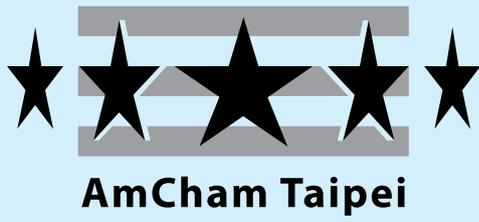


2013



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 more than 960 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.

Taiwan at a Crossroads

YEAR OF DECISION

- Decisions made in the coming year will be crucial to determining Taiwan's economic future. Facing pressure from other countries in the region – namely Korea and increasingly China – Taiwan risks economic marginalization unless it can sharpen its competitive advantages.
- Key challenges including attracting business investment from both foreign and domestic sources, achieving Taiwan's participation in emerging regional trade blocs, and ensuring sufficient infrastructure, particularly a continued adequate energy supply at reasonable cost.
- These challenges require urgent action. President Ma has the chance to establish his legacy as helping Taiwan advance to the next stage of economic development, but fulfilling these objectives will require political will and skill.

INVESTMENT ATTRACTIVENESS

- Taiwan is significantly underperforming as a destination for foreign investment.
- The Ministry of Economic Affairs should thoroughly reevaluate the foreign investment application approval process.
- To tap into the huge amount of private equity investment coming to Asia, the government should publish clear and comprehensive criteria for assessing investment proposals, with specific timetables for regulatory decisions.
- Regulations governing the inflow of foreign talent remain too restrictive. Delays and difficulties in bringing employees of affiliated enterprises in China to Taiwan are especially troublesome.
- Taiwan's high personal income tax deters foreign talent from entering Taiwan. The rule requiring foreign job applicants to have two years of related work experience should be dropped.

REGULATORY CLIMATE

- Several government agencies deserve commendation for implementing policies that advance Taiwan leaders' vision for an innovation-driven society and internationally integrated economy.
- At the same time, numerous examples of narrow-minded or protectionist policies by some government agencies run counter to the national goals of liberalization and internationalization. AmCham believes in strong consumer protections, but not "consumer populism" that also penalizes good business, and ultimately undermines customers and employees.
- Proposed amendments to the Consumer Protection Act are an especially egregious example. By granting unrestricted powers of inspection to consumer-protection officials, the amendment calls into question Taiwan's dedication to the rule of law.
- To establish itself as having the premier IPR regime in the region, Taiwan can build on its impressive achievements by enacting "patent linkage" and "data exclusivity" rules to better protect the intellectual property of drugs under patent,

establishing concrete measures to assure effective enforcement of the Trade Secrets Law, and blocking pirated content hosted on offshore websites.

AIMING FOR TPP

- The resumption of TIFA talks is cause for celebration, signaling the normalization of U.S.-Taiwan trade relations after five years of friction over the beef issue. It also sets up a mechanism to ensure steady progress for resolving outstanding bilateral disputes.
- Taiwan and the U.S. must move beyond the TIFA discussions, however, to actively explore ways to deepen and broaden their economic cooperation.
- Washington and Taipei both have an interest in providing Taiwan with an economic counterbalance to China.
- Taiwan's best option is to seek to enter the Trans-Pacific Partnership to secure its place in the international trade community. The accession process will encourage it to liberalize its trade regime for the overall good of society, just as preparations to join the WTO did in the 1990s.

ASSURING SUFFICIENT INFRASTRUCTURE

- In the transportation sector, Taiwan has done well in meeting growth in demand.
- But, whether Taiwan can secure sufficient electrical power supply remains in doubt. If the upcoming referendum halts construction of the Longmen nuclear power plant, Taiwan will face agonizing choices over how to meet its energy needs and carbon-abatement targets.
- To educate the public in the run-up to the referendum, AmCham urges the government, media, and other concerned parties to present information as clearly, fairly, and dispassionately as possible.
- In case construction of Longmen is halted, the government needs to be ready to implement contingency plans promptly.
- The government's announced plan to require major new projects to undergo an "energy review" will discourage investment by increasing uncertainty.
- When economic conditions permit, the government should raise the water tariff to encourage conservation.

A CALL TO ACTION

- In recent years, Taiwan's wage levels and have stagnated, consumer confidence is weak, and young people increasingly go to China to find good, high-paying jobs.
- Taiwan has the building blocks necessary to get back on track as one of the most vigorous economies in the region.
- To prepare Taiwan for the next stage of its economic development, AmCham urges President Ma to mobilize a national campaign with trade liberalization in order to enter the TPP as the overriding objective. Only urgent action can propel Taiwan out of its current doldrums. 

台灣經濟何去何從？

決定性的一年

- 台灣在未來一年所做的決定，攸關台灣經濟前途。台灣經濟面對來自南韓、中國等區域內其他國家的壓力，若無法強化競爭優勢，將被邊緣化。
- 台灣經濟的主要挑戰包括：吸引海外及國內企業投資台灣、促成台灣參與正在建構的區域貿易組織、確保基礎建設充足（尤其是能以合理成本持續提供充足電力）。
- 政府必須立刻採取行動面對這些挑戰。馬英九總統可藉此帶領台灣邁向經濟發展新階段，完成任內重大政績，但要展現政治意志與技巧方能達成目標。

投資吸引力

- 台灣在吸引外資方面的成果很不理想。
- 經濟部有必要仔細重新評估外國投資台灣之申請審核程序。
- 私募基金大舉投資亞洲市場，要有效吸引資金來台，政府必須公佈明確、全面的投資計畫審核標準，並為審核決定的產生訂定明確時程。
- 台灣對於引進外籍人才來台的規範還是過於嚴格。公司申請在中國相關企業的員工入境台灣時，也遭遇時效延誤或其他困難。
- 台灣個人綜合所得稅率較高，使外籍專業人才在台灣工作的意願較低。外籍人士必須擁有兩年相關工作經驗才能受聘從事白領工作的規定也宜取消。

法規環境

- 台灣政府首長有遠見要把台灣塑造成追求創新的社會，並要加速使台灣與國際經濟體系接軌。有幾個政府機關推動了有助於達成此目標的政策，值得稱許。
- 同時，仍有某些政府單位對政策做比較狹隘的解釋或採行保護主義政策，作法與政府高層揭櫫的自由化、國際化目標恰恰相反。美國商會非常支持消費者保護，但是無法認同傷害正派經營企業，至終損及消費者、企業員工利益的消費者民粹主義。
- 消費者保護法一項修正草案是一明顯例子。此修正內容賦予消費者保護官員對企業極大的檢查權力，如果確定如此立法，會使台灣推行法治的決心受到質疑。
- 要建立優良形象，使外界認定台灣相對區域中其他國家具備極完善的智慧財產權保護制度，台灣必須在現有的優異成績上繼續努力，透過專利連結與資料專屬權規定加強對專利藥品智財的保護，在營業秘密法修法完成後進一步以具體措施確保法律能

有效執行，並更積極取締海外非法網站上的盜版內容。

以加入TPP為目標

- 台、美之間重啟TIFA談判，值得慶賀，這顯示雙方貿易關係的發展在因美牛議題長達五年的摩擦延宕後逐漸正常化。雙方也建立了溝通機制，以確保彼此之間懸而未決的爭議能有進展。
- 台、美雙方都不能只把目標放在TIFA協商回復正軌，還必須積極探尋途徑，使雙方經濟合作的深度、廣度都增加。
- 台灣與中國經濟關係日益密切，台、美加強互動，維繫平衡發展，對雙方都有利。
- 台灣的最佳選項是爭取加入TPP，以更鞏固台灣在國際貿易舞台的位置，這個過程也能激勵台灣推動貿易自由化，造福社會，一如1990年代台灣準備加入WTO的過程伴隨而來的成長。

確保基礎建設充足

- 在交通運輸領域，儘管需求成長，台灣政府努力因應以滿足需求，成績不錯。
- 但是台灣究竟能否確保電力供應充足，還有很大疑問。如果全民公投的結果是停止龍門核四計畫，台灣必須面對該如何同時滿足電力需求與達成減碳目標的兩難。
- 在公投前對民眾有充分的教育很重要，商會建請政府、媒體與相關各方盡可能清楚、公平與冷靜地呈現核電議題相關資訊。
- 如果停止龍門核四興建，台灣政府必須立即採取有效應變計畫。
- 台灣政府有計劃規定新建重大工程必須接受能源審查，如此將增加工程的不確定性，妨礙投資。
- 政府應考慮在整體經濟情況好轉的時候適度調高水費至合理水準，鼓勵節約用水。

現在就要行動

- 近年來，台灣的薪資水準停滯不前，消費者信心疲弱不振，越來越多青年前往中國謀求待遇高的好工作。
- 台灣經濟具有基本條件，足以藉此返回正面發展軌道，重新成為區域內最活躍的經濟體之一。
- 為了幫助台灣迎接經濟發展嶄新階段，美國商會建請馬總統推動全國改革計畫，主要目標是藉由貿易自由化使台灣加入TPP。唯有迫切的行動才能使台灣突破現在的低迷局面。 ▣

Taiwan at a Crossroads

YEAR OF DECISION

Decisions made in the coming year will be crucial in determining Taiwan's economic future. With the right policy directions and content, Taiwan has the chance to sharpen its competitive advantages to help assure its long-term prosperity. Missteps or inaction, on the other hand, will relegate Taiwan to economic marginalization and block it from reaching its true potential. Other countries in the region – especially Korea, and increasingly also China – are progressing so rapidly that Taiwan may be hard-pressed to catch up unless it acts promptly and resolutely.

Following are some of the key challenges that Taiwan will need to face head on:

- Finding convincing ways to stand out among alternative destinations as a prime location for business investment from both foreign and domestic sources. In recent years, private investment in this economy has been sluggish, and the level of foreign direct investment (FDI) in particular has been woefully below what is common in most other major economies in the Asia-Pacific. Attracting greater investment is essential if Taiwan is to reinvigorate the economy. Only then can Taiwan create more and better-paid employment opportunities, as well as raising sufficient tax revenue to support public policies.
- Achieving Taiwan's participation in emerging regional trade blocs – notably the Trans-Pacific Partnership (TPP) – to maintain the competitiveness of Taiwan's products and services and to avert the chilling risk of commercial isolation. It is vital for the authorities both to convince other countries of Taiwan's commitment to trade liberalization and to build widespread domestic public support for more open markets.
- Ensuring sufficient infrastructure – particularly for electrical power generation – to properly support economic growth. Whatever the outcome of the ongoing public debate over the appropriateness of nuclear power, Taiwan needs to be certain of a continued adequate energy supply at reasonable cost – or else resign itself to sinking into a period of economic decline.

The necessity of tackling these challenges – urgently – is more and more evident. After a lackluster first-quarter

performance that fell well short of expectations, it is clear that recovery from the worldwide recession will not be quick or easy; in the absence of robust growth in export markets, the Taiwan government will need to make greater efforts to revitalize the local economy. At the same time, Taiwan's major rivals in the international trade arena have been moving expeditiously to integrate themselves into the global economy, as witnessed by Korea's conclusion of free trade agreements with both the United States and the European Union. For Taiwan, progress in entering into bilateral and regional trade agreements remains sorely limited.

Fulfilling the above objectives will require both political will and political skill on the part of the government leadership. Now well into his second term, President Ma Ying-jeou will inevitably be increasingly conscious that time is running out to establish his legacy. Actions taken in the next 12 months – before “lame duck” status begins to hamper progress – will be decisive in shaping the Ma administration's future place in history.

INVESTMENT ATTRACTIVENESS

Although Taiwan frequently scores relatively well on international competitiveness surveys, in practice those rankings do not translate into high levels of inbound investment. In fact, Taiwan is strikingly underperforming as a location for foreign investment. At US\$5.56 billion last year, the amount of FDI approved by Taiwan's Investment Commission – while a distinct improvement over the meager US\$3.81 billion of 2010 and US\$4.96 billion of 2011 – remains extremely low compared with such other economies in the region as Thailand, Vietnam, Indonesia, Hong Kong, and Singapore. The economy with which Taiwan is most often compared, South Korea, drew US\$16.3 billion in FDI last year.

A good place for the government to start in remedying the situation would be to conduct a thorough reevaluation of the foreign investment application approval process. Recently the Ministry of Economic Affairs (MOEA) took a welcome if modest step forward when it waived the need for review of such applications on investments of up to US\$1 million. That threshold could easily be raised many fold without creating any policy difficulties for the authorities.

Even more useful would be the adoption of several

suggestions made by AmCham's Private Equity Committee after finding that Taiwan embarrassingly ranks second to last among 17 Asian countries – behind Sri Lanka and ahead only of Pakistan – in attracting PE-fund investment. International PE funds have been a major source of investment capital flowing into the Asian region in recent years, but those funds have become virtually inactive in Taiwan after several high-profile investment projects failed to receive approval. To improve the system, the Committee requests that the government establish – and publish – clear and comprehensive criteria as the basis for assessing investment proposals, provide concrete explanations when proposals are rejected, and set specific timetables for regulatory decisions so that the application process does not drag on indefinitely.

Another negative factor in the investment climate is the still-restrictive regulatory regime governing the inflow of professional and technical talent from abroad. Despite some liberalization of the regulations over the years, foreign-invested and domestic companies still frequently encounter delays and difficulties in bringing employees of affiliated enterprises in China to Taiwan for training, conferences, short-term assignments, and other business activity. That inconvenience keeps Taiwan from taking full advantage of its geographical, language, and cultural links with the mainland, an unfortunate drawback given the growing role of China-based operations in companies' global and regional business models.

Also in the area of human resources, the steep personal income tax rate – 40% on income over US\$141,000 – deters highly experienced professionals from accepting job offers in Taiwan when the rate in several nearby markets is less than half that much. It is also time to drop the rule that foreigners can be hired for white-collar jobs in Taiwan only if they have two years of related work experience. Exemptions have been granted for workers in high-tech fields and graduates of Taiwan universities, but the overall policy remains in place. Rather than being a threat to local job-seekers, opening the door widely to the best and brightest from around the world will stimulate Taiwan's competitiveness and upgrade the capability of Taiwanese employees by enabling them to work within a more international environment.

REGULATORY CLIMATE

Taiwan's top leaders often speak eloquently of their vision for creating an innovation-driven society that is intimately tied into the international economy. AmCham's committees, in their individual position papers elsewhere in this volume, commend a number of government agencies for particularly positive efforts on this front during the past year – including the Financial Supervisory Commission for opening the Taiwan market to renminbi-denominated products and services, the National Communications Commission for preparing to auction spectrum for 4G mobile networks, and

the MOEA and Legislative Yuan for the prompt drafting and enacting of legislation to criminalize the misappropriation of trade secrets.

Yet the committees also cite numerous examples of narrow-minded or protectionist policies or interpretations adopted by some government agencies or civil servants who seem oblivious to the goals of liberalization and internationalization articulated by the top leadership. It also seems clear that even more examples would have been mentioned if some businesses did not fear repercussions from their regulators.

Many of these cases appear to stem from an evident trend that can be described as “consumer populism” – attempting to curry favor with the voting public by imposing often excessive restrictions on business in the name of protecting the consumer. Responsible companies also believe deeply in consumer protection, but some of the recent proposals would penalize good businesses along with the bad through unreasonable requirements. Those demands raise the cost and increase the difficulty of doing business, which will surely frustrate any efforts to promote more investment and ultimately undermine the interests of customers and employees.

To cite an especially egregious example, a draft amendment to the Consumer Protection Act would authorize the government to specify the terms and conditions that may and may not be included in businesses' standard contracts for a broad range of consumer transactions, with the definition of a “standardized contract” expanded to encompass all written information, including posters, brochures, and web pages. Such authority alone would be improperly intrusive in a private company's business activity, but the draft would go even further in empowering government officers to enter the premises of a company offering a standardized contract – without a warrant and without having to specify the purpose – to inspect its operations, an open invitation to abuse for purposes of political publicity.

Granting such unrestricted powers to consumer-protection civil servants has no precedent elsewhere in the world – another example of the unfortunate tendency of some government organizations to set unique-to-Taiwan regulations that add to multinational corporations' burden in operating in this relatively small-sized market. But beyond that, it would call into question Taiwan's dedication to the rule of law, which ought to be one of this country's fundamental strongpoints as an investment destination. Clearly, Taiwan must guard against any erosion of its commitment to rule of law, and in fact should look for ways to further burnish its reputation for having an exemplary legal system.

In terms of intellectual property rights protection, for example, Taiwan has made impressive strides over the past decade, but could still do even more to establish itself as the

premier IPR regime in the region. One such improvement would be to take steps to better protect the intellectual property of drugs under patent. These steps include “patent linkage” to check for possible violations before infringing products can reach the market and “data exclusivity” to control generics producers’ access to data submitted by the original manufacturer during the approval process. Other positive action would be to follow up passage of the strengthened Trade Secrets Act with concrete measures to assure more effective enforcement (as outlined in the Intellectual Property & Licensing paper), and to find ways to block pirated content hosted on offshore websites (see the Telecommunications & Media paper).

AIMING FOR TPP

The U.S.-Taiwan Trade and Investment Framework Agreement (TIFA) council meeting held this past March was a momentous event deserving of celebration, less because of any immediate results of the negotiating session than because it signaled that economic relations between the two important trading partners had returned to normal after more than five years of friction. The two sides had not sat down at the TIFA table since 2007 because of disputes over Taiwan’s restrictions on the import of American beef products, a disagreement largely resolved last year when Taiwan set a maximum residue level for the feed additive ractopamine.

AmCham is delighted not only that the TIFA process has finally been revived, but also that the two sides have set up a mechanism that hopefully will ensure steady progress on outstanding issues between them. Preparations are currently underway to organize two working groups to tackle matters related to investment issues and technical barriers to trade, respectively. These groups should provide an effective forum for resolving a number of the problems raised by AmCham committees in this *Taiwan White Paper*.

TIFA, however, must be viewed merely as a platform for discussing the varied concerns that routinely arise in the course of a trading relationship. Rather than being satisfied with the resumption of TIFA, Taiwan and the United States now need to actively explore ways to bring the depth and breadth of their economic cooperation to a whole new level. For political reasons, Taiwan has so far been excluded from most of the wave of bilateral free trade agreements (FTAs) and multilateral regional trade agreements (RTAs) that other countries have been pursuing following the lack of success of the Doha Round of the World Trade Organization (WTO). Although Taiwan has concluded an Economic Cooperation Framework Agreement or ECFA with China (now being fleshed out with agreements on trade in goods and in services) and is negotiating FTAs with the relatively small economies of Singapore and New Zealand, it has had to stand on the sidelines as rival Korea achieved FTAs with the United States and the European Union

It is not in the economic or political interest of either Washington or Taipei to see the Taiwan economy drawn ever closer to that of China. Both governments should welcome the opportunity to strengthen the U.S.-Taiwan economic relationship, both for its own sake and to provide Taiwan with a counterbalance to the pull toward overdependence on the mainland. One way of achieving that objective would be the negotiation of a “TAIUS” FTA, but practically speaking the U.S. government appears unlikely to pursue additional FTAs with any other countries for some time to come. Instead, its limited negotiating resources are being concentrated on the 12-nation TPP, as well as a prospective Transatlantic Partnership with the EU.

Taiwan’s best option is to seek to enter TPP. The result would be the equivalent of an FTA not just with the United States, but with a total of a dozen countries, including such other large markets as Japan, Mexico, and Canada. Besides assuring Taiwan of a place in the international trading community, the goal of joining the trade group would spur Taiwan to accept the high standards of market openness and commitment to international norms and practices that TPP aspires to. Just as preparation to join WTO encouraged Taiwan to liberalize its trade regime in the 1990s, overcoming opposition from certain protectionist-minded sectors of the economy for the good of the society at large, the process of accession to TPP would enable Taiwan to adopt necessary reforms despite the inevitable resistance to change in some quarters.

ASSURING SUFFICIENT INFRASTRUCTURE

A modern economy cannot function without an adequate infrastructure to support it. On the transportation side, Taiwan has done well in meeting growth in demand. The opening of the Port of Taipei in northern Taiwan, expansion of the freeway system, and preparations for building a third terminal at Taoyuan International Airport are all examples of recent efforts to provide facilities to meet future needs.

Whether Taiwan will have sufficient capacity in the critical area of electrical power supply, however, remains very much in doubt. The country’s energy planning has been based on the prospect that the fourth nuclear power plant, known as Longmen, would soon add 2,700 megawatts to the grid. But the already considerable anti-nuclear sentiment in Taiwan took on added momentum after the Fukushima disaster in neighboring Japan. As a result of the mounting political controversy, it will be left to a national referendum later this year to determine whether construction of the project will ever be completed.

Certainly the Longmen plant should be allowed to operate only if its safety is assured. But without Longmen, Taiwan will be facing some agonizing choices. Although serious conservation measures should be adopted and the use of renewable energy expanded, those steps alone would not be

enough to make up the gap and avert the prospect of rolling brownouts a few years down the road. Additional fossil-fuel plants would have to be built, whether fired by coal or liquefied natural gas (LNG). The choice of coal would mean either scuttling Taiwan's ambitious carbon-abatement targets or spending huge sums to buy carbon credits. The expensiveness of LNG would also threaten to erode Taiwan's continued industrial competitiveness.

In order to vote intelligently in the referendum, Taiwan's citizens will need access to full information on both sides of the argument. We urge the government, media, and other concerned parties to help further the debate by presenting that information as clearly, fairly, and dispassionately as possible.

In case the result of the referendum is to stop construction at Longmen, the government must also be ready to immediately move forward with alternative solutions to meeting Taiwan's power needs. It takes years to design and construct a power plant, and selecting a site for a conventional plant can be almost as controversial as for a nuclear facility. Fossil-fuel plants have also been subject to the "NIMBY" (not-in-my-backyard) syndrome of resistance from nearby communities. In fact, the major reason why the absence of Longmen would leave such a hole in Taiwan's power supply is that environmentalist opposition has delayed three coal-fired power projects originally slated to begin commercial operation this year; in two of those cases, construction has still not started. Even renewable energy projects have not been immune to NIMBY pressures. Recently plans for a wind farm in Miaoli had to be scaled back after nearby residents vehemently objected that the turbines would be too noisy.

An additional energy-related concern is the government's announced plan to require major projects, before beginning construction, to undergo an "energy review" in addition to the existing rigorous environmental-impact assessment. If the project's prospective power consumption exceeds the regional power-supply capability, the project will be rejected. This policy, which fails to recognize the obligation of a monopoly utility to meet power demand, will discourage investment by increasing the uncertainty surrounding pending projects.

Water supply is another crucial infrastructure issue, especially considering the heavy water needs of the high-tech industries on which the Taiwan economy is so dependent. Taiwan is never more than a few years away from a period of serious drought, and must find effective ways to reduce the current high volume of waste. Raising the water tariff, now one of the lowest in the world, to more reasonable levels after the economy begins to pick up would directly contribute to encouraging water conservation.

A CALL TO ACTION

Not so long ago, Taiwan was flourishing as one of the dynamic four "Asian Tigers." But in recent years, wage levels have been relatively stagnant, consumer confidence has been weak, and more and more young people are obliged to go to China to find good, high-paying jobs. What can be done to put Taiwan back on track as one of the most vigorous economies in the region?

In most respects, Taiwan already has the necessary components. AmCham's annual Business Climate Survey confirms what many international surveys have found: Taiwan ranks well in many categories, including the overall caliber of the workforce, managerial talent, manufacturing expertise, technological prowess, and (unless Taiwan allows itself to slide) rule of law. But the proof of whether Taiwan is indeed internationally competitive rests in how much investment capital both domestic and foreign businesses are committing to this economy. By that measure – as discussed above – Taiwan is faring poorly.

In international appraisals, Taiwan has usually ranked low in government efficiency, and respondents to the AmCham survey frequently fault parts of the bureaucracy for lack of transparency and consistency, and for deviating from general global practices. This 2013 edition of the *Taiwan White Paper* contains a total of 103 specific recommendations from AmCham's various committees on what the government could do to improve the business environment.

From a broader perspective, we urge President Ma to mobilize a national campaign to prepare the country for the next stage in its economic development. The overriding objective should be membership in TPP to ensure Taiwan's integration into the regional and global economies. A high-level task force on competitiveness should therefore be appointed to plot out precisely what improvements Taiwan needs to make in policies and regulations, both for its own sake and to convince the existing TPP negotiating parties that Taiwan is serious about joining them. The administration must then take steps to build widespread public support to ensure that the task force recommendations are implemented without undue delay. Bureaucratic lethargy or special interests, however vocal, cannot be allowed to stand in the way of progress that would benefit the society as a whole. As an island economy, Taiwan must always look outward, and with exports accounting for more than 60% of GDP, Taiwan has much more to gain than to lose from trade liberalization.

Only with such a concerted campaign, plus solid contingency plans to ensure a stable energy supply, can Taiwan break out of its current doldrums and seize new opportunities. But the exercise must start from a sense of urgency. Action is needed now, or Taiwan will find that its day has passed. 

台灣經濟何去何從？

決定性的一年

台灣在未來一年所做的決定，將攸關台灣經濟的前途。如果政策的方向與內容正確，台灣將有機會提升競爭優勢，確保國家長久的繁榮。但如果政策錯誤或者裹足不前，台灣的經濟將會邊緣化，真正的潛能無法發揮。區域內的其他國家在快速發展——尤其是南韓，中國的發展速度也越來越快，因此台灣若不快速採取果斷的行動，將會很難追趕。

以下是台灣必須正面因應的幾項主要挑戰：

- 找出具有說服力的方法，讓海外和國內企業認為台灣是投資的理想地點，不會想要到其他地方去投資。近年來，台灣民間投資並不活躍，所吸引到的外來直接投資金額，更是遠低於亞太地區多數主要經濟體。台灣想要使經濟恢復活絡，就必須吸引更多投資，因為這樣可以創造更多薪資較高的就業機會，政府也可以收到足夠的稅金，以推動公共政策。
- 要讓台灣參與正在建構的區域貿易組織——特別是跨太平洋夥伴協議，以維持台灣產品和服務的競爭力，同時避免經濟孤立這個可怕的風險。台灣政府必須讓其他國家相信，台灣決心推動貿易自由化，也必須在國內建立對於進一步開放市場措施的廣泛支持。
- 確保台灣有足夠的基礎設施——特別是電力供應，可以支持經濟的成長。目前有關應否廢核的辯論無論結果如何，台灣都必須要能夠以合理的成本持續提供充足的電力，否則只能面對經濟衰退的命運。

情況已越來越清楚：這些挑戰亟需即刻採取行動。台灣經濟今年第一季表現不佳，而且和預測相去甚遠。要從全球性衰退中復甦顯然並非易事，也不會很快發生。在出口市場沒有強勁復甦的情況下，台灣政府需要加強努力，為國內市場注入新的活力。同時，台灣在國際貿易場域的主要對手們正快速採取作為，積極與全球經濟整合，南韓與美國和歐盟分別簽署自由貿易協定，就是個例證。而台灣洽簽雙邊和區域貿易協定的進展卻仍相當有限。

要達到以上目標，需要政府高層拿出政治意志，並發揮政治技巧。馬英九總統第二個任期已超過一年，他應該越來越清楚，能夠奠定政績的時間在逐漸縮短。再過一年，「跛鴨總統」的效應會開始變得非常明顯，因此，未來12個月的行動，對於形塑馬政府的歷史定位將具有決定性的作用。

投資吸引力

儘管台灣在國際競爭力調查中經常有不錯的表現，但這些排名並不代表吸引大量外來投資的能力。事實上，台灣在吸引外資方面的成果很不理想。2010年經投審會通過的外來投資金額僅38億1,000萬美元，2011年增為49億6,000萬美元，去年雖然再增加到55億6,000萬美元，但跟泰國、越南、印尼、香港和新加坡等區域內其他經濟體相比較，這個數字非常低。最常被拿來跟台灣做比較的南韓，去年的外來直接投資金額達到163億美元。

台灣政府若要改善這個情況，可以先徹底重新檢討外來投資申請的審核程序。經濟部最近決定，投資金額在100萬美元以內的申請案可以不用審查，雖是小小的進步，但很受歡迎。政府可以輕易將免送審查的投資金額提高好幾倍，不至於有政策推行的困難。

政府若能採納美國商會私募基金委員會所提出的幾項建議，對吸引外來投資會更有幫助。該委員會發現，17個亞洲國家當中，台灣在吸引私募基金方面的表現排名倒數第二，只贏過巴基斯坦，連斯里蘭卡都不如。近來流入亞洲地區的資本當中，國際私募基金是一個重要的來源，但好幾項廣受矚目的投資計畫未能獲得台灣政府核准，此後國際私募基金在台灣就幾乎已經沒有動作。為了改善現狀，本商會私募基金委員會對台灣政府提出多項建議，包括：建立並且公布明確、全面的投資計畫審核標準；對未獲得核准的投資計畫，要具體說明原因；為審核程序訂定明確的時程，以免投資申請的審核程序無限期拖延。

台灣對於引進外來專業和技術人才仍有重重限制，這是台灣投資環境的另一個負面因素。這方面雖然多年來有些放寬，但外資和本國公司若想要把它們在中國大陸相關企業的員工調到台灣來接受訓練、開會、短期出差或從事其他業務上的活動，還是有遭遇困難或時效延誤的情況。這方面的不便，使台灣無法充分利用它在地理、語文和文化上與中國相連結的優勢。各國企業於中國大陸的業務，在其全球與區域商業模式中所扮演的角色日形重要，台灣的限制導致優勢無法發揮，實屬不幸。

同樣在人力資源方面，年收入超過141,000美元者，個人綜合所得稅率高達40%。這使得具有豐富經驗的專業人士不想接受台灣的工作機會，因為好幾個鄰近國家的稅率還不到20%。此外，外國人必須擁有兩年相關經驗才能受聘從事白領工作的規定也已經過時，應予廢除。儘管高科技領域人才和曾在台灣各大學取得文憑的外國人已不受這項規定限制，但這項政策本

身仍然存在。廣納世界各國最好的人才，不應被視為對本地求職者的威脅。對外來人才敞開大門可以激發台灣的競爭力，同時讓台灣的上班族在更為國際化的環境中工作，使他們的能力獲得提升。

法規環境

台灣的政府首長常談到要建立以創新為主的社會，與國際經濟體系無縫接軌。美國商會各委員會在本年度白皮書的不同篇章中，也稱許好幾個政府部門在過去一年特別正面的作為，包括金管會讓以人民幣計價的產品和服務進入台灣市場、國家通訊傳播委員會準備行動通訊4G執照招標、經濟部 and 立法院迅速擬定並修正通過懲罰侵犯營業秘密的法律。

但各委員會也舉出許多例證，說明若干政府部門和公務員採取保護主義政策，或對政策做狹隘的解釋，似乎無視於高層首長揭櫫的自由化與國際化的目標。很明顯地，若非有些企業擔心主管機關會有不好的反應，否則還會有更多類似例證。

許多例證似乎跟一個明顯趨勢有關。這個趨勢可以姑且稱為「消費民粹主義」一以保護消費者的名義，對企業施加過分的限制，藉以拉攏選民大眾。有責任感的企業十分認同消費者保護的重要性，但最近的一些提案包含不合理的要求，會使正規經營的企業跟無良企業同受責罰。這些要求導致企業成本上升，提高經營的難度，結果勢必造成所有鼓勵投資的努力打折，最終並將損及消費者和企業員工的利益。

舉個特別明顯的例證：根據消費者保護法一項修正草案，政府有權規定許多消費行為定型化契約的具體內容，而「定型化契約」的定義擴充適用於所有書面資料，包括海報、簡介手冊和網頁。光是這個權限，就是對民間公司的商業活動構成過度的介入，但修正草案還進一步讓政府官員有權進入提供定型化契約的公司視察，既不需要法院授權，也不用說明來意。這個權力容易因為政治宣傳目的而遭到濫用。

讓負責消保業務的公務人員享有如此大權，在世界各國並無前例。有些政府機構會訂定台灣獨有的規範，而這項修正草案正是這種不幸趨勢的另一例證。台灣的市場原本就不大，跨國企業在這個市場經營的負擔，會因台灣獨有的規範而更形沈重。除此之外，台灣做為法治的社會，原本應該是吸引外資的有利條件，但這樣的立法將會使台灣推行法治的決心受到質疑。當然，政府推行法治的決心不能有絲毫折損，而且事實上還應設法強化台灣法律體系健全的名聲。

比方說，在保護智慧財產權方面，台灣在過去10年有長足進步，但還可以有更多進步，使台灣成為區域內保護智財權成效最好的國家。一件可以做的事情，是強化對專利藥品智財權的保護，步驟包括「專利連結」，以便在藥品上市前確定是否有侵權問題，還有建立「資料專屬權」，使一般藥廠無法輕易取得原廠在藥品送審過程中提供的資料。其他積極性的行動，包括在通過加強版「營業秘密法」立法後，以具體措施確保法律能更有效地執行（參見「智慧財產權與授權委員會」建議書），並設法防止盜取的內容在海外網站上刊登（參見「電信及媒體委員會」建議書）

以加入TPP為目標

美台貿易暨投資架構協定（TIFA）聯合委員會議3月間舉行，這是件值得慶祝的大事，倒不是因為協商會議能立即獲得任何成果，而是因為這象徵兩個重要貿易夥伴間的經濟關係經歷超過五年的摩擦後已經恢復正常。自2007年以來，雙方一直未舉行TIFA會議，原因在於台灣限制美國牛肉產品進口引起的爭端，但這項歧見去年在台灣訂定了飼料添加物萊克多巴胺的最大容許殘留量後已大致解決。

美國商會所樂見的不只是TIFA協商進程終告恢復，還有雙方已建立了機制，希望藉此確保彼此之間尚未解決的議題能獲順利進展。準備工作已經展開，將設立兩個工作小組，分別處理有關投資議題和技術性貿易障礙的事務。這兩個小組應可提供一個有效的論壇，解決一些本商會各委員會在「台灣白皮書」所提出的問題。

不過，切記TIFA僅能被視為一個平台，用來討論貿易夥伴關係中經常出現的各種關切事項。與其滿足於恢復TIFA會談，台灣與美國必須積極探尋途徑，讓雙方經濟合作的深度和廣度達到全新層次。由於世界貿易組織（WTO）杜哈回合談判缺乏成果，其他國家都尋求締訂雙邊自由貿易協定（FTA）和多邊的區域貿易協定（RTA），但基於政治理由，台灣至今大都遭排除在外。儘管台灣已經和中國大陸簽訂兩岸經濟合作架構協議，即ECFA（近日正透過各項有關商品與服務貿易的協議補強），同時也與新加坡及紐西蘭等相對較小的經濟體協商FTA，但眼見競爭對手韓國已與美國和歐盟達成FTA，卻只能在場邊觀看。

坐視台灣經濟被拉向中國大陸，並不符華盛頓或台北的經濟或政治利益。雙方政府都應樂見任何可強化美台經濟關係的機會，不但是為了這項關係本身，也因為這將提供台灣一股平衡的力量，避免過度依賴中國大陸。要達成這個目標，方法之一是協商簽訂台美FTA，但實際上美國政府近期內似乎不太可能再協商任何新的FTA，取而代之的是，其有限的談判資源集中用於12國參與的TPP，以及可能與歐盟達成的跨大西洋貿易和投資夥伴協議。

台灣的最佳選項是爭取加入TPP。這個成果將相當於達成一項FTA，而且對象不只是美國，而是總共十多個國家，包括諸如日本、墨西哥和加拿大等其他龐大市場。把加入這個貿易集團當成目標，除了確保台灣能在國際貿易界占有一席之地，也能刺激台灣為TPP之追求而在市場開放以及信守國際規範和慣例方面達到的標準。1990年代，台灣為了準備加入WTO，積極推動貿易機制的自由化，並基於社會的整體利益，克服經濟中某些存有保護主義心態產業的反對。加入TPP的過程也將讓台灣採行必要的改革，儘管仍難免會有些人抗拒改變。

確保基礎建設充足

現代的經濟體若沒有足夠基礎建設支撐將難以運作。在運輸方面，台灣做得不錯，足以配合需求的成長。北台灣的台北港啟用，高速公路拓寬，以及準備在桃園國際機場興建第三航廈，都是最近致力提供設施以滿足未來需求的好例子。

不過，在重要的電力供應方面，台灣能力是否足夠，則還有很大疑問。台灣的能源規畫是基於龍門第四核電廠將很快增加2700百萬瓦供電的預期。但是鄰國日本發生福島核電廠災變

後，使台灣民間原已相當反核的情緒有如火上加油。政治爭議越演越烈的結果，就是將於今年底舉行全民公投，決定是否要完成龍門電廠的興建計畫。

龍門電廠當然要確定安全無虞，才應該獲准運轉。但是若沒有龍門電廠，台灣將面臨頭痛的選擇。不僅要認真執行節能措施，也應擴大使用再生能源，然而這些做法仍不足以彌補差距，亦無法避免今後幾年實施分區輪流限電的可能。增建化石燃料發電廠勢在必行，不論是燃煤火力發電廠或液化天然氣。若是選擇燃煤發電，將意味或者放棄台灣雄心勃勃的減碳目標，否則就是花費鉅資購買碳權。液化天然氣價格昂貴，也恐將削弱台灣的後續企業競爭力。

台灣的公民要在公投中聰明投下一票，將需要取得正反雙方的充分資訊。我們呼籲政府、媒體和其他相關各方，盡可能清楚、公平而冷靜地呈現這項資訊，以利促進這項辯論。

如果公投結果是停建龍門電廠，政府也務必要準備好立即推動替代解決方案，以滿足台灣的電力需求。興建電廠需要幾年時間設計和興建，而且選擇傳統電廠的廠址，可能會引發與核電設施幾乎同樣嚴重的爭議。

化石燃料電廠向來難免遭「不要在我家後院症候群」(NIMBY)影響，被附近社區居民排斥。事實上，少了龍門電廠所以會使台灣電力供應出現這麼大的漏洞，主要原因就在於環保人士大力反對，導致原定今年開始商業運轉的三座燃煤火力電廠進度落後，其中兩座電廠甚至尚未開始興建。

即便再生能源計畫也未能免除「不要在我家後院」心態帶來的壓力。在苗栗興建風力發電站的計畫最近就受挫，因為附近居民以風力發電機太吵為由強烈反對。

還有一件與能源相關的事也令人擔憂，就是政府計畫，要求所有重大工程在開工前，除了必須通過現有的嚴格環境影響評估，還要進行「能源審查」。如果工程的預期耗電量超過地區供電能力，則計畫將遭否決。這項政策未能認知獨占性公用事業有義務滿足電力需求，將增加未決計畫的不確定性，以致妨礙投資。

供水是另一個重要的基礎建設議題，尤其是考量台灣經濟依賴甚深的高科技業用水需求龐大。台灣每隔幾年就會出現嚴重乾旱期，必須找到有效方法減少目前的高用水量。台灣目前名列世界水費最低國家之一，若在經濟開始好轉後提高水費到比較合理的水準，將直接有助鼓勵節約用水。

立刻行動

不久之前，台灣還一片欣欣向榮，名列充滿活力的四隻「亞洲之虎」。但最近幾年來，薪資水準停滯不前，消費者信心疲弱不振，越來越多年輕人不得前往中國大陸，謀求待遇高的好工作。要怎麼做才能讓台灣重回正軌，成為這個地區最有活力的經濟體之一呢？

在大多數面向，台灣已經有必要的條件。美國商會的年度商業景氣調查證實許多國際性研究的發現：台灣在很多項目都名列前茅，包括勞動力的整體水準、管理人才、製造技術、科技能力和(除非台灣容許下滑的)法治。不過，要證明台灣是否真的具有國際競爭力，關鍵在於國內外企業承諾在這個經濟體投資的資金，而依此標準而言，台灣表現欠佳。

在國際性評比中，台灣的政府效率通常排名偏低，參與美國商會調查的受訪者也常批評，部分官僚機構缺乏透明度和一致性，且不遵守全球的通用慣例。2013年版的台灣白皮書總共包含103項明確的建議，出自美國商會的各委員會，就政府怎麼做才能改善商業景氣提出建言。

放大視野，我們呼籲馬總統發起一場全國性造勢，讓國家準備好迎接經濟發展的下個階段。最主要的目標應該放在加入TPP，以確保台灣能夠與區域與全球經濟結合。因此，政府應成立一個高層級的競爭力專案小組，精確提出台灣在政策和法規方面究竟必須作何改善，這不只是為了自己，也為了要讓目前參與TPP協商各方相信，台灣嚴肅看待加入TPP一事。接下來必須採取實際行動，爭取大眾普遍支持，以確定專案小組提出來的建議能夠付諸實行，不會無限期拖延。這種進步有益整個社會，不容受到妨礙，包括官僚怠惰和特定團體的狹隘利益，不論他們聲音多大。台灣是海島經濟，必須一直放眼天下，而且出口占了台灣國內生產毛額(GDP)的超過60%，貿易自由化對台灣是利多於弊。

若能同心協力展開這樣的造勢，加上準備完善的應變計畫確保能源供應，台灣將蓄勢突破目前的低迷局面，掌握住新的契機。不過，這項造勢必須由產生急迫感開始。台灣必須現在就有所行動，否則將發現大勢已去。



ONLINE ACCESS

The content of the *Taiwan White Paper* is available in the Publications section on the AmCham Taipei website (www.amcham.com.tw). Back issues are also included starting from 2007.

The Publications section also contains an archive of monthly issues of *Taiwan Business TOPICS* magazine going back to 2001.



Suggestion 1. Build on the TIFA momentum to set ambitious goals for the bilateral economic relationship.

AmCham Taipei is highly gratified that the Trade and Investment Framework Agreement (TIFA) process is back on track after more than five years without a TIFA Council meeting due to the prolonged dispute over Taiwan's restrictions on U.S. beef products. Although other issues continue to be outstanding, we earnestly hope that disagreements over a single commodity will never again stand in the way of holding regular discussions about the broad range of economic issues between the two countries. The hiatus in talks from 2007 until this March was unfair to the many other sectors of American business that deserve support from the U.S. government in promoting their commercial interests.

The Chamber is encouraged not only that the TIFA process has resumed, but that the two sides have institutionalized mechanisms for ensuring that substantive progress occurs in between annual meetings of the TIFA Council. Working groups are currently being established to tackle two highly important subjects – investment issues and technical barriers to trade (TBTs). Many of the topics raised in this *Taiwan White Paper* by the various AmCham committees fall within those two categories, and we look forward to continuous contact

with the relevant U.S. government agencies to exchange ideas and information about those issues.

As interaction under TIFA proceeds and the level of mutual trust and confidence on trade and investment issues continues to grow, the natural progression will be to look for ways to further deepen and broaden the bilateral economic relationship. Given its status as the 10th largest trading partner of the United States (two-way trade last year exceeded US\$63 billion) and as a major contributor to the economic prosperity and security of the East Asian region, Taiwan ought to be a prime prospect for the negotiation of a free trade agreement. AmCham understands, however, that the U.S. government at the current stage may be unlikely to seek any additional FTA candidates, instead focusing on completing the Trans-Pacific Partnership (TPP) initiative now well underway.

President Ma Ying-jeou has several times declared Taiwan's desire to participate in TPP at some point in the future. AmCham is urging his government to make that objective an urgent national priority – starting now to build broad public support for TPP membership and mobilize government departments to engage in liberalizing the trade regime in preparation for entry into the pact. At the same time, we call on the U.S. government to actively support Taiwan's TPP

aspirations by providing its encouragement and advice, and helping to lay the groundwork among the other TPP participants.

The special circumstances of Taiwan's international political standing should not be allowed to hinder that development. In purely economic terms, Taiwan's qualifications as a leading force in the international trade arena – and as an active member of both APEC and the World Trade Organization – are beyond question. In addition, the United States must consider the potential future impact on American involvement in this economy and on Taiwan's geopolitical orientation if Taiwan is shut out of this emerging regional trade bloc.

While preparations for accession to TPP are underway, an excellent mid-term objective would be the conclusion of a U.S.-Taiwan bilateral investment agreement, similar to one that Japan signed with Taiwan two years ago. Such a BIA would be a useful vehicle both for cultivating increased business ties between the economies and for demonstrating the continued firm commitment of the United States to its relationship with Taiwan. Previously some parties expressed concern about how the approval process for such an agreement would be handled by Congress, but that concern seems unfounded. The Taiwan Relations Act states clearly that under U.S. law, Taiwan should be treated in the same way as any other country, which would mean ratification by the U.S. Senate only.

Whether the goal is TPP membership, a BIA, or an FTA, the United States and Taiwan need to adopt an ambitious target to work on together, spurring the two sides to carry their economic relationship to a new level of cooperation.

Suggestion 2. Show the flag by periodically dispatching Cabinet secretaries to Taiwan.

During the 1990s, a Cabinet-level U.S. official visited Taiwan every other year. The trips underscored the continuing closeness of the bilateral relationship despite the lack of formal diplomatic recognition, and they also contributed to furthering mutual understanding and policy alignment between the two governments.

But no one of Cabinet rank has come to Taiwan since Transportation Secretary Rodney Slater made the trip in 2000. Even high-level sub-Cabinet officials were rarely seen here until two years ago. Since then, AmCham is pleased to note, the situation has changed. Among the prominent visitors from the U.S.

executive branch during that time have been Deputy Energy Secretary Daniel Poneman; Under Secretary of Commerce for International Trade Francisco Sanchez; Assistant Secretary of State for Economic, Energy and Business Affairs Jose Fernandez; Assistant Secretary of Commerce Suresh Kumar; Agency for International Development Administrator Rajiv Shah; Senior Official for APEC Atul Keshap (twice); and Deputy U.S. Trade Representative Demetrios Marantis (for TIFA talks).

Those visits have been extremely useful in increasing understanding in Washington of Taiwan affairs and understanding in Taipei of U.S. policies and concerns. Now it is time to elevate the communication to a higher plane. We recommend that the U.S. government resume the previous practice of dispatching Cabinet-level officials to visit Taiwan on a periodic basis.

Suggestion 3. Actively support Taiwan's bid for observer status in ICAO.

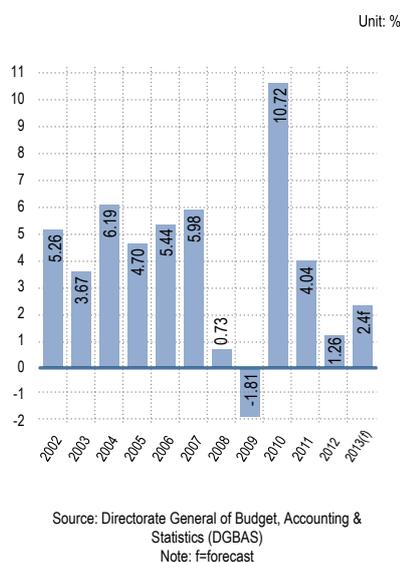
At Beijing's insistence, Taiwan has been excluded from nearly all international organizations, particularly those requiring statehood as a condition of membership. But Taiwan was finally able to gain observer status several years ago in the World Health Assembly – as a health entity and under the name “Chinese Taipei” – after the SARS epidemic made clear how important it is for all countries and territories to be part of a network sharing health-related information.

A similar rationale applies to Taiwan's current bid to participate as an observer in the International Civil Aviation Organization (ICAO). Aviation safety and security is also an issue that should transcend political considerations. Some 50 airlines operate flights from Taiwan to over 100 international destinations, and some 1 million flights each year pass through the Taipei Flight Identification Region, which Taiwan is responsible for administering. Yet Taiwan's exclusion from ICAO means that it has to rely on other, unofficial channels to obtain information on changes in technology and procedures that could affect aviation and security. A long lag time in receiving such information is common. In addition, ICAO loses the benefit of direct input from Taiwan on aviation-related matters within its region.

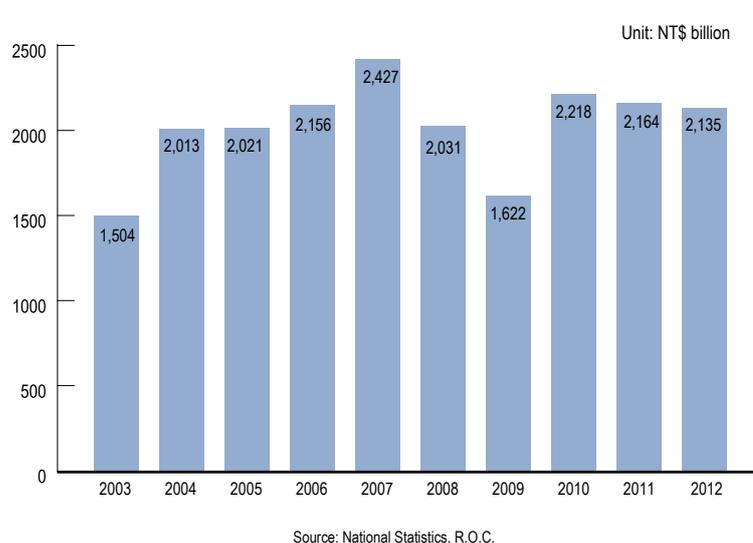
The barrier to Taiwan's participation is in Beijing, but we urge the U.S. government to use its influence within ICAO and in discussions with China to help work out suitable arrangements for Taiwan to gain access to this important functional organization. 

BY THE NUMBERS

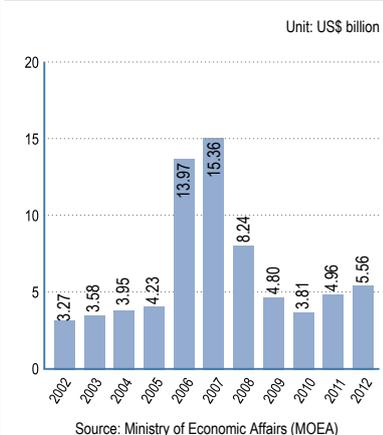
GRAPH 1: ECONOMIC GROWTH RATE



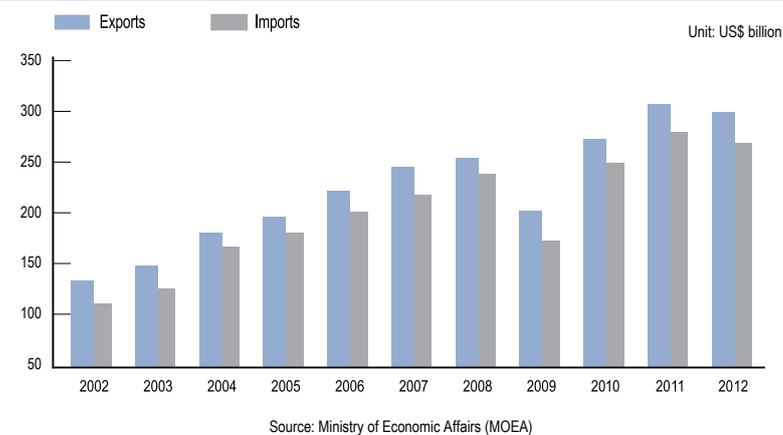
GRAPH 2: PRIVATE DOMESTIC INVESTMENT



GRAPH 3: FOREIGN DIRECT INVESTMENT



GRAPH 4: TOTAL FOREIGN TRADE

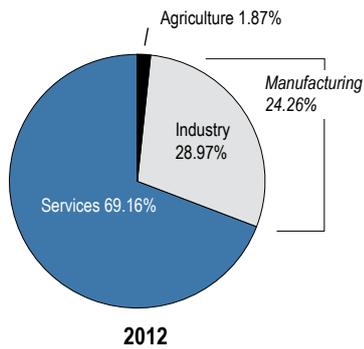


GRAPH 5: KEY ECONOMIC INDICATORS

	2006	2007	2008	2009	2010	2011	2012
Gross Domestic Product	US\$393 bn	US\$403 bn	US\$400 bn	US\$376 bn	US\$430 bn	US\$466 bn	US\$474 bn
Per Capita GDP	US\$16,491	US\$17,154	US\$17,399	US\$16,359	US\$18,588	US\$20,122	US\$20,378
Gross National Savings	29.5%	30.4%	28.4%	27.7%	31.62%	29.17%	33.99% f
Unemployment	3.91%	3.91%	4.14%	5.85%	5.21%	4.39%	4.24%
Inflation (CPI)	0.6%	1.8%	3.53%	-0.87%	0.96%	1.42%	1.93%
Foreign Exchange Reserves	US\$266 bn	US\$270 bn	US\$291 bn	US\$348 bn	US\$382 bn	US\$386 bn	US\$403 bn

Sources: DGBAS, Central Bank

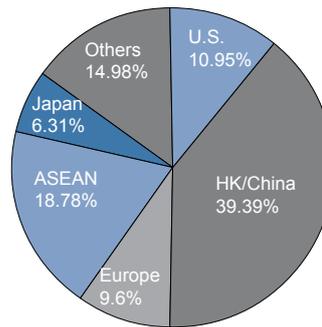
GRAPH 6: COMPONENTS OF GDP



2012

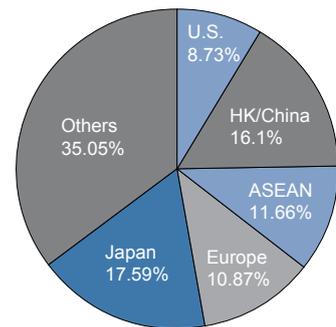
Source: Directorate General of Budget, Accounting & Statistics (DGBAS)

GRAPH 7: 2012 EXPORTS BY REGION



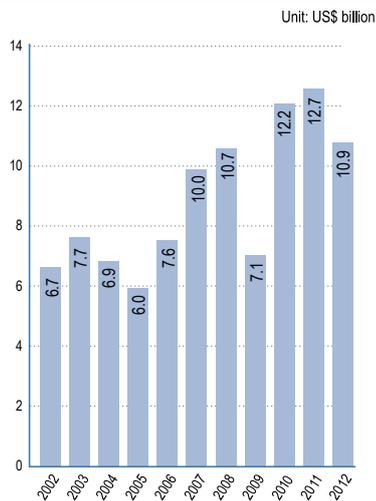
Source: Ministry of Economic Affairs (MOEA)

GRAPH 8: 2012 IMPORTS BY REGION



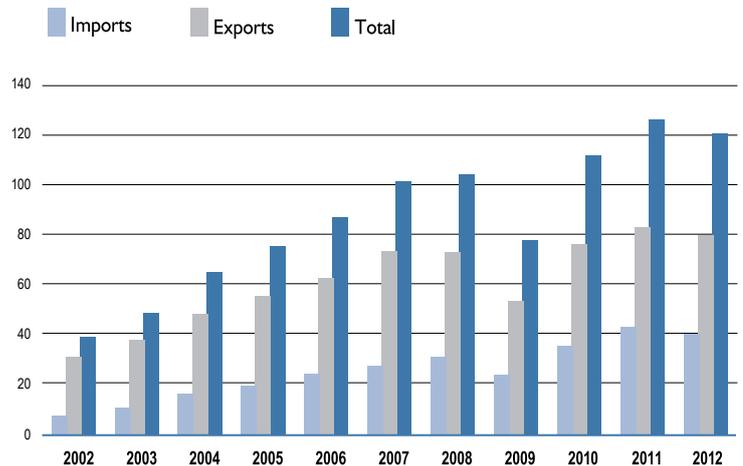
Source: Ministry of Economic Affairs (MOEA)

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

AMCHAM TAIPEI 2013 TAIWAN WHITE PAPER

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REVIEW OF 2012 WHITE PAPER ISSUES

The chart below is a status review of all priority issues in the 2012 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 95 issues raised in the 2012 White Paper, two are rated Solved, 14 In Progress, 39 Under Observation, 28 Stalled and 12 Dropped.

Committee	2012 White Paper Issues	Status 2012 WP	Notes
Agro-Chemical	1. Strictly crack down on illegal pesticides. 2. Adopt clear and effective rules governing new product registration.	3 4	*
Asset Management	1. Set a derivatives limit in line with UCITS III and seek a Stage-II MOU with Luxembourg. 2. Further relax the China-investment restrictions. 3. Revise the pension fund scheme to adopt a self-directed, defined contribution format.	4 3 2	*
Banking	1. Review the restrictions on financial products and services to achieve the government's policy of establishing a Taiwan-based wealth management platform. 2. Permit foreign-exchange designated banks (DBUs) to engage in RMB business. 3. Reconsider the single lending limit for foreign banks in Taiwan.	3 1	*
Capital Markets	1. Enhance the capital markets' efficiency, depth, and breadth. 2. Relax futures trading and related foreign-exchange rules. 3. Continue to enhance the Securities Borrowing and Lending (SBL) market. 4. Provide flexible underwriting rules. 5. Clarify questions regarding the Personal Information Protection Act.	3 3 4 4 3	* * * * *
Chemical Manufacturers	1. Improve regulations on greenhouse gas (GHG) emissions. 2. Consult with the PRC to facilitate the export of petrochemical products to China by dry-bulk vessel. 3. Reduce the environmental footprint of automotive manufacturing and refining processes. 4. Allow discretionary disclosure of critical and small-usage (< 1%) ingredients in proprietary chemicals to protect chemical manufacturers' trade secrets. 5. Align the definition of "Dangerous Goods during Transportation" with international guidelines.	5 5 5 3	*
Education & Training	1. Provide more students in Taiwan with access to a broader range of choices in innovative higher education. 2. Expand opportunities for continuous-education learning for the current workforce. 3. Encourage internships and mentoring programs for students at innovative companies.	3 3 5	* * *
Human Resources	1. Eliminate the two-year work experience requirement for foreign professionals. 2. Clarify how the Labor Union Act, Collective Bargaining Agreement Act, and Settlement of Labor Disputes Law are to be applied, balancing the rights and benefits of labor and management. 3. Reconsider proposed amendments to the Labor Standards Law so as to balance labor protection and the impact on business. 4. Further liberalize Chinese travelers' entry into Taiwan for business activities. 5. Set clearer guidelines for change-of-address notification by foreigners staying in Taiwan.	3 2 3 4 4	* * * * *
Infrastructure	1. Adopt a well-coordinated overall plan for national infrastructural development. 2. Bring more "soft power" expertise to bear in infrastructure projects. 3. Reconsider Taiwan's policy toward nuclear power. 4. Increase the amount of base-load power generation. 5. Match the bid-decision process to the type of project.	3 4 4 4 3	* * * * *
Insurance	1. Increase the transparency and regulation of insurers' financial strength. 2. Devise a new labor-pension investment platform. 3. Work with the insurance industry to secure funding for major public infrastructure projects. 4. Avoid over-regulation that undermines the insurance industry's potential for further development. 5. Increase the premium tax deduction and repeal Ministry of Finance Administrative Ruling No. 098000542850.	3 3 2 3 4	* * * * *
Intellectual Property & Licensing	1. Enact amendments to protect trade secrets more effectively and to extend the term of copyright protection. 2. Implement effective measures to deal with on-line infringement. 3. Accelerate the process of patent examination. 4. Rationalize the process of obtaining search warrants by applying consistent standards regarding evidence-collection and burden of proof. 5. Continue to invest in improving the operations of the IPR Court.	1 and 4 4 2 2	* * * *
Medical Devices	6. Make needed revisions to the Copyright Collective Management Organization (CCMO) Act. 1. Harmonize the regulation of medical devices with global practices and international trends. 2. Establish a rational system for reimbursement and management of medical devices. 3. Amend provisions in the Pharmaceutical Affairs Act related to the advertisement of medical devices. 4. Lift the ban on imports of medical devices from China for products made there by multinational firms.	2 4 4 3 3	* * * * *

Changed to "Encourage partnerships between Taiwan universities and international counterparts to help make Taiwan's higher education sector globally competitive."

Changed to "Increase consumer awareness of insurers' financial strength."

Changed to "Amend laws necessary to enable the recently revised Trade Secrets Act to be enforced more effectively."

Changed to "Strengthen the function of the IP Court and improve the expertise of general District Court judges in trying criminal IP cases."
Changed to "Reform the legal environment to enhance the efficiency of copyright collective management organizations (CCMOs)."

Changed to "Amend provisions related to advertising medical devices."
Changed to "Liberalize the import of medical devices manufactured in China."

Others	1. Provide a legal basis for chiropractic in Taiwan.	4	*	Changed to "Provide a legal base for the chiropractic profession through legislation or executive order, and legalize the status for overseas-trained chiropractors to practice freely in Taiwan."
	2. Adopt a policy of moderate and regular increases in cigarette taxes.	3	*	Changed to "Adopt a policy of moderate, regular, and predictable adjustments in tobacco taxes to avoid increased levels of illicit sales and smuggling."
	3. Stress the proper enforcement of existing tobacco laws rather than considering frequent new amendments.	3	*	Changed to "Engage in comprehensive dialogue with industry and comply with due process of law before introducing any new measures on tobacco control."
	1. Reform pricing policies for new drugs to reward innovation.	3	*	
	2. Implement the Drug Expenditure Target and off-patent price adjustment.	3	*	
Pharmaceutical	3. Expedite the new-drug regulatory review process.	4	*	
	4. Strengthen IPR protection through Patent Linkage and Data Protection.	4	*	Changed to "Strengthen IPR protection through Patent Linkage and Data Exclusivity."
	5. Implement a rigorous system of Separation of Dispensing from Prescribing (SDP).	4	*	
	1. Revive the Taiwanese REIT market.	4		
	2. Actively communicate to speed up urban renewal procedures.	3		
Real Estate	3. Ease regulations covering mainland Chinese investors' acquisition and/or development of commercial properties.	3	*	Changed to "Ease the limitations on Chinese corporate investments and real estate acquisitions in Taiwan."
	4. Increase transparency in the real estate sector.	3		
Retail	1. Review and revise out-of-date labeling requirements.	4	*	Changed to "Remove unnecessary labeling requirements that add no value."
	2. Maintain toothpaste's classification as a general product.	4	*	Changed to "Maintain the classifications of non-medicated toothpaste and mouthwash as general products."
	3. Accelerate the review and liberalization of China-import restrictions.	2	*	Changed to "Further liberalize China-import restrictions."
	4. Reform the regulatory framework for cosmetics products.	4	*	
	5. Reform the functional claim structure and expand the food additive list to encourage investment for dietary supplements.	3	*	Changed to "Construct a sound mechanism to manage dietary supplements."
Sustainable Development	1. Incorporate "Sustainability" concepts into the existing EPA Green Marks system.	3	*	Changed to "Continue to expand the new Green Mark policy by including all tissue products certified by globally accepted standards for responsible forest management in its coverage."
	2. Stipulate the origins and composition of products/materials on Green Mark and Green Building Material labeling.	4	*	
	3. Leverage Taiwan's chemical emergency response capabilities throughout Asia Pacific to enhance chemical business sustainability.	5		
	1. Lower the individual income tax rate.	5		
	2. Reduce the withholding tax rate on non-resident income to 17% or lower.	5	*	Changed to "Reduce the withholding tax rate on non-resident income from the existing 20% to a lower rate."
Tax	3. Provide clear instructions for determining whether and how a payment should be treated as Taiwan-sourced income.	3	*	Changed to "Deal with unresolved issues regarding the determination of Taiwan-sourced income."
	4. Reconsider the current taxation on foreign enterprises' drop-shipment transactions in Taiwan.	5		
Technology	5. Include foreign patents and know-how in the list of items eligible for royalty tax exemption.	2	*	Changed to "Grant tax exemption to royalties paid for foreign patents and know-how."
	6. Extend the tax exemption on royalties beyond intangible properties used for manufacturing within Taiwan.	4		
	7. Reduce the withholding tax on technical service fee payments to Chinese companies.	4		
	8. Clarify the meaning of Article 60 of the Income Tax Act.	3		
	1. Accelerate the adoption of policies and programs to encourage technology-oriented start-ups.	2	*	
	2. Address the systemic policy weaknesses responsible for the current unhealthy situation in the display industry.	3		
	3. Reduce the withholding tax for foreign entities supplying services and intellectual properties to Taiwan entities.	5	*	Tax Committee 2013 White Paper Issue
	4. Increase spending on software and ICT services.	4	*	Changed to "Shift the emphasis in IT spending from hardware to software and services."
Telecommunications & Media	5. Modify the unfair terms and conditions in the government procurement law and model contract.	3	*	Changed to "Modify the terms and conditions in the Government Procurement Act and IT services model contract that now seriously restrict multinational companies' ability to directly bid as the primary contractor."
	1. Relax cross-strait investment restrictions on the telecom industry in light of WTO commitments.	4	*	Changed to "Relax cross-strait investment restrictions on the telecom industry."
	2. Resolve spectrum and other issues to enhance Taiwan's competitiveness in mobile internet services.	2	*	Changed to "Provide a balanced, competitive 4G environment for the benefit of both operators and consumers."
	3. Establish a new approval system for channels to help speed the introduction of new technologies and services.	4	*	Changed to "Liberalize the NCC's regulatory system for approval and renewal of TV-channel operating licenses."
	4. Create a fair and competitive environment for the era of digital convergence.	4	*	Changed to "Develop effective regulations for internet content management."
Transportation	1. Enable integrated express carriers to participate in the Authorized Economic Operator program.	5		
	2. Accelerate the introduction of new clean, environmentally friendly, and safe vehicles into the market.	4	*	
	3. Align vehicle regulations and certification with international standards.	4	*	
	4. Continue relief efforts for the shipping sector and reduce management fees.	5		
	5. Review the adequacy of the volume of long-haul trucking service equipment and drivers.	5		
	6. Provide incentives to spur long-term growth in the shipping sector.	5		
Travel & Tourism	1. Ensure sufficient manpower to staff Taiwan's tourism industry.	3	*	Changed to "Attract, train and retain hospitality professionals to build sustainable international service standards."
	2. Stage more international and mega events in Taiwan.	4	*	Changed to "Raise Taiwan's profile as a destination for major world-class events."
	3. Engage in aggressive marketing to promote Taiwan as a destination.	3	*	Changed to "Promote Taiwan as a destination for world travelers."
	4. Hold regularly scheduled presentations to advise industry players and other government agencies about tourism development plans.	3	*	Changed to "Adopt long-term development strategies for the tourism industry."
	5. Regularly exchange of best practices with neighboring countries' tourism boards.	3		
	6. Ensure transparency in the development of the casino industry in Taiwan.	2	*	Changed to "Clarify the government's gaming policy and commitment to the establishment of the casino gaming industry in Taiwan."

Note: * indicates the issue has been raised again in 2013 White Paper
By Andrew Wang
Last Updated: May 29, 2013

以下為《2012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。
- 《2012台灣白皮書》所提出95項議題，其中2項已解決，14項處理中，39項觀察中，28項擱置中，12項已刪除。

委員會	2012白皮書議題	進度	2013白皮書	備註
農化	1.嚴格查緝非法農藥	3		
	2.農藥登記制度應更清楚有效	4	*	今年改為：新農藥登記制度應簡明有效
	1.衍生性商品限制與UCITS II 接轨，並加速與盧森堡CSSF簽署備忘錄。	4		
資產管理	2.進一步放寬中國之投資限制	3		
	3.推動退休金制度改革、新增勞工退休金自選方案	2	*	
	1.檢視現行有關金融商品與服務之限制，以達成建立以臺灣為主的財富管理平台之政策目標	3	*	
銀行	2.准許指定辦理外匯業務銀行(DBUs)開辦人民幣業務	1		
	3.重新檢視外國銀行在臺灣之授信限制	3	*	今年改為：檢核單一授信限額之合理性
	1.強化臺灣資本市場之效率、深度與廣度	3	*	今年改為：提供多元化商品服務強化台灣資本市場之深度與廣度
資本市場	2.放寬期貨及期貨交易相關之外匯規定	3		
	3.持續強化有價證券信託市場	4	*	
	4.制訂彈性之承銷法規	4	*	
	5.釐清有關《個人資料保護法》之問題	3	*	
	1.改善溫室氣體排放之相關規範	3	*	
化學製造商	2.與中國大陸當局協商，使石化產品可藉由更多散裝裝載出口至中國。	5		
	3.減少汽車製造及修補工業產生之環境足跡	5		
	4.允許製造商自主選擇是否揭露特有化學品中之少量(小於1%)而關鍵的危害物質，以保護製造商的營業秘密。	3		
	5.統一「道路交通安全規則」中「運輸危險物品」之定義，避免與國際慣用危險物品管制規範之間產生落差。	3		
	1.提供臺灣學生更多廣泛接觸創新高等教育的機會	3	*	今年改為：鼓勵台灣大學院校與國外大學建立夥伴關係，使台灣高等教育更具國際競爭力
教育與訓練	2.提供在職人士更多進修的機會	3		
	3.鼓勵創新型公司提供實習機會和學生計畫	5		
	1.移除外籍專業人士來臺工作的兩年工作經驗限制	2	*	
人力資源	2.釐清「工會法」、「團體協約法」及「勞資爭議處理法」應如何適用，並兼顧勞工與僱主之權益	3		
	3.重新考量「勞動基準法」修正草案，兼顧勞動保障與企業衝擊	3	*	
	4.進一步開放中國大陸商務旅客進入臺灣從事商業活動	2		
	5.對外籍人士停留臺灣期間住址變更通報，建立較清楚之原則	2		
	1.國家基礎建設的發展必須先經過充分協調，以擬定總體計畫	3		
基礎建設	2.引進更多專門技術與人員投入基礎設施計畫，厚植臺灣「軟實力」	4	*	
	3.重新考慮降稅政策	4	*	
	4.增加基載電廠	4	*	
	5.依計畫性質選擇決策方式	3		
	1.加強保險業財務能力之資訊透明度及其監督	3	*	今年改為：提升消費者對於保險公司財務能力的認知程度
保險	2.建立一個全新的勞工退休金投資平台	3	*	
	3.與保險業合作，協助資金導入政府重大公共建設案	2		
	4.避免過度的法令規範阻礙保險業的發展潛能	3		
	5.提高保費扣除額以及廢止財政部09800542850號函令	4	*	
智慧財產權與授權	1.積極推動《營業秘密法》修法及延長著作權保護期間	1 and 4	*	今年改為：為使修正後的營業秘密法能有效執行，建議修訂相關法律
	2.落實打擊網路侵權的有效措施	4	*	
	3.加速專利審查過程	2		
	4.證據採集和舉證責任採一致標準，將取得證據索令的程序合理化	2		
醫療器材	5.持續投資改善智慧財產法院的運作	2	*	今年改為：加強智慧財產法院功能，提升一般地方法院法官審理智慧財產刑事案件之專業能力
	6.對著作權集體管理團體條例作必要的修正	4	*	今年改為：改善法律環境以提高著作權集體管理團體的效率
	1.調和國內醫療器材法規與國際法規接轨	2	*	
	2.建立醫療器材合理的健保給付制度與管理	4	*	
	3.修訂《藥事法》有關藥物廣告管理之規範	3	*	今年改為：調整藥物廣告管理之規範
	4.解除跨國企業於中國大陸製造之醫療器材進口禁令	3	*	今年改為：開放及加速大陸醫療器材進口審核

其他	<p>1.提供骨脊神經醫學在臺灣的合法基礎</p> <p>2.採取合理及漸進的菸品稅捐政策</p> <p>3.有效執法而非頻繁修改現行菸品相關法律</p>	4	*	<p>今年改為：提供骨脊神經醫學之法源基礎（立法或行政命令）以及提供在國外訓練的脊骨神經醫師在臺灣執業之合法性</p> <p>今年改為：以合理、漸進、可預期的菸品稅捐政策，避免菸品非法交易及走私問題日益惡化</p> <p>今年改為：建議政府在制定菸品管理政策時，應徵詢產業意見並依循正當法律程序</p>
製藥	<p>1.改革新藥費支出目標(DET)與逾專利期藥品藥價調整制度</p> <p>3.加速新藥法規審查流程</p> <p>4.藉由專利連結和資料保護加強智慧財產權保護</p> <p>5.落實醫藥分業 (SDP)</p>	3	*	<p>今年改為：藉由專利連結和資料專屬權加強智慧財產權保護</p>
不動產	<p>1.振興臺灣不動產投資信託基金市場</p> <p>2.構構溝通，以加快都市更新程序</p> <p>3.放寬中國大陸投資者收購和/或開發商業不動產的法規條例</p> <p>4.提升不動產業資訊透明度</p>	3	*	<p>今年改為：放寬大陸企業或個人來台投資及購置不動產</p>
零售	<p>1.檢視並修訂不符現勢之商品標示規定</p> <p>2.維持牙膏為一般商品之現狀產品分類</p> <p>3.加速審查並解除進口中國商品的限制</p> <p>4.改革化妝品相關的規章制度</p> <p>5.食品之功能宣稱規範應革新，且擴增可允許使用之食品添加物，以鼓勵膳食補充劑產業在台投資</p>	4	*	<p>今年改為：廢除不必要且無益處的標示規定</p> <p>今年改為：進一步開放鬆綁中國產品之進口禁令</p>
永續發展	<p>1.將永續概念納入現行環保署綠色標章系統</p> <p>2.於環保標章及綠建材標章中註明原料產地及材料組成成份</p> <p>3.將臺灣在化學品方面的緊急應變能力推廣到亞洲地區，以強化化學品業務在亞太市場的永續發展</p>	3	*	<p>今年改為：建立妥善機制管理膳食補充劑</p> <p>今年改為：將新修正的面紙類別原生紙與綠色環保標章標準，全面延伸至已獲得國際負責任森林認證標章的家庭用紙產品</p>
稅務	<p>1.調降綜合所得稅率</p> <p>2.將外國營利事業之中華民國來源所得適用扣繳稅率降為17%或更低</p> <p>3.對於認定何種給付屬於中華民國來源所得，提供更明確的指引</p> <p>4.重新審議對外商委託國內廠商「境內加工轉售」交易的稅制</p> <p>5.將支付外國專利及設計生產know-how列入權利金免稅範圍</p> <p>6.《所得稅法》所指權利金免稅適用，不應以被授權者自行在臺灣生產使用為限</p> <p>7.降低付予中國企業技術服務報酬之扣繳稅款</p> <p>8.釐清《所得稅法》第60條真義</p>	5	*	<p>今年改為：將非居住者取得中華民國來源所得所適用之扣繳稅率，從20%降至更低</p> <p>今年改為：處理中華民國來源所得認定原則尚未解決的議題</p> <p>今年改為：准許支付外國專利及設計生產know-how的權利金免稅</p>
科技	<p>1.儘速採行有助科技事業發展之政策與計畫</p> <p>2.修正產業政策弱點，改善臺灣液態面板顯示器產業不健全的現況</p> <p>3.調降為臺灣企業提供專業服務、智慧財產之外國營利事業的所得扣繳稅率</p> <p>4.增加政府軟體與資訊服務之年度預算</p> <p>5.改善未符允允之政府採購法規，並修正契約範本</p>	5	*	<p>稅務委員會2013白皮書議題</p> <p>今年改為：將IT的主要支出從硬體轉移到軟體與服務</p> <p>今年改為：建議政府主管部會修正政府資訊服務採購之法規及實施準則，並修正目前阻礙外商直接投資之不公平契約條款</p>
電信及媒體	<p>1.全面檢討並排除不符WTO承諾之電信產業相互投資限制</p> <p>2.解決頻譜分配及其他問題，以強化臺灣在行動網路服務上的競爭力</p> <p>3.更新電視頻道審查機制，加速新科技與服務引進臺灣市場</p> <p>4.為數位匯流時代建立一個公平競爭環境</p>	4	*	<p>今年改為：放寬對電信產業兩岸相互投資之限制</p> <p>今年改為：為營造電商與消費者兩者的共同福利，提供一個均衡而競爭的4G環境</p> <p>今年改為：建議NCC放寬電視頻道營運執照的審查、換照規定</p> <p>今年改為：建立有效的網路內容管理規範</p>
交通運輸委員會-快速貨物業	<p>1.建立快速貨運優質企業AEO合格業者之相關審核及優惠規範</p> <p>2.加速臺灣車輛法規及認證制度與國際接軌</p> <p>3.促進臺灣車輛法規及認證制度與國際接軌</p> <p>4.持續為航運業解套，並降低管理費用</p> <p>5.深入檢視長途貨運服務之設備與駕駛人力的現況，並確保其供給充足。</p>	5	*	<p>今年改為：吸引、培訓與聘僱優質觀光旅遊業專業人才，以建立並長期維繫國際化的服務水準</p> <p>今年改為：提升台灣形象，吸引大型世界級活動在臺灣舉行</p> <p>今年改為：積極推廣台灣作為世界旅客之目的</p> <p>今年改為：以長期策略規劃觀光發展觀光</p>
交通運輸委員會-汽車業	<p>1.確保觀光旅遊業有充分的人力供給</p> <p>2.在臺灣籌畫更多國際性與大型的活動</p> <p>3.積極投入行銷，推廣臺灣成為觀光勝地</p> <p>4.定期舉辦說明活動，使業界或其他政府機構了解觀光發展的計畫</p> <p>5.定期與鄰近國家的觀光單位交換最佳成功範例</p> <p>6.確保台灣博奕業發展之透明度</p>	3	*	<p>今年改為：釐清博奕政策發展方向並展現發展決心，設立博奕管理專責獨立機構並提供單一窗口服務</p>

備註：*號代表該2012年議題於《2013台灣白皮書》中再度提出
研究彙整：王先棠
更新日期：2013年5月29日

AGRO-CHEMICAL >>

The Agro-Chemical Committee wishes to express its appreciation to the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) of the Council of Agriculture (COA) for its aggressive implementation of the Joint Investigation of Illegal Pesticides Project, which was begun on January 1, 2013 to crack down on illegal products in the marketplace. The Committee will continue to cooperate with Crop Life Taiwan to closely monitor the manufacture and distribution of fake products and to share the data collected with COA as it becomes available.

