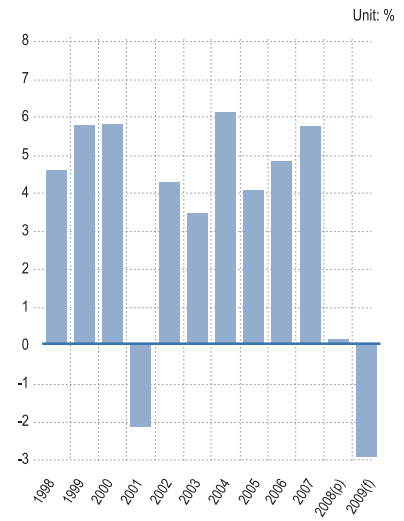
不論政治敏感性，重要的是要做對的事。當科學研究證據顯示了美國牛肉的安全性，政府就不該剝奪消費者的選擇權。馬總統在今年三月受邀參加美國商會的謝年飯晚宴時，曾就牛肉議題向與會者表示，「不必擔心，我們正在處理」。馬政府上任已屆滿一年，正是移除這項障礙的最佳時機，讓台美雙方能繼續討論更迫切與實際的貿易事務，並重建過去半世紀以來的緊密和諧關係。

結論

2008年的《白皮書》，對馬政府有高度期待。雖然過去一年的確出現一些具體進展，但國際金融危機及隨之而來的經濟蕭條，仍然讓台灣經濟表現跌入前所未有的谷底。

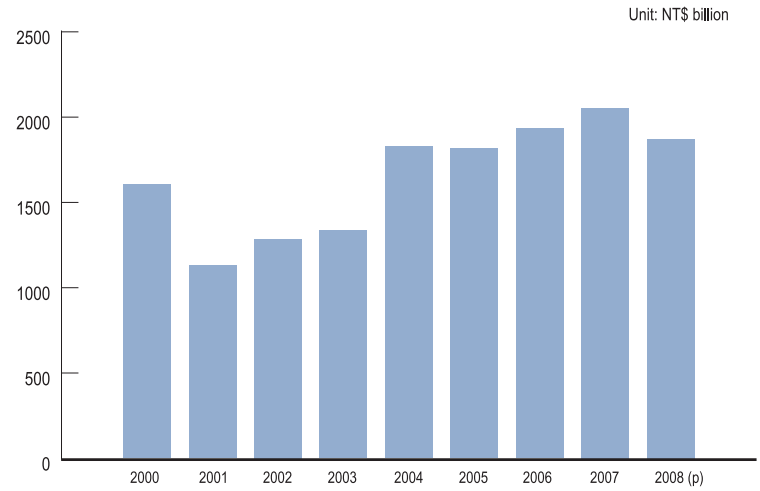
展望未來，美國商會希望政府致力於縮小政府機關與業界的心態落差，並提高政府服務效率。現在就開始提升台灣競爭力，將能確保未來全球經濟復甦時的豐碩成果。

GRAPH 1: ECONOMIC GROWTH RATE



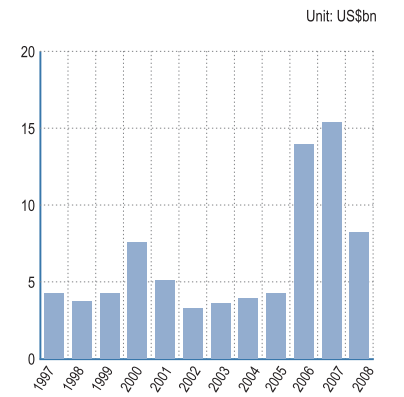
Source: Directorate General of Budget, Accounting & Statistics (DGBAS)
Note: f= forecast, p=preliminary

GRAPH 2: PRIVATE DOMESTIC INVESTMENT



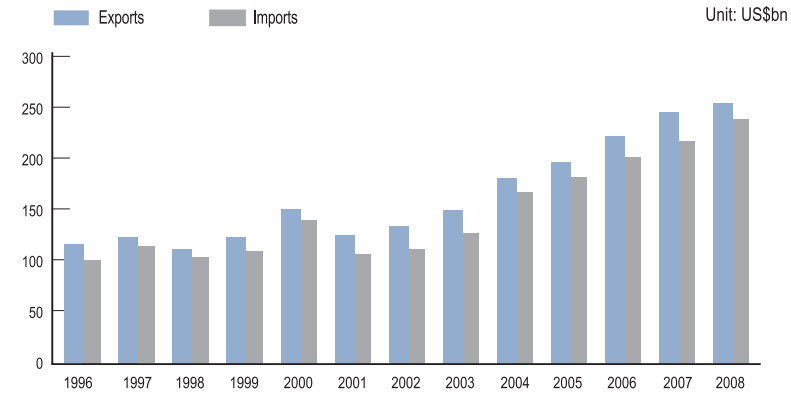
Source: MOEA

GRAPH 3: FOREIGN DIRECT INVESTMENT



Source: Ministry of Economic Affairs (MOEA)

GRAPH 4: TOTAL FOREIGN TRADE



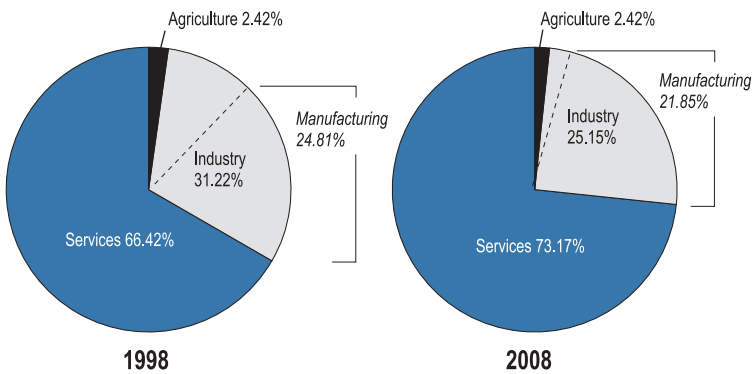
Source: Ministry of Economic Affairs (MOEA)

GRAPH 5: KEY ECONOMIC INDICATORS

	2007	2008
Gross National Product	US$395bn	US$403bn
Per Capital GNP	US$17,299	US$17,576
Gross National Savings	29.85%	27.18% (p)
Unemployment	3.91%	4.14%
Inflation (CPI)	1.80%	3.53%
Foreign Exchange Reserves	US$270bn	US$291bn

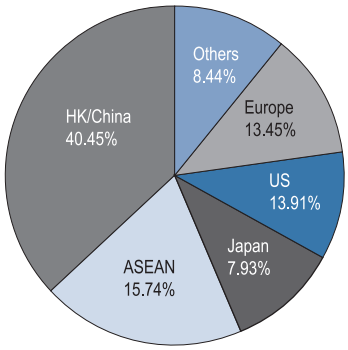
Source: DGBAS
Note: p=preliminary

GRAPH 6: COMPONENTS OF GDP



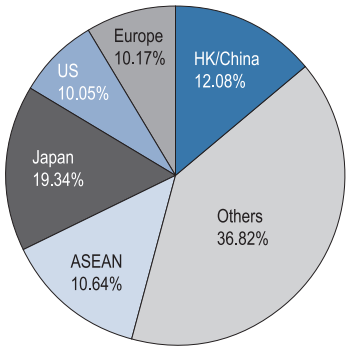
Source: Directorate General of Budget, Accounting & Statistics (DGBAS)

GRAPH 7: 2008 EXPORTS BY REGION



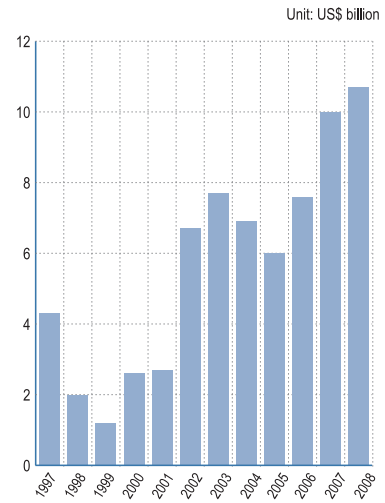
Source: Bureau of Foreign Trade (BOFT)

GRAPH 8: 2008 IMPORTS BY REGION



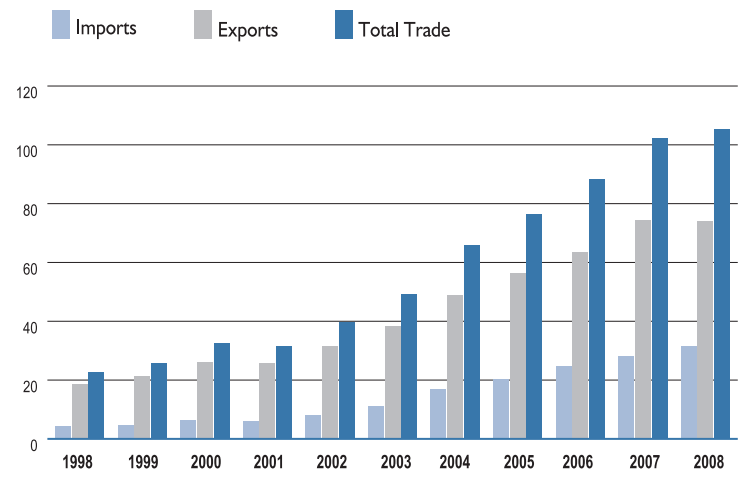
Source: Bureau of Foreign Trade (BOFT)

GRAPH 9 : APPROVED INVESTMENT IN CHINA



Source: Ministry of Economic Affairs (MOEA)

GRAPH 10: CROSS-STRAIT TRADE



Source: Ministry of Economic Affairs (MOEA)

Unit: US$ billion

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WRITERS	DON SHAPIRO, AMCHAM COMMITTEES
ENGLISH EDITOR	DON SHAPIRO
CHINESE EDITOR	ANITA CHEN
EDITORIAL COORDINATOR	ZOË HOU
CHINESE TRANSLATION	ZEP HU, AMCHAM COMMITTEES
DESIGNER	KATIA CHEN
ADVISOR	WILLIAM E. BRYSON

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AmCham Taipei was gratified that the Office of the U.S. Trade Representative (USTR) earlier this year removed Taiwan from the Special 301 Watch List of countries considered to have inadequate intellectual property rights (IPR) controls. In two letters to USTR, the Chamber had recommended the step as a means of recognizing Taiwan's achievements in improving its IPR regime, thus encouraging it to continue to strengthen its laws, enforcement measures, and judicial processes.

Below are issues that we hope will receive serious consideration by the U.S. executive and legislative branches in the year ahead:

Issue 1: Schedule TIFA talks and the start of BIA negotiations.

The Chamber was greatly dismayed that bilateral talks under the Trade and Investment Framework Agreement (TIFA), normally conducted annually, were not held during 2008 – and we note with some anxiety that they have not yet been scheduled for 2009. TIFA has been a highly effective vehicle for driving progress on key issues of crucial importance to American businesses operating in the Taiwan market. Without the momentum that TIFA provides, the pharmaceutical, medical device, telecom, and financial-services sectors of the Chamber membership, among others, have been deprived of the full support of the U.S. government that they deserve.

Although personnel changes in the relevant U.S. government agencies may have contributed to the delay in holding TIFA talks, AmCham has the distinct impression that the biggest obstacle has been U.S. irritation with the lack of progress on certain agricultural issues, notably Taiwan's continued ban on the import of bone-in beef from the United States. Elsewhere in this White Paper, AmCham is strongly urging the Taiwan government to quickly resolve this problem. But at the same time, we appeal to Washington not to allow the concerns of one sector – however valid they may be – to block opportunities to achieve gains that would benefit many other industries, including some with much larger revenues at stake. Dates should be set now for the convening of TIFA in late summer or early fall.

Similarly, AmCham last year was energized by the prospect that progress was being made toward the signing of two bilateral agreements – on investment and taxation, respectively. But again we have been disappointed by the slow progress, especially on the Bilateral Investment Agreement (BIA), which should be much less complicated to negotiate. Concluding a BIA is an excellent chance to enhance the overall business environment for U.S. companies in Taiwan; as with TIFA, we fervently hope that extraneous obstacles are not put in its way, and that the U.S. and Taiwan governments will launch formal BIA negotiations as soon as possible. And while we understand the enormous current burdens of the Treasury Department in dealing with the financial crisis, we also call upon its taxation specialists to find the time to continue preparing for a Bilateral Taxation Agreement with Taiwan in the interest of assisting U.S. investors.

It is important to remember that Taiwan seems like a small market only when juxtaposed against mainland China. Two-way U.S.-Taiwan trade last year came to US$57 billion, making Taiwan the United States' 12th largest trading partner. In addition, the market potential is likely to expand substantially as the thaw in Taiwan-China relations provides a boost to business confidence.

By replacing cross-Strait tensions with cooperation since taking office a year ago, the Ma Ying-jeou administration has responded to one of Washington's major concerns in East Asia for more than a decade. For the sake of U.S. economic self-interest and to maintain balance in the region, it would now be prudent for the United States to bolster its longstanding but recently neglected trade and investment ties with Taiwan. Besides resuming TIFA talks and expediting work on the two bilateral agreements, AmCham offers two other recommendations for revitalizing the economic relationship with Taiwan:

- Dispatch more high-level U.S. government officials to visit Taiwan. Because of Beijing's objections, such visits have been extremely rare, especially in recent years. But as a result, opportunities have been lost to signal the continued strength of the economic, cultural, and security relationship between Taiwan and the United States, despite the lack of formal diplomatic ties. More substantively, high-level discussions would help minimize misunderstandings and expand areas of possible cooperation. Although the American Institute in Taiwan (AIT) is highly effective in representing U.S. interests, there is no substitute for direct communication in building trust and mutual understanding.
- Arrange for more interaction and information-sharing between U.S. regulatory bodies and their Taiwan counterparts, so that Taiwan may benefit from exposure to the experience and best-practices of the United States in its regulatory approaches. We have been encouraged that Taiwan's Department of Health, in planning for the establishment of a Food and Drug Administration, sought advice from the U.S. FDA, and that AIT recently arranged for experts from

the U.S. Federal Communications Commission to give a digital-videoconference briefing to National Communications Commission commissioners and other specialists in Taiwan. More interchange of this kind would help U.S. business by widening the vision of Taiwan's regulators.

Issue 2. Pursue trade policies that promote economic liberalization.

During times of deep recession, calls inevitably increase for protectionist measures to curb imports or favor purchases of domestic goods and services. But adopting such policies carries the danger that other countries will follow suit in "Beggar Thy Neighbor" responses that would further undermine the global economy.

The United States has much more to gain from promoting exports than from restricting imports. Trade also benefits the consumer, making available a wider choice of products at lower prices. AmCham Taipei urges the U.S. government to continue to show leadership by fostering more open international trade and countering protectionist proposals.

When the economy regains momentum and political conditions permit, we urge Congress to reinstate the president's Trade Promotion ("fast-track") Authority, so that the United States may again negotiate market-opening and economy-enhancing trade agreements with other countries at the proper time.

Issue 3: End tax-policy discrimination against U.S. citizens overseas.

AmCham Taipei again joins the Asia Pacific Council of American Chambers of Commerce (APCAC) in urging the U.S. government to cease taxing the income of Americans working abroad so as to enhance the global competitiveness of U.S. companies. The United States is the only industrialized country that subjects its expatriate citizens to income tax on their overseas earnings. This aspect of the U.S. tax code makes it more expensive for a U.S. company to employ an American than to employ an expatriate from almost any other country. The result is to decrease the number of Americans working internationally, diminishing the ability of the United States to promote the export of its goods and services.

Section 911 of the Internal Revenue Code somewhat mitigated the burden on U.S. expatriate taxpayers by providing a limited exclusion of taxable income. But the Tax Increase Prevention and Reconciliation Act of 2006 reduced this partial exclusion and capped the deduction for housing costs, greatly increasing the tax bill for Americans overseas. Consequently, at a time when the United States should be seeking to expand sales abroad to offset sluggish economic conditions at home, our exporting power is being eroded as more and more American employees and executives abroad are replaced with local or third-country nationals.

Bipartisan legislation, entitled the Working American Competitiveness Act, has been introduced in the Senate by Senator Jim DeMint (R-SC) as S. 1140, and in the House by Congressman Gregory Meeks (D-NY) as H.R. 4752, to remove the limitation on the foreign-income exclusion under Section 911. A similar bill was recently introduced by Congressman Scott Garrett (R-NJ). AmCham Taipei urges members of Congress to support this legislation so as to bring the United States in line with international norms by ceasing to tax the foreign earned income of its citizens living and working overseas.

Issue 4: Extend visa-waiver treatment to Taiwanese travelers.

Late last year the United States extended visa-waiver privileges to seven additional countries, including South Korea. Although Taiwan has relatively low visa-rejection levels, it has not yet been considered for addition to this list, reportedly because of U.S. concerns about the number of cases of genuine Taiwanese passports used by non-Taiwan citizens in trying to gain entrance into the United States. We urge the U.S. side to continue to work with the Taiwan authorities toward resolving that problem.

The Taiwanese are avid and comparatively affluent international travelers, but tourism from Taiwan to the United States is still far below what it was prior to the 9/11 terrorist attacks. Providing visa-waiver would benefit the U.S. travel industry and help stimulate the U.S. economy during a period of difficulty.

REVIEW OF 2008 *WHITE PAPER* ISSUES

The chart below is a status review of all priority issues in the 2008 *Taiwan White Paper*. The progress of each issue is rated according to the following standards:

1—Solved: Conclusive action has been taken on the issue, with a fair and transparent record of implementation. It is no longer considered a problem.

2—In Progress: The issue is currently receiving satisfactory follow-up action from the government.

3—Under Observation: The government has given the issue some initial attention, but it is too early to assess the prospects for resolution.

4—Stalled: No substantial discernible progress has occurred.

5—Dropped: Although not resolved, the issue is no longer a committee priority.

Out of the 101 issues raised in the 2008 *White Paper*, nine are rated Solved, 20 In Progress, 26 Under Observation, 22 Stalled and 24 Dropped.

Committee	2008 White Paper Issues	Status	2009 WP	Notes
Agro-chemical	1. Eliminate fraudulent "me-too" registrations	3	*	
	2. Enforce the FAO code-of-conduct for exports to EU	5		
	3. Improve cooperation from the judicial branch on counterfeiting cases	2	*	Changed to "Further tighten law enforcement against illegal pesticides" in 2009.
	4. Block smuggling of counterfeit products	3	*	
	5. Crack down on trademark infringement	5		
Asset Management	1. Improve the regulations of mutual funds			Partly incorporated into "Simplify the offshore fund registration/approval process..." in 2009
	A. Streamline the fund registration and fund raising processes	2	*	
	B. Remove the track record requirement for offshore funds	2	*	
	C. Relax China-holding restrictions	2	*	
	D. Accelerate adoption of UCITS III derivatives investment limits	2	*	Changed to "Accelerate the adoption of stan dards under UCITS III regulations..." in 2009
	E. Facilitate onshore-fund management	2	*	
	2. Base regulations on global practices and maintain consistency			Referred to in the introduction of the Asset Management paper in 2009.
	A. Provide fair treatment based on type of activity, not type of entity	5		
	B. Clearly permit resource sharing	5		
	3. Obtain the FSC's cooperation in coordinating with other related ministries	4	*	Partly incorporated into "Exempt the capital gains and dividend income of offshore funds from the AMT system" in 2009
Banking	1. Foster an efficient and fair financial market by enacting a sound Financial Services Act	3	*	
	2. Minimize negative impact arising from the implementation of the Personal Bankruptcy Law	5		
	3. Enhance financial market competitiveness by reducing the cost of regulatory compliance	2	*	Partly incorporated into "Standardize and simplify the regulatory reporting process" and "Maintain the current CDIC insurance premium scheme" in 2009.
Capital Markets	1. Achieve best practices as a developed market	2	*	
	2. Relax futures-trading and related foreign-exchange rules	2	*	
	3. Enhance the infrastructure of the NT$ clearing system	2	*	
	4. Eliminate restrictions on the domicile of the securities researched by Taiwan-based analyst	2	*	Changed to "Expand the scope of brokers' research and trading..." in 2009.
	5. Enact a Finance Company Law	4	*	
	6. Maintain the 6% withholding tax on securitized products to facilitate further market growth	5		MOF decided to impose a 10% tax rate on similar financial products.
	7. Revise the Financial Services Act draft.	2	*	Incorporated into the introduction of the Capital Markets paper in 2009.
Chemical Manufacturers	1. Maintain Taiwan's tariff parity in regional trade	2	*	
	2. Ensure a sufficient supply of feedstock for industry development	3	*	
	3. Strengthen the national accident prevention and emergency response system	3	*	
	4. Reevaluate greenhouse gas emission (GHG) and energy tax policies	3	*	Included in the Environmental Protection paper in 2009
	5. Integrate all environmental fees into a single levy	4	*	
	6. Crack down on extortion in the name of environmental protection	4	*	
	7. Assure reliable supplies of electrical power and water	4	*	
	8. Continue to streamline hazardous-workplace reviews and inspections	5		
Education Training	1. Facilitate greater student mobility and internationalization	2	*	
	2. Provide military deferments for male students studying overseas other than in four-year degree programs	4	*	
	3. Continue liberalizing regulations governing foreign universities and degrees	3	*	
Human Resources	1. Foster a globalized business environment	5		
	2. Enhance the quality and quantity of domestic talent	5		
	3. Attract foreign talent to work in Taiwan	3	*	Partly incorporated into "Eliminate the working experience requirement for foreign employees of non-tech companies" in 2009.
Infrastructure	1. Provide a level playing field for execution of the i-Taiwan infrastructure programs	3	*	Incorporated into "Ensure effective implementation of GPA commitments" in 2009
	2. Promptly sign the Government Procurement Agreement	1		
	3. Permit consulting engineering firms to perform architectural work	5		
	4. Adopt a balanced national energy policy	3	*	
	5. Reconsider the nuclear power option	3	*	Changed to "Revitalize the economy by choosing low-cost energy" in 2009
	6. Reconsider the Greenhouse Gas Reduction Bill	4	*	Changed to "Adopt a long-term CO2 reduction target" in 2009.
	7. Improve the environmental impact review process	4	*	
	8. Amend the terms and conditions for model public contracts	3	*	Changed to "Continue improving Taiwan's procurement practices" in 2009
Insurance	1. Approve the issuance of traditional insurance policies denominated in foreign currencies other than the US dollar	1		
	2. Extend the loss-carry-forward period	1		
	3. Amend the Labor Pension Act	3	*	
	4. Permit the tax deduction of business expenses incurred by insurance agents	1		This issue has been partially resolved – for purely independent agents.
	5. Maintain the current taxation practice on investment-linked products	4	*	
	6. Modify the draft Financial Services Act	5		
	7. Replace "Capital" with "Net Worth" as the financial indicator to limit foreign investment in corporate bonds	5		
	8. Allow insurers to set their own rates for commercial property insurance up to NT$3 billion and for motor vehicle insurance	1		
Intellectual Property & Licensing	1. Continue enhancing protection of copyrighted works	1		
	2. Further strengthen patent protection	5		
	3. Seek effective remedies for trademark protection	3	*	
	4. Curb counterfeiting through stiffer sentencing in IP cases	3	*	
	5. Step up IP-protection efforts by various government departments	2	*	
Medical Devices	1. Improve administrative efficiency by adopting international regularity standards			
	1.1 Recognize the trend for international division of labor in medical device manufacturing by accepting certification			
	documentation from the country of the designated legal manufacturer	3	*	
	1.2 Improve the efficiency of new IVD product registration	2	*	
	2. Revise the insurance payment system to maintain medical quality	3	*	
	3. Open the market to made-in-China blood glucose meters	1		
Others	1. Provide a legal basis for chiropractic in Taiwan	4	*	
	2. Secure a regular and reasonable health surtax review for tobacco products	3	*	Changed to "Consult with industry to establish a reasonable and feasible mechanism..." in 2009
Pharmaceutical	1. Implement Separation of Dispensing from Prescribing (SDP)	3	*	
	2. Reward innovation through New-Drug/Indication pricing and reimbursement.	4	*	
	3. Improve IPR protection through Patent Linkage	4	*	
	4. Postpone Health Technology Assessments (HTA) until an appropriate environment has been created	5		
	5. Suspend the conducting of Price-Volume Surveys	4	*	
	6. Accelerate patient access to new technologies by expediting new drug registration	4	*	
Retail	1. Accelerate the slow progress on lifting China import restrictions	4	*	
	2. Adopt fair implementation of packaging regulations	5		
	3. Avoid "Taiwan-unique" import and labeling requirements	4	*	
	4. Adopt international best practices in Cosmetic Hygiene regulation	3	*	
	5. Improve communication with retailers over food-import issues	2	*	Incorporated into "Adopt Good Governance principles (4 Cs)" in 2009.
Tax	1. Clarify the scope of Taiwan-source income and allow offshore business to file tax returns for their Taiwan-source "other income"	3	*	
	2. Resolve the tax deduction issue arising from the allocated head office management expenses	4	*	
	3. Simplify the process for claiming tax treaty benefits	3	*	
	4. Enhance tax competitiveness			
	A. Reduce the corporate income tax rate	1		
	B. Design a more open and responsive tax environment	5		
	5. Provide clear guidelines on tax issues arising from M&A transactions	1		
	6. Clarify the effective date of subjecting Taiwan individuals' overseas income to AMT	3	*	
Technology	1. Remove the IP transfer requirement from government tender requirements	3	*	
	2. Increase financial support for technology development	5		
	3. Adopt an effective energy-efficient labeling system for electronic products	5		
	4. Accord greater priority to recycling in waste management	5		
	5. Support initiatives to uphold Information Technology Agreement (ITA) commitments	2	*	
Telecommunications & Media	1. Deregulate the telecom and media sectors	4	*	
	2. Enhance the NCC's autonomy and transparency	4	*	
	3. Establish robust public discourse on the "3-in-1" Converged Telecommunications & Media Law	4	*	
	4. Implement technology-neutral policy	3	*	
	5. Enhance spectrum management and international best practices	4	*	
	6. Facilitate the placement of wireless base stations	4	*	
	7. Protect industry from improper pressures	5		
Transportation	1. Accept U.S. Self-Certification test reports of FMVSS-spec vehicles	5		
	2. Reduce the vehicle commodity tax	2	*	Changed to "Replace older, higher emission vehicles" in 2009
	3. Implement an export/import credit rebate	2	*	Changed to "Help Taiwan automakers take advantage of their regional competitiveness" in 2009
	4. Implement export Post-entry Manifest Declarations	5		
	5. Totally implement cross-board clearance	5		
	6. Remove the weight limitation on express cargo clearance	3	*	
	7. Allow third-country national carriers to participate in charter flights between Japan and Taiwan.	5		

Note: * indicates the issue has been raised again in 2009 *White Paper*

by Zoë Hou & Anita Chen LAST UPDATED: May 24, 2009

《2008台灣白皮書》議題處理進度

以下為《2008台灣白皮書》優先議題的處理進度，各議題評估標準如下：

1—**已解決**：政府已針對議題達成結論性的決定並付諸實行，或已有公開、透明的執行績效。換言之，所提的議題已不再是問題。

2—**處理中**：該議題目前正由政府進行後續追蹤，其進度令人滿意。

3—**觀察中**：政府相關單位已注意到該議題，但後續發展仍待觀察。

4—**擱置中**：該議題無實質可見的進度。

5—**已刪除**：該議題雖尚未解決，但已不再是委員會優先議題。

《2008台灣白皮書》所提出的101項議題，其中9項已解決，20項處理中，26項觀察中，22項擱置中，24項已刪除。

委員會	2008白皮書議題	進度	2009白皮書	備　註
農化	1. 取消不法的「me-too」註冊登記	3	*	
	2. 落實聯合國農糧組織(FAO)之糧食農業行為規範以利台灣農產品外銷至歐盟	5		
	3. 司法部門的合作有待加強	2	*	今年改為「持續強化執法以遏止偽劣農藥」
	4. 強力打擊仿冒及未登記產品的的走私	3	*	
	5. 加強取締仿冒商標	5		
資產管理	1. 改善共同基金相關法規			部分內容今年納入「簡化境外基金的註冊及許可程序…」
	A. 簡化基金管理及募集程序	2	*	
	B. 刪除境外基金的績效紀錄要求	2	*	
	C. 放寬中資成分股限制	2	*	
	D. 儘速採納UCITS III的衍生性商品投資限制	2	*	今年改為「加速採納UCITS III規範下之標準…」
	E. 證券投資信託事業的基金(「境外基金」)管理	2	*	
	2. 法規應遵循全球實務慣例並維持一致性			部分內容今年納入資產管理委員會建議書前言
	A.依據所從事的業務內容、而非事業體給予公平的待遇	5		
	B. 明文許可資源分享	5		
	3. 建請金管會協助加強與其他主管機關之協調	4	*	部分內容今年納入「境外基金之資本利得與股息收入應自最低稅負制中排除」
銀行	1. 制定健全的《金融服務法》以促進金融市場的效率與公平	3	*	
	2. 將《個人破產法》引發的負面衝擊降至最低	5		
	3. 降低法令遵循成本，以增進金融市場的競爭力	2	*	部分內容今年納入「標準化及簡化呈送主管機關報表之程序」及「維持現行中央存保公司保險費率方案」
資本市場	1. 落實已開發國家的金融市場最佳慣例	2	*	
	2. 放寬期貨及相關外匯交易之法規	2	*	
	3. 強化新台幣清算系統基本架構	2	*	
	4. 取消對台灣本地分析師研究證券標的註冊地之限制	2	*	今年改為「擴張證券商研究及交易的範圍…」
	5. 《融資公司法》之立法	4	*	
	6. 維持證券化產品6%扣繳稅額以促進市場近一步成長	5		財政部決定對類似金融商品課徵10%稅率
	7. 修訂《金融服務法》草案	2	*	今年納入資本市場委員會建議書前言
化學製造商	1. 維持台灣在區域貿易中之關稅競爭力	2	*	
	2. 確保產業發展所需原料供應充足	3	*	
	3. 強化國內防災及緊急應變措施	3	*	
	4. 重新評估溫室氣體排放(GHG)和能源稅政策	3	*	今年改納入環境保護委員會建議書
	5. 實行環保稅費單一稅制	4	*	
	6. 制裁假環保之名的敲詐行為	4	*	
	7. 確保電力和水利供應品質與成本	4	*	
	8. 持續精簡《危險性工作場鎖審查暨檢查辦法》	5		
教育及訓練	1. 促進學生的國際化交流	2	*	
	2. 准許役男就讀海外四年制大學以外學程可申請緩徵	4	*	
	3. 持續開放國外大學及學歷的法規	3	*	
人力資源	1. 打造全球經商環境	5		
	2. 提升國內人才質量	5		
	3. 吸引國外人才來台工作	3	*	部分內容今年納入「免除外籍專業人士來台工作的兩年工作經驗限制」
基礎建設	1. 為「愛台十二項建設」之落實提供公平競爭的招標平台	3	*	今年納入「確保GPA的有效與徹底落實」
	2. 儘快簽署多邊政府採購協定(GPA)	1		
	3. 允許工程顧問公司承做建築設計案	5		
	4. 採行均衡的國家能源政策	3	*	
	5. 重新考量核能發電	3	*	今年改為「選用低成本能源以振興經濟」
	6. 重新檢視《溫室氣體減量法》可行性	4	*	今年改為「採取長程二氧化碳減量目標」
	7. 改進環評審核程序	4	*	
	8. 修改公共工程採購契約範本條款	3	*	今年改為「持續改善台灣採購實務」
保險	1. 許可簽發外幣計價之傳統保單	1		
	2. 延長虧損扣底期限	1		
	3. 修正《勞工退休金條例》	3	*	
	4. 保險業務員業務費用之稅務處理	1		部分解決—即獨立招攬業務之業務員的稅務處理
	5. 維持目前對投資型商品之賦稅實務	4	*	
	6. 刪除《金融服務法》草案之部分條款	5		
	7. 海外投資公司債之限額請以「淨值」取代「資本額」作為決定標準	5		
	8. 允許保險公司訂定其新台幣三十億元(含)以下商業財產險及汽車險之費率	1		
智慧財產權及授權	1. 持續加強保護著作權作品	1		
	2. 加強專利權的保護	5		
	3. 有效補救商標保護	3	*	
	4. 提高侵權案罰則以嚇阻仿冒行為	3	*	
	5. 強化其他政府單位對智慧財產保護的努力	2	*	
醫療器材	1. 參照國際醫療法規標準，增進行政管理效能			
	1.1 接受多國分工製造的管理模式和其法定製造廠所在國出具之證明文件	3	*	
	1.2 體外診斷產品查驗登記之效率	2	*	
	2. 修改健保給付制度，維護醫療品質	3	*	
	3. 提升台灣醫療產業的國際競爭力，完全開放中國代工之血糖計	1		
其他	1. 提供脊骨神經醫學在台灣的合法位階	4	*	
	2. 維持定期及合理的菸品健康捐檢討機制	3	*	今年納入「諮詢業者以建立合理可行之健康捐配套措施機制」
製藥	1. 落實醫藥分業(SDP)	3	*	
	2. 鼓勵創新—新藥/適應症應享有適當且及時的訂價與給付	4	*	
	3. 透過專利連結加強對智慧財產權的保障	4	*	
	4. 待建立適當環境後，再實施醫藥科技評估(HTA)	5		
	5. 暫停實施藥價調查	4	*	
	6. 加速藥品查驗登記審查，爭取病患取得新藥的時間	4	*	
零售	1. 加速放寬中國製商品的進口限制	4	*	
	2. 施行公平務實之包裝規範	5		
	3. 避免制定「台灣唯一」之進口與標示規定	4	*	
	4. 依據國際最佳實物慣例制定化妝品衛生管理法規	3	*	
	5. 針對進口食品法規，增進與業者之溝通	2	*	今年納入「落實完善政府的四大要素」
稅務	1. 釐清台灣來源所得的範圍並允許外國營利事業可申報其台灣來源所得的其他所得	3	*	
	2. 解決分攤總公司管理費之費用扣除問題	4	*	
	3. 簡化申請適用租稅協定營業利潤免稅的流程	3	*	
	4. 強化租稅競爭力			
	A. 調降營業事業所得稅稅率	1		
	B. 打造一個更開放且更具回應立的租稅環境	5		
	5. 對併購交易稅務問題提供清楚的指引	1		
	6. 釐清個人海外來源所得適用最低稅負制的生效期限	3	*	
科技	1. 刪除政府採購合約中之智慧財產權移轉的規定	3	*	
	2. 增進對科技發展之投資	5		
	3. 採用有效的電子產品節能標章系統	5		
	4. 調整廢棄物管理的修先順序	5		
	5. 支持維護資訊科技協定(ITA)的關稅優惠待遇	3	*	
電信及媒體	1. 開放電信及媒體事業管制	4	*	
	2. 加強國家通訊傳播委員會的自主權及透明度	4	*	
	3. 建立三合一匯流法規的開放討論公共平台	4	*	
	4. 執行科技中立政策	3	*	
	5. 加強頻譜管立即落實國際最佳慣例	4	*	
	6. 無線基地台的建置	4	*	
	7. 保護業者免於不適當的外來壓力	5		
交通運輸	1. 車輛安全標準	5		
	2. 降低車輛貨物稅	2	*	今年改為「汰換老舊高污染車輛」
	3. 建立進出口信用補貼制度	2	*	今年改為「幫助車輛業者開拓區域競爭力」
	4. 建置「出口貨物事後報關」制度	5		
	5. 全面開放跨關區連線報關	5		
	6. 放寬對快遞貨物重量之定義	3	*	
	7. 允許第三國籍的航空業者參與營運台日包機業務	5		

註：*號代表該議題於《2009台灣白皮書》中再度提出

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AGRO-CHEMICAL

The Agro-Chemical Committee would like take this opportunity to recognize the important contribution of the Council of Agriculture (COA) in improving the quality and safety of agricultural products in Taiwan. In particular, the Committee expresses its thanks to the Council's Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) for its continuing effort in upgrading the quality and safety standards of agrochemicals produced and distributed in this country.

During the past year, notable progress was made on one of the longstanding *White Paper* issues of this Committee: the need to crack down on the prevalence in this market of counterfeit agrochemicals. Although more still needs to be done, we commend the increased rate of prosecution against manufacturers and distributors of illegal pesticides.

For 2009, the Committee is focusing on three major issues that would help to improve the livelihood of Taiwan farmers and ensure that fruits and vegetables sold in this market are of the highest quality and safe for consumption.

Issue 1: Register new products by crop grouping.

The introduction of a new agro-chemical active ingredient (AI) into Taiwan is a long and costly process. Before a product can be registered for sale, the applicant has to meet a series of stringent testing and registration procedures set by the COA. The minimum time to complete registration for a new AI is two years, with a cost of at least NT$350,000 per AI per crop. Considering the large variety of crops plants in Taiwan from North to South, it becomes extremely difficult and expensive for a company to introduce a new AI for use in all or most of them. As a result, foreign companies with new and innovative products may choose to confine the registration to a few major crops, or even worse to abstain from the Taiwan market, thereby depriving our farmers of access to these innovative products. In view of the diversity of crops and the limited size of the market, the Committee suggests that the regulatory authorities screen the registration of new AIs based on crop groups and not on individual crops. That change would encourage multinational companies to introduce innovative AIs and technologies into Taiwan for the benefit of the country's agricultural productivity.

Issue 2: Further tighten law enforcement against illegal pesticides.

The Committee appreciates the strenuous efforts made by the authorities to crack down on illegal pesticides. While some encouraging progress was made in 2008, the amount of illegal pesticides found in the market continues to be a key concern. China remains a major source of such products. Besides being unlawful, these hazardous products present a potential health risk to both growers and consumers. In addition, these products clearly pose unfair competition to the original manufacturers and other law-abiding companies.

While acknowledging the COA's past endeavors in this regard, the Committee urges the Council to further strengthen its campaign against the smugglers, distributors and retailers who are engaging in this illegal activity. It is imperative for the COA to work closely with the Customs service and law-enforcement agencies to eliminate or at least greatly reduce the availability of these illegal and dangerous products.

Further, it is disappointing that non-registered pesticides are still widely used by farmers in major vegetable-growing areas in central Taiwan. The use of these unproven products could lead to serious food safety issues and low consumer confidence in Taiwan's farm produce. The Committee recommends that COA officers increase the frequency of their farm visits to discourage farmers from using illegal products and educate them on the importance of food safety. Farmers should also be made aware of the penalties for using such illegal products and be requested to disclose the sources of supply so that COA officers can take appropriate action.

Issue 3: Eliminate fraudulent "me-too" registrations.

The Committee is currently working together with the regulators to refine the system of "me-too" registration that is allowed in Taiwan after expiration of the local patent. At the same time, the committee is increasingly concerned about the large number of fake or forged documents presented by importers for generic product registration in Taiwan. We therefore urge the authorities to rigorously scrutinize the supporting documents from "me-too" applicants to verify their authenticity.

In addition, the Committee requests that the COA recognize the enormous investment in resources committed by the original registrants by adopting the following measures

1) Extend the administrative protection period for the original registrants from the current eight years to a minimum of 12 years.
2) Ensure that "me-too" products contain the identical AI and inert materials as found in the originally registered product.
3) Require the "me-too" applicants to share a portion of the registration and development cost borne by the original registrant.

Taiwan needs new technologies to help farmers make continuous yield improvements and increase food production. The Committee believes that adopting the above three proposals would improve the investment environment, making it easier for local representatives of multinational corporations to convince their head offices to approve the

introduction of new AIs and technologies that are much needed by the many small growers in this country.

ASSET MANAGEMENT

The Asset Management Committee appreciates the substantial progress made by the Financial Supervisory Commission (FSC) and its Securities and Futures Bureau (SFB) in relaxing various regulations and taking incremental steps towards making Taiwan a robust regional financial services center. Particularly welcome has been the relaxation of China-investment limits for onshore and offshore funds and the efforts made to sign Memorandums of Understanding (MOUs) with various other jurisdictions so as to make Taiwan a more accessible market. In addition, the SFB has been working with the industry to devise a mechanism for allowing Securities Investment Trust Enterprises (SITEs) to delegate trade-execution functions for Taiwan securities to an offshore trading desk, as well as allowing centralized trading in Taiwan of domestic securities on behalf of overseas fund companies or offshore funds. The Committee is grateful for SFB's open attitude in making the regulatory framework more flexible, and looks forward to early results on these issues.

Despite the progress in certain areas, however, some of the Committee's major concerns still remain on the table. In order to reach our common goal of establishing an effective regulatory regime that balances investor protection with making Taiwan's asset management industry globally competitive, we believe that appropriate attention needs to be given to the priority issues outlined below. The Committee remains committed to work constructively with the regulators to resolve these highly important issues.

Issue 1: Exempt the capital gains and dividend income of offshore funds from the AMT system.

The Alternative Minimum Tax (AMT) system, under which offshore income is to become taxable beginning in 2010, has already brought serious adverse impact to the offshore mutual fund market in Taiwan, including immense outflows of private capital to Hong Kong, Singapore, and other destinations. Those interested in investing in foreign securities and assets are becoming reluctant to do so through Taiwan's offshore fund distribution intermediaries because of the potential tax liabilities under the AMT system, and instead are choosing to invest through financial entities overseas, even unregistered underground channels. Large-scale redemptions are occurring even before the AMT regulations take effect, as existing investors in offshore funds opt to realize their profits. The problem is exacerbated by the lack of clear definitions on how offshore income is to be calculated; given that uncertainty, customers are even more likely to redeem their investments. As a result, broadening the AMT system to take offshore income into account from 2010 will lead to significant capital outflow and cause irrevocable damage to the participants and investors in Taiwan's asset management industry.

The Committee notes that the government has recently adopted a series of tax-reform measures, such as a significant reduction in the estate tax and a lowering of the income tax rate, aimed at improving the investment climate and generating greater capital inflow. Extending the AMT system to offshore income will have the opposite effect, however, undermining those efforts to create a more favorable tax regime. Compared with Hong Kong and Singapore, where offshore income is not taxable, Taiwan will be in a disadvantageous position – and it will also become less competitive against other countries in the Asia-Pacific region.

The Committee further notes that the Income Basic Tax Act exempts capital gains derived from onshore funds from the AMT system. If the AMT system is implemented and offshore income becomes taxable, the different tax treatment for the income generated by onshore and offshore funds will result in an unfair competitive environment that discriminates against participants in offshore funds. This would be contradictory to the FSC's intention of treating onshore funds and offshore funds equally.

We are concerned that adoption of the AMT system would set back Taiwan's efforts to establish itself as a regional asset-management center. In addition, if heavy redemptions force portfolio managers to sell off underlying securities, the negative effect on global stock markets, including Taiwan's, could be enormous.

The Committee therefore repeats its recommendation in last year's *White Paper* that the government revoke the decision to cover offshore-fund capital gains and dividend income within the AMT system. The Income Basic Tax Act should be amended accordingly to exempt such income from the AMT system's purview.

Issue 2: Simplify the offshore fund registration/approval process and remove restrictions on SITE fund size.

Facilitating the offshore fund registration/approval process is always an important area of concern for the Committee. According to our understanding, the FSC has taken acceleration of the review process as a short-term goal. The Committee appreciates the FSC's effort and looks forward to seeing this goal achieved shortly.

In looking at how to simplify the fund-registration process, the FSC may wish to employ a differentiation strategy. With regard to master agents, the FSC could expedite the review procedure when applications are submitted by master agents who are in good standing and have no record of violations. For offshore funds, it could consider treating applications differently according to the type of fund. For example, funds invested mainly in developed countries could be registered immediately after the Securities Investment Trust & Consulting Association (SITCA) completes its document review, as long as the application meets all of the FSC's standard requirements. In such cases, no further substantial review by the FSC would be necessary; it would be sufficient for reports to be filed afterwards to the FSC so that the FSC is kept posted as

to the status of the application. Along the same lines, the Committee suggests that the FSC waive the substantial review requirement for new funds whose characteristics are similar to other registered funds represented by the same master agent. The Committee believes such differentiation measures would reduce the burden on the FSC and increase investment opportunities for Taiwan investors.

With respect to onshore funds launched by SITEs, the Committee suggests removing the regulation setting a maximum number of units that may be issued by SITE funds (or allow the maximum to be set as "unlimited"), regardless of whether the fund invests domestically or offshore, and remove the upper limit of the minimum SITE fund-raising requirement. Although fund-size threshold requirements for money market funds have already been removed, other types of SITE funds are still subject to a limit on the number of units that may be issued, a restriction that is inconsistent with the concept of an "open-ended" fund or unit trust and therefore not found in major fund domicile jurisdictions. In addition, SITE funds that invest offshore are unfairly subject to a lower maximum fund-size limit than SITE funds that invest domestically, due to exchange remittance restrictions set by the Central Bank of the Republic of China. This requirement brings no investor-protection benefits, and serves only to create an unnecessary administrative burden on both the industry and the SFB. The minimum SITE fund-raising requirement should accordingly be fixed at NT$600 million rather than the current regulation of either NT$600 million or 10% of the maximum fund size, whichever is greater.

Issue 3: Accelerate the adoption of standards under UCITS III regulations and the process of signing MOUs.

The Committee appreciates the FSC's decision last year to remove certain regulatory restrictions on mutual funds and it commends the FSC for its contribution to improving the environment for the asset management industry in Taiwan. To further pursue the objective of becoming a regional asset-management center, however, it will be vital to adopt internationally accepted industry practices and to amend existing regulations accordingly.

We encourage the FSC to accelerate this process, setting a specific timetable for early acceptance of the standards under UCITS III regulations, including but not limited to raising the limit on the total value of a mutual fund's open long positions in derivatives to 100% and removing the one-year track record requirement for offshore funds applying to register in Taiwan.

In addition, the Committee recognizes that the FSC has devoted considerable effort to building firmer relations with jurisdictions such as Luxembourg where most offshore funds are domiciled. In this regard, we believe that the most efficient way to deepen mutual understanding with such jurisdictions would be for the FSC to sign an MOU with their competent authorities. Since the FSC would undoubtedly be more comfortable in accepting UCITS III standards and further liberalizing regulations on mutual funds once these MOUs are signed, we urge the FSC to proactively seek to enter into negotiations to execute such MOUs. The members of this Committee, as major international asset managers, would be pleased to help facilitate these negotiations.

Issue 4: Further relax China-investment restrictions.

The Committee is delighted to see that the improvement in the cross-Strait atmosphere has contributed to the relaxation of China investment limits. For example, in July 2008, the FSC announced that the 0.4% limitation for onshore/offshore funds' investment in securities listed in mainland China was relaxed to 10%. Moreover, the October 14, 2008 amendment of Articles 23 and 26 of the "Regulations Governing Offshore Funds" exempted offshore Exchange Traded Funds (ETF) with passive management from the above-mentioned China limitation. The Committee applauds the government's action and considers these to be important steps in the right direction. We encourage the government to further review and relax other China-holding restrictions and eventually remove them entirely.

BANKING

In the aftermath of last autumn's global financial crisis, the banking industry and bank regulators throughout the world are currently facing unprecedented challenges. Taiwan's banking system is weathering the crisis better than most, and the Committee commends the Financial Supervisory Commission (FSC) and its Banking Bureau for its openness to reform and to due consideration of the recommendations given in this annual position paper.

Currently the Committee's number-one concern, discussed in Issue 1 below, is the possibility that the Legislative Yuan, out of a basic misunderstanding of the workings of the credit market, will lower the maximum interest-rate to an unrealistic and harmful level. Proponents of the measure envision it as assisting hard-pressed consumers during a period of economic difficulty, but in fact the end result would be to deprive many members of the public and small businesses of the access to bank credit they currently depend upon.

Several of this year's issues focus on standardizing and simplifying the regulatory process, and increasing the amount of transparency and consultation with industry. We are confident that attention to the points raised below will help to heighten Taiwan's competitiveness as the world economy emerges from recession in the months ahead.

Issue 1: Maintain free-market principles regarding interest rates on lending.

As the 2009 *Taiwan White Paper* was going to press, the Legislative Yuan was still considering an amendment to the Civil Code to lower the statutory cap on interest rates from 20% to the Central Bank short-term financing rate plus

9%, which currently equals 12.5% on an annualized basis. Although the proposal is undoubtedly well-intentioned, with the aim of reducing the burden on the public at a time of economic hardship, its enactment into law would in fact have a negative impact on the economy, on the finances of many consumers, and on Taiwan's attractiveness to foreign investors. The Committee urges the Government to respect market forces and not to damage the economy by arbitrarily capping interest rates.

Taiwan is the only developed Asian market besides Japan with a statutory cap on credit-card interest, and the current 20% maximum is already out of line with current international practice, where pricing for unsecured credit is generally in the 24-30% range.

If the amendment is passed, credit-suppliers (such as credit card issuers) would need to cover prospective losses from delinquency by withdrawing credit supply or reducing credit lines to many individuals and small businesses in weaker financial condition. As credit contracts, so would retail spending, with an adverse impact on economic performance just when the economy needs a boost.

Further, many credit-needy customers would be deprived of access to proper financing, and might have to resort to borrowing through less-regulated channels at annual rates of 30% to 40%. That was the result in Thailand several years ago when its interest rate cap was temporarily cut to 18%. After a public outcry, the decision was reversed. The lesson is that a lowered ceiling on interest rates could wind up disadvantaging the very people it was designed to help.

Finally, the proposed amendment would constitute a sudden and arbitrary shift in regulatory policy that would weaken banks' profitability and long-term viability. If it appears to foreign institutional investors that government policy is being driven by political expediency rather than balanced long-term economic goals, it would raise serious doubts about the attractiveness of Taiwan's investment climate and undermine Taiwan's chances for ever developing into a regional financial hub.

In early May, AmCham and the European Chamber of Commerce jointly sponsored a seminar by two visiting experts on loan interest-rate policy: Professor Hiroshi Domoto of the Tokyo University of Information Sciences and Anna Ellison, director of Policis, a British policy research consultancy. Based on the experience in other markets, both emphasized that rather than alleviating financial distress, the placement of interest-rate caps on lending tends to shrink the credit supply and to raise the cost of credit to low-income borrowers, driving them to rely on the unregulated black market. The negative impact on the wider economy includes higher unemployment and reduced retail sales.

To avoid the numerous seriously adverse ramifications that passage of the amendment would bring, the Committee urges the Legislative Yuan to refrain from enacting this misguided proposal.

Issue 2: Increase transparency and consultation in the rule-making process.

Maintaining a regular channel for consultation between regulators and the industry during the policy- and rule-making process is vital for a healthy regulatory environment. The Committee appreciates that Taiwan's regulators have frequently invited industry associations to comment on proposed changes in rules and regulations, but broad-based consultation is not carried out consistently for all policies/rules and by all government entities. Also, in many cases the discussions with industry participants are not conducted during the planning stage for new policies and rules. Instead, feedback is gathered through public hearings or other means only after the draft regulations have already been reviewed and approved by senior government officials, at which point there is limited time and scope for revision. Involving industry participants during the planning and early drafting stage would help ensure that the proposed rules and regulations are relevant, balanced, and effective, thereby easing later enforcement and avoiding any unforeseen negative impact on the industry or market.

In Hong Kong, for instance, pre-consultation to discuss proposed policies or rules are held with a balanced mix of industry representatives before finalization of a "consultation paper." The consultation paper is then published on a government website for public comment. During this period, the regulators may also hold meetings with stakeholders and working groups to seek additional feedback. The public comments and the regulators' conclusions and responses are also published. Similarly in Singapore when new rules and policies are being considered, working groups are often created involving domestic and international banks and external advisers. The proposals are then published on a website for a one-month period for queries and comments before the final versions are produced. Replies are also given and published for each of the queries and comments.

To improve the effectiveness and transparency of Taiwan's policy- and rule-making process, the Committee therefore recommends that:

- All government entities involved in making policies and rules for the banking sector adopt a consistent and systematic process of consultation with industry, using the Hong Kong and Singapore practices as benchmarks.
- The consultations or discussions should be held during the planning or early drafting stages for new policies or regulations.
- A response time of at least 30 days should be allowed after public announcement of the draft on the government entity's website.

Issue 3: Standardize and simplify the regulatory reporting process.

Both the regulators and the general public hope that Taiwan can upgrade itself to become a regional financial hub or asset management center. To this end, the regulatory

regime and reporting requirements need to be brought in line with international standards and market best practice. In Hong Kong and Singapore, for example, the regulators generally do not require reporting on every transaction but only on exceptions to standard practice, and both countries have set up secure electronic platforms through which banks can submit the required data for regulators' further processing. This system not only boosts efficiency but also reduces the cost of regulatory compliance.

In general, a foreign bank branch in Taiwan must submit at least 200 different kinds of reports to the FSC or Central Bank (CBC). More than half of these reports, mainly statistics on normal day-to-day transaction volumes are required by the CBC; the number is several times higher than what is required in Hong Kong and Singapore, which focus on management by exception. In addition, many reports sent to both the FSC and CBC have the same or very similar content and format. The Committee urges the FSC and CBC to utilize a consolidated website to collect the needed data. That mechanism would reduce the burden on the banks of filing redundant reports, while also serving the cause of environmental protection.

Currently, supporting documents for foreign exchange transactions need to be submitted to the CBC on a daily basis. While we understand that the collection of the supporting documents from clients is required to substantiate FX transactions, a less onerous alternative would be for banks to safekeep such documents on their premises, submitting them to the CBC on a regular basis or when requested. The CBC could reserve the authority to check at any time on whether the FX supporting documents are being collected on a timely basis.

The suggested approaches would enhance Taiwan banks' market competitiveness by reducing the cost of regulatory compliance.

Issue 4: Respect client confidentiality and the differing conditions of foreign banks when requiring financial disclosure.

The Committee understands the regulators' objective in ensuring that financial institutions disclose relevant information of interest and concern for investors and depositors. But we request that the regulators consider several potential problems raised by the proposed measures:

1. On March 23, 2009, the FSC amended the "Regulations Governing Quarterly Disclosure of Material Financial and Business Information by Banks." Compared with the previous version promulgated on April 24, 2006, the new regulations involve a number of additional reports and revisions to some existing reports. Among the changes, banks are obligated to disclose their top 10 concentrations of credit extensions at the "client group" level. When the FSC stipulated in March 2007 (with a further amendment in February 2009) that banks must disclose their written-off bad debts on their respective websites, the FSC explicitly stated in both instances that the banking secrecy requirement (Paragraph 2, Article 48 of the Banking Act) would not be applicable. But in the quarterly disclosure regulation amended in March 2009, no such exemption from the banking secrecy requirement was mentioned in the revised regulation. Without this exemption, the amendment would expose banks in Taiwan to the risk of client complaints and even litigation.

   The Committee calls on the regulators to balance the need for disclosure with the fundamental principles of privacy and confidentiality of client information. In other countries, banks may be required to make such client disclosures to the regulators – but not to the public, even if the banks are publicly listed. If it is necessary for banks in Taiwan to make such public disclosure, we suggest that at least exceptions be allowed for certain types of credit extensions, including cases in which 1) the total credit granted is below a certain percentage of the bank's net worth (the parent's net worth for the local branch of a foreign bank); 2) the credit is fully collateralized and/or guaranteed by an irrevocable undertaking from a financial institution with investment-grade credit rating; or 3) the client is a private company, not associated with any listed company. Alternatively, for private companies that are not associated with a listed company, regulators could allow the use of anonymous codes in the public disclosure to protect the financial privacy of such companies.
2. Given the recent increased amount of M&A activity in Taiwan involving foreign banks, the FSC has adopted a policy requiring a foreign bank to convert its local operations into a subsidiary following the takeover of a local bank. Although wholly owned by the foreign bank, the subsidiary is required to comply with various laws and regulations primarily intended to govern publicly-held banks.

   Besides dealing with the appointment of independent directors and various reporting and disclosure requirements under the Securities and Exchange Law as they may pertain to public companies, these requirements include detailed disclosures of the remuneration of board members and senior managers.

   While we agree that sound corporate governance structure and practice are of great importance, such rules and principles should not be applied indiscriminately. In the paper *Enhancing Corporate Governance for Banking Organizations* issued by the Basel Committee on Banking Supervision in February 2006, it is emphasized that the implementation of corporate governance principles should be proportionate to the size, complexity, structure, economic significance, and risk profile of the bank and the group (if any) to which it belongs. Clearly, a local company that is a wholly-owned subsidiary of a foreign bank differs substantially from a publicly-held company in terms of the size and complexity of its shareholding structure. There is no need to impose the same set of reporting and disclosure rules on both.

