

Report on Taiwan's 2011

Ease of Doing Business Reforms

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Taiwan Continues to Deepen Reform of Its Business Environment

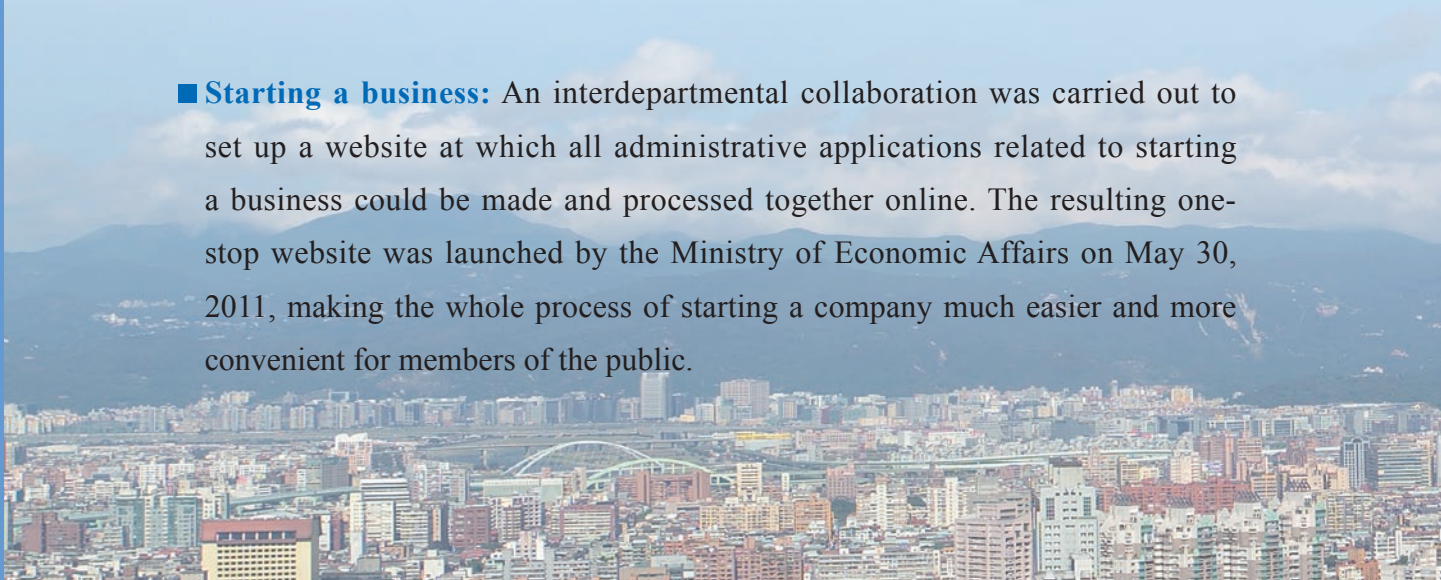
Taiwan Continues to Deepen Reform of Its Business Environment

To build a friendly environment for doing business in Taiwan, the Executive Yuan has since 2008 been drawing reference from the World Bank's annual Doing Business report to carry out review and improvement of related laws, regulations and administrative measures. Prominent examples of these reforms include the amendment of the Company Act in 2009 to abolish the minimum capital requirement for company startup, and amendments of the Income Tax Act in 2009 and 2010 to reduce business income tax to a flat rate of 17%. At the same time, continuous steps have been taken to simplify administrative procedures for starting a business, dealing with construction permits, and paying taxes.

In the Doing Business 2011 report issued by the World Bank in November 2010, Taiwan was ranked 33rd overall in ease of doing business, among 183 economies surveyed. Its sharp ascent in the rankings, from 61st in 2008 and 46th in 2009, demonstrates that the government's efforts to improve the business environment have already achieved initial effect and gained recognition in international assessment.

During 2010/11, the government has continued to deepen business environment reform through closely orchestrated interdepartmental collaboration, establishing effective division of tasks and holding regular conferral among the cabinet agencies concerned to ensure fast achievement of reform objectives. Prominent features of this reform drive include:

- **Starting a business:** An interdepartmental collaboration was carried out to set up a website at which all administrative applications related to starting a business could be made and processed together online. The resulting one-stop website was launched by the Ministry of Economic Affairs on May 30, 2011, making the whole process of starting a company much easier and more convenient for members of the public.



- **Dealing with construction permits:** An interdepartmental collaboration was carried out to streamline construction permit application procedures, and particularly to expand and enhance single-window services for construction permit applications. On March, 2011, the Taipei City Government officially set up the One-Stop Center for Warehouse Building Permits, to provide a fast and convenient integrated service to the general public.
- **Getting credit:** With a view to building a workable legal framework for accommodating new concepts of using movable property as collateral, the Executive Yuan has instructed the competent agency (the Financial Supervisory Commission) to broadly solicit views from academic, industrial, and government spheres on revision of the Personal Property Secured Transactions Act and related regulations.
- **Protecting Investors:** The government has drawn up amendments to various provisions of the Company Act and the Securities and Exchange Act aimed at strengthening corporate governance, enhancing minority shareholder protection, and underpinning the sound development of Taiwan's capital markets. Draft amendments of Article 8 of the Company Act (on the regulation of shadow directors), Article 23 of the act (on disgorgement of unlawful profits by directors), and Article 206 (imposing a duty on directors to explain their personal interest in transactions at a meeting of the board of directors), and of Article 38-1 of the Securities and Exchange Act (giving minority shareholders the right to apply for the competent authority to conduct an examination of company records) are currently under deliberation in the Legislative Yuan.

In this era of globalization, the openness of the business environment is a representation of an economy's internationalization. In the future, the government will continue to carry out the innovation and international alignment of Taiwan's business-related laws and regulations, with the aim of building a business environment that is friendly and attractive to international investment.







Indicators



Starting a Business

❖ 1. Introduction

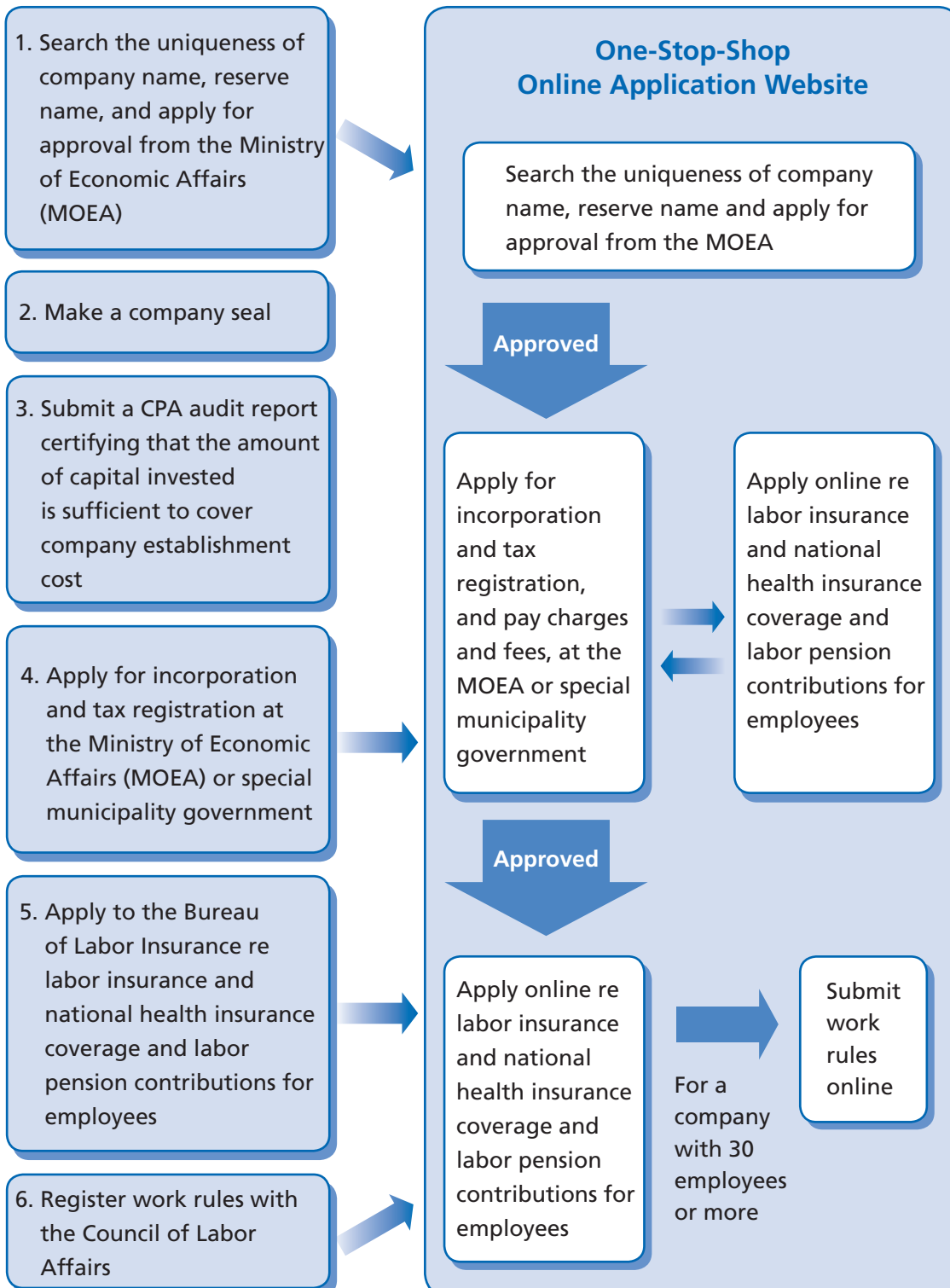
Looking back at the course of reform in Taiwan's business environment in recent years, the most outstanding success has been achieved in the area of "Starting a Business," with our global ranking in this indicator rising from 119th in 2008 to 24th in 2010. Since the second half of 2010, our government has been working energetically to institute even greater reform in this area, by mapping out plans for putting company startup procedures online.

The One-Stop Website (<http://onestop.nat.gov.tw>) for Online Applications to Start a Business formally came into operation on May 30, 2011. The relevant procedures for checking the uniqueness of a new company's name, approving the name, registering the company, obtaining labor and national health insurance coverage, and filing work rules can all be conducted on this same website, making the whole process of starting a company much easier and more convenient for members of the public.

Amendments to Articles 7 and 10 of the Company Act have been drafted and are currently under review by the Legislative Yuan. These amendments, which will change the CPA capital audit certification report from a documentary requirement for company startup to a post-startup filing requirement, are expected to be passed into law and go into effect by the end of December 2011.



Flow Chart of One-Stop-Shop Online Application Process for Starting a Business (<http://onestop.nat.gov.tw>)





❖ 2. Comparison chart for 2011 reforms

(1) Reform comparison

Item	Procedure	2011 survey results		2011 reforms	
		Time (days)	Cost (NT\$)	Time (days)	Cost (NT\$)
*1	Search the uniqueness of company name, reserve name, and apply to the MOEA for approval	1	300	1	300
2	Make a company seal	1	450	1	450
3	Submit a CPA audit report showing that the amount of capital invested is sufficient to cover company establishment cost	2	20,000	2	5,000
*4	Apply for incorporation and tax registration at the MOEA or special municipality government	3	1,355	1	1,355
*5	Apply to the Bureau of Labor Insurance re labor insurance and national health insurance coverage and labor pension contributions for employees	1	0	1	0
*6	Register work rules with the Council of Labor Affairs	7	0	7	0
Total		15	22,105	10	7,105

Note: Procedures marked with * will be integrated into one procedure when the one-stop-shop online application process for starting a business comes into operation.



(2) Reform result (streamlining into three procedures)

Item	Procedure	Time (days)	Cost (NT\$)
1	Use the one-stop-shop online application procedure to conduct search and approval of company name, incorporation and tax registration, applications re labor insurance and national health insurance coverage and labor pension contributions for employees, and registration of work rules	7	1,655
2	Make a company seal	1	450
3	Submit a CPA audit report showing that the amount of capital invested is sufficient to cover company establishment cost	2	5,000
	Total	10	7,105

Note: The one-stop website for online application to start a business came into operation on May 30, 2011.

❖ 3. Explanation of reform

(1) The one-stop-shop online application website (combining procedures 1, 4, 5, and 6)

- A. This combines procedures 1, 4, 5, and 6 into a single procedure (procedure 1), with a total cost of NT\$1,655.
- B. Article 3 of the Directions for Review of Work Rules stipulates that where the rules submitted for approval follow the officially prescribed Sample Work Rules, the review process shall be completed within 7 days. Therefore, the combined procedure for the online application through the one-stop-shop website will require a maximum of 7 days to complete.



(2) Submitting a CPA audit report showing that the amount of capital invested is sufficient to cover company establishment costs

- A. Before the termination of the uniform certification system in April 2009, the relative complexity of company startup procedures prompted most applicants to commission CPAs to undertake the whole process for them. This explains why the World Bank survey has the cost of submitting a CPA capital audit at NT\$20,000, which is actually the cost of commissioning CPAs to conduct the whole company startup process.
- B. After the termination of the uniform certification system in April 2009, the application procedures for starting a business have become much easier. As long as they obtain a CPA capital audit report, members of the public can easily conduct the application process by themselves, saving substantially on the cost of CPA services. According to information provided by the Taipei Certified Public Accountant Association in January 2010, the cost of auditing and certifying sufficiency of capital for starting a company has in most cases been reduced to under NT\$5,000 (see Attachment 1).
- C. Furthermore, a draft amendment of Articles 7 and 10 of the Company Act will change the CPA capital audit certification report from a documentary requirement for company startup to a post-startup filing requirement (see Attachment 2).

(3) Applying for incorporation and tax registration at the Ministry of Economic Affairs (MOEA) or special municipality government.

- A. Article 2 Paragraph 2 of the Business Registration Rules stipulates that business registration is considered to be completed when corporate registration (incorporation) is completed. Hence, the completion of incorporation also constitutes the completion of tax (business) registration.

B. In January 2010, the MOEA announced that the time required for processing an application for incorporation had been shortened from 3 days to 1 day (see Attachment 3).



(4) Since July 1, 2005, startups have not needed to register their Labor Retirement Plan (Procedure 6)

Last year's World Bank survey listed "Register for retirement plan and work rules with the Council of Labor Affairs" as a requirement for starting a business (Procedure 6). However, since the establishment of a new labor retirement system under the Labor Pension Act, effective since July 1, 2005, company startups have no longer been required to register their labor retirement plans. Instead, a startup must conduct the Labor Pension Fund contribution procedure as stipulated in the Labor Pension Act, which can be amalgamated into Procedure 5.



Attachment 1

Official Letter from the Taipei City CPA Association

Address : 9F-1, No.1, Nanhai Rd., Zhongzheng District, Taipei City 100, Taiwan (R.O.C.)

Fax : 02-2391-1571

Contact person and telephone no. : Zhu Chuan-yun, 02-2392-5077 ext. 37

To : The Center for Economic Deregulation and Innovation, Council for Economic Planning and Development, Executive Yuan

Date of issuance : January 29, 2010

Reference number : Pei-Shi-Hui-Zi No. 0990043

Classification of urgency : Utmost urgency

Level of confidentiality and conditions for disclosure or time limit of confidentiality : Ordinary

Attachment :

Subject : As per inquiry concerning the cost of obtaining a CPA audit report for capital stock, in the case of a company with capital stock of around NT\$5.5 million, a sample survey indicates that, in ordinary circumstances, the current cost would range approximately from NT\$2,000 to NT\$20,000, would only exceed NT\$20,000 in a small minority of special cases, such as the input of technology as capital, and in the great majority of cases would be less than NT\$5,000.

Explanation : Reply to addressee's official document Jing-Xie-Zi No. 0990000057 dated January 12, 2010.

Original to : The Center for Economic Deregulation and Innovation, Council for Economic Planning and Development, Executive Yuan.

Copy to : [none]

[Signed by]

Chairman Lee Yan-song



Attachment 2

Draft Amendment of Articles 7 and 10 of the Company Act

Amended Articles	Current Articles
<p>Article 7</p> <p>A company applying for registration shall have its capital audited and certified by an independent certified public accountant; and the company shall submit the auditing certificate from the independent certified public accountant at the time of applying for registration or within 30 days thereafter.</p> <p>Where a company applies for alteration of the registered amount of its capital, it shall first obtain an auditing certificate from an independent certified public accountant.</p> <p>Regulations governing the auditing certificates as referred to in the preceding two paragraphs shall be prescribed by the central competent authority.</p>	<p>Article 7</p> <p>Before applying for company incorporation, or for alteration of the registered amount of capital of the company, the company shall first obtain an auditing certificate from an independent certified public accountant.</p> <p>Regulations governing the foregoing process shall be prescribed by the central competent authority.</p>
<p>Article 10</p> <p>Under any of the following circumstances, the competent authority may, ex officio or upon an application filed by an interested party, order the dissolution of a company:</p> <ol style="list-style-type: none"> 1. Where the company fails to commence its business operation after the lapse of six months from the date of its incorporation registration, unless it has properly registered an extension of this term; or 2. Where, after commencing its business operation, the company has discontinued, at its own discretion, its business operation for a period over six months, unless it has properly registered the business discontinuation; or 3. Where the company fails to submit documentation within the time limits prescribed in Article 7 Paragraph 1, unless it submits the documentation before the competent authority has ordered its dissolution. 	<p>Article 10</p> <p>Under either of the following circumstances, the competent authority may, ex officio or upon an application filed by an interested party, order the dissolution of a company:</p> <ol style="list-style-type: none"> 1. Where the company fails to commence its business operation after the lapse of six months from the date of its incorporation registration, unless it has properly registered an extension of this term; or 2. Where, after commencing its business operation, the company has discontinued, at its own discretion, its business operation for a period over six months, unless it has properly registered the business discontinuation.



Attachment 3

Schedule of Times Required to Process Applications for Reservation of Company Name and Business Scope, and Applications for Company Registration

Date of issuance : January 20, 2010.

Reference number : Jing-Shang-Zi No. 09902401510.

Subject : Amendment of Times Required by the Ministry of Economic Affairs to Process Applications for Reservation of Company Name and Business Scope, and Applications for Company Registration.

Basis : Article 51, Paragraph 1 of the Administrative Procedure Act.

Matters announced : Schedule of Times Required to Process Applications for Reservation of Company Name and Business Scope, and Applications for Company Registration, as attached

Item	Processing Time	Legal Basis	Remarks
1. Application for reservation of company name and business scope	1 day	Article 18, Paragraph 5 of the Company Act and Article 2, Paragraph 1 of the Regulations Governing Review and Approval of Applications for Reservation of Company Name and Business Scope	This excludes time occupied by litigation, dispute, supplementation & correction of application documents, and dissent.
2. Application for registration of new company	1 day	Article 387, Paragraph 1 of the Company Act	Same as above
3. Applications for alteration of company registration			
(1) Alteration of registration due to merger, division, or change of paid-in capital, or registration of dissolution due to merger & acquisition	20 days	Article 387, Paragraph 1 of the Company Act	Same as above



Item	Processing Time	Legal Basis	Remarks
(2) Alteration of registration due to change of organization, company name, business, management, or address.	12 days	Article 387, Paragraph 1 of the Company Act	Same as above
4. Application for registration of the establishment, alteration, or closure of a branch office.	12 days	Article 387, Paragraph 1 of the Company Act	Same as above
5. Application for registration of company dissolution, suspension of business, or delay in opening for business.	10 days	Article 387, Paragraph 1 of the Company Act	Same as above
6. Applications of foreign companies			
(1) Filing record of company recognition and designated representative.	3 days	Article 387, Paragraph 1 of the Company Act	Same as above
(2) Alteration of recognition or designated representative, or establishment of a branch office.	12 days	Article 387, Paragraph 1 of the Company Act	Same as above
7. Application to copy or peruse information on record.	10 days	Article 393 of the Company Act	Same as above
8. Application for the issuance of a qualification certificate.	5 days	Article 392 of the Company Act	Same as above



Dealing with Construction Permits

❖ 1. Introduction

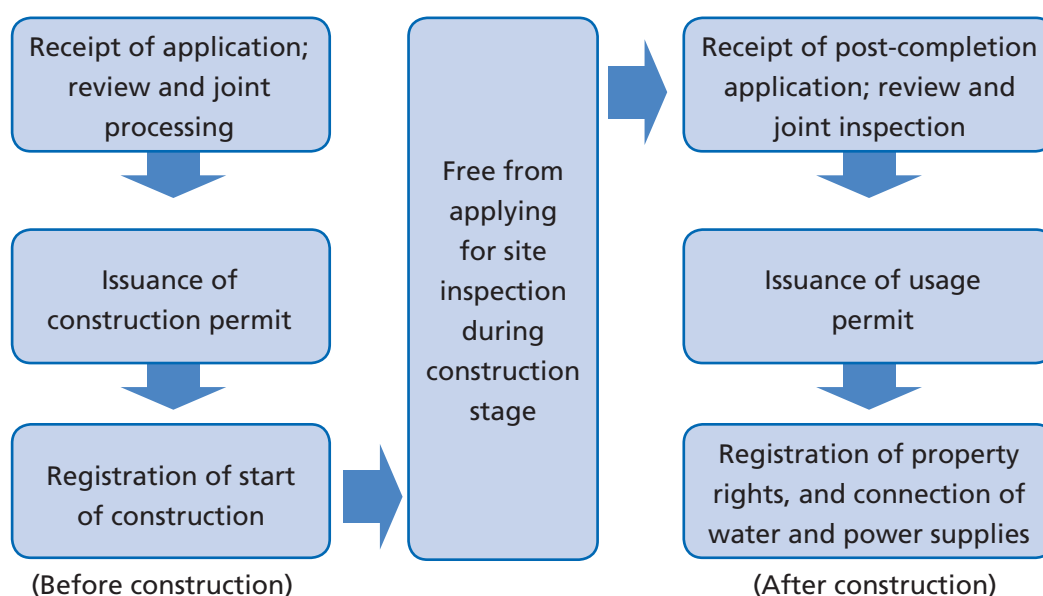
To simplify the application procedures for construction permits, usage permits, and related fire-safety and sanitary requirements, the Ministry of the Interior and Taipei City Government have completed revision of the Taipei Municipal Self-Government Ordinance for Construction Management and set up the One-Stop Center for Warehouse Building Permits. With the institution of these measures, which drew reference from similar reforms carried out in Hong Kong and elsewhere, there are now only 5 procedures that need to be carried out for the construction and commencement of use of a warehouse building, and the whole process takes a total of 56 working days.

(1) Setting up the One-Stop Center for Warehouse Building Permits

- A. The Taipei City Government's One-Stop Center for Warehouse Building Permits was formally established on March 1, 2011. It provides a single-window service to handle applications for construction permits and related post-completion inspections, water and electricity connection, and registration of property rights, for warehouse buildings of up to two stories without any basement. For any building site within the jurisdiction of the Taipei City Government and that meets the pertinent requirements for using the one-stop center's services, one simply needs to present the center with an application in due form together with the specified attachments, and the center will promptly deal with it.
- B. The streamlined process adopted by the one-stop center fully integrates the relevant procedures of all departments of Taipei City Government and other public and private bodies. Matched by amendment of the related rules for processing applications, simplification of the processing steps, and shortening of the review timeframes, the center can handle all application procedures



related to construction permits, from pre-commencement review by the various authorities concerned, to post-completion inspections, issuance of usage permit, registration of property rights, and connection of water and power supplies. It is projected that, excluding actual construction time, all of these administrative procedures can be completed within a total of 56 working days.



(2) Simplification of documentary requirements

- A. During December 31, 2009 to February 11, 2010, the Ministry of the Interior wrote four times to all local government authorities to inform them that certificates of review and approval of water, power and telecommunications equipment design were no longer required for the issuance of construction permits or applications for registering start of construction. Taipei City Government also publicly announced this on March 23, 2010.
- B. With effect from February 1, 2010, the Taipei City Government no longer requires members of the public to apply for a land registration transcript as one of the land ownership certification documents required to apply for a building construction permit. If necessary, a construction management official can



view this document electronically through the Ministry of the Interior's online inquiry system.

- C. The Ministry of the Interior on December 28, 2009 announced the revision of Attachment 1 to Point 3 of the Procedural Directions on the Checking of Items Requiring Review and Attestation under Building Permit and Miscellaneous Permit Regulations, to provide the legal basis for Taipei City Government to relax documentary submission requirements. The revised provision stipulates that a photocopy of the land ownership certificate may be used in place of the previously required land registration and cadastre map transcripts as proof of land ownership when applying for a construction permit.

❖ 2. Explanation of reforms

	Procedure	2011 survey results	Reform results and other clarification
1	Obtain proof of land title ownership from the city government	1 day / NT\$50	Procedures 1, 2, 6, 7 and 8 have been amalgamated into a single procedure
2	Apply to the city government to define the building lines and check the boundary of land	16 days / NT\$4,000	
6	Obtain firefighting design approval from the fire protection authority	21 days / no charge	
7	Obtain waste water discharge permit from the industry park authority/ city government	7 days / NT\$3,200	
8	Apply for building permit from the city government	21 days / NT\$19,769	



	Procedure	2011 survey results	Reform results and other clarification
	<p>■ Procedures 1, 2, 6, 7 and 8 have been amalgamated into a single procedure, instituted together in the application for a construction permit. The whole procedure takes 20 days. The fee is charged at 0.1% of the construction cost, hence in this case would be approximately NT\$10,158.</p> <ol style="list-style-type: none"> 1. Taipei City Government publicly announced on February 25, 2011 that the One-Stop Center for Warehouse Building Permits would be formally established on March 1, 2011, serving as a single window to handle applications for construction permits plus post-completion inspections, water and electricity connection, and registration of property rights for warehouse buildings of up to two stories without any basement. When an application is submitted to the one-stop center, the Building Management Division of Taipei City Government's Department of Urban Development will forward each part to the relevant competent authority for processing. The website of the One-Stop Center for Warehouse Building Permits is at: http://www.dbaweb.tcg.gov.tw/one_stop/one_stop_service.htm 2. Article 29, Paragraph 1 of the Building Act stipulates that a fee of 1/1,000th of the building construction cost may be charged for processing building permit applications. 3. According to the Table of Construction Costs for Building Engineering, Miscellaneous Work Materials and Land Improvement used by the Taipei City Government to calculate the charge for issuing a construction permit, assuming that the example is a reinforced concrete structure, the construction cost would be NT\$7,810 per square meter, and the total construction cost would be NT\$7,810 x 1,300.6 square meters = NT\$10,157,686. Hence, the applicable charge in this case should be NT\$10,157,686 x 0.1% = NT\$10,158. 		