In addition, we wish to commend both BAPHIQ and the Taiwan Agricultural Chemicals and Toxic Substances Research Institute (TACTRI) for their continuing efforts to improve the new registration system and crop-grouping regulations. However, the Committee finds that the pace of progress in this area has still been disappointing, as no clear implementation procedure has been established and the system is too complex even for the officers in charge to fully understand. As a result, it has been impossible to bring any new Active Ingredient (A.I.) into Taiwan for the past three years. Considering the unsatisfactory progress, the Committee would like to reiterate the importance of the issue and to raise it again in the 2013 *White Paper*.

Suggestion: Adopt clear and effective rules governing new product registration.

Although the Committee favors the overall direction of adopting crop grouping, the new registration rules have clearly been a major problem, as not a single new A.I. registration has been completed since the new rules came into effect in 2009. Despite several discussions between Committee representatives and the relevant authorities, it appears that the industry's difficulties with the new rules are still not fully understood by the authorities, nor have the authorities adequately considered proposals submitted by the Committee to remedy the situation. We believe that the regulations have severely obstructed the introduction of new, technologically innovative and environmentally friendly products to Taiwan, significantly slowed the phase-out of highly toxic old products, and hindered the opportunity to improve food safety.

The committee has two specific proposals for remedying the situation:

1. Allow the A.I. owner to take full responsibility for assuming bio-efficacy and covering the risk of phytotoxicity without undergoing a government approval process. Under this system, the authorities would replace the existing requests for bio-efficacy and phytotoxicity field trials with trial data collected either

domestically or outside Taiwan by the A.I. owner. This approach would not only ease the tremendous workload at TACTRI in reviewing trial protocols, but would also relieve the authorities of unnecessary potential risk and responsibility from endorsing the A.I. In advanced countries, it is now standard practice for the A.I. owner to assume full responsibility for bio-efficacy and cover the risk of phytotoxicity.

2. Allow one local residual trial report for non-export crops, expand TACTRI's capacity, and increase the number of certified institutes for residue trials. TACTRI is currently the only qualified institute for conducting residue trials on new A.I. Assigning TACTRI the duty of carrying out the three required trials for each new A.I. from different locations in Taiwan, in addition to its routine business, has produced a workload that far exceeds TACTRI's capacity and has caused substantial delays. The Committee considers that one domestic residue trial report should be sufficient to set up the maximum residue limit (MRL) for non-export crops. We therefore strongly suggest reducing the number of required residue trials from three to one, expanding TACTRI's resources to handle a larger workload capacity, and certifying additional institutes as qualified to handle the residue trials. Accelerating the new-compound registration in this way will help to provide farmers with better and more environmentally friendly choices of agro-chemical products.

The Committee again urges the relevant authorities to review and revise the new registration rules to make them simpler, clearer, and more effective so as to enable farmers and consumers in Taiwan to enjoy the benefits of innovative new technologies and environmentally friendly new compounds in line with global trends.

ASSET MANAGEMENT >>

The Committee notes with appreciation some significant changes to the asset-management regulatory regime made by the Financial Supervisory Commission (FSC) in the past year. These include the introduction of multi-currency Securities Investment Trust Enterprise (SITE) funds, approval of RMB-denominated funds, relaxation of the China-investment limitation on SITE funds and other investment restrictions, and the opening of the market to new types of funds. The Committee believes these changes will lead to further product innovation in the asset-management industry for the benefit of Taiwanese investors. In addition, the offering of RMB products will help investors

take advantage of growing investment opportunities in China and will enable Taiwan to develop as the world's second offshore RMB investment center.

We look forward to continued regulatory reform, including more flexibility regarding investment objects for SITE funds – as well as on relevant operational and investment-management processes – in order to be in line with global norms and increase the competitiveness of Taiwan's SITE funds. We also encourage the FSC to shorten the time period for new fund approval and maintain transparent review criteria and consistent regulatory interpretations.

Lastly, in light of the continuously increasing amount of RMB deposits in Taiwan, the Committee hopes that SITE fund managers in Taiwan will soon be granted eligibility by the Chinese government to apply for RQFII (RMB Qualified Foreign Institutional Investor) quota and that negotiations between the FSC and the China regulators will lead to mutual recognition for the funds domiciled in each jurisdiction and lead to approval for Taiwan's SITE funds to sell to retail investors in China. For offshore funds, the Committee recommends that the FSC permit the registration of RMB-denominated offshore funds in Taiwan.

Suggestion 1. Revise the pension fund scheme to adopt a self-directed, defined contribution format.

The current labor retirement plan implemented in Taiwan is an individual-account based, defined-contribution scheme. In practice, however, the utilization and investment management practices of the labor pension fund still follow the defined-benefit model (the old plan that was in effect before the 2005 reform of the labor retirement system), in which the Labor Pension Fund Committee is responsible for investment decisions and risks.

In setting up the current scheme, factors that might cause individuals to select different types of investment plans – aspects such as the employee's amount of contribution, retirement age, risk tolerance level, and preferred investment management vehicle – were not considered. Instead all employees are subject to identical portfolio and return models, with no discretion to adopt either a more aggressive investment plan in hopes of obtaining a higher return to increase their retirement income or a more conservative investment product. Moreover, the current scheme is inconsistent with the purpose of “defined-contribution” plans, in which the investment risk and reward should be in the hands of the employee.

The Committee understands that the FSC lately has started working with the Council of Labor Affairs on drafting a “self-directed defined-contribution plan,” and it would like to offer its assistance to the FSC in exploring the various options of this kind that have been implemented in advanced economies such as the United States (401K), Australia (Superannuation), Hong Kong (MPF), and Singapore (CPF). The change to a “self-directed defined-contribution plan” would give employees the discretion to choose a retirement plan based on their individual needs – either to stay in the current scheme (where the fund will

be managed by the government with a minimum guaranteed-earning equivalent to two-year fixed-deposit interest) or to select another fund that they deem appropriate according to their risk appetite and confidence in the fund's management.

Suggestion 2. Allow the introduction of RMB-denominated offshore products.

Following the signing by Taiwan's Central Bank of a Memorandum of Understanding (MOU) on currency clearance with China in August 2012 and the subsequent launching of RMB business by 46 designated domestic banking units (DBUs) this February, Taiwan is well-positioned to become the next major RMB offshore center after Hong Kong. The direct currency settlement capability brings immediate benefit to cross-strait trade, reducing transaction costs and exposure to foreign-exchange volatility. Some financial institutions have estimated that Taiwan may accumulate an RMB liquidity pool of between 100 billion and 150 billion yuan by the end of 2013; this sum could reach 250 billion to 300 billion yuan in the next two to three years.

For Taiwan to capture this RMB business and become the second RMB offshore center, it is essential to provide RMB-denominated financial products utilizing the excess liquidity in the market. By offering more diverse investment options, such a development would also support the FSC's goal of promoting a Taiwan Wealth Management Platform.

The Committee therefore urges the FSC to permit offshore-fund providers to introduce RMB-denominated offshore funds and/or new share classes to Taiwan investors, especially since this opportunity has been opened to the onshore funds of Taiwan's Securities Investment Trust Enterprises (SITEs).

Suggestion 3. Negotiate with the U.S. government on FATCA and assess the regulatory impact.

Since the enactment of the Foreign Account Tax Compliance Act (FATCA) by the United States in 2010, the Act has had profound effects on Taiwan's financial industry. The application of the Act creates numerous uncertainties and questions for local industry players, especially the requirement that foreign financial institutions (FFIs) outside the United States that have U.S. accounts or customers must register with the U.S. government and report on their U.S. accounts or be faced with a mandatory withholding obligation. The Act further requires that registered FFIs obtain necessary customer information and follow due diligence to identify whether their clients are U.S. accounts, with fines to be imposed on FFIs that fail to participate or comply.

On May 3, 2012, six mutual-fund industry bodies in the Asia Pacific Region, including the Securities Investment Trust & Consulting Association of Taiwan, issued a comment letter to the U.S. Department of Treasury and Internal Revenue Service requesting that national retirement and pension schemes be exempted, or at least deferred, from treatment under FATCA. No official response has been received, however. The Committee therefore urges the Taiwan regulator

to negotiate with the U.S. government to enable Taiwan's financial industry to make necessary preparations to comply with the requirements of the Act without the risk of violating local regulations.

The final FATCA regulations were announced by the U.S. Department of Treasury and Internal Revenue Service on January 17, 2013. The local financial industry needs to evaluate the potential impact on relevant banking and asset-management laws and regulations (such as the Financial Holding Company Act, Banking Act, Securities Investment Trust & Consulting Act, and Personal Information Protection Act), so that it has a clear idea how to proceed.

BANKING >>

The Committee wishes to thank the Taiwan financial authorities for paying extra attention in the past year to cross-strait business and financial cooperation, which has reached several significant milestones. With the establishment of an offshore RMB market in Taiwan and increased cross-strait economic integration, we believe that Taiwan financial institutions are now well-positioned to take an important role in the Asia-Pacific region on the basis of Taiwan's niche position relative to China.

The Committee commends the Taiwan financial authorities for their continuing implementation of measures to develop the financial services industry. As part of the effort to build an offshore RMB center in Taiwan, we would like to recommend the further easing of regulations relating to Formosa Bonds to allow more regulatory flexibility and encourage more international issuers to tap the bond market.

Another aspect of helping Taiwan become a regional financial center is to allow international issuers to sell diversified financial products into Taiwan through multiple financial channels. Although banks are one of the main channels to provide financial services in Taiwan, they are not allowed to provide fixed-income products on an agency basis. The Committee urges the Taiwan regulators to relax the restrictions so as to allow banks to act as intermediaries between international financial-product providers and domestic institutional investors, in the same way as in all other major financial centers in the world.

In addition, the Committee remains concerned about the single-lending limit under current banking regulations, which is more restrictive than in other major financial markets in the Asia-Pacific. Such restriction may put banks in Taiwan at a disadvantage against other banks in the region and jeopardize Taiwan's potential transformation into a regional funding center. The Committee urges the Taiwan financial authorities to rationalize the lending limit, taking into account the corresponding limit in other economies such as Hong Kong and Singapore.

Following are the specific issues that the Committee wishes to bring to regulators' attention.

Suggestion 1. Allow banks to engage in the securities business to provide fixed-income products to customers.

Taiwan's financial institutions and large corporations have a large appetite for international bonds such as offshore government bonds, corporate bonds, and other fixed-income instruments. But access to these products is not available in Taiwan from either onshore securities firms or banks. These potential customers have no choice but to turn to offshore competitors, causing lost opportunities for domestic business income, job creation, and tax revenue. The situation will be even worse following the insurance regulators' recent relaxation of restrictions on insurance companies' overseas investment. Allowing banks to engage in fixed-income business would benefit the local economy and tax base. Should any disputes arise, in addition, onshore banks would be able to provide prompt assistance in resolving them to help protect Taiwan customers.

The estimated volume of the fixed-income business in Taiwan exceeds US\$120 billion a year, most of which is serviced by offshore financial institutions. The Committee urges the Banking Bureau and the Securities and Futures Bureau to allow such business to be serviced through all possible domestic channels, including foreign-invested and local securities firms and banks. This approach would help expand the overall business scope of Taiwan's financial sector, while helping achieve the government's objective of establishing Taiwan as a major financial center in this region.

Recommendations:

In stage 1, we suggest that the government permit banks to engage in securities business activity as is already allowable under the law. At minimum, the banks should be allowed to provide foreign-currency-denominated offshore fixed-income products and services, which are not being offered by local securities firms.

In stage 2, we recommend that the government:

1. Revise Article 14-3 of the "Standards Governing the Establishment of Securities Firms" to allow financial institutions concurrently operating securities business to conduct "securities agency business."
2. Alternatively, revise administrative order No. 87700286 to waive the requirement for licensing by the FSC for offshore banking units conducting foreign-currency-denominated securities business through brokerage, intermediary, and agency services.
3. Revise administrative order No.0930159964, which enables securities brokers to conduct foreign-bond agency business, so as to:
 - a. Expand the customer scope; potential purchasers should include the Central Bank of the Republic of China (CBC) and securities investment trust companies.
 - b. Expand the product scope by allowing brokers to offer primary-market foreign bonds (since the purchasers are institutional investors); also remove

the current restriction on mainland China bonds.

4. Make the following modifications to the standards governing securities brokers' internal controls when conducting foreign-bond agency business:
 - a. The monthly statement should be provided by the institutional investor's custodial bank, not the foreign financial firms.
 - b. When delays in settlement do not affect the purchase price, the delays should not be regarded as a breach of contract.

Suggestion 2. Rationalize regulations governing banks' single-lending limit.

The Committee again urges the regulatory authority to revisit the current single-lending limit to allow banks in Taiwan to ensure the availability of necessary funding to support infrastructure projects and the growth of Taiwan's business enterprises and economy.

As mentioned in the 2012 *White Paper*, we believe that the current caps, set decades ago, are long overdue for another review. The single-lending limit in effect since 2001 imposes a cap of 5% of a bank's net worth on the value of unsecured loans to a single corporate borrower, and 15% of the net worth for secured loans. These terms are much more restrictive than in other major Asia-Pacific financial markets – including not only Hong Kong and Singapore, but also China – which puts banks in Taiwan at a serious competitive disadvantage within the Asia-Pacific market. The low single-borrower limit not only constrains corporations with sound credit from accessing more funds from Taiwan banks, but sometimes also hampers certain strategic large-scale projects (such as foreign direct investment projects or acquisition financing) from obtaining sufficient domestic finance in a timely manner.

The new Basel III capital standards encourage banks to utilize their capital more prudently, which may impact decisions about the allocation of bank capital. These standards may affect local banks' supply of funds for lending, in turn impacting the financing needs of local borrowers.

Foreign-owned bank subsidiaries and branches have been active lenders in this market. If foreign banks' lending capacity is restricted due to their conversion into local subsidiaries or if the stringent lending restrictions placed on foreign bank branches (such as the cap of NT\$7 billion for local-currency loans) are not removed, that may further hamper local corporations from accessing sufficient local funding. As a consequence, they may need to seek offshore funding opportunities, which would likely increase their funding costs and reduce Taiwan corporations' competitiveness.

Recommendations:

1. As a mid- to long-term solution, the FSC could consider the model adopted by Hong Kong and Singapore – raising the single “financial exposure” limit up to 25%

of the bank capital, while calculating the limit based on the total financial exposure (including loan, derivatives, underwriting, etc.) of the financial institution to any single entity. Such a “total exposure” limit is in line with international regulatory trends and can help the bank effectively control the total exposures to a single entity.

2. In the short-term, the FSC could consider amending the “Guidelines for Authorized Matters Regarding Article 33-3 of the Banking Act” (the “Lending Limit Guidelines”) and “Regulations Governing Foreign Bank Branches and Representative Offices” (which stipulate the cap of NT\$7 billion for local-currency loans) to relax the controls on single-lending limits and provide more exemptions. For example, the FSC could (i) control the single-lending limit at the group level, not at the single-borrower level; (ii) provide exemptions when the BIS ratio of a bank achieves a certain level or when the corporate borrower's financial situation and business performance satisfy certain requirements imposed by the FSC; (iii) exclude secured exposure from the single-lending limit; and/or (iv) allow a bank to offer bridging finance in excess of the single-lending limit for a particular project in the initial stage, before syndicating out or selling down the financing amount within a certain period.
3. Under the current regulatory regime, the FSC could adopt more liberal and flexible views regarding the Lending Limit Guidelines. For example, if the foreign parent provides a guarantee for the loans offered by the subsidiary bank in Taiwan, such loans could be deemed as secured loans and therefore exempt from the single-lending limits.

Suggestion 3. Create a competitive Formosa bond market.

Taiwan should allow more regulatory flexibility and encourage more international issuers to tap the bond market as part of its attempt to build an offshore yuan trading hub. To create a competitive platform for the Formosa bond market, Hong Kong is a good example to follow in terms of the environment for both bond issuers and investors (including institutional investors and the general public).

Hong Kong adopts a two-track issuance mechanism, for example, providing different products for different types of customers to choose from. In this way, better protection is given to individual investors than to their institutional counterparts, since the latter group is better equipped in terms of market information and professional know-how.

The FSC should also adopt a program-based approval system for bond issuance instead of “issue-by-issue” approval, considering that the interest rate/yield rate fluctuates rapidly in the bond market. The current issue-by-issue approval basis, which is time-consuming and unnecessary, will reduce the attractiveness of the Formosa-bond platform to issuers.

To make more products available in the Formosa-bond platform, the FSC should also consider allowing more flexibility in the rating requirements or recognize other

criteria as an alternative to ratings. Ratings are not needed when issuing bonds in Hong Kong.

Compared with Hong Kong and Singapore, Taiwan has a larger population and higher excess savings, making it well-positioned to develop Formosa bonds into a premier capital market. The following suggestions are aimed at helping to achieve that goal:

Recommendations:

1. FSC adoption of a “two-track issuance” system, along the lines of Hong Kong’s dim sum bond market, where different rules apply to different types of customers. For example, retail offerings are subject to local rules, while professional-investor offerings are subject to 144A/Regulation S.
2. FSC adoption of the Euro Medium-term Note (EMTN) model, which is a pre-approved bond/note program issuance as opposed to the more time-consuming “issue-by-issue approval.” (Currently the pre-approved option exists for institutional-targeted issuance only.)
3. FSC encouragement of more international issuers to tap the Taiwan onshore market through onshore banks/securities companies by:
 - a. Allowing Chinese issuers to issue Formosa bonds in Taiwan. The relaxation could be done in stages. The first stage would involve issuers with experience in issuing public debt outside of China (such as dim sum bonds, H shares, NASDAQ, etc.), which demonstrates that their disclosure standard is accepted internationally. The second stage would also be open to Taiwanese-owned Chinese corporates that have not issued abroad, if they allow Taiwanese rating agencies to rate them.
 - b. Allowing more flexibility in rating requirements or introducing alternatives such as capital adequacy levels to gauge issuers’ financial health, so as to compete with the dim sum bond market in Hong Kong, where no rating is required.
 - c. Expanding the use of derivative products such as cross-currency swaps (CCS) to provide more liquidity for international issuers while retaining such business in Taiwan.

CAPITAL MARKETS >>

The Capital Markets Committee appreciates the regulators’ continuous efforts to enhance Taiwan’s capital markets. We especially thank the Financial Supervisory Commission (FSC) for listening to the Committee’s concerns and issues on an on-going basis.

While we understand that the global financial crisis necessitated additional regulations for the sake of greater checks and balances between financial institutions and the general public, we believe that it is also important to encourage

industry players to introduce innovative and cost-efficient products for the benefit of both investors and the industry.

As Taiwan strives to achieve greater recognition regionally and internationally for its economic prowess, the state of its capital markets will be a key component in shaping the judgment of global investors, as well as being a crucial factor in its ability to attract international talent. In this spirit, the Committee would like to raise some of the issues that remain as roadblocks to Taiwan’s continued progress. For issues that are not directly within the jurisdiction of the FSC, we urge the Commission to help the financial industry communicate our recommendations to the relevant regulatory bodies so as to bring about a productive result.

As always, the Committee stands ready to assist the Taiwan government in its endeavors to ensure an efficient and competitive capital market.

Suggestion 1: Enhance the capital markets’ depth and breadth by enabling the offering of more products.

1.1 Allow unsponsored ADRs representing the stock of Taiwan-listed companies.

Sponsored American Depositary Receipt/Global Depositary Receipt (ADR/GDR) programs have proven to be a successful means for Taiwan issuers to tap an incremental pool of capital from foreign investors. Unsponsored ADRs would be another way for Taiwan-listed issuers to enhance their global visibility and access additional capital from overseas investors who lack FINI (Foreign Institutional Investor) status.

Today, foreign investors that are FINI-qualified play an important role in the Taiwan stock market, on average accounting for about 20% of the daily trading volume. However, additional overseas investors who would like to access the Taiwan market are currently restricted from doing so as a result of not having FINI-qualification status. This group consists of U.S. investment managers who have specific U.S. dollar mandates and can only hold and trade U.S.-registered securities.

In addition, overseas investors may shy away from the Taiwan market due to the cost, complexity, and time-consuming procedure for opening a trading account. Allowing the creation of unsponsored ADRs for Taiwan securities – based on stock bought in the secondary market and kept with the local custodian bank – would help boost the momentum of the Taiwanese stock market through the deployment of additional capital.

Of the 1,447 companies listed in Taiwan, only 68 currently have a sponsored ADR/GDR program. Through an unsponsored ADR facility, non-FINI overseas investors will be able to access the broad array of Taiwan-listed companies, and the issuer of the unsponsored ADR will have the chance to increase and diversify its investor base just as with a sponsored ADR/GDR program. Unsponsored ADRs can also yield other benefits to the Taiwan market, such as increased market visibility and liquidity, and more commission earned

by brokerage houses.

1.2 *Permit securities firms to engage in foreign exchange related businesses.*

The FSC and its Securities and Futures Bureau (SFB) have taken action to make new business opportunities available in the form of Offshore Securities Units (OSUs). We recognize and strongly support those efforts. OSUs are expected to allow securities firms to provide professional investors with broader non-TWD denominated products with less stringent regulatory requirements. Among such products, Foreign Exchange (FX)-related products can play a critical role for securities firms in Taiwan in competing with other financial institutions around the globe. Unlike Taiwan, the FX businesses in other jurisdictions, such as the United States, Hong Kong, Singapore, Korea, and Japan, are activities that can be licensed to securities firms, subject to product and scope approvals. Clients can deal with securities firms directly for various investment or trading purposes.

Without the capability to directly offer FX-related products for clients' investment purposes, OSUs will be seriously impaired in developing attractive business opportunities. Although the Committee understands that securities firms can still engage with banks in Taiwan to facilitate clients' needs, that approach would be contradictory to the goal of providing clients with a one-stop-shopping service so as to attract back to Taiwan investments currently being handled overseas.

1.3 *Relax futures trading and relevant foreign exchange regulations.* To further promote the Taiwan Futures Exchange (TAIFEX), enabling it to take advantage of its proximity to the Taiwan cash equity market to gain a competitive advantage over other exchanges overseas, the Committee recommends the following measures to give professional institutional investors greater incentive to participate in the listed derivatives market:

- Remove the mandatory pre-margin requirement for professional institutional investors and institute a “give-up” trade mechanism. Only a few exchanges in the world still require pre-margin deposits, and given the extremely low level of risk for professional institutional investors such as banks, brokerage dealers, and other licensed financial institutions, changing the pre-margin requirement to post-margin would improve trading efficiency and be more in line with global practice. In addition, adopting the “give-up” trade mechanism would provide professional institutional investors with more flexibility and options in trading futures across different futures commission merchants (FCMs). Institutional investors usually give their listed derivatives orders to many brokers, but prefer to centralize their settlement with one clearinghouse for reasons of confidentiality, minimized funding requirement, and reduced counterparty risk. Providing this option would encourage institutional investors to contemplate placing more orders in Taiwan. Post-margin payment and a

give-up mechanism must work in tandem.

- Exempt professional institutional investors from the regulatory compulsory unwinding requirement and allow brokers to exercise discretion based on the brokerage contract. In accordance with the new risk mechanism effective July 1, 2013, FCMs shall set up compulsory client margin-ratio limits for liquidating clients' positions. For professional institutional investors, there is little default risk and trade disputes are rare. In addition, the brokerage contract should constitute sufficient control. Providing this waiver would significantly reduce the obstacles for foreign institutional investors to trade in Taiwan's futures market.

Suggestion 2: Enhance the market infrastructure and market efficiency.

2.1 *Improve market efficiency by extending the T+2 DVP Settlement System to emerging market stocks.*

To enhance the efficiency of Taiwan's securities market and bring it in line with international standards, the Taiwan Stock Exchange (TWSE) implemented a T+2 DVP Settlement System (Delivery Versus Payment Settlement, within two days of the transaction) in the beginning of February 2009. One of the most significant benefits this system brings to the market is that it resolves the difference between the delivery of securities and the receipt of money on the part of sell-side securities companies. However, emerging markets were excluded from this new regime. In the emerging market settlement system, the settlement operation is divided into two tiers: (1) settlement between investors and securities companies, and (2) settlement between securities companies and the TWSE. There is a one-day gap for investors between the delivery of securities/funds and the receipt of funds/securities. This time gap is not only unfair to investors but also could become a source of settlement risk. The Committee therefore calls on the regulators to expand the T+2 DVP Settlement System to emerging markets. From the perspective of a global operating model, the existence of discrepancies in the settlement system increases transaction risks and hinders market efficiency.

2.2 *Enhance the market infrastructure by changing the settlement system from a gross to a net settlement basis.*

Securities settlement systems are a major component of the financial-sector infrastructure to ensure that the critical needs for safety, soundness, certainty, and efficiency are achieved at a level of cost acceptable to all market participants. Currently, the settlement system between FINIs, which authorize the custodian bank as their representative, and a securities firm is on a gross settlement basis unless the custodian bank is a contractual settlement bank of the securities firm. The gross settlement procedure is based on processing the settlement for each FINI account, but it is time-consuming and inefficient. The Committee proposes use of a net settlement system, both for greater efficiency at the operational process and also for cost-savings on settlement

funding remittance at the FINI client level.

2.3 Allow FINIs to maintain Multiple Trading Accounts (MTAs).

According to the current “Operation Directions for Applications by Overseas Chinese, Foreign Nationals, and Mainland China Area Investors for Registration to Invest in Domestic Securities or Trade Domestic Future,” a foreign investor is qualified to register for an MTA only when at least one of the following conditions applies:

- Its investment strategy calls for operation by an external manager.
- Its internal investment operation uses different transaction platforms.
- It assigns multiple external account administrators.

The Committee suggests that the authorities also consider the following conditions as qualifying a foreign investor to apply for an MTA:

1. It is a sovereign wealth fund or pension fund that operates with multiple mandates (even if all have the same external fund manager or the same global custodian bank).
2. It has assigned multiple global custodian banks through the same external fund manager.
3. It has a single external fund manager who uses multiple sub-advisors.
4. It has a single external fund manager who uses multiple internal trading platforms.

In addition, aside from the required supporting documents stated in the regulation, the TWSE in practice will request that the foreign investor provide additional documents not stated in the current regulations, without citing a statutory basis for the request. This situation causes considerable confusion for custodian banks while processing the registration. We urge the TWSE to provide a full list of required documents to facilitate custodian banks’ communication with foreign investors and increase the efficiency of the registration process.

Suggestion 3: Clarify questions regarding the Personal Data Protection Act.

The Personal Data Protection Act (PDPA) was officially promulgated and implemented on October 1, 2012. Although the Committee recognizes the great effort the government has made to enhance personal information protection in Taiwan, varying interpretations and inconsistent approaches regarding PDPA implementation have created difficulties for industry.

For example, the new law requires the data receiving party to obtain an individual’s written consent before collecting, processing, or using the personal data. In daily operations, a financial institution will receive personal data indirectly from corporate clients or vendors either through normal business dealings or based on regulatory requirements. The PDPA requirements to provide notice to – and obtain written consent from – indirect sources, is an overwhelming and impractical burden.

From a practical perspective, in a business context it is not

feasible to obtain consent from each individual or provide notification upon every occasion of collection of contact information. Similar legislation in India, in contrast, exempts the indirectly obtained personal data of corporate officers from the notice and consent requirements. Singapore’s new Personal Data Protection Act 2012 does not apply to business-contact information at all. The Committee therefore recommends that the Ministry of Justice (MOJ) grant an exemption for business contact information from the notice and consent requirements.

Personal information collected for industry-specific requirements also falls within the scope of the PDPA (for example, copies of a responsible person’s identification obtained based on anti-money-laundering guidelines issued by the Bankers Association or based on the Operating Rules of the Taiwan Stock Exchange). However, an exemption from notice requirements is available for personal information “required for performance of legal obligations,” and an exemption from consent requirements is available for personal information “required by law.” Though the MOJ is the main regulatory agency for the PDPA, the FSC is the regulatory body supervising the financial industry. The Committee recommends that the FSC issue interpretative rulings to clarify how these notice and consent exemptions should apply in practice, so that industry may implement them on a consistent basis.

Finally, the Committee recommends that the FSC issue interpretative rulings to allow a broad exemption from notice and consent requirements where personal information is collected for the “legitimate business interests” of an organization (such as obtaining a copy of the responsible person’s ID for Know Your Customer purposes). Models for this approach can be found in the European Union Directive and in the Philippines’ Data Privacy Act 2012.

Suggestion 4: Continue to enhance the Securities Borrowing and Lending (SBL) market.

Taiwan continues to be regarded by foreign investors as one of the most important markets in the Asian region for securities borrowing and lending (SBL). The Committee appreciates the collective efforts of the TWSE, Ministry of Finance, and the FSC in supporting the development of this market in recent years. However, the unique features of Taiwan’s SBL market means that further reform is still needed. Over the long run, we believe that an SBL system that is aligned with global practice will attract more investor participation, yet we are also fully aware of the challenge – given Taiwan’s existing market infrastructure – of totally overhauling the current system. Following are recommendations that could help resolve some of the near-term SBL issues:

- 4.1 *Lower the collateral ratio requirement for the SBL business to 105%.* The existing collateral ratio of 140% is higher than in such other Asian markets as Korea, Singapore, and Japan, where only 105% collateral ratio

is imposed in all three countries. As a result, Taiwan has been put in a less competitive position. The Committee suggests reducing the collateral ratio to 105% to attract more foreign investors to the market.

4.2 Improve the recall process and allow borrowers to access the “For Settlement Borrowing System” as the last resort when market restrictions prevent them from obtaining the recalled securities to meet the lender’s settlement obligation.

In typical SBL transactions in most markets, it is the borrower’s responsibility to return securities when securities are recalled within the market-settlement cycle; otherwise, the borrower bears the responsibilities and costs. Under the current rules in Taiwan, the lender can recall and sell on the same day (T day) and meet T+2 settlement under certain conditions. The rules, however, do not consider the possibility that the borrower may be unable to purchase/borrow from the market and in turn may cause a settlement failure with penalty on the lender’s part. While the selling broker of the lender is allowed to access the “For Settlement Borrowing System” when this situation occurs, the associated costs and the ultimate responsibilities still remain with the lender. We suggest that the borrower be given the same access to the “For Settlement Borrowing System” via its broker in the event the stock in question reaches the Daily Fluctuation Ceiling or Foreign Ownership Limit, as both situations can be substantiated by the records of the buying brokers. The SFB last year instructed the TWSE to study the feasibility of this suggestion and to discuss it further with industry representatives, but no conclusion has yet been announced.

4.3 Improve market efficiency by allowing the custodians to report to the TWSE the free delivery of lent/borrowed securities under an SBL transaction.

Current TWSE regulations stipulate that the lender and borrower follow the terms and conditions of the negotiated agreement between them. However, the process still requires brokers on both sides to input the negotiated SBL orders for the exchange to confirm that the details match, followed by share delivery through brokers, just as in a normal trade that does not have a counter party. As a negotiated SBL transaction is already agreed or “matched” between the lender and the borrower, it does not need to be matched again on the stock exchange via input by SBL brokers. We suggest that delivery and receipt of the loaned securities follow the “Taiwan Stock Exchange Corporation Securities Borrowing and Lending Rules.” These rules allow the custodians to report the transaction details to the TWSE, which in turn would instruct the Taiwan Depository and Clearing Corp. (TDCC) to transfer the shares directly to and from the accounts of the borrower and lender without going through the accounts of the broker. This procedure would substantially improve the processing efficiency for negotiated transactions. In May 2011, the TWSE requested brokers’ comments on this subject, but the Committee is unaware of

any official action since that time.

Suggestion 5: Create an efficient and cost-effective investment environment to compete in the Asia-Pacific region.

5.1 Issue rules, regulations, and regulatory announcements concurrently in English.

The participation of foreign investors in Taiwan’s capital market has increased significantly over the years. Foreign investors now own roughly 30% of the shares in listed companies, and they account for about 20% of the TWSE turnover. It is important for Taiwan’s regulators and market operators to provide this group of investors with the same access as their domestic counterparts to all regulatory announcements critical for investment decision-making.

Currently, the lack of immediate English-language information limits the Taiwan market’s growth potential and creates a risk premium for foreign players. If the FSC, the exchanges, and the Taiwan Securities Association were to make their official announcements simultaneously in Chinese and English, it would help attract more foreign investors by making the Taiwanese regulatory regime more accessible and transparent for them.

5.2 Provide flexibility in personnel registration.

The stringent personnel registration requirements in Taiwan give global financial firms less incentive to expand their business in this market, as the cost of adding to the headcount is not justified by the new business volume at the initial stage. The Committee therefore calls on the regulators to allow flexibility for financial institutions in personnel registration as long as the registered persons meet the required qualifications for each respective function, such as licenses and training, and no capacity issues or conflict of interest concerns exist. The prudent steps taken by the SFB in 2011 to overhaul the headcount threshold requirements and the rationale of cross-industry registration between the securities and futures brokerage businesses were well received in the Taiwan capital market. We hope the authorities will follow up on those achievements by taking these additional steps:

- (a) Allow multiple-function registrations so that skilled professionals in financial institutions may serve concurrently in more than one function. Under current regulations, for example, a professional registered in the brokerage business cannot concurrently perform other functions in the same entity (such as dealing in derivatives products, serving as the master agent for offshore structured products, engaging in the forced close-out of clients’ futures positions, etc.). In contrast, the multiple registration of personnel is a common practice in most international markets, including Hong Kong, Singapore, and Korea.
- (b) Permit cross-industry registration to enable financial firms with a “universal banking” structure and/or “one-stop shopping” business model – such as

owning an integrated securities and banking business – to expand in this market more easily, eliminating the previous headcount and registration constraints. This change will also provide career opportunities as local talent has the chance to gain versatility through cross-industry experience.

- (c) Allow non-marketing/sales function registrations for cross-border support. Under Taiwan's current regulations, both front- and back-office business functions of securities and futures firms must be performed within the approved local premises. From the perspective of a global operating model, however, it is common for certain back-office functions (such as internal auditor, financial control, and risk management, etc.) to be located and operated at the regional office in order to assure the consistency of control policy, provide the best coverage, and optimize support capacity. With this support model, the designated regional hub will then host the most seasoned and capable professionals to provide effective, efficient and quality services to regional locations, including Taiwan.

5.3 Drop the requirement for an explanation on the Taiwan Securities Association website whenever a client complaint is received.

The media often uses its own channels to obtain foreign securities brokers' research reports, and then quotes or takes excerpts from the contents. This unauthorized usage, which cannot be controlled by the brokers, may impact market performance or stock prices and sometimes generates investor complaints to the regulators. Upon receiving the complaints, the regulators usually request additional explanations from the foreign securities brokers without judging the merit of the complaints. Such constant inquiries cause a serious administrative burden for the brokers. The Committee appreciates the efforts made by the regulators in educating investors on this matter, but the burdensome requirement to post an explanation and/or disclaimer on the Taiwan Securities Association website remains intact. This requirement is a highly unusual practice not seen in other countries and should be discontinued.

These recommendations in fact echo the government's policy vision of establishing a Taiwan-oriented financial operating platform, as they promote creation of a business environment of versatile product offerings with seamless, coordinated, and integrated service across financial industries.

Suggestion 6: Provide flexible underwriting rules.

The Taiwan capital market has been gaining in importance for international investors, but we believe that adopting a set of rules, regulations, and processes that are more in line with global practices will enable Taiwan to attract even more foreign capital. There are several practical ways to improve the situation:

6.1 Increase the book building for book build tranche to 50%.

The Taiwan system combines both book building and public offers to provide more flexibility to issuers and their underwriters so as to ensure sufficient interest for Initial Public Offerings (IPOs). But the current public offering ratio of as much as 60% of the underwriting size (that is, the book building portion may be only 40%) is quite high compared to other markets. In Hong Kong, for instance, the public offer ratio is set at 50%, and the public offering tranche may be reduced to 20% for sizable IPO deals if special approval is obtained from the regulators. In global practice, cornerstone investors play a key role in IPO deals, as their participation is normally viewed very positively, particularly among retail investors. We believe that strong participation from professional institutional investors is an important contributor to a successful IPO as they are regarded as relatively long-term investors in the company.

6.2 Relax the subscription process for book building.

Book building is an important price-discovery mechanism because it allows the gathering of indications of interest from across a wide spectrum of potential investors. However, the onerous subscription process involving a physical subscription form creates a heavy burden for foreign investors residing in other time zones. We recommend allowing use of an electronic format for the subscription form, and permitting authorized order placers to aggregate subscription orders, with allocations to particular exchange accounts following at a later stage.

6.3 Allow FINIs who are broker dealers in the home country of the underwriters to participate in the book building if the subscriptions are for their clients.

The current regulations prohibit related parties of the issuers and underwriters to participate in the subscription process out of concern for conflict of interest. The business nature of FINI broker dealers is to intermedicate their clients to facilitate their access to the market. Clients of a FINI broker dealer are not allowed to subscribe to a Taiwan domestic offering, simply because that FINI is an affiliate of one member of the underwriting syndicate. We suggest providing exemptions to FINI broker dealers who are related to the Taiwan underwriters to enable them to participate in the book-building process for their client-initiated subscriptions.

CHEMICAL MANUFACTURERS >>

The Committee is pleased to note some progress on issues from the Chemical Manufacturers position paper in the 2012 *Taiwan White Paper*. One of the issues concerned the vagueness of current laws and regulations regarding the labeling and declaration of hazardous and harmful materials, as well as the problem of the protection of chemical producers' trade secrets following such disclosures. From the response to the *White Paper* by the Council of Labor Affairs (CLA), we understand that the government

recognizes these issues and plans to invite industry representatives to discuss them in the near future with an eye to amending the current law.

Another issue from last year pertains to the definition in Ministry of Transportation and Communications (MOTC) regulations of “dangerous goods during transportation,” which does not clearly distinguish between goods that are hazardous only in the workplace and those that could be dangerous when transported. We understand from MOTC’s response that the government also recognizes this issue and will amend the regulation in question.

The Committee very much appreciates the forthcoming attitude of these two government agencies, and looks forward to early progress in resolving these issues.

Suggestion 1. Allow the use of pyrophoric specialty chemicals by high-tech industries in the science parks.

Silane (SiH₄) is a specialty gas commonly used in the Chemical Vapor Deposition (CVD) manufacturing process to fabricate various semiconductors and optoelectronic devices like TFT-LCD and AMOLED flat panel displays and photovoltaic (PV) crystalline silicon/thin-film. Compared with alternatives, silane has clear process advantages and has been the primary silicon-source gas of choice in high-volume device manufacturing. In Taiwan, the large users are primarily located within the Science-based Industrial Parks.

As demand for consumer electronic products and solar energy has increased and device-manufacturing processes have become more sophisticated, silane usage has risen very significantly in the past decade. Typical silane usage per month for an advanced production line has increased from less than one metric ton to more than 10 metric tons, and the mode of supply has gradually shifted from small containers (44L high-pressure B-size cylinders) to medium containers (440L high-pressure Y-size cylinders) to achieve logistics cost savings.

But Taiwan’s high-tech industry has not adopted the most economical mode of supply – ISO modules (more than 9000L high-pressure tube trailers) – as their competitors have done in the United States, Korea, Europe, and China, because of resistance by the authorities to approve silane ISO module supply applications. ISO modules are perceived by some officials to be more dangerous than smaller containers if any leakage were to happen. Indeed, a few silane leakage incidents have occurred in the industry in the last few years, including in Taiwan, mainly due to manual negligence in operating the silane distribution system and the container change-out procedure – both of which have nothing to do with the mode of supply.

Given the pyrophoric property of silane, operational safety should always be treated as the top priority issue for silane suppliers as well as for consumers. ISO module supply to high-volume consumers has been proved to be the safest, most economical, and most reliable supply mode as long as global safety codes (CGA, ANSI, FMEA, etc.) and industry best practices are appropriately followed. The key benefits of

using ISO module supply of silane are as follows:

- Lower possibility of mis-operation arising from the container change-out frequency;
- Lower unit cost through purchases in bulk volume;
- Smaller number of containers required in the fleet, making it possible to streamline the supply chain and ensure uninterrupted supply;
- More consistent container-to-container product quality and consequently better process performance.

To enable high-volume silane users to increase their global competitiveness, the Committee offers the following recommendations to the regulators:

- Follow global safety codes and refer to industry best practices to clearly define safety requirements (regarding size of outdoor area, open ventilation, safety setback distance, firewalls, fire-extinguisher availability, leak detection, alarms, etc.) for silane ISO module supply operations in Taiwan;
- Apply these silane ISO module safety requirements to consistently review and approve/disapprove new silane ISO module supply applications submitted by silane suppliers and users;
- Encourage high-volume non-ISO module silane consumers to comply with silane ISO module safety requirements in order to enjoy the benefits of safety, cost, quality, and reliability and improve their overall competitiveness in the global marketplace.

Suggestion 2. Improve regulations on greenhouse gas (GHG) emissions.

The proposed Greenhouse Gas Reduction Act drafted by the Environmental Protection Administration (EPA) was submitted to the legislature by the Executive Yuan in April 2012, and is still awaiting action by the Legislative Yuan. The Committee urges the lawmakers to consider some issues about the need for greater clarity in the draft legislation. These issues were raised in previous *White Papers* and are still of concern. In particular:

- The CO₂ reduction quota scheme is still undefined, with no clear target specified.
- The process and system for carbon credit trading is still unclear.
- The system for offshore carbon exchange is also unclear.

A second issue is that the Greenhouse Gas Reduction Act is focused primarily on the industrial sector. The Committee recommends that the government consider achieving Taiwan’s overall GHG emission targets holistically, by mandating responsibility for CO₂ reduction in other sectors as well, for example transportation, housing, commerce, and farming.

Thirdly, the EPA announced on May 9, 2012 that GHG emissions would be considered as air pollutants covered by the Air Pollution Control Act. This interpretation requires businesses to register GHG levels in accordance with stipulations in the Air Pollution Control Act. But greenhouse gases are not the same as common air pollutants. Enforcement

of the Air Pollution Control Act is in the hands of local government authorities rather than the central government, and the varying considerations of different local authorities in controlling emission levels cause further uncertainty for business operations. We therefore recommend that the government refer to international practice to develop specific regulations to manage GHG activity, rather than incorporate control of GHG under the Air Pollution Control Act.

In support of the government's goal of GHG reduction and with a view to making the effort as effective as possible, the Committee requests:

- More clarity in the GHG reduction quota and the schedule to be met.
- Greater clarity on the performance standard to be met by industry, and consideration that these standards should be set at reasonable levels.
- Holistic inclusion of other sectors that impact GHG emission.
- Engagement by the authorities with relevant stakeholders (including industry) in formulating GHG policy.
- Reconsideration of the current inclusion of GHG under the Air Pollution Control Act, and clarification that GHG management activities will come under the authority of the central government through the Greenhouse Gas Reduction Act.

EDUCATION & TRAINING >>

The Education and Training Committee commends the Taiwan government on the following achievements of the educational system in Taiwan:

- In 2012, Taiwan ranked as the top Asian country in the World Bank's Knowledge Economy Index.
- Thanks to the Ministry of Education's objective of providing universal basic education, enrollment of school-age young people in national education is nearly 100%.
- In the section of AmCham Taipei's 2013 Business Climate Survey dealing with employer perceptions of human capital, Taiwan's workforce is rated as "extremely well-educated."

These past accomplishments are significant, but even more important will be ensuring that Taiwan continues to develop the talent it needs to remain competitive as other Asian countries, such as South Korea, surge forward in playing global economic roles. President Ma Ying-jeou has stated that Taiwan is on a path to transform its economy "from efficiency-driven to innovation-driven," and that the government's aim is to see Taiwan become an innovation center for the region and the world.

Undoubtedly, theoretical knowledge – in which Taiwan's education systems excels – is necessary in achieving the government's goals. But it is not sufficient to transform

Taiwan from a manufacturing center into a global innovation center, capable of competing with the best the world has to offer. The same AmCham Taipei 2013 Business Climate Survey that praised Taiwan employees as "extremely well-educated" also rated them poorly in terms of "creativity" and whether they are of "world-class standard." The weakness in those two areas must be addressed if Taiwan is to undergo the kind of transformation that President Ma – and many economists and business leaders – believes is needed.

Although those changes cannot be accomplished overnight, we believe that concrete steps must be taken to demonstrate to Taiwan companies that the government is serious about its commitment to innovation. To help in that effort, the Committee recommends that the authorities address the following issues in 2013.

Suggestion 1. Establish a licensing system for the study-abroad industry.

The study-abroad consulting industry is one of three industries – the others are travel and immigration services – that assist Taiwanese with arrangements for traveling and/or living abroad. In both the travel and immigration fields, the government conducts active regulation and enforcement, and has put systems in place to train, test, and license private agencies to assure the public of the professionalism of those businesses. The study-abroad industry is the only one of the three without a licensing regime – despite requests to the Ministry of Education (MOE) from the International Education Consultants Association (IECA), the organization representing the study-abroad agents, that such a system be established.

Although this concept has been discussed for over a decade, little progress has occurred. Instead, MOE has produced a standard contract to be entered into between the study-abroad agencies and students utilizing their services. But the Ministry modifies the content every few years, making compliance difficult. Moreover, MOE does little monitoring of the actual use of the contract within the industry, and it does not attempt to enforce compliance with its content.

This void in regulation and enforcement exposes consumers (students and their parents) to a wide variety of risks and potential fraud – problems to which consumers in the travel and immigration fields are not exposed due to the regulatory systems that have been established. It is unknown why MOE has not followed the lead of the Ministry of Transportation and Communications' Tourism Bureau (which regulates travel agents) and the Ministry of Interior (which regulates immigration consultants) by setting up a proper regulatory and enforcement system for the study-abroad industry.

We request that MOE take concrete steps to create such a licensing regime, and that in doing so it follow principles similar to those used in the travel and immigration

industries to balance consumer protection with the need for a reasonable environment for professional consulting agencies to practice their profession. Finally, we request that the licensing regime be as inclusive as possible to ensure that it covers all organizations assisting students to go overseas, including private consultants, short-term cram schools, high schools, colleges, and universities.

Suggestion 2. Encourage students to go abroad for study rather than work holidays.

The past several years has seen a decline in the number of Taiwanese students going overseas to study, while there has been a significant increase in the number of youths going overseas to participate in work-holiday programs. We suggest that MOE conduct a study of these trends to see whether there has been any adverse effect on the overall labor talent pool in Taiwan. If so, we would urge MOE to take steps to encourage students to go overseas to study rather than work.

There is good reason for concern about the growth of work-holiday programs. According to an Australian National Institute of Labour Studies report entitled *Evaluation of the Australian Working Holiday Maker (WHM) Program*, approximately 80% of the work positions created by the program are in agriculture and low-end services. Participants in the WHM program also cited the limited value of the skills they were learning.

Although work-holiday programs offer very little to improve the quality of the labor talent pool in Taiwan, their popularity continues to grow while demand for traditional overseas study programs declines. Instead of going overseas to obtain an advanced degree, young Taiwanese are going abroad to learn how to pick fruit and vegetables and clean hotel rooms. With tens of thousands of young people participating in these programs each year, the negative effect will be felt in the labor market for years to come.

We suggest that MOE strongly advise students that work-holidays are not the best option for students wanting to gain marketable employment skills. The Ministry should establish a long-term program to encourage Taiwanese students to go overseas for study to learn employable skills, as well as bicultural communication skills. Furthermore, it would be more appropriate for supervision of the work-holiday programs to be shifted from MOE to the Council of Labor Affairs (CLA).

Suggestion 3. Encourage partnerships between Taiwan universities and international counterparts to help make Taiwan's higher education sector globally competitive.

Stanley Yen, chairman of the Alliance Cultural Foundation, noted this year that instead of linking up with counterparts internationally, universities in Taiwan have increasingly been partnering with one another. Domestic institutions of higher education have been over-protected and too inward-looking, which has weakened Taiwan's global competitiveness. The educational sector is the source

of talent for all industries. If the source cannot develop global competitiveness, neither will the industries. Taiwan cannot rely merely on recruiting students from Southeast Asia, Africa, or China as the future strength of its university system. We need to find ways not only to encourage quality faculty and students to stay in Taiwan, but also to attract quality faculty and students from developed Western countries. To accomplish that goal will require a very international higher-education program.

The number of Taiwanese students studying abroad each year has dropped to 20,000, while that of Chinese students overseas has grown to 150,000. Singapore offers scholarships to outstanding foreign high school students to study at universities in Singapore, on the condition that they work for companies in Singapore for three years after graduation. For the past 15 years, Singapore and Hong Kong have introduced extensive degree and non-degree programs in cooperation with foreign institutions, and have also encouraged prestigious foreign universities to set up campuses and centers locally. Since joining the World Trade Organization (WTO) in 2002, China has caught up with, if not surpassed, Singapore and Hong Kong in this regard. As economist Chen Tain-Jy of National Taiwan University, a former Minister of the Council for Economic Planning and Development (CEPD), puts it: "Deregulating and opening up to diversity is the only way to get the water flowing." He was referring to the "Flowing Water Theory" of Lawrence Zicklin, a professor of business and former Wall Street financier, which says that when people move, merchandise moves, and so will money. "Merchandise" means products or services, and "money" means the economy. Education is internationally recognized as a service industry, and needs to be treated as such. The more the "water is flowing" – with both Taiwanese students going abroad to study and foreign students coming here – the greater the economic benefit for all concerned.

In recent years, CEPD has been promoting the idea of creating a virtual cyber international education city such as the ones in Malaysia and Qatar where world-class universities have been able to set up physical campuses or individual programs, or alternatively offer distance learning, with full recognition of the degrees earned. If Taiwan wants to be an active player in the world, and to introduce its culture to the world, creating an international education city is a good approach. It will help give our children a strong foundation so they will have more confidence when they step out into the world. It will also help broaden the horizons of Taiwan's higher education and encourage positive competition in that sector through multicultural partnerships.

As for the idea of easing restrictions on foreign universities' establishment of campuses in Taiwan, CEPD has cited steps that Singapore and Korea are taking in this regard. Allowing joint-venture partnerships between local private and prestigious foreign universities might be a good way to begin. The current regulation stipulating that university campuses must be at least five hectares in area is also an entry

barrier for international institutions.

In conclusion, we suggest that the government:

1. Liberalize regulations to encourage foreign universities to set up campuses, branches, and degree/non-degree programs in Taiwan.
2. Establish cyber college cities for all kinds of projects and programs for local and foreign universities.
3. Introduce regulations and policies to encourage joint-degree programs with foreign institutions.
4. Encourage cooperation between universities and major corporations. As one example, programs to recruit foreign students to learn Chinese in Taiwan could also offer opportunities for visits to Taiwan's leading high-tech companies.

HUMAN RESOURCES >>

The Human Resources Committee appreciates that the Taiwanese government has taken into consideration and accepted some of our suggestions from last year's *White Paper* regarding proposed amendments to the Labor Standards Law (LSL). The Committee looks forward to further developments in establishing a well-balanced employment-law regime that protects the interests of employees while taking the commercial needs of the employer into due consideration.

This year, the Committee is presenting five issues that represent the key areas of concern of its members. The issues reflect the shared desire of the Committee's members to see greater flexibility and predictability in the employment laws in Taiwan.

Currently, the most important issue for the Committee is the regulation of the use of labor dispatch through the introduction of new laws or amendments to the Labor Standards Law (LSL). The Committee also hopes to see further relaxation of the restrictions on lump-sum payment of pensions, clearer regulations on the enforceability of non-competition covenants, elimination of the criteria of two-year working experience in work permit applications, and the exemption of certain employees with higher positions or higher salary from the provisions regulating overtime pay.

Suggestion 1. Reconsider proposed amendments to the LSL concerning labor dispatch so as to balance labor protection and the impact on business.

Proposed amendments to the LSL were announced by the Council of Labor Affairs (CLA) on January 11, 2010. The Committee appreciates the opportunity it has had since that announcement for dialogue with the CLA, which adopted some of the suggestions proposed in our 2010 *White Paper*. But since our members continue to stress the significance of other suggestions that were not adopted, the Committee urges the CLA to consider the importance of avoiding over-

regulation of the use of labor dispatch. Following are our members' key areas of concern:

1.1 Definition of Dispatching and Outsourcing

"Labor dispatch" means sending workers employed by one entity to another entity to provide services under the second party's supervision and management. The draft amendment to the LSL seeks to regulate this activity in Taiwan, but fails to clearly define what constitutes labor dispatch. When a company outsources its call center services or customer-complaint handling services, for example, will that company be deemed as engaging in labor-dispatch activity and therefore be subject to the restrictions contained in the amended law? The Committee recommends redrafting the amendment to draw a clear distinction between labor dispatch and the outsourcing of human resources and other business services.

1.2 Limitation on Number of Dispatched Workers

Article 9-1 of the draft amendment would require an enterprise wishing to use dispatched workers to first obtain approval from the labor union or labor-management meeting, and would limit the number of dispatched workers to no more than 20% of the enterprise's total employment. The Committee continues to oppose this limitation on the number of dispatched workers because a blanket cap does not take into account the different human-resources needs of companies in different industries. In addition, as the Committee noted in last year's *White Paper*, labor unions or other groups representing employees have their own interests to consider and will be unable to review workforce questions objectively.

The amendment would have the biggest impact on the manufacturing sector, which employs the largest number of dispatched workers. If companies are unable to use dispatched labor, they might instead fill job vacancies with foreign workers or transfer purchase orders to overseas facilities. In either case, the consequence is fewer job opportunities for Taiwanese labor and a larger unemployed population. In addition, multinational companies often have headcount restrictions. If hiring flexibility in Taiwan is reduced, these companies may move job opportunities to other countries.

The Committee again urges deletion of the requirement for approval by the labor union or labor-management meeting, and the removal or easing (either across the board or for certain types of dispatch services) of the proposed limit on the proportion of a company's workforce that may be accounted for by dispatched workers. For example, if the number of dispatched workers does not exceed 10% of the total employees, approval by the labor union or labor-management meeting should not be required; for specific circumstances such as seasonal work or special projects, employers should be able to apply for a higher percentage of dispatched workers.

Further, the draft article's second paragraph requires a company requesting to use dispatched labor to first publish

such details as the number of workers required, the period of dispatch, and the relevant job descriptions. The rationale for this requirement is unclear, and it is more likely to spur labor disputes than to serve any positive purpose. The Committee recommends deleting this requirement.

1.3 Restrictions on Requesting Specific Dispatched Employees

Article 9-3 of the draft amendment stipulates that a requesting company may not “ask for” specific dispatched workers. Does this mean a requester cannot create any qualification requirements on workers at all? Is it barred from asking for substitutes for certain dispatched workers? As the requester will be the recipient of the services provided, it should have the right to choose which dispatched workers it wishes to use. This article should be deleted, and the term “ask for” should be more clearly defined or some other explanation provided to remove the ambiguity.

1.4 Registration of Dispatch Service

Article 74-1 of the draft amendment would permit companies to register to engage in the dispatch service industry without an approval process to ensure that they meet specific qualifications. This system fails to give appropriate protection to dispatched workers’ rights and interests. The Committee suggests that basic qualifications for participation in the dispatch service industry be set (for instance, that an applicant has a good performance record, provides comprehensive employee training, and implements a business plan). Dispatch service companies should also be required to report regularly to the competent authority to help prevent irregularities. Otherwise, law-abiding dispatch service companies will be at a disadvantage competing with those firms doing business in a gray area or illegally.

1.5 Fixed-term Contract vs. Labor Dispatch

Fixed-term contracts and labor dispatch are popular practices in Taiwan because the current LSL imposes excessive constraints on employers regarding severance or termination of employment, depriving employers of the HR management flexibility needed to survive in today’s competitive markets. The Committee considers that the use of labor dispatch and fixed-term contracts work hand-in-hand. The member companies that the Committee represents have indicated that the use of labor dispatch is sometimes driven by the stringent and inflexible requirement of fixed-term contracts under the current LSL. The Committee suggests that if the new law proposes to tighten the use of labor dispatch, then regulations on fixed-term contracts should be relaxed. In particular, the current law requires fixed-term contracts to fit into one of the four categories provided under the LSL. The Committee suggests that the draft be revised to enable an employer to use fixed-term contracts as long it has a “temporary need for additional human resources.”

1.6 Transition Period

The draft does not explain how existing dispatched workers would be affected by the amendment’s passage into law. The Committee suggests specifying a transition period to give businesses a reasonable period of time to deal with existing dispatch relationships and to prevent legal complications.

Suggestion 2. Consider amendments to the LSL to allow retiring employees to receive pensions in installments under the “Old Pension Scheme.”

Under the current legislative framework, there are two statutory pension schemes operating in parallel, the Old Pension Scheme under the LSL and the New Pension Scheme under the Labor Pension Act (which took effect in July 2005).

Pensions paid to employees under the Old Pension Scheme are done so in a lump sum, within 30 days of the date of retirement. The Committee understands that the intent of the lump-sum payment requirement is to ensure that employees can receive their pension soon after they retire, eliminating the possibility that employees will be deprived of their entitlements due to their former company becoming insolvent.

However, lump-sum payment generally increases the recipient’s income substantially in the financial year in which the employee retires, with adverse tax consequences if the recipient of the pension is pushed into a higher income-tax bracket. Receiving a single lump-sum payment also increases the financial risk to the employees in case the payment is not well-managed.

The Committee understands that government employees have the option of receiving their pension in installments, which has a number of advantages: (a) it is more tax efficient; (b) it provides a secure source of steady income for the employee’s retirement; and (c) it imposes less financial strain on the employer’s cash flow (an important factor as many companies are facing the peak period of employee retirements under the Old Pension Scheme).

We therefore propose that the current pension regime adopt the same pension-payment mechanism as applies to government agencies, permitting the employer and employees to agree on whether the pension is to be paid in a lump sum or over an agreed-upon payment schedule.

Suggestion 3. Amend the LSL to provide clearer regulations on the enforceability of non-competition covenants.

Many companies enter into non-competition covenants with their senior executives, restricting what activity the executives can engage in if they leave the original employer. Under the current legislative framework, the scope of enforceability of the non-competition covenants (with regard to geographic area and length and type of restricted activities) is not defined, and it is also unclear what constitutes the “reasonable” compensation that an employer needs to pay to enforce the non-competition covenant. The enforceability of a non-competition covenant and the amount of reasonable

compensation are left to the courts.

The Committee submits that the employer and employee should be allowed some flexibility to agree on what constitutes a reasonable scope of non-competition covenants and whether additional compensation is mandatory to enforce the non-competition covenant.

In light of the increasing integration of various markets in the Asia-Pacific, the role of many senior executives is usually not limited to one city or country. In addition, the appropriate length of the non-competition covenant varies with circumstances, and should also be a matter to be negotiated and agreed-upon between the employer and employee. Finally, the Committee submits that if the employer and the employee have agreed on a non-competition covenant at the time the employment agreement is signed, the employer and the employee should be able to agree on whether the compensation for the non-competition covenant can be factored into the employee's remuneration. If additional compensation is required, the amount should be negotiated and agreed-upon by the employer and employee.

In the absence of a coherent view from the courts and the lack of express statutory provisions on this issue, the Committee holds that clear laws are needed to permit an employee and employer to agree on the scope of the non-competition covenant – and not to compel the employer to pay for the enforcement of the non-competition covenant.

Suggestion 4. Exempt employees with higher positions or a monthly salary above a certain level from the provisions on extended working hours and overtime pay.

The current LSL sets very strict limitations on extended working hours and overtime pay. However, some senior or professional employees are entitled to flexible working hours and have sufficient bargaining power to negotiate with their employers; they do not depend on protection under the law. The LSL should therefore reserve space to allow employers and their senior professional employees to determine the working hours and leaves for such employees. For example, if a senior executive needs to have a phone call or video conference with overseas customers or headquarters in different time zones, it is impractical to require the senior executive to clock in at 9 a.m., clock out at 5 p.m., and regard any work conducted outside of these hours as overtime – a requirement that would hinder Taiwan from becoming an operations center for global companies. Strict limitations on extended working hours would also cause difficulties for companies in implementing systems for employees to work from home, as it is not easy to measure employees' extended working hours when they telecommute.

To permit greater flexibility, the Committee suggests revising the draft to exempt employees with higher positions or a monthly salary exceeding a certain level (such as NT\$200,000) from the provisions regarding extended working hours and overtime pay.

Suggestion 5. Eliminate the two-year work experience requirement for foreign professionals.

Except for those employees engaged in technology-related industries or assigned to Taiwan after working for cross-border companies for at least one year, current regulations still require foreign professional personnel to have earned a university bachelor's degree and have at least two years of related work experience in order to be hired to work in Taiwan. Although the authorities have somewhat relaxed the two-year working experience requirement for foreign students who have completed their university education in Taiwan, this requirement remains for other foreigners, including the children of expatriates who have grown up in Taiwan but have obtained their university education overseas.

The Committee continues to submit that the requirement for two years of related working experience should be eliminated. The selection of the right candidate for a position should be determined by the employer based on market conditions, not legal requirements. The Committee does not believe that this change would have a negative effect on the labor market in Taiwan. In fact, it would attract more international talent to diversify the labor force in Taiwan, which would in turn help familiarize local employees with international practices and make Taiwan companies more competitive.

INFRASTRUCTURE >>

Over the years, this Committee has frequently pointed out the need for careful reevaluation of the feasibility of Taiwan's current energy policy. If the policy is implemented as outlined in the government's existing plans, the cost of electric power will increase greatly, impacting both the competitiveness of Taiwan industry and the welfare of its people.

In last year's *White Paper*, the Committee noted that Taiwan's base-load power capacity is inadequate. To remedy the situation, we suggested the government accelerate the construction of new coal-fired power plants and grant life extension to the existing nuclear power plants. We regret that the government has not acted on these recommendations (although there have been recent indications that extending the life-cycle of the three existing plants may be considered).

When evaluating Taiwan's competitiveness, international organizations rate the stability of Taiwan's power supply as one of the factors deserving of praise. We sincerely hope that Taiwan will not give up one of its major competitive advantages.

Aside from energy, the Committee is also concerned that the government's drive to attract more foreign direct investment (FDI) has seen less-than-satisfactory results. We are disappointed that the program to promote foreign investment has proceeded only on an "on-again, off-again" basis. Unless the government truly treats it as a priority, Taiwan is unlikely to see any substantial increase in FDI. The

recent initiative to create free economic demonstration zones will serve as an indicator of the government's resolve, and we will monitor the progress and report on the performance in the Committee's position paper next year.

The Committee further recommends that the government continue to push for greater participation by foreign companies in government procurement projects, and that it promote more open-market mindedness and practices along the lines of the policy suggestions below.

Suggestion 1. Adopt a realistic energy policy in light of lessons learned from the recent electricity tariff increase.

Last year's partial increase in electrical-power tariffs developed into a political storm in Taiwan, with consumers and small businesses vigorously resisting any hike in electricity rates, leading to postponement of the scheduled second round of price adjustment. We believe that the need for additional tariff increases could be avoided if government were to follow the proposals presented by this Committee in the *White Paper* over the past several years.

We cannot over-emphasize our concern regarding the deterioration of Taiwan's energy structure, primarily due to missteps in the government's energy policy. When the current administration took office, Taipower's power development plan called for three coal-fired power units – one each in Linkuo, Shenao, and Changkong – to start commercial operation in 2013. The current schedule, however, shows the unit in Linkuo to be completed by 2016 after a three-year delay, while construction of the other two units has not even begun. The three 800-megawatt supercritical coal-fired units are each designed to generate 6-billion kilowatt-hours of electricity per year – 18-billion kWh annually in total.

Because these base-load power units were not completed on schedule, Taipower had to use very expensive gas-fired power plants to fill the gap in demand. The cost differential between electricity generated from coal and gas is NT\$1.7 per kilowatt-hour, which means the annual cost increase due to delaying the three units amounts to NT\$30 billion (US\$1 billion).

The three units were delayed for different reasons – in Linkuo due to local-government obstruction that held up issuance of the construction permit, in Shenao due to the opposition of nearby residents and the local legislator, and in Changkong because the Environmental Impact Assessment (EIA) report did not pass Environmental Protection Administration (EPA) review for eight years.

Why have the central government's EPA, lawmakers, local governments, and local residents all vigorously opposed coal-fired power plants? We believe the major reason is the government's strong advocacy of a policy of carbon reduction. Influenced by the central government's emphasis on the importance of the ambitious carbon-reduction target it has set for future years, the media has consistently championed the use of renewable energy as the solution for Taiwan's future energy needs. In such an atmosphere, the idea of constructing base-load coal-fired power units has faced

insurmountable obstacles.

This Committee joins our colleagues on the Sustainable Development Committee in endorsing greater efforts to develop and utilize renewable-energy resources. But those efforts must be carried out with the understanding that renewable energy remains quite expensive, that wind and solar power (the main renewable sources) are unable to supply consistent enough power generation to be utilized for base-load capacity, and therefore that renewable energy's overall contribution to Taiwan's power supply will remain limited.

For Taiwan to be assured of sufficient future power supply to maintain its economic competitiveness, it will need to have the right balance in its energy mix. We strongly suggest that the government learn from the painful experience of last year's power-tariff increase and adopt a realistic energy policy to rectify the current skewed structure of electricity generation in Taiwan.

Suggestion 2. Provide the public with balanced information in advance of the nuclear-energy referendum.

Currently, the hottest public issue in Taiwan is the proposed referendum on whether the fourth nuclear power project should be put into operation. According to recent polls, the majority of people in Taiwan are strongly opposed to this project. That is no surprise, as most people "learn" about the issue from the news media – and media reports quite frequently are inaccurate or incomplete. Further, some media organizations often pick up and repeat incorrect information published by other media sources without fact-checking. After erroneous information is reported, Taipower generally posts corrections and clarifications on its website, but these corrections and clarifications rarely appear in the media.

Some local news media's bias against nuclear power goes back many years. Considering that the reports about nuclear power to which the public is exposed are overwhelmingly negative, it is no wonder that the majority of people responding to opinion polls are against the fourth nuclear power project. If news reports are incorrect, it will affect opinion throughout society.

Certainly all questions about the safety of the fourth nuclear power plant need to be carefully addressed. But balance has been lacking. While the media has focused almost exclusively on the potential safety issues with nuclear power, it has downplayed or even ignored the risks of cancelling the fourth nuclear power project, such as future power shortages, decreased competitiveness for Taiwan's industries, higher electricity costs for every household, and the bankruptcy of Taipower. The media has also not reported on the continued use and development of nuclear energy in many other countries around the world. As a result, voters in the referendum may not have the full range of information needed to make a sensible decision.

With so much at stake for Taiwan, it should be the responsibility of the government, not just of Taipower, to ensure that all pertinent information is disclosed to the public

before the referendum. We have begun to see a greater flow of balanced information in recent weeks, and hope that the level of full and frank public discourse continues to grow over the coming months.

Suggestion 3. Reconsider policies that may deter foreign direct investment in the area of infrastructure.

At a time when Taiwan is near the bottom of the list among Asian countries in attracting FDI, several policy directions currently being pursued by the government may result in further discouraging prospective investors from entering into projects here.

For example, the Minister of Economic Affairs announced last year that at some point in the future all major projects will be required to undergo an “energy review” in addition to the EIA review. The policy stated that if the power demand of the planned project exceeds the regional power-supply capability, the project will be rejected.

This policy needs to be reconsidered. In international rankings of Taiwan’s competitiveness, “ease of obtaining power” is regularly cited as one of Taiwan’s major advantages. The Committee is concerned that adoption of the energy-review policy may remove this advantage and thus weaken Taiwan’s competitiveness. Causing prospective projects to go through an energy review will increase the uncertainty of the project and weaken the confidence of foreign investors.

Power supply is a monopoly business in Taiwan, conducted by the state-owned utility, Taipower. One condition for monopoly operation is that the power company must unconditionally supply electricity to the consumers. Instituting an energy review that would screen investment projects on the basis of their energy intensity would not only breach that monopoly responsibility, but would also raise doubts among both domestic and foreign investors about Taiwan’s commitment to building a positive business climate.

Another issue relates to the honoring of contracts. Last year some Independent Power Producers (IPPs) were pressured into revising their Power Purchase Agreement (PPA) with Taipower. While we appreciate that the government and Taipower were under heavy pressure as a result of the very unpopular power-tariff increase, forcing the IPPs to revise the contract could have widespread consequences in causing foreign investors to wonder whether Taiwan really operates under rule of law. If investments in Taiwan cannot be protected by contract, many foreign companies will hesitate to invest here.

Suggestion 4. Improve the energy-infrastructure planning process and explore international strategic partnerships with low-cost LNG suppliers.

In the “New Energy Policy of Taiwan,” the “Framework of Taiwan’s Sustainable Energy Policy,” and other policy documents, Taiwan has made a long-term commitment to using liquefied natural gas (LNG) as an important component

of its energy mix. Demand for LNG is expected to rise from 12 million metric tons per year in 2011 to up to 20 million tons in 2030, an increase of 67%. New infrastructure will be required to accommodate this volume, including additional LNG receiving terminals, storage facilities, and distribution infrastructure.

Given the generally high cost of LNG, Taiwan should explore the possibility of procuring LNG from the United States, which is expected to emerge as a major LNG exporter on the basis of its relatively less-expensive supplies. Louisiana’s Sabine Pass export terminal has been approved to export by the U.S. Department of Energy and is expected to begin exporting in 2015. Alaska’s North Slope is estimated to have natural gas reserves of over 200 trillion cubic feet and the state is moving forward to bring this natural gas to export markets. About 20 LNG export projects in the United States are seeking U.S. Department of Energy approval. The total capacity would come to about 27 billion cubic feet per day, equivalent to some 202 million tons per annum (MTPA), a very substantial amount given the International Gas Union’s estimate of worldwide LNG trade as 241.5 MTPA.

With the United States poised to significantly increase LNG exports, Taiwan should explore strategic procurement and partner relationships with suppliers in the continental United States and Alaska.

Suggestion 5. Establish landscape architecture as a licensed profession in Taiwan.

Almost all developed countries recognize landscape architecture as an important profession contributing to the quality of their infrastructure design and construction, and have put a system in place to enable members of the profession to qualify as licensed landscape architects. The profession is also listed in the International Classification of Occupations compiled by the International Labor Organization, the United Nations-affiliated agency dealing with labor issues.

In Taiwan, however, landscape design normally falls under the purview of general architectural or civil design, with the design work certified by a licensed architect or engineer. While we respect the professional capabilities of both architects and civil engineers, we believe that landscape architecture is a valid specialty unto itself and that it has a significant role to play in Taiwan. The importance of this specialty can easily be seen from the growing number of tourists visiting Taiwan and the emergence of the tourism industry as one of the growth engines for the economy in the next decade.

We urge the government to establish an appropriate process for licensing landscape architects. In so doing, it will increase the opportunities for Taiwan’s talent in this field to collaborate with counterparts in the international community, as well as help make Taiwan an even more beautiful island.

Suggestion 6. Further expand government-procurement opportunities for foreign companies.

The Committee was pleased to learn that the Legislative Yuan has passed a bill to accept the new version of the Government Procurement Agreement (GPA) under the World Trade Organization (WTO), to which Taiwan has belonged since 2009. The new version will further open the GPA market worldwide, reportedly adding US\$80 billion to \$100 billion in new procurement opportunities in 2014.

According to the statistics compiled by the Public Construction Commission (PCC), foreign companies receive about 30% of the value of all government procurement bids awarded in Taiwan. This achievement deserves commendation.

We recommend further broadening these opportunities, however, by adding New Taipei City, Taichung, and Tainan to the list of jurisdictions covered by the GPA, reflecting the elevation of these major cities to the status of special municipalities directly under the Executive Yuan. The list could also be expanded to include some additional central government branches (such as the Control Yuan, Examination Yuan, Judicial Yuan, and Legislative Yuan) as well as more, if not all, Public-Private Partnership projects.

INSURANCE >>

Landmark changes in the insurance industry in the past year have created both new opportunities and new challenges for consumers, insurers, and regulators. The Insurance Committee believes the following changes represent both immediate and long-term enhancements to the insurance industry, and we wish to thank all those who contributed to making them happen:

- The February 8, 2013 rule requiring insurers to obtain regulatory approval prior to distributing corporate dividends is a welcome move in line with our 2012 *White Paper* suggestion urging the strengthening of insurers' capital base to ensure that they can meet long-term financial obligations. We recommend a conservative approach to granting approvals, given the volatile global economic environment.
- The revision in Article 146-4 of the Insurance Act to allow insurance companies to issue more foreign-currency policies. This change will enable insurers to continue to meet consumer demand for foreign-currency-denominated products, including the renminbi.
- Completion of the first year of operation of the new Financial Ombudsman Services Bureau (FOB), which has created a systematic means of addressing cases of complaints.
- Amendment of the Insurance Act in timely fashion to provide a safe harbor allowing insurers to perform mandatory medical and financial underwriting despite the restrictions on the collection and use of sensitive

personal information set out in the Personal Information Protection Act.

- Amendment of the Regulation Governing Use of Insurers Funds in Special Projects, Public Utilities and Social Welfare Enterprises, extending the range of permissible investment opportunities to include some public facilities and social service enterprises.
- The May 6, 2013 resolution of the Legislative Yuan's Finance Committee calling on the FSC to draft legislation that would reduce the guaranteed policy values for financially troubled insurance companies taken into receivership.

At the same time, the Committee still has concerns about the industry's long-term financial strength, given the persistent low interest rates and the number of companies continuing to sell new business despite having risk-based capital (RBC) below 200%. In fact, we believe the risks are now much higher than before, since 1) the stabilization fund has been exhausted, even taking on NT\$57 billion (US\$1.9 billion) in debt, to fully support the value of policies written by one failed company, and 2) consumers will now expect that the government will fully protect the value of their policies as well.

Our aim in this year's paper is to focus on a few specific areas that would both enhance industry solvency and support customer needs. The theme is "Protect the Consumer," by which we mean creating an environment where consumers can acquire the insurance protection they need in a convenient and safe manner from a reliable (financially strong) insurance company. Protection insurance is also a much more stable and predictable source of profit for insurers, and a concerted effort by all industry participants to promote it would be beneficial for all concerned.

Suggestion 1. Provide customers with increased choice and easy access to insurance.