   The Committee believes that a governance requirement

should be adopted with respect to a foreign wholly-owned subsidiary only if that requirement clearly assists with the regulatory and supervisory objectives of ensuring safe and sound risk and accounting practices, and protecting the financial market. Rules instituted primarily to protect the interests of a multitude of general shareholders, such as comprehensive disclosure of the remuneration of board members and senior managers, should not apply to a wholly-owned subsidiary. We urge the regulator to review the costs and benefits of each governance rule, and impose them on a foreign wholly-owned subsidiary only when the requirement is appropriate to its size and shareholder structure and is needed to achieve important regulatory and supervisory objectives.

Issue 5: Develop a sound structured-notes dispute management mechanism.

Given the recent worldwide financial turmoil following the collapse of Lehman Brothers, the Committee shares the regulators' view that the public interest calls for proactive steps to resolve investor disputes regarding structured notes. To do so properly, it is important to have a consistent approach in place across the banking industry to manage and resolve such disputes in line with international practices.

At present, all structured-note-related disputes (Lehman Brothers-related or otherwise) are filed with the Dispute Tribunal of the Bankers' Association (the "Tribunal"). Upon receiving a customer's claim, the Tribunal determines the settlement awards based on the response and documents provided by the banks. It is still unclear what standards the Tribunal will adopt in assessing the claims, but it appears that the assessment will be guided by the number and nature of the regulatory issues identified by the Tribunal. That approach is a deviation from the existing legal principles for dispute resolution, which are central to the establishment of an international financial market.

Banks are being assessed for notes sold many months ago – in some cases several years ago – according to standards and rules that have only now been formulated due to the recent market turmoil. This approach clearly puts the banks – even those with strong controls and processes – at a serious disadvantage. It is important to note that most banks were operating within the guidelines prevalent when the notes were sold, yet they may lose out in the current settlement process.

While the Committee fully appreciates the public pressure to expedite resolution of the structured-note disputes, a balance should be struck between the financial interests of the claimants and the established values of rule of law. The Committee recommends that:

- The standards and practices adopted in Singapore and Hong Kong should be used as benchmarks. For instance, in Singapore and Hong Kong, Lehman Brothers-related disputes are still resolved through their existing dispute resolution framework with established rules and procedures backed by experienced legal and dispute resolution professionals to handle cases and ensure consistency and fairness.
- A mechanism should be put in place for mediation by a professional impartial mediator before the case goes to the Tribunal. According to the experience of Singapore, the United Kingdom, and the United States, 60-80% of the cases can be resolved during the mediation stage.
- Following the approaches adopted by established financial markets, the organization responsible for dispute resolution should be impartial, transparent, and staffed with sufficient experienced legal professionals.
- To avoid giving the general public the misconception that settlement can be achieved by putting political pressure on the banks and regulators, regulatory involvement in the dispute-resolution process should be kept to the minimum. At the same time, confidentiality agreements between the banks and the customers should be respected. Any disclosure to the media or the public would be highly improper and unprofessional.

Issue 6: Foster a fair and efficient financial market by enacting a sound Financial Services Act.

The FSC on December 2008 distributed an updated draft of the proposed Financial Services Act (FSA), which is aimed at creating a framework for uniform regulation of all types of financial institutions. The Committee appreciates two changes in the new draft: 1) replacement of the "product approval" concept by the principle that unless expressly prohibited, any product or service falling within the general scope of the licensed business is permitted (Article 12), and 2) mitigation of non-negligent (absolute) liabilities for customer loss if a financial institution fails to prove that its disclosure obligation has been met (Articles 35-40). We continue, however, to have major concerns regarding the following:

- Overreaching application of the "Pierce of Corporate Veil" doctrine. The draft FSA adds a specific provision (Article 31) giving the FSC power to require a financial institution to maintain sufficient assets in Taiwan to meet its Taiwan debt obligations, expanding the definition of the debt obligations, in specified circumstances, to include those of related group companies. We question the appropriateness of this new article, which is inconsistent both with the due process doctrine and with the internationally recognized independent characteristics of a corporate entity. We urge the removal of this article.
- Overly broad definition of the wealth management (WM) business. The newly added definition of WM business (Article 8) is so broad that it could be interpreted to include any counter services as well as corporate finance, investment banking, and commercial banking business. We recommend that this article be further reviewed and revised so as to avoid inadvertently bringing these other types of business within the scope of the WM business requirements.

Issue 7: Maintain the current CDIC insurance premium scheme.

The Committee appreciates that the Central Deposit Insurance Corp. (CDIC), following the January 2007 revisions to the Deposit Insurance Act, adopted some of the suggestions made in the 2008 *Taiwan White Paper* regarding new rates for deposit-insurance premiums. We are concerned, however, about the announced plan to double the premium starting in 2010 "for insured deposits in excess of maximum coverage (NT$1.5 million) from the flat rate of 0.0025% to 0.005%."

In view of the current challenging market conditions, forgoing an increase next year and maintaining the current premium rate for uninsured deposits would be a prudent step that would provide greater stability for the banking community. It would be helpful, in fact, if the current rate could be continued for at least five years, or until the next revision to the Act.

CAPITAL MARKETS

The Committee acknowledges the regulators' continued efforts in enhancing Taiwan's financial market competitiveness. It especially thanks the Financial Supervisory Commission (FSC) for listening to the Committee's concerns and issues on an on-going basis. A good example is the FSC's continued discussions with AmCham on the proposed Financial Services Act (FSA), which is aimed at creating a framework for uniform regulation of all types of financial institutions. We share the views presented in the Banking Committee position paper supporting enactment of a sound FSA in the interest of fostering a fair and efficient financial market.

Capital-market development requires coordinated and well-thought-out regulatory and fundamental infrastructural improvement. This takes inter-agency coordination, long-term perspective, and consistent investment in technology and human resources.

We believe that the Taiwan regulators are determined and prepared; the Committee is willing to assist in facilitating the further enhancement of Taiwan's capital markets.

In this spirit, the Committee makes the following suggestions:

Issue 1: Expand the scope of brokers' research and trading to increase industry competitiveness.

1. ***Eliminate restrictions on the domicile of securities researched byTaiwan-based analysts.*** Taiwan securities laws provide that a firm licensed as either a broker or a Securities Investment Consulting Enterprise (SICE) is permitted to publish research reports on domestic companies only. For brokers, the recipients of the research should be securities brokerage business clients, while for SICEs they should be parties with a direct advisory contractual relationship with the SICE.

   Research provided to brokerage clients is considered a client service associated with the securities brokerage business, and the subject of the research is restricted to the permitted scope of that business, which is domestic securities. In the case of research businesses operated under a SICE license without the license-holder having secured separate "special regulatory approval" to offer foreign securities investment advisory services, the regulations permit locally registered analysts to write research reports only on local securities. Seeking special regulatory approval is not a viable option because of the highly onerous application procedure in which each SICE would have to apply for permission for each company it wishes to research – with each case taking months to complete.

   Under current regulations, the definition of "foreign securities" includes foreign-listed stocks issued by companies associated with a Taiwan-domiciled company (e.g. Foxconn International, associated with Hon Hai). Consequently, as Taiwan companies evolve into multinational corporations through overseas listings of offshore operations, Taiwan-based securities firms and SICEs are unable to expand their research coverage to include significant subsidiaries and affiliates. As a result of insufficient information, international investors will become less willing to invest in Taiwanese multinational corporations, effectively increasing those companies' cost of capital and rendering them less competitive.

   The above restrictions, furthermore, force Taiwan-based analysts to move to other regional financial centers, especially Hong Kong, in order to maintain research coverage of these so-called "foreign securities." Taiwan-based equity research teams are thus prevented from expanding their own breadth beyond locally listed companies, which limits the international competitiveness of the Taiwan capital market. It is impossible for a Taiwan-based analyst to play a regional role, whereas Hong Kong or Singapore-based analysts face no such restriction.

   The Committee therefore calls for elimination of restrictions on the domicile of the securities on which Taiwan-based research analysts may make recommendations.

2. ***Allow securities firms to conduct consigned trading of China-related stocks.*** To promote the competitiveness of Taiwan's Securities Investment Trust Enterprises (SITEs) and meet the needs of local investors, the FSC – effective July 2008 – relaxed the investment limit in China stocks from 0.4% to 10% of holdings and removed all limits on investing in China-related stocks listed in other regions. The FSC, however, still prohibits securities firms from conducting consigned trading of China-related stocks, a restriction that seriously undermines local securities firms' competitiveness. To promote the securities business, we suggest that China-related stocks (including China stocks, H stocks, red chips, stocks issued by China enterprises and listed in other regions, etc.) be included within the scope of foreign securities for which consigned trading is permitted.

3. ***Increase investor education to resolve issues related to media use of foreign securities brokers' research reports without consent.*** The media often uses its own channels to obtain foreign securities brokers' research reports, and then quotes from or excerpts the contents. This unauthorized use may impact market performance or stock prices – and sometimes generates investor complaints to the regulators. Brokers provide the research reports only to clients for their reference – not to the media – and the issuance of press releases and any other contact with the media occurs only when relevant approvals have been given. The problem of media misuse of foreign securities brokers' research reports is therefore best addressed through increased investor education on correct investment practices. We suggest that the Taiwan Stock Exchange and Gre-Tai Securities Market hold investor seminars and produce booklets explaining that foreign securities brokers should not be responsible for unauthorized quotes from their research reports in newspaper or magazine articles, and that investors should not rely on such articles in making investment decisions.

Issue 2: Enhance the trading infrastructure to achieve best practices as a developed market.

Market reform to achieve best practices is needed to ensure the Taiwan market's continuing competitiveness. Despite many positive efforts in this direction made by the government over the years, more still needs to be done in adopting international best practices so that Taiwan may reach developed-market status.

1. ***Differentiate between rules for institutional and retail investors.*** Institutional investors have better knowledge, risk appetite, and credit. The rules and requirements designed to protect retail investors are therefore unnecessary for institutional investors. Indeed, applying such rules and requirements to institutional investors actually places them at a disadvantage relative to retail investors. Instead of imposing a rigid across-the-board requirement for pre-delivery of cash/securities for stocks under surveillance, for example, the decision should be at the discretion of the broker according to the institutional investor's credit. Similarly, it should be optional rather than mandatory for brokers to check on stock availability before executing block trades. Since many foreign and local institutional investors' cash and securities are held by custodian banks, under the current regulatory regime institutional investors require more time and incur higher costs for pre-deliveries or pre-checking than do retail investors. There is no logical basis for creating such disadvantages for institutional investors.
2. ***Encourage off-exchange transactions.*** Although Taiwan has a block-trade mechanism, off-exchange over-the-counter (OTC) trading and crossing are generally not allowed. OTC trading and crossing, which are widely available in developed markets, can improve liquidity and pricing, while reducing market impact. At the London Stock Exchange, for example, the significant increase in the number and value of trades on the exchange from 1999 to 2007 coincided with the introduction of a market structure that encouraged off-exchange trading.
3. ***Allow the sharing of clearing and settlement resources by futures and securities settlement departments.*** For securities firms concurrently engaging in futures trading, Article 7 of the "Regulations Governing Responsible Persons and Associated Persons of Futures Commission Merchants" permits consigned trading, proprietary trading, and internal audits for the futures department to be covered by consigned traders, proprietary traders, and internal auditors in the securities department as long as those personnel possess both securities and futures specialist licenses. The only function for which such resource sharing is prohibited is clearing and settlement. This restriction creates a heavy burden in terms of human-resource utilization, management structure, and operational costs, since securities firms concurrently engaging in the futures business will have to deploy an additional three to five dedicated clearing and settlement personnel. Since clearing personnel possessing both securities and futures specialist licenses have already shown that they have acquired professional knowledge in both fields, we recommend revising the regulations to allow such licensed specialists to cover clearing and settlement work in both departments.

Issue 3: Relax futures-trading and related foreign-exchange rules.

Although the Taiwan Futures Exchange has made significant progress since its establishment in 1997, futures trading in Taiwan would benefit from several regulatory changes that would give institutional investors greater incentive to participate in the market.

- Remove the pre-margin requirement for institutional investors, and instead allow brokers to exercise discretion regarding pre-margin payments, based on their own credit policies.
- Allow creation of a give-up mechanism to provide investors with more flexibility and options in trading futures across different Futures Commission Merchants (FCMs). Removing the pre-margin requirement would be a key prerequisite for offering a give-up mechanism. Investors would then no longer need to maintain two margins, at give-up and full-service FCMs respectively.
- Allow Foreign Institutional Investors (FINI) to trade futures with New Taiwan dollars. Currently, FINI clients can only use foreign currencies to trade futures and are subject to relevant NT$ foreign-exchange conversion requirements. Because of the inconvenience this causes for foreign clients, allowing FINIs to trade futures with NT dollars would stimulate the Taiwan futures market.

Issue 4: Further liberalize the Securities Borrowing and Lending (SBL) market.

Taiwan is considered one of the most important markets in the Asian region for securities lending and borrowing (SBL). While the SBL community applauds the enormous progress made by the Taiwan Stock Exchange (TWSE), Ministry of Finance, and the FSC, we believe there is still opportunity to increase market and operational efficiencies, which in turn would lead to greater utilization and liquidity levels.

The following suggestions from market participants are seen as ways to bring substantial growth to Taiwan's SBL market:

1. ***Allow omnibus accounts among lenders to prevent failed settlements.*** Currently, the free movement of securities is permitted only between accounts having the same ID. In markets without an owner identification system, it is common practice to transfer securities from one lender's account to another to avoid a buy-in or settlement failure. The securities returned by the borrower then go back into the account of the lender that provided the cover. We realize this would entail allowing the agent lender to move securities immediately and free of payment between FINI accounts. But this application would be limited to coverage, and if necessary the local custodian/agent lender could produce periodic reports on the usage.
2. ***Create a lender of last resort.*** In Korea, the Korea Securities Depository provides a facility as "lender of last resort" to the market. In relation to SBL, this facility is generally utilized by borrowers to ensure delivery on recalls to the lender. It is not a substitute for the normal recall process for returning securities as the cost and collateral levels are incrementally higher – but it ensures that virtually no settlement fails in the Korean market. Although an essentially similar facility exists in Taiwan, it is only available to lenders. Extending it to borrowers would encourage more lenders to enter the market, with positive results.
3. ***Treat movement of lent/borrowed securities as settlement of an SBL transaction.*** Current regulations allow the lender and borrower to follow the terms and conditions of the negotiated agreement between them. As a negotiated SBL transaction is already "matched," it does not need to be matched again on the Stock Exchange via input by SBL brokers. Delivering and receiving the loaned securities by custodians facilitates settlement of the transaction. As a result, the requirement can be eliminated for the lender and borrower to "place" an order with SBL brokers, who in turn input into the TWSE platform for matching. The parties should be allowed to follow standard settlement procedures by sending settlement instructions to the custodians. The custodians can then report the transaction details to TWSE for control purposes. Existing handling fees to TWSE would remain, as TWSE still has to maintain the transaction information reported by the custodians.
4. ***Improve the recall process and permit lenders and borrowers to resolve expenses incurred in a settlement failure in accordance with the terms and conditions of the negotiated agreement.*** Under the new TWSE mechanism, the lender can recall and sell on the same day (T day) and meet T+2 settlement under certain conditions. The new mechanism, however, does not consider the possibility that the borrower is unable to purchase/borrow from the market, which may cause a settlement failure on the lender's part, with a penalty if the lender has sold the recalled securities on T day. In typical SBL transactions in most markets, it is the borrower's responsibility to return, when recalled within the market-settlement cycle; otherwise, the borrower bears the costs. We suggest closing this gap by exempting the lender from this type of failure and allowing for the costs of remedy to be settled according to the agreement between the parties.

   Similarly, given the lack of a "lender of last resort" mechanism, the borrower often may be unable to make delivery on recalls by the lender, even though the borrower should be responsible if a short sale fails. To provide a working solution for a negotiated SBL, we suggest that the parties involved be allowed to settle the costs associated in such settlement failure in accordance with the negotiated agreement.
5. ***Allow the title for onshore securities collateral to be transferred to the lender.*** Under the fixed price and competitive bidding methods, title to the securities collateral is transferred to TWSE. When borrowing from brokers, the title is transferred to the lending brokers. It is only in a negotiated transaction using onshore securities collateral that the title to the securities collateral remains with the borrower, as a pledge is required. The treatment of collateral, and hence the protection for lenders, should be consistent under the various methods.

Issue 5: Improve the infrastructure of the NT$ clearing system.

The Committee appreciates that the relevant regulatory agencies have reviewed this matter since it was brought up in last year's *White Paper*. We understand that for issues of this magnitude it takes time to reach a consensus before they can be resolved.

The Committee continues to believe that it is inefficient for Taiwan to maintain two electronic clearing systems for NT dollars – the Inter-bank Remittance System (IBRS) operated by the Financial Information Service Corp. (FISC) and the Real Time Gross Settlement (RTGS) initiated and monitored by the Central Bank (CBC). For RTGS, the existing system architecture allows only banks and bills houses maintaining direct head-office accounts with the CBC to remit funds to the final recipients. Because of the restrictive nature of this access, most NT$ clearing – whether for commercial or retail investors – is accomplished through IBRS.

As Taiwan's capital markets develop, this two-tier approach has proved more and more inadequate in terms of both cost and efficiency. Currently, IBRS sets a ceiling of

NT$20 million per remittance and charges NT$210 per transaction. For an NT$100 million commercial payment, IBRS will automatically split the remittance into five lots and charge the remitter for five remittances. As the daily clearing deadline nears, the risk arises that the payment will fail to clear because of the delay while the IBRS system performs the automatic splitting process. To avoid that risk and the high remittance fees for large commercial payments, bank branches in Taiwan without access to the RTGS platform have traditionally resorted to manual delivery of checks to meet NT$ payment obligations. The per-remittance cap, combined with the high remittance fee, has thus perpetuated a very low-tech and antiquated NT$ clearing system in Taiwan.

While a complete overhaul of the clearing system will be essential in the long run, the Committee recognizes that the requisite IT infrastructure will take some time to construct. For the short run, we recommend that the regulators facilitate the NT$ clearing system by removing the NT$20 million remittance cap and instead leaving it to the banks to set their own settlement risk limits for their clients.

For the long term, the Committee strongly recommends that the regulators reference the clearing systems of advanced financial markets. The Hong Kong Monetary Authority (HKMA), for instance, has long adopted a HK$ clearing system that enhances financial efficiency and eliminates settlement risk. To facilitate major currency clearing, HKMA even offers US$ RTGS and Euro RTGS, providing same-day clearing in the region without requiring banks to go through correspondent banks in the United States or the Euro Zone. The Hong Kong example would be a good model for revamping Taiwan's procedures and establishing a single NT$ clearing system.

Issue 6: Enact a Finance Company Law.

No progress has occurred on this issue since publication of last year's *White Paper*. The Committee understands that many urgent financial-market issues required the FSC's attention given the global recession. But we hope the executive branch will act quickly to finalize its draft for submission to the Legislative Yuan, and that the legislature will then accelerate the approval process for passage this year. As stated at greater length in the Committee's position paper in the 2008 *White Paper*, non-bank financial institutions can bring extensive expertise in a variety of areas that are relevant and useful to further development of Taiwan's financial market. Given the abundant financing experience in Taiwan, there is no need to limit lending to traditional lending institutions. The Finance Company Law should therefore be enacted as early as possible to permit non-bank lenders to participate in the development and expansion of Taiwan's economy. In addition, the Committee recommends that finance companies be granted access to, and full membership in, the Joint Credit Information Center in order to enhance their risk-management procedures.

CHEMICAL MANUFACTURERS

The Chemical Manufacturers Committee (CMC) is once again primarily concerned with two fundamental issues that may determine the future viability of the industry in Taiwan. The first is the danger of Taiwan's chemical products losing competitiveness in the huge China market and elsewhere in the region because of tariff burdens as Asian free-trade blocs enlarge; we are pleased to see that this issue is receiving growing government attention. The second is the urgent need for the government to ensure that a prolonged Environmental Impact Assessment process does not prevent the continuing availability of sufficient domestic supplies of chemical raw materials.

In other sections of this position paper, we suggest that the authorities look at integrating all chemical management functions into a single agency as part of the current government reorganization plan, put the handling of the Soil and Groundwater Remediation Fund on a fairer and more rational basis, and devise effective means of dealing with cases of harassment of the chemical industry in the guise of environmental complaints. Finally, in view of the inability of the Taiwan Power Co. (Taipower) to find an appropriate solution to the chemical industry's needs for stable power supply, we call on the Ministry of Economic Affairs (MOEA) to look into the matter and provide a response.

The Committee appreciates the past willingness of the relevant government agencies to take the industry's concerns seriously and work with us for the sake of Taiwan's continued economic development. We look forward to continuing that positive relationship in the year ahead.

Issue 1: Maintain Taiwan's tariff parity in cross-Strait and regional trade.

In recent months, the Taiwan government has become increasingly aware of the difficulties many Taiwan exporters will face if they are excluded from the enlarged regional trade bloc that is emerging as the 10 ASEAN nations begin implementing Free Trade Agreements (FTAs) with China, South Korea, and Japan respectively. From 2005, ASEAN and China have already started tariff reductions, and on January 1, 2010 a large proportion of the products traded among ASEAN, China, Korea, and Japan will likely become duty free. If Taiwan does not achieve a trade agreement with China, it is possible that as early as January 1 next year Taiwan will be at a considerable duty disadvantage in trade with China compared with the 10 ASEAN countries, South Korea, and Japan. For petrochemicals and other commodity businesses, as well as downstream industries such as textiles, packaging, automobiles, and other important manufacturing sectors, that gap would potentially have a huge adverse impact on Taiwan's exporting capability and therefore on its overall prosperity.

In last year's *White Paper*, this Committee urged the new Taiwan government to give urgent attention to these trade issues. We are encouraged that the government has been

actively studying the idea of negotiating a trade-liberalization agreement with China – provisionally named the Economic Cooperation Framework Agreement (ECFA) – and that details are likely to be discussed later this year through talks between Taiwan's Straits Exchange Foundation (SEF) and China's Association for Relations Across the Taiwan Straits (ARATS). It is important for Taiwan to find a way to level the playing field for its exports to the China market compared with those from the ASEAN countries.

In the absence of such a breakthrough, the likely impact would include substantial loss in export revenues and profitability for the petrochemical sector and downstream manufacturers in the textile, packaging, and other industries, a huge increase in unemployment, and a drop in Foreign Direct Investment and possibly even the withdrawal of some existing investments. A conservative estimate is that Taiwan's annual GDP growth would be reduced by 0.5-1 percentage points, with downstream and related multiplier effects adding to this decline. In addition, the resulting lower export margins would severely reduce profitability, undermining the scope for further industrial investment.

The Committee urges the government to continue to make every effort to build domestic public support for a trade agreement with China that would preserve the competitive position of its export industries in the mainland market. We would also hope that conclusion of a trade agreement with China would pave the way for Taiwan to participate in regional trade blocs and enter into bilateral FTAs with additional trading partners.

Issue 2: Ensure a sufficient supply of feedstock for industry's continued development.

The future viability of Taiwan's petrochemical industry will depend on sufficient availability of feedstock from upstream suppliers. Because of the continuous timely investment in new naphtha-cracking units over recent decades by the state-owned CPC Taiwan Corp. (formerly Chinese Petroleum), supplemented in recent years by the facilities of the private-sector Formosa Plastics Group, Taiwan's petrochemical industry until now has never had to worry about inadequate supplies of basic feedstock.

That situation may be changing. A project by a CPC-led consortium known as Kuokuang Petrochemical to construct a new complex on reclaimed land in Yunlin County has been blocked for lack of Environmental Impact Assessment approval. In response, the consortium has proposed shifting the site to reclaimed land in Changhua County's Tacheng Township, but the future of the project still remains uncertain as the Environmental Impact Assessment is still on-going. Without this project, which will involve both a cracker for ethylene/aromatic hydrocarbons and a petroleum refinery, a shortage of basic feedstock may well arise.

To avoid that risk, which would have a serious impact on domestic industry, the Committee urges the government to find ways to accelerate the Kuokuang project. In addition to the reasons already cited in Issue 1, the chemical industry deserves support because of its important contributions to the domestic economy. The petrochemical sector, which accounts for 15.8% of GDP, is closely connected to a wide range of other industries. To maintain Taiwan's economic growth and social welfare, it is necessary to ensure a continued stable supply of basic feedstock for the industry's development.

Issue 3: Integrate the administration of chemical regulatory systems.

The Committee acknowledges the progress achieved in improving cooperation between government agencies and the chemical manufacturers with respect to the national accident prevention and emergency response system – a subject that has been highlighted in this White Paper report for several years.

This year, in view of the Executive Yuan's current plan to restructure the central government, the Committee would like to raise the idea of streamlining the national chemical management system by integrating the various chemical control divisions belonging to the Council of Labor Affairs, Environmental Protection Administration (EPA) and its Emergency Response Information Center (ERIC), Department of Health, and National Fire Administration. Such an integrated national chemical agency could reference the best practices of the European Chemical Agency (ECHA), which has the most advanced chemical control system in the world.

Creation of a Taiwanese national chemical agency would help industries manage their chemicals more effectively and bring together the resources needed to assure effective chemical emergency response. The toxic chemical emergency response that ERIC has been performing, for example, has been recognized by many industries and associations in Taiwan as the best in the Asia Pacific region. ERIC could serve as the nucleus of the new organization, extending its emergency-response services from toxic chemicals to all chemicals.

Issue 4: Suspend collection of the SPRGA fund and integrate all environmental fees into a single levy.

The various levies imposed by the EPA based on the "polluter pays" principle – including fees for air pollution, soil pollution, recycling management, and one now in preparation for water pollution – have aroused controversy due to questions about the selection of the payers, the rates, the reasonableness of the criteria, and the allocation of the funds collected.

An example of the unfairness of the system is the soil pollution fee based on the Soil and Groundwater Pollution Remediation Act (SGPRA). Although the petrochemical industry is paying 97.95% of the money going into the SGPRA fund, the heavy metal manufacturing and electroplating industries that are responsible for the bulk of the pollution have not been paying their reasonable share.

Further, the existence of the polluted soil and groundwater sites resulted from lack of proper supervision by the EPA.

Government budget should therefore be used to remediate these sites instead of putting the burden on a small number of companies. Although EPA considers that 40% of the polluted sites in Taiwan can be traced to petrochemical pollution, most of these sites – such as gas stations, registered factories, and storage facilities – belong to identifiable owners, who under the law should be responsible for remediation of their own sites. The stated purpose of the SGPRA fund, on the other hand, is to pay for the remediation of sites where the owners are unknown or cannot be located. In other words, for most of the affected sites, the SGPRA fund has no useful role to play.

In addition, amendments to the original legislation have broadened the scope of the fund to cover some items that should instead be covered by government budget. Using the special fund to cover government budgetary shortfalls is contrary to the basic principles behind the establishment of such funds. Due to continual government budget deficits, insufficient money has been available for environmental protection, prompting the EPA to ignore the original intention of the SGPRA legislation and divert use of the fund to the monitoring, investigation, and verification of locations that are especially prone to pollution – such as farmland, gas stations, storage tanks, illegally abandoned factories, and old military storage facilities. This kind of investigation work should be paid for out of regular government appropriations instead of being covered by the SGPRA fund.

So far, SPGRA-fund revenues have exceeded expenditures. From the start of SPGRA fee collection in 2001 through the end of 2007, the total fund reached NT$4.6 billion, with about NT$600 million to $700 million levied annually on the petrochemical industry. But total spending came to only NT$1.3 billion, leaving a balance of NT$3.3 billion. Although the Committee regards the payment of SPRGA levies as an act of corporate social responsibility, we also believe that collection of the fees should based on actual needs – and not just to see the fund accumulate. Moreover, after extensive communications between the petrochemical industry and the government in 2001, the EPA agreed that the petrochemical industry is not the polluter but rather has the potential to pollute. The Committee calls on the EPA to immediately halt the practice of relying almost solely on the petrochemical industry to collect these levies. If the SPRGA fund is not collected based on the "polluter pays" principle, it should at least be claimed from all potential polluters.

Lastly, the Committee urges the government to begin preparations to combine all environmental levies into a single fee. As environment-related levies in Taiwan are now governed by various government agencies, the Committee suggests the establishment of a cross-ministry Green Tax Committee or reform task force consisting of representatives from the MOEA, Ministry of Transportation and Communications, EPA, Council for Economic Planning and Development, and other related agencies. The task force would invite scholars and experts from related fields to discuss the possibility of transforming Taiwan's current system of collecting environmental fees and levies into a "green tax" system. In major developed countries, "green tax" income is managed by the Finance Ministry instead of being the "pocket money" of environmental-protection regulators. Rather than just supplementing the EPA's budget shortfall, the money should be applied to social welfare and economic development purposes.

To sum up, the Committee urges the government to revisit the rationale behind the SPRGA fund and the legality of the way it is currently being used, immediately suspending collection of the fund from the petrochemical industry pending the adoption of a more reasonable solution.

Issue 5: Crack down on extortion in the name of environmental protection.

For many years, this paper has included a section calling for the elimination of "community payments." This is a euphemism for a form of blackmail in which chemical companies (simply for being chemical operations, without any evidence that they are damaging the environment) have been forced to allocate funds to nearby communities or face the consequences of angry protests.

Over the years, the situation has become somewhat less egregious. For one thing, there is now significantly more transparency in the use of the funds. In addition, although plants in several chemical industrial zones continue to make community payments as a legacy of past practice, manufacturers have successfully resisted expanding the custom to new locations. The industry firmly believes in fulfilling its corporate social responsibility, including appropriate support to neighboring communities, but it equally staunchly opposes any demand for such payments under duress, outside of normal procedures.

While the community payments problem has been contained, chemical companies continue to be harassed by individuals making false accusations of environmental offenses in an effort to extort money or favors (such as a supply contract, construction contract, land sale, or the hiring of a friend or relative). Based on Article 7 of "Directions for Environmental Agencies on Handling Petitions on Public Pollution Offenses," complainants may file anonymous petitions. The Committee suggests that the environment protection agencies pass such petitions to the surveillance centers in the industrial zones where the plants are located for further investigation. Claims of environmental offenses should be verified using advanced technology and scientific methods so as to protect the reputation of law-abiding companies.

In addition, while someone responsible for a false fire alarm could expect to be prosecuted, the same logic has not been extended to environmental cases. The government should seriously consider the wasted resources and manpower of governing agencies caused by these false accusations. Repeated environmental inspections without real cause take up companies' staff time and add to administrative

costs. The Committee requests the related government agencies to investigate this problem and propose a solution.

Issue 6: Assure reliable supplies of electrical power.

This issue has been raised by the Committee for the past several years, but the basic problem remains unresolved. In response to the manufacturers' request for installation of back-up equipment called ringbus systems, for example, Taipower has said that it would do so provided industry bears the cost. The manufacturers reject that option, reiterating that guaranteeing a stable power supply should be the utility's responsibility and part of the government's commitment to creating an attractive investment environment.

Further, although Taipower states that the number of unscheduled outages has been decreasing year by year, the Committee believes that even one such episode is totally unacceptable. Chemical processes cannot be switched on and off; once a chemical reaction begins, halting it due to a power failure will cause substantial economic loss as well as raising serious environmental and safety issues. Under its contract terms, Taipower takes no responsibility for these consequential damages. Adding insult to injury, the utility charges a fee to the chemical plant to cover re-startup costs.

Another problem is that the stability of the electrical voltage on the grid has been poor. This causes major difficulties for the control equipment in all chemical plants. Considering that Taipower implemented two price increases in July and October last year, we feel strongly that it is the utility's responsibility to provide the industry with a higher-quality and more reliable power supply. As Taipower has been unable to resolve these issues over the past three years, the CMC requests that they receive due attention by MOEA, which oversees the utility.

EDUCATION & TRAINING

The Committee appreciates the cooperation and good will demonstrated during the past year by the Ministry of Education (MOE), which was open to communication and discussion with the Committee on its priority issues. Yet the Committee regrets that despite the Ministry's openness, not much progress has been made since these issues were brought up in 2005.

Of particular concern are the convoluted rules on credit transfers that Taiwanese students must deal with when deciding where to study in the United States, the difficulties encountered by male students wishing to defer their military service to study in overseas community college or diploma programs, and the inability of foreign universities to gain reasonable access to the Taiwan market by offering accredited certificate or degree programs at local sites.

We believe that addressing these issues appropriately and with a sense of urgency will make a major contribution in improving Taiwan's international business competitiveness. The Committee and its members, in support of Taiwan's goal of becoming a regional business center, encourage the government to take further steps to improve the education and training environment in this country.

Issue 1: Facilitate greater student mobility and internationalization.

A systemic barrier inhibits the movement and exchange of students to and from Taiwanese post-secondary institutions. Currently, if Taiwanese students wish to enroll in a one-year or one-semester exchange program at an overseas institution, their home institution in Taiwan must have a "twinning agreement" with the overseas school in order for the student to transfer the credits earned overseas back to his or her Taiwanese school. This policy creates several problems:

- Students' choice is limited to a select number of overseas programs approved by their home institution. This occurs even though the MOE recognizes a much larger group of overseas schools as providing quality programs.
- Highly ranked overseas institutions may not necessarily be interested in entering into a twinning agreement with a Taiwanese school, but would be willing to accept individual students from that school for an exchange year. Once again, the current policy limits Taiwanese students' choices. Similar problems arise if foreign students wish to attend a Taiwanese school for an exchange year.

In order to facilitate greater student mobility and internationalization, the Committee suggests that a new system be established enabling Taiwanese students to attend any overseas school that is recognized by the MOE, without the need for the student's home school and overseas school to have a twinning agreement. Recognition of individual credits towards graduation requirements would be at the discretion of the student's home institution.

Issue 2: Establish a system to formally recognize schools other than those offering four-year degree and graduate-level programs.

Currently the MOE only recognizes the credentials of educational institutions at the undergraduate level or higher. There is no mechanism to recognize one- or two-year diploma or certificate programs at overseas colleges, whereas domestic providers of these kinds of programs do receive such recognition. This policy has several negative repercussions:

- Currently, a male student cannot apply to defer military service if he chooses to study in an overseas community college two- or three-year diploma program or a university transfer program. If a male student takes an equivalent college diploma program in a domestic institution, however, he will be able to defer military service until his studies are completed. That difference represents flagrantly preferential treatment for local service providers (junior colleges) compared with their overseas counterparts.

- By not recognizing these programs, the MOE creates an unwarranted negative image of shorter-term vocational or applied programs, and ignores the needs in the current employment market for people with the types of skills developed in such programs.
- Students wanting to study in these programs overseas do not qualify for favorable-term student loans from the MOE. These loans are currently available only for graduate-level students. It is suggested that the MOE expand the loan program to cover both undergraduate university degree and college diploma/certificate programs.

In the spirit of reciprocity and the equal treatment of overseas and Taiwanese service providers under the WTO, this barrier of non-recognition of college diploma, certificate, and university transfer programs should be removed. This position is also supported by the local study abroad agents association, the International Education Consultants Association.

Issue 3: Continue liberalizing regulations governing foreign universities and degrees.

The Committee appreciates recently proposed changes to the law to encourage the establishment of foreign schools in Taiwan – namely, amendments to the Private School Law submitted to the Legislative Yuan to allow foreigners to serve as the chancellor or chairman of a private school, and to raise the cap on the number of foreign directors who may serve on a private school's board. The Committee also welcomes the decision to allow credits from distant-learning courses to account for up to half of the total required credits for a degree. These are certainly steps in the right direction.

However, the market conditions for foreign university programs in such nearby markets as Malaysia, Hong Kong, and Singapore – where foreign universities are allowed to set up branch offices and to bring in faculty to deliver courses and programs – are still far more attractive than the present conditions in Taiwan.

The law here still stipulates that foreign universities may apply to set up full-scale campuses but not branch offices or satellite campuses. Furthermore, students wanting to attend joint-degree graduate programs taking place in Taiwan will have a problem receiving recognition for credits not earned physically at the foreign institution's main campus. Given such barriers to entry, Taiwan has been unable to attract U.S.-based business schools and other professional schools such as have been operating elsewhere in Asia (for example, the University of Chicago Business School in Singapore, the National University of Singapore-UCLA joint executive MBA program, or Johns Hopkins University's Nanjing Center in China). The presence of high-quality, reputable U.S. institutions in Taiwan's education market would do much to spur innovations in the local education sector, and would provide a wealth of choices to Taiwan's students.

The Committee therefore calls upon the government to adhere to the spirit of liberalization and internationalization that it is espousing by making it possible for bona fide foreign universities to operate legally in Taiwan without undue restrictions. In particular, the Committee urges the MOE to:

- Allow accredited Taiwanese schools to partner with MOE-recognized U.S. and other foreign institutions to create joint-degree graduate programs, and to recognize as valid and legitimate any credits and degrees earned in such programs, regardless of the geographic location where the credits toward the degree are earned.
- Allow MOE-recognized U.S. and other foreign universities to establish branch offices or satellite campuses in Taiwan for the sake of offering certificate and degree programs to Taiwanese and international students residing in Taiwan. As long as the programs they offer are identical to those offered at the institution's home campus and are taught by the institution's own qualified faculty via on-line distance learning or on-site in Taiwan, the Committee sees no reason why such programs should not be allowed to recruit students and run MOE-recognized academic programs in Taiwan.

It is the Committee's view that the government should recognize foreign degree programs based on their quality only, regardless of where the instruction is given.

ENVIRONMENTAL PROTECTION

The Environment Protection Committee recognizes that environmental questions are becoming increasingly important elements in public-policy deliberations in Taiwan as in countries throughout the world. We hope that these vital matters can receive wide attention and discussion in Taiwan as the first step toward forging an effective consensus on how to ensure sustainable development, assuring both environmental protection and economic growth.

This year the Committee focuses on two crucial issues – raising the level of effective wastewater treatment in Taiwan and devising a practical and rational approach to dealing with the challenge of Greenhouse Gas emissions. In addition, we would like to take this opportunity to urge the government to explore initiatives to improve energy performance in buildings, including the promotion of "Green Buildings." Further, we would like to call attention to the requests raised by two other committees – Chemical Manufacturers and Infrastructure – for the adoption of a more efficient Environmental Impact Assessment process. Under the current system, prospective projects are frequently kept in limbo for years pending a final EIA review. That situation serves neither the interest of setting clear-cut environmental policy nor the need of business to be able to make and act upon investment decisions expeditiously.

The Committee looks forward to opportunities to share information and ideas with the relevant government agencies.

Issue 1: Expedite the construction of public sewerage projects.

Despite Taiwan's high level of economic development, sewage connectivity remains significantly behind that of other countries. While Taipei city can boast a connection rate of over 90% and Kaohsiung's is about 80%, the overall figure for Taiwan was less than 42% according to the most recent figures available. In comparison, neighboring countries such as Japan and South Korea have connection rates of 70% and 80% respectively.

In its "*i*-Taiwan" package of infrastructure projects, the Ma administration has committed to investing US$9.26 billion over the next five years with the aim of increasing sewage connectivity by an average of three percentage points per year. Although that is a welcome development, at the announced pace it will be a long and expensive exercise to bring Taiwan up to a level commensurate with its economic status.

Given limited central government funds, the best solution would be to attract more private-sector participation in operating treatment plants. The *i*-Taiwan plan, in fact, calls for US$1.3 billion in private-sector investment in such projects. But for the plan to succeed, the government needs to create the right conditions to encourage investors to participate. Currently potential investors are likely to be deterred by government pricing controls that may not allow an adequate return. Moreover, in Taiwan the burden of financing hookups from households to the sewage system is placed on the company managing the sewage treatment plant, whereas in most other countries, the government takes responsibility for establishing the sewer hookups and networks.

Another concern is that the local government agencies carrying out the sewage projects often lack the requisite experience and expertise. The problem is exacerbated by contradictory policies and regulations between the central-government level and the county and city administrations. A more transparent and consistent regulatory regime needs to be created, possibly by establishing a new entity with clear authority to oversee the entire process.

It should also be pointed out that expenditure on constructing new facilities will have limited impact unless budget is also allocated for the proper maintenance of existing treatment plants. Funds for maintenance have been seriously insufficient because the cost of water treatment is not passed along to the consumer at all. Unless funding is put on a rational basis, Taiwan will never be able to resolve its sewage treatment problems.

The Committee urges the speedy adoption of changes in policy and practice to help ensure successful implementation of the sewage connectivity and wastewater treatment portions of the "*i* Taiwan" priority projects.

Issue 2: Reevaluate greenhouse gas emission (GHG) and energy policies.

The Taiwan government is in the process of establishing a GHG registration platform and is encouraging companies to engage in the voluntary reduction of GHG emissions. The Committee appreciates the plan being prepared by the Environmental Protection Administration (EPA) and Industrial Development Bureau to provide subsidies and tax incentives to encourage industry to make voluntary reductions. At the same time, an important approach to achieving such reductions is the use of market mechanisms such as carbon trading (whether voluntary or mandatory) and in fact some companies in Taiwan's chemical industry are already engaging in this practice voluntarily. Additional measures promoting energy efficiency in transportation and buildings would help to encourage R&D and capital investment in newer technologies.

The Committee has some recommendations regarding GHG regulation:

- Involve all stakeholders in the GHG reduction efforts.
- Set clearer definitions for energy-efficiency standards for each product or facility by referring to IPCC (Intergovernmental Panel on Climate Change) guidelines and protocols where appropriate. As some sectors like cement and aluminum are already working on voluntary standards for energy efficiency, their proposed standards should be considered.
- Set GHG reduction goals under the conditions of clear and comprehensive GHG-emission baseline examination surveys and processes.
- Require enterprises to perform internal surveys on GHG emissions annually – or more often if they have been found to have high GHG emission levels – but extend the frequency of submission for external surveys to every three years.
- Remove indirect CO_2 emissions (from electricity consumption) from the overall calculation of GHG emission, so as not to double count the emissions from electricity suppliers.
- Permit companies that have applied "most feasible technology" for a long period of time to gain credit for those efforts on a retroactive basis without stipulating a cut-off year. Enterprises should be able to get retroactive carbon credits whenever they can show solid evidence of GHG reduction over the past several decades, since many multinational companies started their efforts in the 1990s.
- Reserve a portion of the carbon credits for the EPA to support specific strategic initiatives, such as industrial projects that are important for economic development but would increase GHG significantly. A sound process must first be in place to collect stakeholders' input, however.
- Adjust the penalty in the early years to be focused more on education than on punishment, encouraging non-compliant enterprises to learn from their experience and improve their performance.

We believe that over the long run, the national policy and strategic direction with regard to energy development will be closely tied to the GHG

reduction efforts. The Committee recommends that the government engage in more communication with industry and provide more incentive programs to encourage new technology initiatives in the area of new and renewable energies. These should include (but not be limited to):

- ***Fuel Cells***: Considering that 14% of Taiwan's GHG emissions, along with significant air pollutants, come from vehicles, the Committee recommends that the relevant government agencies – chiefly the EPA, Ministry of Economic Affairs, and Ministry of Transportation and Communications – develop integrated policies and incentive programs to encourage the application of hydrogen fuel cells in Taiwan-made vehicles. With Taiwan's excellent technical expertise and good market potential in this area, promotion of fuel-cell development should be regarded as a great opportunity. The recent policies adopted by the European Union, Japan, United States, and China would serve as valuable references.
- ***Photovoltaic (PV)***: The Committee appreciates that government has developed programs to subsidize PV (solar energy) installation in houses and factories, as well as a scheme to buy the excess electricity from these sources. However, the incentives are inadequate to encourage users and the application process has not been well-communicated to the public. The Committee urges the government to put more effort into these programs, which could reap large benefits not only in reducing GHG emissions but in positioning Taiwan to win an important place in the global marketplace in this industry in the coming decades.
- ***Green products***: Product life-cycle management, also called product stewardship, is a well-established part of the business process in most international companies. Governments in the developed countries have developed long-range strategies to encourage the use of "green products" as raw materials to reduce GHG emissions from the product life-cycle perspective. The Committee appreciates that the Taiwan government has already developed programs to encourage, through subsidies and other means, product recycling and reuse. But more could be done to encourage the use of green products, as well as research in this area, especially for the substitution of products derived from fossil fuels. The Committee suggests that the government develop more incentives to encourage the use of green products as raw materials, so as to lower GHG emissions throughout the product life-cycle.

HUMAN RESOURCES

Human resources issues have been one of the most prominent themes in AmCham's advocacy agenda in recent years. The Committee has continuously emphasized the need for Taiwan to open its doors widely to the best and brightest from around the world, rather than limiting foreign professionals' access to Taiwan's employment market. A more liberalized HR policy would not only enhance Taiwan's attractiveness to foreign direct investment, it would also help strengthen the international mindset of Taiwan's own talents by offering them an internationalized working environment.

In addition, with the rapid integration of business activities in the Greater China area, the ability to move personnel across the Taiwan Strait with the highest efficiency and lowest cost has become more and more important for multinational companies having operations in both Taiwan and China. Therefore, in the past few years the Committee has also urged the Taiwan government to continue liberalizing its policies governing the entry and employment of business professionals from mainland China.

The Committee recognizes the efforts the Taiwan government has made on the above two fronts in the past year. Specifically, the simplified administrative procedures for foreign nationals to apply for work permits, visas, and residency – such as the "Three Cards" program launched this March – are highly welcomed. Also encouraging has been the liberalization since May 2008 in regulations regarding mainland Chinese professionals' entrance to Taiwan.

We have been pleased to see that these steps have been taken to make Taiwan a more attractive and friendly living and working environment for foreign investors. We urge the government to keep up the good work, and we continue to offer our full support and cooperation.

Below are two issues that the Committee would like to draw the government's attention to in 2009.

Issue 1: Further liberalize Chinese travelers' entry into Taiwan for business activities.

The Committee applauds the government's progress in easing restrictions on mainland Chinese professionals entering Taiwan to engage in business-related activities. In November 2008, the Ministry of Economic Affairs (MOEA) announced that the limit on the total annual number of such visitors that each Taiwan-based economic or trade association can apply for was being increased to 200. In addition, for multinational companies' suppliers or authorized distributors in China, as well as for chain store executives, there is now no limit on the number of visitors coming for the purpose of participating in business meetings. In mid-May 2009, the Government also announced plans to further relax the length of stay for Chinese business travelers and professionals. The Committee welcomes these major improvements. As MOEA has stated, they will better meet the practical needs of cross-Strait business activity, while also encouraging multinational corporations to hold international and regional business meetings in Taiwan, thus spurring development of Taiwan's MICE (Meetings, Incentives, Conventions, and Exhibitions) and related industries.

In the meantime, we believe that a comprehensive review and reform of the various regulations governing visits to Taiwan by business professionals from China is still urgently needed. Over the past few years, the Committee has continuously emphasized the importance for multinational companies with operations on both sides of the Taiwan Strait to be able to send employees who hold PRC passports to Taiwan for training, conferences, and other business activities. But the complex visa application procedures – including the large number of required documents and the need to have a qualified guarantor – as well as the limitation on the length of stay, are still onerous barriers that have discouraged multinational businesses from choosing Taiwan as the location for their regional businesses meetings.

The Committee therefore makes the following recommendations to streamline and liberalize the procedures and remove unnecessary barriers to entry by mainland Chinese professionals for commercial purposes:

1. ***Establish a Straits Exchange Foundation office in China.*** When an applicant in China wishes to visit Taiwan for business purposes, the inviting organization (the "Inviter") needs to apply on his or her behalf to the Ministry of Interior (MOI). In support of that application, the Inviter must submit the following documents provided from the mainland: (1) entry-exit application form; (2) photocopy of the identification card; (3) statement explaining the purpose of the visit and an itinerary; and (4) personal photograph. The Inviter also needs to prepare the following documents in Taiwan: (i) invitation letter or relevant documents as evidence of the commercial activity to be engaged in; (ii) guarantee form; (iii) copies of the Inviter's most recent corporate registration certificate; (iv) copies of the Inviter's consolidated income tax return or purchase performance certificate; and (v) other documents as may be requested. All of the above materials need to be submitted to the National Immigration Agency (NIA) in Taiwan because there is no Taiwan representative office in China.

   Mailing these documents to Taiwan prolongs the processing time. That often presents problems, especially for certain Chinese visitors – for example, first-time applicants and those who previously violated relevant regulations during their stay in Taiwan – for whom the Inviter is required to submit the application at least one month prior to the date of departure from China.

   President Ma Ying-jeou has already expressed interest in the exchange of representative offices with Beijing, and the subject has been raised in a preliminary way during cross-Strait talks. If agreement along these lines could be reached, the Taiwan office in China could facilitate the application process for visitors to Taiwan from the mainland, saving considerable time for the applicants. Businesses would appreciate the greater flexibility that would provide in arranging travel plans for their employees and business associates.
2. ***Establish a mechanism for multiple-entry visas.*** Currently, mainland Chinese coming to Taiwan for business activities are granted single-entry permits valid for two months, with the option of applying for additional single-entry permits within the two-month period of the first visa by submitting a consent letter from the original Inviter and the new itinerary to the NIA for further processing. Although the required documents are less onerous for the additional single-entry permit, which is valid for one to three years from the date of issuance, the need to obtain the consent letter, compile a new itinerary, and submit it to NIA means that the process is still rather time-consuming. We strongly urge the government to adopt a multi-entry visa mechanism, eliminating the need for travelers to apply for numerous one-time entry permits.
3. ***Extend the maximum length of stay.*** Mainland Chinese coming to Taiwan to conduct business interviews, inspections, or surveys, hold meetings, give lectures, or to exhibit at or visit trade shows may stay in Taiwan for a maximum period of 14 days. Those coming to engage in activities required by contract, such as business research, examination of goods, after-sales service, and technical support, may stay in Taiwan for a maximum of three months. Given that it can take 10 to 30 days to prepare the documents and process the visa application, it seems quite unreasonable to limit the person's stay in Taiwan to only 14 days. We recommend extending the 14-day limit to 30 days and the three-month limit to six months to better accommodate practical business needs in light of the increasing volume of business interchange between Taiwan and China. [As the *White Paper* was going to press, we were informed that the government was preparing to revise the length-of-stay requirements].
4. ***Eliminate the ceiling on the number of permitted invitees per year.*** While the government last year relaxed some restrictions on the number of invitees that individual organizations are allowed per year, the Committee urges the authorities to remove this restriction entirely. Currently, when the Inviter is a domestic enterprise with annual revenue under NT$30 million, the number of Chinese professionals it may invite within one year may not exceed 15. When the Inviter is a foreign company (including the Taiwan subsidiaries, affiliates, and representative offices of foreign companies) or a domestic company with annual revenue exceeding NT$30 million, the maximum number increases to 50. Given the increasingly frequent commercial exchanges across the Strait and the improved relationship between the two governments, the above restrictions seem out of date. Removing them will facilitate business expansion and development.

In addition to the above-mentioned four areas, the Committee calls for the government to remove some other unnecessary requirements. One of these is the minimum

capital requirement now used in determining whether domestic companies are qualified to invite visitors from China. Another difficulty is the continued practice by some administrative officers of providing the Inviter with only a photocopy of the approved travel permit for mailing to the applicant on the mainland. The traveler is then expected to exchange the photocopy for the original document at the Chung Hwa Travel Service (Taiwan's representative office) in Hong Kong and Macau. With the advent of direct cross-Strait flights, however, that mechanism is outmoded and should be scrapped.

Although the Taiwan government has been moving in the right direction in the past year in terms of policy, at the implementation level the impact of the streamlined procedures has yet to be fully seen. For the sake of Taiwan's economic competitiveness, we urge the government to monitor how the policies are being carried out in practice and to ensure that all relevant administrative officers have been retrained in the new procedures.

Issue 2: Eliminate the working experience requirement for foreign employees of non-tech companies.

While the Committee was preparing its 2008 position paper in May last year, the Council for Economic Planning and Development (CEPD) announced a pledge to relax the requirement that foreign-national employees of non-tech companies have at least two years of work experience – a long-standing issue raised by the Committee every year. We therefore included a complimentary mention of this development in the 2008 paper.

One year later, however, the Committee is discouraged to learn that this plan has been put on hold due to concern by the Council of Labor Affairs (CLA) that allowing more foreign nationals to enter the Taiwan job market would pose competition for local talent and cause the unemployment rate to rise further.

It is understandable that government polices tend to become more conservative and less flexible during a period of economic downturn. However, the Committee wishes to point out that the mentality of "one-job-in equals one-job-out" is outdated. As stated in the introductory section, allowing foreign talent to work in Taiwan is an effective way to provide a more internationalized working environment for Taiwan's own talent. In addition, at a time when neighboring countries are competing for the best and brightest talent from all over the world, Taiwan government's conservative and protectionist approach is not only unnecessary but also counterproductive to its own policy goal of upgrading Taiwan's international living environment.

We once again urge the government to swiftly implement the long-overdue decision to waive the two-year working experience requirement for foreign-national employees for non-tech companies, as was already done earlier in the decade for the tech sector.

INFRASTRUCTURE

First and foremost, the Infrastructure Committee would like to compliment the Taiwan government for joining the WTO's Government Procurement Agreement (GPA). This significant milestone not only demonstrates Taiwan's willingness to fulfill its international commitments, it also opens the door to business opportunities in other GPA signatory countries for Taiwanese companies. AmCham has urged Taiwan to sign the GPA for many years, and we are delighted to witness this outcome.

While we are encouraged by Taiwan's accession to the GPA, we have also noticed a rising trend of protectionism in some government procurement tenders. This trend violates the spirit of the GPA and contradicts the Ma administration's economic development theme of "openness and deregulation." We call upon the Taiwan government to fully embrace both the letter and the spirit of the GPA. Along those lines, it is important to bring the terms and conditions applied in all government tenders into complete compliance with international practices.

In last year's *White Paper,* this Committee suggested that the government reconsider nuclear power as an option in Taiwan's energy development. We were pleased to learn that last month's National Energy Conference adopted this suggestion. One reason for the worldwide renaissance in nuclear power is the threat of global warming. In this year's paper, we point out Taiwan's near-term CO_2 reduction target is overly ambitious; we recommend adopting a longer-term target. We also note that the proportion of base-load power plants is dangerously low within Taiwan's power system and has already caused grave impact to Taiwan's competitiveness. Meanwhile, we endorse acceleration of the Environmental Impact Assessment (EIA) review process of several proposed coal-fired power projects.

In addition to physical infrastructure, this year the Committee would like to draw the government's attention to software infrastructure. We are concerned that the current under-investment in Taiwan's IT infrastructure may damage Taiwan's future competitiveness. The gap should be corrected as early as possible.

It is our sincere hope that the government will pay close attention to the following suggestions and take appropriate actions.

Issue 1: Ensure effective implementation of GPA commitments.

The Committee commends the Taiwan government for its decision to accede to the GPA and congratulates the Legislative Yuan for giving its prompt endorsement. GPA membership will bring Taiwan closer to the international community and, if implemented successfully, help spur its overall economic development. By opening its government procurement market to GPA members, Taiwan will enjoy more efficient and cost-effective outcomes for its

infrastructural programs. It will also make itself more attractive to foreign direct investment. In addition, world-renowned "Made in Taiwan" products and services will be able to enter the government procurement markets in all 40-plus GPA member countries, a welcome note during the current recession.

Recently, however, our members have witnessed a trend of rising protectionism in Taiwan, mainly by means of inserting a "buy Taiwan" clause in government tenders or by restricting foreign bidders' participation in government procurement projects. Projects affected in this way include some of the i-Taiwan 12 infrastructure projects and some projects coming under the NT$500 billion economic-stimulus infrastructure budget – projects in which President Ma Ying-jeou has publicly welcomed foreign investment. We understand that these measures might be a temporary response to current economic conditions. Nevertheless, they violate the spirit of free-market competition and the overall government strategy to "open and deregulate" the Taiwan economy. We sincerely urge the government to reconsider this policy and instruct its procurement entities to embrace the eventual implementation of GPA.

Issue 2: Improve the process to attract foreign investment in BOT/PPP projects.