	Procedure	2011 survey results	Reform results and other clarification
3	Obtain information about infrastructure from the water company	14 days/ no charge	This procedure may be deleted
	<p>■ Revision of the pertinent regulations means that this procedure is no longer required and can be deleted.</p> <p>1. During December 31, 2009 to February 11, 2010, the Ministry of the Interior wrote to all local government authorities to inform them that certificates of review and approval of water, power and telecommunications equipment design were no longer required for the issuance of construction permits or applications for registering start of construction.</p> <p>2. The Taipei City Government publicly announced on March 23, 2010 that applications for construction permits or to register start of work for buildings under a certain scale or of a particular type need not be accompanied by certification of inspection and approval of drawings & explanations in respect of the building's water, power, and telecommunications equipment.</p>		
4	Obtain information about electricity infrastructure from electricity provider	14 days/ no charge	This procedure may be deleted
	<p>■ Revision of the pertinent regulations means that this procedure is no longer required and can be deleted.</p> <p>1. During December 31, 2009 to February 11, 2010, the Ministry of the Interior wrote to all local government authorities to inform them that certificates of review and approval of water, power and telecommunications equipment design were no longer required for the issuance of construction permits or applications for registering start of construction.</p> <p>2. The Taipei City Government publicly announced on March 23, 2010 that applications for construction permits or to register start of work for buildings under a certain scale or of a particular type need not be accompanied by certification of inspection and approval of drawings & explanations in respect of the building's water, power, and telecommunications equipment.</p>		



	Procedure	2011 survey results	Reform results and other clarification
5	Obtain information about telecommunications infrastructure from telecom company	14 days/ no charge	This procedure may be deleted
	<p>■ The building in the World Bank's case example is a warehouse, the which type of building is now exempt from any requirement to apply for review and site inspection of telecommunications equipment and its space.</p> <p>The National Communications Commission, under authority of Article 38 Paragraph 1 of the Telecommunications Act, publicly announced on July 19, 2006 that Article 38 of the Act and its related regulations would no longer apply to farm houses, warehouses, garages, and buildings with similar purposes. Hence, the warehouse would not require application for review and site inspection of telecommunications equipment and its space.</p> <p>■ Revision of the pertinent regulations means that this procedure is no longer required and can be deleted.</p> <ol style="list-style-type: none"> 1. During December 31, 2009 to February 11, 2010, the Ministry of the Interior wrote to all local government authorities to inform them that certificates of review and approval of water, power and telecommunications equipment design were no longer required for the issuance of construction permits or applications for registering start of construction. 2. The Taipei City Government publicly announced on March 23, 2010 that applications for construction permits or to register start of work for buildings under a certain scale or of a particular type need not be accompanied by certification of inspection and approval of drawings & explanations in respect of the building's water, power, and telecommunications equipment. 		



	Procedure	2011 survey results	Reform results and other clarification
9	Report the start date and present construction plan to the city government and pay the city government the air pollution protection fee before starting construction	1 day / NT\$151,217	The cost should be revised to NT\$12,063
	<p>■ The air pollution protection fee applicable in this example should be revised to NT\$12,063</p> <p>1. The building used as an example in the World Bank survey is a 2-story warehouse, with a total floor area of approximately 1,300.6 square meters (therefore each floor is $1300.6 / 2 = 650.3$ square meters), and situated on a plot of land of 929 square meters. Such a building would need 30 weeks (around 7 months) for construction.</p> <p>2. Under the provisions of the Regulations Governing Construction Project Air Pollution Prevention Facilities, this example would be classified as a Grade 2 construction.</p> <p>3. Further, according to the Collection Rates of Air Pollution Prevention Fees for Construction Projects, the air pollution prevention fee for Grade 2 construction projects is calculated as "fee rate \times fee base" at a fee rate of NT\$2.65 per square meter per month, with the fee base as "construction area \times period under construction (months)", and each month calculated as 30 days. Hence, the air pollution prevention fee for this example should be calculated as $NT\\$2.65 \times 650.3 \text{ square meters} \times 7 \text{ months} = NT\\$12,063$.</p>		
10	City government inspects layout of the building plan on the land site	1 day / no charge	Procedures 10,11, 12 and 13 may be deleted
11	City government inspects at foundation stage	1 day / no charge	
12	City government inspects at second-floor stage	1 day / no charge	
13	City government inspects at roof construction stage	1 day / no charge	



	Procedure	2011 survey results	Reform results and other clarification
	<p>■ With the revision of related regulations, procedures 10, 11, 12 and 13 may be deleted.</p> <p>On February 25, 2011, the Taipei City Government publicly announced the streamlining of the construction inspection procedures for cases handled by the One-Stop Center for Warehouse Building Permits. Since March 1, 2011, in accordance with the provisions of the Taipei Municipal Self-Government Ordinance for Construction Management, constructors and their full-time engineers or technicians need only carry out construction according to the approved drawings and explanations, retaining the relevant inspection data after checking and approval by the building supervisor, and can submit a single application for inspection after construction is completed, without needing to apply for site inspection stage by stage during construction.</p>		
14	Receive environmental inspection from the department of environmental protection (city government) at any time during construction	1 day / no charge	This procedure may be deleted
	<p>■ Environmental inspection is not a required procedure of the application for construction-related permits</p> <ol style="list-style-type: none"> 1. There is no provision in any of Taiwan's pertinent air pollution or waste disposal laws and regulations requiring such warehouse construction to receive environmental inspection and approval before allowing the continuation of work. In other words, air pollution inspections of the construction site carried out by the environmental protection authorities during construction will not have any effect on the timing or procedure of construction permit applications. 2. In respect of water pollution control, under the provisions of Article 2 of the Water Pollution Control Act and the Water Pollution Control Act Industry Classifications and Definitions (as appended to the Act), the only two types of construction project that are subject to site controls for prevention of water pollution are as follows: 		



	Procedure	2011 survey results	Reform results and other clarification
	<p>(1) Development activities for which environmental impact assessments are required to be carried out as stipulated by Article 5 of the Environmental Impact Assessment Act and the Standards for Determining the Specific Items and Scope of Environmental Impact Assessments for Development Activities. These cover 11 categories of development activities, including the development of industrial parks, the construction of transport facilities (e.g., mass transit systems, airports and seaports), mining and quarrying activities (e.g., gravel extraction), the development of recreational areas, scenic areas, sports fields, and golf courses, the construction of cultural and educational facilities, urban renewal projects, etc.</p> <p>(2) Construction, road, tunnel, pipeline, bridge, and local development projects classified as Grade 1 construction projects under the Air Pollution Control Act.</p> <p>The warehouse construction in this case example does not belong to either of these types of construction project, hence it is not subject to water pollution control requirements.</p>		
15	Receive labor inspection from the department of labor (city government) at any time during construction	1 day / no charge	This procedure may be deleted
	<p>■ Labor inspection is not a necessary procedure for dealing with construction permits. Relevant labor governance is mostly conducted by means of propaganda or mentoring, with no requirement for carrying out labor inspections.</p> <p>Order Lao-Jian-Zi No. 1000061126 of the Executive Yuan's Council of Labor Affairs, issued on January 20, 2011, stipulates that all labor inspection authorities should as an ordinary rule employ propaganda or mentoring in place of general inspection for 2-story warehouse construction projects under their jurisdiction.</p>		



	Procedure	2011 survey results	Reform results and other clarification
16	Obtain firefighting inspection certificate from the fire protection authority	4 days / no charge	Procedures 16 to 26 are combined into a single procedure
17	Obtain address (house number) certification from the city government	3 days / NT\$84	
18	Obtain waste water connection certification from the environment protection bureau/ city government	10 days / no charge	
19	Obtain building usage (occupancy) permit from the city government	6 days / NT\$100	
20	Obtain building/ land ownership certificate from the city government	18 days / NT\$39,618	Procedures 16 to 26 are combined into a single procedure, covered by a building registration fee of NT\$20,316.
21	Apply for water supply from a local water company	1 day / no charge	Procedures 16 to 26 are combined into a single procedure
22	Receive inspection from water company	1 day / no charge	
23	Obtain connection to water	19 days / NT\$25,000	
24	Apply for electric power supply from Taiwan power company	1 day / no charge	
25	Receive inspection from power company	1 day / no charge	
26	Obtain power connection	19 days / NT\$300,000	



	Procedure	2011 survey results	Reform results and other clarification
	<p>■ With the establishment of Taipei City Government's one-stop window for processing warehouse building permit applications, the 11 procedures from 16 to 26 are now combined into a single procedure. This whole procedure takes a total of just 35 days (including 15 days for public notice), and the whole cost is covered by the building registration fee of NT\$20,316.</p> <p>1. Since the applicant in the survey example is the owner of the construction site, he does not need to apply for a land ownership certificate.</p> <p>2. In respect of the first registration of the building, Point 3 of the Supplementary Regulations on Computing and Collecting Land Registration Fees and Penalties stipulates that the registration fee is computed according to the total cost of construction as recorded in the usage permit. Article 84 of the Land Registration Regulations stipulates that the general land registration procedure applies mutatis mutandis to the first registration of a building, hence under the provisions of Article 65 of the Land Act the applicable registration fee is set at 0.2% of the aforesaid total cost of construction.</p> <p>3. Since the total construction cost in this case would be NT\$10,157,686, the building registration fee is $\text{NT\\$}10,157,686 \times 0.2\% = \text{NT\\$}20,316$.</p> <p>■ In Taiwan Power Company's operational directions on handling applications to install new power supply in buildings under a certain size, announced on January 31, 2011, it is stipulated that the whole process of site inspection, line planning and design, outside-line engineering work, post-completion inspection and provision of electricity supply should be completed within eight days of the company's receipt of an application from a user.</p>		
27	Request telephone line	1 day / NT\$3,000	Procedures 27 and 28 should be combined into a single procedure, which takes 3 days and costs NT\$2,200.
28	Obtain telephone line	3 days / NT\$3,500	

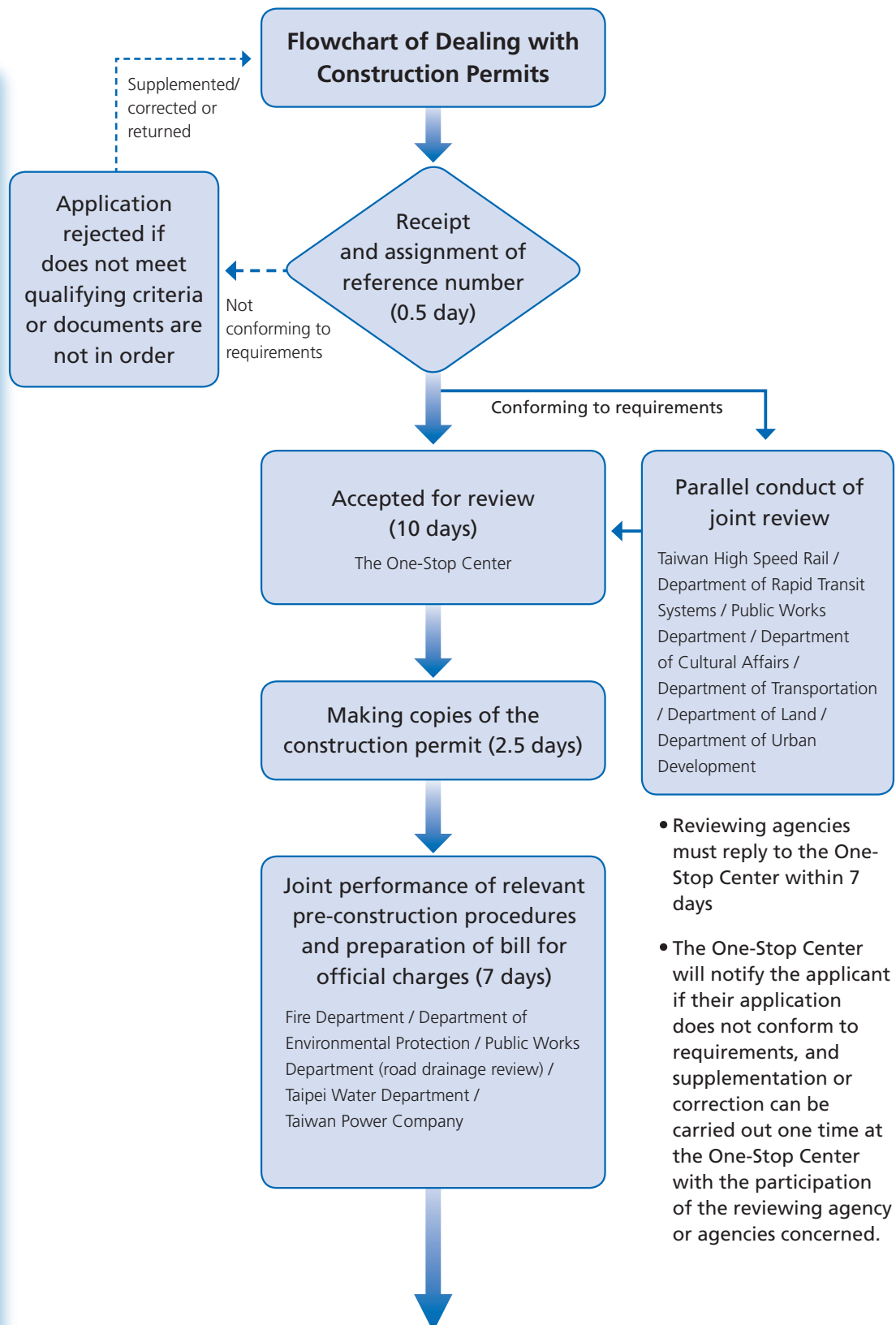


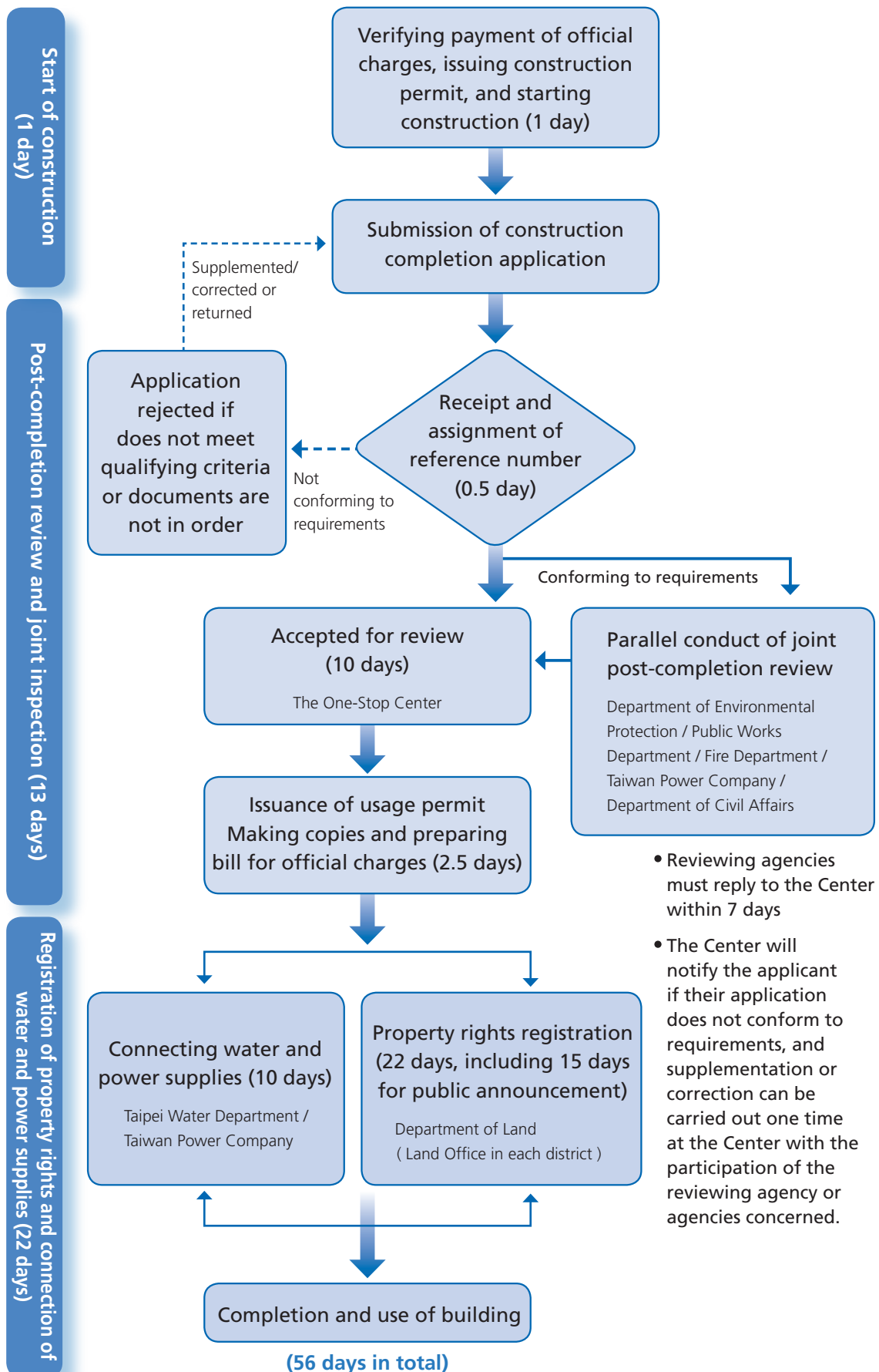
	Procedure	2011 survey results	Reform results and other clarification
	<p>■ Procedures 27 and 28 should be considered as a single procedure</p> <p>Chunghwa Telecom Company's handling of applications for a telephone line is not, in practice, divided into two items. According to the company's current operating rules, members of the public can go to one of the company's service sites to apply for a telephone line, and need only fill out the application form and pay the charge to complete the application procedure. The whole process from application to completion of installation and commencement of service takes 3 days.</p> <p>■ The charge for installation of telecom service is NT\$2,200 per number</p> <p>According to the relevant provisions of the Chunghwa Telecom Operational Regulations and Contract Terms and Conditions for City Networks, as revised and announced by the company in 2008, the charge for line installation within a city network is NT\$2,200 per number. (http://www.cht.com.tw/PersonalCat.php?Module=Fee,Describe&CatID=113 &PageID=880)</p>		



Flowchart of Dealing with Construction Permits

Construction permit joint review (20 days)







Public Announcement of Taipei City Government

To : The Secretariat of Taipei City Government (for publication in the Taipei City Government Gazette)

Date of issuance : February 25, 2011

Document no. : Fu-Du-Jian-Zi No. 10063548000

Subject : To raise the ease of doing business in Taiwan, Taipei City Government is setting up the One-Stop Center for Warehouse Building Permits, to commence operation on March 1, 2011 as a single window to handle applications for construction permits and related post-completion inspections, water and electricity connection, and registration of property rights, for single-occupant warehouse buildings of up to two stories without any basement.

Basis :

Announcement items :

1. The Taipei City Government will on March 1, 2011 establish a single-window service to receive and process applications for construction permits and related post-completion inspections, water and electricity connection, and registration of property rights, for single-occupant warehouse buildings of up to two stories without any basement. This rapid service will be available for any building site that is within the jurisdiction of the Taipei City Government and that meets the pertinent qualifying requirements.
2. The streamlined process adopted by the one-stop center fully integrates the relevant procedures of all departments of Taipei City Government and other public and private bodies. Matched by amendment of the related rules for processing applications, simplification of the processing steps, and shortening of the review

timeframes, it offers a fast and convenient application mode that is distinct from current mechanisms for building permit review. The center can handle all application procedures related to construction permits, from pre-commencement review by the various authorities concerned, to post-completion inspections, issuance of usage license, registration of property rights, and connection of water and power supplies. It is projected that, excluding actual construction time, all of these administrative procedures will be completed within a total of 56 working days.

3. The one-stop center is located in Taipei City Hall. Its full address is: 2F, No.1, Shifu Rd., Xinyi District, Taipei City 11008, Taiwan (R.O.C.). It is open from 8:30 to 17:30 Monday through Friday (excluding special and public holidays). For further information, please visit the website of the Taipei City Government's One-Stop Center for Warehouse Building Permits at:

http://www.dbaweb.tcg.gov.tw/one_stop/one_stop_service.htm

Original : The Secretariat of Taipei City Government (for publication in the Taipei City Government Gazette)

Copy :





Employing Workers

❖ 1. Introduction

The World Bank (WB), Organization of Economic Cooperation and Development (OECD), International Labor Organization (ILO), and International Trade Union Confederation (ITUC) have not yet reached consensus in respect of the ranking criteria for the Employing Workers indicator. The main reason for this is that, if the indicator is compiled from a business perspective, parts of its content could cause downward competitive pressure to be exerted on the international labor force, adversely affecting workers' rights and interests. Hence, this indicator was temporarily excluded from the rankings in the World Bank's 2011 report, with only the results of the surveys provided for reference.

While enhancing the systemic flexibility of a labor market can help raise the ranking of a business environment, an enterprise's work force should be an important part of its capital, and labor rights should not be neglected for the sake of flexibility. For the appropriate revision of labor laws and regulations, the Executive Yuan's Council of Labor Affairs (CLA) will map out amendments to provisions concerning labor contracts in the Labor Standards Act with the aim of enhancing labor flexibility while giving proper balance of emphasis to the protection of employment security. The CLA has also provided pertinent clarification and explanation in respect of the results of the World Bank survey.

In addition to this clarification and explanation, the CLA will actively draw up amendments to labor contract provisions in the Labor Standards Act, giving due consideration to changes in the socio-economic environment and the diversification of the provision of labor services. The appropriate adjustment of provisions concerning the nature and duration of labor contracts will improve the systemic flexibility of Taiwan's labor market in conjunction with due balance of safeguard for employment security.



The initial draft of revisions to the Labor Standards Act deletes the provisions restricting the use of fixed-term contracts for work of a continuous nature, and clearly specifies the types of work for which fixed-term contracts may be signed. Hence, in the future, whether or not an employment is “work of a continuous nature” will not be a criterion for determining the legally binding effect of a fixed-term contract, thus giving greater flexibility to employment of workers.

❖ 2. Clarification

Topic	2011 survey results	2011 clarification
1. Rigidity of Employment Index		
(1) Difficulty of Hiring Index		
(a) Fixed-term contracts prohibited for permanent tasks?	Yes	Same as 2011 survey result
* (b) Maximum length of a single fixed-term contract (months)	12 months	No limit
(c) Maximum length of fixed-term contracts, including renewals (months)	12 months	No limit
* (d) Minimum wage for a 19-year old worker or an apprentice (US\$/month)	US\$525.2	NT\$17,880 = US\$596
(e) Ratio of minimum wage to average value added per worker	0.26	0.19



Topic	2011 survey results	2011 clarification
(2) Rigidity of Hours Index		
* (a) Standard workday in manufacturing (hours)	8	Same as 2011 survey result
* (b) Minimum daily rest required by law (hours)	12	Same as 2011 survey result
* (c) Maximum overtime limit in normal circumstances (hours)	No more than 12 hours a day of total working hours (regular plus overtime); no more than 84 total hours for two weeks; no more than 46 hours a month of total overtime.	Same as 2011 survey result
* (d) Maximum overtime limit in exceptional circumstances (hours)	No limit, under consent of the labor representatives and with compensatory time off	Same as 2011 survey result
* (e) Premium for overtime work (% of hourly pay)	67	Article 24 of the Labor Standards Act stipulates that a worker shall be paid an additional 34% of his regular hourly rate for overtime up to two hours and 67% for more than two hours.
(f) 50-hour workweek allowed for 2 months a year in case of increase in production?	Yes	Same as 2011 survey result
(g) Maximum working days per week	6	Same as 2011 survey result



Topic	2011 survey results	2011 clarification
* (h) Premium for night work (% of hourly pay)	0	Same as 2011 survey result
* (i) Premium for work on weekly rest day (% of hourly pay)	100	Same as 2011 survey result
(j) Major restrictions on night work in case of continuous operations?	No	Same as 2011 survey result
(k) Major restrictions on weekly holiday in case of continuous operations?	No	Same as 2011 survey result
* (l) Paid annual leave for a worker with 9 months of tenure (in working days)	0	Same as 2011 survey result
* (m) Paid annual leave for a worker with 1 year of tenure (in working days)	7 days	Same as 2011 survey result
* (n) Paid annual leave for a worker with 5 years of tenure (in working days)	14 days	Same as 2011 survey result
* (o) Paid annual leave for a worker with 10 years of tenure (in working days)	15 days	Same as 2011 survey result
(p) Paid annual leave for a worker with 20 years of tenure (in working days)	25 days	Same as 2011 survey result
* (q) Paid annual leave (average for workers with 1, 5 and 10 years of tenure, in working days)	12 days	Same as 2011 survey result



Topic	2011 survey results	2011 clarification
(3) Difficulty of Redundancy Index		
(a) Dismissal due to redundancy allowed by law?	Yes	Same as 2011 survey result
(b) Notification of a third party required if 1 worker is dismissed?	Yes	Same as 2011 survey result
(c) Approval of a third party required if 1 worker is dismissed?	No	Same as 2011 survey result
(d) Notification of a third party required if 9 workers are dismissed?	Yes	Same as 2011 survey result
(e) Approval of a third party required if 9 workers are dismissed?	No	Same as 2011 survey result
(f) Retraining or reassignment obligation before redundancy?	Yes	No, there is no such regulation
(g) Priority rules for redundancies?	No	Same as 2011 survey result
(h) Priority rules for reemployment?	Yes	No, there is no such regulation
2. Redundancy costs (weeks of salary)		
* (1) Notice period for redundancy dismissal (for a worker with 9 months of tenure, in salary weeks)	1.3	Same as 2011 survey result
* (2) Notice period for redundancy dismissal (for a worker with 1 year of tenure, in salary weeks)	4.3	2.8
* (3) Notice period for redundancy dismissal (for a worker with 5 years of tenure, in salary weeks)	4.3	Same as 2011 survey result
* (4) Notice period for redundancy dismissal (for a worker with 10 years of tenure, in salary weeks)	4.3	Same as 2011 survey result



Topic	2011 survey results	2011 clarification
(5) Notice period for redundancy dismissal (for a worker with 20 years of tenure, in salary weeks)	4.3	Same as 2011 survey result
* (6) Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	4.3	3.8
* (7) Severance pay for redundancy dismissal (for a worker with 9 months of tenure, in salary weeks)	1.6	Same as 2011 survey result
* (8) Severance pay for redundancy dismissal (for a worker with 1 year of tenure, in salary weeks)	2.2	Same as 2011 survey result
* (9) Severance pay for redundancy dismissal (for a worker with 5 years of tenure, in salary weeks)	10.8	Same as 2011 survey result
* (10) Severance pay for redundancy dismissal (for a worker with 10 years of tenure, in salary weeks)	43.3	Should be 21.5 salary weeks according to Article 12 of the Labor Pension Act
(11) Severance pay for redundancy dismissal (for a worker with 20 years of tenure, in salary weeks)	86.7	Should be 26 salary weeks according to Article 12 of the Labor Pension Act
* (12) Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	18.8	Should be 11.5 salary weeks according to Article 12 of the Labor Pension Act

Notes:

1. For the survey results of the Employing Workers Indicator, please refer to the World Bank's website at: <http://www.doingbusiness.org/data/exploreeconomies/taiwan,-china/employing-workers/>
2. The clarification for "Minimum wage for a 19-year old worker or an apprentice" is calculated at the exchange rate of NT\$30 per US\$.
3. For items with shaded background, please refer to the following detailed explanation and clarification.
4. * Doing Business is presenting this information for the first time.