At the same time that consumers have gained easy access to much more information on financial and insurance products through the internet and other channels, a significant amount of new regulation has been put in place with the aim of protecting consumers. While the Committee fully supports the need to protect consumers from misleading and inappropriate sales practices, we believe it is critical that the new regulations not overly restrict insurers from utilizing new technology in safe and responsible ways (including attention to data privacy) to deliver their products and services in a manner that meets modern consumer expectations. The following points deal with key areas in which regulations need to be adjusted to provide a more risk-appropriate approach to consumer protection:

1. *Approve electronic means for purchasing insurance or obtaining consent.* Under the current regulatory regime reflected in the "Insurance E-Commerce Operation Self-Regulation" and "Internal Control Self-Regulation for Insurance E-commerce Record

Maintenance” rules, digital signatures are required to be on file when a policy is obtained through e-commerce. A specific verification system is needed to confirm this digital signature, and the customer has to follow a complex and cumbersome registration and authentication process. The result of these inconvenient processes has been to deter customers from obtaining insurance protection when and how they prefer. Other jurisdictions such as the United States and Hong Kong allow insurance to be obtained through e-commerce without a cumbersome and restrictive digital signature mechanism. We propose that the requirement of a digital signature for e-commerce be removed from the regulations to provide a convenient way for the customers to purchase simple insurance products, such as travel insurance and one-year term insurance, which have low premiums, features that are common across providers, and benefits that are easy to understand.

2. **Allow recorded oral responses to be used as the legal basis to rescind a policy.** Article 64 of the Insurance Act allows only written answers within an application or during an inquiry to be used as the legal basis to rescind a policy. Recorded oral answers in the non-face-to-face sales process are not within the scope of the current law, and thereby create undue risk and challenges to insurers. As telemarketing relies on oral recordings rather than written applications, should customers omit key medical/health information, such as a health condition that would normally preclude them from obtaining coverage, the insurer is unable to rescind the policy. We propose Paragraph 1, Article 64 of the Insurance Act be amended to allow “recorded oral inquiry” and “recorded oral answer” to have the same legal effect as written documents.
3. **Reduce the Know-Your-Customer (KYC) and disclosure requirements for term life and general insurance policies.** The extensive KYC and disclosure requirements in place derive from the Financial Consumer Protection Act passed after the 2008 financial crisis caused by the Lehman Brothers structured-notes fiasco. The intention of the Act is to protect financial consumers from the danger of ignoring investment risks and information asymmetry. But the extensive KYC procedures that customers are being required to complete far exceeds the intent of the Act and hinders consumers’ access to relatively simple insurance products such as term life and general insurance. Unlike long-term, annuity, or investment-linked insurance products, term life and general insurance products are inexpensive, protection-oriented, and easy to understand, as the potential risks of these policies are quite clear and transparent. We request that the FSC’s Insurance Bureau (IB) exclude general, accident and health, and some simple protection-oriented life insurance products from the

KYC requirements to make it possible for consumers to purchase these products conveniently and without undue delay.

4. **Ease insurance companies’ ability to make changes in application forms.** The Committee recommends that the IB set out a clear set of principles regarding the format of insurance-policy application forms, such as (a) the contents must contain certain compulsory notifications; (b) the contents must exactly match the terms and conditions of the insurance product; and (c) the form must contain certain specified space for such purposes as signatures, consent, etc. Under such principle-based regulation, insurers would be free to adjust application forms based on such guidelines without the need to make cumbersome filings.
5. **Allow life insurance companies to offer limited non-life products to level the playing field with non-life companies.** Many consumers expect to obtain full protection for their various needs through the insurance provider they have come to know and trust the most. Under the current Article 138 of the Insurance Law, life insurance companies may issue life, accident, medical, and annuity products, but are not allowed to market other products beyond this scope. Under the same article of this same law, non-life companies are allowed to issue one-year term accident and medical products upon approval. This disparity, for example, allows non-life companies to issue a comprehensive and robust travel-insurance product, whereas life insurance companies cannot. The discrepancy not only causes inconvenience for the customers of life insurance companies, but also creates an unlevel playing field between the two industries. We propose that Article 138 be amended to allow traditionally non-life features of travel-insurance products (such as travel inconvenience protection) to be issued by life insurance companies.

Suggestion 2. Increase the premium tax deduction and repeal Ministry of Finance Administrative Ruling No. 09800542850.

In order to continue to encourage citizens to take on adequate insurance protection and retirement savings, thus reducing the potential long-term social cost of maintaining Taiwan's financial safety net, the Committee encourages the authorities to make two changes regarding tax issues. The first is to increase the current tax deduction allowed for insurance premiums on qualified protection and retirement savings products from the current NT\$24,000 per person to NT\$48,000; an annual inflation-adjustment factor should also be implemented going forward.

The second is to repeal the Ministry of Finance administrative ruling (MOF, November 6, 2009, Tai Cai Shui Zi (台財稅字) No. 09800542850) that unfairly penalizes customers who choose to use investment-linked policies to provide for their protection and retirement needs.

Requiring customers to pay taxes on gains on investment-linked products reduces the long-term effectiveness of the product relative to traditional life products that can utilize insurance tax-advantaged internal growth. It also adds to the administrative burden and cost for the insurer, which is ultimately passed on to the consumer in the form of administrative loading. We believe customers should have the freedom to choose a payment strategy that best fits their own personal investment-risk profile.

Suggestion 3. Devise a new labor-pension investment platform.

The Committee is highly encouraged by the creation of a new taskforce focused on revising the Labor Pension Act in order to allow employees greater freedom to choose pension options suited to their individual needs and risk profiles. Creating more flexibility for employees in investing for their future (particularly the voluntary component of their pension savings) should deliver a more diversified investment pool that would support equities markets as well. Key elements in the reform should be to remove the provision that a company plan must have a minimum number of employees participating in order to be valid, and elimination of the requirement for a minimum guaranteed return equal to or higher than the two-year term deposit rate. Removing these restrictions would open the door for a large number of Taiwan citizens to voluntarily start saving for retirement through efficient and affordable pension products that can be tailored to their individual long-term financial needs.

Suggestion 4. Increase consumer awareness of insurers' financial strength.

For two significant reasons, consumer awareness needs to be raised about the importance of selecting an insurance provider based on its financial strength:

- As the insurance industry stabilization fund has been exhausted, it is unclear whether the government will be able to fully back future insolvencies.
- Consumers lack guidelines as to insurers' financial strength, particularly since the RBC calculation formula has been changed several times in recent years.

Given these realities, we recommend that the IB:

1. Accelerate the capital strengthening or start the dissolution of companies operating below the minimum RBC threshold. A company that fails to meet the minimum 200% RBC for two years should be required to stop new business until it injects adequate capital to meet the minimum standards.
2. Insurers, in particular those operating below 200% RBC, should be required to provide customers with an educational brochure on how to evaluate a company's financial strength.

INTELLECTUAL PROPERTY & LICENSING >>

Intellectual property rights protection is key to facilitating Taiwan's continued development as a center for innovation and a knowledge-based economy. The Committee commends the Taiwan Intellectual Property Office (TIPO), the Executive Yuan, and the Legislative Yuan for continuing to enact appropriate amendments to Taiwan's IP laws. In 2012, major revisions to the Trade Secrets Act were passed by the Legislative Yuan, and the Committee believes that the enhanced protection for this important form of intellectual property will make Taiwan more competitive and attractive for truly innovative companies.

This year, the Committee urges the Taiwan government to focus on amending procedural laws to ensure that trade-secret owners have adequate ability to prevent the theft of this crucial intellectual property – and thus fulfill the promise of this crucial new legislation. Below, the Committee also proposes amendments to the Copyright Act to ensure greater protection for copyright-protected works.

Suggestion 1. Amend laws necessary for effective enforcement of the recently revised Trade Secrets Act.

We applaud recent amendments to the Trade Secrets Act that strengthen the protection of IPR against misappropriation. The changes are an important milestone in Taiwan's continued efforts to protect IPR and create a favorable environment for investment by international partners. To facilitate the execution of the new Trade Secrets Act, the Committee urges the government to amend the following related Acts:

A. Witness Protection Act.

Amend the Witness Protection Act to make it possible for defendants in trade-secret cases who report the infringing activities, provide evidence, and cooperate with the prosecutor's investigation to avoid criminal conviction and prison sentences. This measure will help encourage those with knowledge of trade-secret misappropriation to come forward with crucial information and evidence.

B. Communication and Surveillance Act.

As evidence of crime in trade-secret cases is difficult or impossible to obtain by other means, amend the Communication and Surveillance Act to permit surveillance activity on the grounds of endangerment to national security, market competition, or social stability.

C. Intellectual Property Case Adjudication Act.

Amend the Intellectual Property Case Adjudication Act to provide that in a lawsuit concerning trade-secret infringement, if the plaintiff shows that infringing was constituted by specific means, the defendant must, in order to deny this allegation, submit a substantive defense within a specific period, clarifying for the court the specific conditions of the act.

Making these changes will go a long way in ensuring

that the amended Trade Secrets Act serves as an effective instrument in protecting the confidential information of enterprises against misappropriation.

Suggestion 2: Strengthen the function of the IP Court and improve the expertise of general District Court judges in trying criminal IP cases.

Since the IPR Court's establishment in July 2008, it has continued to build its expertise and contribute greatly to the consistent application of IPR laws in Taiwan. While the Committee commends the judges and staff of the IPR Court for their work in this regard, we note the following areas that continue to require attention:

A. Extremely low rate of granting preservation-of-evidence orders.

As plaintiffs in IP infringement cases bear the burden of proof, it is crucial that they have the ability to collect the evidence necessary for the court to assess whether infringement has occurred and to determine appropriate remedies. During the investigation stage, defendants typically refuse to provide pertinent evidence regarding infringing goods, processes, documentation, computer codes, and financial records. Orders for preservation of evidence by the IPR Court would be helpful, and are available under the relevant procedural statutes. However, a recent study shows that the IPR Court has granted only 23 such orders out of 216 applications from July 2008 to December 2012. The IPR Court's reluctance to grant orders for preservation of evidence poses a serious obstacle for IPR holders in effectively enforcing their rights in Taiwan, as well as for the IPR Court in its role as a finder of fact in these IP-infringement cases. As Taiwan lacks a robust discovery system, the IPR Court should strengthen the function of evidence collection to improve the effectiveness of IPR protection.

B. Insufficient award of damages.

The inability to recover sufficient monetary damages on the basis of IP infringement is a serious and long-standing concern. Amendments to the Trademark Act that took effect in July 2012 make it even more difficult to recover compensatory damages in cases involving fewer than 500 articles of infringing products. The same can be said regarding amendments to the Patent Act effective in January 2013 that removed triple damages for intentional patent infringement. It is therefore even more important now that the IPR Court thoroughly investigate infringement claims – which would be aided significantly through preservation of evidence – to calculate and award damages sufficient to remedy harm and deter infringement.

C. Lack of expertise in trying complicated criminal IP cases in general District Courts.

While the IPR Court is processing cases at a faster rate than in the past, criminal IP cases tried in general District Courts can run for years, particularly those involving more complicated technical or legal issues. In light of the inclusion of criminal liability in the 2013 amendments to the Trade

Secrets Act, criminal trade-secret misappropriation cases will likely become more complex. It is therefore important to improve the expertise of general District Court judges given the importance of fact-finding and preservation of evidence in the first instance. We encourage the Judicial Yuan to invest further resources in the training of general District Court judges to develop their expertise and expedite criminal IP proceedings.

Suggestion 3: Make needed revisions to the Copyright Act.

Two important objectives in TIPO's three-year Copyright Act Reform Plan are expansion of the scope of "fair use" and adoption of the notion of a "neighboring right system." These reforms should not be detrimental to the interests of rights-holders. The Committee recommends the following amendments to the Copyright Act:

A. Internet border control measures.

Enact amendments empowering administrative agencies like TIPO and/or the National Communications Commission (NCC) to adopt Internet border control measures to block domestic Internet user access to rogue websites located overseas and known to be primarily engaging in serious copyright infringement.

B. Criminal remedies.

Remove unfair provisions in Article 37 of the Copyright Act restraining and discriminating against copyright-holders by making criminal remedies unavailable solely because they are not members of a copyright collective management organization.

C. Enforcement.

Pass an amendment deeming crimes involving material and imminent copyright infringement on the internet as crimes that may be prosecuted without requiring the rights owner to file a complaint.

Suggestion 4: Reform the legal environment to enhance the efficiency of copyright collective management organizations (CCMOs).

The Committee requests that the Taiwan government remove certain unfair and unnecessary restrictions in current legislation governing CCMOs so as to allow copyright licensing to operate as a free market. We urge the government to:

A. Abolish the copyright tariff rates review scheme or alternatively set a time limitation for users' objection against tariff rates proposed by the CCMO.

1. Both CCMOs and users are dissatisfied with TIPO's review rulings and must expend a substantial amount of resources seeking administrative remedies. In fact, TIPO has had no legal basis to review tariff rates proposed by the CCMOs since the 2001 amendment of Article 82 of the Copyright Act.
2. CCMOs are obliged to publicly announce tariff rates one month prior to implementation. However, there is no deadline for users to submit objections. The lack

of certainty regarding the tariff rates seriously impacts CCMO business operations.

B. Remove single-window licensing provisions.

TIPO's recent attempts to implement Article 30(1) of the CCMO Act concerning application of the "single-window collection" and "united tariff rate" to "public performance by the use of computerized karaoke machines" has failed, thereby demonstrating the impracticability of Article 30.

C. Allow CCMOs to use commission agents.

Due to the lack of manpower to conduct licensing activities, most CCMOs have long had difficulty in licensing public performances and have consequently suffered significant losses in royalties and remunerations. This problem would be eased if CCMOs were permitted to use commission agents.

Suggestion 5: Implement effective measures to deal with on-line infringement.

Internet piracy remains the predominant form of content piracy in Taiwan, and nearly 90% of on-line infringement cases involve the pirating of music, films, or software. Illegal P2P/BT (non-hosted) services, blogs, and forum sites are the major platforms for such infringement. According to the Business Software Alliance, the software piracy rate in Taiwan in 2011 dropped slightly to 37% from 40% five years ago. However, users can easily access and obtain illegal online materials through a variety of platforms including set-top boxes and multi-media players, computer terminals, and access to websites that distribute pirated software, movies, music, and games. According to a survey published by 20th Century Fox, the blockbuster movie *Life of Pi* was downloaded over 45,000 times in Taiwan via illegal websites in the month prior to the 85th Academy Awards. Thousands of unauthorized Chinese music websites and over 100 illegal film websites, such as Eyny forum and CK 101 (which are among the top 100 downloading sites in Taiwan) prosper on the Internet and erode the profits of legitimate rights owners. The prevalence of illegal sites not only damages rights-holders, but also endangers the development of Taiwan's movie, music and software industries.

The legislative intent of the Copyright Act to implement a graduated response to repeat infringers has not been realized, even after the adoption of safe-harbor provisions for Internet Service Providers (ISPs). According to a survey by the Recording Industry Foundation in Taiwan (RIT), in 2012 more than 89% of the digital piracy complaints filed with enforcement agencies ended with suspension of the indictment.

This lack of effective enforcement stems primarily from loopholes in the Copyright Act and from inadequate implementation by the government of the ISP liability law. To effectively deter infringement, the Committee urges the government to consider new measures to deal with foreign websites infringing copyright inside Taiwan and – as mentioned in Suggestion 3 above – to re-examine and reform

the current Copyright Act to make Internet-based piracy a public crime.

The Legislative Yuan could take a leading role in this effort by passing laws empowering administrative agencies such as TIPO and/or the NCC to adopt Internet border control measures blocking access to rogue websites located overseas that offer unauthorized music files for download or online streaming and are known to be primarily engaged in serious copyright infringement.

Suggestion 6: Revise the IP Case Adjudication Act to require defendants to make a substantive defense.

Under Taiwan's Code of Civil Procedure, the plaintiff in a civil action bears the burden of proof. Given the nature of IP infringement, IP rights-owners often find it difficult to collect evidence, and defendants typically deny any allegation of infringement, as they have no duty to disprove an allegation. This situation often results in an unfavorable decision for plaintiffs whose IP rights have been infringed. These outcomes seriously impact IP rights protection and discourage investment in Taiwan by international IP rights-owners.

The Committee urges the government to impose a duty on defendants to produce substantive defenses of disputed facts in response to allegations where plaintiffs have shown a likelihood of infringement. In addition, when a defendant fails to do so and simply denies allegations without proof, the court should be able to regard the plaintiff's allegations as fact. These measures should apply to all types of IP cases in accordance with Article 3 of the Intellectual Property Court Organization Act. The Committee believes it would therefore be proper to incorporate these measures into the Intellectual Property Case Adjudication Act.

MANUFACTURING >>

The Manufacturing Committee is dedicated to promoting manufacturing excellence and cultivating value-added innovation to position the manufacturing sector as one of Taiwan's primary pillars of economic growth and prosperity. The Committee seeks to enhance the global competitiveness of Taiwan's manufacturing sector by providing a platform for industries to interact with government agencies to shape consistent industrial policies and initiatives in the areas of new technology introduction, innovation, protection of intellectual assets, production efficiency, environmental protection, reliable supply of energy and water, efficient and low-cost supply-chain infrastructure, employment and human resource development, and occupational safety and health.

Suggestion 1. Improve electricity power-supply service and transparency.

For major manufacturing operations in Taiwan, one common difficulty is the occasional surge or sag in the electricity power supply. For all high-tech manufacturing

industries, including semiconductors and displays, the reliability and stability of the power supply is a basic requirement. In advanced countries, transparent and timely information-sharing and communication are the norm for power-supply companies. If the Taiwan Power Co. (Taipower) similarly could proactively communicate relevant information on their website, it would help manufacturers to better manage their risks and make correct operational decisions regarding power interruptions on the grid.

We urge Taipower to provide the following types of information on their website on a timely basis:

1. Details of the power surge or sag – including the time, duration, location, and voltage deviation – within 48 hours after the event.
2. The utility's plans with regard to maintenance and corrective actions to reduce the frequency of power interruptions.

In addition to power supply stability, the cost of electricity is also a critical component of Taiwan's manufacturing industry competitiveness. In May 2012, the government announced a significant increase in power price that would have resulted in an average adjustment of 34.57%, to be implemented in three phases starting in June and December 2012, with the final stage to be determined later. The Executive Yuan subsequently deferred the second-stage price hike from December 2012 to October 2013, with the amount of adjustment dependent on the floating power-price guidelines issued by Ministry of Economic Affairs (MOEA). A situation of uncertain power prices, especially when customers are given little notice about pending changes, makes it very difficult for manufacturing companies to plan their resource usage and operations appropriately.

We request that MOEA and Taipower provide earlier communication and greater transparency on power price increases so that users can assess the possible impact and take necessary action in their planning process.

Suggestion 2. Take steps to strengthen transparency and corporate governance to give confidence to supply-chain partners.

Manufacturers in Taiwan and around the globe rely on Taiwan as a critical link in the supply chain for a multitude of goods and services. Furthermore, manufacturers are transforming supply chains to become more complex, with less redundancy, as a means of maintaining competitive advantage. U.S. companies are among the leaders in integration with Taiwan and in the drive toward complexity in global supply chains.

Successful execution of complex supply chains relies on all players following international norms for corporate governance. Manufacturers cannot themselves monitor all pieces of the supply chain and must depend on self-regulation by their suppliers and on the regulatory environment under which their suppliers operate. Taiwan has a well-established regulatory framework, and its companies by and large have

done well in adopting international quality, safety, and environmental standards. As a result, manufacturers around the world can generally be confident of successful integration of Taiwan players into global supply chains.

At the same time, we encourage Taiwan to make additional improvements in the area of transparency and corporate governance in order to ensure the continued confidence of manufacturers abroad. Specific areas worthy of attention are:

- Devise regulations to eliminate the influence of “shadow board members” or parent companies on board decisions. Confidence in the system may be lost or eroded if it appears that company controls are not clearly in the hands of those legally tasked with governance.
- Strengthen judicial powers through damages or due diligence procedures that encourage in-court settlements. While the tendency toward out-of-court settlements can be applauded for increasing efficiency, that trend reduces the visibility of problems and resolutions, with a concomitant lost opportunity for transparency.

Taiwan stands as a leading player in contributions to worldwide manufacturing. It will need to meet continuing challenges to improve governance and controls as worldwide manufacturing becomes more integrated and interdependent across complex technologies and systems.

MEDICAL DEVICES >>

The Committee has had positive interaction in the past year with various government agencies, particularly the Taiwan Food and Drug Administration (TFDA) and Bureau of National Health Insurance (BNHI), both divisions of the Department of Health (DOH), and the Bureau of Foreign Trade (BOFT) of the Ministry of Economic Affairs (MOEA). We appreciate the government's commitment to conducting regular and meaningful discussions with industry about relevant policies and procedures, and look forward to the government's continued engagement with the medical device manufacturers and other stakeholders in constructive ways.

Suggestion 1. Harmonize the regulation of medical devices with global practices and international trends.

Discuss proposed changes in laws and regulations with industry at an early enough stage to take industry feedback into consideration. An Article specifically dealing with medical devices is currently being drafted for inclusion in an amended Pharmaceutical Affairs Act. The purpose is to take into consideration the special characteristics common to medical devices, such as the rapid improvements in technology that take place in the industry. The Committee urges the TFDA to set a reasonable time schedule for completing the medical device Article, and to discuss the

draft with industry representatives and associations before it is formally announced.

As part of this process, we also recommend:

- Use the opportunity provided by the amendments to the Pharmaceutical Affairs Act to elevate Taiwan's regulatory system for medical devices to international standards.
- Publish clear guidelines describing the impact of proposed changes to Article 40 of the Pharmaceutical Affairs Act dealing with the license application process. The Committee recommends maintaining the current requirement that Class II and Class III medical devices undergo review once every five years, rather than requiring annual reviews as has been suggested by the health authorities. In addition, in recognition of the minimal risks associated with Class I medical devices, we suggest use of a fast-track registration process, followed by annual declarations to the authorities, to minimize administrative costs and enhance government efficiency. To control the potential, albeit minimal, risks associated with Class I devices, the Committee further recommends maintaining the current five-year review requirement and other relevant regulations for product registration for those medical devices.
- Continue to hold regular meetings with medical-device industry representatives to discuss relevant regulatory matters.

Suggestion 2. Simplify product registration requirements.

Regarding changes to the Criteria Governing Registration Market Approval of Medical Devices announced on June 19, 2012, the Committee recommends that TFDA accept either EU or U.S. market-clearance documents, instead of requiring both, for registration of Class II medical devices. The Guidelines for Registration of Medical Devices should also be modified in line with this recommendation.

The Committee also considers it vital to simplify the product registration requirements for Class III medical devices. As long as the specifications and functions of a medical device conform to TFDA requirements for similar devices, we suggest that an EU or U.S. market-clearance document be accepted in lieu of pre-clinical documents to satisfy the registration requirements. We also recommend that devices meeting the above description be exempt from review by the Medical Device Consulting Committee.

Further, medical devices with expanded indications should not have to re-submit pre-clinical documents for review if no modifications have been made in product design or specifications. The Committee recommends that after registration documents have been completely reviewed, medical devices receive expedited treatment through the clinical data review process.

For Class II medical devices, marketing license applications involving discrepancies between the U.S. and EU marketing licenses – for example with regard to

product name, product number, or manufacturing site, the Committee recommends that TFDA accept a letter of explanation from the license-holder and restore eligibility for fast-track registration.

Suggestion 3. Enhance the quality and efficiency of the review process for medical devices.

We would like to thank TFDA for its work in developing Good Review Practices (GRevP) that conform to standards established in other developed countries, and for establishing the Review Guidelines for Medical Devices. At the same time, the Committee requests that the TFDA enhance the quality and efficiency of the review of medical devices by simplifying the process through use of a “paper review” to replace formal meetings by the Medical Device Consulting Committee. The paper review would entail sending key data to the committee members, who would be required to provide their feedback to TFDA within two weeks. This approach would accelerate the schedule for making new and innovative medical technologies available, and contribute to ensuring the public's right to high-quality medical care on a par with that of other advanced nations.

In addition, the Committee recommends that TFDA increase the number of permanent employees dedicated to performing product registration and marketing approvals, reducing the proportion of contract workers, so as to decrease the inefficiencies, inconsistencies, and delays caused by frequent turnover among contract workers.

Suggestion 4. Clarify and simplify the implementation of Good Distribution Practice (GDP) certification for medical devices.

The Committee requests that the TFDA announce, in a timely manner, details of the methodology and application forms to be used for Good Distribution Practice (GDP) qualification, and propose appropriate amendments to the Pharmaceutical Affairs Law accordingly. The Committee also recommends that TFDA meet with medical-device industry representatives to discuss how the GDP program will be implemented, including plans for the training of inspectors.

Beginning in 2015, the medical device industry will be required to make declarations of GDP-compliance. Considering that there are currently some 2,912 importers and 34,540 distributors of medical devices in Taiwan, the burden of processing the paperwork will be enormous. The Committee therefore asks TFDA to simplify the requirements for GDP-compliance, such as accepting self-declarations from the companies instead of requiring the inspection of physical facilities.

Suggestion 5. Amend provisions related to advertising medical devices.

A. Proceed with agreed-upon revisions to draft amendments to Article 67 of the Pharmaceutical Affairs Act and announce the changes as soon as possible. The Committee

recommends that TFDA expedite the announcement of revisions to Article 67 of the Pharmaceutical Affairs Act, specifically altering current wording that limits publication of advertisements for “medicaments” in professional journals. The revision would make clear that such restrictions apply only to prescription pharmaceuticals, thus expanding the permissible scope for advertising medical devices and bringing the management of medical-device advertising into conformity with established practices.

B. Allow product advertising of medical devices that helps to educate the patient. The Committee suggests that TFDA allow the industry to disseminate public-health educational materials that communicate information about the latest medical technology directly to patients, enabling them to be informed about the scientific foundations for given types of medical devices. Such material should not be regarded as product advertising of medical devices as defined in the Pharmaceutical Affairs Act. We also recommend that TFDA loosen restrictions on the use of product comparisons in advertising medical devices. The Pharmaceutical Affairs Act does not expressly prohibit product comparisons in advertising. Such advertising can play a positive role in promoting fair competition in the market and informing patients about evidence-based differences among products.

C. Hold meetings between the health authorities and industry representatives on a regular basis to develop a consensus on how medical-device advertising should be reviewed. Although the existing Medical Device Advertising Review Principles are well-intentioned, current practices are encumbered by differences in content interpretation among review personnel. The Committee urges TFDA to hold regular meetings with local health authorities and industry associations to enhance communication and ensure alignment and predictability with regard to medical-device advertisement review standards and processes.

Suggestion 6. Improve the classification-inquiry review process for IVD devices.

In Vitro Diagnostic (IVD) devices encompass such a wide range of products and uses that many IVD devices cannot be adequately placed within the existing medical-device classification system, hindering the application and review process for such products. The Committee urges TFDA to align the review processes with international standards such as those set by the International Medical Device Regulators Forum (IMDRF). These standards reduce the number of applications and the administrative burden by allowing medical-device manufacturers to classify their products themselves. In addition, the current review processes are unduly long and require an onerous amount of document translation. The Committee recommends that TFDA accept submissions for these processes in English to reduce the

paperwork, save the time needed to validate translations, and expedite the review process.

Suggestion 7. Liberalize the import of medical devices manufactured in China.

The Committee is grateful to BOFT for meeting with industry representatives on a regular basis to discuss the importation of medical devices from China. We must point out, however, that the market so far has been opened for only a handful of medical devices. We urge the government to reevaluate the situation and allow more made-in-China medical products to enter this market.

On many occasions, BOFT has recommended to members of this Committee that we attempt to resolve outstanding issues through private negotiation with the relevant domestic industry associations to garner a consensus. But we believe that instead of relying on the opinion of the domestic industry associations, the BOFT should follow a transparent review process and be willing to take the responsibility for making decisions.

The Committee recommends that TFDA withdraw the requirement for BOFT pre-approval before product registration applications can be processed for the import of medical devices made in China. BOFT governs international trade-related activities, while TFDA is responsible for ensuring the safety and efficacy of medical products. The two entities operate under separate government ministries and have completely different areas of responsibility. The requirement that companies obtain BOFT’s pre-approval is an added step that delays the introduction of new technology and innovative devices to the Taiwan market. We suggest that TFDA process the product-license approval without the BOFT pre-approval, while the applicant shall be held responsible for obtaining BOFT approval prior to importation. The applicant should be allowed to process both applications simultaneously in order to accelerate the timetable for bringing these devices to market.

In the BOFT’s review of products from China, we urge priority attention to opening the market for the medical devices listed below:

Made-in-China Products currently banned from import to Taiwan

CCC Code	Product Description
Completely Banned Items	
9019.20.90.00-8	Other therapeutic respiration apparatus - Respiratory Mask
9018.49.20	Parts and accessories of other instruments and appliances, used in dental sciences
9018.90.30.00-7	Intravenous administration sets

Partially-banned items	
3005.10.90.90-9	Other adhesive dressings and other articles having an adhesive layer
3005.90.90.00-1	Other articles of heading No. 3005
9018.90.80.00-6	Other articles of heading No. 9018 - Negative pressure wound therapy systems, surgical staplers, vessel sealing systems, compression systems, electrosurgery accessories, compression sleeves, foot switches
9018.90.90.90-5	Parts and accessories of other articles of heading No. 9018

Suggestion 8. Establish a rational system for the reimbursement and management of medical devices.

The rapid pace of development for medical technology allows the industry to develop a wide range of functions, applications, and specialized uses for the medical devices it produces. Due to the continuous efforts of the medical device industry and TFDA over the past years, Taiwan has gradually shortened the list of its differences with other advanced markets such as the European Union and the United States in medical-device categorization. We would like to thank TFDA and BNHI for their close and sustained engagement with Committee members, which has done much to ensure that Taiwan's regulations are in sync with international standards and to ensure that patients in Taiwan have access to the world's most advanced and innovative medical technologies.

A. Establish reasonable guidelines governing self-payment.

After BNHI announced its self-pay management guidelines for medical devices in December 2012, it began requiring that all medical devices be submitted for review. However, many non-implantable diagnostic or therapeutic medical devices and accessories, such as adhesive dressings, disposable medical devices, and other innovative products, have been identified as items covered by procedure fees. Patients are prohibited from making self-payment for those devices, even if they are willing to do so. But the existing payment schedule for procedures is nearly a decade old and overlooks the rapid pace at which medical science and technology has evolved to create new and innovative medical devices. Such an outdated system cannot cover the cost of new, potentially life-saving medical products. In addition, current regulations prohibit patients from making self-payment for medical devices that have received TFDA approval but are still undergoing reimbursement application review. These rules, by prohibiting self-payment for some devices, inhibit

patient access to non-reimbursed, advanced, high-quality medical devices. Such limitations have an adverse effect on the quality of medical care and hospital operations. For example, they incentivize the re-use of medical devices designed for single use, thus contributing to the spread of cross-infections and increasing the risk of other complications.

Recommendations

1. Respect patients' right-of-choice by permitting reasonable self-payment options.
2. Reevaluate which items should be included in payment packages, and compare the current practices and payment standards in Taiwan with those in other countries. We suggest taking a broad and inclusive approach, taking the views of healthcare providers and the industry into account, to examine the appropriateness of classifying all medical devices utilized in surgical procedures as "procedure-fee-covered medical devices." BNHI should not proceed with these new internal rules without consulting with medical societies and the medical-device industry.
3. Allow hospitals to offer medical devices that have been approved for use by TFDA – but are not yet part of the BNHI reimbursement system – to patients who wish to pay out-of-pocket. In this way, the intended benefits of the original policy can still be realized, while patients are able to enjoy their right to high-quality medical care and the level of healthcare in Taiwan can keep up with advancing medical technology.
4. Publish a positive list of procedure-fee-covered medical devices and the cost of these devices as a percentage of the total cost of surgical procedures. BNHI should establish a team of experts dedicated to issues regarding procedure-fee-covered medical devices to enable the Bureau to keep up with advances in medical technology and ensure that Taiwan's payment system is in line with global trends in medical technology.

B. Maintain free-market dynamics and fair competition by removing the ceiling on balance billing.

The provision for balance-billing within the Second Generation National Health Insurance (NHI) law should help address the financial challenges facing BNHI. The policy will give patients, based on their needs and circumstances, the option of paying the incremental cost of specially designated medical devices, compared with the reimbursement rate for standard devices covered by the system. Such a balance-billing payment policy for medical devices encourages the introduction of new and innovative medical devices into Taiwan, makes such products more easily available to patients, and enhances the overall quality of healthcare.

Currently, healthcare facilities are required to publish, on their respective websites, product information and the

cost to patients of the balance-billed medical devices they offer. Healthcare providers must give prior notice to patients about the additional costs and obtain the patients' written consent before they can use balance-billed medical devices. These measures ensure an adequate level of information disclosure to patients, while preserving their right to choose and pay for their preferred method of treatment.

Although the NHI law does not explicitly authorize BNHI to put a ceiling on the amount of balance billing allowed for a given device, the Bureau has stated its intention to put a cap in place.

Today, hospitals are permitted to set their own prices for balance-billing items by supplier and product. This system is accepted by patients and the general public, but it may result in pricing variations for the same product at different hospitals in Taiwan. This situation has attracted attention from patient interest groups and the media, with concern expressed that prices are different depending on the geographical location. Concerns have not been expressed about different prices for different products and, on the contrary, there are many other well-accepted examples within the NHI system of different prices for different products.

Recommendations

Adopt a balance-billing system that accounts for variances in quality and value among medical devices, and that allows pricing to be set based on market forces. Setting a ceiling should be avoided in order to encourage transparency and free-market competition.

C. Streamline the public review system.

Because new and innovative medical products have a peak lifecycle of only three to four years, it is important that the approval process be as expeditious as possible. If the review process takes too much time, the public is denied access to the best medical technology and care available. The newly established Drug Reimbursement Item and Payment Scheme (DRIPS) Committee, which will also cover medical devices, should strive to increase efficiency in the reimbursement review process for medical devices.

Recommendations

1. Enhance the efficiency of the review process, and set a time limit for its completion. For medical devices in existing functional categories, reimbursement applications should be processed in accordance with Article 6 of the DRIPS guidelines. BNHI should adhere to the time allowed for processing applications as laid out in the Administrative Procedure Act, and refer to the reimbursement review processes established for new pharmaceuticals when establishing criteria and standards for reimbursement review of "new-functional-category" medical devices.
2. The application process for special medical devices seeking NHI reimbursement should be open and transparent. The criteria and standard procedures by which decisions are made should also be accessible

to the public. Furthermore, the names of the expert reviewers who will attend should be published before each meeting, and the agenda made available two weeks in advance. Besides participation in these meetings by the experts and the medical associations, representatives of the medical-device industry should also be given the opportunity to attend in order to offer their insights and product knowledge.

D. Value medical-device service points at one point per NT dollar.

The Committee suggests that the new DRIPS scheme set up as part of the Second Generation National Health Insurance program use the term "reimbursement price" or "reimbursement expenses" when referring to "service points" for medical devices. The Committee also suggests setting a one-point to one-NT-dollar value for medical device service points.

In accordance with Articles 34 and 52 of the DRIPS guidelines, a clear differentiation should be made between new and old technology devices, on the basis of such considerations as differences in design, documentation, and international market value. Pricing should be set according to 100% of the median national price and should not be lower than in reference countries. In fact, the price should reflect the true value of the product to encourage more innovative medical devices to enter the market and enhance the quality of public healthcare.

E. Reform the Price-Volume Survey (PVS) system.

BNHI should choose to implement either the Price Volume Agreement (PVA) methodology or PVS, but not both, to lessen the frequency of the price bargaining between manufacturers and healthcare providers that erodes the quality of medical care and creates an administrative burden for all concerned.

The current BNHI dual-price-control policy of relying on both PVAs negotiated with the suppliers and on conducting Price Volume Surveys leads to onerous, multiple price cuts that discourage manufacturers from introducing potentially life-saving advanced medical devices and new technologies into the market. We recommend that BNHI select just one of the two methods so as to reduce its own administrative burden and limit the negative impact on patients, the medical-device industry, and the healthcare community.

The Committee also calls on BNHI to conduct price adjustments for existing items in accordance with Article 58 of the DRIPS regulations and to align its practices with international standards. Habitual and excessive price cuts will deter global manufacturers from placing Taiwan among higher-priority markets for registration and commercial supply, potentially slowing the availability of more effective and cost-efficient technology to the national health system.

OTHERS

CHIROPRACTIC

Suggestion: Provide a legal base for the chiropractic profession through legislation or executive order, and legalize the status for overseas-trained chiropractors to practice freely in Taiwan.

In 2005, the World Health Organization (WHO) issued guidelines in both English and Chinese on chiropractic education. It clearly states that chiropractors are doctors, and that chiropractic is a health profession not just a technique. But instead of recognizing chiropractic as a legitimate health profession in accordance with WHO guidelines, Taiwan's Department of Health (DOH) has deliberately attempted to downgrade the level of chiropractic by referring to it as "chiro-technique" or "chiro-tech" in all its documents, which is disrespectful to WHO and to chiropractic doctors worldwide.

Another form of disrespect is that the U.S.-trained and U.S.-licensed chiropractic doctors in Taiwan are being regulated by DOH under the Folk Healing Regulation announced on April 15, 2010, which states that chiropractors will not be subject to investigation and prosecution as long as they make no claim regarding therapeutic effect, do not solicit medical-treatment business, and do not violate other medical acts. This law relegates fully trained U.S.-recognized chiropractors to the status of "folk healers," which means a chiropractic doctor cannot be called a doctor, be allowed to examine patients and make diagnoses, order or read an X-ray, or engage in any treatment aside from what DOH refers to as "back soothing."

For more than 20 years, DOH has insisted, without foundation, that the only way to legitimize chiropractic is to follow the three-step path of "Education, Examination, and Licensure." In response to previous *White Paper* position papers, it recommended that a chiropractic course be introduced at a Taiwan medical school. Then, "after the effectiveness of chiropractic is scientifically proven," a full chiropractic education program could be started, it said. Only then could the Examination Yuan proceed to establish an examination system and eventually the DOH a licensing system for chiropractors, it concluded.

DOH disregarded the fact that the chiropractic profession has a 118-year history, is utilized daily by patients worldwide, and can point to reams of scientific studies that have already conclusively proven the effectiveness and safety of the profession.

Nevertheless, the Taiwan Chiropractic Doctors Society followed up on DOH's suggestion by visiting the presidents of both I-Shou University and Fu Jen Catholic University to discuss the feasibility of introducing a chiropractic curriculum. But in both cases, the university presidents clearly stated that the Education, Examination, Licensure process is not workable. No school will set up a chiropractic

program and no students will enroll in such a program when the profession is not currently recognized as having legal status and overseas-trained chiropractors are not fully authorized to practice in Taiwan. Since chiropractic education heavily emphasizes clinical training, without foreign-trained chiropractic doctors having the ability to operate legal chiropractic clinics, internship opportunities will not be available for the students. Allowing the foreign-trained chiropractic doctors to practice legally is thus essential to making the DOH's "Education, Examination, Licensure" approach feasible; providing a legal basis for chiropractic will also ensure that the students enrolled in a chiropractic course of study can legally practice the profession upon graduation.

DOH's continuous insistence on the Education, Examination, Licensure path over the past many years and its requests for more scientific studies to be done in Taiwan have clearly been stalling tactics designed to delay the establishment of the chiropractic profession in Taiwan. This attitude is definitely in conflict with the spirit of free trade that Taiwan professes to adhere to as a member of the World Trade Organization and as a prospective participant in negotiations for an International Services Agreement.

Since no university will set up a chiropractic department when the profession is unrecognized, and in the absence of experts in Taiwan to establish an examination and licensing system, the best approach would be to follow Hong Kong's example when it was in the same situation. Since it was unable to implement its own licensing system, Hong Kong enacted a law recognizing the professional credentials of qualified chiropractic doctors with foreign licenses. We urge the Taiwan authorities to similarly acknowledge the qualifications of chiropractic doctors with degrees recognized by the Council on Chiropractic Education (CCE) or Council on Chiropractic Education International (CCEI). Such a policy change would benefit not merely the chiropractic profession, but the Taiwan healthcare system as a whole and the general public. At a time when Taiwan is facing a rapidly aging population, more and more people will be in need of just the kind of service that chiropractic doctors can provide.

TOBACCO

Suggestion 1: Engage in comprehensive dialogue with industry and comply with due process of law before introducing any new measures on tobacco control.

The tobacco industry supports the regulation of tobacco products on a reasonable and necessary basis. But before new policies related to a given industry are introduced, the government should first invite representatives from the potentially impacted sectors to engage in comprehensive dialogue. That approach will ensure that any new regulatory measures introduced have undergone a thorough appraisal and their impact has been comprehensively assessed.

To achieve its legitimate objectives, regulation must be appropriate and necessary, and be based on sound science

and evidence. In this regard, we would like to bring to the attention of the government that certain radical tobacco-control measures adopted by some other countries are questionable not only as to their constitutionality but also in relation to international obligations. For instance, the mandatory plain packaging rules implemented by the Australian government in 2012 have been challenged by other World Trade Organization member states on the grounds that they breach WTO agreements, and by a tobacco manufacturer for violating the bilateral investment treaty between Australia and Hong Kong.

In order to safeguard the tobacco industry's legal rights and legitimate business interests, the government should make sure to seek opinions from relevant stakeholders and take such opinions into account during the Legislative Yuan committee review process before initiating and implementing changes to tobacco-related regulations.

When drafting future tobacco-related policies, we urge the government to:

1. Treat the tobacco industry in the same way it treats other legitimate industries, ensuring that its lawful rights are protected.
2. Comply with the legislative process and base any decisions on solid evidence.
3. Engage in comprehensive dialogue with the tobacco industry and ensure that its opinions are considered equally alongside those of other stakeholders.

Suggestion 2: Adopt a policy of moderate, regular, and predictable adjustments in tobacco taxes to avoid increased levels of illicit sales and smuggling.

The tobacco industry supports a policy of moderate, regular, and predictable increases in tobacco taxes. An open and transparent taxation regime not only protects the market for legal goods from being damaged by illicit trade but also enables the government to achieve its objectives regarding public health and revenue.

Unreasonable tobacco taxes exacerbate illicit trade. For example, when the tobacco excise tax in Malaysia was increased by 365% from 2001 to 2009, the average retail price rose from RM4.7 to RM7.2 per pack, widening the price differential between the cheapest legal tobacco product and available illegal tobacco products from RM3.2 to RM5.7. Tobacco prices became the third highest in Southeast Asia, while the market share of illicit cigarettes reached 35% of the total market. Over that period, the annual loss in excise revenue caused by this drastic increase in illicit trade amounted to RM2 billion, equivalent to NT\$16 billion (US\$533 million).

Illegal tobacco products have also become a problem in Taiwan. According to government data, the volume of smuggled tobacco seized between 2009 (when the Health Surtax was increased from NT\$10 to NT\$20 a pack) and 2011 jumped by 67.4% compared with the preceding three years. A survey conducted in 2012 by an independent

research organization on behalf of the Tobacco Institute of the Republic of China found that, in particular, the market share of so-called "illicit whites" – smuggled tobacco products usually concealed among small quantities of lawful imports – has been constantly rising in the central, southern and eastern areas of Taiwan. These products tend to be consumed by segments of the population of lower economic status.

In consideration of the government's revenue and public-health objectives, we recommend that the authorities:

1. Adopt a policy of moderate, regular, and predictable tax increases based on careful examination of economic, financial, public security, public health, and other factors;
2. Maintain market order and stability by taking into account the impact of price fluctuation on the volume of illicit trade; and
3. Strengthen enforcement and increase the penalties for engaging in the illicit trade in cigarettes, especially for the so-called "illicit whites."

PHARMACEUTICAL >>

The Second Generation National Health Insurance (2G NHI) program was implemented from January 2013, representing a key milestone for Taiwan's NHI system. In addition to reform of the income side (premiums), several changes were also made to the expenditure side (payments). The Pharmaceutical Committee is particularly concerned about the changes that will impact patient access to innovative pharmaceuticals.

One of the features of the 2G NHI is implementation of a two-year Drug Expenditure Target (DET) pilot program from January 2013. The Committee would like to express our appreciation to the Department of Health (DOH) and its Bureau of National Health Insurance (BNHI) for their positive response in adopting the DET model, in line with the industry's recommendation in the *Taiwan White Paper* for the past three years. Regarding implementation methodology, we urge the government to continue to engage in dialogue with the industry and to follow the principles of simplicity, transparency, and predictability. To support the R&D that is the foundation of the bio-pharmaceutical industry, new drugs and patented products should be exempted from any price adjustment.

Under the 2G NHI legislation, Article 46 calls for a price adjustment to a reasonable level for the first five years after a product has gone off-patent. The Committee sincerely hopes that DOH and BNHI will consider the industry's proposal to limit treatment of this Article to products with a patent expiry date starting from 2013, the same time as the new law came into effect.

Another major industry concern is the delay being experienced in setting reimbursement prices for new drugs. In line with the new Article 41, DOH and BNHI have established a new platform – the DRIPS (Drug

Reimbursement Item and Payment Scheme) Joint Meeting – to make reimbursement decisions. As this group is a new mechanism, we urge BNHI to closely monitor the efficiency and results of the process, and to adopt measures to introduce continuous improvements. The extremely low price of new drugs in this market continues to be a big concern for the industry, and the regulators are urged to put more achievable pricing incentives in place in order to encourage R&D and reward innovation.

Unfortunately, the past few years have brought no progress on IPR issues affecting the pharmaceutical industry. The Committee requests that DOH looks seriously into the issues at stake and implements the IP protection necessary to transform Taiwan's focus from generics to R&D-based industry development. Such transformation will be crucial to bringing about a sustainable bio-pharmaceutical industry in Taiwan.

Reward for innovation is the core value and major driver of development for the pharmaceutical and biotech industries. For that reason, we urge the government to follow policies that encourage increased investment in researching and developing innovative drugs, while ensuring that patients' access to new drugs is as fast as in other advanced countries.

Also included in this position paper are some other issues related to improving the healthcare environment in Taiwan. The R&D-based industry will continue to work closely with the Taiwan government in supporting healthcare policies to enable people to live healthier, longer, and happier lives.

Suggestion 1. Reform the new-drug approval process to accelerate patient access.

1.1 Enhance the regulatory review process

Despite the efforts of the DOH's Taiwan Food and Drug Administration (TFDA) to expedite the new-drug dossier review process, the overall new-drug review time has not yet been shortened significantly. One of the major reasons is the regulation requiring a review of the manufacturing site (GMP requirement). Currently, there are two ways for the manufacturing site to be reviewed: through a desk review process or on-site inspection. For sites in countries that are not part of the Pharmaceutical Inspection Convention Scheme (PIC/S), the only feasible method is on-site inspection. But because TFDA's resource constraints limit it to inspecting just 30 manufacturing sites per year, a long backlog has developed. It may take more than a year to get an on-site inspection date accepted by TFDA, exacerbating the delays for new-drug approval.

Currently, TFDA only accepts the registration of a single manufacturing source for finished pharmaceutical products. When a supply issue occurs, there is no flexibility to turn to alternative sources of supply to meet urgent medical needs. Most reference countries now adopt multiple-source registrations for finished products to ensure a continuous

supply of pharmaceutical products. This arrangement is especially important for biological products, for which production capacity is limited. It will also help to avoid the supply shortages when there is a switch in suppliers for registered products.

Some articles in the draft "Guidelines on the Review and Approval of Biosimilar Medicinal Products Containing Monoclonal Antibodies," released by TFDA on February 20, 2013, are not in line with either science or international norms. For example, Article 7.2 of Chapter Four states that "In principle, for biosimilar mAb medicinal products developed in Taiwan under the expert guidance of the central health competent authority, the applicant can submit a placebo-control trial for the application for review and approval." Under European Medical Agency (EMA) guidance 5.3, however, a biosimilar applicant should submit a head-to-head comparison study for the application review and approval, instead of a placebo-control trial that would disqualify this drug as a biosimilar product.

Site-change applications for solid dosage forms require comparative dissolution profiles in three pH media. Most reference economies, however, such as the European Union and United States, only require a comparative dissolution profile in approved or compendia media for this kind of change. The registration dossier from the site does not include the required dissolution data and therefore extra dissolution studies need to be conducted locally, affecting the timeline for the change.

Recommendations:

1. Increase TFDA's resources to enable timely inspection of manufacturing sites and avoid delays in the review process. For cases in which TFDA cannot schedule a site inspection for as long as one year, a desk review should be allowed as an alternative for non-PIC/S countries. Also, TFDA is urged to find ways to make the desk review process more efficient so as to shorten the review time.
2. Allow multiple-source registration for pharmaceutical finished products. We urge TFDA to incorporate multiple-source registration requirements into the current registration guidelines.
3. Revise the biosimilar guidelines to bring them in line with international norms. In drafting Taiwan's biosimilar guidelines, we recommend that TFDA harmonize with the international standard by referring to the European Medicines Agency's "Guideline on similar biological medicinal products containing monoclonal antibodies (EMA/CHMP/BMWP/403543/2010)." Under this procedure, the biosimilar applicant would submit a head-to-head comparison study for the application review and approval, instead of a placebo-control trial that would disqualify this drug as a biosimilar product.
4. Revise the regulation on dissolution requirements for site changes to follow international norms.

1.2 Improve new-drug pricing and reimbursement to reward innovation

Together with implementation of the 2G NHI in January this year, a two-tier reimbursement review process was created. In addition to the Expert Meeting (the former Drug Benefit Committee or DBC), the newly formed DRIPS meeting will also review applications and make the final decisions. For the R&D-based industry, the key objective continues to be expediting the reimbursement process so that the access of Taiwanese patients to new drugs does not lag behind other countries. BNHI has proposed that only new drugs and orphan/essential medications applying for increased reimbursement prices be reviewed case by case at the DRIPS meeting. Although we appreciate BNHI's efforts to speed up the review process in view of the delays that the new two-tier system tends to cause, the timeline for reimbursing valuable medications such as new and orphan/essential drugs should not be compromised. Most of the new innovative products that need to be reviewed at the DRIPS meeting are critical for addressing unmet medical needs. Following implementation of the new process, no new drugs were announced as listed for reimbursement in the first quarter of this year. We sincerely hope that this slowdown is just a short-term phenomenon due to the transition period.

The other issue relating to the new review process is transparency. For the past several years, DOH, BNHI, and industry have worked together to seek to make the reimbursement review process more transparent. Progress has occurred, such as releasing Health Technology Assessment (HTA) reports, communicating with license-holders before DBC meetings, and posting the DBC member list and meeting minutes. But under the new mechanism the level of transparency needs to be improved, for example by releasing the participant list and recommendations of the Expert Meeting. In addition, industry needs an opportunity for dialogue with BNHI in between the Expert Meeting and DRIPS meeting. It seems that after spending many years working on transparency, we have suffered a setback.

In addition, new-drug pricing continues to be a critical issue for the industry. In 2012, the average new-drug price reached 53% of the A-10 benchmark countries' median price, which is marginally higher than the level cited in the 2012 *White Paper*. A key factor suppressing new-drug prices is that in over 86% of the cases, the prices were determined based on those of reference drugs, many of which have gone through several price cuts and now stand at new lows. Due to such a vicious circle, new-drug prices become lower year by year. To expedite Taiwanese patients' access to new drugs, BNHI should seriously consider how to incentivize products with good evidence of their efficacy and value. The price mark-ups offered for locally conducted clinical or pharmacoeconomic studies are good examples. The Committee is pleased to see that the first case of a 5% price premium for having conducted a pharmaco-economic study finally received approval. So far, however, no product has received the 10%

mark-up for clinical studies, as the criteria are too stringent.

Recommendations:

1. Make the participant list of the BNHI Expert Meeting available to the public, and the meeting's recommendation accessible to the license-holder before the DRIPS meeting. This change will improve efficiency by giving companies the opportunity to provide responses or additional evidence to BNHI to address questions or concerns raised at the Expert Meeting.
2. Currently, DRIPS meetings are to be held only once every other month, with an extra meeting scheduled if six or more cases are pending for review. We urge BNHI to increase the frequency of the DRIPS meeting and streamline the entire process in order not to delay patient access to new drugs.
3. Publish verbatim minutes after the DRIPS meeting, so that the discussion is transparent and understood by the public. However, items identified by companies as confidential business data should not be disclosed.
4. Under the new mechanism, establish a complete tracking system for all cases recommended for reimbursement so that companies can trace the progress on-line to enhance transparency and efficiency.
5. Increase the threshold for price-volume agreements (currently NT\$200 million for a new drug and NT\$100 million for a new indication), so that the PVA does not become a punishment for innovative and effective new drugs. In addition, in the interest of fairness, the PVA trigger should exclude factors of force majeure – for example, volume growth caused by a drug in the same category having been withdrawn from the market, an unexpected disease outbreak, or natural disaster.
6. The conditions of the reimbursement price mark-up to reward new drugs focusing on race specificity should be in total, not just partial, accordance with paragraphs 1 to 4 of Article 38-2 of the “Guidelines for Drug Review and Approval.”

Suggestion 2. Provide for reasonable price adjustments for pharmaceutical products.

The R&D-based industry appreciates the government's announcement of the DET program as part of the 2G NHI. The industry expects that under the two-year pilot program, which began from January 1, DET will be implemented as a replacement for the previous biennial Price Volume Survey (PVS) price cut, which was carried out seven times in the past and had a huge negative impact on the industry. BNHI/DOH should engage in discussions with the industry to find the best methodology for implementing the pilot DET implementation – one that encourages transparency and predictability – in order to lay a good foundation for long-term execution. Uncertainties should be minimized to gain the confidence and support of the industry. If the DET target has not been exceeded, no form of price adjustment should take place.

Since new-drug prices in Taiwan are so low, there should also be no price adjustment for any new product that is under patent protection, Data Exclusivity (DE), or administrative protection. Other mechanisms that further restrain new-drug prices, such as price-volume agreements and risk-sharing programs, should also be avoided. Excessive price reductions on existing drugs only continue to lower the new-drug prices (because the existing drug prices are referenced in setting the new-drug prices) and delay patient access to new drugs.

Article 46 of the new NHI law provides a mechanism to reduce drug prices to a reasonable level during the five years after patent expiration. The Committee suggests defining the “reasonable level” as the market price – that is, to conduct a PVS as the basis for the price adjustment. Further, any price adjustment conducted in line with Article 46 should be counted as part of the price cut under DET. While controlling the healthcare budget, BNHI/DOH should also seek to achieve a good balance between the perspectives of government and industry, so as to maintain the supply of pharmaceuticals necessary to meet patients’ needs.

Recommendations:

1. Maintain the PVS methodology for price cuts, but base the scale of the reduction on the DET when the target is exceeded. The price of each product would be adjusted based on the ratio of the DET excess to the price gap.
2. Whatever the form of price adjustment, exclude products under patent, DE, or administrative protection from the price cuts.
3. Define “patents” under Article 46 of the NHI Act as including all forms of patents granted by the Taiwan Intellectual Property Office (TIPO). Products without a local patent should be exempted from price cuts under Article 46.
4. Considering that Article 46 came into force from January 2013, apply price cuts under this Article only to products going off-patent from 2013 onwards.
5. Utilize a PVS-based price cut to determine the “reasonable level” of price reduction under Article 46. The methodology of the decision-making process should be made transparent.
6. Consider establishing a floor-price mechanism to ensure drug quality and a sustainable product supply.

Suggestion 3. Strengthen IPR protection through Patent Linkage and Data Exclusivity.

Effective Patent Linkage and DE are critical components of an IPR protection regime for pharmaceuticals. With clear patent and DE expiry dates, both research-based and generics companies can make better decisions about investing in R&D and manufacturing, save resources otherwise wasted on unnecessary litigation, and continue the flow of innovative drugs to patients.

Patent Linkage

Article 60 of the Taiwan Patent Law permits companies to conduct pre-clinical trials, clinical trials, and other related activities related to registration purpose without penalty for infringing on originators’ patents. This provision creates a more hostile IPR environment, increases the risk of litigation, reduces originators’ willingness to introduce new drugs to the Taiwan market, and jeopardizes patients’ right to have access to innovative medications.

The most recent industry survey found that 65 generics (impacting 22 originators) had been approved and reimbursed while a patent was still in effect. According to IP Court statistics, the average IP trial lasts 225.29 days (more than 7 months) and about 26% of cases go on for more than a year. Furthermore, all these cases are subject to appeal. In addition, the complexity of pharmaceutical IP disputes means that the trial period is typically substantially longer than for other cases. This situation, in which generics gain approval and reimbursement despite the existence of a valid patent – and remain on the market for a long period while litigation proceeds – undermines Taiwan’s international reputation as a country committed to IPR protection. In fact, it raises doubts as to whether Taiwan meets its obligations under Articles 28 and 41 of the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) under the World Trade Organization (WTO).

Currently, among Asian countries Japan, Singapore, South Korea, and China have all instituted Patent Linkage or similar systems. The reason why there is no Patent Linkage system in EU countries is that a strong DE system is in place to prevent generics from getting approval before the originators’ patents expire.

Data Exclusivity

The regime in Taiwan for DE – a system whereby the regulatory authorities refrain from granting approvals to generic versions of an original drug for a limited period of time – also has a number of shortcomings. It covers only new-chemical-entity (small-molecule) products, and not new indications and biological (large-molecule) drugs. These problems must be remedied if Taiwan wishes to encourage R&D in new indications (the extension of a drug to additional medical conditions) and new uses (such as new forms or dosages).

When benchmarking against A-10 countries, Taiwan is at the very bottom in terms of data protection. For instance, the EU provides 10 years of DE for both new chemicals and biologics and for pediatric applications of off-patent drugs, plus an additional one year for new indications, two years for orphan drugs, and six months for pediatric indications of a new drug. Canada provides eight years of data protection for chemical drugs, six years for biologics, and an additional one year for pediatric indications. Japan provides eight years of data protection through the “re-evaluation” period, and the United States provides five years for chemical drugs, 12.5

years for biologics, and an additional three years for new indications and one year for pediatric indications.

In considering modernization of its DE law, Taiwan can draw on the following two lessons. First, one of the major reasons why Canada amended its legislation in 2007 to increase DE from five to eight years was to remain competitive in the global R&D investment arena. Second, biologics are the next generation of life-saving and life-improving drugs, but because their development requires a longer time and greater R&D investment than small-molecule drugs, they need a longer DE period – hence, the United States set a DE for biologics of 12.5-years.

Recommendations:

1. Enact laws and establish procedures to support implementation of Patent Linkage through New Drug Application (NDA) guidelines to effectively protect innovators' IPR.
2. Incorporate the following into the Patent Linkage system:
 - a. Certification process – whereby a generic applicant certifies the grounds for a claim of patent invalidity.
 - b. Notice to the originator of a generic filing – a requirement that the originator be notified by the generic company and DOH when an application is filed.
 - c. Automatic stay of drug approval – in case of a dispute, a mechanism to suspend the approval process for a stated period of time (30 months in the United States) until the parties reach agreement or the generics company proves the patent right is not affected or not valid.
3. Provide DE for new drugs and indications as follows:
 - a. For small molecules, three years for new indications or new uses.
 - b. For new biologics, 12 years.

Suggestion 4. Implement a rigorous system of Separation of Dispensing from Prescribing (SDP).

This issue has been raised in previous *White Papers* for many years. The existing system at Taiwan hospitals requires staff physicians to prescribe medicines listed in the hospital formularies, which are selected through a process heavily influenced by the amount of profit to be 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. To accomplish that, DOH and BNHI should consider how hospitals and general practitioners can be compensated 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. A regulated margin for drug management should be made available to the pharmacies.

According to a 2011 Control Yuan investigation report on the NHI program, implementation of SDP is crucial to improving the quality of pharmaceutical care to patients. SDP 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 contra-indication between prescriptions from different physicians or hospitals.

In addition, according to a study by Taiwan's Asia University, releasing prescriptions for chronic diseases improves patients' adherence to the prescriptions, which has a positive effect on patient's clinical outcomes and even reduces overall medical costs. 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. Good progress has been achieved in the ongoing project to release prescriptions from DOH hospitals and Taipei Municipal hospitals to community pharmacies. This program has provided an excellent model for building cooperation among the medical, pharmaceutical, and pharmacy sectors, and we hope to see it adopted more widely.

Recommendations:

1. Adopt an SDP roadmap so that the direction of implementation is clear, even if it must be carried out in stages. An integrated implementation plan should include measurements of SDP compliance as part of the hospital accreditation system.
 - a. The measurement of compliance for hospital-accreditation purposes should be based on the number of prescriptions released and the number of pharmacists who are actually engaged in drug dispensing. In addition, public hospitals should serve as a role model by setting a target rate for the release of prescriptions, and government should also set up a reasonable release ratio for private hospitals. The same policy should also be implemented by primary-care healthcare providers. Further, hospital fees should be adjusted to eliminate the reliance on profits from drug dispensing, and the release of hospital outpatient prescriptions to community pharmacies should become mandatory.
 - b. When the current dispensing limit of 80 prescriptions per day per pharmacist is exceeded, BNHI should consider withholding reimbursement of both the dispensing fee and the drug fee.
 - c. BNHI reimbursement should be based on the daily dispensing limit, instead of the monthly or even yearly average number of prescriptions. Further discussion with consumer groups and health-law experts is necessary to come up with the optimal approach.
2. Provide 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 by reducing the volume of unnecessary medication. The result would be long-term savings for the NHI budget.

3. Provide sufficient government funding to improve the community pharmacy infrastructure in preparation for meeting SDP demand.
4. Adopt clear regulations to ensure good dispensing practices by the pharmacies and to prevent drug substitution without the doctor's consent.
5. Set a policy of periodically publishing data on the amount of prescriptions released by individual hospitals.

PUBLIC HEALTH >>

The newly established Public Health Committee provides a critical platform for industry to engage with policymakers and other stakeholders. Through constructive dialogue, it seeks to ensure that health policy is well-informed and to provide a vehicle to communicate industry's recommendations regarding the most pressing public-health needs in Taiwan. The Committee is committed to enhancing health outcomes and the efficiency with which healthcare is delivered by supporting policies and initiatives in the areas of disease prevention, healthcare management, epidemiology, preventive medicine, environmental health, and occupational health.

The Committee is pleased to see that the success of Taiwan's National Health Insurance (NHI) program has become a paradigm for other countries to emulate, and that the level of satisfaction with the program within Taiwan is high. With NHI's past achievements as a foundation, we believe Taiwan can optimize the use of its existing medical resources while further elevating the level of healthcare by drawing on the experience of advanced countries. The Committee therefore proposes the following suggestions in the hope of providing useful reference for the government in formulating national health-enhancement policies and programs.

Suggestion 1: Reduce and control healthcare-associated infections (HAIs) so as to enhance patient and healthcare-worker safety, as well as healthcare efficiency.

Healthcare-associated infections (HAIs) are infections that patients contract in a healthcare facility. They can be transmitted from patient to patient when healthcare professionals and facilities do not comply with infection prevention and control practices, and they are frequently resistant to antimicrobial treatment. HAIs result in serious clinical, public health, and economic costs, including prolonged hospital stays, disability, death, excess financial costs to healthcare systems, and high costs for patients and their families. Reducing HAIs and controlling the growing threat of antimicrobial resistance are critical to improving healthcare outcomes and efficiency. Fortunately, many HAIs can be prevented through public policies that require and

incentivize healthcare facilities to implement comprehensive infection prevention and control practices.

The World Health Organization (WHO) reports that HAIs affect hundreds of millions of patients worldwide each year and estimates prevalence in hospitals to be 5-12% in developed countries and 5-19% in developing countries. The U.S. Centers for Disease Control and Prevention (CDC) has identified HAIs as one of the top 10 leading causes of death in the United States. Additionally, a 2009 study covering 75 countries showed that the mortality rate of infected patients was more than twice that of non-infected patients. HAIs are particularly dangerous for patients who are in intensive care units (ICUs) or otherwise already have high-risk conditions.

HAIs result in massive avoidable healthcare costs. In the United States, for example, the overall direct medical costs associated with treating HAIs range from US\$28.4 billion to \$33.8 billion each year. An Organization for Economic Co-operation and Development (OECD) study concluded that HAIs annually add US\$7 billion to \$8 billion to healthcare costs in the countries surveyed. A study by Professor Chen Yin-Yin estimated the additional medical costs that occur annually in Taiwan as a result of nosocomial infections at NT\$30.3 million (around US\$1 million).

Fortunately, HAIs can be controlled with effective policies and appropriate actions. For example, the Keystone Center, an initiative under the Michigan Health and Hospital Association, achieved a four-fold reduction in Central Line Associated Bloodstream Infections over seven years, contributing to an estimated saving of US\$300 million in costs by Michigan ICUs. These results were achieved through a focus on instituting accurate data collection, driving changes in culture and practices, and providing incentives for hospitals' cooperation.

Two types of infection – MRSA and Central Line Associated Bloodstream Infection – merit particular attention as they are primary drivers of costs and patient harm.

A. Methicillin-resistant staphylococcus aureus (MRSA) is one of the main pathogens causing HAIs. It is resistant to most antibiotics, and treatment has become increasingly challenging. Taiwan CDC reports that MRSA was among the top 10 HAI strains in Taiwan's medical centers and regional hospitals from 2007 to 2010. We suggest that Taiwan government agencies:

1. Implement MRSA screening for patients in high-risk areas such as ICUs.
2. Publish annual information on HAI strains found in ICUs and hospital wards.

B. Central Line (Catheter) Associated Bloodstream Infections. The Committee supports the initiative of the Department of Health (DOH) to add selected medical devices, including central-line catheters, Foley catheters, and ventilator lines, for surveillance under Taiwan's Check Benchmark system for nosocomial infections. We urge DOH to take the following additional actions:

1. Encourage medical institutions to use non-punitive

measures to encourage improved medical care to reduce infections.

2. Publish the infection rates for each kind of central-line catheter, including CVC, PICC, and Ports, to strengthen infection control for each type and to contribute to the overall improvement effort.

Suggestion 2: Protect healthcare workers through strict implementation of existing laws on the use of safety-engineered devices.

Healthcare workers (HCWs) are the most valuable assets in our healthcare system, yet they are at frequent risk of exposure to blood-borne pathogens from needle-stick and other sharp injuries. To protect HCWs, the Legislative Yuan amended Articles 56 and 101 of the Medical Care Act at the end of 2011 to require healthcare institutions to phase in the use of safety-engineered medical devices over a five-year timetable. The legislation is a milestone that testifies to the advanced nature of Taiwan's healthcare system. Article 56 of the Act stipulates that the proportion of safety-engineered devices in use at medical institutions shall increase by 20% every year after the safety legislation takes effect, so that the proportion reaches 20% by the end of 2012 and 40% by the end of 2013. According to BNHI data from the first eight months of 2012, the usage rate for safety intravenous catheters was only 0.34%, far behind the target. As a result, in a move to ensure better implementation of Article 56, the Legislative Yuan's Environment and Social Welfare Committee in November 2012 called on the DOH to pay closer attention to the goal of a 20-percentage-point increase per year in the use of safety-engineered devices. The following measures would help strengthen implementation of the legislation:

- A. Prompt establishment by DOH of guidelines on how to achieve the implementation of safety-engineered devices according to the set timetable, and inclusion of medical institutions' degree of success in meeting the target as a required item for hospital accreditation:
 1. Issue the implementation regulations and timetable in order to facilitate enforcement of the safety legislation.
 2. Ensure the accuracy of hospitals' reporting on compliance. In his book, former DOH Minister Yang Chih-Liang has written that hospital records presented for accreditation purposes are mostly falsified. The issue of untruthful representations in the hospital accreditation process was also raised by the Taiwan Medical Alliance for Labor Justice and Patient Safety (TMAL) in a Legislative Yuan public hearing in November 2012, including allegations that hospitals utilize safety-engineered devices only during the accreditation season. If these charges are accurate, they not only put the safety of HCWs at risk, but also seriously compromise the integrity of the accreditation system. To assure medical institutions' compliance with the law, two steps should be taken during the accreditation:

- Calculate the percentage of safety-engineered models among all needle devices claimed by the hospital for NHI reimbursement.
- For devices included as part of an overall procedure fee rather than claimed as an independent NHI payment, examine the relevant procurement records of the medical institution.

3. Publish the overall usage percentage of safety-engineered devices by each medical institution every month on the DOH website.
- B. Oversight by the Executive Yuan to the DOH and Council of Labor Affairs (CLA) to make it compulsory to report all needle-stick incidents to the EPINet Needle Stick Reporting System. In addition, the Executive Yuan should ensure that the two agencies have sufficient budget each year to maintain the EPINet Needle Stick Reporting System. According to the CLA's Rules for Labor Safety and Health Facilities, employers have the responsibility to provide a safe working environment, which includes taking precautions against occupational injuries such as needle-stick incidents. EPINet is therefore administered by the CLA's Institute of Occupational Safety and Health. However, the regulations for implementing the healthcare safety legislation are being formulated by DOH, and DOH can utilize the EPINet reporting data on needle-stick incidents as an index to monitor the percentage of safety-engineered devices usage.
- C. For effective enforcement of Articles 56 and Article 101, support implementation of the new law through dedicated funding rather than depending on financing out of the hospitals' current global budget.

Suggestion 3: Strengthen measures for early prevention of cervical cancer and improve the screening results.

According to current clinical guidelines, a dual strategy of primary and secondary prevention should be applied with regard to cervical cancer. Primary prevention refers to persistent infection caused by oncogenic human papilloma virus (HPV), while secondary prevention refers to routine cytology screening measures, widely known as Pap tests. WHO recommends vaccinating girls against HPV before the start of sexual activity (generally girls aged 9-13), with a secondary "catch up" campaign for girls and women aged 14 to 26 who had not been previously vaccinated against HPV. Japan, Singapore, and many European countries include HPV vaccination in their universal mass-vaccination schemes. The U.S. CDC's Advisory Committee on Immunization Practices also recommends HPV vaccination as part of the routine vaccination schedule.

In Taiwan, however, in the absence of an aggressive public-health campaign, the rate of HPV vaccine coverage is less than 20%. Just as troubling, the Pap-test screening rate in Taiwan also lags far behind those of advanced nations. After the DOH's Bureau of Health Promotion (BHP) launched a free annual Pap test for women over 30 years of age,

along with a public-awareness campaign, the proportion of women between 30 and 69 years of age having received Pap screening rose from 38% in 1997 to 60% in 2000. During this time period, morbidity from invasive cervical cancer decreased 53% and mortality decreased 60%. These successes demonstrate the value of Pap screening. However, Taiwan's screening rates are still unacceptably low, placing women at risk, and cervical cancer morbidity and mortality are still considerably higher than in many advanced countries, as shown from the following data from a 2010 World Health Organization (WHO) report:

Country	Morbidity	Mortality
Taiwan	10.2	4.2
Australia	8.5	2.5
United Kingdom	8.3	3.1
Switzerland	8.3	1.7
Japan	8	2.8
Netherlands	7.3	2.3
Finland	4.3	1.8

Unit: per 100,000 women

Aside from boosting the unsatisfactory Pap-screening participation rate (approximately 30% for annual screening and 50% for cumulative three-year screening), it is also critical to improve the quality of Pap screening in order to decrease the high number of false negative results. According to BHP's 2009 annual report (the latest such data available), there were about 34,000 unsatisfactory Pap smear results that year, accounting for 1.4% of all screening cases or nearly three times the 0.5% reported in other advanced countries. Technologies are available, such as liquid-based cytology, automated screening, and improved sampling devices, that can be deployed to improve the effectiveness of Pap-screening programs.

Recommendations:

- A. Evaluate the feasibility of BPH providing free cervical cancer vaccinations to females under 16 years of age.
- B. Increase efforts to promote Pap screening. For example, BPH should produce an annual report on cervical cancer screening to help educate the public about the procedure and its benefits.
- C. Promote the use of technologies such as liquid-based cytology to improve test outcomes and reduce false negatives.

Suggestion 4. Improve healthcare quality by increasing the national budget for healthcare programs.

During preparation of the Second Generation National Health Insurance program, President Ma Ying-jeou said in 2010 that the government aims to increase the level of national healthcare expenditure from 6.2% to 7.5% of GDP in eight years. He reiterated the goal in 2012. But the percentage in fact has declined from the 6.92% level of 2009;

it stood at 6.51% for 2010 and 6.62% for 2011. According to 2010 statistics from the World Bank, the corresponding figures in other developed countries included Germany at 8.7%, Japan at 9.5%, the United Kingdom at 9.6%, Canada at 11.3%, France at 11.9%, and the United States at 17.9%.

National Health Insurance has been running for 17 years, but less than 60% of total healthcare expenditure goes through the NHI system. In other words, more than 40% of total health expenditure is still out-of-pocket from the Taiwan public. The demand for healthcare services is now growing rapidly due to the aging of the population, which also leaves a shrinking working population to support the healthcare system. We suggest that the Executive Yuan project the growth in medical expenditure taking the rapid aging of the population into account and set a goal for achieving healthcare expenditure at the level of 7.5% of GDP by 2018.

The 2010 WHO annual report noted that 20% to 40% of medical spending worldwide is wasteful. Taiwan faces a similar problem of medical-expenditure waste. Taiwan citizens make an average of 15 clinic visits a year, much more than the four to seven visits for Europeans and Americans. Control Yuan member Huang Huang-hsiung estimates the annual value of unconsumed medication prescribed to patients at US\$1 billion or more, and the Bureau of National Health Insurance (BNHI) reported that outpatient services accounted for 68% of total NHI expenditures in 2011.

BNHI continues to advocate the conservation of medical resources, but with very few restrictions on clinic visits and hospital choices, people's first priority in using medical resources is naturally their own self-interest. Therefore, in addition to efforts at public education, we suggest that BNHI place limits on the number of outpatient visits a patient can make for the treatment of one incidence of disease, in order to reduce waste and allow more medical resources to be dedicated to inpatient and critical care.

The current reimbursement approach of applying constraints on the total budget unfairly shifts the cost burden to the medical service providers and ultimately to the patients in the form of out-of-pocket payments and/or decreased healthcare quality. It would be preferable for NHI to both increase its share of the total healthcare expenditure and to contribute to the growth of that expenditure. The Committee recommends that BNHI increase reimbursements for surgery and other treatments for critical illnesses, in particular for high-risk or high-complexity surgery as well as treatments involving innovative technologies. This approach could reduce the ratio of out-of-pocket treatment expenditures for critically ill patients and allow mid- to low-income patients to receive better treatment, while also improving the income of healthcare workers and retarding the exodus of medical manpower from Taiwan or from the profession.

Suggestion 5. Target the prevention and treatment of obesity, diabetes, and vascular diseases.

The United Nations has reported that chronic diseases

such as cancer, cardiovascular disease, diabetes, and chronic respiratory diseases account for 63.5% of deaths worldwide and can impede countries' economic development. According to statistics based on NHI drug reimbursement applications, the cost in Taiwan of treatment drugs and compound preparations for the three top diseases – heart disease, high blood pressure, and diabetes – has reached a total of NT\$30 billion (US\$1 billion) a year, accounting for more than 6% of total NHI costs in 2011. If medical costs for the various complications from the three top diseases are included, the total would be even higher.

Obesity is a critical factor leading to the development of chronic diseases. To keep the three top diseases and their complications from creating an even greater burden on the health insurance system, early prevention and effective treatment of these diseases is essential. The Committee recommends the following courses of action:

A. Strengthen the youth obesity prevention program. The obesity prevention program designed by BHP is showing positive results. But more attention needs to be paid to obese teenagers, as they are more likely than younger children to become overweight or obese adults, and are therefore more at risk for associated adult health problems. Ministry of Education statistics show that the obesity rate for male students in high school and middle school has grown by more than 60% in the past 10 years and for female students by 25%. Policies needed in response include increasing the number of dieticians in middle schools and high schools and giving them more authority, monitoring the school lunch program to ensure the healthfulness of the foods actually being consumed (not just those on the menu), and providing information to help teenagers and their families know how to achieve healthy eating habits and prevent diet-related diseases. Adolescents should be taught how to calculate calories, how to manage their daily dietary intake, and how to benefit from taking nutritional supplements.