In recent years, private participation in Taiwan's public works projects has declined gradually year after year. Undoubtedly the worldwide economic downturn has been partly responsible, but the main reason has been the domestic investment environment. The Committee would like to offer our recommendations on how to correct the problem:

1. ***Improve the channels of information.*** The project information disclosed by the government is not communicated effectively to potential foreign investors. The main obstacle is that the documentation is usually in Mandarin only, thus discouraging both foreign investor participation and involvement by international funding sources. Establishment of a "one-stop service counter" for foreign infrastructure investment, especially if it is equipped to communicate in English, is urgently needed.
2. ***Make market information more transparent.*** Although most market information is sufficiently transparent to reduce investors' risk and uncertainty, some data – such as real-estate trading data – is not yet transparent enough to meet the market standards of advanced countries. The problem could be remedied by requiring all real-estate transactions to be registered in a government database that is accessible to the private sector.
3. ***Create greater clarity in the government regulatory process.*** The Ministry of Economic Affairs' Investment Commission and other relevant government agencies should certify before the tendering of a private-participation project that it is open to foreign investors, so as to eliminate any uncertainty from the evaluation process.
4. ***Provide for an investment exit strategy.*** It is common for international funds to exit a project after about 5-7 years, whereas private-participated projects in Taiwan are required to make a commitment for 30-50 years, which could significantly discourage potential investors.
5. ***Set clear inspection standards.*** Taiwan's complicated and still-evolving inspection standards for engineering and construction increase the contingent risks for potential foreign investors. For example, some building-material manufacturers face the possible loss of the Taiwan market due to a planned shift to Japanese-style test methodology. In addition, in the near future so-called "green building materials" will be introduced into Taiwan. We encourage the Taiwan government to set reasonable and clear standards well in advance, as well as to hold public hearings to solicit industry input before implementing standards.

Issue 3: Revitalize the economy by choosing low-cost energy.

Of Taiwan's GDP of approximately NT$12 trillion, the total revenues of three major energy companies (Taipower, CPC Corp., and Formosa Petrochemical) account for more than NT$2 trillion. The importance of the energy industry to the Taiwan economy, and the impact for the island of changes in energy costs, is self-explanatory.

In Taipower's case, for example, the company's NT$100 billion deficit last year is largely attributed to the overly large share of power generation taken by gas-fired (LNG) power plants, which generated approximately 40 billion KWH of electricity in 2008. Considering that the cost of using coal is about NT$1.8/KWH cheaper than gas, more than NT$70 billion would have been saved had gas been replaced by coal.

But we realize that a power system needs base-, medium-, and peak-load power plants, and that it is not feasible to replace all power generated by gas with coal. The problem is that base-load power plants (nuclear and coal) make up only 45% of the total system, while the optimal base-load installation should be around 65%. The fact that the total installed capacity of gas-fired power plants in Taiwan exceeds that of coal-fired power plants is therefore rather disturbing. In last month's National Energy Conference, providing adequate power-generation diversity was re-emphasized.

An important conclusion of the conference was to aim to be a "low carbon" society by adopting nuclear power as a low-carbon option. The committee welcomes this conclusion, which is consistent with our suggestion in last year's *White Paper*.

Nuclear power can achieve two goals: increase the base load and reduce CO_2 emission. But it takes more than 12 years to complete a nuclear project, and in the interim the choice is still between coal and gas. Coal-fired power is cheaper and can increase the base load, while gas-fired power plants are much more expensive but emit less CO_2 .

The presumed benefit of gas-fired power plants is that they generate approximately 0.4kg less CO_2 per KWH compared with coal-fired plants. But based on the above-mentioned cost differential between gas and coal of NT$1.8 per KWH, the cost of opting for gas-fired plants for the sake of CO_2

reduction would reach NT$4,500 per ton. Since that is much higher than the current CO_2 trading price of under NT$1,000 per ton, it clearly does not offer an economically viable solution – in addition to which LNG does not even qualify as "low-carbon energy" according to the Intergovernmental Panel on Climate Change (IPCC) definition. Moreover, heavily increasing the importation of LNG can pose a threat to the nation's energy security.

Before a decision is made on what kinds of power plants should be built, we suggest that a cost analysis of the various options be conducted for public scrutiny. If Taiwan truly wishes to revitalize its economy, we believe that both energy security and cost must be taken into consideration when forming a national energy policy.

Issue 4: Adopt a long-term CO2 reduction target.

Global warming has become a major issue for all governments. The Taiwan government has announced a highly ambitious CO_2 reduction target – to reduce annual CO_2 emissions during the 2016-2020 period to the 2008 level, and by 2025 to the 2000 level. This would make Taiwan the ONLY one of the 100 non-Appendix 1 countries (those not regulated by the Kyoto Protocol) to adopt such a rigid short-term target.

The program is considered short-term because transformation of the energy infrastructure takes decades to complete. Achieving such an ambitious target in a 10-year time frame would prove to be quite drastic, not to say impractical, unless Taiwan is ready to make great economic sacrifice as a result. That is precisely the reason why no other non-Appendix 1 country is willing to take such a step.

To achieve the short-term target, it has been calculated that even with additional nuclear and LNG power plants, Taiwan would still need to trade 140 million tons of CO_2 by 2025. Based on the going rate of NT$1,000 per ton, that means an annual expenditure of NT140 billion for carbon trading. It remains highly doubtful whether that burden would be economically or politically feasible.

In addition, the current draft "Green House Gas Reduction Bill" before the Legislative Yuan specifies that 50% of the carbon trading should be conducted domestically – another assumption that is highly questionable. This restriction has been strongly opposed by local industries, with six local trade associations visiting the Premier prior to last month's National Energy Conference to express their concerns.

At the G8 meeting held in Hokkaido last August, a target of a 50% reduction in CO_2 emissions by 2050 was adopted. This is a much more feasible target, as it is quite likely that in another generation renewable and/or low carbon energy will become cost-competitive enough to replace fossil fuels for most economic activity.

We strongly urge the Taiwan government to closely monitor the progress of the "Copenhagen Protocol" (which may emerge from the next Climate Convention to be held at the end of this year) and to adopt a more realistic and achievable long-term CO_2 reduction target so as to maintain Taiwan's competitiveness.

After all, fighting global warming is a marathon; the 100-meter-dash approach may not be the best strategy to solve this long-term problem.

Issue 5: Streamline the Environmental Impact Assessment review process.

In last year's *White Paper,* this Committee suggested that the government streamline the current EIA review process. In addition to AmCham, many other local business organizations have raised the same concern. Due to the lack of rigorous review procedures, it is common for the review committee's comments to exceed the scope of the EIA review process, with the result that the EIA review committees have effectively blocked many public and private investment projects that are much needed for Taiwan's development.

The government has recognized the seriousness of this situation. Recently, the Executive Yuan (EY) asked the EPA to shorten the EIA review time for two mega-projects: CPC's Kuokuang petrochemical complex and the fifth phase of Formosa Plastics' sixth naphtha cracker. The EY's instructions stated that the review schedule for any activities not regulated by law should all be reduced by half. That is an encouraging move that could alleviate the past difficulties caused by the EIA review process. We hope the same principle will be applied to other projects that have been put on hold, given their significant potential contribution to the economy.

To meet future power demand, the existing power capacity needs to be expanded – but construction of a power plant takes at least five years. To avoid power shortages and the severe economic ramifications they cause, we urge the government to accelerate the EIA review processes for Taipower's Changkong and Talin projects, which have dragged on for five and two years respectively. Acceleration of these two projects is essential to provide the quality power supply that will be needed when the economy recovers from the current recession.

If the delay in approving the Changkong and Talin projects stems from a preference for gas-fired power plants over coal-fired for environmental reasons, the cost differential cited in Issue 3 should be considered. Replacing these two coal-fired plants (a total of six units of 800 MW each) with gas-fired units would raise annual power generation costs by NT$60 billion.

The current slowdown in power demand is a short-term phenomenon due to the dip in economic growth. The government needs to take a broader view in planning the long-term economic development for the island.

Issue 6: Continue improving Taiwan's procurement practices.

A. Increase the limit of nuclear liability insurance and improve the coverage.

As Taiwan is not a member of the Vienna Convention or the 2004 Paris and Brussels Convention, it has not

increased the limit of nuclear-liability insurance to meet the current international standard – a current minimum of 300 million SDRs and a possible future limit of $1.5 billion. In addition, cross-border damage is not covered. We suggest that Taiwan (1) increase the limit of nuclear-liability insurance; (2) improve the coverage of cross-border damage to cover damage wherever it occurs; and (3) have a self-executing provision that raises the limit to the 600 million SDRs once the amendment adopted at the Paris and Brussels Convention takes effect. Such improvement would not only make Taiwan a responsible citizen in the global society, but by minimizing their risk would also encourage global contractors with first-class technology to participate in Taiwan's nuclear projects.

B. Amend the terms and conditions in relevant model contracts.

A new public construction technical-service model contract published by the Public Construction Commission (PCC) in 2008 specifies a ceiling on vendors' liability. But vendors are still liable for indirect damages and consequential damages, as well as a broad range of damage items without a ceiling (such as the damages specified by laws and regulations, indemnification on intellectual property infringement, damages from third-party claims, etc). The model contract also contains a penalty term with regard to service quality defects and an unreasonable confidentiality term that requires vendors to bear a perpetual confidentiality obligation. It is almost impossible for vendors to evaluate the risks involved in these terms, thus deterring vendors from joining these government procurement bids.

Furthermore, in a misuse of the standard contract template, government agencies in some cases request that vendors transfer and assign all of their relevant intellectual property rights and trade secrets to the government agency, regardless of the nature of the project. We request further clarification and guidelines from the related government agencies to the officers in charge of the procurement cases, so as to minimize such misunderstanding.

Once again we urge a comprehensive review of these long-standing issues, followed by revision of the relevant procedures, so as to create a platform that encourages multinational companies to play a role in providing Taiwan with world-class infrastructure.

Issue 7: Increase the government focus on IT infrastructure.

Information Technology is at the heart of soft power and has become one of the core measures for evaluating national competitiveness. But in Taiwan it still attracts insufficient government interest and investment. In 2008, the Economist Intelligence Unit's *IT industry Competitiveness Report* ranked Taiwan 28th in Support to IT Industry Development and 20th in IT Infrastructure, significantly lagging behind Singapore (which ranked 3rd and 11th) and Hong Kong (10th and 16th). Furthermore, even though it is a major PC manufacturing and exporting center, Taiwan still has 6.7 million people – excluding the very young and elderly – who do not access the Internet.

The true value of IT comes from combining people with high-value-added applications and services under a correct organizational structure. IT hardware investment alone does not generate value and will not improve Taiwan's competitiveness. Recently several alarming signals have come to our attention indicating the low level of priority the government is attaching to IT deployment: (1) In the IT-related plans included in the economic stimulus packages, the majority of the investment is focused on hardware, without sufficient allocation for IT applications and high value-added services. (2) The government has no Chief Information Officer (CIO) under the current organizational structure, and even in the newly proposed government reorganization plan, the CIO function is only part of one official's portfolio. Having a dedicated CIO position is critical, and is now common internationally in both the private and public sectors.

We call on the authorities to include a dedicated CIO position in the new government reorganization plan and to prioritize investment in IT applications in all i-Taiwan infrastructure programs. Further, we urge the government to set a clear target to bring the remaining 6.7 million members of the population across the digital divide, to increase IT spending to appropriate levels, and to review the spending ratio among hardware, applications, software, and services. National competitiveness depends on how wisely a nation uses Information Technology, the most critical infrastructure for bringing economic and social opportunities to Taiwan's people.

INSURANCE

The long-term viability of the Taiwan insurance industry is being tested as never before. As discussed in Issue 1 below, it will require coordinated and courageous action to protect Taiwanese consumers and address the insurance industry's financial sustainability.

In addition, the Committee believes it is critical in 2009 to continue the progress made in 2008 on key issues. Among the significant advances last year were passage of legislation providing for 10-year tax-loss carry forward, an increase in the foreign currencies in which policies can be denominated to include the Euro and Australian dollar, a decision to allow independent sales agents to deduct expenses in line with other professionals, and full liberalization of premium rates for commercial property and auto insurance. The Committee expresses its sincerest appreciation to the government authorities for making these important and positive changes.

In the face of the on-going global financial crisis, even more substantial change will be required in 2009. We therefore endorse recent proposals by the Insurance Bureau (IB) to require specific action from companies that breach solvency margin requirements and to enhance public-disclosure and transparency requirements in identifying

top-quality insurers in line with tightening international standards. Although other issues exist, in this position paper we are focusing on four items that we consider absolutely vital to the future health of the insurance industry in Taiwan and to achieve the stated objective of the Financial Supervisory Commission (FSC) for Taiwan to develop into a competitive regional financial center.

Issue 1: Find a solution to the problem of toxic liabilities and assure that new business is written in line with international reporting and solvency standards.

The current financial crisis and continuing low-interest-rate environment have heightened the urgency of addressing the negative spread issue. The recent exodus of two leading foreign life insurers representing 6% of the total market and 24% of the new-business market share for foreign companies highlights the seriousness of the situation; these foreign companies, which must report to their parent companies under stringent reporting standards such as International Financial Reporting Standards (IFRS) and Solvency II accounting standards, have now unloaded their liabilities on domestic companies that are under relatively lower local regulatory capital standards.

The introduction of IFRS Phase I involves:

- Valuating assets at market value. Although this already happens in Taiwan, it does not extend to solvency requirements;
- Drawing a distinction between insurance contracts and investment contracts. Investment products would be subject to the accounting standards for financial rather than insurance contracts;
- Increased disclosure in the notes to company accounts;
- Acceptance of the existing liability valuation basis if the basis can pass a best-estimate adequacy test.

Addressing the solvency and capital issues is critical not only for the companies already operating here, but also for potential new foreign entrants to the market, enabling them to have confidence that they can compete based on recognized international standards of risk management. There are no shortcuts in addressing the negative spread issue. The Committee believes that industry and the government must work closely together toward introducing capital, risk, and regulatory requirements along the lines of IFRS and International Association of Insurance Supervisors (IAIS) standards by 2011.

The result of this shift may be recognition that not all insurers are capable of meeting the required standards within a reasonable period of time. In that case, the authorities – in coordination with the industry – will need to introduce programs that ensure fair treatment of those insurers' customers while providing a smooth transition to a more stable long-term platform for the industry. We therefore urge the authorities to consider options (for example, an old company/new company structure supported by a government reinsurance scheme) that would provide some relief to the old block of business and allow new business to be priced within international standards.

Issue 2: Exclude foreign-currency investments supporting traditional insurance policies denominated in that currency from the 45% foreign-investment limit.

The foreign-investment portfolios used by insurers to back up their foreign currency-denominated insurance products in the same foreign currency should not be included within the 45% foreign investment limit for the following reasons: a) there is no currency risk because both assets and liabilities are in the same currency, b) companies' ability to diversify their investment will be hampered if both local and foreign-currency policy investments share the same foreign-investment limit, c) it unfairly restricts insurers that have reached the foreign-investment limit from developing their foreign-currency policy business, d) foreign-currency policies would not trigger any incremental currency speculation because the foreign-currency premium to be paid by each policyholder will still be subject to the existing US$5 million annual foreign currency transaction limit for individuals (i.e. US$5 million for purchases and US$5 million for sales), and e) such limitation will present a significant barrier to new insurance companies entering this segment of the market. Excluding these investments from the calculation would provide consumers with a wider choice of insurance products, while also reducing insurance companies' hedging costs and the risk of currency mismatches.

The Committee also recommends to the Central Bank of the Republic of China that life policyholders be allowed to pay premiums and receive benefits for foreign-currency-denominated policies in New Taiwan Dollars. This change would simplify the process and reduce the cost for consumers by allowing transactions to be conducted at institutional rates, subject to Central Bank reporting requirements.

Issue 3: Maintain the current taxation practice on investment-linked products.

At its meeting of February 17, 2009, the Tax Reform Committee (TRC) of the Executive Yuan proposed to impose a separate withholding income tax of up to 10% on investment gains from investment-linked insurance products upon expiration or termination of the insurance contract. The TRC discussed the issue again on May 1, 2009, and reportedly both the Ministry of Finance and the FSC have agreed with its conclusions. According to press reports, this consensus entails (1) imposing income tax by asset class on investment proceeds accrued in the investment account, (2) levying gift tax on the maturity payment when the policyholder and the beneficiary are not the same person, and (3) imposing estate tax on death benefits for non-qualified policies.

This Committee strongly disagrees with that recommendation. The income-tax exemption for personal insurance payments was enacted in December 1972 to encourage long-term savings and strengthen the social-

security system. It has performed an important social-policy function for the past 36 years. Investment-linked insurance products serve the same purposes as the traditional life products and have become an increasingly important component of Taiwanese retirement planning due to such products' ability to offer insurance coverage while allowing policyholders to determine their own investment portfolios. At a time when it is in the interest of society to encourage more citizens to engage in long-term saving for their old age, the TRC's proposal would have the contrary result of discouraging people from including investment-linked products in their retirement plans.

Most investment-linked products are linked to mutual funds. Since the capital gain from mutual funds and listed shares are currently not subject to income tax, there is no reason to give different treatment to investment-linked insurance products. Indeed, all life and annuity products, including investment-linked products, are already subject to Alternative Minimum Tax and should not be further subject to an extra income tax. Particularly when the market has been suffering from extreme volatility, it is unclear why the Executive Yuan would wish to support short-term mutual-fund trading over long-term mutual-fund investing.

In most international markets, in addition, unit-linked contracts that meet certain defined criteria are usually taxed as life insurance. The FSC has already required that investment-linked products provide at least a minimum level of insurance coverage; therefore such products are not purely for investment purposes and should be treated as life insurance.

Investment proceeds accrued in the investment account serve the purpose of funding the insurance protection and are an integral part of the life insurance payment. According to the current Income Tax Act, Estate and Gift Tax Act, and Insurance Act, insurance payments are exempted from income tax and estate tax. Imposing income tax on the investment account of investment-linked insurance products or estate tax on the death benefits thereof would therefore be contrary to existing law. Should the government decide to take a different approach towards insurance product taxation, it would need to go through the legislative process to revise the laws.

Finally, from a customer perspective, it is important that policyholders have the option of a separate account for investment-link products as it provides an added layer of financial security; otherwise customers could lose their savings to other general creditors if an insurer were to fail. Removing this option would deprive consumers of an important element of protection.

For all these reasons, we strongly encourage the TRC to reconsider its position and to support tax policy that will better meet the growing retirement needs of this aging society.

Issue 4: Amend the Labor Pension Act allow more market-appropriate options for employees.

The Committee appreciates the IB's coordination with the Council of Labor Affairs (CLA) to seek removal of requirements in the Labor Pension Act that restrict life insurers from offering attractive annuity products to Taiwan's workforce. These requirements are: a) a threshold company size of 200 employees, b) the stipulation that at least 50% of employees give their consent, and c) a guaranteed minimum return set at the two-year time-deposit rate.

We commend the CLA for considering granting employees the option of investing some or all of the "voluntary" portion of their contributions in asset classes that would be expected to provide greater returns over the long run – and hope that this privilege could be extended to regular (non-voluntary contributions) for those with a longer-term investment horizon. It is well-accepted, sound advice that individuals with at least 10 years to go until retirement should consider investing in equities, fixed-income instruments, and other riskier assets that promise returns far above traditional bank-deposit rates. Other Asian countries adopted such an approach long ago. Despite the current economic situation, when markets around the world recover, they can be expected to once again provide opportunities for superior returns.

The committee urges the IB to continue to coordinate with the CLA to remove the above-mentioned barriers so as to allow Taiwan's workforce to benefit from annuity products.

INTELLECTUAL PROPERTY & LICENSING

Intellectual property rights concerns have often been at or near the top of the advocacy agenda of AmCham Taipei. We have been sufficiently impressed with the progress over the past few years, and with the good will shown by the key agencies involved, that the Chamber endorsed Taiwan's removal from the Special 301 Watch List when USTR prepared its 2008 report. We expressed this strong support during both the annual review and the subsequent out-of-cycle review that finally resulted in Taiwan being removed from the Watch List earlier this year.

We have noted over the past year that Taiwan has continued to strengthen its IPR protection. In particular, establishment of the Intellectual Property Court in July 2008 marked a major milestone for Taiwan's IPR protection. Internet piracy was dealt a serious blow through the passage of the ISP (Internet Service Provider) bill by the Legislative Yuan in April, and the speedy promulgation of that bill by the President in May. We have also seen beneficial reviews of the Trademark, Copyright, Fair Trade, and Patent Laws, and of regulations pertaining to compulsory licensing, which will result in revisions of these laws and regulations.

The Intellectual Property Task Forces and the National Police Administration have maintained a high level of action to investigate and bring to justice those involved in the counterfeiting and piracy of goods. Previously AmCham had raised concerns about the growing use of the Internet

as a distribution platform for counterfeit and pirated goods, but over the past few years the Taiwan authorities have successfully taken action against hundreds of Internet sales and auctions sites that were in violation.

Campus-related copyright infringement has been one of our main concerns for the past several years. Enforcement against piracy activity on the Ministry of Education (MOE)-sponsored Internet service provider TANet (for Taiwan Academic Network) has much improved, as has enforcement against the unauthorized use of copyrighted material on or near universities. The MOE has also organized a far-reaching awareness program for students and faculty.

Despite this progress, further improvement is still needed in certain areas. Last year's passage of a P2P Protection Act and this year's passage of the ISP bill promises to bring significant protection regarding the uploading and downloading of copyrighted works. The Committee looks forward to the implementation of the two bills, but hopes the government ensures that the administrative agency handling enforcement of the laws has the necessary mandate and resources to effectively monitor the industry and enforce regulations.

Internet piracy of optical media remains a problem. The software industry continues to suffer from "end-user piracy" – the unauthorized copying, distributing, or under-licensing of software by users in government and commercial settings. The software industry has found, for example, that while piracy levels dropped in 2008, monetary losses actually increased, evidencing the increased scope of the problem (as well as the increased size of the market, both legitimate and pirated). An International Data Corp. study in 2008 estimated that reducing software piracy in Taiwan by 10 percentage points would add US$400 million to GDP and US$40 million in tax revenue.

The Committee urges the Taiwan government to focus on the following areas in the coming year:

Issue 1: Improve remedies for trade-dress violations.

The Committee continues to call on the Taiwan government to find better remedies to the continued problems of passing-off or other trade-dress violations. The enforcement and judicial jurisdiction of these trademark abuses are not clearly established in Taiwan. As a result, trademark owners are left with few enforcement alternatives. While the Fair Trade Law does, in theory, cover these abuses, in reality it is rendered ineffective in this regard due to the lack of an enforcement mechanism, the absence of discovery through search and seizure, and the inadequate hearing process at the understaffed Fair Trade Commission. Attempts to use the judicial system to seek redress through existing trademark law often result in jurisdictional issues that complicate the cases for law-enforcement authorities and the courts. The reviews currently being undertaken of the Trademark Law and Fair Trade Law should provide an excellent opportunity to devise a solution to this problem.

Issue 2: Improve judicial treatment of IP cases.

The Committee reiterates the position taken in *White Paper* submissions over the last 10 years that Taiwan courts hamper enforcement of IP laws by letting off most convicted IP offenders with light, suspended sentences and low fines. With the current level of sentencing, counterfeiters have come to view being taken to court as merely a manageable cost of doing business. As matters now stand, the financial incentives to engage in counterfeiting far outweigh the risk of severe punishment. Counterfeiting can be deterred by removing the motivation for counterfeiting – profits. Once counterfeiting is unprofitable, it will diminish.

The Committee strongly urges the Ministry of Justice and the Judicial Yuan to continue IPR educational and training programs for prosecutors and judges, and to issue procedural and sentencing guidelines along the following lines:

A. As allowed in the revised Trademark, Patent, Copyright, and Fair Trade Laws, impose steeper fines on convicted infringers than are currently the norm.
B. Give stiffer sentencing in cases involving risk to public health, as with contraband or counterfeit pharmaceuticals and agro-chemicals. The Trademark Law, the 2004 revision of the Pharmaceutical Affairs Law, and the Pesticide Administrative Law provide tools for heavier punishment for those found guilty of the manufacture, import, or sale of these counterfeit and contraband products.
C. Broaden the scope of seizures made in IPR crimes. Law-enforcement authorities should be instructed to seize a broader range of sales documentation during IPR raids, for later review, along with production, distribution, and sales equipment. Depriving offenders of the means of making, distributing, or selling counterfeit products will deter future counterfeiting and serve to increase the cost of criminal acts to levels that would-be infringers will find unacceptable.

The Committee also encourages changes in the Civil Code to allow for effective mechanisms for statutory damages and discovery in civil cases, and a recognition that IP rights-holders have a right to recover the costs of enforcement.

Issue 3: Reconsider proposed amendments to the Copyright Act.

The Committee is concerned about two proposed amendments to the Copyright Act that have been drafted by the Taiwan Intellectual Property Office (TIPO).

1. Article 37bis. According to the draft, both domestic and foreign rights-holders of sounds, music, videos, films , etc. will be required to join a copyright collection society in order to collect royalties from those who publicly rebroadcast, perform, or present their works. Participation in such societies, for which TIPO is authorized to set the licensing fee structure, is currently voluntary. In proposing the amendment, TIPO appears to be responding to complaints from restaurants, retail

stores, coffee shops, hotels, and other establishments regarding licensing conditions for the rebroadcast or public performance and presentation of music and images. TIPO cites several foreign laws and treaties as the precedent for the proposed revision, but we believe its draft is based on an inaccurate interpretation of those sources. Should the amendment be enacted, the result would be to unreasonably restrict rights-holders in the execution of their copyrights, a clear violation of the doctrine of fair treatment stipulated in the WTO's TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights). For that reason, we strongly oppose this draft amendment and ask TIPO not to seek its passage.

2. Article 71bis. This amendment would simplify the licensing process and require rights-holders to exercise their rights through copyright collection societies in the case of use of their copyrighted works by radio and TV stations. The amendment would give TIPO the right to intervene in the negotiation of a copyright license and even to decide the amount of the license fee/compensation. It appears to re-introduce – this time in the context of radio and TV broadcasting and simulcasting – the concept of compulsory licensing that was the subject of considerable controversy several years ago.

   If the amendment is passed, radio and TV stations would no longer need to bargain seriously with rights-holders, but rather would be inclined to wait for negotiations to fail and then apply for a compulsory license. This would severely jeopardize the interests of copyright owners who prefer to collect fees directly rather than join a collection society. The result would be a significant step backward in the development of copyright licensing in Taiwan. Compulsory licensing, which inevitably undermines rights-holders basic interests, should be an exceptional practice reserved for extraordinary circumstances; its scope should be as narrow as possible. Extending that scope to radio and TV broadcasting and simulcasting would potentially constitute a serious violation of the TRIPS principle of fair treatment. We vigorously oppose this draft amendment.

Issue 4: Tighten Customs procedures against counterfeit goods.

As Taiwan seeks to further open up cross-Strait travel and transportation, it is increasingly important for the Customs Administration to serve as an effective gatekeeper to keep out counterfeit and/or contraband goods. Procedures for customs inspection and seizures need to be broadened, simplified, and streamlined.

Under current Customs procedures, little or no information about infringers is made available to rights-holders when seizures take place. By not sharing information and developing cooperation with rights-holders, Customs and other law-enforcement bodies are losing an opportunity to gain better knowledge of infringer networks, and thereby to improve deterrence.

In addition, a significant amount of trade in counterfeit and pirated goods is carried out daily through the mails. The Taiwan postal service's inspection system of packages for counterfeit goods is ineffectual, a deficiency that is being exploited by those who trade in counterfeited and pirated goods.

Customs should make better use of databases of suspected infringers as a weapon in fighting the trade in counterfeit and pirated goods. Senders and receivers of all counterfeit goods found during customs and postal inspections should be entered into this database and actively monitored. Coordination should be better established with the Judicial Yuan, TIPO, Ministry of Justice, Ministry of Interior, and Ministry of Finance (which has departments dealing with tobacco and spirits) so that the names of fined or convicted smugglers and those trading in counterfeit and pirated goods can be systematically added to the Customs database for future monitoring.

Issue 5: Tackle the problem of end-user piracy.

The software industry continues to suffer the most in Taiwan from "end-user piracy" – the unauthorized copying, distributing, or under-licensing of software by users in both private and public institutions. Indeed, while piracy levels dropped in 2008, losses actually increased, evidencing the increased scope of the problem (but also the increase in the overall size of the market – legitimate and pirate). Taiwan needs to take the following actions to decrease end-user piracy:

A. Continued government programs to raise public awareness by pointing out the risks associated with using pirated software and encouraging the use of legitimate products. As reducing software piracy requires a fundamental shift in the public's attitude, public education is critical to achieving success. We commend the Taiwan government for its past efforts in this regard, and note that some of the most successful activity to reduce software piracy in Taiwan has involved comprehensive public education campaigns launched jointly by government and industry.
B. Targeted actions, with follow-up prosecutions in appropriate cases to send a deterrent message and foster the use of legitimate software by businesses in Taiwan.
C. Greater attention to the problem by government agencies, which are among the biggest users of business software. While governments generally have procurement policies in place for physical property, some government agencies, government contractors, and government employees do not always pay proper attention to software procurement procedures. As a result, the unauthorized use of business software in the public sector has become an endemic problem in Taiwan. We encourage the government to review current legislation, policies, and practices with an eye to promoting the use of legal software. Among those steps should be adding the use of proper software asset management (SAM) among the audit requirements for both public and private sector entities. We further

encourage an increased IT budget for purchasing legitimate software so that government units can set an example for the private sector in terms of IPR protection and the promotion of proper business practices.

Issue 6: Step up enforcement against smuggled and counterfeit goods.

A position stated annually in this *White Paper* is that the Department of Health and the Council of Agriculture need to establish more effective monitoring and enforcement of pharmacies and agro-chemical vendors, respectively, to better protect against smuggled and counterfeit goods. There should be an aggressive suspension of relevant licenses of those vendors found trading in contraband or counterfeit product.

The Committee also applauds actions taken by the Spirits and Tobacco Sections of the Treasury Bureau, Ministry of Finance, in targeting tobacco and spirits smuggling and counterfeiting at the local and distribution level. Their actions, however, are not enough. Millions of dollars in government and tax revenue is lost each year through sales of potentially unsafe products by these spirits and tobacco smugglers and counterfeiters.

In addition, we applaud the efforts, especially over the past few years, of the Intellectual Property Task Force and the National Police Agency on counterfeit and pirated goods. These organizations have, usually independently, taken hundreds of actions in the last year against on-line sales of counterfeit products. We are concerned that there appears to be less focus in the last three years, and far fewer actions, on shops, markets and street vendors of counterfeit and pirated products. We hope that these enforcements bodies will in the coming year orient more of their activities to the neglected areas.

Issue 7: Continue to improve campus IPR protection.

The Committee welcomes the efforts of the MOE and TIPO in jointly addressing concerns about campus IPR protection by holding publicity events and seminars at colleges and universities throughout 2008. We have been encouraged by the progress regarding two types of violations – the illegal copying of textbooks on campus and the illegal downloading of copyrighted material using the MOE-sponsored Internet service provider TANet – although further actions need to be taken to maintain the momentum.

We are encouraged by the MOE policy announced on November 25, 2008 that forbids (with certain exceptions subject to approval) the use of P2P file-sharing software on the TANet that could be used to download pirated software. A recent survey, however, indicated that more than 20 colleges and universities also subscribe to ADSL access services from private ISP providers for their faculty members and for students in dormitories. These ADSL users may not be covered by the MOE's monitoring of the use of illicit P2P software. The Committee therefore urges the MOE take all necessary steps to ensure that the abovementioned policy is also fully applied to ADSL users.

MEDICAL DEVICES

The Committee is delighted that the relevant governmental agencies have responded positively to several of the issues we raised in the 2008 *Taiwan White Paper* and have taken appropriate action to improve the business environment in this industry. For example, the medical device section of the Bureau of National Health Insurance (BNHI) has worked closely with industry concerning the reclassification of special medical devices and on the price-cut issue. The Bureau of Pharmaceutical Affairs (BOPA) of the Department of Health (DOH) has provided us with needed assistance in developing registration guidelines for In Vitro Diagnostic Devices, specifying expiration dating on medical devices, and clarifying regulations and laws where necessary. We appreciate their efforts in making these needed changes. In addition, after several discussions with the Bureau of Foreign Trade and the Industrial Development Bureau, both under the Ministry of Economic Affairs, selected medical devices manufactured by international companies in China are now allowed to be imported. This regulatory revision helps to align Taiwan with the global market.

Nevertheless, as several other issues still remain unresolved, it is important that this kind of positive collaboration between government and industry continue. The outstanding issues include the need for an independent regulatory agency with specific sets of regulations governing medical devices, establishment of guidelines for the review and management of direct-to-consumer advertising, greater openness and communication with industry in setting reimbursement procedures, and permission to import additional medical devices made by multinational firms in China.

Below, we present detailed recommendations concerning these issues.

Issue 1: Create an independent regulatory body and regulations for medical devices.

While specific regulatory agencies and laws are in place for medical devices in the United States and the European Union, in Taiwan the review and regulation of medical devices comes under the jurisdiction of BOPA and the governing statute is the Pharmaceutical Law. The need for a separate law and oversight unit for medical devices is clear. The medical device industry is fundamentally different from drug manufacturing, and cannot be effectively managed by an agency whose expertise is in drug regulation and by a law borrowed from another industry and then modified.

For the sake of the medical device industry's growth and development, the Committee welcomes the plan to establish a new agency under the DOH, the Taiwan Food and Drug Administration (TFDA), as an opportunity to place the regulation of medical devices on a more specialized and rational basis. In this regard, we hope that the TFDA will follow the organizational model of the U.S. FDA so as to ensure effective management. Along with this change,

increased manpower needs to be assigned to reviewing medical devices and their professional quality enhanced, and the new organization should commit to aligning its policies and regulations with international standards.

We also recommend that the government make the following changes in its current review practices for medical devices:

1. ***Until a new law specifically governing medical devices can be enacted, expand the definition of "medical device manufacturers" in Article 18 of the Pharmaceutical Affairs Law, which loosely defines them as firms engaged in assembling, producing, wholesaling, retailing, or exporting medical devices.*** The new definition should clearly include companies that bear the legal responsibility for the marketed device, as well as those that can provide post-marketing product surveillance. Outsourced manufacturing has been a well-accepted model worldwide. Advanced nations such the United States and members of the European Union accept certification documents issued by legal manufacturers and those who can conduct post-marketing surveillance.

   Unlike its Western counterparts, Taiwan requires separate registrations of all the contract manufacturers involved in producing an identical medical product and also requires free-sale certificates from their governments. This practice not only alienates Taiwan from the international regulatory community, it also increases the burden of bureaucracy and paperwork for local agents and distributors.

   The Committee recommends that DOH recognize the company bearing the legal responsibility and able to conduct post-marketing surveillance as the designated manufacturer for each particular medical device. We also suggest reducing the number of documents required for Quality System Documentation (QSD) and certification, which could be done even before revision of Article 18 of the Pharmaceutical Affairs Law.

   The current definition of "medical device manufacturer" in Article 18 is based on the outmoded thinking of "one-product-from-one-manufacturer." This mentality is the main reason why Taiwan has not yet closed the gap between its regulations and the international requirements for medical device registration. It is also the source of great frustration for many foreign medical-device firms. The Committee therefore urges DOH to bring Taiwan's provisions regarding multinational contract manufacturing in line with those of the Global Harmonization Task Force (GHTF), a group established to encourage international convergence in regulatory practices for medical devices.
2. ***Improve communication with industry and third parties to raise the effectiveness of the management and registration of medical devices.*** DOH collaborates with third parties in assessing medical devices for product registration. In some cases, confusion occurs when DOH and the third-party experts have differing interpretations of assessment standards, with the result that product registration is stalled. Regular and close communication among DOH, field experts, and the device companies is urgently needed in order to build consensus and heighten efficiency in the product review process.
3. ***Publicize the registration guidelines on In Vitro Diagnostic Devices (IVD).*** In 2008, the Committee worked in conjunction with BOPA and the Center for Measurement Standards of the Industrial Technology Research Institute to develop a set of guidelines for the review and management of IVD registrations. The results have not yet been released. Early announcement of these guidelines by DOH would greatly assist the device companies in facilitating their adjustment to the new measure.

Issue 2: Develop guidelines for the management and review of consumer advertising.

Considering the flood of direct-to-consumer advertisements (DTCA) for medical products in the media, the public deserves more access to accurate information on the devices they use. Since advancing public health is part of the medical device companies' social responsibility, the Committee offers to work with DOH to develop medical-device DTCA guidelines that stress industry self-discipline and effective implementation. Our suggestions are as follows:

1. ***Publicize management and review principles for medical-device advertising.*** The Guidelines for Drug Advertising Management developed by the Taiwan Pharmaceutical Marketing and Management Association could be used as a blueprint to develop and implement management and review principles for medical-device advertisements. Such principles would help establish objective review standards, set the direction for management responsibility, and provide a professional review framework.
2. ***Form a review advisory board comprising third-party experts and professionals.*** Bringing in third-party experts to shoulder part of the responsibility for review and supervision can help develop a more professional review mechanism. These experts can also help bridge the gap between industry and government, promote self-discipline on the part of the medical-device companies, and ensure accuracy in the advertisements.
3. ***Eliminate the pre-approval requirement for advertising messages and replace it with industry self-regulation.*** For the near-term, pre-approval of promotional pieces should be limited to a select number of medical devices that may put consumers at risk if used inappropriately – for example, contact lenses. For the longer term, the objective is to eliminate the need for any DTCA pre-approval requirements by putting in place a complete industry-run management scheme for review, supervision, and punishment, and by instituting an industry code that all medical-device companies will commit to respect. Self-discipline on the part of the medical device companies would improve the quality of their promotional activity – including the education of consumers on the selection and safe use of medical devices – while reducing administrative costs.

Issue 3: Revise reimbursement schemes to maintain healthcare quality.

To meet the healthcare needs of an aging population, BNHI will need to upgrade its service in both scope and depth. But as the government's budget deficit continues to mount, funding for healthcare will be constrained and the quality of the medical service provided may suffer. How to maintain a proper balance between the quality of care available to patients and the state of government finances will become an increasingly serious issue as the population ages, increasing the need for medical devices. The Committee offers the following suggestions to BNHI:

1. ***Partner with the medical-device industry in the provision of medical service and establish a communication channel for regular dialogue.*** As the medical-device industry plays a key role in the entire healthcare system in Taiwan, regular communication and collaboration between BNHI and the industry will help secure greater support in the making and implementation of health-insurance policy. This will be particularly important for the planning and execution of major policies such as the introduction of a DRG (diagnosis-related groups) system for reimbursement payment in Taiwan.
2. ***Increase the number of items covered by the Balance Billing scheme.*** Given the financial strain BNHI is experiencing, the Committee once again strongly urges BNHI to increase the number of products included in the Balance Billing scheme, which gives patients the option of paying an additional amount to gain access to certain devices, or types of devices, not otherwise covered under National Health Insurance. In that way, consumers will have greater choice and the ability to benefit from high-tech medical devices, while BNHI's financial pressures can be eased.
3. ***Set transparent reimbursement guidelines for new medical devices and review decisions in meetings with participation jointly by industry, outside experts, and BNHI officials.*** The current reimbursement practice for medical devices is not based on clear criteria. When a device is submitted for reimbursement application, the review often occurs in closed-door meetings with outside experts. Device companies are not invited to participate, giving them no opportunity to offer explanations during the review process. Consequently, when a new device is rejected for reimbursement, the company must re-apply, starting the whole process over. The reimbursement review has thus become a costly and time-consuming procedure that discourages the import of new and innovative medical devices.
4. ***Fully consult with industry before conducting a Price-Volume Survey (PVS).*** For years, BNHI has used PVS as leverage to cut prices on medical devices for cost control. After several price cuts, some devices have set world records for receiving the lowest reimbursement price. Because of the severity of these price cuts, medical device companies in this market have been hard-pressed to maintain quality on their medical-care products while still earning a profit. The Committee urges BNHI to begin discussions with the device companies before a PVS is conducted, covering such subjects as the devices to be surveyed, the timeframe involved, and the guidelines to be applied in calculating the price adjustments. After completion of the survey, the results should be made available and appropriate forums provided for feedback on the price distribution and quantity of the surveyed devices, and on the proposed calculation of the price-cut percentage.
5. ***Set fixed reimbursement rates for special medical devices.*** Medical device companies tend to have higher operational costs than pharmaceutical companies because of the additional expenditures needed to train hospital personnel on how to operate the devices. In addition, the medical-device market is characterized by wide product diversity and short product cycles. Both factors cause the production cost of medical devices to stay high even after market launch. Further, the price of the products tends to increase as raw material prices rise. Following years of price cuts, however, some devices in Taiwan now receive the lowest reimbursement price in the world. Under the global budget mechanism, the reimbursement price for medical devices that fall under the "special device" category will undoubtedly tumble further because of the fluctuating point system by which BNHI assesses hospitals. These continued price cuts have pared the device companies' profit margins to unsustainable levels, but more importantly have discouraged them from introducing new and innovative products into the Taiwan market, depriving patients here of access to the best possible care.

Issue 4: Allow the import of medical devices manufactured in China by multinational enterprises.

More and more international companies are setting up manufacturing sites in China and exporting products from there to the rest of the world. Because the multinational companies apply the same level of quality control as in their home country, these products are certified for sale in the United States, the European Union, and other major markets. In many cases, however, Taiwan prohibits their import. The Committee hopes that the proposed Economic Cooperation Framework Agreement with China will include liberalization of the importation rules, but we understand that for medical devices, concerns about public health and the assurance of medical-care quality may continue to be a factor. We therefore urge the government to begin with the import from China of medical devices manufactured by multinational companies, especially those that have already proven to be of high standard by obtaining market approval in the United States and the European Union.

OTHERS

CHIROPRACTIC

Issue 1: Provide a legal basis for chiropractic in Taiwan.

At a time when Taiwan's National Health Insurance program is under mounting financial pressure, it would be reasonable for Taiwan to encourage chiropractic as an additional choice of treatment for particular physical problems. As a natural and conservative healing art that uses neither drugs nor surgery, chiropractic has been welcomed in many countries as an economical solution for certain ailments, thus contributing to holding down healthcare costs.

But on the contrary, the relatively small number of doctors of chiropractic in Taiwan have found themselves discriminated against by the health authorities and medical establishment. Not only are they denied formal recognition as legitimate healthcare practitioners, but they are prohibited from advertising their services or making any claims about the results or efficacy of their treatments. They have even been subject to raids, extremely large fines, and other forms of harassment.

The attitude in Taiwan is one that existed in the United States and elsewhere in the West around a hundred years ago, but has long since been overcome in those countries as scientific evidence of the health benefits of chiropractic, as well as cost savings and high levels of patient satisfaction, became widely acknowledged. In the United States alone, over 30 million visits are made to chiropractic doctors per year.

In addition, the profession has long received recognition by the World Health Organization (WHO), which works closely with the World Federation of Chiropractic on various projects around the world. In its "Guidelines on Chiropractic" issued in 2005, WHO defined chiropractic as "a health care profession concerned with the diagnosis, treatment and prevention of disorders of the neuromusculoskeletal system and the effects of these disorders on general health." An official Chinese version of the Guidelines was released in November last year at the WHO Congress on Traditional Medicine held in Beijing. Whereas the terminology applied in Taiwan to Doctors of Chiropractic tends to denigrate them as "back soothers," the WHO text – in both English and Chinese – clearly extends to them the title, classification, and respect of "doctor."

Taiwan has long shown its high regard for the WHO through its efforts to gain representation, whether as a member or observer, in the World Health Assembly (WHA). That regard should be extended to accepting the WHO's position of fully recognizing the profession of chiropractic, thus enabling Taiwan citizens to have the benefit of wider choice and freedom in selecting the forms of healthcare available.

In 2006, a group of Taiwan legislators sought to enact a Chiropractic Law in line with the standards set forth in the WHO guidelines. The proposed bill would have permitted chiropractors trained and licensed in advanced countries (in the United States training entails four years of university plus five-and-a-half years of graduate professional school) to practice legally in Taiwan. Since no comparable educational programs exist in Taiwan, there are no domestically trained doctors of chiropractic. Hong Kong faced a similar situation in the past, and created a special registration system for foreign-trained doctors of chiropractic.

In Taiwan, the proposed bill was eventually dropped due to the vehement opposition of the Taiwan Medical Association, which made a number of false and inflammatory accusations about chiropractic, apparently out of protectionist sentiment in viewing doctors of chiropractic as potential competitors. Yet despite the TMA's clear bias against chiropractic, the association appears to hold veto power over official policy on this matter. In its responses to previous *White Papers*, the government has cited the TMA's opposition as a reason why chiropractic does not deserve formal recognition.

The barriers raised against chiropractic professionals educated and licensed in the United States have become an issue in the bilateral trade negotiations between Taiwan and the United States known as the Trade and Investment Framework Agreement (TIFA) talks. The problem was also raised by the U.S. Trade Representative in the healthcare section of the 2009 National Trade Estimate Report.

Significantly, practitioners of Chinese traditional medicine were recognized and allowed to practice in the United States by receiving "grandfathering" treatment before an appropriate regulatory system could be established. In the interest of mutual respect and reciprocity, Taiwan should accord similar treatment to U.S.-licensed chiropractic professionals.

The Department of Health is urged to resist protectionist pressures, cease the raids, fines, threats of imprisonment, and harassment of chiropractic doctors, and actively support passage of legislation to allow them to practice here with professional dignity. At a time when Taiwan has received WHO permission to participate in International Health Regulation 2005 and when the cross-Strait thaw has opened the way for Taiwan to take part in this year's WHA, official recognition of the chiropractic profession would bring Taiwan in line with WHO policies and with the rest of the world.

TOBACCO

Good regulations should be reasonable, transparent, and fair, and their implementation should be clear and consistent, enabling companies to conduct business in a predictable market environment. When regulations are unclear and those affected have no opportunity to understand the policy and its implications in advance, an excessive and unnecessary burden is placed on business operators.

After an 18-month grace period, revisions to the Tobacco Hazards Prevention & Control Act (THPCA) – the most extensive revamping of the law since its enactment – took effect on January 11, 2009. The tobacco industry stands

ready to fulfill its responsibility to fully comply with government policies. In our view, however, many aspects of the current tobacco-control laws and regulations still need further clarification. These laws and regulations were devised without considering market implementation and without engaging in consultation with business representatives. This resulted in ambiguous and inconsistent regulatory practice that has caused unnecessary social cost and business disruption, and the ultimate impact may in fact be to retard progress toward the intended objective of the regulations. Further, impractical regulations mean that business operators' legal rights are not properly protected under the Law of Administrative Procedures.

While expressing willingness to continue supporting the government's policy direction regarding tobacco control, the tobacco industry sincerely hopes that the authorities will adopt a reasonable, stable, and predictable approach to policy-making. We suggest that four principles be considered in setting policy: market stability, prevention of smuggling, protection of government tax revenue, and protection of legitimate industry development. The industry wishes to cooperate with the government in this regard, sharing our international experience when the government further amends the THPCA. We request that the regulatory authority consult broadly with industry members so that policy implementation can draw on their operational experience to achieve effective regulations, safeguard the force of law, and maintain a reasonable business environment.

The items below summarize the major difficulties the industry is currently facing and offer recommendations:

Issue 1: Revise product display regulation to ensure consistent enforcement nationwide.

Before the recent amendments to the THPCA, different city and county governments issued varying administrative pronouncements and guidelines, which in some cases exceeded the scope of the product display regulations under the law. The absence of a consistent enforcement standard greatly hindered the normal conduct of business.

In 2009, a new set of regulations for product display was adopted through amendment of the TPHCA. Portions of the regulations are still not sufficiently clear, however, including rules on the number of cigarette packs allowed to be displayed, the direction that those packs may face, the forms of display, the size and location of posters, etc. The lack of consistency and clarity has resulted in varying interpretations by the central and local governments. Some local government authorities even exceeded the scope of the THPCA, causing an extra financial and administrative burden for the business operators and making it difficult for them to fully comply with the rules.

Since product display rules are a significant aspect of business operations, we urge the central government to issue detailed and comprehensive enforcement guidelines that are transparent, fair, and complete. Such guidelines should aim to ensure consistent enforcement by all local governments and to facilitate compliance by the industry.

Issue 2: Reconsider the anti-counterfeiting mechanism being considered in the Legislative Yuan.

On December 22, 2008, the Social Welfare and Environmental Hygiene Committee of the Legislative Yuan proposed a further amendment to Article 4 of the TPHCA to require "tobacco products to carry anti-counterfeiting stickers so as to eradicate smuggling and counterfeiting." After the amendment is passed by the full legislature, this measure is to be implemented on a one-year trial basis. We are concerned that this step may have a seriously negative impact on business, and we therefore urge the government to proceed carefully.

Based on Ministry of Finance (MOF) estimates, printing and affixing the anti-counterfeiting stickers will cost around NT$1.86 billion (about US$55 million) per year, which is an excessive and unreasonable cost for business operators to bear. Furthermore, the anti-counterfeiting stickers could themselves be counterfeited. Based on previous judicial rulings in Taiwan and the experience of other countries, we believe that this measure should not be implemented, as it will only add to the burden of business operators and customs officials, while doing little if anything to help the government achieve its objectives.

We suggest that the regulatory authority bring together relevant government officials, academic experts, and business operators for a public hearing to discuss how best to implement this proposed amendment. The government should draw from the practical experiences of business operators and understand their operational constraints, rather than ignore their practical interests on this important issue.

Issue 3: Consult with industry to establish a reasonable and feasible mechanism for future collection of a health surtax.

The tobacco products health surtax will be increased from NT$10 to NT$20 per pack on June 1, 2009. For the past three years, the industry has emphasized that the best way to implement the health surtax would be through a system of "supplementary payment on inventory" because it would involve the least market disruption and lowest cost. By amending the law and thus providing a legal basis for collecting the additional payment, the authorities will have established, once and for all, a transparent and efficient mechanism to deal with future health surtax increases while avoiding market disruption.

The mechanism for the "supplementary payment on inventory" would require all those in the tobacco-product trade (manufacturers, importers, distributors, retail chains, etc.) to report their respective tobacco inventories as of the effective date of the health surtax increase. Each company would then pay the difference on its inventory between the old and new health surtaxes into a special-purpose government bank account.

As stipulated in the THPCA, the amount of health surtax

is reviewed every two years by the central regulatory authority and the Ministry of Finance. We urge the relevant authorities to begin discussion with the industry on a long-term solution to the collection problem as soon as implementation of the current round of health surtax increase is completed.

Issue 4: Increase penalties to combat smuggled and contraband tobacco products.

In line with previous experience in this and other markets, the 2006 increase in the health surtax resulted in increased smuggling, the heavy importation of illegal tobacco products, and a large-scale build-up of inventory to reap windfall profits ("forestalling"). Additionally, the emergence of small, low-priced brands based on an "import few, smuggle many" business model has had a serious effect on the stability of the legitimate Taiwan cigarette market, as evidenced by the MOF's annual national investigation reports.

Cigarette smuggling negatively impacts government revenues as well as the legitimate market, and may undermine citizens' health. But the current penalties for importing, selling, or transporting smuggled inferior cigarettes that may undermine human health are not very steep – a fine of NT$500,000 to $2 million or two years' imprisonment. We therefore recommend amending the Taiwan Alcohol and Tobacco Act (TATA) to raise the penalty for smuggling and selling contraband tobacco. We also recommend increasing the portion of the health surtax that is allocated to rewarding successful enforcement against cigarette smuggling.

PHARMACEUTICAL

The Committee appreciates the willingness and commitment of the Taiwan government to continue to dialogue with its member companies and others in the research-based pharmaceutical industry. This communication will help achieve the common goal of both government and industry of enabling patients to live longer, healthier, happier, and more productive lives. The National Drug Policy Conference conducted by the Department of Health (DOH) on December 31, 2008 clearly demonstrated the government's determination to develop sensible drug pricing and reimbursement policies with industry involvement. The Committee urges the government to follow up by formulating concrete policies to realize the objectives set at that conference.

In this paper, we would particularly like to draw the government's attention to Issue 1, on rewarding innovation by creating a more transparent and predictable pricing and reimbursement system, and through a speedy approval process. This would be a fundamental step toward increasing patients' accessibility to new drugs, the priority goal of the National Drug Policy Conference.

Other challenging issues relate to Price-Volume Surveys (PVS) and the adoption of a standard contract, the Separation of Dispensing from Prescribing (SDP), and intellectual property rights (IPR) protection. These are all long-term concerns that have appeared repeatedly in the annual *Taiwan White Paper*. Progress toward resolving them has often seemed frustratingly slow. The Committee has been encouraged, however, that in recent years key pharmaceutical issues have been included in the U.S.-Taiwan bilateral trade negotiations known as the Trade and Investment Framework Agreement (TIFA) talks. Two task forces have been formed to explore various aspects of the problems. Although unfortunately no TIFA talks were held last year, the Committee hopes that the Obama administration will schedule 2009 negotiations as early as possible.

We urge the relevant government agencies to work with the Committee and industry in general in developing solid policies to address the above issues and accomplish the objectives of the National Drug Policy Conference.

Issue 1: Reward innovation through a more transparent and predictable pricing and reimbursement system and a speedy approval process.

The Bureau of National Health Insurance (BNHI) maintains that its policy is to review applications for new drug/indication pricing and reimbursement within three months of submission and to set reasonable reimbursement prices and guidelines within six months of submission. In practice, however, that timeframe is not always adhered to – and in more and more cases the decision is delayed indefinitely. At the same time, many applications are approved with such a low price that it is impossible to launch the product.

According to BNHI data, new product reimbursement prices in Taiwan have dropped from 80% of the A-10 median (based on the prices in 10 benchmark advanced countries) during the 1996-2002 period to only 51% of the A-10 median in 2007-2008. Furthermore, on the average, the new drugs obtained only 72% of the lowest A-10 prices in 2007-2008.

The decision-making process has also become less transparent and predictable to the industry. Price-Volume Agreements and Health Technology Assessment (HTA) have been used as tools to exclude certain products from the market or prolong the reimbursement process.

For the sake of rewarding innovation and ensuring that Taiwan patients are not deprived of access to those innovative drugs, the industry strongly recommends that the government adopt the following measures:

- Reimburse innovative drugs at the A-10 median price.
- Consult with industry, clinicians, and patient groups to set a mutually agreed-upon definition of "Innovation" based on reference from other advanced countries.
- Pledge that BNHI policies – with regard to Price-Volume Agreements, Risk Sharing, and Pay for Performance, for example – will be based on patient benefits, scientific evidence, and a legal foundation rather than only on cost containment objectives.
- Increase the speed and transparency of the pricing and reimbursement process, for example by sharing with the subject company the Product Review Report (PRR)

submitted to BNHI by the Center for Drug Evaluation, so that the company has the chance to present its case at the meeting.

Issue 2: Reform the Price-Volume Survey/price-cut system.

We appreciate the DOH's convening of the National Drug Policy Conference last December. Although that forum was a very positive development, it left unanswered how the chronic pharmaceutical issue of the government's Price-Volume Surveys (PVS) and subsequent price cuts would be addressed.

The periodic implementation of a PVS is the key tool the government has used in attempting to eliminate the long-standing "Price Gap" (the difference between the reimbursement price paid to healthcare providers by the BNHI and the much lower price those providers actually paid for the drugs after discount). But the gap never disappears, since following each reimbursement price adjustment, hospitals are free to continue demanding discounts from drug suppliers in hopes of retaining the margins enjoyed previously. The result amply demonstrates that the PVS/price cut policy is not the solution for minimizing or eliminating the Price Gap.

A further problem is that the PVS and its price-adjustment methodologies unfairly benefit highly discounted products due to the use of a "grouping" mechanism. The market prices of highly discounted products are grouped with less-discounted products to set the Group Weighted Average Price for the new reimbursement price. These mechanisms unfairly force producers to reduce prices based on another product's discounting policy. Moreover, the price-cut methodology gives an advantage to highly discounted generics by setting a floor price at 85% of the originators' new price, no matter how much discount was given to the hospitals. By ensuring that the generics can continue to enjoy a high reimbursement price, the floor-price protection discriminates against competing research-based products.

The current PVS mechanism lowers drug prices both while they are patented and after patent expiry. This is neither fair to the research-based industry, nor does it comply with the consensus reached at the National Drug Policy Conference to improve the accessibility of new drugs for patients. When prices are so low as to be unprofitable, companies may find it necessary to withhold them from the market rather than risk affecting the reference price in other markets; the loser is the patient.