❖ 3. Explanations

(1) Clarification of matters in the survey for the Rigidity of Employment Index

A. Questionnaire item: Maximum length of a single fixed-term contract, and maximum length of fixed-term contracts, including renewals (months)?

Indicators 1.(1).*(b) and (c)	2011 survey result	clarification of 2011 survey
Maximum length of a single fixed-term contract, and maximum length of fixed-term contracts, including renewals (months)?	12 months	<p>1. The Labor Standards Act does not have a clear provision on the length of fixed-term contracts, while its Enforcement Rules have supplemental provisions in which it is stipulated that a fixed-term contract for specified work may exceed one year after approval by the competent authority (no legal maximum length). Also, since this provision is not an essential condition for the validity of the contract, a specific fixed-term contract for longer than one year made between an employer and a worker will still be valid even without approval by the competent authority. Furthermore, there is no provision for the administrative authorities to impose any penalty in respect of this matter.</p> <p>2. In actual practice, there has been a case of a 9-year employment relationship for a specific project that was ruled by the court to be a fixed-term contract (in the civil judgment issued by the Taipei District Court on April 23, 2010 in case 2007 Zhong-Lao-Su-Zi No. 10).</p>



- a. Under Article 6 of the Enforcement Rules of the Labor Standards Act, fixed-term contracts can be roughly divided into those for temporary work, short-term work, seasonal work, and specific work. Of these four types, fixed-term contracts for specific work are for work of a non-continuous nature that can be completed within a specified period, and for which no contract time-limit has been set. Hence, after approval and recordation by the competent authority, this type of fixed-term contract can have a duration of more than 12 months, and there is no provision of law setting a limit on its maximum term. In actual practice, there has been a case of a 9-year employment relationship for a specific project that was ruled by the court as being a fixed-term contract.
- b. In addition, Article 15 of the Labor Standards Act stipulates that, if a fixed-term contract for work of a specific nature as aforementioned has a term of more than three years, the worker may unilaterally terminate the contract after the completion of three years' work.

B. Questionnaire item: Ratio of minimum wage to average value added per worker

Indicator 1.(1).(e)	2011 survey result	Clarification of 2011 survey
Ratio of minimum wage to average value added per worker	0.26	According to the World Bank's latest basis of ranking calculation for the survey, the ratio of the minimum wage to the average value added per worker = basic wage / (per capita national income / working-age population / total population). Calculated on this basis, the 2010 ratio should be 0.19.

- a. According to the World Bank's latest basis of ranking calculation for the survey, the ratio of the minimum wage to the average value added per worker = basic wage / (per capita national income / working-age population / total population). A score of 1 point will be given if the ratio is equal to or higher than 0.75; 0.67 of a point if the ratio is higher than or equal to 0.5 and lower than 0.75; 0.33 of a



point if the ratio is higher than or equal to 0.25 and lower than 0.5; and 0 points if the ratio is lower than 0.25.

- b. The aforesaid indicator implies that a lower ratio of basic wage to average added-value per labor force population represents a lower effect on the difficulty of hiring. According to the calculation from Taiwan's relevant data for 2006 to 2010, the ratio should be between 0.18~0.21 (see Table 1 below), which indicates an apparent error in the 0.26 result of the World Bank survey. We suggest that this figure for Taiwan be adjusted to 0.19 (with a score of 0 given).

Table1: Ratio of basic wage to added-value per labor force population from 2006 to 2010

Ratio of basic wage to added-value per labor force population							
Year	Per capita national income	Labor force population	Total population	Ratio of labor force to total population	Added-value per labor force population	Basic wage	Ratio of basic wage to added-value per labor force population
	(1)	(2)	(3)	(4)=(2)/(3)	(5)=(1)/(4)	(6)	(7)=(6)×12/(5)
	NT\$	1,000 persons	1,000 persons		NT\$	NT\$	
2006	478,968	10,522	22,738	0.46	1,035,048	15,840	0.18
2007	498,912	10,713	22,821	0.47	1,062,790	17,280	0.20
2008	479,214	10,853	22,905	0.47	1,011,370	17,280	0.21
2009	471,797	10,917	22,977	0.48	992,991	17,280	0.21
2010	(p)519,664	11,070	23,036	0.48	(p)1,081,389	17,280	(p)0.19

Sources: (1) National income statistics from the Directorate-General of Budget, Accounting and Statistics (DGBAS); (2) and (3) from the *Monthly Bulletin of Manpower Statistics* issued by the DGBAS.

Note: (p) indicates preliminary statistics.



(2) Clarification of matters in the survey for the Rigidity of Hours Index

A. Questionnaire item: Premium for overtime work (% of hourly pay)

Indicator 1.(2).*(e)	2011 survey result	Clarification of 2011 survey
Premium for overtime work (% of hourly pay)	67	<ol style="list-style-type: none"> 1. As stipulated by Article 24 of the Labor Standards Act, there are two different rates of overtime pay: one applicable to overtime of up to two hours, and another applicable to overtime of more than two hours. 2. However, the World Bank survey only recognizes the rate of overtime pay that is applicable to more than two hours of overtime, which does not properly reflect the current provisions of the law in Taiwan. 3. Furthermore, if flexible working hours are used and the regular working hours are 10 hours a day, only the lower of the two stipulated minimum premium rates (34%) will be applicable, and the 67% rate will not apply at all.

- a. According to Article 24 of the Labor Standards Act, an employer shall pay a worker overtime wages on the following basis: Where the overtime work does not exceed two hours, the worker shall be paid, in addition to the regular hourly wage, at least an additional one-third (34%) of the regular hourly rate; where the overtime work is over two hours, but does not exceed four hours, the worker shall be paid, in addition to the regular hourly wage, at least an additional two-thirds (67%) of the regular hourly rate.
- b. As a matter of fact, overtime work of less than two hours is more common than overtime work of more than two hours in Taiwan. Moreover, where flexible working hours are in use, the Labor Standards Act stipulates that a worker



whose regular working hours are ten hours a day shall not work more than two hours of overtime, and hence only the lower of the two stipulated premium rates (34%) will be applicable to their overtime hours. Therefore, the figure of 67% for overtime premium reported in the World Bank survey is not a balanced reflection of the true rate of overtime premiums required by law in Taiwan.

(3) Clarification of matters in the survey for the Difficulty of Redundancy Index

A. Questionnaire item: Notification of a third party required if worker(s) is (are) dismissed?

Indicator 1.(3).(b).(d)	2011 survey result	Clarification of 2011 survey
Employers have to notify a third party (such as governmental authorities or agencies) if one worker is dismissed, or notify a third party if nine workers are dismissed?	Yes	The requirement for an employer to notify a third party is contained in Article 33 of the Employment Services Act, which stipulates that an employer must notify the pertinent government authority (not a trade union or employee representative) prior to the dismissal of an employee. However, this provision does not restrict an employer's right to dismiss employees, but is aimed at assisting laid-off workers to find new employment. The effect of the dismissal will not be affected by the employer's failure to comply with this requirement.

- a. The requirement for an employer to notify a third party is contained in Article 33 of the Employment Services Act, which stipulates that an employer must notify the pertinent government authority (not a trade union or employee representative) prior to the dismissal of an employee. However, this provision does not restrict an employer's right to dismiss employees, but is aimed at assisting laid-off workers to find new employment, to avoid the occurrence of family or social problems resulting from the laying off of workers.



- b. The failure of an employee to notify the pertinent government authority as stipulated in the above-cited provision will not have any bearing on the effect of the dismissal. It is merely a procedural requirement, and does not have any effect on enterprises' manpower utilization or cause any increase in personnel costs or add any rigidity to manpower utilization.
- c. This question is designed to address an employer's obligation to notify third parties such as unions, employee representatives, and government agencies before dismissing employees. But since the notification to a government authority is based on considerations of giving due balance of protection to employment security, we suggest that such notification be excluded from the scope of notifications to third parties covered by this question.

B. Questionnaire item: Retraining or reassignment obligation before redundancy?

Indicator 1.(3).(f)	2011 survey result	Clarification of 2011 survey
Retraining or reassignment obligation before redundancy?	Yes	Labor laws in Taiwan do not impose any obligation on an employer to reassign or retrain employees before treating them as redundant.



C. Questionnaire item: Priority rules for reemployment?

Indicator 1.(3).(h)	2011 survey result	Clarification of 2011 survey
Priority rules for reemployment?	Yes	Labor laws in Taiwan do not have any provision requiring employers to give priority to reemploying individual laid-off workers. However, under the provisions of the Act for the Protection of Employees in Mass Redundancy, a business entity that has implemented a mass redundancy plan and subsequently needs to take on workers for jobs of a similar nature is encouraged to reemploy the workers it previously laid off. The encouragement is in the form of government incentives, and there are no penalties for non-compliance.

- a. Labor laws in Taiwan do not have any provision requiring employers to give priority to reemploying individual laid-off workers.
- b. However, under the provisions of the Act for the Protection of Employees in Mass Redundancy, a business entity that has implemented a mass redundancy plan and subsequently needs to take on workers for jobs of a similar nature is encouraged to reemploy the workers it previously laid off. The encouragement is in the form of government incentives, and there are no penalties for non-compliance. This provision does not create any rigidifying effects for enterprises' manpower utilization, but rather helps reduce manpower utilization costs (the government provides incentive payments and enterprises do not need to conduct retraining).



(4) Clarification on redundancy cost

A. Questionnaire item: The notice period for redundancy dismissal of a worker with 1 year of tenure, and the average notice period for redundancy dismissal of workers with 1 year, 5 years and 10 years of tenure.

Indicator 2.*(2).*(6)	2011 survey results	Clarification of 2011 survey
Notice period for redundancy dismissal (for a worker with 1 year of tenure, in salary weeks)	4.3 salary weeks	2.8 salary weeks under Article 16 of the Labor Standards Act
Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	4.3 salary weeks	3.8 salary weeks under Article 16 of the Labor Standards Act

- a. Article 16 of the Labor Standards Act stipulates a notice period of 10 days for redundancy dismissal of a worker with more than 3 months but less than 1 year of tenure, 20 days for redundancy dismissal of a worker with more than 1 year but less than three years of tenure, and 30 days for redundancy dismissal of a worker with more than 3 years of tenure.
- b. Therefore, we suggest that the World Bank revise Taiwan's notice period to 2.8 salary weeks for redundancy dismissal of a worker with 1 year of tenure, and revise the average notice period to 3.8 salary weeks for redundancy dismissal of workers with 1, 5 and 10 years of tenure.



B. Questionnaire item: Severance pay for redundancy dismissal of workers with 10 and 20 years of tenure, and the average severance pay for redundancy dismissal of workers with 1, 5 and 10 years of tenure.

Indicator 2.*(10).(11)and *(12)	2011 survey results	Clarification of 2011 survey
Severance pay for redundancy dismissal (for a worker with 10 years of tenure, in salary weeks)	43.3 salary weeks	Should be 21.5 salary weeks under Article 12 of the Labor Pension Act
Severance pay for redundancy dismissal (for a worker with 20 years of tenure, in salary weeks)	86.7 salary weeks	Should be 26 salary weeks under Article 12 of the Labor Pension Act
Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	18.8 salary weeks	Should be 11.5 salary weeks under Article 12 of the Labor Pension Act

- a. Taiwan instituted a new labor retirement system on July 1, 2005. Since then, this new system has been applied compulsorily to all workers of newly established business entities and all workers newly entering or changing jobs in business entities. For those covered by the new system, severance pay is calculated under Article 12 of the Labor Pension Act rather than Article 17 of the Labor Standards Act.
- b. Article 12 of the Labor Pension Act stipulates that severance pay is computed on the basis of the number of years of tenure, at the rate of 0.5 of monthly average wage for each full year of tenure, with an upper limit of 6 months of monthly average wage.
- c. Therefore, as the “redundancy cost” under Taiwan’s current labor law, the total severance pay for workers with 20 years of tenure will not exceed 26 salary weeks (monthly salary \times 0.5 \times 20 years, but with an upper limit of 6 months of average wage), the total severance pay for workers with 10 years of tenure will be 21.5 salary weeks (monthly salary \times 0.5 \times 10 years), and the average



severance pay for workers with 1, 5 and 10 years of tenure will be 11.5 salary weeks ($[\text{monthly salary} \times 0.5 \times 1 + \text{monthly salary} \times 0.5 \times 5 + \text{monthly salary} \times 0.5 \times 10] / 3 = 11.5$ salary weeks). These are the actual costs of redundancy for a business set up in Taiwan's current business environment under current provisions of labor law.

❖ 4. Ranking indicators with implications that are unfavorable to labor rights and employment security.

(1) Indicator 1.(2).(p) (Whether paid annual leave for a worker with 20 years of tenure is 21 working days or less) should not be included in the Rigidity of Hours ranking.

A. According to Article 3 of ILO Convention No. 132, an employee with at least half a year of service should be entitled to annual paid holiday of at least three working weeks. In Taiwan, a worker with at least 1 year of tenure will be entitled to annual paid holiday of 7 days, while a worker with 16 years of tenure will be entitled to 21 days, and one with 20 years of tenure to 25 days, which is still lower than the corresponding entitlements in Japan (28 days), Korea (29 days), and Western countries (around 30 days).

B. Since circumstances differ from country to country, it is hard to apply one blanket set of standards to all. Workers' holiday rights should be considered in the context of public benefits as a whole, and with a view to achieving appropriate balance of economic development, social justice, and security protection. Therefore, this item should not be included in the Rigidity of Hours ranking.



(2) Indicators 2.(1)~(6): Notice period for redundancy dismissal

- A. The notice period system is a system for protecting dismissed workers that has been formed upon the particularities of the labor contract. Its purpose is to give workers time to adjust and respond to new labor conditions when an employer exercises his right to terminate a labor contract, so as to safeguard workers' basic working rights.
- B. Under the provisions of Article 16 of the Labor Standards Act, a worker still has the obligation to provide loyal and diligent service, and to complete inventory work, transfer of duties, and other procedures, during the notice period. This gives the employer sufficient time to find a suitable replacement, to ensure that the business can continue to operate smoothly and is not detrimentally affected by the change of personnel.
- C. Hence, the notice period for redundancy dismissal serves not only to protect labor rights but also to ensure smooth business operation, and thus should be regarded as a win-win arrangement for both employer and employee. And if wages payable during the notice period are included as a cost of dismissal, it would seem to be at odds with the World Bank's position that the ranking for Employing Workers should seek a balance between worker protection and flexibility in employment regulation. Therefore, we suggest that this item should be deleted from this indicator.





Registering Property

❖ 1. Introduction

In 2010, the main focus of property registration reform was the revision of the Deed Tax Act with a view to streamlining administration, heightening public convenience, and making the computation of deed tax clearer and more in accordance with the principles of tax fairness. Details of the amended provisions of the Act, which were promulgated and put into effect on May 5, 2010, are as follows:

- (1) Article 13 as amended stipulates that, when a taxpayer files for payment of deed tax, the value of the deed will be assessed according to the standard price as determined by the local real property assessment committee.
- (2) To match the amendment of Article 13, Articles 4 and 5 are amended to delete the provision that the deed tax on a sale and on the creation of a dien* shall be filed and paid according to the contract price, and instead apply the standard price determined by the local real property assessment committee as the basis of filing and assessment. (For inquiries concerning the Deed Tax Act, please visit this website: <http://law.moj.gov.tw/Eng/LawClass/LawContent.aspx?pcode=G0340105>)

* A dien is a type of property right created on the basis of traditional Chinese practice. It refers to a property right under which the right holder pays the price so as to take possession of the immovable property and make use of it; and after a certain period, the owner of the property may obtain the return the property by reimbursing the price.

To make it easier and more convenient for taxpayers and their agents to use the Internet to file for payment of land value increment tax, deed tax, stamp tax, and amusement tax to local tax authorities, the Ministry of Finance in October 2009



completed the development of the Local Tax Online Filing Portal, provided for use by the public nationwide. The Ministry of Finance spent two years planning this system, which enables the public to carry out the filing for these local taxes online at home, and speeds up the procedure for property registration. (The Local Tax Online Filing Portal website can be visited at: <https://www.etax.nat.gov.tw/wSite/indexLocal.htm>)

After the Local Tax Online Filing Portal was fully set up with nationwide accessibility in October 2009, the ratio of the public filing for these local taxes online reached 25.6% in 2010, and the figures for the first five months of 2011 show that this ratio is gradually increasing. This demonstrates that the finance ministry's setting up of this system has been speedily accepted by the general public in Taiwan, the success of which can be attributed to the completeness of Taiwan's internet infrastructure and the people's willingness to embrace the convenience of conducting transactions online.

Percentage of local tax filings conducted online in 2010 and January~May 2011

Filing period	Number of online filings (A)	Number of counter filings (B)	Total filings (C=A+B)	Ratio of online filings (A/C)
January~December 2010	677,154	1,969,447	2,646,601	25.6%
January~May 2011	494,502	634,147	1,128,649	43.8%



❖ 2. Cost correction

No.	Procedure	2011 survey results		Correction and clarification for 2011	
		Time (days)	Cost to complete	Time (days)	Cost to complete
1	Purchaser searches the property rights and encumbrances registered against the property at the registry of titles	1	NT\$20 per page	Same as last year	Same as last year
2	Purchaser pays the deed tax to the municipal government	1	6% of standard price of real property (deed tax) + 0.1% of property value (stamp tax) = 6.1% of property value	Same as last year	Should be corrected to: 0.65% of property value = 0.55% of property value (deed tax) + 0.1% of property value (stamp tax) = NT\$149,244 + NT\$27,095 = NT\$176,339.
3	Registration of transfer of title at the land registry	3	0.1% of property value (registration fee) + NT\$80 for new ownership certificate	Same as last year	Same as last year
Total		5	6.2% of property value	5	0.75% of property value

❖ 3. Explanation of correcting the cost



- (1) By amendment of Articles 4, 5, and 13 of the Deed Tax Act (Attachment 1), the Ministry of Finance reformed the assessment of deed tax by stipulating that the standard price determined by the local real property assessment committee must be used as the basis for filing and assessment of deed tax in all cases.
- (2) The proviso to Article 2 of Taiwan's Deed Tax Act stipulates that land situated in an area where land value increment tax is assessed shall be exempt from the imposition of deed tax (i.e., the land is not subject to the imposition of deed tax). Article 3 of the same Act stipulates that deed tax on a sale is levied at 6% of the value of the deed, and Article 4 stipulates that the tax on a sale shall be filed and paid by the purchaser. In addition, Article 7 of Taiwan's Stamp Tax Act stipulates that contracts for the sale of real estate are subject to the affixing of tax stamps to the value of 0.1% of the contract price, to be affixed by the person executing the contract or drawing up the receipt. Therefore, for procedure 2, the purchaser must bear the cost of paying house deed tax and stamp tax.
- (3) Before the revision, Article 13, Paragraph 1 of the Deed Tax Act stipulated that if the value of a deed filed by the taxpayer was below the standard price as determined by the local real property assessment committee, the deed tax should be imposed according to such standard price. In order to streamline administration, heighten public convenience, and make the computation of deed tax clearer and more in accordance with the principles of tax fairness, the Ministry of Finance drafted revision of Article 13, Paragraph 1 of the Deed Tax Act to stipulate that the value of the deed as referred to in Article 3 shall conform with the standard price as determined by the local real property assessment committee.
- (4) Therefore, according to the revised Deed Tax Act, the purchaser in the World Bank survey example will be expressly subject to payment of deed tax assessed on the basis of the standard determined price of the property, which is only 0.55% of the property value. The analysis is as follows:



[The World Bank's Survey Example]

Assumptions of the World Bank's questionnaire

The purchaser and Seller	Purchaser and seller are limited liability companies
Owned by	Private nationals (no foreign or state ownership)
Location in	Periurban area of Taipei
Field of activity of companies	General commercial activities
The Property	Consists of land and a 2-storey building (warehouse).
Size	The land area is 557.4 m ² (6,000 square feet). The warehouse has a total area of 929 m ² (10,000 square feet)
Located in	Periurban area of Taipei
Value	NT\$27,095,255 (equivalent to US\$819,578)
Owner	The seller company owned the property for the last 10 years
Encumbrances	No mortgages are attached to it.
Registration status	Is properly registered in the land registry and/or cadastre and is free of title disputes.

A. Assumption of World Bank's cost computation:

Land value increment tax is not included (borne by the seller). Hence, the cost of buying this property in Taiwan consists of only the deed tax on houses and stamp tax. (For relevant information and computation formula please refer to Taipei Revenue Service's website at <http://www.tpctax.taipei.gov.tw/ct.asp?xItem=1080416&CtNode=29093&mp=103011>). Following is the computation formula:

$$\begin{aligned}
 \text{Stamp tax} &= \text{Contract amount (property value)} \times 0.1\% \\
 &= 27,095,255 \times 0.1\% \\
 &= \text{NT\$}27,095
 \end{aligned}$$

$$\begin{aligned}
 \text{Deed tax on houses} &= \text{the standard price determined by the local real property} \\
 &\quad \text{assessment committee (standard price)} \times 6\%
 \end{aligned}$$



B. The standard price of the house in this example is around NT\$2,487,398 and the calculation formula and procedures as follows:

$$\text{Standard price} = \text{Value determined} \times (1 - \text{depreciation years} \times \text{depreciation rate}) \\ \times \text{adjustment rate of street and road grades} \times \text{area}$$

- (a) Determined value: This example is a 2-story warehouse, which belongs to the 4th category of “warehouse” under Taipei City’s “Purpose Distribution Table” (see Attachment 2). According to the “Table of Standard Unit Prices for House Structures under 35 storeys in Taipei City (see Attachment 3), the determined value for a Category 4 2-story reinforced (steel or precast) concrete warehouse is NT\$2,125 $[(1,690+2,560)/2]$ per square meter.
- (b) $(1 - \text{depreciation years} \times \text{depreciation rate})$: In this example, the property is a 10-year-old warehouse. According to the “Taipei City Table of Service Life of Various Categories of Houses and Depreciation Rates” (see Attachment 4), the annual depreciation rate of a reinforced (steel or precast) concrete warehouse is 1%. $1-10 \times 1\% = 90\%$.
- (c) Adjustment rate of street and road grades: This example is a warehouse located in a periurban area of Taipei. Assuming this warehouse is located in Minquan East Road (south side) in Neihu District, then according to the “Table of Street and Road Grade Adjustment Rates for Houses in Taipei” (see Attachment 5), we can assume an adjustment rate of 140% (the adjustment rates for Neihu District are between 100% and 150%).
- (d) Area: The warehouse in this example has a total floor area of 929m²
- (e) The standard price of the property in this example
 $= [(1,690+2,560)/2 \times 90\% \times 140\% \times 929]$
 $= \text{NT\$2,487,398}$



C. In this example, the rate of deed tax is 0.55% of the property value payable by the purchaser. The calculation formula and procedures are as follows:

- (a) Standard price: NT\$2,487,398.
 - (b) Deed tax on house = Standard price \times 6% = $2,487,398 \times 6\% = \text{NT\$}149,244$
 - (c) The value of the property: NT\$27,095,255 in this example.
 - (d) The ratio of deed tax to the value of the property

$$= (149,244 \div 27,095,255) \times 100\% = 0.55\%$$
- (5) Article 13 of the Deed Tax Act stipulates that the buyer of a house shall pay deed tax according to the standard price as determined by the local real property assessment committee, which is generally lower than the building cost or market price of the property. According to a survey by the Institute for Physical Planning & Information (<http://www.ippi.org.tw>), the average total price of house purchases in 2009 was NT\$6.28 million (including land and building); and according to publicly released statistics from the Ministry of Finance, the average amount of deed tax levied on house purchases in 2009 was approximately NT\$28,000. Hence, it can be computed from these actual figures for real property purchases and the deed tax levied thereon that the rate of deed tax averages approximately 0.45% of the total transaction price.
- (6) Therefore, the assumption of a rate of deed tax of 0.55% on the transaction in the World Bank example tallies closely and reasonably with the average of 0.45% computed from actual average purchase prices and the deed tax levied thereon as shown by Ministry of Finance statistics.