B. Engage in aggressive prevention and management of diabetes. Among the three top chronic diseases, diabetes is the one with the fastest growing rate of prevalence in the 21st century. According to a 2012 study published in the *Journal of the Formosan Medical Association*, Taiwan's healthcare expenditure for diabetes and its complications between 2000 and 2009 reached hundreds of billions of NT dollars. In addition, the cost in treating various complications due to diabetes mismanagement is enormous. Hemodialysis treatment, for which 40% of the patients are diabetics, consumes NT\$30 billion (US\$1 billion) in NHI reimbursement a year. Among diabetics in Taiwan, approximately 30% develop kidney disease and 70% develop cardiovascular disease. Of type-2 diabetes patients, 75% die from atherosclerosis.

Although the proper control of glycemic levels is an effective way to reduce complications from diabetes, only one-third of diabetes patients in Taiwan achieve their

treatment goal in terms of glycemic control. Numerous international studies have confirmed that using insulin for early-stage diabetes treatment can improve the efficacy of glycemic control, and Europe and the United States have a 40% insulin utilization rate for diabetics. In Taiwan, however, only about 15% of diabetic patients receive insulin injections, even though it is likely that at least 30% of them would improve glycemic control through insulin therapy. The primary reason for the low proportion of insulin therapy in Taiwan is patient ignorance and a bias against "injections." The Committee recommends that the BHP strengthen diabetes education to encourage patients to receive effective treatment to control this disease and reduce complications.

A related issue regards the re-use of needles designed for single use when the hospitals give insulin treatment – a problem arising from BNHI's desire to cut costs. Re-use has a direct and negative impact on diabetes treatment by increasing the risk of developing lipohypertrophy, the growth of unhealthy tissue at the injection site that can impair insulin action. In Taiwan, 48% of diabetics are reported to have lipohypertrophy. The Legislative Yuan has called on the Executive Yuan to closely supervise BNHI to ensure that the policy supporting the single use of injection needles is enforced and to severely punish hospitals that re-use needles. By law, BNHI is barred from prohibiting cost-reimbursement for needles. To maintain the quality of Taiwan's healthcare environment and protect the rights of patients, re-use of needles must be eliminated.

C. Promote good living habits together with regular physical examinations to effectively prevent cardiovascular diseases. Cardiovascular disease has always been the number one cause of death in the United States, but due to effective prevention measures in recent years, the morbidity and mortality rates have been reduced by 10% and 28%, respectively. The Committee recommends that besides encouraging patients in high-risk groups to adopt healthy living habits and exercise regularly, BHP also stress the importance of having regular physical examinations. Because symptoms for early stages of cardiovascular diseases may not be noticeable, patients often neglect prevention. Early detection of cardiovascular disease can enable early treatment, improve the patients' quality of life, and reduce healthcare costs.

Suggestion 6. Improve long-term care policies and regulations.

As the lifespan of people in Taiwan lengthens, the incidence of long-term illness has been rising, placing a burden both on patients' families to provide for caretaking and on the public-health and welfare systems. The Committee notes that the government has not devised any concrete long-term national policy to deal with this problem. In light of Taiwan's rapidly aging society, such a comprehensive national

policy covering long-term healthcare is badly needed.

Specifically, the Committee urges the government to accelerate efforts to consolidate existing regulations covering various forms of long-term care services currently scattered among programs aimed at the elderly and the physically and mentally handicapped to create a single specific set of rules governing long-term care services. Without such a clear set of regulations, patients will have no assurance as to the quality of long-term care services and those persons genuinely needing long-term care may be unfairly disqualified due to failure to meet the different specific criteria required under various welfare laws.

The Committee also urges the Government to revise the regulatory framework to permit professional healthcare businesses to enter into the home-care service arena. Considering the increasing number of senior citizens having long-term or chronic illness, the shortage of medical manpower, the growing caseload in the hospitals, and the burden on families, it is necessary to open the home healthcare service market to professional healthcare businesses with the capability to offer quality homecare services to patients who require it.

Current regulations only permit the operation of home-care centers by not-for-profit organizations, hospitals, and nurses. The ban discourages many qualified service providers from entering the field. In practice, some healthcare businesses get around the prohibition by using qualified nominees to hold the required operating permits. Such a prohibition is unjustified because for-profit healthcare businesses are just as capable of offering quality home healthcare services as hospitals and nurses. Further, the current loophole under which for-profit healthcare businesses use nominees to hold the required permits creates the possibility that these businesses can evade their responsibilities and liabilities through the nominees.

The Committee therefore urges the government to reconsider its position and, as part of revamped long-term care policies, open the home-care business to for-profit healthcare businesses. This change would make cost-efficient professional home-care services more accessible to people in need and ensure that the actual providers of the home-care service can be truly held accountable for their operations.

REAL ESTATE >>

Several major real-estate policies implemented in 2012 have had a substantial effect on the real-estate market. Such policies, including mortgage controls, the imposition of real estate transaction declarations, and investment restrictions, have caused transaction volume to plunge and capital values to fluctuate in both the commercial and residential markets. The Real Estate Committee recognizes the efforts the government has made to increase property-price transparency and prevent potential asset bubbles. However, the Committee

has also identified potential side-effects and contradictions under the current policy regime. In the interest of promoting Taiwan as a thriving investment destination, the Committee presents the following suggestions and looks forward to follow-up discussions with the relevant governmental agencies to further improve the overall market environment.

Suggestion 1: Remove the limits on domestic commercial real-estate investment by insurance companies and allow them to strategically allocate their assets.

In late 2012, the Financial Supervisory Commission (FSC) issued a series of orders to insurance companies aimed at avoiding overheating in the commercial property market and slowing the rapid rise in property prices. The orders state that insurers may invest in commercial properties only when the buildings are already under construction, have commitments from lessees to occupy at least 60% of the space, and will generate a minimum yield of 2.875% in rental income. Additionally, re-sales are prohibited within five years for domestic office buildings. For land acquisitions, construction work must commence within nine months and be completed within five years. Re-sales are prohibited for a period of 10 years.

But even when all of these requirements are met, the FSC may still forbid insurers from making purchases. In one instance, an insurance company intended to buy one floor of an office building for its own use. The FSC ordered that the deal be deferred in order to help cool off the market.

The Committee strongly urges the FSC to revoke the restrictions on insurers investing in commercial properties and allow them to allocate funds freely. Since insurers receive premiums from policyholders, in addition to their profits they must reserve a considerable amount of the funds to repay policyholders upon maturity of the policy. As a result, it is important for them to manage risks by diversifying asset portfolios. Concern about potential overheating of the property market could be monitored and controlled with measures such as strategic adjustments to the minimum-required yields, taxation policies, etc.

As the insurance sector still possesses abundant funds for investment, insurance companies are seeking good alternative investment opportunities, including public infrastructure leasehold projects in Taiwan. Encouraging insurers' investment in public infrastructure projects would not only give insurance companies an additional opportunity to diversify investment portfolios, but would also provide welcome funding for public infrastructure development.

Suggestion 2: Amend environmental impact assessment requirements to accelerate development and create a diversified cityscape.

In a densely developed city such as Taipei, developable land is extremely scarce. The major business districts in Taipei consist of new buildings that are mostly 20-to-30 stories high, alongside numerous old and often rundown

structures of only four or five stories. In contrast, the skylines of Hong Kong and Singapore are quite cosmopolitan, showcasing buildings of varied shapes and designs. Typically buildings in Hong Kong range from 35 to nearly 120 stories and in Singapore from 30 to 70 stories. In Hong Kong, for instance, building heights are often determined based on such considerations as urban-design policies, the special characteristics of the site, the height of surrounding buildings, aviation paths, visual and wind tunnel effects, and the overall skyline. Environmental analyses are required if the development is located in environmentally sensitive areas, involves housing of more than 100,000 people, or takes up a lot of over 20 hectares.

In Taiwan, aside from controls on building heights due to aviation flight paths, Article 5 of the “Environmental Impact Assessment Act” requires that environmental impact assessments be conducted on high-rise projects, constituting an additional indirect restraint on building heights. Furthermore, the “Standards for Determining Specific Items and Scope of Environmental Impact Assessments for Development Activities” define “high-rise buildings” as residential buildings more than 30 stories or 100 meters tall, and office/commercial buildings more than 20 stories or 70 meters in height.

It may take a year or more to complete an environmental impact assessment, however, and the assessment reports must be approved by several different committees, with committee members frequently asking for adjustments in the plans. As a result, developers tend to avoid the hassle by designing buildings shorter than those that would come under the requirements of the Environmental Impact Assessment Act. Consequently, many buildings in Taiwan have very similar designs and heights. To improve Taiwan’s urban aesthetics by incorporating more creative architecture, as well as to make more space available for urban development by building more high-rises, the authorities should amend the definition of high-rise buildings or ease the requirement for conducting environmental impact assessments.

Suggestion 3: Ease the limitations on Chinese corporate investments and real estate acquisitions in Taiwan.

The Committee is convinced that investments from the PRC will be an important factor in Taiwan’s commercial real estate market for office and industrial properties. Through March 2013, the Investment Commission of the Ministry of Economic Affairs has approved investment applications from 371 Chinese business entities for total investment in Taiwan of US\$65 million. The majority of these cases have been in the manufacturing sector, with the first property development project – for a hotel – approved this March. Under current regulations, the only sectors opened to Chinese investors are manufacturing, service industries, and infrastructure development. Moreover, Article 3 of the “Act of Permitted Investments in Taiwan for People from the Mainland” defines a PRC business entity as one in which at least 30% of the

capital comes from Chinese individuals or companies. Besides the limitation on the type of permissible investment, investors defined as a PRC entity undergo a lengthier application review process than other foreign investors, and once approved they are required to submit a financial statement to the government twice a year.

Further, Article 7 of the “Regulations on Permitting People from the Mainland to Acquire, Create or Transfer the Property Rights of Real Estate” limits Chinese investors’ acquisition of real estate in Taiwan. Only PRC enterprises in industries that have been explicitly opened for investment are permitted to purchase business properties, and these properties must be for the companies’ own use. As a result, PRC citizens – unlike their counterparts from other parts of the world – cannot simply purchase real estate in Taiwan for investment purposes.

RETAIL >>

The Retail Committee continued to witness some progress in the past year on issues of concern to the Committee. Although clear differences exist among government departments in the pace of action and degree of open-mindedness, the government has made great strides overall – and more agencies have begun basing their policy decisions on practical cost-benefit analysis. We hope the progressive mindset and service culture they exemplify will become a model for other offices.

The Department of Health (DOH), for example, has given permission for Class 1 (low risk) medical devices to be sold over the internet. This noteworthy change in attitude recognizes how technology has brought a global shift in purchasing behavior and in consumer access to the information needed to make intelligent purchasing decisions. The Taiwan Food & Drug Administration (TFDA) under DOH has also simplified the application processes for medicated cosmetics license extensions and advertising permits. The Bureau of Foreign Trade (BOFT), for its part, has accelerated its review of products banned from being imported from China, leading to the removal of an increasing number of items from the prohibited list.

We hope the trend toward liberalization will continue and even gain strength, easing the regulatory burden on companies operating in this market and increasing the choices available to Taiwan’s consumers. At the same time, the Committee remains troubled by the number of “Taiwan-unique” laws and regulations still in place. Given Taiwan’s relatively small retail market, deviating from standard international practice is counter-productive if Taiwan wishes to be recognized as a significant player in global commerce.

Below we offer a combination of old and new issues as reference for the authorities on how to improve the retail market.

Suggestion 1. Accept reasonable revisions to the draft amendment to the Consumer Protection Act.

A comprehensive amendment to the Consumer Protection Act is being drafted by the Executive Yuan's Department of Consumer Protection (DCP). One of the main problems with the proposed revision is that it would give government the authority to mandate the terms and conditions that may and may not be included in businesses' standard contracts for a broad range of consumer transactions, and to stipulate the types of contracts that must follow those "terms & conditions" guidelines. In addition, if a company makes use of a standard consumer contract, the government is given the police power to enter the premises and inspect the business operations of that company for unspecified purposes and with undefined scope. The definition of "standard contract," moreover, is so broad that it would include posters, standees, wall stickers, in-store & outdoor displays, screen displays, etc.

These proposed changes signal that the Taiwan government is preparing to implement extremely radical approaches not seen in other markets. Such approaches are wholly inappropriate for a democratic society and free-market economy where government officers should be unable to enter onto private property and conduct a search without court permission, where the right to enter into private contracts is respected, and where in case of a dispute, the fairness of those contracts should be a matter for the courts, not the administrative offices, to decide.

Other aspects of the draft amendment are also cause for concern. An example is the clause enabling customers to return and receive a refund for all types of products and services within seven days of purchase, no questions asked. This policy obviously is not workable for certain types of products and services (such as intangible products like software, and services that are instantaneously or quickly rendered). Although the proposed amendment would give designated government agencies such as the Ministry of Economic Affairs (MOEA) the power to make exceptions for certain types of products and services, the business community is worried that the relevant government agencies may be unable to implement reasonable exceptions, given the strong force of consumer populism in Taiwan. The Committee urges DCP to revise the proposed amendment to incorporate clearly justifiable exceptions such as those found in similar legislation in the European Union, Japan, and other major markets.

Another example is the requirement that – in cases of consumer cancellation of a purchase made on-line or through mail-order or a sales visit – the merchant is given a maximum of 15 days to take the product back and to refund the payment in full. The 15-day requirement ignores the practical impossibility for many local businesses, as well as many multinational companies – especially those firms with accounting handled offshore – to process refunds within just 15 days.

In fairness, we recognize and appreciate that DCP has

already accepted reasonable suggestions on some other clauses. We hope that DCP and the Executive Yuan will remain open to additional suggestions in the interest of further improving the draft amendment before the bill is submitted to the Legislative Yuan.

Suggestion 2. Remove unnecessary labeling requirements that add no value.

Consumer protection is an important value, but in the name of that principle some government agencies have pursued agendas that over-emphasize consumer rights to the point of erecting unnecessary barriers to commerce. These measures typically add no real value to the consumer, and in some cases ultimately hurt the consumer.

An example is the Commodity Labeling Act, regulated by MOEA, which requires the inclusion of the manufacturer's name, telephone number, and address on the product labels for imported goods. Since Article 9 of the Consumer Protection Law clearly places the liability for imported goods on the shoulders of the importer, there is no need for the manufacturer's information to be included. Practically speaking, in addition, if Taiwan consumers have questions or complaints regarding an imported product, it is highly unlikely that they would call overseas to talk to a non-Chinese speaker for an explanation. Such manufacturer information is not required for labels on apparel, textiles, stationery, or foods (regulated by the DOH). Under the current regulation, should a manufacturer have confidentiality concerns about disclosing its name, telephone number, and address, importers would have no choice but to decline to handle that commodity, thereby narrowing the range of choice available to local consumers. We ask that MOEA review the logic behind the labeling requirements and revise them accordingly.

Another unnecessary requirement is inclusion on the label of the date of manufacture for general commodities such as toilet paper, mirrors, laundry baskets, and hammers. As these are not perishable items, the regulation does not serve a meaningful purpose. No such requirement exists in the United States, nor is it a Taiwan requirement for apparel, textiles, stationery, and shoes. If the authorities determine that the manufacturing date must remain as required information, we suggest that they at least allow the date to be presented in code format as is the common industry practice, as long as the format is clearly explained to the consumer. MOEA rejected such a suggestion 16 years ago on the grounds that Taiwan consumers are not familiar with such four-digit code dates. Given the passage of time and increased sophistication of Taiwan consumers, we suggest that MOEA revisit the issue.

The Committee also requests that the labeling criteria for socks be reviewed, as the current requirement calls for the labeling of each pair, even when the socks are imported and sold in bulk or multi-packs. Complying with this requirement entails extra labor costs that necessarily are transferred to the consumer. On large packs, complete labeling information is

already disclosed on the outer package. That labeling should be sufficient, especially when removal from the pack and attaching a label to each individual pair could jeopardize the quality of knit or woven socks.

Besides labeling requirements coming under MOEA, the Committee would also like to mention the recycling symbol required by the Environmental Protection Administration (EPA). One of the main purposes of recycling symbols around the world is to advise and remind users that the box, jar, or plastic packaging on which it is placed can be recycled. In other words, users should dispose of the material in a manner that is safe and appropriate for the environment. Likewise, the PIC (Plastic Identification Code) system was introduced in 1988 as a uniform system for manufacturers around the world to differentiate between different polymer types and to provide clear and concise instructions to consumers on how to recycle the packaging.

With this background in mind, the Committee fails to find any added-value in the labeling of plastic goods in Taiwan with a square recycling symbol that is unique to this market. In fact, the additional time and cost necessary for importers to affix such symbols on recyclable imported plastic products is clearly an unnecessary inconvenience that lessens the attractiveness of trading with Taiwan. To repeat our suggestion from last year, we urge the EPA to accept the internationally recognized PIC on plastic goods as sufficient for recycling purposes.

Suggestion 3. Maintain the classifications of non-medicated toothpaste and mouthwash as general products.

Non-medicated toothpaste and mouthwash have been classified in Taiwan for decades as general products, with MOEA as the regulatory authority. Since 2011, MOEA and TFDA have proposed reclassifying non-medicated toothpaste and mouthwash as cosmetic products. The Committee expressed its concerns about this change in the 2011 and 2012 *White Papers*, but failed to receive positive feedback from the authorities. Later in 2012, DCP assigned DOH to be the central competent authority for non-medicated toothpaste and mouthwash, and TFDA is currently drafting a revision to the Cosmetic Hygiene Control Act to place non-medicated toothpaste and mouthwash under that statute by redefining these two categories as “cosmetics.” The Committee urges TFDA to withdraw this initiative for the following reasons:

A. The current system is consistent with the practice in many major markets. In the United States, for example, fluoride toothpaste is classified as an over-the-counter or OTC drug (no registration is required, but all drug products need to be listed with the FDA), and in Japan it is also an OTC product (registration required). Although most toothpaste has been classified as a general product in Taiwan, the current system actually follows the regulatory trend of the above-mentioned countries, because if a medical claim is made for the toothpaste or if it contains

over 1,500ppm of fluoride, it will be classified as a drug and registration is required.

- B. The key reason MOEA cites for this initiative is that it lacks the professional expertise to regulate advertising claims and health/hygiene issues for these two kinds of products. We fail to comprehend MOEA’s concerns, as other government departments such as the Fair Trade Commission and the DCP have direct responsibility for regulating all advertisements, even though other departments have authority over the relevant products or services. Likewise, DOH and TFDA have the expertise and authority to deal with health/hygiene matters for all products and services, regardless of whether other government departments have general jurisdiction over those products and services. For example, in practice DOH has the ultimate responsibility for setting the efficacy claims that non-medicated toothpaste and mouthwash are allowed to make and for determining whether an ingredient should be classified as a drug – and if so, whether the ingredient poses any safety concerns. In addition, all the advertising claims that MOEA has had questions about (such as anti-sensitivity, plaque reduction, and reduction of the incidence of periodontal diseases and gingivitis) have already been approved by DOH for non-medicated toothpastes, and any drugs or toxic ingredients are governed by DOH. Under this practice, if MOEA has any questions as to whether a given claim implies a therapeutic effect or if a given ingredient involves safety concerns, it can turn to DOH for assistance. Even more to the point, DCP has further clarified that authority rests with DOH in the case of any unclear issue related to toothpaste and mouthwash products. The roles and division of MOEA and DOH are quite clear and there is no compelling reason to reclassify toothpaste and mouthwash as cosmetic products and shift the regulatory authority from MOEA to DOH. Besides, if the government’s aim is to provide more transparent information or warning messages to consumers, it is already in MOEA’s power to require the toothpaste industry to incorporate more information on the labels.
- C. Even if the proposed amendment is enacted by the Legislative Yuan and the competent authority for toothpaste and mouthwash is changed to DOH, the current post-market inspection system would still be maintained and industry would still follow the existing self-regulatory provisions in its marketing. There would thus be no practical difference from the status quo, and no extra protection created for consumers.
- D. The relevant regulations related to the Cosmetic Hygiene Control Act were established without consideration of toothpaste or mouthwash products. The toothpaste and mouthwash industries would need to reassess their ingredients and possibly alter current formulations, followed by numerous stability tests for formulations that need to change. The process would be long and expensive,

and the costs of making toothpaste compliant with the new cosmetic regulations would most likely have to be passed on to consumers in the form of higher prices.

As there is no need to transfer the regulatory authority of these two categories, the Executive Yuan and DOH should avoid unnecessary regulatory changes that create an administrative burden for both government departments and businesses.

Suggestion 4. Reform the regulatory framework for cosmetics products.

The Committee greatly appreciates TFDA's continued efforts to engage in regulatory reforms and harmonize more closely with international practices. To aid in this initiative, we would like to raise a few important issues for TFDA's consideration:

A. Balance in regulatory internationalization. In setting new regulations, TFDA recently has looked primarily to EU product standards and EU regulatory regimens for reference. But instead of adopting them in their entirety, it has combined them with regulations cherry-picked from other countries. The result is often a cafeteria of rules from all over, without any cohesive policy logic. Some examples:

- ***Banned or restricted ingredients*** – In the EU, about 1,500 ingredients are either banned from use or have a low maximum-allowed level in cosmetic products, but manufacturers may apply for relaxation of the bans and the maximum-allowed levels, and those requests have been granted in many cases. In Taiwan, some 300 ingredients are either totally banned or have a much lower maximum-allowed ingredient level than in most other countries, but all applications for relaxation so far have been rejected. In contrast, no more than 30 ingredients are regulated in the United States and Japan. If, as expected, TFDA adopts the full EU cosmetic ban list and the maximum-allowed ingredient levels but maintains its current policy of no-exceptions – barring even ingredients that have already been relaxed in the EU – cosmetics companies would be prohibited from introducing many products into the Taiwan market.
- ***Product Information Files (PIF)*** – TFDA is proposing to implement a series of PIF requirements, which would require manufacturers to prepare a variety of technical documents for government inspection at the importer's premises with regard to product safety, quality, and claim supportability. By combining both EU and ASEAN criteria, TFDA is heading toward adoption of the most restrictive regulation of this kind in the world. Further, many of the technical documents it plans to require lack transparency and clarity, and are based on the regulators' arbitrary decree. Thus, the cosmetic companies would be at high risk of non-compliance when inspected, and failure to comply would cause

serious penalties and/or the recall of products. The United States and Japan do not require PIFs, and because Taiwan's market size often does not justify the production of special technical documents, not all U.S. and Japanese companies operating in Taiwan could manage to comply – presenting a potential technical-barrier-to-trade issue. TFDA's proposed mandatory GMP requirement presents a similar problem of combining regulations borrowed from multiple jurisdictions into a single highly restrictive requirement that poses compliance problems for the industry.

We strongly recommend that TFDA meet more regularly with industry representatives to better understand their concerns, and to avoid creating more "Taiwan-unique" rules.

B. Revise the "Corrective Advertisement" and "Product Off-Shelf" policy. While this Committee sincerely appreciates the proposed amendment of the Statute for Control of Cosmetic Hygiene to end the requirement for pre-broadcast censorship of advertisements, two of the proposed substitutes – requiring companies to take out corrective advertisements and removing products from the shelves if their advertisements are deemed to be "seriously exaggerating or untrue" – are reasons for grave concern. The draft amendment stipulates that health-administration personnel may determine whether an advertisement or claim is "seriously exaggerating or untrue" regarding content that may or may not be safety or hygiene related. After such determination, the violator would be required to broadcast or publish apologies and corrective statements, with the health-administration staff determining the time slots, duration, and appropriate media to be used. Further, the health-administration staff would also be authorized to prohibit the distribution, display, and sale of the advertised product for an indefinite period, based not on safety or hygienic concerns but solely on the administrative staffs' determination of the advertisement's truthfulness.

Normally in Taiwan, when advertising compliance and penalty issues are involved, the businesses and individuals accused are provided with due process protection, either judicially in the courts or by a highly professional review body such as the Fair Trade Commission, or both. However, the TFDA proposal provides neither the necessary due process protection nor a credible basis for decision-making. As mentioned above, it would empower the health authorities to rule on all advertising claims – not just the health, safety, and physiological efficacy aspects. Such a broad mandate would exceed DOH's legally defined institutional authority as well as the regulators' professional scope of competence. In addition, the proposed measure would grant the health authorities enormous power, in effect extending to them the ability to ruin a company's reputation and brand equity, or even terminate its right to conduct otherwise legitimate

commercial activities. Placing such great discretionary powers in the hands of administrative personnel as part of an advertising compliance regime would be unprecedented in international practice.

We therefore seriously challenge the wisdom of allowing unequipped administrative staffs to wield discretionary powers greater than that of the courts in deciding the fate of a business on an advertising matter. We strongly urge DOH and TFDA to retract this proposal from the Legislative Yuan as it is wholly inappropriate for a country that adheres to the rule of law.

C. Engage in broad-based discussions for establishing advertising guidelines and self-regulation. We applaud the official support TFDA has given to the initiative to establish industry self-regulation on advertisements. As the basis for such future measures, however, it appears that TFDA is preparing to adopt even more comprehensive and detailed “dos and don’ts” – rules governing the use of particular words and phrases in advertisements – than now exist. But because TFDA either lacks the capability to deal effectively with wording that is not explicitly health or hygiene-related or the willingness to go beyond the scope of existing advertising-review criteria, the proposed guidelines have remained highly restrictive and in many ways arbitrary.

Advertising, particularly for cosmetics, is a dynamic combination of science, commerce, and art, and we believe TFDA should establish a broad-based mechanism with more industry representation to deal with these questions by means of principle-based guidelines that improve regulatory transparency. We recommend that TFDA study the feasibility of assigning a specialized NGO with the task of monitoring cosmetics advertising and determining their compliance with the regulations. This approach would ensure that the formulation of guidelines, monitoring of compliance, and settlement of competitor and consumer disputes on advertisements are handled professionally by a group of appointed experts. An abundance of highly successful examples of this model exists in other countries, including the United States, many EU members, Japan, South Korea, Singapore, Hong Kong, the Philippines, and India – and the consumers are always the ultimate beneficiary. Cooperation between government and industry to emulate this approach would serve to elevate Taiwan’s practices in regulating cosmetics advertising to the international norm.

D. Simplify the registration process for medicated cosmetics. Before the proposed revision of the Cosmetic Hygiene Control Act comes into effect, the Committee recommends that TFDA first simplify and accelerate the registration and review process for medicated cosmetics. The possible steps could include a) eliminating the requirement for submission of a certificate of free sale provided by the sourcing countries or, alternatively, following the examples of established international practices by refraining from

requiring pre-market registration for medicated cosmetics, or b) exempting the registration requirement for selected product categories that have low safety risk, such as sunscreen products. These changes in the process would enable the industry to better serve Taiwan consumers by bringing them innovative products more rapidly.

According to our understanding, TFDA is indeed seeking to simplify certain procedural requirements, such as eliminating the need for some registration documents, in order to shorten the lead time. But at the same time, as a policy trade-off it is adding more requirements, such as GMP certification, as a condition for registration. The GMP requirement could significantly impact importers of American cosmetics, as there is no GMP requirement in the United States.

Suggestion 5. Construct a sound mechanism to manage dietary supplements.

Taiwan consumers are increasingly aware of the need to take steps to manage their health and wellbeing. Intake of dietary supplements is well documented as a key aid to healthy living. Since 2011, this Committee has urged the Taiwan government to follow the global trend of classifying vitamin and mineral products as a specific category separated from food products or drugs. Establishing a distinct classification for dietary supplements would create a focused regulatory process that ensures the quality and safety of these products, while also allowing for innovation. It would also enable consumers to make more informed decisions in their product selection in order to manage their health outcomes.

Currently, a number of common dietary supplements used extensively in markets such as the United States, Australia, and Canada are classified in Taiwan as drugs, resulting in the imposition of much more restrictive standards than necessary. These dietary supplements include:

- Melatonin
- Gingko Biloba
- Co-Q10 (up to 200 mg per day)
- Milk Thistle
- Saw Palmetto

We urge the Taiwan government to adopt the same approach as the markets mentioned above, so as to allow greater flexibility in the use of these products in the Taiwan market.

Another advantage of having a dietary supplement category is that promotional “claims” can be better structured. Under U.S. law, for example, claims that are allowed to be used on food and dietary supplement labels fall into three separate categories: health claims, nutrient content claims, and structure/function claims.

Health claims describe a relationship between a dietary supplement ingredient and a reduction in the risk of a disease or health-related condition, while structure/function claims describe the intended effect of a nutrient or dietary ingredient on the normal structures and functions in humans. For

the latter, manufacturers are responsible for ensuring the accuracy and truthfulness of these claims. Such claims are not pre-approved by the U.S. Food and Drug Administration (FDA), and manufacturers must use a disclaimer that the FDA has not evaluated the claims. For health claims, the FDA permits claims that are not authorized by regulation but are supported by credible evidence and accompanied by a non-misleading disclaimer. Such claims are referred to as “qualified health claims.”

Allowing manufacturers and retailers to make proper claims about the benefits of a dietary supplement enables consumers to make informed decisions when selecting a product for better health control. Even before establishing a dietary supplement category for vitamin/mineral product regulation, the Committee encourages the Taiwan health authority to allow health or structure/function claims for these frequently-used ingredients:

- Lutein: Helps maintain eye health
- Lycopene: Helps as an anti-oxidant
- Phytosterols: Helps maintain cholesterol health
- Barley beta glucan: Helps maintain cholesterol health
- Glucosamine: Helps maintain joint health
- Folic acid: Helps prevent neural defects
- Calcium with vitamin D: Helps prevent osteoporosis
- Probiotics: Helps immune-function support

Suggestion 6. Liberalize the requirement for bank reserves for standardized contracts related to gift coupons.

According to regulations of the MOEA Department of Commerce, retailers wishing to issue merchandise coupons or gift coupons by means of standardized contracts must keep sufficient cash reserves in the bank or maintain the equivalent amount in performance bonds. Alternatively, they may engage in joint guarantees with other retailers of a similar business type and scale (with market share exceeding 5%), or through commercial associations.

These conditions are impractical because the retention of bonds hinders the development of commerce, and no retailer is willing to be another’s guarantor. The Committee therefore offers the following suggestions:

1. Retailers with good reputations and credibility should be allowed to maintain partial funds in the bank instead of the full reserve amount.
2. Mutual guarantees from a company’s related entity should also be allowed as a condition for issuance of gift coupons.

The Committee also urges elimination of the requirement that starting and ending dates be specified for the trust/bank guarantees. This stipulation results in stock management problems for retailers in various ways:

1. Current regulations require retailers to destroy expired gift coupons, which raises issues of paper and manpower costs, and in turn disrupts the routine operation of stock management.
2. Some retailers extend the ending date by three or six months to reduce the volume of expired coupons.

Such extensions also pose unnecessary costs for the manufacturers and importers.

Finally, the trust/bank guarantee period is unnecessary and unsuitable for electronic gift coupon schemes for the following reasons:

1. It is impossible to state a trust/bank guarantee period for electronic gift coupons that can be reloaded. No retailer states the trust/bank guarantee on reloaded coupons.
2. If there is no need for the reloaded coupon to state the exact trust/bank guarantee period, it indicates that it is also unnecessary for the period to be written on the coupon.
3. The trust/bank guarantee period stated on the coupon is not the only way to disclose this kind of information. Retailers can also use the internet, phone calls, or other measures to answer consumers’ queries.

The Committee believes that the trust/bank guarantee period only serves to confuse consumers. Some consumers mistakenly believe that the coupon’s expiry date is the same as the end of the trust/bank guarantee period.

Suggestion 7. Further liberalize China-import restrictions.

The Committee appreciates the BOFT’s recent efforts to expedite the often drawn-out process of removing restrictions on China imports. In the past year, restrictions have been lifted entirely on 17 “partially banned” product categories and one “completely banned” category. The ban on one “completely banned” category has also been partially lifted. The pace of liberalization has been accelerated, although there are still many Chinese-made products that remain banned, resulting in supply-chain difficulties for multinational companies and limited choices for Taiwan consumers. The following table lists the priority items identified by the Committee for the lifting of restrictions:

	CCC Code	Completely Banned Products
1	6115.10.11.10-3	Graduated compression panty hose, knitted or crocheted, of synthetic fibres, measuring per single yarn less than 67 decitex
2	6115.21.00.00-5	Panty hose and tights, knitted or crocheted, of synthetic fibres, measuring per single yarn less than 67 decitex
3	7009.91.90.00-8	Other glass mirror, unframed
4	7009.92.00.00-6	Other glass mirror, framed
5	6302.21.00.00.8	Other bed linen, printed, of cotton
6	6302.22.00.00.7	Other bed linen, printed, of man-made fibres
7	5208.52.00.00.7	Woven fabrics of cotton, plain weave, containing 85% or more by weight of cotton, weighing more than 100 g/square meter but not more than 200 g/square meter, printed

8	5208.59.90.00.1	Other woven fabrics of cotton, containing 85% or more by weight, of cotton, weighing not more than 200 g/square meter, printed
9	5209.51.00.00.7	Woven fabrics of cotton, plain weave, containing 85% or more by weight, of cotton, weighing more than 200 g/square meter, printed
10	5210.21.00.00.1	Woven fabrics of cotton, plain weave, containing less than 85% by weight, of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/square meter, bleached
11	7318.16.00.00.5	Nuts, of iron or steel
12	6804.30.00.00.0	Hand sharpening or polishing stones
	CCC Code	Partially Banned Products
1	6107.22.00.00-4	Men's or boys' nightshirts and pyjamas, knitted or crocheted, of man-made fibres
2	6107.91.00.00-0	Men's or boys' bathrobes, dressing gowns and similar articles, knitted or crocheted, of cotton
3	6107.99.30.00-6	Men's or boys' bathrobes, dressing gowns and similar articles, knitted or crocheted, of man-made fibres
4	6108.32.00.00-1	Women's or girls' nightdresses and pyjamas, knitted or crocheted, of man-made fibres
5	6112.39.00.00-8	Men's or boys' swimwear, knitted or crocheted, of other textile materials
6	6112.49.00.00-6	Women's or girls' swimwear, knitted or crocheted, of other textile materials
7	6114.90.90.00-3	Other garments, knitted or crocheted, of other textile materials
8	6115.10.11.90-6	Other graduated compression hosiery, knitted or crocheted, of synthetic fibres, measuring per single yarn less than 67 decitex DZN
9	6115.10.12.10-2	Graduated compression panty hose, knitted or crocheted, of synthetic fibres, measuring per single yarn 67 decitex or more
10	6115.10.90.90-0	Other graduated compression hosiery, knitted or crocheted, of other textile materials
11	6115.22.00.00-4	Panty hose and tights, knitted or crocheted, of synthetic fibres, measuring per single yarn 67 decitex or more

12	6115.30.00.00-4	Other women's full-length or knee-length hosiery, knitted or crocheted, measuring per single yarn less than 67 decitex
13	6115.95.00.00-6	Stockings, socks and other hosiery, knitted or crocheted, of cotton
14	6203.23.00.00-6	Men's or boys' ensembles, of synthetic fibres
15	6203.29.20.00-6	Men's or boys' ensembles, of artificial fibres
16	6203.29.90.00-1	Men's or boys' ensembles, of other textile materials
17	6203.49.21.00-1	Men's or boys' trousers, breeches and shorts, of artificial fibres
18	6203.49.91.00-6	Men's or boys' trousers, breeches and shorts, of other textile materials
19	6204.23.00.00-5	Women's or girls' ensembles, of synthetic fibres
20	6204.29.20.00-5	Women's or girls' ensembles, of artificial fibres
21	6204.29.90.00-0	Women's or girls' ensembles, of other textile materials
22	6204.69.21.00-5	Women's or girls' trousers, breeches and shorts, of artificial fibres
23	6204.69.91.00-0	Women's or girls' trousers, breeches and shorts, of other textile materials
24	6207.99.20.00-7	Men's or boys' singlets and other vests, bathrobes, dressing gowns and similar articles, of man-made fibres
25	6207.99.90.00-2	Men's or boys' singlets and other vests, bathrobes, dressing gowns and similar articles, of other textile materials
26	6208.92.00.00-7	Women's or girls' singlets and other vests, briefs, panties, negligees, bathrobes, dressing gowns and similar articles, of man-made fibres
27	6208.99.90.00-1	Women's or girls' singlets and other vests, briefs, panties, negligees, bathrobes, dressing gowns and similar articles, of other textile materials
28	6209.90.20.00-4	Babies' garments and clothing accessories, of artificial fibres
29	6209.90.90.00-9	Babies' garments and clothing accessories, of other textile materials
30	6211.11.90.00-1	Men's or boys' swimwear, of other textile materials
31	6211.12.90.00-0	Women's or girls' swimwear, of other textile materials
32	6211.32.00.00-5	Other garments, men's or boys', of cotton
33	6211.39.90.00-9	Other garments, men's or boys', of other textile materials

34	6211.41.00.00-4	Other garments, women's or girls', of wool or fine animal hair
35	6211.42.00.90-4	Other garments, women's or girls', of cotton
36	6211.49.90.00-7	Other garments, women's or girls', of other textile materials
37	7013.37.00.00-8	Other drinking glasses, other than of glass-ceramics
38	7007.19.00.00.8	Other toughened (tempered) safety glass
39	6211.42.00.90.4	Other garments, women's or girls', of cotton
40	6211.49.90.00.7	Other garments, women's or girls', of other textile materials
41	4811.59.00.00.1	Other paper or paperboard coated, impregnated or covered with plastics (excluding adhesives), other than goods of the kind described in heading 48.03, 48.09 or 48.10,
42	2530.90.99.90.9	Other mineral substances, n.e.s.
43	8301.40.00.00.2	Other locks, of base metal

SUSTAINABLE DEVELOPMENT >>

The Committee appreciates the Taiwan government's long-term sustainability vision, strategy, and goals that are guiding initiatives for environmental-footprint reduction and energy and natural resource conservation. We believe that adoption of policies with stronger incentives and subsidies could help motivate the private sector to develop innovative solutions in these areas using prevailing technologies. The Committee would also welcome policy initiatives to increase public-communications programs aimed at strengthening people's understanding of these issues and encouraging them to change their daily behavior.

In particular, the Committee would like to commend Taiwan's Environmental Protection Administration (EPA) for its action in response to our issue: "Recognize pure virgin fiber tissue products in the EPA Green Mark system when certified by globally accepted standards of responsible forest management." Since we first raised the issue four years ago, the EPA has conducted a series of information-collecting efforts, and it announced last year that facial tissue products certified by globally accepted standards for responsible forest management would indeed be considered eligible to receive the Green Mark. The decision clearly demonstrates that the Taiwan Green Mark program is keeping pace with global sustainability trends emphasizing more comprehensive lifecycle assessments.

We would like to share the following issues and suggestions with the respective government agencies for their consideration.

Suggestion 1. Continue to expand the new Green Mark policy by including all tissue products certified by globally accepted standards for responsible forest management in its coverage.

As mentioned in the introduction, last year the EPA adopted a policy of regarding facial tissue products that are certified by globally accepted standards for responsible forest management as eligible for inclusion in its Green Mark program recognizing environmentally friendly products. The Committee now requests that this policy approach be extended to all tissue categories, including bath tissues, paper towels, napkins, and kitchen towels. Incorporating those products in the Green Mark program would help Taiwan consumers differentiate environmentally sound products from those products made from imported materials derived through severe deforestation in other parts of Asia.

Supplies of recycled paper and fiber are insufficient to meet market demand. Consequently, a holistic product lifecycle approach to tissue products and responsible forest management is necessary to protect the natural environment. As stated in the 2012 *White Paper*, the renewability of natural resources has become crucial to both sustainable development and economic growth. At the same time, the use of recycled material is no longer regarded as the only way to reduce the environmental impact from the production of tissue products. Product lifecycle assessments show that the carbon footprint produced by recycled-fiber products is in fact larger than that for virgin-fiber products, due to emissions during the recycling and de-inking processes. For this reason, the responsible forest-management system and "Chain of Custody" certification, which monitors sustainability from the very beginning through to the very end of the product lifecycle, have been increasingly promoted across the globe.

A constant flow of virgin fiber into the fiber network is needed because wood fibers cannot be recycled indefinitely. Depending on the origin of the virgin fiber and the type of product, fiber is typically degraded and unusable after five to seven cycles. Thus, virgin fiber is constantly required to be added to the fiber network to compensate for the retirement of degraded fiber, archival storage of paper, and loss of fiber through normal use and disposal of certain paper products such as personal care and tissue products. A recent study by the World Resources Institute and the World Business Council for Sustainable Development concludes that the paper supply would encounter serious problems in a matter of days if the input of fresh fiber were eliminated.

According to the Taiwan Paper Industry Association, although the paper recycling rate in Taiwan is now as high as 68%, Taiwan still needs to import recycled paper – up to 601,000 metric tons of it in 2011. From a holistic environmental viewpoint, incorporating wastepaper into tissue production would be highly inefficient, as fiber could not be recycled again due to hygienic concerns. Putting recycled paper or fibers into the production of general paper

products such as wrapping paper, books, and packaging, instead of into the tissue category, could maximize fiber usage up to five to seven times, making it the most efficient way to utilize this limited resource.

Because of Taiwan's strict regulation of its forests, almost 99% of tissue fibers are imported. Yet there are no regulations in place to check whether the materials come from sustainable certified forests. It is estimated, in fact, that more than 70% of imported tissue fiber comes from non-sustainable-certified forests – especially in Indonesia and China – that are considered to be in a severe state of deforestation. If the Green Mark recognition is limited to only one type of tissue product, consumers of other types will be unable to differentiate the sustainable products from the others, given that recycled tissue products and facial tissue products with eco-labels account for only a small portion of the tissue category.

We therefore urge the EPA to make further strides in extending the Green Mark label to all virgin-fiber tissue products that are certified by globally accepted standards for responsible forest management.

Suggestion 2. Stipulate the origins and composition of products/materials on Green Mark and Green Building Material labeling.

The Committee encourages taking steps to advance the Green Mark and Green Building Material (GBM) certification systems in Taiwan along the lines of such international green material labels as those in the United States, Hong Kong, Australia, and New Zealand. More definitive labeling requirements will effectively lower CO2 emissions and energy consumption, and will give national products a competitive edge to further promote the local economy. The Committee urges the EPA and the Taiwan Architecture and Building Center (TABC) to further clarify green label requirements in terms of product/material composition and formulation percentages. To promote environmental transparency and to increase product/materials credibility in the international marketplace, we advocate the inclusion of the following content on the Green Mark and GBM labels:

- ***The distinction between Pre-Consumer vs. Post-Consumer Recycled Content.*** Data specifying the amount of recycled material on a dry-weight measurement basis, or in standard reporting units allowing conversions to a dry-weight basis, should be distinguished as a percentage of pre-consumer and/or post-consumer recycled content, as defined by ISO 14021-1999. Pre- and post-consumer recycled content are not equivalent; pre-consumer recycled content does not discourage the consumption of virgin materials. Therefore, products with post-consumer recycled content should be identified.
- ***Regional Information.*** Labeling should specify the location of material extraction and manufacturing for each component within a finished product/material, indicating the amount (by dry weight or some other

measure that can be converted to dry weight) of each component in the finished product by source location.

The above criteria should apply to all finished products and raw materials, subassemblies, and components for which a manufacturer has demonstrated full conformity to the Green Mark and/or GBM requirements. When any finished product is not in complete conformity, documentation should clearly identify the conformant and non-conformant amounts in dry weight or percentages.

Although the Committee recognizes that not all companies will comply with the suggested disclosures, the information collected will nevertheless provide a more accurate indication of the true environmental footprint of each product/material. At the same time, we urge the EPA and TABC to seek ways to protect proprietary information through minimal public disclosure, for instance by only releasing to the public the benchmark criteria that all green-label products/materials have achieved.

The Committee strongly believes that the adoption of more stringent criteria will further encourage manufacturers to stay current with globally accepted standards, thus increasing the marketability of Taiwanese products/materials and reducing the environmental impact of local manufacturing.

Suggestion 3. Adopt an energy policy that balances economic, ecological, and societal-acceptance considerations.

The current debate in Taiwan on the role of nuclear power is forcing consideration of what type of energy policy should be adopted to guide the country's future. What role, if any, should remain for nuclear energy, given the strong public and political opposition? How much should Taiwan rely on burning coal to generate power – and thereby cause more carbon emissions that contribute to climate change? To what extent can liquefied natural gas (LNG) provide a substitute – despite its higher cost that could have an adverse impact on economic growth? No matter which option is chosen, there will need to be serious tradeoffs. This Committee urges the government, in making its energy-policy decisions, to take a broad view that balances economic needs, ecology, and societal acceptance.

Further, to hold the negative impact of future power development to a minimum, we suggest increased attention to energy conservation in order to lessen the need to expand Taiwan's power supply.

As noted in the McKinsey & Co. report *Transforming Taiwan into a Low Carbon Economy: Pathway to 2030*, power generation accounted for 57% of greenhouse gas (GHG) emissions in Taiwan in 2010. The challenge will be to grow GDP and per capita income, and improve the quality of life, without increasing energy consumption. That goal can be accomplished only with a comprehensive program to promote energy saving – one that combines stringent standards and regulations with attractive incentives for investment in energy-saving projects, especially in the building and

transportation sectors.

In addition, renewable sources of energy should account for as much of the energy mix as is feasible.

Renewable energy's share in power generation was 3.2% in 2011. Although the Bureau of Energy (BOE) of the Ministry of Economic Affairs (MOEA) reports plans for 1,000 wind turbines to be installed in Taiwan and for solar (PV) installations to be operative on millions of roofs by 2020, wind and solar together would account for just 9% of total installed capacity, while generating less than 6% of the island's power. Compared with the 20% goal set by EU members for 2020, the target in Taiwan is not ambitious.

Suggestion 4. Consider a new mechanism of bidding for public construction projects.

The Committee proposed in the 2011 *White Paper* to promote sustainability in infrastructure projects by certifying new technologies and materials for application in Taiwan.

Government agencies responded that the amended Government Procurement Act allows new technologies/materials to be included in the design and specifications, and also stipulates that the certification task be assigned to neutral third parties. Meanwhile, government agencies also allow contractors to adopt new technologies and materials in public construction projects without certification in the event of urgency.

In practice, however, engineering consulting companies still hesitate to incorporate these verified new technologies/materials into specifications, out of fear of being accused of – or even prosecuted for – showing favoritism to certain suppliers. This situation results in low-quality construction and blocks the introduction of new green technologies/materials into Taiwan. The price-focused bidding process is another factor discouraging contractors from submitting proposals that properly balance economic needs, ecological concerns, and societal acceptance.

We suggest that the government adopt a bid mechanism that (1) includes a predetermined budget; (2) encourages potential bidders to provide detailed illustrations of sustainable applications of technology, materials and solutions balancing economic needs, ecological concerns, and societal acceptance and societal acceptance; and (3) empowers the selection committee to award the bid to the company that produces the most sustainable proposal.

TAX >>

The Taiwan government has been proposing various new policies to deal with the economic downturn, boost the stock market, and assure the survival of key industries. In the area of taxation, the Ministry of Finance (MOF) has proposed to include rules on controlled foreign corporations and the place of effective management within the income tax regime in an effort to reduce tax avoidance and make the tax regulations

more appropriate for promoting a dynamic business environment.

Aside from new tax laws, the Committee wishes to note that other tax issues merit attention as well. We believe that many of these issues have a strong bearing on foreign investors' willingness to invest in Taiwan, and thus may hinder Taiwan's continued economic growth if they remain unresolved. Examples are the goodwill issue as it impacts merger and acquisition (M&A) transactions, and the tax burden arising from technology transfers and R&D spending. The Committee hopes that the government will seriously review the issues and suggestions below and take immediate actions.

Suggestion 1. Acknowledge the economic value and tax deductibility of goodwill and identifiable intangible assets generated through M&A activities.

In the interest of promoting market stability and economic growth, the tax authorities should acknowledge that goodwill and identifiable intangible assets generated through M&A activities have economic value and are tax deductible. If the M&A activities are between unrelated parties, the purchase price should be deemed reasonable. Furthermore, the interpretation of what constitutes tax-deductible intangible assets should be as broad as possible.

Over the years, financial institutions have supported government policies by helping to clean up troubled enterprises and engaging in M&A activities in the interest of consolidation. In the late 1990s, for example, many Taiwanese companies in traditional industries and electronics suffered during the Asian financial crisis and global recession, and the government called on banks to assist in bailing out troubled companies. The participating banks' financial soundness was affected, and unhealthy competition caused by overbanking also undermined many banks' financial strength. These problems led the government to implement the first wave of financial reform in 2000, providing tax incentives through the Financial Institutions Mergers & Acquisitions Act to encourage M&A activity among banks. This policy also attracted investment in Taiwan by multinational banks to help restructure local banks struggling to survive. The Mergers & Acquisitions Act was subsequently passed in 2002 to encourage similar restructuring and reform for non-banking corporations.

Given the financial environment at that time and the tax incentives made available under the new laws, many banks participated in the financial reform as an opportunity to expand their operations and market share. But since then, the tax authorities have been denying tax deductions for amortization of goodwill and identifiable intangible assets acquired through M&A, which has led to numerous tax appeals. The economic value of identifiable intangible assets obtained through M&A, such as sales channels and client relationships, as well as the residual value represented by goodwill, are generally recognized under prevailing

accounting standards. Nonetheless, the tax authorities have been disallowing such claims for tax deduction on the grounds of non-compliance with Article 60 of the Income Tax Act or lack of supporting documents. Many taxpayers then proceeded to seek administrative remedies, but the outcome has generally not been favorable. Since 2009, there have been 162 tax appeal cases, of which the success rate for taxpayers is only 2%. Aside from banking, these cases have involved such other industries as securities, technology, and insurance.

Both Article 17 of the Financial Institutions Mergers & Acquisitions Act and Article 35 of the Mergers & Acquisitions Act specifically state that goodwill can be amortized over a period of five to 15 years. But the tax authorities have disallowed such amortization based on their internal assessment guidelines, which require supporting documents such as valuation reports or purchase-price allocation reports. This approach clearly contradicts the government's original aim of encouraging financial reform, as well as the legislative intent in enacting the relevant laws.

In an effort to resolve the numerous tax disputes, the Administrative Court provided a ruling in late 2011 on how goodwill should be assessed. Regrettably, however, the Administrative Court still failed to acknowledge the legislative intent of the laws and the financial environment that prompted the government to encourage these activities to solve the financial crisis and the overbanking issue. In supporting the tax authorities' position, the Court put the burden of proof on the taxpayers. As a result, taxpayers need to justify the reasonableness, genuineness, and necessity of the purchase price and the fair value of the acquired assets with extensive supporting documents, while the tax authorities need not justify disagreement with those figures with any supporting evidence.

Nothing is stated in the Financial Institutions Mergers & Acquisitions Act, Mergers & Acquisitions Act, or Income Tax Act requiring the taxpayer to justify the reasonableness of the purchase price. The tax authorities' request represents an inappropriate limitation on property rights that could be considered unconstitutional. Further, there is no clear guideline as to how a taxpayer can prove reasonableness, and taxpayers have been given no guidance on how to prepare documents during the M&A process to ensure that they may later qualify for the goodwill deduction. This situation engenders market uncertainty, with an adverse impact on multinationals' future willingness to invest in Taiwan.

Many financial institutions undertook M&A activities in the belief that tax incentives granted under the relevant laws were beyond challenge. But they now face tax disputes due to their failure to meet the tax authorities' internal assessment guidelines, which were formulated only after passage of the laws in question. The result is bound to undermine taxpayers' confidence in the government's commitment to fairness and the rule of law.

Furthermore, the purchase price in an M&A activity is an amount mutually agreed upon by the buyer and the seller. In

the negotiation process, the buyer will naturally seek to lower the price, while the seller will try to increase it. If the buyer and the seller are not related parties, it is unimaginable that the buyer would willingly pay a higher price to the seller for the purpose of increasing the value of goodwill for a 17% tax saving. Accordingly, if the buyer and seller are unrelated parties, the purchase price should be deemed reasonable on its face.

Goodwill is the difference between the purchase price and the fair value of the acquired assets. When the subsequent recovery of the acquired assets exceeds their fair value (for example, through loans), the taxpayer would include such recovery as taxable income in the year of recovery. If the tax authorities disallow goodwill amortization, corresponding adjustments should be made to the fair value of the acquired assets and the taxable income amount in later years. Otherwise, there will be an unreasonable and unfair outcome in which goodwill amortization is not tax-deductible while the recovery is taxable.

The tax amortization of identifiable intangible assets generated through M&A has also been a controversial tax issue. Article 60 of the Income Tax Act defines tax-deductible intangible assets as including business rights, copyrights, trademarks, patents, and other rights granted by the law, and it prescribes the useful life of each identified asset. The tax authorities have been taking a narrow and literal approach in their interpretation of the Article to deny tax deductions of identifiable intangible assets generated from M&A activities – such as trade secrets, sales channels, client lists/relationships, branch licenses, etc. – even when their value and useful life are recognized under the prevailing accounting standards. The tax authorities have disallowed these deductions in the belief that tax-deductible business rights should be limited to those granted under the law, whereas the said intangible assets are generated through business activities. Again, this argument ignores the government's original policy intention of encouraging M&A activities.

For banks, for example, the value of sales channels and client relationships can be seen as the value of the branch license realized through the merger. Although a branch license is granted by the Financial Supervisory Commission (FSC), the license itself does not possess a value when granted. It gains meaningful value only through the owner's efforts, such as through the management of established sales channels and client relationships. Banks, through mergers, recognize the value of these intangible assets as a business right, which should be tax deductible under the law. The situation is similar for other industries where no government approval of the merger or acquisition may be necessary. The buyer acknowledges the seller's effort and management of the business by recognizing the value of the intangible assets acquired; tax-deductible business rights should therefore extend to any intangible assets recognized under prevailing accounting standards.

These identifiable intangible assets generated through

M&A, if acquired with cash and the buyer has paid business tax and income tax over the premium, or if acquired through merger and the shareholders of the dissolving companies have treated the amount exceeding their investment cost as dividend income, should (based on prevailing accounting standards) be amortized over their useful life or the prescribed useful life of goodwill.

To conclude, we recommend that the tax authorities:

1. Revisit their internal assessment guidelines regarding goodwill.

- a. Document requirements should not apply to transactions concluded prior to the introduction of the tax authorities' internal assessment guidelines.
- b. For M&A activity between unrelated parties, the purchase price should be deemed reasonable. If the tax authorities disagree with valuation reports or purchase-price reports provided by the taxpayer to justify the fair value of the acquired assets, the tax authorities should provide justifications and documents supporting their position.
- c. The value of goodwill should not be challenged when the tax authorities do not suffer any loss of tax revenue.

2. Reconsider the tax treatment of identifiable intangible assets.

- a. Article 60 should be interpreted as broadly as possible, and the economic value of identifiable intangible assets should be determined based on prevailing accounting standards; the Ministry of Finance should also issue a tax ruling acknowledging that the identifiable intangible assets may be amortized in the same way as goodwill.
- b. The value of identifiable intangible assets generated by banks through M&A should be considered business rights that can be amortized over a useful life of 10 years.

Suggestion 2. Reduce the withholding tax rate on non-resident income from the existing 20% to a lower rate.

A non-resident company without a fixed place of business in Taiwan is subject to a withholding tax of 20% on gross Taiwan-sourced income. Prior to the end of 2009, the withholding tax rate of 20% applied on gross income paid to non-residents was less than the corporate income tax rate of 25% applied on the net income of domestic enterprises. Subsequently, the Income Tax Act (ITA) was amended to reduce the corporate income tax rate to 17% in exchange for elimination of various tax incentives (such as the five-year tax holiday) under the Statute for Upgrading Industry that were available to only qualified resident companies. Since the reduced 17% corporate income tax rate applies equally to resident companies that originally were eligible to receive the said tax incentives and to those that were not eligible, non-resident companies should also be able to apply a withholding tax rate of 17%, or even lower, in the

interest of fair tax treatment to compensate for the fact that it is imposed on gross income. If the withholding tax rate of 20% is not reduced, it is possible that foreign enterprises may be penalized twice, both at the higher withholding tax rate. With the withholding tax applied first on gross income, the taxpayer is unable to request deduction of costs and expenses for a tax refund.

The purpose of the withholding tax is to impose tax on Taiwan-sourced income received by non-residents. But under many technical service or licensing agreements, the tax imposed on service fees or royalties received by non-resident companies is actually borne by the domestic companies buying the services, since the service providers have more bargaining power due to the exclusiveness of the technology owned. As a result, the 20% withholding tax rate not only impacts foreign enterprises, but at times may also hurt domestic enterprises.

It should also be noted that locations with more competitive tax environments usually attract more foreign investment, leading to more economic activity and therefore more tax revenue. In other words, any decrease in revenue from withholding tax may be offset by an increase from other taxes.

The withholding tax rates of other Asia-Pacific economies for payments to non-residents are listed below for reference. Except for Taiwan, the withholding tax rates on payments to non-residents are all lower than the domestic corporate tax rates. To remain competitive, Taiwan should bring its tax treatment in line with that of other Asia-Pacific economies.

Country	Corporate Tax Rate	Withholding Tax Rate on Non-Residents				Withholding Tax Rate Lower Than or Equal to the Corporate Tax Rate (Y/N)
		Dividends	Interest	Royalties	Service Remunerations	
Taiwan	17%	20%	20%	20%	20%	N
Hong Kong	16.5%	Nil	Nil	4.95% or 16.5%	Nil	Y
Singapore	17%	Nil	15%	10%	17%	Y
China	25%	10%	10%	10%	10%	Y
Thailand	20%	10%	15%	15%	15%	Y
Malaysia	25%	Nil	15%	10%	10%	Y

Aligning Taiwan's tax regime with other economies in the region would also entail decreasing the individual income tax rates for residents by one percentage point for the first three tax brackets (bringing them down to 5%, 12%, and 20%, respectively) and reducing the withholding tax rate on salaries for non-residents from 20% to 18% to make Taiwan a more attractive employment destination for foreign professionals.

Suggestion 3. Deal with unresolved issues regarding the determination of Taiwan-sourced income.

This is the fourth year that the Tax Committee has raised this issue to the MOF and other relevant government agencies. We appreciate the MOF's efforts over the years

to clarify the matter and comment on our concerns, but in reality the issue remains unsolved and constitutes a serious problem for many taxpayers. We urge the government to take another look at this issue and find effective means to resolve it.

Even though the MOF considers that it has provided clear guidelines on determining Taiwan-sourced income, the difficulty is that local tax authorities have adopted the view – in line with a resolution adopted at a judicial conference in May 2010 – that income derived from a service used in Taiwan should be treated as Taiwan-sourced income. Such an interpretation, which regards a payment as Taiwan-sourced income if the services are used in Taiwan, even though they are rendered outside of Taiwan, is contrary to the spirit of the Guidelines on Determining Taiwan-Sourced Income (“the Guidelines”).

In addition, the local tax authorities tend to interpret correspondence or interaction between the Taiwan service-recipient and the foreign service-provider as facilitation of the service provision, and they therefore consider the whole payment to be Taiwan-sourced income subject to Taiwan income tax. Such an interpretation is also contrary to the Guidelines, because activities that are coordination or notification in nature should not be considered to be facilitating the service provision. Under such circumstances, so as to avoid penalties for under-withholding, local service-recipients tend to withhold 20% on the payment to the foreign taxpayer – even though all or most of the service was performed outside Taiwan. This practice causes serious cash-flow issues for the foreign service-providers.

Furthermore, once a payment has been interpreted as including Taiwan-sourced income, it is difficult to determine the amount of contribution made in Taiwan so as to differentiate between the Taiwan- and non-Taiwan-sourced income portions. Such cases often drag on for years without resolution. Evidence that would presumably help determine the amount of contribution made in Taiwan, such as a CPA’s audit report or even a transfer-pricing report, is of little avail, as the tax office rarely relies on such evidence.

We therefore urge the MOF to further clarify which activities constitute “facilitation of the service provision” in order to minimize the number of tax disputes. In addition, the MOF should consider establishing more concrete rules to determine Taiwan-sourced income, such as a formula for calculating the portion of Taiwan-sourced income in the payment.

Suggestion 4. Grant tax exemption to royalties paid for foreign patents and know-how.

The Taiwan government has long sought to upgrade the level of domestic industry by encouraging technology transfer from abroad. For years, it also granted favorable tax treatment via tax exemption on royalties paid for the licensing of specific patents, trademarks, and special licensed rights as defined under Item 21, Article 4 of the ITA.

Unfortunately, the definition of the industrial categories eligible for these “Special Licensed Rights” expired in March 2011, and no new definition has yet been announced. As a result, payments to the foreign owners for know-how or trade secrets are now subject to taxation, which significantly increases the cost burden to local companies seeking to upgrade their technology or introduce innovative know-how.

There is widespread agreement among government and industry that to enhance Taiwan’s global competitiveness and add value to its products and services, it is imperative to introduce innovative technologies and know-how from advanced countries – sometimes in the form of patents, but mostly as special know-how or trade secrets. This strategy should be encouraged and supported by favorable taxation policies, such as the one implemented prior to March 2011.

The Tax Committee therefore urges the government to adopt the following measures:

1. Include foreign patents filed in advanced countries (the United States, Europe, and Japan, for example) in the Royalty Tax exemption list under Item 21, Article 4 of the ITA, and make the change retroactive to March 2011.
2. Provide a definition of the specific industries and know-how eligible for treatment as “Special Licensed Rights” under Item 21, Article 4 of the ITA, and allow advanced manufacturing know-how and trade secrets (as defined and approved by the Industrial Development Bureau) to be included under this coverage.

Suggestion 5. Include multinational companies’ R&D, training, and education expenditures in the government’s revised tax credit program.

The government provides incentives to encourage business enterprises to invest in research and development on Taiwan to raise the level of industrial innovation. Under the Statute for Industrial Innovation, business enterprises may apply for tax credits of up to 15% of their annual R&D expenditure for activities that (1) build the company’s own R&D capability, and (2) represent further innovation by the company itself in products, techniques, labor services, or service processes. These two clauses effectively prevent multinational R&D centers from applying for the tax credit, since the R&D activities of subsidiaries and branches are mostly controlled by the parent company or headquarters, and it is hard for them to proceed with innovation activities on their own.

However, these companies make an outstanding contribution to Taiwan’s innovations in products and techniques, as well as to the cultivation of R&D manpower. Therefore, their R&D expenditures should also benefit from the tax credit. Maintaining the current policy will negatively impact multinational interest in R&D investment in Taiwan and retard Taiwan’s ability to develop into a regional innovation center.

In addition, the previous government incentive program also made expenditures on training and education eligible for

tax credits, but this important incentive was removed from the revised program. Its absence will have a serious adverse impact on the development of the kinds of talent Taiwan will need for the next generation's knowledge-based economy.

Suggestion 6. Amend the Commodity Tax Act to better reflect the change in societal perceptions of electric household appliances

The commodity tax levied on certain electric household appliances was originally intended as a tax on luxury household items. However, after years of economic development and lifestyle changes, most of the luxury items of the past are now commonly used household items. For instance, most of the electrical appliances among the following taxable items, such as refrigerators, color televisions, air conditioners, electric ovens, etc., have become necessities for daily household use in Taiwan.

Taxable Item	Commodity Tax Rate
1. Refrigerators	13%
2. Color televisions	13%
3. Air conditioners, general	20%
Central air conditioning units	15%
4. Dehumidifiers, general	15%
Dehumidifiers for use in factories	15%
5. Video recorders	13%
6. Record players Hand-carry type smaller than 32 centimeters	10%
	0%
7. Audio recorders	10%
8. Stereophonic systems	10%
9. Electric ovens	15%

Some definitions of the scope of taxable items are vague and outdated, making it unclear whether they are applicable to products with new innovations. When applying the commodity tax, the tax authorities have difficulty providing consistent and convincing interpretations, which confuse the enterprises and cause disputes.

The Committee believes that it is time to re-evaluate the appropriateness of the list of taxable items as stipulated in Article 11 of the Commodity Tax Act, and to seriously consider eliminating some taxable items that are no longer “luxury products,” as well as clarifying and limiting the scope of items that are actual “luxury products.”

The result would benefit households in Taiwan by enabling them to purchase items at a more reasonable cost.

TECHNOLOGY >>

Taiwan is the world's pre-eminent hub for the development and manufacturing of most of the world's high-tech hardware: computer systems, boards, and components; flat panel displays; digital cameras; smartphones and tablets,

along with many key elements of the clean-tech and biotech sectors. The products developed or made by Taiwanese firms include well over 90% of the world's notebook computers and tablets. For example: Apple's Macbook computers are mainly made by Quanta, based in Linkou, near Taipei; today, all iPhones are made by Foxconn/Hon Hai Precision or by Pegatron, both also based in the Taipei area.

Substantial, sustained government support programs, particularly from the Ministry of Economic Affairs (MOEA), as well as research conducted at the national labs of the Industrial Technology Research Institute (ITRI), have facilitated Taiwan's rise to the pinnacle of development and manufacture of sophisticated devices central to the world's economy. Today, the country is eager to move up the value chain to become a hub for innovation, and no longer just a center for making products designed elsewhere, with the largest value accruing to firms in other countries.

Recently Taiwan and the United States signed a Joint Statement on Trade Principles for Information and Communication Technology Services. This Statement recognizes the overwhelming importance of the technology sector to the economies of both countries. It identifies the need to enhance regulatory capacity in support of further growth in this sector. We agree with that assessment, and we advocate the following policy and position initiatives, all aimed at implementing the goals of the Statement and continuing to move Taiwan forward as a major participant in the global technology ecosystem.

Suggestion 1: Accelerate the adoption of policies and programs to encourage technology-oriented startups.

Over half of Taiwan's US\$300 billion in exports consists of technology products. Yet these sectors are enjoying much faster growth in South Korea and China than in Taiwan. If Taiwan is to enhance or even maintain its competitiveness in the tech sector, it is essential that it be able to encourage and cultivate new startup enterprises as continuous, vibrant sources of new ideas, approaches, and technologies.

Given the strength of its domestic high-tech hardware manufacturing sector – and the presence of some key brand companies such as HTC, Acer, and Asus – Taiwan has the potential to produce a brisk flow of innovative startups, emulating the success of Silicon Valley, Israel, and Singapore, and giving Taiwan the opportunity to position itself as a hub for international entrepreneurship and a gateway to Greater China. Interest by would-be entrepreneurs in creating startups has been increasing, and many graduates from Taiwan's top universities aspire to create their own enterprises.

For various reasons, however, tech startups are not flourishing in Taiwan. In fact, investors see the internal obstacles in Taiwan as so severe that they typically counsel entrepreneurs to incorporate the parent company outside of Taiwan, even when their main operations will be located here. For its part, the Taiwan government has

recognized both the opportunities and the threats. The Small and Medium Enterprise Administration (SMEA) and other government agencies are actively encouraging entrepreneurship. The Startup Labs and Startup Weekend, partially hosted by the semi-governmental Institute for Information Industry, have fostered incubation of several new firms. Similarly, the government has funded programs at the national universities to encourage innovation.

The Committee believes that revising Taiwan's Company Law to help meet the specific needs of emerging tech firms and their investors would address some of the existing problems and yield significant results. We urge a full discussion of appropriate revisions to the law, including allowing greater sophistication in the issuance of preferred stock, making it easier for a company to offer shares to employees, removing the requirement that a venture fund have a board of directors, eliminating uncertainties about stock-vesting provisions, and establishing an English-name registration system. (See this Committee's position paper in the 2012 *Taiwan White Paper* for more details).

We are pleased that following our recommendations on this subject in 2012, MOEA responded positively, arranging for meetings with a Deputy Minister and representatives of the Industrial Development Bureau to exchange views. The Committee now requests continued government support for creating a favorable ecosystem for technology startups, since their growth and success will be crucial to the future of the Taiwanese economy. Some specific recommendations are:

1. Ease – and preferably eliminate – the regulatory approval process needed before a startup can bring in funding from outside Taiwan. Taiwan's foreign investment approval (FIA) process was designed generations ago, when Taiwan was poor and foreign currency was scarce. It has achieved its goal. Today, the FIA process only adds to the time and expense of establishing foreign-invested startups, imposing formidable burdens on nascent firms. Further, as Taiwan moves toward a limited partnership structure for venture funds, more foreign investors are likely to be able to invest in Taiwanese tech sectors, since they are often allowed to invest only through limited-partnership mechanisms. The Legislative Yuan acted this May to waive the need for foreign-investment applications for projects valued at US\$5 million or less. That decision is an encouraging start, and we hope that as the new system proves its value, the threshold will continue to rise incrementally.
2. Relax or eliminate the requirement that a company earn a minimum amount of taxable income in order to renew work permits for its foreign employees. Shareholders of startup companies recognize that it can take an extended period of time for a startup to develop its technology and become profitable, and are normally prepared to fund the company through this period. It would be disastrous for a startup company to lose its foreign managers because Taiwan's regulations do not allow them to renew their

work permits until the company is profitable.

3. Liberalize regulatory restrictions on venture funds in Taiwan to enable them to qualify more easily for funding from the government and state-owned banks. These regulations are currently so onerous that local venture funds and startups frequently choose to forego investments from these sources so as to gain more flexibility. Besides keeping startups from working with many vital Taiwanese institutions and preventing those institutions from engaging thoroughly with startups, this situation throttles the flow of capital into the Taiwanese entrepreneurial ecosystem and heightens the propensity for startups to seek funding and leadership from outside Taiwan.
4. Enable international entrepreneurs to obtain “startup visas” to come to Taiwan to establish businesses together with Taiwanese partners, while also creating internship opportunities for international students. Such programs could be modeled on the J1 Visa Program in the United States.
5. Revise the framework for government investment so as to encourage earlier-stage involvement. MOEA's efforts to foster Taiwanese innovation by means of evergreen funds (via an ITRI subsidiary, the Industrial Technology Investment Corp.) have been encouraging. The dual missions of the ITIC funds – achieving return on investment while encouraging innovation in Taiwan – are well-thought out and can be easily aligned. However, current rules tend to restrict ITIC to investing in firms that are already doing substantial amounts of business – but at that point, the companies have sources of funding other than venture funds. Support at the startup stage is what is needed.

Suggestion 2. Shift the emphasis in IT spending from hardware to software and services.

A 2012 Taiwan Research Institute study noted some significant characteristics regarding Taiwan's spending on software and computer services compared with its peer nations:

- Software and services take up 71% of worldwide IT spending, but in Taiwan the proportion is just 33%.
- Taiwan's level of IT investment in agriculture, manufacturing, and services is not only much lower than in other developed countries, but has also declined sharply as a proportion of total investment in those sectors. Benchmarking South Korea, IT investment in agriculture is 13 times higher than in Taiwan, in manufacturing 24 times higher, and in services three times higher.
- The consumption of IT software and services in Taiwan as a proportion of GDP is far lower than in other developed countries – only 0.22%, compared with 1.46% in South Korea, 1.36% in Singapore, 1.99% in Japan, and 1.12% in the United States.

As these figures show, Taiwan is putting its long-term competitiveness at risk if it fails to invest in IT on a similar scale as other countries. Taiwan cannot take full advantage of IT core values by putting most IT investment into hardware. We therefore offer the following recommendations:

1. Position IT as part of the national strategic infrastructure needed to support Taiwan's transformation into a knowledge- and innovation-based economy. Incorporate ICT applications in every government project and plan.
2. Provide government leadership in shifting Taiwan away from a hardware-centric approach by increasing the investment ratio for software and services in every government IT project.
3. Set up tangible IT goals and indices using South Korea as a benchmark.

Suggestion 3. Open up additional spectrum, such as unused TV broadcast channels, for unlicensed access.

The pace of wireless data growth is explosive and ever increasing, driven not only by consumer devices and human communications, but also by machine-to-machine communications, or the Internet of Things. Such growth has put a severe strain on the radio spectrum resources that underpin all forms of wireless communications, and creates the need for more efficient ways to manage and use spectrum resources. Globally, there is a clear trend of accelerated adoption of spectrum-sharing techniques and policies, one of which is to open up more spectrum resources, such as unused TV broadcast channels (the so-called “TV White Spaces”) for unlicensed and shared access.

TV White Space (TVWS) technology is often referred to as “Super Wi-Fi,” given its similarity with Wi-Fi in terms of its unlicensed nature and superior range of coverage and ability to penetrate obstacles. Regulators across the world – led by the Federal Communications Commission in the United States, Ofcom in the United Kingdom, Industry Canada, and the Infocomm Development Authority in Singapore – are putting in place regulatory frameworks to enable wireless broadband services to be delivered over the otherwise idle spectrum resources in the TV band. International organizations such as IEEE and the Wi-Fi Alliance are actively developing global TVWS technology standards. The potential for TVWS radios and devices can be compared with the success of Wi-Fi technology and ecosystem, which was among the first “unlicensed spectrum” applications. The size of the TVWS radios and devices markets can be expected to be even bigger, given the technology's applicability to all existing Wi-Fi devices, plus billions of wirelessly connected sensors in the world of Smart Cities and the Internet of Things.

With its strong semiconductor, components, systems, and devices manufacturing segments, Taiwan already has enjoyed enormous commercial success on the back of the explosive growth of wireless connectivity worldwide. Building on

such a strong foundation, Taiwan stands to reap even greater success in the new wave of wireless innovation enabled by the White Space technologies. The government could play an instrumental role in fostering a vibrant local ecosystem that could position Taiwan as a leading market and technology supplier for TVWS radios and devices worldwide. Some specific recommendations include:

1. Provide a supportive regulatory and policy environment for local companies to innovate on wireless technologies using unlicensed spectrum resources. Making available more unlicensed spectrum lowers entry barriers and allows small startup companies to pursue innovative solutions without having to incur hefty upfront spectrum licensing fees. Given the transition to Digital TV and the desirable propagation characteristics of the TV-band spectrum (470-790MHz), there is a prime opportunity to open up the unused TV broadcast channels for unlicensed wireless connectivity services.
2. Encourage and incentivize private-sector investments to capture the market at an early stage. The government could provide funding or tax incentives for companies who invest in building technology capacity and innovation on TV White Spaces.
3. Direct government R&D funds and resources to TVWS radio research. Government R&D agencies such as ITRI have already done significant research on white-space-related technologies such as cognitive radio. The Institute could further build its competency and potentially transfer its research outputs for commercial development by private companies.
4. Grant trial licenses and supporting funds for industry to conduct commercial trials to explore applications for Smart City (for example, for disaster response) and Digital Inclusion (connecting rural and remote areas).

With proper government guidance and policy enablement, TVWS could represent another significant growth area and export market for Taiwan's ICT industry. This effort would also be in line with the Spectrum section of the Joint Statement on Trade Principles for Information and Communication Technology Services that Taiwan signed with the United States this March, in which the two sides pledged to “maximize the availability and use of spectrum by working to ensure that it is managed effectively and efficiently.”

Suggestion 4. Modify the terms and conditions in the Government Procurement Act and IT services model contract that now seriously restrict multinational companies' ability to directly bid as the primary contractor.

Some of the key terms and conditions that the government now imposes in contracts for Information Technology (IT) procurement have seriously constrained the ability of the world's best IT vendors to provide the goods and services that would benefit Taiwan. The Committee urges the government

to modify the unreasonable terms and conditions in both the Government Procurement Act (GPA) and the IT services model contract. We further urge the government to remove the trade barriers that today seriously restrict multinational companies in Taiwan from directly bidding as the primary contractor in a tender.

Item 1 in Article 59 of the GPA states that in the case of selected or limited tenders, the bid price shall be no higher than the lowest price the bidder has offered in other tenders under the same market conditions. In practice, the competent authority will enforce this requirement by asking the bidders to pledge in writing that they will adhere to that stipulation. But defining the “same market conditions” is problematic when each bid has its own unique cost structure, price consideration, etc., aside from the fact that the market (especially in the IT industry) is constantly evolving. Since it is virtually impossible to find two bids that have exactly the same market conditions, the bid price should be agreed upon on a case-by-case basis.

Further, the current practice of requiring that a bidder undertake in writing that it is offering its lowest price in a government bid for IT services may run afoul of the principle of fair competition, which lies at the heart of the modern market economy. The bidder should be allowed to submit an offer, whether at a high price or low price, based on its own commercial considerations.