To remedy these problems, the Committee recommends the following:

- Revise the overall drug policy (known as PBS for the Pharmaceutical Benefits Scheme) to recognize and reward innovation, eliminating the need for PVS.
- If PVS is continued, establish an audit system (to check both purchasers and suppliers) conducted by a certified third party or parties to ensure the accuracy and transparency of submitted price data, and also put in place clear penalties for intentionally reporting fraudulent data.
- Implement a mandatory "standard contract" system at all levels of hospitals/purchasers/drug suppliers to effectively prevent the continuing request for discounts. Until legislation is enacted to require nation-wide adoption of such standard contracts, phase in the system immediately by means of an administrative order.
- Set a mutually agreed-upon timetable between government and industry for eliminating the Price Gap by reforming the drug pricing and reimbursement policy.

Issue 3: Implement Separation of Dispensing from Prescribing (SDP).

The existing system at Taiwan hospitals binds medical doctors to prescribe medicines listed in the hospital formularies, which are selected through a process heavily influenced by the amount of profits gained by the hospitals. The government should build an environment in which hospital-staff doctors and pharmacists are able to make professional judgments based purely on the welfare of the patient without being restricted to choosing from among drugs procured for financial considerations. The DOH and its BNHI should consider how to compensate hospitals and general practitioners well enough so that they do not have to rely on profits from drug dispensing. The role of dispensing should be primarily in the hands of community pharmacists, who can provide consultation to patients on medications and healthcare.

Implementation of SDP is crucial to improving the quality of pharmaceutical care to patients. It would empower physicians to prescribe the most appropriate medications based on their professional expertise. It also creates a mechanism to ensure that pharmacists review patients' prescriptions to prevent any duplication or contraindication between prescriptions from different physicians or hospitals. Recognizing the difficulty of making an abrupt change in current practices, the industry supports the idea of implementing SDP in phases, and it offers to aid this process by developing the necessary distribution systems to ensure that the community pharmacies are properly served.

Toward this end, the Committee recommends:

- Government establishment of a roadmap for full implementation of SDP on the basis of a clear timeline. The plan should include measurements of SDP compliance as part of the hospital accreditation system. In addition, hospital fees should be adjusted to eliminate reliance on profits from drug dispensing, and the release of hospital outpatient prescriptions to community pharmacies should become mandatory.
- Provision of more extensive education to the general public about the benefits of implementing SDP. Patients should be helped to understand the crucial importance of SDP in improving the quality of medical care and decreasing the wastage of healthcare resources through a reduction in the volume of unnecessary medication.
- Sufficient funding from the government to improve the community-pharmacy infrastructure in order to meet the

standards that SDP will demand.
- The development of clear regulations to ensure good dispensing practice in the pharmacies, including rules against generic substitution without the doctor's consent.

Issue 4: Improve IPR protection through Patent Linkage and Data Exclusivity.

Patent Linkage

Taiwan lacks a Patent Linkage system, which means that the DOH and BNHI do not take patent-holders' intellectual property rights into consideration when issuing drug licenses and granting reimbursement prices. Under a revision four years ago to the Pharmaceutical Affairs Law, the Taiwan government asks patent-owners to register their patents upon receiving product licenses; thus, data similar to the Orange Book System in the United States is available. That change is meaningless, however, without a Patent Linkage system in place. For the past few years, industry has called for legislation to establish such a system, but the Taiwan government has been consistently reluctant to take this step.

Furthermore, the government's Intellectual Property Office (TIPO) is proposing to amend the Intellectual Property Law to broaden the safe harbor for generics by permitting them to conduct registration trials without penalties for infringing on originators' patents. This change would significantly undermine the rights of innovator companies. Introduction of a Patent Linkage mechanism would ameliorate the situation by preventing registration of a generic form of a patented medicine while the patent is still valid – thereby avoiding unnecessary litigation and confusion. According to a recent industry survey, the current government regulatory approval process has led to potential patent infringement in some 52 cases. If this situation continues, it will undermine originators' willingness to introduce new pharmaceutical products into the Taiwan market and jeopardize patients' right to have access to new medications.

Data Exclusivity

In addition, the value of innovation for new indications should be protected, but the current regulatory data protection does not cover new indications. Data Exclusivity for new indications would equally benefit both international and local R&D-based companies, rewarding them for their efforts in developing new indications.

The Committee recommends the following:
- Establish laws and procedures to support the implementation of Patent Linkage through NDA (New Drug Application) guidelines to effectively protect patent-holders' IP rights.
- Include in the system notification to the originator by the generic company and the DOH when an application is filed, as is done in the United States through the Food and Drug Administration's Orange Book procedure.
- When an originator considers that its IPR has been violated and takes legal action to protect it, require the DOH to suspend the NDA review until the legal case is resolved.
- Enact legislation to provide Data Exclusivity for new indications.

Issue 5: Strengthen quality requirements and streamline the regulatory process.

Drug Quality

In the discussion at the recent National Drug Policy Conference, one key focus was how to ensure drug quality. Taiwan has already established a good foundation on drug manufacturing standards through implementing the GMP and cGMP standards, and a bioequivalence requirement has been in place for products with a higher reimbursement price. Due to differences in the active ingredients and excipients (inactive ingredients used as carriers), however, these measures are not sufficient to ensure the quality and efficacy of generic drugs. To assure patients' access to quality medicines, it is essential to strengthen local regulatory requirements to bring them in line with international standards.

CPP/BSE

The industry seeks continuous improvements in the regulatory system so as to expedite the launch of innovative products in Taiwan. In 2006, DOH substantially raised the new-drug-registration review fee, while committing to speed up the approval process. But product license approvals are still being significantly delayed due to the time-consuming requirement that companies submit three Certificates of Pharmaceutical Product (or two CPPs if the sourcing country is on the A10 list of 10 advanced countries) and have them notarized by a Taiwan representative office in the country in question. The requirement for product license renewal that a CPP be obtained from the sourcing country raises further problems. It is not always feasible, since many products are not sold in the sourcing country due to commercial decisions.

Bridging Study Evaluations (BSE) are conducted to demonstrate that there are no ethnic differences in the impact of a new drug. Unless a waiver is granted, that could further delay the product license for up to two years. For reasons that are unclear, the BSE waiver rate has been erratic, decreasing from 86% in 2002 to 44% in 2005 and then rising to 65% in 2007. This fluctuation raises issues of transparency and predictability.

The Committee offers the following suggestions:
- Establish a system to track and regulate manufacturing changes after license approval as a means of ensuring consistent drug quality. The system could be modeled on SUPAC (Scale-Up and Post-marketing Approval Change) in the United States and the European Medicines Agency (EMEA) Post-Marketing Authorization.
- Reduce the number of CPPs needed for NCE approval to a single certificate issued by one of the 10 reference countries.

- Eliminate the requirement that a CPP from the sourcing country must be submitted for new chemical entity (NCE) approval, new indication approval, and license renewal (instead accepting one CPP from one of the 10 reference countries).
- Accept an approval letter or positive opinion from an overseas agency's website to expedite the approval process.
- Remove the requirement that the CPP must be notarized by the Taiwan consular office in the country in question.
- Approve NDAs without any CPP when any two phases of the Phase I, II, and III clinical studies were conducted in Taiwan and met DOH requirements as per the 6-28 Public Announcement.
- Waive the need for a BSE if one (phase I, II, or III) of the clinical studies was conducted in Taiwan and the enrolled subjects met DOH requirements as per the 6-28 Public Announcement.
- Also waive the BSE in the case of new drugs for treating critical unmet medical needs and rare diseases.
- Publish the DOH Drug Review Committee meeting minutes regarding NDA and BSE cases to improve transparency.

REAL ESTATE

The global economy continues to suffer through a crisis of historic proportions – one that has also had a severe effect on the Taiwan economy. The collapse of the real-estate-backed sub-prime mortgage market in the United States – commonly recognized as the major cause of the current global economic crisis – underscores the importance of real estate to a healthy economy. A free and open real estate market, appropriately regulated, is essential in stimulating the economy and bringing about sustainable development.

The Real Estate Committee was established during the past year in order to focus greater attention on Taiwan's real estate market and its impact on the economy as a whole. The recommendations below are offered in the spirit of improving the health and efficiency of Taiwan's real estate market and thereby benefiting the overall economy.

Issue 1: Ease regulations affecting real estate acquisitions by overseas Chinese and foreign investors.

Regulation #770259495, issued by the Ministry of Finance on September 3, 1988, is the only regulation in Taiwan regarding consumer mortgage loans that applies exclusively to overseas Chinese from Hong Kong and Macau. The regulation stipulates the borrower qualifications, application process, loan amount, loan-to-value ratio, loan tenor, and the amount of security for overseas Chinese from Hong Kong and Macau – terms normally governed by individual commercial banks' credit policies in accordance with their credit appetite.

The 80% ceiling on the loan-to-value ratio and the maximum NT$5 million loan amount limits the willingness of overseas Chinese from Hong Kong and Macau to invest in the Taiwan property market. Overseas Chinese from these two locations are the best potential overseas investors for Taiwan real estate, due to their geographical proximity and similar cultural background. We urge the authorities to abolish this regulation so as to encourage property investments from residents of Hong Kong and Macau.

In addition, Articles 17 and 18 of the Land Act restrict the types of land that can be owned, transferred, or leased to foreigners. Another clause, Article 19, stipulates the types of property that can be owned by foreigners on the condition that it is for their own residence or for investment or charitable purposes. These regulations, which are onerous and also difficult for potential foreign investors to follow, reduce foreigners' willingness to invest in Taiwan property.

In view of the potential stimulus to the economy of encouraging foreigners to invest in the Taiwan property market, the Committee recommends that the government seek a legislative amendment to liberalize the relevant portions of the law, especially the prohibited investments stipulated in Article 17. For example, while foreigners are not allowed to invest in the types of property listed in Article 17 due to national security reasons, there is no good reason to prohibit them from leasing such property under terms set to minimize any national security risks. The Committee also suggests adding a clause in Article 17 allows foreigners to invest in property if approved by the competent authorities on a case-by-case basis.

Issue 2: Allow PRC enterprises to enter the Taiwan property market.

The Committee applauds the government for the gradual normalization of cross-strait relations in such areas as direct air and sea transportation, direct postal service, and the opening of tourism to Taiwan by Chinese visitors. This trend should also be extended to investment from China in Taiwan real estate, particularly as the Beijing government is encouraging PRC enterprises to invest in Taiwan. The Committee urges the Taiwan government to adopt regulations along the following lines so as to enable PRC companies to enter the Taiwan market:

1. ***Permit PRC companies to establish offices in Taiwan.*** The "Regulations on Permitting People of the Mainland Area to Acquire, Create or Transfer the Property Rights of Real Estate" promulgated in 2002 stipulates that PRC companies that have set up offices in Taiwan may purchase certain types of properties here. But since PRC corporations have so far not been allowed to establish offices and start operations in Taiwan, China-based companies are in practice unable to acquire any property on the island. Allowing PRC companies to set up branches or subsidiaries in Taiwan would not only open opportunities for real estate sales but would also benefit the island's office leasing market.
2. ***Relax regulations on the purchase of property by PRC companies.*** As mentioned above, a regulation permitting

PRC companies to invest in Taiwan's real estate market is already in place, despite the reality that PRC companies are not allowed to set up operations in Taiwan. The Committee proposes changes in the current regulations that would enhance PRC investors' willingness to acquire real estate in Taiwan:

a) *Extend the period of stay for PRC property buyers.* The existing regulation stipulates that PRC property purchasers can only stay in Taiwan for 10 days per trip, though they may apply for an extension of up to 10 days. The total period of stay for PRC investors may not exceed one month every year. Obviously such a short period of stay will greatly affect potential investors' interest in purchasing real estate in Taiwan.

b) *Set up a single point of contact.* Article 8 of the "Regulations on Permitting People of the Mainland Area to Acquire, Create or Transfer the Property Rights of Real Estate" stipulates that PRC investors may invest in projects beneficial to Taiwan's economy, such as hotels, amusement facilities, residential complexes, and industrial parks. The procedure for obtaining permission from the competent authorities is extremely complicated, however. To invest in a specific project, a PRC investor must first submit an application to the central governmental agency in charge of the target industry. Once that approval has been obtained, the investor must submit the application to the local government; after reviewing the documents, the local government then has to forward the application, along with a brief report, to the Ministry of Interior, which will issue the permit. The process is time-consuming and inefficient. The Committee therefore urges the government to simplify the application procedures and set up a single point of contact to handle applications.

Issue 3: Amend rigid regulations governing building usage.

Rigid regulations and complicated procedures in regard to altering building usage have been an issue for companies relocating to new office facilities. Currently, many enterprises encounter difficulties when planning moves to a new location, as the operation categories registered in their business licenses do not match the allowed building/floor usage of their desired places for relocation. To move to a new location and register their business licenses at the new address, companies – no matter what industry they are in – have to appoint a licensed architect to review the zoning regulations, building-usage permit, business registration, and building codes in order to apply for a license to alter the permitted usage of the subject property. The cost in time and money of going through his process is considerable.

Many high-tech companies in Taipei have faced this inconvenient situation when moving to the Neihu Technology Park. A famous U.S.-based technology company, for instance, was unable to register its business license there due to a conflict between its registered business categories and the industries allowed to locate in the Park. It is absurd that a world-renowned high-tech company cannot establish an office in a so-called technology park. The Committee urges the authorities to make the following changes:

1. *Review the existing regulations and revise out-of-date rules.* Many regulations with respect to zoning and building usage are obsolete and require amendment. The rules stipulating the types of industries that may locate in the Neihu Technology Park are a clear example. In view of the rapid development in the technology sector, it is crucial for the authorities to ensure that the regulations in force are still relevant.
2. *Simplify application procedures for altering building usage.* While safety inspections are necessary in the process of altering building/floor use, we believe the procedure for obtaining change-of-use permits is in need of simplification. The current complicated and lengthy procedure has prevented some enterprises from relocating to new office facilities, which in turn adversely affects the development of Taiwan's commercial property market.

Issue 4: Establish a non-profit agency to facilitate urban renewal.

The new administration has included urban renewal and industrial park redevelopment among the key projects within the "i-Taiwan 12 Projects." Furthermore, the Ministry of Finance has proposed to better utilize large state-owned parcels by actively participating in urban renewal projects. Recognizing the government's efforts in encouraging urban revitalization, the Committee recommends that the government sponsor the establishment of an urban renewal organization, in order to further facilitate the development of urban renewal.

Urban renewal projects require private developers to commit substantial amounts of time and money. The lengthy period of time needed to negotiate with property owners, for example, often discourages foreign developers from engaging in redevelopment projects. Moreover, developers engaged in urban renewal face high risks in terms of consolidating land, raising funds, and selling or operating the developed property.

As a result, the Committee suggests that the government appropriate funds to establish an Urban Renewal Organization as a private, non-profit institution. Its function would be to facilitate projects in which the complexity of property ownership or the deteriorating environment has presented serious obstacles for developers. After obtaining and consolidating land in the target area, the Organization would sell an integrated tract to developers, alleviating their burden of negotiating with property owners on their own.

Issue 5: Improve the land auction and bidding process on BOT projects.

The following issues regarding land sales reduce or

obstruct opportunities for investors, whether foreign or domestic, to engage in Build-Operate-Transfer (BOT) projects involving land transactions:

- Normally only about one month elapses from the time of announcement to the required submission date. That is insufficient time for the proper execution of a transaction that must include planning, obtaining internal approvals, reviewing underwriting, and securing financing from internal or external resources. The short period restricts the number of bidders that will participate. A recommended minimum bid preparation time of three months is suggested.
- Besides the time factor, the information available to undertake comprehensive due diligence is often inadequate. Even considering that the information needed for due diligence for a land transaction is generally relatively simple, the information provided is still quite incomplete, which further increases the time needed for informed decision-making and again restricts the bidders to a select few. It is recommended that more detail be provided in the initial release of information.
- Since information is generally not made available in English, time must be taken for translation before international investors can express any initial interest in a land transaction. Providing the information in English will help overseas-based investors explain the project more clearly to banks and other potential investors.

The recommended changes would a) allow more time for the preparation of well-thought-out bids, and b) open the competition to a larger number of qualified investors, whether domestic or international. That in turn would have a positive impact in stimulating investment in land and in development projects.

RETAIL

The Committee commends the government both for the progress in developing commercial relations with China and for its willingness to engage in open dialogue with business representatives for the sake of improving the investment climate. But concerns remain that Taiwan is not becoming more "business-friendly" quickly enough to increase its competitiveness against other Asian markets.

We support President Ma's efforts to prevent Taiwan from being marginalized as the ASEAN-centered trade bloc expands. At the same time, Taiwan must guard against contributing to self-marginalization by adopting unique regulations that deviate from standard international practice. Our vision is that just as Taiwan previously competed with great success as an Asian Tiger in manufacturing and trade, in future it can become a retail center to rival Hong Kong or Singapore. To achieve that, the cost of doing business must be made more competitive. Regulations should be as transparent and consistent as in the leading Asian markets and should follow international standards rather than breaking new ground. Duplicating work already done elsewhere simply puts an extra cost burden on the government – and taxpayers.

"Made in Taiwan" should be a proud label indicating quality, but "Only in Taiwan" should set off alarms when applied to government regulations or commercial restrictions.

Below are five specific issues on which more progress is urged:

Issue 1: Accelerate the review and removal of China-import restrictions.

Progress has been extremely slow in shortening the list of products prohibited from being imported from China. With the global recession reducing international investment and raising Taiwan's unemployment rates to historic highs, it is crucial for the government to find ways to improve the business environment for both foreign and local companies. Imposing artificial import bans against a single market is unhealthy for the Taiwanese economy by distorting trade flows and frustrating business planning.

We urge the government to urgently re-evaluate the import ban on an item-by-item basis, rather than imposing a blanket policy that discourages virtually any new imports from China. Removing some products from the prohibited list would create a "win" for both domestic consumers and industry.

While we appreciate the continued efforts of the Bureau of Foreign Trade (BOFT) in hosting periodic hearings on this subject, the Committee would like to point out that very few items have been released so far. In our opinion, the process has been flawed. Government policy specifies only two reasons why made-in-China items may be excluded from this market: risk to national security (which is hardly ever a concern for commercial products) or substantial damage to local industry. But despite repeated requests by the BOFT, other government agencies have not provided economic impact assessments or other convincing rationales for bans on specific items. In addition, the BOFT, rather than taking a strong activist role on this issue, has generally deferred to other government organizations and even to local industrial associations that invariably adopt a protectionist attitude.

Below is a chart of 32 items that members of this Committee request to be opened to import from China. One of those items, raw potatoes for potato chips, deserves special mention. Local potato production cannot meet demand due to climatic conditions allowing only one crop per year. China could provide the right variety of potato, which would be much less expensive than current imports. Such imports could also be restricted to intra-company transfer for the purpose of potato-chip manufacture, thus avoiding disruption to the broader domestic market. Further, the stabilization of the potato-chip makers' raw material supply would encourage them to increase their investment in Taiwan, leading to more employment and increased demand for local potatoes in season. In this scenario, there would be many winners and no losers.

We propose:

1. Adopting a transparent process in which the BOFT provides a single point of contact for participants and takes clear responsibility for the outcome.
2. Conducting an accelerated evaluation on an item-by-item or category-by category basis for the following items:

	CCC Code	Product Description
COMPLETELY BANNED ITEMS		
1	0701.90.00.00-3	Raw potato
2	1102.20.00.00-1	Corn meal
3	1005.90.00.90-5	Other maize (corn)
4	1101.00.10.00-4	Wheat flour
5	0705.11.00.00-5	Cabbage lettuce (head lettuce), fresh or chilled
6	1806.20.00.00-0	Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg
7	1905.31.00.00-7	Sweet biscuits
8	1905.32.00.00-6	Waffles, wafers
9	1905.90.90.00-6	Biscuits (All other articles of heading no. 1905)
10	2005.20.20.00-3	Potato chips and other potato sticks, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
11	1902.30-10.20-5	Instant noodles, not containing meat
12	1806.31.00.00-7	Other chocolate preparations, in block, slabs or bars, weight not exceeding 2kg, filled
13	1901.20.00.00-4	Mixes and doughs for the preparation of bakers' wares of heading 19.05
14	2103.20.00.00-8	Tomato ketchup and other tomato sauces
15	6911.10.00.00-4	Tableware and kitchenware, of porcelain or china
16	7009.91.90.00-8	Other glass mirror, unframed
17	7009.92.00.00-6	Other glass mirror, framed
18	7013.28.00.00-9	Other drinking glasses
19	7013.37.00.00-8	Other drinking glasses, other than of glass-ceramics
20	7013.99.40.00-5	Other vases, glass
21	3005.10.10.00-5	Surgical adhesive tape
PARTIALLY BANNED ITEMS		
22	1704.90.00.90-9	Sugar confectionery, not containing cocoa (Aside from white chocolate, which was excepted in 2007)
23	2309.10.00.00-2	Dog or cat food, for retail sale
24	6912.00.10.00-3	Ceramic tableware and kitchenware
25	7007.19.00.00-8	Other toughened (tempered) safety glass
26	8504.40.93.00-5	200KVA-800KVA Large uninterrupted power supply (without battery), 200KVA-800KVA; 11-30KVA Dual IGBT(Insulated Gate Bipolar Transistor) transformerless uninterrupted power supply
27	3005.10.90.90-9	Other adhesive dressings and other articles having an adhesive layer
28	6107.11.00.00-7	Men's or boy's underpants and briefs, knitted or crocheted, or cotton
29	6205.20.00.00-7	Men's or boy's shirts, of cotton
30	6108.21.00.00-4	Women's or girl's briefs and panties, knitted or crocheted, of cotton
31	6212.10.90.00-1	Brassieres, whether or not knitted or crocheted , of other textile materials
32	6201.13.00.00-0	Men's or boy's overcoats, rain-coats, car-coats, capes, cloaks and similar articles, of man-made fibres

We believe these items do not pose any threat to Taiwan national security or any potential damage to the Taiwanese economy. On the contrary, lifting the ban on these items will rebuild Taiwan's credibility to its WTO commitments, re-establish Taiwan's reputation for international business investment, provide a level playing field for multinational companies and thereby create long-term jobs, and business and community sustainability.

Issue 2: Adopt international norms for import labeling and standards.

Because of the economic downturn and low consumer confidence, many foreign retailers are aggressively seeking ways to maintain low prices and stimulate purchasing interest through exciting and unique imports and special discounts. But unique-to-Taiwan import requirements are creating trade barriers and extra costs. Below are just some examples of the types of problems arising from unnecessarily onerous regulations:

Labeling

Multipacks – Importers must label all multipacks, regardless of whether the retailer will divide it up for sale as single units. This adds cost. Foreign suppliers are forced either to do special extra work or give up exporting to Taiwan.

Socks – All socks must have a country-of-origin label on each pair, even when sold as a 6-pack. This is another cost and burden that suppliers encounter only when exporting to Taiwan.

Commodities – Information identifying the manufacturer

is required to be included on all Chinese labels. This is a problem because suppliers may have multiple factories producing the same product, or the suppliers may wish to keep the identity of the factory confidential. It is unreasonable to expect Taiwanese consumers to contact a foreign manufacturer regarding a product issue. Since the importer bears all legal responsibility for the product, importer information should be sufficient.

Import Standards

Sunglasses/Toys – Although Taiwan's Chinese National Standard (CNS) requirements were modeled after EU standards, Taiwan will not accept test reports from major foreign laboratories, creating additional burdens for importers. The Bureau of Standards, Metrology and Inspection (BSMI) regards the situation as unavoidable in the absence of reciprocal recognition programs with other countries. We argue that such political complications should not justify trade barriers.

Dietary Supplements – Differing perceptions regarding dietary supplements have become trade barriers. For example, melatonin, used to treat sleeping disorders in the United States since 1993, is prohibited. Ginkgo biloba, a memory and concentration enhancer, and milk thistle, an herbal remedy used to protect the liver against toxicity, are dietary supplements in the United States but here are prescription drugs. Coenzyme Q10 is an antioxidant which the United States controls at 200mg/day, whereas Taiwan limits it to 30mg/day.

Lighting – Since 2002, the BSMI has required all lighting products to comply with the CNS 14335 standard prior to import. Although the Taiwan standard is adapted from International Standard IEC60598-1, test reports issued by foreign labs are not recognized by BSMI, thereby adding unnecessary testing costs that are transferred to the consumer.

While we understand the importance of the government's gatekeeper role in assuring product safety, the above examples result in barriers to trade, extra costs to Taiwan consumers, and limitations on product variety. We recommend revising the labeling and import criteria to ensure that Taiwan is fully in line with international practice, instead of creating a Taiwan-only standard.

Issue 3: Stimulate trade by adjusting tariffs.

Although Taiwan's tariffs vary significantly depending on the product category, in some cases they are much higher than those of our ASEAN neighbors, making them quite prohibitive. Tariff levels across food categories range from 5% to 30%. The lower end includes infant food, food ingredients, and high-protein foods – categories that are dynamic and competitive, providing Taiwanese consumers with the widest possible range and quality choices at the best prices. At the other end of the spectrum, with restrictive tariff levels of over 10-20%, are foods in capsule form, biscuits, filled chocolate and some other categories. Such high tariffs limit consumer choice and stifle industry innovation. We urge the government to undertake a review of tariff rates that are out of line with those prevailing in the region, and to revise them accordingly in the interest of enhancing Taiwan's market competitiveness and to stimulate trade.

Issue 4: Reform cosmetics regulations to follow international practice.

By 2010, the Asia Pacific region, in which Taiwan is a major market, will account for about 40% of the global trade in cosmetics. Taiwan, however, urgently needs to review its regulations governing cosmetics to harmonize them more closely with international practice. The current regulatory provisions established by the Department of Health (DOH), for example, seem to focus more on efficacy than on safety and quality. For example, the requirements for pre-market registration for medicated cosmetics products and pre-broadcast advertising approval for all cosmetics, as well as the required documentation of Certificate of Free Sales (CFS), all are unrelated to product safety. Cosmetics are not subject to such pre-market approval in most leading markets around the world, including the United States, European Union, and the ASEAN countries. The regulators in those areas set strict rules on safety and quality, and they subject products to testing if they have any doubts about whether the products meet those regulations. A similar principle is followed for cosmetics advertisements; pre-broadcast approvals are not conducted as that would hinder companies' ability to communicate relevant and necessary information to consumers.

The DOH is accustomed to checking for efficacy in the case of pharmaceuticals, where it is important to verify the effectiveness in treating disease. But consumers buy cosmetics in order to feel and look better, and will not purchase the product a second time if they are not satisfied with its feel and smell. Efficacy is a subjective matter of individual perception and taste, and should be left to the consumer to judge.

In addition, there is a safety tolerance for most chemicals, even if they are prohibited from direct use on the body, and for technically unavoidable reasons they may be present in trace levels in finished products. This fact is recognized and accepted in the United States, the European Union, and Japan. But unlike the EU Cosmetic Directive, for example, Taiwan's cosmetic regulations do not take such provisions into account, leaving the door open to cases of consumer concern or panic that would not occur elsewhere.

The Committee recommends revamping the current cosmetics regulations by benchmarking them against the most scientifically based regulatory regimes – for example, those of the EU and ASEAN. Such reform would be an opportunity to eliminate the pre-market registration requirement for medicated cosmetics, waive pre-broadcast approval for advertising and the CFS requirements, and clearly state that the presence of ingredients on the negative list is banned when they are found beyond unavoidable traces.

Issue 5: Adopt Good Governance principles (4 Cs).

In the face of the global recession, the Taiwanese expect the government to take the lead in guiding them through the economic storm. There are many diverse opinions on how that should be accomplished, but everyone wishes to see "Good Government." From a commercial and retail perspective, Good Governance encompasses the "Four Cs": Consistency in Regulations, Efficient Two-Way Communication, a Fair Competitive Environment, and Effective Crisis Management.

Consistency in Regulations

As already shown elsewhere in this paper, many Taiwan regulations are out of step with international norms, and in some cases are internally inconsistent with other Taiwan rules. We reiterate our suggestion that Taiwan adopt international best practices rather than unique standards that add cost for government, industry, and consumers.

Pesticide Residue – An example of both variance with international practice and internal illogic are some of the limits on pesticide residue in food. The Malathion residue in wheat, for example, has an allowable limitation of 8ppm in the United States and Japan, but a limit in Taiwan of only 0.5ppm for wheat. At the same time, the limit in Taiwan on cabbage and lettuce is set at 2ppm. The rationale for that difference is difficult to understand, as the potential impact of Malathion on humans is lower from wheat than from vegetables, as wheat needs to be shelled before milling the grain into flour, but vegetables tend to be eaten with less cooking. These rules create problems for industry, as suppliers find it difficult to produce crops with a lower pesticide residue solely for Taiwan, resulting in stock outages or additional costs.

Customs Classifications – Inconsistent classifications based on the personal judgment of the Customs officer create major problems for importers. After importing the same item for three years, an importer may suddenly be informed that the customs code he has been using is incorrect and should be changed. If the duty rate of the new code is higher, Customs will also bill the difference for the past six months. In such cases, the importer will have already sold the previous shipments and will be forced to make up the difference out of pocket. New classification codes may also lead to restrictions of which the importer was unaware. The importer may then have to return or destroy goods, with massive costs.

CIPC – Another example of Taiwan not following international standards is the prohibition on the domestic use of CIPC (Chlorpropham), a chemical widely used for many years in the United States, United Kingdom, France, Australia, Japan, and China to suppress potato sprouting during storage. It has been proven to be highly effective as a sprouting inhibitor and also safe for humans. The inability to use CIPC disadvantages both industry and local farmers. Taiwan's climate allows for only one potato crop per year, in the spring, and without CIPC, the potatoes will last only until autumn. Each autumn and winter, the local demand for potatoes is met solely through imports. If CIPC were to be approved, the reliance on imports could be almost halved. Ironically, Taiwan regulations require that all imported potatoes be CIPC-treated, confirming that CIPC is acceptable and making the prohibition on domestic use all the more baffling.

Efficient, Two-way Communication

We strongly urge the government to set up better channels for two-way communication with the business sector, especially before undertaking regulatory reforms. Such communication would ensure that food retailers and manufacturers have sufficient lead time to prepare for changes and manage incremental costs. It would also help government understand the potential cost impact of contemplated reforms on businesses and ultimately on consumers.

A Fair, Competitive Environment

A "level playing field" has been one of the themes for international business for many years. When new regulations are implemented, it should be in a way that is consistent and fair for all businesses, whether local or international and irrespective of size or channel.

In 2007, the Environmental Protection Administration (EPA) implemented an on-line Waste Clearance Planning Report System, which was to take effect within two months of the announcement. Only some large-scale food manufacturers, processors, and Quick Service Restaurants (QSR) are currently covered by the regulation, however. To maximize the effectiveness of environmental management as well as in the interest of fairness, we encourage the EPA to gradually extend the reporting system to the remaining categories of restaurants and other sources of food service.

Similarly, regulations regarding cooking equipment, kitchens, and consumer-seating areas should follow the same requirements across commercial channels and be monitored by the DOH to ensure food hygiene, building safety, and fire prevention. As commercial channels change, in addition, the government should stay abreast of new developments. For example, as an increasing number of convenience stores and other retail formats are now offering prepared food and provide seating, the standards applied to restaurants should be extended to such locations in the interest of fairness.

Crisis Management

Among government's many roles is that of anticipating and assessing risks to public health and safety, then communicating to the public when potential crises develop. An example is the Melamine scare in 2008, from which many lessons were learned, but which also cost retailers, importers, and local producers many millions of dollars in extra cost and lost revenue.

In future crises, the relevant government agencies should aim to achieve more coherent and effective communication with all industries and to provide timely, accurate, and complete information to consumers at an early stage. Also

needed is a management system that recognizes commercial reality as well as consumer needs, while balancing political and media pressure. Not an easy assignment, but one that will win government widespread respect if carried out effectively.

TAX

As the tax environment is one of the vital factors in attracting foreign investment and building Taiwan's economic competitiveness, the Committee urges continued governmental efforts to undertake tax reforms to help improve the investment climate. The Committee appreciates the government's willingness over the past year to listen to the voice of the foreign business community and to help resolve issues as they arise. The Ministry of Finance (MOF), for example, issued several useful rulings to clarify the tax issues arising from M&A transactions.

In this position paper, the Committee would like to raise the following specific issues that require the immediate attention of the MOF. Some of them are new; others were raised in past years but are not yet resolved. We hope the MOF will address them in the months ahead. The Committee looks forward to continued cooperation with the MOF to foster a tax system that is more in line with international tax practice and makes Taiwan an even more attractive and competitive business environment.

Issue 1: Clarify the scope of Taiwan-source income and allow offshore businesses to file tax returns for their Taiwan-source "other income."

The Committee addressed this issue in the 2008 *White Paper*. Under current Taiwan tax practice, the scope of Taiwan-source income is very broad, classifying payments made to offshore entities as Taiwan-source "other income" even if those payments relate to services performed entirely offshore. The Committee urges the MOF to clarify the scope of Taiwan-source income by providing a precise and clear interpretation with no gray areas, so as to facilitate tax compliance. Transfer-pricing payments made by Taiwan entities with full documentation supporting the arm's-length basis of the transactions should not be considered Taiwan-source income, nor should they be subject to Taiwan income tax. Moreover, besides the 20% withholding tax mechanism, we suggest that a Taiwan tax reporting/filing system be available for offshore entities if they choose to use it. In this way, offshore businesses that are considered to have Taiwan-source "other income" or "business profits" can have the opportunity to claim their business costs/expenses on the tax return, with only the profits subject to Taiwan income tax. The Committee understands that the Tax Agency outsourced a study of this matter, which agrees with our position that if the offshore business is considered to have business profits in Taiwan, it can file a tax return and claim costs/expenses. We would urge the MOF to adopt this suggestion and provide a timeframe for its implementation.

Issue 2: Solve the interpretation gap between government agencies.

For a long time, various government agencies have held inconsistent opinions on tax issues, leading to continuing difficulties in resolving tax disputes. Following are some examples:

1. ***Differing interpretations of "standard software" between the MOF and the tax office.*** According to the Income Tax Act (ITA), revenue from licensing software should be treated as Taiwan-source income. When the licensor is a foreign company without a fixed place of business or a business agent in Taiwan, the licensee should withhold 20% income tax upon paying the software licensing fee to the licensor. However, according to MOF Ruling No. 09604520730 dated April 9, 2007, revenue generated by a foreign company from licensing standard software to a Taiwan licensee should be treated as revenue from international sales, and thus the Taiwan licensee need not withhold income tax upon paying the licensing fee to the foreign licensor. This tax ruling also defines "standard software" as non-customized software that is available to customers in general and that customers may not reproduce, modify, resell, or publicly display.

   When foreign licensors have filed applications seeking the tax authorities' confirmation of the applicability of that tax ruling, however, the tax office has either requested submission of a large number of supporting documents without giving a clear answer, or has disallowed the application for a tax ruling based on its own broad interpretation of the criteria. In a case where the licensee subscribed for 10,000 copies of a particular software, for example, instead of shipping 10,000 copies the foreign licensor shipped one copy and gave permission for the licensee to reproduce 9,999 copies on the licensee's premises. In another case where the foreign licensor shipped 10,000 copies of a software product to the licensee, it granted the licensee the right to reproduce the software to the extent of replacing any copies that were damaged during shipment. In both cases, the tax authorities argued that the said tax ruling should not apply because the licensee had the right to reproduce.

   The definition of "standard software" in the tax ruling is clear, but the tax authorities' expansion of the interpretation has caused arguments between them and foreign licensors. The Committee urges the tax authorities to engage in full communication with the MOF on this issue.

2. ***Differing interpretations between the Industrial Development Bureau (IDB) and the tax office regarding the R&D investment tax credit and royalty exemption.***
   a. R&D investment credit. Despite the "examination rule" or guideline permitting the tax office to grant an investment credit for R&D activity performed, in practice the tax office takes a narrow view of the

matter. If there is no patent right associated with the R&D, the tax office will not ask the IDB to check whether R&D activity occurred but will simply deny the claim. In most such cases, the IDB in fact recognized the R&D activity; the tax office, however, did not refer to the IDB's findings before disallowing the taxpayer's claim for the R&D investment tax credit. In some cases the tax office agreed during the reexamination stage that there was R&D activity, but then allowed only 50% of the investment tax credit as a compromise. We urge the tax office to communicate with the IDB and adjust its policy toward R&D investment tax credit claims.

b. Royalty exemption. The ITA enforcement rules stipulate that a foreign company has to obtain the tax office's approval after it receives the IDB's authorization for royalty exemption under Article 4, Item 21 of the Act. But when a foreign company files an application to the tax office for its approval, the tax office generally asks the company to prove that the royalty payment it received from the Taiwanese company is equivalent to the economic benefit that the Taiwanese company obtained. This excessive requirement strains the spirit of the royalty exemption. The Committee suggests that the tax office reach agreement with the IDB to respect its authorization in royalty exemption cases, or else identify in advance all documents needed for the royalty exemption application.

3. ***Difficulties in claiming tax treaty benefits.*** The Committee also addressed this issue in the 2008 *White Paper.* As previously explained, the fundamental objective of a tax treaty is to promote mutual and reciprocal preferential tax treatment for the tax residents of the treaty jurisdictions. In Taiwan, claiming business profit exemptions requires an advance approval process that is generally not found in other treaty jurisdictions. Further, this advance approval requirement often imposes an extra administrative burden on the residents of treaty jurisdictions to collect and prepare supporting documents for application filing purposes. In addition, different and even contradictory views are often voiced by individual tax administrators as to whether the applicant is qualified under the tax treaty, for example regarding the threshold for creation of a Permanent Establishment. As a result, the tax administrators often change the definition of an item of business profit to "royalty" or "other income." The benefits granted under the treaties may consequently be diminished or even denied. The Committee understands that the MOF is aware of this issue and is drafting a detailed guideline. The Committee urges the MOF to gather further public comments before finalizing the guideline, to ensure that the draft takes all relevant considerations into account.

Issue 3: Solve the double-taxation issue regarding employer's payment of expatriates' income tax.

Under MOF Ruling No. 09704042610 dated September 3, 2008, starting from January 1, 2009, income tax that the employer paid on behalf of expatriate employees is considered to be a donation from the employer and therefore subject to income tax as the expatriate's other income. The September 3, 2008 Ruling also mentions that the employer cannot treat such individual income tax payment as its expense. The Committee suggests that since the expatriate employees have to include such payment as their taxable income, the tax office should allow the employers to claim such payment as expense.

In addition, the September 3, 2008 Ruling creates a double-taxation issue as well as a tax compliance problem. For example, if the employer pays $100 tax for the expatriate's 2009 income tax return in 2010, the $100 will be the expatriate's other income – and the $20 tax resulting from the $100 should be included in the expatriate's 2010 income tax return. That $20 tax paid in 2011, if regarded as the expatriate's 2011 income, would then create another tax payable, and such tax payable would generate another tax payable, leading to an endless tax filing problem for the expatriate. We believe that it was not the MOF's intention when issuing the September 3, 2008 Ruling to create such a tax compliance problem. The Committee suggests that after due consideration, the MOF issue another ruling as a remedy. For example, it could be stated that when the expatriate leaves Taiwan, income tax paid by the employer need not be included in the expatriate's income for the year of departure.

Issue 4: Clarify the definition of "place of using the service" under the VAT and Non-VAT Act.

On February 29, 2008, the National Tax Administration of Taipei issued a ruling to the Taiwan Securities Association on the business tax issue that arises when a Taiwan securities house pays commission or service charges to an offshore securities brokerage firm on behalf of its clients for a foreign securities transaction. Although the offshore securities brokerage firm renders the service outside Taiwan, the ruling states that the service charge that local securities house pays to the offshore securities brokerage firm on behalf of its local clients will be subject to business tax. The stated rationale is that the user of the service (the Taiwan securities house) is located in Taiwan, and thus the place for use of the service is in Taiwan. Under the Taiwan VAT and Non-VAT Act (VNVA), service rendered or used in Taiwan – defined as the sale of service in Taiwan – should be subject to business tax. But in the case cited above, the service is not rendered or used in Taiwan. There should thus be no business tax issue (and the Taiwan securities house should only have to pay 2% GBRT on the gross service charge it receives from the clients). The tax office regards the service as used in Taiwan simply because the user is in Taiwan, but that interpretation is mistaking the location of the service user for the place where

the service is rendered or used.

We understand that the Tax Reform Committee (TRC) is reviewing this issue and that the preliminary result of its outsourced study has been announced. That study suggests that the Taiwan securities house only has to pay 2% GBRT on the net service fee it collects from the transaction. In addition, the study concludes that the purchase of service from the offshore securities brokerage should also be subject to 2% GBRT, instead of 5% VAT. The study recommends that this should be dealt with by amendment of Article 36 of the VNVA. Although this solution eliminates the double-taxation issue, the interpretation on which it is based seems unreasonable.

We request that the MOF reverse its stance and accept that the location of the service user is not necessarily identical to the place of rendering or using the service.

Issue 5: Exercise caution regarding the taxation of derivatives.

The Committee appreciates that the TRC has considered the question of taxation on derivatives. For the sake of simplicity, consistency, and equity in the tax system, the TRC resolved that a flat 10% tax rate should be imposed on derivatives and that the Legislative Yuan should enact appropriate legislation to implement it. At a time when Taiwan is seeking to encourage innovation and diversification in its financial products, however, imposing a tax on derivatives may restrain financial market development.

Even if taxation of derivatives is deemed necessary, the MOF should consider ensuring that the taxation is more in line with international trends. As the nature of the derivatives is complicated and the product may be linked to several other financial products, the MOF should set a clear definition of what constitutes a derivative and be aware that the real income derived from the derivatives is the "spread." The Committee urges the MOF to gather further public comments before finalizing the taxation rule, so as to ensure that the draft takes all relevant considerations into account.

Issue 6: Reconsider the decision to include Taiwan individuals' overseas income in AMT calculation.

The Executive Yuan announced on September 15, 2008 that Taiwan individuals must include offshore income in their AMT calculation starting from January 1, 2010. The market for offshore mutual funds has already been feeling the impact, as many local investors have sought to reduce their holdings – or shift them into unregistered underground channels – with an eye to avoiding the prospect of future taxation. The unintended consequence of the new government policy may therefore be to deter Taiwan consumers from taking advantage of attractive investment opportunities and in fact exposing them to greater risk. The policy may also stifle the growth of Taiwan's rapidly developing asset-management sector and seriously set back Taiwan's efforts to establish itself as a dynamic financial market within the Asia Pacific region. By discouraging foreign executives from taking up residence in Taiwan, it would have the impact of making this market even less competitive.

The Committee has learned that the Executive Yuan plans to discuss whether the decision to levy AMT on individuals' overseas income starting in 2010 should be revoked. We urge the government to carefully consider the enormous negative effects that continuing the current policy is certain to have.

TECHNOLOGY

The high-tech industry has been the key driver for Taiwan's economic growth for the past several decades, but during periods of economic downturn, it is also likely to be the hardest hit. The Committee recognizes that the government is taking initiatives to seek remedies for the high-tech industry during the current recession. We encourage the government to look for innovative approaches in its economic stimulus package that can not only re-energize Taiwan's high-tech sector but also improve public services such as healthcare and education.

The Committee would also like to draw the government's attention to the lack of a regulatory policy agency for the internet industry. Considering the dynamic changes and developments happening in that industry every day, it is crucial that the government dedicate sufficient attention and resources to address the issues of greatest concern to the internet industry.

In line with its dedication to promoting the development and adoption of world-class technology to foster Taiwan's economic growth and prosperity, the Committee looks forward to discussing the issues below with the relevant government agencies and to assisting the government to identify possible solutions.

Issue 1: Seek innovative ways to stimulate economic growth while also improving public services in healthcare and education.

Recent reports by Connected Nation and the Information Technology and Innovations Foundation (ITIF) have shown that the use of technologies to improve public services such as healthcare and education can contribute significantly to social welfare and economic value. Given the maturity of Taiwan's broadband infrastructure, the effective use of technology in these public-services areas could also bring more business opportunities to the country's information technology industry. Besides opportunities in the local consumption of hardware devices, software applications, solutions, and services, successful implementation of technology in Taiwan could also generate substantial business overseas, as governments around the world are currently looking for ways to stimulate their domestic economies.

Healthcare

Connected Nation recently reported that a 7% increase in

broadband adoption in the United States could immediately save US$662 million in healthcare costs and stimulate new job opportunities in IT and medical services. In addition, ITIF also forecasted an increase of 222,000 jobs in the United States through economic stimulus plans related to healthcare services (in both IT and non-IT categories). The Committee suggests that the Government look into the following two areas that could have potential benefits for the healthcare industry:

- Adoption of electronic medical records (EMR) at all levels of medical institutes to enhance data efficiency and accuracy.
- Adoption of personal computing systems by all physicians and medical social workers to increase productivity and reduce costs by decreasing the need for travel and enabling medical data and prescriptions to be handled on a real-time basis.

These initiatives could help the government better manage healthcare costs, improve access to care, and raise the quality of care while driving efficiencies. The Canadian Ministry of Health, for example, has predicted that the EMR/PC adoption projects could potentially achieve cost savings of US$6 billion a year. At the same time, they could also open up opportunities for new jobs and new services, which in turn could contribute to domestic economic growth.

Education

To further utilize the existing broadband infrastructure deployed in every school in Taiwan, the government may wish to explore the following two specific possibilities:

- Accelerate adoption of the 1:1 learning model by providing every teacher and student with mobile computing devices equipped with interactive learning content to facilitate more effective learning and collaboration.
- Deploy integrated student-information systems for better and more effective student evaluation and management.

Issue 2: Devise an effective regulatory policy for the internet industry.

With the rising number of internet users and growing on-line commerce in Taiwan, cyber security and data protection are issues that are hotly debated in the general public but receive no equivalent attention from the government. According to a report issued by Trendlab's Research and Support Center of Global Anti-Computer Virus, some 34.5 million computers in Taiwan were penetrated by computer virus in the first quarter of 2009 – 279% more than last year – enabling hackers to access personal and confidential information. Until today, no single government agency has been designated to coordinate governmental resources and facilitate cooperation among the various government agencies involved with cyber security and data protection issues. As a result, the internet industry has been forced to run around among a host of different agencies – including the Institute for Information Industry, Science and Technology Advisory Group of the Executive Yuan, National Information and Communications Initiative Committee, National Communications Commission, Ministry of Justice, Consumer Protection Commission, National Police Agency, Ministry of Economic Affairs, and Intellectual Property Office – in search of government guidance and support.

The Committee urges the government to quickly make up for lost time in addressing public and industry concerns, starting with the following measures:

Internet Crime

Currently, internet crimes are investigated independently by local police departments without coordination with a single supervisory agency. Since internet crimes are hardly limited to a given locality and are often committed with accomplices all over the nation or even the world, it is imperative to have a single agency to supervise enforcement and coordinate resources. The Committee suggests that the existing Division of Prevention of Technology Crimes under the National Police Agency should undertake this task so as to ensure that internet crimes are more effectively combated. Furthermore, since the origin of internet crimes has often been traced to China, the authorities should seek the Chinese government's commitment and cooperation in countering internet crimes.

Data Protection

The Committee looks forward to passage of amendments to the Personal Data Protection Act currently pending deliberation in the Legislative Yuan. The proposed revision would expand the applicability of the Act to all trades and increase the penalties for violation. But in addition to this legislation, the Committee believes that the government should also take preventive measures, such as regulating all business involved in gathering and/or processing personal data electronically, by establishing guidelines to be followed by such businesses. For example, the government could require or encourage such businesses to obtain certification from government-designated institutions attesting to the effectiveness of their privacy protection and anti-virus mechanisms, so as to help ensure that consumers' personal data will be satisfactorily protected.

Issue 3: Remove the IP transfer requirement from government tender requirements.

The terms and conditions applied to Taiwan's government-procurement tenders usually require the vendor (for example, IT manufacturers, systems integrators, and application solution development service providers) to cede all related intellectual property rights to the government purchasing entity. As this demand is unacceptable to almost all major multinational corporations, it is common for such companies to decline to bid directly in such tenders. Instead, they arrange for a third party to bid on their behalf. The foreign company grants a license to the third party without transferring the IP

rights, and the third party is then the one to license the buying entity. The complications that this kind of arrangement entails are a major frustration for multinational companies when approaching the Taiwan market.

If the government's concern is to prevent sensitive software developed for Taiwan (such as in military applications) from being used for contracts with unfriendly governments, that concern could be addressed without applying a broad transfer requirement applicable to all procurement contracts.

In the revised "model contract for public procurement for property" published by the Public Construction Commission (PCC) on June 29, 2005, Article 15 stipulates that procurement agencies can choose to demand unlimited IPR ownership or to negotiate with suppliers on the terms and conditions of using IP rights. Although the PCC has encouraged the procurement agencies to consider refraining from asking for unnecessary IP rights, most government entities still ask for IPR ownership in many IT procurement cases. Usually the foreign IT companies will then either decline to bid, depriving Taiwan of the best services and solutions, or they will go through a time-consuming and frustrating process of negotiating with the government buying agencies over IP ownership questions.

This issue has been raised every year by the Committee since 2006. The Committee once again urges the government to set a clearer policy allowing vendors to retain ownership of IP rights and to take steps to ensure that such policy is clearly conveyed to all procuring entities. The Committee also suggests that the PCC emphasize this issue in its annual training sessions for government procurement officers.

Further, the government needs to adopt appropriate terms and conditions for such procurement contracts. The recommended content would be as follows:

"We, as IT service and product providers, will specify materials or products to be delivered to you. We or third parties are the author of said materials or the inventor of said products and technology, and have the intellectual property rights in the materials or products created during the service performance period or otherwise (such as those that preexist the service). We will deliver one copy of the specified materials to you. We grant you a nonexclusive license to use copies of these materials or products, within your Agency only, for 'x' number of years. You agree to reproduce the copyright notice and any other legend of ownership of the intellectual property rights on any copies made under the license granted in this section. Any idea, concept, know-how, or technique which relates to the subject matter of a service and is developed or provided by either of us, or jointly by both of us, in the performance of a service may (subject to applicable patents and copyrights) be freely used by either of us."

Issue 4: Continue WTO initiatives to uphold Information Technology Agreement commitments.

The Information Technology Agreement (ITA) is a World Trade Organization (WTO) agreement. Countries joining the ITA commit to eliminate customs duties on the IT products covered by the Agreement (such as personal computers, computer printers, computer monitors, semiconductors, and telecommunications apparatus). The ITA currently has 70 participants, representing an estimated 97% of global trade in the high-tech sector. This landmark agreement has spurred innovation, productivity, trade, and investment among its participants. The ITA has helped Taiwan become one of the leading high-tech centers for global manufacturing.

Since the Agreement entered into force in 1997, more sophisticated or technologically advanced versions of ITA products have entered the marketplace. Unfortunately, the Agreement now faces the risk of being undermined by recent actions by the European Commission (EC). The EC is pushing technologically advanced or more sophisticated versions of ITA products outside the Agreement, subjecting them to duty rates as high as 14%. In the case of some of these products, the difference from existing models involves secondary functions or features, while the essential characteristics remain the same. Despite bilateral and multilateral efforts to engage the EC on this issue and requests that the ITA commitment be honored in letter and spirit, the EC has not changed its practice.

This issue was first raised by the Committee in 2008. On June 12, 2008, Taiwan's Permanent Mission to the WTO formally joined the United States in seeking WTO consultations with EC on this issue. The Committee applauds and appreciates the Taiwan government's decisiveness and prompt action, and encourages Taiwan to continue its efforts on ITA to help ensure that all current and future ITA member countries respect their commitments and eliminate customs duties on covered products.

TELECOMMUNICATIONS & MEDIA

Over the past year, the telecom and cable market in Taiwan experienced flat growth, partially due to the worldwide financial crisis, but mainly because of regulatory uncertainty causing operators to hold off on further development plans. Due to this stagnation, Taiwan missed the opportunity to catch up with other countries in the region that have actively promoted digitalization and enjoyed a steady influx of foreign investment into this industry, contributing substantially to their overall economic growth.

The Committee emphatically urges the National Communications Commission (NCC) to set a clear policy agenda for the coming year and then make it known to the public. We also urge the NCC to engage actively with the industry so as to fully understand the business challenges being confronted; only then can coordinated action can be taken to revitalize the sector. In line with the Ma administration's focus on stimulating the economy and improving the business climate, we encourage the NCC to

review and improve the regulatory environment without further delay. The Committee offers the points below as suggestions on how to ensure that Taiwan becomes a vigorous player in the convergent international telecom and media market.

Issue 1: Liberalize the telecom and media sectors.

The commercial success of Web 2.0 applications based on user-generated content and the considerable investment spurred by that phenomenon have underscored the speed with which the telecommunications and media sectors are integrating to form the next generation of convergent services. The growth of Web 2.0 around the world and the productivity gains from these innovative services have been made possible by regulatory regimes that provide a clear framework for encouraging liberalization and utilizing market competition to foster consumer choice.

Taiwan's early steps toward liberalization were frustrated by the lack of a clearly defined framework and by infighting among government departments that retarded the growth of next-generation services. The Committee strongly encourages the Taiwan government to champion liberalization as a means to broaden consumer choice and service innovation. Such liberalization must be guided by an atmosphere in which all market participants can debate the issues in an open and timely manner. We believe that Taiwan's current antiquated regulatory approach makes Taiwan uncompetitive and causes it to fall further behind its already digitized neighbors.

Specifically, we ask the NCC to allow market forces to dictate the growth or substitution of services as traditional telecommunication and media services inevitably converge. In order to drive innovation in this new world of convergence, a level and fair playing field must be established among all market participants regardless of whether their origins were in telecommunications or media.

The Committee strongly urges the NCC to allow the pricing of telecom and media services to be market-defined rather than set through government-determined price ceilings. These price ceilings continue to create negative economic externalities that prevent the fair market valuation of services. Taiwan's consumers are wise enough to make buying decisions on their own, and ultimately it should be consumer choice that the regulator seeks to foster.

In addition, we strongly encourage the NCC to renew its commitment to developing deep-seated technical-engineering and business-management expertise within the Commission on a wide range of telecom and media technologies, as many of its regional neighbors have already done. The presence of such technological and business expertise within the government is essential for developing and executing national policy that is practical and delivers lasting value and greater choice to the consumer.

Issue 2: Enhance the NCC's efficacy.

The NCC's ability to establish its authority and efficacy depends on whether the NCC commissioners engage both the public and private sectors in a way that upholds the body's legitimacy and confirms its impartiality. The NCC must first establish a regulatory regime based on implementing well-reasoned business and technology precedents, facilitating fair competition among all players, and eliminating any barriers to competition with respect to distribution or content creation. In addition, the NCC commissioners must have the necessary practical expertise and vision to help transform Taiwan's telecom and media industry to new levels of international competitiveness. The NCC should foster growth for both existing and next-generation telecom services, proactively fostering new technology and avoiding unnecessary regulatory constraints that could in turn hinder new economic expansion spurred by opportunities in the telecom and media sector.

The Committee urges the NCC to facilitate transparency through a policy formulation process that encourages continuous and open dialogue between government and private business. We strongly encourage the NCC to publically articulate its priority issues as concrete action plans, regardless of whether they are achievable in the current political climate. Furthermore, conducting public hearings would ensure that while the NCC continues to perfect its long-term mode of operations, important and urgent issues can still be addressed. Such hearings would also enable the various interested parties to begin to understand the NCC's position, efficiently present their own views, and enter into dialogue with the NCC.

The current process does not provide a detailed enough policy agenda to facilitate concrete discussion and exchanges of views with industry players, nor does it provide enough time for adequate dialogue over key policy proposals. The Committee continues to receive complaints from member companies that they are given insufficient time to understand and respond to NCC rulings or proposed policies before they are finalized. The Committee again strongly encourages the NCC to foster an environment of open dialogue between industry and government.

We further urge the NCC to make clear the relevant rules and regulations before any review process has begun, while refraining from creating any new rules, regulations, and standards during the deliberation of the case. A process of making the rules as you go along not only deprives the affected party of the opportunity to prepare an effective response, but more broadly creates a sense of regulatory uncertainty that causes foreign investment to regard the market as unattractive.