Attachment 1

Articles 4, 5 and 13 of the Deed Tax Act

Revised Article (May 5, 2010)	Article before Revision
<p>Article 4</p> <p>The deed tax on a sale shall be filed and paid by the purchaser.</p>	<p>Article 4</p> <p>The deed tax on a sale shall be filed and paid by the purchaser according to the contract price.</p>
<p>Article 5</p> <p>The deed tax on the creation of dien shall be filed and paid by the dien holder.</p>	<p>Article 5</p> <p>The deed tax on the creation of a dien shall be filed and paid by the dien holder according to the contract price.</p>
<p>Article 13</p> <p>The value of a deed as referred to in Paragraph 3 shall be assessed according to the standard price as determined by the local real property assessment committee. However, if the property is acquired at a transfer price below the determined standard price under the condition as described in Article 11, the value of the deed may be assessed according to that transfer price.</p> <p>The rules governing the organization of real property assessment committees shall be prescribed by the Ministry of Finance.</p>	<p>Article 13</p> <p>If the value of a deed filed by the taxpayer is below the standard price as determined by the local real property assessment committee, the deed tax shall be imposed according to such standard price, unless the immovable property is acquired under the condition as described in Article 11 herein.</p> <p>The rules governing the organization of real property assessment committees shall be prescribed by the Ministry of Finance.</p>



Attachment 2

Purpose Classification Table

Structure Purpose Classification	Steel structure		Reinforced concrete structure		Reinforced brick structure	
	Steel concrete structure	Steel reinforced concrete structure	Precast concrete structure			
Category 1	01	International tourist hotel	01	International tourist hotel	20	Hotel
	02	Nightclub	02	Nightclub	22	Restaurant
	03	Dance club	03	Dance club	26	Games venue
	04	Coffee shop	04	Coffee shop		
	05	Liquor store	05	Liquor store		
	06	Singing hall	06	Singing hall		
	07	Apartment suite	07	Apartment suite		
	08	Television station	08	Television station		
Category 2	20	Hotel	20	Hotel	21	Department store
	21	Department store	21	Department store	23	Hospital
	22	Restaurant	22	Restaurant	24	Mall
	23	Hospital	23	Hospital	25	Theater
	24	Mall	24	Mall	27	Supermarket
	25	Theater	25	Theater	28	Library
	26	Games venue	26	Games venue	29	Fine arts museum
	27	Supermarket	27	Supermarket	30	Museum
	28	Library	28	Library	31	Memorial museum
	29	Fine arts museum	29	Fine arts museum	32	Radio station
	30	Museum	30	Museum		
	31	Memorial museum	31	Memorial museum		
	32	Radio station	32	Radio station		



Structure Purpose Classification	Steel structure Steel concrete structure Steel reinforced concrete structure		Reinforced concrete structure Precast concrete structure		Reinforced brick structure	
Category 3	40	Market	40	Market	40	Market
	41	Office building (room)	41	Office building (room)	41	Office building (room)
	42	Store	42	Store	42	Store
	43	Clinic	43	Clinic	43	Clinic
	44	House	44	House	44	House
	45	School building	45	School building	45	School building
	46	Gymnasium	46	Gymnasium	46	Gymnasium
	47	Assembly hall	47	Assembly hall	47	Assembly hall
	48	Temple	48	Temple	48	Temple
	49	Church	49	Church	49	Church
	50	Farm house	50	Farm house	50	Farm house
	51	Open space	51	Open space	51	Open space
	52	Swimming pool	52	Swimming pool	52	Swimming pool
	33	Columbarium	33	Columbarium	33	Columbarium
Category 4	60	Factory	60	Factory	60	Factory
	61	Warehouse	61	Warehouse	61	Warehouse
	62	Parking lot	62	Parking lot	62	Parking lot
	63	Air raid shelter	63	Air raid shelter	63	Air raid shelter
	64	Building for agricultural use	64	Building for agricultural use	64	Building for agricultural use
	34	Oil tank	34	Oil tank	34	Oil tank
	35	Incinerator	35	Incinerator	35	Incinerator

Notes:

- Buildings not listed in the table should be assigned to their closest classification.
- "Games venue" refers to bowling alleys, ice-skating rinks, and the like.



Attachment 3

**Table of Standard Unit Prices for Building Structures
under 35 Storeys in Taipei City**

Structure	Steel structure (p) Steel concrete structure (A) Steel reinforced concrete structure (S)				Reinforced concrete structure (B) Precast concrete structure (T)				Reinforced brick structure (C)				Iron structure		Wood, stone and brick structure (DEHF)	Earth and wood structure (KL)
	Type I	Type II	Type III	Type IV	Type I	Type II	Type III	Type IV	Type I	Type II	Type III	Type IV	200m ² and more (U)	Less than 200m ² (J)		
35	10,920	10,810	10,160	9,650	10,420	10,170	9,830	9,500								
34	10,750	10,640	10,000	9,480	10,250	10,000	9,660	9,330								
33	10,580	10,470	9,830	9,310	10,080	9,830	9,490	9,160								
32	10,420	10,300	9,660	9,140	9,910	9,660	9,320	8,990								
31	10,250	10,140	9,490	8,970	9,740	9,490	9,150	8,820								
30	10,080	9,830	9,320	8,810	9,570	9,320	8,980	8,650								
29	9,910	9,660	9,140	8,640	9,400	9,150	8,810	8,480								
28	9,740	9,490	8,970	8,470	9,230	8,980	8,640	8,310								
27	9,580	9,320	8,810	8,300	9,060	8,810	8,470	8,140								
26	9,410	9,140	8,640	8,130	8,890	8,640	8,300	7,970								
25	9,230	8,970	8,470	7,970	8,720	8,470	8,130	7,800								
24	9,060	8,810	8,300	7,800	8,550	8,300	7,970	7,630								
23	8,890	8,640	8,130	7,630	8,390	8,130	7,800	7,450								
22	8,720	8,470	7,970	7,450	8,130	7,880	7,630	7,280								
21	8,550	8,300	7,800	7,280	7,880	7,630	7,360	7,110								
20	8,390	8,130	7,630	7,110	7,630	7,360	7,110	6,860								
19	8,130	7,880	7,360	6,860	7,360	7,110	6,860	6,610								
18	7,880	7,630	7,110	6,610	7,110	6,860	6,610	6,360								
17	7,630	7,360	6,860	6,360	6,860	6,610	6,360	6,100								
16	7,360	7,110	6,610	6,100	6,610	6,360	6,100	5,840								
15	7,110	6,860	6,360	5,840	6,360	6,100	5,840	5,590								
14	6,860	6,610	6,100	5,590	6,100	5,840	5,590	5,330								
13	6,610	6,360	5,840	5,330	5,840	5,590	5,330	5,080								
12	6,360	6,100	5,590	5,080	5,590	5,330	5,080	4,830								
11	6,100	5,840	5,330	4,830	5,330	5,080	4,830	4,580								
10	5,840	5,590	5,080	4,580	5,080	4,830	4,580	4,330								
9	5,590	5,330	4,830	4,330	4,830	4,580	4,330	4,060								
8	5,330	5,080	4,580	4,060	4,580	4,330	4,060	3,810								
7	5,080	4,830	4,330	3,810	4,330	4,060	3,810	3,560								
6	4,830	4,580	4,060	3,560	4,060	3,810	3,560	3,300								
5	4,580	4,330	3,790	3,310	3,050	2,800	2,450	2,200								
4	4,330	4,080	3,520	3,060	2,800	2,650	2,280	2,030	2,630	2,370	2,110	1,860				
3	4,080	3,830	3,250	2,810	2,650	2,500	2,110	1,860	2,450	2,200	1,950	1,690			1,530	
2	3,830	3,580	2,980	2,560	2,500	2,350	1,950	1,690	2,280	2,030	1,780	1,530	1,530	1,150	1,360	
1	3,580	3,330	2,710	2,310	2,350	2,200	1,780	1,530	2,210	1,950	1,690	1,440	1,440	1,060	1,190	250



Attachment 4

Taipei City Table of Service Life of Various Categories of Buildings and Depreciation Rates

Structure and classification of building	Code	Annual depreciation rate	Maximum number of years of depreciation	Residual value
Steel structure Steel concrete structure Steel reinforced concrete structure	P A S	1%	60	40%
Reinforced concrete structure Precast concrete structure	B T	1%	60	40%
Reinforced brick structure	C	1.2%	52	37.6%
Iron structure	J U	1.2%	52	37.6%
Stone structure	H	1.4%	46	35.6%
Brick structure	F	1.4%	46	35.6%
Wood structure (wood bedding excluded)	D	2%	35	30%
Wood structure (wood bedding)	E	2.5%	30	25%
Earth brick structure	K	5%	18	10%
Bamboo structure	L	8%	11	12%

Notes:

- $$\frac{(\text{Total current value} - \text{residual value}) \div \text{number of years of depreciation}}{\text{Total current value}} = \text{annual depreciation rate}$$
- Determined value \times (1 – depreciation years \times depreciation rate) \times street and road grade adjustment rate \times area = the value of the building after depreciation in the year of tax levy.
- The value of the building after depreciation in the year of tax levy \times the tax rate = amount of tax payable in the year of levy.
- This table adopts the simple average method to determine the residual value, and calculates depreciation according to the number of years of service life of the building remaining since the construction of the building was completed. If the service life of a building has expired and the building has not been demolished and rebuilt, no further depreciation is computed after the expiration of the service life (the maximum number of years of depreciation).



Attachment 5

Table of Street and Road Grade Adjustment Rates for Buildings in Taipei City

Administrative district	Number of scripts	Street name	Section	Beginning and end		Adjustment rate %	Note
				Beginning	End		
Neihu District	3	Dahu Street		Whole		100	
	3	Dahu Shanzhuang Street		Whole		100	
	4	Wufen Street		Whole		100	
	4	Neihu Road odd numbers	1	Whole		120	
		Neihu Road even numbers	1	Sec. 2, Tiding Blvd.	Neihu Vocational High School (Not including Neihu Vocational High School)	150	
			1	Neihu Vocational High School	To the end	120	
		Neihu Road	2	Sec. 1, Neihu Road	Lane 179	110	
			2	No. 181	Lane 235	120	
			2	Lane 235	To the end	130	
		Neihu Road	3	Sec. 2, Neihu Road	Jinlong Road	110	
			3	Jinlong Road	To the end	100	
	4	Wenhu Street		Whole		110	
	4	Wende Road		Whole		110	
	4	Xing'ai Road		Whole		140	
	5	Minquan E. Road	6	The Keelung River	To the end	150	
		Minquan E. Road (North side)	6	From the first odd number	Lane 81 (not including buildings inside Lane 81)	140	Announced as an air traffic control area in March 1997.
		Minquan E. Road (South side)	6	From the first even number	Lane 136 (not including odd-numbered buildings on Lane 136)	140	Announced as an air traffic control area in March 1997.
	5	Minquan E. Road	6	Lane 190 Alleys 75, 91, 117		120	
			6	Lane 206 Alley 143, Lane 232 Alley 26		100	
		Minshan Steet		Whole		140	



Table of Street and Road Grade Adjustment Rates for Buildings in Taipei City

Administrative district	Number of scripts	Street name	Section	Beginning and end		Adjustment rate %	Note
				Beginning	End		
	5	Yongbao Street		Whole		100	
	6	Chenggong Road	2-5	Whole		120	
	6	Ankang Road		Whole		100	
	6	Antai Street		Whole		100	
	6	Anxing Street		Whole		100	
	6	Anmei Street		Whole		100	
	6	Jiangnan Street		Whole		100	
	6	Xingzhong Road		Whole		150	
	6	Xingshan Road (odd numbers)		Tiding Blvd.	Sec. 1, Jiuzong Road	100	
				Sec. 1, Jiuzong Road	Xingzhong Road	130	
		Xingshan Road (even numbers)		Tiding Blvd.	Xingzhong Road	130	
	8	Jinlong Road		Chenggong Road	To the end	110	
	8	Jinhu Road		Whole		110	
	8	Donghu Road		Whole		110	
	9	Zhouzi Street		Whole		150	
	9	Xingyun Street		Whole		110	
	9	Nanjing E. Road	6	The Keelung River	To the end	100	
	11	Kangning Road	1~3	Whole		110	
	11	Kangle Street		Donghu Road	No. 199 Kangle Street	100	
	11	Kanghu Street		Whole		100	
	11	Jihu Road		Sec. 1, Neihu Road	Sec. 2, Tiding Blvd.	150	
	12	Yangguang Street		Chenggong Road	Rueiguang Road	100	
				Ruiguang Road	Sec. 2, Jiuzong Road	150	
	12	Gangqian Road (odd numbers)		Huanshan Road	Ruiguang Road	110	
				Ruiguang Road	Sec. 2, Tiding Blvd.	150	
	12	Gangqian Road (even numbers)		Huanshan Road	Zhouzi Street	110	



Table of Street and Road Grade Adjustment Rates for Buildings in Taipei City

Administrative district	Number of scripts	Street name	Section	Beginning and end		Adjustment rate %	Note
				Beginning	End		
				Zhouzi Street	Sec. 2, Tiding Blvd.	150	
	12	Ganghua Street		Whole		100	
	12	Tiding Blvd. (odd numbers)		Whole		150	
	13	Xinming Road		Whole		100	
	13	Xinhu 1st Road		Whole		140	
	13	Xinhu 2nd Road		Whole		140	
	13	Xinhu 3rd Road		Whole		140	
	13	Ruiguang Road		Jihu Road	Gangqian Road	150	
		Ruiguang Road (even numbers)		Gangqian Road	Minquan E. Road	150	
		Ruiguang Road (odd numbers)		Minquan E. Road	Gangqian Road	100	
	13	Ruihu Street		Whole		150	
	14	Bishan Road		Whole		100	
	15	Tanmei Street		Whole		100	
	17	Huanshan Road	1~2	Whole		110	
			3	Whole		100	
	18	Jiuzong Road		Whole		150	
	19	Lishan Street		Whole		100	





Getting Credit

■ World Bank survey misunderstandings requiring clarification

❖ 1. Questionnaire Item 8: Enforcement of Security Interests

(1) World Bank survey content

Does the law allow parties to a security agreement to agree to enforce the security interest outside of court if the debtor defaults, at the time a security interest is created? (e.g. Upon default the secured party may: (i) take possession of the collateral; (ii) sell, exchange, convert into money or otherwise enforce against the collateral privately or by auction)

(2) Matters requiring clarification

Last year's answer was negative, which requires clarification as follows:

The answer to this question should be affirmative. Under the current provisions of law governing movable property security transactions, the secured party can enforce his security interest outside of court, without need to obtain a court order.

A. Parties' agreement on out-of-court enforcement

Article 16 Paragraph 1 Subparagraph 5 (mortgage of personal property), Article 27 Subparagraph 6 (conditional sale) and Article 33 Subparagraph 6 (possession in trust) of the Personal Property Secured Transactions Act explicitly prescribe that the creditor's security rights and methods of enforcement in the event of default by the debtor shall be set down in the security agreement. Accordingly,



the parties to a security agreement may agree to enforcement of the security interest outside of court at the time the security interest is created.

B. Creditor's possession of collateral

- a. Where the debtor defaults or the collateral is moved, sold, pledged, transferred or disposed in any other way that is detrimental to enforcement of the creditor's security interest, the creditor may take possession of the collateral without need to obtain a court order (Article 17 Paragraph 1 of the Personal Property Secured Transactions Act).
- b. The creditor is required to give notice to the debtor or a third party 3 days before taking possession of the collateral (Article 18 Paragraphs 1 and 2 of the Personal Property Secured Transactions Act).
- c. There are similar provisions in respect of conditional sale and possession in trust (Articles 28 and 34 of the Personal Property Secured Transactions Act).

C. Self-help sale or public auction

- a. A creditor who takes possession of collateral must sell it by local public auction within 30 days of taking possession, having announced the auction by public notice at least 5 days in advance and having given written notification to the debtor or a third party at least 10 days prior to the auction (Article 19 Paragraph 1 of the Personal Property Secured Transactions Act).
- b. A creditor may sell the collateral immediately after taking possession if there is a spoilage concern or the cost of custody is too high (Article 18 Paragraph 3 of the Personal Property Secured Transactions Act).
- c. The proceeds of the sale of the collateral should be used to discharge related fees, interest, and principal in that order of priority (Article 20 of the Personal Property Secured Transactions Act).



d. The provisions of Articles 17 to 22 concerning the creditor's taking possession, sale and auction apply *mutatis mutandis* to conditional sale and possession in trust (Articles 30 and 37 of the Personal Property Secured Transactions Act).

D. According to statistics provided by the Bankers Association of the ROC, banks alone have utilized this system to dispose of collateral in about 16,600 cases, amounting to roughly US\$233 million, during the past five years.

❖ 2. Questionnaire Items 2.2 and 2.3 concerning whether Taiwan has a floating charge system

(1) World Bank survey content

According to the law, can ABC (the Debtor), grant BizBank (the Secured Creditor) a security interest in a combined categories of assets? (*e.g. a security interest over a combined category of assets, a floating charge or enterprise charge*) French: *nantissement sur fonds de commerce, etc.*

(2) Matters requiring clarification

Taiwan's movable property secured transaction system can meet the purposes of the floating lien

A. The floating lien has been developed as a tool of financing in common-law countries and by international development banks (for example, the European Bank for Reconstruction and Development's Model Law on Secured Transactions). It can be used to secure a debt against a group of assets functioning in business operation (*e.g., machinery, equipment, raw materials, inventory and semi-finished goods*) without attaching to fixed assets, thus

allowing the debtor to undertake business operation normally and continuously, and enabling the economic benefit of movable property to be maximized.



- B. Under the possession in trust system provided for in Taiwan's Personal Property Secured Transactions Act, a creditor (trustor) providing a debtor with funds or credit gains a security right against the entrusted underlying movable property, while the debtor (trustee) possesses the underlying movable property in accordance with the trust receipt. The trust receipt specifies the title, quantity, price, and location of the underlying assets, and the methods of repaying the funds or credit, as well as the security right's extension of effect to processed, combined or mixed goods.
- C. In Taiwan, there are a variety of legal mechanisms that can achieve the same purpose of providing security for financing. Under Taiwan's movable property secured transaction system, the possession in trust mechanism enables a borrower to use the raw materials or inventory of a business as collateral for obtaining a loan. This is already sufficient to achieve the purposes of the floating charge or floating lien.



Protecting Investors

❖ 1. Introduction

To protect the rights and interests of securities investors and futures traders, and promote the sound development of securities and futures markets, Taiwan on July 17, 2002 promulgated the Securities Investor and Futures Trader Protection Act, and set up the Securities and Futures Investors Protection Center (SFIPC) under the Act to serve as a protection institution (<http://www.sfipc.org.tw/>) for implementing the Act's provisions. Amendment of the Act was promulgated on May 20, 2009 and came into effect on August 1, 2009. Ten articles of the Act were revised by this amendment, including the insertion of provision (in Article 10-1) enabling the SFIPC to take action as prescribed by law in instituting legal proceedings on behalf of a listed or over-the-counter company against the company's directors or supervisors, and in petitioning the court to dismiss a director or supervisor.

To further strengthen investor protection and corporate governance and establish a sound environment for doing business, Taiwan's related government agencies have considered the survey content and rating results of the World Bank's "Protecting Investors" indicator and proposed draft amendments of the Company Act and the Securities and Exchange Act. These amendments, introducing the regulation of shadow directors in line with the US and UK legal systems and giving minority shareholders the right to apply to the competent authorities for examination of a company's records, account books, and specified matters, are expected to be enacted and promulgated before the end of December 2011 (the bill for which is currently under review by the Legislative Yuan).

(1) Amendment of the Company Act (see Attachment 1 for the draft text of the amendment)

- A. The insertion of new provisions regulating shadow directors and their liability for civil, criminal, and administrative penalties (draft amendment of Article 8, Paragraph 3 of the Act)



B. The insertion of a new provision giving a shareholders' meeting the right to make a resolution asserting a claim to the proceeds of a breach of loyalty by a responsible person of the company (draft amendment of Article 23, Paragraph 3 of the Act)

C. The insertion of a new provision imposing a duty on directors to explain their personal interest in transactions at a meeting of the board of directors (draft amendment of Article 206, Paragraph 2 of the Act).

(2) Amendment of the Securities and Exchange Act (see Attachment 2 for the draft text of the amendment)

Giving a shareholder or shareholders who has/have held 3% or more of the total outstanding shares of a company the right to apply to the competent authority (the Financial Supervisory Commission) for examination of the company's records, account books, and specified matters if he considers that a specific event is detrimental to the rights and interests of the company's shareholders (draft amendment of Article 38-1, Paragraph 2 of Act).

❖ 2. Investor protection under Taiwan's legal system

The World Bank's "Protecting Investors" indicator reviews the readiness level of the legal system for protecting investors in various countries, as demonstrated by the example of related party transactions. The following sets out the relevant provisions of Taiwan's legal system in respect of the survey questions, including the content of the latest revisions and proposed revisions of the law.

(1) Example facts

A. Buyer Co. ("Buyer") is a food manufacturing company. It manufactures and distributes all of its products itself.



- B. Mr. James is Buyer's controlling shareholder and a member of Buyer's board of directors. He owns 60% of Buyer and elected 2 directors to Buyer's 5-member board of directors. (If your country requires a supervisory board that is appointed at least in part by shareholders, assume that Mr. James has elected 60% of the shareholder-elected members of the supervisory board. Assume also that the 5-member board of directors then consists of 3 directors, including Mr. James himself, who were designated or proposed by Mr. James' members on the supervisory board.)
- C. Mr. James also owns 90% of Seller Co. ("Seller"), which operates a chain of retail hardware stores. Seller is facing financial problems and recently shut a large number of its stores. As a result, many of its trucks are not being used.
- D. Mr. James proposes to Buyer that Buyer purchase Seller's unused trucks to expand Buyer's distribution of its food products. Buyer agrees and enters into the transaction.
- E. All required approvals are obtained and all mandatory disclosures are made. The final terms of the transaction require Buyer to pay to Seller in cash an amount equal to 10% of Buyer's assets in exchange for the trucks. If Mr. James can lawfully vote on the transaction at the board of directors and/or shareholder level, please assume he is the deciding vote in favor of the transaction.
- F. The price of the trucks is above market value and the transaction is unfair to Buyer. Shareholders sue Mr. James and the parties that approved the transaction.
- G. Assume that Buyer is a private firm (i.e., not state-owned) that has issued stock that is publicly traded and is listed on your country's most important stock exchange. If there is no stock exchange in your country, or if there are fewer than 10 firms actively traded on your country's exchange, please assume that Buyer is a big private company with a large number of shareholders.
- H. Assume that the transaction is part of Buyer's ordinary course of business.



I. The transaction is not ultra vires (i.e., is not outside the power or authority of Buyer).

(2) Survey contents and proposed answers

A. Approval of the transaction

1.0	Indicate the approvals that are legally sufficient for Buyer to acquire Seller's trucks.	Yes	No
1.1	Buyer's Chief Executive Officer (CEO) alone can grant the necessary approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.2	Buyer's board of directors alone can grant the necessary approval	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.3	Buyer's board of directors alone can grant the necessary approval, but only after receiving the recommendation of shareholders.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.4	Buyer's supervisory board alone can grant the necessary approval.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.5	Only Buyer's shareholders can grant the necessary approval.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.6	Both Buyer's board of directors and shareholders must approve the transaction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.L	Applicable laws: Article 202 of the Company Act; Articles 14-3 and 14-5 of the Securities and Exchange Act		
1.C	Comments: 1. Article 202 of the Company Act stipulates that business operations of a company shall be executed pursuant to resolutions adopted by the board of directors, except for the matters the execution of which shall be effected pursuant to resolutions of the shareholders' meeting as required by this Act or the Articles of Incorporation of the company. 2. Article 14-3, Subparagraph 3 and Article 14-5, Subparagraph 4 of the Securities and Exchange Act stipulate that when a public company has selected independent directors or established an audit committee, then a matter bearing on the personal interest of a director or supervisor shall be submitted to the board of directors or audit committee for approval by resolution unless approval has been obtained from the Competent Authority.		



2.0	Describe the requirements that must be satisfied in order for the approvals specified in Question 1 to be effective.	Yes	No
2.1	If applicable, can Mr. James vote at the board of directors meeting?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.2	If applicable, can Mr. James vote at the general shareholder meeting?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.3	Is an independent body outside the company required to review the transaction prior to its execution (e.g., external auditor, outside financial advisor, stock exchange or regulator)? If yes, please name the independent body.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.L	Applicable laws: Articles 206 and 178 of the Company Act		
2.C	Comments: 1. Under the mutatis mutandis application of Article 178 of the Company Act to Article 206 of the same Act, a director who has a personal interest in the matter under discussion at a meeting, which may impair the interest of the company, shall not vote nor exercise the voting right on behalf of another director. And Article 16 of the Regulations Governing Procedure for Board of Directors Meetings of Public Companies stipulates that if an interested party relationship exists between any director and any agenda item, and such relationship is likely to prejudice the interests of the company, the director may not participate in discussion of or voting on that agenda item, and shall recuse himself during discussion of and voting on that item, and may not act as proxy of another director to exercise voting rights on that matter. 2. Article 178 of the Company Act stipulates that a shareholder who has a personal interest in the matter under discussion at a meeting, which may impair the interest of the company, shall not vote nor exercise the voting right on behalf of another shareholder.		