Given the above factors, the Public Construction Commission (PCC) in 2010 sought to revise the law to delete the lowest price bid requirement, but unfortunately the draft has not been accepted by the Executive Yuan. We strongly believe that the article still needs to be amended to address the concerns mentioned above.

In addition, the PCC announced a model contract for government procurement of IT services, but some of its provisions need to be enhanced to create a truly fair and friendly procurement environment in Taiwan:

- 1. Limitation of Liability.** LOL is critical to the IT services supplier’s ability to manage and control the risks associated with the performance of those services. While the model contract provides for LOL, it also allows certain exclusions. For example, liability for IP infringement is not capped, no matter whether it occurs with regard to the supplier’s product or a third party’s product. The general international practice is that the primary service supplier is not accountable for IP infringement of a third party’s product. If there is no cap on a third-party product’s IP infringement, the unlimited liability would leave the supplier with no way to manage and control the risks arising from its performance.
- 2. Caps on Service Level Agreement (SLA) penalties.** It is a widely accepted industry practice to place a cap on the penalties that can be imposed for SLA non-compliance. Such caps are included in Taiwan’s other model contracts for government procurement, including the construction contract, engineering technical service contract, and labor procurement contract, etc. The model contract for IT services should follow the same example.
- 3. Period of Confidentiality.** It is unreasonable under normal business conditions to impose an obligation to maintain confidentiality indefinitely. The legal system accommodates periods of confidentiality of different lengths in accordance with the different levels of classification for the confidentiality of government information. But no law provides for an indefinite period of confidentiality. Unless otherwise required by law, or dictated by exceptional circumstances such as national security needs, the confidentiality period should be set at no more than five years.
- 4. Ownership of the bidding proposal copyright.** The Copyright Law refers to the principle of authorship as determining the ownership of a particular work. In line with this principle, because the bidding proposal is produced by the bidder, ownership should reside with the bidder rather than the government agency. Further, since the bidding proposal generally contains information and know-how essential to the bidder’s competitive capability, it is not appropriate for the government agency to retain copyright of the bidding proposal. Under normal circumstances, these proposals should not be made available to third parties or other agencies.
- 5. Changes in project team members.** Given that the supplier cannot predict nor control such occurrences as a team member’s death, retirement, or resignation during the project, it is unreasonable to impose any penalty on the supplier due to such changes in the composition of the team.
- 6. No access to non-published financial information.** Although the supplier may provide relevant written documentation upon the government’s request to the extent necessary for fulfilling investigation and audit purposes, the supplier under no circumstances should be obligated to provide its non-published financial information to the government. Such non-published financial information is protected as the supplier’s trade secrets, and in most cases is irrelevant to the supplier’s performance of IT services to the government. It should therefore be clearly stated in the model contract that the government shall not have the right of access to any non-published financial information of the supplier.
- 7. Special characteristics of IT services and software products.** There are many types of IT services (strategic outsourcing, software maintenance, hardware maintenance, Software as a System, etc.), and they do not lend themselves to “one-size-fits-all” model contracts. At the very least, portions of the model contract need to be tailored to satisfy the special characteristics of particular IT services and software products. We suggest that the government clearly identify the articles requiring special attention and perhaps modification, so as to alert government procurement entities to the diverse

conditions that may need to be reflected in the contract and thereby avoid misunderstandings between the government and the supplier.

TELECOMMUNICATIONS & MEDIA >>

The Committee appreciates the efforts by the National Communications Commission (NCC) and Ministry of Transportation and Communications (MOTC) to support the development of the telecommunications and media sectors. In particular, we are pleased to see the strides the Taiwan government is making toward the release of mobile broadband licenses later this year. We believe that this step will assure ubiquitous connectivity for mobile broadband and help promote the rapid development of innovative and efficient communication technologies and services.

Below, we offer some suggestions from an industry perspective on how to further enhance that forward momentum. We look forward to continued interchange with the authorities on these and other issues over the coming year.

Suggestion 1. Provide a balanced, competitive 4G environment for the benefit of both operators and consumers.

The LTE (Long-term Evolution) standard for wireless data communication has become the most accepted global choice for 4G mobile networks. Currently 415 operators are investing in LTE in 124 countries, and the Global Mobile Suppliers Association (GSA) forecasts commercial operations by 248 LTE networks in 87 countries by the end of this year. The build-up of the 4G service and operation ecosystem in other markets has thus greatly minimized the risk for deployment of FDD-LTE in Taiwan. In addition to FDD-LTE technology, TD-LTE is also an option, with 18 operators in the Asia-Pacific already engaged in trials.

The Committee appreciates the authorities' active and efficient guidance of 4G development in Taiwan, from the discussion stage to planning and execution. For the sake of building a healthy and long-term foundation for 4G, we propose the following for the government's consideration:

- A. Encourage a positive environment for ecosystem development.** Information and communication technology (ICT) equipment, mobile handsets, application and software design, and many other industries associated with telecommunications will play an important role in Taiwan's economic future. A positive telecom industry ecosystem, based on a proper vision and effective execution for infrastructure development, will benefit both local equipment manufacturers and service providers.
- B. Assure the service quality of the network infrastructure.** With the growth in usage traffic, 3G has been encountering mounting consumer demand for increased

bandwidth and speed. In the upcoming 4G environment, subscribers will require even more broadband throughput than with 3G networks. As a result, the need for base stations will increase substantially. To avoid network congestion in the future, active government assistance and support will be necessary to help operators obtain sufficient base-station sites. We urge the NCC to speed up the approval process for small cells and to encourage expanded use of small cells to improve 4G coverage.

- C. Rationalize the rate plan.** To prevent a minority of users from degrading the overall network quality, we suggest that the authorities restrict operators from adopting a flat-rate structure, instead requiring them to utilize a pay-as-you-go/tiered rate plan. Constantly cutting prices is not the only or best way to assure customer satisfaction; on the contrary, it will lessen service quality and ultimately decrease consumers' level of satisfaction. Since broadband ICT network quality is a key index of a country's competitiveness, the government should support domestic service providers in establishing a long-term and healthy environment, not a price-cutting game.
- D. Promote green technology.** All industries are currently taking environmental sustainability and the adoption of green technology as important objectives. The government should encourage the entire industry chain to develop and introduce the latest energy-saving solutions and equipment. The U.S. experience with wasted resources caused by the flat-rate "buffet" model has alerted more and more people in the marketplace to the importance of a green strategy.
- E. Provide sufficient regulatory support.** A well-managed market requires a strong regulator. The scope of NCC responsibility is larger today than when the Commission was formed in 2006. The size and scale of the organization should be enlarged as well, so as to match the market requirement in terms of the quantity and complexity of the issues and applications with which the NCC needs to deal. We suggest that now is the right time to re-evaluate the NCC's functions and to ensure that it has the manpower and other resources to fulfill them.

Suggestion 2. Relax cross-Strait investment restrictions on the telecom industry.

Although Taiwan acceded to the World Trade Organization (WTO) in 2002, capital from mainland China is still barred from investment in Type I telecom businesses, which fails to conform to the spirit and probably the letter of WTO commitments. As a result of this restriction on Chinese investment, Taiwan companies are unable to take effective advantage of many market opportunities, and their ability to promote their business in the Asia-Pacific region is impeded. At the same time, the Ma administration has set the goal of Taiwan joining the Trans-Pacific Partnership (TPP) trading bloc, yet the degree of market opening is still far behind what will be necessary for TPP participation, as no

clear progress in trade liberalization has occurred since WTO accession. Moving to eliminate the restrictions on cross-Strait investment in the telecom sector (especially on investment from China to Taiwan) would be consistent with Taiwan's WTO commitments, while also helping Taiwan to accelerate its signing of other FTAs and allowing Taiwan operators to reach large enough business scale to lead the development of the global Chinese-language content market.

Given Taiwan's well-developed IT and telecommunication industry supply chain, boosting cross-Strait investment in the telecom sector would strengthen not only the development of the telecom business itself, but also such upstream and downstream industries as IC design, mobile-phone manufacturing, and value added software services. It would also spur the development of innovative application services and increase market opportunities and competitiveness. Moreover, relaxation of the current regulations would help bring overall cross-Strait investment flows – currently heavily skewed toward Taiwan investment in China – into greater balance. It could also help the competitive Taiwan content industry penetrate the China market.

We realize that the government has concerns about national security, personal data protection, and other non-economic factors when considering the relaxation of cross-Strait investment restrictions. However, some of Taiwan's financial and high-tech industries (including flat-panel displays), which were regarded as sensitive sectors and had been barred from accepting Chinese investment, have been opened to such investment step by step since 2011 without any adverse impact on Taiwan's sovereignty or security. The same should be the case for the telecom industry.

The Service Trade Agreement under the Economic Cooperation Framework Agreement is reportedly close to being signed, and the fourth stage of Taiwan's opening to Chinese investment was due to be launched as this position paper was going to press. These cross-Strait initiatives are expected to include the financial (especially banking) and flat-panel display industries, but not the Type I telecom sector. Rather than applying the logic that Chinese investment in the telecom sector must be either totally forbidden or fully opened up, the authorities such as the National Communications Commission (NCC), Ministry of Economic Affairs (MOEA), and national security units should adopt the gradualist model utilized for investment in the flat-panel display, financial, and other important industries. We suggest amending the regulations to allow at least 30% to 40% shareholdings from the mainland in Taiwan's Type I telecom businesses.

In addition, we request that the NCC, the MOEA's Investment Commission, and the national security authorities clarify the rather vague term of "national security" concerns as to the potential impact on investment-approval decisions. More explicit supporting measures and guidance would enable both Taiwanese and Chinese telecom operators to

better prepare for the opening up of cross-Strait investment opportunities.

To enter into high-standard trade negotiations such as TPP, it is first necessary to clear away existing trading obstacles. The Taiwan government should revise its regulations on cross-Strait telecom investment for the sake of market liberalization and trade normalization. Waiting will only mean lost opportunities. Taiwan has no choice but to move faster to catch up with other countries' pace of entering into free trade agreements and avoid the risk of being marginalized.

Suggestion 3. Develop effective regulations for internet content management.

Internet access speeds in 2012 have continued to increase in line with the government's policy target for achieving digital convergence – that is, to reach a level of over 6 million broadband users with Internet access speed above 100Mbps – before 2015.

It has long been the Committee's concern that Taiwan has yet to build a robust policy and regulatory infrastructure to regulate OTT (Over-The-Top) services via the internet. With the increased speed of internet access, OTT video services have continued to gain usage among consumers. Video content is being distributed over the internet through OTT, providing services similar to those of traditional pay-TV operators (such as cable TV or licensed IPTV services). But as they are not subject to Taiwan tax or regulatory obligations, OTT services pose unfair competition to local service providers.

Taiwan's cultural and creative industry has enjoyed encouraging successes in such areas as music, drama, and film, and many well-known artists were introduced to the global market. With the recent formation of the Ministry of Culture (MOC), this industry should become an important area of focus. However, Taiwan content producers have been losing revenue due to OTT video service providers infringing on their intellectual property rights, which has discouraged the local content producers from creating new digital content. Under these circumstances, network operators will also refrain from investing extensively in deploying the more advanced network infrastructure necessary for achieving the targets the government has set.

To protect IPR for content delivered via the internet, lawmakers in the United States have proposed a Stop Online Piracy Act. We again urge the Taiwan government to form a task force under the Executive Yuan to coordinate the efforts of the relevant agencies, including TIPO, MOC, and the NCC, so as to find solutions to protect Taiwan's industry from the unfair competition of the unlicensed OTT service providers.

The Committee also suggests that more needs to be done with regard to public education. Downloading "free content" via the internet – content that otherwise would need to be paid for – is most likely illegal. Yet the lack of regulation and enforcement, as well as insufficient public understanding of

the issue, continues to negatively impact cable operators' business despite repeated complaints from the industry. The Taiwan government needs to adopt effective measures to protect the IPR of domestic companies against unregulated OTT services and to step up public education initiatives that bring people's attention to legal and other issues related to using unlicensed services.

Further, the Committee urges the government to set up a central organization to be responsible for the harmonization of convergence regulation across all channels, so as to ensure the equal treatment of digital content on multiple platforms, anytime and anywhere, to maximize consumer benefits in the digital society.

Certain countries have recognized the importance of regulations to control and penalize online piracy. For example, Malaysia enacted the 1998 Communications & Multimedia Act, which obligates ISPs to act to prevent any violations of the law when presented with a written request from the Malaysian Communications and Multimedia Commission (SKMM). SKMM has the right to notify ISPs to block websites involved in copyright infringements after those sites have been identified by the competent authority for the copyright law, the Ministry of Domestic Trade, Cooperatives and Consumerism.

As in Malaysia, the authorities in Korea have the right to ask ISPs to block copyright-infringing websites directly through administrative procedures authorized by relevant laws, such as the "Telecommunications Business Act" and the "Act on Promotion of Information and Communication Network Utilization and Information Protection." The Ministry of Culture, Sports, and Tourism (MCST) and the Korea Communications Standards Commission (KCSC) both have the right to prohibit any infringing content by blocking illegal websites.

The Taiwan government's policy has been to encourage the growth of the local content industry and promote the marketing of creative content internationally. To accomplish those aims, Taiwan urgently needs to accelerate the creation of regulatory and enforcement capacity related to internet content, so as to protect the viability of law-abiding business models. Ultimately, content providers and other industry participants will be able to enjoy a healthy policy environment and vibrant digital-media landscape that is conducive to encouraging investment, as has been the case for a number of Taiwan's neighboring countries.

Suggestion 4. Liberalize the NCC's regulatory system for approval and renewal of TV-channel operating licenses.

The process by which international channels apply for operating licenses, as well as for reviews, evaluations, and license renewals, is overly complicated. By the time the NCC completes its evaluation or renewal procedure, it is often already time for the next application. The Committee urges the NCC not only to simplify the procedures and decrease the frequency of evaluations from the current biennial

basis to once every three to four years, but also to broaden the channel content definition, since the channel's value should be determined by the Taiwan market rather than the government. If the channel has no record of violations, its license should not need to be renewed.

According to the Cable Radio and Television Act, channels applying for business licenses are required to file an application and operating plan, but operations are allowed to start only after the business license is issued. As part of the application and operating plan, the NCC asks for highly detailed information, such as the number of foreign shares, the shareholder structure (for international media groups involved in cross-investment holdings, it is difficult to list all the information on a single table), employees' salaries and seniority, total personnel turnover, and other data that companies generally regard as confidential. As the applicants are usually well-known international channels and the relevance of much of the requested information is unclear, we recommend that the NCC review its procedures and remove the requirement for the submission of information and documents that are not deemed essential, or to forgo the review process if the channel has never violated any regulation.

In addition, the channels are required to report every April and October on the number of households receiving their service. The Committee believes that this information should be more readily obtainable from the system operator or MOD provider, instead of the channels.

TRANSPORTATION >>

This year's position paper includes submissions from three of the Committee's industrial sectors: Express Cargo, Automotive, and Aviation.

EXPRESS CARGO

Suggestion 1. Remove the Power of Attorney requirement for low-value, non-dutiable import express shipments.

Currently the simplified clearance process for express consignments is based on the "immediate release guidelines" of the World Customs Organization (WCO). According to the guidelines, consignments should be divided into four categories – correspondence and documents, low-value dutiable goods, low-value non-dutiable goods, and high-value goods – for the purpose of determining immediate release. This division implies a need for risk management and efficiency.

In practice, when there is a declaration of fraud (meaning that the shipper is considered to have intentionally provided an incorrect commodity name, causing the express company to make a wrongful declaration to Taiwan Customs), the express company must provide a "Power of Attorney" or else it will be penalized. In the United States, European Union, Japan, and other countries that have adopted WCO

guidelines, however, there is no such requirement for low-value shipments.

In the interest of establishing a fair and globally aligned regulatory environment, the Committee urges Customs to remove this requirement in order to ensure that Taiwan's express-transportation procedures are at the same level as other countries in terms of speed and risk control.

Suggestion 2. Set up an express cargo center at the Kaohsiung Airport.

We encourage the Ministry of Finance to set up an express cargo center at Kaohsiung Airport to improve southern Taiwan's business competitiveness.

After the deployment of the High Speed Rail system, there are no longer domestic flights carrying cargo from the Kaohsiung (KHH) area to connect with flights out of the Taoyuan International Airport. Very few flights serve KHH at all. This situation seriously constrains the ability of businesses to efficiently export materials by means of express clearance.

Until several years ago, an express cargo terminal operated in KHH airport, but it stopped running for various reasons. Express cargo transportation is an important form of logistical support for high-tech industries and a key element for modern business development. Establishment of an express cargo terminal in Kaohsiung will enhance the international transportation model for southern Taiwan and attract more businesses to the area in line with the Executive Yuan's "Economic Power-up Plan."

AUTOMOTIVE

The industry hopes to see more automotive components as well as complete vehicles included in the next round of cross-strait tariff-reduction negotiations under the Economic Cooperation Framework Agreement (ECFA). We also urge the government to enter into a free trade agreement with ASEAN to help the Taiwan automotive industry develop regional competitiveness by eliminating tariff and other trade barriers and expanding the export of vehicles and components.

At the same time, it is important for Taiwan to refrain from adopting unique domestic regulatory requirements and technical barriers, and instead to harmonize domestic and international technology standards and regulations so as to streamline the certification process and thereby reduce the cost and lead time faced by industry. While welcoming Taiwan's automotive industry policy of seeking to decrease greenhouse gas emissions and actively encouraging the development of carbon-reduction technology, we encourage the authorities to adopt integrated tax-driven incentives for emissions reductions, basing them on performance and efficiency, and not limiting them to any particular technology.

In response to the unprecedented "climate change" challenge, we again call on the government to expand its

incentives for reduced CO₂ emissions and higher fuel-efficiency standards beyond the existing excise tax exemption for battery electric, hybrid, and plug-in hybrid vehicles. Given Taiwan's high dependence on fossil-fuel power generation, plus the fact that batteries for electric and hybrid vehicles must be recharged through the existing electricity grid, the use of electric vehicles is likely to have a much lower impact on CO₂ emissions than many people realize. Consideration should be given to extending the current incentives to other alternative energy sources.

Suggestion 3. Accelerate the introduction of new clean, environmentally friendly, and safe vehicles into the market.

Although total auto sales last year came to 366,000 units, down 3.28% from 2011, Taiwan's auto market has still improved significantly since the downturn that led to total sales of only 220,000 vehicles in 2008. But with industry-wide production capacity at 700,000 units, the capacity utilization rate is still only a little over 50%. For Taiwan's auto industry supply chain to achieve economies of scale and gain international competitiveness, it will be necessary to boost the economy to increase domestic demand and to expand exports. We urge the government to set a clear policy to promote the long-term development of Taiwan's auto industry while also taking the implementation of CO₂ reduction targets into account. In addition to the environmental benefits, such a policy would provide the government with additional tax revenue by expanding the auto market.

Specifically, for the domestic market we recommend focusing on expanding incentives for clean vehicles:

- At present, electric vehicles and gasoline-electric powered hybrid cars are only transitional technologies. We suggest that appropriate incentives be offered to any low-emission and high fuel-efficiency vehicles regardless of the technology employed, especially if they can match electric vehicles in CO₂ grams/kilometer emissions (in line with European V emissions standards).
- The existing vehicle commodity (excise) tax and energy tax system should be replaced by a European-style green consumption tax concept in order to provide real incentives for the implementation of low-pollution and low-CO₂ emission vehicles. Besides integrating existing fuel tax to add up to fuel price to accelerate the phase-out of medium and high pollution vehicles currently on the road, the government should also use the revenue derived from green consumption taxes to reward the producers and users of high fuel-efficiency/ low carbon-dioxide emission vehicles.
- The government is promoting a pilot project to develop electric vehicles, and wishes to see Taiwan's EV component/system manufacturers join the supply chains of international automakers. But it is not

making enough effort to attract the involvement of those international companies. Taiwan could be an ideal, controlled environment and infrastructure for international automakers to test advanced green-energy vehicles. Designing competitive and fair incentives could stimulate a great deal of interest among the foreign manufacturers and bring win-win business opportunities to Taiwan industries.

Regarding the international market:

- Accelerate the signing of free trade agreements within the region, such as the one currently under negotiation with Singapore and ideally a pact with ASEAN as a whole, and speed up the next phase of cross-Strait ECFA negotiations on the automotive sector, so as to reduce tariff and other trade barriers to the expansion of vehicle exports.

Suggestion 4. Align vehicle regulations and certification with international standards.

United Nations Economic Commission for Europe (UNECE) vehicle regulations have been introduced in Taiwan for some years, and we appreciate the Taiwan government's efforts to harmonize its vehicle regulations and minimize deviations. At the current stage, however, Taiwan still has some standards that are not in line with UN/ECE regulations, which increases the difficulty for businesses to introduce new cars to Taiwan and even forces some businesses to withdraw from the Taiwan market.

The Environmental Protection Administration, for example, has adopted unique diesel smoke procedures and criteria that are not aligned with any international standards, and the Bureau of Energy (BOE) prohibits the sale of vehicles that do not comply with Taiwan's fuel-consumption standards. In most advanced countries, the fuel-consumption level is taken only as a reference, whereas the BOE uses it as one of the ways to monitor the country's overall energy consumption.

BUSINESS AVIATION

Suggestion 5. Allow private jet charter services to operate in Taiwan.

The business aviation industry has generated significant political, economic, and social benefits for numerous developing and developed countries worldwide, and in recent years has found a rapidly growing market in Asia. Opening up the business aviation market in Taiwan would spur growth for the island, as the industry brings direct business prospects to local companies for aircraft maintenance, ground handling, aircraft catering, hospitality, and tourism. It will also help industries like Taiwan's excellent yacht manufacturers to better cater to potential customers through high-level, luxurious, and convenient access to their facilities. In addition, it allows for better access to Taiwan by potential foreign investors who are in a position to create large-scale funding

for new businesses treating Taiwan as their key hub in Asia.

Currently, the Civil Aeronautics Administration (CAA) of the Ministry of Transportation and Communications (MOTC) prohibits U.S. and other foreign-registered charter jets from coming into Taiwan to pick up passengers for international flights outbound from Taiwan. Officials cite Article 81 of the Civil Aviation Act, which states: "No foreign aircraft or foreign civil air transport enterprises may carry passengers, cargo and mail between two points in the ROC with or without remuneration, or operate as a general aviation enterprise in the ROC." Although this article only stipulates that foreign-registered aircraft are not allowed to charter within Taiwan, the authorities somehow interpret it as also prohibiting foreign-registered aircraft from coming into Taiwan to pick up passengers who are outbound from Taiwan. The United States, for its part, does not prohibit Taiwanese-registered or other foreign-registered aircraft to fly into the country to pick up passengers for international flights leaving the United States.

Due to the underdeveloped nature of the aviation industry in Taiwan, the availability of Taiwanese-registered aircraft for charter service is very limited. That fact, coupled with the ban on foreign-registered aircraft, causes great inconvenience for business travelers accustomed to using private aircraft. The current interpretation of the law effectively cuts off Taiwan from international business transportation by private jet. The legislation is in need of clarification if Taiwan wishes to expand its business aviation market and increase its global impact.

The benefits of business aviation include flexibility, efficiency, privacy, convenience, and security. Private jet charter services provide clients with the expediency of departing whenever they want to, without any need to make connecting flights, as well as the ability to fly into smaller airports and enjoy expedited immigration and customs services as compared with standard commercial airline travelers. The clientele base ranges from businessmen and diplomats to post-surgical medical tourists, celebrities, and other travelers who choose to avoid the inconvenience and delays that may occur with traditional commercial airline services.

Many people call Taiwan the "bull's-eye" of Asia, due to its central geographic location. As a result, the island has strong potential to become the main aviation hub for connecting flights in Asia. Without a greater emphasis here on business aviation, however, Japan and Hong Kong will remain the main regional aviation hubs. We urge the government to take action to enable Taiwan to benefit from what business aviation can offer.

TRAVEL AND TOURISM >>

The Taiwan government's continuing efforts to develop the tourism sector have produced positive results, as tourist arrivals in Taiwan reached 7.31 million in 2012, a 20.2%

increase from 2011. At the same time, it is noticeable that growth in foreign-tourist spending has slowed. According to Tourism Bureau statistics, Taiwan's foreign exchange earnings in tourism grew by only 6.3% in 2012, a sharp decline compared with the 26.91% growth in 2011 and 27.92% in 2010. While the global economic slowdown may have affected the magnitude of tourist spending, it is time for the government to turn the focus of its travel and tourism policy from "quantity" to "quality" to boost tourism earnings. To that end, the Committee recommends that Taiwan develop and execute long-term planning for the tourism industry aimed at providing quality travel experiences for international visitors. We also have specific suggestions on raising Taiwan's profile as a world-class destination for major events and on attracting tourists to Taiwan from more parts of the world.

Over the past few years, the government has invested considerable effort toward creating a reputable casino gaming industry in Taiwan. The Committee believes that bringing casino gaming to Taiwan's offshore islands has great potential to boost tourism and infrastructure development in those areas and to enhance Taiwan's status as a global and regional tourist destination. Based on feedback from industry sources, we find substantial interest in Taiwan's offshore islands by potential investors – particularly Kinmen and Penghu, though we also believe there will be more than one bidder for a license in Matsu.

The Committee is pleased that the Executive Yuan included the draft Gaming Act among the priority bills to be considered by the Legislative Yuan this session. We encourage the authorities to remain fully committed to the development of this industry, as potential investors will continue to monitor the government's attitude before deciding whether to bid on licenses. In addition, the Committee continues to offer its support and assistance to the Taiwan government in the preparation and review of the draft Gaming Act. This year, our specific recommendations relate to the creation of a sensible tax regime for a viable gaming industry and the need to further clarify the government's overall gaming policy.

Another subject of major concern to Taiwan's tourism sector continues to be the insufficient manpower in the industry. The serious shortage of world-class professionals with appropriate management experience and language skills is having an impact on the quality of service the industry can offer. The Committee urges the government to tackle this problem by further relaxing work-permit and labor restrictions, and providing adequate assistance and incentives to help upgrade the caliber of local hospitality-industry personnel.

The Committee also notes that certain remaining constraints prevent the travel-related retail industry in Taiwan from fulfilling its great potential for boosting tourism earnings. The Committee calls for the government's assistance to rectify this problem.

As always, the Committee looks forward to working with the government to enhance and expand the travel and tourism industry in Taiwan.

Suggestion 1. Adopt long-term development strategies for the tourism industry.

To become a global tourist and leisure destination, Taiwan needs to adopt long-term planning strategies and think beyond how to generate more tourist volume. Enhancing travel safety measures and increasing the quantity and quality of tourism facilities near major attractions are steps that would help provide a quality travel experience for global tourists and transform Taiwan into a world-class tourist destination.

Enhance safety measures

Some of the most popular attractions in Taiwan face issues due to inadequate safety conditions and safety-related regulations and enforcement. While the government has adopted some seasonal and short-term measures, permanent solutions have yet to be implemented. For example, every day thousands of tourists visit Alishan, yet it is widely known that the safety of its transportation facilities is below standard. A safe and efficient means of transport needs to be developed to meet the increasing volume of tourists. A limit could also be imposed on the number of tourists allowed into the Alishan area each day in order to maintain public safety and the quality of the tourism experience there.

The same approach could also be adopted for Taroko Gorge, another one of Taiwan's most-visited attractions. The government should establish a ceiling on the number of buses allowed into the area per day and consider running small shuttle buses to reduce the risk of accidents.

Tour buses currently used in Taiwan are mostly reassembled; that is, the chassis and the engine are imported into Taiwan to be assembled with locally made bodies. Such reassembled vehicles are considered more vulnerable to damage than are buses made by a single manufacturer. If the use of reassembled buses is the only economically viable way for local tour bus operators to operate, the government should implement stricter safety regulations and require more frequent inspections. Also, the reassembly work on these vehicles should be strictly regulated and monitored.

Increase the quantity and quality of tourism facilities

Taiwan has eight national parks and many national scenic areas with outstanding natural beauty, yet accommodation and dining facilities near these attractions are scarce, and those facilities that exist are far from meeting international standards, which limits the chance for these areas to become global tourist destinations. The Taiwan government should introduce more incentives to encourage international investors to develop high-standard facilities, such as world-class hotel and holiday lodges, in or near these areas.

The National Palace Museum is considered one of Taiwan's best-known attractions, but the increasing number of visitors has impacted the quality of the visiting experience. Since Taiwan has such a huge collection of treasures, which have to be exhibited in rotation, the expansion of the museum's exhibition facilities would allow more items to be displayed

and more tourists accommodated. The government last year announced plans for an ambitious project to enlarge and improve the museum. We urge the authorities to ensure that the project is carried out in timely fashion to enable Taiwan to make the best possible use of this unique tourism resource.

Taiwan's Tung flower season rivals the beauty of Japan's cherry blossom season, which attracts thousands of foreign visitors to Japan every year and has become a very important element in the branding of Japanese tourism. The Tung flower season is popular only among domestic tourists, however, due to a lack of vigorous international promotion. The Taiwan government should put greater effort into promoting the Tung flower season as an integral part of Taiwan tourism. In addition, the government should also consider encouraging the planting of more Tung tree gardens and allocating more resources to this festival as part of Taiwan tourism's branding efforts.

Suggestion 2. Attract, train and retain hospitality professionals to build sustainable international service standards.

Taiwanese are acclaimed for their courtesy, warmth, and hospitality, and Taiwan's memorable service style has impressed many visitors. The travel and tourism industry represented by this Committee greatly appreciates these qualities in their Taiwanese employees, yet we continue to be concerned with the general shortage of world-class hospitality professionals, especially those with management experience and language skills that could help prepare local staff for the world stage. The problem exists in Taipei, and is even more acute in less-developed parts of the island. To reach its growth potential both in overall tourist volume and in high-value segments such as travel for meetings, incentives, conferences, and exhibitions (MICE) and Western leisure travelers, Taiwan needs to bring in more foreign hospitality professionals with the expertise to help bring service levels and management up to international standards. In addition, to cater to the increasing demand for talent as its tourism volumes expand, Taiwan needs to introduce world-class training and educational opportunities in the hospitality industry, possibly through joint ventures between local and foreign hospitality schools and universities.

If Taiwan wishes to attract more major international events and become a much bigger player in the lucrative MICE segment, it will need to build more large-scale world-class hotels and recruit and train a substantial workforce in a very short time. The example of Macau shows that this goal can be accomplished. Since 2002, when Macau began promoting its casino industry, the hospitality industry there has developed rapidly and all major industry players now want to be present in that market. The same growth pattern was seen in Singapore when it decided to allow integrated casino resorts. In both cases, the governments assisted the hospitality industry in overcoming the workforce bottleneck by considerably increasing the quota of foreign labor.

We recommend following the Singapore and Macau model

by granting more flexibility in the quantity of foreign labor that can be hired by major new hospitality projects when they open. Without adequate skilled staff, premium hospitality establishments will have difficulty succeeding, and Taiwan will be unable to build a reputation as a favorable location for large-scale hospitality-industry investment.

The Committee recommends the following:

1. Further deregulate work-permit restrictions to attract skilled and talented foreign professionals to work in Taiwan so as to help expedite the changes the industry desperately needs to assure its growth.
2. Assist and incentivize local schools and universities to partner with world-class hospitality institutions to train local talent.
3. Encourage and incentivize tourism-industry practitioners to engage in extensive English-language training (especially in areas outside of Taipei).

Suggestion 3. Raise Taiwan's profile as a destination for major world-class events.

Taiwan has increasingly been raising its international profile by attracting and hosting more international and world-class events. The growing success of the Harley-Davidson National Rallies in other markets provides an example of a niche event that could be brought to Taiwan through cooperation between relevant government agencies and domestic and international stakeholders. More work needs to be done, however, before Taiwan will be in position to compete with such Asian economies as Singapore, Macau, South Korea, Malaysia, and Thailand in attracting world-class events.

The Committee recommends the following steps:

1. Establish a dedicated point of contact within the Tourism Bureau for arranging major world-class events. Its role would be to coordinate among the various government agencies and private organizations involved in bringing a particular event to Taiwan, facilitating solutions to issues might otherwise discourage event organizers from selecting Taiwan as a destination. For example, there has been a great deal of interest in bringing world-class poker and mah-jong tournaments to Taiwan, but this market has been left out of consideration for hosting them due to the inability to obtain a clear response from the various authorities that could exercise jurisdiction over such an event.
2. Retain the services of experienced international event organizers who can systematically orchestrate, market, and implement not only the event itself but also a wide range of preparatory activities leading up to it.
3. Find ways to increase domestic and international media attention toward events in Taiwan.

Over the years, Taiwan has greatly improved its marketing efforts in promoting itself as an international tourist destination. Unfortunately, Taiwan still remains off the travel map for many experienced international travelers, while the

domestic focus has instead been on the increasing number of “on-the-bus, off-the-bus tourists” from China. Considering the difference in spending power between the two types of traveler, the situation costs Taiwan’s tourism industry millions of dollars every year.

We recommend the following steps:

1. Adopt aggressive efforts to market to niche foreign travelers, such as those interested in outdoor adventures (hiking, biking, mountain climbing, diving, surfing, sailing), eco-tourism (Taiwan is an excellent location for bird-watching, for example), culinary tours, spas/hot springs, shopping, and cultural events.
2. Improve access for niche foreign travelers through the establishment of a dedicated internet portal to facilitate overseas bookings by individual travelers, including the purchase of train tickets and applications for mountain permits.
3. Continue efforts to improve signage and services in consistent English and other foreign languages, especially outside of Taipei, so as to become a truly international tourist destination.

Suggestion 5. Create a sensible tax regime for the casino industry in Taiwan.

The Committee applauds the government’s efforts to create a reputable casino gaming industry in Taiwan. We are also gratified by the government’s willingness to receive input from a variety of sources, including academia and industry, on issues that have arisen during the drafting of the law.

One of the biggest benefits that new gaming jurisdictions realize from the establishment of a reputable and viable gaming industry is increased tax revenue, both from the gaming operations themselves and from the integrated resorts in which the casinos operate. If a new gaming jurisdiction tries to impose too many taxes or creates an unpredictable tax regime, however, investors will show little interest in the new gaming jurisdiction, and it will realize little or no revenue.

In Taiwan, the Committee notes with much concern that Article 113 of the draft casino gaming law submitted to the Legislative Yuan would create the basis for a 20% tax on a casino customer’s gross winnings (presumably collected through a withholding tax collected by the casino). Although the current wording of Article 113 calls for a moratorium on imposing the tax for 20 years (at which point a decision would be made on whether to implement it), the Committee believes that the unpredictability caused by this arrangement would discourage investors from bidding for a license at all, making it unlikely for a casino industry to be established in Taiwan.

Investors in the gaming industry will be interested in a location only if it is attractive to customers, and the customers – considering that they have the option of going

elsewhere in Asia – will tend to avoid a jurisdiction that seeks to confiscate part of their winnings.

In addition, such a winnings tax is inconsistent with international standards and trends. The well-established principle in Asian gaming jurisdictions like Singapore and Macau is to tax the operators, not customers. If implemented as currently drafted, the winnings-tax scheme would be another example of a “Taiwan-unique” policy. It is inconsistent with best practices in the casino industry in Asia and most of the rest of the world, and instead of increasing tax revenue, it is likely to scare away the international casino operators who have closely followed Taiwan’s gaming development and await the chance to invest here. If Taiwan is serious about creating a viable and reputable casino industry, the winnings tax should be removed from the draft casino gaming law.

Suggestion 6. Clarify the government’s gaming policy and commitment to the establishment of the casino gaming industry in Taiwan.

The Committee notes the recent discussions among government officials and within the business community with respect to the possibility of permitting casino gaming on the main island of Taiwan. Specific venues mooted in such discussions include the Taoyuan Aerotropolis and the proposed Free Economic Demonstration Zones.

The decision on whether to permit main-island casino gaming is a political determination to be made by the people and government of Taiwan. It is quite certain, however, that a main-island location would attract substantial interest from foreign casino operators. That being the case, continued uncertainty about the government’s attitude toward permitting casino-anchored integrated resorts on Taiwan proper is likely to negatively impact the development of casino gaming on the offshore islands. Investors are likely to adopt a “wait and see” stance, thereby thwarting the efforts of the offshore islands to take advantage of the opportunity afforded by the Offshore Islands Development Act to create a viable tourism and casino gaming industry.

At this important juncture, it is essential that the national government make a clear policy decision as to whether it intends to limit casino gaming to the offshore islands, or instead to permit the industry to operate on the main island. Continued ambivalence on this issue risks slowing down or even preventing the development of a casino gaming industry anywhere in Taiwan.

The Committee also notes the recent discussions as to the organizational status of the regulatory body that will oversee the casino gaming industry in Taiwan. Given the nature of the industry, and the expectations of gaming regulators in other jurisdictions where potential bidders for Taiwan licenses now operate, Taiwan’s gaming regulator should be an independent bureau or agency under the Ministry of Transportation and Communications (MOTC) with a bureau

chief who reports directly to the Minister. In the event that the regulatory unit is included within the Tourism Bureau, it should be headed by its own Deputy Bureau Chief – who should still report directly to the Minister. Otherwise, the regulator will not be sufficiently independent of the tourism authority, which may have priorities other than gaming regulation.

Before the regulatory body is set up, moreover, the government should follow Singapore’s model by convening a task force to oversee its establishment and the implementation of the casino gaming law. Such a task force should be convened by the MOTC and consist of high-level representatives of all the government stakeholders. The Investment Commission of the Ministry of Economic Affairs provides a suitable model for this type of commission or task force.

The Committee cannot over-emphasize the importance of ensuring that Taiwan gets off to the right start – with a credible regulator and regulatory regime, a consistent policy as to the location of casinos, and a commitment to the success of its casino gaming industry – if it is to attract desirable casino developers and operators. The Committee urges the government not to take a “wait-and-see” or “let’s see who shows up before we get serious about this” attitude toward the casino gaming law, casino gaming regulations, and the establishment of the regulator. Reputable investors will want to know that Taiwan is committed to the establishment of a credible and reputable casino gaming industry. The “toe in the water” approach is unlikely to attract investors, and may actually scare them off.

Suggestion 7. Develop Taiwan’s travel retail industry with an open policy for downtown duty-free stores.

Although downtown duty-free shopping is a well-established model for international travelers, it is essentially non-existent in Taiwan. Today, there are no downtown duty-free stores on the main island of Taiwan, and a de facto monopoly exists in the downtown duty-free market whereby an airport duty-free concessionaire operates three “pre-sale” centers (two in Taipei and one in Taoyuan). Any prospective applicant for a downtown duty-free store license must first obtain the airport authorities’ approval for access to a pick-up counter in the airport. So far, the airport authorities have denied such access to applicants other than the concessionaire that operates both the airport shops and the existing pre-sale centers.

A well-developed downtown duty-free market not only benefits the tourism industry, but also enhances economic and infrastructure development in the neighboring areas, contributes to tax revenues, and creates job opportunities. Taking Korea as an example, the travel retail market there ranks number one in the world, and it has a well-established downtown duty-free market supported by the presence of neutral pick-up counters across all of the international

airports. In 2011, Korea had 9.8 million inbound visitors, compared with Taiwan’s 6.1 million.

There are six downtown duty-free stores in Seoul run by four different operators, and their combined annual revenues come to about US\$2.2 billion. In Taipei, in contrast, the two pre-sale centers that monopolize the market generate estimated revenue of US\$300 million. Taiwan’s underperformance can be seen from a comparison of overall tourism spending: Korea’s downtown duty-free market is seven times larger than Taiwan’s, even though its tourist volume is only 1.6 times greater.

Understanding that it might not be feasible to set aside designated space at the airport for multiple successful applicants for downtown duty-free licenses, the Committee recommends that the airport authorities provide a single location for neutral pick-up counters in each of the international terminals, so as to grant access to all qualified applicants and resolve the continued stagnation of Taiwan’s downtown duty-free market. ■

農化委員會

委員會首先感謝行政院農委會動植物防疫檢疫局，自2013年1月1日起啟動查緝非法農藥專案，加強市場偽劣農藥取締。本委員會將透過與『永續作物發展協會』密切合作，對偽劣農藥的製造與銷售行為進行監控，並將結果與農委會分享。

另外，我們樂見防檢局與農業藥物毒物試驗所，持續完善農藥登記管理系統及採用作物分群制度。然而，新產品登記制度之相關作業，顯然因為制度複雜以至於連承辦人員對新系統亦未能充分了解，無法制定明確的流程，致令廠商試圖引進創新、環保新產品，迄今三年仍無一新有效成份產品通過登記，此結果令本委員會感到失望。有鑑於此，本委員會欲重申該問題的重要並於2013年白皮書再次提出建言。

建議：新農藥登記制度應簡明有效

雖然農化委員會肯定政府採用作物分群整體概念，但是從2009年農藥登記新制實施至今未見任何新有效成份（AI）之核准登記案件，顯然此登記新制是關鍵問題。委員會代表與政府相關單位雖然數度討論，然而業者對新制面臨之困境顯然未被政府充分理解，建議提案也未被採納。此制度已嚴重影響新技術及對環境友善的創新產品引入台灣，嚴重減緩高風險老舊產品的淘汰，衝擊台灣環境與食品安全改善的機會。

為完善制度，本委員會有兩個提議如下：

1. 產品藥效、藥害及風險承擔由廠商自行負責，不須政府之核准程序：
取消政府目前規定的藥效與藥害田間試驗要求，改由廠商自行提交其在國內外所做之藥害與藥效試驗資料，以消除主管機關為審查試驗設計書而衍生的龐大業務工作，並避免為廠商背書而承擔不必要之風險及責任。各廠商須對產品的藥效、藥害自行負責，這是目前先進國家所採行的作法。
2. 非外銷作物之殘留試驗改成一場，並擴大農業藥物毒物試驗所的編制及增加可承做新有效成分殘留試驗之機構：
目前農業藥物毒物試驗所為國內唯一可以承做新有效成分殘留試驗之機構，如每項新有效成分之三場試驗均在國內進行，龐大工作量加上例行性業務，顯然已遠遠超過該所之負荷，且已造成許多延誤。國內一場殘留試驗報告，應已足夠做為非外銷作物殘留容許量標準訂定之依據。故本委員會強烈建議將殘留試驗規定改成僅須提交一場國內試驗報告，並擴大農業藥物毒物試驗所的編制及增加可承做新有效成分殘留試驗之機構，以加速新藥劑的發展，並提供農友更好及更環保的農化產品選擇。

農化委員會期待主管機關重新檢視登記制度，以簡化、釐清、加速行政程序，讓全國農友及全國消費者能享受合乎國際潮流，兼具創新科技及環保概念的新產品所帶來的利益。

資產管理委員會

本委員會樂見金融監督管理委員會（金管會）在過去的一年，針對資產管理監管制度所做的一些變革措施。這些措施包括推出多幣別證券投資信託（投信）基金、人民幣計價基金的核准、投信基金於大陸投資限制及其他投資限制的放寬，以及針對新類型基金的開放市場。委員會相信，為台灣投資人利益的考量下，這些變革在資產管理行業將導引產品進一步的創新。此外，人民幣產品的發行將有助於投資人利用中國大陸日益增長的投資機會，並將使台灣發展成為世界上第二個人幣離岸投資中心。

我們期待著持續性的監管改革，包括投信基金之投資標的，以及相關作業和投資管理流程更具靈活性，俾與全球規範相符合，並增加台灣投信基金的競爭力。我們也鼓勵金管會縮短新基金審核的時間週期，並保持透明的審查標準和一致的法規解釋。

最後，鑑於台灣的人民幣存款量不斷增加，本委員會希望台灣的投信基金經理公司很快能取得大陸政府授予申請RQFII（人民幣合格境外機構投資者）額度之資格。委員會亦希望金管會和大陸監管機構之間的談判，將使兩地之基金獲得互相認許，並使台灣的投信基金得在大陸一般投資人銷售。對於境外基金，委員會建議金管會同意人民幣計價的境外基金得註冊在台灣。

建議一：修改退休金計劃，採取自行投資之確定提撥模式

目前台灣實施勞工退休計劃是以一個個人帳戶為基礎之確定

提撥計劃。然而實際上，勞工退休基金的利用和投資管理卻仍然按照確定給付模式（2005年勞工退休制度改革前有效之舊制勞退），由勞工退休基金委員會負責投資決策和風險。

在目前的制度下，可能會導致勞工選擇不同類型投資計劃的個人因素並未納入考量，如勞工的繳款金額、退休的年齡、風險承受程度、首選投資管理工具等。相反的，現行制度是所有勞工均適用相同的投資組合和報酬模型，並無自行決定採取更積極投資計劃以獲得更高的回報增加其退休收入，或選擇較保守的投資產品之權利。此外，目前的計劃與「確定提撥」計劃的目的不符，因投資風險和報酬應由勞工掌握。

委員會了解金管會近期已開始與勞委會一同草擬「自選確定提撥計劃」，因此希望協助金管會探討已開發經濟體實行的多種選擇，如美國（401K）、澳大利亞（退休金）、香港（強積金）及新加坡（CPF）。「自選確定提撥」的改革，將讓勞員得自行依據其個別需求選擇退休計劃 - 無論是留在現行計劃（該退休基金將由政府管理，並有相當於兩年固定存款利率的最低保證收入），或根據風險偏好和對於基金管理的信心，選擇勞工認為適當的基金。

建議二：允許引進人民幣計價的境外產品

隨著在台灣央行與大陸於2012年8月簽訂有關貨幣清算的備忘錄（MOU），及今年2月46家國內外匯指定銀行（DBUs）陸續推出人民幣業務後，台灣已充分準備好繼香港之後成為下一個主要的人民幣離岸中心。貨幣直接結算之能力對兩岸貿易帶來立即之好處，降低了交易成本及外匯波動之曝險。一些金融機構估計，到2013年年底，台灣可能會積聚介於人民幣1000億和1500億元的人民幣流動資金，並在未來的兩到三年內達到人民幣2500億至3000億元。

為把握此一人民幣業務商機並成為第二個人幣離岸中心，台灣應抓住當前流動性過剩的契機，提供人民幣計價的金融產品。更多樣化投資選擇之提供同時亦支持金管會促進台灣財富管理平台建立之目標。

因此，委員會敦促金管會同意境外基金機構推出人民幣計價的境外基金和/或新股份類別予台灣投資人，尤其是該機會已開放予台灣證券投資信託事業之境內基金。

建議三：與美國政府協商 FATCA 議題，並研擬國內金融法令相關因應措施

美國2010年頒布海外帳戶稅收遵循法案（FATCA）實施後，由於該法案對全體金融產業影響深遠，惟在本國法規適用及運作實務上，仍存在諸多疑義。尤其是美國以外金融機構如有美國帳戶或客戶，則須向美國註冊並申報前揭帳戶或客戶，否則須落入強制扣繳規定，將被要求簽署『外國金融機構協定』（以下稱「FFI協定」）。FFI協定除要求外國金融機構應獲取必要資訊及遵循實質審查規範以判斷該帳戶是否為美國帳戶，並要求該外國金融機構針對其他非參與FFI協定之外國金融機構或非合格外國帳戶進行扣繳。

2012年5月3日，亞太區六大基金公會（含中華民國投信投顧公會）曾發函美國美國財政部及國稅局就FATCA中相關規定出相關具體建議請求豁免政府退休基金或至少將相關法規適用延後，惟未獲得正式回應。本委員會籲請主管機關協助台灣金融業者與美國政府就相關議題進行協商及探討，使台灣金融機構於遵循FATCA時，一方面無抵觸本國法令之虞，另一方面於業務、作業流程、系統等得及時進行準備。

美國財政部及國稅局業於2013年1月17日發布最終施行細則（Final Regulations）。有鑑於金融業有必要了解該最終施行細則對於銀行金控暨證券投信投顧相關法規（如金控法、銀行法、投信投顧法及個人資料保護法）等之影響，以即時因應該最終法案，並評估如何接軌與執行方案之可行性。

銀行委員會

本委員會感謝主管機關在過去一年對兩岸業務及金融合作付出的關注，促使我們達到幾個重要的里程碑。我們相信藉由境外人民幣市場的建立及兩岸經濟整合的強化，台灣的金融機構更能夠利用其與中國特殊關係的利基地位，在亞太地區扮演要角。

本委員會讚揚台灣主管機關持續致力於發展金融服務業所做的努力。為建立台灣成為境外人民幣中心，我們建議應進一步放寬台灣債券市場的相關法規，允許更有彈性的規範，並鼓勵更多國

際級發行機構參與台灣債券市場。

允許國際級發行機構在台灣透過多元金融管道銷售多元化的金融商品，亦有助於台灣成為區域金融中心。雖然銀行業在台灣為提供金融服務的主要管道之一，但銀行並未獲准以代理方式提供固定收益類產品。因此，本委員會敦促主管機構能仿效世界其他主要金融中心，放寬相關限制，俾使銀行得扮演國際金融商品提供者及國內機構投資人中介角色。

本委員會亦憂心目前國內金融法規對於單一授信限額的規定，比起亞太地區其他主要金融市場更趨嚴格。此限制將可能導致台灣的銀行與其他區域的銀行相比處於劣勢，並危及到台灣轉型為區域籌資中心的機會。因此，我們建議主管機關能合理評估授信限額的規定，並考量其他國家(例如香港和新加坡)對相關限額的處理方式。

以下為本委員會提出之具體建議。

建議一：允許銀行兼營證券業務，提供固定收益商品予投資人

台灣的金融機構及大型企業對外國債券例如外國政府公債、外國公司債和其他固定收益產品等有著龐大的需求。惟目前仍無法透過國內券商或銀行通路取得該類商品，致使投資人必須轉向境外金融業者。此舉不但不利於本地金融機構取得商機，也造成就業機會流失與政府稅收減少等負面效果。近來保險局進一步放寬壽險業者的海外投資項目，預估此一政策將使國內投資境外固定收益商品之資金外流加劇。若允許國內銀行提供該等服務予本地投資人，不但有利於金融產業之發展，同時可增加稅收。一旦交易過程中有爭端產生，國內銀行可立即提供協助，對確保投資人權益提供最佳的保障。

台灣每年約有美金1200億之固定收益商品的規模，絕大多數皆由境外金融機構提供服務。本委員會呼籲銀行局及證期局能開放上開業務，由在台之金融機構包括外資及本地券商和銀行提供服務。一旦開放後，將有助於增加台灣整體金融業之產值，藉以促成政府將台灣打造為區域金融中心之目標。

具體建議：

現階段，本委員會殷切期盼主管機關實務上能依現行法規准許銀行兼營證券業務，至少應准許銀行提供目前國內券商尚無提供之外幣計價固定收益商品與服務。

再者，本委員會建議主管機關針對下列法規及函令進行修改，使得銀行可透過代理之模式提供固定收益商品之服務，包括：

1. 修訂證券商設置標準第14條第3款，增列允許金融機構兼營證券業務者，可從事有價證券之代理業務。
2. 修訂(87)台財融字第87700286號函令允許於境外金融業務分行從事外幣有價證券買賣之行紀、居間及代理業務時，得無須金管會許可及發給許可證照。
3. 修訂金管證二字第0930159964號函令，包括：
 - i. 第三點有關「證券經紀商代理買賣外國債券之買受人」，建議增加中央銀行和證券投資信託基金為買受人。
 - ii. 第四(一)點有關「證券經紀商得代理買賣外國債券之範圍」規定，因買受人皆為專業機構投資人，建議開放初級市場，或放寬不受次級市場取得限制之發行機構的範圍；建議刪除「大陸地區證券市場及大陸地區政府或公司發行或經理之債券」、「恒生香港中資企業指數成分股公司所發行之債券」以及「香港或澳門地區證券交易市場由大陸地區政府、公司直接或間接持有股權達30%以上之公司所發行之債券」，並增加專業機構投資人經其目的事業主管機關核准投資之外國有價證券。
4. 內部控制制度標準規範
 - i. 有關成交及結算部分，由於專業機構投資人有其保管行，實務上每月編製之對帳單應由其保管行提供，因此建議自有保管行之機構投資人不得適用「外國金融機構按月編制之對帳單應分送買受人查對」之規範。
 - ii. 有關「買受人或外國金融機構無法如期履行交割」為違約之規範，建議不包含實務上因上手券源調度關係延遲交割，但維持原價交割之情形。

建議二：檢視單一授信限額之合理性

本委員會茲此重申並建議主管機關重新檢視目前銀行法單一授信限額之合理性。如2012年白皮書所提，我們認為多年前制

定的單一授信限額，早該重新予以審視。自2001年施行之對同一人授信限額，設定了對同一法人之授信總餘額不得超過該銀行淨值百分之十五，其中無擔保授信總餘額不得超過該銀行淨值百分之五之限制。上述規定遠比其他亞太區主要的金融市場，如香港、新加坡、以及中國更加嚴格，使台灣的銀行在亞太市場處於劣勢。前述對同一人授信限額，不僅限制了債信健全之企業自台灣的銀行獲得更多資金挹注，同時亦阻礙某些策略性大規模之專案計畫(如外國直接融資計畫或併購融資)無法及時得到本地足夠的財務支援。

巴塞爾協議III的新資本標準鼓勵銀行更審慎地運用銀行資本，該等新資本標準將影響銀行運用資本的分配決定，並可能影響本地銀行的融資供給，進一步對於我國借款人的資金需求的供給造成衝擊。

外商銀行子行及分行向來在台灣市場扮演著活躍的貸款者角色。如果外國銀行因子行化結果導致提供融資能力更為受限，或外銀分行受制於更嚴苛的授信限制(例如，對同一法人、同一關係人或同一關係企業之新臺幣授信限額設定為新臺幣七十億元)，則可能進一步阻礙當地企業在台灣取得足夠的資金而尋求境外融資機會，此舉將增加企業融資成本，並讓台灣的企業在競爭中處於劣勢。

具體建議

1. 中長期而言，金管會可考慮採行香港及新加坡模式，提高單一「曝險」限額至銀行資本基礎之25%，亦即，限額計算係以金融機構對同一人之整體金融曝險為基礎(包含貸款、衍生性商品及承銷額度一併計入)。上述「整體曝險」限額之概念既符合國際趨勢，並有助於金融機構有效控管對單一之整體曝險。
2. 短期而言，金管會得考慮修改「銀行法第三十三條之三授權規定事項辦法」或「外國銀行分行及代表人辦事處設立及管理辦法」(新臺幣七十億元之授信上限予以提高)以適度放寬單一授信限額之計算及豁免之相關規定。例如，金管會得考慮(i)就單一集團客戶設定單一授信額度上限，不再細部規定單一法人上限；(ii)就單一授信限額採分級管理制，如銀行資本適足率達一定標準以上，或客戶符合金管會所定一定標準之前提下，得適度豁免或提高單一授信限額；(iii)擔保授信部位不列入授信限額之管控；或(iv)金融機構就特定融資計畫之初始階段，於聯貸開始前或賣出融資金額前之一段時間內，得就超過對同一人授信限額之部分提供過渡性融資。
3. 在現行法規架構下，金管會得考慮對單一授信限額給予較彈性之解釋。例如母國總行提供保證，應視為擔保授信，而不計入無擔保之單一授信限額。

建議三：建立一個具有競爭力之寶島債市場

為打造台灣成為境外人民幣中心，政府應放寬相關法規，以鼓勵國際發行者來台募集寶島債。為建立具有競爭力的寶島債發行平台，政府可參考香港的做法，建構台灣成為一個有利於債券發行人及投資人(包括專業投資人及一般大眾)的投資環境。

就投資人保護之層面，香港採用雙軌制，即針對不同類型之投資人提供不同類型之商品。考量到專業投資人多具有市場資訊及專業知識的優勢，雙軌制可讓一般大眾享有較佳的保護機制，而專業投資人亦可獲得較多類型之商品供其選擇。

就發行層面來說，針對商品上架審核，因債券商品之殖利率變動快速，建議金管會可採用一次性的審核機制以取代逐案審核的做法，以降低發行人之時間成本，增加其來台發行寶島債之意願。

另考量香港點心債並無信評要求之規定，金管會可研議除現行之信評要求以外之參考指標，使更多商品得參與寶島債發行平台。

和香港及新加坡相比，台灣擁有較多的人口數及較高之超額儲蓄，藉由此等優勢將有利於寶島債之發展。本委員會提出下列建議，希冀能協助台灣成為具有高度競爭力的資本市場。

具體建議：

1. 本委員會建議金管會可參考香港點心債市場針對不同類型之投資人採取不同法規之「雙軌制」的做法。舉例來說，提供給香港一般投資人之商品須遵循香港當地法規，但針對專業投資人所提供之金融商品可採用144A或Regulation S的法規。
2. 就發行面來說，建議金管會可採用發行歐洲中期債券之模式

(EMTN)，即以一次性之審核制度取代較曠日廢時之逐案核准機制（目前透過EMTN發行之債券多由機構投資人所持有）。

3. 為吸引更多外國發行人來台發行寶島債，建議金管會可採取下列三項作法：
 - a. 允許大陸發行人來台發行寶島債。考量曾有海外發行經驗之發行人的財務揭露應已達到國際普遍接受之標準，建議現階段可允許於中國大陸當地有境外債券或股票發行經驗之發行人來台發行寶島債（例如有發行點心債、H股，或NASDAQ掛牌之紀錄）。再者，針對未有海外發行經驗之在中國大陸註冊的台資企業，若其願意接受台灣之信評機構給予信評，政府應允許其回台發行寶島債。
 - b. 由於香港之點心債市場並無相關評等要求，建議政府可考慮鬆綁相關信評要求，或利用其他指標如：資本適足率來衡量發行者之財務狀況，以利與香港點心債市場競爭。
 - c. 放寬衍生性商品之使用，例如外幣換匯換利(CCS)，藉由開放上述商品增加交易之流動性以滿足國際債券發行人之需求。

資本市場委員會

資本市場委員會感激主管機關對強化台灣之資本市場所作的持續努力。我們特別感謝行政院金融監督管理委員會一如以往聆聽我們憂心與關切的議題。

我們了解為了使金融機構和大眾之間達成更緊密的權責平衡，全球金融危機後產生了許多新法規，我們也深信鼓勵產業參與以及引進創新且具成本效益的產品將有助於投資者及產業。

當台灣努力取得區域以及國際認同其經濟實力之際，其資本市場之狀況將是全球投資人考量投資方向的重要指標，亦是吸引國際人才的關鍵因素。秉承此精神，本委員會在此指出一些持續使台灣在相關發展上裹足不前的議題。若是某些議題不在金管會直接管轄之下，我們深切期望金管會能協助我們向其他相關金融單位傳遞建言，以達成建設性結果。

本委員會始終願意隨時協助台灣政府發展有效率且具競爭力的資本市場。

建議一：提供多元化商品服務，強化台灣資本市場之深度與廣度

1.1 開放設立表彰台灣上市櫃公司之非參與型存託憑證

參與型存託憑證已成功的作為台灣上市櫃公司向海外投資人募資時所使用之工具。而非參與型存託憑證則可為台灣上市櫃公司提供另一個新管道，藉以提升國際能見度，並使非FINI (Foreign Institutional Investor；外國機構投資人) 投資人亦可投資台灣上市櫃公司。

具FINI資格之外資現今已成為台灣股市之重要角色，其每日成交量占大盤總量之百分之二十以上。然而，目前其他外資雖有意願投入台灣股市，但因為未取得FINI資格而無法投入。此類型之外資主要包含只能投資在美國註冊並以美元計價之有價證券的投資經理人。

此外，另有其他外資因在世界各國開戶時所需投入之成本、複雜程度或作業時程等考量而放棄在台申請FINI資格。因此，若允許以在次級市場購入現股並存入保管銀行之模式來設立非參與型存託憑證，未取得FINI資格之投資人將可投入台灣股市，而股市之動能亦將提昇。

目前在台灣上市櫃的1,447間公司中，只有68間有設立參與型存託憑證。藉由非參與型存託憑證之機制，未取得FINI資格之投資人即可投資超過1,000間以上尚未設立參與型存託憑證之公司，而該等公司亦可知如已設立參與型存託憑證之公司一般拓展其投資人基礎至非FINI投資人。此外，非參與型存託憑證亦對台灣股市有其它之助益，例如更高之能見度與流動性、以及券商因交易量提昇而增加之手續費收入。

1.2 允許證券商從事外匯相關業務

金融監督管理委員會與證券期貨局業已推動離境證券業務單位(Offshore Securities Units, OSUs)以創造證券商更多元化的業務內容與商機，本委員會感佩並竭力支持該等相關開放措施。離境證券業務的開放讓證券商得以提供專業投資者更多以外幣計價之多元化金融商品與服務。眾多商品服務中，放寬外匯相關法規至為關鍵，其得以提升台灣證券商之競爭力，與其他市場的金融機構立於一有利之競爭地位。察其他金融市場如美國、香港、新加

坡、南韓與日本等地之外匯業務，在經其主管機關審核商品性質及服務範疇並取得核准後，即可成為證券商得從事之業務範圍，故證券商之客戶可直接與其從事各種投資與交易。

倘若證券商無法直接提供投資人外匯相關商品或服務，推動離境證券業務以期開展證券商業務之美意將大打折扣。本委員會理解證券商仍可透過在台灣之外匯指定銀行從事外匯交易來協助客戶完成投資需求，惟此舉將與證券商對客戶「提供一次購足服務」之宗旨背道而馳，不利吸引境外資金回流，進而投資台灣市場。

1.3 放寬期貨及期貨交易相關之外匯規定

臺灣期貨交易所比其他境外交易所更接近台灣股票現貨市場，理應擁有絕佳競爭優勢。為充分發揮交易所之潛力及給予專業機構投資人更多誘因去參與衍生性金融商品市場，本委員會建議改善下列制度：

- 取消機構投資人預收保證金之規定並開放建立give-up機制。如今國際上僅餘少數交易所要求預先繳交保證金，有鑒於專業投資機構如銀行、期貨經紀商及其他經主管機關許可之金融機構其違約風險極低，取消預收保證金制度將提升交易效率並符合國際慣例。此外，建立give-up機制可以提供投資人於不同期貨商間進行交易時更多彈性及選擇。機構投資人基於保密原則、資金運用及分散交易對手風險，通常分散下單於不同的期貨經紀商，惟常委由同一結算機構集中交割，建立give-up機制將鼓勵境外機構投資人於台灣下單。取消預收保證金規定與建立give-up機制實互為表裡，缺一不可。
- 豁免機構投資人遵循臺灣期貨交易所要求期貨商逕行代為沖銷客戶部位之相關規定，回歸各期貨商依據風險內納自行與客戶於受託契約中約定沖銷之條件。依據2013年7月1日即將施行之風險控管機制規範，期貨商依規定須制定風險指標，且當該指標低於25%時即須代為執行沖銷客戶部位。然而，專業機構投資人違約風險極低，商業糾紛亦罕見，建議針對機構投資人，可適用所簽訂的受託契約相關規定即可，無須依循一般自然人違約風險及交易糾紛而制定的法規要求。此項豁免將減少外國投資機構投資人在台灣期貨市場交易之障礙，強化台灣期貨市場之競爭力。

建議二：強化證券市場基礎措施與提升市場效率

2.1 擴大實施款券T+2日交割制度(DVP)至興櫃股票以增進市場效率

為與國際標準同步並強化台灣證券市場的效率，台灣證券交易在2009年2月實施款券T+2日交割制度(DVP)，即款券的交割作業，都在成交日後第二營業日同日完成收付。該制度之實施重大調整證券商端對市場以及投資人端對證券商的款券交割時間點。然而興櫃股票仍適用原來的交割方式。興櫃股票的交割方式分為兩個層面處理：(1)投資人與證券商之間；(2)證券商與台灣交易所間。投資人交付款項與證券，與取得應收款項與證券，兩者之間存在一天的時間差異。此時間交易不但對於投資人不公平，亦有隔夜交割風險。本委員會建議款券T+2日交割制度(DVP)可擴及於興櫃股票市場施行。從全球化的證券市場實務而言，交割制度存在的差異不但增加交易風險，亦會阻礙市場效力。

2.2 藉由交割制度由總額款項收付改採淨收付方式變革，用以強化市場基礎措施

證券市場結算交割作業是構成金融市場基礎建設的主要部分，交割方式對於所有市場參與者而言，必須符合安全、迅速、確實及符合成本效益。目前實務上，有關保管銀行代理投資人與證券商間之交割款項作業，除非與證券商簽約之結算交割銀行外，係以總額款項交割方式處理。總額款項之交割程序主要是以每個專業機構投資人個別帳戶進行款項收付交割，惟曠日費時且無效率。本委員會建議改採淨收付方式辦理，除可降低款項匯撥費用外，亦可增進市場效率。

2.3 開放FINI開立MTA帳戶

根據「華僑及外國人與大陸地區投資人申請投資國內有價證券或從事國內期貨交易登記作業要點」規定，MTA（同一證券經紀商開立二個以上交易帳戶）之開戶只限於下述理由：

- 因投資策略委請外部經理人操作者
- 因內部投資作業使用不同交易平台者
- 指派不同外部帳戶管理者

敬請主管機關考慮進一步開放MTA的設立得基於下述理由：

- 主權基金或退休基金之外資，以不同委任契約開立MTA（即便是同一外部經理人或全球保管銀行）

- 同一外部經理人但帳戶開在不同全球保管銀行下
 - 同一外部經理人向下以不同Sub Advisor開立MTA
 - 同一外部經理人向下有不同內部交易平台
- 同時，實務上發現證交所除了明文規定投資人於申請時所需要之列舉文件，還會額外要求投資人提供其他文件，常常要求補件的資料與現行法令要求的文件不同，造成外資無所依據及保管銀行作業之困擾。本委員會期盼證交所可以提供完整的檢附文件清單，以便保管銀行與外資溝通，提高申請作業之效率。

建議三：釐清有關《個人資料保護法》之問題

《個人資料保護法》於2012年10月正式實施，本委員會認同政府對於加強台灣個人資料保護之用心，惟產業界對於個資法令不同之解讀及處理方式相當困擾。

新法規定義非公務機關對個人資料之收集、處理及利用前，須經當事人書面同意，然金融機構於提供服務過程中，無論是依一般商業往來或依照主管機關之要求，常間接從企業客戶或供應商取得個人資料。依據個人資料保護法之規定，個人資料如間接自第三人取得時，亦需取得書面同意書，此規範於實務上空虛難行。

以執行面上考量，無法於商務中取得個人資料就當事人一一通知並取得同意。以印度法令為例，間接取得之公司代表人個人資料得免除告知及同意之要求；新加坡於2012起施行的新版個人資料保護法則根本就商務往來排除該法令之適用，故本委會建議法務部就上述商業聯繫資訊取得之個人資料予以免除必須進行告知及取得同意等規範之適用。

基於金融產業相關法令之要求而取得個人資料亦須適用個人資料保護法之規定（例如依據銀行公會所頒佈之洗錢防制注意事項範本或依臺灣證券交易所股份有限公司營業細則要求取得負責人之證件），然而個人資料保護法中得豁免告知義務之標準乃係依「法律」規定始得免為告知，而得取代當事人同意之規範則須依「法律明文規定」。法務部雖為個人資料保護法之主管機關，惟金管會作為負責監督金融機構之政府單位，本委員會建議請金管會針對金融業面對上述條文中「法律」是否涵括主管機關發布之「法令」之議題頒布相關解釋函令予以釋疑，以利業者採取一致性之因應方式。

最後，本委會建議法務部頒布解釋函令使非公務機關就正當商業上之目的而取得個人資料（如因一般商業往來交換名片或公司電話）得予以免除告知及取得當事人同意規定。相關豁免條款可參照歐盟指令及菲律賓之2012資訊隱私法。

建議四：持續強化有價證券借貸市場

在外國投資者眼中，台灣仍是亞洲區相當重要的有價證券借貸市場之一。本委員會感謝台灣證券交易所、財政部與金管會近年對於此市場發展的支持。不過，由於台灣有價證券借貸市場的特殊性質，改革仍有其必要。長期而言，我們認為相關制度若與國際實務接軌，將更能吸引投資者參與。我們相當瞭解以台灣市場目前的基本條件，要徹底改革現行制度是一個困難挑戰。本委員會在此提出一些應可協助解決有價證券借貸市場短期面臨問題的建議：

4.1 降低從事有價證券借貸之保證金比例至105%

現行從事有價證券借貸需繳交之保證金比例為140%，實較南韓、新加坡及日本等其他亞洲市場收取之105%高出許多，爰此台灣相較於其他市場較不具競爭力，本委員會建議降低保證金比例以吸引境外投資者參與台灣有價證券借貸市場。

4.2 改善提前還券之流程：允許借券人因市場因素之限制無法因應出借人要求提前還券時，開放借券人使用借券系統確保還券

在多數國家的借券市場，若借券人收到提前還券之要求，借券人有義務在該市場交割期限內返還，否則借券人需承擔因此造成之相關責任與費用。目前台灣法規允許出借人要求提前還券，並於同日(T日)賣出，經賣出券商申報後在T+2日延遲交割。然而此機制並未考慮借券人可能因市場限制(例如外資持股上限及漲停板)無法從市場上買到或借到券還給出借人，導致出借人於T+2日無法交割，而受到違約處分。此時雖然現行法規允許出借人之賣方券商可透過「交割借券系統」借券完成交割，但因此衍生出來由出借人借券之規定，實與國際慣例不合。我們

建議當標的證券因受到當日漲停限制、或超過外資持股上限時，允許由借券人(買方)券商提供相關佐證資料至「交割借券系統」借券，完成還券之義務。證券期貨局曾指示台灣證券交易所研究此項建議的可行性，並與業內代表作進一步討論，但尚未公

佈總結。

4.3 允許由出借人及借券人之保管銀行向證交所申報標的證券之直接撥付以改善市場效率

目前證交所法規允許在議借方式下出借人與借券人依其議借合約所定之借券條件進行借貸。然而執行面仍規定出借人與借券人需經證券商將借券細節向證交所申報，經證交所確認相符後，通知集保公司透過券商撥券，與一般交易流程無異。事實上議借交易已經雙方「合意完成」，並不需再經券商輸入至證交所匹配。我們建議上述作業可依循「證交所有價證券借貸辦法」之精神，允許由雙方保管銀行將借券明細向證交所申報，再由集保將標的證券直接自出借人在保銀之帳戶撥出/入至借券人在保銀之帳戶，不需透過券商。此流程將大幅改善議借交易之作業效率。2011年5月，台灣證券交易所要求券商就此項建議提供意見，但至今尚未獲悉正式結論。

建議五：致力創造台灣市場為一效率化與競爭性之投資環境立足亞太地區

5.1 同步發布中英文版法規命令及市場公告

過去幾年來，國際投資人參與台灣資本市場之比重已與日俱增。台灣上市公司之股份約30%由外資持有；全體外資投資比重亦佔台股成交量之20%。有鑑於此，提供國際投資人與台灣投資人同步法規資訊及市場公告實為主管機關及各交易所之重要課題。

目前同步英文訊息之欠缺恐已限縮台灣市場成長的潛力，並為外國投資者帶來額外的交易風險。倘若金管會、交易所及公會能同步發布中英文版的官方訊息，提供即時的法規、命令更新及透明的交易制度與資訊，必能吸引更多的國際投資者參與台灣資本市場。

5.2 適度放寬人員登記之規定

由於台灣嚴格之專業人才登記規定，造成國際金融業者於新業務推出初期、業務量尚未穩定之際，即需負擔聘僱額外業務人員之人力成本，是以影響業者擴大台灣市場經營規模之意願。對此，我們呼籲主管機關在專業人才具有各不同類別或職務之法定資格，例如取得證照或通過訓練，且符合登記人數規定，亦無利益衝突之疑慮時，能適度放寬金融專業人才跨業登記之規定。我們樂見證券期貨局於2011年就修正登記人數門檻之要求，以及證券業與期貨業人員之跨業登記所做的努力，亦希望主管機關能在現有成果上，就以下三個面向繼續努力：

- 開放多功能/職務登記，使金融機構之專業人才同時擔任一個以上之職務。依現行規定，登記為受託買賣人員，即不得於同一金融機構內同時擔任其他職務(例如衍生性商品買賣、境外結構型商品業務人員，或從事客戶期貨部位之強制沖銷)。反觀香港、新加坡及韓國等國際金融市場，允許專業人才之多功能/職務之登記，實屬常見。
- 開放多功能/職務之登記，使金融業者更容易以全功能銀行型態或「一次購足」的商業模式(例如證券及銀行業務的整合式經營)，擴大台灣市場規模，並降低前述金融機構需聘僱額外業務人員及登記之限制。此外，開放跨業登記亦有助於台灣專業人才透過跨業別之工作經驗增進其視野及能力，取得多面向之工作機會。
- 開放由境外區域營運總部人員擔任無關行銷/銷售職務之業務人員登記。依現行規定，證券及期貨公司之前台及後台功能/職務，須於台灣核准登記之營業場所內執行。從全球營運模式面向觀之，為確保內部控制政策一致性，同時提供更完整且全面性支援，部分後台功能/職務(例如內部稽核、財務及風險控管等)通常是由境外區域營運總部人員負責。透過境外區域營運總部負責部分職務支援之模式，將可安排更有經驗及能力之專業人員，就包括台灣在內之各區域營運點，提供更有效率及專業之職務支援。

5.3 免除遭民眾投訴後需提供說明予台灣證券商同業公會網站

長久以來媒體在未經同意下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，並未詳查事由即對證券商作相關之質疑並要求證券商提出說明。如此接連不斷的詢問實已對證券商造成行政作業上的負擔。本委員會感謝主管機關對於教育投資人不懈餘力，但要求提供說明或聲明於台灣證券商同業公會網站之繁瑣規範卻未見任何改變。此種他國從未採取之不尋常作法建議應予廢止。

上述建議實際上響應了政府要成立以台灣為導向的金融營運平

台的政策願景，可為各種金融相關產業創造出一個有多元產品，各項專業服務又能彼此緊密銜接、充分協調整合的商業環境。

建議六：制訂具彈性之承銷法規

台灣資本市場對國際投資者日趨重要，我們深信制定能與國際市場接軌之法令、規章、流程能讓台灣吸引更多的境外資金，茲建議相關修正方向如下：

- **提高詢價圈購之百分比比例至50%**
台灣的承銷制度結合詢價圈購及公開申購兩種募資管道，提供發行公司及承銷商更多彈性，並確保足額的投資者參與初次公開發行。然而現行規定限制某些公開申購佔全數承銷比例最高得為60%（亦即詢價圈購比重僅存40%），公開申購比例實較其他市場高出許多。以香港為例，公開申購比例為50%，然而在大型初次公開發行案件裡，若事先經其主管機關核准，該比例最低得降至20%。以國際慣例來看，基礎投資者（cornerstone investors）在初次公開發行案中扮演關鍵角色，一般散戶視基礎投資者的參與為一重要的正向指標；對發行公司來說，基礎投資者更是相對長遠的投資夥伴。本委員會認為擴大專業投資機構的參與比例係為成功擴展初次公開發行市場重要的一步。
- **放寬詢價圈購流程**
詢價圈購具有重要的價格發現功能，透過廣泛尋求各方潛在投資者的投資意願，以制定合理的承銷價格。然而現行的圈購程序規定必須填具紙本圈購單，對其他時區的國際投資者來說，此繁複步驟係為一沉重的負擔。我們建議開放投資人亦得利用電子方式告知承銷商其圈購相關內容。另，建議開放受人得先以彙總股數申請圈購後，再後續分配至個別帳號，完成圈購申請流程。
- **允許與承銷商有關之外國證券商得代表其外資客戶參與圈購**
現行承銷法規基於利益衝突的考量禁止發行公司及承銷商之關係人參與詢價圈購，外國證券商之業務本質係協助其客戶參與各投資市場，然而當外國證券商為承銷商的關係人時，其客戶無法參與該詢價圈購。建議主管機關開放相關規定，允許國內承銷商的關係人為外國證券商時，該外國證券商之FINI得代表客戶參與圈購，以保障國際投資者參與國內資本市場的機會。