The Committee suggests that the NCC begin addressing the transparency issue by making its official website more user-friendly, with increased English-language content, to facilitate greater accessibility. In particular, the website could be used to provide regular updates on NCC activities and deliberations as well as permitting online tracking of the status of license applications and policy inquiries.

Regulators around the world, including the United States, the United Kingdom, and China, have already streamlined communications and operational services through their official websites.

Issue 3: Establish robust public discourse on the "3-in-1" Converged Telecommunications & Media Law.

The draft "3-in-1" law (which would create a common regulatory framework for telecom, broadcast, and cable companies) continues to be held up. The Committee strongly recommends that the NCC take revision of the 3-in-1 law as its top priority, since further delay would cause Taiwan to lag even further behind in creating a convergent regulatory environment, making it less attractive to international investment.

The Committee strongly encourages the Taiwan government to rely on market forces to promote the growth of convergent services. We call on the NCC to hold public hearings on this subject and to uphold the following principles:

- *Encourage fair competition and the promotion of convergent services among telecom operators, cable operators, and broadcasters to provide consumers with greater choice.* In the convergent world, the NCC must ensure a level playing field, from media acquisition to the distribution of content in the world of triple-play services. Using new technologies, the incumbent telecommunication operator already offers limited digital media services on a restricted nationwide basis. At the same time, geographical restrictions continue to be placed on where cable operators may do business. Access to the right-of-way for upgrading infrastructure networks also needs to be assured to allow these companies to effectively compete with all market participants. Competition in the telecoms and media markets would be greatly facilitated if market restrictions on all parties are lifted in a manner to drive innovation so as all parties can deliver a wide range of bundled triple-play services to the consumer.
- *Ensure equal access to carriage.* The NCC should promote policies to assure that content is carried equally and fairly across all distribution platforms, as well as to attract foreign investment to help return Taiwan's domestic content production and distribution back to its former glory. This development would foster further investment in Taiwan's lagging advertising market and domestic content-production capabilities.
- *Implement tiering to facilitate consumer choice.* In Taiwan, cable customers must all take a basic package with a set cap on the monthly fee. In more liberalized regimes, tiering of content enables operators to charge more for expanded service, encouraging further investment in digitalization technology and domestic content development. Consumers in Taiwan can already enjoy HDTV service from abroad, with more than 1,000 channels available via a variety of distribution methods. The NCC should cease trying to regulate the cable industry as a utility and instead allow market forces to bring about the offering of a variety of service choices satisfying consumers' differing needs. Now that convergence of the telecom and media industries has occurred, the NCC must allow these businesses to innovate and evolve.
- *Facilitate in-bound investment.* The NCC should avoid adopting a restrictive regulatory approach toward foreign equity ownership in the telecommunication and broadcasting industries. Such a mentality of cultural protectionism will discourage the needed inflow of capital, management skills, technology know-how, and new international content that foreign investment can bring.
- Allow operators to adopt different technologies in offering higher-speed broadband services. The NCC needs to establish rules that provide fair competitive grounds and proper incentives for operators to invest in new technologies. This would enable: 1) cable operators to continue upgrading their networks and offering convergent services, 2) fixed-line operators to continue investing in Fiber-to-the-Premises, 3) fixed-line new entrants and/or Taipower to explore the potential of offering ICT services built upon power-line transmission, and 4) existing operators or new entrants to offer wireless broadband services such as WiFi, WiMAX, and/or LTE services.

Another area of concern is the Lawful Interception (LI) requirement for next-generation telecom services. New service providers should not have a different LI certification standard from existing operations providing the same service. The Committee recognizes the importance of LI capability to the law-enforcement and national security agencies. Acting in the best interest of the service providers, the NCC should coordinate with the entities in charge of the new LI requirements – the Ministry of Justice Investigation Bureau (MJIB) and National Police Agency (NPA) – to establish a single LI requirement that is clear and up-to-date.

Issue 4: Implement policies in technology-neutral fashion.

Coordination among the NCC, the various executive agencies of the government, and the legislative branch will be needed to create a sound environment for the development of convergent services through efficient spectrum allocation and by encouraging the introduction of new technologies. This effort should include appropriate incentives to foster not just the introduction of new distribution technologies but also content and services. Different technology standards should be given fair opportunities to be commercialized in the interest of delivering a wider range of content to consumers. The lines between the telecom and cable business are disappearing, giving Taiwan an unparalleled opportunity to drive innovation and show leadership in regulatory reform in the region.

The NCC also needs to move further to set clear rules, spectrum-allocation measures, and licensing requirements

to facilitate the development of wireless broadband services and TV broadcasting over mobile handsets. Spectrum is a precious resource that must be carefully managed to ensure availability for technologies yet to be commercialized. We urge the NCC to accomplish its goal of making these convergent services a priority and to develop a market-driven, pro-competition regulatory framework that will encourage innovation and attract stakeholder investments in the market. For example, any party interested in deploying a viable mobile TV technology should be eligible to apply for the license. Furthermore, NCC spectrum auctions should be technology neutral, letting the market dictate which technology will be used by the licensees.

Lastly, technology policy should be consistent, from licensing through operational requirements. In spectrum allocation, for example, the Committee supports a licensing approach that does not place overly restrictive requirements on stakeholders in terms of service provision, licensee eligibility, ownership, and/or partnerships. Such an approach would ensure that significant domestic and foreign investments designed to bring consumers more choice in services can continue to mature without being stymied by conflicting regulatory requirements or vulnerability to political influences.

Issue 5: Enhance spectrum management and adopt international best practices.

Growth in this industry is achieved by understanding consumer needs, managing scarce spectrum resources, and leveraging innovative digital technologies that maximize consumer reach and ensure consumer choice. Taiwan has continued to lag behind in implementing technologies that facilitate non-linear viewing and competencies in delivering HD content with high production values. The NCC has too long been distracted from developing the core engineering competencies in the next-generation broadband communications technologies that will drive the convergence of the telecom and media sectors.

Along the lines of our recommendation in Issue 1, the Committee strongly encourages the NCC to begin investing in its spectrum and engineering departments on a wide range of technologies and management techniques used in mature markets. The Committee also urges these departments to actively engage with foreign and domestic operators on technical issues that challenge the industry. These engineering resources within the NCC are the key to ensuring that proposed regulations are consistent with the practical strengths and weaknesses of different technologies. Furthermore, such an effort will help ensure that the NCC focuses not merely on the latest political rhetoric – and not even only on current consumer demand – but on delivering technical expertise and value that enables Taiwan to leapfrog other markets in terms of expertise, consistent with Taiwan's overall goal of becoming a knowledge-based economy.

Issue 6: Facilitate the placement of wireless base stations.

Taiwan telecom and media operators have a commitment to their customers to deliver quality service and complete coverage. As stipulated in their licenses from the NCC, they are also required to deliver broad coverage. But a resurgence of public protests over the location of wireless base stations in residential neighborhoods has turned this matter into a social issue and raised concerns about the prospective impact on existing and new investment. Impartial scientific studies conducted in various parts of the world have consistently shown that electromagnetic fields generated from wireless base stations and mobile phone handsets have no hazardous effects.

The NCC has yet to take the responsibility of working with relevant government agencies to educate consumers based on objective and credible scientific reports and evidence. The Committee suggests that the NCC, together with other relevant government agencies, quickly address this issue by correcting misconceptions and preventing further irrational public reaction that could hinder the development of mobile telephony in Taiwan.

TRANSPORTATION

The Transportation Committee believes that a well-designed transportation system with a global perspective will be a key asset for the continued growth of Taiwan's economy. This Committee includes four arms of the transportation service fields: Express Cargo, Automobile, Aviation, and Shipping. While each of these industry sectors has its own priority issues, the goal of these recommendations is the same – to help cultivate a modern and advantageous transportation and logistics platform that can contribute to Taiwan's overall competitiveness.

The multinational companies in these industries have witnessed rapid improvement in other neighboring countries. If Taiwan is not to be left behind, the government needs to quickly recognize areas of potential weakness, devise feasible strategies, and ensure swift implementation of solutions.

The Transportation Committee looks forward to cooperating closely with the Taiwan government and domestic non-governmental organizations to develop solutions to specific transportation and traffic issues, so as to help make Taiwan more attractive and competitive as a business environment.

EXPRESS CARGO

Issue 1: Remove the weight limitation on express cargo clearance.

Taiwan is one of the few countries in Asia that still applies weight limitations on express consignments. Taiwan Customs' Express Handling Regulations impose a maximum shipment weight of 70 kilograms per item at the Express Handling Units in cargo terminals. The GEA

(Global Express Association) and CAPEC (Conference of Asia Pacific Express Carriers) have been addressing this issue since 2006. Considering the increasing demand from shippers and consignees in various industries for 24/7 clearance, it is inevitable that heavy or consolidated shipments are encountering clearance delays more and more frequently. High-tech companies, in particular, need to move such shipments as LCD panels and GPS hand-held equipment (which have high security requirements) quickly to meet market demand; restricting the maximum weight of a shipment to 70 kilograms per piece obstructs the effort to facilitate a speedy clearance environment. The Committee urges the authorities to deal with this carried-over issue from last year's *White Paper* by adopting a specific timetable for the elimination of all size, weight, and value limitations for express consignments. That will enable Taiwan to align itself with global practices in this regard.

Issue 2: Cancel the requirement for invoices to be attached to express cargo shipments.

In line with the increasingly important objective of protecting the environment, the World Customs Organization (WCO) is implementing a paperless clearance project. Most WCO members have already rescinded rules requiring the attaching of invoices and other relevant documents to express cargo shipments. Instead, WCO only asks that exporters print out invoices and other relevant documents from their computer systems for cases involving document audit or shipment inspection. This change helps expedite express cargo shipments, which can be released in a paperless process similar to existing general air cargo procedures.

Many global express cargo companies have built up comprehensive systems and electronic invoice and document databases to simplify the declaration process so as to comply with this new global standard. More than 90 countries have already adopted this paperless process, including the United States, Canada, Germany, Japan, Singapore, South Korea, Hong Kong, Thailand, Malaysia, the Philippines, and Vietnam.

For the sake of enhancing Taiwan's trade competitiveness, the Committee urges the authorities to revise Article 10 of the "Regulations Governing Customs Clearance for Express Consignments" and related laws to conform to this global trend of streamlining customs procedures.

Issue 3: Revise the requirement for an authorization letter when importing low unit-price goods.

Express delivery is meant to provide speedy service. Generally, before a shipment arrives, all declaration documents have already been transmitted through electronic systems. As soon as the shipment arrives at the warehouse, it can immediately be unpacked, scanned, and passed through the X-ray machine. Shipments that do not need customs examination can then be sent to the export area and released for delivery.

In practice, according to the "Regulations Governing Customs Clearance Procedures for Express Consignments," an express courier needs to present an authorization letter from the consignee of the imported goods before it can handle the customs clearance declaration and duty payment on the consignee's behalf. If the authorization letter is absent, the express courier is obliged to take full responsibility. For example, if the consignee has provided false information about the consignment, the express courier will be regarded as having violated the law and fined accordingly.

If express couriers are to fully comply with the regulations, however, it means that more than half the goods would likely be held up at the warehouse – damaging the competitiveness of Taiwan's express courier business. But if the express couriers wish to meet their customers' needs for on-time express delivery service, they will have to take the risk of violating the law, with all the responsibility that may entail. This dilemma puts the express couriers in a very awkward situation.

In order to strengthen Taiwan's express courier business, we urge the government to review and revise the current regulations requiring an authorization letter from the consignee for the importation of low-valued goods.

Issue 4: Waive or reduce the customs clearance processing fee for express courier shipments.

The global economic downturn has taken a toll on all industries, and the express courier business is no exception. Although the government has proposed various tax cuts for individuals and businesses, no specific tax relief has been considered for the express cargo industry.

The industry's overall export volume has decreased by at least 40% since October 2008, which has had enormous financial impact on express cargo businesses. Nevertheless, express courier companies still have to pay a monthly express delivery customs clearance processing fee to Customs. We urge Customs to consider waiving or reducing this fee to help express courier businesses survive in the current economic crisis.

AUTOMOTIVE

The auto industry is grateful for the government incentive announced in early 2009 aimed at boosting the sales of new cars. We urge the government to provide further support to help Taiwan automakers exploit regional competitiveness, harmonize vehicle regulations and release the homologation process to minimize cost and save time.

In addition, the Taiwan government recently announced incentives for Hybrid and LPG cars. We are pleased that the Taiwan government's policies are aimed at contributing towards Greenhouse Gas reduction. At the same time, we believe that any government incentive should be based on performance and effectiveness, not on specific technology.

Below are some specific recommendations:

Issue 1: Broaden incentives for cleaner vehicles.

We urge the government to re-examine the current incentive program for Hybrid and LPG vehicles and to consider expanding the program to include all vehicles utilizing feasible alternative fuels such as diesel, hydrogen fuel cell, bio-fuel, etc. New diesel technologies, for example, can be much superior to LPG and other solutions in reducing greenhouse gas emissions. Broadening the program would help bring about cleaner air more quickly and effectively than the current approach.

We also recommend that the government establish a Green Car Innovation Fund, issue guidelines for the total supply chain, and set up a research institution to develop green car technology. Progress along these lines is being made in Europe, for example, where the European Commission agreed to the European Automobile Manufacturers Association (ACEA) request for 40 billion euros (US$54 billion) in loans, not grants, to develop green technologies. The first two loans from the European Investment Bank were extended this April.

Issue 2: Replace older, higher emission vehicles.

The government in January 2009 introduced a policy, to remain in effect for the rest of this year, of encouraging purchases of smaller cars by reducing the commodity tax by NT$30,000 for vehicles with engines of 2 liters or less. Besides continuing that program, we recommend that the authorities broaden it by establishing a system to encourage the replacement of older, higher-emission vehicles as a number of other countries have done. Such "cash for gas-guzzler" schemes have been successfully launched in Europe in Britain, France, Germany, and Italy, and in Singapore and Japan in Asia. The Obama administration is planning to introduce similar legislation in the United States. Besides the environmental benefit, the move would help create a more viable domestic auto industry and provide additional tax revenue. Some specific suggestions:

1. Promote the sale of new vehicles that have much better emission quality and higher fuel efficiency (EURO IV standards).
2. Offer a commodity-tax refund on old vehicles similar to the schemes implemented by Singapore or Japan, with the aim of phasing out half the cars that are more than 10 years (these have 5-10 times the emission level allowed under current regulations).
3. Offer commodity-tax rebate credits for the "export of used cars," usable to purchase new green-label vehicles (similar to Canadian green incentives CAD92M).
4. Spur the replacement of outdated higher-emission vehicles through an integrated energy-tax/commodity-tax scheme that rewards cars with high fuel economy and lower CO_2 emissions.

Issue 3: Help Taiwan automakers take advantage of their regional competitiveness.

To stimulate Taiwan's economic growth and employment, the government should consider developing export opportunities for built-up (BU) vehicles so as to take advantage of the Taiwan auto industry's mature industrial base, manufacturing capabilities, and excess capacity. Some specific recommendations:

1. Implement a BU vehicle complementation program between China and Taiwan to maximize economies of scale. The program could consist of a mutual quota system or a duty differential that phases out over time as full complementation is reached.
2. Secure access to larger regional markets for Taiwan automakers by seeking cooperation with "ASEAN Plus" blocs, including provisions for automotive free trade.
3. Adopt an auto industry policy similar to Australia's Global Automotive Transition Scheme (GATS) to support research, development, design, and export while assisting in restructuring the automotive supply chain to make it more competitive and reliable.
4. Implement an export credit rebate system similar to those in the Philippines and South Africa. Exporters earn tradable "Import Rebate Credit Certificates" (IRCCs) to offset duties on imported vehicles and components.

Issue 4: Improve vehicle regulations and homologation.

Current provisions in Taiwan's vehicle regulations prevent Taiwan from fully aligning with international best practices. For example, European ECE certification is still not accepted by the Taiwan government. This creates a heavy workload for Taiwan's Automotive Research & Testing Center (in fact, exceeding its capacity for conducting homologation tests) and increased engineering costs for compliance by current models.

In addition, some of Taiwan's emissions standards are not in line with UN/ECE regulations, including diesel smoke procedures, evolution coefficient, road resistance setting, vehicle weight testing, etc. These deviations make it difficult for the industry to introduce new models into the Taiwan market.

For safety standards, Taiwan needs to harmonize its inflammability test regulation with UN/ECE instead of CNS13387, and existing models should be granted a longer lead time to comply. We request that the Taiwan authorities go through the WTO's Technical Barriers to Trade (TBT) announcement process when vehicle safety regulations are revised.

SHIPPING

Issue 1: Devise a coordinated economic stimulus incentive program for the shipping industry.

The global financial crisis has dramatically bitten into the shipping industry, as it has other industries. The demand for cargo has decreased substantially in recent months, and it is

unlikely to recover in the next one to two years.

In response, ocean carriers have made efforts to cut costs to remain viable and sustainable. For example, they have reduced vessel service speed, merged or eliminated some services, and down-sized by using fewer and smaller vessels. Worldwide, 486 container ships with 1.31 million TEU capacity were laid up as of mid-April, 2009.

While the industry has been fighting for survival, no coordinated stimulus package has been offered by the main regulator, the Ministry of Transportation and Communication (MOTC). This is especially worrisome because many other countries have offered various approaches to help alleviate the burden on their shipping industries. A few examples:

- Thailand – Cancellation of fuel surcharges and reduction of the port tariff for Bangkok Port.
- Singapore – Effective from April 1 for one year, an additional 10% concession in port dues, on top of the existing 20% concession, for vessels with a port stay of not more than 10 days.
- Indonesia – For three months from February 15, a 5% discount on current container handling charges (CHC Tariff FCL, CHC Tariff LCL, and CHC Tariff Empties).
- Shanghai – From January 1 to June 30, the Shanghai Port Group has offered empty stevedoring discounts and free storage at Shanghai terminal.
- Korea – Performance-based incentive schemes for Transship Volume; for increased vessel calls, reduced port dues in 2009; 100% exemption on port dues and dockage for vessels making double calls at both Busan North Port and Busan New Port.
- Germany – Cancellation of the projected 10% increase in Kiel-Canal dues by the Federal Ministry of Transport; withdrawal by the Hamburg Port Authority of the announced 4% increase in harbor dues, effective February 1.
- USA – The Los Angeles and Long Beach Harbor Commission is offering terminal operators a 10% reduction in port charges for every container that moves by rail to or from points outside California.

We urge the MOTC to study the above examples and coordinate with the various harbor authorities to come up with a coordinated program for Taiwan's shipping industry. In the long run, Taiwan will face increasing competition due to port development in China. We urge the MOTC to take that into consideration and undertake reforms to make Taiwan more cost-competitive.

農化委員會

農化委員會希望藉此機會，感謝農委會對提升台灣農業產品之品質與安全的貢獻，尤其是動植物防疫檢疫局，他們的努力使國內產銷之農化產品的品質與安全持續提升。

委員會在《白皮書》中不斷呼籲，政府應積極遏制猖獗的偽劣農化產品，但過去一年間，情況已有明顯改善。雖然仍有努力空間，但我們仍樂見，非法農藥產銷商被起訴的比例增加對此類非法活動的確已產生嚇阻力。

為提升台灣農民的生活品質、確保蔬果的品質與安全，我們在2009年提出三大重要議題，希望獲得相關單位的重視：

議題一：改以作物分群作為有效成份登記（AI）的依據

將農化嶄新的有效成份（AI）引進台灣，過程中會耗費大量時間及金錢。要讓產品能夠正式銷售，申請廠商必須完成農委會一連串嚴格的測試及登記程序。完成新有效成份的登記，最快也要兩年，而且每一有效成份針對的每一作物至少要花新台幣三十五萬元。台灣從南到北的作物種類繁多，一種新的有效成份要登記適用所有或多數作物，不但非常困難而且成本昂貴。由於台灣的市場有限、作物種類卻繁多，因此，外國廠商的新有效成份，可能只會選擇數種主要作物進行登記，否則甚至會放棄進入台灣市場，農民反而失去改用創新有效成份農藥的機會。本委員會建議主管機會應針對嶄新農化有效成分的登記方式做些改變，依作物分群為產品登記的依據，以節省嶄新的有效成份登記費用，而非如同以往僅針對單一作物。如此應可鼓勵跨國企業引進創新有效成份及技術，長遠來看亦有利台灣的農業生產力的提昇，以造福農民。

議題二：持續強化執法以遏止偽劣農藥

本委員會感謝主管機關努力打擊非法農藥。雖然2008年有些不錯的進展，但市場上龐大繁多的非法農藥的數量，仍值得擔憂。中國仍然是假偽農藥的主要來源。這些有害的偽劣農藥不但違法，還會威脅農民及消費者的健康。此外，偽劣農藥也會破壞市場公平競爭，危害原生產者及守法廠商的權益。

本委員會欣見農委會在打擊偽劣農藥上的努力，但我們也呼籲農委會能進一步強化查禁偽劣農藥走私及在市場販售的行動。農委會必須與海關及執法單位密切合作，以剷除或至少大量減少這些非法又有害的偽劣農藥在市面上出現。

此外，中台灣主要蔬菜生產地區的農民仍在大量施用未經登記核可的農藥。使用這些未經核可的農化產品，可能引發嚴重的食品安全事件，降低消費者對台灣農產品安全的信心。本委員會建議農委會員應多實地走訪產地，勸阻農民施用非法農化產品，並宣導食品安全的重要性。同時，也該告知農民施用非法農化產品的罰則，並要求農民舉報非法產品的來源，以利農委會追緝。

議題三：禁絕Me-too產品註冊登記

本委員會目前正與主管機關合作，研商如何改進me-too註冊登記制度。同時，委員會越來越擔心的是，進口商以大量假造文件為me-too商品申請登記。因此，我們希望主管機關嚴格查核me-too商品的證明文件。

此外，委員會希望農委會能採取下列措施，以保障投注大量資源以開發農化嶄新有效成份的原始登記廠商：

1) 將原註冊者的行政保護期由八年延長到十二年以上；
2) 確保me-too產品使用與原註冊商品相同的有效成份及副成份；
3) 要求me-too產品申請商分攤原註冊者的部分登記與研發費用。

台灣需要新技術，以協助農民不斷提高收成及食品產量。本委員會相信，政府如能採納上述三項建議，應能改善投資環境，讓國際廠商在台代表更有籌碼說服母公司，將新的農化有效成份及技術引進台灣，如此亦能讓台灣的眾多農民共蒙其惠。

資產管理委員會

資產管理委員會感謝與肯定金融監督管理委員會及證券期貨局持續進行法規鬆綁，朝向打造台灣成為區域金融服務中心的目標發展。我們特別樂見政府放寬對國內基金及海外基金的中國投資限制，我們也高度讚與政府對與其他國家簽署備忘錄所做的相關努力，希望藉此讓台灣成為更開放的市場。另外，證期局正與業界討論，希望建立一套機制讓證券投資信託業（投信）可將交易執行委外給海外交易執行單位，並使境外基金公司或境外基金在台灣境內對於國內證券的交易，能夠集中處理執行。本委員會感謝證期局願意讓法規更具彈性，並期待這些改變將迅速帶來成果。

儘管有上述的進展，有一些重要議題仍待解決。為了達成業界與政府的共同目標—在保護投資人之同時，讓台灣的資產管理產業具

備全球性競爭力，我們希望下列議題能被優先處理，本委員會願意與主管機關共同合作，為這些重要議題找出解方案。

議題一：境外基金之資本利得與股息收入應自最低稅負制中排除

最低稅負制自2010年起將對海外所得進行課稅，這對台灣境外基金業帶來嚴重的影響，包含鉅額資金將外流至香港與新加坡等地。由於最低稅負制而衍生的潛在稅賦責任，一些原本對外國有價證券及資產有興趣的投資者，將不願再透過台灣境外基金銷售機構進行投資，繼而轉向境外的金融機構甚或是未經核准的地下管道進行投資。此外，現已投資於境外基金的投資人，可能選擇將獲利提前了結，導致「最低稅負制」正式實施前，可能出現大量的基金贖回情形。

此外，由於海外所得計算基準的定義還不清楚，這些問題將更形惡化。這些不確定的因素，將使投資人寧願先將基金投資贖回。因此，最低稅負制在2010年進一步擴大適用，納入個人海外所得，將導致重大的資金外流和造成台灣財富管理產業的參與者及投資人不可挽回的損失。

本委員會注意到政府最近決定採用一系列的租稅改革措施，如大幅的降低遺產稅、綜合所得稅，希望改善投資環境與吸引資金回流。然而，一旦擴大最低稅負制而納入海外所得，將對上述稅改措施造成反效果，且不利於建立一個有利的稅務環境。相較於香港及新加坡，其海外所得並不計入課稅，此舉將置台灣於不利的情勢，並減低其與其他亞太地區國家的競爭力。

此外，本委員會也注意到，《所得基本稅額條例》中將境內基金的資本利得排除於最低稅負制。假若最低稅負制正式實行且境外所得須被課稅，對於源自境內基金與境外基金收入採取不同稅務待遇，將導致一個不公平且歧視境外基金業者的競爭環境。這已與金管會所揭櫫應同等對待境內基金和境外基金之意向相抵觸。

本委員會亦擔心當最低稅負制採行後，將會削弱台灣成為區域資產管理中心之努力。此外，為了因應大量贖回潮，基金經理人將被迫處分變現資產組合，而對包含台灣在內的全球股市產生嚴重負面影響。

因此，本委員會在此重申於去年的白皮書中的訴求，即政府應取消將境外基金的資本利得與股息收入納入最低稅負制的決定，並修正《所得基本稅額條例》的相關內容，將上述所得自最低稅負制中排除。

議題二：簡化境外基金的註冊及許可程序，並移除投信基金的基金規模限制

簡化境外基金註冊及許可程序，一直是本委員會所重視的議題。據我們了解，加速審理基金申請案件，已成為金管會的短期目標，本委員會相當感謝金管會的努力，亦期待該目標能儘速實現。

關於如何簡化基金註冊的流程，本委員會建議金管會可以考慮採行差異化管理。 對於境外基金總代理人的基金送件申請，若該總代理人信譽良好且無違規的紀錄，金管會即可加速其審理的程序。至於境外基金，可依類型採取不同的作法。例如，對於主要投資於已開發國家之基金申請，凡經投信投顧公會完成其書面文件審理，且符合金管會的所定之規範，即可直接註冊，毋需金管會再進行實質審查，總代理人僅需事後向金管會申報，使金管會知悉基金申請進度即可。 同理，本委員會亦建請金管會對於同一總代理人之新基金送件申請，若其類型特性與其他已註冊基金相似，可免除該新基金的實質審查。本委員會相信，上述差異化管理方式，不僅能減輕金管會審理申請案件之負擔，並能有效率地為台灣廣大的投資人增加更多的投資機會。

關於投信公司所募集的境內基金，不論該基金是投資國內或海外市場，本委員會建議移除投信基金可發行單位數上限的法規限制（或將上限改為「無限額」），並去除募集投信基金的下限門檻。雖然類貨幣型基金的規模門檻限制已被移除，然而其他類型的投信基金仍受到可發行單位數的限制，該限制並不符合「開放型」基金或信託的性質，而且其他主要基金註冊地都沒有這類規定。此外，與投資國內市場的投信基金相比較，現行法規對投資海外的投信基金有許多不公平限制，包括更低的基金規模上限門檻，這些限制主要是因為中央銀行的外匯管制限制。上述限制並無法保護投資人利益，反而對資產管理業及證期局徒增不必要的行政負擔。因此，我們建議，投信基金募集的最低門檻應訂在新台幣六億元，而非現行之新台幣六億元或基金上限規模的10 %(以較高者為準)。

議題三：加速採納UCITS III規範下之標準及簽訂備忘錄之進程

本委員會感謝金管會於去年決定移除某些對於共同基金之法規限制，亦讚賞金管會對於改進台灣資產管理業環境所做的努力。台灣若希望成為區域資產管理中心，採納國際所接受的業界慣例並修改目前的法規將非常重要。

我們鼓勵金管會加速、甚至設定一定時程，以提早採用UCITS III規範下之標準，這包括但不限於：提高共同基金投資於衍生性商品之多頭部位之總額限制至100%，以及移除在台灣登記之境外基金必須有一年追蹤紀錄之要求。

此外，本委員會讚賞金管會已投注相當多努力，與盧森堡等境外基金註冊地建立更緊密的關係。我們相信，金管會若與這些註冊地主管機關簽訂備忘錄，將更能有效地加深彼此的相互了解。簽訂備忘錄後，金管會將更樂於採納UCITS III下之標準，並進一步鬆綁共同基金相關法規。因此，我們敦請金管會能積極協商此類備忘錄的簽訂，本委員會的成員，作為主要國際資產管理者，將樂於協助以促進相關協商。

議題四：進一步放寬中國投資限制

本委員會樂見過去一年來兩岸關係的改善，促成政府放寬對中國投資的限制。例如於2008年七月，金管會宣佈境內基金及境外基金投資大陸地區上市有價證券比率，已由原先之0.4%之限制放寬至10%；此外，2008年十月十四日修訂公布之《境外基金管理辦法》第23及26條條文，亦對被動管理之境外指數股票型基金，免除上述中國投資限制。本委員會相當贊同政府的做法，認為此為兩岸交流正向發展之重要里程碑。我們期待政府持續檢討放寬其他對中國持股的限制，並朝最終全面開放的目標邁進。

銀行委員會

自去年秋天全球金融危機發生以來，全球銀行產業及主管機關皆面臨空前的挑戰，但台灣的銀行體系在這次危機中表現良好。行政院金融監督管理委員會及銀行局對改革的開放態度，及對年度白皮書建議的審慎考量，值得讚許。

目前銀行委員會的首要關注事項一如議題一所述，是立法院在欠缺對信用市場運作機制的基本了解情形下，將調降利率上限至一個不切實際且有害的水準。支持此法案者認為，在經濟不景氣時期，應透過調降利率上限以減輕消費者的負擔，但實際上反將造成弱勢借款人或小型企業，無法自既有管道取得融資。

此外，今年有數個議題集中在標準化及簡化法規程序，與增加透明度及產業溝通。我們相信，若政府能關注下列議題並尋求解決方案，將會使台灣在未來經濟逐漸復甦時，提高競爭力。

議題一：讓自由市場機制來決定借款利率

2009年台灣白皮書出版之際，立法院仍在審查將法定利率上限自年利率20%調降至12.5%的《民法》修正案。本修正案雖然立意良善，希冀在經濟不景氣時期，降低民眾的負擔，但修正案若通過，實際上將對總體經濟、消費者借貸及台灣對外資的引吸力，造成非常負面的影響。銀行委員會敦促政府尊重市場機制，避免任意地管制利率上限而損害經濟。

除日本外，已開發亞洲國家中，台灣是唯一訂有法定利率上限的國家，且目前20%的利率上限，已遠低於國際上無擔保授信24%至30%的利率水準。

若本修正案通過，信用供給者(例如信用卡發卡機構)為避免呆帳損失，將會取消對弱勢借款人或小型企業的借款，或調降其信用額度。時值經濟亟需振興之際，本修正案將導致消費動能降低，對經濟產生嚴重負面影響。

此外，眾多有借款需要的客戶，將無法自金融機構取得融資，而需以30%至40%的利率，向地下錢莊融資。泰國數年前將利率上限暫時調降至18%時，就發生這個情況。在民眾強烈抗議後，政府隨即將利率上限調回。泰國的教訓告訴我們，調降利率上限對原想幫助的民眾，反造成不利。

本修正案是一個極為突然且重大的政策改變，將衝擊銀行獲利，且影響銀行業的長期發展。對外國投資人而言，如果政府的政策多為政治上的權宜措施，而非考量國家長期經濟的平衡發展，將使外資對台灣的投資環境產生嚴重的疑慮，同時也會影響台灣成為區域金融中心的目標。

五月初，美國商會及歐洲商會共同邀請專精貸款利率政策的國際學者專家—日本東京情報大學副教授堂下浩與英國倫敦政經研究機構Policis的董事艾莉森，就利率上限政策問題發表專題演講。依據其他國家實施利率上限的經驗，二位專家均強調，制定利率上限，不但無法減輕消費者財務壓力，反而使弱勢借款人，無法取得融資，被迫轉向地下錢莊融資，借貸成本大幅增加。制定利率上限將導致失業率上升及消費動能降低，對總體經濟造成非常負面的影響。

為避免本修正案通過後，帶來的多項嚴重負面衝擊，銀行委員會敦請立法院審慎考量，避免通過此錯誤的法案。

議題二：增加法規制訂過程之透明度及意見諮詢

主管機關在政策及法規制訂過程中，與業界維持常態性的諮詢程序，是建立健全法規制度所必要的。目前主管機關在制訂法規時，時有徵詢相關公會之意見，對此本委員會深表謝忱。惟並非所有政府機關或所有法規之制訂，皆有一致性及廣泛的諮詢程序；且許多法規在規劃期間並未與業界討論，而是在草案擬訂且經政府高階主管審核後，才舉行公聽會或以其他方式聽取業界意見，此時，業者提出之意見能被納入的範圍已相當有限。如在規劃及草擬法規之初即廣泛徵詢業界意見，將使法規更為適當、公平及有效，提升執法之品質，並可避免未來對業者及市場之負面影響。

以香港為例，主管機關在規劃政策或法規時，即會先廣泛徵詢業者，再發表一份諮詢文件，公告於政府網站上以供社會大眾表達意見。公告期間，主管機關仍繼續與受該法規影響之業者及專業工作小組開會徵詢意見。所有意見及主管機關之回覆及結論，均將公告於網站。在新加坡，主管機關在構思新政策或法規時，即由大型本國及外商國際型銀行與外聘顧問組成專業工作小組共同討論；在法規定案前，則有一個月之公告期，供業者提出問題與意見，政府將針對每項問題與意見逐一回覆並公告。

對於提升法規制定過程之透明度及成效，本委員會建議：

- 所有政府機關就法規制訂過程，應可參考香港及新加坡，採取一致且有系統的程序，徵詢業者之意見。
- 政策及法規在早期規劃及草擬階段，即應進行廣泛之徵詢及討論。
- 政府於其網站公告草案後，應給予最少三十天的回應期間，供業者表達意見。

議題三：標準化及簡化呈送主管機關報表之程序

提升台灣為區域金融中心或資產管理中心，是政府機關及全體民眾的共同期盼。為達成此一目標，台灣的法律環境及主管機關要求報表之申報規定，必須與國際金融市場最佳慣例接軌。舉例來說，在香港及新加坡，主管機關要求申報之基礎，係採「例外管理」之模式（異於常規交易之申報）、而非逐筆之交易申報，且此兩國皆已設置安全的電子網路資訊平台，讓銀行業可上傳法律要求的報表以供主管機關進一步審閱。這樣的電子平台不僅能增進公部門及銀行業之效率，亦能減低監理及法規遵循的成本。

一般而言，目前外商銀行在台分行必須呈報至少二百多種不同之報表予金管會及中央銀行，這些報表當中超過半數是因應央行所要求之每日交易量報表。這些報表的數量，是採「例外管理」模式之香港及新加坡申報量的數倍以上。此外，許多金管會及中央銀行規定之報表，在內容或格式皆十分相似。本委員會極力建議金管會及中央銀行，設立一個「單一申報電子平台」，來蒐集所需之資料。這樣的機制，將可降低銀行重複申報之負擔，亦可達到保護環境、節能減碳之功效。

目前，外匯交易及相關附件需按日呈報予央行。 本委員會了解，這項規定的主要考量在於保存查核記錄以佐證外匯交易。本委員會建議央行可考慮一個較為簡便的程序：即由銀行業各自保存交易資料及相關附件，並且定期或經中央銀行要求時提交。同時，中央銀行依然可行使主管機關權限，隨時審查外匯交易附件是否及時取得。

我們認為，以上建議方案將可降低台灣監理及法規遵循的成本，進而提升台灣銀行業之競爭力。

議題四：加強金融機構資訊揭露義務的同時，亦尊重客戶隱私權之保障

本委員會了解，主管機關對於加強金融機構資訊揭露義務以確保投資人以及存款人利益之目標。然而，這些新措施將為銀行帶來一些潛在問題：

1.金管會於今年三月二十三日公佈修正「銀行應按季公布重要財務業務資訊規定」，與前次2006年四月二十四日修正之版本比較，此次修正包括了增加新的報告項目以及修正部份現行報告項目之內容，其中包括銀行需增加公佈「非屬政府或國營事業之前十大集團企業授信總餘額」之授信風險集中情形。相較於金管會於2007年三月公布以及2009年二月要求各銀行於網站上揭露對每一客戶轉銷呆帳金額達一定金額以上之呆帳資料之函令時，其均明確排除《銀行法》第四十八條第二項規定之保密義務，今年三月公佈修正之「銀行應按季公布重要財務業務資訊規定」卻未比照2007年實施轉銷呆帳揭露規定時明確排除保密義務之規定，本委員會認為，這將對銀行帶來潛在的客戶申訴甚或訴訟風險。

本委員會呼籲金管會能權衡揭露義務之必要性以及保障客戶隱私之基本原則。以其他國家之規定為例，各金融主管機關亦有要求銀行揭露其授信風險集中之客戶資訊，然而，即便是公開發行之銀行，都未對大眾揭露此類資訊。若主管機關仍堅持銀行有義務對大眾揭露此類資訊，本委員會建議至少排除揭露下列授信情形：

(1) 低於銀行一定淨值比率下之授信案件，無須揭露；〔外國銀行在台分行之淨值以其總行之淨值為計算基準。〕
(2) 由具一定投資信用評等之金融機構提供十足擔保/保證之授信案件，無須揭露；或
(3) 該授信客戶係屬非公開發行公司，亦非公開發行公司之所屬關係企業。

至於非公開發行之授信客戶，我們建議金管會能同意以匿名編號之方式來揭露，以保障客戶之財務隱私權。

2.有鑑於近來外商銀行參與台灣併購市場的情形逐漸增加，依金管會之政策，承受台灣本地銀行之外商銀行，須將其在台灣當地之所有業務移轉至其在台灣設立的子公司。儘管這類子銀行是由外商銀行所百分之百持股，仍必須遵守許多原欲規範公開發行股份公司之相關法規。

在這些規定當中，除了《證券交易法》下原欲規範公開發行公司之指派獨立董事、各種資訊之報告及揭露等，尚包括了董事及高階經理人薪資酬勞之詳細揭露。

我們同意健全的公司治理架構及實務運作是相當重要的，然而，此類規定及原則不應毫無區別地適用在各種公司。巴塞爾銀行監理委員會在2006年二月所提出之「強化銀行機構公司治理」報告，亦強調應視銀行及所屬集團（如有）之公司大小、複雜程度、組織結構、商業規模、風險結構及其所屬集團等差異情形而實施公司治理原則。由於外商銀行所百分之百持股之本地子公司，其公司規模及股權結構與一般之公開發行公司明顯不同，因此，有關適用在公開發行公司之相關規定，不應同等地適用此類單一股權之公司。

我們認為，只有當公司治理之規定很明顯能有助於確保健全風險、會計實務及保護金融市場等監理目標時，該規定才能適用於外商百分之百持股之子公司。因此，為保護一般多數股東權益之董事及高階經理人薪資酬勞揭露相關規定，不應等同地適用到外商所百分之百持股之子公司。我們極力敦請相關主管機關，逐一審視公司治理規定之利益及成本，只有當這些公司治理的相關規定有助於達成主管機關或相關法規監理目的時，才能適用在外商公司所百分之百持股之子銀行。

議題五：建立有效的連動債爭端處理機制

有鑒於雷曼兄弟破產導致的全球金融市場動盪，委員會支持主管機關積極解決連動債爭端的作法，以確保大眾權益。為達此目的，銀行需採取符合國際標準之一致性措施，來處理並解決當前的連動債爭議案。

目前，所有連動債相關爭議（不論是否與雷曼相關）皆可向銀行公會金融消費爭議案件評議委員會登記。評議委員會在接獲客戶申訴後，會依據銀行回覆及相關文件決定和解金額。該委員會評估申訴案件之標準並不明確，但目前看來，似乎是依據評議委員會在審視連動債相關交易時所判定之違規數量和性質來裁決。本委員會認為，這種作法不符合現行爭端處理的法律原則，而該原則為建立國際金融市場之核心要素。

這些連動債的銷售期間，多數是幾個月甚至多年以前，然而，評議委員會的檢視標準與規則，是在近日市場動盪事件後才訂定的。這種作法就算對控管周延、流程縝密的銀行來說，皆十分不利。值得一提的是：大多數銀行在進行債券銷售時皆遵循當時通行之準則，但在最近和解的過程中卻仍被評議必須賠償損失。

本委員會充分了解政府必須加速解決連動債爭議的壓力，但解決方案仍必須於申訴人財務利益與法治價值間取得平衡。

本委員會建議：

- 應採用新加坡、香港現行規範與實務作為基準。除須特別審理之雷曼爭議案外，與雷曼兄弟無關之連動債爭端應以個案方式處理、評估作業亦應遵循傳統法律原則進行。
- 案件呈至評議委員會前，應先交由專業且公正之調解委員審理調解。回顧新加坡、英國及美國之統計資料和經驗，六成至八成之案件皆可於調解階段解決。
- 負責辦理爭議案件之組織，應仿效制度完善之金融市場作法，秉持公正、透明之原則，並聘僱經驗豐富之法律專才。
- 為避免投射錯誤訊息，讓消費大眾誤以為可藉由對銀行及主管機關之政治施壓達成和解之目的，主管機關應儘少涉入爭端處理流程，同時，亦須尊重銀行與客戶間的保密協定。任意向媒體或大眾揭露資訊，是不專業且不適當的行為。

議題六：制定合理的《金融服務業法》以促進公平及有效率的金融市場

金管會於去年十二月提出修正之《金融服務業法》草案，以整合所有金融服務業規範。相較舊版草案內容，委員會感謝主管機關於新版本中提出下列兩項內容之修正：(1)以「除非有明確之禁止，一般營業執照內之任何產品或服務皆為核准業務 」之原則，取代一般的「產品核准」概念（草案第十二條）。(2)對金融服務業如未能證明已盡揭露義務而衍生之無過失賠償責任之修正（草案第三十五至四十條）。然而，本委員會對下列事項仍存有疑慮：

- **「揭開公司面紗」原則之適用，恐有無限上綱之疑慮**
  草案第三十一條給予金管會(主管機關)權利，於一定情況下，得命令金融服務業在中華民國境內保有足以支付其在中華民國境內債務之資產。在某些情況下，包含該金融服務業之從屬、控制公司以及控制公司之其他從屬公司。我們對此條款的適當性深表質疑，並認為此條款不符合程序正義及國際一般認可之公司法人獨立原則，因此，我們強烈建議刪除此條款。
- **財富管理業務定義過於廣泛**
  新增第八條之財富管理業務定義太廣泛，任何櫃檯服務、企金、投資銀行、商業銀行之業務皆可被解釋為財富管理業務。我們建議，應進一步檢視及修正該條款，以避免將其他業務列入財富管理業務範圍。

議題七：維持現行中央存保公司保險費率方案

繼2007年一月修訂《存款保險條例》，中央存款保險公司又採納了2008年台灣白皮書中有關新存款保險費率之部份建議，本委員會對此表達感謝。惟針對已宣布自2010年起加倍收取保險費一案（存款超過最高保額者一新台幣壹佰伍拾萬元，費率將從現行0.0025%調升至0.005%），我們仍有疑慮。

基於當前金融市場情勢仍然艱鉅，本委員會認為，維持現有保險費率並暫緩明年調升保費，應為當務之急，如此將可穩定金融業務之發展。若能維持目前費率至少五年，或至下一次修訂該條例時，對金融業將更有助益。

資本市場委員會

本委員會感謝主管機關提昇台灣金融市場競爭力之持續努力，我們尤其感謝金管會長期聆聽本委員會之種種關切及議題。一個最佳例證是，金管會與美國商會就《金融服務業法》持續溝通對話；這個法案旨在為各類型金融服務業提供一致的法規架構，因此，本委員會支持銀行委員會的建議，期盼台灣能制定完善的《金融服務業法》，以促成公平和有效率的金融市場。

資本市場之發展需要妥善調和、思慮周詳的法規及市場基礎建設的改善，因此需要政府各行政單位的相互協調、長遠的眼光，以及一致的技術和人才投資。

我們深信台灣的主關機關有相當的決心和準備；本委員會也願意協助進一步提升台灣的資本市場。

本著這樣的精神，本委員會提出下列建言：

議題 一：擴張證券商研究及交易的範圍以促進產業之競爭力

1.1 台灣證券法規規定，具備券商執照或證券投資顧問事業（SICE）執照的公司，得針對本地公司發布研究報告，關鍵的差異在於報告鎖定的收件者。就券商而言，其對象應為經紀業務的客戶；如為證券投資顧問事業，報告對象應該是與投顧公司有直接顧問合約關係的當事人。

券商提供研究報告給客戶的理由很簡單： 投資研究也是一種客戶服務，且與經紀業務相關聯，因此研究主題必須符合獲准經營的證券經紀業務範圍，也就是本地證券市場。但是當研究業務是在證券投資顧問事業執照之下運作，而該投顧公司並未針對外國證券投資顧問服務的提供另外取得「特定監管機關批准」之時，法規便只允許本地註冊分析師撰寫本地證券的研究報告。然而，尋求特定主管機關的批准相當不切實際，因為申請手續非常繁複，證券投顧公司必須針對欲研究的每家公司提出申請，且申請時程需時數月才能完成。

依照現行的法規，「外國證券」的定義，甚至包括由台灣本地公司發行的國外掛牌股票（例如富士康）。結果，當台灣公司為境外事業尋求海外掛牌而轉型為跨國企業時，台灣本土證券公司以及證券投資顧問事業反而無法將研究範圍擴及這些重要的子公司與關係企業。倘若國際投資人無法充分了解這些公司的關係，就比較不願意投資台灣跨國企業，進而加重這些公司的資金成本，削弱其競爭力 。

此外，前述的限制，更迫使台灣本地分析師外移至其他的區域金融中心，尤其是香港，以便繼續發表這些所謂「外國證券」的研究報告。位於台灣的股票研究團隊，因此無法將自己的研究觸角擴及本地掛牌的公司之外，限制了台灣資本市場的國際競爭力。如此一來，台灣境內的分析師便極難成為區域金融中心的要角，而派駐香港或新加坡的分析師則不受此等約束。

本委員會在此呼籲，取消對於台灣境內研究分析師的限制，使非國內掛牌證券也能納入投資建議範疇。

1.2. 開放證券商受託買賣大陸地區及非大陸地區掛牌上市之大陸相關有價證券

為提昇國內投信產業競爭力、滿足國人多元化的投資需求，金管會已於2008年七月開放國內證券投資信託基金投資於大陸地區A股由原來之基金總淨值之0.4%至10%，於非大陸地區掛牌上市之大陸相關有價證券限制則完全取消。但金管會仍規範在台之證券商不得受託買賣與大陸地區有關之有價證券，此舉實不利於國內證券商與其他業者之公平競爭。因此，為提升證券商業務競爭力，建議將大陸地區有關之有價證券（包括大陸地區股票、H股、紅籌股及大陸地區註冊公司於其他證券市場掛牌之股票等），列入證券商受託買賣外國有價證券之交易市場範圍及標的。

1.3. 加強投資人教育，以解決媒體在未經外資證券商同意下即引述或摘譯外資證券商研究報告而衍生之問題

長久以來，媒體在未經外資證券商同意下，即逕自引述或任意摘譯外資證券商研究報告之內容，造成證券交易市場大盤或個股股價之波動，而主管機關每接獲投資人陳情後，會對證券商作相關之查詢。事實上，外資證券商從事經紀業務，皆恪遵國內有關推介有價證券之相關法令規章。投資研究報告一向僅供客戶參考，客戶之下單決策純屬客戶自行判斷之結果。一般而言，投資研究報告不會由外資證券商主動發給媒體，任何與媒體之互動及新聞稿之發佈，也依其內部程序，取得核可後方可進行。因此，關於媒體在未經外資證券商同意下即引述或摘譯外資證券商研究報告而衍生之問題，建議台灣證券交易所及櫃檯買賣中心等主管機關，應以舉辦研討會、印製宣導手冊等方式告知投資人，外資證券商無須為媒體未經授權同意即引用或摘譯外資證券商研究報告於報章雜誌之行為負責，同時亦應加強對投資人之教育，宣導正確之投資觀念，方為解決之道。

議題二：增加交易制度合理化及彈性化以達到已開發市場之最佳實務

以市場改革之方式達到最佳實務，是確保台灣市場持續保有競爭力的必經之路。儘管政府單位多年來在此領域做了許多正面的努力，然而在採納國際最佳實務的部分還有許多空間，如此台灣才能到達已開發市場的地位。

2.1. 差異化機構投資人法規及散戶投資人法規

機構投資人擁有較充分的知識、風險承擔能力及信用，因此為保護散戶投資人所制定之法規及規範，對於機構投資人而言並無必要。將這些規範套用於機構投資人，將使他們比散戶投資人處於更不利的地位。舉例而言，警示股票交易於交易前是否應預收款券，此舉應為證券商依據機構投資人之信用狀況自行研判後所做成的決策，而非一成不變且全面性之規定。相同地，證券商於執行鉅額交易前檢查客戶是否持有足夠的款券，應為選擇性而非強制性的要求，因為許多外國及本國機構投資人之款券都存放於保管銀行，在現行的監管制度下，機構投資人為預收款券需要花費比散戶投資人更多的時間和更高的成本，此類規範只為機構投資人帶來不便，且並無邏輯基準可言。

2.2 鼓勵場外交易

台灣市場目前具備鉅額交易的機制，場外交易或由證券商直接撮合交易仍不被允許。證券商營業處所交易及其它場外交易的平台，早在許多已開發市場中廣泛進行，能夠促進市場的流動性及價格發現的功能，同時降低市場波動。以倫敦證券交易所為例，自從允許場外交易的機制，於1999年到2007年，交易金額及交易量都有明顯的增加。

2.3. 允許證券兼營期貨業者之結算交割人員得兼任，以使兼營業者得相互支援利用後台資源

依《期貨商負責人及業務員管理規則》第七條規定，證券商兼營期貨業務者，期貨受託買賣、自行買賣及內部稽核人員，皆已得由具有證券及期貨業務員資格之業務員兼任，僅結算交割業務員並未開放由已具證券及期貨業務員資格之業務員兼任。惟實務上，此一限制將對兼營期貨商結算交割人力資源配置、人員管理以及經營成本造成相當大的負擔，因為證券兼營期貨業者，需就期貨業務單獨配置至少三到五人之期貨結算交割業務員。有鑒於具有證券及期貨業務員資格之結算交割業務人員已同時具備證券及期貨之專業知識，建議主管機關調整相關規定，允許期貨之結

算交割業務人員得由具有證券及期貨業務員資格之業務員兼任，使兼營業者得相互支援利用後台資源，降低企業經營成本。

議題 三： 放寬期貨交易相關之外匯規定

台灣期貨交易所自1997年成立以來，雖已有顯著的發展，但制度的更新將能為機構投資人帶來更大的動機以參與台灣市場，進而為台灣期貨交易市場創造更多益處。

- 取消機構投資人預收保證金的規定，另以經紀商依據自有之信用政策， 自行制定預收保證金支付規則之方式替代。
- 開放建立give-up機制，以提供投資人於不同期貨商之間進行期貨交易時更多彈性及選擇。上述取消預收保證金之規定，應為建立give-up機制之前提；若有此機制，投資人將不必分別在give-up期貨商及客戶委託結算之期貨商存放兩筆保證金。
- 開放外資得以新台幣從事期貨交易。現行外國機構投資人從事期貨交易僅得以外幣為之，並受相關新台幣換匯之規範限制，對外國機構投資人從事期貨交易造成不便，建請開放外資得以新台幣從事期貨交易，以刺激期貨市場交易活絡化。

議題四：進一步開放有價證券借貸市場

台灣是亞洲區有價證券借貸最重要的市場之一。台灣證券交易所、財政部及金管會近年推動的改革與進步值得稱許，同時，我們相信市場及作業程序之效率應可進一步強化，進而提昇證券借貸使用度及流動性。

為促進台灣有價證券借貸市場實質成長，以下為市場參與者提出之相關建議：

4.1 **開放建立出借人間之綜合帳戶借貸，以避免違約**

目前有價證券之自由移轉僅限於同一投資身分編號之帳戶間。然而在非ID制之市場，實務上可將有價證券自一出借人之帳戶移轉至另一出借人之帳戶，以避免實值買入或交割失敗之可能性，而借券人則將有價證券返還與代為出借人之帳戶。我們了解此一開放將允許出借代理人在外資機構投資人之帳戶間自由移轉有價證券，和及時之交付， 但可限制此等作法僅適用於避免借 交割失敗，如有必要，亦可由當地保管銀行或出借代理人，定期針對此類有價證券之用途提出報告。

4.2 **創立「最終融通者」機制**

在南韓，南韓證券集保公司提供有價證券借貸市場之「最終融通者」之機制。 此機制運作方式是，若出借人要求提前還券，確保有機制得以借券因應還券。由於這個機制之成本及抵押擔保均較一般借券高，因此無法取代現行提前還券之運作模式，但此機制使南韓有價證券借貸市場交割違約之發生可能性幾近於零。這個機制目前於台灣僅適用於出借人，如可擴及適用於借券人，將可鼓勵更多出借人加入有價證券借貸市場，達到正面之功效。

4.3 **議借方式下有價證券出借或返還之撥付，應視為有價證券之交割**目前法規允許出借人與借券人依照自行議定之借貸條件進行交易。由於議借交易已有明確交易對手，不必再經證券商輸入借貸資料至證交所借券系統進行撮合，保管銀行撥券的動作實質上是執成交割。因此，我們建議相關單位取消出借人與借券人需向證券商「下單」、再經證交所平台進行撮合的規定，以簡化作業流程。交易雙方可遵行標準交割程序，將交割指示傳給保管銀行，保管銀行再將細節申報至證交所以便管理。由於證交所仍需管理保管銀行申報之交易資訊，因此，目前收取之處理費用仍可維持。

4.4 **改善議借方式下提前還券之流程，允許出借人與借券人在交割失敗時，能依借貸條件解決相關費用問題**

在證交所新的交易機制下，出借人得在符合某些前提之下要求提前還券，並於同日（T日）賣出且能在T+2日交割。然而，此一新的機制並未考慮借券人可能無法從市場上買到或借到券，導致出借人於 T日所賣之券無法交割、受到違約的處分。在多數市場中，若借券人收到提前還券之要求，借券人有義務在市場交割期限內返還出借人，否則借券人需負擔相關費用。我們建議免除出借人在此情形下之違約處分，至於相關費用處理方式，由雙方依借貸條件自行協商。

同樣地，因缺乏「最終融資者」機制，出借人要求提前還券時，借券人可能無法返還，此時，借券人應為此引起之交割失敗負責。為提供議借交易在此狀況下的解決方法，我們建議允許交易雙方依借貸條件協商解決相關費用問題。

4.5 **允許議借方式下使用之境內有價證券擔保品，其所有權應移轉至出借人**

定價交易與競價交易時，有價證券擔保品所有權移轉至證交所。若向證券商借 ，所有權也移轉至出借之證券商。只有在議借交易、且擔保品為境內之有價證券時，以質押方式提供擔保品，所有權仍歸借券人。我們認為，在不同的交易方式下，擔保品的處理方式、乃至對出借人的保護措施，都應該一致。

議題五：強化新台幣清算系統基本架構

本委員會在去年白皮書中提出此議題後，主管機關已開始著手研議，本委員會表達感謝。我們理解如此深度之議題，需要時間達成共識之後方能執行。

本委員會仍深信，台灣只有兩套新台幣電子清算系統，效率不彰。這兩套系統分別是：由財金資訊股份有限公司負責運作之跨行通匯系統(IBRS)，及由央行所籌建並控管之即時總額清算系統(RTGS)；其中，即時總額清算系統(RTGS)只允許與中央銀行有直接帳戶往來的銀行 以及票券公司使用。由於系統限制，大部分新台幣清算 - 無論商用或散戶 - 均以跨行通匯系統(IBRS)完成。