B. Required disclosure on the transaction

3.0	Indicate what mandatory disclosures Mr. James must make regarding his interest in the Buyer-Seller transaction to Buyer's board of directors and/or supervisory board.	Yes	No
3.1	None.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	A general disclosure of the existence of a conflict of interest, without any specifics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.3	Full disclosure of all material facts regarding Mr. James' interest in the Buyer-Seller transaction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.L	Applicable laws: Article 16 of the Regulations Governing Procedure for Board of Directors Meetings of Public Companies.		
3.C	Comments: Article 16 of the Regulations Governing Procedure for Board of Directors Meetings of Public Companies stipulates that if an interested party relationship exists between any director, or a juristic person the director represents, and any agenda item, and such relationship is likely to prejudice the interests of the company, the director may state opinions and answer questions but may not participate in discussion of or voting on that agenda item, and shall recuse himself during discussion of and voting on that item, and may not act as proxy of another director to exercise voting rights on that matter.		



4.0	Indicate what disclosures regarding the Buyer-Seller transaction are legally required to be made immediately to the public, the regulator or the stock exchange.	Yes	No
4.1	A description of the assets purchased by Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.2	The nature and amount of consideration paid by Buyer to Seller.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.3	Mr. James' ownership interest and/or director position in Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.4	The fact that Mr. James owns 90% of Seller.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.L	Applicable laws: Article 30 of the Regulations Governing the Acquisition and Disposal of Assets by Public Companies; Article 36, Paragraph 2 of the Securities and Exchange Act		
4.C	Comments: 1. Article 30 of the Regulations Governing the Acquisition and Disposal of Assets by Public Companies stipulates that a public company acquiring or disposing of assets shall publicly announce and report the relevant information on the FSC's designated website (Market Observation Post System) in the appropriate format as prescribed by regulations within two days from the day of occurrence of the fact. 2. Article 36, Paragraph 2 of the Securities and Exchange Act stipulates that if any event occurs which has a material impact on the shareholders' rights and interests or securities prices of a public company, the company shall publicly announce and report the event within two days from the date of occurrence thereof.		



5.0	Indicate what disclosures regarding the Buyer-Seller transaction are legally required in Buyer's annual report.	Yes	No
5.1	A description of the assets purchased by Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2	The nature and amount of consideration paid by Buyer to Seller.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.3	Mr. James' ownership interest and/or director position in Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.4	The fact that Mr. James owns 90% of Seller.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.L	Applicable laws: Articles 7, 8, 13, 15, and 16 of the Regulations Governing the Preparation of Financial Reports by Securities Issuers; Article 10 of the Regulations Governing Information to be Published in Annual Reports of Public Companies		
5.C	Comments: 1. Articles 7, 8, 13, and 15 of the Regulations Governing the Preparation of Financial Reports by Securities Issuers stipulate that transactions for the purchase or sale of goods with related parties, and related receivables and payables, shall be fully disclosed in a company's quarterly Financial Report and a statement in respect thereof uploaded to the Market Observation Post System. 2. Article 16 of the Regulations Governing the Preparation of Financial Reports by Securities Issuers stipulates that the issuer shall disclose information on related party transactions in accordance with Statement of Financial Accounting Standards No. 6. 3. In addition, to strengthen the control and disclosure of related party transactions, the Taiwan Stock Exchange on July 1, 2009 set up a related parties transaction zone (http://emops.twse.com.tw/emops_all.htm) on the Market Observation Post System, on which listed (over-the-counter) companies are required to post monthly reports of information related to the acquisition or disposal of assets, the purchase or sale of goods, and receivables and payables recorded in the previous month between themselves and related parties. Hence, the current provisions in respect of information disclosure should be considered as quite sufficient.		



C. Shareholder actions

C.1. Actions against Mr. James

6.0	Describe the key features of the legal action(s) that can be brought by Buyer or Buyer's shareholders against Mr. James relating to the Buyer-Seller transaction.		
6.1	Can a shareholder holding 10% of Buyer's shares or less sue Mr. James for harm caused to Buyer by the transaction? If yes, please state the minimum shareholding required.	Derivatively (i.e., on behalf of the company) (Yes/No/ NA/Minimum holding)	Direct suit (i.e., a suit in the shareholder's own name) (Yes/No/NA/ Minimum holding)
		(Yes, 3%)Article 214 of the Company Act ; The provisions of Additional Article 10-1of the Securities Investor and Futures Trader Protection Act	
6.2	List the cause(s) of action that can be brought. AND What has to be proven to hold Mr. James liable and receive compensation (e.g., not liable, fraud, bad faith, negligence, prejudicial actions towards the other shareholders, conflict of interest, terms of transaction are unfair, damage to the company).	Bad faith, negligence, conflict of interest, terms of transaction are unfair, damage to Buyer	
6.3	What are Mr. James' defenses against each cause of action?	Disclosure made and approval obtained	
6.4	What is the standard of proof for a civil claim (e.g., beyond reasonable doubt, preponderance of the evidence, balance of probabilities)?	Preponderance of the evidence	



6.5	What is the standard of proof for a criminal claim (e.g., beyond reasonable doubt, intimate conviction, preponderance of evidence)?	Beyond reasonable doubt
6.L	<p>Applicable laws:</p> <p>Article 214 of the Company Act; Article 10-1 of the Securities Investor and Futures Trader Protection Act</p>	
6.C	<p>Comments:</p> <p>1. Article 214, Paragraph 1 of the Company Act stipulates that a shareholder or shareholders who has/have been continuously holding 3% or more of the total number of the outstanding shares of the company over one year may request in writing the supervisors of the company to institute, for the company, an action against a director of the company. And Paragraph 2 of the same Article stipulates that, in case the supervisors fail to institute an action within 30 days after having received the request made under the preceding Paragraph, then the shareholders filing such request under the preceding Paragraph may institute the action for the company; and under such circumstance, the court may, at the petition of the defendant, order the suing shareholders to furnish an appropriate security. In case the suing shareholders lose the lawsuit, and the company suffers damage as a result of the lawsuit, the suing shareholders shall be liable to indemnify the company for such damage.</p> <p>2. Article 10-1 of the Securities Investor and Futures Trader Protection Act (which came into effect on August 1, 2009) stipulates that, where the protection institution in carrying out its functions discovers that a director or supervisor of a listed or OTC company, in the course of performing his/her duties, has committed any act resulting in material damage to the company or in serious violation of applicable laws or regulations or the company's articles of incorporation, the protection institution may institute an action (representative suit) for the company against the director or supervisor of the company as prescribed by law, and petition the court to dismiss the director or supervisor (dismissal suit), without being subject to the share ownership requirement for bringing a representative lawsuit as prescribed in Article 214 of the Company Act or the preliminary procedure of a shareholder lawsuit for dismissal of a director or supervisor as prescribed in Article 200 of the Company Act, so as to achieve the aim of protecting securities investors.</p>	



7.0	In the suit described above, what is the minimum the plaintiff must prove to hold Mr. James liable?	Yes	No
7.1	Nothing. Mr. James has no liability since all the required approvals were obtained and the necessary disclosures made.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.2	Mr. James is liable if he was grossly negligent in his approval of the Buyer-Seller transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.3	Mr. James is liable if he was negligent in his approval of the Buyer-Seller transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.4	Mr. James is liable if the terms of the Buyer-Seller transaction were unfair to Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.5	Mr. James is liable if he influenced the approving body to approve the transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.6	Mr. James is liable if the transaction caused damage to Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.L	Applicable laws: Articles 23 of the Company Act; Article 171 of the Securities and Exchange Act		
7.C	Comments: 1. Article 23 of the Company Act stipulates that a responsible person of a company (a director, supervisor or manager) shall act faithfully and exercise the due care of a good administrator in conducting the business operations of the company; and if he/she has acted in breach of this duty, shall be liable to indemnify the company for consequential loss or damage. If the responsible person of a company has, in the course of conducting the company's business operations, violated any provision of the applicable laws and/or regulations and in consequence thereof caused loss or damage to any other person, he/she shall be jointly and severally liable with the company to indemnify that person for such loss or damage. 2. Article 171, Paragraph 1, Subparagraph 2 of the Securities and Exchange Act stipulates that a director, supervisor, manager or employee of an issuer under the Act who, directly or indirectly, causes the company to conduct a transaction to its disadvantage and not in the normal course of operation, causing substantial damage to the company, shall be punished with imprisonment of between three and ten years and a fine of between NT\$10 million and NT\$200 million.		



8.0	If Buyer's shareholders are successful in the action(s) against Mr. James described above, describe what remedies are available.	Yes	No
8.1	Mr. James pays loss/damages caused to Buyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.2	Mr. James repays personal profits made from the transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.3	Mr. James pays punitive fines to the government.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.4	Mr. James is put in jail.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.5	Please explain whether Buyer's shareholders can undo or rescind the transaction, and list what must be proven in court. (NO)		
8.L	Applicable laws: Articles 23 and 193 of the Company Act; Article 171 of the Securities and Exchange Act		
8.C	Comments: 1. Article 23, Paragraph 1 of the Company Act stipulates that a responsible person of a company (a director, supervisor or manager) shall act faithfully and exercise the due care of a good administrator in conducting the business operations of the company; and if he/she has acted in breach of this duty, shall be liable to indemnify the company for consequential loss or damage. Under this provision, if a plaintiff shareholder wins a lawsuit against Mr. James, successfully contending that Mr. James acted in breach of his duties of faith and due care and thereby causing loss or damage to the company, Mr. James will be liable to indemnify the company for such loss or damage pursuant to the provisions of Article 23, Paragraph 1 or Article 193, Paragraph 2 of the Company Act. 2. Article 171, Paragraph 1, Subparagraph 2 of the Securities and Exchange Act stipulates that a director, supervisor, manager or employee of an issuer under the Act who, directly or indirectly, causes the company to conduct a transaction to its disadvantage and not in the normal course of operation, causing substantial damage to the company, shall be punished with imprisonment of between three and ten years and a fine of between NT\$10 million and NT\$200 million. And Paragraph 6 of the same Article stipulates that any property or property interest obtained from the commission of an offense under Paragraph 1 or 2, other than that which shall be returned to a victim or a third party or from which damages shall be borne, shall be confiscated within the extent that it belongs to the offender.		



C.2. Actions against the approving body

9.0	Describe the key features of the action(s) that can be brought by Buyer or Buyer's shareholders against the approving body (i.e., directors if board approval is required, members if supervisory board approval is required, or CEO if CEO approval is required) relating to the Buyer-Seller transaction. Please assume that the transaction was duly approved and all disclosure requirements were met.		
9.1	Can a shareholder holding 10% of Buyer's shares or less sue Mr. James for harm caused to Buyer by the transaction? If yes, please state the minimum shareholding required.	Derivatively (i.e., on behalf of the company) (Yes/No/NA/Minimum holding)	Direct suit (i.e., a suit in the shareholder's own name) (Yes/No/NA/Minimum holding)
		(Yes, 3%) Article 214 of the Company Act ; The provisions of Additional Article 10-1of the Securities Investor and Futures Trader Protection Act	
9.2	List the cause(s) of action that can be brought AND What has to be proven to hold the approving body liable and receive compensation (e.g., not liable, fraud, bad faith, negligence, prejudicial actions towards the other shareholders, conflict of interest, terms of transaction were unfair, damage to the company).	Bad faith, negligence, conflict of interest, terms of transaction are unfair, damage to the Buyer	
9.3	What are the approving body's defenses against each cause of action?	Disclosure made and approval obtained	
9.L	Applicable laws: Articles 23 and 214 of the Company Act; Article 10-1 of the Securities Investor and Futures Trader Protection Act		



9.C	<p>Comments:</p> <ol style="list-style-type: none"> 1. Article 23, Paragraph 1 of the Company Act stipulates that a responsible person of a company shall act faithfully and exercise the due care of a good administrator in conducting the business operations of the company; and if he/she has acted in breach of this duty, shall be liable to indemnify the company for consequential loss or damage. 2. Article 214, Paragraph 1 of the Company Act stipulates that Shareholder(s) who has/have been continuously holding 3% or more of the total number of the outstanding shares of the company over one year may request in writing the supervisors of the company to institute, for the company, an action against a director of the company. And Paragraph 2 of the same Article stipulates that, in case the supervisors fail to institute an action within 30 days after having received the request made under the preceding Paragraph, then the shareholders filing such request under the preceding Paragraph may institute the action for the company; and under such circumstance, the court may, at the petition of the defendant, order the suing shareholders to furnish an appropriate security. In case the suing shareholders lose the lawsuit, and the company suffers damage as a result of the lawsuit, the suing shareholders shall be liable to indemnify the company for such damage. 3. Article 10-1 of the Securities Investor and Futures Trader Protection Act stipulates that, where the protection institution in carrying out its functions discovers that a director or supervisor of a listed or OTC company, in the course of performing his/her duties, has committed any act resulting in material damage to the company or in serious violation of applicable laws or regulations or the company's articles of incorporation, the protection institution may institute an action (representative suit) for the company against the director or supervisor of the company as prescribed by law, and petition the court to dismiss the director or supervisor (dismissal suit), without being subject to the share ownership requirement for bringing a representative lawsuit as prescribed in Article 214 of the Company Act or the preliminary procedure of a shareholder lawsuit for dismissal of a director or supervisor as prescribed in Article 200 of the Company Act, so as to achieve the aim of protecting securities investors.
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10.0	In the suit described above, what is the minimum that the plaintiff needs to prove to hold the approving body liable?	Yes	No
10.1	Nothing. The approving body has no liability since all the required approvals were obtained and the necessary disclosures made.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10.2	The approving body is liable if they were grossly negligent in their approval of the Buyer-Seller transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.3	The approving body is liable if they were negligent in their approval of the Buyer-Seller transaction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.4	The approving body is liable if the terms of the Buyer-Seller transaction were unfair to Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.5	The approving body is liable if the transaction caused damage to Buyer.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.L	Applicable laws: Articles 23 and 193 of the Company Act; Article 171 of the Securities and Exchange Act.		
10.C	Comments: 1. Article 23 of the Company Act stipulates that a responsible person of a company shall act faithfully and exercise the due care of a good administrator in conducting the business operations of the company; and if he/she has acted in breach of this duty, shall be liable to indemnify the company for consequential loss or damage. 2. Article 193, Paragraph 2 of the Company Act stipulates that where any resolution adopted by the Board of Directors contravenes the Articles of Incorporation and the resolutions adopted at the meetings of Shareholders, thereby causing loss or damage to the company, all directors taking part in the adoption of such resolution shall be liable to indemnify the company for such loss or damage. 3. Article 171, Paragraph 1, Sub-paragraph 2 of the Securities and Exchange Act stipulates that a director, supervisor, manager or employee of an issuer under the Act who, directly or indirectly, causes the company to conduct a transaction not in its interests and not in the normal course of operation, causing substantial damage to the company, shall be punished with imprisonment of between three and ten years and a fine of between NT\$10 million and NT\$200 million.		



D. Ability to compile evidence

D.1. Inspect internal company documents

11.0	Indicate whether a minority shareholder has the right to demand that Buyer allow him to inspect internal Buyer documents without filing a suit.	
11.1	Who can demand the right to inspect (e.g., required minimum shareholding, board approval)?	Shareholders who have been continuously holding three percent or more of the total number of the outstanding shares of a company for a period of one year or longer (Article 245 of the Company Act), or are interested parties (Article 70 of the Business Accounting Act) may apply to the court for appointment of an inspector to inspect the current status of business operations, the financial accounts and the property of the company.
11.2	Are documents relating to the Buyer/Seller transaction (e.g., the purchase agreement) available for inspection?	The application to the court for inspection covers the current status of business operations, the financial accounts and the property of the company. Therefore, documents relating the Buyer/Seller transaction are available for inspection.
11.L	Applicable laws: Article 245 of the Company Act; Article 70 of the Business Accounting Act; and Taiwan Supreme Court Judgment (1996) Kang-Zi No. 891	



11.C	<p>Comments:</p> <ol style="list-style-type: none"> 1. Article 245 of the Company Act stipulates that Shareholder(s) who have been continuously holding three percent of the total number of the outstanding shares of a company for a period of one year or longer may apply to the court for appointment of an inspector to inspect the current status of business operations, the financial accounts and the property of the company. 2. Article 70 of the Business Accounting Act stipulates that an interested party of a business may, with justifiable reason, apply to the court for appointment of an inspector to inspect the account books, statements, and vouchers of the business. 3. Taiwan Supreme Court Judgment (1996) Kang-Zi No. 891 held that the scope of interested parties for the purpose of applying to the court for appointment of an inspector under the provisions of the Business Accounting Act is not limited to shareholders who have been continuously holding three percent or more of the total number of the outstanding shares of a company for a period of one year or longer, but that any shareholder who is an interested party may apply and the one-year holding of three percent or more of shares is not necessary for presenting such request. The difference between applications to the court for appointment of an inspector under Article 245 of the Company Act and under Article 70 of the Business Accounting Act is that the recompense of the inspector must be borne by the company under the former and by the applicant under the latter. 4. Therefore, shareholders who have not been continuously holding three percent of the total number of the outstanding shares of a company for a period of one year or longer may apply to the court for appointment of an inspector under Article 70 of the Business Accounting Act, but must bear the cost of recompense for the inspector.
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D.2. Appoint government inspector

12.0	Indicate whether a minority shareholder has the right to seek the appointment of a government inspector or interventor or use a similar procedure to investigate the Buyer-Seller transaction without filing a suit.	
12.1	Who can request an inspector (e.g., required minimum shareholding, board of approval)?	A shareholder or shareholders who has/ have been continuously holding 3% or more of the total outstanding shares of the company for at least one year.
12.2	What are the bases or grounds for the appointment of an inspector (e.g., mismanagement suspected, breach of laws)?	When a certain event has occurred that may be considered as detrimental to the rights and interests of a company's shareholders.
12.L	Applicable laws: Article 245 of the Company Act	
12.C	Comments: 1. Article 245 of the Company Act stipulates that shareholders who have been continuously holding three percent or more of the total number of the outstanding shares of a company for a period of one year or longer, may apply to the court for appointment of an inspector to inspect the company's business accounts and financial status. 2. The current provisions of Article 38-1 of the Securities and Exchange Act stipulate that, when the Competent Authority deems necessary, it may from time to time appoint a certified public accountant, lawyer, engineer, or any other professionals or technicians to examine the financial and business conditions and related documents and books of account of the issuer, securities underwriter, or other related parties and to submit reports or opinions to the Competent Authority, at the expense of the examinee.	



D.3. Gather information during trial

13.0		Indicate the scope of information that the plaintiff can ask the judge to compel from a defendant and/or an uncooperative witness during court proceedings. Please mark all that apply.			
Scope of evidence		Defendant		Witness	
		Yes	No	Yes	No
13.1	Only information that the plaintiff has a separate independent right (e.g., under company law or other law) to receive.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13.2	Information that the defendant has indicated that he intends to rely on for his defense.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.3	Information that directly proves specific facts in the plaintiff's claim.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.4	Any information that is relevant to the subject matter of the claim.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.5	Any information that may lead to discovery of relevant information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.L	Applicable laws: Articles 342, 344, 346, and 368 of the Code of Civil Procedure				



13.C	<p>Comments:</p> <ol style="list-style-type: none"> 1. Article 342 of the Taiwan Code of Civil Procedure stipulates that where a document identified to be introduced as documentary evidence is in the opposing party's possession, a party shall move the court to order the opposing party to produce such document. This motion must specify the following matters: (1) Identification of the document requested to be produced; (2) the disputed fact to be proved by the document; (3) the content of the document; (4) the fact that the document is in the opposing party's possession; and (5) the reason why the opposing party has a duty to produce such document. Where there exists manifest difficulty in specifying the first and third of the aforementioned matters, the court may order the opposing party to provide necessary assistance. 2. Article 344, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that a party has the duty to produce the following documents: (1) Documents to which such party has made reference in the course of the litigation proceeding; (2) documents which the opposing party may require the delivery or inspection of pursuant to the applicable laws; (3) documents which are created in the interests of the opposing party; (4) commercial accounting books; and (5) documents which are created regarding matters relating to the action. 3. Article 346, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that where a document identified to be introduced as documentary evidence is in a third person's possession, a party may move the court either to order such third person to produce such document or to designate a period of time within which the party who intends to introduce it as evidence shall produce such document. 4. Article 348, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that where it is likely that evidence may be destroyed or its use in court may be difficult, or with the consent of the opposing party, a party may move the court for perpetuation of such evidence; where necessary, the party who has legal interests in ascertaining the status quo of a matter or object may move for expert testimony, inspection or perpetuation of documentary evidence. 5. Therefore, the plaintiff may move the court to order the defendant or a third party to produce four kinds of information, namely: information that the defendant has referred to as the basis of his defense; information that can directly prove specific facts asserted by the plaintiff; any information related to the purpose of the litigation; and any information that can bring to light other related information.
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14.0	If a plaintiff can request that the judge require documents from a defendant or witness during court proceedings, indicate the specific requirements for the plaintiff's request.	Yes	No
14.1	The request must specifically identify the documents sought (i.e., list the title, author, date and contents).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14.2	The request need only identify categories of documents sought, without specifics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.3	Plaintiffs may request the judge appoint an expert witness who will have full access to all applicable documents from the defendant (even where those documents are detrimental to the defendant's case.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.L	Applicable laws: Articles 203, 269, 342, and 344 of the Code of Civil Procedure		



14.C	<p>Comments:</p> <ol style="list-style-type: none"> 1. Article 203, Paragraph 2 of the Taiwan Code of Civil Procedure stipulates that in order to elucidate or ascertain relations involved in an action, the court may, among other measures, order the parties to produce drawings/ illustrations, schedules/lists, translations of documents written in a foreign language, or other documents and objects. 2. Article 269, Paragraph 2 of the Taiwan Code of Civil Procedure stipulates that, prior to the oral argument, the court may order the parties to produce documents and objects if it considers such necessary in order to expedite the closing of oral argument. 3. Article 342 of the Taiwan Code of Civil Procedure stipulates that where a document identified to be introduced as documentary evidence is in the opposing party's possession, a party shall move the court to order the opposing party to produce such document. This motion must specify the following matters: (1) Identification of the document requested to be produced; (2) the disputed fact to be proved by the document; (3) the content of the document; (4) the fact that the document is in the opposing party's possession; and (5) the reason why the opposing party has a duty to produce such document. Where there exists manifest difficulty in specifying the first and third of the aforementioned matters, the court may order the opposing party to provide necessary assistance. 4. Article 344, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that a party has the duty to produce the following documents: (1) Documents to which such party has made reference in the course of the litigation proceeding; (2) documents which the opposing party may require the delivery or inspection of pursuant to the applicable laws; (3) documents which are created in the interests of the opposing party; (4) commercial accounting books; and (5) documents which are created regarding matters relating to the action. 5. Hence, under the aforecited provisions, the plaintiff may utilize a wider mode of designation in requesting the defendant to produce a certain type of documents (such as moving the court to order the defendant to produce all documents which are created regarding matters relating to the action, as provided for by Article 344, Paragraph 1, Subparagraph 5 of the Taiwan Code of Civil Procedure), without needing to specify any particular documents.
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15.0 Indicate which statements describe the process for questioning a defendant or witness orally during trial.					
Description of questioning		Defendant		Witness	
		Yes	No	Yes	No
15.1	The plaintiff or plaintiff's lawyer performs his own questioning without prior approval by the court of the questions posed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.2	The plaintiff or plaintiff's lawyer performs his own questioning with prior approval by the court of the questions posed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15.3	The judge performs his own questioning after the plaintiff suggests questions to the judge.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15.4	The judge performs his own questioning without input from the plaintiff.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.L	Applicable laws: Articles 200 and 320 of the Code of Civil Procedure				
15.C	Comments: 1. Article 200, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that a party may move the presiding judge to conduct necessary interrogation and may, after informing the presiding judge, conduct interrogation himself/herself. And Paragraph 2 of the same Article stipulates that where the presiding judge considers either the party's motion for interrogation or the interrogation conducted by the party to be inappropriate, the presiding judge may decline to conduct such interrogation or prohibit the party from conducting such interrogation. 2. Article 320, Paragraph 1 of the Taiwan Code of Civil Procedure stipulates that a party may move the presiding judge to conduct a necessary examination of a witness or, after informing the presiding judge, conduct such examination himself/herself. 3. The aforecited articles are aimed at protecting the parties' right of audience and strengthening the parties' position as litigants by granting them the right to self-conduct interrogation of witnesses or opposing parties. Hence, in Taiwan, the plaintiff or his attorneys may conduct their own interrogation of a defendant or witness without first obtaining permission from the court.				