化學製造商委員會

本委員會樂見2012年美國商會台灣白皮書之議題，有部份已有進展。其中一項議題與危險及有害化學品成份的標示、聲明有關，亦涉及化學製造商被法規要求揭露相關資訊後無法保護營業秘密的問題。從勞委會對此白皮書議題的回應可知，台灣政府已經承認這些問題，也規劃於近期邀請業界代表討論，以瞭解如何修訂現行法規。

去年另一個白皮書議題是交通部對運輸危險物品規範的定義問題，現行規定對於工作場所使用之危害物質與在運輸過程中的危險物品兩者之間的差別沒有明確定義。本委員會從交通部的回應中得知政府承認問題存在，也計畫修正相關法規。

本委員會特別感謝勞委會與交通部，這兩個部會都展現樂意協助解決業界問題的態度，我們也期待這兩個議題能因此早日解決。

建議一：允許高科技產業在科學園區內使用ISO供應模式之易燃性特殊化學品

矽甲烷(SiH₄)是一種特殊氣體，通常用於化學氣相沉積(CVD)生產過程中，以製造各種半導體和光電元件，如TFT液晶顯示器、AMOLED平板顯示器及晶體矽/薄膜光伏(PV)太陽能電池。與其他可使用之氣態矽源化學品相比，矽甲烷具有明顯的製程優勢，並已經成為高用量半導體和光電元件製造業首選的矽源氣體。

因對消費性電子產品以及太陽能之需求急速增加，元件製造過程也變得更加複雜，矽甲烷的使用量在過去十年已經顯著的提升。典型的矽甲烷使用在先進生產線上的用量，由每月不到1公噸，增加到超過10公噸，並且供應的模式已經逐漸從小鋼瓶(44公升)變換到中型鋼瓶(440公升)，以減少鋼瓶的更換頻率，並達到節約物流成本的目的。

但是台灣的高科技產業迄今未能採用最經濟的供應模式- ISO模式(超過9000L高壓管拖車) - 尤其當他們的競爭者已經在美

國、韓國、歐洲和中國先後使用；因為管理當局尚未接受矽甲烷ISO供應模式的申請。某些官員認為，以ISO模式供應，如果發生任何洩漏，會比鋼瓶危險。的確，在產業裡是有一些矽甲烷洩漏事件的發生，但主要是由於矽甲烷分裝和操作鋼瓶更換時的人為疏忽，這兩者都與供應的模式無關。

鑑於矽甲烷的易燃特性，不論供應者和使用者都應該將操作的安全看作最優先考慮的問題。只要能遵照全球安全法規及行業最佳操作規範（如CGA、ANSI、FMEA等），以ISO供應模式提供給高用量使用的業者，已經被證明是最安全、最節約，而且是最可靠的供應模式。使用ISO模式供應矽甲烷的主要優點如下：

- 減少容器更換頻率，使錯誤操作的可能性降低。
- 透過大宗購買，更能降低單位成本。
- 相對數量少的運輸量，能簡化供應鏈，並且能確保不間斷地供應。
- 更一致性的矽甲烷品質，能提升製程能力。

為了使高用量矽甲烷用戶，提高其全球競爭力，本委員會對主管單位提供以下建議：

- 按照全球安全法規和行業最佳實務經驗，明確界定在台灣矽甲烷ISO供應模式供應的安全要求（如室外面積大小、通風需求、安全間距、防火牆、滅火設備、洩漏檢測、警報裝置等）。
- 對矽甲烷供應商和用戶提交的使用申請，採用這些矽甲烷ISO供應模式的安全要求，以一致的標準審查和批准/不批准新矽甲烷ISO供應模式的申請。
- 鼓勵高用量的工業用戶，遵守矽甲烷ISO模式安全要求，俾能達到安全、成本、質量、可靠性的優勢，以提高其在全球市場中的整體競爭力。

建議二：改善溫室氣體排放之相關規範

在過去數年間，政府為達成二氧化碳減量、提高能源使用效率，已採取許多措施並取得長足的進展。行政院環保署已於2012年4月將溫室氣體減量法草案送交立法院審議。然而本委員會仍有一些在前次遞交白皮書提出之議題有待釐清，例如：

- 二氧化碳減量額度不明確且未訂減量期程
- 碳交易相關制度及流程尚未明確
- 境外碳權交易規範亦不明確

其次，溫室氣體減量法將減碳標的著重在工業部門。委員會建議政府除了工業部門外也應全面性考量納入交通、住家、商業、農林等部門的減碳責任，以達成台灣整體溫室氣體減量目標。

第三，環保署於2012年5月9日公告將溫室氣體視為空氣污染物，並將溫室氣體排放納入空氣污染防治法管制。環保署據此要求業者依照空氣污染防治法規定登錄申報溫室氣體排放量。但是溫室氣體與一般空氣污染物不同。空氣污染防治法係由地方政府而非中央政府執行，各地方政府主管機關對排放管制的裁量歧異將使導致業者未來營運的不確定性與法規遵循方面的困難。因此本委員會建議參考國際實務來制訂溫室氣體排放法則，不要歸屬於既有空氣污染防治法。

本委員會響應政府溫室氣體減量的目標，為使溫室氣體減量推行更有效，業界籲請主管機關：

- 訂定更明確的溫室氣體減量額度與減量期程。
- 建立一個更明確、產業可接受也合理的排放標準。
- 為達成台灣整體溫室氣體減量目標，除了工業部門外也考量納入交通、住家、商業、農林等部門的減碳責任。
- 在制定溫室氣體政策前，與相關部門(包括工業部門)溝通，讓業者有充足時間準備，以期符合新政策之規定。
- 重新考量現行以空氣污染防治法管制溫室氣體的做法，並澄清溫室氣體管理歸屬中央政府之溫室氣體減量法。

教育及訓練委員會

教育及訓練委員會在此肯定台灣政府，特別是教育部的以下成果：

- 2012年世界銀行發表的全球知識經濟指數，台灣在亞洲國家中排名名列前茅。
- 教育部致力於普及全民基本教育，如今台灣的國民教育適齡人口就學率近100%
- 台北市美國商會公佈之2012年台灣商業景氣調查中，多數受訪企業主認為台灣人才大都受過極良好的教育。

這些成果非常重要，但更重要的是如何讓台灣更積極有效地培育人才，保有競爭力，在國際舞台上扮演重要經濟角色，不落後如南韓等其他亞洲國家。我們認同馬總統曾提到的「黃金十年」願景，也就是盼望台灣的經濟持續從效率導向轉型為創新導向，施政目標也是要將台灣打造為區域或世界的創新中心。

台灣教育體制擅長傳遞理論知識，毫無疑問這在達成政府目標上不可或缺。然而只有理論知識，恐怕不足以將台灣從製造中心轉變為世界的創新中心，讓台灣與世界最優秀的企業、人才競爭。2013年台北美國商會發表的台灣商業景氣調查結果顯示，商會企業會員多半認可台灣的人才具有良好的教育背景，但另一方面也認為台灣人才在創意表現，以及達到世界級的標準上，是較為欠缺的。台灣要朝馬總統和許多經濟學家、商界領袖所認同的全球創新中心的目標邁進，這兩個方面的問題必須受到更多重視，以即時修正問題。

本委員會瞭解這些挑戰雖然不可能一夕之間克服，但我們認為政府應該有實際的做法，讓台灣的企業界感受政府在創新方面的決心。我們希望相關政府單位在2013年回應以下問題及建議。

建議一：建立留遊學業經營許可認證制度

留遊學顧問業是協助台灣人民申請旅遊或居住國外簽證的三個行業之一，另外兩個業別分別是旅遊業與移民業。旅遊業與移民業兩者都有針對私人業者系統化的考試、訓練與證照，以指導並執行其業界相關法規。雖然留遊學業者組織中華民國留學服務商業同業公會曾向教育部提出要求，盼能積極討論制定業者許可制度，留遊學業仍是三者中唯一沒有適當許可制度的行業。

相關議題的討論已持續進行超過十年，實無進展。取而代之的是教育部制定了定型化契約供業者與學生使用。然而，每幾年的內容修改造成業者執行上的困難，而教育部對於業者是否確實依規定使用契約書很少監督，對於沒有遵守及未使用契約內容的行為也沒有強制要求業者符合規定。

這些缺乏管理與強制執行使得消費者（學生與家長）暴露於各種危險與潛在的詐欺。由於適當的法規與強制執行，旅遊與移民業的消費者並不會遭遇這樣的問題。本委員會無法理解為何教育部不積極參考內政部與交通部觀光局對移民顧問與旅行業者的管理作法，針對留遊學業制訂合適的法規，建立強制業者遵循法規的制度。

本委員會建議教育部採取具體的權宜措施，建立留遊學業許可制度。再者，在建立此許可制度時，應比照類似管制旅行業及移民業之既有原則，兼顧消費者的權益及提供專業留遊學業者合理的從業環境。最後，我們建議此許可制度應該盡可能的包含相關業者，盼望如私人顧問、補習班、中學、大專院校等等相關單位，都能納入此制度的管理。

建議二：鼓勵學子更積極參與出國留遊學，而非專注於打工度假

過去幾年來，台灣學生前往海外留學人數遞減，打工度假的青年人數卻顯著增加。我們建議教育部審視這個趨勢，探討這樣的變化對於台灣整體青年就業人力的專業能力是否有不利影響。果真如此，教育部應該採取對策，鼓勵學生前往海外留遊學而不是度假打工。

針對當前此種趨勢的考量是多方面的。根據澳洲國家勞工研究部門公佈的報告，澳洲打工度假有80%的工作型態是屬於農場相關及低階服務業。參加打工度假的青年也了解他們在打工度假期間學到的技能有限，能真正應用到其他領域的機會也較少。

打工度假方案對於台灣人力資源的改善是非常有限的。然而，打工度假依舊風行，受歡迎的程度日增，而傳統的海外留學人口卻下降。台灣的年輕人出國不是為了獲得更高的學位，而是去學習如何採收水果、蔬菜及打掃飯店房間。隨著每年數以萬計、越來越多的台灣青年參與這些方案，在未來對於台灣的勞動市場可能產生令人憂心的負面影響。

本委員會建議教育部非常明確地指出，如果想出國深入學習較受台灣就業市場肯定的工作技能，打工度並不能替代海外留學。此外，教育部應該建立一個長期、永續的政策，鼓勵台灣學生赴海外學習專業技能以及在不同文化情境下的溝通技巧。本委員會建議將所有的打工度假計畫的監管從教育部移轉到勞委會。

建議三：鼓勵台灣大學院校與國外大學建立夥伴關係，使台灣高等教育更具國際競爭力

公益平台文化基金會董事長嚴長壽先生曾表示，台灣的大學缺乏特色，台灣學校之間雖有彼此互動合作，與國外大學建立連

結的國際化努力不足。的確，台灣的大學長期以來被過度保護，反而弱化了台灣國際競爭力。教育體系是產業界的人才育成中心，如果這個人才培育的根本未能具有國際競爭力，產業就不會有競爭力。台灣不能只靠吸引東南亞、非洲或中國學生來維持其大學體系的生存發展，也應把國內優秀教授及學生留住，同時吸引歐美先進國家的優秀師生來台，這需要有非常國際化的高等教育組合才能達成。

台灣出國留學的人數每年降到兩萬多人，中國留學生成長到每年15萬人。新加坡提供獎學金給優秀高中生唸新加坡的大學，畢業後必須為新加坡工作三年。新加坡及香港在15年前即已大量吸引傑出教授並引進國外各種學位及非學位項目，以及鼓勵、協助優秀國外大學設校。中國亦在2002年加入WTO後，迅速跟進，而且有過之而無不及。曾任行政院經濟建設委員會主任委員的台灣大學教授陳添枝也表示，鬆綁限制，開放多元，才能重新攪動這攤死水。這也是金融家、現為商學教授的 Lawrence Zicklin提出的活水原則：人動，貨動，錢就動。教育在國際間是被視為一種服務業，我們也必須這樣看待教育。台灣學生留學與外國學生來台會對所有教育事業的參與者產生經濟效益，流動規模越大，效益越高。

經建會曾表示台灣可如馬來西亞及卡達設立國際教育城，台灣要迎向世界，這不失為一條有效途徑。可行作法包括建設一座實體教育城，吸引不同機構，在其中規劃課程，或者是設計遠距教學，並全面承認其授予之學位。藉由這樣的計畫，台灣不僅把世界放進來，也會有能力把自己的文化放進世界，讓這一代的孩子，有一個充滿自信的出發點，邁向國際。如此，可拓展台灣高等教育，使其更具國際視野，也可獲得多元文化的團隊合作，促進良性競爭。

針對政府規劃放寬外國名校來台設分校。經建會曾表示，新加坡、南韓等都有此措施，如果國內私校可與名校合作，也是一條路，不過目前台灣法規對校地可開發使用面積有至少五公頃的限制，這對外國學校來台產生了進入障礙。

因此我們誠懇建議政府：

1. 放寬並鼓勵外國大學來台設立分校、分部以及學位/非學位學程項目。
2. 針對國內外大學的各種學程項目成立虛擬大學城。
3. 制訂政策鼓勵、落實台灣學校與國外學校的雙聯制學位。
4. 鼓勵大學與台灣重要企業的合作，結合產、學界優勢。舉例來說，吸引外國學生來台台灣修習中文時，可在課程中規劃至台灣主要高科技公司參訪學習。

人力資源委員會

人力資源委員會感謝台灣政府已考慮並採納本會於去年白皮書中所提有關勞動基準法（下稱「勞基法」）修正草案之部分建議。本委員會期待建立平衡聘僱法律制度之進一步發展，該制度可保護勞工利益，並適當考量雇主之商業需求。

今年，本委員會提出五項備受本會會員關注之議題。這些議題反映本委員會企盼台灣聘僱法規能夠更具彈性及可期待性之共同願望。

目前對本委員會最重要的議題為，於新法或勞基法修正案通過後，使用勞動派遣制度之規範問題。本委員會亦期待未來能進一步放寬退休金一次給付之限制、對競業禁止條款可執行性有更明確的規範、刪除申請工作許可之兩年工作經驗門檻、及豁免部分高階或高薪員工就加班費規範條款之適用。

建議一：重新考量勞基法修正草案關於勞動派遣部分，以平衡勞工保護及對商業之衝擊

勞基法修正草案由勞工委員會（下稱「勞委會」）於2010年1月11日公布。本委員會有幸於公布後與勞委會對談，該會並已採納本會2010年白皮書中所提部份建議。就未被採納之部分，本會會員認為仍有其重要性，本委員會特此籲請勞委會慎重考量避免過度規範勞動派遣之重要性。以下為本會會員之關切重點：

派遣及外包之定義

「勞動派遣」是指將某事業聘僱之勞工派遣至其他事業以提供勞務，並接受後者監督管理。惟勞基法修正草案欲管制台灣之勞動派遣活動，卻未明確定義何謂勞動派遣。例如，當公司將其總機服務或各訴處理服務外包時，是否即視為從事勞動派遣活動，

因而應受修正後法律所載限制之約束？本委員會建議改寫修正案內容，將勞動派遣與人力資源和其他商業服務外包明確區分。

勞動派遣人數限制

修正草案第九條之一規定，要派單位使用派遣勞工，應經工會或勞資會議同意，且派遣勞工不得超過該事業單位受雇員工總額之百分之二十。由於此概括適用之限制並未顧及不同產業公司之人力需求，本委員會仍然反對該項勞動派遣人數限制之規定。此外，如本委員會於去年白皮書中所提及，代表員工之工會或其他團體本身有其利益考量，無法客觀評斷勞動力方面的問題。

該修正案對製造業的衝擊最大，因其僱用之派遣勞工為數最多。若公司無法使用派遣勞工，其替代方式可能為雇用外籍勞工或將轉移訂單至國外工廠。無論依何種方式，其結果皆會減少台灣勞工之就業機會並增加失業人口。另外，跨國企業通常有正式員工人數限制。若台灣之聘僱彈性降低，該公司可能將工作機會轉移至其他國家。

本委員會再次呼籲刪除應經工會或勞資會議同意之規定，並取消或放寬草案中派遣勞工佔公司員工之百分比現制（無論是全面適用或針對特定類型之派遣服務）。例如，若派遣勞工人數不超過員工總額百分之十，則不需經工會或勞資會議同意；於特定情況下，如季節性勞工或特別專案，雇主應可申請較高比例之派遣勞工。

再者，該修訂條文第二款規定要派單位應將所需勞工之工人數、派遣期間及相關工作內容等詳情公告之。因本項規定之理由不明確，容易激起勞資糾紛，且難產生正面作用，本委員會建議刪除本項規定。

要求派遣特定勞工之限制

修正草案第九條之三規定，要派公司不得「指定」派遣特定勞工。這是否意謂要派單位完全不能設定勞工之條件、不能要求更換派遣勞工？由於派遣勞工於要派單位提供勞務，要派單位應有權選擇派遣勞工。建議本條應刪除，而所謂「指定」之定義應明確化或於修法理由中說明，以臻明確。

派遣業登記制

修正草案第七十四條之一就派遣業者採登記制，無須通過許可流程以確保其符合特定條件。此制度並無法適度保障派遣員工之權益。本委員會建議對派遣業者設定基本資格限制（例如申請人須有優良實績、提供完整員工訓練、設置營運計畫等）；派遣業者亦須定期向主管機關報備以防範違法情事。否則合法派遣業者與游走法律邊緣或違法之派遣業者競爭，將居於劣勢。

定期契約及勞動派遣

定期契約和勞動派遣均為台灣所常見，其因在於目前勞基法就資遣或終止聘僱對雇主設下過度的限制，剝奪雇主在現今競爭市場中求生存而必需具備的人力資源管理彈性。本委員會認為勞動派遣及定期契約勞工之使用，係相輔相成。本會所代表之會員公司曾表示，企業會使用勞動派遣，常係因現行勞基法就定期契約之規範太過嚴格以致缺乏彈性。本委員會建議，若新法欲更加嚴格地規範勞動派遣，定期契約之相關規範則需配合放寬。特別是現行勞基法下，定期契約須符合四種法定定期契約其中一種類型，本委員會建議草案修正為雇主應得有「暫時性勞務需求」時使用定期契約。

過渡時期

草案中並未說明修正案通過後對現存之派遣勞工會有何影響。本委員會建議明訂過渡期間，使企業有合理時限處理現存之派遣關係，並避免法律關係之紊亂。

建議二：考慮修正勞基法允許退休員工可分期領取「退休金舊制」之退休金

現行立法架構下，有兩種平行運作的法定退休金機制；一為勞基法下之舊制，一為勞工退休金條例下之新制（於2005年7月生效）。

按照舊制，付給員工之退休金係自退休日起30日內一次性總額給付。本委員會了解一次性總額給付的目的在於確保員工可於退休後立即領取退休金，以避免員工因公司財務困難被剝奪領取退休金之權利。

然而，一次性總額給付方式通常會大幅增加領取者於退休財

務年度之收入，導致退休金領取者須適用較高所得稅級距之不利結果。此外，若該名員工不善理財，一次性總額給付也將提高其財務風險。

本委員會知悉公務人員有分期提領退休金之選擇。該選擇具備下列優點：(a)稅捐上較為有利；(b)提供退休員工穩定之收入保障；及(c)降低雇主資金流動的財務壓力（此點相當重要，因為許多公司皆面臨舊制員工退休高峰期之問題）。

因此，本會建議現行退休金制度可以採納與政府機關相同的退休金給付機制，允許雇主及員工自行協商採用一次性總額給付或依合意的時間表給付。

建議三：修訂勞基法，對競業禁止條款之可執行性提供明確規範

許多公司皆會與其資深業務主管簽訂競業禁止條款，限制該等主管離開原雇主後能從事的行為。現行法下，競業禁止條款可執行之範圍並未明訂（關於地理範圍、限制活動的期間或行為類型等），且就雇主為執行競業禁止條款所應給付之「合理」補償金，條文亦未明確定義，導致競業禁止條款可執行性及合理補償金的數額皆依法院裁量決定。

本委員會認為，就競業禁止條款的合理範圍及執行競業禁止的強制額外補償金必要性，雇主及員工應有彈性協商空間。

鑑於亞太地區的市場整合趨勢，許多資深業務主管的活動範圍通常不限於一個城市或國家。另外，競業禁止條款的合適有效期間亦因情況而異，應透過雇主及員工協商達成合意。最後，本委員會認為若員工及雇主於簽訂聘僱契約時即約有競業禁止條款，雙方應得協議競業禁止條款補償金是否計入員工報酬。如有額外補償金之必要，其數額亦應由雇主及員工協議達成之。

由於法院就該爭議之見解歧異，法律亦缺乏明確規範，本會認為應立法明確規定由員工及雇主自行協商競業禁止條款範圍，而非強迫雇主須給付執行競業禁止條款的費用。

建議四：豁免一定層級以上之高階或高薪員工就延長工時及加班費規範之適用

現行勞基法就延長工時及加班費設有嚴格限制。然而，部分資深或專業員工享有彈性工時及與其雇主對等協商之談判力量，這些員工毋需仰賴法律保護。因此，勞基法應給予雇主與該等員工協商工時及假期的空間。例如，若資深主管須與不同時區之國外客戶或總公司進行電話聯絡或視訊會議，要求該資深主管須於早上九點及下午五點打卡上下班，並將任何該時段外的業務活動皆列入加班時間，此作法不符合實際情況，且該限制將阻礙台灣晉升為跨國企業的營運中心。對延長工時的嚴格限制，也將造成公司執行員工在家上班制度的困難性，因為員工在家辦公之延長工時難以計算。

為求更多的彈性空間，本委員會建議修改勞基法修正草案，豁免高階或薪水超過一定額度的員工（如新台幣200,000）就延長工時及加班費規範之適用。

建議五：取消外籍專業人士來台工作的兩年工作經驗限制

現行法規定，除了從事科技相關產業，及服務於跨國企業滿一年以上經指派來台者外，所有外籍專業技術人士（具大學學士學歷者）欲來台工作，必須擁有兩年以上相關工作經驗的限制。儘管對在台完成大學教育之外籍學生，主管機關已放寬兩年工作經驗的限制；但其他外籍人士（包括在台成長但於國外取得大學學歷之在台外派工作者子女）仍適用上開限制。

本委員會再次呼籲應刪除兩年相關工作經驗限制。合適的職位候選人應由市場機制而非法律限制決定。本會不認為刪除兩年工作經驗限制將負面影響台灣勞動市場。事實上，刪除該限制將吸引更多國際人才加入台灣勞動市場的行列，增加勞動市場的多元化，並促使本地勞工熟悉國外實務，提升台灣企業競爭力。

基礎建設委員會

本委員會多年來建議政府應重新檢討目前的能源政策。因為如果落實目前政府的能源政策，電費必然大漲，將會嚴重打擊台灣的國際競爭力及全民福祉。

在去年的白皮書中，本委員會指出台灣的基載電廠極度不足，並建議政府應加速進行燃煤計畫並核准目前3座核能電廠延後。但我們很遺憾的發現，政府並未聽取本委員會之建言（最近報章略有報導延後之討論）。當國際機構評估台灣競爭力時，台

灣穩定的電力供應是少數強項，我們誠摯希望台灣不要失去此一主要競爭優勢。

除了能源政策以外，本委員會亦關注到台灣政府在執行吸引外國人直接投資台灣的成果上，似乎無法令人滿意。對於促進外國人投資台灣的計畫，是一種「好像要開始而又不開始」的態度，曖昧不明，令我們感到失望。除非台灣政府重視並真正把它視為首要的優先項目，否則將很難看到「外商/境外直接投資台灣」的實質提升。近日台灣以啟動『自由經濟示範區』來宣示政府的決心，我們會密切注意相關的進度並將在明年的美國商會白皮書上提出執行成果的報告。

本委員會進一步建議，台灣政府持續推動外商參與台灣採購案，並且採納如下之建言，以更加開放市場的心態與作法去推行政策。

建議一：吸取電費漲價教訓，重新評估能源政策

去年電費只部分漲價就引發極大政治風暴，一般消費者及中小企業都強力反對電費漲價，導致政府暫停原定的第二波電費調漲。我們認為若政府採納美國商會過去數年白皮書的建議，電費大幅漲價或可避免。

吾人一再強調台灣電力結構的惡化，其主要原因在於政府能源政策的失誤。目前政府於2008年執政時，台電的電源開發計劃預計在林口、深澳、彰工三電廠均有一部機在2013年完工，在2014年並各有2部機完工。但現況是林口電廠一號機在延宕3年後將於2016年完工，而深澳及彰工計劃甚至尚未動工。此三座機組裝置容量均為80萬瓩，每年可各發60億度電，總共可發180億度電。

但因為這三個基載燃煤機組無法按時完工，台電只好動用極為昂貴的燃氣機組來提供不足的電力，依每度電成本燃氣較燃煤高出1.7元計算，這三部燃煤機組延宕的代價每年高達300億元(美金10億元)，六部機組延宕代價更高達每年600億元(美金20億元)。

這三部機組商轉延宕各有其不同原因，林口是因為地方政府延遲核發相關執照，深澳遭地方居民及立法委員反對，彰工則是環評8年未獲通過。

為何中央部會(環保署)、地方政府、立法委員、地方居民都反對燃煤電廠？我們認為主要原因在於政府設立了野心極大的減碳目標。媒體也一再鼓吹，認為“再生能源”將可提供台灣未來能源需求。在此種氛圍下，新建燃煤電廠遭逢了前所未有的障礙。

本委員會贊同本商會永續發展委員會之建議：台灣應發展再生能源。但政府應了解再生能源今日仍十分昂貴，太陽能及風力無法提供大量基載電力，其提供台灣能源的能力有其限制。

台灣若要維持其經濟競爭力，必須確保未來電力供應無虞，這應建立在平衡的電力結構。我們強力建議政府應吸取去年電費漲價的痛苦經驗，重新檢視並採取務實的能源政策，以修正目前已十分惡化的電力結構。

建議二：因應核四公投，提供平衡報導

目前在台灣最熱門的話題就是核四公投。依近日民調，多數民眾都強力反對核四計畫。我們對此結果並不表詫異。因為一般民眾的核能知識都是透過媒體傳播而了解，而媒體提供的核能訊息又往往並不盡正確或不夠完整。更不幸的是，媒體經常未經查證引用了同業不正確的報導，影響了更多的民眾。儘管台電經常在其網站上澄清，只是很遺憾這些更正和澄清罕見報載。

部分媒體對核能的偏見是累積數十年的老問題。有些媒體充斥對核能的負面報導，無怪乎民調顯示多數人反對核四計畫。如果媒體報導不夠詳盡，影響將遍及社會各階層。

核電安全當然是一個重要議題，但媒體似乎只關注此一議題，並未平衡報導停建核四將會造成的台電破產、電力不足、電費高漲等嚴重後果。媒體也很少報導世界許多國家在福島核災後，仍繼續推動核能政策。結果是民眾日後在面對公投時，可能無法獲取全面的資訊來做合理的選擇。此一影響台灣甚鉅的重大決定，我們認為在核四公投前，提供民眾所有相關的資訊，不但是台電，也是政府的責任。近來媒體開始出現較多平衡報導的訊息，我們希望完整且清楚的公開論述在未來數個月能持續進行。

建議三：檢討可能影響外資的政策

與亞洲鄰國吸引外資相較，台灣已遠遠落後的現況下，有些政府政策將使外國投資者更將遲疑在台灣投資。

去年經濟部曾宣布，未來重大投資在“環評審查”外並將進

行“能源審查”。該項政策指出，如果無法確保獲得供電，則一些投資案將不會獲得批准。

我們認為政府應審慎檢討此一政策。在國際機構評估全球各國競爭力時，“容易取得電力”是台灣名列前茅的強項。本委員會擔心，一旦推動“能源審查”，將削弱台灣的競爭力，因為此種審查將增加投資的不確定性及風險，影響外國投資者信心。

在台灣，電力供應是獨占事業，由國營的台電來承作。獨占的主要條件就是電力公司應無條件提供電力給消費者。推動“能源審查”制度，不但違反電力公司應無條件供電的義務，也將削弱國內外投資者懷疑政府建立“友善投資環境”的承諾。

另一對國外投資造成影響的就是對“合約”的尊重。去年因電費漲價，政府在強大壓力下竟然轉移目標怪罪民營電廠，強迫民營電廠修改購電合約。這對國外投資者造成極大影響，懷疑台灣是否為一“法治國家”。如果合約保障原則無法確保，許多國外投資者必會對投資台灣裹足不前。

建議四：改善能源基礎建設規劃過程，並考慮由美國進口廉價之液化天然氣

台灣政府的“新能源政策”，“可持續發展能源政策”及其他許多文件中均顯示，台灣政府將大力推動燃氣電廠。目標為將目前每年1千2百萬噸的液化天然氣進口量，在2030年增加67%為2千萬噸。為增加進口如此大量的液化天然氣，必須儘早規劃液化天然氣進口港、儲存槽、汽化廠等基礎建設。

目前全球液化天然氣的價格仍十分高昂，台灣應考慮由美國進口相對低廉的液化天然氣。目前美國能源部已批准由位於路易斯安那州沙賓港輸出液化天然氣，並將於2015年啟用。

阿拉斯加州北坡(North Slope)礦區天然氣蘊藏量據估計也有200兆立方公尺，州政府的計劃正朝著輸出國外方向進行。美國現有20個液化天然氣輸出專案正待能源部批准，這些計畫若實現，預計每天共可輸出270億立方英尺的天然氣，相當於每年2億噸的天然氣。與目前全球每年2.4億噸的液化天然氣市場相較，不相上下。

在美國可能大量出口液化天然氣的情勢下，台灣政府應考慮與美國建立由美國本土及阿拉斯加進口，相對價廉液化天然氣的夥伴關係。

建議五：在台灣設置景觀建築學的專業證照

幾乎所有已開發國家，皆承認景觀建築學的重要專業，在確保基礎建設之設計品質及管施工品質上的貢獻，因此透過建置完善的考核系統，藉以審查景觀建築學術的專業技能，並授與景觀建築師的資格證照。景觀建築師之執業專業資格是存在於聯合國附屬機構 - 國際勞工組織所編輯的國際職業分類清單中，並且為國際間所承認。

然而在台灣，景觀建築的設計，僅僅淪為一般建築師或土木工程設計的附庸，其設計成果還必須由建築師或專業技師加以簽證。儘管我們對於建築師及專業土木工程師有著極高的尊崇，我們深信景觀建築學本身是一門合法根據的專業技術以及其在台灣所扮演的重要角色。此一專業技術的重要性，於可預見的未來能帶動來台觀光客數量的成長，在下一個10年內，積極扮演著台灣觀光事業驅動引擎的重任。

我們極力呼籲政府建立「景觀建築師資格證照」認證的程序。如此一來，能讓在台灣擁有景觀建築天份的人才，有更多參與國際社會合作的機會，也能幫助台灣為成為更加美麗的寶島。

建議六：進一步為外商公司擴大政府採購的機會

本委員會很高興得知在台灣2009年加入世界貿易組織迄今，行政院又已通過最新版本的世界貿易組織下所屬的政府採購協定(GPA)。新的版本將會進一步打開國際市場，根據評估報告顯示，在2014年將會增加美金800億到美金1000億的採購契機。

根據公共工程委員會的統計資料，外商公司已成功獲得標案約占政府採購標案總額的三成，達成如此成果，我們表示嘉勉。

然而，我們還是要建議進一步擴大外商參與政府採購案的機會，除了增加新北市、台中市以及台南市這些新升格為直轄市的成員，作為擴大適用政府採購協議清單中的行政管轄區，同時還可以開放中央各部級機關的政府採購標案(譬如監察院、考試院、司法院以及立法院)甚至更多的院會行政機關，或者是所有的促進民間參與投資的重大建設案，藉以增加外商投資台灣的契機。

保險委員會

過去一年幾項發生在保險業具有指標性的變革，已經為消費者、保險業者以及主管機關帶來新的機會與挑戰。保險委員會認為下列幾項變革尤其可以促進保險業短程及長程的健全發展，我們在此感謝所有努力帶來改變的人：

- 金管會在2013年2月8日發布函令要求壽險業擬採發放現金股利分配盈餘者必須事先函報金管會審酌，與本委員會2012年保險白皮書促請厚植壽險業資本，以確保長期之清償能力的建議方向一致，鑒於全球經濟環境的極度不穩定，我們建議金管會在審酌個案時，應採取審慎保守的態度。
- 修正保險法第164 - 4條允許壽險業有較大的空間可以銷售外幣計價傳統保單，讓壽險業可以滿足客戶對於外幣(包括人民幣)計價傳統保單的需求。
- 金融消費評議中心從開始運作以來已屆滿一年，對於客戶申訴案件已經建立系統性的處理方法。
- 因應個人資料保護法實施，迅速在保險法增訂有關規定，提供保險業者為核保需要蒐集及利用特種個人資料的法律基礎。
- 修正「保險業資金辦理專案運用公共及社會福利事業投資管理辦法」部分條文，擴大保險業之資金運用管道，包括特定公共設施及社會福利事業所需之設施。
- 立法院財政委員會於2013年5月6日決議，要求金管會研議修法，將來保險公司被接管，保單不給予全賠保障。

在此同時，本委員會對於保險業的長期財務健全及清償能力仍然存有疑慮，尤其是在市場利率持續處於低檔，而部分業者的資本適足率一直無法達到200%的最低法定標準。事實上，我們認為現在這項風險更甚於以往，因為 1)為了擔保一家被接管公司出單的保單價值，安定基金幾乎已經全數用罄，並額外再舉債約新台幣570億元(相當美金19億元)，加上2)消費者對於政府將保障個人保單價值會有所期待。

今年保險白皮書我們將聚焦在強化保險業清償能力及滿足客戶需求的幾個特定領域，主題是“保障消費者”，也就是為消費者創造一個便利且安全的方式向可靠的(財務健全)保險公司購買保險保障的環境。對於業者而言，保障型商品可以帶來相對穩定及可預測的利潤，只要業者願意齊力推動，所有人必定可以受惠。

建議一：為消費者提供更多元的保險商品選擇及更便利的購買方式

消費者可以透過網路及各種管道取得較以往更多的理財及保險商品資訊之際，主管機關也同時頒布了更多的法令來保護消費者。本委員會十分同意保護消費者避免被誤導或不當銷售行為傷害的必要性，但我們也必須強調法令不應該過度限制業者以安全且負責任的方式(包括個人資料的保護)使用新科技，以符合當代消費者期待的方式提供保險產品與服務。以下是我們認為現行法令必須進行某些調整的幾個主要項目，以適度管理風險的方法保護消費者權益：

1. 允許消費者以電子方式購買保險或表示同意

在現行「保險業經營電子商務自律規範」及「保險業電子商務紀錄保存及內部安全控制作業管理自律規範」等法令所反映的監管環境下，消費者透過電子商務方式購買保險必須使用數位簽章。數位簽章必須經由特定的辨識系統進行確認，而消費者則必須進行複雜且繁瑣的註冊及認證程序以取得數位簽章，結果延宕消費者希望取得保險保障的方式及時間。美國及香港等國家皆允許客戶可以透過電子商務的方式購買保險，而無須使用既繁瑣又受限制的數位簽章。本委員會建議，金管會應放寬現行法令關於電子商務必須使用數位簽章的規定，以提供消費者可以更方便迅速的方式購買保費低且保險架構單純、市場上差異性不大、容易瞭解保障範圍的保險商品，例如旅平險及一年期的保險。

2. 允許保險公司得根據要保人經錄音的口頭回覆作為解除契約的依據

現行保險法第64條僅允許保險公司得以要保人對於要保書上詢問之書面回覆作為解除契約的法律依據。在非面對面的銷售模式下經錄音的口頭詢問及回覆並不在目前法令允許的範圍內，已經對保險公司產生過度的風險及挑戰。由於電話行銷僅能仰賴錄音而沒有傳統銷售方式的書面文件，當客戶漏未告知重要的醫療/健康資訊時，例如有些體況原本理應被排除在承保範圍者，保險公司並無法依照錄音內容解除契

約。因此，本委員會建議，增修保險法第64條第1項，允許「經錄音的口頭詢問」及「經錄音的口頭回覆」與書面文件有相同之法律效果。

3. 放寬定期險及產險商品的瞭解金融消費者審查程序及資訊揭露要求

台灣在2008年雷曼兄弟連動債風波所引發的金融危機後立法通過金融消費者保護法，保險業者因此被要求對客戶執行全面性的瞭解金融消費者審查程序及資訊揭露要求，惟該立法的目的是為了保護金融消費者，避免忽略投資風險以及資訊不對等的危險，如今要求客戶完成全面性的瞭解金融消費者審查程序則已經遠遠超過金融消費者保護法的立法目的，並實際上妨礙了消費者購買如定期險及產險等相當簡單保險商品的便利性。不同於長期壽險、年金或投資型保險，定期險及產險通常保費較低、以保障為主、商品內容易於瞭解且產品的潛在風險相當清楚透明。因此，本委員會建議金管會保險局，同意將產險、意外及健康險，以及部分純保障型的壽險商品排除適用瞭解金融消費者審查程序，使消費者可以迅速便利的購買此類商品。

4. 放寬保險業者變更要保書的限制

本委員會建議金管會保險局針對要保書訂定一套清楚的原則，例如 (a) 要保書內容必須包含有通知的義務，(b) 要保書內容必須完全符合保單條款，(c) 格式必須含有特定的欄位以供簽名、表示同意等。在以原則為基礎的規範下，保險業者得在規範的原則下自行調整變更要保書而無須辦理冗長的送審程序。

5. 放寬壽險業銷售特定產險商品，使壽險業可以享有與產險業公平競爭環境

很多消費者希望透過熟識且信賴的保險公司獲得完整的保險保障，滿足不同的保險需求。依照現行保險法第138條規定，人身保險業僅得經營壽險、健康險、意外險及年金險等人身保險商品，但同條第2項卻允許產險業在經主管機關核准後，可以銷售一年期之傷害險及健康險等人身保險商品。此規定使產險業者可以在銷售旅行險產品時，提供完整旅行保障予消費者，而壽險業者則不能。此項差別待遇不但對壽險業者客戶造成不便利，另使壽險業與產險業立於不對等的競爭狀況。因此，本委員會建議，修訂保險法第138條，放寬壽險公司可以銷售產險保障的旅行險商品(例如：旅行不便險)。

建議二：增加保費列舉扣除額，並廢止財政部2009年11月6日台財稅字第 09800542850號函令

為持續鼓勵民眾購買適當的保險保障及進行退休儲蓄規劃，並減少為維持台灣社會財務安全網長期潛在的社會成本，本委員會促請主管機關進行二項關於稅法的改革。首先，我們建議將保費列舉扣除額上限由現行新台幣24,000元調高為新台幣48,000元，未來並應配合消費者物價指數上漲幅度進行調整。

另外，我們建議立即廢止財政部2009年11月6日台財稅字第09800542850號函令不當懲罰台灣人民選擇以投資型保險商品做為保障及退休規劃的課稅規定。相較於購買傳統壽險商品的客戶可以利用傳統壽險本身較為有利的稅賦制度而獲得保單利益，財政部對投資型保險商品專設帳簿收益課稅，已經影響選擇投資型保險商品客戶的長期投資效益；此外，此項課稅規定也增加了保險公司的行政作業負擔及費用支出，所增加的成本最終將會反映在投資型保險商品的附加費用而由客戶負擔。我們認為，客戶有選擇最適合個人投資風險組合規劃繳費策略的自由。

建議三：建置一個新的勞工退休金投資平台

本委員會非常高興有關單位已經開始推動勞工退休金條例修法以放寬勞工選擇適合個人需求及風險承受度退休金計畫的自由。允許勞工可以更有彈性的為其未來投資(特別是自願提撥的部分)可以帶來更多元的投資配置，並同時支持證券市場的成長。我們認為此次修法的重點，應廢除雇主實施年金保險制度必須達到一定僱用勞工數及一定比例以上勞工同意參加年金保險的門檻，以及兩年定存利率的最低保證收益規定。移除上述限制可吸引更多的台灣民眾願意透過符合個人長期財務需求規劃之退休金產品，以有效且可以負擔的方式，自願開始進行退休規劃。

建議四：提升消費者對於保險公司財務能力的認知程度

基於二個顯著的原因，本委員會認為，根據保險公司的財務

能力慎選保險公司的消費者意識必須予以提升：

- 目前安定基金幾乎已經全數用罄並額外負債，政府未來是否還有能力應付其他倒閉公司容有疑問。
- 消費者對於保險公司財務能力的認識欠缺指引，特別是資本適足率的計算公式近幾年內一再調整修改。

基於上述情況，本委員會建議保險局：

1. 對於資本適足率未達法定最低標準的保險公司，應該加速資本強化或進行退場機制；對於已經連續兩年未達200%最低資本適足率標準者，在完成增資符合最低資本適足率標準以前，必須限制其不得簽發新保單。
2. 要求保險公司，尤其是資本適足率未達200%法定最低標準的保險公司，必須提供給客戶宣導手冊，教育客戶如何評估保險公司的財務能力。

智慧財產權與授權委員會

智慧財產權之保護，對於打造台灣成為全球創新中心及知識經濟體之永續發展至為重要。美國商會智慧財產權與授權委員會非常肯定經濟部智慧財產局、行政院與立法院針對智財權相關法律持續提出及通過適切的修正，包括立法院於2012年通過之營業秘密法重大修正案。我們相信，隨著此一智慧財產領域之保護得到強化，台灣市場對於具創新實力之企業將更有競爭力及吸引力。

今年，我們籲請台灣政府關注於營業秘密相關程序法令之修法，確保營業秘密所有人有足夠能力防止其關鍵智慧財產遭竊，從而落實此一重要新立法之承諾。此外，我們亦建議對著作權法進行以下修法，確保受著作權保護之著作受到更多保障。

建議一：為使修正後的營業秘密法能有效執行，建請修訂相關法律

台灣政府為近期通過的營業秘密法修法投入許多努力，本委員會甚為感佩，也極受鼓勵。營業秘密法的修訂，立即有助於保護台灣的智慧財產免受侵害。這是台灣在持續強化智慧財產保護，以及打造更有利的投資環境的重要里程碑。為促使修正後的營業秘密法能有效執行，本委員會建議政府修訂以下相關法律：

A、證人保護法

我們建議修正證人保護法，使侵害營業秘密案件得適用證人保護法，允許被告可藉由提供證據並與檢察官合作的方式而轉作證人，以換取檢察官不起訴處分。此方法將於營業秘密侵害案件中達到有利於證據蒐集的目的。

B、通訊保障及監察法

由於營業秘密犯罪案件的蒐證相當困難，在營業秘密犯罪將危害國家安全、市場競爭或社會秩序的前提下，我們建議於「通訊保障及監察法」內增訂營業秘密刑事案件得聲請監聽。

C、智慧財產案件審理法

我們建議修改智慧財產案件審理法，使在舉證困難的營業秘密犯罪案件中，適度增加被告具體答辯的促進訴訟義務，要求當事人在指定期間內提出證明，以分攤舉證責任。

以上修法若能完成，將對確保修正後的營業秘密法之有效執行大有幫助，也是保護企業機密資訊免受侵害的重要利器。

建議二：加強智慧財產法院功能，提升一般地方法院法官審理智慧財產刑事案件之專業能力

智財法院自2008年7月成立以來，持續發展專業並大力推動智慧財產權法律於台灣之適用。智財法院各法官、人員於此方面之努力固然值得嘉許，但本委員會認為，下列問題仍需多加注意：

1. 核發證據保全命令之比例極低

由於智慧財產侵權案件之舉證責任係由原告負擔，故原告蒐集必要證據供法院判斷是否侵權並判定適當救濟之能力至關重要。調查階段中，被告通常會拒絕配合提供侵權產品、製程、文件、電腦程式碼及財務紀錄等相關證據，智財法院若發出證據保全命令，即有助於調查，且相關程序法規亦提供核發保全命令之機制。然調查研究發現，2008年7月至2012年12月期間，共216件證據保全聲請案中，智財法院僅核准其中23件。鑒於智財法院核發證據保全命令之意願有限，智慧財產權人欲於台灣有效執行其權利，及智財法院於智慧財產侵權案件中就事實認定者之角色扮

演，即面臨重大阻礙。由於台灣缺乏健全之證據開示制度，智財法院應強化蒐證功能，以提升智慧財產權保護之效果。

2. 損害賠償不足

智慧財產侵權未能獲得足夠之金錢賠償，為長久以來之嚴重問題。尤有甚者，商標法於2012年7月修訂生效後，侵權商品項目若少於500件，更難以取得損害賠償。專利法於2013年1月修法生效後，於故意之專利侵害案件中，三倍之損害賠償金亦予以取消。因此，智財法院對於侵權主張之徹底調查尤其重要，以計算並判准足以賠償損害及防止侵害之損害賠償，而證據保全對於該調查即有莫大幫助。

3. 一般地方法院缺乏審理複雜之智慧財產刑事案件之專業能力

智財法院處理案件之速度雖較以往快速，但一般地院對於智慧財產刑事案件之處理過程則可能長達多年，尤其涉及較複雜之技術或法律議題等案件時更是如此。鑒於2013年修正之營業秘密法已納入刑事責任，營業秘密之竊用等刑事案件應較以往更具複雜性，因此基於第一審階段事實認定及證據保全之重要性，一般地院法官專業能力之提升至關重要。本委員會鼓勵司法院投入額外資源培訓一般地院法官，增強其專業能力，以加速智慧財產之刑事案件程序。

建議三：進行著作權法必要的修正

擴大「合理使用」範圍以及酌採「鄰接權」概念是智慧財產局三年著作權法修法計畫中二個重要的修法目標。這些修正切不可損及著作權人利益。本委員會提出以下著作權法修正建議：

A. 網路邊境管制措施

立法賦予智慧財產局及/或國家通訊傳播委員會等行政機關執行網路邊境管制措施，阻絕國內民眾接觸設在外國、眾所周知涉及嚴重侵害著作權的惡意網站。

B. 刑事救濟

刪除著作權集體管理條例第37條限制及歧視未加入著作權集體管理團體的著作權人尋求刑事救濟途徑的規定。

C. 執法

將重大急迫的網路著作權侵權行為列為公訴罪，可不經著作權人告訴逕行追訴。

建議四：改善法律環境以提高著作權集體管理團體的效率

為維持著作權自由交易市場機制，本委員會請求台灣政府刪除以下規範著作權集體管理團體的現行法律中不合理且不必要的規定：

A. 刪除使用報酬審議制度或應對利用人就集管團體所提使用報酬費率標準聲明異議訂定時限

1. 著作權集體管理團體與使用人都不滿意智慧財產局的審議結果，又必須耗費大量資源尋求行政救濟。事實上，智慧財產局早在2001年著作權法第82條修正後就沒有審議著作權集體管理團體制定的使用報酬費率標準的法律依據。

2. 著作權集體管理團體必須先公告使用報酬費率標準30天後才能實施，但是利用人對著作權集體管理團體所公告的使用報酬費率標準卻可以隨時提出異議並無時間上的限制，致使著作權集體管理團體所公告的使用報酬費率標準處於不確定的狀態，嚴重影響授權業務的運作。

B. 刪除「單一窗口」授權規定。

智慧財產局先前就電腦伴唱機公開演出之使用樣態，依著作權集體管理條例第30條第一項規定要求設立單一授權窗口及訂立共同費率標準的嘗試已告失敗，顯示此規定的不切實際。

C. 允許著作權集體管理團體委託代理人協助授權業務

由於缺乏足夠執行人力，絕大多數著作權集體管理團體長期以來苦於無法拓展公開演出授權業務，以致流失許多原本可以收取的權利金或使用報酬。若允許著作權集體管理團體委託代理人協助授權業務，則此問題可獲得緩解。

議題五：落實打擊網路侵權的有效措施

網路侵權仍然是台灣最主要的侵權態樣，而網路侵權案件有將近九成為音樂、電影或軟體的盜版。非法的P2P/BT (non-hosted) 服務、部落格及論壇為上開盜版品最主要的平台。根據台灣軟體聯盟的調查，台灣2011年的軟體盜版率自過去五年從

40%些微下降至37%。然而，使用者仍然可以很輕易的透過各式各樣的平台，包括機上盒和多媒體播放器、電腦及連接散佈盜版軟體、電影、音樂與遊戲之網站等方式，使用或取得非法網路素材。依據二十世紀福斯（20th Century Fox）所公布之統計，知名電影「少年Pi的奇幻旅程」（Life of Pi）於第85屆奧斯卡頒獎典禮前一個月，在台灣透過非法網站被下載超過4萬5000次。上千個未經授權的中文歌曲網站，及超過100個非法影片網站，例如伊莉討論區（Eyny forum）及卡提諾論壇（CK101），該論壇為台灣前百大下載網站），活躍於網路上並因此侵蝕合法權利者之利益。非法網站之盛行不僅損害權利人之權利，也減損台灣電影、音樂及軟體產業之發展。

著作權法立法原意是要針對網路侵權累犯規定不同層級的處理方式，但甚至在採行網路服務業者（ISPs）避風港條款後，仍尚未訂定。根據財團法人台灣唱片出版事業基金會（RIT）之調查，在2012年1月至2012年11月間，有超過七成的數位盜版告訴案件最終以緩起訴處分方式結案。

此種缺乏有效執行力的原因主要來自於著作權法之漏洞以及政府就ISP責任所為不適當的規範。為了能有效遏止侵權發生，本委員會籲請政府能考慮採取新措施，以解決外國網站在台灣境內侵害著作權之情形，以及如前面建議三所述，重新檢視及修正現行著作權法，將網路侵權案件改為公訴罪。

我們認為，立法院在此項變革中可扮演領導角色，通過法令授權經濟部智慧財產局及/或國家通訊傳播委員會等行政機關，有權得採取網路國界控制的措施，封鎖提供未經授權之音樂檔案供下載或線上聽取，並經認定為主要重大侵害著作權之海外惡意網站。

建議六：修正智慧財產案件審理法，課予被告實質答辯義務

依台灣民事訴訟法規定，原告在民事訴訟中應負擔舉證責任。基於智慧財產權侵害之本質，智慧財產權人於收集與侵權相關的證據時經常遭遇困難，且因被告並無義務就原告的主張提出反證，導致在通常情況下，絕大多數被告只須單純否認侵害之主張，就能妨害原告行使權利。儘管原告之智慧財產權確係受到不當使用，法院在此情況下通常仍會做出對於原告不利的判決。上述結果嚴重衝擊智慧財產權的保護，也影響其他國家智慧財產權人對台灣的投資意願。

本委員會敦促政府課予被告就爭議事實進行實質答辯的義務，在原告已釋明存在一定侵害之可能性時，被告即應實質地回應原告的主張。當被告未盡此實質答辯義務，而僅單純否認原告的主張，亦未提出證據時，法院即應認定原告之主張為真實。上述措施應適用於符合智慧財產法院組織法第三條規定之各類型智財案件，基此，我們相信這些措施亦適於納入智慧財產案件審理法中。

製造委員會

製造委員會致力於提升製造卓越與培養加值創新，以使製造部門能持續成為台灣經濟成長與繁榮的支柱。本委員會盼能藉由提供產業界與政府機構互動之平台，形成一致的產業政策與各項計畫，其中包括新科技引進、產業創新、保護智慧財產權、生產效率、環境保護、可靠的能源與水資源供應、高效率及低成本的供應鏈基礎建設、僱用與人力資源發展、職場安全與健康，以追求改善台灣製造部門之全球競爭力。

建議一：改善供電服務品質與決策透明度

對多數台灣製造業者而言，最普遍感到困擾的經驗，就是偶爾的無預警電壓突升、臨時停電。對所有高科技製造業如半導體和面板業者，電力供應的可靠性與穩定度是其生產的基本需求。在世界先進國家中，透明、即時的資訊分享是電力公司營運的基準規範。如果台灣電力公司能夠同樣地在其網頁上事先提供相關資訊，將可幫助業者進行風險管理，更有效地因應電力中斷風險，採取合宜的解決對策。

我們呼籲台電能頻繁、即時地於網站上提供下述資訊：

1. 在電力系統事件發生後的48小時內，提供電壓突升及驟降停電的詳細資訊，包括事件發生時間、發生地點及電壓偏差程度。
2. 為了減少電源暫時中斷發生的頻率，台電將採取的系統維護及修復行動計畫。

除了供電穩定度之外，電價也與製造業之競爭力息息相關。台灣政府在2012年5月宣佈電價調整方案將分三階段實施，第一階段於2012年6月調漲原公告方案40%，第二階段於2012年12月再調漲原公告方案40%，剩下20%視台電經營改善效率後評估，平均調幅為34.57%。行政院隨後延遲第二階段之電價調漲至2013年10月，調漲幅度依據經濟部提供之浮動電價基準而定。電價調漲之不確定，尤其是當企業用戶難有充分時間為未來實際電價調整情形做準備，使製造業在資源調度與營運計劃上增加困難度。

本委員會建議經濟部與台電公司在研擬電價調漲方案前提供透明的資訊，以供用戶評估可能之衝擊，並修正其營運策略。

建議二：逐步強化透明度及公司治理，以提升供應鏈夥伴之信心

在台灣及全球的製造商已經把台灣當作各種商品及服務的供應鏈中極為重要的一部分。此外，製造商同時正將供應鏈轉化成更為複雜、較少重複性，以增加競爭優勢。美國的公司積極與台灣廠商整合，也是使全球供應鏈體系更複雜化的領導者之一。

複合型供應鏈的成功執行需仰賴所有參與者遵守公司治理的國際規範。製造商無法親自監控供應鏈中的每一部分，所以必須依靠供應商自律及供應商營運所在地的政策法規環境。台灣有一個良好的法規監管架構，同時多數台灣公司採行了符合國際趨勢的品質、安全及環保標準。所以，全球的製造商普遍來說對成功整合台灣廠商進入其全球供應鏈深具信心。

在此同時，我們也鼓勵台灣在提升透明度及公司治理上繼續改善，以維持國外合作製造商的信賴。值得注意的具體項目包括：

- 制定法規以排除所謂幕後董事或母公司本身對董事會決策的影響。如果公司控管並非清楚明確地操之在被合法賦予管理權的人員之手時，外來合作廠商對公司決策制度的信任可能喪失或耗損。
- 透過損害賠償或足以激勵雙方達成法院和解的正當查核程序來強化司法權。訴諸庭外和解或許能提升效率，卻也同時減少了檢視問題及尋求解決途徑的機會，也無法藉此提昇透明度。

台灣在世界製造業中佔有領先地位。隨著全球製造業因複雜多元的科技和系統而更趨整合及互相依存，台灣必須持續面對挑戰，不斷改善公司治理及控制的水準。

醫療器材委員會

醫療器材委會在過去的一年與各政府機構有良好且正面的互動，尤其是衛生署所屬之食品藥物管理局、中央健康保險局，以及經濟部所屬國際貿易局（國貿局）。我們非常感謝政府就醫療相關之政策和程序，致力於與產業進行定期且有意義的探討，本委員會期許政府以建設性的方式持續和醫療器材製造商及相關團體保持對話。

建議一：調和國內醫療器材法規與國際法規接軌

政府擬進行任何法規變革之前，及早與業者交流討論，以便有充分時間將業者的建議納入考量。草擬中的《藥事法》修正案將為醫療器材另訂專章，主要是考量醫療器材之特殊性與適用性，尤其是技術的快速發展。本委員會促請食品藥物管理局設定合理的時程來完成《醫療器材專章》的編撰，並與公會代表討論之後再正式公告實施。

在此過程中，我們建議：

- 利用「藥事法」修正案的修法機會，提升醫療器材法規系統，以促進台灣醫材法規與國際接軌。
- 針對草案中第40條，需一併草擬施行細則及查驗登記準則以提供業者了解改變影響層面。建議Class II、III需維持五年一次展延的制度而無須每年登錄。我們認為登錄是針對低風險性醫療器材即Class I，簡化登記程序以節省行政資源，提升政府效能，基於相同理由改採每年申報。但對於經查驗登記取得許可證者，由於其風險性考量，建議仍依原有查驗登記規定辦理，每五年展延一次及進行其他相關事項。
- 持續舉辦醫療器材法規及相關管理溝通討論會議。

建議二：簡化醫療器材產品登記之要求

對於2012年6月19日署授食字第1011603226號預告修正「醫

療器材查驗登記審查準則」，籲請食品藥物管理局第二等級醫療器材之查驗登記可以接受美國或歐盟核准上市之證明文件其中之一項即可，而非要求必須出具兩項文件。敬請食品藥物管理局予以參酌採納並修改「醫療器材查驗登記審查準則」相關規定。

另外，本委員會認為簡化第三等級醫療器材查驗登記作業至為重要，在產品規格及效能未超出衛生署所核准類似品範圍的情形下，該醫材登記所需檢附文件可以使用美國或歐盟核准上市之證明文件來替代臨床前文件，且建議此等案件不須經醫療器材專家諮詢會議審查。

再者，針對醫療器材效能增加之變更案，若該產品設計或規格均未有變動的情形下，應不需檢附臨床前文件重複審查。建議在行政文件審查完成後，直接進入臨床資料審查程序。

而針對已於美國與歐盟核准上市之第二等級醫療器材，在適應症相同的情況下，若因上市證明文件的產品名稱、型號或製造廠名稱地址不一致而無法適用簡化模式者，建議食品藥物管理局可接受原廠說明函說明，採用簡化模式審查。

建議三：提升醫療器材審查品質與效率

本委員會感謝食品藥物管理局研擬醫療器材優良審查規範(GRevP)，與其他已發展國家標準接軌，以精進標準化審查流程。同時，建議食品藥物管理局能提升醫療器材審查品質與效率，縮短審查流程、放寬並改以書審方式審議取代由醫療器材諮詢委員共識會議來決定。書審意指關鍵的醫材資料將遞送給諮詢委員，而委員們須於兩週內回覆意見給食品藥物管理局。此做法可加速台灣民眾選用新醫療科技、享受高品質服務之權利，並促進我國能持續與先進國家同步享用世界醫療科技進步的成果。

另外，建議食品藥物管理局增加正式審查人員編制的比例，降低契約制人員占比，使審查標準不會因頻繁的人員轉換而不同，降低審查效率。

建議四：簡化醫療器材優良流通準則(GDP)的實施方式

本委員會建議食品藥物管理局盡速公佈「醫療器材優良流通準則」作業細則及相關表單，配合藥事法修正，並舉辦業者、衛生局溝通會議以及稽查人員訓練等施行計畫。

自104年起業者須做GDP符合性之自我宣告。建議食品藥物管理局能簡化GDP符合性之自我宣告的作業及實行方式，因國內目前有醫療器材輸入業者約2,912家及販賣業者約34,540家，公文作業的負擔極為繁重，簡化GDP實行方式，以自我宣告取代實地檢查，將有利政策推行。

建議五：調整藥物廣告管理之規範

1. 認同藥事法第67條修正草案，並促請食品藥物管理局盡速公告

對於食品藥物管理局體認藥品與醫療器材廣告執行面之差異，擬修訂藥事法第67條將「『處方藥物』以登載於學術性醫療刊物為限」修訂為「『處方藥品』以登載於學術性醫療刊物為限」，有助於使醫療器材廣告的管理與實際執行面相配合，建議衛生署食品藥物管理局盡速公告。

2. 適度放寬衛教廣告及比較廣告之管理

為提升國人的醫療科技發展新知，須有大量的醫療新知資訊供民眾取得，建議食品藥物管理局適度放寬衛教廣告之限制：在業者非以招徠銷售為目的，而在衛教資訊中提及產品名稱，有助於民眾以實例了解醫療科技發展的情況下，該資訊不應視為藥物廣告。藥事法並未限制藥物廣告不得比較不同產品，比較性廣告自有其市場操作機制，有助於產業之良性競爭，並讓消費者了解不同產品之實際差異，建議衛生署食品藥物管理局將比較廣告之管理回歸市場操作，放寬對業者做比較性廣告之限制。

3. 持續定期召開與公協會之廣告審查溝通會議，以確保審查一致性

食品藥物管理局訂定廣告審查原則立意良善，然廣告審查單位對內容之解讀仍有差異，或不同審查單位對類似廣告內容卻有迥異之判定，故建議食品藥物管理局定期召開與地方衛生單位及公協會三方會議，以保持官方與業界對廣告審查之暢通溝通管道，並確保不同單位之審查一致性。

建議六：提升體外診斷器材列管查核的審查效率

體外診斷器材品項類別及相關附件繁多，依實際應用範圍，常有產品無法歸納於現有分類分級系統內的情形，因此對這類產

品做列管查核申請有其必要性。然而，目前列管查核審查時間甚長且要求提供和翻譯的文件亦多，建議食品藥物管理局明確公告列管查核分級的判定是否有依據特定國際標準，例如依循IMDRF的標準，使廠商多能自行判定產品分級，以減少列管查核送件案量。此外，懇請食品藥物管理局接受列管查核檢送英文資料即可辦理，以協助廠商簡化送件準備並減少來回確認翻譯資料內容，進而提升列管查核的審查效率。

建議七：開放及加速大陸醫療器材進口審核

本委員會感謝國貿局定期與業界代表召開大陸物品審查會議，然而我們必須指出，至今只有極少數項目獲得解禁。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大陸的產品。

國貿局過去曾建議本委員會與國內相關產業公會協商已取得其認可。我們建議國貿局不應只依靠國內相關產業公會的意見，應採用及建立透明的審查流程，由國貿局負責全權處理此議題的單一窗口，並為審查決定負責

本會亦建議食品藥物管理局取消藥商辦理輸入產地為大陸之醫療器材查驗登記前需先取得國貿局允許輸入證明文件之規定。國貿局掌管國際貿易相關規定，衛生署則負責把關醫療產品之安全及效能，兩者職掌完全不同。故國貿局與衛生署對於醫療器材之原產地、製造廠之定義，以及產品稅則或應用之分類大相逕庭。若藥商欲辦理大陸製醫療器材查驗登記前，還須先得到國貿局之許可證明，勢必延誤新醫材上市，對於提升台灣醫療服務品質非正面幫助。本會建議欲辦理進口之藥商本應自行負責確認進口及上市後監督事宜，國貿局允許輸入不應為查驗登記之前提，故可同步辦理國貿局稅則釐清及衛生署查驗登記，以加速產品上市時程。

我們呼籲國貿局及早重新檢視現況，開放下列醫材產品的進口：

CCC Code	中文貨名
未開放號列	
9019.20.90.00-8	其他治療用呼吸器具 - 呼吸治療面罩
9018.49.20	牙科用其他儀器及器具之零件及附件
9018.90.30.00-7	靜脈點滴注射器
有條件開放號列	
3005.10.90.90-9	其他粘敷料和其他具有粘層之物品
3005.90.90.00-1	其他屬第3 0 0 5 節之貨品
9018.90.80.00-6	其他第9018節所屬之貨品 - 負壓傷口治療系統,自動吻合器,血管組織凝集器械,壓縮系統,電燒刀配件,壓縮套,腳踏板
9018.90.90.90-5	其他第9 0 1 8 節所屬貨品之零件及附件-骨科用手術器械及用具

建議八：建立醫療器材合理的健保給付制度與管理

醫療科技發展日新月異，醫療器材已發展出各式種類功能或應用範圍的專精型態，在產業界與衛生署多年來不斷努力之下，我國和歐美先進國家的醫療技術正逐漸縮短上市時的差異性。本委員會感謝並肯定衛生署及健保局長期以來與本會醫療器材委員會密切溝通合作，期使我國能持續與先進國家同步享用世界醫療科技進步的成果。

建立合理自費規範

健保局於2012年12月公告「全民健康保險醫事服務機構收取自費特材費用規範」(以下簡稱「自費規範」)後，規定所有醫材均需送審，並於審理後將許多非植入式診斷或治療器械醫材及其配件、敷料膠帶類、拋棄式器械等創新醫材認定為屬醫療服務診療項目給付的「內含醫材」，使病人無法自費使用。然而現行醫療服務支付標準對於內含醫材的概念，皆沿用十多年前健保開辦時之水準，未將醫療科技的演進及新式醫材的發展納入考量，不足以支付新式醫材之成本。此外，目前的自費規範，使得病患無法自費使用已獲得衛署核准而健保尚未給付的先進新式醫材，預期將嚴重降低醫療服務品質並影響醫療服務正常運作，亦可能誘導醫院重複消毒使用應單次使用之醫材，增加交互感染等併發

症風險。

本委員會敦請健保局尊重病患選擇權利，給予合理自費空間；並且重新審視內含醫材的範疇與定義，我們建議：

- (1) 尊重病患選擇權利，給予合理自費空間。
- (2) 對於手術或處置過程中所使用的醫材，應檢視我國與外國診療項目給付架構及支付水準之差異，與醫界及產業界共同重新審視內含醫材之概念，重新檢討手術或處置過程中所使用的醫材納入內含醫材是否合理，不該未經與醫界及醫材業者討論即逕行執行全面將所有新式手術或處置過程中所使用的醫材歸類為內含醫材。
- (3) 取得衛署許可證的新醫材，在健保尚未給付前，應先開放醫院收取自費，使醫療服務不中斷，避免剝奪民眾選用新醫療科技、享受高品質服務之權利，維護當初政策的美意，也防止整體醫療服務水平倒退。
- (4) 公告並正面表列內含醫材品項，及其手術費用占率，並建議健保局成立專責、專人處理內含醫材給付議題，以掌握醫療科技發展之變化，使我國給付架構與國際醫療科技發展潮流不致脫節。

取消差額負擔上限以保有自由市場及公平競爭機制

二代健保法內關於特殊材料差額負擔制度的條文，應是為解決健保局所面臨的財務衝擊。該政策制度應給予病患依其需求及狀況來自付特材差額的選擇權。如醫療器材的差額負擔制度，確實鼓勵新醫材及創新醫材引進台灣，使病患更容易使用，並提高整體健康照護的品質。

目前，醫療院所需要將“產品資訊”及“病患自付差額的費用”刊登於自家相關網站。醫療服務人員必須事前告知病患額外的費用，並須於使用該差額負擔特材前取得病患書面同意書後，始可使用。這些措施在維護病患的選擇權及支付他們首選的治療方法上，已確實對病人在資訊公開上達到適當程度的規範。

儘管健保法並未明確地授權健保局針對特定醫材制訂差額負擔病人自付價格的上限，健保局仍有意設定價格上限。

現今，醫療院所被允許去制訂自家的病人自付差額價格，該價格是根據供應商(廠牌)和產品來設定，此定價模式已為病患及大眾所接受。由另一個角度來看，該制度讓相同產品在台灣不同醫院間可能產生價格差異。而此現象亦引起特定關心病患的團體及媒體注意，他們所憂慮關心的是同一樣產品價格會因地點不同而產生價格差異；但並未傳遞出他們對於不同產品之間有不同的價格有任何憂慮，在健保系統下，已有許多接受不同產品可有不同病人自付差額的例子。

因此，本委員會極力主張健保局：若差額負擔上限對國家來說是既定的規則，即不該去限制而應允許產品價格會隨供應商(廠牌)和產品不同有所差異。此舉才符合社會大眾的關注且也符合健保系統的既有原則。

建立透明且公開的審查機制

行政審查程序與時效對創新特材的導入影響至鉅，尤其其特材產品生命週期僅三至四年，若審查曠日廢時，恐有損民眾之使用及醫療品質，再則於二代健保新增藥物給付項目及支付標準共同擬定會議，增加諸多審查流程，更應注意效率提升問題。

1. 提升審查效率，明定審查期限。建議健保局對“既有功能類別”特材申請健保給付之報告案，應落實藥物給付項目及支付標準第六條有關生效日期之規定處理。健保局應依據行政程序法有關回覆申請案時間之規定，並參照新藥申請健保給付案處理方式，針對“新功能類別”特材申請健保給付案，訂定受理、審查及回覆期限。
2. 針對特殊材料健保給付申請案，應建立公開、透明之的審查程序及標準。包括藥物支付標準及共同擬定會議前的「藥物諮詢專家會議」應公布其成員名單，並於每次會議兩週前公告議程；申請案之醫療器材廠商應有列席說明之機會，並得提供相關專家委員、醫學會意見以茲佐證。

“特殊材料”一點一元”

在藥物給付項目及支付標準中“有關特殊材料支付”點數”之相關文字，應統一用詞為“支付價格”或“支付費用”，並基於藥品及特殊材料同為藥物給付項目及支付標準所規範，特殊材料給付點值應以“一點一元”計之。

依照“藥物給付項目及支付標準”第三十四條及第五十二條有關價格訂定之規定，不論既有類別品項或新增類別品項特殊材料之核價，皆應加入“次分類因素”(例如文獻證實的設計或品質差異、國際價格等)之考量，依該品項之參考國中位價100%且不低於參考國最低價的核定原則，以合理反映產品價值，避免優良產品無法引進，影響民眾醫療品質。

價量調查

本委員會建議，價量協議及價量調查，應擇一執行，避免無止盡砍價降低醫療品質，亦增加不必要的行政負擔。

針對新納入健保給付之品項，健保局目前採價量協議及價量調查兩種費用控制方案併行，重複且密集進行價格調降，廠商終將於成本考量下，無法再引進新醫材與新技術，使新醫療技術退出台灣市場，嚴重影響醫療服務水準。建議健保局應擇一執行，避免無止境地進行價量調查與價格調整，並減輕健保局、產業界及醫界三方的行政負擔。

針對既有品項，籲請健保局按照先前已頒布之“藥物給付項目及支付標準文第58條”相關規定辦理並與考慮國際狀況來實施價格調漲或調降。一直調降價格，將阻止跨國公司視台灣為優先引進創新醫材的市場，可能造成健保延遲取得有效且兼具經濟效益醫材的困境。

其他

脊骨神經醫學

建議：提供脊骨神經醫學之法源基礎（立法或行政命令）以及提供在國外訓練的脊骨神經醫師在台灣執業之合法性

世界衛生組織2005年已發行中、英文版的「脊骨神經醫學教育與安全準則」，其中清楚指出脊骨神經醫學是一種醫療專業，並非只是技術。衛生署不採用世界衛生組織對脊骨神經醫師及脊骨神經醫學的稱呼，相反地在所有相關文件將脊骨神經醫學刻意貶抑為「凱羅技術」或「凱羅術」，顯有對世界衛生組織及全球的脊骨神經醫師不尊重之嫌。

衛生署另一個對美國訓練且擁有美國脊醫師執照之脊骨神經醫師不尊重的舉措是以民俗調理之管理規定事項規範。衛生署在2010年4月15日公布之民俗療法管理規則，脊骨神經醫師只要不宣稱療效，不招徠醫療業務，且在不違反其他醫療法規之下，就不會被調查及起訴。此法規將接受過完整訓練之美國脊骨神經醫師降級成民俗療法人員，是指脊骨神經醫師不能被稱為醫師，不可以檢查、診斷病患，不能開立或判讀X光，也不能宣稱療效，脊骨神經醫療只能稱為「脊背調理」。

過去20多年來，衛生署在缺乏法源根據之下，堅持唯有遵循教、考、用這條路，才能完成脊骨神經醫學立法。在回應之前的白皮書中，衛生署建議先於醫學院設立課程，待脊骨神經醫學之效益以科學實證後再行設立校系。屆時再請考試院設立考覆制度，於是便可以建立脊骨神經醫學執照制度。

衛生署此舉完全無視脊骨神經醫學已有118年的歷史、每天為世界各國病患廣泛利用，而且大量醫學文獻指出脊骨神經醫學效益與安全的事實。

即便如此，脊骨神經醫師們仍認真地遵循衛生署的建議，主動拜訪義守大學與輔仁大學，探討設立課程的可能性。但是兩校校長均明確指出衛生署的“教、考、用”實際上並不可行。理由是沒有任何一所學校會在衛生署尚未給予在國外完成訓練的脊骨神經醫師合法執業的空間之下設立科系，而脊骨神經醫師地位妾身未明的情況下，也不可能招收得到學生。脊骨神經醫學是相當重視臨床訓練的一門醫學，倘若國外合格訓練的脊醫無法在台灣合法執業，那也不會有合法的脊醫院所可供脊醫實習生實習。給予國外合格之脊醫在台灣合法執業是衛生署所謂的“教、考、用”唯一的解套方式，也能確保將來招收的學生畢業後可以合法執業。

過去數年以來衛生署繼續堅持“教、考、用”模式，並不斷地要求更多的研究與科學實證，實為延遲脊骨神經醫學在台灣發展的手段。台灣是世界貿易組織成員及國際服務條約（ISA）參與國，這種態度必定與自由貿易精神背道而馳。

由於沒有學校會在脊骨神經醫學不被承認、並且在台灣欠缺脊醫專業人員之下設立脊骨神經醫學科系，要建立考覆執照制度，最好的方法就是參考當年香港脊醫創立時一樣的模式。

因為香港沒有教、考、用系統，香港立法承認脊骨神經醫學國外學歷與國外脊骨神經醫師執照。我們促請台灣主管機關承認擁有脊醫教育委員會（CCE）或國際脊醫教育委員會（CCEI）所認可學歷之脊骨神經醫師。這樣的政策不只會對脊骨神經醫學發展有利，同時可嘉惠台灣醫療體系及一般民眾。台灣進入了人口快速老化的時代，有愈來愈多的人會需要脊骨神經醫師提供的醫療服務。

菸品

議題一：建議政府在制定菸品管理政策時，應徵詢產業意見並依循正當法律程序

菸品產業支持合理必要的菸品法規環境，產業認為，政府在制定公共衛生相關政策前，應邀集與政策利害相關各界所屬的代表共同討論，以確保法規的制定充分獲得專業與理性的評估以及其可能造成的影響已被完整考量。

法令規範必須植基於完整的科學論據，才能適當地達成立法目的。值得政府注意的是，少數國家採取過當的菸品控制手段，不但造成合憲性的質疑，同時也可能違反國際義務。例如，澳洲政府決定2012年實施菸品素面包裝措施以來，已遭致其他世界貿易組織會員國質疑違反世貿組織條約，同時也有菸品製造商就其違反澳洲與香港的雙邊投資協定提出仲裁申請。

為了保障菸品產業的合法經營權益，政府在進行研擬菸品相關法規的修正以及法規修正後的各項配套措施前，有必要徵詢產業相關團體之意見，並確保產業意見能夠在立法院委員會審查期間，作為修法的參考。

未來政府於研擬制定菸品相關政策之程序面，我們建議：

- (一) 菸品產業應與其他合法產業享有公平對待，以確保業者的合法權益；
- (二) 制定菸品管制政策時，必須遵循法律修正的正當程序進行；
- (三) 確保菸品產業的意見能充分表達，並與其他團體之意見獲得相同重視。

議題二：以合理、漸進、可預期的菸品稅捐政策，避免菸品非法交易及走私問題日益惡化

菸品產業一向支持合理、漸進、可預期的菸品稅捐政策，建立一套透明、公開的制度不但有助於穩定合法菸品市場免於非法菸品的危害，同時更能達成政府在公共衛生和財政稅收上的政策目標。

不合理的菸品稅捐政策將衍生嚴重的非法走私問題。以馬來西亞為例，從2001年至2009年，菸稅漲幅高達365%，菸品價格從2005年的4.7馬幣提高至7.2馬幣後，不只讓馬國內最便宜的合法菸品與非法菸品的價差，從3.20馬幣擴大5.7馬幣之多，馬國的菸價成為東南亞國家的第三高，而整體菸品走私比率攀升到35%，國家一年的稅收也因此損失約20億馬幣（相當於台幣160億元）。

非法菸品在台灣已成為一項社會問題。政府提供數據顯示，民國98年（即菸品稅捐由10元調漲至20元）到100年查獲海上走私菸品數較前3年增加67.4%。根據中華民國菸業協會委託獨立研究機構於去年所進行的一項調查顯示，所謂「白牌菸」（亦即走私菸品，經常以少量合法進口的方式掩護）在中、南、東部縣市比例持續攀升，使用族群則更偏向中老年與藍領等經濟弱勢群體。