在台灣資本市場持續發展之際，以成本效率考量，此雙重架構已越來越不適用。目前跨行通匯系統(IBRS)每次匯款額度最高為新台幣二千萬元，每筆交易收費新台幣二百一十元。以新台幣一億元的商業資金支付為例，IBRS將自動分為五批匯款，並對匯款人收取五次匯費。在接近每日清算期限的下午時分，整個款項支付責任可能因IBRS系統進行自動分批程序而使支付延遲，並出現無法清算的潛在風險。為避免上述潛在風險以及因清算大額商業資金而付出高額匯費，因此無法進入RTGS系統平台的銀行分行普遍採用人工支票遞交方式完成款項支付責任。每次匯款最高額度的限制，加上高匯費，已經使得台灣之新台幣清算系統成為非常低科技及過時的制度。

長期來看，全面檢視新台幣清算系統是十分重要的，惟本委員會亦了解，重新建構IT系統將曠日廢時。本委員會因此建議，就短期而言，先取消新台幣二千萬元的匯款上限，讓銀行自行為客戶設定交割風險額度，以加速新台幣清算系統。

長期而言，本委員會強烈建議主管機關參考先進金融市場的清算系統，例如，香港金融管理局長久以來採用的港幣清算系統，可強化金融效率，並降低交割風險。為加速主要貨幣清算速度，香港金融管理局甚至提供了美元即時總額清算系統(RTGS)及歐元即時總額清算系統(RTGS)，使銀行無需透過在美國或歐洲地區的往來銀行即可進行當日結算。對於改造台灣結算流程及建立單一新台幣清算系統而言，香港的範例為極佳借鏡。

議題六 ：《融資公司法》之立法

自去年白皮書發表以來，《融資公司法》的立法至今仍無太多進展。我們了解由於現今的全球經濟衰退，使得金管會專注於解決許多迫在眉睫的金融市場議題，但是，我們仍希望相關單位能加速完成本法草案，並呈送至立法院審查，更期盼能於今年通過完成立法。我們曾在 2006的白皮書中詳細指出，非銀行金融公司有豐富的專業經驗，可協助台灣金融市場的進一步發展。以台灣的金融經驗，實無必要將放款繼續侷限於傳統金融機構。因此我們希望《融資公司法》能儘速完成立法，讓非銀行金融公司可以參與台灣經濟的發展。此外，我們亦提出建議，希望准許金融公司成為金融聯合徵信中心(JCIC)的正式會員並享有完整會員權益，以加強風險管理程序。

化學製造商委員會

化學製造商委員會今年再次提出，兩項攸關本產業未來在台灣生存發展的基本議題。第一項是由於亞洲區域經濟整合的深化，台灣的化學產品將可能在龐大的中國市場及其他區域市場失去關稅競爭力；值得我們欣慰的是，這議題已受到政府的重視。第二項則是迫切需要政府協助，確保國內化工原物料的供應，不至於因環境影響評估延宕而遭受衝擊。

本委員會的其他議題包括：建議政府在目前的組織改造計畫中，考慮將所有化學品管理事權整合在單一機構之下；以更公平合理的標準運用土壤及地下水污染整治基金；更有效的處理假環保之名不當投訴化工業者的騷擾案件。最後，由於台灣電力公司對於化工業者要求穩定的電力供應，一直無法提供適當的解決辦法，我們呼籲經濟部深入探討這個問題，並給予答覆。

本委員會感謝政府相關單位正視我們提出的議題，並且願意與業界對話，共同為台灣經濟的持續發展而努力。我們期待在未來的一年裡，能繼續與政府維持正面友好的合作關係。

議題一：維持台灣在兩岸和區域貿易中的關稅競爭力

亞洲區域貿易整合行動正不斷擴張，倘若台灣持續被排除在外，許多台灣出口商的競爭力將大幅受影響；所幸這個危機，已經在近幾個月來受到台灣政府的重視。十個東協國家與中國、韓國和日本之間的自由貿易協定（FTA），已分別開始執行。自2005年，東協和中國就已開始相互降低關稅；於2010年一月一日起，中國、韓

國、日本和東協之間，有很大部分的產品將變成零關稅。如果台灣未能及時與中國達成貿易協定，屆時，在關稅競爭力上，與東協十國、韓國和日本相比，台灣對中國的貿易很可能處於相當不利的地位。對石化產品和其他商品的業者，以及下游產業如紡織、包裝、汽車和其他重要生產部門來說，此差距可能對台灣出口能力造成龐大的不利衝擊，進而影響國家整體的經濟繁榮。

去年的白皮書裡，本委員會敦促台灣新政府優先關注這些貿易問題。令我們感到鼓舞的是，政府已開始積極研擬，如何與中國協商兩岸貿易自由化的措施—目前暫時被稱為「經濟合作架構協定」（ECFA）；其相關細節可能會在今年稍晚、透過台灣海峽交流基金會（SEF）與中國海峽兩岸關係協會（ARATS）的會談中討論。台灣必須盡快找出方法，讓台灣出口商能與東協國家公平競爭，將產品出口到中國市場。

如果上述的兩岸貿易自由化措施未能達成，對石化業、紡織、包裝和其他行業的下游廠商有可能產生的影響，不僅包括出口收益和獲利能力的巨額虧損，失業人數大量增加，也會降低外國直接投資的意願，甚至一些現有的投資廠商可能退出台灣。據保守估計，台灣每年國內生產毛額增長率，將會因此減少0.5 至1個百分點，而下游和相關產業的倍數效應，更將使經濟衰退加劇。此外，出口利潤下滑的結果將導致獲利能力嚴重減少，進而使得工業投資的意願卻步。

本委員會敦促政府持續盡全力，爭取國內民眾的支持，儘速與中國達成貿易協定，這將能夠穩住出口行業在中國大陸市場的競爭地位。我們也希望此項貿易協定的達成，不僅能為台灣日後參與區域貿易聯盟鋪路，更能引領台灣和更多的貿易夥伴簽訂雙邊自由貿易協定。

議題二：確保產業發展所需的原料供應充足

台灣石化產業未來的生存發展亦有賴於上游供應商供應充足原物料。過去幾十年，由於國營的台灣中油（即以前的中國石油公司）公司不斷投資新的輕油裂解設備，加上近幾年民營台塑集團的石油供應，直至目前為止，台灣石化業者從未擔心基本原料的供應不足。

然而，情況即將改變。由中油主導投資的國光石化計劃案，原定目標是在雲林縣離島工業區蓋一座新的石化園區，卻因環評尚未通過，至今仍延宕中。因此，中油雖規劃在彰化大城鄉另外取得廠址用地，但由於環評工作尚在進行，這個計畫的未來發展仍是未知數。缺少這個包括乙烯廠、芳香烴廠暨及其配套煉油廠的建設計畫，可能會造成原物料供應的缺口。

為了避免這項原物料供應缺口為國內產業帶來的嚴重衝擊和風險，本委員會請求政府大力協助國光石化計劃案加速推動。除了議題一所指出的原因外，我們相信，化學產業應受支持的原因在於它對國內經濟有著重要的貢獻—此產業總產值佔國內生產毛額的15.8%，這顯示化學產業與其他產業關連性甚高。為維持台灣經濟的成長與社會的福祉，儘早確保產業發展所需原料供應充足，有其絕對必要性。

議題三：整合化學品監管制度的管理

我們感謝政府機構努力增進與化學製造商之間的合作，改善國內防災及緊急應變系統—這是本委員會多年來持續關注的議題。

今年，有鑒於政府組織改造計畫正在進行中，本委員會建議，透過整合附屬於勞工委員會、環境保護署和毒災應變諮詢中心（ERIC）、衛生署以及內政部消防署的各個化學品控制部門，來精簡國家化學品管理系統。政府可參考擁有全世界最先進的化學控制系統之歐洲化學局（ECHA），來建立一個國家化學品管理機構。

國家化學機構之設立，有助於讓業者更有效地管理自己的化學品，並整合所需的資源，確保化學緊急應變措施的有效落實。舉例來說，一直在執行有毒化學物質的緊急應變服務的ERIC，在台灣受到很多業者和協會的讚揚，公認是亞太地區最好的毒災應變諮詢中心。ERIC可以當做新組織的核心，將其緊急應變的服務從有毒化學物質擴展至所有化學品。

議題四：停止徵收土壤及地下水污染整治費，並將現行環境稅費單一稅制化

依據「污染者付費」的原則，環保署徵收各種不同的環境稅費，包括空污費、土污費、資源回收管理費、和未來預備徵收的水污費，舉凡付費者與徵收物種的選定、徵收費率與收費標準的合理性、以及徵收的基金如何使用與分配等問題，在在引起廣大的爭議。

依據《土壤及地下水污染整治法》（SGPRA）所徵收的土壤及地下水污染整治費，就是這個體制不公平的例證之一。97.95%的土污基金來自石化業者繳交的整治費，而實際污染較大或具有潛在污染責任之重金屬製造或電鍍業，卻遲遲未負擔其應負擔之比例。

況且，現有土壤及地下水污染場址係過去環保署疏於管制所致，政府理應編列一定比例預算來整治，而非讓少數企業負擔。雖然環保署認為全國污染場址面積40%為石油系，但其中加油站、列管工廠以及儲槽大致上皆為有主之場址，根據現行法律須自行負責整治自有廠址。而土污基金主要的目的卻是用於整治無主場址；也就是說，對目前公告整治的大多數場址而言，土污基金全無用武之地。

此外，《土壤及地下水污染整治法》部分條文修正草案擴增了基金使用的範圍，將部分原應從政府預算支付的項目，改由基金撥付。我們認為，利用應專款專用的特別基金來負擔政府預算的不足，實有悖於當初設立此基金的基本原則。由於政府財政收支年年赤字，環保預算嚴重不足，似乎讓環保署忽略了土污基金當初立法的初衷，而以土污費支應農地、加油站、大型儲槽、非法棄置場址、廢棄工廠、軍事老舊儲槽等高污染潛勢區域的監測、調查、查證等工作，然而，此種調查工作，實際上應該由各負責的主管機關進行及負擔，而非一味的由土污基金包山包海的支應。

土污費徵收迄今收入遠大過於支出。自2001年開徵至2007年十二月底，整治費總徵收金額到達四十六億元，其中，石化業者每年繳交六到七億元的土污費，但總累積支出僅約十三億餘元，結存高達三十三億元。本委員會認為，支付土污費為石化業者負起企業社會責任的表現，但該基金的徵收應「量出為入」較為合理—而非讓基金不斷累積。再者，2001年，在石化業者努力與政府溝通後，環保署已認同石化業者並非為污染者，而僅為有污染者的可能性。本委員會呼籲環保署立刻停止這種幾乎只向石化業者徵收土污費的作法；若目前土污基金的徵收並非基於「污染者付費」的原則，則環保署至少應擴大徵收範圍，對所有潛在污染者補徵。

最後，本委員會呼籲政府開始著手討論，如何將環境稅費整合為單一稅制。由於我國的環境相關稅賦目前各隸屬於不同主管機關，本委員會建議先行成立一個跨部會的「綠色租稅委員會」或改革小組，由經濟、財政、交通、環保、能源及經建會等機關共同組成，並邀請相關領域專家學者參與，研議將我國現行租稅體制改革為綠色租稅體制之可行性。先進國家的綠色財政收入歸屬於財政單位，而非環保單位之私房錢。此項稅收收入可運用於社會福利和經濟發展，而非僅為補環保署預算之不足。

綜上所述，本委員會建請政府重新檢討土壤及地下水污染整治基金徵收之合理性，與其目前運用方式之正當性，並於充分規劃合理解決方案前，先行停徵石化業者土污費。

議題五：制裁假環保之名的訛詐行為

多年來，本會白皮書一再提出廢除地方回饋金的訴求，因為工廠即使繳交了所謂的地方回饋金，仍須面對社區民眾的抗議—即使抗議者並不能提出任何證據，證明化工業者危害環境。

近年來，情況稍微好轉。一方面，基金使用的透明度大幅提升；另一方面，雖然有幾個化學工業工廠延續舊習，繼續支付地方回饋金作為對過去事件的回饋，但製造商已成功地拒絕將這項陋習擴展到新廠區。因為業者堅信，實現企業社會責任的方式包含適當地支持鄰近社區，致力於工廠的工安、衛生以及環保績效表現的提升，秉持與社區雙贏的態度進行溝通與交流，但同時也堅決反對社區民眾使用正規程序以外的脅迫方式要求回饋金。

地方回饋金的問題雖已稍有改善，但化工業者卻仍持續被少數不肖個人假借團體名義者騷擾，向環保單位提出業者違反環保法規的不實指控，實際卻是為了向業者訛詐金錢或索取好處，諸如取得供應商合約、承包工程、土地買賣、請民意代表介入處理、或是關說雇用朋友與親戚等。環保單位依據「環境保護機關處理民眾陳情公害污染案件注意事項」第七點的規定，對於未具名及未留有聯絡方式者之陳情案件，得不予處理；但本委員會建議環保單位，應將這些陳情案件轉交工廠所在的工業區監測中心進行後續調查。環保污染案件應以先進技術和科學方法查出事實，以保障守法廠商的聲譽。

虛報火警者因涉及公共安全問題將會被起訴，可是同樣的邏輯卻未被延伸至不實指控污染者。政府實應嚴肅考慮不實指控對政府資源和人力的浪費。沒有確切污染事實的環保抽查，徒然浪費業者的時間和行政成本。本委員會要求政府相關機關正視此一問題，並提出解決方案。

議題六：確保電力供應品質

本委員會過去幾年每年都提出這項議題，但是基本問題仍未獲得解決。例如，在業者要求下，台電同意為業者安裝備用機組(Ringbus System)，條件是業者必須自行負擔成本。業者拒絕了這項提議，並重申保障穩定的電力供應是台電的責任，也是政府致力於創造一個有吸引力的投資環境的一部分。

再者，雖然台電一再強調非計畫性停工的次數已逐年減少，本委員會必須指出，對化工業而言，非計畫性停工即使出現一次都令

人無法接受，原因是化學製程不能任意開關。一旦化學反應開始發生，因停電而終止製程，會造成龐大的經濟損失和環保問題。但在合約規範中，台電對這些損失完全不用負責；台電甚至得寸進尺的向業者要求重新啟動發電機組的費用。

另一個問題是，台電輸配電力系統的電壓穩定性太差，造成化工業者在控制設備時有很大的困難。有鑒於台電分別在2008年七月和十月各調漲電價，我們強烈認為，提供業界更高的品質與更可靠的電力供應是公用事業的責任。由於過去三年台電無法解決這些問題，化學製造商委員會要求主管台電的經濟部能夠正視這個問題。

教育及訓練委員會

教育及訓練委員會對於去年教育部所釋出的合作善意表示感激，對於本委員會所關心的重要議題，教育部亦展現出開放溝通與討論的誠意。然而令本委員會感到遺憾的是，儘管教育部目前持開放態度，自2005年以來本委員會所提出的多項建議，仍未見有具體進展。

特別值得關注的議題例如：台灣學生在赴美選擇學校時所面臨複雜的學分抵免相關法規，役男欲出國就讀社區大學或是文憑課程所面臨的兵役緩徵問題，以及外國大學無法在合理規範下於台灣本地提供正式的證書及學位課程。

我們相信政府若是能夠了解這些議題的急迫性並適當處理，對於提升台灣國際商業競爭力將有莫大的幫助。本委員會及其成員皆支持台灣努力成為區域商業中心，因此我們鼓勵政府採取進一步措施改善國內教育及訓練的環境。

議題一：促進學生的國際化流動

現行體制的障礙限制了台灣中等學校以上學生的國際交換及流動。目前，如果台灣學生欲前往海外教學機構進行為期一年或一學期的交換學生計畫，台灣校方必須與國外學校簽署姐妹校合作協議，海外學分才能受到台灣校方的認可。此項政策造成了以下的問題：

- 學生選擇海外學程時，只能在台灣母校核可的學校中選擇。然而教育部所認可的所有具品質的海外學校數量，卻遠大於單一學校的海外合作學校數量。
- 排名較佳的海外學校未必有興趣與單一台灣學校簽署合作協議，但卻有可能願意接受單一學生交換一年的申請。目前的政策限制了台灣學生的選擇。同樣地，上述問題也發生在想要申請來台交換的學生身上。

為了促進學生的國際化流動，本委員會建議政府建立全新體制，讓台灣學生能夠自由選擇教育部所認可的所有海外學校，不再需要台灣校方與海外學校簽署姐妹校協議。至於個別學分的認可是否符合畢業標準，則由台灣學生的母校審核。

議題二：對於非提供四年制及研究所學程的學校機構，建立正式的認可系統

目前教育部僅針對海外大學以上教育機構進行認可，對於提供一至二年文憑或證書的海外學校未建立認可機制；然而在國內提供一至二年文憑或證書課程的機構，早已獲得教育部認可。此政策造成許多負面效應：

1. 目前役男如選擇就讀國外社區大學、二年或三年制文憑學程或轉學到國外大學，一律不能申請緩徵。但就讀國內相同文憑課程的役男，卻能夠申請緩徵並等到完成學業後才入伍。相較於國外同級學校，這項政策顯然獨厚於本地的學校（專科院校）。
2. 由於未獲教育部認可，這些短期職業或應用海外課程被蒙上一種未經授權的負面形象。在此同時，也忽略了這些課程所能培養的人才，其實相當符合當前就業市場的需求。
3. 希望能夠就讀這些海外課程的學生，並不符合教育部優惠的就學貸款資格（目前僅限研究所學生）。建議教育部能放寬貸款限制，能同時嘉惠正規四年制課程，以及文憑和證書課程的學生。

基於世界貿易組織（WTO）的平等互惠精神，對於目前未獲認可的海外文憑、證書學程和大學轉學課程之限制應予移除，以平等對待國外及台灣的教育服務提供者。這項訴求亦獲得本地留學顧問團體—中華民國留學服務商業同業公會—的支持。

議題三：持續開放國外大學及學歷的法規

本委員會十分感謝政府近日修法鼓勵外國學校在台設校 — 即《私立學校法》修正案的通過，允許外籍人士在私立學校擔任校長或董事長，並放寬外國董事名額限制。本委員會也樂見遠距教學課程學分可佔畢業總學分的一半。這些進展顯然是往適切的方向邁進。

然而，在馬來西亞、香港、新加坡等鄰近市場，皆已允許國外大學到當地設立辦事處，並開放由國外教授執教的課程，相較之下，這些地區的外國大學市場遠比台灣目前的情況更有吸引力。

台灣現行法律仍規定，國外大學可以申請來台設立制度完善的分校，但設立辦事處或衛星校區則不被接受。此外，就讀在台跨國合辦學程的學生，將會面臨一個問題：學生未實際在外國學校的校本部取得之學分不受認可。這個障礙讓台灣無法吸引已在其他亞洲地區設有分校的美國商學院或其他專業學校來台設校（例如芝加哥大學商學院新加坡分校、新加坡國立大學與加州大學洛杉磯校區合辦的EMBA學程，或是約翰霍普金斯大學的中國南京辦事中心）。容許高品質、聲譽佳的美國教學機構進入台灣教育市場，將可推動本地教育的改革創新，並提供台灣學生更為多元豐富的選擇。

因此，委員會呼籲政府秉持自由化以及國際化的精神，並支持讓優質外國大學不再受到過度的法令限制，而能在本地合法運作。本委員會呼籲教育部：

1. 允許合格的台灣學校與教育部認可的美國或其他外國教育機構，合作開設學位課程。凡在此類學程中所取得的任何學分以及學位，無論上課地理位置為何，皆可獲得有效並且合法的認可。
2. 允許教育部認可的美國或其他外國教育機構，在台設立辦事處和衛星校區，並得以提供證書及學位課程給居住在台灣的本地或外籍學生。只要外國學校辦事處或衛星校區提供的課程與校本部相符，且由合格的教師透過遠距或親赴台灣本地授課，本委員會認為沒有理由不讓此類學程在台招生，或在台開設教育部認可的學程。

本委員會認為，政府應以外國學位課程的品質為認可標準，而非課程開設的地點。

環境保護委員會

環境保護委員會認為，如同世界上許多其他國家，環境議題在台灣的公共政策領域中已漸成重要的元素。我們希望這些關鍵的議題能在台灣得到更廣泛的注意和討論，以便形成有效共識，並在確保台灣的永續發展時，亦保護環境和發展經濟。

今年本委員會主要關注兩個重要議題：改善台灣污水處理系統，以及尋求實際和理性的方式處理溫室氣體排放的挑戰。此外，我們也希望利用這個機會，呼籲政府提倡如何減少建築物的能源消耗，包括「綠建築」的宣導。更進一步而言，我們希望政府相關單位注意化學製造商及基礎建設委員會所提出的議題一採用更有效率的環評審核程序。在目前的體制下，許多未來的建設計畫經常延宕多年，只因環評審查遲遲未能通過。這種情形不僅對建立清楚的環境政策毫無助益，也忽視企業迅速做出投資決策和行動的需求。

本委員會期盼能有機會與相關政府機關分享資訊及想法。

議題一：迅速進行公共汙水下水道建設計劃

雖然台灣擁有高度的經濟發展，污水下水道的接管普及率卻仍遠低於其他國家。台北市污水下水道普及率高居90%，高雄也有80%，但根據最近的數字，台灣整體的汙水下水道接管普及率卻低於42%。相較之下，鄰近的日本和南韓普及率分別高達70%和80%。

馬政府在「愛台十二建設」中承諾，未來五年中投資新台幣九十二點六億元，朝向污水下水道接管普及率每年增加3%的目標邁進。雖然我們很樂見這樣的發展，但是依照政策所宣布的時程，這將是一個漫長且昂貴的工程，才能將台灣提昇至與其經濟地位等量齊觀的水準。

由於中央政府預算有限，最好的情況是吸引更多民間企業參與污水處理廠的營運。事實上，「愛台十二建設」的污水下水道計畫，就需要新台幣十三億的民間資金，投入相關計畫；但這些計劃若要成功，政府就必需打造更有利的投資環境，才能鼓勵投資者參與。目前而言，由於政府的價格管制政策、限制廠商獲取合理的利潤，使得潛在投資者卻步。此外，在台灣，管理污水處理廠的營運廠商，必須為連接家戶和汙水下水道系統的工程自籌財源，但在大部分其他國家，大部分建設污水下水道系統和連接網絡的責任，由政府負責。

另一個問題是，執行污水下水道建設的地方政府機關缺乏必須的經驗和專業；中央政府和縣市政府的法規政策抵觸，使得問題更加嚴重；因此，可能需要設立一個具有明確權責的全新機關來監督整個過程，並建立更透明和一致的法規制度。

此外，即使新建污水處理設備，若政府未能分配合理預算以維修現有的處理設備，則效果可能十分有限。維修資金不足的原因是污水處理的成本並沒有轉嫁到消費者身上；除非資金來源有合理的基礎，台灣將永遠無法解決污水處理的問題。

本委員會呼籲政府迅速採納政策及實際作法上的改變，以求確保「愛台十二建設」中污水下水道接管普及率及污水處理建設的成功。

議題二：重新評估溫室氣體排放和能源政策

台灣政府正在設立一個溫室氣體註冊平台，並鼓勵企業自動參與溫室氣體減量。本委員會感謝環保署和工業局所負責的計畫，提供補助和租稅獎勵以鼓勵產業自動減量。另一個可達成減量目標的重要方式，是使用如碳交易(無論是自願或是強制)市場機制。事實上，台灣的部分化學企業已經主動參與這項作法；其它在交通運輸和建築提升能源效能的作法，也有助於鼓勵研發和對新科技的投資。

本委員會對於溫室氣體相關法規有以下建議：

- 將所有利害相關者納入溫室氣體排放減量的努力範圍內。
- 援用合適的跨政府氣候變化小組(Intergovernmental Panel on Climate Change, IPCC)準則和協定，為每種產品或設施的效能標準制定明確的定義。其中部份產業，例如混凝土和鋁合金等，已經自動制訂效能標準，他們所提出的標準應受到考量。
- 進行明確且完整的溫室氣體排放盤查，並據此制定溫室氣體減量目標。
- 要求企業每年執行內部溫室氣體排放盤查，或針對高溫室氣體排放量者，要求其執行更頻繁的內部盤查。但企業接受外稽團體盤查的報告繳交頻率，則延長至每三年一次。
- 從整體溫室氣體排放計算中，排除非直接二氧化碳排放(來自電力消耗)，以避免重複計算電力供應者的溫室氣體排放量。
- 准許已長期採用「最佳可行技術」的企業以可溯及既往的方式換取碳交易量，不需規定溯及既往之年限。由於許多跨國公司在1990年代起就開始落實溫室氣體減量行動，只要能提出過去數十年間達成溫室氣體減量的具體證據，這些企業應可獲得溯及既往的碳交易量。
- 保留一部分碳交易量，讓環保署可用於特定策略性計畫，例如對於經濟發展極為重要但卻會大幅增加溫室氣體的產業計畫，但前提是必須有完善的計畫，蒐集所有利害相關者的意見。
- 調整早年的罰款政策，將重心自處罰轉移至教育，以鼓勵不遵守的企業從經驗中學習並改善其績效。

我們相信長期來看，全國能源發展相關的政策和策略方向，會與溫室氣體減量的各項努力緊密連結。本委員會建議政府多與產業溝通，並提供更多獎勵計劃，鼓勵開發新能源和再生能源領域的各項新科技，其中包括(但不僅限於)：

- **燃料電池：**由於台灣14%的溫室氣體排放及空氣污染源來自交通運輸工具，本委員會建議相關政府機關—主要是環保署、經濟部、及交通部—發展整合性政策和獎勵方案，鼓勵國產交通運輸工具使用燃料電池。以台灣精良的技術專業，以及良好的市場潛力，推廣燃料電池的發展應被視為一個好機會。歐洲、日本、美國和中國近日採納的政策，應可作為有價值的參考依據。
- **太陽能：**本委員會感謝政府發展方案補助家戶和工廠裝設太陽能設備，以及收購太陽能生成多餘電力的機制。然而，這些方案缺少合適的誘因，且申請補助的流程並未完善的向公眾溝通。本委員會呼籲政府更努力推動這些方案，因為它們不僅能減少溫室氣體排放，也可望在未來數十年太陽能產業的全球市場中，為台灣贏得重要先機。
- **綠產品：**產品生命週期管理，也稱為產品監督，是大部分跨國公司中完善事業流程的一部份。已開發國家的政府已發產出長程策略，從產品生命週期管理的角度鼓勵使用「綠產品」為原料，來減少溫室氣體排放。本委員會感謝台灣政府已開始透過補助和其他方式，鼓勵產品回收和再利用。但是，在鼓勵綠產品的使用及研究方面，還有很大努力空間，尤其是石化類產品的替代方案。本委員會建議政府研擬更多獎勵方案，鼓勵使用綠產品做為原料，以透過產品生命週期減少溫室氣體排放。

人力資源委員會

人力資源議題是美國商會近年來最重要的倡議主題之一。本委員會持續強調，台灣需要為全球最好、最精良的人才打開大門，而非限制外國專業人士進入台灣的就業市場。開放的人力資源政策不僅能提升台灣對外國直接投資（FDI）的吸引力，也可以藉由提供國際化的工作環境，幫助強化台灣本地人力的國際觀。

此外，隨著大中華地區商業活動快速的整合，如何以最高效能、最低成本，讓員工在海峽兩岸之間快速的來往，對於在台灣與中國皆有營運據點的跨國公司而言越來越重要。因此，過去幾年來，本委員會也呼籲台灣政府繼續鬆綁中國大陸商務人士來台及工作的相關法規。

本委員會認同台灣政府過去幾年，在上述兩項議題所做的努力。我們特別歡迎外國籍人士申請工作證、簽證和居留證的作業流程簡化—例如今年三月份上路的「外人三卡」。另一項令人鼓舞的政策是2008年五月放寬中國大陸專業及商務人士來台的相關規定。

我們很高興見到這些新政策的施行，讓台灣的生活及工作環境對外國投資者更具吸引力、更友善。我們呼籲政府持續開放，我們也將盡力支持與合作。

本委員會希望政府在2009年能關注以下兩個議題：

議題一：進一步開放中國大陸人士來台從事商務活動

本委員會讚許政府放寬中國大陸人士來台從事經貿及商務相關活動的限制。2008年十一月，經濟部宣佈每家在台設立之公司或機構，每單位每年可申請來台的大陸經貿專業人士總人數上限放寬為200人。此外，目前跨國公司在中國的供應商、授權的經銷商以及加盟店業主來台參加商業會議的人數，目前亦不設限。2009年五月中，政府又宣佈要進一步放寬中國大陸商務及專業人士來台的停留時間。本委員會樂見上述重大進展。經濟部曾表示，這些鬆綁措施主要是因應兩岸經貿往來的實際需求，也希望藉此鼓勵跨國企業來台舉辦國際性和區域性會議，以帶動國內會展產業(MICE, Meetings, Incentives, Conventions, and Exhibition)及相關產業的發展。

同時，我們呼籲政府應儘速對各類中國大陸商務人士來台的所有相關法規，進行全面性的檢討與改革。過去幾年來，本委員會持續強調，對於在台灣及中國皆設有據點的跨國企業而言，能夠將中國籍員工送來台灣參加訓練、會議和其他商務活動實為十分重要，但是目前申請程序仍複雜繁瑣—包括所需的大量文件、必須提供合格的保證人、以及停留時間的限制，這些障礙讓跨國企業不願選擇台灣作為區域商務會議的地點。

針對如何簡化和開放中國大陸各類商務人士來台的程序，並移除不必要的限制，本委員會提出以下建議：

1. 在中國設立海基會辦事處。當中國大陸的申請者希望能夠到台灣從事商務活動，台灣的邀請單位必須代為向內政部提出申請。為了完成申請程序，邀請單位必須繳交下列來自中國大陸的文件：(1)入出境申請書，(2)大陸地區居民身分證正反面影本，(3)活動計劃及行程表，和(4)二吋彩色白底照片一張。邀請單位還必須在台灣準備下列文件：(i)邀請函，(ii)保證書，(iii)台灣公司營利事業登記證影本，(iv)台灣公司銷售額與稅額申報單或營利事業所得結算申報書影本，(v)其他經主管機關指定之證明文件。以上所有文件必須繳交至台灣內政部入出國及移民署，因為台灣在中國大陸並沒有辦事處。

   由於上述文件一部份必須從中國寄到台灣，使作業時間拖得更長，同時也造成一些問題，尤其針對某些申請者，如首次申請者，及之前在台停留期間曾違反相關規定的申請者；對這類申請者，邀請單位必須至少在旅客自中國大陸出境日前一個月繳交申請文件。

   馬英九總統日前已經表達有意與北京政府互設辦事處，此項議題也在兩岸會談中初步被提出。如果兩岸能夠就此達成共識，台灣在中國設立辦事處將可以使中國來台旅客的申請程序更為便利，節省可觀的申請時間。企業也將非常感激安排商務夥伴和員工的商務旅行計畫時得有更大的彈性。
2. 建立多次入境許可證機制。目前，中國大陸人士來台從事商務活動，每次申請僅可取得為期兩個月的單次許可證，並可選擇在第一次來台時，向內政部入出國及移民署繳交原邀請單位的同意函及行程表，再申請為期兩個月的逐次加簽許可證。雖然逐次加簽許可證所需提供的文件較不繁瑣，且其有效期間為自核發之翌日起一年至三年，但要取得同意函、規劃新行程、並將文件繳交至移民署仍十分耗時。我們強烈呼籲政府採取多次入境許可證機制，減少旅客重複申請單次入境許可證的需求。
3. 延長最長停留期間。中國大陸人士來台從事商務訪問、商務考察、商務會議、演講、參加商展及參觀商展，停留期間不得超過十四日。若是從事商務研習或驗貨、售後服務、技術指導等履約活動者，停留期間不得超過三個月。由於準備相關文件及申請入境許可需要十到三十個工作天，停留天數僅限十四日似乎不太合理。我們建議延長十四天的限制至三十天、三個月的限制至六個月，以因應兩岸間商業往來日趨頻

繁所產生的需求。〔在白皮書出版之際，我們得知政府已準備修改放寬停留期間的相關規定〕

4. 免除每年可邀請人數上限。去年政府放寬了每個單位每年邀請人數的部份限制，但本委員會呼籲政府完全免除該限制。目前，如邀請單位是年營業額三千萬以下的國內企業，則每年可邀請的中國大陸商務人士上限為十五人。如邀請單位是外國公司(包括台灣子公司、分公司以及辦事處)或是年營收超過三千萬以上的國內企業，每年可邀請的中國大陸商務人士上限為五十人。考量兩岸頻繁的商務往來，及近日兩岸關係的加溫，上述限制似乎已不合時宜。若能完全免除人數上限，將可便利商業拓展和開發。

除了上述四項建議，本委員也呼籲政府免除其他一些不必要的要求。其中一項是規範本地公司是否可以邀請中國大陸人士來台的最低資本額限制。另一項困難是，部分政府單位的執行階層公務員，仍僅發給台灣邀請單位入出境許可證的影本，台灣邀請單位必須將該影本寄到中國大陸給申請人，再由申請人持影本、赴香港或澳門的中華旅行社(即台灣設於港澳的辦事處)換取出入境許可證的正本。然而，隨著兩岸開放直航，這個機制已不合時宜，應予以廢止。

雖然台灣政府過去幾年間已經朝正確方向調整政策，但是在執行面上，簡化的作業程序能發揮多少正面功效仍需進一步觀察。為了台灣的經濟競爭力，我們呼籲政府持續管考政策的執行情況，確保所有執行階層的公務員，都已針對新作業程序接受再訓練。

議題二：免除外籍專業人士來台工作的兩年工作經驗限制

2008年五月，當本委員會正在準備當年的建議書之際，經建會宣布將放寬外籍專業人士（具大學學歷者）來台工作必須擁有兩年以上工作經驗的限制—這個議題在本委員會的建議書中已存在多年。因此，我們在2008年的建議書中，對這項發展表達讚許。

一年後，本委員會很失望的發現，這項政策計劃遭到擱置，原因是勞委會擔心讓外國白領人才進入台灣的就業市場，將會對本地人才造成更大的競爭，造成失業率繼續升高。

我們了解在經濟衰退時，政府的政策總是傾向保守，彈性也較少。然而，本委員會希望指出，「多一個競爭者就少一個工作」的心態已經過時了。如同本文引言中所提及，准許外國人才來台灣工作，將是一個為台灣本地人才提供更國際化工作環境的有效方法。此外，正當鄰近國家都在爭取全世界最優秀、最聰明的人才時，台灣政府的保守和保護主義作法非但不必要，對於行政院推動之「營造國際化生活環境」政策，可能還會產生反效果。

我們再次呼籲政府盡速落實行這項長期未兌現的政策：比照十多年前對科技產業的優惠作法，對所有其他產業免除具大學學歷的外籍人士需有兩年以上工作經驗才能來台工作的規定。

基礎建設委員會

首先，基礎建設委員讚許台灣政府簽署了WTO之下的政府採購協定(GPA)。此一重大的里程碑除了展現台灣實踐對國際間的承諾，也開啟了台灣與其他GPA簽署國家相互間政府採購的大門。本商會多年來一直敦促台灣簽署GPA，並十分樂見台灣終於達成這個目標。

儘管我們對台灣加入GPA的決定感到十分振奮，我們也察覺，某些政府部門近日辦理採購時，保護主義有上升的趨勢。這股趨勢有違GPA的精神，並與馬政府「開放與法規鬆綁」的經濟發展主軸背道而馳。我們呼籲台灣政府，體現GPA承諾應該表裡一致。同時，GPA的精神及規範應落實於所有政府採購案中，以符合國際規範。

本委員會在去年度白皮書中建議政府應考慮將核能列為台灣能源發展項目之一，並欣見此項建議已在上個月被全國能源會議所採納。核能發電之所以在全球復興，原因之一就是因應全球暖化的威脅。在本年度白皮書裡，我們指出，台灣近程的二氧化碳減量目標過於激進，建議應該採循序漸進的遠程目標。本商會也同時注意到台灣發電系統中，因基載發電廠所佔比率過低，已導致對台灣競爭力不利的衝擊。同時，我們也建議對於大林、彰工二燃煤發電計劃之環評審核不應再繼續延宕。

除硬體基礎建設外，今年本會要提醒政府注意的是軟體基礎建設。我們關注的是，當前台灣對資訊科技基礎建設投資不足，勢將危害台灣未來的競爭力，應及早導正，補其不足。

我們衷心企盼政府，正視以下所提各項建議，並採取適當改進措施。

議題一：確保GPA的有效與徹底落實

本委員會首先對於台灣加入政府採購協定（GPA）的決定表示讚揚，也欣見立法院能快速批准這項決定。成為GPA的會員可將台灣進一步帶入國際社群；同時，GPA若能有效落實，亦可增進整體經濟的發展。當政府對其他GPA成員國開放採購市場時，台灣將有機會享受更有效率及更具成本效益的基礎建設，並提升外資來台的吸引力。此外，在現今不景氣的環境下，世界知名的「台灣製造」產品與服務若能進入GPA四十多個會員國的採購市場，將是一樁美事。

在此同時，最近本商會會員們開始察覺到保護主義在台灣似乎有上升的趨勢，主要是因為部分政府單位在招標文件中加入了必須「購買台灣產品」的條款，或者是限制非本國投標者參與政府採購案；受到這股保護主義風氣影響的採購案，包括愛台十二建設及四年五千億「振興經濟擴大公共建設特別預算案」 — 這些都是馬總統曾公開表示歡迎外資參與的案件。我們雖了解這些作為可能是針對當前經濟環境的權宜之計，然而，這還是違反了馬政府公開宣示的「開放與法規鬆綁」經濟策略，也偏離了自由市場的精神。我們真誠地呼籲政府重新檢視這些作法，並確保所有採購單位都能完全落實GPA。

議題二：改善參與BOT/PPP案件的程序以擴大吸引外資

近年來，民間參與公共建設的案例逐年遞減。世界經濟衰退固然是一項不可否認的影響因素，但主要的問題還是來自國內的投資環境。基礎建設委員會提供以下建言：

1. 提升資訊傳遞的管道：政府專案資訊常無法有效的傳遞給國外潛在投資者。其中最主要的障礙是，所有的文件內容通常僅以中文書寫，減低了國外投資者及國際資金的參與意願。政府亟需為有意投入台灣基礎建設的外國投資者建立「單一窗口」，甚至進一步提供英語服務。
2. 提升市場資訊的透明度：雖然大部分市場資訊的透明化已能有效降低投資風險及不確定性，但是部分資訊的透明度並未達到先進國家的標準，例如房地產交易資訊。我們建議政府要求所有房地產交易資訊登入到單一資料庫，並開放資料庫給私人投資者瀏覽。
3. 建立更明確的政府法規流程：經濟部投資審議委員會及其他相關政府機構應在招標前證明，此標案的確可供外國投資者參與，以消除在投資審查期間的不確定性。
4. 提供投資退場機制：相較於一般國際資金的五到七年退場機制，台灣的民間參與投資案動輒三十到五十年。此一機制大大的阻礙了潛在投資者的參與。
5. 制定明確的檢驗標準：台灣工程與建築檢驗標準複雜且經常變動，對外國投資者增加了許多不確定的風險。例如部份建材製造商，因台灣市場計劃改採日式檢驗方式而可能失去台灣市場。除此之外，在不久的將來，所謂的「綠建材」也將被引入台灣。我們鼓勵政府能及早設置合理和明確的標準，並在標準施行前舉行公聽會，聽取業界的意見。

議題三：選用低成本能源以振興經濟

台灣全年GDP約台幣十二兆元，其中三家主要能源公司(台電，中油，台塑石化)的年營業額就超過台幣二兆元。能源產業對於台灣的重要性以及能源成本對台灣的影響，自是不言而喻。

以台電而言，該公司去年度虧損台幣一千億元，主要是因為燃氣電廠在全島發電系統中所佔比率過高。燃氣電廠在2008年約發電四百億度，而去年燃煤發電成本每度比燃氣發電低台幣一點元。如果去年燃氣發電全數由燃煤發電取代的話，可以節省台幣七百億元以上。

然而電力系統必須兼顧基載、中載、以及尖載三種電廠。因此，以燃煤電廠完全取代燃氣電廠並非務實之道。但問題在於一台灣基載電廠(核能及燃煤)僅占總裝置容量45%，而理想的基載電廠裝置容量應為65%以上。目前台灣燃氣電廠裝置容量超過燃煤電廠裝置容量，實令人憂心。上個月全國能源會議中，已重申發電能源配比宜慎加考量，實為明智之共識。

能源會議的重要結論之一，就是以「低碳」家園為目標，並採用「低碳」的核能為能源之一。此一結論與去年度本商會白皮書中建言不謀而合，本商會至表贊同。

核能發電可以達成兩大目標：增加基載電廠比率以及減少二氧化碳排放。然而，建造核電廠至少需十二年以上的時間，在下一波核能電廠完工之前，台灣電廠仍不脫在燃煤與燃氣之中作取捨。二者各有其優勢：燃煤發電價格低廉並可加強基載發電比率，燃氣雖成本高昂卻可減少二氧化碳排放。

燃氣電廠主要的有利之處在於，與燃煤相較，每一度電可少排放零點四公斤二氧化碳。然而，以去年燃氣與燃煤發電成本每度相差台幣一點八元來看，若以燃氣發電取代燃煤發電，每減一噸二氧化碳的成本將達台幣四千五百元。這與目前二氧化碳市價每噸約台幣一千元相比，差距極大，所以試圖以燃氣電廠取代燃煤電廠以減少

二氧化碳排放，很明顯並不是一個經濟有效的方式。更何況，過度增加天然氣進口，對保障能源供應安全有極大的隱憂。

決定要建哪一種電廠之前，我們建議政府應將各種選項對未來的電費的衝擊明確告知社會大眾。若台灣政府仍將振興經濟列為重要施政目標，則保障能源供應安全及提供經濟的能源供應，皆應列為制定國家能源政策的重要考量。

議題四：採取長程二氧化碳減量目標

全球暖化已成為各國政府必須面對的重要課題。台灣政府宣示了一個極為激進的減碳目標：在2016-2020年間把二氧化碳排放量降到2008年水準，並在2025年降到2000年水準。此舉讓台灣成為全球一百個非《京都議定書》附錄一之國家(即不受京都議定書規範的國家)中，唯一採行如此嚴峻短程目標的國家。

這個目標被視為時程過短，是因為能源基礎建設的轉換至少需要數十年才能完成。除非台灣準備為此付出重大經濟代價，否則，要在短短十年時間達成這個目標，是野心很大但不切實際的想法。這正是其他非附錄一國家皆不敢貿然躁進的原因。

政府資料顯示，要達到上述短程目標，到2025年時，台灣每年需要購買一億四千萬噸的碳權。以目前二氧化碳每噸台幣一千元，就是每年為購買碳權，台灣要付出台幣一千四百億元的代價。如此重擔在經濟上、政治上是否可行，實令人懷疑。

除此之外，目前在立法院審查的《溫室氣體減量法》草案明訂50%的碳權必須在國內購買，這又是另一個令人高度質疑的規定。此法案已經遭受台灣工商界強力反彈，六大工商團體在上月全國能源會議前就已聯席拜訪行政院長，表達反對的立場。

去年八月在日本北海道舉行的八大工業國(G8)會議中，建議以2050年減碳50%為目標；相較於台灣的短程目標，這是更為可行的方案。因為以一個世代的努力，將再生能源及其他低碳能源成本降低到可以取代石化燃料，可能性較高。

我們強力呼籲政府應該要密切觀察今年年底《哥本哈根議定書》的發展方向，而後採行更為務實可行的長程減碳計畫，以確保台灣永續發展的競爭力。

畢竟，解決全球暖化現象是一場馬拉松競賽，以百米衝刺的做法，來進行長程競賽，應非上策。

議題五：改進環評作業流程

本委員會在去年度白皮書中建議政府，應改進目前環評作業流程。除本商會外，許多其他工商團體也提出同樣呼籲。由於缺乏標準作業程序，環評委員會之意見，常超越環評審核範疇，導致許多國內亟需的投資計畫，因環評作業而延宕。

台灣政府也已體認到此一現象。最近行政院已要求環保署必須縮短兩項重大投資計劃—國光石化以及台塑六輕五期工程—的環評時程。行政院明示，任何法律未規範的流程，其作業時間應一律減半。這對疏解環評作業難關，是一個很大的鼓舞。希望同樣的原則，可以運用到其他遭到延宕的計畫。

為因應未來電力需求，國內發電廠勢必擴建，然而興建電廠耗時至少五年。為避免將來電力短缺所造成的經濟影響，我們建議政府應加速台電彰工及大林電廠之環評作業。這兩項電源開發計畫時程已分別被延宕了五年及兩年之久。加速這兩座電廠的興建事關重大，因為當未來經濟復甦時，這兩座電廠將可提供所需的電力。

若此二項燃煤計劃的延宕，起因於環保界偏好燃氣電廠，則議題三中關於燃煤、燃氣發電成本差異的論述，應予慎重考量。這兩座燃煤廠(總共六部機，每部八十萬瓩，每年可各發六十億度電)如果全部被燃氣電廠所取代，每年發電成本將增加近台幣六百億元。

目前台灣對電力需求的減緩，僅是經濟衰退時的短期現象。當政府在規劃國家長期經濟發展，時應有更寬遠的視野。

議題六：持續改善台灣採購實務

A. **增加核子損害責任保險額度，以改善保險範圍。**
由於台灣並非《維也納公約》或2004年《巴黎及布魯塞爾公約》會員國，因此，台灣對核子損害責任保險的額度，仍未達國際水準－三億SDRs（國際貨幣基金的記帳單位），或是未來可能的十五億歐元額度。此外，跨國境的損害亦未包含在保險內。因此，我們建議台灣：(1)增加核子損害責任保險的額度；(2)納入跨國境之損害於承保範圍內；(3)保險中附加自動生效條款，當《巴黎及布魯塞爾公約》中提高至六億SDRs之條款生效時，保單自動提高至該額度。這些有關議改善保險範圍的建議，除了使台灣成為國際社會的負責公民外，也將降低風險，使擁有一流技術的世界廠商願意參與台灣的核能計畫案。

B. **修改相關採購契約範本的條款**
公共工程委員會在2008年發佈的技術服務的契約範本中，雖提到廠商的責任上限，但廠商仍然需就間接損害及衍生性責任負責，以及在相當廣泛的事項上承當沒有上限之責任（例如，法規訂定的損害、侵害智慧財產權的損害，以及第三人求償的損害等。）同時，此契約範本亦包含了服務品質瑕疵的違約金條款，以及不合理的永久保密條款。這些條款使得供應商幾乎無從評估條款的風險，因此大大減低了供應商參與投標的意願。

此外，由於政府機關誤用了契約範本，在某些標案中要求廠商無論標案的性質為何，皆須移轉所有相關智慧財產權和產業機密給政府單位。我們要求相關單位對承辦的公務人員提供進一步說明和指導方針，將此類誤解減至最少。

我們再次呼籲政府全面檢討這些長期未獲解決的採購實務議題，並進一步修改相關程序，以建立一個能鼓勵跨國公司來台建立世界級基礎建設的平台。

議題七：提昇對資訊科技建設的重視

資訊科技不僅是「軟實力」的核心，也是國家競爭力的重要指標。根據《經濟學人2008年資訊競爭力》報告，台灣在資訊科技的整體競爭力以及政府對資訊產業的支持度上，分別排名第二十八名與二十名，大幅落後新加坡與香港。新加坡在這兩項目上排名為第三與第十一名，而香港則為第十與第十六名。此外，台灣雖享有電腦王國的美譽，卻仍有高達六百七十萬人沒有上網能力或環境，更凸顯政府在資訊科技上的投資與重視度不足。

資訊科技的真正價值來自人才，及高附加價值的應用軟體與服務。單靠硬體本身並無法提升生產力與競爭力。然而，最近我們卻看到了幾個政府在資訊推廣上的警訊：(1) 在政府振興經濟、擴大公共建設計畫中，資訊相關的投資絕大部分都集中在硬體，而在應用軟體與高附加價值服務方面的投資卻明顯不足；(2) 全世界先進政府或私人企業，設置專職「資訊長」(CIO)已是必要且不可或缺。目前台灣的政府組織中，行政院層級並未設置專職的資訊長，即使在最近新出爐的政府組織改造計畫中，「資訊長」一職亦僅由一位由政務委員兼任。

我們呼籲政府能在這次的組織改造中設置專職的資訊長，並能在所有「i-Taiwan」計畫中，提高資訊應用的投入與重視度，檢討並訂定合理的資訊硬體、應用軟體與服務的投資比率。同時，為六百七十萬人訂定明確的時間表與計畫，幫助他（她）們盡早彌平數位鴻溝。畢竟，國家競政力仰賴於政府是否能有效且明智的運用資訊科技，並能利用資訊科技為人民提供福祉。

保險委員會

台灣保險業未來的發展正面臨前所未有的考驗，如同議題一所討論的問題，我們必須齊心協力，採取大刀闊斧的行動，以保障台灣消費者權益，正視保險業財務穩健性問題。

除此之外，本委員會相信2008年間所推動的各項重要議題，我們必須在2009年持續進行，其中在去年已經有重大進展的項目，包括立法通過企業盈虧互抵年限延長為十年、開放歐元及澳幣計價外幣保單、允許獨立招攬業務之業務員得依照執行業務者規定減除費用、商業財產險及任意汽車險保險費率全面自由化等，本委員會對於政府各主管機關促成上述重要且正面的變革，在此謹表達誠摯的感謝。

在面對目前的全球財務危機下，我們在2009年必須要有更實質的變革措施。我們對於保險局近期針對未能達到清償能力標準的公司要求採取具體行動，另一方面則強化資訊揭露與資訊透明度以幫助辨識體質優良的保險公司，這一連串強化與國際監理標準一致的作為，我們在此表達支持。儘管仍有許多議題待決，我們在這次白皮書中只針對四項我們認為對於台灣保險業未來的穩健發展，以及金融監督管理委員會(「 金管會」）推動台灣成為具有競爭力區域金融中心的目標，有絕對重要性的議題提出建言。

議題一：尋求處理問題負債的對策，並確保未來新業務承保符合國際會計準則及清償能力標準

目前全球的財務危機以及持續的低利率環境已經再度加重處理利差損問題的急迫性。近期二家占台灣整體壽險市場6%以及全體外商壽險新契約業務24%的主要外商壽險公司陸續退出台灣市場，更加凸顯了問題的嚴重性。這些因為集團母公司必須遵循嚴格報告標準，例如國際會計準則(IFRS)以及Solvency II會計準則的外商公司，已經將其負債倒給僅須遵守當地較為寬鬆資本規範的本國保險公司。

採用國際會計準則第一階段包括：

- 以市價評估資產，並以該評估結果決定清償能力標準；

- 將具有大量投資成分的保險合約劃歸適用接近銀行的會計準則，此將導致營業額下滑；
- 要求公司財務報表附註有更完整的揭露；
- 只有在能通過最佳假設適足性測試(Best-estimate adequacy test)的條件下才能接受現有的負債評估基礎。

處理清償能力以及資本適足性問題，其重要性不僅僅是對於已經在市場經營的業者，對於可能進入市場的新業者，他們必須能確信可以在一個符合國際標準的風險管理基礎上進行公平競爭。處理利差損問題沒有捷徑，本委員會相信這必須要由業者與主管機關密切配合，共同為在2011年前導入與國際會計準則(IFRS)與國際保險監理官協會(IAIS)準則一致的資本、風險及法令規範而努力。

面對這項轉變，並非所有保險公司都能在一個合理期間內達到要求，在這樣的情況下，主管機關—在與業界協調配合下—必須要提出過度期間應變計畫，以確保所有業者的客戶在過度期間內都能受到公平對待，同時並幫助業者順利調整過度到一個相對穩定而長遠的經營平台。因此，我們促請主管機關應慎重思考可以幫助業者減輕舊保單財務負擔，並促使新保單定價符合國際標準的各種可能選項(例如，由業者分割新業務成立新公司，並由政府成立再保險計畫支援舊公司，處理有利差損的舊業務)。

議題二： 排除外幣計價傳統保單國外投資部位計入保險業國外投資45%限額

保險公司用以支持其外幣計價保險商品之相同幣別國外投資部位，不應計入該保險公司國外投資45%之限額內，理由如下：a) 資產及負債均為同一幣別，保險公司並無貨幣風險； b)新台幣與外幣計價保單適用同一國外投資上限，保險公司分散投資風險的能力將受到影響；c)對於已達國外投資上限之保險公司，將限制其發展外幣計價保單業務，造成不公平待遇；d)外幣計價保單並無炒作外匯之疑慮，因為保戶所繳納之外幣保費仍受現行法規下關於外幣交易每年五百萬美元之限制(即每年買入及賣出外幣之數額分別以五百萬美元為限)；e)對於剛進入台灣保險市場的新業者，將因國外投資限額規定而難以發展此項業務。排除外幣計價傳統保單國外投資部位計入保險業國外投資限額，有助於保險公司提供消費者多樣的保險商品選擇，同時可以減少保險公司避險成本以及貨幣資產負債不平衡之風險。

本委員會並建議中央銀行開放要保人得以新台幣支付外幣壽險保單及領取保險金額，以簡化作業流程，在遵循中央銀行申報規定之原則下，保戶可以因為適用機構大額匯率而得以降低購買成本。

議題三：維持目前關於投資型保險商品之稅負規定

行政院賦稅改革委員會(「 賦改會」)於今年二月十七日曾經針對投資型保單課稅問題提出投資型保險投資部份之利得應採行分離課稅，稅率最高為10%的建議；嗣後賦改會於五月一日再次會議，報載財政部與金管會已於會中就投資型保單課稅問題達成共識，根據媒體報導，投資型保單將分別依(1)投資收益階段按投資標的所得類型課徵所得稅，(2)受益人與要保人為不同人保單之滿期給付課徵贈與稅，及(3)不適格保單之死亡給付課徵遺產稅。

本委員會對於上述建議表達強烈的反對意見。人身保險之保險給付免納所得稅規定始自於1972年十二月，施行三十六年以來，已經具有重要的社會政策功能。投資型保險商品具有傳統壽險相同的保障功能，但同時可以提供保戶自行選擇投資組合的機會，已經成為台灣民眾退休規劃中日益重要的一部分。在社會一致鼓勵民眾應有長期儲蓄計畫並及早規劃退休之際，賦改會的提案無異開倒車，阻礙民眾將投資型保險商品納入其退休規劃。

大多數投資型保險商品所連結的投資標的為共同基金，而共同基金及上市股票交易之資本利得均無須繳納所得稅，在此情形下，單獨就投資型保險商品投資收益課稅，更顯得沒有道理。事實上，所有壽險及年金險，包括投資型保險商品，均已納入所得基本稅額規範，不應再額外課徵所得稅。更何況在投資市場持續劇烈波動的情形下，我們不能理解行政院支持短期交易性質的共同基金繼續免稅，而選擇對長期投資共同基金的商品課稅的立場。

除上述以外，在大多數的國際市場，投資型保險商品只要能符合一定標準，通常可以享有與傳統壽險相同的稅負規定。金管會業已規定投資型壽險商品其壽險保障必須符合最低比率規範，因此，該等商品已非純粹以投資為目的，而應屬於人壽保險商品。

投資型保險專設帳簿資產運用之所得係用以支持保單所提供之保險保障，乃人身保險給付整體之一部分，而根據現行《所得稅法》、《遺產及贈與稅法》以及《保險法》規定，人身保險之保險給付免納所得稅及遺產稅，因此，如對投資型保險專設帳簿資產課徵所得稅，或對死亡給付課徵遺產稅，必將違反現行法律規定，倘若政府決定改變對於保險商品之稅賦政策，必須經由立法程序以變更法律。

最後，對客戶而言，客戶可以因為選擇投資型保險商品而獲得專設帳簿所提供之另一種財務安全保障，使其免於因保險公司經營失敗而牽連其積蓄以清償一般債權人。倘若財政部將專屬帳簿資產視同一般投資商品課稅，將大大減低一般人購買意願，形同剝奪客戶對於財務安全保障的選擇權利。

因此，我們鄭重呼籲行政院賦改會三思，以提出較能夠符合老年化市場退休需求的稅賦政策。

議題四：修正《勞工退休金條例》

本委員會感謝保險局協調勞工委員會(「 勞委會」)尋求解除《勞工退休金條例》限制壽險業向台灣勞工提供具有吸引力年金商品的規定，這些限制包括：(1)投保公司必須符合僱用兩百名以上勞工的門檻；(2)須至少經過50%勞工的同意；以及(3)兩年定存利率的最低保證收益。