Attachment 1

Draft amendments of Articles 8, 23, and 206 of the Company Act

Amended article	Current article
<p>Article 8</p> <p>The term "responsible persons" of a company as used in this Act denotes shareholders conducting the business or representing the company in case of an unlimited company or unlimited company with limited liability shareholders; directors of the company in case of a limited company or a company limited by shares.</p> <p>The managerial officer or liquidator of a company, the promoter, supervisor, inspector, reorganizer or reorganization supervisor of a company limited by shares acting within the scope of their duties, are also responsible persons of a company.</p> <p>In respect of a public offering company, a non-director who substantively exercises the business of a director of the company, or substantively controls personnel affairs, financial affairs or business operations and substantively directs a director's exercise of his duties to the company, shall be liable jointly with such director for civil, criminal, and administrative penalties under this Act. But this provision shall not apply to control exercised by a director appointed by the government for the purposes of developing the economy, promoting public order, or otherwise enhancing public welfare.</p>	<p>Article 8</p> <p>The term "responsible persons" of a company as used in this Act denotes shareholders conducting the business or representing the company in case of an unlimited company or unlimited company with limited liability shareholders; directors of the company in case of a limited company or a company limited by shares.</p> <p>The managerial officer or liquidator of a company, the promoter, supervisor, inspector, reorganizer or reorganization supervisor of a company limited by shares acting within the scope of their duties, are also responsible persons of a company.</p>



Amended article	Current article
<p>Article 23</p> <p>The responsible person of a company shall have the loyalty and shall exercise the due care of a good administrator in conducting the business operation of the company; and if he/she has acted contrary to this provision, shall be liable for the damages to be sustained by the company there-from.</p> <p>If the responsible person of a company has, in the course of conducting the business operations, violated any provision of the applicable laws and/or regulations and thus caused damage to any other person, he/she shall be liable, jointly and severally, for the damage to such other person.</p> <p>Where the responsible person of a company acts in breach of the duties set out in Paragraph 1, for the benefit of himself or another party, the shareholders' meeting may make a resolution to treat the proceeds of such act as belonging to the company, provided that no more than one year has elapsed since the proceeds concerned were obtained.</p>	<p>Article 23</p> <p>The responsible person of a company shall have the loyalty and shall exercise the due care of a good administrator in conducting the business operation of the company; and if he/she has acted contrary to this provision, shall be liable for the damages to be sustained by the company there-from.</p> <p>If the responsible person of a company has, in the course of conducting the business operations, violated any provision of the applicable laws and/or regulations and thus caused damage to any other person, he/she shall be liable, jointly and severally, for the damage to such other person.</p>
<p>Article 206</p> <p>Unless otherwise provided for in this Act, resolutions of the Board of Directors shall be adopted by a majority of the directors at a meeting attended by a majority of the directors.</p> <p>If an interested party relationship exists between any director and any item on the agenda of a meeting of the board of directors, the director shall state the main content of his interested party relationship at the aforesaid meeting of the board of directors.</p> <p>The provisions of Article 178 and Article 180, Paragraph 2 shall apply mutatis mutandis to the resolutions referred to in Paragraph 1 of this Article.</p>	<p>Article 206</p> <p>Unless otherwise provided for in this Act, resolutions of the Board of Directors shall be adopted by a majority of the directors at a meeting attended by a majority of the directors.</p> <p>The provisions of Article 178 and Article 180, Paragraph 2 shall apply mutatis mutandis to the aforesaid resolutions.</p>



Attachment 2

Draft Amendment of Articles 38 -1 of the Securities and Exchange Act

Amended article	Current article
<p>Article 38- 1</p> <p>When the Competent Authority deems necessary, it may from time to time appoint a certified public accountant, lawyer, engineer, or any other professionals or technicians to examine the financial and business conditions and related documents and books of account of the issuer, securities underwriter, or other related parties and to submit reports or opinions to the Competent Authority, at the expense of the examinee.</p> <p>If a shareholder or shareholders who has/have continuously held 3% or more of the total outstanding shares of a company for one year or longer consider(s) that a specific event is detrimental to the rights and interests of the company's shareholders, he/they may apply to the Competent Authority to conduct an examination of such specific event or related documents and books of account of the issuer, as prescribed in the preceding paragraph. Such application shall be supported by presentation of the reasons, facts and explanation of the necessity for the examination. When the Competent Authority deems it necessary, it shall conduct the matter in accordance with the provisions of the preceding paragraph.</p>	<p>Article 38- 1</p> <p>When the Competent Authority deems necessary, it may from time to time appoint a certified public accountant, lawyer, engineer, or any other professionals or technicians to examine the financial and business conditions and related documents and books of account of the issuer, securities underwriter, or other related parties and to submit reports or opinions to the Competent Authority, at the expense of the examinee.</p>



Paying Taxes

❖ 1. Introduction

The total tax rate in the Paying Taxes subindex of the World Bank's Doing Business 2011 report was the rate of tax applicable to business operation in 2009. In 2010, Taiwan again revised the Income Tax Act to reduce the profit-seeking enterprise income tax rate from 20% to 17%, with effect from the beginning of 2010. In the meantime, the government has continued to review and improve tax-payment procedures, to achieve the goal of light taxes and simple tax administration. These tax reform measures that have already been implemented should be reflected in the World Bank's Doing Business 2012.

There are three main points of reform:

- (1) On June 15, 2010, Articles 5 and 126 of the Income Tax Act were amended to reduce the profit-seeking enterprise income tax rate to 17%, with retroactive effect from the beginning of 2010.
- (2) On January 26, 2011, Article 44 of the Income Tax Act was amended to reduce the difference between financial accounting and tax law provisions in respect of the evaluation of merchandise inventories, with deletion of the last-in first-out method of cost calculation.
- (3) On April 15, 2011, the Directions on the Electronic Filing of Profit-Seeking Enterprise Income Tax Returns were amended to simplify the process of submitting tax-filing attachments.



❖ 2. Reform explanation

(1) Reduction of the profit-seeking enterprise income tax rate

On May 27, 2009, Article 5 of the Income Tax Act was amended to replace the dual 15% and 25% rates of profit-seeking enterprise income tax with a flat rate of 20%, effective from 2010, and to raise the tax-free threshold from NT\$50,000 to NT\$120,000. On June 15, 2010, Articles 5 and 126 of the Income Tax Act were amended to reduce the profit-seeking enterprise income tax rate to 17%, with retroactive effect from the beginning of 2010.

(<http://www.dot.gov.tw/dot/home.jsp>)

In 2010, the amount of profit-seeking-enterprise income tax withheld in Taiwan was NT\$24 billion, which was NT\$17.4 billion or 42% less than the NT\$41.4 billion withheld in 2009. Hence, it can be seen that the effect of this tax reduction in appropriately lightening the corporate tax burden is already reflected in last year's tax withholdings.

Reference website:

<http://www.fdc.gov.tw/public/Attachment/0101110492771.htm>

<http://www.mof.gov.tw/ct.asp?xItem=60261&ctNode=1774&mp=6>

(2) Simplification of profit-seeking enterprise income tax returns

Taiwan in 2009 and 2010 implemented various simplification measures to reduce the amount of form filling and shorten the process for tax filing and payment (see annex for details), and is continuing to review and improve the filing and payment procedures for profit-seeking enterprise income tax. Further improvement measures completed as of the end of May 2011 are as follows:

- a. On January 26, 2011, Article 44 of the Income Tax Act was revised to provide for the evaluation of merchandise inventory as the lower of cost or net realizable



value, and for treating depreciation loss as a cost of goods sold, with deletion of the provision requiring application of the last-in first-out cost calculation method. These amendments, intended to bring tax law more closely into line with financial accounting practice, help enterprises save time consumed in reconciling their financial accounting and tax rule compliance when compiling their income tax returns.

- b. On April 15, 2011, amendment of the Directions on the Electronic Filing of Profit-Seeking Enterprise Income Tax Returns was announced. The revised provisions stipulate that, subject to certain conditions, enterprises may submit tax-return attachments to the tax authorities in the form of an optical disc. This will reduce the time spent by profit-seeking enterprises in gathering, photocopying and attaching paper copies of attachments for submission with tax returns.

(3) Number of hours needed for paying profit-seeking enterprise income tax

According to information from the National Federation of Certified Public Accountants Associations of the ROC, the time that an enterprise needs to spend in preparing and filing tax returns and paying profit-seeking enterprise income tax is less than 50 hours in total.

Currently, around 97% of Taiwan's profit-seeking enterprise income tax returns are filed online. When profit-seeking enterprises key their data into the filing software, the system immediately calculates the amount of tax due, and there is no need for those filing to do any additional calculation. Furthermore, there are various methods that can be used for paying the tax, such as making an online bank transfer at the same time as the online filing of the returns, without any need for the tax-payer to visit a tax-collection site. And a tax-payer can print a tax bill from the internet, without needing to spend time going to a tax office to ask for the bill and have it filled out manually. Payment can be made at a designated tax-collection financial institution, by ATM, or online using an IC-chip credit card,

and if the amount of tax due is under NT\$20,000, it can be paid at a convenience store. It is evident that Taiwan's tax payment channels are extremely convenient, and the time needed for paying taxes should not exceed two hours at most.

Summing up the above, the time needed to prepare and file returns for, and make payment of, profit-seeking enterprise income tax is estimated at around 68 hours. Hence, it is evident that the figure of 209 hours given for this in the World Bank survey is far out of line with the true situation.

Breakdown of administrative time burden for paying corporate income tax as per World Bank survey	Estimated hours
Preparation	60
Filing	6
Paying Taxes	2
Total	68





Attachment 1

Table of measures and benefits of streamlining profit-seeking enterprise income tax return

Streamlining measures	Benefits	The relevant parts of the World Bank survey
<p>1. Allowing supporting documents for online tax filing to be delivered to the tax collection authorities in optical disc form:</p> <p>The Directions on the Electronic Filing of Profit-Seeking Enterprise Income Tax Returns were modified on April 10, 2009 to allow businesses filing final tax returns online to submit supporting documents in optical disc form, with effect from May 2009.</p> <p>(http://www.dot.gov.tw/dot/home.jsp?mserno=200912140006&serno=200912140020&menudata=DotMenu&contlink=ap/law/lawrulesshow.jsp?mclass=200912100003&mname=200912130140&level2=Y&qclass=)</p>	Reducing the work time for profit-seeking enterprises to collect, copy, and attach documents for submission with tax return forms	Filing
<p>2. Simplifying the provisional payment system for corporate income tax:</p> <p>Under amendments to Articles 67 and 69 of the Income Tax Act promulgated on May 27, 2009, a profit-seeking enterprise need not file a provisional income tax return if it makes full payment of an amount equal to half of its tax liability in the preceding year as provisional tax payment for the current year.</p> <p>(http://www.dot.gov.tw/dot/home.jsp)</p>	Reducing the time needed to calculate the amount of tax due and file the return	Filing 、 Paying Taxes



Streamlining measures	Benefits	The relevant parts of the World Bank survey
<p>3. Change from dual-rate to flat-rate tax:</p> <p>By an amendment to Article 5 Paragraph 5 of the Income Tax Act promulgated on May 27, 2009, tax on profit-seeking enterprise income was changed from dual rates of 15% and 25% to a flat rate of 20%. This change helped reduce the time needed to calculate the amount of tax due. By a further amendment of Articles 5 and 126 of the Income Tax Act promulgated on June 15, 2010, the rate of tax on profit-seeking enterprise income was reduced to 17%, with backdated effect from the beginning of 2010.</p> <p>(http://www.dot.gov.tw/dot/home.jsp)</p>	Reducing the time needed to calculate the amount of tax due	Paying Taxes
<p>4. Convenience of multiple channels and places for tax payment:</p> <p>At present, corporate income tax (profit-seeking enterprise income tax) can be paid through banks, ATMs, convenience stores and the Internet, providing multiple channels and locations for the utmost convenience of tax payment.</p>	Reducing the time needed to calculate the amount of tax due	Paying Taxes
<p>5. Reviewing and paring down less essential content of corporate income tax return form:</p> <p>The MOF convened a meeting on October 22, 2009, attended by representatives of local tax authorities, the National Federation of Certified Public Accountants Associations of the ROC, and other non-governmental bodies, to discuss and overhaul the content of the current income tax return form for profit-seeking enterprises.</p> <p>The meeting reached resolution on deleting 26 columns for basic information and 84 places of signature, reducing the form by 2 pages and allowing businesses to replace 2 other pages with their own statements in prescribed form.</p>	Reducing the time needed for filling out tax returns and preparing supporting documents.	Preparation 、 Filing



Streamlining measures	Benefits	The relevant parts of the World Bank survey
<p>6. Substantially reducing differences between financial accounting and tax law requirements:</p> <p>(1) Amendment of the Income Tax Act on May 27, 2009:</p> <p>Article 44 (inventory valuation), Article 51 (fixed asset depreciation methods), Article 54 (computation of residual value for fixed asset depreciation), Article 64 (organization expenses), and Article 65 (asset valuation in division or acquisition of profit-seeking enterprise) were amended to make them consistent with the related provisions of the Business Accounting Act.</p> <p>(http://www.dot.gov.tw/dot/home.jsp)</p> <p>(2) Revision of the Enforcement Rules of the Income Tax Act on November 18, 2009</p> <p>Article 46 (inventory cost evaluation) and Article 48 (method of computation for fixed asset depreciation) were amended to make them consistent with the related provisions of the Business Accounting Act.</p> <p>(http://www.dot.gov.tw/dot/home.jsp)</p> <p>(3) Amendment of the Regulations on the Tax Audit of Profit-Seeking Enterprise Income on September 14, 2009.</p> <p>Article 16 (methods of computing income for installment sales), Articles 32 and 100 (methods of computing profit or loss for asset swap), and Article 71 (costing of employee stock dividend) were amended to make them consistent with the related provisions of the Business Accounting Act and Statements of Financial Accounting Standards.</p>	<p>Reducing the time consumed in reconciling the differences between financial accounting and tax law requirements when preparing final tax returns.</p>	<p>Preparation</p>



Streamlining measures	Benefits	The relevant parts of the World Bank survey
<p>7. Simplifying loss recognition provisions for profit-seeking enterprises, and setting principles for consistency of treatment, to facilitate compliance:</p> <p>(1) By an amendment of Articles 95 and 101-1 of the Regulations on the Tax Audit of Profit-Seeking Enterprise Income promulgated on September 14, 2009, losses due to the destruction or scrapping of fixed assets before the expiration of their stipulated service life, or due to the expiration, deterioration, destruction, etc., of merchandise, raw materials, supplies or goods-in-process, can be recognized as losses on the basis of the certification of fact by a certified public accountant, without the need to apply for or obtain approval thereof.</p> <p>(2) By an amendment of Articles 99 of the Regulations on the Tax Audit of Profit-Seeking Enterprise Income promulgated on September 14, 2009, a profit-seeking enterprise may establish recognition of an investment loss due to the merger or bankruptcy of an invested enterprise by furnishing documentary proof of the merger or bankruptcy. The amended provisions also clearly stipulate the point of time at which such investment loss shall be recognized as having occurred, for the purpose of clarity.</p> <p>(3) On April 15, 2010, the Guidelines Governing Assessment of the Losses from Bad Debt of Profit-seeking Enterprises were promulgated to establish consistent standards for checking and recognizing losses from bad debt, to facilitate tax-payer compliance with the pertinent provisions of law.</p>	<p>Reducing the time needed by profit-seeking enterprises to prepare information for tax filing</p>	<p>Preparation</p>



Attachment 2

Articles 5, 44 and 126 of the Income Tax Act

Revised Article	Article before Revision
<p>Article 5 Paragraph 5 (promulgated on June 15, 2010)</p> <p>The minimum taxable amount and rates for profit-seeking enterprise income tax are as follows:</p> <ol style="list-style-type: none"> 1. If the total taxable income of a profit-seeking enterprise is NT\$120,000 or less, the profit-seeking enterprise is exempt from tax. 2. If the total taxable income of a profit-seeking enterprise is more than NT\$120,000, an income tax rate of 17% shall be levied on the whole of its taxable income. However, the income tax payable shall not exceed one half of the portion of taxable income above NT\$120,000. 	<p>Article 5 Paragraph 5</p> <p>The tax threshold, tax brackets, and progressive tax rates for profit-seeking enterprise income tax are as follows:</p> <ol style="list-style-type: none"> 1. If the total taxable income of a profit-seeking enterprise is NT\$120,000 or less, the profit-seeking enterprise is exempt from tax. 2. If the total taxable income of a profit-seeking enterprise is more than NT\$120,000, an income tax rate of 17% shall be levied on the whole of its taxable income. However, the income tax payable shall not exceed one half of the portion of taxable income above NT\$120,000.
<p>Article 44 (promulgated on January 26, 2011)</p> <p>Inventories of merchandise, raw materials, supplies, goods-in-process, finished goods and by-products shall be evaluated on the basis of actual cost. Where the cost is higher than net realizable value, the taxpayer may take the net realizable value as the basis of evaluation and the losses from the falling prices may be recognized as sales cost. In case the cost or the net realizable value is not ascertainable, the local collection authority-in-charge shall determine it on the basis of expert opinion or by appraisal.</p>	<p>Article 44</p> <p>Inventories of merchandise, raw materials, supplies, goods-in-process, finished goods and by-products shall be evaluated on the basis of actual cost. Where the cost is higher than the market value, the taxpayer may take the market value as the basis of evaluation. In case the cost or the market value is not ascertainable, the local collection authority-in-charge shall determine it on the basis of expert opinion or by appraisal.</p>



Revised Article	Article before Revision
<p>Net realizable value as referred to in the preceding paragraph means the net amount that a profit-seeking enterprise can expect to be able to sell the inventory for in the normal course of business.</p> <p>Cost as referred to in the first paragraph may be calculated by using the specific identification method, first-in first-out method, last-in first-out method, weighted average method, moving average method, or other methods approved by the competent authority in accordance with the categories or characteristics of an inventory.</p>	<p>Cost as provided in the preceding Paragraph may be calculated by using the specific identification method, first-in first-out method, last-in first-out method, weighted average method, moving average method, or other methods approved by the competent authority in accordance with the categories or characteristics of an inventory; provided that where the last-in first-out method is adopted, evaluation on the basis of cost or market value, whichever is the lower, as provided in the preceding Paragraph, shall not apply.</p>
<p>Article 126 (promulgated on June 15, 2010) (quoted in part)</p> <p>The provisions of Article 5 Paragraph 2 as amended on May 1, 2009 and of Article 5 Paragraph 5 as amended on May 28, 2010 shall come into force in fiscal year 2010.</p>	<p>Article 126 (date of coming into force)</p> <p>Skip.</p>



Trading Across Borders

❖ 1. Introduction

In the *Doing Business 2011* report released by the World Bank in November 2010, Taiwan ranked 17th in the “Trading Across Borders” indicator. As reported by the World Bank, the survey on which the ranking was based found that five documents were required for customs clearance of exports and six documents for imports (as shown in the table below), and the issuance of an import letter of credit took four days on average. However, after a review of the survey by the Ministry of Finance, the Ministry of Economic Affairs, and the Financial Supervisory Commission, it has been determined that this finding differs from the actuality of the customs clearance procedure, with the actual number of documents required being three for exports and four for imports, and the issuance of an import letter of credit taking two days on average. This situation requires further clarification.



❖ 2. Clarification of the number of documents required for merchandise imports and exports

(1) Clarification of the number of documents required for merchandise exports

Export documents (5)	2011 survey results (5 required)	Clarification for 2011 survey (should be corrected to 3 required)
1. Bill of Lading	✓	✓
2. Commercial Invoice	✓	✓
3. Customs Export Declaration	✓	✓
4. Certificate of Origin	✓	X (Since this document is not required by the customs authorities, it should be deleted)
<p>■ No certificate of origin is required as part of export documentation by Taiwan's Customs Act or by customs clearance practice.</p> <p>A certificate of origin for exported goods is issued only when the exporter is requested to provide this to meet the requirements of the importing country. It is not a documentary requirement under Taiwan's Customs Act, and is not required for submission under Taiwan's export customs clearance practice.</p>		
5. Terminal Handling Receipt	✓	X (Since this document is not required by the customs authorities, it should be deleted)
<p>■ Terminal handling receipts are a matter of documentation between exporters and cargo or container terminal operators, not a documentary requirement of the customs authorities.</p> <p>Terminal handling receipts are given to shippers by cargo or container terminal operators who stored their goods (containers) at the cargo or container terminals when the shippers pay terminal storage fees and take up their goods. These receipts are not required for submission to the customs authorities or any other border management agencies when exported goods undergo customs clearance.</p>		



(2) Clarification of the number of documents required for merchandise imports

Import documents (6)	2011 survey results (6 required)	Clarification for 2011 survey (should be corrected to 4 required)
1. Bill of Lading	✓	✓
2. Commercial Invoice	✓	✓
3. Customs Import Declaration	✓	✓
4. Packing List	✓	✓
5. Certificate of Origin	✓	X (Since this document is not required by the customs authorities, it should be deleted)

■ **A certificate of origin is required for submission only when the importer is applying to take advantage of a preferential tariff and in a minority of special cases. There are three main kinds of situation in which a certificate of origin will need to be presented for inspection when goods are imported:**

1. When the Customs ask for its presentation, such as when they have doubt about the place of origin of the goods.
2. When a preferential tariff is applied for in respect of goods imported from a less-developed country or a country with which Taiwan has signed a free trade agreement.
3. When it is required under the regulations governing Taiwan's import and export trade.
(As of November 30, 2010, certificates of origin were not required for 99.8% of Taiwan's 10,892 import items under CCC codes, and were required for only 0.2% of those items.)



■ In the definition of “product” for the purposes of the survey, the World Bank stipulates that it must be one of the country’s leading export and import products, but must not be hazardous, require refrigeration, or be used for military purposes. Taiwan’s leading import products in 2010 were electrical machinery and equipment, mineral fuels, machinery and mechanical appliances, and optical and photographic instruments and apparatus. None of those products requires a certificate of origin.

Details of Taiwan’s export products can be found at the website of the Ministry of Economic Affairs’ Bureau of Foreign Trade (<http://cus93.trade.gov.tw/FSCI/>) > Statistics and Customs Tariffs > Taiwan’s Import and Export Trade Statistics > Trade Statistics > Country Products Table.

6. Terminal Handling Receipt



X
(Since this document is not required by the customs authorities, it should be deleted)

■ Terminal handing receipts are a matter of documentation between importers and cargo or container terminal operators, not a documentary requirement of the customs authorities.

Terminal handling receipts are given to shippers by cargo or container terminal operators who stored their goods (containers) at the cargo or container terminals when the shippers pay terminal storage fees and take up their goods. These receipts are not required for submission to the customs authorities or any other border management agencies when imported goods undergo customs clearance.

❖ 3. Clarification of time for issuing an import letter of credit

The World Bank’s survey found that the issuance/notification of letters of credit by Taiwan’s banks took four days on average (including delivery). However, investigation by the Financial Supervisory Commission’s Banking Bureau and the Bankers Association of the ROC found that Taiwan’s domestic banks are able to complete the opening of import letters of credit within two days on average. This further clarification is provided since the actuality differs substantially from the finding of the survey.



Enforcing Contracts

❖ 1. Introduction

In response to the World Bank's survey in relation to the Enforcing Contracts indicator in its Doing Business Report, the Council for Economic Planning and Development (the "Council") held a seminar entitled "The World Bank's Doing Business Report – Survey on the Enforcing Contracts Indicator" on February 9, 2010. The seminar was also attended by representatives from the Judicial Yuan, the Taipei Bar Association, the Taiwan Bar Association, and some major law firms in Taiwan. The purpose of the seminar was to review the procedure of a civil lawsuit and that of enforcing a judgment before the Taipei District Court.

It was the first time the executive branch and the judicial branch of the Taiwanese government jointly hosted a seminar where judges, bar associations and senior attorneys of major law firms in Taiwan discussed the procedures under the Enforcing Contracts indicator in the World Bank's Doing Business Report.

At the seminar, the Judicial Yuan provided its response to the results of the World Bank's survey regarding the procedures under the Enforcing Contracts indicator based on the case study and the 100 procedural steps in the survey. According to the conclusions reached at the seminar, only 27 procedural steps (rather than 47 procedural steps indicated in the World Bank's survey) are required for enforcing a contract in Taiwan.

For the continuation of last year's work, the Judicial Yuan invited the Council for Economic Planning and Development and major domestic law firms to take part in a seminar on January 31, 2011 to review Taiwan's procedures pertinent to the Enforcing Contracts indicator in the World Bank survey.

In addition, Taiwan has continued to plan and implement reform measures to raise judicial efficacy and facilitate public access to judicial resources. An explanation of this has been provided by the Judicial Yuan as follows.



❖ 2. Explanation of legal system and reform measures

To realize the ideal of the legal system being for the people, the Judicial Yuan has continued to carry out reform of the civil proceedings system. Two of the current focuses of this work have pertinence to enforcement of contracts, namely: the enhancement of dispute resolution functions, and the augmentation of arrangements to enhance the public convenience. These are explained as follows:

(1) Diverse dispute resolution mechanisms

In civil proceedings, in addition to the normal civil litigation procedures, simplified procedures are available for pursuing claims involving small amounts of money and simple issues, to promote the speedy resolution of disputes. There is also a mediation procedure, with a mandatory requirement for certain types of dispute to be referred for mediation prior to the commencement of litigation (mostly applied to types of cases in which there is need to maintain peaceful relations between the parties). Plus there are various non-litigation dispute resolution mechanisms, such as township mediation and arbitration, to enable members of the public to gain fast and easy resolution of disputed claims.

(2) Electronic filing of suits

Under the provisions of the Operational Regulations for the Submission of Civil Litigation Documents by Fax and Electrical Transmission, a party to civil proceedings may submit documents to the court by fax or electrical transmission. This time-saving provision may also be used for the filing of a lawsuit.

(3) Progress inquiry service

On January 1, 2007, Taiwan launched a service on the Judicial Yuan website for inquiries about the progress of proceedings in courts of first and second instance. On January 1, 2011, Taiwan also launched the pilot running of a case progress inquiry



system, to facilitate inquiries by interested parties on the state of progress of cases. The setting up of this part of the system is expected to be completed in July 2011, and will be followed by stepped up publicity to promote and guide its use. In addition, the Judicial Yuan will continue to compile and announce various statistics related to court business, to enhance public understanding thereof.

(4) Measures to raise judicial efficacy

The Judicial Yuan has launched the “Project for Judicial Energy Saving,” aimed at examining the causes of obstruction to the hearing of cases on the substantive and procedural sides, and striving for their elimination, to promote the efficient utilization of judicial resources. Also, in 2007 Taiwan launched the pilot running of a court case management system, whereby cases are preliminarily filtered by some judges after entering the courts, so that most judicative manpower can be focused on handling substantive disputes.

(5) Committee to assess the results of civil litigation reform

To reinforce judicial reform, the Judicial Yuan has set up a committee to assess the results of civil litigation reform, which is charged with reviewing the implementation and results of centralized hearing and other key reforms of civil litigation.