在同時考慮財政收入和公共健康利益的目標下，我們建議：

- (一) 調整菸品稅捐時，應以合理、漸進、可預期等方向做為原則，並考量經濟、財政、治安及公共衛生等多元因素，作為調整菸品稅捐的依據；
- (二) 菸品健康捐調整的相關配套措施，應以穩定市場秩序為主要考量，並審慎評估非法交易的潛在影響；
- (三) 加大執法力道，並提高從事菸品非法交易之罰則，尤其是所謂的「白牌菸」。

製藥委員會

2013年1月實施之二代健保為台灣全民健保制度的一個重要里程碑。除了收入面（保費）的改革外，在支出面（給付）也有許多的改變。製藥委員會特別關注新制度對病人使用創新藥物所造成

的影響。

二代健保的特色之一是從2013年1月起推動為期二年的藥費支出目標（DET）試辦方案。委員會非常感謝衛生署及健保局對這個議題的支持，也肯定政府對於過往3年美國商會白皮書中提出之建議的正向回應。我們呼籲政府持續與業界對話，在簡單、透明、及可預期性的原則下，討論DET的實施方法及細節。為支持生技製藥產業的研究發展，新藥和專利期內藥品不應受到任何形式的價格調整。

健保法第46條的立法精神是將藥品價格在逾專利五年內調整到合理的水準。懇切期望衛生署與健保局採納業界提出之建議，因2013年才開始實施健保法第46條，所以於2013年起逾專利之藥品才適用該項目之價格調整。

另一項重要議題為新藥給付的延遲。衛生署和健保局依全民健保法第41條新設立全民健康保險藥物給付項目及支付標準共同擬訂會議（簡稱共同擬訂會議），並給予這個的新平台給付決策之權力。我們呼籲健保局密切關注其執行效率及成果，建立定期及時的評量指標，設立改善計畫。同時，業界持續關注新藥核價過低的議題，期待能有更多實質可行的價格加成規定以鼓勵研發和創新。

很遺憾，過去幾年，在藥品相關智慧財產權的議題上沒有任何實質的進展。委員會希望衛生署能正視這個議題，支持並保護智慧財產權，期待能將政府工作重點從扶植學名藥產業提升到鼓勵以研發為基礎的產業發展。如此才能支持生技醫藥產業在台灣的發展及創造永續經營的環境。

鼓勵創新是製藥和生技產業發展的核心價值及主要驅動力。我們極力主張政府能持續鼓勵藥界在創新藥物的研發和投資，並可趕上其他先進國家新藥引進的速度，以確保民眾能夠儘早使用到新藥。白皮書中還包括其他一些希望與政府討論關於改善台灣醫療環境的議題。研發製藥產業將持續與台灣政府密切合作，支持醫療保健政策，使民眾的生活更健康，更長壽，更幸福。

建議一：改革相關流程以加速病人對新藥的可近性

加強新藥查驗登記流程

雖然衛生署食品藥物管理局（TFDA）近年致力於加速新藥查驗登記資料審核流程，但現今的整體審核速度還是未能明顯縮短。其中一項主要原因，就是在GMP規範所要求的查廠機制。現行規範有兩種製造廠的查驗登記方式：書面審查與實地查廠。對於所在地非「國際醫藥品稽查協約組織」（PIC/S）會員國的製造廠，現行規定只認可實地查廠的機制。然而，TFDA礙於人力資源有限，每年最多只能執行30次實地查廠工作，使得待審案件不斷累積。如今從申請到獲知確定實地查廠日期竟然至少得花上一年時間，使得新藥查驗登記時程延宕的問題更形雪上加霜。

目前，TFDA對於藥物製劑成品僅認可單一製造來源。因此，每當藥品供應發生短缺時，就很難透過改由其他製造廠供應的彈性方案，及時滿足緊急的藥品需求。目前絕大多數藥政法規參考國家，已採取對單一藥品認可多重製造來源的查驗登記方式。這樣的管理方式對於生物製劑來說格外重要，因為這類產品的單一製造源產能往往很有限。若已登記藥品可彈性轉換製造供應來源，也有助於避免藥品短缺的問題。

TFDA在2013年2月20日所發佈的「單株抗體生物相似性藥品查驗登記基準」草案，當初部分條文並不符合科學性或國際法規潮流。例如在第四章，7.2條中：「經中央衛生主管機關（如依行政院衛生署食品藥物管理局藥品事業諮詢輔導要點）輔導研發製造之單株抗體藥品，原則上得以安慰劑對照試驗（placebo-control trial）申請查驗登記」。然而，歐盟藥物管理局（EMA）指引規定須與對照藥做比較試驗，而不能僅與安慰劑相比。

此外，根據台灣現行規定，固體製劑申請製造廠變更時，須檢附在三個PH值媒液執行的溶離曲線比對試驗。然而歐盟或美國的法規只須檢附在藥典或廠規規定的溶媒執行的溶離曲線比對試驗。製造廠所提供的資料並不合國內所需之溶離資料，因此在台灣須另外執行額外的溶離試驗，因而影響製造廠變更核准的時程。

我們建議：

1. TFDA增加人力資源以即時完成查廠，避免審核期程延宕。一旦TFDA針對某些審查個案遲遲無法安排實地查廠，即應對於製造廠位於非PIC/S會員國者，改採書面審核的方式加以替代。此外，建議TFDA設法加速書面審查速度，以縮短審核期程。

2. 建議TFDA在現行查驗登記指引中，新增允許製劑成品以多重製造源進行查驗登記的新規定。
3. 修改「單株抗體生物相似性藥品查驗登記基準」草案，建議TFDA依據歐盟(EMA) “Guideline on similar biological medicinal products containing monoclonal antibodies (EMA/GAMP/BMWP/403543/2010)” 制訂台灣的基準，以期和國際法規接軌。在此基準下，生物相似性藥品應檢送與對照品作比較的對比臨床試驗，而不是以安慰劑對照的臨床試驗。
4. 修改製造廠變更溶離試驗的法規以符合國際潮流。

改善新藥核價與給付流程以獎勵創新研發

今年一月二代健保法正式施行後，原有的藥物給付審核流程從此增加為兩階段式審查，即在專家會議(前身是健保藥事小組)以外，另行成立共同擬訂會議，負責藥品給付核價審查且握有最終決定權。對於以研發為基礎的製藥產業而言，主要目標仍是持續加速新藥給付審核流程，以確保台灣病人使用新藥的速度免於落後其他國家。目前健保局已表示只有申請提高給付價格的新藥、孤兒藥及必要藥品，才須送交共同擬訂會議進行逐案審查。雖然我們很感謝健保局在加速新藥審核速度上的努力，然而，諸如新藥、孤兒藥及必要藥品等具有價值之藥品，其給付審核期程實在不應被延誤，絕大多數需要由共同擬訂會議審核的創新藥品，都在滿足國內醫療需求上扮演重要角色。新制上路以來，今年第一季沒有任何一個新藥獲得核准健保給付。我們由衷希望，目前新藥審核速度的延宕只是過渡期的暫時現象。

另一相關議題，則是藥物審核新流程的透明度。過去幾年來，在衛生署、健保局與藥業持續攜手合作下，逐漸使藥物給付審核程序得以趨於透明。所累積的進步包括：醫療科技評估報告的公布、在藥事小組會議前與持有藥證的業者先行溝通、公告藥事小組成員名單與會議紀錄等。然而，新審核機制的透明性卻有待改善，例如應公布專家會議成員名單與會議紀錄。此外，從專家會議到共同擬訂會議的審核流程期間，應給予產業與健保局對話的機會。遺憾的是，在我們努力多年後的今天，審核流程透明度卻反而出現倒退的情形。

新藥價格依舊是製藥業的重要議題。2012年的平均新藥核價，為十大先進國家中位數的53%，只比2012年白皮書所記載的略高。壓抑新藥價格的主要因素是，有超過86%的申請案件，所獲得的給付價取決於其所參考的其他藥品價格，而這些參考品卻早已因多次砍價而達到歷史新低價位。在這樣的惡性循環下，新藥價格一年不如一年。為了提升民眾對新藥的可近性，健保局應努力思考如何獎勵具良好療效證據與價值的藥品。

目前針對藥品有提供本土臨床試驗或藥物經濟學試驗而給予核價的加成優惠，就是很好的例子。本委員會很樂見終於出現第一件因提供藥物經濟學試驗而獲得5%核價加成的成功個案。可惜的是，由於提供本土臨床試驗而獲得加成的條件過於嚴苛，至今仍沒有任何藥品因此達到10%的核價加成。

建議：

1. 將健保局專家會議的成員名單向社會大眾公開，並個別知會藥證持有廠商有關專家會議的建議內容。在進入共同擬訂會議的第二階段審核程序前，業者還有機會可向健保局提出更進一步的說明。此舉將有助於改善新藥核價的效率。
2. 目前藥品共同擬訂會議每兩個月才召開一次，只有在申請案件累積達六個以上時，才會加開會議。建議增加共同擬訂會議的召開頻率並精簡整體審核程序，以免延遲病人使用到新藥的時間。
3. 公布共同擬訂會議的與會發言紀錄逐字稿，以使會中的討論得以透明並為社會大眾所了解。不過，由業者特別標明之商業機密資訊則不應該對外公開。
4. 應該在現行的新制度下，對於所有的建議個案建立一完整追蹤機制，以便於業者即時線上掌握審核進度，並提高透明度與效率。
5. 簽訂價量協議的門檻應予以提高(目前新藥門檻是兩億新台幣，新適應症則是一億)，以使價量協議不至於淪為變相懲罰創新且具療效藥品之機制。此外，基於公平性考量，啟動價量協議時應排除不可抗力因素，諸如因為同類藥物退出市場、突發的傳染病疫情或天然災害而意外引發的銷售量成長等。
6. 針對執行種族特异性人體試驗而給予的給付核價加成獎勵之條件，應該完全比照「藥品查驗登記審查準則」第38條之2第1款到第4款規定，而不應只有選擇性地部分適用。

建議二：合理的藥價調整方案

開發性製藥產業感謝政府在二代健保的架構下，於2013年2月8日宣布執行藥費支出目標(DET)方案。因為過去七次藥價調查/調整已對業界產生嚴重的負面衝擊，產業界期待於2013年1月1日起實施為期兩年的DET試辦計劃後，能取代過去兩年一次的藥價調查暨藥價調整。業界呼籲衛生署及健保局應與業界商討，以尋求最合適的方法，鼓勵透明度和可預期性的試辦模式，為長期執行DET奠定良好的基礎。並盡量減少其不確定性，以爭取業界的信心和支持。委員會主張，如果實際藥品費用未超過藥費支出目標(DET)，衛生署及健保局不應該執行任何形式的價格調整措施。

由於健保局核定之新藥價格偏低，故對有專利保護、資料專屬權的產品和監視中新藥，衛生署及健保局不應執行任何形式之價格調整。其他進一步壓低藥價的方案，例如價量協議和風險分擔計劃也應盡量避免。因絕大部分新藥都依據比較藥品價格核價，過度調降藥價將持續降低新藥價格，並延遲新藥引進台灣的速度，進而影響病人獲得新藥之權利。

健保法第46條提供了一種降低藥品價格的機制，在專利到期之後的五年內將藥品價格調整到合理的水準。委員會建議，定義合理價格為市場價格，並使用藥價調查為價格調整之參考依據。第46條條文的任何藥價調整金額，應加總計入藥費支出目標(DET)超出之額度內。健保局及衛生署應以能持續提供藥品以滿足病人的需求為目標，在控制預算與產業訴求之間尋求一個良好的平衡。

建議：

1. 當藥費支出超過DET時，以藥價調查作為調整藥品價格之參考依據。先計算出個別藥品的價格，再依照DET目標金額與藥價差之比例做調整。
2. 任何形式的藥價調整，應排除有專利保護、資料專屬權藥品和監視中新藥。
3. 對於健保法第46條，專利的定義應包括所有由經濟部智慧財產局專利授權之專利。沒有本地專利的產品應根據第46條之條文，不包含於逾專利期1至5年之調降範圍。
4. 因健保法第46條是2013年1月生效，故第46條逾專利期1至5年之調降範圍應僅適用於2013年起失去專利保護的產品。
5. 建議第46條以藥價調查作為藥品價格調整之參考依據，並與產業界共同訂定“合理價格”。該決策過程及方式應該透明化。
6. 健保局建立藥價調整的停損點機制，以確保藥品品質和產品供應之永續性。

建議三：藉由專利連結和資料專屬權加強智慧財產權保護

有效的專利連結(Patent Linkage)與資料專屬權(Data Exclusivity)乃藥物智慧財產保護機制的重要環節。明確的專利和資料專屬權到期日不僅有助開發性藥廠和學名藥廠制定有關研發或製造的最佳投資策略、避免不必要的訴訟資源浪費，並可持續推出創新產品嘉惠病患。

專利連結

根據台灣2011年12月21日公告的專利法修正案第60條，藥廠可進行取得藥事法所定藥物查驗登記許可或國外藥物上市許可為目的，從事之研究、試驗及其必要行為，而免受違反原廠專利的罰責。這項規定不僅將形成不利智慧財產保護的商業環境，更會增加訴訟案件、降低原廠引進新藥的意願、危害病患使用創新藥品權益等負面效果。

藥業最近進行的一項調查結果顯示，有65個學名藥(影響到22個原開發藥品)在原廠專利到期前就已取得台灣藥品核准並列入健保給付。根據台灣智慧財產法院的統計，藥品訴訟案件平均耗時225.29天(超過7個月)才能結案，而且約有26%的案件無法於該年度內結案。再者，此類訴訟都會上訴，加上藥品智財爭議又具高度複雜性(通常涉及專利問題)，實際訴訟時間會延宕更久。此情況不僅傷害台灣在國際上的專利保護聲譽，也使台灣有違反WTO貿易有關智慧財產權協定(TRIPS)第28條與第41條之虞。

目前在亞洲的日本、新加坡、南韓和中國均設有專利連結或類似機制，而歐盟國家雖無專利連結，但卻有完善的資料專屬權機制，足以防止學名藥在原廠專利到期前取得藥品核准。

資料專屬權

根據台灣的資料專屬權規定，法規單位在特定期間內不得核准學名藥。此一機制亦有部份缺失。例如，此機制僅適用於新化學成份（小分子）新藥，而不適用於新適應症和生物製劑（大分子）。若台灣政府欲鼓勵新適應症（藥品在醫療方面的其他應用）和新使用方法（如新劑型）的研發，應設法尋求上述問題的解決之道。

與十大先進國相比，台灣在資料保護方面敬陪末座。歐盟國家除了對新成份新藥、生物製劑以及甫逾專利之小兒科用藥提供10年的資料保護期之外，新適應症、孤兒藥和小兒科適應症的新藥並再分別給予1年、2年和6個月的額外資料保護期。加拿大的資料保護期則分別是化學製劑8年、生物製劑6年，小兒科用藥可額外再加1年。日本則透過“再評估期”給予8年的資料保護。美國提供化學製劑5年資料保護，生物製劑12.5年，新適應症和小兒科適應症可分別額外取得3年和1年的保護。

為使資料專屬法規更現代化，台灣可參考以下經驗。第一、加拿大2007年修法將資料專屬權由5年延長為8年，目的在於維持加拿大於全球藥品研發投資市場的競爭力。第二、生物製劑是新一代救命和改善生命品質的藥品；但與小分子新藥相比，生物製劑的研發需時更長，耗費資金更多，因此也應給予更長的資料保護期；是故美國給予生物製劑12.5年的資料保護。

我們建議：

1. 透過立法和制定相關程序，在新藥查驗登記準則中建置專利連結制度，以有效保護研發者的智慧財產權。
2. 專利連結機制應包含以下項目：
 - a. 聲明程序 — 由學名藥申請廠商切結主張原廠藥品之專利權無效。
 - b. 通知原開發藥廠 — 學名藥廠或衛生署應通知原開發藥廠有關學名藥申請案件。
 - c. 暫停審查 — 若有爭議發生時，應暫停審查程序至某一期限（在美國為30個月），直到協議達成，或學名藥廠證明未違反專利或證實專利無效。
3. 應給予新藥和新適應症資料專屬權如下：
 - a. 小分子產品的新適應症和新使用方法：3年
 - b. 新生物製劑：12年

建議四：落實醫藥分業 (SDP)

此項議題一直列在本委員會過去幾年的政策白皮書中。台灣現行制度下，醫師必須從醫院處方集中選擇開立處方的品項，然而醫院的處方集品項卻受藥品利潤因素影響甚鉅。政府應設法使醫院的醫師和藥師可完全以病患福祉為考量，作出處方專業判斷，而不必受制於醫院依利潤考量所採購的藥品清單。因此，衛生署與健保局必須思考如何補助醫院及診所，使其不需以藥養醫。社區藥局的藥師應擔任主要調劑者的角色，負責提供病患用藥及保健諮詢服務。藥局應可依規定獲得適當的藥品管理費用。

監察院2011年的健保調查報告顯示，實施醫藥分業對提升病患藥事照護品質十分重要。實施醫藥分業可以讓醫師根據其專業判斷開立最適當的藥物。同時，藥師也可擔任把關者的工作，避免不同醫師或醫院開出的處方有重複用藥或用藥禁忌的情形。

此外，亞洲大學的一項研究指出，慢性病連續處方箋可提高醫囑順從率，使病患臨床治療效果提升，甚至可降低整體醫療支出。然而考量驟然改變現狀可能遭遇的困難，業界贊成並支持逐步實施醫藥分業。署立醫院和台北市立醫院持續進行處方箋釋出計劃，目前已有良好成績。這項釋出計劃建立一個醫院、藥廠和藥局合作的最佳範例。希望未來能擴大實施成功的模式。

建議方案：

1. 建立醫藥分業實施計劃與時程。即使必須分階段實施，亦應明確制定實施方向。整合性實施計劃必須包含醫藥分業進行度的評估，並將該指標納入醫院評鑑項目之一。
 - a. 醫院評鑑應以實際調劑藥師人數與處方箋為計算基礎，公立醫院必須以身示範，設定處方釋出率。政府也必須替私立醫院訂出合理的處方釋出率，且對於未納入醫院評鑑的中小型醫院與基層醫療，亦應同步推動落實醫藥分業。此外，需調整醫療給付，使醫院不再需要依靠藥品利潤補貼醫療服務。醫院門診處方箋應強制釋出，由社區藥局調劑。
 - b. 當醫院處方量超過合理調劑量部分，健保局對於該處方箋除不給付藥事服務費，同時亦應不給付藥品費用，方符合公平正義原則。

- c. 合理調劑量的目的既然是以日為基準，健保局就應該以日調劑量為偵測目標，而非依現行之月或年平均值計算，此亦為健保局專業監督範疇可執行之目標，相關議題建議應請消費者團體與醫事法學團體介入，重新評估。
2. 加強對民眾的教育，宣導醫藥分業的優點。讓民眾瞭解實施醫藥分業可以提高醫療品質，並可藉由減少不必要的用藥來降低醫療資源的浪費，長期而言可擷節健保開支。
3. 政府應提供足夠資源協助改善社區藥局基礎設備，使其有能力處理因醫藥分業而增加的服務需求。
4. 制定明確法規以確保藥局的調劑品質，避免未經醫師同意而發生換藥情形。
5. 制定法規定期公佈個別醫院處方釋出資料。

公共衛生委員會

本商會新成立的公共衛生委員會提供產業界與政府及相關人士一個重要平台，透過意見交流有助於政策的宣導，並且讓台灣公共衛生上最迫切的需求透過產業界的建議得以傳達。本委員會將致力於促進國人健康，以及提升醫療照護相關政策的成效，包括疾病預防、健康照護管理、流行病學、預防醫學、環境健康及職業健康之政策和措施。

本委員會樂見台灣全民健保的成功經驗成為國際仿效的對象，國人對健保滿意度也很高。奠基在健保的成就之上，我們相信台灣可以吸收更多先進國家的成功模式，讓現有的醫療資源發揮更大的效用，並且有助於提升台灣的醫療水準，是以本委員會提出以下幾點建議，期盼作為政府提升國民健康計劃之施政參考。

建議一：減少並控制院內感染以提升病患與醫護人員的安全，以及醫療照護的效果

院內感染(HAIs)意即病患於醫療機構內受到感染。當醫療人員或機構沒有遵照感染病防治及控制措施時，這些疾病會在病人間傳染。院內感染常會對抗生素藥物治療產生抗藥性，且可能造成相當高的臨床、公共衛生及經濟成本，包括延長住院天數、殘疾、死亡以及高額醫療費，以及對病患及其家屬造成的負擔。降低院內感染是至關重要的，必須改善醫療結果及效能，也必須控制抗藥性帶來的威脅。幸運地，許多院內感染可以透過公共政策以及鼓勵性醫療設施，以執行全面性的防治與管理。

世界衛生組織(WHO)的報告指出，每年因院內感染得病者有數千萬人，其中預估已開發國家院內感染的盛行率為5-12%，而開發中國家則有5-19%盛行率發生。美國疾病管制局(CDC)表示，院內感染為美國前十大致死原因之一。2009年一份涵蓋75國的研究指出，受感染病人的死亡率為未受感染者的兩倍。院內感染對高危險群及加護病房(ICUs)中的病人特別危險，他們較容易受到感染並引起嚴重併發症。

院內感染會造成龐大、但可避免的醫療支出，舉例來說，在美國，每年院內感染相關的直接治療費用高達美金284億至338億(約台幣8兆520億至10兆140億)。「經濟合作與發展組織」(OECD)的報告顯示其所調查的國家中，院內感染每年增加的醫療費用為70-80億美金。根據陳瑛瑛教授的研究，估計每年台灣因院內感染增加的醫療成本達台幣3千零30萬(約100萬美元)。

幸運地，院內感染可透過有效的政策以及適當地措施控制。例如：密西根健康醫院協會之下的奇思通中心(Keystone，暫譯)在七年中成功減少了中心靜脈導管相關血流感染達四倍，估計減少了密西根州的加護病房3億美金的醫療支出。這些成果主要來自於精確資料的蒐集、文化與習慣的改變以及對合作醫院的獎勵。

抗藥性金黃色葡萄球菌與中心靜脈導管相關血流感染，是增加醫療成本和病人感染的主要因素，所以本委員會特別對此提出相關建議。

- A. 抗藥性金黃色葡萄球菌(MRSA)是造成院內感染的主要致病菌之一，對許多抗生素皆呈現抗藥性，成為臨床上治療的難題。台灣疾病管制局報告顯示，自2007年到2010年，醫學中心與區域醫院加護病房醫療照護相關感染常見菌株的前十名，皆包括抗藥性金黃色葡萄球菌。我們建議：
 1. 主動進行身處高風險區域病人之MRSA篩檢，例如：加護病房。
 2. 除每年公告加護病房之醫療照護相關感染常見菌株外，

另應公告一般病房之數據。

- B. 中心靜脈導管相關的血流感染
- 衛生署「醫院感染管制查核作業查核基準及評分說明」已將特定的侵入性醫療裝置(包含中心導管、導尿管與呼吸器等)進行感染監視，本委員會肯定衛生署之政策並建議：
1. 以「獎勵」機制推動醫療機構提升醫療品質。
 2. 感染發生率較高的「中心導管」因涵蓋的醫療裝置類型廣泛，應公告區分各類型中心導管(包含 CVC、PICC 與 Port-A)發生院內感染的比率，以利未來加強特定類型中心導管的感染管制並擬定改善計畫。

建議二：藉由嚴格落實現行醫療法有關使用安全針具的規範以保障醫護人員權益

醫護人員是醫療照護體系中最重要的資產，然而他們經常因針扎或其他尖銳物傷害，暴露在感染血液傳播病原菌的風險中。為保障醫護人員，立法院於2011年底通過醫療法第56條、101條修正案，規範醫療機構應在五年之內按照比例逐步換用安全針具。透過立法保障醫療人權，是見證台灣醫療進步的里程碑。依第56條的規定，立法後安全針具使用率每年應增加20%，即2012年底使用率應達20%，到2013年底達40%。然根據針具類健保申報的資料，到2012年8月安全針申請健保比例僅佔0.34%，遠遠低於法定目標。有鑑於此，2012年11月立法院衛環委員為監督醫療機構配合醫療法56條規定的執行成效，發文衛生署要求訂定安全針具使用率每年依法增加20%的配套政策。下述措施將有助於強化法案的執行：

- A. 衛生署盡速訂定落實使用安全針具相關實施辦法及時程，以及將使用率每年增加20%列入醫院評鑑必要項目。
 1. 頒布相關辦法及時程，使安全針具的立法得以落實。
 2. 楊前署長志良在他的著作「拚公義，沒有好走的路」曾提出醫院評鑑多半作假，2012年11月立法院公聽會醫勞盟也質疑醫院評鑑不實，批評醫院僅在評鑑時提供安全針具，未真正落實使用。如果這些批評屬實，不只是醫護人員被置於險境，並且醫院評鑑的公正性也會遭受質疑。為督促醫療機構配合法令，評鑑時應經由下列二種方式查核醫療機構是否確實依法執行：
 - 比對安全針具申請特殊材料健保給付占所有針具健保給付之比例。
 - 對於手術及檢查過程中使用的安全針具，無法申報特殊材料健保給付者，建議查核醫療機構針具類採購紀錄。
 3. 每月公布各醫療機構及全台灣安全針具使用率於衛生署網站。
- B. 建議行政院監督衛生署與勞委會，建立更健全的強制針扎通報機制，規範所有針扎事件都應通報至EPINet針扎通報系統以減少低報。此外建議行政院責成衛生署及勞委會每年均編列預算維護針扎通報系統。依勞工安全衛生設施規則的規定，雇主有責任提供安全的工作環境以預防職業傷害，例如針扎，因此目前EPINet是由勞委會勞工安全衛生研究所管理。然而落實使用安全針具的政策是由衛生署訂定及負責貫徹，針扎通報資料可供衛生署監測安全針具使用落實情況及做為施政之參考。
- C. 為推動醫療法56條及101條修正案，建議衛生署於醫院總額之外另提撥足額經費補助使用安全針具以落實法案，而非將全針具之使用成本內含於現行總額。

建議三：提升子宮頸癌前期預防與篩檢成效

子宮頸癌預防目前認為有雙重措施，第一重為預防早期致病型人類乳突病毒的持續感染，第二重為定期接受子宮頸抹片檢查。約99%子宮頸癌與人類乳突病毒的感染有關，因此在預防致病型人類乳突病毒(HPV)的感染上，WHO建議的策略為早期進行疫苗施打，早期的定義為女性未開始性行為之前(9-13歲)，臨床實驗中早期施打族群，不論後期癌症預防效果或是血中抗體濃度皆能呈現最佳效果，針對全面族群施打亦可阻斷人類乳突病毒藉由性行為傳播而產生群體免疫。不論日本、新加坡、歐洲各國皆列為重要公衛政策進行學齡女童全面施打，美國疾病管制局(CDC)的疫苗接種諮詢委員會(ACIP: Advisory Committee on Immunization Practices)亦將HPV疫苗列為建議常規接種疫苗。

因缺乏強勢公衛政策宣導，目前台灣婦女接受致瘤型人類乳突病毒疫苗(HPV)接種的比例低於20%，子宮頸抹片檢查比例也和已開發國家相差很多。自民國86年國民健康局推出三十歲以

上女性每年一次免費子宮頸抹片篩檢，在推廣30歲以上婦女每費接受子宮頸抹片檢查後，婦女自我保護意識提升，30~69歲婦女近3年曾接受抹片篩檢率由1997年的37.8%提升至2000年的60%，16年累積申報參與率也高達88.6%。其篩檢成效，已反映在子宮頸癌侵襲癌發生率及死亡率的下降，侵襲癌發生率降幅53%、死亡率降幅60%，證明推廣子宮頸抹片檢查是有效的。然而，台灣的篩檢率仍然太低，大部分婦女仍遭受子宮頸癌的潛在威脅，而其盛行率及死亡率仍遠遠落後其他已開發國家。如下表摘自世界衛生組織2010年公布的報告顯示：

國家	盛行率	死亡率
台灣	10.2	4.2
澳洲	8.5	2.5
英國	8.3	3.1
瑞士	8.3	1.7
日本	8	2.8
荷蘭	7.3	2.3
芬蘭	4.3	1.8

單位：每十萬名婦女

除了實行率不夠理想(年篩檢率約30%，累積三年篩檢率約50%)之外，改善篩檢品質並降低偽陰性是刻不容緩的要務。根據國健局2009年年報(目前最新資料)，抹片難以判讀的件數約有34,000件，佔1.4%，相較其他先進國家難以判讀的比率約為0.5%，台灣高出將近三倍。許多新科技的利用有助於改善篩檢品質，例如液基細胞學檢查、全自動讀片系統可，可提升子宮頸癌篩檢計畫的成效。

我們建議：

- A. 國健局評估提供16歲以下少女免費施打致瘤型人類乳突病毒疫苗的可行性。
- B. 更大力推廣子宮頸癌篩檢，例如國健局每年公布子宮頸癌篩檢年報，教育大眾子宮頸癌篩檢的程序及好處。
- C. 鼓勵使用如液基細胞學檢查的新科技，改善篩檢品質並降低偽陰性比例。

建議四：政府提高醫療支出預算促進醫療品質提升

馬總統2008年競選的白皮書承諾要將醫療支出佔國內生產毛額的比例提高到7.5%，其後更在2009年、2010年、2012年數次公開發言提及要在八年內將這個比例從6.2%增加到7.5%。不過實際上這個比例從2009時的6.92%就往下掉，在2010年時降到6.51%，2011年為6.62%。根據世界銀行2010年的統計，醫療支出佔國內生產毛額的比例在其他已開發國家為：德國8.7%、日本9.5%、英國9.6%、加拿大11.3%、法國11.9%、美國17.9%。

全民健保已經施行了17年，但全民健保的支出佔所有醫療支出的比例低於60%，換句話說，有超過40%的醫療支出是來自民眾自費。因為人口快速老化，對醫療照護的需求也增長迅速，相對的可提供醫療體系財源的勞動人口也在縮減。我們建議行政院評估人口老化將帶來的醫療支出增加，並且擬定計畫在2018年前將醫療支出佔國內生產毛額的比例提高到7.5%。

世界衛生組織2010年年度報告指出，全球20%至40%的醫療支出是浪費的。而台灣同樣面臨醫療支出浪費的難題，據統計國人每年平均就診次數15次，相較歐美平均4-7次高出甚多。監察委員黃煌雄估計每年民眾拿藥卻不吃的浪費高達台幣300億元，而健保局2011的報告則指出門診支出佔健保總支出的68%。

健保局不斷宣導希望民眾自主管理以節約健保資源，然而因為健保對就醫及醫院的選擇上少有限制，故民眾在使用醫療資源時自然傾向以自我利益為優先考量。除了教育民眾，更有效的做法是健保局加強門診的控管，確實約束一病多看的患者，才能有效減少浪費，使更多醫療資源可以用在住院和急重症的給付上。

現行健保總額制度的限制並不公平，因為會將成本壓力移轉到醫療服務提供者身上，最終演變成自費的形式或降低醫療品質而轉嫁到病患身上。健保局可增加其支出佔國內醫療總支出的比例，並且持續提高健保支出促使公部門增加醫療支出。本委員會建議健保局規劃提高手術及各項急重症治療的健保給付，特別是增加具高風險或複雜度高的手術、以及創新科技治療方式的給付，一方面可以減少重症患者自費醫療支出的比例，中低所得者也有機會接受更好的治療，同時有助於提高醫護的收入，防堵醫事人力的流失。

建議五：預防與治療肥胖、糖尿病、以及心血管疾病

聯合國指出，癌症、心血管病、糖尿病及慢性呼吸道疾病等慢性疾病的死亡占全球死因的63.5%，影響各國經濟發展。根據健保藥費申報統計，用於治療心臟病、高血壓和糖尿病等「三高」疾病的藥品，包含複方製劑每年總計超過300億元，佔2011年健保核付醫療費用的6%以上，若加上三高疾病各種併發症的醫療成本，佔健保支出的比例更是可觀。

肥胖為導致慢性疾病的重要因素，為免三高疾病及併發症造成健保更大的負擔，趁早預防減少三高疾病的發生率，以及對相關疾病有效的治療有其必要性。本委員會對此提出下列建議：

- A. **優化青少年肥胖的預防專案。**國民健康局推行的肥胖防治專案正在顯現正面的效果。但是此時我們需更重視青少年肥胖問題，因為他們很可能會在將來成為過重或是肥胖的成人，繼而成為成年人健康問題的高危險群。從台灣教育部的統計資料顯示，高中和國中的男學生在過去十年內，肥胖率成長超過60%，而女學生的肥胖率則是成長25%。我們期望政府能正視這樣的問題，在政策上做出適當的反應，包括：強化高中和國中的營養師計畫，給予足夠的專業營養師人力及賦予他們權力，能夠真正監督學校的營養午餐，確保學生們吃到符合營養標準的食物，而不是紙上談兵，僅管理食譜配菜而已。同時，我們透過提供青少年學生們營養知識，可以幫助他們和家人了解如何吃得健康和預防飲食相關疾病。青少年也應該學習如何計算自己飲食的熱量，如何管理自己每日的營養攝取，以及如何從適當的營養品補充上獲益。
- B. **積極預防與控制糖尿病。**三高疾病中，糖尿病是二十一世紀罹患率增加最快的慢性疾病，根據2012年臺灣醫誌上發表的一份研究指出，台灣糖尿病及其併發症造成的健保支出到2009年為止已高達千億元，因糖尿病控制不良引起併發症導致的醫療成本很驚人。台灣用於洗腎的健保費用每年高達300億台幣，而其中有40%是由糖尿病的併發症所引發；有近三成糖尿病患者併發腎臟病，七成併發心血管疾病，而第二型糖尿病患者約有百分之七十五最後死亡原因為動脈硬化症。儘管控制血糖對減少糖尿病併發症很有效，然而台灣僅有1/3的病患血糖控制達到目標。研究證實，糖尿病患早期使用胰島素治療可以提升血糖控制成效，歐美國家胰島素使用率為40%，台灣接受胰島素注射的糖尿病患約僅15%，然而台灣可能至少有30%的病患需要借助胰島素治療來改善血糖控制。台灣使用胰島素治療比例偏低的主要原因是病患錯誤認知，排斥「打針」。建議國健局加強糖尿病衛教，鼓勵病患接受有效的治療方式，把握控制病情的時機，才能減少併發症產生。有關胰島素治療，因健保局及醫院為節省成本，刻意短少開立胰島素注射針具處方數量，迫使病患重複使用注射針。重複使用胰島素注射針會直接影響糖尿病治療，因為這會造成脂肪增生，即注射部位不正常的組織增生且會減少施打胰島素的療效。有48%的糖尿病患都有脂肪增生，因此立法院院會決議，要求行政院監督健保局落實針具僅限單次使用，嚴懲重複使用，並不得違法核刪注射針之費用。為維護台灣的醫療品質並捍衛國人健康及權益，建議行政院及健保局確實執行立法院有關針具僅限單次使用之決議。
- C. **建立良好的生活習慣，同時配合定期身體檢查，以有效降低罹患心血管疾病。**向來飽受心血管疾病頭號死因困擾的美國，近年來因為預防有道，罹患率已經比過去降低了10%，死亡率更減少了28%。對於心血管疾病高危險群的三高患者，建議國健局除了鼓勵患者建立健康的生活習慣及規律運動之外，也應該定期接受身體檢查，因為許多心血管疾病的初期，患者生活上通常沒有明顯的感受而疏於防範，及早發現心血管疾病可以及早治療，提高病患生活品質及降低醫療成本。

建議六：改善長期照護政策及法規

因應台灣人民平均餘命的延長，長期疾病照護需求的增加成為病患家庭照顧及公共健康及福利系統的負擔。本委員會注意到台灣政府目前並沒有任何明確的政策以因應急速老化的社會，台灣因此亟需一套完整的長期照護政策

我們特別敦請政府加速落實整合現行不同法規針對老年及殘

障人士的福利服務，以提供一套完整的長期照護服務法，落實完整的長期照護服務。欠缺完整明確的規定及標準將導致無法落實照顧真正有長照需求的病患，也無法確保病患的長期照護的權益。

本委員會也促請政府修正法規架構，允許專業醫療保健公司進入居家照護領域。在考量老年公民人口數及慢性病患者人數的增加、醫護人員人力短缺、醫院過量負荷及家庭過重的負擔的狀況下，開放居家照護服務市場給專業且有能力的病患提供高品質服務的醫療保健公司是極為必須的。

目前的法規僅允許非營利組織、醫院及護理人員經營居家護理所。這樣的限制阻擋了合格的醫療保健公司進入居家照護的領域，因此，實務上常見營利性的醫療保健公司使用醫護人員掛名取得營運許可。如此的限制，對一般營利性的醫療保健公司是不公平的，因為這些醫療保健公司與醫院及專業護理人員一樣有能力提供居家照護服務。況且，允許醫療保健公司使用人頭取得營運許可的漏洞也可能造成這些公司可以逃避其應負的義務及責任。

我們因此敦請政府重新考量並於更訂的長期照護政策中納入開放居家照護營運許可給具專業醫療照護能力的一般公司。如此的變革可使得有需求的病患能夠享受到有成本優勢的醫療照護專業公司提供的服務，同時確保專業公司實際對其居家照護的服務營運負責。

不動產委員會

2012年台灣政府公布數個不動產相關政策對整體不動產市場產生相當大的影響，包含住宅貸款限制令、實價登錄及保險業不動產禁買令等。商業不動產及住宅市場於相關政策實施後成交量急速萎縮，價格亦出現波動。本委員會肯定台灣政府在不動產價格透明化及防止不動產泡沫化的努力與決心，但同時亦察覺到部分政策對於未來市場發展可能會產生的負面作用。為了使台灣在未來仍能持續吸引外資前來投資，我們在此提出數項政策及法規修正建議，期望與相關單位進行討論，確保台灣不動產市場的健全及優勢。

建議一：解除保險業投資商用不動產禁買令，使其得以策略性分配資產，達到獲利及充分避險的目的

2012年第四季台灣金融監督管理委員會公布實施一系列的保險業商用不動產禁買令(俗稱「金八條」)，目的係為緩和過熱的商辦投資市場及急速上升的價格。主要條文內容明定保險業者僅能投資於現有或興建中的建物，現有建物必須有60%以上的出租率，且租金收益需大於2.875%以上。建物取得後，五年內禁止轉讓出售。在土地投資方面，保險業者於取得土地後，視建照取得與否而定，九個月內須開始動工或提出建照申請，施工期需於五年內完成。土地逾十年內並禁止出售轉讓。

而即便上述條件全部符合，金管會仍可禁止保險業者購買不動產。舉例來說，曾有一家保險公司有意購買一層辦公大樓作為自用，金管會最後還是以抑制市場過熱為由，決議暫緩交易。

本委員會力促金管會全面開放保險業者投資商用不動產，並允許自由配置資產。保險業者之主要收入來源為保戶繳納保險費，於保單到期或賠償時，業者需償付約定之金額。因此，為確保保險業者有償付各保戶之能力，保險公司須策略性進行多元化的資產分配，以達到避險的目的。政府對於不動產市場過熱的擔憂，可以藉由策略性調整最低租金報酬率、稅賦政策等等措施來的控制。

壽險業因仍有充足資金，保險公司積極尋求包括公共建設在內等投資標的來分配資產。政府鼓勵保險業者投資公共建設，不僅提供壽險業者另一分散投資風險的投資選項，更可分攤政府興建公共建設的財務負擔。

建議二：修正環境影響評估法中要求開發高樓建築須實施環境影響評估之規定，以增加建築設計彈性及都會風貌的多樣化

台北市地狹人稠，可發展土地極為稀少。台北市主要商業區的新建物多為20至30層樓高，而周邊則仍充斥著四至五層樓高的老舊建物。反觀香港及新加坡的天際線有十足的大都會風貌，建築設計多變，型態豐富。在香港一般高樓樓高約為35至120層，新加坡則為30至70層，均超越台北二至三倍。香港的建物高度管制，主要考量因素為飛安、基地特性、周邊建物高度、視

覺效果、風洞效應、都市設計及對整體天際線的影響等。惟有當開發案位於環境敏感區域、量體可容納人數大於十萬人以上或開發面積大於二十公頃時，才需要進行環境影響評估。

反觀台灣，除飛航高度管制外，「環境影響評估法」第五條要求高樓建築於開發時，應實施環境影響評估；此外，「開發行為應實施環境影響評估細目及範圍認定標準」第二十六條並定義高樓建築為住宅大樓高於三十層以上或高度一百公尺以上，辦公、商業或綜合性大樓，樓層二十層以上或高度七十公尺以上者。

雖然環境影響評估能了解建物開發對當地環境的影響與衝擊，但環評報告由撰擬到審核完成所需時間長達一或數年，因此開發商在資金及時間等成本壓力考量下，通常將建物設計於法規要求內，藉以避免實施環評。如此一來，導致台灣許多大樓的建築外觀及高度極為類似。本委員會建議相關單位調整高樓建築的定義或將環評實施標準放寬，讓開發者在建築開發上更具彈性，以提升台灣的城市美感與都會風貌。

建議三：放寬大陸企業或個人來台投資及購置不動產

本委員會認為，陸資來台投資及置產對台灣經濟及投資市場皆具正面效益。2009年至今年三月以來，經濟部投資審議委員會核准陸資來台投資申請共371件，共計6,500萬美元。大多數來台的陸資企業為製造業，直至今今年3月始有第一筆陸資核准投資於觀光飯店。現行法令僅允許陸資投資於製造、服務產業及部分公共建設開發案。其中「大陸地區人民來臺投資許可辦法」第三條定義陸資為大陸地區人民、法人、團體、其他機構或其於第三地區投資之公司直接或間接持有該第三地區公司股份或出資總額逾百分之三十。一旦被認定為陸資即面臨投資項目限制，投資許可申辦處理程序較為冗長，核准後每年兩次必須向政府提交財務報告。

同時，「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」第七條選規定大陸地區法人、團體或其他任何機構、個人僅得因業務及其人員所需居住或營業之需求購置台灣地區不動產。結果是，大陸人士無法像其他國家人民一樣，純為投資目的來購置台灣地區不動產。

此外，政府制定其他限制大陸投資者參與台灣不動產市場的法案，進一步使得陸資無法進入台灣市場。例如，「台灣地區與大陸地區人民關係條例」規定大陸地區團體或個人非經許可不得在台灣取得、設定或移轉不動產物權。而駐台陸資企業除經主管機關同意外，不得任意僱用大陸地區人民。

住宅市場對大陸人士在臺買賣自用不動產亦有相當的限制。根據「大陸人民在臺灣地區取得設定或轉移不動產物權許可辦法」條文其中的「5、4、3條款」，即房貸最高5成，每年只能來台居住4個月，且3年內不得出售轉讓。

任何企業設立海外辦事處，其主要考量因素包括營業場所大小、本地員工聘僱，以及由總部指派至駐地之主要幹部的住房需求。綜觀諸多法規對於大陸地區企業及人民來台的限制，如何能吸引更多陸資前來台灣？

本委員會建議針對陸資來台投資相關法規進行修正，增加允許投資種類、降低陸資認定標準並降低不動產取得門檻及限制。若政府擔憂開放陸資投資不動產會造成不動產價格飆漲、市場過熱，可參酌香港或新加坡，運用賣方特種印花稅等稅賦機制來抑制投機。本委員會也不認為必須過度考慮相關投資對台灣國家安全的影響，因為目前投資審核制度上已有足夠的檢查預防機制。

建議四：修正有關限制大陸地區不動產開發及交易在台灣地區從事廣告或行銷活之規定

今年第一季開始金管會相繼放寬台灣壽險業赴國外投資的限制，其中並鼓勵其投資含中國上海、紐約、倫敦、法蘭克福、多倫多及胡志明市在內等六大海外城市。但開放後，相關法令卻沒有配套修改，例如「臺灣地區與大陸地區人民關係條例」及其子法「大陸地區物品勞務服務在臺灣地區從事廣告活動管理辦法」，仍禁止中國不動產開發及交易在台灣進行廣告或行銷行為，一旦違反將對業者開罰。倘若國內企業於大陸置產並欲進行租賃或買賣行為，但又礙於法令限制無法於台灣地區進行宣傳，台灣投資人或潛在租戶恐有資訊不足之虞。故本會建議現行法規應配合金管會相關措施進行調整修訂。

零售委員會

零售委員會所關注的諸多問題中，過去一年持續有一些進展。雖然各政府部門之間在行動步調和思想開放的程度上有明顯的差異，整體而言政府已大步向前邁進，更多的機構在政策決定時開始以務實的成本效益分析為基礎。我們希望此種進步的思維方式和它們體現的服務文化將成為其他部門的模範。

例如，衛生署(DOH)已許可屬於類別1(低風險)的醫療器材在網站銷售。這項值得注意的態度改變，代表衛生署認知到因科技之發展，在購買行為和消費者為做出明智採購決策而取得必要資訊的方式上，已形成了與全球同步的轉變。隸屬衛生署的食品藥物管理局(TFDA)亦已簡化了延展含藥化妝品許可證及延展廣告許可的流程。同時，國貿局就其職掌，加速了對中國產品禁止進口的審查，使更多的品項得從禁止進口名單中移除。

我們希望自由化的趨勢將繼續甚至著力更多，對在此市場經營的公司減輕法規的包袱，並讓臺灣消費者能享受所有可提供的選擇。於此同時，委員會仍然對於許多「台灣特有」的法規感到擔憂。有鑒於臺灣已是相對較小規模的零售市場，如果臺灣希望於全球商務被視為一個重要的成員，偏離標準國際慣例的作法恰是反其道而行。

針對新、舊議題，我們提供以下建議，盼作為主管機關完善零售業市場的參考。

建議一：就消費者保護法修正草案接受合理的修改建議

由隸屬行政院的消費者保護處(DCP)所起草的消費者保護法修正草案刻正進行大幅修訂。擬議的修訂主要問題之一是授予行政部門權力，得就廣泛的消費交易型態介入其定型化契約，規定「必須有」及「不得有」的條款及條件，並得選擇特定行業類型強制適用該等「必須有」及「不得有」的條款及條件的指導方針。此外，如果某公司使用的是定型化消費契約，政府得派員就特定的目的及檢查範圍檢查該公司的業務營運。尤有甚者，「定型化契約條款」的定義廣泛到甚至包括海報、立牌、牆貼、戶內及戶外展示、螢幕顯示等等。

這些擬議的修訂顯示台灣政府正準備實施極為激進且從未見於其他市場的作為。這種作為出現在一個民主社會和自由市場經濟極不恰當，因為政府官員不能進入私有財產進行未經法院允許的搜索檢查，而且民間私人契約的自主權應受到基本的尊重，如有爭議，這些契約的公平性應受法院管轄，而不是由行政機關決定。

修正草案的其他方面也令人擔憂。例如，消費者得於七天內，不須原因即得就所有類型的產品和服務要求退貨、退款。這項政策就某些類型的產品和服務顯然不可行(如軟體和服務，其型態為無形商品或轉瞬間完成交付)。儘管修正草案賦予被指定的政府機構，如經濟部(MOEA)，於此修正草案授權下，得針對某些類型的產品和服務作出排除適用的決定，產業界擔心，有鑒於消費者民粹主義在台灣的龐大力量，政府有關機構很可能無法實施合理的排除適用。本委員會在此敦促行政院消費者保護處(DCP)應修改該草案，納入明確合理的例外情況，例如那些在歐盟、日本和其他主要市場的類似立法中已明確定義的例外。

另一個例子是，修正草案要求，於消費者就其經由網路或通訊交易或訪問交易方式購買之產品和服務做「七天內解約」時，企業經營者須於15天內把產品領回並退還全額款項。對於許多本地企業，以及很多跨國企業 - 尤其是那些會計帳務處理作業位於他國的跨國企業，此15天內退款的要求忽略了實務作業上不可可能的問題。

持平而言，我們肯定並感謝消費者保護處就部分條款已接受業界合理的建議。我們希望消費者保護處和行政院在提交修正草案到立法院之前，為了進一步改善草案修訂，仍維持開放態度聽取其他的建議。

建議二：廢除不必要且無益處的標示規定

消費者保護是非常重要的價值，但部分政府單位為保護消費者，過度強調消費權益之保護而對產業設置了非必要障礙，這些措施不僅沒有實益，而且在某些情況下甚至損及消費者權益。

其中一個例子為經濟部商業司所負責的商品標示法，其規定進口產品除了進口商資訊外，仍應標示製造商名稱、電話及地址。由於消費者保護法第9條明確規定輸入業者應對其產品負責，因此實無需要一併揭露製造商資訊於產品上，而且台灣的消費者若對於進口產品有問題或客訴，實際上並不太可能想透過越

洋電話與不會說中文的人員聯繫。在服飾、織品、文具品項或食品（食品藥物管理局所負責）並無類似之規定。現行法規下，若製造商基於保密因素而不欲對外透露其名稱、電話及地址，進口商將被迫放棄來自於這類廠商之產品，消費者的選擇反而受到限制。我們要求經濟部重新檢視上述標示規定的合理性並且適度加以修正。

另一個不合理的規定是要求一般商品應標示製造日期，例如衛生紙、鏡子、洗衣籃、鋤頭等，這些產品均非易腐商品，因此上述規定並無必要。其他國家，例如美國亦無這樣的規定，而包含服飾、織品、文具和鞋子類等產品在台灣也無同等要求。若主管機關仍決定保留製造日期之標示，我們建議若可以在標示上向消費者直接提供解碼方式，則至少應允許製造日期資訊得以代碼方式呈現。16年前經濟部曾以台灣消費者對於四碼的日期標示並不熟悉為由，拒絕接受上述建議，如今，隨著時間以及消費知識的增長，我們建議經濟部重新檢視本議題。

另外，本委員會亦請求審視視類標示，現行法規規定此類商品即使以量販包裝出售，仍應於每一雙襪子的本體加上中文標示。為符合這項規定，其所需的額外勞動成本勢必轉移到消費者身上，由於量販包的外包裝上已有完整的產品資訊，為符合現行法規而於其每雙本體再加上額外之標示往往會破壞產品品質，我們認為僅外包裝之標示應足以符合標示規定之精神。

除了經濟部主管的標示規定外，本委員會同時欲針對環保署的回收標示提出建言。回收符號在世界各地主要目的是提醒民眾當看到產品（例如盒子、罐子，塑膠包裝等）載有該符號時代表得以回收，換句話說，使用者基於環境保護的目的，應將回收產品置於適當的地方。同樣地，塑膠分類標誌於1988年問世，其目的是讓全球的製造商在一致的分類下得以不同符號表示不同的塑膠材質，讓消費者以及後端的回收廠商便於後續回收工作。

綜上所述，針對台灣市場所獨有的四角型回收標誌，本委員會並無法於塑膠容器上找到該規定所帶來的附加價值。事實上，要求塑膠容器再額外加上四角型回收標誌所衍生的額外成本及時間的浪費，著實減弱了台灣貿易的吸引力。我們再次重申去年的訴求，希望環保署接受塑膠分類標誌為回收符號的一種。

建議三：維持牙膏為一般商品之現狀產品分類

非藥用牙膏於台灣被歸類為一般商品已有數十年，主管機關為經濟部。自2011年，經濟部與食品藥物管理局提案建議將非藥用牙膏及漱口水變更為化妝品後，本會已將業者面臨之困境於2011及2012年之白皮書中向政府陳述，但不僅未見主管機關有正面回應，反之，行政院消費者保護處卻於2012年之會議中決議，進一步指定衛生署為非藥用牙膏及漱口水等產品之中央目的事業主管機關。據此，食品藥物管理局現正草擬中的化粧品衛生管理條例第3條修正草案，仍將非藥用牙膏及漱口水納入其中。本會建議衛生署停止此項草案修訂，理由如下：

1. 現今台灣對於牙膏之管理制度與許多主要之國外市場一致。例如在美國，含氟牙膏之歸類為成藥（不須查驗登記，但所有藥品必須經FDA列示），在日本之歸類為成藥（需查驗登記）。雖然大多數牙膏在台灣被歸類為一般商品，但其亦遵循上述國家之法規管理趨勢，即牙膏若宣稱療效或含氟量超過1500ppm時，則被歸類為藥品而須查驗登記。
2. 經濟部表示，此作法的主因是經濟部對這兩種產品，不具足以規範廣告宣稱效能，以及健康／衛生相關議題的專業。我們無法理解經濟部的擔憂，因為儘管一些政府機關是相關產品或服務的主管單位，但公平交易委員會以及消費者保護處，才具有管理所有廣告的直接責任。同樣的，衛生署和食品藥物管理局擁有專業以及管轄權來管理所有涉及健康／衛生事宜的產品與服務，不論這些產品或服務的主管機關是哪個單位。例如，衛生署有最終之權責規範一般牙膏得宣稱之效能詞句，並決定某一成分是否應歸類為藥品或是該成分是否會對人體產生安全之虞。此外，經濟部所質疑的相關牙膏宣稱（例如：抗敏感、減少牙菌斑、減少牙周病及牙齦炎之發生率等），均係經過衛生署許可並公告為一般牙膏得標示之詞句，且牙膏中是否有涉及藥理或毒性成分，本就屬於衛生署管轄。在此情況下，若經濟部針對某一宣稱是否影射療效或某一成分是否會有健康安全之虞時，其可尋求衛生署之協助。經濟部與衛生署二個主管機關間之權責除劃分地相當清楚外，且並無任何強迫性的理由必須將一般牙膏重新歸類成化粧品

或是將主管機關從經濟部轉移至衛生署。更有甚者，消費者保護處之決議亦進一步釐清，任何針對牙膏商品有不清楚之疑義時，主管機關為衛生署。此外，若政府意欲提供消費者更透明的資訊或更多的注意警告訊息，經濟部現今自可依職權要求牙膏業者於標示上將相關資訊納入。

3. 即使立法院通過該修正草案，將牙膏之主管機關改成衛生署，目前上市後稽核之管理制度並不會有任何改變，而業者仍依照現有的自主管理模式，上市及管理其商品，此與現狀並無不同且並無提供消費者更多之保護。
4. 現今與化粧品衛生管理條例相關之法規或命令在制定時，並未將牙膏商品納入考慮。牙膏業者必須重新評估他們的成分是否符合化粧品之規定，且有可能必須更改配方。若有更改配方之需要者，其後更需就有新配方進行多次的安定性測試。這些程序相當費時及昂貴，而牙膏因應新法規而產生較高的額外成本費用勢必轉嫁給消費者。我們認為，牙膏和漱口水兩類商品的主管機關轉移實無必要，行政院和衛生署應避免會造成政府部門以及商業環境額外行政負擔的法規變革。

建議四：改革化妝品相關之規章制度

本委員會感謝食品藥物管理局致力於法規改革與借鏡國際規範以調和標準。我們藉此也提出一些重要議題供食品藥物管理局參考：

A. 衡平法規國際化

近來食品藥物管理局在制定新法規時，主要參考對象為歐盟的產品標準與法規要求，但作法是從多國法條中部份挑選再予以結合，而非自單一法規整套採用。其結果是法規的包羅萬象而政策缺乏一致的邏輯性。例如：

- 禁用或限制成份 - 在歐盟，大約有1,500種化妝品成份被禁用或是有最低許可濃度的限制，但生產者可以提出放寬禁用與許可濃度的要求，而這類要求被准許的例子所在多有。在台灣，大約有300種成份不是完全被禁止使用，就是最低許可濃度比大多數國家低許多，且要求放寬的申請迄今均遭拒絕。相反地，在日本與美國，被管制的成份不超過30種，若如預期，食品藥物管理局採用歐盟全部禁用成分與最低濃度許可標準，卻又維持現行絕無例外的政策—即使是那些在歐盟已經被放寬的成份—那麼很多產品將無法引進台灣市場。

• 產品資料檔案(PIF) -

食品藥物管理局正計畫建立一系列的PIF規定，此規定要求生產者提供許多技術性文件留廠備查，特別是針對產品安全、品質、與功能宣稱之佐證。食品藥物管理局欲結合歐盟與東協標準，建立出同類法規中全球最嚴格的規則。再者，食品藥物管理局對技術性文件的許多要求缺乏透明度與明確性，而是根據法規管理者的任意決定。因此，當被要求查核文件時，很多化妝品公司可能會陷入不合乎法規的高度風險，而面臨嚴格的處罰甚或需回收產品。美國與日本並沒有PIF制度，而台灣受限於市場規模，往往未能專為其準備技術性文件，導致並非所有在台的美國或日本公司都有能力達到PIF要求，形成一個潛在的因技術而構成的貿易障礙議題。食品藥物管理局版的GMP則是另外一個因結合不同區域的法規而構成的類似困境，這也可能讓化妝品產業因台灣單一且高度限制的要求而陷入法規難題。

我們強烈建議食品藥物管理局更常定期地與業界代表會面，以更加了解他們的想法，以避免出現過多「台灣特有」的法規。

B. 修正「更正廣告」與「商品下架」政策

本委員會對於化粧品衛生管理條例將廢除廣告事前審查一事，衷心地表示感謝；但是取而代之的兩項做法：要求廣告被視為「情節重大之虛偽或誇大」的業者必須刊登更正廣告、以及必須將商品下架，我們不得不提出嚴重關切。草案規定衛生主管機關可以根據廣告內容決定某個廣告或宣稱是否構成「情節重大之虛偽或誇大」，而不是以安全或衛生的角度決定。主管機關做出決定後，違規業者必須在主管機關所認定的時段、期間與適當的媒體，刊播道歉啟事及更正聲明。此外，草案並授權衛生主管機關得無限期地禁止業者散布、陳列、販賣特定廣告商品，其根據亦非安全或衛生之考量，而僅是因為行政人員評判為內容不實。

在台灣，當事廣告是否合乎規定與罰則時，被指控之業者或個人都能享有正當程序之保護，此正當程序若非來自司法，就是來自諸如公平交易委員會之高度專業之審查機構，或二者兼有。但食品藥物管理局的提案既無必要之正當程序保護，又缺乏可靠之決策過程，如前所言，這將會賦予衛生主管機關控管所有廣告宣稱的權力，而非只是與健康、安全、或生理功能有關之面向，如此廣泛地授權將逾越衛生署的法定權限以及管理者專業範圍。此草案內容將賦予衛生主管機關過大的權力，使其有能力摧毀業者的聲譽及品牌價值，甚至剝奪該業者進行合法商業活動之權。為確認廣告是否具合法性，而將此等權力置於行政人員之手，將會是國際上前所未聞之舉。

若要允許未受專業訓練的行政人員任意地行使大於法院所具有的權力，單以廣告去決定某家公司之命運，我們嚴肅地質疑這種思維。做為一個法治國家，我們強烈懇請衛生署與食品藥物管理局自立法院撤回此項不合宜之提案。

C. 進行廣泛的討論，建立廣告自主規範

我們讚賞食品藥物管理局以官方立場支持建立業者廣告自主管理，以目前的規劃看，食品藥物管理局正準備採用比現行模式更滴水不漏與瑣碎的「可宣稱與不可宣稱」管理方式，以規範廣告文詞之使用。但由於食品藥物管理局既缺乏有效率地處理非涉及健康或衛生文案的能力，又不願超越現行廣告審查的標準，於是提案的準則在更多面向上維持嚴格限制。

廣告，尤其是化妝品廣告，堪稱是科學、商業與藝術之動態結合，我們認為食品藥物管理局可以建立一個更寬廣包容的廣告管理機制，充分考量產業界代表的意見，為改善法規監管透明度建立原則性規範。我們建議食品藥物管理局研議指派專業的非政府組織來負責監控化妝品廣告及判定其是否遵循法規之可行性，此做法可確保廣告相關事項，例如廣告準則規畫、合法性監督、業界競爭調解及消費者爭議等等，均可由受委任之專家來處理。這樣的形態已成功地在很多國家運作，包括美國、許多歐盟會員國、日本、南韓、新加坡、香港、菲律賓、以及印度，而消費者絕對是最終受惠者。政府與業界努力合作，將有助於提升台灣的化妝品法規至國際水準。

D. 簡化合藥化妝品之審查登記程序

在化粧品管理條例相關修正實施之前，建議食品藥物管理局簡化查驗登記的審查程序，加速合藥化妝品審查流程，例如：免除繳交生產國家之市售證明，或參照國際間免除含藥化妝品的上市前登記；對如防曬產品等風險較低的產品，免除上市前的查驗登記等。這些變革將能使業者提供台灣消費者更好的服務，也更快速地享有創新產品。

就我們所知，食品藥物管理局確實正努力簡化部分程序要求，例如免除某些查驗登記的文件，以縮短作業時程。但政策權衡下，也同時新增了更多規定，例如要求GMP證書，做為登記的條件。GMP的規定嚴重地影響美國化妝品的進口商，因為美國並無GMP之要求。

建議五：建立妥適機制管理膳食補充劑

台灣消費者對於採取必要措施以維護自身健康的意識日益增加。服用膳食補充劑是促進健康所採取的其中一個途徑。自2011年以來，本委員會便建議台灣政府，應該遵循先進國家的趨勢，將維生素及礦物質等產品獨列為一類管理，使之與藥品及食品有所區別。建立一膳食補充劑的管理類別有助於對這類產品的品質與安全進行更完整的管理，同時也鼓勵產品研發。透過妥適的管理類別，消費者更能在提升自身健康時，基於充分完整的資訊而正確選擇膳食補充劑產品。

目前有一些先進國家如美國、澳洲、加拿大等常用的膳食補充劑，在台灣被列為藥品管理，並以過於嚴格的法規加以規範，這些成分包括：

- 褪黑激素
- 銀杏葉
- Q10輔酶(允許每日最高200毫克)
- 鋸棕櫚
- 牛奶蓊

我們建議台灣政府應該採取和上述國家相同的管理標準，讓這些成分或劑量在台灣的使用得以允許更大的彈性。

另一項建立膳食補充劑管理類別的好處是產品宣稱(claims)能

夠更有系統。例如，美國的法律允許食品和膳食補充劑的宣稱有三種分類：健康宣稱、營養成分宣稱、以及結構/功能性宣稱。

健康宣稱是指某種營養成分可降低特定疾病的風險，或是與健康狀態相關，而結構/功能性宣稱，主要是說明某成分和人體某結構功能之正常運作有關。針對後者，廠商需要自負對此宣稱正確性之責任。此類宣稱無須事先送審，但必須加註聲明，註明FDA並未評估過此宣稱。至於健康宣稱，FDA允許廠商使用並不在法規中授權的字句，但是需有可信之證據支持此宣稱，同時也須加註聲明以免誤導消費者。這類宣稱則稱之為「合格的健康宣稱」。

允許廠商和零售業者可針對膳食補充劑產品效益做出適當的宣稱，將有助於消費者在購買產品時具有充足正確的資訊以做出適當的選擇。在台灣建立膳食補充劑管理類別制度之前，本委員會促請衛生主管機關應逐步開放，先允許下列在美國較常用之健康或結構功能性宣稱：

- Lutein: 有助於維護眼睛健康
- Lycopene: 幫助抗氧化
- Phytosterols: 協助維持膽固醇之健康
- Barley beta glucan: 協助維持膽固醇之健康
- Glucosamine: 協助維持關節健康
- Folic acid: 協助預防神經缺損
- Calcium with Vitamin D: 協助預防骨質疏鬆
- Probiotics: 有助支持免疫功能

建議六：放寬要求禮券定型化契約之履約保證金

根據經濟部商業司的規定，零售業者若想發行商品優惠券或禮品券，必須在銀行儲備足夠的現金或等值的履約保證金；或者可與同業同級(市佔率超過5%以上)的其他零售業者互相連帶擔保，或參與商業同業公會辦理的禮券聯合連帶保證協定。

這些條件是不切實際的，因為資金的留置會阻礙商業的發展，而且任何零售商不會願意替其它同業零售商做擔保人。因此，本委員會提出以下建議：

1. 允許具有良好聲譽與信用的零售商儲備部分的資金在銀行，無須全額儲備；
2. 允許公司行號的相關企業可擔任彼此的保證人。

本委員會也建議刪除在禮券上應記載信託/銀行履約保證具體起迄日的規定，此造成零售業為管理禮券庫存而產生下列問題：

1. 法規起迄日的規定使得零售業必須銷毀逾期的禮券，這產生不必要的印刷、銷毀、盤點(很花人力)和人事成本，造成例行性庫存管理的混亂；
2. 有些零售業為減緩禮券逾期的問題，採取延長迄日(3-6個月)的方式，但這樣的延長顯然增加零售業的信託及履約保證成本。

最後，信託/銀行履約保證對(可重複儲值的)電子化禮券/卡片是不必要的：

1. 對於可重複儲值的電子化禮券/卡片，記載起迄日顯然是不可行的。現行也沒有零售業在禮券/卡片上記載起迄日；
2. 可重複儲值的電子化禮券/卡片若不需要記載信託/銀行履約保證的起迄日，則可說明信託/銀行履約保證的起迄日，亦沒有必要記載於一般的禮券上；
3. 將信託/銀行履約保證起迄日記載在禮券上，並不是唯一使消費者知悉的方式。零售業另外可以網路查詢、電話客服，或其他回應方式，使消費者知悉消費者手上禮券的信託/銀行履約保證起迄日。

本委員會認為，在禮券上記載信託/銀行履約保證起迄日，只會徒使消費者混淆，不少消費者將信託/銀行履約保證起迄日，誤以為就是禮券的使用期限。

建議七：進一步開放鬆綁中國產品之進口禁令

經濟部國際貿易局近期協助加速解除中國產品進口限制，使一度非常冗長費時的審查過程效率有所提升，本委員會甚為感謝。過去一年間，針對商會2012年白皮書中所提到的許多產品項目，已有17種的輸入規定從有條件開放進口改為准許進口。而一種原先被認為完全不准許進口的產品項目，也在審查後改為有條件開放進口。本委員會認為，雖然仍有許多中國產品被禁止輸入台灣，許多跨國企業因此遭遇供應鍊方面的困難，

台灣消費者的產品選擇也受限，但禁令解除的腳步已經加速。以下是本委員會認為仍可加速審查並開放進口的產品項目：

未開放號列	
1	6115.10.11.10-3 合成纖維製分等級之壓力褲襪，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）以下，針織或鉤針織者
2	6115.21.00.00-5 合成纖維製其他褲襪及緊身衣，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）以下，針織或鉤針織者
3	7009.91.90.00-8 其他玻璃鏡子，未鑲框
4	7009.92.00.00-6 其他玻璃鏡，已鑲框
5	6302.21.00.00.8 棉製其他印花床上用織物製品
6	6302.22.00.00.7
7	5208.52.00.00.7 印花棉平紋梭織物，含棉重量在 8 5 % 及以上，每平方公尺重量超過 1 0 0 公克，不超過 2 0 0 公克者
8	5208.59.90.00.1 其他印花棉梭織物，含棉重量在 8 5 % 及以上，每平方公尺重量不超過 2 0 0 公克者
9	5209.51.00.00.7 印花棉平紋梭織物，含棉重量在 8 5 % 及以上，每平方公尺重量超過 2 0 0 公克者
10	5210.21.00.00.1 漂白棉平紋梭織物，含棉重量在 8 5 % 以下，主要或單獨與人造纖維混製，每平方公尺重量不超過 2 0 0 公克者
11	7318.16.00.00.5 鋼鐵螺絲帽
12	6804.30.00.00.0 手用磨利、拋光石
有條件開放號列	
1	6107.22.00.00-4 人造纖維製男用或男童用睡衣及睡衣褲，針織或鉤針織者
2	6107.91.00.00-0 棉製男用或男童用浴袍、晨衣及類似品，針織或鉤針織者
3	6107.99.30.00-6 人造纖維製男用或男童用浴袍、晨衣及類似品，針織或鉤針織者
4	6108.32.00.00-1 人造纖維製女用或女童用睡袍及睡衣褲，針織或鉤針織者
5	6112.39.00.00-8 其他紡織材料製男用或男童用泳裝，針織或鉤針織者
6	6112.49.00.00-6 其他紡織材料製女用或女童用泳裝，針織或鉤針織者
7	6114.90.90.00-3 其他紡織材料製其他衣服，針織或鉤針織者
8	6115.10.11.90-6 合成纖維製分等級之其他壓力襪，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）以下，針織或鉤針織者
9	6115.10.12.10-2 合成纖維製分等級之壓力褲襪，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）及以上，針織或鉤針織者
10	6115.10.90.90-0 其他紡織材料製分等級之其他壓力襪，針織或鉤針織者
11	6115.22.00.00-4 合成纖維製其他褲襪及緊身衣，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）及以上，針織或鉤針織者

12	"6115.30.00.00-4 其他女用長襪或膝襪，每股單絲在 6 7 分德士（即 6 0 · 3 丹尼）以下，針織或鉤針織者"
13	6115.95.00.00-6 棉製長襪、短襪及其他襪，針織或鉤針織者
14	6203.23.00.00-6 合成纖維製男用或男童用搭配式套裝
15	6203.29.20.00-6 再生纖維製男用或男童用搭配式套裝
16	6203.29.90.00-1 其他紡織材料製男用或男童用搭配式套裝
17	6203.49.21.00-1 再生纖維製男用或男童用長褲、膝褲及短褲
18	"6203.49.91.00-6 其他紡織材料製男用或男童用長褲、膝褲及短褲"
19	6204.23.00.00-5 合成纖維製女用或女童用搭配式套裝
20	6204.29.20.00-5 再生纖維製女用或女童用搭配式套裝
21	6204.29.90.00-0 其他紡織材料製女用或女童用搭配式套裝
22	6204.69.21.00-5 再生纖維製女用或女童用長褲、膝褲及短褲
23	6204.69.91.00-0 其他紡織材料製女用或女童用長褲、膝褲及短褲
24	6207.99.20.00-7 人造纖維製男用或男童用汗衫及其他背心、浴袍、晨衣及類似品
25	6207.99.90.00-2 其他紡織材料製男用或男童用汗衫及其他背心、浴袍、晨衣及類似品
26	6208.92.00.00-7 人造纖維製女用或女童用汗衫及其他背心、三角褲、短內褲、便服、浴袍、晨衣及類似品
27	6208.99.90.00-1 其他紡織材料製女用或女童用汗衫及其他背心、三角褲、短內褲、便服、浴袍、晨衣及類似品
28	6209.90.20.00-4 再生纖維製嬰兒衣著及服飾附屬品
29	6209.90.90.00-9 其他紡織材料製嬰兒衣著及服飾附屬品
30	6211.11.90.00-1 其他紡織材料製男用或男童用泳裝
31	6211.12.90.00-0 其他紡織材料製女用或女童用泳裝
32	6211.32.00.00-5 棉製其他男用或男童用衣服
33	6211.39.90.00-9 其他紡織材料製其他男用或男童用衣服
34	6211.41.00.00-4 羊毛或動物細毛製其他女用或女童用衣服
35	6211.42.00.90-4 其他棉製其他女用或女童用衣服
36	6211.49.90.00-7 其他紡織材料製其他女用或女童用衣服
37	7013.37.00.00-8 陶瓷玻璃器除外之其他玻璃杯
38	7007.19.00.00.8 其他強化安全玻璃
39	6211.42.00.90.4 其他棉製其他女用或女童用衣服
40	6211.49.90.00.7 其他紡織材料製其他女用或女童用衣服

41	4811.59.00.00.1 其他以塑膠（接著劑除外）塗佈、浸漬或覆面之紙及紙板，第4803、4809、4810節所述者除外
42	2530.90.99.90.9 其它礦物質
43	8301.40.00.00.2 其他鎖，卑金屬製

永續發展委員會

本委員會相信台灣政府對於永續發展的看法、策略與目標，在減少環境足跡、節能與自然資源保育等方面，都具有領頭作用。本委員會也認為，能夠在政策中安排更有效的獎勵、補助等誘因，將鼓勵私部門善用現有科技，發展出與永續發展相關之創新解決方案。我們歡迎那些能夠加強與社會大眾溝通議題不同層面的政策計畫，使民眾更瞭解議題，進而改變日常行為模式。

我們在此要特別感謝台灣環保署為回應白皮書議題「將獲得國際永續林木認證之原生紙漿衛生紙產品列入環保署綠色環保標章系統」所做的行動。自從我們四年前提出此議題，環保署積極地進行了一系列的資訊蒐集工作，並於去年宣佈將獲得國際森林驗證機構所驗證的原生紙漿面紙產品納入綠色環保標章系統。環保署的這個決定顯示台灣綠色環保標章系統努力與強調更全面看待、評估產品生命歷程對環境影響的國際永續發展趨勢接軌。

本委員會提出以下議題與建議，盼相關主管機關納入決策考量。

建議一：將新修正的面紙類別原生紙漿綠色環保標章標準，全面延伸至已獲得國際負責任森林驗證標章的家庭用紙產品

引言提及，去年環保署修訂面紙類別原生紙漿綠色環保標章規範，將獲得國際森林驗證機構所驗證的原生紙漿面紙產品納入現行環保標章系統，並核發國內第一枚原生紙漿紙品環保標章認可其為環境友善產品。本委員會此刻呼籲這項新修正的面紙類別原生紙漿環保標章規範應進一步擴展延伸至所有已獲國際森林環保認證之家用紙品，包括衛生紙、擦手紙、餐巾紙、廚房紙巾等，更廣泛地將所有獲國際認證之家用紙品類別納入環保署新修訂之原生紙漿環保標章規範中，將可大大協助台灣地區民眾區別真正環境友善紙品、以及辨識運用亞洲其他國家高風險熱帶雨林破壞地區進口紙漿原料所製成的不環保紙品。

事實上，單靠回收紙張與回收木漿纖維已經無法滿足市場需求。為有效保護珍貴天然資源，我們必須以完整產品生命歷程研究方法來看待家用紙品，並加入負責任林木管理的觀點。誠如我們在2012年白皮書中曾提出，無論就永續發展或經濟成長面向來看，天然資源的可再生性已益發重要。使用可回收物質並非降低家用紙品環境影響的唯一途徑。根據產品生命週期評估，再生紙纖維製成之家用紙品其生產過程中因回收與脫墨程序所產生的碳足跡，比原生紙漿製成之家用紙品要來的高。有鑑於此，關注產品生命週期，能從源頭到終點監督永續性的負責任林木管理系統與產銷監管鍊認證，已逐漸在全球各地獲得大力推廣。

木漿纖維無法毫無止盡回收利用 原生紙漿加入製造流程實屬必要

由於木漿纖維無法達到毫無止盡地回收利用，持續讓原生紙漿加入生產製造流程中是絕對必要的。再者，根據原生紙漿屬性與不同製造紙品的類別差異，木漿纖維通常在使用5至7次後便會逐漸耗損，原生紙漿必須持續摺注至生產製造流程中，以填補因永久儲存性文件、木漿纖維自然損耗以及基於衛生考量而無法再回收使用等因素所造成的回收再生紙漿缺口。近期一份經由世界資源研究所與世界企業永續發展委員會發表的研究報告即指出，當我們斷絕使用任何原生紙漿來源而只想仰賴回收紙張或再生紙漿時，嚴重的紙漿供給短缺問題將可能在短短數日內旋即發生。

根據台灣紙業同業公會2012年報統計，儘管台灣地區的廢紙回收率已高達68%，但台灣2011年仍因回收量不敷使用而自國外進口60萬1千立方公噸的廢紙漿。從全方位環保觀點來看，大費周章地自國外進口回收廢紙用以製造家用紙品是極無資源使用效率的，因為以廢紙漿製成家用紙品後，基於衛生考量，其纖維即無法再回收利用。我們若把再生回收紙或回收纖維拿來製成非家用紙製品，例如包裝紙、書本、包裝紙箱等，可極大化其纖維重

複使用效益高達5至7回，在資源有限的情況下創造紙漿纖維可重複使用的最大效益。

台灣對自身的森林資源有相當嚴格的禁伐規範，百分之九十九的紙漿纖維幾乎都是進口而來，但針對進口紙漿纖維是否來自永續認證與負責任管理的森林卻毫無規範查驗。據保守估計，台灣超過70%的進口紙漿纖維幾乎來自未經永續森林管理體系認證的森林，其中尤以來自印尼、中國這兩個熱帶雨林嚴重破壞地區為大宗。設若原生紙漿環保標章系統僅侷限在單一面紙品項，依照目前各家庭用紙品項市占率來看，領有環保標章的回收紙品與面紙產品僅占整體家用紙品市場的微小比重，那麼使用一般衛生紙、廚紙、擦手紙或餐巾紙等家紙產品的廣大消費者如何能夠辨別區分環境友善的永續認證紙品與毀林原料製成品？