我們贊同勞委會檢討開放勞工就自願提繳退休金部份，得選擇以其全部或一部配置於能經由長時間的累積而獲取較高收益之投資標的。對於那些具有長期投資計畫勞工，我們也期待這項措施得以擴及法定提繳退休金(非自願提繳退休金)。對於距離退休至少還有十年以上的人，我們通常會建議他應該要投資於股票、固定收益商品，以及其他風險較高的資產，以獲取遠高於傳統銀行存款利息的報酬，這是一個在市場上被廣為接受且適當的建議，很多亞洲國家在很早以前就已經採納這項建議，儘管現在經濟情勢低迷，一旦全球市場開始復甦，這將再次提供獲得優越報酬的機會。

本委員會促請保險局能持續協調勞委會以去除前述障礙，使台灣勞工可以由年金保險商品獲益。

智慧財產權與授權委員會

智慧財產權的議題經常出現在美國商會倡議的主要議題中。我們對這幾年來各主要政府單位表現的善意與成就感到非常滿意，因此當美國貿易代表署 (USTR)準備2008年年度報告時，美國商會表達支持將台灣從特別301之一般觀察名單中除名。我們在年度審查及不定期審查(out-of-cycle review)時，強烈的表達支持意願，也讓台灣終於在今年初自觀察名單中除名。

我們特別注意到，去年間台灣持續加強對智慧財產權的保護，特別是在2008年七月創立的智慧財產法院，為台灣的智慧財產權保護標示了重要的里程碑。我們也欣見相關單位已開始對《商標法》、《著作權法》、《公平交易法》、《專利法》及強制授權相關法案時，有正面的檢討，並且最終將修改這些法律規章。

保護智慧財產權警察大隊（保智大隊）和內政部警政署持續對仿冒品和違禁品進行頻繁的調查及檢控。過去美國商會特別關切網路成為流通仿冒品與盜版品的平台，但在過去幾年間，台灣已成功地取締了上百件的違法網路交易和拍賣。

校園侵權也是美國商會過去幾年來關注的重點之一，包括教育部台灣學術網絡(TANet)上的網路侵權和盜版活動，以及校園內外非法影印有著作權的教科書等行為；這類非法侵權行為，在過去一年來已因相關單位的加強執法而顯著減少。教育部也針對學生及教職員規劃了一個防治校園侵權的行動方案，提升智財保護的意識。

儘管有了這些進展，部分領域仍待加強。去年通過的P2P法案及今年通過的ISP法案，旨在嚴格限制非法上傳和下載著作物，以強化對著作物的保護。本委員會期盼看到此兩法案的儘速落實，也期盼政府能確保執行單位有足夠的資源及權限，以求有效監督產業及執行法規。

網路盜版光碟仍然是一個重要問題。軟體業者持續受到「終端用戶盜版」(end-user piracy)的侵害，也就是未經授權的軟體重製、散布及授權不足的問題，依然存在於公家機關及私人企業。軟體業者發現，雖然在2008年盜版率下降，但實際損失金額卻增加，顯見盜版問題(以及包括盜版及正版軟體在內的市場)的擴大。根據國際數據資訊（International Data Corp., IDC）於 2008年公布的一份研究報告，如果台灣減少10%的盜版軟體，一年可以創造四億美元的經濟成長，並增加四千萬美元的稅收。

本委員會呼籲台灣政府在未來一年專注致力於以下議題：

議題一：改善表徵保護的相關侵權行為

本委員會一再呼籲台灣政府，針對持續氾濫的「表徵保護不足」(Trade-Dress)及「冒名攀附」(Passing-Off)等問題，應找到更好的解決方案。台灣對於此類商標濫用沒有建立清楚的司法審判及執法制度，因此，商標擁有人可訴諸的執法選擇非常少。理論上，《公平交易法》應規範這類的商標濫用，但事實上卻因缺乏執法機制、沒有搜查和扣押的機構、和公平交易委員會的人力不足問題，導致相

關法規無法有效落實。若試圖透過司法系統並以現行《商標法》規定來解決這類商標濫用行為，卻反而衍生司法管轄權的爭議，使法院和執法機關必須處理更複雜的問題。由於政府目前正在研議《商標法》和《公平交易法》修正草案，本委員會希望相關單位藉此機會尋求此類問題的解決方式。

議題二：加強對智慧財產權案件的司法處置

本委員會再次重申過去十年白皮書中所提出的，台灣法院對於大部分智財侵權者的從輕量刑、或僅處以緩刑及低罰金，妨礙了智財保護相關法律的執法。以目前處分之輕微程度，仿冒商僅將其視為做生意的可管控成本之一。目前的情況是，進行仿冒行為的金錢吸引力，遠高於受到重罰的風險。移除仿冒的動機 — 也就是利潤 — 即可有效的遏止仿冒。在無利可圖的情況下，仿冒品自然會消失。

本委員會持續呼籲法務部和司法院對檢察官和法官提供智慧財產權的教育訓練，並且針對以下幾點發布起訴和判決程序的指導方針：

A. 根據修訂後的《商標法》、《專利法》、《著作權法》、及《公平交易法》相關規定，對已經被定罪的侵權人，處以比目前更高的罰款。
B. 對於危害公共健康的案件，以及違禁和仿冒藥品及農藥，施以更加嚴厲的處分。《商標法》、2004年修正的《藥事法》、以及《農藥管理法》中皆提供法律工具，對製造、進口、銷售仿品和違禁品處以更嚴重的刑罰。
C. 擴大智慧財產權犯罪取締範圍。在執行取締時，執法單位應該大量收集銷售文件及資訊，以及生產、流通和銷售設備等供日後之審查。剝奪違法者製造、流通、或販賣仿冒品的工具，可以嚇阻未來仿冒品的持續流通，並且增加犯罪成本，使侵權者無法承受再次犯案。

本委員會也鼓勵修改《民法》，允許在民事案件中建立法定賠償及證據開示的有效機制，以及允許權利人有權取得法律訴訟費用賠償。

議題三：重新考量針對《著作權法》修正的提議

對於經濟部智慧財產局研議中的《著作權法》修正草案，本委員會關切以下兩點：

1. 《著作權法》第三十七條：根據智財局的草案，任何國內外音樂、錄影帶、和影片的著作權人，將必須加入著作權人團體，以取得重播或公開播放/演出的權利金。參加由智財局制定收費制度的這些團體，目前是自願而非強制的。智財局起草《著作權法》第三十七條的目的，似乎在於試圖解決目前存在於餐廳、商店、咖啡廳、大賣場、旅館等，重播或公開播放/演出音樂或圖像的問題，並引用了相當數量的外國條約和法案作為修正依據，然而我們認為，智財局對這些外國條約和立法的解釋並不精確。若是該版本草案修法通過，會導致著作權人在執行著作權時不合理的限制，明顯的違背WTO 下TRIPS(Trade-Related aspects of Intellectual Property Rights)所規範的公平對待原則。因此，我們強烈反對本案並呼籲智財局不要通過此修正案。
2. 《著作權法》第七十一條：此修正條文將簡化授權的流程，並要求著作權人在電視或電台使用他們的著作權作品時，委託著作權人團體行使他們的權利。此修正條文讓智財局有權干預授權的談判，甚至有權決定著作權費的金額，這似乎是在電台和電視傳播和聯播上，重新導入幾年前廣受爭議的強制授權概念。

如果《著作權法》第七十一條通過，電視及電台將不再需要認真的與著作權人進行談判，只要等談判破裂後申請強制授權即可。這將嚴重危及任何希望直接收取著作權授權費而非透過社團的國內外著作權人的權益，也將導致台灣著作權授權的負面發展。強制授權傷害著作權人的利益，且應是一種實行於特殊情況例外作法，範圍應儘可能的限縮。將強制授權範圍擴及電視及電台的傳播和聯播，將嚴重的違反TRIPS的公平待遇原則。我們強烈反對此修正案。

議題四：改善海關作業流程以加強打擊仿冒及走私

隨著台灣積極尋求兩岸直航和運輸，海關有效扮演守門人的角色也越加重要，以防止仿冒品及違禁品流入台灣。海關查緝的範圍應進一步擴大，流程則應進一步簡化。

在目前海關的作業程序下，查扣物品時，權利人幾乎無法得到侵權者的資料。然而，海關單位和其他執法單位若不與著作權人分享資訊及合作，就失去了多了解侵權脈絡並加強遏止盜版的機會。

此外，每天都有大量的仿冒品和盜版品透過郵件寄送。台灣郵政對於包裹的仿冒品檢查幾乎徒勞無益，這個缺陷讓非法賣家大量的利用台灣郵政來運送仿冒品和盜版品。

海關應多使用侵權嫌疑犯資料庫，作為打擊仿冒品和盜版品的利器。當海關和郵局查獲仿冒品，應該要將寄件人和送件人資料輸入資料庫並積極監測。要與司法院、智財局、法務部、內政部及財政部(負責菸酒管理)建立更好的合作系統，將此類仿冒犯罪及走私者的資料全部儲存於共用資料庫，以利日後監控。

議題五：處理終端用戶盜版對著作權的侵害

軟體業者在台灣遭遇的最大損害，一直是終端用戶盜版(end-user piracy)問題 — 也就是未經授權的軟體重製、散布及授權不足的問題，包括公家機關及私人企業。軟體業者發現，雖然在2008年盜版率下降，但損失卻增加，顯見盜版問題的擴大（包括盜版及正版軟體在內的市場也擴大）。台灣需要採取以下行動，來減低終端用戶盜版問題：

A. 政府持續宣導活動，提升公眾意識，指出使用盜版軟體的風險，並鼓勵使用正版軟體。由於減少軟體盜版需要公眾態度的轉變，公眾教育是成功的關鍵。我們讚許台灣政府在這方面的努力，並且希望特別指出，在台灣，許多成功降低軟體盜版的活動，都是由業界和政府共同舉辦的大規模公眾教育宣導活動。
B. 有目標的行動，並針對合適的案件予以追訴，以及發送嚇阻的訊息，同時繼續鼓勵民間企業使用正版軟體。
C. 身為最大的商用軟體使用者之一，政府機關應給予盜版軟體問題更大的關注。政府機關通常只針對有形資產訂定採購政策，導致部分政府機構、政府承包商、和政府職員經常忽視軟體的採購流程，結果造成公家機關使用未經授權的商用軟體，成為台灣特有的問題。我們鼓勵政府從提升正版軟體使用的角度，檢視目前的法規、政策及實際作法。其中，我們希望政府能在公家機關及民間企業，皆推動適當的軟體資產管理(software asset management, SAM)稽核要求，以鼓勵大眾使用正版軟體。我們更樂見政府提高資訊科技採購預算，購買正版軟體，以身作則保護智慧財產權並提倡合宜的商業作法，作為民間企業的榜樣。

議題六：強化走私及仿冒品的監控

白皮書中每年提及的一個議題，是衛生署和農委會分別應針對藥局及農化產品販售者，建立更有效的監測和執法行動，以防制走私和仿冒品。一旦發現販售違禁及仿冒品，有關當局應積極的吊銷銷售者的執照。

本委員會讚許財政部國庫署的菸酒管理單位在各地對走私及仿冒菸酒採取的行動，惟這些行動仍嫌不足。這些不安全的走私及仿冒菸酒，讓政府一年短少了好幾百萬的稅收。

我們讚許過去幾年中，保智大隊和警政署對於查緝仿冒和走私商品的努力。這些機關在去年中獨立地取締了數百件網路銷售仿冒品的案件。我們比較擔心的是，在過去三年中，對於商店、市場、和攤販販售仿冒品的取締行動，似乎有減少的趨勢。我們希望這些執法機關能在未來一年中，更加注意過去忽略的領域。

議題七：保護校園智慧財產權

本委員會感謝教育部和智慧財產局針對校園智財保護，在2008年共同舉辦的校園宣導和研討會。我們很高興見到下列兩種侵權行為已有改善 — 校園非法影印教科書及透過教育部的TANet(台灣學術網絡)非法下載著作物，不過，我們認為仍應採取進一步的行動，以持續這股動力。

我們對於教育部在2008年十一月二十五日宣佈，禁止在TANet上使用P2P文件分享軟體(除了少數須經核可的例外情況外)的政策，感到十分鼓舞。近日的一項調查顯示，超過二十所大專院校亦裝設民間ISP業者的ADSL服務，提供教職員和住宿學生使用。這些ADSL的使用者可能不在教育部設置的P2P監控機制範圍內。本委員會敦促教育部採取必要行動，確保上述政策也完全適用於ADSL的使用者。

醫療器材委員會

醫療器材委員會樂見2008年白皮書所提之建議，相關政府部門，包括衛生署之健保局和藥政處、國貿局和工業局，均有正面之回應與成就。如健保局醫材小組積極的就特材的功能分類與價量調查後的執行時程與業界多次溝通。衛生署藥政處也就體外診斷產品查驗登記須知的訂定、醫療器材保存期限的標示說明和相關法規提供必要的協助及釋疑。本委員會特別感謝他們對這些改變的努力。此外，經本委員會多次與國貿局和工業局溝通後，政府同意開放跨國公司於大陸廠製造之少許品項的醫療器材進口。這項法令的鬆綁可

促進台灣與全球市場的整合。

然而，仍有許多議題是需要政府與業界繼續共同努力的，包括：期待衛生署建立完備之醫療器材審查管理機構與相關法規，及建立醫療器材廣告之審查辦法與修正其管理制度。此外，健保局在對醫材給付的制度和程序，需更合理與公開化，並持續的與業界溝通。建議開放更多跨國企業於大陸廠製造之醫療器材進口。

因此，以下是本委員會對醫療器材管理現階段重要議題的建言。

議題一：建立完備之醫療器材審查管理機構和法規，並樂見「食品藥物管理局」(TFDA)的成立

美國及歐盟等先進國家及地區均有其獨立的醫療器材審查管理機構和相關之法規，但在台灣醫療器材之審查與管理均隸屬於衛生署藥政處並遵循《藥事法》。基本上醫療器材的製造與藥品是不同的，因此無法有效的使用藥品的管理制度與法規來規範醫療器材，醫療器材需要獨立的管理單位與法規是非常明確的。

為協助醫療器材產業的發展，本委員會樂見衛生署即將成立「食品藥物管理局」(TFDA)，並藉此機會為醫材建立專有的法規系統。在這方面，我們建議參考美國「食品和藥物管理局」(FDA)的組織架構和管理機制，並加強醫療器材專業審查人力及素質，以期與國際的法規接軌並具有國際的標準。

本委員會對於目前之醫療器材相關之審查與管理有以下之建議。

1.1 **在未建立醫療器材的專責法規之前，應放寬《藥事法》第十八條醫療器材製造廠的定義「所稱醫療器材製造業者，係指製造、裝配醫療器材，與其產品之批發、輸出及自用原料輸入之業者。」。新定義應納入負有法律責任及產品上市後監控責任的製造廠為產品的製造廠。先進國家如美國及歐盟國家都接受負有法律責任及產品上市後監控責任的製造廠所提供的製造及販售證明文件。**

台灣與歐美國家不同，在處理多國分工製造的審查上，要求業界登記受委託廠為製造廠，且須提出受委託製造國開立之製造與販售證明。這種作法不僅使台灣的法規管理與國際間法規管理現狀不符，也造成本地業者的困擾及文書作業的負擔。

本委員會建議於衛生署接受負有法律責任及產品上市後監控責任的製造廠為特定醫療器材的製造廠。我們也建議在未修改《藥事法》第十八條醫療器材製造廠的定義之前，於QSD及產品的查驗登記，應簡化對其委託廠資料的要求。

目前《藥事法》第十八條之醫療器材製造廠的定義仍侷限於傳統單一製造的生產模式。是衛生署在處理多國分工製造之審查，仍未能與歐美相關管理法規一致的主要原因，也造成業界因應衛生署之查驗登記審查的困擾。建議衛生署參考歐美相關法規，例如專為鼓勵國際醫療器材法規匯流而成立的「國際醫療器材管理規範調和小組」(GHTF)，進而與國際法規接軌。

1.2 **增進衛生署及其委外審查單位與業界之溝通，而提升醫療器材審查與管理的效能。**

衛生署與委外單位合作進行醫療器材審查。在某些審查，例如QSD以及產品查驗登記時，衛生署與其委外審查單位對審查標準，時有不同的解釋，導致醫療器材延遲上市。建議衛生署與其委外審查單位和業界應定期的會議溝通，以促進醫療器材審查的共識及提升審查的效能。

1.3 公告體外診斷產品查驗登記須知

本委員會於2008年，與衛生署藥政處及工研院量測中心共同研擬「體外診斷產品查驗登記須知」，但至今仍未公告。此須知對於業界因應體外診斷產品審查與管理有實質上的協助，敬請衛生署儘早公告實施。

議題二：建立醫療器材廣告之審查與管理辦法

有鑑於醫療器材廣告日益增加，民眾對日新月異的醫療器材應有知的權力。由於提昇公眾健康是醫器材業者社會責任的一部分，本委員會希望與衛生署共同努力，完成一個有效管理與廠商自律的醫療器材廣告審查與管理辦法，以增進民眾對於醫療器材的了解與認知，並且促使民眾能安全的使用醫療器材。以下是我們的建議：

2.1 公告實施醫療器材廣告審查管理原則

以中華民國藥品行銷暨管理協會提出之「訂定藥物廣告管理原則」研究計畫為雛型，制訂並實施「醫療器材廣告審查管理原則」，以建立審查的標準，且分立審查與管理的權責，建立專業健全的審查制度。

2.2 建立第三者之審查機制

成立第三者組成的專業審查機構，將可以建立區隔審查與監督權責的專業機制。第三機構並可成為政府與業界的溝通橋樑，以促進產業界廣告自律行為。

2.3 取消廣告審查的事前審查制度與建立業者自律機制

短程建議採取選擇性的事前審查制度，例如依產品的風險度和負面表列之方式，例如隱型眼鏡。長程建議取消事前審查制度。在完備之審查、監督和罰則的管理機制下，業者即可建立自律機制，可有效提升醫療器材行銷環境之品質，亦可減輕政府管理成本及負擔，在有限的資源下提高民眾對於醫療器材的認知，並可安全的使用醫療器材。

議題三：修改健保醫療器材給付制度，維護醫療品質

健保局在面對人口老年化、且必須提供廣泛的醫療服務及維持民眾的高滿意度，與日漸增加的預算赤字，財源又無法增加下，醫療品質與財務的困境將無法解決。且醫療器材的需求在老年化的社會是日益增加的，因此如何在醫療品質、病人安全和財務控制上兼顧，以下是本委員會對健保局之建議。

3.1 **應視醫療器材業界為台灣醫療體系的重要合作伙伴，建立定期溝通的平台**

醫療器材業界為台灣醫療體系的重要合作伙伴，健保局應定期與業界溝通，以利業界配合健保政策的推行，並共同提升執行的品質，特別是在重大政策推行與規劃階段，例如：台灣DRG支付制度的實施。

3.2 **擴大實施差額給付制度**

健保局在財務預算增加有限的情況下，本委員會再次強烈建議增加醫療器材差額給付的品項，讓病患在現有的給付品項以外，可選擇加付額外的費用，而可使用高科技的醫材或技術，以增進民眾就醫治療的選擇和紓解健保財務困境。

3.3 **公開新醫材給付標準與審查過程，並由業者、醫材專家與健保局共同會議討論**

目前新醫材的給付審查過程，並無明確的審查標準，審查的過程是由健保局與審查委員閉門會議進行，業者僅能在不同意審查結果時提出異議，不能在審查過程中直接與特材專家和健保局溝通，導致多次申覆而延長審查時間，造成業者對引進新醫材於國內的意願降低和工作的負擔。

3.4 **執行價量調查的事前應就品項和時程，事後應就調查品項的價格分布、數量和調降價格之計算方式，與業界溝通和協商**

多年來，健保局一直以價量調查為調降既有品項給付價格的方法，在經過多次降價後，許多品項的給付已為全球最低價，造成業者在維護醫療品質與開拓市場的困難。健保局應於執行價量調查前，就調查品項、實施時程、價格調整機制與計算方式與業界溝通和協商，事後應就調查品項的價格分布、數量和與醫院交叉比對價格之計算結果提供業界，並公開討論和協商。

3.5 **修改特材給付點值為固定**

相較於藥業，醫材業者必需提供使用者更多的臨床教育訓練。另外，醫材多樣化且產品週期較短的特性，使產品的製造成本不隨上市時間的長久而降低，反而會依原物料成本上漲而提高。在經過多次價量調查的價格調降後，許多產品的給付價已為全球最低價，且在總額預算下，特材的給付點值會再次下降，實造成業者無法有合理的利潤和經營環境，更甚者無法引進創新的產品進入台灣市場，也剝奪病患選擇較好治療的機會。

議題四：開放跨國企業於大陸廠製造之醫療器材進口。

越來越多跨國企業因生產整併之需求，已將大陸視為重要的生產地並將產品輸出於全球。跨國企業要求產品品質全球一致，且產品多獲得美國、歐盟及其他許多國家核准上市和行銷，但許多產品僅在台灣因法規之要求而限制進口。本委員會希望在政府推動之「兩岸經濟合作架構協議」下，大陸產品將放寬進口限制，但基於維護國人安全與確保醫療品質，本委員會期待開放之初應以跨國企業於大陸廠製造之醫療器材為限，特別是已於歐美核准上市的醫療器材。

其他

脊骨神經醫學

議題一：提供脊骨神經醫師在台灣的合理、合法位階

當台灣的健保面臨持續上揚的財務壓力時，理應鼓勵台灣政府將脊骨神經醫學作為治療某些特殊健康問題的另一個選擇。脊骨神經醫學是一項強調自然及非侵入性的醫療藝術，既不使用處方藥物、也不施行手術，在處理某些生理病痛上非常經濟實惠，因此脊骨神

經醫學在許多國家成為降低醫療保健費用相當受歡迎的對策。

但遺憾地，在台灣僅存的少數留美脊骨神經醫師卻要面臨被衛生主管單位和醫學團體歧視的處境。不僅其醫療地位的合法性遭否認，亦被禁止宣傳其服務內容和治療效果。 脊醫們甚至提心吊膽地面對衛生機關的搜查、高額罰款及其他不同形式的騷擾。

台灣醫界對脊骨神經醫學的排擠現象，與一百多年前脊骨神經醫學在美國和其他西方國家初期發展的過程相似。但隨著科學研究證實脊骨神經醫學對健康確有實質助益、具經濟效益及病患滿意度高，歐美各國的排擠現象早已消彌。單以美國為例，每年就有超過三千萬人次造訪脊醫師診所。

此外，世界衛生組織(WHO)早已認可脊骨神經醫學專業，並與非政府組織的世界脊骨神經醫學聯合會密切合作，在世界各地推動許多專案計畫。在2005年頒布的「脊骨神經醫學指南」中，WHO對脊骨神經醫學的定義為「一種健康醫療專業，專擅於診斷、治療及預防神經肌肉骨骼系統的失調，及此類失調對整體健康的影響」。2008年十一月在北京召開的世界衛生組織傳統醫學大會，公布了該指南的中文官方版本。在台灣，脊骨神經醫師被降格為「脊背調理人員」，然而世界衛生組織的指南中，不論中英文均清楚地界定脊醫專業的職稱、類別與位階均為「醫師」。

台灣長久以來都極積努力希望成為世界衛生組織的成員或觀察員，因此台灣應進一步尊重並接受世界衛生組織的立場，認可脊醫專業，讓台灣人民能享有更大的自由選擇合宜的醫療照護。

在2006年有多位台灣立法委員爰引WHO所制定的規範，連署提案制定《脊醫師法》。該草案將允許已在先進國家完成訓練並取得證照的脊醫師(在美國是學士後五年的研究所課程)能在台灣合法執業。這是因為台灣無類似的教育課程，亦無國內培育的合格脊醫師。之前，香港亦曾面臨相似的情況，香港政府因而建立一套制度，允許在國外取得證照的合格脊醫師，在香港以登記註冊的方式合法執業。

在台灣，因為台灣醫師公會強烈反對，並對脊骨神經醫學提出了部份不實及毀謗性的指控，脊骨神經科的議案最終還是沒結果。很明顯的，這是基於「利益保護主義」，將脊骨神經醫師視為它潛在的利益競爭對手所致。儘管台灣醫師公會立場已明顯偏頗，但該公會對官方政策似乎仍有決定性的影響力。台灣政府在回應之前的白皮書時，即明白地指出：台灣醫師公會的反對是脊骨神經醫師無法獲得正式合法承認的主要原因。

美國受訓、學成之合格脊醫師於台灣無法合法執業的現象，已經成為「台美貿易暨投資架構協定(TIFA)」雙邊談判議題之一。美國貿易代表在2009年國家貿易評估報告之醫療項目中，亦已提列這項議題。

值得注意的是，早在適當的規範制度建立之前，基於「祖父條款」（即不溯既往的原則），傳統的中醫治療在美國已被認可亦受允許執業。基於台美雙邊互惠及互相尊重的原則，台灣政府應該比照此一原則，讓持有美國脊醫師證照者能在台灣合法而有尊嚴地執業。

我們呼籲衛生署應拒絕利益保護主義團體的壓力，積極支持《脊醫師法》之立法，並立即停止對脊骨神經醫師的突擊搜查、罰款、監禁威脅與騷擾，讓脊骨神經醫師能在台灣擁有合法執業的專業尊嚴。時值台灣獲WHO 接受參加2005國際衛生條例大會（International Health Regulation 2005)且兩岸關係的解凍使台灣今年首度獲邀參加世界衛生大會(WHA），台灣政府正式承認脊骨神經醫師的合法專業地位，將可使台灣與世界其他國家及世界衛生組織（WHO）的政策接軌。

菸品

完善的法律貴在合理可行、公開公平，而其執行更須明確一致，使業者能夠在執法有一致性、可預期的合理市場環境中經營發展，若相關法規在訂定之前未能清楚公開地讓業者了解，將造成業者多餘與不必要的負擔。

《菸害防制法》新制歷經十八個月的緩衝期，自2009年一月十一日正式施行，面對《菸害防制法》立法以來最重要、幅度最大的一次修正，守法業者願意善盡企業之社會責任，全力配合政府政策。然而對業者而言，目前訂定之法規及相關辦法仍有進一步釐清的必要。許多執行辦法並未思考到實際的市場運作，也未納入業者的實務經驗；模糊且不一致的規範，除了製造許多不必要的社會成本和商業障礙，更可能延遲原本目標的進度設定。更進一步來說，不可行的規範辦法並不符合《行政程序法》中對於相關業者權利的明文保障。

業者願意遵循政府對於菸品管理的政策方向，也誠摯地呼籲主管機關政策制定應符合「合理、穩定、可預測」方式，就穩定市場秩序、避免走私入侵、保障政府稅賦收入、及保障合法產業發展的四個面向考量。業者願意與政府合作，在未來修改《菸害防制法》之前，與政府分享相關國際經驗，也期盼主管機關能廣納業者實務意見，使執行辦法更為合理效率，維護法律尊嚴，穩定合理的產業環境。

目前產業界所面臨問題簡述如下：

議題一：修正《販賣菸品場所標示及展示管理辦法》並確保執法一致性

在過去《菸害防制法》未修正之前，有關販賣菸品場所之菸品陳列問題，各縣市政府以行政公告、指導等方式擴張解釋菸品展示管理辦法；地方政府缺乏一致的執法標準，嚴重困擾業者及通路的商業行為。

2009年《菸害防制法》新法施行，中央主管機關亦重新制定頒布《販賣菸品場所標示及展示管理辦法》，但部份辦法意旨仍不夠明確，包括菸品對外展示之相關規範、菸品陳列包數與方式、與對外遮蔽海報張貼面積及位置等。由於稽查標準不明確且缺乏一致性，導致中央與地方擴張解釋法令，某些地方政府甚至逾越詮釋《菸害防制法》之權限，而造成業者額外的財務或行政負擔，更使業者無所適從。

由於該辦法影響層面極大，我們建議中央應具體、明確制定全國統一之稽查標準，由中央發布執行疑義之函釋，確保各地方政府執法之一致性，以便業者遵循。

議題二：請立法院重新思考安全防偽機制

立法院環境衛生委員會於2008年十二月二十二日審查《菸害防制法》第四條修正草案時，會中通過一項附帶決議，要求「國內菸品實施黏貼安全防偽憑證與辨識機制，以杜絕走私菸品行為，利於辨識私劣菸品，並於該法修正通過後試辦一年」。有鑑於這項附帶決議可能對業者造成嚴重之負面衝擊，因此期盼政府謹慎重新考量。

根據財政部評估，黏貼菸品安全防偽憑證每一年成本將近新台幣十八億六千餘萬元（約五千五百萬美金），將對業者造成不合理之莫大負擔。再者，安全防偽憑證其本身亦將有遭致仿冒之議，並無法達到政策效果。依照過去台灣的司法裁決及國外經驗顯示，此一機制徒增添業者負擔與稽徵機關之查驗作業，恐治絲益棼，未見其利先蒙其害，實不可行。

建請主管機關針對《菸害防制法》第四條附帶決議邀集相關單位、學者專家及業者召開公聽會，充分溝通各界意見及徵詢業者實務經驗，了解業者執行上的困難，以避免忽視業者應有的權益。

議題三：諮詢業者以建立合理可行之健康捐配套措施機制

菸品健康福利捐即將自2009年六月一日起，由每包十元調漲為每包二十元。過去三年業者不斷強調「補徵」為對市場影響最小、行政成本最低之辦法，若能儘速修法，解決法源問題，將能建立因應未來菸品健康福利捐循序調漲，一勞永逸、公開效率之配套機制，也避免擾亂市場秩序。

所謂「補徵上繳」，亦即依菸品製造業者、進口業者、經銷業者及零售通路業者清點施行日期前一日之實際庫存數量，計算新舊健康捐之差額，作為菸品健康捐補徵之金額，核實存入政府設立之專戶。

有鑑於《菸害防制法》第四條，已明定菸品健康福利捐金額應由中央主管機關及財政部每二年評估一次，我們建請相關主管機關於此次調漲作業執行時，同步開始與業者溝通討論長期的配套解決方案。

議題四：提高刑責以打擊走私與私劣菸品

依據先前市場經驗，2006年菸品健康福利捐的調漲引起走私加劇，大舉進口非法菸品，或是不肖業者大量囤貨以獲暴利；同時，根據財政部年度全國查緝會報的報告資料顯示，近年出現「少量進口、大量走私」的自創品牌低價菸品，已擾亂台灣合法市場的秩序與穩定。

走私菸品不僅使國庫稅收受到嚴重影響，連帶也傷害合法市場秩序，更將損害國民健康，但目前針對進口、販售或轉運危及人體健康之走私非法私劣菸品的相關刑責卻並不合理，僅有新台幣五十萬到兩百萬罰鍰或處以最高二年有期徒刑。因此我們建議，修正《菸酒管理法》，提高走私販賣非法菸品的相關刑責，同時，從菸品健康福利捐中，提高獎勵走私查緝與績效獎金之比例，以激發查緝誘因，對抗非法走私菸品。

製藥委員會

製藥委員會感謝台灣政府承諾持續與委員會成員與其他研發型藥廠溝通對話。這類的溝通能協助政府與產業界達成共同目標，讓病患能有更長、更健康、更快樂與更豐碩的生命。2008年十二月三十一日由衛生署召開的「藥品政策全國會議」，正突顯政府決心與業界合力建構合理的藥品定價與給付制度。委員會希望政府能儘快制定具體政策，落實會議擬定的目標。

今年，本委員會希望政府特別注意議題一，亦即「建立透明一致的定價與給付制度，並加速藥品取得健保給付，以鼓勵新藥進入台灣市場」。這是讓患者更能使用新藥的關鍵步驟，也是藥品政策全國會議的首要目標。

其他有待解決的問題包括：改善藥價調查制度（PVS）、推動定型化契約、落實醫藥分業（SDP）、及保障智慧財產權（IPR）。前述議題幾乎每年《台灣白皮書》都會提及，但進展之慢卻讓人非常失望。讓本委員會略感振奮的是，製藥業關鍵議題近年已經被納入台美「貿易暨投資架構協定」（TIFA）定期談判。目前已有兩個工作小組負責研究相關議題。雖然去年沒有TIFA談判，但本委員會相信，歐巴馬新政府應該很快就會排定2009年的談判時程。

我們希望相關政府部門能與本委員會及業者合作，共同擬定完善政策，以解決上述問題，並達成藥品政策全國會議的目標。

議題一：建立透明一致的定價與給付制度，並加速藥品獲得健保給付，以鼓勵新藥進入台灣市場

依據衛生署中央健康保險局的現行規定，新藥與新適應症的申請案，應於送件後三個月內審查定價與給付標準，並在六個月內訂出合理給付價格與標準。然而，實際情況卻不是如此，而且越來越多申請案被一再拖延。同時，許多申請案核定的價格低得離譜，以致於廠商根本無法將這些新產品引進台灣。

健保局資料顯示，新藥給付價格在1996至2002年間，還有十大先進國中位價（即十大指標性先進國家的藥品價格）的80%，但2007至2008年卻已經只有51%。此外，平均而言，2007至2008年間的新藥定價也只有十大先進國最低價的72%。

對業者來說，新藥核價過程越來越不透明、且無規則可循；而最常被用來排除特定藥物進口或是拖延健保核價的兩個藉口是：藥品價量協定（Price-Volume Agreement）與醫藥科技評估（Health Technology Assessment，HTA）。

為鼓勵新藥引進及確保病患使用新藥的權利，本委員會強烈建議政府採取下列措施：

- 新藥給付價格應比照十大先進國中位價。
- 主管機關應諮詢藥廠、醫生、病患團體，並參考其他先進國家經驗，制定普遍接受的「新藥」定義。
- 藥品價量協定、風險分攤、論質計酬等健保政策，應納入病患權益、科學證據、法源依據等面向，不能僅考慮節省成本。
- 提高定價與給付程序的速度與透明度。例如，健保局如能在審查會前先告知申請藥廠有關醫藥品查驗中心的「產品檢測報告」（PRR）結果，業者自然能在審查會中逐一說明。

議題二：改善藥價調查制度（PVS）／藥價調降機制

我們感謝衛生署在去年十二月舉辦藥品政策全國會議。雖然會議本身是項非常正面的進展，但長期存在的問題，如藥價調查制度（PVS）及隨之而來的藥價調降，卻沒有明確的解決方案。

定期執行的藥價調查是政府縮減「藥價差」的重要工具－所謂的藥價差是指，健保局給醫療院所的藥品給付價格，與醫院實際購買價格間的差距。但實際上，藥價差從未消失，原因在於每次藥價調整後，醫院還是會繼續要求藥商給予相同折扣，以維持一樣的利差。因此，藥價調查或藥價調整並非消除或降低藥價差的合適作法。

藥價調查與藥價調整的另一個問題是，不公平的分類分組藥價計算方式—亦即依「分群加權平均價格」（Group Weighted Average Price，GWAP），將折扣高的藥品與折扣空間少的藥品一起計算，這種計算方式等於變相強迫藥廠按其他產品的折扣降低售價。此外，藥價調整計算方式讓高折價空間的學名藥享有價格優勢，因為不論學名藥的折扣空間有多大，學名藥的給付價都至少有原廠藥的85%。所以，只要學名藥的高給付水準不做改變，研發型藥品就會失去公平競爭的機會。

現行的藥價調查制度不論是專利有效或過期，都一視同仁調降藥價；但這對研發型藥廠不公平，也不符合藥品政策全國會議增加患者使用新藥機會的共識。當台灣的藥價低到無利可圖，藥廠很可能乾脆放棄引進台灣，以免影響其他地區的價格，最後的輸家還是用不到新藥的病患。

為解決上述問題，委員會建議以下改善方式：

- 檢討整體藥品政策（即「藥價基準」，PBS），給與創新藥品更大空間，降低對藥價調查制度的依賴。
- 如要維持藥價調查制度，則必須有針對買賣雙方的稽核機制，並由公正第三者查驗申報價格的正確性與透明度，同時也需制定偽造資料的罰則。
- 推動藥品買賣的強制性定型化契約，以防止醫院不斷要求更多的折扣。在立法完成前，可先以行政命令逐步推動。
- 在政府與業界能對時間表形成共識的前提下，推動藥品定價與給付政策的改革，以消弭長期存在的藥價差問題。

議題三：落實醫藥分業（SDP）

台灣現行的醫院制度，限制醫師只能開立已納入院所藥品處方清單的藥品，但這些藥品的選擇標準往往出於利潤考量。政府應建立的用藥習慣，是讓醫院醫師與藥師能依病人需要開立處方，毋需受限於財務考量所採購的藥物。衛生署與健保局應該思考的是，以何種方式補助，最能讓醫療院所不必靠藥品賺取利潤。調劑的工作應由社區藥局的藥師負責，因為他們才是最能為病人提供藥物諮詢的人。

落實醫藥分業（SDP）非常有助提升病人的醫藥服務品質，也能促使醫師依專業判斷開立最合適的藥物。醫藥分業亦有助用藥安全，因為藥劑師配藥時必然重新檢視處方，可避免不同醫師或醫院之間的重複或錯誤用藥。業界瞭解，要政府立即大幅改革確有困難，因此我們願意支持分段實施醫藥分業；業界並願意建立必需的供銷體系，確保社區藥局獲得足夠藥品，以協助落實醫藥分業。

為達成這些目標，委員會做以下建議：

- 政府應建立時程明確的計畫，以全面實施醫藥分業。此計畫應將醫藥分業落實度納入醫院評鑑制度；此外，健保局給予醫院的醫療給付結構應予調整，避免依賴調劑賺取利潤，且應要求醫院，釋出門診病人的處方簽，讓病患至社區藥局取藥。
- 政府應更全面宣導醫藥分業的好處，幫助病患瞭解，醫藥分業確實能藉減少非必要藥品，有效改善醫療品質、並降低醫療資源浪費。
- 為滿足醫藥分業所需，政府應提供足夠經費，改善各地社區藥局。
- 建立明確規範以確保藥局正確調劑，如禁止藥局擅自將醫師用藥更換為學名藥。

議題四：以專利連結與資料專屬權提升藥品智財權保障

專利連結

台灣缺乏專利連結（Patent Linkage）制度，因此衛生署與健保局核發藥品許可證與制定給付價格時，一向不考慮專利權人的智慧財產權。《藥事法》四年前修訂時，台灣政府要求專利權人在取得藥品執照時需登記專利，因此建立了類似美國橘皮書制度的資料。然而，由於欠缺專利連結制度，此一修正毫無意義。業界過去幾年多次呼籲，立法落實專利連結制度，但是政府並未採取行動。

此外，經濟部智慧財產局還曾提案修正《專利法》，放寬學名藥的實驗免責範圍，讓學名藥能在免受侵權指控下，進行查驗登記臨床試驗。此一修正案無疑將進一步損害原廠權益。引進專利連結機制能避免學名藥在原廠專利有效期間取得藥品許可，進而避免不必要的訴訟與辨認困難。近期的產業調查顯示，政府現行的核准方式，已經導致五十二個疑似侵權的個案。長此以往，原廠會越來越不願意在台灣推出新的藥品，病患近用新藥的權益勢必受損。

資料專屬權

此外，新適應症的開發應予保障，但現行制度的資料保密卻不包括新適應症申請。新適應症如能享有資料專屬權（Data Exclusivity），國內外的研究型藥廠都將受惠，也將更願意開發新的適應症。

委員會的建議如下：

- 制定適切法律與程序，藉新藥核准程序（NDA）落實專利連結制度，以有效保護專利權人的智財權。
- 相關程序應比照美國食品及藥物管理局（FDA）的橘皮書程序，在學名藥提出登記申請後，學名藥廠及衛生署應主動告知原廠專利權人。
- 如專利權人認為智財權遭到侵害，並採取維權法律行動時，

衛生署必須暫停新藥申請審查，靜待法院判決。
- 修法將新適應症納入資料專屬權保障範圍。

議題五：提升品質要求，簡化管理程序

藥品品質

藥品政策全國會議的重點議題之一是藥品品質。GMP（優良產品製造規範，Good Manufacturing Practice）與cGMP制度的建立，以及藥品需達一定生物同等性（bioequivalence）方能獲得較高給付價格的規定，已讓台灣建立良好的藥品生產標準。然而，由於原廠藥與學名藥使用不同的有效成份（AI）與載體（excipient），上述標準仍難以確保學名藥具相同品質與藥效。患者有權使用品質最好的藥品，因此台灣有必要強化規範，以符合國際標準。

藥劑製品證明書（CPP）／銜接性試驗評估（BSE）

業界希望法規制度能不斷改善，以縮短新藥在台上市時間。衛生署在2006年大幅調升新藥的登記審查費時，曾承諾審查流程會更簡便快捷，但產品登記過程迄今仍未能改善；主因是政府要求，申請廠商必須提交二至三個國家的「採用證明」（Certificate of Pharmaceutical Product，CPP），或在輸出國屬十大先進國時需有兩國採用證明，而且證明還需經台灣在當地的使館或代表處認證。另外，政府要求，藥品許可證展延時，需取得輸出國的製售證明，更是讓申請廠商徒增困擾－因為許多藥品或許已經因為商業考量，完全退出輸出國市場。

銜接性試驗評估（Bridging Study Evaluations，BSE）的意義在於，確保新藥可以適用於不同人種；如果無法免除銜接性試驗，可能又得多花兩年以上的時間才能取得藥品登記。令人困惑的是，獲核准免除銜接性試驗的比例往往忽高忽低：2002年，86%的申請案不需進行銜接性試驗，但2005年陡降到44%，2007年卻又回升到65%。比例的起浮不免讓業界質疑審查標準的透明度與一致性。

委員會的建議如下：
- 建立足以在許可證核發後仍能追蹤與監督藥品品質的機制；作法可參酌美國的「上市後配方製程改變管理規範」（SUPAC）以及歐盟醫藥管理局（EMEA）的「上市藥品試驗登記」（Post-Marketing Authorization）制度
- 簡化新藥（NCE）申請所需的採用證明數量，任一個十大先進國的採用證明應已足夠。
- 申請新藥（NCE）、新適應症、與許可證展延時，不應要求提供輸出國的製售證明－作法可改為要求廠商提出任一十大先進國的採用證明。
- 允許提交外國主管機關網頁上的同意函或審核意見，以加速核准程序。
- 採用證明或製售證明毋需再經特定外館認證。
- 如I、II、III期臨床實驗有任兩期在台進行，且符合衛生署「6-28公告」的規範，新藥核准申請時應免附他國採用證明或製售證明。
- 如I、II、III期臨床實驗其中一期在台進行，且實驗對象符合衛生署「6-28公告」的規範，應予免除銜接性試驗評估。
- 如新藥符合「致命性或無藥可用之醫療需求」的規定，或屬於罕見疾病治療所需，亦應免除銜接性試驗評估。
- 衛生署藥品諮詢委員會審查新藥核准與銜接性試驗評估時，應公開會議紀錄以提高透明度。

不動產委員會

如同世界其他地區，台灣經濟目前尚未從歷史性的金融危機中平復過來。這一次由次級房貸所造成的全球經濟危機，正反映了不動產市場對於經濟的重要性。一個健全且透明的不動產市場，不但有助於永續發展，同時也是刺激經濟成長的重要推手。

不動產委員會成立於2008年，主要關注焦點在於台灣的不動產市場狀況以及其對於經濟的整體影響。為了健全台灣不動產市場機制及其效能，並進一步提升台灣整體經濟力，本委員會提出以下建議：

議題一：放寬僑外投資人購買台灣不動產的相關法規

由財政部於1998年九月三日發布的銀行辦理港澳僑胞購屋貸款要點（77/09/03 台財融字第770259495號令訂定），是台灣唯一規範港澳僑胞取得消費性購屋貸款的相關法規。這項要點規範港澳僑胞的借貸人資格、申請程序、申貸金額、貸款成數、貸款期限、及擔保額度，這些條件一般由各家商業銀行根據各自放貸政策及放貸能力規範。

貸款成數的80%上限和最高新台幣五百萬的貸款金額上限，使得港澳僑胞投資台灣房地產的意願受到侷限。港澳僑胞是台灣不動場市場最佳潛在投資者，因為他們的地理位置及文化背景皆與台灣相近。我們呼籲相關主管機關，廢除這項規定，以鼓勵港澳僑胞投資台灣不動產市場。

此外，《土地法》第十七條及第十八條，限制外國人所能擁有、移轉、或租賃的土地種類。另外，第十九條規範外國人為供自用、投資或公益之目的使用所能取得的土地類別。這些繁瑣的規定讓潛在外國投資人難以遵循，也降低外國投資人投資台灣不動產的意願。

有鑒於鼓勵外國人投資台灣市場將有刺激經濟發展的潛力，本委員會建議政府修法解除相關限制，尤其是《土地法》十七條所規範的禁止投資項目。例如，雖因維護國家安全，不允許外國人投資購買第十七條中列出的土地種類，但只要相關規定能將國安問題減到最低，沒有理由不讓他們租賃這類土地。本委員會也建議，在第十七條中加入一款：如經相關主管機關個案評估通過，准許外國人投資不動產。

議題二：允許陸資企業進入台灣不動產市場

本委員會十分支持並樂見兩岸關係的逐漸正常化，像是通郵、通航以及開放陸客來台等政策。在北京當局鼓勵企業來台投資的架構下，本委員會認為，應該將不動產列入陸資企業來台投資的項目。因此本委員會期待台灣政府能夠研議以下相關法規，以便陸資企業進入台灣不動產市場。

1. 允許陸資企業來台設立辦事處：台灣政府於2002年所訂定的《大陸地區人民在臺灣地區取得設定或移轉不動產物權許可辦法》中規定，在台設置辦事處的陸資企業得買賣相關不動產。但由於目前尚未允許陸資企業在台設立辦事處並從事營業活動，所以實質上並無任何影響。若政府開放許可陸資企業來台設立分公司，將進一步活化不動產買賣與租賃市場。
2. 放寬陸資企業在台買賣不動產的相關限制：如上所述，雖然陸資企業在台投資不動產的相關法規已有法源依據，卻因為陸資企業無法在台從事營業活動，讓此法規失去實質意義。本委員會建議對相關法規做以下修正以提高陸資投資台灣的意願：
   a. 延長大陸在台置產者的滯留時間。現行法規規定，大陸在台置產者每次在台停留時間不得超過十日，每次得延長十日；每年不得超過一個月。這些規定將嚴重影響到潛在投資人的投資意願。
   b. 設置單一窗口。《大陸地區人民在臺灣地區取得設定或移轉不動產物權許可辦法》第八條，規範大陸地區投資人可以投資對台灣經濟有利益的重大計畫，像是旅館、遊樂設施、住宅以及工業園區，但相關許可的申請流程卻十分繁複。大陸地區投資人首先必須向中央政府主管單位提出申請，在獲得許可後，才能向地方政府提出申請。地方政府在審查過相關文件後，再將申請案送至內政部許可通過。這整個流程不但費時且無效率，因此本委員會期待台灣政府能夠簡化申請流程，並設置單一窗口處理申請案件。

議題三：修正建物使用的相關法律規範

對於想要變更辦公地點的公司來說，變更建物使用執照時，需要配合的嚴苛法規及繁複辦理流程，因此讓很多公司望之卻步。由於在公司商業登記上所許可的營業項目，不一定符合建物使用所允許的產業類別，許多企業無法輕易的地搬遷至他們理想中的新辦公或營業場所。為了申請建物變更使用執照，公司在搬遷至新地點並作登記以前，必須指定一位合格的建築師來檢查使用分區的限制、建物變使用執照、公司商業登記以及建築法規的內容。整個流程所需花費的金錢與時間都十分可觀。

許多台北的科技公司想要搬遷至內湖科學園區時，都面臨到相同的困擾。舉例來說，一家知名的美國科技公司，僅因為其所登記的營業項目與內湖科學園區所允許的產業類別有些微差異，就無法在園區內做商業登記。一家跨國高科技公司居然無法在科學園區內設立辦公室，顯然是相當不合理的。本委員會期待主管機關能夠做出以下調整：

1. 檢視現行法規並修改過時的規範。許多與土地與建物使用相關的法律規範都已顯得過時而需要修正，例如，限制哪些業種才能進駐內湖科學園區的法規，就是很好的例子。在科技產業日新月異的今天，主管機關應該確認現行法規是否仍能符合實際的需求。
2. 簡化建物使用變更的申請流程。除了變更建物/樓層使用必須要做的安檢外，本委員會認為，變更使用執照的申請流程必須要更加簡化。現行冗長且繁瑣的流程不但降低企業搬遷的意願，對於台灣商用不動產市場的發展也帶來負面的影響。

議題四：成立都市更新的非營利輔助機構

新政府在都市更新方面所作的努力是有目共睹的。除了將都市更新及工業區的再開發案納入「愛台十二項建設」外，財政部也提案將大面積國有地納入都市更新計畫範圍。有感於政府所作的努力，本委員會建議政府能夠贊助成立一個都市更新機構，來協助都市更新的發展。

從事都市更新的開發商，需要花費大量的時間與金錢；與地主間的冗長協調過程，也往往使得外國的開發公司不願意進入這個市場。更有甚者，在整合土地、籌措資金以及買賣與資產管理等方面，開發商也都面臨了相當高的風險。

因此，本委員會建議，政府能夠提撥經費與民間基金共同成立一個私有、非營利性質的都市更新機構。這個機構主要的功能，在於當開發商面對複雜產權或是不利的環境時，能夠提供其必要的協助。這樣的機構可以主動整合預定更新的土地，再將整合好的地塊提供給開發商，如此業者就不需要與地主間作直接的溝通協調。

議題五：民間興建營運後轉移模式(BOT)之土地拍賣及招標過程

針對國內外投資者在參與BOT案時，可銷售土地縮減及投資機會受到阻礙，本委員會提出以下幾點建議：

- 一般自標案公佈後至送件截止日期僅有一個月的時間，如此短暫的時程使投標人難以有效執行交易所需之準備工作，如：專案計劃、內部簽呈作業、價格檢討以及內、外部之資金籌備調度；而作業時間短暫亦使參與競標家數受到限制，因此我們建議，至少能夠提供三個月的準備時程。
- 除了時程因素外，可執行實地查核的資訊亦常未被充分提供。雖然土地交易所需之查核內容一般來說並不複雜，惟訊息不完整不僅使得決策報告準備時程延宕，更使得競標家數受到限制。我們建議相關單位在一開始就應提供完備資料。
- 由於各類訊息多未提供英語版本，使得國際投資人必須先花時間翻譯相關資訊，才能決定是否有投資意願。政府若能提供英語版本訊息，可清楚地幫助外資向銀行團及其它潛在投資人解釋專案內容。

本委員會建議的改變如下：1.提供充份時間容許廠商思考是否參與競標；2.提供更多機會使符合條件之國、內外投資人參與競標。相信適度的改善，對於未來土地開發與投資案，將有更正面與積極的影響。

零售委員會

台灣政府在改善兩岸經貿關係上的努力已有相當進展，政府機關也願意與民間企業對話以改善投資環境，本委員會對此表示讚賞。但是我們仍然擔憂，台灣在建立一個對企業友善的商業環境上，進展不夠快速，以致於無法和亞洲其他市場競爭。

隨著目前以東南亞國協為中心的經貿組織持續向外拓展，馬政府已開始採取相關作為，以避免台灣被邊緣化，我們對此表達支持；但同時，台灣也必須避免採用與國際慣用標準不同的獨有法規，而導致自我邊緣化。台灣曾以在製造業與貿易上的突出表現，被稱為「亞洲四小龍」之一；我們相信，以台灣的實力，未來將更有機會與香港或新加坡競爭，成為亞洲零售業中心。為了達成此目標，台灣的商業經營成本一定要更具競爭力，並如同亞洲其他幾個主要市場，建立公開透明、一致、符合國際標準的法規，避免自成一格。摒棄世界各國的經驗與前例，而重新建立一套獨有的法令規章，只會浪費政府與納稅人的錢。

「台灣製造」應該是值得驕傲的標籤，因為它代表了高品質；但是當政府法規或商業規範被貼上「台灣獨有」的標籤，將是個令人憂心的警訊。

以下五項重點議題，是台灣目前最迫切需要改善的項目：

議題一：加速審查並解除中國進口產品的禁令

開放中國進口產品禁令清單的進度一直十分緩慢。隨著全球經濟的衰退，國際投資減少，台灣的失業率也達到歷史新高；因此，政府必須能找出方法，協助本土與外商企業改善經營環境。針對單一市場實施進口禁令對於台灣的經濟是不健康的；這會扭曲貿易的交流，也使商業計劃無法順利推動。

我們呼籲政府能儘速針對禁止進口的項目逐項重新評估，而非用概括的方式阻擋所有來自中國的產品。解除部份產品的進口禁令將可為台灣消費者和產業創造雙贏的局面。

對於國貿局定期與業界代表召開審查會議，我們深表感謝；然而本委員會必須指出，迄今只有極少數項目獲得解禁，整個過程顯然有缺失。政府禁止這些產品自大陸進口的原因只有兩個：造成國家安全的風險（大多數商業產品並不會影響國家安全）或嚴重衝擊本土產業。然而，儘管國貿局再三的要求，相關政府單位仍未提供具體的經濟衝擊影響評估報告，或其它具說服力的合理解釋，以說明反對開放某些品項進口的原因。此外，國貿局在這個議題上，很少扮演積極解決問題的角色，總是將決定權或責任推給其他採取保護主義態度的政府機關、甚至是本地的公協會。

以下為本委員會請求開放從中國進口的三十二項貨品，以其中一個品項—馬鈴薯為例，來特別說明。由於台灣天侯因素，馬鈴薯收成一年只有一穫，本地馬鈴薯不敷需求。若能從中國進口適當品種的馬鈴薯，將比從其它國家進口更節省成本；為了避免破壞本地市場的供需，此類進口可限定目的為公司內部製造馬鈴薯片之用。穩定的原物料供給，可促進這些公司增加在台灣的投資，不僅會創造更多的就業機會，也能為本地的馬鈴薯在產季創造更高的需求，而達到多贏的局面。

我們建議：

1. 建立透明的審查流程，指定國貿局為全權處理此議題的單一窗口，並為審查決定負責。
2. 逐項或逐類加速審查下列項目：

	CCC Code	中文貨名
未開放號列		
1	0701.90.00.00-3	馬鈴薯（種薯除外），生鮮或冷藏
2	1102.20.00.00-1	玉米粉
3	1005.90.00.90-5	其他玉蜀黍
4	1101.00.10.00-4	小麥粉
5	0705.11.00.00-5	結球萵苣，生鮮或冷藏
6	1806.20.00.00-0	其他調製品成塊狀、板狀或棒狀重量超過二公斤者或液狀、膏狀、粉狀、粒狀或其他散裝在其容器內或內包裝內之容量超過二公斤者
7	1905.31.00.00-7	甜餅乾
8	1905.32.00.00-6	鬆餅及薄餅
9	1905.90.90.00-6	其他第1905節所屬之貨品
10	2005.20.20.00-3	酸漬除外之調製或保藏馬鈴薯片及其他馬鈴薯條，未冷凍
11	1902.30-10.20-5	速食麵，不含肉者
12	1806.31.00.00-7	其他巧克力調製品，呈塊、條狀或棒狀，重量不超過二公斤，有填塞物
13	1901.20.00.00-4	供製作第1905節烘製食品用之混合料及麵糰
14	2103.20.00.00-8	番茄醬及其他番茄調味醬
15	6911.10.00.00-4	瓷製餐具及廚具
16	7009.91.90.00-8	其他玻璃鏡子，未鑲框
17	7009.92.00.00-6	其他玻璃鏡，已鑲框
18	7013.28.00.00-9	陶瓷玻璃器除外之其他高腳玻璃杯
19	7013.37.00.00-8	陶瓷玻璃器除外之其他玻璃杯
20	7013.99.40.00-5	其他玻璃花瓶
21	3005.10.10.00-5	外科用膠帶
有條件開放號列		
22	1704.90.00.90-9	其他糖食（包括白色巧克力），不含可可者（有條件開放）
23	2309.10.00.00-2	供零售用之貓狗食品
24	6912.00.10.00-3	瓷器除外，餐具及廚具
25	7007.19.00.00-8	其他強化安全玻璃
26	8504.40.93.00-5	雙IGBT無變壓器不斷電系統，11-30 KVA
27	3005.10.90.90-9	其他粘敷料和其他具有粘層之物品
28	6107.11.00.00-7	棉製男用或男童用內褲及三角褲，針織或針織者
29	6205.20.00.00-7	棉製男用或男童用襯衫
30	6108.21.00.00-4	棉製女用或女童用三角褲及短內褲，針織或針織者
31	6212.10.90.00-1	其他紡織材料製胸罩，不論是否針織或針織者
32	6201.13.00.00-0	人造纖維製男用或男童用大衣、雨衣、駕車外套、披肩、斗篷及類似品