❖ 3. Clarification of number of procedures

[The World Bank's survey assumptions]

- (1) The value of the claim is NT\$ 1,083,810.
- (2) The dispute is over a lawful commercial transaction between two domestic companies, both located in Taipei.
- (3) The court deciding the case is the court in Taipei with jurisdiction over a commercial claim of the above mentioned value.
- (4) Seller sues Buyer to recover the amount due under a contract for the sale of goods. Buyer opposes the claim, which is then disputed on the merits. The court cannot decide the case based on documentary evidence or legal title only.
- (5) Prior to obtaining a judgment, Seller attaches Buyer's movable assets, such as office equipment, vehicles and goods because Seller fears Buyer may dissipate assets, move assets out of the jurisdiction or become insolvent.
- (6) Opinions on the quality of the goods are required and are given during the court proceedings:
 - (a) If it is standard practice in your country (as in most common law countries) for Seller and Buyer to call expert witnesses to give their opinion on the quality of the goods, then the parties each call one expert witness.
 - (b) If it is standard practice in your country (as in most civil law countries) for the judge to appoint an independent expert to give an opinion on the quality of the goods, then the judge does so. In that case, the judge does not allow opposing expert testimony.
- (7) Judgment is 100% in favor of Seller. Buyer is therefore required to pay the agreed price to Seller.
- (8) Buyer does not appeal the judgment. Seller decides to start enforcing judgment when the time period allocated by law for appeal expires.
- (9) Seller takes all required steps for prompt enforcement of the judgment. The money is collected successfully through a public sale of Buyer's movable assets, such as office equipment, vehicles and goods.



[Clarification]

In respect of the number of procedures involved in enforcing contracts, after holding two seminars to examine the matter, the Judicial Yuan maintains the position stated in last year's clarification that the correct number is 27, as explained in the accompanying remarks.

Procedure	Filing and service	WB	Judicial Yuan	Remarks
1	Plaintiff requests payment. Plaintiff or his lawyer asks Defendant orally or in writing to comply with the contract.	Yes (1)	No	1. Our response: The request is usually made prior to the filing of a lawsuit but is not a prerequisite for filing a lawsuit. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: No applicable laws.
2	A third person formally notifies Defendant. A person other than the Plaintiff or his lawyer, such as a notary public, formally notifies Defendant of Plaintiff's request for payment.	No	No	
3	Mandatory conciliation or mediation. Plaintiff invites Defendant to settle the dispute. Because conciliation or mediation fails, Plaintiff is required to submit a written document to the judge proving that conciliation or mediation- prior to initiating the lawsuit- has failed.	No	No	

* denotes procedures that take place simultaneously with or could be included in other procedures.



Procedure	Filing and service	WB	Judicial Yuan	Remarks
4	Plaintiff's hiring of lawyer. Plaintiff hires a lawyer to represent him in court.	Yes (2)	No	<ol style="list-style-type: none"> 1. Our response: Plaintiff's hiring of a lawyer is not a mandatory procedure because legal representation is not legally required for the first instance trial under Taiwanese law. 2. Our recommendation: This is not a mandatory procedure. As the claim amount in the WB case study is only around NT\$1.08 million, the chances of Plaintiff hiring a lawyer would be slim. The procedure should not have been counted. 3. Our legal basis: The law is silent on whether a litigant should be represented by a lawyer; however, Paragraph 1, Article 466-1 of the Code of Civil Procedure ("CCP") states that: "An appellant shall appoint a lawyer to file an appeal on his/her behalf with the court of the third instance." It can be inferred from the amendment made to Article 69 of the CCP on February 7, 2003 (which states that legal representation is not mandatory for court proceedings in Taiwan; a litigant may appoint a person other than a lawyer to represent him/her if approved by the presiding judge) and Paragraph 1, Article 466-1 of the CCP that legal representation is not mandatory in the first instance trial; a person may pursue or defend a case in court on his/her own or through a person who is not a lawyer with the permission of the presiding judge.



Procedure	Filing and service	WB	Judicial Yuan	Remarks
5	Plaintiff's filing of summons and complaint. Plaintiff files his summons and complaint with the court, orally or in writing.	Yes (*)	Yes (*) (1)	1. Our response: Paragraph 1, Article 244 of the CCP reads: "To initiate an action, a complaint indicating the following shall be submitted to the court...." 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Paragraph 1, Article 244 of the CCP. 4. Further Information: Regarding the methods of filing petitions in the courts, under current law, parties can take advantage of the Operational Regulations for the Submission of Civil Litigation Documents by Fax and Electrical Transmission to reduce the time needed for filing.
6	Plaintiff's payment of court fees. Plaintiff pays court duties, stamp duties, or any other type of court fee. Checked as 'yes' even if reimbursed later.	Yes (*)	Yes (*)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Articles 77-13 and 77-14 of the CCP.
7	Registration of court case. The court administration registers the lawsuit or court case. This includes assigning a reference number to the lawsuit or court case.	Yes (3)	Yes (2)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Chapter 4 of Assignment of Cases of the Guidelines for the Numbering, Assignment and Closure of Criminal and Civil Cases.



Procedure	Filing and service	WB	Judicial Yuan	Remarks
8	Assignment of court case to a judge. The court case is assigned to a specific judge through a random procedure, automated system, ruling of an administrative judge, court officer, etc.	No	No	
9	Court scrutiny of summons and complaint. Judge examines Plaintiff's summons and complaint for formal requirements. Checked as 'yes' if required by law or standard practice.	Yes (4)	Yes (3)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Article 249 of the CCP.
10	Judge admits summons and complaint. After verifying the formal requirements, judge decides to admit Plaintiff's summons and complaint.	No	No	
11	Plaintiff's request for service. Plaintiff makes a written request to the court that process be served on Defendant.	No	No	
12	Court order for service. Upon Plaintiff's request, judge orders process be served on Defendant.	No	No	



Procedure	Filing and service	WB	Judicial Yuan	Remarks
13	Delivery of summons and complaint to person authorized to perform service of process on Defendant. The judge or a court officer delivers the summons to a summoning office, officer, or authorized person (including Plaintiff), for service of process on Defendant.	Yes (5)	Yes (4)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Article 251 of the CCP.
14	Arrangements for physical delivery of summons and complaint. Plaintiff takes whatever steps are necessary to arrange for physical service of process on Defendant, such as instructing a court officer or a (private) bailiff.	No	No	
15	Mailing of summons and complaint. Court or process server, including (private) bailiff mails summons and complaint to Defendant.	Yes (*)	Yes (*)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Articles 251 and 265 of the CCP.
16	First attempt at physical delivery. A first attempt to physically deliver summons and complaint to Defendant is successful in the majority of cases.	No	No	



Procedure	Filing and service	WB	Judicial Yuan	Remarks
17	Second attempt at physical delivery. If a first attempt was not successful, a second attempt to physically deliver the summons and complaint to Defendant is required by law or standard practice.	No	No	
18	Application for substituted service. Because physical delivery is not successful in the majority of cases, Plaintiff applies for substituted service. Substituted service can include, but is not limited to, service by publication in newspapers or affixing of a notice in court or on public bulletin boards. Only checked as 'yes' if physical delivery is usually unsuccessful and substituted service is then mandatory.	No	No	
19	Court order regarding substituted service. Judge in a court order defines acceptable means for substituted service.	No	No	
20	Substituted service. Substituted service is accomplished by publication in newspapers, by affixing a notice in court or on public bulletin boards, etc.	No	No	



Procedure	Filing and service	WB	Judicial Yuan	Remarks
21	Proof of service. Plaintiff submits proof of service to court. Checked as 'yes' if required by law or standard practice.	No	No	
22	Application for pre-judgment attachment. Plaintiff submits an application in writing for the attachment of Defendant's property prior to judgment. (see assumption 5).	Yes (*)	Yes (*)	1. Our response: This is not a mandatory procedure. The application is filed only if the creditor (plaintiff) believes the order can secure future enforcement of a final judgment. Nevertheless, since the plaintiff attaches the buyer's movable assets prior to obtaining a judgment in the WB case study, the procedure should be counted. 2. Our recommendation: Based on the facts provided in the WB case study, the procedure should be counted. 3. Our legal basis: Articles 522 and 523 of the CCP.
23	Decision on pre-judgment attachment. <i>Judge decides</i> whether to grant Plaintiff's request for pre-judgment attachment of Defendant's property and notifies Plaintiff and Defendant of the decision. This step may include requesting that Plaintiff submit guarantees or bonds to secure Defendant against damages. (see assumption 5).	Yes (*)	Yes (*)	1. Our response: This is not a mandatory procedure. It is necessary only if the creditor (plaintiff) believes the order can secure future enforcement of a final judgment. Nevertheless, since the plaintiff attaches the buyer's movable assets prior to obtaining a judgment in the WB case study, the procedure should be counted. 2. Our recommendation: Based on the facts provided in the WB case study, the procedure should be counted. 3. Our legal basis: Articles 522 and 523 of the CCP.



Procedure	Filing and service	WB	Judicial Yuan	Remarks
24	<p>Guarantees securing attached property.</p> <p>Plaintiff typically submits guarantees or bonds to secure Defendant against possible damages to attached property. (see assumption 5).</p>	Yes (6)	Yes (5)	<p>1. Our response: This is not a mandatory procedure. It is necessary only if the creditor (plaintiff) believes the order can secure future enforcement of a final judgment. Nevertheless, since the plaintiff attaches the buyer's movable assets prior to obtaining a judgment in the WB case study, the procedure should be counted.</p> <p>2. Our recommendation: Based on the facts provided in the WB case study, the procedure should be counted.</p> <p>3. Our legal basis: Articles 523 and 526 of the CCP.</p>
25	<p>Pre-judgment attachment.</p> <p>Defendant's property is attached prior to judgment. Attachment is either physical, or achieved by registering, marking, debiting or separating assets. (see assumption 5).</p>	Yes (7)	Yes (6)	<p>1. Our response: This is not a mandatory procedure. It is necessary only if the creditor (plaintiff) believes the order can secure future enforcement of a final judgment. Nevertheless, since the plaintiff attaches the buyer's movable assets prior to obtaining a judgment in the WB case study, the procedure should be counted.</p> <p>2. Our recommendation: Based on the facts provided in the WB case study, the procedure should be counted.</p> <p>3. Our legal basis: Article 523 of the CCP and Article 132 of the Compulsory Enforcement Act.</p>



Procedure	Filing and service	WB	Judicial Yuan	Remarks
26	Custody of assets attached prior to judgment. Defendant's attached assets are put under enforcement officer's or (private) bailiff's care (see assumption 5).	No	No	
27	Report on pre-judgment attachment. Court enforcement officer or (private) bailiff issues and delivers a report on the attachment of Defendant's property to the judge. (see assumption 5).	Yes (8)	No	1. Our response: The report is not legally required. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: No applicable laws.
28	Hearing on pre-judgment attachment. A hearing takes place to resolve the question of whether Defendant's assets can be attached prior to judgment. This process may include the submission of separate summons and petitions (see assumption 5).	Yes (9)	No	1. Our response: The CCP requires that a pre-judgment attachment order be made in the form of a ruling. A ruling may be made without any hearing according to Article 234 of the CCP. In general, the debtor (defendant) will not be notified of the application or asked to attend relevant hearings so as to prevent him/her from dissipating his/her property prior to the attachment. Thus, in practice, the court does not hold this kind of hearing. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: No applicable laws.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
29	<p>Defendant's deposit of a bond or payment guarantee with the court.</p> <p>Defendant deposits a bond or guarantee with the court. Checked as 'yes' if required by law or standard practice.</p>	No	No	
30	<p>Defendant's filing of preliminary exemptions.</p> <p>Defendant presents preliminary exemptions to the court. (Preliminary exemptions differ from answers on the merits. Examples of preliminary exemptions are statute of limitations, jurisdictions, etc.) Checked as 'yes' when preliminary exemptions are commonly raised by Defendant as a delaying tactic, regardless of justification.</p>	Yes (*)	No	<p>1. Our response: This is not a mandatory procedure. Moreover, since the claim amount in the WB case study is only around NT\$1.08 million, the chances of the defendant filing preliminary exemptions as a delay tactic would be slim. Thus, the procedure should not have been counted.</p> <p>2. Our recommendation: Since this is not a mandatory procedure, it should not have been counted.</p> <p>3. Our legal basis: Article 25 and Paragraph 1, Article 28 of the CCP.</p>



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
31	<p>Plaintiff's answer to preliminary exemptions.</p> <p>Plaintiff responds to the preliminary exemptions raised by Defendant. Checked as 'yes' if preliminary exemptions are commonly raised (step 30) and if plaintiff responds to them immediately.</p>	Yes (*)	No	<p>1. Our response: This is not a mandatory procedure. Moreover, since the claim amount in the WB case study is only around NT\$1.08 million, the plaintiff will unlikely have to answer preliminary exemptions since the chances of the defendant filing preliminary exemptions as a delay tactic would be slim. Thus, the procedure should not have been counted.</p> <p>2. Our recommendation: Since this is not a mandatory procedure, it should not have been counted.</p> <p>3. Our legal basis: Article 25 and Paragraph 1, Article 28 of the CCP.</p>
32	<p>Judge's resolution on preliminary exemptions.</p> <p>Judge decides on preliminary exemptions separately from the merits of the case. Checked as 'yes' if preliminary exemptions are commonly raised (step 30) and if judge resolves the question before rendering his decision.</p>	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
33	<p>Defendant's filing of defense or answer to Plaintiff's claim.</p> <p>Defendant files a written pleading which includes his defense or answer on the merits of the case. Defendant's written answer may or may not include witness statements, expert statements, the documents Defendant relies on as evidence and the legal authorities Defendant relies on (see assumption 4).</p>	Yes (10)	Yes (7)	<ol style="list-style-type: none"> 1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Articles 265 and 266 of the CCP. 4. Further Information: Regarding the methods of filing petitions in the courts, under current law, parties can take advantage of the Operational Regulations for the Submission of Civil Litigation Documents by Fax and Electrical Transmission to reduce the time needed for filing.
34	<p>Deadline for Plaintiff to answer Defendant's defense or answer.</p> <p>Judge sets the deadline by which Plaintiff will be allowed to answer Defendant's defense or answer.</p>	Yes (11)	No	<ol style="list-style-type: none"> 1. Our response: The procedure is not legally required. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: No applicable laws.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
35	<p>Plaintiff's written response to Defendant's defense or answer.</p> <p>Plaintiff responds to Defendant's defense or answer with a written pleading. Plaintiff's answer may or may not include witness statements or expert (witness) statements.</p>	Yes (12)	Yes (8)	<ol style="list-style-type: none"> 1. Our response: According to the CCP, a plaintiff may submit his/her written answer to the court and send a copy to the defendant. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Articles 265 and 266 of the CCP. 4. Further Information: Regarding the methods of filing petitions in the courts, under current law, parties can take advantage of the Operational Regulations for the Submission of Civil Litigation Documents by Fax and Electrical Transmission to reduce the time needed for filing.
36	<p>Filing of pleadings.</p> <p>Plaintiff and Defendant file written pleadings and submissions with the court and transmit copies of the written pleadings or submissions to one another. The pleadings may or may not include witness statements or expert (witness) statements.</p>	Yes (13)	No	<ol style="list-style-type: none"> 1. Our response: This procedure is covered by Procedure 33 "Defendant's filing of defense or answer to Plaintiff's claim" and Procedure 35 "Plaintiff's written response to Defendant's defense or answer" and thus should not have been counted as a separate procedure. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: Articles 265 and 266 of the CCP.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
37	Adjournments. Court procedure is delayed because one or both parties request and obtain an adjournment to submit written pleadings. Checked as 'yes' if this commonly happens.	Yes (14)	No	1. Our response: This is not a mandatory procedure. It is necessary only if so determined by the judge. 2. Our recommendation: This is not a mandatory procedure. Moreover, in practice, adjournment is rarely allowed. Thus, this procedure should not have been counted. 3. Our legal basis: Article 159 of the CCP.
38	Court's mailing of allocation questionnaire to parties. The court mails a questionnaire to the parties asking each to allocate the case among different case-tracks (for example, multi track, fast track) and asking each to frame the issues for trial.	No	No	
39	Parties' answer to court's allocation questionnaire. Parties submit their completed allocation questionnaires to the court (including their answers regarding case-tracks and the issues for trial).	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
40	Framing of issues. Plaintiff and Defendant assist the court in framing the issues on which evidence is to be presented.	Yes (15)	Yes (9)	1. Our response: We have no different opinion. 2. Our recommendation: The procedure should be counted. 3. Our legal basis: Articles 268-1 and 270-1 of the CCP.
41	Court appointment of independent expert. Judge appoints, either at the parties' request or at his own initiative, an independent expert to decide whether the quality of the goods Plaintiff delivered is adequate (see assumption 6-b).	Yes (*)	Yes (*)	1. Our response: This is not a mandatory procedure. It is necessary only if the lawsuit involves professional knowledge and the court deems an independent expert's opinion is necessary. Nonetheless, since the court appoints an independent expert in the WB case study, this procedure should be counted. 2. Our recommendation: Based on the facts provided in the WB case study, this procedure should be counted. 3. Our legal basis: Articles 325 and 326 of the CCP.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
42	<p>Notification of court's appointment of independent expert.</p> <p>The court notifies both parties that the court is appointing an independent expert (see assumption 6-b).</p>	Yes (16)	No	<p>1. Our response: Although Paragraph 2, Article 326 of the CCP provides that the court may seek the opinion of the parties before appointing an expert, it is not a mandatory procedure. In general, the court would inform both parties of the appointment of an independent expert during a hearing rather than through a separate notice.</p> <p>2. Our recommendation: Since this is not a mandatory procedure, it should not have been counted.</p> <p>3. Our legal basis: Article 326 of the CCP.</p>
43	<p>Delivery of expert report by court-appointed expert.</p> <p>The independent expert, appointed by the court, delivers his or her expert report to the court (see assumption 6-b).</p>	Yes (*)	Yes (*) (10)	<p>1. Our response: This is not a mandatory procedure. It is necessary only if the court holds that it is necessary to appoint an independent expert. Nonetheless, since the court appoints an independent expert in the WB case study, this procedure should be counted.</p> <p>2. Our recommendation: Based on the facts provided in the WB case study, the procedure should be counted.</p> <p>3. Our legal basis: Article 335 of the CCP.</p>



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
44	Pre-trial conference on procedure. The judge meets with the parties to discuss procedural issues (for example which applications and motions parties intend to file, which documents parties intend to rely on, etc.)	Yes (17)	No	1. Our response: Since this procedure is covered by Procedure 40 "Framing of issues," it should not have been counted as a separate procedure. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: Article 270-1 of the CCP.
45	Setting of date for mediation hearing. The judge sets a date for a mediation hearing, sometimes also called a 'pre-trial conference,' and notifies the parties of the hearing date.	Yes (*)	No	1. Our response: According to the CCP, litigants may settle their case in court at any time during the court proceedings. There is no separate mediation hearing. 2. Our recommendation: The procedure should not have been counted. 3. Our legal basis: No applicable laws.
46	Mediation hearing. The judge during this informal meeting with the parties encourages them to settle the case. The judge acts as mediator. If the case cannot be settled, the judge may draft a pre-trial conference report, after which the case may be allocated to another judge for trial.	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
47	Request for interlocutory order. Defendant raises preliminary issues, such as jurisdiction, statute of limitation, etc. Checked as 'yes' if commonly raised, regardless of justification.	No	No	
48	Court's issuance of interlocutory order. Court decides the preliminary issues the Defendant raised by issuing an interlocutory order. Checked as 'yes' if commonly the case in commercial cases.	No	No	
49	Plaintiff's appeal of court's interlocutory order. Plaintiff appeals the court's interlocutory order, which suspends the court proceedings. Checked as 'yes' if the appeal is common in this case.	No	No	
50	Discovery requests. Plaintiff and Defendant make requests for the disclosure of documents, attempting to force the other party to reveal potentially detrimental documents. Checked as 'yes' if discovery requests usually entail disputes.	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
51	Discovery disputes. Following a request for discovery of documentary evidence, the other party disputes the request and calls upon the judge to decide the issue. Checked as 'yes' if discovery disputes are provided by law and commonly happen.	No	No	
52	Request for oral hearing or trial. Plaintiff applies for the date(s) for the oral hearing or trial.	No	No	
53	Setting of date(s) for oral hearing or trial. <i>Judge sets the date(s) for the oral hearing or trial.</i>	Yes (*)	Yes (*)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 250 of the CCP.
54	Preliminary hearing aimed at preparing for the oral hearing. The judge meets the parties to make practical arrangements for the oral hearing on the merits of the case.	No	Yes (11)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Articles 270 and 270-1 of the CCP.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
55	<p>Pre-trial conference aimed at preparing for trial.</p> <p>The judge meets with parties to make practical arrangements for the trial (for example, the number of witnesses parties intend to call on during trial, how much time each party is given to present oral arguments etc.).</p>	Yes (18)	No	<p>1. Our response: Since this procedure is covered by Procedure 54 "Preliminary hearing aimed at preparing for the oral hearing," it should not have been counted as a separate procedure.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: Articles 270 and 270-1 of the CCP.</p>
56	<p>List of (expert) witnesses.</p> <p>The parties file a list of (expert) witnesses with the court. (see assumption 6-a)</p>	Yes (*)	No	<p>1. Our response: Since this procedure overlaps with Procedures 41-43 in the WB case study, it should not have been counted as a separate procedure.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: No applicable laws.</p>
57	<p>Summoning of (expert) witnesses.</p> <p>The court summons (expert) witnesses to appear in court for the oral hearing or trial. (see assumption 6-a)</p>	Yes (19)	No	<p>1. Our response: Since this procedure overlaps with Procedures 41-43 in the WB case study, it should not have been counted as a separate procedure.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: No applicable laws.</p>



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
58	Adjournments. Court proceedings are delayed because one or both parties request and obtain an adjournment to prepare for the oral hearing or trial.	No	No	
59	Oral hearing (prevalent in civil law). The parties argue the merits of the case at an oral hearing before the judge. Witnesses and a court-appointed independent expert may be heard and questioned at the oral hearing.	No	No	
60	Trial (prevalent in common law). The parties argue the merits of the case at (an) oral session(s) before the court. Witnesses and expert witnesses are questioned and cross-examined during trial.	Yes (20)	Yes (12)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 221 of the CCP.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
61	Adjournments. Court proceedings are delayed because one or both parties request and obtain an adjournment during the oral hearing or trial, resulting in an additional or later trial or hearing date.	Yes (21)	No	1. Our response: This is not a mandatory procedure. It is necessary only if the court finds it necessary to adjourn the proceedings. 2. Our recommendation: This is not a mandatory procedure. In practice, it is uncommon for the court to grant adjournment as it will delay the proceedings. Thus, this procedure should not have been counted. 3. Our legal basis: Article 159 of the CCP.
62	Request for closing of the evidence period. Plaintiff or Defendant requests the judge to close the evidence period.	No	No	
63	Closing of the evidence period. The court makes the formal decision to close the evidence period.	Yes (22)	No	1. Our response: This is not a mandatory procedure. It merely refers to the factual situation where the court has completed examining the evidence. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: No applicable laws.
64	Advice by public prosecutor or third party. The office of the public prosecutor or any other third party advises the court on how to decide the case.	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
65	Order for submission of final arguments. The judge sets the deadline for the submission of final factual and legal arguments.	Yes (23)	Yes (13)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 265 and Paragraph 1, Article 196 of the CCP.
66	Final arguments. The parties present their final factual and legal arguments to the court either by oral presentation or by a written submission.	Yes (*)	Yes (*)	1. Our response: There is no “final argument” procedure under Taiwanese law. It is merely a part of the oral argument procedure. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Articles 192 and 210 of the CCP.
67	Judgment date. The judge sets a date for delivery of the judgment.	Yes (24)	Yes (14)	1. Our response: According to the CCP, the judgment date will be decided by the judge, on which a judgment should be announced orally if oral argument hearings have been held; otherwise, they should be published. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 223 of the CCP.