緣此，本委員會剴切建議環保署宜進一步邁開環保步伐，將新修訂之原生紙漿面紙類綠色環保標章規範，延伸擴及至所有已獲得國際具公信力永續森林認證系統驗證的家庭用紙產品。

建議二：於環保標章及綠建材標章中註明原料產地及材料組成成份

本委員會建議台灣的環保標章及綠建材標章系統參考美國、香港、澳洲及紐西蘭的環保標章系統，要求申請產品提供更明確的材料標示，以實踐減碳，提高節能效率，並藉由提升產品競爭力進而促進經濟發展。為增進標章的環保資訊透明度及國際市場間的公信力，我們籲請環保署的環保標章及財團法人台灣建築中心的綠建材標章考慮進一步加強標章規範中的以下材料組成及百分比：

- 分辨消費前與消費後回收成份的不同：依照ISO 14021-1999標準，含回收成份的材料需分別註明消費前回收成份和消費後回收成份的百分比，並以淨重或其他可換算至淨重的單位表示所含之回收成份。兩者所代表之回收再利用意義不相同，應清楚分別。
- 產地來源資訊：針對產品的各組成要件或成份，標明其原料產地和加工製造地，並對應其佔產品的淨重比例或其他可換算至淨重的單位比例。

以上建議之規範應適用所有確認符合環保標章及綠建材標章規範的各項產品及材料。若單一產品未完全符合標章規範，則應分別標明符合及未符合部份的產品淨重或百分比。

也許並非所有的產品業者皆能配合上述規範，但執行過程中所搜集的資訊應可幫助我們更清楚瞭解各產品、材料對環境的可能影響。同時，我們也呼籲環保署和台灣建築中心僅針對達成共識的規範作出發表或公告，以維護廠商對特定資訊的所有權。

我們深信藉由以上更嚴謹的規範能加速推動台灣產品業者與國際標準同步，進而增進台灣產品及材料的銷路。長遠來看，更能藉由資訊透明化減少本地製造業所帶來的環境衝擊。

建議三：採用新的能源政策以平衡經濟、生態和社會接受度之考量

目前在台灣對核電的角色之辯論迫我們考慮應採用什麼類型的能源政策來指導國家的未來。在強烈的公眾和政治反對下，應該讓核能維持什麼樣的角色呢？如果有的話。台灣應該依賴燃煤發電多少 - 從而產生更多的碳排放量並導致氣候變化？液化天然氣（LNG）能成爲一個替代能源到多大程度上 - 儘管其成本較高並可能對經濟成長產生不利影響？無論哪個選項被選中，都會有嚴重的交易權衡。該委員會敦促政府在做能源政策的決策時採取一個廣泛的見解，以平衡經濟發展的需要、生態和社會的接受度。

我們進一步建議更加重視節約能源以盡量降低未來電力使用的發展所帶來的負面影響，以控制台灣用電需求的成長。麥肯錫公司的Transforming Taiwan into a Low Carbon Economy: Pathway to 2030報告指出，在2010年，發電佔了台灣的溫室氣體（GHG）排放量57%。如何在不增加能源消耗的情況下讓國內生產總值和人民平均收入增長、生活品質提高將是個挑戰。這只能採取一個促進節能的全面性計畫，一方面主張嚴格的標準和法規，一方面又有足以吸引投資的節能專案投資獎勵，這在建築和交通運輸產業尤其重要。

此外，可再生能源應盡可能在能源利用組成中佔越多越好。在2011年，可再生能源佔總發電3.2%。儘管經濟部（MOEA）能源局（BOE）計畫於2020年之前在台灣安裝1000個風力渦輪機，以及使在上百萬戶屋頂上的太陽能（PV）裝置運轉，風能和太陽能合計也僅佔了總裝置容量9%，而在島上產出低於能源

利用組成6%的電力。與2020年歐盟成員國達20%的目標相比，台灣的目標並不夠有雄心。

建議四：考慮一個新的公共建設計畫招標機制

本委員會在2011年的白皮書上提出，在台灣透過認證新技術和新應用材料以促進永續發展的公共工程設施案。

政府機構回應，修訂後的政府採購法允許設計和規格包含新技術/新材料，並規定認證之任務分配給中立的第三方。同時，政府機構也讓承包商在緊急事件中採用未經認證的新技術和新材料於公共建設項目中。

然而，實際上，工程顧問公司仍猶豫把已驗證的新技術/材料放入產品規格中，害怕被指責 - 甚至被起訴 - 偏袒某些供應商。這些因素導致水準低落的建設，並阻礙台灣引進新的綠色技術/材料。以價格為重點的招標過程也是另一因素，它阻礙了承包商提出足以妥善平衡經濟、生態和社會接受度的提案。

我們建議政府採取以下競價機制：(1) 包含預定的預算；(2) 鼓勵潛在投標人提供詳細的說明，解釋其有利永續發展，能平衡經濟、生態和社會接受度的應用技術、材料和解決方案；以及(3) 授權遴選委員會授予標案給提案最具實際永續發展價值的公司。

稅務委員會

台灣政府近期提出了各種新政策以應對經濟衰退，提振股市，並確保重要產業的生存。在稅務方面，財政部則考慮推動受控外國公司法案，並且有效管理所得稅制度，以減少避稅行為，使稅務法令更符合瞬息萬變的商業環境。

稅務委員會希望提醒台灣政府，除了新稅務法令外，其他稅務問題亦值得關注。我們相信，其他稅務問題對於外國投資人在台灣投資意願有很重要的影響，如果這些問題仍然無法獲得解決，有可能因而阻礙台灣經濟的永續發展。舉例來說，商譽問題影響了併購交易(M&A)，技術移轉和研發支出也都衍生相關的租稅負擔。稅務委員會因此希望政府認真考慮下面的問題和建議，並立即採取行動。

建議一：建請稽徵機關對於因併購所產生之商譽及無形資產，得予承認其價值並認列

為維持市場穩定，促進經濟發展，建請稽徵機關承認因併購所產生之商譽及無形資產有其經濟價值並可認列攤折費用。併購交易如非關係人交易，應將收購成本視為合理。此外，建請政府對於可認列攤折費用之無形資產再為放寬解釋，避免決策不確定性，以利產業發展。

多年來，業者協助政府清理問題金融機構，響應政府政策進行併購。90年代台商陸續將產線移往大陸及東南亞地區生產，本土傳統產業及電子業產值開始大幅衰退，又逢1997年亞洲金融風暴及世界性經濟不景氣。自1998年起，多家上市櫃公司陸續發生財務危機，政府要求銀行進行股市護盤及債務紓困，導致拖延企業問題，更影響銀行健全，且銀行因家數過多導致惡性競爭下問題金融機構亦不斷攀升。政府於2000年實施一次金改，期以租稅優惠政策誘導企業及銀行自發性整合。同年因此通過「金融機構合併法」，協助銀行相互併購，並吸引外國大型商業銀行來台投資，或挹注外來資金提升國內中小型銀行之財務結構，提升本土銀行國際競爭力。2002年通過「企業併購法」，提供企業快速轉型之機制，開啟國內企業併購新頁，也讓企業可以重整跨國投資組織架構，使企業達到合理經濟規模，發揮資源整合綜效。

在新法規環境之下，許多銀行參與金改，盼藉此擴大營運，增加市占率，惟業者因併購產生之商譽及無形資產分年攤折費用時，稅捐稽徵機關全數予以剔除，造成眾多商譽行政救濟案件。銀行併購實務案件中，存續銀行依據財務會計公報規定，將出價取得消滅銀行之分行執照及內涵價值，認列為可辨認無形資產。將購買價格與購進資產公平價值之差異，認列商譽。惟金融機構於合併後分年認列攤折費用，近年來皆被稽徵機關以不符合稅法規定或佐證文件不足為由，屢屢遭到剔除。合併案提起行政救濟程序者多數以敗訴收場。除銀行有此稅務爭訟外，包括證券、科技、保險等產業亦有類似情形，就台北高等行政法院2009年以來，迄2012年8月底已審結案件達162起，其中經最高行政法院最後判決納稅義務人勝訴率僅2%。

就商譽攤銷認列而言，「金融機構合併法」第17條及「企業併購法」第35條皆明定併購商譽可於5年或15年攤銷之。但稅捐稽徵機關近年一律以事後內部標準審核商譽之應備佐證文件，並全數予以剔除，實有違當初政府政策之立意。

行政法院為息止紛爭，雖於2011年12月份舉行庭長會議，做為行政法院後續商譽案之審查參考，但作成之決議卻附和稅捐稽徵機關的作法，且仍未能體認前揭法令之立法意旨以及當時政府為解決金融風暴及銀行家數過多之意圖及決心，致使納稅義務人就收購成本之真實性、合理性及必要性需負擔無止盡之舉證責任，反觀稅捐稽徵機關卻不需就其不予採用之決定提供任何佐證文件。

企業併購法、金融機構合併法及稅法，皆無要求納稅義務人須就如何形成收購成本之真實性、合理性及必要性為舉證之規定，此顯然已增加法律所沒有的限制，對人民財產權造成不當限制，實有抵觸憲法之疑義。況且，所謂真實性、合理性及必要性之標準為何，法院實務或稅捐稽徵實務亦未有統一見解，造成納稅義務人無所適從要於併購交易中準備何種文件方可於嗣後認列商譽，此已嚴重影響外國企業來台投資及併購企業意願。

依當年立法精神從事併購案者，均係在信任政府政策氛圍下執行，現在卻因稅務機關事前未訂定標準，事後竟溯及既往要求業者依現行規定辦理，實有違市場安定性，讓業者無法信賴政府所制訂之法律。

再者，收購價格乃併購買方與賣方所交涉得出，買方於磋商過程中乃極力壓低出價，反之，賣方則極力抬高出價，如買方與賣方並非關係人，兩者在磋商過程中為對立關係，實難想像併購買方會願多支付價格予賣方謹為於收購後抬高商譽之價格，而取得僅17%的所得稅效益。因此，如併購買方與賣方並非關係人，收購成本應視為合理。

併購時如依公平價值認列之應稅資產而產生之商譽(如授信資產)，若日後該(授信)資產收回之金額大於原認列公平價值時，即認列收入並予以課稅。若稽徵機關否准商譽之認列，則應同時調整相對應之授信資產公平價值及其後續年度之收入認定，否則將造成同資產項目商譽被否准而無法攤銷，但收入仍須課稅之不公平現象。

併購行為產生之可辨認無形資產亦有攤銷認列之稅務問題，「所得稅法」第60條規定營業權、商標權、著作權、專利權及各種特許權等出價取得之無形資產，其成本可依法定攤折年數按年平均計算。然近年來，企業因合併產生除商譽以外之可辨認無形資產，如商業機密、通路價值、客戶名單/關係、分行價值等商業上的權利，雖其價值乃依照主管機關認可之財務會計公報規定認定，但其分年攤銷之費用卻因稅務機關對上述法令之限縮解釋屢屢遭到剔除。稅務機關立場認定基於所得稅法第60條各種權利規範之一致性及衡平性，可攤銷之無形資產中營業權應以法律所定權利為範圍，且應有法定年限作為攤銷基礎。這樣的認定顯然忽視政府鼓勵併購行為的政策。

以銀行為例，銀行藉併購活動取得之分行執照實屬取得該執照所表彰之通路據點。而該通路據點之內涵價值包括各分行之未來效益、既有核心存款，以及既有客戶關係等。雖然相關法令授權銀行業之主管機關核發分行執照，但執照本身於核發當時並不具備價值，其價值實來自於銀行之通路開發及客戶關係維持。因此，銀行於併購方式取得之分行執照，應視為銀行法賦予其主管機關所給予銀行特有之營業權，其內涵價值亦應屬「以法律所定權利」而符合財政部對於營業權法定要件之解釋，該項無形資產故應得認列攤銷。其他行業之併購行為，雖不需有主管機關核准，但買方出價取得無形資產之事實以及依照相關財務公報認定其價值之方法並無不同，應擴大解釋上述條文，併入按照財務公報認定之可辨認無形資產。

這些併購行為為下所產生之可辨認無形資產，既為出價取得且若其收購溢價業經賣方開立統一發票列報營業稅及營利事業所得稅或消滅公司股東已就超過原投資成本部份列報股利所得課稅，自應准許回歸主管機關認可之財務會計準則公報規定，於公報認定之效益年限內分年攤折費用或比照商譽之規定准予稅上攤提費用。

綜上所述，我們建議稽徵機關：

1. 審查商譽原則
 - a. 稅捐稽徵機關或法院實務所制訂有關商譽之審查標準，不應溯及適用於制訂標準前發生之併購案件。
 - b. 併購案如非關係人交易，其收購成本應視為合理，如稅捐稽徵機關不予採用，應負擔舉證責任，或提出徵納雙

方同意之調整標準。納稅義務人如已就可辨認淨資產提出鑑價報告或價格分攤報告，稅捐稽徵機關如不予採時，應負擔舉證責任提出具體理由，以利納稅義務人遵循，避免決策不確定性。

c.若商譽認列與否並未造成實質稅賦之差異時，應准予全數認列。

2. 審查可辨認無形資產原則

a.針對「所得稅法」第60條無形資產的解釋應儘可能放寬，並應依主管機關認可之財務會計準則公報規定認定之；財政部並應發布解釋令以確認符合公報之可辨認無形資產，得比照商譽攤銷之相關規定辦理。

b.另銀行業因合併產生之無形資產，建請得予認定為「所得稅法」第60條無形資產之營業權，並得依10年攤銷。

建議二：將非居住者取得中華民國來源所得所適用之扣繳稅率，從20%降至更低

在中華民國境內無固定營業場所之外國營利事業（以下稱「外國營利事業」），其中華民國來源所得應就源扣繳20%之稅款。在2009年底以前，外國營利事業之中華民國來源所得係依收入總額適用20%扣繳稅率，該扣繳稅率低於當時中華民國境內營利事業就課稅所得額適用之25%營利事業所得稅（以下稱「營所稅」）稅率。然而，隨著促進產業升級條例落日，許多僅由特定中華民國境內營利事業可適用之租稅優惠（例如五年免稅）皆已取消，故所得稅法亦配合進行修法，將營所稅稅率從25%調降至17%。目前無論是否屬原可適用租稅優惠之中華民國境內營利事業，皆一體適用17%營所稅稅率課稅，就租稅公平考量，外國營利事業之扣繳稅率亦應同步調降至17%或更低，以彌補其扣繳稅率係以收入總額為起點課稅。若是無法降低20%扣繳稅率，外國營利事業之中華民國來源所得將以較高之扣繳稅率課稅，又該扣繳稅額應先依收入總額扣取，再視情況決定是否可以事後申請減除收入相關之成本與費用，並退還溢繳稅款；如此一來，若維持現行扣繳模式，外國營利事業不論就較高稅率或以總額為起點課稅，將受到雙重之不公平待遇。

扣繳稅款採行之目的係就外國營利事業取得之中華民國來源所得課稅。然而在許多技術服務合約或授權合約中，由於服務提供方或授權方為專有技術之持有人，往往握有較有利的談判籌碼，故該服務費或權利金應繳納之扣繳稅款實際上係由中華民國境內營利事業所負擔。因此，20%扣繳稅率不僅影響外國營利事業，有時亦損及中華民國境內營利事業之競爭力。

此外，若台灣租稅環境較具競爭力，將吸引更多外商投資，進而帶動更多商業活動及相關稅收。易言之，經驗顯示降低扣繳稅負反能增進其他稅收。

謹將其他亞太地區國家支付外國營利事業所得之扣繳稅率列示如下。除台灣外，其餘國家對外國營利事業採行之扣繳稅率皆低於當地營所稅稅率。台灣為保有國際競爭力，應重新思考修改其扣繳制度比照其他亞太地區國家。

國家	營所稅稅率	對非居住者之扣繳稅率				扣繳稅率低於或等於營所稅稅率（是/否）
		股利	利息	權利金	服務報酬	
台灣	17%	20%	20%	20%	20%	否
香港	16.50%	無	無	4.95% 或 16.50%	無	是
新加坡	17%	無	15%	10%	17%	是
中國	25%	10%	10%	10%	10%	是
泰國	20%	10%	15%	15%	15%	是
馬來西亞	25%	無	15%	10%	10%	是

若採行相關稅制改革，則針對非居住者之扣繳稅率，將呼應個人綜所稅前三個級距各降低1%（從6%/13%/21%降至5%/12%/20%），及調降非居住者之薪資所得扣繳稅率2%（從20%降至18%），以吸引更多海外專業人士來台工作。

建議三：處理中華民國來源所得認定原則尚未解決的議題

這是稅務委員會第四年對財政部及其他相關政府機構提出這

個問題，我們也非常感謝財政部這些年來努力澄清此議題並對於我們的關注焦點提出建議，但實際上這個議題仍未獲得解決，且已對許多納稅義務人造成一個嚴重的問題。我們強烈建議政府應該從另一角度來思考這個議題，找出解決之道。

儘管財政部認為其已提供了認定中華民國來源所得的明確原則，然其困難點在於，地方稅務機關係採納與2010年5月最高行政法院庭長法官聯席會議之決議結果一致的看法，即勞務若在中華民國境內使用，該勞務相關之所得應被視為中華民國來源所得。也就是即使勞務於中華民國境外提供，但只要該勞務在中華民國境內使用，支付之款項即屬中華民國來源所得。這樣的解釋與所得稅法第八條規定中華民國來源所得認定原則（以下簡稱「認定原則」）之精神相左。

此外，地方稅務機關往往傾向將台灣服務接受者與外國服務提供者之信件往來及互動解釋為台灣服務接受者協助服務之提供。地方稅務機關也因此認定支付之全額款項皆屬於中華民國來源所得，需繳納中華民國所得稅。這樣的解釋也與認定原則相悖，因為活動的本質如為協調或通知性質，則不應該被認為是協助服務的提供。在這樣的情況下，為避免漏扣繳的罰鍰，即使所有或大部分的服務係在台灣以外的地方進行，台灣服務接受者仍傾向對支付外國服務提供者之款項扣繳20%的稅款，這種做法實會導致外國服務提供者嚴重的現金流問題。

再者，一旦支付之款項被稅務機關解釋為含有中華民國來源所得，實務上外國公司很難決定出屬於台灣的貢獻度以區分屬於中華民國和非屬中華民國來源所得部分。這種情況下，問題往往會拖上幾年仍無法獲得解決。雖然會計師的查核報告或是移轉訂價報告能幫助決定屬於台灣之貢獻度，但這些資訊是無濟於事的，因為稅務機關很少採納這些資訊。

因此，我們呼籲財政部進一步明確定義哪些活動屬於「協助服務之提供」，以儘可能減少稅務爭議的案件數。此外，財政部應該考慮建立更具體的原則認定中華民國來源所得，例如在支付款項時計算中華民國來源所得的公式。

建議四：准許支付外國專利及設計生產know-how的權力金免稅

台灣政府多年來鼓勵國內業者自國外引進創新技術，同時提供支付租稅優惠，如所得稅法第4條第21款中明訂使用外國營利事業所有之專利權、商標權及各種特許權利者，經政府主管機關專案核准可享權利金免稅之優惠。

然而，自從「特許權利」的定義在2011年3月到期後，政府至今仍未宣布新的定義。因此，目前國內業者支付給國外業者的know-how及營業秘密權利金都將可能必須課稅，導致國內引進創新技術的企業成本將顯著增加。

政府與企業的共識是：為協助國內產業提升國際競爭力及產品與服務的附加價值，當務之急是加強自先進國家引進創新技術或專門知識，其中部分登記為專利，但大部分傾向不申請專利登記，而以專門技術或營業秘密之形式授權。此種政府與產業雙贏的政策應被賦予租稅的支持，然而自2011年3月後即失效了。

因此，本委員會敦請政府採取以下行動：

1. 將引進先進國家（例如美國、歐洲及日本）登記有案之專利權納入所得稅法第4條第21款權利金免稅範圍。
2. 明確定義所得稅法第4條第21款所稱之「特許權利」，並應將特定產業所引進之先進設計、生產製造技術know-how以及其營業秘密（由工業局予以定義及認定）包含在「特許權利」定義內。

建議五：對外商跨國企業研發及創新人才培訓的支出提供投資抵減辦法

為鼓勵企業投入經費從事研究發展，促進產業創新，台灣政府推行了投資抵減措施。根據產業創新條例，公司得在投資於研究發展支出金額15%限度內，申請抵減當年度應納營利事業所得稅額。然而，按照現在的公司研究發展支出適用投資抵減辦法的規定，適用之研發活動應以(1)建立自主研發能力為主(2)自行從事產品技術、勞務或服務流程之創新活動。此條款將對於外商在台灣之研發活動及支出形成排外作用，對外商在台研發支出產生負面效應。因外商之在台子/分公司之研發活動，絕大部份皆受其國外母/總公司之主導或規範，很難有自主或自行創新之活動。

這些在台子/分公司對台灣之產品升級、技術創新和研發人才之培育皆貢獻卓著，其所投入之研究發展支出，應同樣享受台

灣政府租稅減免之優惠。若無法及時修正現行規定，將使外商跨國企業對台灣進行研發相關投資的意願減弱，使台灣更難成為產業創新的區域中心。

此外，過去政府投資抵減措施中還包括研發人員之教育支出相關投資抵減，但如今卻在規定修正之後被排除，這對培育台灣建立知識經濟所需之新世代創新研發人才將有嚴重負面衝擊，也影響產業之創新競爭力。

建議六：修正貨物稅條例，使之更符合當前社會對家電用品之認知

過去，對家用電器課徵貨物稅，其實是對家電徵收某種形式的奢侈稅。但是台灣經過多年的經濟發展和生活方式的改變，過去的奢侈品已轉型為現今常用的家電用品，好比冰箱、彩電、空調、電烤箱等等許多在以下應稅項目中包含的電器，在台灣已成為每個家庭的日常必需品。

項目	商品稅率
1. 電冰箱	13%
2. 彩色電視機	13%
3. 冷暖氣機	20%
由主機、空調箱、送風機等組成之中央系統型冷暖氣機	15%
4. 除濕機	15%
工廠用除濕機	0%
5. 錄影機	13%
6. 電唱機	10%
手提三十二公分以下電唱機	0%
7. 錄音機	10%
8. 音響組合	10%
9. 電烤箱	15%

這些模糊且過時的貨物稅應稅項目定義，是否仍適用於現今創新的產品，不無問題。在適用貨物稅規定時，稅務機關往往難以提供一致且具有說服力的解釋，易使企業混淆，甚至引起糾紛。

本委員會認為，政府現在應該重新評估貨物稅條例第11條所規定的應稅項目清單，並考慮修正應稅項目，不再將這些家電用品視為「奢侈產品」，並重新界定與限縮「奢侈產品」的範圍。其結果將使台灣的家庭受益，使他們可以用比較合理的價格購買產品。

科技委員會

台灣是全球高科技硬體—包括電腦系統、電腦主機板及零組件、平面顯示器、數位相機、智慧型手機及平板電腦、乃至許多綠能及生技產業主要產品—的重要研發、製造中心。由全球有約90%筆記型電腦、平板電腦及相關零組件係由台灣企業研發或製造。舉例而言，蘋果MacBook筆記型電腦主要由位在鄰近台北的林口的廣達公司製造，而所有iPhone由富士康、鴻海精密、或和碩所生產，而鴻海與和碩亦均位於大台北地區。

強大而持續的政府—尤其是經濟部採行的多項措施及工業技術研究院的研發能力，是促使台灣得以逐漸成為今日全球研發、製造精密設備重鎮的推手。現在，台灣更致力提升自己在價值鏈的層級，成為研發創新的中心，而不再只是生產由其他地方設計的產品，利益被其他國家的企業所坐享。

台灣與美國在最近簽訂了「台美資訊技術服務(ICT)貿易原則共同聲明」。共同聲明中體認科技產業對二個國家經濟的高度重要性，也明確表達為求該領域進一步的成長，需強化法規能力的必要性。我們對此深表贊同，也提出下述政策與立場建言，以實現共同聲明的目標，並繼續推動台灣成為全球科技價值體系的重要成員。

建議一：加速施行鼓勵科技新創事業之政策與計畫

台灣高達3000億美元的出口產品中，有超過半數是科技產品，然而南韓與中國之科技產業成長較台灣更為迅速。如果台灣

要加強或甚至維持其在科技產業的競爭力，鼓勵且培養新設事業使創新的點子、方法及技術源源不絕至關重要。

基於國內高科技硬體製造產業之能力及一些主要品牌如宏達電、宏碁與華碩的出現，台灣有相當潛力快速培植出許多創新技術之新設事業，重現矽谷、以色列及新加坡的成功經驗，並為台灣開展成為國際事業之研發中心及通往大中華地區之重要門戶的機會。有愈來愈多企業家有興趣設立新設事業，而許多台灣頂尖大學的畢業生都希望創立他們自己的事業。

然而，有許多因素使得科技新設事業在台灣並未蓬勃發展。事實上，台灣內部有許多嚴重的阻礙，致使投資人通常會建議企業家在台灣以外的地區設立母公司，即使公司的主要營運位於台灣。台灣政府瞭解這個現象所帶來的機會與威脅。經濟部中小企業處及其他政府機關都極力鼓勵企業之創立，由資策會部分贊助的「創業實驗室」及「創業週」已促成了許多新設公司之成立。政府也在國立大學提供獎助計畫，鼓勵創新。

本委員會相信，修改台灣公司法可以符合科技新設事業之需求，解決科技事業及其投資人目前所面臨的部分問題，促成極佳的結果。我們呼籲各界對如何妥適修法充分討論，包括放寬發行公司特別股及公司發給員工股份之限制、廢除創設事業須設有董事會之規定、除去股份可轉讓時點之不確定性、及建立公司英文名稱之登記系統（請參照本委員會在2012年白皮書中所提之內容）。

我們樂見本委員會在2012年白皮書就此議題所提的建言獲得經濟部正面回應，本委員會並與次長及工業局代表舉行數次會議交換意見。我們希望政府能持續支持扶植一個有利於科技新設事業發展的生態系統，因為其成長與成功對台灣經濟的未來具有高度重要性。具體建議如下：

1. 放寬—甚至最好廢除—在台灣以外地區籌資之新設事業需要取得的許可審查。台灣的外國人投資許可程序是在數十年前所設立，當時台灣社會較現在貧窮，外幣亦不充裕。如今目的已經達成，外國人投資許可反而對新設事業徒增管理時間與管理及費用的負擔，不利於新設事業。此外，台灣正逐步開放創投基金可採取有限責任合夥架構，未來可能會有愈來愈多的外國投資人得以投資台灣的科技產業，因為他們往往僅能透過有限合夥機制來投資。立法院在5月通過投資少於500萬美元之事業無須申請外國人投資許可，實值得肯定。我們希望新制度的價值體現之際，此豁免可以持續擴大。
2. 放寬或廢除公司需有最低得課稅所得始能為其外國員工更新工作許可之要求。新設事業之股東均瞭解新設事業需要較長時間發展技術而獲利，故願意繼續挹注資金。若因法規不允許外國經理人在公司獲利前更新其工作許可，導致失去外國管理人，對於新設事業會是極大的災難。
3. 鬆綁對台灣創投基金之限制，使其更能向政府或公營銀行籌資。這些規範目前十分不合理且嚴苛，致使創投基金及新設事業通常選擇放棄向這些機構募資，以換取更多彈性。如此將造成許多新設事業無法與重要的台灣機構合作，使台灣機構失去與新設事業接觸機會，阻礙台灣企業的資本流通，而新設事業也只好轉向海外尋求資金及外國管理人。
4. 核發「新設事業簽證」給國際企業人士來台灣與合夥人一起創業，同時亦可增加國際學生的實習機會。美國的J1簽證可為借鏡。
5. 修改政府投資之架構，鼓勵政府在創始階段之參與。經濟部致力於藉由長青基金（透過工業技術研究院之合作事業「創新工業技術移轉股份有限公司」）鼓勵台灣研發，實值得肯定。創新工業技術移轉公司所設立的「投資獲利、並鼓勵台灣研發」的雙重任務是相輔相成且易於達成。目前法令限制創新工業技術移轉公司投資已具相當事業規模，因為這些事業在彼時應有創投基金以外的資金來源。然而最重要的還是在創始階段的支持。

建議二：將IT的主要支出從硬體轉移到軟體與服務

2012年台灣綜合研究院的一項研究，點出了台灣相較於其他國家，在軟體與電腦服務花費上的一些具體現象：

- 軟體與服務在世界其他國家中的IT支出比例為71%，但台灣只有33%的比例。
- 資訊軟體與服務的投資程度在農業、製造業與服務不僅遠低於其他已開發國家，同時呈現下降趨勢。以南韓為例：

南韓在農業上的IT投資比例高於台灣13倍、製造業的比例高於台灣24倍、服務業則是高於3倍。

- 在台灣資訊軟體與服務的消費佔GDP的比例只有0.22%，遠低於南韓的1.46%、新加坡的1.36%、日本的1.99%以及美國的1.12%。

以上數據顯明若台灣不能及時提升對資訊軟體與服務投資，台灣的長期競爭力將面臨嚴重危機。因為單靠擴充資訊硬體投資並不能真正獲得資訊化的核心價值。因此我們提供下列建議：

1. 將資訊產業視為國家基礎建設，支撐台灣轉型為知識與創新的經濟體系，並將資訊科技應用在每一個政府專案與計畫中。
2. 政府帶頭調整資訊建置計畫中軟體服務與硬體之投資比例，將台灣從投資硬體為主的資訊建設發展環境，提升成為以軟體與服務為主，真正享受資訊效益。
3. 設置具體的資訊應用發展目標，並以南韓作為指標參考。

建議三：鼓勵開放額外的頻譜，例如開放使用閒置的電視頻道

受到消費性產品、人類溝通方式、以及機器對機器通訊與物聯網的影響，無線數據以爆炸性的速度增加且不斷提高。這樣的增長已經對支持各種無線通訊方式的無線電頻譜資源造成沉重的負擔，以更有效的方法來管理和使用頻譜資源也產生了需求。開拓更多的頻譜資源，是目前全世界為加速採用頻譜共享技術和政策之明顯的趨勢。其中之一就是在不需取得證照的情況下，使用電視台之未使用到的電波頻率（即所謂的「數位電視閒置頻」）來提供共享存取的服務。

數位無線空白電視頻帶(TVWS)技術通常被稱為Super Wi-Fi。與現有的Wi-Fi相似，不需取得證照，且可將Wi-Fi原有的覆蓋範圍大幅擴增，同時訊號穿透率也有倍數增長。世界各地的監管機構，如美國聯邦通信委員會、英國Ofcom、加拿大工業部及新加坡的資訊通信發展管理局，正透過制定法規架構，使無線寬頻服務得以應用在電視閒置頻譜資源。同時，IEEE和Wi-Fi聯盟等國際組織都在積極發展全球TVWS技術標準。TVWS無線頻譜和設備的發展潛力將類似於Wi-Fi技術和生態系統，其中首要的條件就是無須證照的申請。可以預期TVWS無線電和設備的市場規模將繼續擴大，因為其技術可應用於所有現有的Wi-Fi設備，以及全球智能城市與物聯網數十億的無線連接感知器。

隨著強大的半導體、零組件、系統和設備製造部分，在全球無線連結的爆炸性成長背後，台灣已經享有巨大的商業上的成功。在這樣堅強的基礎之下，台灣將有機會以新一波White Space（閒置頻譜）科技的無線創新技術，獲得更大的躍升。為了要促進本地活躍的生態系統，政府扮演著一個極重要的角色，將台灣定位為全球性的新興數位無線電視頻帶共享(TVWS)之無線電與設備的領先市場與技術供應商。一些具體的行動建議包含：

1. 提供本地公司一個支持性的監管和政策環境，讓本地公司可以透過無需執照執照的頻譜資源去創新無線科技。透過提供更多可利用的無執照頻譜以降低進入障礙，並且允許小型創業公司去追求創新的解決方案，而無需承擔鉅額的頻譜許可費。因應數位電視的展和電視頻率頻譜（470-790MHz），這會是一個絕佳的機會去開拓未使用的廣播電視頻道在無執照的無線連接服務上。
2. 鼓勵並刺激民間投資，搶得市場先機。政府可以提供資金或租稅優惠給一些有投資建設科技能力和在電視閒置頻譜上創新的公司。
3. 把法人研發資源與政府科發資金導向於數位無線電視頻率共享的研究。政府研發機構如工研院已經在閒置頻譜的相關科技方面上做了相當的研究，可鼓勵該機構進一步的建立其能力，以及技轉其研究成果給民間企業做商業性開發。而資策會在軟體技術上的資源與能力，亦可加速台灣進軍此一新興領域。
4. 授與試用許可證和科專資金進行商業試驗，並開發應用在智能城市（例如防救災）和數位包容（連接鄉村和偏遠地區）等領域。

有了適當的政府引導和政策的啟用，數位無線電視頻率共享將能帶領臺灣ICT產業開創出另一具前瞻性的藍海市場。這方面的努力也符合今年三月和美國所簽署之資訊通訊貿易原則聯合聲明中，雙方承諾的「最大限度地使用頻譜，並確保其有效性和有效率的管理」。

建議四：建議政府主管部會修正政府資訊服務採購之法規及實施準則，並修正目前阻礙外商直接投標之不公平契約條款

政府現行的資訊服務採購契約中一些關鍵條文限制了廠商提供對台灣發展有益的技术與服務。本委員會籲請台灣政府改善政府採購法與資訊服務採購契約範本中有違公平競爭原則且修正目前阻礙外商直接投標之不公平契約條款。

現行採購法第59條第一項保證最低價條文中規定，機關以選擇性招標或限制性招標辦理採購者，採購契約之價款不得高於廠商於同樣市場條件之相同工程、財物或勞務之最低價格。實務上，主管機關會要求廠商以書面保證將遵守此一規範。

然而，勉強定義「同樣市場條件」不免產生許多疑慮，因為不同的招標案各有其獨特的成本結構與價格考量，尤其資訊業的市場情況經常在變動之中。實務上幾乎不可能找到兩個擁有完全相同市場條件的招標案，因此採購價款的決定還是必須依個案實際情形分別考量。

此外，政府要求資訊服務投標廠商以書面證明其所要求之價款為最低價，有違反公平競爭原則之虞。公平競爭原則是現代市場經濟能否順利發展之關鍵。我們懇請政府允許廠商投標時以本身商業考量為重，無論其報價是高低。

2010年，公共工程委員會在採購法修正草案中建議刪除採購法第59條第一項之保證最低價條文，惜未獲得行政院採納。我們呼籲政府及早修訂此條文，以化解上述疑義。

此外，公共工程委員會雖已公佈「資訊服務採購契約範本」，俾利各採購機關與資訊服務業者有所依循，惟該範本尚有未符公允及未臻明確之處，敦請政府速予修正，打造一真正公平之採購環境。

1. 損害賠償金額應有上限：設定損害賠償金額上限對於資訊服務業者專案執行之相關風險控管非常重要，契約範本雖提供了金額上限規定，但也允許了一些廠商需負無限賠償責任的情況。舉例來說，廠商無論是否自身產品侵害第三人智慧財產權時，規定不受賠償金額上限之限制。惟實務上一般認定非服務提供者自身品牌之產品對於第三人智財權之侵害情形無須負責。如果非自身品牌之產品對於第三人智慧財產權之侵害不設定合理賠償上限，乃是加諸他人之責任與風險於廠商身上，負無限賠償責任之廠商將無法管控其專案執行之相關風險。
2. 服務績效違約金應有上限：業界實務是對服務績效違約金設定上限。在非資訊服務之採購契約範本中（如公共工程技術服務契約範本、工程契約範本、勞務採購契約範本、統包工程採購契約範本等），均有訂定各項違約金上限，資訊服務採購契約範本也應採取同樣標準。
3. 除法律另有較長規定外，保密義務應有期限：政府標案要求廠商有義務無限期保密，實不合理。國內法令大致依政府資訊之機密等級認定其保密期限，並無法規要求無限期之保密。我們認為，除法律另有規定，或有其他特殊原因如基於國家安全之需要，保密期限均應以五年為限。
4. 廠商建議書之著作權應視個案定其歸屬：著作權法規範了著作所有權之歸屬以著作人為主。由於投標建議書是投標廠商編製完成，此著作之著作權應屬於投標廠商而非採購機關。此外，建議書中通常包括了投標廠商業務上核心競爭力之資訊和know-how等成果，建議書之著作權若一律歸屬於採購機關實則不妥。一般情況下，建議書不應供第三方或其他機關使用。
5. 廠商團隊成員之異動：有鑑於廠商無法預知或控制團隊成員之死亡、退休或計畫執行階段自行離職等情況，上述情形不應計入異動率。要求由廠商承擔人員異動之罰則並不合理。
6. 機關對廠商之檢查與稽核應明文排除廠商未公開之財務資料：雖然為了滿足政府檢查稽核之需，廠商可能在政府要求下提供必須之相關文書，廠商實無義務將未公開之財務資料提供給政府。此類財務資料常被視為廠商之營業秘密，在大多數情況下也與廠商提供政府之資訊服務績效無關。契約範本中應該明確排除政府取得廠商之未公開財務資料。
7. 適用特殊服務性質之條文應標示屬性，以免採購機關誤用：資訊服務之各種服務類型(基本作業服務、應用軟體系統轉換服務、應用軟體系統開發服務、應用軟體系統維護服務、硬體設備維護服務、資訊業務線上服務)的性質差異很大，不宜把單一契約範本套用在不同類上。我們認為，最起碼應標示契約範本之部份條文屬性，以符合資訊服務

與軟體產品的特性。我們籲請政府在某些條款應清楚標示屬性且提醒適用時特別注意並可能予以修改，以提醒政府採購機關應針對資訊服務的各類型來適用契約中各種特殊狀況條款，以避免政府採購機關與資訊服務業者之間發生不必要的誤會。

電信及媒體委員會

本委員會感謝國家通訊傳播委員會（NCC）與交通部對台灣電信及媒體產業發展的支持。我們尤其樂見台灣政府預計今年稍晚釋出行動寬頻業務執照，為此所做之預備工作也頗有進展。我們相信此舉將確保隨處可及的行動寬頻網路連線，亦有助於創新、高效率通訊科技與服務的快速發展。

以下我們將以產業的角度提供建言，甚盼能更進一步加強此股向前推進的動能。我們也期待在未來一年繼續與政府主管機關討論業界關切的議題。

建議一：為營運商與消費者兩者的共同福利，提供一個均衡而競爭的4G環境

LTE長期演進技術（Long-term Evolution）無線數據通訊標準已成為全球布建4G行動網路時絕大部分的共同選擇。目前有124國共415個營運商投入LTE相關計畫，根據全球行動通訊供應商協會（GSA）的預測，2013年底將有87國共248個LTE網路投入商業營運。4G服務與營運生態體系在其他市場的成長，使得台灣在規劃布建FDD-LTE網路的風險已大幅減少。除了FDD-LTE技術外，TD-LTE顯然也是可行選項之一，目前在亞太區已經有18個營運商開始進行TD-LTE的相關測試。

本委員會感謝主管機關對於台灣4G系統的發展，無論是初期討論、規劃或實際執行階段，都做出積極、有效的指引。我們的目標是為4G打造一個健康、永續的發展基礎，因此提供政府建言如下：

A. 鼓勵建構一個正面的產業生態環境

資通訊設備、手機、軟體應用設計等許多與電信相關的產業將為台灣未來的經濟發展扮演重要角色。營造一個正面積極、有遠見且能有效布建電信基礎建設的電信生態，將使台灣本地電信設備商與服務供應商同時受益。

B. 確保網路基礎設施的服務品質

隨著數據通信使用量的增加，3G也面臨了越來越多消費者對擴增頻寬、提高連線速率的要求。在就要實現的4G環境裡，網路用戶對於寬頻數據傳輸量的要求將有增無減。因此，對於基地台需求將大幅提高。為了避免網路流量壅塞的情形，政府必須積極協助支持，幫助營運商取得足夠的基地台地點。我們建議NCC加速審核流程以鼓勵使用更多小型或微型基地台，改善4G系統覆蓋率。

C. 通訊費率合理化

為了避免少數用戶使整體網路使用品質下滑，我們建議主管機關限制營運商採取固定費率，而使用隨用隨付（pay-as-you-go）/分級式收費。經常性的降價絕非確保客戶滿意度的唯一或最佳方法；相反地，還可能會降低服務品質，最終導致消費者滿意度低落。由於寬頻資通訊網路品質是國家競爭力的一項重要指標，台灣政府應該支持台灣本地電信服務供應商共同建立一個長遠、健康的費率環境，而非投入價格戰。

D. 推廣綠色科技

環境永續發展與綠色環保科技導入是所有產業現階段面臨的重要議題。台灣政府應該鼓勵整個電信產業鏈發展、引進最新的節能方案與設備。以美國為例，固定費率吃到飽收費模式導致資源浪費的經驗也提醒許多電信業者必須重視綠色科技。

E. 提供充分的法規支援

一個管理妥善的電信市場需要一個強而有力的政府機關。如今國家通訊傳播委員會的職責較2006年更多，其組織規模編制也應該擴大，以因應產業環境日漸增加、日趨複雜的議題與各種產品服務應用模式。本委員會認為現在是再次評估NCC功能的良好時機，藉此確保NCC有足夠的人力與其他資源來有效地發揮功能。

建議二：放寬對電信產業兩岸相互投資之限制

自2002年台灣加入WTO後，迄今中國大陸資金仍無法投資台灣第一類電信事業，實不符對WTO之開放承諾，此不利台灣業者搶進中國市場之機先，更阻礙台灣業者於亞太地區擴張服務及持續成長。台灣政府已設定加入TPP（跨太平洋夥伴協議）之目標，惟台灣自加入WTO後自由化太慢、經貿開放亦無明顯進展，目前開放程度距能夠加入TPP仍太遠。因此，若能儘速除去目前對「陸資來台」及「台資赴陸」之相關限制，不僅更符合對WTO之承諾，並有利台灣加速加入各種自由貿易協議（FTA），也使台灣電信業者具備足夠規模，來引領全球華文內容市場之發展。

台灣已擁有完整之資通訊產業鏈，透過強化兩岸電信業雙向投資與合作，非但有助於加速電信產業本身的發展，更能增強台灣電信上、下游相關產業及與其產業有關之廠商（包括IC設計、手機製造商、軟體加值服務供應商等）的競爭力，擴大其發展應用服務創新的空間，同時擴大市場商機。此將有助解決「台灣資金大量流向大陸、大陸資金卻進不了台灣」之經貿嚴重傾斜現象，亦能帶領台灣目前尚極具競爭力的內容產業進軍大陸市場。

儘管台灣政府對於開放兩岸間電信事業相互投資，有國家安全、個資保護及其他非經濟因素之慮，惟台灣之金融業與面板業及其他高科技產業，亦被視為重要且敏感之產業，然皆已於前年陸續開放陸資來台投資，對台灣主權及安全並未造成任何不良影響。因此，上述論者疑慮實不存在。

ECFA服貿協議即將進行簽署，而第4波陸資來台亦將隨之開放，其中包括金融（特別是銀行業）、面板等關鍵產業，惟第一類電信仍不在開放項目中。因此，我們呼籲國家通訊傳播委員會（NCC）、經濟部及國安相關單位，不宜再以「全有或全無」之角度思考，更應參酌目前兩岸間其他已開放投資合作之面板業、金融業或其他重要產業之作法，儘速修訂不符WTO承諾之限制，開放兩岸投資第一類電信業至少30%至40%之參股比例。

此外，我們更期待NCC、經濟部及國安相關單位能就論據不明、欠缺解釋之「國家安全」等議題予以定義及釐清，並提出明確之開放配套措施與業者應配合之相關事項，以利兩岸電信業者能事前就電信業相互投資之開放有更充分之依循及更妥善之準備。

積極掃除現有貿易障礙，才能加入如TPP等高標準貿易談判。政府應修改或增訂兩岸電信業相互投資開放之相關法令，以利達成市場自由化、促進貿易正常化。時間與機會不會等待台灣，台灣動作必須更快，才有機會趕上各國正努力促成的各種自由貿易協議，以免除被邊緣化之危機。

建議三：建立有效的網路內容管理規範

2012年台灣寬頻上網速率持續增加，朝政府先前設定「2015年之前達到超過600萬寬頻用戶可接取100Mbps有線寬頻網路」之數位匯流政策目標邁進。

本委員會長期以來對台灣政府未能針對OTT(Over-The-Top)網路服務建立健全管理制度感到憂心。隨著網路連接速率越來越快，使用OTT影視服務的人口日增。OTT透過網際網路傳遞、散布影視內容，提供了類似傳統付費電視業者（如有線電視或是持有執照的網路協定電視IPTV）經營的服務。然而由於這些境外OTT業者完全不受台灣政府的稅法約束，也無須遵循台灣法規，對台灣本地付費電視業者構成了不公平競爭。

台灣的音樂、戲劇、電影等文化創意產業頗有成績，也有知名業界人才往國際舞台發展。隨著台灣文化部成立，文創產業應該成為政府關注焦點，努力維護、促進產業長遠發展，但如今台灣內容製作者的智慧財產被未經授權的非法OTT網路影視服務侵害，獲利機會也被搶走，使許多台灣內容業者對於繼續投入發展新的數位內容抱持觀望態度。這種情況也導致網路公司不願積極投資網路硬體設施，布建更先進、範圍更廣的網路，以利實現台灣政府的寬頻網路普及化目標。

為了避免網路內容的智慧財產權遭侵害，美國立法者曾提出禁止網路盜版法案（Stop Online Piracy Act）。我們再度籲請台灣政府尋求解決網路盜版問題的方法，在行政院之下成立專案小組，協調包括經濟部智慧財產局、文化部、通傳會等相關政府單位的工作，保護在台灣的業者不受非法OTT服務提供者的不公平競爭。

本委員會也建議政府在網路盜版議題的大眾教育宣導方面投入更多資源。在網路上下載「免費內容」（本來必須付費才能收看的內容），大都是違法的。儘管付費電視業者多次請求政府改正此一現象，現行法規對這種問題仍無特別規範管制，社會大眾

對這種問題的瞭解也很有限，種種因素都衝擊有線電視營運商的合理生存發展空間。台灣政府必須採取有效的措施，保護在國內業者之智慧財產不受不受監管的OTT服務提供者侵害，加強對社會大眾的教育，使一般人瞭解使用網路盜版內容的法律問題或其他層面的影響。

此外，本委員會再度呼籲政府針對數位匯流涉及之各種傳播管道的法規調和工作，指派專責單位統一負責，確保無時無刻在各種合法平台上的數位內容都能得到標準一致的保護，也讓消費者權益同獲保障。

某些國家已經承認控制、處罰網路盜版的法規非常重要。舉例來說，馬來西亞1988年制定通訊與多媒體法，規定馬來西亞通訊與多媒體委員會可以書面要求網路服務供應商（ISP）使違法情事不再發生。一旦著作權主管機關—馬來西亞貿易、合作及消費部一確認有網站發生內容盜版情形，通訊與多媒體委員會有權要求ISP中止侵害著作權網站的上網權限。

南韓的主管機關也和馬來西亞一樣有類似權力，可以依照「電信事業法」、「促進資訊、通訊網路利用暨資訊保護法」等規定的行政程序要求ISP業者中止違法網站的連線權限。南韓文化體育及觀光部與南韓通訊傳播標準委員會都有權要求ISP業者對非法網站停權，防止數位內容智慧財產權遭侵害。

台灣政府的政策是鼓勵台灣本地內容業者持續成長，並向全世界行銷台灣的文創內容。要達成這樣的目標，台灣迫切需要建立有效的網路內容規範管理制度，保護合法商業模式，使其持續發展。至終，內容業者與其他業界參與廠商都能享有一個健康友善的政策環境，使數位媒體蓬勃發展，刺激更多投資，一如許多鄰近國家的成功案例。

建議四：建請NCC放寬電視頻道營運執照的審查、換照規定

在台灣，國際電視頻道要申請頻道營運執照的許可、審查、評鑑及換照，程序相當繁瑣。由於評鑑頻率過於頻繁，待通傳會花長時間完成評鑑或換照審查，業者可能又得立刻開始接受新一轮評鑑或重新申請換照。本委員會建議不只簡化相關審查流程，例如每二年一次的期中評鑑可改為每隔三、四年進行，NCC也宜放寬對頻道內容的定義，因為實際決定一個頻道有無價值的是市場，並非政府。若該頻道於歷年均無違規紀錄，建議可將規定改為無須提出換照申請即可直接許可換照。

就衛星廣播電視法所要求「申請衛星廣播電視事業之經營，應填具申請書及營運計畫，向主管機關提出申請，經審核許可，發給衛星廣播電視事業執照，始得營運。」其中申請書及營運計畫要求填具之規格項目繁瑣，例如須提供國外股份、股東結構（基本上國際媒體集團由於牽涉到交叉投資持股，並不容易以單一表格明白列出相關資料）或是公司員工薪資/年資、公司人事流動率等細節。對國際頻道而言，上述資料皆屬於公司營運管理之機密資料。許多境外頻道申請者在國外已有相當之知名度，對通傳會要求提供某些細部資料的理由不免感到疑惑，因此本委員會建議通傳會重新檢視審查流程，免除業者必須提供此類細部資料的相關要求，或者在頻道沒有違規紀錄時同意免除審查程序。

此外，除頻道營運執照許可及審查、評鑑、換照之需求，尚有每年四月及十月之戶數申報。威信通傳會可向系統營運商或是MOD業者要求對照某頻道在該平台之戶數以茲審核，無須要求頻道申報戶數資料，徒增雙方承辦人員作業負擔。

交通運輸委員會

今年交通運輸委員會的白皮書建言來自三個產業：國際快遞貨運業、汽車業與航空業。

國際快遞貨運業

建議一：免除進口快遞低價免稅貨物委任書規定

目前對快遞貨物的簡化通關程序是根據世界關務組織發表的立即放行指引。根據此指引，判定快遞貨物通關是否立即放行時應把貨物以價格分成四類，包括：文件信函、低價應稅貨物、低價免稅貨物與高價貨物。這樣的分類顯示通關作業應有之風險管理與效率提升機制，對於低價值貨物也採取較為務實簡便的通關方式。

然而目前在實務上，如有申報內容不符實際來貨時（例如原裝貨者故意提供不實貨物名稱，使快遞公司對台灣關務單位申報

內容不符實情），快遞業者必須負起全部責任，提供委任書，不然可能會被引用緝私條例處分。在美國、歐盟、日本等採用世界關務組織放行指引的國家，對於低價免稅貨物申報不符案件並無此委任書規定。

為建立一公平合理、全球一致的法規環境，本委員會籲請關務署對於進口低價免稅貨物申報作業，宜盡速修正相關規定，免除委任書要求，確保台灣在快遞運輸作業程序的速度與風險控管上與其他國家水準相同。

建議二：在高雄機場建立快遞貨運中心，提昇南台灣競爭力

本委員會建議財政部在高雄機場建立一個快遞貨運中心，藉此健全高雄空運快遞貨物通關環境，增進南台灣國際競爭力。

國內航空班機已因高速鐵路的運行受創，目前也沒有國內班機載貨從高雄出發至桃園國際機場，再銜接飛往國外航點的班機載貨出國。這對於南部進出口貨物的運送時效造成嚴重傷害，尤其是讓企業無法透過快遞通關的方式更有效率地運貨出國。

幾年前，高雄機場還有一個快遞貨運航站在營運，但後來因為種種原因停用。快遞貨運對高科技產業來說是一種重要的物流支援工具，對於現代商業發展也很重要。建立快遞貨運中心，充份運用高雄小港機場資源將加強南台灣的國際空運貨物運輸模式，扶植南部業者，吸引更多企業進駐週邊區域，這也非常符合行政院經濟動能推升方案的宗旨。

汽車業

汽車業者期盼在未來《兩岸經濟合作架構協議》（ECFA）相關談判中能將更多關鍵零組件及整車列入關稅減免討論清單，我們也希望台灣政府與東協及其他主要競爭對手市場簽訂自由貿易協定，以幫助車輛業者提昇區域競爭力，消除關稅貿易障礙，擴大整車及零組件出口。

我們仍舊希望台灣政府能避免國內單一法規的要求形成技術壁壘障礙，阻礙國內車廠與國際母廠技術接軌。有關單位宜調和車輛法規，簡化認證流程，協助業者降低成本，縮短時間。產業界樂見台灣車輛產業政策以溫室氣體減量為目標，鼓勵節能減碳技術發展，但仍建請政府的租稅減免等獎勵政策能以車輛降低二氧化碳排放之性能及效率為基礎，擴及所有技術，而非只針對特定技術。

當前全球面臨「氣候變遷」之嚴峻考驗，本委員會再次呼籲政府能夠擴大現行對電動車、油電混合車及插電式油電混合車貨物稅免徵及減徵措施。台灣相當倚賴進口能源，加上電動車於充電使用過程，以及所充電力發電過程仍有相當大的二氧化碳排放量，使用純電動車對二氧化碳減排的實際影響規模應比一般人所認知的規模還小。政府需要擴大目前的獎勵措施，更有效率地導入潔淨車輛，並增加對於使用其他替代能源的獎勵。

建議三：加速清潔、環保暨安全車輛導入台灣市場

台灣汽車市場銷售量由2008年22萬台上升至2011年38萬台，2012年些微減少至36.6萬台，現在的銷售量與2008年相比已經改善，但以全國車廠產能70萬台而言，產能利用率僅54%。要讓台灣汽車產業供應鍊能達到具有國際競爭優勢的經濟規模，唯有增加內需提振經濟，並同時擴大出口產能。我們建議政府盡速訂定台灣汽車產業長期發展政策，落實二氧化碳減量目標。除了具有環保效益，此種政策亦有助於帶動台灣汽車產業的發展，提供額外稅收。

我們呼籲政府應擴大對台灣國內市場潔淨車輛的獎勵措施：

1. 目前電動車及油電動力混合車是一種過渡技術。我們建議，應考量獎勵所有提前達成低污染排放、燃油效率較高之技術車輛（或是達到與電動車相當之二氧化碳排放量的汽車，亦即符合歐洲五期污染排放標準的車輛），無論所採技術為何。
2. 建議台灣政府採用類似歐洲國家的綠色消費稅，取代現行貨物稅與隨車徵收燃料稅的機制，真正落實獎勵低污染及低二氧化碳排放之車輛。政府也應加速使中高污染車輛淘汰，並將稅收用於獎勵高燃油效率及二氧化碳排放量低的車輛。
3. 台灣政府目前在電動車方面有先導發展計畫，並且希望電動車零組件或整車製造商加入國際車輛製造商的供應鍊。但是政府缺乏吸引這些跨國企業的有效政策。台灣應有機會提供國際車廠測試先進綠色能源車輛的一流環境，政府必須研擬有競爭力並且公平的獎勵措施，讓國際製造商產生強烈與

趣，也為台灣相關產業創造更多發展機會。

在國際市場方面，本委員會建議：

政府應加速簽訂區域內自由貿易協定FTA，例如目前與新加坡，甚至將來更廣泛與東南亞國協（ASEAN）整體討論的貿易協定。我們也期盼政府積極推動下一階段的兩岸ECFA汽車產業相關談判，以減少關稅貿易障礙，增加整車出口。

建議四：促進台灣車輛法規及認證制度與國際接軌

台灣參酌、導入聯合國歐洲經濟委員會之車輛技術法規及認證制度已有一段時日，我們感謝台灣政府在調和國內制度與國際法規方面的努力。然而，因為目前的認證制度仍無法與國際制度完全一致，導致業者引進車輛之困難度大增，甚至淡出台灣市場。

舉例來說，環保署對柴油的黑煙測試仍堅持與國際標準不同之獨特測試程序及標準，而能源局則持續採取「油耗未達標準不得銷售」之管理手段。在多數先進國家，車輛油耗標準通常僅作為參考，能源局卻將限定油耗標準當作管控台灣全國能源消耗量之手段之一。

航空業

建議五：允許私人包機服務在台灣全面運作，促進商務航空產業發展，增加海外來台投資的商機

商務航空產業已經為全球許多發展中及已開發國家，創造了顯著的政治、經濟及社會效益，而近年來，此一產業在亞洲市場也已有蓬勃的發展。開放台灣商務航空的市場將激勵台灣的經濟成長，因為商務航空產業將會直接帶動飛機維修業、機場地勤服務業、空廚業、飯店業、觀光業等產業之業務榮景。商務航空市場的開放也將幫助其他業者，例如台灣許多的優質遊艇製造業者，使其得以提供潛在買家高階、奢華、便捷的交通選擇，來台訪視造船設施。此外，商務航空產業的開放，也將讓擁有大規模資金之外國投資者更容易來台，進而視台灣為其在亞洲從事業務開發之重要樞紐。

台灣交通部民用航空局（以下簡稱「民航局」），目前禁止向美國及其他國家註冊的私人包機來台載客，以從事國際出境行程。民航局所憑以限制者，係民用航空法第81條第1項規定：「外籍航空器或外籍民用航空運輸業，不得在中華民國境內兩地之間按有償或無償方式載運客貨、郵件或在中華民國境內經營普通航空業務。」細譯本條規定，僅係禁止外籍航空器在台灣「境內兩地之間」從事包機行程，然而民航局目前的解釋為，外籍航空器不得進入台灣從事乘客國際出境包機行程。相對的，美國卻沒有禁止向台灣或其他國家註冊的外籍航空器進入美國載客，從事國際出境的包機行程。

台灣的商務航空產業目前尚屬未開發階段，因此在國內註冊且可從事私人包機服務的飛機相當有限。這等現況，再加上台灣民航局禁止外國籍飛機來台載客，以從事國際出境的包機行程，已經造成習慣搭乘私人飛機的商務旅客極大不便。目前民航局對民用航空法第81條第1項的解釋與執行，已然等同直接將台灣自外於私人包機之國際商務航空產業。台灣若欲拓展商務航空產業及提高國際競爭力，則需重新審視其現階段對民航法規之解釋與執行。

商務航空的優點在於：彈性、效率、隱私、便利、及安全。私人包機服務可提供乘客在旅遊或出差時，享有多樣化的選擇。與一般旅客相較，私人包機的乘客無需配合班機時刻表，可以自行選擇出發的時間及起飛降落的機場，如此即可免去轉機的不便。此外，私人飛機可以直接降落於較小或較偏遠的機場。搭乘私人飛機的乘客在多數機場可享受無需等待的禮遇通關服務。私人包機的客戶群廣及商務人士、外交官、手術後的病患、藝人，以及其他希望避免搭乘傳統民航機所帶來不便（例如人潮、誤點等情況）的人士。

台灣位在亞洲重要交通樞紐位置，因此有人稱台灣是亞洲「靶心」。正因如此，台灣一向被看好有潛力成為航空業在亞洲的主要轉機地。但若台灣持續忽視商務航空產業所能帶來的效益，則日本和香港將仍是亞洲的主要轉機地。為此，我們建議台灣政府盡早採取行動，使台灣在商務航空產業的無限商機中占有一席之地。

旅遊與觀光委員會

台灣政府近年來持續推展觀光旅遊業的努力已經逐步展現亮麗成效，來台旅客人數持續增加，以2012年為例，來台觀光旅遊人數達731萬人次，比2011年成長20.2%。惟值得注意的是，觀光外匯收入的成長幅度遠不如觀光客人數。根據觀光局的統計數據，2012年全年觀光外匯收入成長幅度為6.3%，比起2011年的26.91%及2010年的27.92%相去甚遠。全球景氣的低迷固然對觀光客的消費能力有一定程度的影響，惟此時政府更應將觀光旅遊政策的重點從「衝高觀光客人數」轉向「提昇觀光旅遊品質」，才能有效增加觀光外匯收入。對此，本委員會今年提出幾項建議，包括強化旅遊業的長期通盤規劃政策以對國際觀光客提供有質感的旅遊經驗、持續在台灣籌劃世界級大型活動、積極吸引更多全球觀光客來台旅遊。

政府過去幾年投注了不少心力，以在台灣建立一個有信譽的觀光博奕事業。本委員會相信，在離島引進觀光博奕事業，將對於促進離島觀光旅遊事業及改善離島基礎建設並提昇台灣成為全球及區域性觀光地點發揮很大助益。根據本委員會從業界得到的訊息，潛在投資者對於台灣的離島博奕事業都有相當大的興趣，特別是對金門及澎湖，同時，我們也認為馬祖可吸引不只一家的投資者參與未來的博奕執照競標。

本委員會樂見行政院將《觀光賭場管理條例》草案列入本會期立法院優先法案。由於潛在投資人在決定參與競標前，將觀察政府的態度、了解政府對發展此產業的決心，我們鼓勵政府持續對此投入心力。在博奕事業相關法案的立法過程中，本委員會全力支持政府，並願意提供任何所需的協助。今年，我們就如何以有意義的稅制支持觀光博奕產業的蓬勃發展、以及釐清政府對觀光博奕產業的整體發展態度，提供建言。

台灣觀光旅遊產業持續面臨人力資源困境，是本會員關注多時的另一個重點。由於台灣嚴重缺乏具有適當管理經驗及語言能力的世界級觀光旅遊業人才，已經影響業界提昇服務品質的能力。本委員會呼籲政府能繼續鬆綁工作證及外籍人才來台工作相關管制，並給予業界相關誘因及協助，以提高本地觀光旅遊業人才的素質。

另外，本委員會注意到，台灣的旅遊零售業仍存有一些限制，阻礙此產業發揮最大潛力、提升觀光收入。我們也期待政府提供相關協助改善這些問題。

一如以往，我們期待與政府合作，就提升及擴大台灣的觀光旅遊產業共同努力。

建議一：以長期策略規劃觀點發展觀光

要晉升世界知名的觀光景點及旅遊勝地，台灣除了需不斷開拓觀光客源，更要以長遠觀點進行觀光產業規劃。強化旅遊安全與加強主要觀光景點周邊設施軟硬體規畫，不但能滿足來自世界各地觀光人士對於品質的要求，更能幫助台灣成為世界級觀光勝地。

強化旅遊安全

台灣有些著名的觀光景點由於缺乏完善的安全規定及執行而產生許多問題。目前政府除了依季節性或短期提出相關處理措施，尚未提出長遠具體的解決方案。以每天湧入數千名遊客的阿里山景點為例，不合格大眾運輸所造成的安全疑慮已是存在已久的問題，有關單位應建立一個兼具安全性和效率的運輸系統以支持日漸成長的客流，並考慮設置每日遊客數量上限以確保安全和旅遊品質。

太魯閣國家公園是台灣另一重要觀光景點，建議管理單位能夠針對問題加以規範，對該風景區內大型遊覽車的數量進行管理和加開小型巴士，以減少交通事故的發生。

另外，台灣大部分的遊覽車是由進口引擎和國產車體組裝而成，當意外發生時，此類車種的受損情況比單一生產線製造的車輛更為嚴重。如果組裝車是最符合遊覽車承包商的營運成本，政府應採取更嚴謹的規範檢驗，並監督組裝生產流程以提升整體安全。

提升觀光景點軟硬體品質

台灣有八個國家公園和許多美不勝收的觀光景點，可惜現有的住宿和餐飲服務選擇有限，因而使台灣無法受到國際旅客的矚目及青睞。政府如規劃多樣的鼓勵方案，必能吸引國際集團進駐景點，加以投資及開發世界級的旅館和度假村。

國立故宮博物院是台灣最有名的文化景點之一，近年來由於參訪人數大幅增長使參觀品質受到影響。礙於館內有限的空間，收藏品必須以定期輪替的方式進行展出。為了推廣更多展覽給廣大群眾，政府於去年擬定了擴建故宮的方案，希望此項工程盡速展開，使台灣特有的中華文化資產能夠被發揚光大。

世界聞名的日本櫻花季每年吸引各地大批的外國遊客赴日賞櫻，使得櫻花季成為日本觀光業不可或缺的行銷元素。台灣的桐花祭之美並不亞於日本的櫻花季，但因欠缺大力的國際宣傳，桐花季現階段僅受到國內遊客的關注。政府應著重島內桐花樹的培植栽種，同時加強桐花季的對外宣傳資源，使桐花季成為指標型活動，建立台灣優質觀光品牌形象。

建議二：吸引、培訓與聘僱優質觀光旅遊業專業人才，以建立並長期維繫國際化的服務水準

台灣人素以好客有禮、人情味濃及待客週到著稱，許多外來訪客對台灣的服務極有好評。由本委員會所代表的觀光旅遊業者由衷欣賞台灣旅遊從業人員的這些特質，但是我們也對台灣缺乏具備管理經驗、傑出語言能力，能協助培育本地員工達到國際水平的頂尖專業人才而感到憂心。台北固存在這樣的問題，在本島其他非城市地區，優質人才短缺的情形更是嚴重。為了提升整體觀光客流量，增加吸引具有高價值的會議商旅旅遊以及西方遊客的潛力，台灣需要引進更多具專業的外籍觀光業人才以提升服務層級及管理績效到國際水準。此外，旅客人數增加，造成人力需求孔急，台灣必須引進世界頂尖的觀光旅遊專才以發展訓練本地人才，更積極與世界級的餐旅學校擴展合作關係。

如果想吸引更多國際大型活動在台灣舉辦，並且在獲利機會頗多的國際會展產業占有一席之地，台灣必須在短期內建造更多大型世界級旅館，聘用及訓練優質的工作團隊。澳門的案例證明這絕非不可能完成。澳門自2002年開始推廣博奕產業，其觀光旅遊業也飛速成長，各國際知名業者現在都在澳門尋求發展。新加坡決定開放讓多功能觀光賭場設施進駐之後，也經歷同樣的蓬勃發展。這兩個例子的相同之處，在於政府都積極開放外籍人力，以利觀光旅遊業者突破人力發展瓶頸。

我們建議參考新加坡與澳門的模式，針對那些將開幕之新設大型旅遊觀光計畫所需的人力放寬限制，使業者在聘用外籍勞工方面有更多彈性。沒有足夠的專業人力，頂尖旅遊觀光業者將難以在台灣成功發展，台灣也無法建立聲譽，成為受大型旅遊業投資案青睞的地方。

本委員會建議：

1. 進一步放寬工作許可審核限制，吸引更多有專業技能、才華出眾的外籍專業人才來台灣工作，藉此推動台灣觀光旅遊產業迫切需要的改變，確保永續成長。
2. 提供獎勵機制，積極協助本地大學與世界頂尖觀光旅遊業者或訓練機構在台灣建立世界水平之人才訓練中心。
3. 鼓勵及資助本地旅遊業具體且有系統的引進英語訓練，對台北之外的地區應該投入更多資源。

建議三：提升台灣形象，吸引大型世界級活動在台灣舉行

藉由吸引和主辦越來越多的國際級大型活動項目，台灣的國際形象逐漸提升中。哈雷戴維遜集團在其他市場透過與政府機構與國內外之相關人士合作，籌劃一系列訴求獨特的活動，提供了成功案例，值得台灣引進學習。然而，在達到足以和新加坡、澳門、南韓、馬來西亞及泰國這些亞洲國家競爭吸引國際大型活動之前，台灣還有許多的工作需要去完成。

本委員會有以下幾點建議：

1. 在交通部觀光局中建立專門負責處理國際項目之聯繫窗口。該窗口之作用是協調所有參與將特別項目引進台灣之政府機關及私人機構，以免項目組織者拒絕選擇台灣作為地點。例如，主辦單位對在台灣舉辦德州撲克及麻將大賽有極大的興趣，但最終因為無法獲得各主管機關確切的答覆而放棄在台灣舉辦。
2. 聘僱有舉辦國際活動經驗的業者，借助他們的經驗系統性地協調各相關人員，推動宣傳行銷，除了籌備活動本身，也能規劃執行各種相關的預備事宜。
3. 設法吸引國內外媒體，讓他們更關注在台灣舉行的活動。

建議四：積極推廣台灣作為世界旅客之目的地

這幾年間，台灣在行銷自己成為國際旅遊景點這方面有顯著

的進步。可惜的是，在台灣著重增加陸客搭乘遊覽車走馬看花式的旅遊人次時，對於經驗豐富的國際旅客而言，台灣仍然不是熱門目的地。考量上開兩種類型的旅客消費能力之差別，這樣的情況使台灣的觀光產業每年需付出幾百萬元之成本。

我們有以下幾點建議：

1. 採取積極的手段向屬於利基客層之外國旅客行銷，如戶外探險(健行、騎單車、爬山、潛水、衝浪、帆船)、生態旅遊(例如：台灣是一個很棒的賞鳥地點)、美食之旅、溫泉、購物及文化活動。
2. 透過建立便利國際個人旅客預訂火車票、申請入山證等行程所需事項的綜合性專門網站，增進外國旅客接觸台灣旅遊資訊的機會。
3. 繼續努力改進招牌標示和服務使用之英文及其他外國語言翻譯之一致性，特別是在台北市以外的地方，如此才能成為真正的國際旅遊景點。

建議五：為台灣的觀光博奕事業建立合理的稅制

本委員會讚揚政府對於建立有信譽的觀光博奕事業投注的努力。我們也感謝政府在《觀光賭場管理條例》草案的立法過程中，願意廣納建言，傾聽學術界及業界的意見。

對一個全新的博奕市場而言，建立一個有信譽及有活力的觀光博奕事業的最大效益之一就是稅收的增加，包括針對博奕事業以及綜合性娛樂場營運收入課徵的稅收。不過，如果一個新的博奕市場打算課徵的稅負太多，或者在稅制上有太多的不確定性，很可能就會打消投資人的興趣，以致於該市場最後完全無法獲得任何稅收。

本委員會非常擔心的是，目前在立法院審查的行政院版《觀光賭場管理條例》草案第113條，對於政府向賭客的賭博贏錢毛收入課徵20%的贏錢稅，提供了課稅基礎(假設課徵方式為要求賭場在賭客贏錢時即預先扣繳)。雖然此版本有20年的緩徵期，亦即政府20年後再決定是否課徵此一稅收，但本委員會認為，這項條文造成的稅制不確定性，將大大減低投資人參與競標台灣觀光博奕市場的意願，甚至可能讓台灣無法成功建立觀光博奕事業。究其緣由，投資人只會對能成功吸引賭客的博奕市場產生興趣，如果亞洲其他不課徵贏錢稅的博奕市場比台灣更能吸引賭客，投資人對台灣的興趣就會減低。

除此之外，徵收贏錢稅不但不符合國際常例，也無法順應世界潮流。亞洲兩大博奕市場——新加坡及澳門——建立的稅收原則為：政府對博奕業者而非賭客課稅，若將來行政院版本案照案通過實行，那麼贏錢稅將會成為另一個「台灣唯一」的制度；這種做法與博奕蓬勃發展的亞洲或世界上大部分發展博奕的國家大相逕庭，不僅無法增加國庫收入，反而會將早已布局投資台灣博奕的國際投資者拒於千里之外。若政府有心好好發展博奕產業，就應該取消贏錢稅，以建立良好的產業信譽並促進市場蓬勃發展。

建議六：釐清博奕政策發展方向並展現發展決心、設立博奕管理專責獨立機構並提供單一窗口服務

本委員很榮幸在《國際觀光度假區投資計畫申請審核辦法》草案擬定的過程中，有機會提供建議，也期待未來能繼續與交通部觀光局進一步討論草案內容。

本委員會注意到最近本島博奕特區的議題引發政政治圈及市場上熱烈的討論；其中，桃園航空城及自由經濟示範區，被認為是本島博奕事業的熱門地點。

本島是否開放博奕是高度敏感的政治議題，必須有全國共識才可能達成。無庸置疑的是，本島若開放設立博奕特區，將比離島更能吸引國際博奕投資者的高度興趣。然而，政府對於是否在本島設立附設賭場的觀光渡假村，若持續採取模糊立場，將增加博奕產業發展的不確定性，進而阻礙離島博奕事業的發展；如此一來潛在投資者極可能先採取觀望態度，直到政府態度明確，而各離島依據《離島建設條例》投注在發展觀光博奕事業的努力，全都將化為灰燼。

在這個關鍵時刻，博奕政策的方向極其重要；政府應對博奕只限在離島設立或有可能開放本島設立博奕特區，做出明確的政策決定。若政府持續在此議題上不表態，將會造成博奕產業發展速度減緩(不論是離島或本島)，甚至使台灣喪失發展博奕的契機。

另外，本委員會了解，有關博奕事業監理機關的組織架構，最近在政府內部引起討論。博奕產業的性質相當特殊，而且可預

期的是，其他國家或地區的博弈事業監理機關將高度關注台灣博弈事業監理機關是否有足夠的獨立性，因為台灣博弈事業的潛在投資人都在世界主要博弈市場經營博弈事業。有鑑於此，我們建議台灣博弈事業監理機關應為交通部下轄之一個獨立機關，其首長直接向交通部長負責。若此機關必須被設置在交通部觀光局之下，則建議至少指派一位觀光局副局長專門監督博弈事業監理機關，並直接向交通部長負責，否則博弈事業監理機關將無法真正獨立於觀光主管機關之外，而觀光主管機關可能有其他的優先政策目標、而無法完全致力於博弈監理事業。

在博弈事業監理機關正式設立之前，我們建議政府仿效新加坡模式，組成一個工作小組，專責推動博弈事業監理機關的設置以及觀光賭場管理條例的其他相關業務。此工作小組應由交通部召集、成員包括相關政府主管機關的高階首長。經濟部投資審議委員會的組織架構，即是此工作小組可參考的最佳模式。

本委員會要再次強調，台灣的觀光博弈事業若想吸引享譽全球的博弈開發商和經營者前來投資，一定要在起跑點就成功—包括建立一個擁有嚴謹獨立組織架構且有執行力的博弈事業監理機關、在博弈事業地點的政策上做出前後一致的決定、並展現全力發展此事業的決心。我們誠摯希望政府在推動博弈事業相關法案及博弈事業監理機關的設置等議題上，切勿持觀望或「走一步算一步」的心態，想等到有意願的投資人都浮上檯面時才願意認真以對，因為，有信譽的投資人都必須確認政府是真有意願發展這個事業，若政府僅以「試水溫」的態度推動博弈事業，不但很難吸引投資人，更可能產生嚇阻的反效果。

建議七：開放市區免稅商店，促進臺灣觀光消費產業發展

市區免稅商店係外籍旅客習慣熟悉的消費模式，惟今日，臺灣本島並無任何一家市區免稅商店，反存在由一家機場免稅商店特許業者兼營三家市區預售中心(兩家在台北市區，一家在桃園市區)，而事實上獨占市區免稅商店市場的不合理現象。此乃肇因於擬申請經營市區免稅商店執照之業者，首先需經機場主管機關核准其於機場內設立提貨處，惟僅有機場免稅商店特許業者透過市區預售中心設有提貨處，而機場主管機關卻拒於提供規劃提貨處空間供其他業者使用。

健全的市區免稅商店市場不但使觀光產業受惠，更可強化整體經濟發展及基礎建設，從而促進國家財稅收入及就業機會。茲以全球觀光消費產業居首的南韓為例，即透過在所有國際機場分設共同提貨處，促進健全的市區免稅商店市場。

以2011年為例，南韓計有980萬的入境旅客，略高於臺灣的610萬；惟首爾設有分別由4家業者所經營的6家市區免稅商店，創造共達近美金22億元營收，相較臺灣受限於目前僅有3家市區預售中心，雖獨占市場，但年營收估計僅美金3億元。按臺灣觀光消費產業未能有效發展，可由以下數據凸顯：南韓的入境旅客人數雖僅為臺灣的1.6倍，但其市區免稅商店市場規模（首爾）卻高達臺灣7倍。

考量機場空間單位有限，恐無法使所有市區免稅商店執照申請人個別於機場內設立提貨處，故本委員會建議機場主管機關應仿照南韓，於各國際機場內規劃設置共同提貨處，俾使符合資格之申請人均得共同使用，以解決市區免稅商店市場目前所面臨之困境。

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