我們認為，開放這些品項進口，並不會對對台灣經濟造成任何負面衝擊，或對國家安全造成威脅。相反的，解除這些中國進口品項的禁令，將能重建台灣對世界貿易組織的承諾、台灣的國際聲譽，並能提供跨國企業公平競爭的平台，從而創造長期的就業機會及商業的永續性。

議題二：進口商品的標示及標準應與國際接軌

由於經濟環境不佳和消費信心下滑，許多外國零售商積極地維持低價，不斷引進新奇商品及舉行各項促銷活動來吸引消費者。但台灣政府獨有的不合理進口規定，卻形成貿易障礙，同時亦增加業者成本。下列幾個案例，正是由不必要的繁瑣法規所衍生的：

中文標示

大包裝商品－不管零售商是否將大包裝商品拆開販售，須於各別包裝上貼上中文標籤，使成本增加。因此，外國供應商必須為銷到台灣市場的產品特別加工，或者乾脆放棄出口到台灣。

襪類產品－即使已於半打裝的外包裝貼上中文標示的襪類產品，在每一雙本體上仍須附上原產地的中文標示，目前只有出口到台灣的襪類商品必須符合如此嚴格的規定，著實增加業者的成本與負擔。

一般商品－現行法規規定，須於商品上標示製造商聯絡資料，但同一個供應商的產品，可能來自數個不同的製造工廠，或者供應商可能希望製造廠的資訊保密。台灣消費者如果對產品有疑問，一般而言不太可能直接與國外製造商聯繫，因此，既然進口商已依法負擔產品責任，標示進口商資料應已足夠。

進口標準

太陽眼鏡／玩具－雖然台灣的CNS國家標準係參考歐盟的標準而訂定，但台灣卻不接受外國主要實驗室的檢驗報告，因此衍生的額外檢驗手續增加了進口業者的成本。經濟部標準檢驗局的理由是，由於台灣與其他國家缺乏相互承認，無法直接認可他國的檢驗結果，但我們認為，政治因素不應造成貿易障礙。

營養食品－各國營養食品認定上的不同已造成貿易障礙，例如美國自1993年起，開放用於治療睡眠疾病的退黑激素（符Melatonin），但在台灣卻禁止使用；銀杏葉是有助於加強記憶力與集中注意力的膳食補充品，而牛奶薊是有助保護肝臟、對抗有害物質的草本食物，上述兩樣商品在美國都是膳食補充品，但在台灣卻被歸類為處方藥品。另外，美國規定輔酶（Coenzyme Q10，抗氧化劑的一種）每日最高攝取量為200毫克，在台灣卻限定最高為30毫克。

照明產品－自2002年來，經濟部標準檢驗局規定所有照明產品在進口前需符合CNS14335的國家標準，雖然台灣也採用IEC60598-1的國際標準，但同樣採用國際標準的實驗室所出具之報告，卻不為台灣所採用。如此一來，額外檢驗手續的成本，最終仍會轉嫁到消費者身上。

我們了解台灣政府為消費安全把關的重要角色，但上述案例不但造成貿易障礙，也為台灣消費者帶來額外負擔，並且限制市場上產品的多樣性。我們建議台灣政府，重新審視中文標示及進口標準，確保台灣與國際慣例接軌，而不要創造台灣獨有的標準。

議題三：調整關稅以刺激貿易成長

雖然台灣的關稅依品類而有不同稅率，但是比起鄰近的東協國家，某些品項的稅率仍然高出許多，造成進口這些品項成本過高。例如，食品類課徵的稅率從5%到30%不等。較低稅率的品項包括嬰兒食品、食品原料、和高蛋白食品，這些品類極具變化及競爭性，使台灣的消費者能以最好的價格選擇最多種類及最佳品質。.在高稅率的品項上，稅率限制在10-20%以上，包含錠狀膠囊食品、餅乾、有填塞物的巧克力、及其他某些品類。高稅率限制了消費者的選擇，同時扼殺了產業的創新。我們呼籲政府能重新檢視進口關稅稅率，針對高過鄰國進口稅率的品項進行調整，以強化台灣市場的競爭力，刺激貿易成長。

議題四：修改化妝品衛生管理法規以符合國際慣例

亞太地區—包括台灣這個主要化妝品市場—至2010年的化裝品交易量將佔全球總量的40%。然而，台灣迫切地需要檢視化妝品衛生管理法規，以更貼近國際慣例。目前衛生署對化妝品衛生管理的法規條款，似乎更著重產品的功效，而非安全性和品質的考量。舉例來說，要求所有的含藥化妝品在上市前申請查驗登記、化妝品廣告需要經過事前審查、以及要求產品製造販售證明(Certificate of Free Sales, CFS)等，都和確保產品的安全性無關。在絕大部分先進的市場—包括美國、歐盟和東協等國家，化妝品上市前並不需要申請查驗登記。這些國家對於安全性和品質有極為嚴謹的法規，任何有可能違反安全和品質規定的產品，都必須被檢驗。這些國家的化妝品廣告也依循類似的原則，並不採行廣告事前審查機制，因為這將影響廠商與消費者溝通時能提供多少相關和必要的產品資訊。

衛生署慣於審核藥物的功效，以證實藥物是否具有治療疾病的效果。然而，消費者購買化妝品是為了讓自己看起來更美、感覺更好；如果他們對產品的觸感和氣味不滿意，也不會再次購買。換言之，對化妝品功效的認定，其實是由個人主觀及偏好所決定，應由消費者試用該產品後自行判斷。

再者，即使部分化學成分是被禁止直接使用於人體，但多半的化學物質都有其安全容許值，而且在技術上確實有無法避免的因素，使成品中有化學物質的微量殘留。這樣的事實在美國、歐盟和日本是被認可且被接受的。然而，台灣的化妝品衛生管理條例，卻未比照其他國家的作法—例如歐盟化妝品管理協會，對微量殘留訂定安全容許值，因此衍生一些其他國家不會發生的消費者疑慮或恐慌事件。

本委員會建議政府，以合乎科學的法規制度為基準，修改目前的化妝品衛生管理法規，並可參考歐盟和東協的法規條款。我們建議的修訂方向包括：免除含藥化妝品上市前的申請、刪除產品製造販售證明（CFS）的要求、取消化妝品廣告事前審查機制，並且清楚說明負面表列上的成分超出殘留微量標準時將被禁止。

議題五：落實完善政府的四大要素

面對當前全球經濟蕭條，民眾期待政府帶領大家度過這波金融風暴；對於如何達成這個目標，所有人最希望看到的是一個「完善的政府」。從商業與零售相關業者的觀點，「完善的政府」「四要素」(Four Cs)，分別為：法規規範與執行一致性(Consistency in Regulations)、雙向溝通效率性(Efficient Two-Way Communication)、公平競爭的環境(a Fair Competitive Environment)及危機處理有效性(Effective Crisis Management)，以下分述。

法規規範與執行一致性(Consistency in Regulations)

誠如議題二所述，台灣的許多法規常無法同步採用其他國家沿用之國際準則，甚至出現本國法規互相衝突的現象。有鑑於此，本委員會強烈建議政府採取國際最佳慣例，而非台灣獨有的標準，造成政府、企業、消費者不必要之額外成本。

農藥殘留—既與國際標準不同，又與國內其他法規不一致的例子之一是農藥在食物中的合格殘留劑量。美國、日本容許小麥的馬拉松農藥(Malathion)殘留上限為8ppm，但台灣規定小麥的殘留上限僅為0.5ppm，而對甘藍菜及萵苣，則容許2ppm之殘留上限。這兩者之間的差異令人難以理解，尤其小麥的農藥殘留對人體健康影響較蔬菜低，因為蔬菜通常可生食或以較少烹煮調理即可食用，而小麥則須先去殼處理。這些規定對業者造成許多困擾，因為穀物供應商難以專為台灣生產較低農藥殘留度的小麥，造成小麥輸入台灣成本較高，或供應中斷。

進口海關稅則—海關人員因個人判斷來認定進口產品稅則號列，經常造成進口商很大的困擾。例如，某進口商連續三年適用之進口稅則，卻突然被告知該稅則號列有誤需改變。若更新稅則號列後之適用關稅稅率較高，則海關將連帶追溯徵收過去半年之關稅差額。在這個例子中，若進口商早已銷售完前幾批產品，將被迫自行吸收補繳關稅差額的損失。另外，新的稅則號列亦可能對不知情的進口商造成限制進口商可能被迫退還或銷毀貨品，而造成大筆損失。

抑芽劑（CIPC)—抑芽劑的禁用是另一個台灣並未採用國際標準的例子。多年來，美國、英國、法國、澳大利亞、日本和中國，在馬鈴薯儲存期間早已允許廣泛的使用抑芽劑。抑芽劑已被證實不僅對人體無害，且對於抑制馬鈴薯發芽相當有效。然而，在台灣無法使用抑芽劑，對台灣農民及產業十分不便。由於台灣天侯因素，馬鈴薯收成一年只在春季一穫；若不使用抑芽劑，馬鈴薯僅能冷藏使用至秋季，因此在秋冬時必需仰賴進口。若台灣國產馬鈴薯被允許使用抑芽劑，將能降低至少一半的馬鈴薯進口量。矛盾的是，依台灣法規，所有的進口馬鈴薯必須使用抑芽劑，這表示抑芽劑的使用是可被接受的，也讓國產馬鈴薯禁止使用抑芽劑更加令人費解。

雙向溝通效率性(Efficient Two-Way Communication)

本委員會呼籲政府與產業界建立更完善的雙向溝通管道，尤其是在施行法規改革規劃時與執行前，須有充分溝通。雙向溝通有助於食品製造商及零售商獲得足夠時間，為各種法規改變和管理成本的增加做好準備，也能夠幫助政府了解新法規對商業與消費者可能衍生的成本衝擊。

公平競爭的環境(A Fair Competitive Environment)

「公平的競爭環境」多年來為國際商業之重要議題之一。每當新法規施行，應以對所有企業一致及公平的方式實施，不論是國內或

國外企業、或其規模及通路類別。

環境保護署於2007年實施「事業廢棄物清理計畫書與網路傳輸方式申報廢棄物系統」。這項政策由公告至執行，只有兩個月緩衝期，且對食品業的實施範圍，僅限定於相關大規模食品製造商、加工製造商以及西式連鎖速食店。為考量公平原則，並完全發揮環境管理的有效性，我們鼓勵環保署逐步擴大該政策至已登記之各大小餐廳服務業者以及食品製造商。

同樣地，烹煮設備、廚房環境以及顧客座位等相關法規，應該落實到所有相關業者，並由衛生署管控食品衛生、建築安全及消防措施。此外，由於商業通路不斷更新，政府也應充分掌握各種新發展。例如，越來越多便利商店或其他零售業已開始提供熟食與用餐座位，依據公平管理原則，這些通路應同時適用餐廳管理法規規範。

危機處理有效性(Effective Crisis Management)

預期及評估與公眾健康與安全相關的風險，為政府眾多工作之一，並於潛在危機發生時與公眾溝通。以2008年的三聚氰胺事件為例，政府固然學習到許多經驗，但卻造成所有相關零售業者、進口商與本地食品製造業將近數百萬的額外成本與利潤損失。

若未來發生危機，政府相關單位應以有條理而有效的方式與業者溝通，並及早提供即時、精確、及完整的資訊給消費者。另外，政府也需要一個能顧及商業現實及民眾需求的管理機制，同時顧及平衡媒體與政治壓力。這不是件容易的工作，但若能有效達成，將為政府贏得廣大的尊重。

稅務委員會

稅務環境之優劣，對於吸引外商投資台灣及使台灣成為具有國際競爭力之經濟個體，具有舉足輕重的影響。稅務委員會在此建議政府須持續進行稅務改革以改善投資環境。同時，稅務委員會也感謝政府歷年來用心聆聽外商的意見，並努力為外商所提出的問題尋求解決方案—譬如財政部已發布數個解釋令以澄清企業併購交易衍生的稅務問題。

在今年的白皮書中，稅務委員會謹提出下列亟需財政部回應的議題。其中部份為新議題，另一部分議題則於往年提出過，但迄今尚未獲得解決，我們希望財政部能儘速明確回覆。本委員會期望能夠持續與財政部共同建立一個與國際租稅實務更加接軌的稅務制度，並希冀台灣商業環境的吸引力及競爭力能更上一層樓。

議題一：釐清台灣來源所得的範圍並允許外國營利事業得選擇以自行申報方式就台灣來源所得（利潤部分）完納我國所得稅

稅務委員會已於2008年白皮書提出此議題。依據現行台灣稅務實務，稅務機關傾向廣義解釋台灣來源所得。支付給外商的款項常被歸類為是台灣來源所得的「其他所得」，即便是服務提供地在境外所取得的款項，皆被視為是台灣來源所得。稅務委員會在此期許財政部能釐清台灣來源所得的適用範圍及服務提供地之爭議，提供清楚且明確的解釋，以便納稅義務人遵循。再者，外國營利事業的台灣分支機構常被要求依據集團全球移轉訂價政策之規定分攤支付移轉訂價費用，上述費用支付予國外時不應被視為是外商的來源所得並被扣繳。此外，除了20%扣繳機制外，我們建請讓外商有選擇以申報方式完稅之機會，此舉將使被視為有台灣來源所得中的「其他所得」或「營業利潤」的外商也能享有與其收入配合的相關成本費用扣除的權利，使外商僅就所得額而非收入納稅。我們了解財政部針對此議題的委外研究報告的結果已經出爐，該研究報告建議，如外商在台灣有營業利潤，該外商可選擇以申報方式扣除相關成本費用以完納稅捐。財政部對此議題已有初步見解。稅務委員會在此希望財政部能採納該研究報告的建議，對於外商申報機制規劃出明確的執行日期。

議題二：解決政府機關間對於稅法釋疑的歧異

政府機關間對於稅務議題的見解長久以來均存有歧異，導致稅務爭訟難以解決。以下為相關案例：

一、財政部及稅務機關對於標準化軟體的認定頗有落差

依據《所得稅法》之規定，軟體授權收入為台灣來源所得。當授權人為在台灣無固定營業場所或營業代理人之外商時，被授權人需於付出軟體使用之權利金給授權人時扣繳20%所得稅。然而，依據財政部民國96年四月九日台財稅第09604520730號函，外商向台灣被授權人收取標準化軟體授權收入應被視為國際貿易之收入，台灣被授權人無須於付款給外商時扣繳所得稅。該解釋令也定義「標準化軟體」為非客製化軟體，一般而言使用者不得為重製、修改、轉售或公開展示等行為。

然而，當外商授權人針對其授權產品尋求稅務機關釐清是否可適用上述函令時，稅務機關可能要求外商提供繁多的證明文件，但之後又不給予明確回覆，或者就逕自根據其主觀見解，認為不適用上述函令。曾有案例為：被授權人購買一萬份特定軟體，外商授權人並非交付被授權人一萬份軟體，而係運送一份軟體與被授權人，同時允許被授權人得重製九千九百九十九份。另一案例為：外商運送一萬份軟體予被授權人，該外商並同時賦與被授權人就運送途中損壞之軟體數量重製之權利。在上述二個案例中，稅務機關均以被授權人擁有軟體之重製權而認定不適用上述函令。

在上述函令中，財政部對標準化軟體之定義是明確的，然而稅務機關的擴張解釋常造成其與外商軟體授權人間之爭議。稅務委員會在此呼籲稅務機關就此標準化軟體認定之議題應與財政部做好完善的溝通。

二、工業局及稅務機關對於研究發展支出投資抵減及權利金免稅審查之認定常有不同見解

1. 研究發展支出投資抵減

目前針對公司研究與發展支出適用投資抵減訂有審查原則以供稅務機關遵循。惟實務上，稅務機關的審查趨於嚴格。如研發計畫並無取得專利，稅務機關於核定抵減稅額時，並不會主動要求工業局協助確認是否有研發事實，而逕予否准適用投資抵減。在大部分情況下，工業局都會認同確有研發事實，然而稅務機關於否准納稅義務人適用研究與發展支出投資抵減時並未將工業局之認定列入考量。有部分案例稅務機關於復查階段會同意納稅義務人有研發事實，然而經過協談之後也僅准納稅義務人抵扣50%之投資抵減稅額。稅務委員會在此呼籲稅捐機關應與工業局做充分的溝通，並調整其對於認定研發投資抵減稅額的政策。

2. 權利金免稅

外國營利事業於取得工業局核准適用《所得稅法》第四條第二十一款權利金免稅規定後，需依《所得稅法施行細則》規定向稅務機關申請核辦。實務上當外國營利事業向稅務機關申請核辦時，稅務機關一般會要求舉證本國公司因採用該權利或技術因而支付之權利金款項是否與其因而獲得之經濟效益相當，此等額外要求扭曲了權利金免稅的立法意旨。稅務委員會建議稅務機關應與工業局達成共識，尊重工業局對於申請權利金免稅案件做成的決定，或明訂申請權利金免稅之應備文件以利遵循。

三、申請適用租稅協定優惠時迭遭困難

稅務委員會曾於2008年《白皮書》提出此議題。如之前已解釋過的，租稅協定根本目的在於促進協訂雙方國家的稅務居民租稅上的互惠。在台灣，適用營業利潤免稅需經事先核准程序，而其他租稅協定簽署國家並無此項規定。此外，於此項事前核准機制下，申請適用租稅協定之稅務居民常被要求需準備並提示可觀之文件，故而增加了申請人的行政程序負擔。再者，於申請適用租稅協定的稅務流程上，對於申請人是否符合租稅協定的申請要件，如被認為構成在台灣有固定營業場所的門檻等，不同稅務機關的見解亦有不同甚或矛盾之處。常見的是稅務機關將屬於外商之營業利潤歸類為權利金或其他收入，此舉已造成了租稅協定所訂之優惠因而消失或難以取得的情況。稅務委員會了解財政部已經正視這個問題，並積極草擬適用租稅協定的查核準則。稅務委員會在此也敦請財政部於前述查核準則公布施行前，能事先蒐集各方公眾意見，以確保該查核準則草案能就重大稅務問題加以釐清。

議題三：解決營利事業幫外籍員工繳納個人所得稅的循環課稅問題

依據財政部民國97年九月三日台財稅第9704042610號函，自民國98年一月一日起，營利事業代外籍員工繳納之個人所得稅視為外籍員工取自營利事業之贈與性質，為外籍員工之其他所得，應依法課徵該外籍員工之所得稅。上述解釋令亦提及營利事業代外籍員工繳納之所得稅不得列為營利事業之費用。稅務委員會建議，既然外籍員工必須將營利事業代付之所得稅列為個人應稅所得，則稅務機關應考量准許營利事業將該代付外籍員工所得稅之金額認列為費用。

此外，上述函令亦造成循環課稅及稅務申報遵循之問題。舉例而言，如營利事業於民國99年代外籍員工繳納其民國98年個人所得稅一百元，該代繳的一百元所得稅將視為外籍員工之其他所得，該一百元衍生的二十元所得稅又需被列入外籍員工民國99年的個人所得課稅。前述二十元衍生的所得稅又因營利事業代繳之故，再度需被列入外籍員工民國100年的個人所得課稅，如此年年循環不已，導致外籍員工須永無止盡地申報其個人所得稅。我們相信前述稅務申報問題的產生並非財政部當初發布上述解釋令的原意，因此，稅務

委員會建議，財政部能於深思熟慮後盡速發布新的解釋令以解決上述問題。譬如，新的解釋令或許可以明訂當外籍員工離境時，營利事業代外籍人員繳納之所得稅即無須列入該外籍員工離境當年度之課稅所得。

議題四：釐清營業稅法有關勞務使用地之定義

台北市國稅局於民國97年二月二十九日發布個案解釋令給中華民國證券商業同業公會，針對國內證券商受託買賣國外有價證券，代投資人轉付國外複受託證券商相關費用之相關營業稅問題予以回覆。該個案解釋令認定國內證券商代投資人轉付國外證券商之手續費為營業稅課稅範圍，即便事實上國外證券商提供服務之地點係在境外。該解釋令係認為服務之使用人(國內證券商)係位於台灣，因此服務之使用地亦位於台灣。依據台灣《加值型及非加值型營業稅法》(以下簡稱《營業稅法》)之規定，銷售之勞務如在中華民國境內提供或使用者，係屬在中華民國境內銷售勞務而須課徵營業稅。但在前述案例中，服務提供地點及使用地點均不在中華民國境內。因此，該案例除國內證券商應就其自投資人收取之服務收入總額繳納2%總額型營業稅外，應無購買國外勞務應繳納營業稅問題。稅務機關僅單就國外勞務之使用人係在境內即逕予認定國外勞務之服務使用地係在境內，將使用人及使用地劃一等號，係屬對營業稅法課稅範圍之誤解。

我們了解賦稅改革委員會(以下簡稱賦改會)正審視本議題中，且初步的委外研究報告亦已公布。該委外研究報告建議國內證券商應只就本交易收取之服務收入淨額繳納2%總額型營業稅。此外，該研究報告亦認定國內證券商買受國外證券商之勞務應課徵2%總額型營業稅，而非5%加值型營業稅-該研究報告建議此點應透過修正《營業稅法》第36條來解決。雖然委外研究報告之上述見解可以解決現行重複課稅問題，然而該等見解的法源基礎似有值得商榷之處。

我們期許財政部能深入研究「勞務之使用人所在地」並不等於「勞務之使用地」此一見解。如此一來，對營業稅法的解讀方能回歸其立法意旨。(而國內證券商受託買賣國外有價證券，並轉付國外複受託證券商相關費用之營業稅重複課稅問題自因勞務之使用地在境外，非屬營業稅課稅問題而迎刃而解)。

議題五：審慎處理衍生性商品課稅問題

稅務委員會讚許賦改會已著手討論衍生性商品之課稅問題。為了建立相關課稅制度的簡單性、一致性及公平性，賦改會決議對衍生性商品課徵固定的10%稅率，且立法院亦將進行相關立法事宜以執行上述決議。在台灣於鼓勵金融商品之創新及多樣化的同時，對於衍生性商品之課稅措施將會影響金融市場的發展。

但稅務委員會希望強調的是，即便對衍生性商品課稅有其必要性，財政部亦應考慮將衍生性商品之課稅制度與國際潮流接軌。考量衍生性商品本身之複雜性及該商品可能是數項金融商品結合而成，財政部宜對衍生性商品有明確定義並認知許多衍生性商品產生之實質所得係一淨額概念。稅務委員會敦請財政部於衍生性商品課稅制度定案前先聽取多方公眾意見，如此一來方能確認此項課稅措施係經過深思熟慮後的結果。

議題六：考量將個人海外來源所得列入最低稅負制之負面效應

行政院於民國97年九月十五日公布，台灣個人需自民國99年一月一日起將個人海外來源所得列入最低稅負制申報。海外共同基金市場已經感受到壓力，因為許多國內投資人已在考慮降低投資額，或是轉由未經核准的地下管道投資，以規避未來可能的租稅負擔。新制預期的負面效應是，既減少台灣人尋正當管道進行海外投資的意願，讓民眾處於更高的風險中；也可能限制了由於遺贈稅率的調降正將快速發展的資產管理業務，嚴重影響台灣成為亞太金融中心的目標，此項措施也可能導致外商主管不願長駐台灣，並降低台灣市場之吸引力。

稅務委員會了解行政院刻正考慮是否將個人海外來源所得於民國99年開始課徵最低稅負之規定取消。我們敦請政府單位能審慎思考將個人海外來源所得列入最低稅負制實施後之眾多負面效應。

科技委員會

過去數十年來，高科技產業一直是台灣經濟成長的主要動力，但遭逢經濟低迷時，卻也可能是受創最重的產業。美國商會科技委員會認為政府應採取行動，在當前衰退時期為高科技產業尋找出路。我們鼓勵政府在振興經濟方案中採取創新手法，一方面協助高科技產業尋回活力，同時亦改善包括醫療與教育等方面的公眾服務。

本委員會亦期盼喚起政府正視網際網路產業缺少政策主管機關的議題。有鑒於產業每日持續地變遷與發展，政府應投入足夠的關注與資源，以解決網際網路產業最關心的各項議題。

為配合政府政策，帶動世界級技術的發展與應用，藉以促進台灣的經濟成長與繁榮，本委員會希望與政府相關單位探討以下議題，並協助政府找出可行的解決方案。

議題一：以創新方法刺激經濟成長，同時改善醫療與教育的公眾服務

根據「連通美國」(Connected Nation)以及資訊技術與創新基金會(Information Technology and Innovations Foundation，ITIF)最近發表的報告顯示，運用科技改善醫療與教育等公眾服務，對社會福利有極大的貢獻，更創造經濟的價值。由於台灣的寬頻基礎建設已相當成熟，讓這些公眾服務領域有效地運用科技，亦能為台灣的資訊科技產業創造更多商業機會。除了本地市場在硬體裝置、應用軟體、解決方案、以及服務等方面的消費商機外，當全球各地的政府正尋求各種途徑來刺激其國內經濟的同時，台灣的成功建置經驗亦有助於擴展海外市場版圖。

醫療

「連通美國」(Connected Nation)最近的報告指出，美國的寬頻普及率只要提高7%，就能立即省下六億六千二百萬美元的醫療成本，並在資訊科技與醫療服務領域創造許多新的工作機會。此外，ITIF亦預測，與醫療服務相關的刺激經濟方案(包括資訊科技與非資訊科技領域)將為美國帶來二十二萬二千個工作機會。本委員會建議台灣研究以下兩個能為醫療產業帶來潛在利益的作法：

- 各級醫療機構全面採用電子醫療記錄(electronic medical records，EMR)以提高資料的效率與正確性。
- 所有醫生與醫療社工全面運用個人運算系統以提高生產力，減少外派出勤的需求以降低成本，讓醫療資料與處方能快速即時處理。

這些計畫能協助政府更妥善控管醫療成本、讓民眾更容易運用醫療資源、以及提高照護的品質與提高效率。以加拿大衛生部為例，該部門預測EMR/PC的採用計畫，一年可望省下六十億美元的成本。同時，該部門還創造許多新工作與新服務的發展機會，進而帶動國內經濟的成長。

教育

為進一步利用台灣目前每所學校建置的寬頻基礎建設，政府可考慮以下兩項建議:

- 加速運用一對一的學習模式，為每位教師與學生提供行動運算裝置，加上互動式學習內容，促進更高的學習效率與合作成效。
- 部署整合式學生資訊系統，創造更好且更有效的學生評估與管理系統

議題二：研擬有效政策以規範網際網路產業

隨著台灣的網際網路用戶與線上交易的數量持續攀升，網路安全與資料保密也成為大眾熱烈討論的議題，但卻未得到政府同等程度的關注。根據趨勢科技全球電腦病毒防範研究與支援中心發表的報告，在2009年第一季，台灣有三千四百五十萬部電腦曾被電腦病毒入侵，使駭客得以竊取得個人資料與機密資訊， 這個數字較2008年同期增加279%。然而，目前沒有任何一個政府機關負責統籌協調政府資源，讓各個職掌網路犯罪與資料保護工作的公家機關能夠相互合作。因此，網際網路產業的業者被迫跑遍各個機關部門，包括資策會、行政院科技顧問組、國家資訊通信發展推動小組、國家通訊傳播委員會、法務部、消保會、警政署、經濟部、以及經濟部智慧財產局等，以尋求政府的指導與支持。

本委員會敦促政府盡快採取行動，協助解決大眾與業界的問題，並以下列措施為首要推動目標：

網際網路犯罪

目前網際網路犯罪都是由地方警察機關獨立調查，缺乏事權統一的主管機關負責統籌協調。由於網際網路犯罪鮮少侷限在地方層級，共犯常常遍佈多個國家甚至全世界，因此必須有一個機關負責監督事務的執行並協調分配各項資源。委員會建議警政署現有的科技犯罪防治小組應肩擔起這項任務，以便更有效地打擊網際網路犯罪。此外，由於在追蹤網際網路犯罪時，經常發現源頭來自中國，因此台灣政府應尋求中國政府的承諾與合作，共同對抗網際網路犯罪。

資料保護

委員會期盼目前被立法院擱置的《個人資料保護法》增修條文能順利通過。提案修正版本將法案的適用範圍擴大到所有行業，並提高違法的罰則。但除了立法外，本委員會相信政府當局也應採取預防措施，擬定透過電子型態收集與/或處理的個人資料的各項準則規

範，以提供企業遵循。例如，政府應要求或鼓勵這類企業從政府指定的機構取得認證，證明其隱私保護與防毒機制的有效性，協助確保公司的個人資料將受到妥善的保護。

議題三：取消政府採購合約中轉移智慧財產權的要求

在台灣政府採購標案的規則與條款中，通常要求廠商(如資訊科技製造商、系統整合業者、應用解決方案的開發服務供應商)將所有相關的智慧財產權讓渡給採購的政府機關。幾乎所有大型跨國企業皆無法接受這項要求，因此這類廠商通常會拒絕直接針對這類採購案進行投標，並安排第三人代為投標。跨國企業將智慧財產權授權（而非移轉）給第三人，再由第三人將智慧財產權授權給採購單位。這種複雜的安排讓跨國企業在進軍台灣市場時，倍感挫折。

我們認為，假如政府是為避免對台灣不友善之國家透過合約獲取與台灣發展相關的敏感軟體技術（如涉及軍事之技術），應直接針對此議題予以規範，而非廣泛地於政府採購合約中作移轉智慧財產權之要求。

公共工程委員會在2005年六月二十九日修正發佈的《財務採購契約範本》第十五條，規定採購單位可選擇要求永久無償的利用智慧財產權，或以約定授權方式使用智財權。雖然工程會已鼓勵採購機關考慮避免向廠商要求讓渡不必要的智產權，但大多數的政府單位在許多資訊科技採購案中，仍要求供應商移轉所有智慧財產權。如此一來，外國資訊科技企業通常會拒絕投標，導致台灣無法獲得最好的服務與解決方案，或是得和採購的政府機關就智財權進行冗長且令人挫折的協商。

從2006年起，本委員會每年都提出這項議題。我們再次敦促政府建立更明確的政策，讓廠商能在採購案中保有智慧財產權，並採取具體行動，確保該政策能落實到所有採購機關。本委員會亦建議工程會在對採購單位的年度訓練課程中，向負責政府採購的官員加強宣導這項觀念。

此外，政府應於採購合約中納入適當之條款。此等條款之建議內容如下：

「承攬人（資訊服務提供者）將明白列出交付予定作人之成品。承攬人或其委任之第三人為此等成果之著作人，擁有所有於提供服務過程中所創作成品之智慧財產權（包括於提供服務前即擁有之智慧財產權）。承攬人將交付一份成品複製品予貴單位。承攬人將賦予貴單位非專屬授權，使貴單位得於其單位內使用於此等成品……年。貴單位同意應在於授權範圍內重製成品時，同時複製著作權通知與其他載明智慧財產權歸屬之通知。於相關專利或著作權範圍內，雙方得自由使用於承攬人提供服務過程中，所有由承攬人個別或與貴單位共同所產生與發展之思想、觀念、專門技術、或有關系爭服務之技術。」

議題四：持續協助維護資訊科技協定（ITA）的關稅優惠待遇

資訊科技協定(Information Technology Agreement，ITA)是世界貿易組織(WTO)的一項協定。加入ITA的簽署國承諾免除對此協定涵蓋產品所課徵的關稅(如個人電腦、電腦印表機、電腦螢幕、半導體、以及電信設備)。目前有七十個國家簽署ITA協定，在全球高科技產品的貿易中，其涵蓋比例估計達97%。這項指標性協定，促進簽署國的創新、生產力、貿易、以及投資；而ITA也造就台灣為全球製造業首屈一指的高科技中心。

此協定自1997年生效後，許多更精密或技術更先進的ITA產品陸續問市。遺憾的是，歐盟執行委員會(EC)最近的舉動，讓此項協定面臨危機。歐盟執行委員將技術先進或更精密的ITA產品版本排除在ITA產品之外，並課以高達14%的關稅。在這些產品當中，某些產品與現有機種之間的差別只在於次要的功能或特色，然而關鍵的功能則完全相同。儘管經由雙方或多方與歐盟執行委員會協商，要求歐盟執行委員會切實遵行ITA協議，但歐盟執行委員會仍未改變其策略。

本委員會於2008年首度提出此議題。在2008年六月十二日，台灣常駐世界貿易組織代表團正式加入美國的行列，向世界貿易組織及歐盟執行委員會提出爭端解決諮商的要求。本委員會感謝台灣政府的果斷與立即作為，並鼓勵台灣繼續協助確保所有目前與未來的ITA成員國尊重其承諾，取消對協議涵蓋產品所課徵的關稅。

電信及媒體委員會

過去一年來，台灣的電信與有線電視市場成長遲緩，一方面是因為國際金融風暴，但主因是在於法令的不明確使業者暫停進一步的投資計畫。因為發展的延緩，台灣失去了一個迎頭趕上其他數位化國家的機會，也錯失繼續獲得外資青睞，並促進經濟持續發展的契機。

本委員會強烈建議國家通訊傳播委員會在未來的一年內制訂清楚的政策方針，並且將該方針公布週知。我們並要求國家通訊傳播委員會讓業界積極參與政策制訂過程，以充分了解業界所面臨的挑戰，惟有產官合作才能促進產業的復甦。為了配合馬政府刺激經濟發展並改善商業環境的政策，本委員會呼籲國家通訊傳播委員會儘快重新檢討並改進法規環境。本委員會在此提出下列幾點建議，期能協助推動台灣成為國際電信市場匯流中活躍的一員。

議題一：鬆綁電信及媒體事業

Web2.0使用者自製內容所產生的商業現象以及後續的大量投資，顯示出電信及媒體產業服務正逐漸朝新世代匯流服務的方向發展。Web2.0的發展及此類創新性的服務所產生的產能，主要來自於一個鼓勵低度管制、促進市場競爭及消費者選擇的法令架構。

台灣剛開始解除法令管制時，缺乏清楚的法令架構，再加上政府部門間的內鬥，使台灣錯失了發展新世代服務的機會。本委員會強烈建議台灣政府支持法令管制鬆綁，以使消費者能有更多的選擇並享有創新性的服務。法令管制的鬆綁，應確保所有市場參與者可以公開並及時參與討論相關議題。我們認為，目前的陳舊法令規定使台灣失去競爭力，且將使台灣進一步落後於其他已數位化的鄰國。

我們特別希望看到國家通訊傳播委員會允許由市場機制來決定市場發展及服務替換，因為傳統的電信及媒體服務終將匯流。若要在匯流的新世代促進創新，必須為所有電信及媒體業者建立公平公正的市場環境—無論業者原本來自於電信或媒體產業。

本委員會亦要求國家通訊傳播委員會解除電信及媒體服務的收費上限管制，讓市場機制來決定資費。目前的資費管制措施不但對業界產生負面經濟效應，亦阻礙了以服務決定資費的市場機制發展。台灣的消費者是聰明的，可以自行做購買的抉擇，法規管制應以促進消費者選擇的多樣性為最終目的。

再者，本委員會同時鼓勵國家通訊傳播委員會深入發展電信及媒體各類技術及商業管理專業，因為鄰近國家的早已開始朝此發展。政府部門對科技及實務商業運作的瞭解，將有助於更精確的制訂及執行務實長遠的國家政策，亦能讓消費者有更多選擇。

議題二：加強國家通訊傳播委員會的效能

國家通訊傳播委員會的威信及自主權，與國家通訊傳播委員會委員是否能與政府及民間均保持合法及中立的對話息息相關。國家通訊傳播委員會必須依合理的商業及科技慣例，建立促進各方公平競爭的法規管制環境，並消除內容發展與內容傳播的競爭障礙。此外，國家通訊傳播委員會委員必須具備豐富實務經驗與遠見，以協助電信及媒體產業轉型，因應國際競爭的挑戰。國家通訊傳播委員會的任務應著眼於協助現有及下一代電信服務業的成長、積極扶植新科技並排除不必要的法規限制，使台灣得以享受電信及媒體產業新契機所帶來的經濟成長。

本委員會建議國家通訊傳播委員會透過政策制定的過程來增進透明度，使政府與業界能有持續且公開的對話。我們鼓勵國家通訊傳播委員會，無論當前的政治環境如何，都將其優先議題化為清楚的行動計畫。再者，舉辦公聽會能確保國家通訊傳播委員會持續改善其長期閉門運作的模式，及正視重要及急迫的議題。公聽會的舉辦亦能使各方利益團體可以更瞭解國家通訊傳播委員會的立場並有效的提出自身看法，促進與國家通訊傳播委員會不間斷的對話。

目前國家通訊傳播委員會運作的方式，並沒有提供足夠的政策議程來建立完整的對話及與業者交換意見，亦沒有提供足夠的時間就重要政策建議作深入討論。本委員會仍持續聽到會員抱怨國家通訊傳播委員會並未給予業界足夠時間以瞭解並回應國家通訊傳播委員會的決策或政策提案。因此本委員會強烈呼籲，國家通訊傳播委員會應儘速建立一個政府與民間對話的環境。

我們亦要求國家通訊傳播委員會在任何審查程序前，將相關的法規及規定清楚的公告週知，並避免在案件討論過程中制定新的規定、規則或標準。一個一面審查一面制定出來的規則，不只剝奪了被影響者提出有效的回應的機會，更嚴重的製造了法令不明確感，使外資認為台灣的投資環境不臻理想。

本委員會建議國家通訊傳播委員會應該開始進行網站改版，建置對使用者更友善的網頁；特別是網頁可以提供國家通訊傳播委員會活動及審查事項的即時訊息，以及網路即時查詢申請案進度及政策問題問答。世界各國的政府部門，包括美國、英國及中國，都已透過官方網站與民間溝通及提供服務。

議題三：建立三合一匯流法規的開放討論公共平台

政府研議中的三合一匯流法規（即電信業、廣播業及有線電視業共通的法規管制架構）進展持續延宕。本委員會強烈建議國家通訊傳播委員會視三合一匯流法規為其最重要的工作，因為持續的法案延滯會使台灣在制定匯流管制環境上更加落後，進一步減低台灣對

外資的吸引力。

本委員會強烈建議台灣政府藉市場力量來促進匯流服務的發展。我們要求國家通訊傳播委員會依下列原則，就本議題召開公聽會：

- 鼓勵電信業者、有線電視業者及廣播業者公平競爭並促進匯流服務，使消費者能有更多選擇。國家通訊傳播委員會應該確保在三合一匯流服務的提供下，從媒體公司買賣到內容經銷，都有公平的競爭環境。由於科技日新月異，現行電信業者早已開始在全國提供數位媒體服務，然而政府法令仍持續限制有線電視業者可提供服務的區域。此外，政府應確保業者升級基礎設施時能享有挖路權，才能與所有電信業者做有意義的競爭。電信媒體市場的競爭在市場限制解除後將能蓬勃發展，且創新服務亦能展開，使業者能夠提供多樣性的三合一服務與消費者。
- 確保公平使用載具的權利：政府政策應鼓勵各類內容得以公平且公正的透過各類載具來傳播，也應該積極吸引外資投資台灣的內容製造及傳播產業，使台灣找回過去的光榮歷史。這樣的發展亦有助於台灣的廣告業及內容產業的發展。
- 實施分級付費制度以增加消費者的選擇：在台灣，有線電視業者每月資費有上限管制。在較開放制度的國家，分級付費制度使業者能夠就不同的服務收取不同的資費，對產業數位化及內容業者的投資具有鼓勵作用。台灣的消費者已經可以享受國外的高畫質數位電視（HDTV）服務，透過不同傳輸方式，可以接收超過一千個頻道。國家通訊傳播委員會不應再把有線電視產業當成民生必需產業來管制，反而應該讓市場來主導服務類型的提供，以滿足消費者不同的需求。既然電信與媒體產業的匯流已發生，國家通訊傳播委員會更應讓產業自行創新發展。
- 促進外資投資：國家通訊傳播委員會應避免針對已投資電信及媒體業的外資，採取限制性的管制措施，這樣的文化保護主義心態會抑制外資投注資金、管理技術、科技及新的國際化內容的意願。
- 使業者能發展並選用不同的技術來提供高速寬頻服務：國家通訊傳播委員會應建立規範，提供公平競爭的基礎及合適的誘因，鼓勵業者投資於新科技，如此可以(1)讓有線電視業者繼續升級網路並提供匯流服務，(2)讓固網業者繼續投資光纖到府的建設，(3)讓新進固網業者及台電研究透過電線管線提供資訊通訊服務的可能性，也(4)讓現有業者或新進業者提供無線寬頻服務，例如WiFi，WiMax，及/或LTE服務。

另一個值得關切的問題是下一代電信服務業必須符合「合法監聽」的規定。我們認為，對於同類型服務而言，新業者及現行業者的合法監聽認證標準應該一致。本委員會瞭解合法監聽的標準對於司法及國安單位相當重要，我們呼籲國家通訊傳播委員會儘速與合法監聽業務的主管機關 – 法務部調查局以及內政部警政署 - 溝通協調，建立一套清楚的最新標準。

議題四：執行科技中立的政策

政府的行政及立法部門必須與國家通訊傳播委員會合作，透過有效的頻譜規劃及鼓勵，引進新技術來建立發展匯流服務的環境。這包括提供適當的獎勵以鼓勵引進新傳輸技術以及提供新內容服務。不同的技術標準應被給予公平發展及商業化的機會，以提供更多的內容給消費者。電信服務及有線電視服務的界線正在消失當中，這讓台灣有一個絕佳的機會來促進創新，並在亞太地區成為管制改革的領導者。

國家通訊傳播委員會需要制訂清楚的規範、頻段及執照發放方式，以協助發展由行動接收裝置收看廣播電視的服務。頻譜是一項稀有資源，需要小心的管理，好使新創科技能夠有機會使用頻譜來做商業化發展。我們敦促國家通訊傳播委員會將匯流服務的提供當成優先政策目標，發展市場導向、促進競爭的管理架構，以吸引投資者並鼓勵創新及競爭。例如，無線多媒體服務為新興的服務，有意願及興趣的行動電視技術投資者，就應該被允許申請相關執照。此外，國家通訊傳播委員會分配頻譜時應保持中立立場，讓市場機制決定業者應使用哪一種技術。

最後，技術政策應與發照營運標準一致。就頻譜規劃而言，本委員會認為政府不應過度管制發照條件，如服務提供、申請資格、投資比例或合作對象，如此方可確保國內外投資者能持續投資發展並提供消費者更多元化的服務，而不必擔心法令規章的衝突或政治力的介入。

議題五：加強頻譜管理及落實國際最佳慣例

對消費者需求的瞭解、對有限頻譜資源的管理、及提供實用數位科技來吸引消費者並保障消費者的選擇，這些都是電信媒體產業發展的重要關鍵。台灣在實踐非線性觀賞及提供高畫質內容的能力上持續落後。同樣的，對於發展能夠促進電信及媒體匯流的新世代寬頻通訊科技核心技術能力上，國家通訊傳播委員會長期來都不夠努力。

呼應議題一的建議，本委員會強烈敦促國家通訊傳播委員會開始援用成熟市場的廣泛經驗，投資於頻譜及技術部門的技術及管理專業能力。本委員會亦敦促這些部門能主動的與國內外業者溝通，加強瞭解業界面臨的各類技術挑戰。這些技術資源能確保國家通訊傳播委員會制訂的管理規範時，將各類技術實務上的優缺點納入考量。如此做法亦可使國家通訊傳播委員會在制訂管理規範時避免只考量現今的政治立場一或甚至是只針對目前的消費者需求一反而能促使專業及服務價值的提升，讓台灣能夠在發展知識經濟上大躍進。

議題六：無線基地台的建置

台灣的電信及媒體業者對自身服務水準及提供服務的範圍，有一定的承諾；在國家通訊傳播委員會核發給這些業者的執照中，亦要求他們提供廣泛的覆蓋率。但是，社會大眾持續抵制設置於住宅區的無線基地台，讓這議題成為一個社會議題，並影響到現有的投資及增加投資的意願。世界各地都有獨立公正的科學研究報告，證明無線基地台及無線手機電池波對人體無害。

遺憾的是，國家通訊傳播委員會仍未能盡責地與相關政府部門合作，以公正可信賴的研究結果教育大眾。本委員會建議國家通訊傳播委員會應盡快與相關政府部門合作，處理這個問題，糾正大眾的錯誤觀念，以避免非理性的公眾反應，影響台灣無線通訊的發展。

交通運輸委員會

交通運輸委員會相信，完善且具有國際觀瞻的交通運輸體系，將是台灣未來持續經濟發展的關鍵契機。本委員會涵蓋的範圍廣泛，包含快遞貨物業、汽車業、航空業及海運業。雖然每個產業都有各自關心的議題，但是本委員的建言有著相同的目地，就是幫助培養現代化且具優勢的運輸和後勤平台，以幫助提升台灣整體的競爭力。

在這些產業的跨國公司已見證其他鄰國的迅速發展。台灣政府必須迅速找出自身的潛在弱點，擬定可行的策略，並且確保解決方案的迅速實施，以避免落後於其它國家。

本委員會期待在透過與政府單位及其他非官方機構的戮力合作下，得以針對各項交通運輸問題提出解決方案，並藉以提昇台灣競爭力。

快遞貨物業

議題一：放寬對快遞貨物重量之定義

台灣是亞洲中少數幾個對於快遞貨物重量有所限制的國家。根據台灣的《快遞貨物通關辦法》規定，快遞專區每件包裹限重七十公斤。全球快遞聯盟(GEA)及亞太區快遞協會(CAPEC)已自2006年起討論此議題。考慮到各種產業對於快遞貨物全年無休的通關需求增加，重貨以及多件數的貨件常常遭遇到無可避免的通關延誤。高科技產業的液晶顯示面板製造商，往往需要將其液晶面板與手持式導航設備(因具有高度安全需求)迅速出口通關以滿足市場需求，但每件包裹限重七十公斤的規範，嚴重阻礙加速通關的環境。本委員會建議政府儘速廢除快遞貨物之尺寸、重量、限價等規定，以解決自去年至今仍延滯而尚無明確進程的議題，進而有效地與國際慣例相契合。

議題二：取消快遞貨物必須黏貼發票於貨物之規範

為落實綠色環保的生態維護，世界海關組織(WCO)目前正積極推廣無紙化通關作業。世界海關組織之多數會員國早已取消於快遞貨物之上要求黏貼商業發票及相關單證的作業方式，改以在海關進行文件審核或貨品查驗之時，才要求貨物持有人將原始的商業發票及相關單證自電腦系統中列印出來以配合通關，使多數快遞貨品得以和一般空運貨物一樣，利用無紙化通關作業的方式完成通關放行手續。

為響應通關流程之簡化並參與貿易便捷化的國際性建置，各國的國際快遞業者均於多年前建置縝密且完善的進出口貨物商業發票，及其相關單證的電子檔案資料庫，並積極建置嚴格控管的通關作業流程，以配合各國海關推行貨物進出口無紙化通關。無紙化通關迄今已為全球九十餘國海關採納施行，其中並包含美國、加拿大、德國、日本等先進國家，及新加坡、韓國、香港、泰國、馬來西亞、菲律賓、越南等亞洲鄰近各國。

為有效提升台灣競爭力，本委員會強烈建議台灣政府著手研修《快遞貨物通關辦法》第十條及其相關規定，以契合國際關務的簡化趨勢。

議題三：修訂進口低單價貨物之委託書

因快遞貨物講求快速服務，快遞貨物未抵達前，一般已由電子傳輸報單內容項目，所以貨物一抵達倉庫，就可立即拆櫃、刷件、通過X光儀檢。而未經海關專家系統查核之貨物，可隨即由輸送帶送至出口區放行裝車而執行遞送任務。

實務上，依《快遞貨物通關辦法》規定，進口快遞貨物之收貨人、提貨單或貨物持有人及出口快遞貨物之輸出人，委託報關業者辦理報關手續者，報關時應檢附委任書，如報關業者無法證明其確受委託報關者，應由報關業者負應報責任。譬如，如果收貨人提供不確實的資訊報關，報關業者就要付觸犯法律與罰金的責任。

如果快遞業者於貨物抵達前，要依法與收貨人聯絡取得委任同意辦理報關，則約有一半以上之貨物將會停滯於倉庫，這就完全失去了快遞之意義。倘若快遞業者要達成對客戶準時送達的承諾，必定要冒觸犯法律及承擔所有的責任風險。這讓快遞業者陷入進退兩難的局面。

為了強化台灣快遞服務業，我們呼籲政府重新檢討及修正目前進口低單價貨物要求客戶提供委託書的法規。

議題四：取消或降低快遞通關處理費

全球經濟的蕭條，對各行各業造成很大的影響，快遞業也不例外。雖然政府陸續對許多行業或個人有多項的稅賦減免，但截至目前為止，政府對快遞服務業並無任何減輕稅賦的措施。

至2008年十月以來，快遞整體出口貨物量已減少至少40%，這對快遞業的財務是很大的衝擊。雖然如此，快遞業依然要支付每月龐大的快遞通關處理費。本委員會在此敦請關稅局，考慮取消或降低快遞通關處理費，協助快遞業者渡過這次的金融風暴危機。

汽車業

汽車業者對於政府在今年初發布的貨物稅減免政策以刺激汽車銷售表示感謝。我們企盼政府能給予更進一步的協助，幫助車輛業者能開拓區域的競爭力、調和車輛法規及簡化認證流程以降低業者的成本和時間。

此外，政府近期已公告對油電混合車及使用液態石化燃料(LPG)車輛之補貼政策。 我們欣見台灣的車輛產業政策以溫室氣體減量為目標，同時亦期盼政府獎勵政策能以降低排放之性能及效率為基礎，而非只針對特定技術。

以下為汽車業的幾個主要建議：

議題一：擴大對潔淨車輛的獎勵措施

我們呼籲政府能夠重新檢視現行對油電混合車及使用液態石化燃料(LPG)之補貼政策，並考量對其他替代能源例如柴油車、氫燃料電池車、生質燃料車等同樣具溫室氣體減量性能的車輛亦提供獎勵。以新的柴油技術為例，其溫室氣體減量效果遠比LPG車顯著，若能擴大目前的獎勵措施，將能更快及更有效率地導入潔淨車輛。

此外，我們也建議台灣成立「綠色車輛創意基金」，提供整個供應鍊指導綱領，並設立研發機構以發展綠色車輛科技。這樣的方式已在歐洲執行，例如近日歐盟執委會同意提供歐洲汽車業製造公會(ACEA)四百億歐元的貸款，來發展綠色技術，前兩期的貸款金額已於今年四月由歐洲投資銀行提供。

議題二：汰換老舊高污染車輛

政府於2009年一月起提供民眾購車優惠，凡購買2000c.c.以下小型車輛，將享有新台幣三萬元的貨物稅減免；我們建議政府能將此一獎勵措施擴大為建立汰換老舊高污染車輛機制。這個通稱為「cash for gas-guzzler」的制度已在其他國家施行，包括英、法、德、義及亞洲的新加坡、日本等，美國歐巴馬政府亦打算立法施行類似制度。除了具有環保效益，這個政策亦有助於帶動國內汽車產業的發展，並對政府提供額外的稅收。我們的具體建議為：

1. 推廣具有低污染排放及高燃油效率的車輛(符合歐洲五期污染排放標準)
2. 對老舊車輛汰換時，政府退回部份舊車的貨物稅，類似的政策已在新加坡及日本實施，其目標在於淘汰一半以上超過十年車齡的車輛。(該類車輛的污染排放，比現行新出廠車輛的排放高出五到十倍)
3. 對舊車出口時提供貨物稅抵減，該抵減可在購買節能標章車輛時使用。(類似加拿大綠色獎勵政策CAD92M)
4. 利用提高能源稅或貨物稅機制，加速高污染車輛的淘汰，並將所收的稅收用於獎勵高燃油效率及二氧化碳排放的車輛。

議題三：幫助車輛業者開拓區域競爭力

為刺激台灣經濟成長及就業率，台灣政府應利用台灣車輛產業成熟的工業基礎、製造能力及過剩的產能，考慮拓展成車外銷的機會。具體建議如下：

1. 推動與大陸之間的進口車輛互補政策，以擴大經濟規模。此一政策可包括相互配額制度或逐年消除稅率差異。
2. 確保台灣車輛製造業者參與較大區域市場的機會，例如與東協合作，相互提供車輛自由貿易。
3. 參考澳洲全球車輛變革政策（GATS），擬定以支持研究開發、設計及出口為目標的汽車業政策，並協助零組件供應鏈的重整以提高競爭力與可靠性。
4. 施行類似菲律賓及南非的出口抵稅機制，出口商可以獲得進口抵稅證明，在進口車輛或零組件時可以抵減。

議題四：改進車輛法規及認證制度

目前台灣車輛的法規及管理制度無法完全與國際的最佳實務一致。例如，台灣仍不接受歐盟的合格證，造成台灣車輛研究測試中心的嚴重負荷（事實上，目前該中心的法規測試案件早已超過負荷），而現有車款因為這些法規測試，也必須付出龐大的額外成本。

此外，台灣的車輛污染排放標準並不完全與聯合國/歐盟的法規一致，包括柴油車黑煙測試程序、污染排放量測時的進化系數、路阻設定及測試車重量等，這些的不一致性，造成業者在引進新車型的困難。

車輛安全標準方面，內裝材料耐燃性測試標準，應與聯合國/歐盟法規調和，以取代CNS13387，並給予既有車型更長的緩衝期，以符合新標準。我們也要求台灣政府在每次車輛安全法規修訂時，能確實遵守世界貿易組織（WTO）之貿易技術障礙（TBT）公告程序，以利各國了解修訂的原由及內容。

海運業

議題一：為海運業設計整合性振興景氣紓困方案

如同其他產業，航運產業受到全球金融經濟危機劇烈的衝擊。最近數月以來，貨運的需求已大幅降低，在未來的一到二年間，仍不太可能恢復至原來的水準。

為了因應這個情況，海運業者已作出許多努力以減低成本，維持企業的活力和生存。例如，業界已減低船隻運送的速度、合併或淘汰某些服務、並運用較小和較少的船隻和船班。全球一百三十一萬TEU容量的四百八十六艘貨櫃船，到2009年四月中為止，均已停運或進行保養中。

產業界為生存而奮戰不休之際，主管機關交通部卻始終未能提供振興紓困的方案。這一點特別令人感到擔憂的原因是，其他許多的國家都已提出各種不同的方法，來協助減輕航運業的負擔，例如：

- 泰國：取消燃料附加費，並減低曼谷港的港口稅。
- 新加坡：自今年四月一日起一年內，船隻停泊在港灣不超過十日者，除目前已實施的港灣捐20%折扣，再給予10%的額外折扣。
- 印尼：自二月十五日開始，三個月內，現行貨櫃處理費(CHC Tariff FCL, CHC Tariff LCL, and CHC Tariff Empties)，給予5%的折扣。
- 上海：自一月一日起至六月三十日止，上海港口群提供卸貨折扣暨上海碼頭的免費棧租。
- 韓國：以業績鼓勵方案獎勵轉運量；造訪量高的船隻，可降低2009年的港灣捐。此外，第二次造訪釜山北港和釜山新港的船隻，得百分之百免除港灣捐和碇泊費。
- 德國：交通部取消原定增加10%的Kiel運河稅，漢堡港當局取消原擬增加4%的港灣捐，自二月一日起生效。
- 美國：對於使用鐵路運送的貨櫃，或來自加州以外運送站的每一個貨櫃，洛杉磯暨長堤港口委員會減免碼頭的航運業者10%港工捐。

我們呼籲交通部研究上述範例，並與各港務局協調，為台灣航運產業，提出一個整體性的振興方案。長期而言，由於中國港口的興起，台灣勢必要面對日益增加的競爭，我們呼籲交通部儘速，研擬因應方案並採取改革措施，以增加台灣海運業的成本競爭力。