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
68	Notification of judgment in court. The parties are notified of the judgment at a court hearing.	Yes (25)	Yes (15)	1. Our response: According to the CCP, judgments should be announced orally if oral argument hearings have been held. Thus, this procedure should be counted. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 223 of the CCP.
69	Writing of judgment. The judge produces a written copy of the judgment.	Yes (26)	Yes (16)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 226 of the CCP.
70	Registration of judgment. The court office registers the judgment after receiving a written copy of the judgment.	Yes (27)	No	1. Our response: Taiwanese law does not have the procedure of registration of judgment. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: No applicable laws.
71	Court notification of availability of the written judgment. The court notifies the parties that the written judgment is available at the courthouse.	No	No	



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
72	<p>Plaintiff's receipt of a copy of written judgment.</p> <p>Plaintiff receives a copy of the written judgment which is 100% in favor of plaintiff (see assumption 7).</p>	Yes (28)	Yes (17)	<p>1. Our response: According to the CCP, litigants should be served with original copies of the judgment.</p> <p>2. Our recommendation: This procedure should be counted.</p> <p>3. Our legal basis: Article 229 of the CCP.</p>
73	<p>Notification of Defendant of judgment.</p> <p>Plaintiff or court formally notifies the Defendant of the judgment. The appeal period starts to run the day the Defendant is formally notified of the judgment.</p>	Yes (29)	Yes (18)	<p>1. Our response: According to the CCP, litigants should be served with original copies of the judgment.</p> <p>2. Our recommendation: This procedure should be counted.</p> <p>3. Our legal basis: Article 229 of the CCP.</p>
74	<p>Appeal period.</p> <p>By law defendant has the opportunity to appeal the judgment during a period specified in the law. Defendant decides not to appeal. Judgment becomes final the day the appeal period ends. (see assumption 8)</p>	Yes (30)	Yes (19)	<p>1. Our response: We have no different opinion.</p> <p>2. Our recommendation: This procedure should be counted.</p> <p>3. Our legal basis: Article 440 of the CCP.</p>



Procedure	Trial and judgment	WB	Judicial Yuan	Remarks
75	<p>Reimbursement by Defendant of Plaintiff's court fees.</p> <p>The judgment obliges Defendant to reimburse Plaintiff for the court fees Plaintiff has advanced, because Defendant has lost the case.</p>	Yes (31)	No	<p>1. Our response: Our civil litigation system requires the losing party to pay the court fees. The plaintiff must advance the court fees when filing the civil complaint. After the conclusion of the lawsuit, the judge will decide how the court fees should be shared. In principle, they will be borne by the losing party. This is not an independent procedure as it has been included in Procedure 69 "Writing of judgment." It should not have been counted as a separate procedure.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: Articles 78 and 79 of the CCP.</p>



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
76	<p>Plaintiff's hiring of lawyer.</p> <p>Plaintiff hires a lawyer to enforce the judgment or continues to be represented by a lawyer during the enforcement of judgment phase.</p>	Yes (*)	No	<p>1. Our response: Plaintiff's hiring of a lawyer is not a mandatory procedure because legal representation is not legally required in the enforcement proceedings under Taiwanese law.</p> <p>2. Our recommendation: This is not a mandatory procedure. Since the claim amount in the WB case study is only around NT\$1.08 million, the chances of the plaintiff hiring a lawyer to enforce the judgment would be slim. Thus, the procedure should not have been counted.</p> <p>3. Our legal basis: The Compulsory Execution Act is silent on whether legal representation is required in the enforcement proceedings. However, Article 30-1 of the Compulsory Execution Act states, "Aside from the provisions stipulated in this Act, the provisions of the CCP may apply mutatis mutandis to enforcement proceedings." The CCP is silent on whether a litigant should be represented by a lawyer; however, Paragraph 1, Article 466-1 of the CCP reads: "An appellant shall appoint an attorney to file an appeal on his/her behalf in the court of third instance." It can be inferred from the amendment made to Article 69 of the CCP on February 7, 2003 (which states that legal representation is not mandatory for court proceedings in Taiwan; a litigant may appoint a person other than a lawyer to represent him/her if approved by the presiding judge) and Paragraph 1, Article 466-1 of the CCP that legal representation is not mandatory in the first and second instance trials or in the enforcement proceedings.</p>



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
77	<p>Plaintiff approaching of court enforcement officer or (private) bailiff to enforce the judgment.</p> <p>To enforce the judgment, Plaintiff approaches a court enforcement officer such as a court bailiff or sheriff, or a private bailiff.</p>	Yes (32)	Yes (20)	<ol style="list-style-type: none"> 1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 5 of the Compulsory Execution Act.
78	<p>Publication of judgment.</p> <p>The judgment must be published in an official journal, gazette or local newspaper.</p>	Yes (33)	No	<ol style="list-style-type: none"> 1. Our response: Taiwanese law does not have the procedure of "publication of judgment" in the enforcement proceedings. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: No applicable laws.
79	<p>Plaintiff's request for enforcement order.</p> <p>Plaintiff applies to the court to obtain the enforcement order ('seal' on judgment).</p>	Yes (*)	No	<ol style="list-style-type: none"> 1. Our response: This procedure is not an independent procedure as it has been included in Procedure 77 "Plaintiff's approaching of court enforcement office or (private) bailiff to enforce the judgment". This procedure should not have been counted as a separate procedure. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: Article 5 of the Compulsory Execution Act.



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
80	Plaintiff's advancement of enforcement fees. Plaintiff pays the fees related to the enforcement of the judgment.	Yes (34)	Yes (21)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Article 28-2 of the Compulsory Execution Act.
81	Attachment of enforcement order to judgment. <i>Judge attaches the enforcement order ('seal') to the judgment.</i>	No	No	
82	Delivery of enforcement order. The court's enforcement order is delivered to a court enforcement officer or a (private) bailiff.	Yes (*)	No	1. Our response: This is not a mandatory procedure. The Compulsory Execution Act requires the "delivery of an enforcement order" only for enforcing against certain movable assets, such as securities. Since the property to be enforced through auction is a movable asset in the WB case study, this procedure is not required in the enforcement proceedings. 2. Our recommendation: This is not a mandatory procedure and thus should not have been counted. 3. Our legal basis: Chapter 2, Section 2 of the Compulsory Execution Act on "Enforcement of Movable Assets."



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
83	<p>Plaintiff's request for physical enforcement.</p> <p>As Plaintiff fears that Defendant might physically resist the attachment of its movable goods, Plaintiff addresses a request to the judge or to the police authorities to obtain police assistance during the attachment of Defendant's movable goods.</p>	Yes (*)	No	<p>1. Our response: According to the WB case study, the plaintiff attaches defendant's movable assets prior to obtaining a judgment. Since the plaintiff has already attached the defendant's property in Procedure 25 "Pre-judgment procedure", the court is not required to attach the movable assets again but only has to review the court files before conducting the auction. Thus, this procedure should not have been counted.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: Article 56 and Chapter 2, Section 2 of the Compulsory Execution Act on "Enforcement of Movable Assets".</p>
84	<p>Judge's order for physical enforcement.</p> <p><i>Judge orders</i> the police to assist with the physical enforcement of the attachment of Defendant's movable goods.</p>	Yes (35)	No	<p>1. Our response: The same as Procedure 83.</p> <p>2. Our recommendation: This procedure should have not been counted.</p> <p>3. Our legal basis: The same as Procedure 83.</p>



Enforcing Contracts

Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
85	<p>Request to Defendant to comply voluntarily with judgment.</p> <p>Plaintiff, a court enforcement officer or a (private) bailiff requests Defendant to voluntarily comply with the judgment, giving Defendant a last chance to comply voluntarily with the judgment.</p>	Yes (36)	No	<p>1. Our response: The WB case study concerns the enforcement of a monetary claim. This procedure is not required by the Compulsory Execution Act for enforcing a monetary claim. Thus, the procedure should not have been counted.</p> <p>2. Our recommendation: This procedure should not have been counted.</p> <p>3. Our legal basis: No applicable laws.</p>
86	<p>Identification of Defendant's assets for attachment by court official or Defendant.</p> <p>The judge, a court enforcement officer, a (private) bailiff or the Defendant himself identifies Defendant's movable assets for attachment.</p>	Yes (37)	No	<p>1. Our response: This is not a mandatory procedure because Taiwanese enforcement law adopts an adversarial system, where the enforcement court would order a debtor to report his/her property to the court only when it is found that the property of the debtor is insufficient to satisfy the claim of the creditor or when the property of the debtor that is subject to enforcement cannot be located. Moreover, according to the WB case study, the plaintiff attaches the defendant's movable assets in Procedure 25 "Pre-judgment procedure" prior to obtaining a judgment. Thus, this procedure should not have been counted.</p> <p>2. Our recommendation: Based on the facts provided in the WB case study, this procedure should not have been counted.</p> <p>3. Our legal basis: Articles 19 and 20 of the Compulsory Execution Act.</p>



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
87	Contestation of selection of assets identified for attachment. The party, Plaintiff or Defendant, which was not involved in the designation of the assets for attachment, contests the selection of assets for attachment.	No	No	
88	Plaintiff's identification of Defendant's assets for attachment. Plaintiff identifies Defendant's assets for attachment.	Yes (38)	Yes (22)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Paragraph 2, Article 5 and Paragraph 1, Article 19 of the Compulsory Execution Act.
89	Notification of intent to attach. A court enforcement officer or (private) bailiff notifies other creditors of the intent to attach Defendant's goods.	No	No	



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
90	Attachment. Defendant's movable goods are attached (physically or by registering, marking or separating assets).	Yes (39)	No	1. Our response: According to the WB case study, the plaintiff attaches the defendant's movable assets prior to obtaining a judgment. Since the plaintiff has already attached defendant's property in Procedure 25 "Pre-judgment procedure", the court is not required to attach the movable assets again but only has to review the court files before conducting the auction. Thus, this procedure should not have been counted. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: Article 56 of the Compulsory Execution Act.
91	Report on execution of attachment. A court enforcement officer or (private) bailiff delivers a report on the attachment of Defendant's movable goods to the judge.	Yes (40)	No	1. Our response: The report is not legally required. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: No applicable laws.



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
92	<p>Valuation or appraisal of attached movable goods.</p> <p>The court or court appointed valuation expert evaluates the attached goods.</p>	Yes (41)	Yes (23)	<ol style="list-style-type: none"> 1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Articles 62 and 80 of the Compulsory Execution Act. 4. Further Information: To make it more convenient for members of the public to check the status of the court auction of movable goods and make people more willing to buy at such auctions, better protecting the rights of creditors and debtors by making auction sale prices closer to market prices, the Judicial Yuan has since April 20, 2010 put fully into operation an online display of photographs of movable property appraised for compulsory execution in civil litigation. This helps promote bidding interest and raise the success rate of auctions.



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
93	<p>Enforcement disputes before court.</p> <p>The enforcement of the judgment is delayed because Defendant opposes aspects of the enforcement process before the judge.</p>	Yes (42)	No	<p>1. Our response: This is not a mandatory procedure. The procedure is necessary only if the debtor opposes any unlawful enforcement proceeding or files a lawsuit to dispute the plaintiff's claim which should no longer exist after the judgment under the enforcement was made. Since the claim amount is only around NT\$1.08 million in the WB case study, the chances of the defendant opposing the enforcement to delay the enforcement proceedings would be slim. Thus, this procedure should not have been counted.</p> <p>2. Our recommendation: This is not a mandatory procedure and thus should not have been counted.</p> <p>3. Our legal basis: Articles 12, 14 and 14-1 of the Compulsory Execution Act.</p>
94	<p>Call for public auction.</p> <p><i>Judge calls</i> a public auction by, for example, advertising or publication in the newspapers.</p>	Yes (43)	Yes (24)	<p>1. Our response: We have no different opinion.</p> <p>2. Our recommendation: This procedure should be counted.</p> <p>3. Our legal basis: Articles 57, 64, 65, 81 and 84 of the Compulsory Execution Act.</p>
95	<p>Sale through public auction.</p> <p>The Defendant's movable property is sold at public auction.</p>	Yes (44)	Yes (25)	<p>1. Our response: We have no different opinion.</p> <p>2. Our recommendation: This procedure should be counted.</p> <p>3. Our legal basis: Articles 70 and 90 of the Compulsory Execution Act.</p>



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
96	Direct sale. Defendant's property is not sold but not through a public auction. Checked as 'yes' if the direct sale is common as an alternative to a public auction. (assumption 9 is disregarded here).	No	No	
97	Judge's decision on bids. Judge determines the adequacy of the bids presented at public auction.	No	No	
98	Distribution of proceeds. The proceeds of the public auction are distributed to various creditors (including Plaintiff), according to the rules of priority.	Yes (45)	Yes (26)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Articles 31 and 38 of the Compulsory Execution Act.



Procedure	Enforcement of judgment	WB	Judicial Yuan	Remarks
99	Reimbursement of Plaintiff's enforcement fees. Defendant reimburses Plaintiff's enforcement fees which plaintiff had advanced previously.	Yes (46)	No	1. Our response: According to the law, enforcement fees are advanced by the plaintiff and then reimbursed by the debtor (defendant). In other words, these fees are included in the enforcement of claim and are borne by the debtor through the distribution proceedings. Thus, this procedure has been covered by Procedure 98 "Distribution of proceeds." It should not have been counted as a separate procedure. 2. Our recommendation: This procedure should not have been counted. 3. Our legal basis: Article 28 of the Compulsory Execution Act.
100	Payment. Judge orders that the proceeds of the public auction or the direct sale be delivered to Plaintiff.	Yes (47)	Yes (27)	1. Our response: We have no different opinion. 2. Our recommendation: This procedure should be counted. 3. Our legal basis: Articles 68 and 97 of the Compulsory Execution Act.



Enforcing Contracts



Getting Electricity

❖ 1. Introduction

To simplify the application process for the provision of new electricity connection for buildings under a certain size (warehouses with a total floor area of 2,000 square meters or less, five stories or less, five or fewer occupants, and total contracted capacity of less than 150 kilowatts), Taiwan Power Company on January 31, 2011 announced a set of operational directions for the handling of such applications (see attachment). These directions, which clearly stipulate the related application procedures and operational timeframes, have been posted on the company's website (at <http://www.taipower.com.tw>) for public reference.

These directions clearly stipulate that work to set up a 150-meter-length power transmission line outside a building should be completed in around 22 days.



❖ 2. Correction of the survey results

(1) 2011 survey results

No.	Procedure	2010 survey results	
		Time to complete	Associated costs
1	Submit an application for electricity connection and await estimate of the fee.	5 calendar days	NT\$307,860
*2	Await external inspection by TPC required for the preparation of the estimate	1 calendar day	no charge
3	Await completion of the external connection works by TPC's subcontractor	19 calendar days	no charge
4	Await installation of the meter, internal wiring inspection by TPC and electricity starts flowing	2 calendar days	no charge
Total	Four items	23 days	NT\$307,860

* Takes place simultaneously with another procedure.

(2) 2011 survey correction

No.	Procedure	2011 survey correction	
		Time to complete	Associated costs
1	Submit an application to Taiwan Power Company for electricity connection and inspection and design.	4	NT\$307,860
2	Taiwan Power Company's contractors carry out work to set up a transmission line outside the building	17	no charge
3	Taiwan Power Company installs a meter, inspects internal wiring connection, and commences flow of electricity	1	no charge
Total	3 items	22 days	NT\$307,860



❖ 3. Explanation for the correction

The following correction is proffered by the Ministry of Economic Affairs and Taiwan Power Company after reviewing the 2010 survey results:

- (1) Procedures 1 and 2 are parts of the same procedure and should be combined into a single procedure. It is suggested that this procedure be described as “Submit an application to Taiwan Power Company for electricity connection and inspection and design.” The related charges can be paid at the time of the application, and the time for completion of this procedure should be 4 days.
- (2) It is suggested that Procedure 3 be revised to “Taiwan Power Company’s contractors carry out work to set up a transmission line outside the building”, and the time for completing this procedure should be revised to 17 days.
- (3) It is suggested that Procedure 4 be revised to “Taiwan Power Company installs a meter, inspects internal wiring connection, and commences flow of electricity”, and the time for completing this procedure should be revised to 1 day.
- (4) Summing up the aforesaid, in the World Bank’s survey example, Getting Electricity in Taiwan requires 3 procedures, takes 22 days to complete, and costs NT\$307,860.

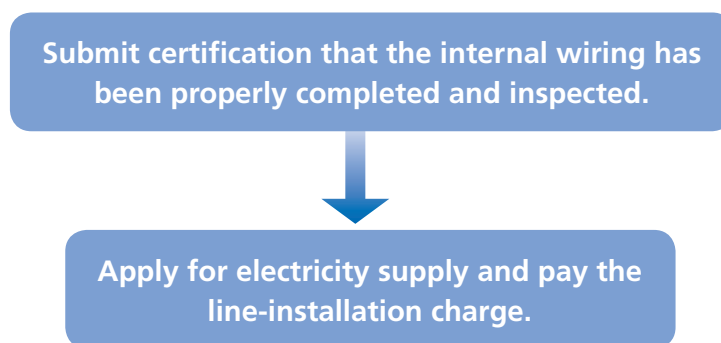


Attachment

Processing of Applications for a New Electricity Supply to Buildings under a Certain Size

I. Applicable scope: Buildings under a certain size as stipulated by the Ministry of the Interior (warehouses of up to five floors, with up to five occupants, a total floor area of up to 2,000 square meters, and a contracted supply capacity of up to 150 kW).

1. Flow chart:



※ The customer fills out and signs a registration form for the installation of a new electricity supply, according to the category of use applied for. He then submits the completed form together with a diagram of internal wiring. The line-installation charge can be paid at the counter with submission of the application, or can be paid by electronic transfer.

※ The actual time required to install an external overhead power transmission line is approximately 8 days for a line of only 10 meters in length and approximately 22 days for a line of 150 meters. This excludes time prior to payment of the applicable line-installation charge, time in which it is impossible to work on design or installation of the line due to reasons for which the customer is responsible, and weekend and public holidays.



2. Form of documents:

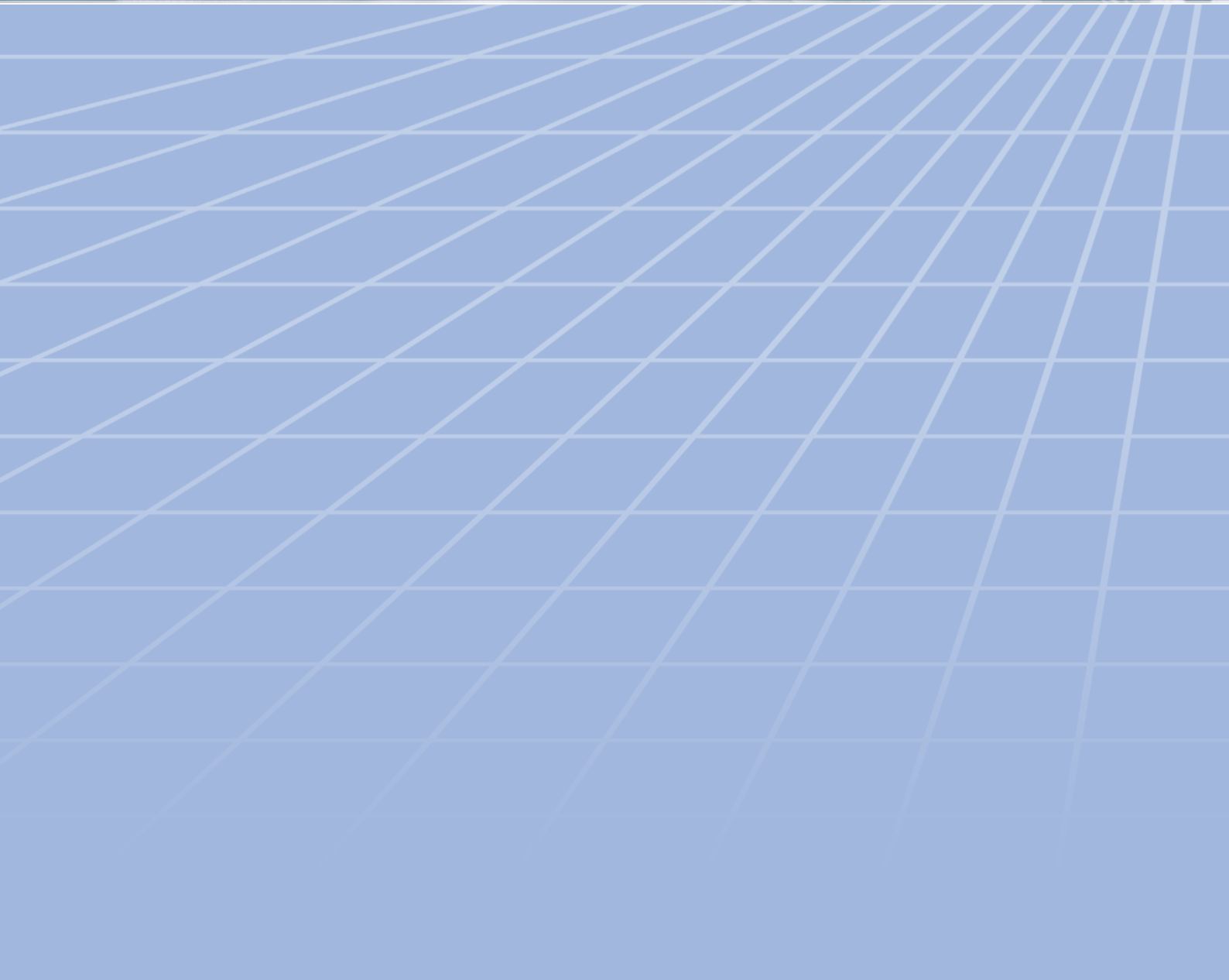
- (1) Application form for “Meter rate lighting service”: For installed capacity less than 100 kW.
 - (2) Application form for “Low tension power service”:
 - (a) For a single-phase, 2-wire, 220-volt or 3-phase, 3-wire, 220- or 380-volt power supply, and contracted capacity less than 100 kW.
 - (b) For a 3-phase, 4-wire, 220/380-volt power supply, and contracted capacity less than 500 kW.
 - (3) Submission of documents required for review of the space reserved for TPC’s installation of electricity supply equipment and the internal electrical wiring.
 - (4) Letter of commitment to reserve space for TPC’s installation of electricity supply equipment.
 - (5) Post-completion statement: To be filled out by the electrical installation contractor after the installation of electrical equipment is completed, and submitted together with a certificate issued by the relevant electrical contractors association that the completion of work has been registered by one of its members.
- ※ If a customer needs a temporary electricity supply for use during construction, he can fill out a special application form for this purpose.

3. Related laws:

- a. Article 75 of the Electricity Act
- b. Article 1-1 of the Building Equipment Part of the Building Technical Regulations.

- II. For inquiries about procedures for applying for electricity supply to buildings outside the scope of the above, please visit the TPC website (<http://www.taipower.com.tw>) or call the service hotline 1911.







Appendix



Appendix

Persons to Contact in Government Agencies

Indicator	Persons to Contact in Government Agencies
Starting a Business	<p>Ja-lin Wu CEDI, CEPD Tel: 886-2-2316-5966 Email: wujalin@cepd.gov.tw</p> <p>Lu-tsui Hsu Department of Commerce, MOEA Tel: 886-2-2321-2200#354 Email: lthsu@moea.gov.tw</p>
Dealing with Construction Permits	<p>Phoebe Lee CEDI, CEPD Tel: 886-2-2316-5963 Email: phoebe@cepd.gov.tw</p> <p>Wei-cheng Chen Construction and Planning Agency, Ministry of the Interior Tel: 886-2-8771-2880 Email: weicheng@cpami.gov.tw</p>
Employing Workers	<p>Yu-jing Chen CEDI, CEPD Tel: 886-2-2316-5969 Email: jing@cepd.gov.tw</p> <p>Yung-gia Yi Department of Planning, Council of Labor Affairs Tel: 886-2-8590-2857 Email: yunggia@mail.cla.gov.tw</p>



Indicator	Persons to Contact in Government Agencies
Registering Property	<p>Ja-lin Wu CEDI, CEPD Tel: 886-2-2316-5966 Email: wujalin@cepd.gov.tw</p> <p>Chi-yen Chu Ministry of Finance Tel: 886-2-2322-8180 Email: cychu@mail.mof.gov.tw</p>
Getting Credit	<p>Ja-lin Wu CEDI, CEPD Tel: 886-2-2316-5966 Email: wujalin@cepd.gov.tw</p> <p>Xiu-lian Lin Banking Bureau, FSC Tel: 886-2-8968-9638 Email: lilian@banking.gov.tw</p>
Protecting Investors	<p>Ja-lin Wu CEDI, CEPD Tel: 886-2-2316-5966 Email: wujalin@cepd.gov.tw</p> <p>Jia-rong Li Department of Commerce, MOEA Tel: 886-2-2321-2200#361 Email: jrlee@moea.gov.tw</p> <p>Yi-chen Chang Securities and Futures Bureau, FSC Tel: 886-2-8773-5100 Email: minijane@sfb.gov.tw</p>



Indicator	Persons to Contact in Government Agencies
Paying Taxes	<p>Phoebe Lee CEDI, CEPD Tel: 886-2-2316-5963 Email: phoebe@cepd.gov.tw</p> <p>Chi-yen Chu Ministry of Finance Tel: 886-2-2322-8180 Email: cychu@mail.mof.gov.tw</p>
Trading Across Borders	<p>Yu-jing Chen CEDI, CEPD Tel: 886-2-2316-5969 Email: jing@cepd.gov.tw</p> <p>Chi-yen Chu Ministry of Finance Tel: 886-2-2322-8180 Email: cychu@mail.mof.gov.tw</p> <p>Huang-chia Chang Directorate General of Customs, MOF Tel: 886-2-2550-5500#2906 Email: pankey@webmail.customs.gov.tw</p> <p>Judy Wu Bureau of Foreign Trade, MOEA Tel: 886-2-2397-7359 Email: judy@trade.gov.tw</p>

Indicator	Persons to Contact in Government Agencies
Enforcing Contracts	<p>Yu-hsin Lin CEDI, CEPD Tel: 886-2-2316-5961 Email: con8025@cepd.gov.tw</p> <p>Tseng-chen Wu Judicial Yuan Tel: 886-2-2361-8577 Email: wcc@judicial.gov.tw</p>
Getting Electricity	<p>Ja-lin Wu CEDI, CEPD Tel: 886-2-2316-5966 Email: wujalin@cepd.gov.tw</p> <p>Chi-Siao Liu State-owned Enterprise Commission, MOEA Tel: 886-2-2371-3161#221 Email: lcs@sec.gov.tw</p>

About the CEPD

The Council for Economic Planning and Development (CEPD), serving in an advisory capacity to the Executive Yuan (the executive branch of the government), is responsible for drafting overall plans for national economic development; evaluating economic development projects, proposals and programs submitted to the Executive Yuan; coordinating the economic policy making activities of ministries and agencies; and monitoring the implementation of national projects, measures, and programs. The Council carries out its advisory functions by working objectively and impartially to integrate the views of different government agencies and facilitate decision-making in the Executive Yuan.

In June 2008, the Executive Yuan meeting (Cabinet Meeting) decided that priority should be given to relaxing related laws and regulations, via a more liberal approach to re-reviewing laws and regulations. The CEPD has therefore been designated to coordinate economic and financial deregulation and improve the quality of regulation, with the aim of encouraging innovation and removing impediments to market competition and economic development caused by overly-restrictive and ill-designed regulation. As of the end of June 2011, various administrative agencies had completed 623 items of deregulation.

For more information on the CEPD, please visit the council's Website at www.cepd.gov.tw or contact:

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